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The SAFE Regulatory Radar in January

New guidelines and standards to simplify reporting for credit services, data management in the derivatives market, and amendments on the identification of a group of connected clients



A *t 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.*

NPL Directive: Technical standards for credit institutions selling non-performing loans

Credit institutions will have to provide specific information when selling or transferring non-performing loans (NPLs) for the purposes of financial due diligence and the valuation of NPLs. The draft Implementing Technical Standards (ITS), published by the European Banking Authority (EBA) on 20 December 2022, provide data templates that shall include detailed information on credit institutions' credit exposures in the banking book for the credit purchasers' analysis, financial due diligence, and valuation of a creditor's rights under a non-performing credit agreement, or of the non-performing credit agreement itself.

This common data standard across the EU allows for cross-country comparisons, reducing information asymmetries between sellers and buyers of NPLs and improving the functioning of NPL secondary markets. Consequently, sales of NPLs would be facilitated and entry barriers for small credit institutions and investors would be reduced.

Under the Directive on credit servicers and purchasers, the draft ITS follow proportionality principles, such as focusing on sales of portfolios of NPLs, requiring different information depending on the nature of the borrowers and of the portfolios, and allowing all data fields to be treated as not mandatory for certain types of transactions.

The draft ITS will be submitted to the European Commission for adoption before being officially published.

A policy discussion about effective NPL treatments is the subject of SAFE White Paper No. 84.

EMIR: new guidelines and documentation for reporting

Reporting under the European Market Infrastructure Regulation (EMIR) is further standardized and harmonized. The guidelines and technical documentation published by the European Securities and Markets Authority (ESMA) on 20 December 2022 clarify the legal provisions on reporting and data management under the amended EMIR rules and provide practical guidance on their implementation.

The objective of the increased harmonization and standardization is to contain the costs along the complete reporting chain, including the reporting counterparties, the data verifying trade repositories, and the supervising and regulating authorities.

Based on the assessment of the feedback received to the proposals in the consultation paper published in July 2021, the guidelines clarify aspects related to the general construction and prerequisites of derivatives reports, and the reporting of specific types of derivatives. Furthermore, they address the population of reporting fields and the data management. The final report is accompanied by validation rules and reporting instructions.

The guidelines will be translated and published in all EU languages and will enter into application on 29 April 2024.

CRR: technical standards on the identification of a group of connected clients

Two or more natural or legal persons who are closely linked by idiosyncratic risk factors shall be treated as a single risk. On 21 December 2022, the EBA published its [final report on Draft Regulatory Technical Standards on the identification of a group of connected clients](#) under the Capital Requirements Regulation (CRR). The [CRR](#) aims at supervised credit institutions in the first place and refers to the quantitative requirements for banks, such as the rules on capital adequacy, large exposure limits and liquidity adequacy.

In conjunction with [EBA guidelines](#), these draft [RTS](#) provide the complete framework for identifying two or more legal persons as connected and ensure a greater alignment to standards under the Basel framework. While the guidelines contain practical examples and ensure procedural guidance, the draft [RTS](#) set out a clear and harmonized specification of the circumstances that require a grouping.

Two or more persons are connected as legal persons, if

- they are part of the same consolidated financial statement;
- it is likely that the financial difficulties of one natural or legal person would spread to other(s) impacting full and timely repayment of liabilities;
- interconnections by means of a control and/ or an economic dependency relationship lead to a single risk

Nevertheless, there might be exceptional situations where the institution can demonstrate to its competent authority that it is not a single risk.

Next, the final draft [RTS](#) will be submitted to the Commission for adoption.

Public consultations

- **European Securities and Markets Authority (ESMA):** [Consultation](#) on changes of the Regulatory Technical Standards on the information to be provided in an application for authorization and registration under the Benchmarks Regulation. The deadline is Tuesday, 31 January 2023.

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