Leibniz Institute for Financial Research SAFE

SAFE Finance Blog

31 AUG 2023

The SAFE Regulatory Radar in August

New proposals for asset management markets rules, new reporting standards for banks, and report on priorities for resolution authorities

At the end of each month, the SAFE Regulatory Radar highlights a selection of important news and developments on financial regulation at the national and EU level.

AIFMD and UCITS: Enhanced management tools and rules for asset management markets

New rules target the management of alternative investment funds (AIFs) as well as a robust delegation regime. On 20 July 2023, negotiators from the Council and the European Parliament reached a provisional agreement on adjustments to the Alternative Investment Fund Managers Directive (AIFMD) and the Undertakings for Collective Investment in transferable Securities Directive (UCITS).

The agreement enhances and harmonizes the availability of liquidity management tools to ensure they are activated and used by fund managers. This proposal aims to provide greater flexibility when dealing with significant outflows in times of financial turbulence.

An additional framework will be introduced for loan-originating AIFs (LO-AIFs), which are funds that provide credit to companies. To ensure financial stability and an appropriate level of investor protection, the framework provides several requirements, regarding liquidity management, risk management and risk retention, as well as leverage caps, and defines which AIFs fall within scope.

The proposal includes enhanced regulatory oversight and reporting requirements for activities delegated to third parties. At the same time, the measures aim to preserve EU investor access to global expertise by continuing to allow the delegation of portfolio and risk management outside of the EU.

The negotiators also agreed on measures to identify undue costs that could be charged to funds and their investors and to prevent possible misleading names to better protect investors. These measures are in line with the recently announced Retail Investment Strategy by the European Commission as outlined in the SAFE Regulatory Radar in May 2023.

The agreement is provisional and must be approved by the Council and the European Parliament before being formally adopted.

CRR: New standards to identify risks from rising interest rates

New reporting rules aim to provide supervisors with the necessary data to appropriately monitor interest rate risks. On 31 July 2023, the European Banking Authority (EBA) published final amending Implementing Technical Standards on supervisory reporting with respect to interest rate risk in the banking book (IRRBB). EBA was mandated to develop these ITS in accordance with the Capital Requirements Regulation.

The ITS provide reporting templates that allow supervisors to monitor and evaluate the institutions' IRRBB exposure. Furthermore, the required reporting allows supervisors to identify those institutions that may be exposed to excessive losses in their non-trading book activities as a result of potential changes in interest rates within the Supervisory Outlier Test (SOT) on Economic Value of Equity (EVE) and on Net Interest Income (NII). This reporting package is particularly relevant in the current environment of high inflation combined with growing interest rates.

Due to differences in the size and risk of certain types of institutions, the concept of proportionality is considered in the reporting requirements. Small and non-complex institutions (SNCIs) and “other institutions”, which cannot be left outside the scrutiny of IRRBB, are requested to apply more simplified templates.

The draft ITS will be submitted to the European Commission for endorsement before being published in the Official Journal of the European Union. The first reference date for the application of these ITS is 30 September 2024.

Based on the templates of these ITS and with reference date of end December 2023, EBA has decided to collect IRRBB data on an ad-hoc basis from institutions already participating in the quantitative impact study (QIS) exercise. This collection aims to provide competent authorities with data to monitor the implementation of this IRRBB policy package in the current environment of high inflation and growing interest rates.

EREP: First report on implementation of the European Resolution Examination Programme topics

On 3 August 2023, EBA published for the first time a report on resolution convergence. The report identifies how the resolution authorities (RAs) embedded the key topics identified in the EBA’s 2022 European Resolution Examination Programme (EREP) into their respective priorities and resolution colleges in 2022. It also sets key topics that all resolution authorities are requested to incorporate into their priorities for the year 2024.

According to the report, MREL (Minimum Requirement for Own Funds and Eligible Liabilities) monitoring has been a key activity focus for all RAs and monitoring activity was increased when banks appeared to be slow in meeting their targets. By the end of 2022, RAs expected most banks to reach their final requirements within the deadline except for a few banks, mostly Less Significant Institutions (LSI), showing potential difficulties. SAFE White Paper No. 92 goes beyond issues of shortfall difficulties, identifying the holders of bail-inable securities and recommending inter alia improvements in data disclosures.

Regarding Management Information Systems (MIS) for valuation, most activities focused on preparatory tasks as 2022 was the first year in which it was considered as a high priority area. In this regard, IT system improvements and identification and recruitment of experienced staff may become necessary in the future.

Another key topic for the EREP 2022 is the availability of sufficient liquidity in a resolution scenario. Most RAs asked for a first set of specific deliverables in 2022, prioritizing the identification and mobilization of collateral. While the report suggests that accessing central bank facilities is the most common strategy for banks to ensure liquidity in resolution, followed by asset disposal, strategies and actions remain limited.

Furthermore, the report suggests that college discussions have moved in a positive direction towards more practical solutions in a crisis event. At the same time, EBA states that progress should be intensified regarding operationalization of resolution strategy aspects and the depth and quality of college interactions.

These key topics – MREL, MIS for valuation, and liquidity needs in resolution – remain a priority for 2024, albeit extended by the operationalization of the bail-in tool. In light of recent events in the US and Swiss banking sector, the 2024 EREP will also put a strong emphasis on RAs’ assessment of bank’s considerations and testing for liquidity in resolution with a focus on the potential speed of deposit withdrawals.

Public consultations

- **EBA**: Public consultation on Draft Regulatory Technical Standards on extraordinary circumstances for continuing the use of an internal model or discarding certain back-testing overshootings under CRR The deadline is 3 November 2023.
- **EBA**: Public consultation on amendments to the Guidelines on the specification and disclosure of systemic importance indicators. The deadline is 1 September 2023.
- **EBA**: Public consultation on Guidelines on the establishment of national lists or registers of credit services under CSD. The deadline is 26 October 2023.
- **EIOPA**: Public consultation on an Open Insurance use case: an insurance dashboard. The deadline is 24 October 2023.

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Funded by:

HESSEN Hessisches Ministerium für Wissenschaft und Kunst

Bundesministerium für Wirtschaft und Klimaschutz
aufgrund eines Beschlusses des Deutschen Bundestages