

# 1Q22 Regulation Outlook

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# Executive Summary

***In the first quarter of 2022, the publication by the EBA of the final draft Pillar 3 on ESG risks and the proposed Directive on Corporate Sustainability Due Diligence of the EC are noteworthy. Additionally, in the US, the new rules on cybersecurity risk management and climate disclosure published by the SEC are relevant.***

## European publications

- The EBA has published the **final report on Regulatory Technical Standards (RTS) on default probabilities (PDs) and losses given default (LGDs) for default risk model for institutions using the new IMA under the Fundamental Review of the Trading Book (FRTB)** to clarify the requirements that an institution's internal methodology or external sources are to be met for the estimation of PDs and LGDs under the default risk model (DRC).
- The EBA has published **draft ITS on Pillar 3 disclosures on ESG risks** with the strategic objective of defining a single, comprehensive Pillar 3 framework under the CRR that should integrate all the relevant disclosure requirements.
- The EBA has published its **Final Report on GL on improving resolvability for institutions and resolution authorities**, as well as a **CP for GL on transferability** to complement the resolvability assessment for transfer strategies.
- The EC has published the **Proposal for a Directive on Corporate Sustainability Due Diligence**. This Directive aims to ensure that companies active in the internal market contribute to sustainability transition of economies and societies through the identification, prevention and mitigation, bringing to an end and minimization of potential or actual adverse human rights and environmental impacts connected with companies' own operations, subsidiaries and value chains.
- The EC has also published the **proposal on Data Act**, second main legislative initiative resulting from the February 2020 European strategy for data. The Data Act addresses the legal, economic and technical issues that lead to data being under-used.

## Local publications

- In Spain, the BoS has launched **Circular 1/2022, to financial credit establishments, on liquidity, prudential rules and reporting obligations, which amends Circular 1/2009 and Circular 3/2019**. The document sets the liquidity regulations applicable to financial credit institutions, and adapts the reporting obligations of credit institutions in matters of solvency and shareholder structure to the activity, business model, size and relative importance of financial credit institutions.
- In USA, the SEC has proposed new **rules on Cybersecurity Risk Management, Strategy, Governance, and Incident Disclosure**, which would require companies subject to the reporting requirements of the Securities Exchange Act, current and periodic reporting of significant cybersecurity incidents. In addition, they would require periodic disclosure of policies and procedures for identifying and managing cybersecurity risk.
- The SEC have proposed for public comments new **rules on the enhancement and standardization of climate-related disclosures for investors**, that would require companies to provide certain climate-related information in their registration statements and annual reports, including certain information about climate-related financial risks and climate-related financial metrics in their financial statements.



# Regulatory projections

**At the European level, the EBA is expected to publish several RTS and guidelines specific to investment firms in the next quarter of 2022. Furthermore, its Guidelines on cooperation and information exchange between prudential supervisors, AML/CFT supervisors and financial intelligence units, as well as the BdE's expectations on risks arising from climate change and environmental degradation, will apply in the same period.**

## Featured regulatory projections

### 1. Next quarter

- **(Europe) Q2 2022:**
  - EC: Multi-annual work programme (2023-2025 horizon).
  - ECB: Climate Stress test will be conducted from March 2022 to July 2022.
  - EBA: i) RTS on liquidity risk measurement of Investment firms; ii) GL on common SREP under IFD; iii) RTS on Pillar 2 add-ons under IFD; iv) GL on high earners under CRD; and v) GL on high earners under IFD.
  - EP and Council: Directive on measures for a high common level of cybersecurity across the Union, repealing Directive (EU) 2016/1148 (NIS Directive)
- **(UK) Q2 2022:**
  - PRA: Consultation Paper on disclosure rules and labelling to support Government ambition in green finance.
- **(Spain) Q2 2022:**
  - BoS: Circular amending Circular 2/2016 of 2 February to credit institutions on supervision and solvency which completes the adaptation of the Spanish legal system to CRD and CRR<sup>1</sup>.
- **(Global) April 2022:**
  - FSB: Consultation Paper on the Identification of regulatory and supervisory approaches to addressing climate-related financial risks.<sup>2</sup>
- **(UK) May 2022:**
  - BoE: CBES results.

### 2. Next year

- **(Europe) 2022:**
  - EC: In order to advance the Capital Markets Union, a proposal will be presented to simplify the current listing rules and promote access to finance for small businesses. In addition, an "open finance" framework, a legislative or non-legislative initiative to harmonise rules on corporate insolvency and a financial literacy framework will be presented.
  - EIOPA: Guidelines on the application by companies of the requirement for long-term climate change scenario analysis.
- **(Europe) Q3 2022:**
  - EBA: i) GL on benchmarking remuneration and gender pay gap under CRD and IFD; ii) Final Guidelines on digital identities and electronic onboarding and iii) ITS on benchmarking for market risk.
  - EC: proposal on European cyber resilience Act.
- **(Europe) September 2022:**
  - EBA: final Guidelines on transferability.
- **(UK) Q3/Q4 2022:**
  - FCA: Consultation Paper on prudential disclosure of ESG information.
- **(UK) Q4 2022:**
  - PRA: Consultation Paper on prudential ESG disclosure

(1) Published in the Official State Journal (BOE) on 6 April 2022.

(2) Published on 29 April 2022.

## 2. Next year (cont.)

- **(Europe) Q4 2022:**
  - EBA : i) GL on benchmarking of internal models; ii) GL on ESG risk management; iii) ITS on IRRBB reporting; and iv) ITS on Pillar 3 reporting of ESG risks (full scope of ESG risks).
  - EIOPA: i) integrate the Taxonomy Regulation into the requirements applicable to insurers and pension funds; ii) Sustainable Financial Disclosure Regulation (SFDR) together with the other ESAs; and iii) results on IORPs stress test 2022.
  - EP and Council: Regulation laying down requirements for artificial intelligence (AI Law).
  - EC: second Delegated Act in relation to the four remaining objectives of the EU taxonomy regulation.
- **(UK) Q4 2022:**
  - PRA: consultation paper on prudential ESG disclosure.
- **(Spain) Q4 2022:**
  - BdE: Circular to credit institutions and other supervised entities, regarding information on capital structure and equity shares and on their offices.
- **(Global) November 2022:**
  - The FSB will update the list of G-SIBs
- **(Europe) December 2022:**
  - SRB: Banks must present either a preliminary analysis of the Separability Analysis Report (SAR) or the SAR and transfer playbook by December 31, as set out in the operational guidance on the feasibility of resolving the SRB.

## 3. More than a year

- **(Spain) 2023:**
  - Spanish government: Royal Decree implementing Article 32 of Law 7/2021, of May 20, on climate change and energy transition, is expected to be published.

## Application dates

### 1. Next quarter

- **(Spain) Q2 2022:**
  - The BoS's expectations regarding the risks arising from climate change and environmental degradation.
- **(Spain) June 2022:**
  - The new tables with the alternative solutions for the collective estimation of credit risk loss allowances and the discounts on the reference value of foreclosed assets or assets received in payment of debts as set out in the BoS Circular on the supervision and solvency of credit institutions.
  - The amendments introduced by Law 4/2022 of 25 February on the protection of consumers and users to the accessibility and legality requirements for contracts with consumers and users that use non-individually negotiated clauses.
- **(Europe) June 2022:**
  - The EBA Guidelines on cooperation and information exchange between prudential supervisors, AML/CFT supervisors and financial intelligence units.

### 2. Next a year

- **(Europe) 2022:**
  - The EBA Guidelines on remuneration policies, internal governance and assessment of suitability.
- **(Europe) July 2022:**
  - The EP and Council Directive (EU) 2019/2162 and Regulation (EU) 2019/2160 on exposures in the form of covered bonds.
- **(US) July 2022:**
  - The Final Rule of the Fed and the FDIC on modifications to resolution plan requirements for covered companies that are triennial reduced filers.
- **(Europe) December 2022:**
  - The EBA ITS of Supervisory Reporting which reflects the amendments to the securitisations framework and minor changes to the reporting on own funds and own funds requirements.
  - The EBA Final draft comprehensive ITS on institutions' Pillar 3 disclosures on ESG risks

### 3. More than a year

- **(Europe) 2023:**
  - Implementation of the provisions amending the CRR (exceptions to application on 2025) concerning: i) amendments on the prudential requirements of investment firms; ii) certain changes on definitions of entities to be included in the scope of prudential consolidation; iii) certain provisions concerning own funds and eligible liabilities.

### 3. More than a year (cont.)

- **(Global) January 2023:**
  - The revised SA for credit risk, the revised IRB framework, the revised CVA framework, the revised operational and market risk framework published in Basel III and the standard on the minimum capital requirements for market risk by the BCBS will be implemented. Moreover, the LR framework using the revised exposure definition and the G-SIB buffer.
  - The BCBS technical amendment on the capital treatment of securitisations of NPLs.
  - The amendments to IFRS 17 proposed by the IASB.
- **(Europe) January 2023:**
  - Delegated Act Supplementary to the Climate Taxonomy.
- **(Europe) December 2023:**
  - First date of reference for the disclosure of GAR.
- **(Europe) January 2024:**
  - EBA Guidelines on resolvability.
  - EBA final guidelines on transferability.
- **(Europe) June 2024:**
  - First date of reference for disclosure of additional (vs GAR) BTAR information.
- **(Europe) 2025:**
  - General application of the provisions amending the CRR which introduce revisions to the Basel III framework in Europe.
  - Member States shall adopt and publish the regulations and administrative provisions necessary to comply with CRD IV amendments.



# Publications of the quarter

## Summary of outstanding publications of this quarter



### European Commission

<b>Taxonomy</b>	• EU Taxonomy Complementary Climate Delegated Act amending Taxonomy Climate Delegated Act and Taxonomy Disclosures Delegated Act	04/02/2022	14
<b>Standardisation</b>	• Standardisation Strategy	11/02/2022	15
<b>Due Diligence</b>	• Proposal for a Directive on Corporate Sustainability Due Diligence	28/02/2022	17
<b>Data</b>	• Proposal on Data Act	28/02/2022	18
<b>Social taxonomy</b>	• Final Report on Social Taxonomy	03/03/2022	19



### European Central Bank

<b>SREP</b>	• Results of 2021 SREP	18/10/2022	20
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### European Banking Authority

<b>Resolution</b>	• Guidelines on resolvability and CP on transferability	19/01/2022	21
<b>Pillar 3</b>	• Draft ITS on Pillar 3 disclosures on ESG risks	15/01/2022	23
<b>Benchmarking</b>	• Report on the 2021 credit and market risk benchmarking exercise	28/02/2022	25
<b>PD/LGD</b>	• Final Report on draft RTS on PD and LGD under the internal default risk model	17/03/2022	26
<b>SREP</b>	Guidelines for common procedures and methodologies for the supervisory review and evaluation process (SREP) and supervisory stress testing.	13/03/2022	27



### Single Resolution Board

<b>Resolution</b>	• Operational guidance on the identification and mobilisation of collateral in resolution	17/03/2022	29
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### Bank of Spain

<b>Liquidity</b>	• Circular 1/2022, to financial credit establishments, on liquidity, prudential rules and reporting obligations, which amends Circular 1/2009 and Circular 3/2019	02/02/2022	31
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### General Courts of Spain

<b>Consumers and users</b>	• Law 4/2022, of 25 February, on the protection of consumers and users in situations of social and economic vulnerability	03/03/2022	32
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### Spanish Government

<b>Ukraine war</b>	• Royal Decree-Law 6/2022 of 29 March adopting urgent measures in the framework of the National Response Plan to the economic and social consequences of the war in Ukraine.	29/03/2022	33
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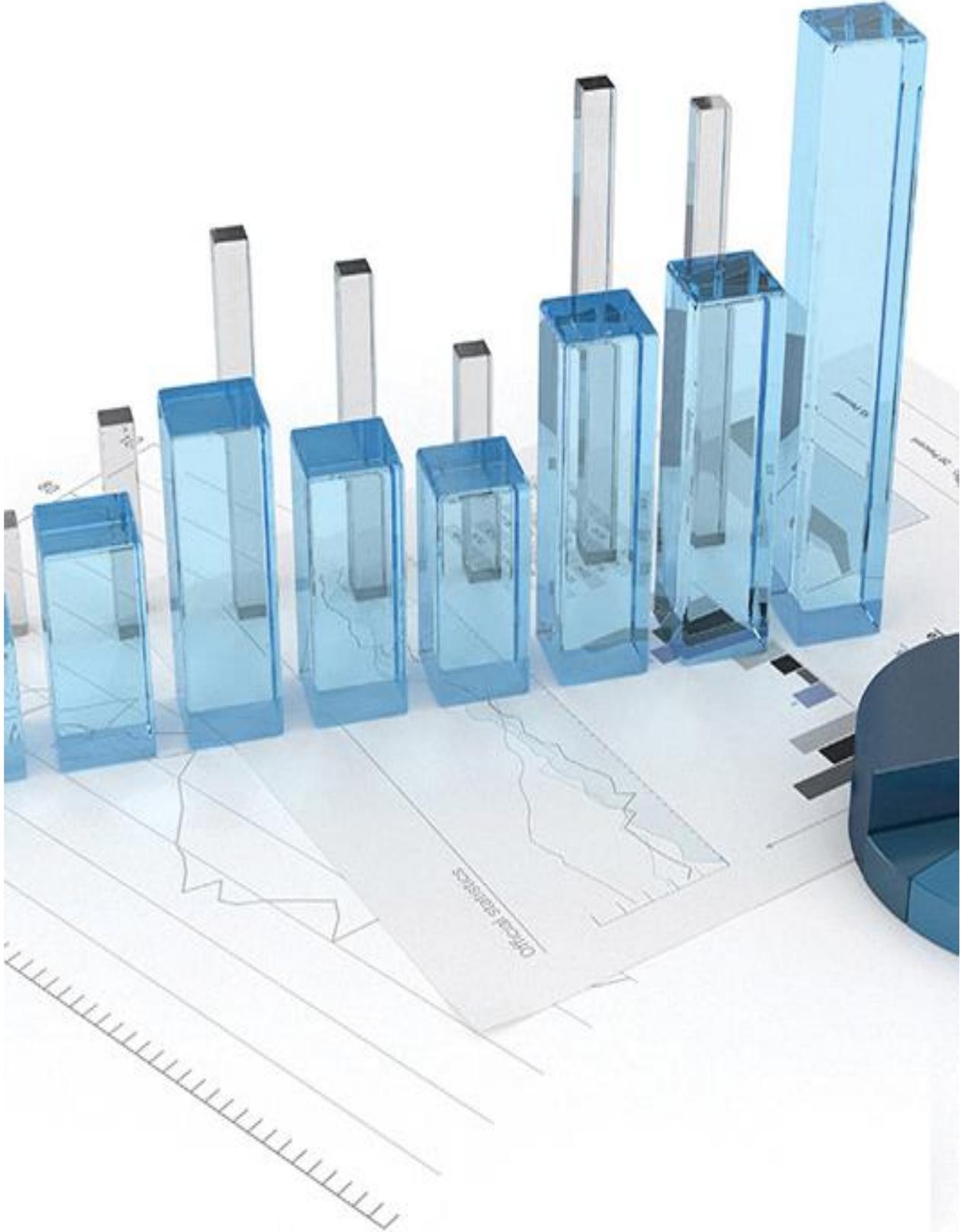
### Comisión Nacional del Mercado de Valores

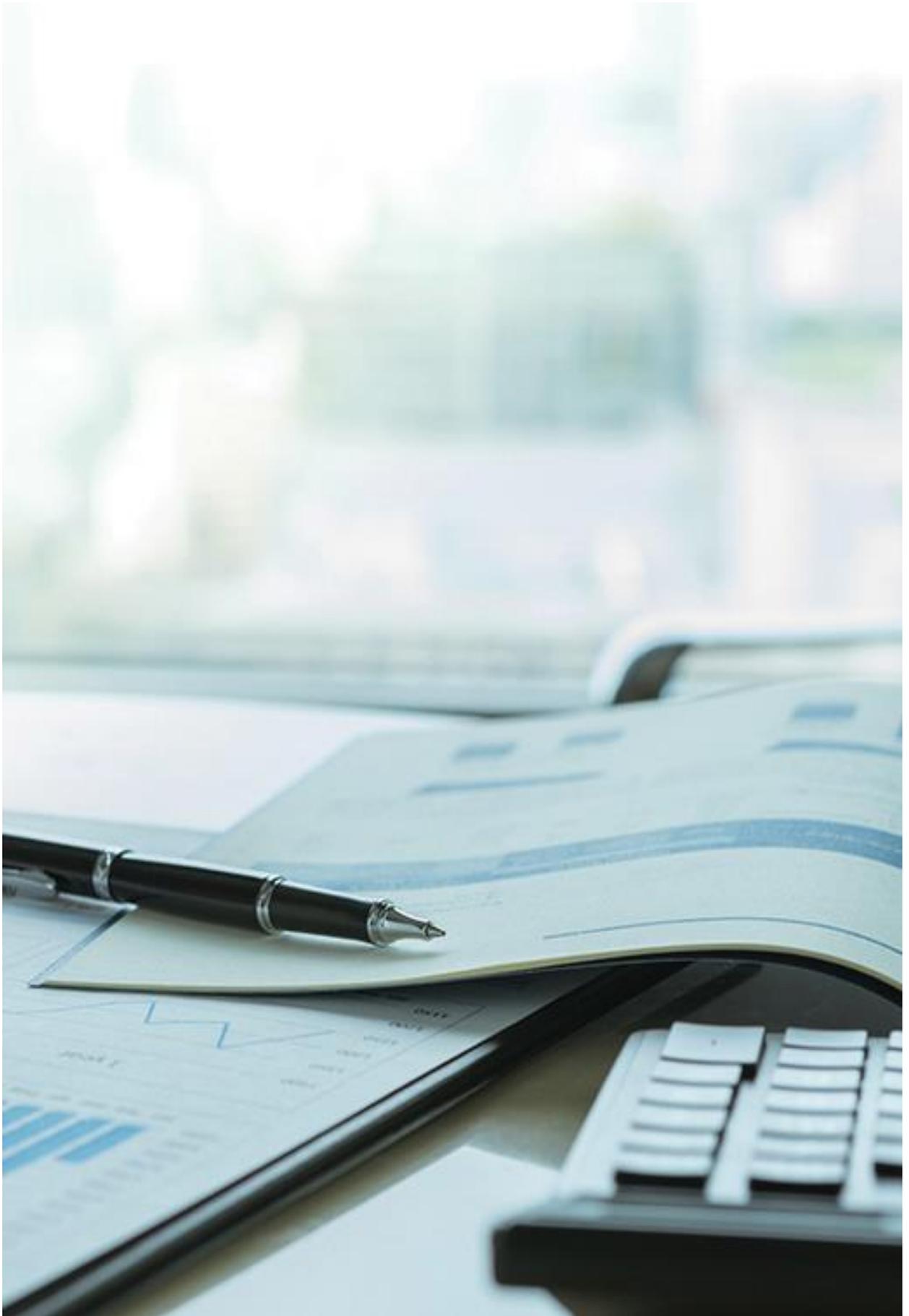
<b>EINF</b>	• Report on the supervision of NFIS	03/03/2022	34
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# Publications of the quarter

## Summary of outstanding publications of this quarter

Topic	Title	Date	Page
 <b>Federal Reserve</b>			
<b>Stress Test</b>	• 2022 Stress Test Scenarios	18/02/2022	35
 <b>Securities Exchange Commission</b>			
<b>Cybersecurity, strategy</b>	• Proposed rule on Cybersecurity Risk Management, Strategy, Governance and Incident Disclosure	09/02/2022	36
<b>Private Fund</b>	• Proposed rule on Private Fund Advisers and Cybersecurity Risk Management for Investment Advisers	15/02/2022	38
<b>Climate disclosure</b>	• New rules on the enhancement and standardization of climate-related disclosures for investors	21/03/2022	40





# Publications of the quarter

## European publications

04/02/2022

**EU Taxonomy Complementary Climate Delegated Act amending Taxonomy Climate Delegated Act and Taxonomy Disclosures Delegated Act**



### 1. Context

In 2020 the EC published the Taxonomy Regulation which provides uniform criteria for companies and investors to determine which economic activities can be considered environmentally sustainable. In accordance with the mandates of this Regulation, the EC adopted on 2021 the Taxonomy Climate Delegated Act, to set the technical screening criteria for determining the conditions under which an economic activity qualifies to climate change mitigation, and the Taxonomy Disclosures Delegated Act to specify the information to be disclosed by non-financial and financial undertakings on the share of their business, investments or lending activities that are aligned with the EU Taxonomy. However, not all relevant sectors and activities had been covered in the Taxonomy Climate Delegated Act.

In this context, the EC has published the **Taxonomy Complementary Climate Delegated Act**. This regulation amends the Taxonomy Climate Delegated Act setting out the technical screening criteria for climate change mitigation and climate change adaptation for economic activities in the natural gas and nuclear energy sectors which were not included in the Taxonomy Climate Delegated Act. Moreover, to enhance market transparency and the information of investors, this Delegated Act provides for specific disclosure requirements for the natural gas and nuclear energy sectors by amending the Taxonomy Disclosures Delegated Act.

### 2. Main points

#### Amendments to the Taxonomy Climate Delegated Act

- Additional economic activities from the energy sector. Certain nuclear and gas activities are added as activities that support the transition to a climate-neutral economy, to those already covered by the first Delegated Act. These are activities that cannot yet be replaced by technologically and economically feasible low-carbon alternatives, but do contribute to climate change mitigation and with the potential to play a major role in the transition to a climate-neutral economy, subject to strict conditions. These activities are:
  - Nuclear-related activities that contribute to the transition to climate neutrality and fulfils nuclear and environmental safety requirements:
    - **Advanced technologies with closed fuel cycle** (“Generation IV”) to incentivise research and innovation into future technologies in terms of safety standards and minimising waste.
    - **New nuclear power plant projects** for energy generation, which will be using best-available existing technologies (“Generation III+”) for which the construction permit has been issued by 2045.
    - **Modifications and upgrades of existing nuclear installations** for the purposes of lifetime extension, authorised by Member States’ competent authorities by 2040.
  - Gas-related activities that contribute to the transition to climate neutrality and specifically, contributes to the transition from coal to renewables:
    - **Electricity generation from fossil gaseous fuels.**
    - **High-efficiency co-generation of heat/cool and power from fossil gaseous fuels.**
    - **Production of heat/cool from fossil gaseous fuels in an efficient district heating and cooling system.**

#### Amendments to the Taxonomy Disclosure Delegated Act

- **Specific disclosure requirements for businesses related to their activities in the gas and nuclear energy sectors.** The aim of these requirement is that non-financial and financial undertakings provide investors with a high degree of transparency concerning their investments in fossil gas and nuclear energy generation activities for which technical screening criteria have been laid down. Templates have been provided in order to ensure comparability of the information disclosed to investors and must indicate clearly the proportion of fossil gas and nuclear energy activities in the denominator and, where appropriate, the numerator of key performance indicators of those undertakings.
- **General verification mechanism.** To enhance investor confidence, compliance with the technical screening criteria related to fossil gas activities should be verified by an independent third party. To ensure an impartial and diligent verification of compliance, the independent third-party should have the resources and expertise to perform that verification, be independent to avoid any conflict of interest with the owner or the funder and should not be involved in the development or operation of such fossil gas activities.
- **Specific verification mechanism.** In addition to the verification mechanism, financial and non-financial undertakings may be subject to specific verification requirements provided in other Union legislation on sustainable finance that cover compliance with the technical screening criteria.

### 3. Next Steps

- The Delegated Act will be transmitted for scrutiny by the EP and the Council for a period of **4 months**.
- Once the scrutiny period is over and if neither of the co-legislators objects, the Complementary Delegated Act will enter into force on the twentieth day following that of its publication in the Official Journal and shall apply from **1 January 2023**.

## 11/02/2022 Standardisation Strategy



### 1. Context

In 2012, the European Union (EU) Standardisation Regulation was published with the aim of establishing rules for cooperation between European standardisation organisations. This Regulation defines three of them: i) European Committee for standardization (CEN); ii) Committee for Electrotechnical Standardisation (CENELEC) and; iii) European Telecommunications Standards Institute (ETSI), whose role is to carry out standardisation work requested by the EC in support of EU legislation and policies. The fast pace of innovation, the green and digital ambitions and the implications of technological standards for our EU democratic values require an increasingly strategic approach to standardization, with a need to improve the governance and integrity of these European system.

In this context, the EC has presented a **Standardisation Strategy** which includes a proposal for an **amendment to the Regulation on standardization**. This strategy aims to develop new standards in strategic sectors and to strengthen the innovation and transparency of the European standardisation system so that it can continue to be a global reference.

### 2. Main points

#### Standardisation Strategy

- **The Strategy proposes five key sets of actions.**
  - Anticipate, prioritise and address standardisation needs in strategic areas. The EC sets a number of priorities which are reflected in the work programme:
    - COVID-19 **vaccines and medicines** production.
    - **Critical raw materials** for batteries and waste batteries.
    - **Climate resilience** of infrastructure and low-carbon cement.
    - **Hydrogen technologies** and components.
    - **Transport** and storage of **hydrogen**.
    - Standards for the **certification of chips** in terms of security, authenticity, reliability.
  - Improve the governance and integrity of the European standardisation system. To this end, the EC has proposed an amendment to the Standardisation Regulation.
  - Enhance European leadership in global standards. The EC will work through the High-Level Forum to set up a new mechanism with EU Member States and national standardisation bodies to share information.
  - Support innovation. The development of a Code of Practice for researchers on standardisation will be initiated to strengthen the link between standardisation and research/innovation through the European Research Area (ERA).
  - Enable the next generation of standardisation experts. The EC will promote more academic awareness on standards, for instance through the future organisation of EU University Days and training of researchers.

#### Proposal for a Regulation amending Regulation on standardization

- **Amendments to standardisation requests to European organisations.**
  - The EC may, request that one or several European standardisation organisations draft a European standard or European standardisation deliverable within a set deadline.
  - As a novelty, each European standardisation organisation shall ensure the decisions concerning European standards and European standardisation deliverables are taken exclusively by representatives of the national standardisation bodies within the competent decision-making body of that organization. These decision are:
    - on the **acceptance, refusal** and **execution** of standardisation requests.
    - on the **acceptance** of new **work items**.
    - on the **adoption, revision** and **withdrawal** of European standards or European standardisation deliverables.

This will allow the European system to remain open, transparent, inclusive and impartial, but will improve the governance of the system.

### 3. Next Steps

- The Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the EU.

### Main amendments to CRD IV

- **Supervisory powers.** The proposal expands the list of supervisory powers available in the CRD to competent authorities.
- **ESG Risks.** Amendments are made to require that short, medium and long term horizon of risks are included in credit institutions' strategies and processes. Another point is to enable the EBA together with the other ESAs to develop consistent standards for methodologies to stress test these risks.
- **Pillar 2 requirements.** Supervisors have the discretion to decide, on a case by case basis, to impose Pillar 2 capital requirements with a higher share of Tier 1 capital or CET 1 capital.
- **Introduction of the output floor (OF).** Setting out the rules on the Pillar 2 requirements (P2R) and the systemic risk buffer (SyRB) requirement, respectively - by introducing safeguards aimed at preventing unjustified increases in the P2R and the SyRB requirement. These cannot be used to cover risks that are already fully covered by the OF.
- **Supervisory benchmarking of approaches for calculating own funds requirements.** two types of approaches; i) modelling approaches used to calculate expected credit risk losses both under International Financial Reporting Standard (IFRS 9) and under national accounting standards; ii) the alternative standardised approach for market risk.

### Additional amendment to the Capital Requirement Regulation (CRR), which introduces the "Daisy chain proposal"

- The proposal incorporates directly into the CRR a **dedicated prudential treatment** related to the indirect subscription of instruments eligible for internal Minimum Requirement for own funds and Eligible Liabilities (MREL) (**daisy chain approach**).
- The proposal clarifies the CRR provisions on **the comparison between the sum of the actual Total Loss-absorbing Capacity (TLAC) requirements** of all the resolution groups within a Globally Systemic Important Institutions (G-SII) group with an Multiple Point of Entry (MPE) resolution strategy, with the **theoretical Single Point of Entry (SPE) requirement** of that G-SII group.
- It is amended the **formula for the calculation of the TLAC/MREL surplus** of a subsidiary in the context of the general deduction regime applicable to G-SIIs with an MPE resolution strategy to ensure that that formula takes into account both the risk-based and the non-risk-based TLAC/MREL requirements of the subsidiary, in line with the TLAC standard.
- The proposal clarifies some CRR provisions applicable to G-SIIs with an MPE resolution strategy to **allow for the consideration of subsidiaries established outside of the Union**.
- The proposal introduces some targeted clarifications in the context of the **requirement for own funds and eligible liabilities for institutions that are material subsidiaries of non-EU G-SIIs** ('internal TLAC') to ensure that debt instruments issued by those institutions could meet all eligibility criteria for eligible liabilities instruments.

### **3. Next Steps**

- The legislative package will now be discussed by the European Parliament and Council.
- The entry into force of the changes will be gradual. The first amendments are expected to enter into force in **2023**.

28/02/2022

## Proposal for a Directive on Corporate Sustainability Due Diligence



### 1. Context

The behaviour of companies across all sectors of the economy is key to success in the Union's sustainability objectives as Union companies, especially large ones, rely on global value chains. Despite this, companies' progress in integrating sustainability, and in particular human rights and environmental due diligence, into corporate governance processes remains slow. To address these challenges, in March 2021, the European Parliament (EP) called on the EC to submit a legislative proposal on mandatory value chain due diligence. Similarly, on 3 December 2020, the Council in its conclusions called on the EC to present a proposal for an EU legal framework on sustainable corporate governance, including cross-sector corporate due diligence along global value chains.

In this context, the EC has published the **Proposal for a Directive on Corporate Sustainability Due Diligence**. This Directive aims to ensure that companies active in the internal market contribute to sustainability transition of economies and societies through the identification, prevention and mitigation, bringing to an end and minimization of potential or actual adverse human rights and environmental impacts connected with companies' own operations, subsidiaries and value chains.

### 2. Main points

- **Scope of application.** The new due diligence rules will apply to the following companies and sectors:
  - EU companies:
    - **Group 1:** All EU limited liability companies of substantial size and economic power. (more than 500 employees and more than EUR 150 million in net turnover worldwide in the last financial year).
    - **Group 2:** Other limited liability companies operating in defined high impact sectors (e.g manufacture of textiles, food products and extraction of mineral resources), which do not meet both Group 1 thresholds, but have more than 250 employees and a net turnover of EUR 40 million worldwide in the last financial year. For these companies, rules will start to apply 2 years later than for group 1.
  - Non-EU companies active in the EU with turnover threshold aligned with Group 1 and 2, generated in the EU.
  - Micro, small and medium enterprises (**SMEs**) are not directly in the scope of this proposal.
- **Due diligence requirements.** In order to comply with the corporate due diligence duty, companies need to:
  - Integrate due diligence into intern policies. The due diligence policy shall contain all the following aspects: i) a description of the **company's approach** to due diligence; ii) a **code of conduct** describing rules and principles to be followed by the company's employees and subsidiaries; and iii) a description of the **processes put in place to implement due diligence**.
  - Identify actual or potential adverse human rights and environmental impacts arising from their own operations or those of their subsidiaries.
  - Prevent, mitigate, bring to an end or minimize potential impacts. Companies shall be required to take concrete actions, where relevant, such us: i) develop and implement a **prevention or corrective action plan** with qualitative and quantitative indicators for measuring improvement; ii) seek **contractual assurances** from a business partner with whom it has a direct business relationship and iii) make necessary **investments**, such as into management or production processes and infrastructure
  - Establish and maintain a complaints procedure.
  - Monitor the effectiveness of the due diligence policy and measures, based on qualitative and quantitative indicators and at least every 12 months.
  - Publicly disclosure on due diligence.
- **Accompanying measures.** The proposal also include different action which will support all companies, including SMEs, that may be indirectly affected. Measures include, among others, the development of individually or jointly dedicated websites, platforms or portals and potential financial support for SMEs.
- **Supervision and compliance measures.** National administrative authorities will be responsible for supervising these new rules and may impose finances in case of non-compliance. In addition, victims will be able to take legal action for damages that could have been avoided with appropriate due diligence measures. At European level, the Commission will set up a European Network of Supervisory Authorities that will bring together representatives of the national bodies to ensure a coordinated approach.

### 3. Next Steps

- The proposal will be presented to the European Parliament and the Council for approval. Once adopted, Member States will have **two years** to transpose the Directive into national law and communicate the relevant texts to the Commission.
- For the companies under **group 2** the rules will start to apply after a transition period of **two years** after the end of the transposition period, for this Directive to allow for a longer adaptation period.

28/02/2022  
Proposal on Data Act



### 1. Context

In February 2020, the EC published the European strategy for data with the aim of setting up a European data space, that allows data to flow freely within the EU and between different sectors, researchers and public administrations (i.e. a single data market). Following this strategy, in November of the same year, the EC published the Proposal on Data Governance Act with the aim of foster the availability of data for use by increasing trust in data intermediaries and by strengthening data-sharing mechanisms across the EU.

In this context, the EC has published the **proposal on Data Act**, second main legislative initiative resulting from the February 2020 European strategy for data. The Data Act addresses the legal, economic and technical issues that lead to data being under-used.

### 2. Main points

- **Subject matter and scope.** This Regulation lays down harmonised rules on making data generated by the use of a product or related service available to the user of that product or service. This Regulation applies to, among others: i) manufacturers of products and suppliers of related services; ii) data holders; iii) data recipients; and iv) public sector bodies.
- **Legal certainty.** Manufacturers and designers have to design the products in a way that makes the data they generate easily accessible. Upon request by a user, the data holder shall make available the data generated by the use of a product or related service to a third party, without undue delay and free of charge.
- **Data availability.** There are addressed the conditions under which a data holder is obliged to make data available to a data recipient. Any conditions will have to be fair and non-discriminatory. A data holder shall agree with a data recipient the terms for making the data available.
- **Unfairness of contractual terms in data sharing contracts between businesses.** It is guarantee that contractual agreements on data access and use do not take advantage of imbalances in negotiating power between the contractual parties. A contractual term is unfair if it is of such a nature that its use grossly deviates from good commercial practice in data access and use, contrary to good faith and fair dealing.
- **Harmonised framework for the use by public sector bodies of data held by enterprises.** There is an obligation to make data available to the public sector in situations of exceptional need to respond to public emergency. Where such data are requested, the exceptional need for which they are requested and the purpose of the request must be demonstrated.
- **Unlawful third party access to non-personal data.** There are set specific safeguards, by way of providers having to take all reasonable technical, legal and organisational measures to prevent international transfer or governmental access to non-personal data held in the EU.
- **Interoperability.** There are provided essential requirements to be complied by operators of data spaces and data processing service providers as well as for essential requirements for smart contracts. For example, the dataset content, use restrictions, licenses, or the data collection methodology must be sufficiently described to allow the recipient to access the data.

### 3. Next Steps

- This regulation will have to be approved by the European Parliament (EP) and the Council. Once approved, this Regulation shall enter into force on the **twentieth day** following that of its publication in the Official Journal of the EU and it shall apply from **12 months** after its entry into force.

## 03/03/2022 Final Report on Social Taxonomy



### 1. Context

The EC published in 2019 the European Green Deal, which sets out a series of climate and energy targets for 2030, and contains a commitment for Europe to become climate neutral by 2050. Furthermore, in 2020 the EC published the Taxonomy Regulation which provides uniform criteria for companies and investors to determine which economic activities can be considered environmentally sustainable. The taxonomy initially only covers environmental activities and objectives only and contained only limited reference to social sustainability. For this reason, the EC mandate the Platform on Sustainable Finance to also work on extending the taxonomy to social objectives.

In this context, the Platform on Sustainable Finance has published a **Final Report on Social Taxonomy** in which summarises the main initial observations and recommendations on this mandated task, and in which there are included social objectives, examples of these objectives, as well as metrics to be considered.

### 2. Main points

- **Social objectives.** The Platform on Sustainable Finance suggests three objectives for a social taxonomy:
  - Decent work (including value-chain workers). This objective focuses on people, in their working lives or as workers. The four pillars of the decent-work are: i) employment creation; ii) social protection; iii) rights at work; and iv) social dialogue. Decent Work has a list of sub-objectives (e.g. ensuring pay levels for workers).
  - Adequate living standards and wellbeing for end-users. This objective focuses on people, in their role as end-users of certain products and services that either pose heightened health or safety risks or that have the potential to help people to meet basic human needs. As a sub-objective, for example, is ensuring healthy and safe products and services.
  - Inclusive and sustainable communities and societies. This objective will emphasise respecting and supporting human rights by paying attention to the impacts of activities on communities and the wider society. It will achieve this by: i) addressing and avoiding negative impacts; and ii) making basic economic infrastructure available to certain target groups. This objective has sub-objectives (e.g. inclusion of people with disabilities).
- **“Do no significant harm” (DNSH) criteria in social taxonomy.** The DNSH criteria ensure that when an activity makes a substantial contribution to one social objective, it does not harm the other social objectives. They have main features/obstacles:
  - Need for more granular DNSH criteria at the level of the sub-objectives.
  - DNSH criteria might play an important role in some important social topics and sub-objectives.
- **Governance.** The Platform on Sustainable Finance recommends 2 objectives:
  - Strengthening sustainability aspects of traditional corporate governance.
  - Strengthening corporate-governance aspects that are important for sustainability.
- **Metrics of a social taxonomy.** There are included metrics on: i) safe and healthy working conditions; ii) anti-discrimination; iii) freedom of association; and iv) employment generation.
- **Harmful activities to be considered for a social taxonomy.** Significantly harmful activities could be those which are fundamentally and under all circumstances opposed to social objectives. A source for identifying harmful activities could be: i) the international humanitarian law treaties; ii) a series of other conventions and protocols on specific topics.
- **Relationship between the social taxonomy and the environmental taxonomy.** The Platform on Sustainable Finance considers two main differences between a social taxonomy and an environmental taxonomy:
  - While most economic activities have detrimental impacts on the environment, most economic activities such as the creation of jobs, paying taxes and production of goods and services can be considered inherently socially beneficial.
  - While environmental objectives and criteria can be based on science, a social taxonomy has to be based on international authoritative standards of topical relevance such as the International Bill of Human Rights.

### 3. Next Steps

- The objectives presented in this report will constitute an input for the definition of the final objectives by the EC.
- The Platform on Sustainable Finance has set several next steps for developing a social taxonomy, for example, to conduct a study on the impacts of a social taxonomy considering different options for application and designs.

15/02/2022  
Results of 2021 SREP

## 1. Context

The ECB has published the outcome of its **2021 Supervisory Review and Evaluation Process (SREP)** which reflect the resilience of Europe's banking sector and the challenges that lie ahead. The findings of that annual assessment indicate that significant institutions have maintained solid capital and liquidity positions, with most banks operating at capital levels above those dictated by capital requirements and guidance.

## 2. Main points

- **Business model.** Significant institutions' profitability recovered in 2021, mainly thanks to lower impairments, but it remains structurally low overall. Most significant institutions' return on equity (ROE) is below the cost of capital, which impairs the capacity to issue more capital in case of need.
- **Internal governance.** Banks have been slow to address the governance challenges posed by the COVID-19 pandemic in relation to:
  - Ineffective supervision on the part of the management body.
  - Insufficient attention on the part of the management body to risk and compliance functions in the second line of defence.
  - Effectiveness of management bodies in terms of their composition and collective suitability.
  - Fragmented and non-harmonised IT landscapes.
- **Credit risk.** The increase in credit risk linked to COVID-19 has not yet materialised in the form of an increase in NPLs. For example, NPLs also continued to decline in 2021. Also notable is the continuing increase in exposure to leveraged lending, with the associated credit standards continuing to loosen.
- **Capital adequacy.** Banks' capital positions have strengthened significantly in the course of the pandemic, but their scores remained broadly stable in 2021 given the extent of public support measures. Capital adequacy scores have undergone minor changes compared to 2019. 82% of Significant institutions' were assigned the same score as in 2019, 5% saw their score deteriorate, and 13% were given a better score.
- **Operational resilience.** Banks' reliance on IT systems, and thus their vulnerability to IT, related risks is increasing as they continue to digitalise and move towards round-the-clock availability of services.



19/01/2022

## Guidelines on resolvability and CP on transferability

### 1. Context

In 2016, the Financial Stability Board (FSB) published Guidance on Arrangements to support Operational Continuity in Resolution. In addition, the European Commission (EC) published the Delegated Regulation that complements regulatory technical standards (RTS) specifying the content of recovery plans and resolution plans. Additionally, in 2021 the EBA published the consultation paper (CP) on draft Guidelines (GL) on resolvability.

In this context, the EBA published its **Final Report on GL on improving resolvability for institutions and resolution authorities**. These guidelines aim to implement existing international standards on resolvability and take stock of the best practices so far developed by EU resolution authorities on resolvability topics. Complementing this GL in order to cover more precisely separability in the context of the application of transfer tools, the EBA has also launched its **CP for GL on transferability to complement the resolvability assessment for transfer strategies**.

### 2. Main points

#### Final Report on Guidelines for institutions and resolution authorities on improving banks' resolvability

- **Minimum requirements relating to structure and operations.**
  - Operational continuity. Institutions should have operational arrangements to ensure the continuity of services supporting critical functions and core business lines needed for the effective execution of the resolution strategy and any consequent restructuring.
  - Access to Financial Market Infrastructure (FMI). Institutions should have arrangements in place to ensure continued access to clearing, payment, settlement, custody and other services provided by FMIs.
  - Governance in resolution planning. The management body of the institutions should ensure an institution's compliance with these guidelines for the purposes of resolution planning. As a novelty with respect to the consultation document, it is detailed that an executive director should be designated as in charge of resolution planning of the institution.
- **Minimum requirements relating to financial resources.** Institutions should demonstrate their ability to measure and report their liquidity position at short notice and have capabilities to perform liquidity analysis of current positions at the level of material entities and of the group for material currencies.
- **Minimum requirements relating to information systems.**
  - Information systems testing. These guidelines introduce a number of conditions for institutions to be able to provide relevant information to resolution authorities in a timely manner.
  - Information systems for valuation. Institutions should have capabilities to support the timely provision of valuation data at a sufficient level of granularity of granularity to enable valuations to be performed within a suitable timeframe.
- **Minimum requirements relating cross-border issues.** Institutions should be able to provide a list of contracts concluded under third country law. This list should identify the counterparty, the obligations for the institutions and whether the contract is being exempted from contractual recognition or whether it has included the contractual recognition terms for bail in and stay powers.
- Resolution implementation. Institutions, in cooperation with resolution authorities, should demonstrate testing and operationalisation capabilities in relation to the following aspects: i) bail-in exchange mechanic; ii) business reorganisation; iii) governance in resolution execution; and iv) communication.

#### CP for Guidelines on institutions and resolution authorities on transferability to complement the resolvability assessment for transfer strategies

- **Definition of the transfer perimeter.** Although the methodology for the definition of the entity or entities, business lines or portfolios of assets, rights and/or liabilities to be transferred (known as transfer perimeter) remains resolution authorities' responsibility, institutions should be able to implement this definition, identifying impediments and proposing potential enhancements aiming at improving the credibility and feasibility of the transfer strategy or tool. These transfer tools are:
  - **Sale of Business (SoB):** If a resolution strategy includes the SoB tool, resolution authorities should evaluate, as part of the resolution planning, the execution risk of asset and share deals and consider the least intrusive transaction that achieves best the resolution objectives.
  - **Bridge Institution (BI):** Resolution authorities should consider the objectives and the exit strategy of the BI, given the scenario considered, when setting the methodology for the definition of the perimeter to be transferred to a BI.
  - **Asset Separation Tool (AST):** Institutions, based on the information communicated by resolution authorities, should flag to authorities the assets, rights and/or liabilities and the principles laid down in EBA guidelines on the AST in order to examine to which extent it can be applied.

- **Operational transfer.**

- The second step on implementation of the transfer tool is preparing for operational transfer. Resolution authorities and institutions should have arrangements in place in order to prepare for the sale of the transfer perimeter.
  - Resolution authorities should develop a sale process to support the SoB, and investigate additional preparatory measures to support the execution of the transfer tools.
  - Both institutions and resolution authorities should develop capabilities to solve separability conflicts and to implement the transfer in a timely manner.
  - Institutions should establish processes to handle the operational consequences of the transfer and should demonstrate to resolution authorities how reliable these processes are.
- When AST and BI are the resolution tools foreseen in the resolution strategy, resolution authorities should have processes in place in order to respectively set up an assets management company.

### **3. Next steps**

- The Resolvability Guidelines will become applicable from **1 January 2024**.
- Comments on the Transferability Guidelines can be submitted until 13 April 2021. The aim is to publish the final guidelines by **30 September 2022**. The institutions and resolution authorities in scope of these guidelines should comply in full by **1 January 2024**.



25/01/2022

## Draft ITS on Pillar 3 disclosures on ESG risks

### 1. Context

Under the Capital requirements regulation (CRR), large institutions with securities traded on a regulated market of any Member State are required to disclose prudential information on environmental, social and governance risks (ESG) and climate change risks, including transition and physical risk. In this sense, the EBA must develop draft implementing technical standards (ITS) specifying uniform formats and associated instructions for the disclosure of this information in a way that conveys sufficiently comprehensive and comparable information for users of that information to assess the risk profile of institutions.

In this context, the EBA following the publication of the consultation paper in March 2021, has published **draft ITS on Pillar 3 disclosures on ESG risks** with the strategic objective of defining a single, comprehensive Pillar 3 framework under the CRR that should integrate all the relevant disclosure requirements. These ITS put forward the tables, templates and associated instructions that institutions must use in order to disclose relevant qualitative information on ESG risks, and quantitative information on climate-change-related risks, including transition and physical risks and mitigating actions.

### 2. Main points

This ITS includes:

- **Quantitative disclosures on climate change transition risk.** Includes several templates through which institutions should show:
  - Their exposures towards non-financial corporates (NFCs) that operate in sectors that highly contribute to climate change, exposures towards fossil fuel counterparties and exposures towards counterparties that operate in other carbon related sectors.
  - Information on the energy efficiency of the underlying real estate collaterals, including loans collateralized by commercial and residential real estate, and repossessed real estate collaterals.
  - Information on their plans and potential methodology to implement disclosures on scope 3 emissions.
- When providing this information, institutions are asked to disclose quantitative data on the credit risk quality of the exposures and explain in the narrative accompanying the templates any implications that these exposures may have in terms of operational and liquidity risk for the institution. In this respect, a series of templates are included which present the following new features compared with the consultation document:
  - Template 1 and Template 2 from the consultation have been merged into the final Template on credit quality of exposures by sector, emissions and residual maturity and some details, such as PD, have been removed.
  - Template on climate change transition risk: loans collateralised by immovable property, has been simplified. The breakdown by country originally required to facilitate comparability of energy performance certificate (EPC) labels when EPC labels are defined differently across EU countries or regions has been dropped. In addition, this information is also requested for non-EU countries.
  - The former Template 6 on climate change transition risk has been dropped.
- **Quantitative disclosures on climate change physical risk.** Includes template on Exposures in the banking book subject to climate change physical risk. This template includes information by sector of economic activity (NACE classification) and by geography. As a novelty compared to the draft, the opening by type of physical risk event will no longer be required.
- **Quantitative information on mitigation actions.** Includes templates with quantitative information on assets and exposures that are contributing and enabling climate change mitigation and adaptation by supporting institutions' helping them to mitigate their climate change transition and physical risks:
  - Assets for the calculation of the Green Asset Ratio (GAR) which includes information necessary for the calculation of the GAR and other relevant KPIs.
  - GAR KPIs under which institutions shall disclose information on the percentage of their total assets covered by the GAR.
  - New template 9 with respect to the consultation document. Shows information on taxonomy alignment of exposures towards counterparties in the banking book, including corporates that do not have disclosure obligations under the NFRD. This information will be used for the computation of the Banking Book Taxonomy Alignment Ratio (BTAR).
  - Other climate change mitigating actions.
- **Qualitative disclosures.** The disclosure requirements are organised by risk category: i) environmental; ii) social; and iii) governance. Under each risk category, the disclosure requirements target governance, business model and strategy, and risk management.

### 3. Main points

- Entities will have to start disclosing this information from **June 2022**. The first disclosure will be on an annual basis and thereafter on a semi-annual basis.
- In addition, a phase-in period until **June 2024** is proposed for disclosures on institutions' scope 3 emissions.
- The disclosure of information on the **GAR** will start to apply in **2024**.
- As an update to the consultation document, the additional and separate information on the BTAR will apply from June 2024. And information on environmentally sustainable exposures (CCM) in Template 1 will be disclosed by institutions starting from end of December 2023 (for exposures included in the numerator of the GAR) and end **of June 2024** (for exposures included in the numerator of the BTAR only) as the first disclosure reference date.



28/02/2022

## Report on the 2021 credit and market risk benchmarking exercise

### 1. Context

According to the directive Capital Requirement Directive (CRD), competent authorities (CAs) shall carry out supervisory benchmarking studies of internal approaches for calculating own funds requirements. Moreover, the EBA is mandated to produce a report to assist the CAs in the assessment of the quality of the internal approaches.

In this regard, the EBA has published two reports on the consistency of the Risk Weighted Assets (RWAs), a **Report on the results from the 2021 high and low default portfolios** (HDPs and LDPs) credit risk benchmarking, and a **Report on the results from the 2021 market risk benchmarking exercise**. In particular, the credit risk benchmarking exercise aims to monitor the variability of the RWAs for institutions applying the IRB approaches in EU Member States. For its part, the market risk benchmarking assesses the variability in banks' market risk models and identifies the drivers that account for it.

### 2. Main points

#### Report on the 2021 Credit Risk Benchmarking Exercise

- Sample. 83 institutions provided related realisations for LDP portfolios (i.e. exposures to large corporates, sovereigns and institutions) and HDP portfolios (i.e. residential mortgages, small and medium-sized enterprise (SME) retail, SME corporate and corporate-other portfolios). In addition, institutions provide the RWA and related IRB parameters for some specific large corporates, institutions and sovereigns to which they have exposures.
- IRB risk parameters end-2020.
  - Description of average RW, probability of default (PD) and loss given default (LGD). Decrease of average RWs between December 2019 and December 2020 in nearly all exposure classes. For LDP portfolios, the average RW has decreased for central governments and central banks and institutions. On the other hand, the average RW has increased for large corporates.
  - Analysis of decreased average PDs. Decrease in PDs in HDP portfolios might be driven by:
    - The annual review of estimates and recalibration.
    - The impact of national measures that were imposed to contain the coronavirus and to support the economy.
    - The use of moratoria and public guarantee schemes for material shares of a given IRB portfolio.
    - The implementation of the IRB roadmap.
  - Variability of IRB parameters. A top-down analysis was performed with a methodology broadly unchanged from previous years. This approach shows that the overall variability has slightly decreased from the 2020 to 2021 exercise.
- Default rates as of end-2020. With reference to other retail SME exposures (SMOT) and retail SME exposures secured by real estate (RSMS) exposures classes, the average default rates observed in 2021 (i.e. as of December 2020) are significantly lower than those observed in 2020 (as of December 2019). This can probably, among others, be explained by the different materiality and effects stemming from the public support measures and from the use of moratoria in particular.

#### Report on the 2021 Market Risk Benchmarking Exercise

- Sample. 40 banks from 13 jurisdictions that submitted data for 59 market portfolios across all major asset classes (e.g. equity, interest rates) and 4 correlation trading portfolios.
- Main findings.
  - Reduction in the dispersion of the initial market valuation (IMV) versus the 2020 exercises with regard to the FX and Commodities (CO) asset classes.
  - Interest rates and CO portfolios exhibit a lower level of dispersion than the FX and credit spread asset classes.
  - Across all asset classes the overall variability for value at risk (VaR) is lower than the observed variability for stressed VaR (sVaR) (27% and 31% respectively). More complex measures such as the incremental risk charge (IRC) show a higher level of dispersion (43% compared with 49% in 2020).
  - The variability of empirical estimates of expected shortfall (ES) at a 97.5% confidence level across risk factors is similar than that found for VaR and profit and loss (P&L) VaR.
- Dispersion in capital outcome. The average variability across the sample, measured by the inter-quantile dispersion statistic (IQD) coefficient, is around 24% (considered significant by the EBA), especially for the most complex portfolios in the credit spread asset class.
- CAs' assessments based on supervisory benchmarks. Overall, CAs planned some actions for 13 banks (e.g. reviewing the banks' internal VaR and IRC models; a supervisory extra charge; stringent conditions on any extension of the internal model approach).



17/03/2022

## Final Report on draft RTS on PD and LGD under the internal default risk model

After the Basel Committee on Banking Supervision (BCBS) finalised and published standards on Minimum capital requirement for market risk in January 2019, previous minimum capital requirements for market risk in the global regulatory framework were replaced. As a key requirement, institutions using the Internal Model Approach (IMA) to compute own funds requirements for market risk are required to compute additional own funds requirement using an internal default risk model for their positions in traded debt and equity instruments included in IMA trading desks.

In this context, and after the publication of the consultation document in July 2020, the EBA has published the **final report on Regulatory Technical Standards (RTS) on default probabilities (PDs) and losses given default (LGDs) for default risk model for institutions using the new IMA under the Fundamental Review of the Trading Book (FRTB)** to clarify the requirements that an institution's internal methodology or external sources are to be met for the estimation of PDs and LGDs under the default risk model (DRC).

### 2. Main points

- **Estimating PDs/ LGDs.** As a novelty with respect to the consultation document, the requirements for estimating PDs and LGDs, are detailed in these RTS and shall be:
  - For an institution's internal methodology, estimating PD and LGDs shall fulfil several requirements when all of the following conditions are met (assessed quarterly): i) no external sources are available for estimating a PD for a specific issuer or an LGD for a specific position; ii) the use of an internal methodology that meets the IRB requirements is not feasible due to a lack of input data for that issuer or position or a disproportionality in relation to the materiality or holding period of the position; iii) the use of 'fallback' PD and LGD estimates is not excessive in relation to the overall scope of the internal DRC. These requirements are:
    - **Estimating PD.** An institution's internal methodology, or a part of it, shall assign to an issuer an estimate of PD which is equal to or higher than the maximum of the following values: i) the highest PD assigned to investment grade issuers of positions under the scope of the institution's internal DRC and for which PDs are not estimated by means of the 'fallback' approach; ii) the equally weighted average of PDs assigned to issuers of positions under the scope of the institution's internal DRC and for which default probabilities are not estimated by means of the "fallback" approach, excluding defaulted issuers.
    - **Estimating LGD.** An institution's internal methodology, or a part of it, shall assign to an issuer an estimate of LGD which is equal to or higher than the maximum of the following values: i) 75% for subordinated debt positions; ii) 45% for senior unsecured debt positions; iii) 11.25% for covered bond positions; iv) 25% for any other positions. For 'fallback' LGDs applied to positions for which own funds requirements decrease with increasing values of LGDs, the limits mentioned above should be understood as caps rather than floors.
  - For external sources, estimating PD and LGDs requires that:
    - are validated on a **periodic basis** for their use in the internal default risk model.
    - are obtained from **external sources** by employing a methodology that is conceptually sound.
    - Where **more than one external source** is used, a hierarchy of sources is established in order to ensure the overall consistency of PD and LGD estimates used in the internal default risk model.
- **Documentation requirements for external sources.** To comply with minimum qualitative standards, an inventory of the external data sources used by the institution when estimating PDs and LGDs shall be kept up to date, and include:
  - a description of the methodologies used to estimate PDs and LGDs using external sources;
  - the results of the validation performed;
  - the hierarchy of the sources used;
  - As a novelty with respect to the consultation paper, it includes documentation and underlying rationale where an institution has identified different terms, information or assumptions in accounting for expected credit losses and the PDs from external sources for the purpose of ensuring sound credit risk management.

### 3. Next steps

- These RTS shall be adopted by the EC, and shall enter into force on the **twentieth day** following that of their publication in the Official Journal of the European Union.

17/03/2022

## Guidelines for common procedures and methodologies for the supervisory review and evaluation process (SREP) and supervisory stress testing.

### 1. Context

The directive Capital Requirement Directive (CRD), mandates the EBA to draft guidelines for competent authorities, specifying the common procedures and methodologies for SREP and for the assessment of the organization and treatment of risks referred in the Directive. Additionally, the CRD empowers the EBA to issue guidelines to ensure that common methodologies are used by competent authorities (CAs) when conducting annual supervisory stress tests for SREP purpose. The first SREP Guidelines were published in December 2014 and updated in 2017. However, it was necessary to align the last version with the last regulatory developments that have taken place since then, such as the publication of CRD V and CRR II and the issuance by the EBA of other relevant guidelines and technical standards.

In this regard, the EBA has updated the **Guidelines for common procedures and methodologies for the SREP and supervisory stress testing**, taking into account the requirements of CRR II and the CRD V. The revision of the SREP Guidelines, while keeping the original framework with the main SREP elements intact, reflects the amendments at Level 1, which include, among other things, the introduction of the assessment of the risk of excessive leverage and the revision of the methodology for the determination of the Pillar-2 capital guidance (P2G). Additionally, the principle of proportionality is enhanced as well as the encouragement of cooperation among prudential supervisory authorities and money laundering and countering the financing of terrorism (ML/FT) supervisors, as well as resolution authorities.

### 2. Main points

CAs should ensure that the SREP of an institution covers the following components:

- **Categorisation of the institution.** CAs should categorise all institutions under their supervisory remit into 4 different categories. As a novelty, the categorisation takes into account the definitions of small and non-complex institutions as well as large institutions, as set out in the CRR II, to ensure consistency in the scope of application of proportionality within the overall regulatory framework.
- **Scoring framework.** These guidelines introduce two types of scores, the first one indicating the likelihood that the risks to capital, liquidity and funding will have a significant impact on the institution, while the second type indicates the magnitude of risks to the institution's viability.
- **Monitoring of key indicators.** CAs should engage in regular monitoring of key financial and non-financial indicators to monitor changes in the financial conditions and risk profiles of institutions, as well as to identify the need for updates to the assessment of SREP elements in light of new material information outside of planned. As a novelty, indicators used for monitoring should include, where available, indicators based on quantitative or qualitative information from reporting provided to competent authorities that may point to ML/TF risk.
- **Business model analysis (BMA).** CAs should conduct regular BMA to assess business and strategic risks and determine the viability of the institution's current business model. As a novelty, CAs should also use the BMA to assess prudential implications of ML/TF risks known to them, linked to the business model of the institution. Furthermore, when identifying key vulnerabilities CAs shall consider the ESG risks and their impact on the viability and sustainability of the business model and long-term resilience of the institution.
- **Assessment of internal governance and institution-wide controls.** CAs should assess whether or not an institution's internal governance arrangements are adequate for and commensurate with the institution's risk profile, business model, nature, size and complexity. As a novelty, these assessment should include the verification of the existence of governance arrangements and mechanisms to ensure that the institution complies with applicable Anti-Money Laundering/Combating the Financing of Terrorism (AML/CFT) requirements.
- **Assessment of risks to capital.** CAs should assess and score the risks to capital that have been identified as material for the institution. As a novelty:
  - CAs should consider ML/TF risks within the context of the assessment of the different risks.
  - Regarding the assessment of credit and counterparty risk it is aggregated the assessment of: i) the equity risk in the banking book; ii) the real-estate risk and iii) model risk for regulatory approved models
  - When assessing market risk for institutions which do not meet the conditions of the small trading book as set out CRR II CAs should consider the relevance and materiality of fixed subcategories of risks set in the Guidelines.
  - When assessing operational risk, CAs should also consider conduct risk, model risk and ICT risk.
  - Assessment of the interest rate risk of an institution's non-trading book activities (IRRBB) should be differentiated from assessment of credit spread risk arising from positions in the non-trading book.

- Assessment of the adequacy of the institution's own funds. CAs should determine through the SREP capital assessment whether the own funds held by the institution provide sound coverage of risks to capital to which the institution is or might be exposed, if such risks are assessed as material to the institution. As a novelty:
  - The reference to the CRR II Pillar 1 own funds requirements is added.
  - When setting the additional own funds requirements and where relevant, guidance, CAs should: i) take into account any supervisory measures that the CA has applied or is planning to apply to an institution; ii) clearly justify all elements of additional own funds requirements for Pillar 2 requirements (P2R) and P2R- leverage ratio (LR) as well as for P2G and P2G-LR; and iii) apply P2R and P2R-LR as well as P2G and P2G-LR in a consistent manner to ensure broad consistency of prudential outcomes across institutions.
  - CAs should determine additional own funds requirements for risks other than the risk of excessive leverage, where they identify specific situations set in the Guidelines.
  - In accordance with the CRD V, CAs should assess the risk of excessive leverage separately from other types of risk.
  - CAs should determine the Total SREP leverage ratio requirement (TSLRR) and the Overall leverage ratio requirement (OLRR).
- **Assessment of risks to liquidity and funding and the SREP liquidity assessment.** CAs should assess the risks to liquidity and funding that have been identified as material for the institution. As a novelty CAs should include the information from AML/CFT, when conducting these assessment. Also, CAs should assess whether institutions have an appropriate reporting framework for liquidity and funding risk. Regarding the SREP assessment, two new approaches are added to articulate the specific quantitative stable funding requirements.
- **Overall SREP assessment and application of supervisory measures.** CAs should exercise their supervisory powers on the basis of deficiencies identified during the assessments of the individual SREP elements and taking into account the overall SREP assessment. As a novelty, in order to address these deficiencies, CAs should consider whether supervisory measures are needed to address prudential deficiencies/vulnerabilities related to ML/TF risks. Furthermore, two new chapters are included: i) instructions on supervisory reaction to a situation where P2G is not met and ii) instructions on interaction between supervisory and AML/CFT measures.
- **Supervisory stress testing.** CAs should, also, use supervisory stress testing to facilitate the SREP and, in particular, supervisory assessment of its key elements, which are described in these guidelines. Furthermore, supervisory stress testing should help CAs to assess supervisory organisational procedures and to plan supervisory resources, considering also other relevant information.

### 3. Next steps

- The guidelines will be translated into the official EU languages and published on the EBA website. The deadline for competent authorities to report whether they comply with the guidelines will be **2 months** after the publication of the translations.
- These updated guidelines apply from **1 January 2023**.

17/03/2022

## Operational guidance on the identification and mobilisation of collateral in resolution

### 1. Contexto

On April 2020, the Single Resolution Board (SRB) published the Expectations for Banks (EfB) which sets out the capabilities to show that banks are resolvable including the dimensions of Operational Continuity in Resolution (OCIR) and access to Financial Market Infrastructures (FMIs). According to the EfB, banks are expected to establish processes and develop capabilities to identify and mobilise collateral in resolution.

In this context, the SRB has published its operational guidance on the identification and mobilisation of collateral in resolution which complements the Expectations for Banks document and help to understand the operational and legal requirements that banks need to anticipate in order to maximise the amount of assets that could be mobilised as collateral in and after resolution.

### 2. Main points

- **Collateral governance and management framework in resolution.** Banks are expected to provide targeted information on their collateral management framework to ensure that the framework: i) can support the execution of the resolution process; ii) is suited to the specific circumstances of a resolution scenario; and iii) would not be adversely impacted by any potential measure that could separate the entities in the group, such as transfer tools.
- **Identification of assets to be used as collateral in resolution.** Banks are expected to have the required capacity to identify the legal, operational and practical availability of collateral within the resolution group. Furthermore, it is expected that banks: i) develop capabilities to accurately identify all assets that could be used as collateral in resolution; ii) have the capabilities to identify the location of available collateral within all relevant key liquidity entities (KLEs) of the resolution group; iii) have adequate management information system (MIS) capacity enabling them to value, provide documentation and monitor the evolution of available collateral, and provide updated reports on a regular basis.
  - Assets eligible as collateral for accessing ordinary Central Bank (CB) facilities. The inability to assess the eligibility of collateral, for example because of data quality issues, should not result in a classification of the collateral as not eligible. Banks should describe the root causes of its inability to assess the eligibility of collateral and present a plan to remedy these root causes.
  - Assets not eligible as collateral for accessing ordinary CB facilities. Assets not eligible for CB facilities can be used as collateral to obtain funding during resolution. This asset class could be used to obtain funding via private markets.
- **Mobilisation of collateral in resolution. Banks are expected to perform an assessment on their ability to: i) identify any legal and operational barriers to the mobilisation of local and cross-border collateral; ii) identify private counterparties to get access to secured funding in resolution; iii) identify the time that it would take to mobilise collateral to obtain access to funding.**
  - Assets eligible and not eligible as collateral for accessing ordinary CB facilities. Banks are expected to develop the necessary capacity to mobilise non-marketable assets that are eligible as CB collateral on a cross-border basis. As well as to document assets that are deemed non-eligible as CB collateral.
  - Mobilisation of collateral under different resolution strategies. In a single point of entry (SPE) strategy, the presumption is that the resolution group should be ready to guarantee sufficient funding for critical economic functions and the core business lines of the whole resolution group, especially when sufficient private sector funding is unavailable. Under an multiple point of entry resolution (MPE) Strategy, each resolution group should be able to manage its own liquidity independently, in case the group is separated during resolution.



# Publications of the quarter

## Local publications

04/02/2022

**Circular 1/2022, to financial credit establishments, on liquidity, prudential rules and reporting obligations, which amends Circular 1/2009 and Circular 3/2019**

### 1. Context

The main objective of Royal Decree 309/2020 on the legal regime of credit financial institutions is to establish the regulations applicable to them, including the solvency and liquidity obligations. In implementation of the powers set out in the Royal Decree, in June 2021 the BoS presented the public consultation on the draft circular to credit financial institutions on liquidity, prudential rules and reporting obligations with the aim of developing these matters contained in the Royal Decree.

In this context, the BoS has launched **Circular 1/2022**, to financial credit establishments, on liquidity, prudential rules and reporting obligations, which **amends Circular 1/2009 and Circular 3/2019**. The document sets the liquidity regulations applicable to financial credit institutions, and adapts the reporting obligations of credit institutions in matters of solvency and shareholder structure to the activity, business model, size and relative importance of financial credit institutions.

### 2. Main points

- **Scope of application.** This Circular applies to credit financial institutions, to consolidable groups of credit financial institutions with a parent company in Spain and to single liquidity sub-groups of credit financial institutions.
- **Liquidity regulation.** They are set up:
  - Liquidity buffer rules concerning: i) the composition and calculation of the buffer; ii) general requirements to asset liquidity; iii) the operational management of liquid assets; iv) liquid asset valuation rules; v) the rules on secured financing transactions and swaps of security interests vi) the consequences of non-compliance with liquid asset eligibility requirements; vii) alternative approaches to liquidity treatment; viii) liquidity outflows and inflows; and ix) the minimum value of the buffer.
  - Rules relating to the structure of funding sources as regards: i) the net stable funding ratio and the general rules for its calculation; ii) the calculation of available stable funding; and iii) the calculation of required stable funding.
  - A transitional application period for the application of the liquidity coverage requirement and the requirement of an adequate structure of funding sources and maturities in the assets, liabilities and commitments established in the Circular.
- **Another regulation on financial credit institutions in solvency matters.** It sets out the circumstances under which credit financial institutions must carry out the annual internal capital self-assessment report and the BoS the supervisory review and evaluation.
- **Solvency reporting obligations to the BoS.** Provisions are included relating to the information that institutions must provide to the BoS in relation to the composition of the assets, liabilities and equity reflected in their financial statements and, where applicable, of other balances which, although not reflected, are used in the calculation of own funds and their requirements.
- **Authorisation of financial credit institutions.** The guarantees required for the authorisation of financial credit institutions subject to the control of foreign persons are established.

### 3. Next steps

- This Circular will enter into **force three months** after its publication in the Official State Journal (BOE).



03/03/2022

## Law 4/2022, of 25 February, on the protection of consumers and users in situations of social and economic vulnerability

### 1. Context

Article 51.1 of the Spanish Constitution establishes that the public authorities shall guarantee the defence of consumers and users. For the effective fulfilment of this mandate, the impact that the COVID-19 pandemic has had on consumer practices must be considered, causing an increase in the number of consumers in a situation of economic vulnerability. Along these lines, the New Consumer Agenda published by the European Commission (EC) in 2020 underlines the need to address the specific needs of consumers who, due to their characteristics or circumstances, require greater protection.

In this context, the General Courts have approved **Law 4/2022, of 25 February, on the protection of consumers and users in situations of social and economic vulnerability**, which adopts urgent measures to address certain situations of vulnerability affecting consumers and users. Specifically, the essential modification lies in the inclusion, for the first time in state consumer protection legislation, of the figure of the vulnerable consumer, which has made it necessary to adapt the law's protection regime to this figure.

### 2. Main points

- **Concept of vulnerable consumer.** Those natural persons who, individually or collectively, due to their characteristics, needs or personal, economic, educational or social circumstances, are in a special situation of subordination, defencelessness or lack of protection that prevents them from exercising their rights as consumers under conditions of equality, shall be considered vulnerable consumers, with regard to specific consumer relations.
- **Consumer information, training and education.** The reference to the figure of the vulnerable consumer is introduced, so that special attention will be paid to those sectors which, due to their complexity or characteristics, have a higher proportion of vulnerable consumers among their customers or users, paying precise attention to the circumstances that generate the situation of specific vulnerability.
- **Labelling and presentation of goods and services.** It is specified that special attention will be paid to vulnerable consumers and that all goods and services made available to consumers and users must be easy to access and understand and, in any case, must incorporate, accompany or, as a last resort, allow for obtaining, in a clear and comprehensible manner, truthful, effective and sufficient information on their essential characteristics, as detailed in the regulation.
- **Commercial information on goods and services.** It is determined that the necessary information to be included in the commercial offer must be provided to consumers or users, mainly in the case of vulnerable consumers, in clear, comprehensible and truthful terms and in an easily accessible format, in such a way as to ensure their proper understanding and allow them to make decisions that are in their best interests.
- **Contracts with consumers and users.** Two additional provisions are introduced referring to the Government's promotion of the financial inclusion of the most vulnerable people. The following aspects are covered:
  - Introduction of the necessary amendments to **guarantee personalised attention in payment services** for consumers and users in vulnerable situations who demand it, without discrimination due to the digital divide.
  - A **Plan of Measures** to promote the inclusion of the most vulnerable people, especially the elderly, in coordination with the Bank of Spain (BoS) and representatives of the financial sector. It should include, among other measures, the following:
    - The closure of bank branches should not be accompanied by the closure of their external ATMs.
    - An increase in the number of support staff to help the less digitally literate to carry out the necessary operations.
    - The installation of signs and indications of priority in the use of ATMs by vulnerable people.
    - Promote the reservation of ATMs for the exclusive use of vulnerable people.
    - Simple, understandable, inclusive and secure banking access technologies.
    - Maximum security, to protect bank users from theft, fraud and online scams.
    - online scams.
    - Any measures deemed necessary to guarantee face-to-face attention to groups with difficulties in using technological means and access to financial services in rural areas.

### 3. Next steps

- This law will enter into force on **the day following its publication** in the Official State Journal (BOE), with the exception of the modifications to the accessibility and legality requirements regarding contracts with consumers and users that use non-individually negotiated clauses, which will enter into force **three months** after its publication.
- The Government will promote, within **three months** of the entry into force of this law, legislative amendments to guarantee personalised attention in payment services.

29/03/2022

## Royal Decree-Law 6/2022 of 29 March adopting urgent measures in the framework of the National Response Plan to the economic and social consequences of the war in Ukraine.

### 1. Context

On 24 February 2022, Russia's invasion of Ukraine began. This situation is having major consequences at all levels. On the one hand, from a humanitarian point of view, it has led to the displacement of millions of refugees. On the other hand, it has aggravated the supply shock that the European economy has been suffering since the summer of 2021 due to the soaring price of natural gas and has also added uncertainty regarding its duration and intensity. This rise in energy prices is particularly affecting those sectors that use energy intensively and have little capacity to transfer it into prices, such as road transport, fisheries, agriculture and livestock farming. Finally, the rise in gas prices has also led to higher electricity prices, which has had an effect on inflation and in turn on household disposable income.

In this context, the Government has approved Royal Decree-Law 6/2022, on urgent measures in response to the economic and social consequences of the war in Ukraine, which aims to address the economic and social consequences of the war with short-term measures and measures to accelerate medium- and long-term action on energy transition.

### 2. Main points

- **Measures in the energy field.** These measures consist of:
  - Industry support measures. With effect from 1 January 2022 and until 31 December 2022, a support mechanism will be applied to the electricity-intensive industry consisting of a reduction in the electricity bill of 80 percent of the cost corresponding to the access tolls to the electricity transmission and distribution networks applicable at any given time. This reduction shall be applied by the electricity distribution company to the costs associated with access tolls to the electricity transmission and distribution networks applicable in each billing cycle. In order to compensate for the reduction in revenue, an extraordinary appropriation and support measures for the gas-intensive industry are granted.
  - Updating of the remuneration parameters of the standard installations applicable to certain electricity production facilities using renewable energy sources, cogeneration and waste.
  - Other measures regulating certain aspects of admission competitions. Capacity is released in the nodes reserved for competition for self-consumption (10 percent of the total available capacity in each of these nodes will be released).
  - Reducing the intensity of greenhouse gas emissions during the life cycle of fuels. The obligation to reduce the life-cycle greenhouse gas emission intensity of fuels and energy supplied in transport is established. These obligated parties are, for example, wholesale operators of petroleum products or companies engaged in the retail distribution of these products.
  - Extraordinary and temporary discount on the final price of certain energy products. An extraordinary and temporary rebate on the retail price of certain energy products and additives is approved. The beneficiaries will be those who purchase products such as petrol, diesel, liquefied petroleum gases (LPG), etc.
  - Provision of goods and services to be performed by wholesale operators of petroleum products. Wholesale operators of petroleum products with refining capacity in Spain and an annual turnover of more than 750 million euros must pay a quarterly non-tax public benefit for the period from 1 April to 30 June 2022, inclusive. (e.g. 0.05 Euro per litre of petrol, diesel, LPG, compressed natural gas (CNG), LNG, bioethanol, biodiesel).
- **Measures to support the economic and business sector.**
  - Measures to strengthen the liquidity of companies and the self-employed include the approval of a line of guarantees to cover, on behalf of the State, the financing granted by financial institutions to companies and the self-employed. The Ministerio de Asuntos Económicos y Transformación Digital may grant guarantees for a maximum amount of 10 billion euros until 31 December 2022.
  - Other measures to support the agricultural, livestock, fisheries, film and industrial property sectors also stand out.

### 3. Next steps

- This Royal Decree-Law came into force **the day after** its **publication** in the Official State Journal (BOE).



03/03/2022

## Report on the supervision of NFIS

### 1. Context

In 2017, Royal Decree-Law 18/2017 made it mandatory for issuers of securities on regulated markets to publish the Non-Financial Information Statement (NFIS). This regulation established the obligations imposed by the Non-Financial Reporting Directive (NFRD). In 2018, with the amendment of the Capital Companies Act, the information required in the NFRD was increased and the verification of this information by an independent audit service provider became mandatory. In 2019, the European Commission (EC) complemented the NFRD with a supplement on climate change disclosures. The following year, the European Parliament (EP) and the Council published the Taxonomy Regulation, which will oblige entities subject to the NFRD to include in their NFIS information on how and to what extent their activities qualify as environmentally sustainable, considering the taxonomy approved by the EU.

In this context, the CNMV has published a **Report on the supervision of NFIS and main areas of review for the next financial year**. The document describes the supervisory work carried out by the CNMV in relation to 2020 NFIS of issuers of securities traded on regulated markets in the EU. It also includes certain priority areas for the CNMV's supervision of 2021 NFIS.

### 2. Main points

- **Issuers subject to NFS publication.** Of the 145 issuers that sent individual annual accounts, and of the 136 issuers that issued consolidated annual accounts for the financial year 2020, only 43 were required to include the NFIS in their individual management report.
  - Four Ibx companies were not required to prepare the 2020 NFIS because they do not have more than 500 employees on average per year.
  - All issuers obliged by Royal Decree Law 18/2017 submitted the corresponding NFS verification report.
- **Supervision of non-financial information.**
  - Formal review. Different recommendations were sent to 14 issuers, and further information was requested from 3 issuers on the following issues: i) the location of the NFIS; ii) the frameworks used; and iii) the tables of contents.
  - Substantive review. There were recommendations to 16 issuers, and further information was required from 14 issuers, primarily in relation to the following aspects: i) consideration of dual materiality; ii) breakdown of their definition of value creation, and how the business model impacts and is impacted by non-financial issues; iii) the methodology and concepts considered for the calculation of the pay gap; iv) impacts of COVID-19.
  - Risks related to climate change and other environmental issues. Practically all the companies reviewed include at least one Greenhouse Gases (GHG) emissions indicator, providing scope 1; 90% provide scope 2 emissions; and 55% provide scope 3 emissions. However, of those that provide scope 3 emissions, less than half indicate that this scope includes indirect emissions from the use of the entity's goods and services by its customers. It is considered necessary, depending on their materiality, to provide more details of the scope and the methodology and inputs used, also segmenting the emissions by geographical areas and lines of activity.
  - Social and staff issues. About 20% of the companies in the selected sample do not provide comparative data on the pay gap, nor an explanation of its evolution. It is considered important to provide comparative data, an explanation of its evolution and, where relevant, a description of plans and measures to reduce the pay gap. Where relevant, a description of plans and measures to reduce the pay gap should be provided.
- **Special analyses performed.** The following special actions were carried out during the review of the NFS:
  - Increased monitoring of the impact of Covid-19 on NFI.
  - Analysis on the nature and scope of the verification of the NFIS, in 2019 and 2020.
- **Supervision Plan for 2021 NFIS.**
  - The European Securities and Markets Authority (ESMA) established in October 2021 the following priority topics for NFI to be included in the 2021 NFIS: i) the impact of the Covid-19 pandemic, ii) climate-related issues, iii) expected credit loss, iv) taxonomy-related disclosures.
  - The CNMV adds other recommendations such as: i) greater transparency regarding the carbon footprint of issuing entities; ii) an analysis of the perimeter of the NFIS and of the disclosures relating to the participation of the entity and its stakeholders in the value chain, and iii) a more detailed analysis of the consistency between the financial statements and the NFIS.
  - In addition to ESMA's priorities, the CNMV considers it relevant that the information required by the Taxonomy Regulation and its contents are adequately identified in the NFIS and traceable, and recommends the inclusion of a specific section relating to the requirements of the taxonomy in the table which identifies where the different contents of the NFIS can be found.



18/02/2022  
2022 Stress Test Scenarios

### 1. Context

The Fed's stress tests evaluate the resilience of large banks by estimating their losses, revenues, expenses and resulting capital levels under hypothetical recession scenarios into the future, with the aim to ensure that large banks are able to lend to households and businesses even in a severe recession. In 2021, the Fed published hypothetical scenarios describing two supervisory scenarios (baseline and severely adverse) that the Fed used to conduct the 2021 stress test.

In this context, the Fed has released the **hypothetical scenarios for its 2022 bank stress tests** in which 34 large banks will be tested against a severe global recession with heightened stress in commercial real estate and corporate debt markets.

### 2. Main points

- **General aspects.** The scenarios start in the first quarter of 2022 and extend through the first quarter of 2025. Each scenario includes 28 variables; which are the same as the set provided in last year's supervisory scenarios. The variables describing economic developments within the US include:
  - Six measures of economic activity and prices (e.g percent changes in real and nominal GDP).
  - Four aggregate measures of asset prices or financial conditions (e.g. indexes of house prices).
  - Six measures of interest rates (e.g. the rate on 3-month Treasury bills).
- **Baseline scenario.** The baseline scenario for the US is an economic expansion over the 13-quarter scenario period:
  - The unemployment rate to about 3.25 percent by the end of the scenario.
  - Real GDP growth declines from about 6 percent at the end of 2021 to around 2 percent at the end of the scenario.
  - CPI inflation also declines.
  - The 3-month treasury rate increases from around 0 percent to about 1.5 percent at the end of the scenario.
- **Severely adverse scenario.** The severely adverse scenario is characterized by a severe global recession accompanied by a period of heightened stress in commercial real estate and corporate debt markets. In this scenario:
  - The unemployment rate climbs to a peak of 10 percent in the third quarter of 2023, a 5.75 percentage point increase relative to its fourth-quarter 2021 level.
  - Real GDP declines more than 3.5 percent from the fourth quarter of 2021 to its trough in the first quarter of 2023.
  - CPI inflation falls from an annual rate of 8.25 percent at the end of 2021 to an annual rate of about 1.25 percent in the third quarter of 2022.
  - Short-term interest rates as measured by the 3-month treasury rate remain near zero throughout the scenario.
- **Global market shock component.** The global market shock is a set of hypothetical shocks to a large set of risk factors reflecting general market distress and heightened uncertainty. Banking organizations with significant trading activity must consider the global market shock as part of their supervisory severely adverse scenario.
- **Counterparty default component.** Large banks with substantial trading or custodial operations are required to incorporate a counterparty default scenario into their supervisory severely adverse stress scenario for 2022 and recognize associated losses in the first quarter of the projection horizon.

### 3. Next steps

- Following the publication of what-if scenarios for the 2022 bank stress test, the Fed is expected to publish the stress test methodology by the **end of the first quarter** of this year.



09/02/2022

## Proposed rule on Cybersecurity Risk Management, Strategy, Governance and Incident Disclosure

### 1. Context

In 2011, the SEC published explanatory guidance setting out the Commission's views on the disclosure obligations of operating companies in relation to cybersecurity risks and incidents. Later in 2018, the SEC released new guidance to help operating companies determine when they may be required to disclose information about cybersecurity risks and incidents under existing disclosure rules. Disclosure by exchange-listed companies of both material cybersecurity incidents and cybersecurity risk management and governance has improved since the issuance of both guidelines. However, the Commission has noted that the current information is not sufficiently detailed and may not be sufficiently consistent, traceable and timely.

In this context, the SEC has **proposed new rules on Cybersecurity Risk Management, Strategy, Governance, and Incident Disclosure** to improve and standardise the disclosure of cybersecurity risk information by publicly traded companies subject to the reporting requirements of the Securities Exchange Act of 1934. The proposed rules would require current and periodic reporting of significant cybersecurity incidents. In addition, they would require periodic disclosure of policies and procedures for identifying and managing cybersecurity risk, including the impact of cybersecurity risks on business strategy and the role and expertise of management and the board of directors in cybersecurity.

### 2. Main aspects

- **Reporting of cybersecurity incidents.** It is proposed to require companies to disclose material cybersecurity incidents in their current Form 8-K reporting within four business days after the company determines that it has experienced a material cybersecurity incident. Specifically, the Form 8-K is amended by adding a new rule that would require a company to disclose specific information about a material cybersecurity incident, to the extent the information is known at the time of filling the Form 8-K.
  - In order to determine whether the incident is material, companies would need to thoroughly and objectively evaluate the total mix of information, taking into consideration all relevant facts and circumstances surrounding the cybersecurity incident, including both quantitative and qualitative factors.
- **Disclosure about cybersecurity incidents in periodic reports.** It is proposed a new rule, which would require companies to disclose.
  - Any material changes, additions, or updates to information required to be disclosed pursuant to amendments of Form 8-K, so the investors can stay informed of such developments. Additionally, the company may be able to provide information on the effect of the previously reported cybersecurity incident as well as a description of remedial steps it has taken.
  - Previously undisclosed individually immaterial cybersecurity incidents that have become material in the aggregate. Thus, companies would need to analyze related cybersecurity incidents for materiality, both individually and in the aggregate level.
- **Disclosure of a company's risk management, strategy and governance regarding cybersecurity risks.**
  - Risk Management and Strategy: It is proposed a new rule in order to require companies to disclose more consistent and informative disclosure regarding their cybersecurity risk management and strategy. Specifically, companies would be required to disclose its policies and procedures, if it has any, to identify and manage cybersecurity risks and threats, including: i) operational risk; ii) intellectual property theft; iii) fraud, extortion and harm to employees or customers; iv) violation of privacy laws and other litigation and legal risk; and v) reputational risk.
  - Governance: It is proposed a new rule in order to require companies to disclose its cybersecurity governance, including the board's oversight of cybersecurity risk and a description of: i) management's role in assessing and managing cybersecurity risks; ii) its relevant expertise, and iii) its role in implementing the company's cybersecurity policies, procedures and strategies.
  - Definitions: Proposed rule defines the terms: i) cybersecurity incident; ii) cybersecurity threat and iii) information systems.
- **Disclosure regarding the Board of Directors' cybersecurity expertise.** It is proposed a new rule, in order to require disclosure about the cybersecurity expertise of members of the board of directors of the company. To this end, the following is established:
  - The company would have to disclose the name(s) of any such director(s), and provide such detail as necessary to fully describe the nature of the expertise.
  - The company should consider the non-exclusive list of criteria included in the proposal, in order to reach a determination on whether a director has expertise in cybersecurity.

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- **Structured data requirements.** It is proposed to required companies to tag the information specified by the new disclosure rules in Inline XBRL. The proposed requirements would include block text tagging of narrative disclosures, as well as detail tagging of quantitative amounts disclosed within the narrative disclosures. Inline XBRL is both machine-readable and human-readable, which improves the quality and usability of XBRL data for investors.

### 3. Next steps

- Comments to the proposed rules should be received before **30 days** after its date of publication in the Federal Register, or **9 May 2022**, whichever occurs later.



15/02/2022

## Proposed rule on Private Fund Advisers and Cybersecurity Risk Management for Investment

### 1. Context

In 2010 the USA Congress passed the Dodd-Frank Act, which amended among other documents, the Investment Advisers Act, in order to increase the SEC's oversight responsibility for private fund advisers. However, the SEC continued to observe that private fund investments often lack of sufficient transparency and that advisers acts on conflicts of interest. On the other hand, the Investment Advisers Act and the Investment Company Act do not impose explicit cybersecurity requirements on advisers and funds and certain advisers and funds show a lack of cybersecurity preparedness, which puts clients and investors at risk.

In this context, the SEC have a **proposed new rules on Private Fund advisers; Documentation of registered investment adviser compliance reviews** which amends Investment Advisers Act. This proposed rules increase visibility into certain practices, establish requirements to address certain practices that have the potential to lead to investor harm, and prohibit adviser activity that is contrary to the public interest and the protection of investor. Furthermore, the SEC has proposed new rules on **Cybersecurity Risk Management for Investment Advisers, Registered Investment Companies, and Business Development Companies** amending the Investment Advisers Act and the Investment Company Act. These new rules address cybersecurity risks for advisers and funds, enhance disclosure of information regarding cybersecurity risks and significant cybersecurity incidents, and require the reporting of significant cybersecurity incidents to the SEC.

### 2. Main points

#### Private Fund Advisers; Documentation of Registered Investment Adviser Compliance Reviews

- **Quarterly Statements.** The proposed rule would require an investment adviser that is registered or required to be registered with the SEC to prepare a quarterly statement that includes certain information regarding fees, expenses, and performance for any private fund that it advises and distribute the quarterly statement to the private fund's investors within 45 days after each calendar quarter end.
- **Mandatory Private Fund Adviser Audits.** The proposed audit rule would require a registered investment adviser providing investment advice, directly or indirectly, to a private fund, to cause that fund to undergo a financial statement audit that meets the terms of the rule at least annually and upon liquidation, unless the fund otherwise undergoes such an audit.
- **Prohibited Activities.** The proposed rules would prohibit a private fund adviser to a private fund, directly or indirectly, from engaging in certain sales practices, conflicts of interest, and compensation schemes that are contrary to the public interest and the protection of investors.
- **Preferential Treatment.** The proposed rules prohibit all private fund advisers, regardless of whether they are registered with the Commission, from providing preferential terms to certain investors regarding redemption or information about portfolio holdings or exposures. Furthermore, it is proposed to prohibit these advisers from providing any other preferential treatment to any investor in the private fund unless the adviser provides written disclosures to prospective and current investors in a private fund regarding all preferential treatment the adviser or its related persons are providing to other investors in the same fund.
- **Compliance programme.** The proposed rules requires all SEC registered advisers to document the annual review of their compliance policies and procedures in writing. The rule does not enumerate specific elements that advisers must include in the written documentation of their annual review.

#### Cybersecurity Risk Management for Investment Advisers, Registered Investment

- **Cybersecurity Risk Management Policies and Procedures.** The proposed cybersecurity risk management rules would require all advisers and funds to adopt and implement cybersecurity policies and procedures containing certain elements. These measure would allow firms to tailor their cybersecurity policies and procedures to fit the nature and scope of their business and address their individual cybersecurity risks. The elements are:
  - Risk Assessment. The proposed rules would require advisers and funds, when conducting this risk assessment, to:
    - Categorize and prioritize cybersecurity risks based on an inventory of the components of their information systems, the information residing therein, and the potential effect of a cybersecurity incident on the advisers and funds.
    - Identify their service providers that receive, maintain or process adviser or fund information, or that are permitted to access their information system.
  - User Security and Access. The proposed rules would require controls designed to minimize user-related risks and prevent the unauthorized access to information and systems.
  - Information Protection. The proposed rules would require advisers and funds to monitor information systems and protect information from unauthorized access or use, based on a periodic assessment of their information systems and the information that resides on the systems.

On the other hand, proposed rules would require advisers and funds to review their cybersecurity policies and procedures no less frequently than annually. Furthermore, new recordkeeping requirements to advisers and funds are proposed.

- **Reporting of Significant Cybersecurity Incidents to the SEC.** The new rules on reporting requirements would require advisers to report significant cybersecurity incidents to the SEC by submitting the proposed Form ADV-C within 48 hours after having a reasonable basis to conclude that a significant adviser cybersecurity incident or a significant fund cybersecurity incident occurred or is occurring.
- **Disclosure of Cybersecurity Risks and Incidents.** The new rules proposed amends certain forms used by advisers and funds to require the disclosure of cybersecurity risks and incidents to their investors and other market participants. These proposals would address cybersecurity risks and incidents more directly. In particular, amendments are proposed to Form ADV Part 2A for advisers and Forms N-1A, N-2, N-3, N-4, N-6, N-8B-2, and S-6 for funds.

### 3. Next steps

- Comments to the proposed rules on Private Fund advisers and Cybersecurity Risk Management should be received before **30 days** after its date of publication in the Federal Register.
- The proposed rules on private fund advisers would be applicable **60 days** after the date of the publication of the rules in the Federal Register.
- A one- year **transition period** is proposed to provide time for advisers to come into compliance with the new rules on private fund advisers.



21/03/2022

## Proposed rules on the Enhancement and Standardization of Climate-Related Disclosures for

### 1. Context

In 2010 the SEC published guidance for issuers of securities or investments companies under the Securities Act and Exchange Act (hereinafter “ the companies”), on how the Commission’s existing disclosure rules may require disclosure of the impacts of climate change on a company’s business or financial condition. Since that time, as awareness of climate-related risks to businesses and the economy has grown, investors have increased their demand for more detailed information about its effects on a company’s business and opportunities when conducting its operations and developing its business strategy and financial plans. However, there is considerable variation in the content, detail, and location of climate-related disclosures.

In this context, the SEC have proposed for public comments **New rules on the enhancement and standardization of climate-related disclosures for investors** that would require companies to provide certain climate-related information in their registration statements and annual reports, including certain information about climate-related financial risks and climate-related financial metrics in their financial statements.

### 2. Main points

- **Location of the Climate-Related Disclosure.** The proposed rules would include the climate-related disclosure rules in Regulation S-K and Regulation S-X. Specifically, it is proposed to require a company to include climate-related disclosure in Securities Act or Exchange Act registration statements and Exchange Act annual reports in a separately on Climate-Related Disclosure section and in the financial statements.
- **Disclosure of climate-related risks.** The proposed rules would require a company to disclose any climate-related risks reasonably likely to have a material impact on the it’s business or consolidated financial statements. A company may also disclose, as applicable, the actual and potential impacts of any climate-related opportunities it is pursuing. For these purpose, the following has been proposed:
  - A definition on climate-related risks including definitions on **physical risk and transition risks**. The proposed rules would require a company to specify whether an identified climate-related risk is a physical or transition risk and to describe the nature of those risks.
  - A definition on climate-related opportunities. A company, at its option, may disclose information about any climate-related opportunities it may be pursuing when responding to the proposed disclosure requirements concerning governance, strategy, and risk management in connection with climate-related risks.
- **Disclosure regarding climate-related impacts.**
  - The proposed rules would require to disclose firstly, information about how any climate-related risks identified by the company have had or are likely to have a material impact on its business and consolidated financial statements, which may manifest over the short-, medium-, or long-term.
  - Secondly, it would be required to disclose the actual and potential impacts in a determined time horizon on its strategy, business model, and outlook of climate-related events. Additionally, it would be required to discuss how it has considered the identified impacts as part of its business strategy, financial planning, and capital allocation.
- **Governance and Risk management disclosure.** The proposed rules would require a company to:
  - Disclose, as applicable, certain information concerning the board’s oversight of climate-related risks, and management’s role in assessing and managing those risk.
  - Describe any processes the company has for identifying, assessing, and managing climate-related risks. These includes the adoption of a transition plan, which would describe a company’s strategy and implementation plan to reduce climate-related risks and would be updated each fiscal year.
- **GHG emission metrics disclosures.** The proposed rules would require a company to disclose its GHG emissions for its most recently completed fiscal year. GHG emissions are defined to mean direct and indirect emissions of greenhouse gases. These proposed GHG emissions disclosure is based on the concept of Scope 1, Scope 2, and Scope 3 emissions, for which definitions have also been introduced.
  - Scope 1 and Scope 2 would be disclosed separately by all company and the Scope 3 emissions would be disclosed only if those emissions are material, or if the company has set a GHG emissions reduction target or goal that includes its Scope 3 emissions.
  - In addition to requiring the disclosure of its GHG emissions in gross terms, the proposed rules would also require a company to disclose the sum of its Scopes 1 and 2 emissions in terms of GHG intensity. If required to disclose Scope 3 emissions, a company would also be required to separately disclose its Scope 3 emissions in terms of GHG intensity.

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- **Attestation of Scope 1 and Scope 2 Emission Disclosure.** The proposed rules would require a company to describe the methodology, significant inputs, and significant assumptions used to calculate its GHG emissions metrics.

### 3. Next steps

- Comments to the proposed rules should be received before **30 days** after its date of publication in the Federal Register, or **20 May 2022**, whichever occurs later.



# Other publications of interest

## Capital, liquidity and leverage

### INSURANCE STRESS TEST

[\(20/01/2022\) PRA – Insurance Stress Test 2022 – Request for technical input](#)

The Prudential Regulation Authority (PRA) has published the second request for technical input regarding the insurance stress test that PRA will be conducting for the largest regulated life and general insurers from May 2022. This request includes the following documents: i) updated scenarios together with the scenario calibration, specifications, and guidance; ii) quantitative data templates; and iii) qualitative report which will complement the quantitative results. Participants can submit their feedback until Thursday 17 March 2022.

### OWN FUNDS REQUIREMENTS

[\(02/02/2022\) EBA - EBA publishes technical standards listing advanced economy countries for market risk own funds requirements](#)

The European Banking Authority (EBA) has published its final draft Regulatory Technical Standards (RTS) on the list of countries with an advanced economy for calculating the equity risk under the alternative standardised approach (FRTB-SA). These RTS are part of the phase 3 deliverables of the EBA roadmap for the new market and counterparty credit risk approaches.

### CAPITAL BUFFERS

[\(10/02/2022\) ECB - ECB will not extend capital and leverage relief for banks](#)

In March 2020 the European Central Bank (ECB) allowed banks to operate below the level of capital defined by the Pillar 2 Guidance and the capital conservation buffer. In July 2020 the ECB committed to maintaining this full buffer flexibility until at least the end of 2022. Finally, ECB will not extend the relief for banks and banks once again are expected to operate above Pillar 2 Guidance from 1 January 2023.

### BASEL III MONITORING REPORT

[\(21/02/2022\) BCBS – Basel III Monitoring Report](#)

The Basel Committee on Banking Supervision (BCBS), has published a report presenting the results of the Committee's supervisory exercise based on June 30, 2021 data. Risk-based capital ratios remained broadly stable, but leverage ratios decreased from the previous period. The largest decline, of 1.1 percentage points, occurred in the Americas. This was due to a significant increase in the leverage ratio exposure measure.

### RESILIENCE AND BUSINESS CONTINUITY

[\(15/03/2022\) BoE – CP3/22 – Occasional Consultation Paper – March 2022](#)

The Bank of England (BoE) has published a consultation paper setting out the Prudential Regulation Authority's (PRA) proposals for minor amendments to the UK Technical Standards, PRA rules and various statements. The proposals and issues to be addressed address topics such as the Solvency II directive, the leverage ratio, the capital requirement rules, the removal of irrelevant material and Pillar 3.

### INSURANCE STRESS TEST

[\(21/03/2022\) EIOPA – EIOPA issues recommendations from EIOPA's 2021 Insurance Stress Test](#)

The European Insurance and Occupational Pensions Authority (EIOPA) has issued its recommendations for supervisors and insurers, based on the learnings and experience of EIOPA's 2021 Insurance Stress Test. Having analysed the results of the stress test, EIOPA has now defined a series of actions that, once implemented, will result in a more resilient insurance sector in Europe. The recommendations fall into three categories: i) recommendations on identified vulnerabilities; ii) recommendations on availability of actions to manage adverse conditions; and iii) individual undertaking-specific recommendation.

# Other publications of interest

## Capital, liquidity and leverage

- SUSTAINABILITY

### CLIMATE RISK STRESS TEST

[\(27/01/2022\) ECB - ECB Banking Supervision launches 2022 climate risk stress test](#)

The ECB has launched a supervisory climate risk stress test to assess how prepared banks are for dealing with financial and economic shocks stemming from climate risk. This is intended to identify vulnerabilities, best practices and challenges banks face when managing climate-related risk. Importantly, this is not a pass or fail exercise, nor does it have direct implications for banks' capital levels. It will be conducted in the first half of 2022 after which the ECB will publish aggregate results. These results, will feed into the Supervisory Review and Evaluation Process (SREP) from a qualitative point of view. From March 2022, banks will submit their templates to the ECB for assessment and the ECB will ensure fair and consistent outcomes.

[\(27/01/2022\) EIOPA - EIOPA publishes third paper on methodological principles of insurance stress testing climate risks](#)

The European Insurance and Occupational Pensions Authority (EIOPA) has published its third paper in a series of papers on the methodological principles of insurance stress testing. The methodological paper focuses on the climate change component and is a further step in enhancing EIOPA's stress testing framework. In particular, the paper sets out methodological principles that can be used to design bottom-up stress test exercises that aim to assess the vulnerability of insurers to climate risks.

### FINANCIAL RISKS FROM CLIMATE CHANGE

[\(09/02/2022\) BoE - Bank of England launches a second round of the Biennial Exploratory Scenario \(BES\) exercise on financial risks from climate change](#)

The Bank of England (BoE) has launched the second round of the Biennial Exploratory Scenario (BES) on climate change, which objective is to explore the financial risks posed by climate change for the largest UK banks and insurers. This objective is in line with the one of the first round that was launched in June 2021. The deadline for participants' second round submissions will be the 31 March 2022 and the BoE expects to publish results from the Climate BES in May 2022.

# Other publications of interest

## Supervision

### COLECTIVE INVESTMENT INSTITUTIONS

[\(27/01/2022\) CNMV – Guía técnica sobre la gestión y control de liquidez de las IIC](#)

The Comisión Nacional del Mercado de Valores (CNMV) has approved the Technical Guide on the management and control of the liquidity of Collective Investment Undertakings (CIIs). The aim of the initiative is to include and group together all the relevant supervisory criteria that the CNMV has been transmitting to institutions in recent years in relation to the management and control of the liquidity of CIIs.

### MIFID II

[\(02/02/2022\) ESMA - ESMA publishes supervisory briefing on the use of tied agents under MIFID II](#)

The European Securities and Markets Authority (ESMA) has published a Supervisory Briefing to ensure convergence across the EU in the supervision of firms using tied agents, in particular those based outside the EU. Furthermore, it provides indications to market participants of compliant implementation of the MiFID II provisions relating to tied agents.

### SUPERVISION HANDBOOK BOOKLET OF THE OCC

[\(08/03/2022\) OCC – Large Bank Supervision: Updated Comptroller’s Handbook Booklet and Rescission](#)

The Office of the Comptroller of the Currency (OCC) has published an update to the Large Bank Supervision Booklet, which is used by examiners in their supervision of federal branches and agencies of foreign banking organizations. The updated booklet: i) clarifies differences between the annual core assessment summary and quarterly supervision updates; ii) adds “focused review” as a supervisory activity type, consistent with the OCC’s current practices; iii) includes updates for consistency with other OCC issuances.

### CONVERGENCE PLAN

[\(09/02/2022\) EIOPA - EIOPA publishes its Supervisory Convergence Plan for 2022](#)

The European Insurance and Occupational Pensions Authority (EIOPA) has published its Supervisory Convergence Plan for 2022. The priorities of the plan revolve around three main areas: i) common supervisory culture and tools; ii) risks to the internal market and level playing field; and iii) supervision of emerging risks.

### PEER REVIEW REPORT

[\(10/03/2022\) ESMA - ESMA finds shortcomings in supervision of cross-border investment activities and issues specific recommendations to cysec](#)

The European Securities and Markets Authority (ESMA) has published its peer review report on the supervision of cross-border activities of investment firms. In the report, the ESMA identifies the need for home National Competent Authorities (NCAs) to significantly improve their approach in the authorisation, ongoing supervision and enforcement work, relating to investment firm’s cross border activities. This includes calibrating their supervisory work to the nature, scale and complexity of those firms’ activities.

### ASSESSMENT, SUPERVISION AND AML/CFT

[\(22/03/2022\) EBA – Anti-money laundering and countering the financing of terrorism supervision is improving but not always effective yet, finds the EBA](#)

The European Banking Authority (EBA) has published the findings from its assessment of competent authorities’ approaches to the anti-money laundering and countering the financing of terrorism (AML/CFT) supervision of banks. Since the EBA started those reviews in 2019 and strengthened its AML/CFT guidance, national supervisors have started to adopt meaningful reforms to improve their AML/CFT supervision. However, challenges remain in areas such as the identification and assessment of these risks.

### BANKING SUPERVISION

[\(28/03/2022\) ECB – ECB clarifies common approach to policy choices offered by European banking rules](#)

The European Central Bank (ECB) updated its policies outlining how it exercises options and discretions when supervising banks. This clarification on the recent changes to EU banking rules ensures consistent and transparent implementation of the rules applied to banks. Harmonising these policies throughout the banking union creates a level playing field and promotes a more integrated European banking market. The updated policies relate to many aspects of day-to-day supervision. They include how to calculate the net stable funding ratio, how the ECB assesses applications from banks seeking to reduce their capital or to exempt third-country intragroup exposures from the large exposure limits, and what documentation banks need for such applications.

# Other publications of interest

## Supervision

### MONEY LAUNDERING AND TERRORIST FINANCING

(30/03/2022) MINECO – [Proyecto de Real Decreto por el que se modifica el Real Decreto de desarrollo de la Ley 10/2010, de 28 de abril, de prevención de blanqueo de capitales y de la financiación del terrorismo](#)

The Ministry of Economic Affairs and Digital Transformation (MINECO) has published a consultation that aims to gather the opinion of persons and entities potentially affected by the Royal Decree implementing Law 10/2010, of 28 April, on the prevention of money laundering and terrorist financing. This amendment seeks to develop and update the current regulations due to the latest regulatory changes at national and EU level, highlighting: i) the modification of the list of obliged parties; ii) the extension of reporting obligations to certain products (e.g. safety deposit boxes, payment accounts); iv) the clarification of the interaction between recent data protection regulations and those on the prevention of money laundering and terrorist financing; and v) modifications relating to controls on the entry or exit of cash.

# Other publications of interest

## Recovery and resolution

### AMENDMENTS TO SAREBS REGULATION

(19/01/2022) Gobierno España – [Real Decreto-ley 1/2022, de 18 de enero](#)

The Spanish Government has published a Royal Decree introducing some changes to laws and regulations on bank restructuring. The reason for the amendments is the need to adapt the legal regime of the Sociedad de Gestión de Activos procedentes de la Reestructuración Bancaria (SAREB), following its reclassification in the National Accounts as a unit belonging to the general government sector. Some of the main changes it introduces are: i) the removal of limitations on the State's shareholding in SAREB; ii) the updating of SAREB's tax and supervisory regime; and iii) the possibility of disposing of assets under the general principle of sustainability and respecting SAREB's corporate purpose.

### RESILIENCE AND BUSINESS CONTINUITY

(11/03/2022) BoE – [PS2/22 - Operational Resilience and Operational Continuity in Resolution: CRR firms, Solvency II firms, and Financial Holding Companies \(for Operational Resilience\)](#)

The Bank of England (BoE) has published a statement from the Prudential Regulation Authority (PRA) providing feedback on the responses to the consultation paper "Operational resilience and business continuity in resolution: CRR firms, Solvency II firms and financial holding companies (for operational resilience)". It also contains updates and amendments of the PRA regarding its rules on operational resilience and business continuity.

# Other publications of interest

## Government

### CHANGE OF REPORT TEMPLATES IN SPAIN

(21/01/2022) EBA – [EBA consults on draft Guidelines on remuneration and gender pay gap benchmarking exercise for banks and investment firms](#)

The European Banking Authority (EBA) has launched a consultation to update its Guidelines on the remuneration benchmarking exercise under the Capital Requirements Directive (CRD), which was originally published in 2012 and updated for the last time in 2014. The review integrates additional requirements introduced by CRD V regarding the application of derogations to the requirement to pay out a part of variable remuneration in instruments and under deferral arrangements and the benchmarking of the gender pay gap. In addition, the review also includes guidance on how to harmonise the benchmarking of approvals granted by shareholders to use higher ratios than 100% between the variable and fixed remuneration. A separate and specific set of Guidelines is provided for investment firms under Investment Firms Directive (IFD). The consultation runs until 21 March 2022.

(21/01/2022) EBA – [EBA consults on updates to its Guidelines on data collection exercises regarding high earners](#)

The European Banking Authority (EBA) has launched a consultation on updates to its Guidelines on the data collection exercise on high earners, which were originally published in 2012 and revised for the last time in 2014. The review of the data collection exercises reflect the amended remuneration framework laid down in the Capital Requirements Directive (CRDV), including the introduction of derogations to pay out a part of the variable remuneration in instruments and under deferral arrangements. In addition, the need to update these Guidelines stems from the specific remuneration regime that has been introduced for investment firms and is laid down in the Investment Firms Directive (IFD) and Investment Firms Regulation (IFR). The consultation runs until 21 March 2022.

# Other publications of interest

## Reporting and disclosure

### RISK DASHBOARD

[\(10/01/2022\) EBA – Asset quality has further improved, but cyber risk remains a source of concern for EU banks](#)

The European Banking Authority (EBA) has published the third quarter Risk Dashboard of 2021. In this quarter, bank capital ratios remain well above regulatory requirements. Asset quality has further improved and Profitability has stabilised at levels above those seen before the pandemic. Furthermore, the majority of banks expect a rise in operational risks mainly due to elevated cyber risks.

[\(31/01/2022\) EIOPA - Risk Dashboard shows unchanged risk levels for European insurers](#)

The European Insurance and Occupational Pensions Authority (EIOPA) has published its past Risk Dashboard based on Solvency II data for the third quarter of 2021. The results show that insurers' exposure to macro risks remains at a high level, while for the other risk categories, they remain at medium levels such as environmental, social and governance (ESG) related risks.

[\(01/02/2022\) SRB - SRB publishes MREL dashboard Q3 2021](#)

The Single Resolution Board (SRB) has published its minimum requirement for own funds and eligible liabilities (MREL) dashboard covering the reporting period Q3 2021. The dashboard shows that, on the whole, banks continue to make progress in building up their level of MREL, and most banks either closed or reduced their shortfalls against the 2022 intermediate target in that quarter.

### PENSIÓN DASHBOARD

[\(16/02/2022\) FCA – CP 22/3 Pensions dashboards: proposed rules for pension providers](#)

The Financial Conduct Authority (FCA) has published consultation paper 22/3 which sets out proposals to implement the duty placed on us by the Pension Schemes Act 2021, to make rules requiring FCA regulated pension providers to provide and facilitate the provision of information about personal and stakeholder pensions to pensions dashboards.

### SHORT POSITIONS

[\(25/02/2022\) SEC – Short Position and Short Activity Reporting by Institutional Investment Managers](#)

The Securities and Exchange Commission (SEC) is proposing a new rule designed to provide greater transparency through the publication of short sale related data to investors and other market participants. Under the rule, institutional investment managers that meet or exceed a specified reporting threshold would be required to report on a monthly basis, using the proposed form, specified short position data and short activity data for equity securities.

### EQUITY INSTRUMENTS

[\(01/03/2022\) ESMA – ESMA makes available the results of the annual transparency calculations for equity and equity-like instruments](#)

The European Securities and Markets Authority (ESMA) has published the results of the annual transparency calculations for equity and equity-like instruments. The calculations made available include, among others: i) the liquidity assessment; ii) the determination of the most relevant market in terms of liquidity; iii) the determination of the average value of the transactions and the related the standard market size.

### DPM

[\(10/03/2022\) EBA – EBA releases phase 1 of its 3.2 reporting framework and updates on validation rules](#)

The European Banking Authority (EBA) has published phase 1 of its 3.2 reporting framework, which provides standard specifications and includes the validation rules, the Data Point Model (DPM) and the XBRL taxonomies for version 3.2. The changes affect the following reporting areas: i) COREP; ii) asset encumbrance; iii) global systemically important institutions (G-SII); iv) Supervisory benchmark; v) remuneration; and vi) investment firms.

### PAYMENT STATISTICS

[\(17/03/2022\) BdE – Circular 2/2022, de 15 de marzo, del Banco de España, sobre normas para el envío al Banco de España de estadísticas de pagos por parte de proveedores de servicios de pago y operadores de sistemas de pago](#)

The Banco de España (BdE) has published the Circular on rules for sending payment statistics, which will be applicable to payment service providers and payment system operators. This Circular determines the scope, form and periodicity in which the statistical data on fraud related to different means of payment referred to in Royal Decree-Law 19/2018 on payment services and other urgent measures in financial matters must be provided to the BdE. This Circular came into force the day after its publication in the Official State Gazette (BOE).

# Other publications of interest

## Reporting and disclosure

### SECURITISATION TRANSACTIONS

[\(18/03/2022\) ECB – Guide on the notification of securitisation transactions](#)

The European Central Bank (ECB) has published on the notification of securitisation transactions. This non-binding Guide sets out the notification practices that significant institutions (SIs) acting as originators or sponsors of a securitisation transaction are advised to follow in order to provide the ECB with information needed for the supervision of compliance with the Securitisation Regulation (SECR). The ECB recommends that SIs follow this Guide with respect to all securitisation transactions originated after 1 April 2022.

### CORPORATE INFORMATION

[\(30/03/2022\) ESMA – ESMA issues its 2021 corporate reporting enforcement and regulatory report](#)

The European Securities and Markets Authority (ESMA) has published its 2021 Corporate Reporting Enforcement and Regulatory Report. ESMA makes recommendations to issuers and auditors to improve future financial and non-financial reports, by assessing how issuers comply with International Financial Reporting Standards (IFRS) and non-financial reporting obligations and adhere to ESMA's recommendations. The Report provides transparency and accountability to the market with an overview of the activities carried out by ESMA and enforcers on financial and non-financial information.

- **SUSTAINABILITY**

### CSRD

[\(25/02/2022\) Council – Council adopts its position on the corporate sustainability reporting directive \(CSRD\)](#)

The Council agreed its position on the European Commission proposal for a corporate sustainability reporting directive (CSRD). Among the main changes introduced by the Council, a definition of net turnover for credit institutions and insurance companies has been added in order to take their specific features into account. In addition, the presentation of information is provided for in a clearly identifiable section in the management report, in order to facilitate the readability and identification of sustainability reporting. This proposal is expected to be debated by the European Parliament (EP) by spring 2022.

### CLIMATE RISKS DISCLOSING

[\(14/03/2022\) ECB – Banks must get better at disclosing climate risks, ECB assessment shows](#)

The European Central Bank (ECB) has published an updated assessment of the progress made by European banks on climate and environmental disclosures, as set out in the guidance published by the ECB in November 2020. While there have been improvements since the ECB's first assessment at the end of 2020, no bank has fully met supervisory expectations. While the number of banks disclosing meaningful information on climate and environmental risks has increased significantly, many do not disclose whether these risks have a material impact on their risk profile, nor do they publish key performance or risk indicators.

### DISCLOSURE AND TAXONOMY REGULATION

[\(25/03/2022\) ESAs – ESAs issue updated supervisory statement on the application of the Sustainable Finance Disclosure Regulation](#)

The European supervisory authorities (ESAs) have updated their joint supervisory statement on the implementation of the disclosure regulation (SFDR) and articles 5 and 6 of the Taxonomy regulation. The main novelties correspond to the resolution of doubts regarding the dates of application of certain obligations derived from the aforementioned regulations, as well as the delay in the application of the RTS of the SFDR.

# Other publications of interest

## Compliance

### MIFID II

[\(03/01/2022\) ESMA – ESMA publishes guidance on appropriateness and execution-only requirements under MIFID II](#)

The European Securities and Markets Authority (ESMA) has published the final report on its Guidelines on certain aspects of the MiFID II appropriateness and execution-only requirements, which constitute an important element of investor protection in the provision of investment services other than investment advice or portfolio management. The purpose of the Guidelines is to enhance clarity and to foster convergence in the application of the appropriateness and execution-only requirements. In addition, the report contains comments from the public consultation conducted by ESMA in February 2021.

### MAR

[\(06/01/2022\) ESMA – ESMA published Guidelines on delayed disclosure under MAR](#)

The European Securities and Markets Authority (ESMA) has published its Final Report on the amendment of the Market Abuse Regulation (MAR) guidelines on delayed disclosure in relation to prudential supervision. The Guidelines are aimed at providing clarity, enhancing legal certainty and fostering supervisory convergence.

### MARKET INTEGRITY

[\(18/01/2022\) ESMA – ESMA issues 2021 report on accepted market practices under MAR](#)

The European Securities and Markets Authority (ESMA), the EU's securities markets regulator, has published the annual report on the application of accepted market practices (AMPs) in accordance with the Market Abuse Regulation (MAR). As a brief summary, the number of liquidity contracts and the volumes traded under the AMPs has decreased from June 2020 to June 2021 for the four national competent authorities (NCAs) that have them in place: Comisión Nacional del Mercado de Valores (CNMV), Comissão do Mercado de Valores Mobiliários (CMVM), Commissione Nazionale per le Società e la Borsa (CONSOB) and the French Autorité des Marchés Financiers (AMF). There has only been a marginal number of contracts operational under the Italian and Portuguese AMPs.

### EMIR

[\(27/01/2022\) ESMA - ESMA consults on CCP anti-procyclicality measures](#)

The European Securities and Markets Authority (ESMA) has launched a consultation paper to review the European Market Infrastructure Regulation's (EMIR) requirements on anti-procyclicality (APC) margin measures for central counterparties (CCPs). The ESMA is seeking input from stakeholders on a potential review of its Regulatory Technical Standards (RTS) with the aim of harmonising the existing APC margin measures for CCPs as well as specific anti-procyclicality tools. The deadline for responses to the consultation paper is 31 March 2022.

### TRANSPARENCY

[\(28/03/2022\) ESMA – ESMA Proposes amendments on the review of transparency requirements under MIFIR](#)

The European Securities and Markets Authority (ESMA) has proposed targeted amendments to some of its Regulatory Technical Standards (RTS 1 and RTS 2) which specify the Markets in Financial Instruments Regulation (MiFIR) transparency requirements for equity and non-equity respectively. These amendments aim to clarify, improve and simplify the transparency regime for these instruments. Regarding the RTS 1 the main amendments include the revision of: i) Large in scale (LIS) thresholds for exchange-traded funds (ETFs); ii) the legal provisions relating to non-price forming transactions; or iii) the list of trading systems and of the pre-trade transparency requirements attached to those, among others. Finally, the amendments on the RTS2 includes: i) the list of trading systems; ii) non-price forming transactions and the application dates of the transparency calculations. The majority of the proposals on commodity derivatives will only be finalised in a future review of RTS 2.

## • SUSTAINABILITY

### MIFID II

[\(27/01/2022\) ESMA - ESMA consults on the review of MIFID II suitability guidelines](#)

The European Securities and Markets Authority (ESMA) has launched a consultation on certain aspects of suitability requirements under the Markets in Financial Instruments Directive (MiFID II), in order to update the suitability guidelines following amendments to MiFID II to integrate sustainability factors, risk and preferences into certain organisational requirements and operating conditions for investment firms. Specifically, the main amendments introduced to the MiFID II Delegated Regulation and reflected in the guidelines on the topic of sustainability regards to these topics: i) Collection of information from clients on sustainability preferences; ii) Assessment of sustainability preferences and iii) Organisational requirements.

# Other publications of interest

## Technology

### DLT

[\(04/01/2022\) ESMA – Call for evidence on the Distributed Ledger Technology \(DLT\) Pilot regime](#)

The European Securities and Markets Authority (ESMA) has published a call for evidence on distributed ledger technology (DLT). This call seeks input from stakeholders on the use of DLT for trading and settlement and on the need for amending the regulatory technical standards (RTS) on regulatory reporting and transparency requirements. The aim is to ensure more efficient, secure, and cost-effective management of the data stored on DLTs while preserving its quality, usability and comparability.

### PAYMENT FRAUD DATA

[\(17/01/2022\) EBA – EBA publishes a Discussion Paper on its preliminary observations on selected payment fraud data under the Payment Services Directive](#)

The European Banking Authority (EBA) has published a Discussion Paper on its preliminary observations on selected payment fraud data under the Payment Services Directive (PSD2). This Paper presents the main findings related to three payment instruments: i) credit transfers; ii) card-based payments; and iii) cash withdrawals. Comments to this consultation can be sent before 19 April 2022.

### DIGITALISATION OF RETAIL MARKETING

[\(17/01/2022\) IOSCO – Report on Retail Distribution and Digitalisation](#)

The Board of the International Organization of Securities Commissions (IOSCO) has published a Consultation Report to assist its members in adapting their regulatory and enforcement approaches to meet the challenges posed by recent technological developments and the rapidly evolving digitalisation and online activities, that is changing the way financial services and products are marketed and distributed. The consultation report proposes useful guidance on enforcement measures that IOSCO members should consider to address fraudulent online activity around the world.

### CRYPTOASSETS

[\(17/01/2022\) CNMV – Circular 1/2022, de 10 de enero, de la Comisión Nacional del Mercado de Valores, relativa a la publicidad sobre criptoactivos presentados como objeto de inversión..](#)

The National Securities and Markets Commission (CNMV) has published a Circular on the advertising of crypto-assets presented as investment objects due to their increasing presence in the financial system. The purpose of this Circular is to develop the rules, principles and criteria to which advertising activity must be subject and, in particular, to define the objective and subjective scope of application, as well as the powers of the CNMV in terms of supervision and control of the advertising of crypto-assets.

### DIGITAL DOLLAR

[\(20/01/2022\) Fed – Federal Reserve Board releases discussion paper that examines pros and cons of a potential U.S. central bank digital currency \(CBDC\)](#)

The Federal Reserve Board (Fed) has released a discussion paper that examines the pros and cons of a potential U.S. central bank digital currency (CBDC). It invites comment from the public and is the first step in a discussion of whether and how a CBDC could improve the safe and effective domestic payments system. The paper summarizes the current state of the domestic payments system and discusses the different types of digital payment methods and assets that have emerged in recent years, including stablecoins and other cryptocurrencies.

### DIGITAL RIGHTS

[\(26/01/2022\) EC – La Comisión ha presentado una declaración de principios y derechos digitales para todos en la UE](#)

The European Commission (EC) has published the Draft Declaration of rights and principles which aims to give everyone a clear reference point about the kind of digital transformation Europe promotes and defends. It will also provide a guide for policy makers and companies when dealing with new technologies. The draft declaration covers key rights and principles for the digital transformation, such as placing people and their rights at its centre and promoting the sustainability of the digital future. The European Parliament and the Council are invited to discuss the draft declaration, and to endorse it at the highest level by this summer.

# Other publications of interest

## Technology

### CYBER RISK

[\(27/01/2022\) ESAs – ESAs welcome ESRB Recommendation to create a pan-European systemic cyber incident coordination framework](#)

The three European Supervisory Authorities (EBA, EIOPA and ESMA – ESAs) has published a statement welcoming the European Systemic Risk Board's (ESRB) Recommendation on systemic cyber risk, which calls on the ESAs to prepare for the gradual development of a Pan-European systemic cyber incident coordination framework (EU-SCICF). This will support an effective and coordinated response at EU-level in the event of a major cross-border cyber incident that could have a systemic impact on the Union's financial sector.

### FINANCIAL EDUCATION AND DIGITALIZATION

[\(31/01/2022\) ESAs - ESAs publish thematic repository on financial education and digitalisation initiatives of National Competent Authorities](#)

The three European Supervisory Authorities (EBA, ESMA and EIOPA) have published a Joint ESAs thematic repository on financial education and digitalisation initiatives of National Competent Authorities (NCAs), with a specific focus on cybersecurity, scams and fraud. The repository contains 127 national initiatives that provide consumers with helpful information on how to improve their financial literacy.

### DATA REPORTING SERVICE PROVIDERS

[\(07/02/2022\) ESMA – ESMA becomes supervisor of EU data reporting service providers](#)

The European Securities and Markets Authority (ESMA) on 1 January 2022 took on its new mandate as direct supervisor of the largest EU Data Reporting Service Providers (DRSPs). Its new role gives ESMA direct authorisation and supervisory powers over DRSPs, except for those entities that, due to more limited market impact, will continue to be supervised by their Member State authority.

### DIGITAL FINANCE

[\(07/02/2022\) ESAs - ESAs recommend actions to ensure the EU's regulatory and supervisory framework remains fit-for-purpose in the digital age](#)

The three European Supervisory Authorities (EBA, EIOPA and ESMA) have published a joint report in response to the EC's February 2021 Call for Advice on Digital Finance. The proposals that were put forward aim at maintaining a high level of consumer protection and addressing risks arising from the transformation of value chains, platformisation and the emergence of new mixed-activity groups, i.e. groups combining financial and non-financial activities.

### CRYPTO-ASSETS

[\(09/02/2022\) ECB – Opinion on a proposal for a regulation to extend traceability requirements to transfers of crypto-assets](#)

The European Central Bank (ECB) has published an opinion at the request of the European Parliament (EP) and the Council on a proposal for a regulation to extend traceability requirements to transfers of crypto-assets. The ECB considers that transfers of crypto-assets are subject to similar money laundering and terrorist financing risks, and therefore supports the EC's initiative to extend these traceability requirements to crypto-assets.

### CYBERSECURITY

[\(14/02/2022\) ENISA – Boosting your Organisation's Cyber Resilience](#)

The European Union Agency for Cybersecurity (ENISA) has published a set of cybersecurity best practices for public and private organisations in the EU. ENISA, has reported a substantial increase in cybersecurity threats for both types of entities due to factors such as: i) ransomware attacks; ii) higher motivation of cybercriminals; or iii) increased attacks against critical infrastructure. In light of the above, ENISA encourages all organisations to adopt a minimum set of cybersecurity best practices.

### CRYPTO - ASSETS

[\(16/02/2022\) FSB - Assessment of Risks to Financial Stability from Crypto-assets](#)

The Financial Stability Board (FSB) has published a report which examines developments and associated vulnerabilities relating to three segments of the crypto-asset markets: i) unbacked crypto-assets (such as Bitcoin); ii) stablecoins; and iii) decentralised finance (DeFi) and other platforms on which crypto-assets trade that are closely interrelated in a complex and constantly evolving ecosystem and need to be considered holistically when assessing related financial stability risks.

# Other publications of interest

## Technology

### ARTIFICIAL INTELLIGENCE

(17/02/2022) BoE - [Artificial Intelligence Public-Private Forum](#)

The Bank of England (BoE) and the Financial Conduct Authority (FCA) have launched the Artificial Intelligence Public-Private Forum (AIPPF) Report which explores the various barriers to adoption of the forum, challenges and risks in relation to Data, Model Risk and Governance. It also analyses how to address such barriers and challenges, as well as how to mitigate potential risks.

### GUIDELINES ON THE PSD2

(24/02/2022) EBA - [EBA publishes final Guidelines on the limited network exclusion under the Payment Services Directive](#)

The European Banking Authority (EBA) has published its final Guidelines on the limited network exclusion under the Payment Services Directive (PSD2). These guidelines clarify how national competent authorities should assess whether a network of service providers or a range of goods and services are considered "limited" and therefore not subject to the Directive. Payment instruments that could benefit from this exclusion include: i) shop cards; ii) fuel cards; iii) public transport cards and iv) meal vouchers.

### DIGITAL AGE

(07/03/2022) EC – [Management plan 2022](#)

The Directorate-General for Communications Networks, Content and Technology from the EC has published the management plan for 2022 in order to pursue the objectives set in the EC work programme 2022 in relation to achieving the policy priority 'A Europe Fit for the Digital Age'. The plan includes several initiatives that will be delivered in 2022. For example, the Cyber Resilience Act will be published in the third quarter of 2022, and the proposal for Regulation laying down requirements for artificial intelligence (AI final Act) will be published in the fourth quarter of 2022.

### RESILIENCE AND BUSINESS CONTINUITY

(11/03/2022) BoE – [PS2/22 - PS2/22 - Operational Resilience and Operational Continuity in Resolution: CRR firms, Solvency II firms, and Financial Holding Companies \(for Operational Resilience\)](#)

The Bank of England (BoE) has published a statement from the Prudential Regulation Authority (PRA) providing feedback on the responses to the consultation paper "Operational resilience and business continuity in resolution: CRR firms, Solvency II firms and financial holding companies (for operational resilience)". It also contains updates and amendments to the PRA regarding its rules on operational resilience and business continuity.

### AI/ML

(16/03/2022) BCBS – [Newsletter on artificial intelligence and machine learning](#)

The Basel Committee on Banking Supervision (BCBS) has published a newsletter to provide detail on its internal discussions regarding artificial intelligence (AI) and machine learning (ML). The BCBS concludes that AI/ML technology is expected to increase banks' operational efficiency and also facilitate improvements in risk management. However, these techniques also pose a number of risks and challenges (e.g. the use of large data sets, interconnectivity with third parties, and the use of cloud technologies, can create multiple possible points of cyber risk). The BCBS will continue to discuss, among others, on the potential implications of broader usage of AI/ML models for the resilience of individual banks and more broadly, for financial stability.

### DIGITISATION OF FINANCIAL SERVICES

(21/03/2022) FSB – [FSB report finds that COVID-19 has accelerated the trend towards digitalisation of retail financial services](#)

The Financial Stability Board (FSB) has published a report on Fin Tech and market structure in the COVID-19 pandemic. The main findings of the report is that the pandemic has accelerated the trend toward digitisation of financial services and, in line with this growth, BigTechs and FinTechs have expanded their footprint financial services. Furthermore, the report notes that the expansion of BigTech and FinTech firms in financial services can bring benefits such as improved cost efficiency and wider financial inclusion for underserved groups. However, it also cautions about the potential for market dominance of some BigTech.

# Other publications of interest

## Technology

### CIBERSECURITY

[\(22/03/2022\) EC – Proposal for a Regulation of the European Parliament and of the Council laying down measures on a high level of cybersecurity at the institutions, bodies, offices and agencies of the Union / Proposal for a Regulation of the European Parliament and of the Council on information security in the institutions, bodies, offices and agencies of the Union](#)

The European Commission (EC) has proposed new rules to establish common cybersecurity and information security measures across the EU institutions, bodies, offices and agencies. The proposal aims to bolster the European Union (EU) resilience and response capacities against cyber threats and incidents. In particular, this rules consist of a proposed Cybersecurity Regulation will put in place a framework for governance, risk management and control in the cybersecurity area and will lead to the creation of a new inter-institutional Cybersecurity Board. Furthermore, the proposed Information Security Regulation will create a minimum set of information security rules and standards for all EU institutions, bodies, offices and agencies.

### DIGITAL MONEY AND CRYPTOASSETS

[\(24/03/2022\) BoE – Responses to the Bank of England's Discussion Paper on new forms of digital money](#)

The Bank of England's (BoE) has issued the responses to the discussion paper on new forms of digital money, released on June 2021. The Discussion Paper considered how new forms of digital money could affect the financial system and macro economy. It examined the potential monetary policy and financial stability implications of new forms of digital money, including a Central Bank Digital Currency (CBDC) and systemic stablecoins. Respondents to the Discussion Paper agreed that digital money would provide benefits but noted that any publicly provided digital money should not replace cash. The BoE further recognises that cash builds confidence by giving people a long-established way to hold their money in physical form.

### DIGITAL EURO

[\(30/03/2022\) ECB – ECB publishes report on payment preferences as part of digital euro investigation phase](#)

The European Central Bank (ECB) published the findings of its commissioned research on citizens' payment habits and their attitudes towards digital payments in order to gain a deeper understanding of user preferences as part of the digital euro project. The Report shows a strong preference for payment methods with pan-European reach and universal acceptance, as well as payment solutions that are convenient, fast and easy to use. They have shown their concern about safety and security, seeking safeguards against fraud and hacking, as well as secure and reliable payment authentication methods. Biometric methods of payment verification, such as those involving iris scan technology, were also widely supported by participants.



# Other publications of interest

## Others

### INVESTMENT FUNDS

(04/01/2022) IOSCO – [IOSCO Investment Funds Statistics Report](#)

The Board of the International Organization of Securities Commissions (IOSCO) has published its Investment Funds Statistics Report, which provides new insights into the global investment funds industry and the potential systemic risks this industry may pose to the international financial system. The report will be an annual exercise that aims to facilitate the regular collection and analysis of investment fund data, enabling regulators to share information and observe trends regarding trading activities, leverage, liquidity management, markets and funding in this sector.

### IDD

(06/01/2022) EIOPA – [EIOPA publishes report on the application of the Insurance Distribution Directive](#)

The European Insurance and Occupational Pensions Authority (EIOPA) has published its first report on the application of the Insurance Distribution Directive (IDD), which regulates how insurance products are designed and distributed in the EU. Amongst others, this report examines: i) any changes in the insurance intermediaries' market structure; ii) the improvement of quality of advice and selling methods and the impact of the IDD on insurance intermediaries which are small and medium-sized enterprises; and iii) whether competent authorities are sufficiently empowered and have adequate resources to carry out their tasks.

### FINANCIAL PROMOTION

(19/01/2022) FCA – [Strengthening our financial promotion rules for high risk investments, including cryptoassets](#)

The Financial Conduct Authority (FCA) has published a Consultation Paper (CP) on the strengthening of the financial promotion rules for high risk investments, including cryptoassets, which aims to ensure the financial promotion regime is robust and remains fit for purpose. To this end, changes are proposed to: i) the classification of high-risk investments; ii) the consumer journey into high-risk investments; iii) strengthen the role of firms approving and communicating financial promotions; iv) apply the financial promotion rules to qualifying cryptoassets.

### RETAIL BANKING

(20/01/2022) FCA – [Strategic Review of Retail Banking Business Models](#)

The Financial Conduct Authority (FCA) has published a final report on Strategic Review of Retail Banking Business Models, that updates their previous Strategic Review publication in 2018, allowing to explore developments from 2015 to 2021. It uses business model analysis based on detailed financial information, data and documents from many deposit-taking institutions. This includes the largest banks and building societies and a selection of smaller banks and specialist firms. This helps the FCA understand how firms currently make money, as well as the strategic factors they consider when making decisions, such as which products to offer, their price, which channels to use and which customer segments to serve.

### AML/CTF

(31/01/2022) EBA - [EBA launches today 'EuReCA', the EU's central database for anti-money laundering and counter-terrorism financing](#)

The European Banking Authority (EBA) has launched its central database for anti-money laundering and counter-terrorist financing (AML/CFT) database, known as EuReCa. This European reporting System will be central to coordinating efforts by competent authorities and the EBA to prevent and counter ML/TF risks in the Union.

### CAPITAL MARKETS

(08/02/2022) EC – [Prorroga de la equivalencia temporal para las entidades de contrapartida central del Reino Unido/ Consulta para ampliar las actividades de compensación central en la UE](#)

The European Commission (EC) has adopted a decision to extend equivalence for UK central counterparties (CCPs) from 30 June 2022 until 30 June 2025. In addition, the EC has also launched a targeted public consultation and a call for evidence on ways to expand central clearing activities in the EU. Comments to the consultation can be sent before 8 March 2022.

# Other publications of interest

## Others

### INVESTMENT FIRMS

[\(11/02/2022\) EBA - EBA issues an Opinion on the European Commission's proposed amendments to the EBA final draft technical standards on fixed overheads requirements](#)

The European Banking Authority (EBA) has published an Opinion on the amendments proposed by the European Commission (EC) as regards the EBA final draft Regulatory Technical Standards (RTS) specifying the methodology for calculating the fixed overheads requirements for investment firms in the context of the implementation of the Investment Firms Regulation (IFR).

### MMFs

[\(14/02/2022\) ESMA - ESMA proposes reforms to improve resilience of money market funds](#)

The European Securities and Markets Authority (ESMA) has issued an Opinion containing proposed reforms to the regulatory framework for EU Money Market Funds (MMFs) under the Money Market Funds Regulation (MMFR). The proposals will improve the resilience of MMFs by addressing in particular liquidity issues and the threshold effects for constant net asset value (CNAV) MMFs.

### ICC

[\(17/02/2022\) CNMV – CNMV publica el informe sobre las características de la IIC españolas sostenibles en 2020](#)

The Comisión Nacional del Mercado de Valores (CNMV) has published a working paper on the characteristics of sustainable Spanish collective investment undertakings (CIIs) in 2020. This document performs a descriptive analysis showing that at the end of 2020 the average annual return of sustainable CIIs was higher than that of all investment funds and SICAVs registered with the CNMV.

### OVERHANGING DURING COVID-19

[\(22/02/2022\) FSB – FSB seeks views on policy approaches and market practices to support a smooth transition out of debt overhang issues](#)

The Financial Stability Board (FSB) has published a paper on the problems of non-financial corporate over-indebtedness in the context of COVID-19. According to the FSB, this situation could dampen jurisdictions' economic recovery and pose risks to financial stability. The paper seeks the public's views on the practical scope of over-indebtedness problems in a post-Covid-19 environment and to facilitate a dialogue between financial authorities and external stakeholders.

### ECONOMY AND FINANCIAL AFFAIRS

[\(08/03/2022\) EC – Management plan 2022 – Economic and Financial Affairs](#)

The Directorate-General for Economic and Financial Affairs from the EC has published the 2022 management plan with the aim to pursue the objectives set in the EC work programme 2022 in relation to achieving the following policies priorities: i) an Economy that Works for People, ii) a European Green Deal, iii) a Europe Fit for the Digital Age, and v) a Stronger Europe in the World. The plan includes several initiatives and reports from the EC (e.g. Report from the Commission to the European Parliament and the Council concerning authentication of euro coins and handling of euro coins unfit for circulation).

### CCPs

[\(10/03/2022\) FSB/CPMI/IOSCO – FSB, CPMI and IOSCO analysis highlights need to continue work on CCP financial resources](#)

The Financial Stability Board (FSB), the Committee on Payments and Market Infrastructures (CPMI) of the Bank for International Settlements, and the International Organization of Securities Commissions (IOSCO) have published a report analysing existing financial resources and tools for central counterparty (CCPs) recovery and resolution, which confirmed the need for further work on CCP financial resources.

### INTERNAL MODELS

[\(10/03/2022\) EIOPA – EIOPA publishes the results from its yearly study on the modelling of market and credit risk in internal models](#)

The European Insurance and Occupational Pensions Authority (EIOPA) has published the results of its yearly study on the modelling of market and credit risk in internal models. The analysis covers close to 100% of the EUR investments of undertakings that have an approved internal model covering these risks in the European Economic Area (EEA).

# Other publications of interest

## Others

### SUSPICIOUS ACTIVITIES REPORTING

[\(16/03/2022\) OCC – OCC Issues Final Rule Addressing Authority for Exemptions to Suspicious Activity Report Requirements](#)

The Office of the Comptroller of the Currency (OCC) has issued a final rule amending the OCC's suspicious activity report (SAR) regulations. This rule clarifies the OCC's authority to issue exemptions from the requirements of those regulations based on a request from a national bank or federal savings association, including branches and agencies of foreign banks. The rule provides that, for any request for an exemption from SAR regulations, the OCC will consider the criteria specified in the final rule, including consistency with the purposes of the Bank Secrecy Act and the safety and soundness of banking. The final rule takes effect on May 1, 2022.

### DECENTRALISED FINANCE

[\(24/03/2022\) IOSCO – IOSCO explains how Decentralised Finance is cloning Financial Markets](#)

The International Organisation of Securities Commissions (IOSCO) has published a detailed report on decentralised finance (DeFi), which offers a comprehensive review of the fast-evolving DeFi market, its new products, services and principal participants. Furthermore, the report casts doubt on a key claim of DeFi innovators that it is a peer-to-peer marketplace with no centralised insiders in control. By looking in detail at how DeFi works, it identifies central actors who, it concludes, often retain control (e.g. through the distribution of governance tokens). It also highlights the important role played by centralised trading platforms who often face substantial conflicts of interest.

### COVID-19

[\(24/03/2022\) ECB – ECB announces timeline to gradually phase out temporary pandemic collateral easing measures](#)

The Governing Council of the European Central Bank (ECB) has decided to gradually phase out the package of pandemic collateral easing measures in place since April 2020. From 8 July 2022, the ECB will implement a set of decisions. First, it will halve the temporary reduction in collateral valuation haircuts across all assets from the current 20% adjustment to 10%. In June 2023, the ECB will implement a new valuation haircut schedule based on its pre-pandemic risk tolerance level for pre-pandemic credit operations, phasing out the remaining general 10% reduction in collateral valuation haircuts. Finally, in March 2024, the ECB will in principle phase out the remaining pandemic collateral easing measures.

### DRSP MANAGEMENT BODIES

[\(24/03/2022\) ESMA - ESMA makes recommendations for DRSP management bodies](#)

The European Securities and Markets Authority (ESMA) has published Draft Regulatory Technical Standards (RTS) setting out the criteria for sound and prudent management of Data Reporting Service Providers (DRSP), as well as for their operational effectiveness under MiFIR. The draft addresses the different roles and functions performed by the members of the management bodies of DRSPs, in order to avoid conflicts of interest between them and the users of their services. ESMA proposes to assess the suitability of members of DRSPs management bodies based on considerations such as good repute, honesty and integrity, sufficient time commitment, knowledge, skills and experience, independence, induction and training, diversity and record keeping.

### PRIIPs

[\(25/03/2022\) FCA – Scope Rules and amendments to Regulatory Technical Standards](#)

The Financial Conduct Authority (FCA) has set out its final policy position on the Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation to address the areas of the Regulation that pose the most harm to consumers. This will directly affect all those manufacturing, selling, or advising on a PRIIPs. The main changes that the FCA presents include: i) the introduction of rules to clarify the scope of the PRIIPs Regulation for corporate bonds; ii) the establishment of interpretative guidance to clarify what it means for a PRIIP to be 'made available' to retail investors; iii) and the amendment of the PRIIPs Regulatory Technical Standards.

### RISK MANAGEMENT

[\(30/03/2022\) BCBS – Newsletter on third - and fourth-party risk management and concentration risk](#)

The Basel Committee on Banking Supervision (BCBS) has issued a Newsletter to provide greater detail on its internal discussions regarding third- and fourth-party risk management and concentration risk. According to the BIS Banks have successfully leveraged technology, including that provided by third parties, to withstand the COVID-19 pandemic. However, the pandemic has also exacerbated certain operational risks that banks face related to their use of technology-based services provided by third parties.

# Other publications of interest

## Others

- **SUSTAINABILITY**

### RATINGS ESG

(03/02/2022) ESMA – [ESMA launches call for evidence on ESG ratings](#)

The European Securities and Markets Authority (ESMA) has published a Call for Evidence on Environmental, Social and Governance (ESG) ratings. The Call for Evidence's purpose is to develop a picture of the size, structure, resourcing, revenues and product offerings of the different ESG rating providers operating in the EU. The call is mainly addressed to: i) ESG rating providers; ii) users of ESG ratings; and iii) entities subject to rating assessment of ESG rating providers. The call for comments is open until 11 March. Comments can be submitted to the call for proposals until 11 March.

### SUSTAINABLE FINANCE

(11/02/2022) ESMA – [ESMA prioritises the fight against greenwashing in its new sustainable finance roadmap](#)

The European Securities and Markets Authority (ESMA) has published its Sustainable Finance Roadmap 2022-2024 in which there are identified three priorities: i) tackling greenwashing and promoting transparency; ii) building National Competent Authorities' (NCAs) and ESMA's capacities in the sustainable finance field; and iii) monitoring, assessing and analysing ESG markets and risks.

### CLIMATE CHANGE

(27/02/2022) IPCC – [Climate Change 2022: Impacts, Adaptation and Vulnerability](#)

The Intergovernmental Panel on Climate Change (IPCC) has published the Climate Change 2022 which recognizes the interdependence of climate, ecosystems and biodiversity, and human societies and integrates knowledge more strongly across the natural, ecological, social and economic sciences than earlier IPCC assessments.

### GREEN BOND

(02/03/2022) EBA – [EBA recommends adjustments to the proposed EU Green Bond Standard as regards securitisation transactions](#)

The European Banking Authority (EBA) has published a Report which analyses the recent developments and challenges of introducing sustainability in the EU securitisation market. The Report explores: i) whether and how the EU regulations on sustainable finance, including the EU Green Bond Standard, the EU Taxonomy, and the Sustainable Finance Disclosure Regulations could be applied to securitization; ii) the relevance of a dedicated regulatory framework for sustainable securitisation and; iii) the nature and content of sustainability-related

### CLIMATE AND ENVIRONMENTAL ACTION

(08/03/2022) EC – [Management plan 2022 – Climate Action /Management plan 2022 – Environment](#)

The Directorate-General for Climate Action from the European Commission (EC) has published the management plan for 2022 which defines important outputs to be achieved by 2022. For example, in the second quarter of the year, the EC will publish the review of EU rules on fluorinated greenhouse gases. Furthermore, the Directorate-General for environment has also published the management plan which defines several outputs and initiatives that the EC will deliver. For example, in the second quarter it will be revised the Directive 2010/75/EU on industrial emissions.

### RISK MANAGEMENT

(30/03/2022) FDIC - [FDIC Issues Request for Comment on Statement of Principles for Climate-Related Financial Risk Management for Large Financial Institutions](#)

The Federal Deposit Insurance Corporation (FDIC) has requested public comments on draft principles that would provide a high-level framework for the safe and sound management of exposures to climate-related financial risks. These draft principles are intended for institutions with over \$100 billion in total consolidated assets. The draft principles will help financial institutions management make progress toward addressing key questions as they consider incorporating climate-related financial risks into their risk management frameworks. This draft is very similar to the one published by the Office of the Comptroller of the Currency (OCC) in December 2021.

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## Regulators

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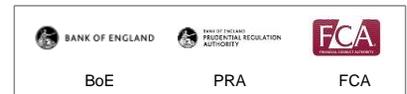
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