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Regulation Outlook

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Table of contents

Executive summary

During the second quarter of 2017, the EBA published final Guidelines on credit risk management practices and accounting for expected credit losses (ECL). At domestic level, the Bank of Spain published a Draft Circular aimed to adapt the current accounting framework of the Spanish credit institutions to IFRS 9 and IFRS 15. Further, the Spanish Government published a Draft Law on personal data protection (APLOPD), to adapt the legislation on this matter to the EU framework.

Global publications

- The BCBS published **Final Guidelines on the definitions of non-performing exposures (NPE) and forbearance**, which are aimed to harmonise both terms. These concepts have not been designed to replace those used for accounting purposes or under the IRB approach or the Standardized Approach (SA) for credit risk, but to be used for other purposes (e.g. supervisory asset quality monitoring, Pillar 3 disclosure on asset quality).
- Moreover, the BCBS published a **consultative document on a simplified alternative to the SA for market risk capital requirements**, proposing to simplify for certain banks the sensitivities-based method (SbM), which is the primary component of the SA under the FRTB.
- The FSB launched a **consultative document on Supplementary Guidance** to the 2009 Principles & Standards on Sound Compensation Practices, which specifically addresses the link between compensation and misconduct risk.

European publications

- The European Commission approved a **proposal for a Regulation amending EMIR**. The proposed amendments are related to the clearing obligation, central counterparties transparency, the reporting obligation, quality of data, etc.
- The EBA published **Final Guidelines on credit risk management practices and accounting for ECL**, with the objective of harmonizing the criteria established by the BCBS in relation to the application of ECL accounting models.
- Further, the EBA launched the **2018 EU-wide stress test draft methodology and templates**.
- With regard to the SREP framework, the EBA published a **roadmap** outlining its plans to update the **SREP framework in 2017-2018**; and **Final Guidelines on the assessment of the information and communication (ICT) risk** under the SREP.

European publications (continuation)

- The EBA also published **Final ITS amending Regulation on supervisory reporting** with regard to sovereign exposures, operational risk, and additional liquidity monitoring metrics (AMM).
- Further, the ECB published two Guides addressed to SSM significant institutions. In particular, it issued a **Guide to fit and proper assessments of members of the management bodies** and **Guidance on leveraged transactions**.
- The ESMA published **Final Guidelines on product governance under MiFID II**, addressing the target market assessment by manufacturers and distributors of investment products.
- Finally, the ESAs launched **several technical standards** on money laundering and terrorism financing risk.

Local publications

- In Spain, the BdE published a **Draft Circular on public and confidential financial information standards and formats**, which will supersede Circular 4/2004, aimed to adapt the Spanish accounting framework to IFRS 9 and IFRS 15. Further, the BdE launched a **Draft Circular amending Circular 1/2013 on the CIR**, which aims to adapt the Risk Information Centre (CIR) to the AnaCredit information requirements.
- The Spanish Government published a **Draft Law on personal data protection (APLOPD)**, which will repeal the current LOPD, in order to adapt the Spanish Law to the European General Data Protection Regulation (GDPR).
- In USA, the US Treasury published a **Report recommending regulatory changes** to the US Congress and the agencies that could reduce regulatory costs. Further, the Fed published the **2017 CCAR and DFAST results**.
- In UK, the Financial Policy Committee (FPC) published **Consultation Paper (CP) on changes to the UK LR framework**.

Regulatory projections

No further details have been revealed by the BCBS with regard to the precise time in which the review of the Basel III framework will finalise. In the EU, the deliberation on the reform package of the financial system published by the European Commission is still ongoing. In this regard, it should be noted that the transitional arrangements to mitigate the impact of IFRS 9 on capital are being articulated independently from the rest of amendments, so as to ensure that they are applicable from January 2018, initial application date of IFRS 9.

Regulatory projections

1. Next quarter

- **(Global) To be determined**: the BCBS is expected to finalise the review of the Basel III framework by publishing standards on the revised standardised approach for credit risk, the review of the IRB approach, the review of the standardised approach and the basic approach for CVA, the new approach for operational risk (SMA), the capital floor based on the standardised methods (which will replace the Basel I floor), and the LR (which may include a G-SIB surcharge). In this regard, consultation documents have already been published.
- **(Europe) To be determined**: the European Parliament (EP) and the Council are expected to approve the reform package of the financial system proposed by the EC, amending several legislative acts (CRD IV, CRR, BRRD, SRMR and EMIR).

2. Next year

- **(Global) November 2017**: the FSB will update the list of G-SIBs.
- **(Global) December 2017**: some of the Pillar 3 disclosure requirements issued by the BCBS will be applicable.
- **(Europe) November 2017**: the ECB Guidance on leveraged transactions will be applicable.
- **(Europe) November 2017**: the EBA is expected to publish consultative Guidelines on the review of the SREP.
- **(UK) December 2017**: the BoE will publish the results of the 2017 stress test.
- **(Global) January 2018**: IFRS 9 will have to be implemented.
- **(Global) January 2018**: the revised IRRBB framework will come into force.
- **(Global) January 2018**: the NSFR and its disclosure requirements will be applicable.
- **(Global) January 2018**: the revised securitisation framework will come into force.
- **(Global) January 2018**: the LR will migrate to Pillar 1.
- **(Europe) January 2018**: Member States shall implement MiFID II and PSD2.
- **(Europe) January 2018**: the 2018 EU-wide stress test will be launched, as the final methodology will be published.
- **(Europe) January 2018**: the EBA Guidelines on credit risk management practices and accounting for ECL will be applicable.
- **(Europe) January 2018**: the EBA Guidelines on ICT Risk Assessment under the SREP.
- **(Europe) January 2018**: the Regulation on key information documents for package retail and insurance-based investment products (PRIIPs) will be applicable.
- **(Europe) January 2018**: the ESMA Guidelines on MiFID II product governance will be applicable.
- **(Spain) January 2018**: the BdE Circular repealing Circular 4/2004 will enter into force.
- **(Europe) May 2018**: the General Data Protection Regulation (GDPR) will be applicable.

3. More than a year

- **(Europe) July 2018**: the 2018 EU-wide stress test results will be published.
- **(Europe) September 2018**: institutions are expected to start reporting under AnaCredit.
- **(Global) December 2018**: the BCBS revised standards on IRRBB will be applicable.
- **(Global) January 2019**: the BCBS revised market risk framework from the FRTB will be applicable.
- **(Global) January 2019**: G-SIBs not headquartered in an emerging market economy will be required to comply with a minimum TLAC requirement of 16% of risk-weighted assets and 6% of the LR exposure.
- **(Global) January 2019**: the large exposures framework will be applicable.
- **(USA) January 2019**: the new requirements on Long-Term Debt (LTD) and TLAC will be applicable.
- **(UK) January 2019**: the ring-fencing rules will be implemented.
- **(UK) January 2020**: large banks and building societies will apply the interim MREL interim set by the BoE.
- **(Global) December 2019**: the GL on the identification and measurement of step-in risk will be applicable.
- **(Europe) December 2020**: according to the EBA's timeline, the effective implementation of the amendments to the IRB approach should take place (e.g. definition of default, estimation of IRB parameters, etc.).

Publications of this quarter

Summary of outstanding publications of this quarter.

Topic	Title	Date	Page
	Basel Committe on Banking Supervision		
NPE and forbearance	• Final Guidelines on definitions of non-performing exposures and forbearance	05/04/2017	10
Market risk	• Consultative Document on simplified alternative to the standardised approach to market risk capital requirements	29/06/2017	12
	Financial Stability Board		
Remuneration	• Consultative Document on Supplementary Guidance to the Principles and Standards on Sound Compensation Practices	21/06/2017	13
	European Commission		
EMIR	• Proposal for a Regulation amending EMIR • Annex to the Proposal • Impact assessment	08/05/2017	14
	European Banking Authority		
Pillar 2	• Pillar 2 Roadmap	18/04/2017	15
Reporting	• Final draft ITS amending Regulation (EU) No 680/2014 on supervisory reporting • Annexes I, II, VII, XI, XIV, XV, XVIII to XXI, XXIV and XXV of Regulation (EU) No 680/2014	19/04/2017	16
SREP	• Final Guidelines on ICT Risk Assessment under the Supervisory Review and Evaluation Process (SREP)	12/05/2017	17
Credit risk	• Final Guidelines on credit institutions' credit risk management practices and accounting for expected credit losses	16/05/2017	19
EU-wide stress test	• Draft Methodological Note of the EU-wide Stress Test 2018 • Draft 2018 EU-wide Stress Test Templates	08/06/2017	20
	European Central Bank		
Fit and proper assessments	• Guide to fit and proper assessments	16/05/2017	21
Leveraged transactions	• Guidance on leveraged transactions	17/05/2017	22
	European Securities and Markets Authority		
Withdraw of the UK from the EU	• Opinion on General principles to support supervisory convergence in the context of the United Kingdom withdrawing from the European Union	01/06/2017	24
MiFID II	• Final Guidelines on MiFID II product governance requirements	06/06/2017	25

Topic	Title	Date	Page
Bank of England			
MREL	• Indicative MREL data for UK banks	08/05/2017	40
Prudential Regulation Authority			
Recovery planning	• Consultation Paper: Recovery planning.	22/06/2017	41
Financial Policy Committee			
Leverage ratio	• Consultation Paper on changes to the UK leverage ratio framework relating to the treatment of claims on central banks – CP11/17 • Financial Stability Report, June 2017	28/06/2017	42

05/04/2017
Final Guidelines on definitions of non-performing exposures and forbearance.

1. Context

The global financial crisis revealed difficulties for supervisors and other stakeholders in identifying and comparing banks' information across jurisdictions. In particular, the BCBS recognised that there may be significant differences in how banks identify and report their asset quality. In response to this issue, the BCBS analysed jurisdictions' and banks' practices regarding asset categorisation schemes.

Against the results of this analysis, which revealed varying practices and layers of definitions (e.g. concepts such as default or impairment), the BCBS has published **Final Guidelines on the definitions of non-performing exposures (NPE) and forbearance**, which are aimed to harmonise the scope, recognition criteria, and the level of application of both terms.

The definitions are intended to complement the other existing accounting or regulatory concepts of credit categorisation. Thus, they have not been designed to replace those used for accounting purposes or the definitions of default which are used in the IRB approach or in the SA for credit risk, but to be used for other purposes (e.g. supervisory asset quality monitoring, Pillar 3 disclosure on asset quality, etc.).

2. Main points

- **Definition of non-performing exposures (NPEs)**.
  - The following exposures are considered NPEs:
    - All exposures defaulted under the Basel framework.
    - All exposures that are credit-impaired according to the applicable accounting framework.
    - All other exposures that are not defaulted or impaired but nevertheless are: (i) material exposures more than 90 days past due; or (ii) exposures for which there is evidence that full repayment of principal and interest is unlikely without realisation of collateral (regardless of the number of days it is past due).
  - The BCBS harmonises the following features:
    - Scope: on-balance sheet loans, debt securities and other amounts due that a bank includes in its banking book, as well as off-balance sheet items (e.g. loan commitments and financial guarantees). Exposures included in the trading book or that are treated as derivatives are not within the scope.
    - Recognition criteria: uniform 90 days past due criterion is applied to all types of exposures within the scope (including those secured by real estate and public sector exposures). This criterion is supplemented by considerations for analysing a counterparty's unlikeliness to pay.
    - Collateralisation: it plays no direct role in the categorisation of NPE, although as it may influence a borrower's economic incentive to pay, collateral has an indirect impact on the assessment of a borrower's unlikeliness to pay.
    - Level of application: if a bank has more than one exposure to a non-retail counterparty, the bank must consider all exposures to that counterparty as NPE when any one of the material exposures is NPE. In contrast, for exposures to a retail counterparty, the NPE status can be applied at the transaction level.
    - Upgrading to performing: specific criteria need to be met to upgrade a NPE to performing status (e.g. the counterparty does not have any material exposure more than 90 days past due, its situation has improved so that the full repayment of the exposure is likely, etc.).
    - Interaction of forbearance with NPE: forbearance measures to a counterparty or an exposure will not alter the non-performing status, but can be an additional input for moving a performing exposure to non-performing status.

- **Definition of forbearance**:
  - Forbearance occurs when:
    - A counterparty is experiencing financial difficulty; and
    - A bank grants a concession that it would not otherwise consider, whether or not the concession is at the discretion of the bank and/or the counterparty.
  - The definition includes a list of examples intended to help banks understand what the concepts of financial difficulty and concession cover.
  - The identification of an exposure as forborne does not affect its categorisation as impaired for accounting purposes or as defaulted according to the regulatory framework (e.g. the extension of forbearance measures to a defaulted exposure does not necessarily imply the reclassification to performing).
  - The BCBS harmonises the following features:
    - Scope: same as for NPE.
    - Level of application: applied on a transaction basis.
    - Categorisation of forborne exposures: forborne exposures can be included within the performing or non-performing category depending on: (i) the status of the exposure at the time when forbearance is granted; and (ii) the counterparty's payment history or creditworthiness after the extension of forbearance.
    - Discontinuation of the forbearance categorisation: a forborne exposure can cease being categorised as such when both an objective criterion (a probation period of not less than one year) and a solvency criterion (the counterparty has resolved its financial difficulty) are met.
    - Interaction of forbearance with NPE: banks should not use forbearance practices to avoid classifying loans as non-performing.

29/06/2017

Consultative Document on simplified alternative to the standardized approach to market risk capital requirements.

1. Context

In January 2016, the BCBS published standards on Minimum capital requirements for market risk, including an internal models approach (IMA) and a standardised approach (SA) to measuring market risk capital requirements.

In this regard, in order to facilitate adoption of these standard for banks other than those that are large and internationally active, the BCBS has published a **Consultative Document (CP) on the simplified alternative to the SA for market risk capital requirements**. This CP sets out a reduced sensitivities-based method (R-SbM) that represents a simplified version of the sensitivities-based method (SbM), which is the primary component of the SA.

This CP introduces the following simplifications relating to the SbM: i) removal of capital requirements for vega and curvature risks; ii) simplification of the basis risk calculation; and iii) reduction in risk factor granularity and the correlation scenarios to be applied in the associated calculations.

2. Main points

- **Scope**.
  - Banks intending to use the R-SbM instead of the SbM must fulfill some qualitative and quantitative criteria, on the basis of a quarterly assessment. Among others:
    - The bank must not be a G-SIB or D-SIB.
    - The bank must not use the IMA for any trading desks.
    - The bank's total non-derivative trading book assets and liabilities plus the sum of the gross fair value of the trading book must not exceed €1 billion.
    - The bank's market risk-weighted assets (RWAs), when using the R-SbM, divided by its total RWAs, are less than 5%.
  - The use of the proposed R-SbM is subject to supervisory approval and oversight. In this regard, supervisors can mandate those banks with complex or sizeable risks to apply the full SbM, even if they fulfill the criteria.
  - When a bank uses the R-SbM for its market risk capital calculation, no partial use is permitted.
- **Composition**. For banks that adopt the R-SbM, the SA capital requirement will be the simple sum of three components: i) risk charges under the R-SbM; ii) default risk charge; iii) residual risk add-on. There are no simplifications relating to the latter two components, which should be calculated as specified in the 2016 standard.
- **Overview of the R-SbM**. The CP sets out the process for calculating capital requirements for each risk class covered under the delta risk framework.

  The delta risk consists of a set of prescribed risk factors and sensitivities for general interest rate risk (GIRR), Credit Spread Risk (CSR) for securitisations and non-securitisations, equity risk, commodity risk, and foreign exchange risk. The net sensitivities to each risk factor within a risk class are multiplied by a respective risk weight. The CP provides buckets and risk weights for each risk factor.

  The weighted sensitivities are then aggregated by prescribed formulae using correlations.

3. Next steps

- Comments to the CP shall be submitted by **27 September 2017**.

21/06/2017
Consultative Document on Supplementary Guidance to the Principles and Standards on Sound Compensation Practices.

1. Context

In 2009 the FSB issued its Principles and Standards (P&S) on Sound Compensation Practices, addressed to significant financial institutions, which are aimed at aligning compensation with prudent risk-taking.

In this regard, the FSB has published a **consultative document on Supplementary Guidance to the FSB P&S** that specifically addresses the link between compensation and conduct. In particular, this document sets out 8 recommendations on better practice regarding the following aspects: i) governance of compensation and misconduct risk; ii) effective alignment of compensation with misconduct risk; and iii) supervision of compensation and misconduct risk.

This Supplementary Guidance, which as the P&S is designed to apply to significant financial institutions, does not establish additional P&S beyond those already set out in 2009.

2. Main points

- **Governance of compensation and misconduct risk**. The Supplementary Guidance establishes the following recommendations:
  - The board should oversee and senior management should ensure that the firm has in place a compensation system designed to promote ethical behaviour and compliance with laws, regulations, and internal conduct standards.
  - Sound governance, robust risk management frameworks and adequate involvement by control functions in compensation design and decision-making are critical to the effectiveness of compensation incentives in addressing misconduct risk.
  - The responsibility for ensuring accountability for misconduct lies first with the board of directors. Boards are accountable for overseeing that firm's compensation systems promote prudent risk-taking behaviours and business practices and should hold senior management accountable for implementing an effective compensation system.
  - Senior management should hold line of business management accountable for communicating, implementing and meeting expectations regarding acceptable behaviours and business practices and explaining the impact on compensation when misconduct occurs.
- **Effective alignment of compensation with misconduct risk**. The Supplementary Guidance sets out the following recommendations:
  - Compensation should be adjusted for all types of risk, both financial and non-financial, including misconduct, that can result in harm to both firms and their customers.
  - Compensation systems should provide for mechanisms to adjust variable compensation to effectively accommodate the potentially longer-term nature of misconduct risk (e.g. through malus or clawback arrangements, etc.).
  - Compensation policies and procedures are an important control on misconduct. They should decide cases that could result in reductions to variable compensation, based on clear specification, ex ante, of the misconduct triggers.
- **Supervision of compensation and misconduct risk**. The Supplementary Guidance recommends that:
  - Supervisors should monitor and assess effectiveness of firm's compensation policies and procedures.

3. Next steps

- Comments to this consultative document shall be submitted by **30 August 2017**.

Publications of this quarter
European publications

Comisión Europea

08/05/2017

- **Proposal for a Regulation amending EMIR.**
- **Annex to the Proposal.**
- **Impact assessment.**

1. Context

In 2012, the EU adopted the European Market Infrastructure Regulation (EMIR), which aims to reduce systemic risk by increasing the transparency of the OTC derivatives market, by mitigating the counterparty credit risk and by reducing the operational risk associated with OTC derivatives. To that end, EMIR establishes requirements on OTC derivatives, central counterparties (CCPs) and trade repositories (TRs).

In this regard, the EC has published a **Proposal for a Regulation amending EMIR** that sets out a number of targeted modifications of EMIR in order to simplify the rules and make them more proportionate. In particular, this proposal introduces amendments regarding inter alia the clearing obligation, CCPs' transparency, the reporting obligation, quality of data, and supervision and data availability in TRs.

2. Main points

- **Clearing obligation**. Among others, the proposal includes the following amendments:
  - For non-financial counterparties, the way the clearing thresholds are calculated is modified. Thus, a non-financial counterparty becomes subject to the clearing obligation if its aggregate month-end average position for the months March, April and May exceeds the thresholds (instead of if the average position over 30 working days exceeds them).
  - A financial counterparty becomes subject to the clearing obligation if its aggregate month-end average position for the months March, April and May exceeds the clearing thresholds. These clearing threshold are the same as for non-financial counterparties.
  - The clearing obligation applies only for the asset classes for which the clearing threshold has been exceeded.
  - The temporary exemption from the clearing obligation of pension scheme arrangements is extended by 3 years.
  - The frontloading requirement is removed.
  - The EC has the power, on specific grounds (e.g. the class of OTC derivative is no longer suitable for CCPs), to temporarily suspend any clearing obligation on the basis of a request of the ESMA.
- **CCPs' transparency**. The proposal establishes that CCPs are required to provide their clearing members with tools to simulate their initial margin requirements, as well as with a detailed overview of the characteristics of the initial margin models they use.
- **Reporting obligation**. Among others, the proposal includes the following amendments:
  - The requirement to report historic transactions (i.e. transactions that were not outstanding on the starting date of the reporting obligation on 12 February 2014) is restrained.
  - Intragroup transactions where one of the counterparties is a non-financial counterparty are exempted from the reporting obligation.
- **Quality of data**. The proposal introduces several requirements:
  - TRs shall have: i) adequate procedures for the reconciliation of data between TRs; ii) adequate procedures to ensure the quality of the reported data; and iii) adequate policies for the orderly transfer of data to other TRs.
  - TRs shall grant counterparties access to all data reported on their behalf in order to allow for a verification of its accuracy.
- **Supervision of TRs**. The upper limit of the fines ESMA can impose on TRs is increased to 100.000€ or 200.000€ depending on the infringement (from 10.000€ and 20.000€). Moreover, the fines to infringements that obstacle supervisory activities are set between 5.000€ and 10.000€.
- **Data availability in TRs**. The proposal introduces the following amendments:
  - Authorities in third countries that have TRs are granted direct access to the data held in EU trade depositories, under certain conditions.
  - TRs shall provide access to counterparties and CCPs which have delegated their reporting obligations to the data reported on their behalf.

3. Next steps

- This proposal is now submitted to the European Parliament and the Council for its consideration.

18/04/2017
Pillar 2 Roadmap.

1. Context

The common European framework for the Pillar 2 Supervisory Review and Evaluation Process (SREP) was established in 2014 by the EBA, and has been applied in practice since 2016. In the EBA's view, the framework remains robust, but in the light of the recent regulatory developments certain changes are needed to reinforce it.

In this context, the EBA has published a **roadmap outlining its plans to update the SREP framework in 2017-2018**. This roadmap explains the multi-stage approach the EBA intends to follow, and summarises the ongoing policy initiatives affecting Pillar 2/SREP that will need to be reflected in the EBA Guidelines (GL) on Pillar 2 topics.

In particular, the roadmap explains the approach that the EBA is planning to take in relation to: i) the update of the EBA GL on common procedures and methodology for the SREP; ii) the update of the EBA GL on technical aspects of the management of interest rate risk arising from non-trading activities (IRRBB); and iii) finalisation of the draft GL on stress testing and supervisory stress testing. The roadmap also explains the key concepts of Pillar 2 capital guidance (P2G).

2. Main points

- **Update of the EBA GL on common procedures and methodology for the SREP**. The revision of the SREP Guidelines will include the following:
  - P2G and supervisory stress testing.
    - The EBA will strengthen an approach to using the outcomes of supervisory stress testing in the capital adequacy assessment process and setting P2G.
    - Given the close links between P2G and wider aspects of supervisory stress testing, this revision would also incorporate elements from the current draft GL on stress testing.
  - Supervisory assessment of institutions' stress testing. This section of the draft GL on stress testing will be integrated into the revised SREP GL.
  - Other changes.
    - Certain technical areas of the SREP GL will be reviewed to ensure consistency with other EBA regulatory products that have been issued after its publication.
    - Further, the EBA will introduce some clarifications of certain topics, including interaction between the assessment of the four main SREP elements (i.e. business model analysis, governance and risk management, risks to capital and risks to Liquidity and funding), the communication of the Total SREP Capital Requirement (TSCR) and the Overall Capital Requirement (OCR) ratios to institutions, etc.
- **Update of the EBA GL on technical aspects of the management of IRRBB**. The implementation of the new BCBS Standards at the EU level will be will be effected through an update of the EBA GL and through technical standards that are expected to be mandated to the EBA in the revised CRD IV/CRR. The revision of the EBA GL will reflect the new BCBS Standards and will include:
  - Clarification of definitions and expanding the scope of the GL to include credit spread risk in the banking book.
  - Update of parameters and assumptions of the supervisory standard shock, standardised interest rate shock scenarios, and requirements on internal governance arrangements.
- **Finalisation of the draft GL on stress testing and supervisory stress testing**. The EBA is considering the following:
  - The aspects related to the supervisory assessment of institutions' own stress testing, supervisory stress testing and the use of quantitative outcomes of stress testing will be incorporated into the revised SREP GL. Thus, the stress testing GL will focus on setting requirements for institutions.
  - Moreover, the EBA pretends to expand the GL providing details on the topics related to reverse stress testing, links between solvency and liquidity stress test, etc.

3. Next steps

- The EBA expects to launch for public consultation its first revision of the SREP framework by **November 2017**, aiming for practical implementation in **2018**.

19/04/2017

- **Final draft ITS amending Regulation (EU) No 680/2014 on supervisory reporting.**
- **Annexes I, II, VII, XI, XIV, XV, XVIII to XXI, XXIV and XXV of Regulation (EU) No 680/2014.**

1. Context

The CRR mandates the EBA to develop uniform reporting requirements, which are included in European Commission's (EC) Regulation 680/2014. However, the data on sovereign exposures currently collected suffers from several shortcomings which required additional ad-hoc data collections from several competent authorities (CAs); and improvements are also necessary to the reported information on operational risk to allow supervisors to monitor the losses due to operational risk events. Moreover, the EC requested to reintroduce the maturity ladder, regarding the additional monitoring metrics on liquidity (AMM).

In this context, the EBA has published **Final ITS amending Regulation 680/2014 with regard to sovereign exposures, operational risk and AMM**. In particular, these ITS introduce new requirements on reporting of sovereign exposures, changes to reporting on operational risk, and changes to reporting on AMM.

Given the scope of the changes introduced by these draft ITS, the EBA has replaced in whole several annexes in order to provide a consolidated version of the updated draft ITS package.

2. Main points

- **New requirements on reporting of sovereign exposures**. The ITS cover the following items:
  - Template. The existing reporting requirements should be supplemented with **one new template** that shall be reported with a **semi-annual frequency**:
    - **C 33.00**, which provides relevant detailed information by residence of the obligor and accounting portfolio, with breakdown by regulatory treatment and residual maturity.
  - Scope (definition of sovereign exposures). All exposures to general governments are to be reported in the new template which includes, among others, central, state or regional and local governments.
  - Proportionality. Institutions that have sovereign exposures of at least **1% of total 'debts securities and loans receivables'** are requested to report the information as specified in template C 33.00. Among these institutions:
    - Those that hold non-domestic sovereign exposures of 10% or more compared to total sovereign exposures shall report a **full country breakdown**.
    - Those that do not meet the above-mentioned threshold shall report the information for **exposures aggregated** at total level and domestic level.
- **Changed requirements to reporting on operational risk**. The ITS includes the following changes:
  - Redefined scope of institutions subject to obligation to report operational risk loss data. The EBA considers to limit the exceptions from reporting the full sheet C 17.00. Thus, institutions using the Basic Indicator Approach (BIA) and the Standardised Approach (TSA) shall report this information when they meet at least one of the criteria specified (e.g. total value of the asset exceeds €30 billion).
  - Separate loss impacts in current reporting period relating to events from previous reporting periods. A few changes are introduced to template C 17.01 (e.g. new rows) to distinguish between loss impacts from current events and those relating to older events.
  - Detailed information on the largest losses from the last year. The EBA considers to introduce a new template (C 17.02), which aims at collecting detailed information on the largest operational risk loss incidents in the last year.
- **Changed requirements to reporting on AMMs**. The ITS includes the following changes:
  - Reintroduction of the maturity ladder (template and instructions) aligned with the EC's Delegated Regulation on LCR.
  - Selective revision to AMMs (templates and instructions) relating to: i) concentration of funding by counterparty; ii) concentration of funding by product type; iii) concentration of counterbalancing capacity by issuer/counterparty; iv) prices for various lengths of funding; and v) rollover of funding.

3. Next steps

- The ITS will be submitted to the EC for endorsement before published in the Official Journal of the European Union (OJEU).
- These ITS will apply from **March 2018** (reporting reference date 31 March 2018).

12/05/2017
Final Guidelines on ICT Risk Assessment under the Supervisory Review and Evaluation Process (SREP).

1. Context

Information and communication technology (ICT) risk is defined as the current or prospective risk of losses due to the inappropriateness or failure of the hardware and software of technical infrastructures, which can compromise the availability, integrity, accessibility and security of such infrastructures and of data.

Following the consultation launched in October 2016, the EBA has now published **Final Guidelines (GL) on the assessment of the ICT risk under the Supervisory Review and Evaluation Process (SREP)**. These GL are addressed to competent authorities (CAs) and are intended to promote common procedures and methodologies for the assessment of the ICT risk under the SREP.

In particular, the GL set out the requirements CAs should apply in their assessment of ICT focusing on the following aspects: i) general provisions and application of the scoring as part of the SREP assessment of risks to capital; ii) assessment of institutions' governance and strategy on ICT; and iii) assessment of institutions' ICT risk exposures and controls.

2. Main points

- **General provisions**. CAs should perform the assessment of ICT risk, the governance arrangement and the ICT strategy as part of the SREP considering the following aspects:
    - Frequency: it would depend on the minimum engagement model driven by the SREP category assigned to an institution and its specific supervisory examination programme.
    - Proportionality: the depth, detail and intensity of the ICT assessment should be proportionate to the size, structure and operational environment of the institution as well as the nature, scale and complexity of its activities.
    - Use of findings and scoring:
        - The assessment of governance and strategy on ICT feeds into the assessment of internal governance and institution-wide controls under the SREP, and also informs the business model assessment under SREP.
        - The assessment of ICT risks exposures and controls informs the operational risk score under the SREP.
- **Assessment of governance and strategy on ICT**. CAs should assess:
    - ICT strategy: whether the institution has an ICT strategy that is adequately governed (i.e. adequate oversight from the management body), is consistent with the institution's business strategy, and supports the institution's business model.
    - Overall internal governance: whether the overall internal governance arrangements are adequate in relation to the ICT systems (e.g. the institution has a robust organisational structure with clear responsibilities, including among others the management body and its committees, and that the key responsible persons for ICT such as the Chief Information Officer have adequate access to the management body).
    - ICT risk in the institution's risk management framework: whether the risk management and internal control framework adequately safeguards the ICT systems (i.e. the risk appetite and the ICAAP cover the ICT risks, and the ICT risks are within the scope of the risk management and internal control frameworks).

- **Assessment of ICT risks exposures and controls**. It focuses on two areas:
    - Identification of material ICT risks. CAs should identify the significant ICT risks to which the institution is or might be exposed. In this regard, CAs should:
        - Review the institution's ICT risk profile, considering several aspects (e.g. whether the institution is implementing material changes to its ICT systems, or has outsourced them, etc.).
        - Review the critical ICT systems and services, taking into consideration that they should fulfill at least one of the conditions specified in the GL (e.g. they support the core business operations and distribution channels, etc.).
        - Identify the material ICT risks that can have a significant prudential impact on the critical ICT systems and services. CAs should then map material ICT risks into one of the ICT risk categories (e.g. ICT security risk, ICT change risk, etc.).
    - Assessment of the controls to mitigate material ICT risks. For the identified material ICT risks, CAs should review the following aspects: i) ICT risk management policy, processes and risk tolerance thresholds; ii) organisational management and oversight frameworks; iii) internal audit coverage and findings; and iv) ICT risk controls that are specific for the identified material ICT risk.

3. Next steps

- These GL shall apply from **1 January 2018**.

16/05/2017

Final Guidelines on credit institutions' credit risk management practices and accounting for expected credit losses.

1. Context

In December 2015, the BCBS issued supervisory guidance on credit risk and accounting for expected credit losses (ECL) which sets out supervisory expectations for credit institutions related to sound credit risk practices associated with implementing and applying an ECL accounting model.

Following the consultation launched in July 2016, and building on the BCBS guidance, the EBA has now published a **Final Guidelines (GL) on credit institution's credit risk management practices and accounting for ECL** with the aim of harmonizing the criteria established by the BCBS and ensuring consistent interpretations and practices according to IFRS 9.

In particular, these GL include four main sections: i) general considerations; ii) principles on credit risk management and accounting for ECL; iii) specific guidance to credit institutions reporting under IFRS; and iv) supervisory evaluation of credit risk practices, accounting for ECL and capital adequacy.

2. Main points

- **General considerations**.
  - Credit institutions should comply with these guidelines considering the principle of proportionality (i.e. appropriate to their size, internal organization and the nature, scope and complexity of their activities), materiality (i.e. it should not be only assessed on the basis of the potential impact on the profit or loss statement) and symmetry (i.e. timely recognition of credit deterioration and allowance without delay).
  - These guidelines do not set out any additional requirements regarding the determination of expected loss for regulatory capital purposes. Rather these guidelines should be read as the supervisory approach to support the appropriate application of IFRS 9.
- **Principles on credit risk management practices and accounting for expected credit losses**. Eight principles have been established regarding the following aspects:
  - Management body and senior management responsibilities, e.g. senior management should be responsible for implementing the credit risk strategy approved by the management body and developing the policies and processes.
  - Sound ECL methodologies, e.g. adoption and documentation of sound methodologies for assessing and measuring credit risk on all lending exposures.
  - Credit risk rating and grouping, e.g. establishment of a credit risk rating process to appropriately group lending exposures on the basis of shared credit risk characteristics.
  - Adequacy of the allowance, e.g. determination of an aggregate amount of allowances which should be adequate and consistent with the objectives of the applicable accounting framework.
  - ECL model validation, e.g. definition of policies and procedures to validate models used to assess and measure expected credit losses.
  - Use of experienced credit judgement in the assessment and measurement of ECL, especially in the consideration of forward-looking information.
  - Common processes, systems, tools and data, e.g. establishment of a credit risk assessment process that provides a strong basis for common systems, tools and data to assess credit risk, and account for ECL.
  - Disclosure, e.g. promotion of transparency and comparability through public disclosures.
- **Specific guidance to credit institutions reporting under IFRS**. Some considerations have been provided on three aspects of the ECL requirements regarding the impairment sections of IFRS 9: i) the loss allowance at an amount equal to 12-month ECL; ii) the assessment of significant increases in credit risk; and iii) the use of practical expedients.
- **Supervisory evaluation of credit risk practices, accounting for expected credit losses and capital adequacy**. Three principles have been established regarding these aspects:

  Periodic evaluation of the effectiveness of a credit institution's credit risk practices.

  Assessment of the methods employed by a credit institution to determine allowances and their measurement of ECL under the applicable accounting framework.

  Consideration of a credit institution's credit risk practices when assessing a credit institution's capital adequacy.

3. Next steps

- These GL should be implemented at the start of the first accounting period beginning on or after **1 January 2018**.

08/06/2017

- **Draft Methodological Note of the EU-wide Stress Test 2018.**
- **Draft 2018 EU-wide Stress Test Templates.**

1. Context

The objective of the 2018 EU-wide stress test is to provide supervisors, banks and other market participants with a common analytical framework to consistently compare and assess the resilience of EU banks and the EU banking system to shocks. In particular, this exercise is designed to inform the Supervisory Review and Evaluation Process (SREP) that competent authorities (CAs) will carry out in 2018, and will consider, for the first time, the impact of the implementation of IFRS 9.

In this regard, the EBA has published the **2018 EU-wide stress test draft methodology** for discussion, describing how banks should calculate the stress impact of the common scenarios. The **list of institutions** participating in the exercise is also included.

This draft methodology can be seen as a continuation of the 2016 stress test's approach, taking into account the adjustments after the IFRS 9 implementation and 2016 lessons learnt.

2. Main points

- **Sample of banks**:
  - 49 EU banks will participate in the exercise (51 EU banks participated in 2016), covering broadly 70% of the banking sector in the euro area, each non-euro area EU Member State and Norway.
  - To be included in the sample, banks have to hold a minimum of €30 billion in assets. Nonetheless, CAs could request to include additional institutions in their jurisdiction provided that they have a minimum of €100 billion in assets.
  - The scope of consolidation is the perimeter of the banking group as defined by the CRDIV/CRR.
- **Reference date**: the exercise is carried out on the basis of year-end 2017 figures.
- **Macroeconomic scenarios**: the stress test includes a baseline scenario and an adverse scenario, which cover the period of 2018 to 2020.
  - The exercise is conducted on the assumption of static balance sheet, which applies for both the baseline and the adverse scenario.
- **Risk coverage**:
  - Banks are required to stress test the following common set of risks:
    - Credit risk, including securitisation.
    - Market risk, counterparty credit risk and credit valuation adjustment.
    - Operational risk and conduct risk.
  - Banks are also requested to project the effect of the scenarios on net interest income (NII) and to stress P&L and capital items not covered by other risk types.
  - The risks arising from sovereign exposures are covered in credit risk and in market risk, depending on their accounting treatment.
- **Results**:
  - The impact of the EU-wide stress test will be reported in terms of CET1. In addition, Tier 1 capital ratio and total capital ratio, as well as a leverage ratio, will be reported for every year of the exercise.
  - Like in the 2016 stress test, no hurdle rates or capital thresholds are defined for the purpose of the exercise. CAs will apply the results as an input to the SREP.
  - Further, for banks commencing to report under IFRS 9 in 2018, the 2018 EU-wide stress test considers the impact of the introduction of IFRS 9 in starting point data as well as in the projections. To this end, banks shall recognise the effect of the introduction in capital as of 1 January 2018.
- **Process**: it involves close cooperation between the EBA, the CAs and the ECB, as well as the European Systemic Risk Board (ESRB) and the European Commission.
  - The macroeconomic adverse scenario and any risk type specific shocks linked to it will be developed by the ESRB and the ECB.
  - The CAs are responsible for the quality assurance process.

3. Next steps

- The 2018 EU-wide stress test will be launched at the **beginning of 2018**, with a publication of the final methodology.
- The results of the exercise will be published in **mid-year 2018**.

EUROPEAN CENTRAL BANK
EUROSYSTEM

16/05/2017
Guide to fit and proper assessments.

1. Context

Since November 2014 the ECB has been responsible for taking decisions on the appointment of all members of the management bodies of the significant credit institutions under its direct supervision.

In this regard, following the consultation launched in November 2016, the ECB has published a **Guide to fit and proper assessments of members of the management bodies** of significant credit institutions, with the objective of explaining in greater detail the policies, practices and processes applied by the ECB when assessing the suitability. This Guide builds on the EBA's draft guidelines published for consultation in October 2016.

This Guide is **not a legally binding document** and cannot in any way substitute the relevant legal requirements stemming either from applicable EU law or applicable national law.

2. Main points

- **Scope**. This Guide covers fit and proper assessments of members of the management body, both in their management function (executives) and supervisory function (nonexecutives) of all significant institutions; and in the case of licensing or qualifying holdings also of less significant institutions.
- **Principles**. The ECB follows 6 principles when performing fit and proper assessments: i) primary responsibility of supervised entities when selecting individuals for the management body; ii) role of the ECB as a gatekeeper; iii) harmonisation; iv) proportionality and case-by-case assessment; v) due process and fairness; and vi) interaction with ongoing supervision.
- **Assessment criteria**. The fitness and propriety of members of the management body is assessed against 5 criteria (in line with the above-mentioned EBA's Guidelines):
  - Experience. It is assessed against presumptions based on thresholds (e.g. for CEO, 10 years of recent practical experience). If the thresholds are not met, the appointee can still be considered suitable if the entity can justify, which is analysed by conducting a full detailed assessment.
  - Reputation. An appointee is considered to be of good repute if there is no evidence to suggest otherwise. Nonetheless, the fact that an individual is (or has been) subject to proceedings is relevant to propriety. In this regard, the competent authorities (CAs) must always be informed of legal proceedings.
  - Conflicts of interest and independence of mind. The supervised entity and the appointee should notify the CA of any conflicts of interest. Moreover, the supervised entity shall assess the materiality of the risk posed by the conflict of interest; and where a conflict of interest is considered to be material, it must adopt adequate measures. The CA will assess the materiality and the adequacy of the measures adopted.
  - Time commitment. The supervised entity should provide a minimum set of information (e.g. specification of the time commitment required for the role), and in certain cases additional information may be required. Regarding counting of directorships, the ECB takes a conservative approach.
  - Collective suitability. The supervised entity should provide certain information (e.g. a description of the composition of the management body, a statement on how the appointee will contribute to its collective suitability needs, etc.).
- **Interviews**. Interviews are one of the tools used in the information gathering phase. In this regard:
  - Interviews are mandatory in the case of new appointments for CEO and Chairman positions at stand-alone banks and the top banks of groups, and in all other cases interviews are optional.
  - An informative interview covers all elements of suitability and if there are still concerns after this interview, a second specific interview focusing on the facts that gave rise to the concerns may be conducted.
- **Assessment process**. A fit and proper assessment can be triggered by: i) a new appointment, a renewal or a change of role (e.g. when a non-executive member is appointed as executive director); ii) new facts (e.g. report of a breach, facts alleged in newspapers, etc.); iii) a licensing or qualifying holding procedure.
- **Decision**. After every assessment a formal ECB decision is taken, and an appointee is either considered fit and proper or not. The ECB has the power to include recommendations, conditions or obligations in positive decisions.
- **Removal of members from the management body**. The ECB has the power to remove at any time members of a significant supervised entity who do not fulfil the requirements.

EUROPEAN CENTRAL BANK
EUROSYSTEM

17/05/2017
Guidance on leveraged transactions.

1. Context

The prolonged period of low interest rates and the ensuing search for yield strategies have warranted specific monitoring of credit quality by the ECB in general and of leveraged finance exposures in particular. Recent research suggests that globally leveraged finance markets have experienced a strong recovery since the crisis, and the ECB considers that closer supervisory scrutiny of leveraged transactions is needed.

In this regard, following the consultation launched in November 2016, the ECB has launched a **Guidance on leveraged transactions** that summarises key supervisory expectations concerning these transactions, and the ongoing monitoring of both syndication risk and the fundamental credit quality of leveraged exposures.

This guidance applies to all **significant credit institutions** supervised by the ECB, although its implementation should be consistent with the size and risk profile of institutions' leveraged transactions.

2. Main points

- **Definition of leveraged transactions**. Institutions should have in place, as part of their internal policies, a <u>single definition</u> which would encompass all business units and geographical areas, and that should be regularly reviewed by an independent audit department.
    - Institutions are expected to consider as a leveraged transaction any transaction that meets at least one of the following conditions:
        - All types of loan or credit exposure where the borrower's post-financing level of leverage exceeds a Total Debt to EBITDA ratio of 4.0 times.
        - All types of loan or credit exposures where the borrower is owned by one or more financial sponsors.
    - Certain transactions are <u>not expected to be covered by the definition</u> (e.g. loans with natural persons, loans classified as specialised lending, trade finance, etc.).
- **Risk appetite and governance**. As part of their internal risk appetite framework, institutions should define their <u>appetite and strategy</u> for leveraged transactions. To this end, <u>senior management</u> is expected to define, review and endorse at least on an annual basis the limits allocated to leveraged transactions. Moreover, institutions are expected to have a <u>sound governance structure</u> for leveraged transactions, enabling senior management to have a comprehensive oversight.
- **Syndication activities**. Institutions should define their <u>appetite</u> for syndicating leveraged transactions, setting limits and sub-limits. The ECB specifies some expectations that <u>internal standards and monitoring functions</u> should consider (e.g. each leveraged transaction posing an underwriting/syndication risk requires prior approval, institutions are expected to define acceptable leverage levels, institutions should identify transactions subject to failed syndications).
- **Policies and procedures for new deal approval, and monitoring and managing of longer-term leveraged transaction holdings**. The ECB specifies the following aspects:
    - Institutions should have a <u>credit approval process</u> for all leveraged transactions. Further, <u>due diligence</u> requirements (e.g. assessment of the industry sector, critical review of the business plan of the corporate borrower, etc.) should be triggered in certain cases (e.g. new transactions, renewal, refinancing, etc.).
    - Institutions should ensure <u>regular monitoring</u> of the portfolio, encompassing all relevant risks for leveraged transactions held for the longer term.
        - The long-term risk positions ('hold book') should be reviewed once a year.
        - Deteriorated exposures should be reviewed more frequently. In this regard, particular attention should be placed on the assessment of the debt repayment capacity of the borrower and on whether the transaction and/or borrower is demonstrating indicators of unlikeliness to pay (UTP). In these cases, institutions are expected to, among other things, run an impairment test.
    - The monitoring of exposures should be complemented by a <u>stress-testing framework</u>.
- **Secondary market activities on leveraged transactions**. Institutions' <u>compliance and risk management functions</u> should put in place and regularly review policies and procedures to ensure proper adherence of secondary market transactions with regulations on market conduct (e.g. Chinese walls, appropriate treatment of privileged information).

- **Reporting requirements and Management Information Systems (MIS)**. Regular comprehensive reports should be sent to the management of each institution, including information about both its syndication pipeline and its hold book. These reports should cover, among others, key markets trends, all leveraged transactions across the various business units and geographies, the positioning of an institution with regard to internal limits and the outcome of the stress scenarios, etc. MIS should be sufficiently granular and sound enough to enable management to identify, aggregate and monitor leveraged transactions.

3. Next steps

- This guidance enters into force **6 months after its publication**.
- **18 months following the publication** of this guidance an internal audit report shall be drawn up and submitted to the joint supervisory team, detailing how the expectations expressed in this guidance have been implemented by the credit institutions.

01/06/2017

Opinion on General principles to support supervisory convergence in the context of the United Kingdom withdrawing from the European Union.

1. Context

In the course of the UK withdrawing from the EU, UK-based market participants may seek to relocate entities, activities or functions to the EU27 (i.e. 27 Member States that will remain in the EU) in order to maintain access to EU financial markets. In this context, these market participants may seek to minimise the transfer of the effective performance of those activities or functions in the EU27 (e.g. by relying on the outsourcing or delegation of certain activities or functions to UK-based entities, including affiliates).

In order to avoid potential supervisory arbitrage risks, the ESMA has issued an **Opinion on 9 general principles to support supervisory convergence in the context of the UK withdrawing from EU**, addressed to the 27 national competent authorities (NCAs) which supervise **investment firms**.

Until the UK has withdrawn from the EU, the EU legislative framework applicable to financial markets will remain in force in the UK.

2. Main points

- **Principle 1**. **No automatic recognition of existing authorisations**. Once the UK has withdrawn from the EU, an entity established in the UK needs to establish itself in the EU27 to be able to continue to benefit from the EU passport. In this regard, there cannot be any automatic recognition of the authorisation granted by the UK regulator into the EU27.
- **Principle 2**. **Authorisations granted by EU27 NCAs should be rigorous and efficient**. NCAs should ensure that the entities comply with the requirements under the relevant legislation.
- **Principle 3**. **NCAs should be able to verify the objective reasons for relocation**. The entity's programme of operations should provide a clear justification for relocating to the Member State of establishment.
- **Principle 4**. **Special attention should be granted to avoid letter-box entities in the EU27**. NCAs should reject any relocation request creating letter-box entities where, for instance, extensive use of outsourcing and delegation is foreseen with the intention of benefitting from an EU passport, while essentially performing all substantial activities or functions outside the EU27.
- **Principle 5**. **Outsourcing and delegation to third countries is only possible under strict conditions**. NCAs should be prudent when determining the extent to which an entity can rely on outsourcing or delegation given that these arrangements to a third country entity are conditional on prior cooperation agreements between the EU NCA and the third country authority.
- **Principle 6**. **NCAs should ensure that substance requirements are met**. NCAs should require that any outsourcing or delegation arrangements are clearly structured and set up in a way that does not hinder their ability to efficiently and effectively supervise. This implies in particular that certain key activities and functions (e.g. internal control functions, IT control infrastructures, risk assessment, etc.) should be present in the EU27.
- **Principle 7**. **NCAs should ensure sound governance of EU entities**. NCAs should satisfy that the applicant entities disposes of decision-making powers in the targeted Member State of establishment (e.g. by assessing the quality and the appropriate presence of executive board members, etc.). NCAs should also check that EU entities comply with governance requirements (e.g. technical knowledge, capacity to outsource services, etc.) and with the risk management capacity (e.g. adequate levels of own funds, liquidity, etc.).
- **Principle 8**. **NCAs must be in a position to effectively supervise and enforce Union law**. NCAs should ensure that initial conditions set at the moment of authorisation are met on a continuous basis (e.g. by conducting on-site inspections), including those relative to outsourcing and delegation arrangements.
- **Principle 9**. **Coordination to ensure effective monitoring by ESMA**. The ESMA will establish a Supervisory Coordination Network to promote consistent decisions adopted by NCAs.

3. Next steps

- ESMA intends to develop **further guidance** in areas such as asset managers, investment firms and secondary markets to provide sector specific details on the aspects described in this opinion.

06/06/2017
Final Guidelines on MiFID II product governance requirements.

1. Context

The financial crisis has shown that rules on the provision of investment services to individual clients might be insufficient to ensure that firms fulfil their duty of acting in their best interests. In this regard, MiFID II introduced product governance requirements to ensure that firms which manufacture and distribute financial instruments act in the clients' best interests during all the stages of the life-cycle of products or services.

In this context, following the consultation launched in October 2016, the ESMA has published **Final Guidelines (GL) on product governance under MiFID II**, addressing the target market assessment by manufacturers and distributors of investment products.

These GL apply to firms subject to the product governance requirements under MiFID II, including among others investment firms and credit institutions that provide investment services and activities. These GL address issues specific to manufacturers and distributors, as well as issues common to both.

2. Main points

- **GL for manufacturers**. When identifying the potential target market for their investment products, manufacturers should:
    - Use 5 categories (i.e. type of clients to whom the product is targeted; knowledge and experience; financial situation with a focus on the ability to bear losses; risk tolerance and compatibility of the risk/reward profile of the product with the target market; and clients' objectives and needs).
    - Consider the nature of the investment product (i.e. its complexity, its risk-reward profile or liquidity, or its innovative character).
    - Ensure that its intended distribution strategy is consistent with the identified target. To this end, the manufacturer should define its distribution strategy so that this strategy favours the sale of each product to the target market of this product.
- **GL for distributors**. Among others, distributors should:
    - Ensure the general consistency of the products and the related services with the needs, characteristics and objectives of target clients. The decision making process about the services and products in combination with the target market identification process should directly influence the way in which the firm's daily business is conducted.
    - Use the same list of categories used by manufacturers as a basis for defining the target market (although distributors should define the target market on a more concrete level), and also consider the nature of the investment products.
    - Consider the distribution strategy and review it with a critical look.
    - Review products on a regular basis to assess whether the product remains consistent with the needs, characteristics and objectives of the identified target market.
    - Where products have not been manufactured by entities subject to the MiFID II, perform the necessary due diligence so as to provide an appropriate level of service and security to their clients, for those firms that distribute.
- **GL for both manufacturers and distributors**. The GL specify that they should:
    - Consider whether the product would be incompatible with certain target clients (identification of the 'negative' target market) by considering the above-mentioned categories. There might be situations where products could be sold outside the positive target market, although these instances should be justified.
    - Apply the target market requirements to firms dealing in wholesale markets (i.e. with professional clients and eligible counterparties as part of the intermediation chain and as end-clients).

3. Next steps

- These guidelines will apply from **3 January 2018**.
- Products manufactured and distributed **before 3 January 2018 should not fall within the scope** of the product governance requirements.
- Products which were manufactured before 3 January 2018 but which are **distributed to investors after 3 January 2018 should fall within the scope** of product governance requirements applicable to distributors.

01/06/2017

Consultation Paper on RTS on the measures credit institutions and financial institutions shall take to mitigate the risk of money laundering and terrorist financing where a third country's law does not permit the application of group-wide policies and procedures.

1. Context

According to the Anti-Money Laundering and Countering the Financing of Terrorism Directive (4th AML/CFT Directive), credit and financial institutions have to put in place AML/CFT policies and procedures to mitigate and manage effectively the money laundering and terrorist financing (ML/TF) risks to which they are exposed. Where an obliged entity is part of a group, these policies and procedures have to be applied at group-level.

In this regard, the ESAs have published a **Consultation Paper (CP) on RTS on the implementation of group-wide AML/CFT policies and procedures in third countries**. These RTS aim to foster a consistent approach to identifying and managing the ML/TF risk where a third country's law does not permit the application of group-wide policies and procedures. In particular, this document sets out minimum actions that should be taken by credit and financial institutions.

2. Main points

- **Minimum actions**. For each third country, credit and financial institutions shall at least:
    - Assess the resultant ML/TF risk to their group, record that assessment, keep it up to date and retain it in order to be able to share it with their competent authority (CA).
    - Ensure that the risk is reflected in their group-wide AML/CFT policies and procedures.
    - Obtain senior management approval for the risk assessment and for the group-wide policies and procedures.
    - Provide targeted training to relevant staff members in the third country.
- **Additional measures**.
    - Credit and financial institutions shall take certain additional measures where the third country's law prohibits or restricts:
        - The access to relevant customer information or the use of such information for customer due diligence purposes.
        - The sharing or processing of customer data for AML/CFT purposes within the group.
        - The sharing of information related to suspicious transactions by branches and majority-owned subsidiaries established in the third country with other entities in their group.
        - The transfer of data related to customers of a branch and majority-owned subsidiary established in a third country to a Member State for the purpose of AML/CFT supervision.
        - The application of record-keeping measures.
    - For each of the above-mentioned circumstances, the EBA lists the additional measures that shall be taken by credit and financial institutions. For instance, they should:
        - Without delay, inform the CA of the home Member State of: i) the third country concerned; and ii) how the implementation of the third country's law introduces prohibitions or restrictions.
        - Ensure that their branches or majority-owned subsidiaries that are established in the third country determine whether consent from their customers can be used to legally overcome restrictions or prohibitions.

3. Next steps

- Comments to this consultation paper shall be submitted by **11 July 2017**.

27/06/2017

- **Final Guidelines on the risk factors financial institutions should consider when assessing the money laundering and terrorist financing risk.**
- **Final RTS on the criteria for determining the circumstances in which the appointment of a central contact point (CCP) is appropriate and its functions.**

1. Context

In May 2015, the European Parliament and the Council adopted Directive 2015/849 on the prevention of the use of the Union's financial system for the purposes of money laundering and terrorist financing (ML/TF) in order to bring EU legislation in line with the international standards on ML/TF.

In this context, following the consultation launched in October 2015, the ESAs have published **Final Guidelines (GL) on the risk factors** that financial institutions should consider when assessing the ML/TF risk associated with a business relationship or occasional transaction. These GL also set out how financial institutions can adjust their customer due diligence measures as a result of that risk assessment.

Moreover, the ESAs have also issued **Final RTS on Central Contact Point (CCP)** to help Member States determine when payment service providers and electronic money issuers should appoint a CCP to support the fight against money laundering and terrorist financing. In particular, these RTS set out the criteria for determining the appointment of a CCP, as well as its functions.

2. Main points

Final Guidelines on risk factors

- **Scope**. These GL are addressed to credit and financial institutions, and to competent authorities (CAs) responsible for supervising these firms' compliance with anti-money laundering and countering financing of terrorism (AML/CFT) obligations.
- **Risk-factors**. These GL establish two types of factors to be considered when assessing the risk of ML/TF, although these factors are not exhaustive and firms can adopt alternatives as appropriate.
  - General factors that apply to all firms (e.g. customer's nature and behavior, professional activity and reputation; transparency level of a product or transaction; etc.).
  - Specific factors that are important in certain sectors (e.g. correspondent banking, retail banks, electronic money issuers, etc.).

Final RTS on the criteria for determining the circumstances in which the appointment of a CCP is appropriate and its functions

- **Criteria**. These RTS set out a two-pronged approach for deciding whether or not the appointment of a CCP is appropriate.
  - Host Member States may require institutions that are established in their territory in forms other than a branch, and whose head office is situated in another Member State, to appoint a CCP if any of the following conditions are met:
    - The number of establishments is, or exceeds, 10.
    - The cumulative amount of the electronic money distributed and redeemed, or the value of the payment transactions executed by such establishments is expected to exceed 3M€ per financial year or has exceeded 3M€ in the previous financial year.
    - The information necessary to assess whether or not the two previous criteria are met is not made available to the host Member State's CA upon request.
  - Host Member States may require the above-mentioned institutions to appoint a CCP in situations where this is commensurate to the level of ML/TF risk associated with the operation of those institutions' establishments.
- **Functions**. These RTS determine the main functions that a CCP shall comply with:
  - Ensuring compliance with AML/CFT rules (e.g. by facilitating the development and implementation of AML/CFT policies and procedures).
  - Facilitating supervision by CAs of the host Member State (e.g. by providing documentation upon CA's request).
  - Additional functions (e.g. scrutinising transactions to identify suspicious transactions).

3. Next steps

- The GL on the risk factors will apply by **26 June 2018**.
- The RTS on CCPs will apply **20 days** after their publication in the Official Journal of the European Union (OJEU).

29/06/2017
Anteproyecto de Ley Orgánica de protección de datos de carácter personal (APLOPD).

1. Context

In April 2016, the European Parliament and the Council adopted the Regulation (EU) 2016/679 (GDPR), related to the protection of natural persons with regard to the processing of personal data and on the free movement of such data, which will be applicable as of 25 May 2018.

In this regard, the Government has published an **Anteproyecto de Ley Orgánica de protección de datos de carácter personal (APLOPD)**, which will repeal the current LOPD, in order to enhance the regulatory framework of this fundamental right and to adapt the Spanish law to the GDPR.

In particular, the APLOPD is structured around eight chapters: i) general provisions; ii) principles on data protection; iii) rights of natural persons; iv) controllers and processors; v) international transfers of data; vi) data protection authorities; vii) procedures in case of claims processed by the Agencia Española de Protección de Datos (AEPD); and viii) penalty regime.

2. Main points

- **General provisions**. This rule will apply to the processing of totally or partially automated personal data, as well as to the non-automated processing of personal data included or intended to be included in a filing system. Also, the APLOPD regulates for the first time the treatment of personal data of deceased persons by their legal successors.
- **Principles on data protection**.
  - The APLOPD sets out that the data obtained directly from the subject is presumed to be precise and updated, excludes the tacit consent (i.e. explicit consent is required), and explicitly regulates the duty of confidentiality.
  - The APLOPD reduces the age of consent from 14 to 13 years old.
  - The APLOPD specifically regulates credit information systems, detailing among others the following aspects:
    - The processing of personal data regarding the breach of monetary, financial or credit obligations will be lawful when certain requirements are met (e.g. data is provided by the creditor and related to past due enforceable obligations, etc.), or when the affected subject has consented.
    - The institutions that keep data on credit obligation breaches should notify the concerned data subjects about the processing of their data, and should inform them about the possibility of exercising the rights set out in the GDPR.
    - The collected data should only be kept in the credit information systems for five years since the termination date of the credit obligation.
  - Further, the APLOPD addresses other topics such as video surveillance, exclusion advertising systems (i.e. Robinson lists), etc.
- **Rights of natural persons**.
  - The APLOPD adopts the principle of transparency as set out in the GDPR, containing the right of affected subjects to be informed about the processing of their personal data.
  - It also incorporates the rights of access, rectification, erasure (right to be forgotten), restriction of processing, and data portability; and introduces a locking obligation, which guarantees that data are brought to certain authorities (e.g. courts).
- **Controllers and processors**.
  - The APLOPD regulates the general measures of active responsibility, the regime of processors, the data protection officer, and the autoregulation and certification mechanisms.
  - It specifies that the data protection officer may be of an obligatory or a voluntary nature; may be integrated in the controller or processor's organization or not; and may be a natural or a legal person.
- **International transfers of data**. It adapts the framework to the GDPR, specifically addressing the procedures through which data protection authorities can approve contractual models or relevant corporate rules, circumstances of transfers authorization, or previous information.

- **Data protection authorities**. The APLOPD sets out that these authorities should be determined by national law, contains the regime of the AEPD, and takes account of the existence of regional data protection authorities.
- **Procedure in case of claims processed by the AEPD**. The APLOPD addresses several aspects regarding the initiation and non-admission of claims procedures, among others.
- **Penalty regime**. Among others, the APLOPD describes the actions that should be deemed as infringements and establishes the penalties and corrective measures.

3. Next steps

- Once the Ley Orgánica is approved, it will enter into force by **25 May 2018** and will repeal the current LOPD. Current LOPD will govern the procedures started before this date.

21/04/2017

- **Proyecto de Circular, por la que se modifica la Circular 1/2013, sobre la Central de Información de Riesgos (CIR).**
- **Proyecto de Circular, por la que se modifica la Circular 1/2013, sobre la CIR – con control de cambios.**
- **Anejo 1 – con control de cambios.**
- **Anejo 2 – con control de cambios.**

1. Context

In May 2016, the ECB approved the Regulation 2016/867 on the collection of granular credit and credit risk data (commonly known as the AnaCredit Regulation). Under the AnaCredit framework, credit institutions in the euro area and foreign branches (in the euro area) of credit institutions shall report to the ECB, via their national central banks, information regarding their loans granted to legal entities, provided that the commitment amount of the debtor equals or exceeds €25,000.

Since in Spain there is already in place a similar system for the submission of data, the BdE has decided to integrate the requirements of the European regulation into the Risk Information Centre (CIR).

In this context, the BdE has published a **Draft Circular amending Circular 1/2013 on the CIR**, which aims to adapt the CIR to the information requirements established by AnaCredit.

2. Main points

- Certain **amendments** are introduced regarding **reporting agents and the reported entities**. Among other aspects, the Draft Circular introduces the following elements:
  - The definitions of <u>observed agent and reporting Member State</u> from AnaCredit are incorporated.
  - In addition to the <u>instruments currently reported</u> to the CIR (e.g. loans, debt securities, etc.), institutions shall report, among others, loans granted to other observed agents from the same institution, loans not originated by the institution that are managed by any of its observed agents residing in a reporting Member State, etc.
  - For the purpose of calculating the <u>amount of risk</u> (i.e. sum of amounts of operations in which the debtor participates as direct or indirect holder), the amount of the new operations shall not be included.
- **Amendments** are also introduced regarding the **information to be reported to the BdE**. In this regard, the Draft Circular:
  - Modifies <u>certain existing data modules</u> (i.e. modules B, C and D), and introduces <u>new modules</u> (i.e. module E with regard to information on interest rates applied, and module H on supplementary prudential information).
  - <u>Excludes certain institutions</u> from the submission of <u>certain specific modules</u> (e.g. branches in Spain of foreign credit institutions whose headquarters are located in another reporting Member State do not have to report modules D and H).
  - Clarifies that the <u>criteria defined by the ECB</u> shall be applied regarding those aspects not contemplated in Circular 1/2013 where the dimensions of the CIR are the same that those of AnaCredit.
  - Specifies that institutions shall <u>continue to report loans</u> to the CIR <u>until they are written-off</u>.
- All the **transitional provisions from the Circular 1/2013 are deleted**, and the Draft Circular introduces a **single transitional provision**, according to which:
  - Institutions should continue to submit until **31 March 2018** registrations and modifications of data from reported entities, as well as the applications for new non-resident codes, using the last updated version of Circular 1/2013.
  - The submission of the rest modules shall be made using the last updated version of Circular 1/2013 until **30 April 2018**.

3. Next steps

- Comments to this Draft Circular shall be submitted by **5 May 2017**.
- The BdE will report AnaCredit data to the ECB trough the collection of information under CIR. The first reporting submission shall start in **September 2018**, although **6 months** prior to the first submission national central banks shall report the first set of the counterparty reference data.

BANCO DE ESPAÑA
Eurosistema

25/04/2017

Proyecto de Circular a entidades de crédito, sobre normas de información financiera pública y reservada y modelos de estados financieros.

1. Context

IFRS 9 (Financial Instruments) and IFRS 15 (Revenue from Contracts with Customers) were adopted in the EU in 2016. These standards will be applicable to banking groups for preparing their consolidated annual accounts for the financial years starting from 1 January 2018.

In this regard, the BdE has published a **Draft Circular on public and confidential financial information standards and formats**, that will supersede Circular 4/2004, aimed to adapt the current accounting framework of the Spanish credit institutions to these accounting standards that modify the criteria for recognising financial instruments and revenues, respectively.

Among the amendments introduced by this Draft Circular and stemming from IFRS 9, special mention should be made of the following: i) amendments to the classification of financial assets for valuation purposes; ii) changes regarding impairment of financial assets, introducing a framework based on expected credit losses rather than on incurred losses; and iii) treatment of accounting hedges.

As for IFRS 15, the Draft Circular aims at introducing the new treatment of revenue recognition.

2. Main points

- **Classification of financial assets for valuation purposes**.
  - The classification of debt instruments depends on their contractual characteristics and on the business model used by the institution to manage them, which will determine that these instruments are valued at: i) amortised cost, ii) fair value through other comprehensive income; or iii) fair value through profit or loss (P&L).
  - Equity instruments should be measured at fair value through P&L, unless the institution chooses to account for changes in their value in the statement of recognised income and expense
  - All other financial assets should be measured at fair value, accounting for changes in their value through P&L.
- **Impairment of financial assets**.
  - The Draft Circular introduces the concept of expected credit loss (ECL):
    - Standard exposures: the ECL will be calculated based on the default events that may occur over a 12-month period from the date of reference.
    - Standard exposures under special monitoring and doubtful exposures: the ECL will be calculated based on the default events that may occur over the lifetime of the financial asset or that have occurred, respectively.
  - For estimating allowances for credit risk, credit institutions should follow Anejo IX. Overall, the amendments introduced by the Circular 4/2016 are kept (e.g. requirement to compare allowances using internal methodologies against allowances calculated under alternatives solutions and to perform backtesting during a 6-month period), and additionally the Draft Circular introduces certain enhancements such as the following:
    - Certain additional indicators are introduced for the purpose of determining whether a significant increase in credit risk has occurred or not.
    - The Draft Circular specifies that total allowances shall be the sum of allowances attributable to insolvency plus those attributable to country risk.
    - A requirement is introduced for having a record book of all complete individual valuations for effective collaterals and foreclosed real estate assets.
  - A significant amendment is that the recognition of interests for doubtful exposures will be calculated using the carrying amount net of impairment allowances. Interest on arrears will not be included for calculating the effective interest rate.
  - For all other assets, including goodwill, impairment is deemed to exist when the carrying amount of the assets is higher than the recoverable amount.
- **Accounting hedges**.
  - The quantitative effective tests are removed, and instead monitoring and adjusting the coverage ratio is required.
  - Credit institutions will decide on a voluntary basis whether they keep the existing rules on accounting hedges or follow the new rules.

- **Changes introduced by IFRS 15**. The Draft Circular introduces a new model for revenue recognition, which involves identification of the obligations of contracts, determination of their price, allocation of the price to the identified obligations, and revenues recognition as the institution complies with its obligations.
- **Financial statements**. All these amendments involve changes in the confidential and public financial statements. To ease the burden for credit institutions, the formats have been fully aligned with the European reporting models (i.e. Commission Implementing Regulation 680/2014 and subsequent amendments; and ECB Regulation 2015/534, on reporting of supervisory financial information).

3. Next steps

- Comments to this Draft Circular shall be submitted by **24 July 2017**.
- The Circular will enter into force by **1 January 2018**. The first confidential and public statements to be submitted to the BdE following the format, design, frequency and reference period of this Draft Circular will refer to 31 January 2018.

CNMV
COMISIÓN NACIONAL DEL MERCADO DE VALORES

25/04/2017
Proposal for a Technical Guide for the assessment of knowledge and competence of staff providing information and advice.

1. Context

In May 2014, the European Parliament and the Council approved MiFID II which establishes, among other aspects, that the staff giving investment advice or information on financial instruments to clients should have the necessary knowledge and competence, and expects Member States to publish the criteria used to assess this knowledge and competence.

Further, in March 2016 the ESMA published Guidelines for the assessment of knowledge and competence of staff providing advice or information, which will be applicable as of 1 January 2018.

In this context, and taking into account these ESMA Guidelines, the CNMV has launched a **public consultation on a Technical Guide for the assessment of knowledge and competence of staff providing information and investment advice**, which aims to specify the criteria that the CNMV considers adequate for firms to demonstrate compliance with these requirements.

2. Main points

- **Scope**. This Technical Guide will apply to the staff providing information or investment advice in credit institutions, investment firms, collective investment institutions or closed-end collective investment institution management companies that provide investment services.
- **Experience**. The minimum period of time to gain appropriate experience will be 6 months, working on a full-time basis.
- **Knowledge for staff providing information**. Firms should ensure that staff have the necessary knowledge on: i) financial markets, ii) characteristics and scope of the services, iii) products sold, iv) type of clients, v) risk, vi) costs and tax implications, vii) impact of economic figures on the value of investment products, viii) limits of predictive forecasting, and ix) regulation on market abuse and anti-money laundering.
- **Knowledge for staff providing investment advice**. In addition to the above-mentioned aspects, firms should ensure that staff have the necessary knowledge on: i) suitability requirements set out in MiFID II, ii) assessment of the documents provided to clients (e.g. key investor information documents, financial statements, etc.), iii) market structure for each type of product, iv) basic knowledge of valuation principles, and v) fundamentals of managing a portfolio such as implications of diversification.
- **Relevant staff qualifications**. To consider that staff possess the required qualifications they should have received a minimum number of hours of training activities (80 hours for staff that provide information and 150 hours for staff giving advice) and have received both technical and practical training, among other aspects.
- **Non-compliance**.
    - Where the staff do not have the adequate knowledge or competence, they will not be able to give information or advice on investments, except under supervision of staff who fulfill the requirements. The maximum period during which an employee lacking appropriate qualification may provide the corresponding services under supervision will be 4 years.
    - Where the staff have the knowledge or competence but have not the minimum experience, they will not be able to provide investment services, except under supervision of staff who have that minimum experience.
- **Organizational requirements**. The management body is responsible for the compliance with the Technical Guide, and should establish control procedures that ensure compliance. This control will be carried out by the regulatory compliance unit.
- **Accreditation of knowledge and competence**. There are several means for firms to accredit compliance with knowledge and competence requirements (e.g. CNMV accreditation). In this regard, firms must keep updated records regarding the certification of knowledge and competence of the staff that provide information or advice.

3. Next steps

- Comments to this proposal of Technical Guide shall be submitted by **10 May 2017**.
- This Technical Guide, once approved, will be applicable as of **1 January 2018**.

GOBIERNO DE ESPAÑA MINISTERIO DE ECONOMÍA Y HACIENDA
DIRECCIÓN GENERAL DE SEGUROS Y FONDOS DE PENSIONES

22/05/2017
Borrador de Anteproyecto de Ley de distribución de seguros y reaseguros privados.

1. Context

In January 2016, the European Parliament and the Council published the Directive 2016/97 on insurance distribution, aimed at harmonizing national provisions on this matter.

In this context, following the consultation launched in February 2017, the DGSFP has published a second **draft Anteproyecto de Ley de distribución de seguros y reaseguros privados**, which will transpose the European Directive.

This draft aims to modify the previous law by: i) extending its scope; ii) reinforcing the requirements regarding organization, professional skills, information and conduct when distributing insurance; and iii) establishing an enhanced customer protection framework for Insurance-Based Investment Products (IBIPs).

2. Main points

- **Scope**. The draft widens the scope of the insurance distribution rules:
    - Not only intermediaries are considered distributors, but also insurance undertakings. This rule will be applicable also to ancillary insurance intermediaries (i.e. those that offer ancillary products such as travel agents, car rental companies, etc.) unless they meet the conditions for exemption.
    - The activity of insurance 'comparators' is included within the concept of distribution (provision of information on insurance contracts according to criteria selected by the customer, whether via a website or other media, or the provision of a ranking of products).
- **Training**. The draft includes training requirements, in particular regarding risks in non-life insurance products, IBIPs and life insurance products.
- **Information to be provided to customers**. The draft specifies the general information that distributors shall provide to clients. In this regard:
    - Distinct information requirements are established depending on whether the sale includes advice or not.
    - Information about the type of remuneration which the person who sell insurance receive shall be given to the customer.
    - An insurance product information document should provide standardised information for non-life insure products. It should be drawn up by the relevant insurance undertaking (or by the insurance intermediary that manufactures the insurance product).
- **IBIPs**. A set of enhanced requirements are established for IBIPs. Among other aspects:
    - Distributors shall operate effective organisational arrangements to prevent conflicts of interest.
    - They shall provide guidance to customers on the risks associated with the IBIPs, information on all costs and, where appropriate, and an assessment of the suitability.
    - They shall ensure that the product is suitable for the customer, considering among other aspects that customer's risk tolerance and ability to bear losses.
- **Cross-selling**. The draft specifies the following aspects:
    - In cross-sales (i.e. the insurance product is offered is offered together an with ancillary product or service), the distributor shall inform the customer, among other aspects, on whether it is possible to buy the different components separately and, if so, it shall provide an adequate description of the costs of each component.
    - If the DGSFP identifies that practices harm customers, it could establish measures, including a prohibition to cross-selling.
- **Product oversight and governance**. The draft enhances the requirements on the design, approval and oversight of products, and regarding governance:
    - The distributors that manufacture any product for sale to customers shall maintain, operate and review a process for the approval of each of these products, identifying the target market and assessing all relevant risks to such target market, among others.
    - The insurance products offered in the market should be regularly reviewed.

3. Next steps

- The insurance and reinsurance undertakings will have **6 months** from the entry into force of the law to comply with certain requirements, such as the establishment of appropriate internal policies and procedures.
- The insurance distributors will have a period of **3 months** from the entry into force of the law to comply with the information requirements and the conduct rules.

13/06/2017

Report on a financial system that creates economic opportunities – Banks and Credit Unions.

1. Context

In February 2017, the Presidential Executive Order 13.772 was issued, establishing a set of Core Principles according to which the US financial system should be regulated.

In response to this Executive Order, the US Department of the Treasury has published a **Report examining the US financial regulatory system and recommending executive actions and regulatory changes** that could simplify and reduce regulatory costs while maintaining high standards of safety and soundness.

Given the breadth of the financial system, Treasury has divided its review into a series of reports. Thus, this report covers only the depository system (i.e. banks, savings associations and credit unions), whereas subsequent reports will cover other segments, such as capital markets, asset management, insurance, etc.

2. Main points

- **Refining capital, liquidity, and leverage standards**.
  - Treasury recommends to amend the $50 billion threshold for the application of enhanced prudential standards to more appropriately tailor these standards to the risk profile of Bank Holding Companies (BHCs).
  - Regarding the company-led annual stress test (DFAST), Treasury recommends among other aspects:
    - Raising the threshold of participation to $50 bn in total assets (from $10 bn).
    - Eliminating the mid-year DFAST cycle and reducing the number of supervisory scenarios from three to two (i.e. the baseline and severely adverse scenario).
  - Regarding the Comprehensive Capital Analysis and Review (CCAR), Treasury recommends among other aspects:
    - That the Fed should revise its threshold to match the revised threshold for application of the enhanced prudential standards.
    - Adjusting the CCAR process to a two-year cycle (currently the CCAR is carried out annually).
    - Eliminating the qualitative assessment as a sole objection to a capital plan.
  - Treasury supports an exemption for DFAST, CCAR and other prudential standards for any bank that maintains a sufficiently high level of capital, such as a 10% leverage ratio.
  - Further emphasis should be given to the use of standardized approaches over advanced approaches for risk-weighting assets to simplify the capital regime.
  - The scope of application of the liquidity coverage ratio (LCR) should be considerably narrowed to include only internationally active banks.
  - The single-counterparty credit limit (SCCL) should only apply to banks that are subject to the revised threshold for the application of the enhanced prudential standards.
  - Treasury recommends delaying the domestic implementation of the Net Stable Funding Ratio (NSFR) and Fundamental Review of the Trading Book (FRTB) rules until they can be appropriately calibrated and assessed.
  - Treasury recommends that the impact of the Current Expected Credit Losses (CECL) standard on banks' capital levels be reviewed by US prudential regulators to formulate recommendations to harmonize its application.
  - Treasury recommends that the living will process be made a two year cycle rather than the current annual process.
- **Improving market liquidity**. Among others, the report includes the following recommendations:
  - Regarding the Volcker Rule, Treasury recommends:
    - That banks with $10 billion or less in assets should not be subject to it, and that the proprietary trading restrictions not apply to banks with greater than $10 billion in assets unless they exceed a threshold amount of trading assets and liabilities.
    - Simplifying the definition of proprietary trading and allowing banks to more easily hedge their risks and conduct market-making activities.
  - The Supplementary Leverage Ratio (SLR) and enhanced Supplementary Leverage Ratio (eSLR) should be adjusted. Specifically, exceptions from the denominator of total exposure should include cash on deposit with central banks, US Treasury securities, and initial margin for centrally cleared derivatives.

- **Advancing global competitiveness**.
    - Treasury recommends additional study of the recalibration of standards that have been imposed on US G-SIBs (i.e. US G-SIB surcharge, the TLAC and the eSLR).
    - Treasury generally supports efforts to finalize remaining elements of the international reforms at the BCBS. Nonetheless, Treasury recommends that banking agencies carefully consider the implications for credit intermediation and systemic risk from the implementation of a revised standardized approach for credit risk.

- **Encouraging foreign investment in the US banking system**.
    - Consistent with the thresholds recommended for US BHCs, Treasury recommends that the threshold for Intermediate Holding Companies (IHCs) to comply with CCAR be raised to match the revised threshold for the application of enhanced prudential standards.
    - Treasury recommends that the Fed review the recalibration of the internal TLAC requirement.
    - Other IHC regulatory standards, such as living wills and liquidity, should also be recalibrated.
- **Other aspects**. The report also include other recommendations intended to:
    - Address the US regulatory structure, by reducing fragmentation, overlap, and duplication (e.g. this could include consolidating regulators with similar missions).
    - Allow Community Banks and Credit Unions to thrive, by simplifying their capital regime.
    - Improve the regulatory engagement model, by modifying regulators' requirements of Boards of banking organizations.

3. Next steps

- Treasury and the Administration will begin working with Congress, independent regulators, the financial industry, and trade groups to implement the recommendations advocated in the report.
- Subsequent reports will be issued over the coming months.

23/06/2017
Dodd-Frank Act Stress Test 2017: Supervisory Stress Test Methodology and Results.

1. Context

The Dodd-Frank Act requires the Fed to conduct an annual stress test of Bank Holding Companies (BHCs) and US Intermediate Holding Companies (IHCs) with $50 billion or more in total consolidated assets and any nonbank financial company that the Financial Stability Oversight Council (FSOC) has determined shall be supervised by the Fed.

In this regard, the Fed has published the **methodology and results for the Dodd-Frank Act Stress Test 2017** (DFAST 2017), in which 34 BHCs have participated. In conducting its supervisory stress tests, the Fed calculated its projections of a BHC's balance sheet, risk-weighted assets (RWAs), net income, and resulting regulatory capital ratios under the adverse and severely adverse scenarios. For DFAST 2017, the Fed updated the calculation of projected capital to incorporate the supplementary leverage ratio (SLR).

The results of the DFAST 2017 projections suggest that, in the aggregate, the 34 BHCs would experience substantial losses under both the adverse and the severely adverse scenarios but, in the aggregate, could continue lending to businesses and households, thanks to the capital built up by the sector following the financial crisis.

2. Main points

- **Severely adverse scenario**.
  - Losses are projected to be $493 billion for the 34 BHCs in the aggregate over the nine quarters of the planning horizon (the biggest sources of loss are accrual loan portfolios and trading and counterparty positions).
  - The aggregate CET1 would fall from an actual 12.5% in the fourth quarter of 2016 to its minimum of 9.2% over the planning horizon (the individual projected capital ratios are detailed in the tables below).
- **Adverse scenario**.
  - Losses are projected to equal $322 billion for the 34 BHCs over the nine-quarter planning horizon (the accrual loan portfolio is the largest source of losses).
  - The aggregate CET1 would fall to its minimum of 10.7% over the planning horizon.

3. Next steps

- The DFAST results are one component of the Federal Reserve's analysis during the Comprehensive Capital Analysis and Review (CCAR), which is an annual exercise to evaluate the capital planning processes and capital adequacy of large BHCs. **CCAR results** will be released on **June 28, 2017**.

Table 4.A. Capital ratios, actual 2016:Q4 and projected 2017:Q1–2019:Q1 under the severely adverse scenario: Advanced approaches firms

Percent

Bank holding company	Common equity tier 1 capital ratio			Tier 1 capital ratio			Total capital ratio			Tier 1 leverage ratio			Supplementary leverage ratio[1]		
	Actual 2016:Q4	Ending	Minimum	Actual 2016:Q4	Ending	Minimum	Actual 2016:Q4	Ending	Minimum	Actual 2016:Q4	Ending	Minimum	Actual 2016:Q4	Ending	Minimum
American Express Company	12.3	10.8	10.6	13.5	11.9	11.7	15.2	13.6	13.4	11.6	10.3	10.3	n/a	8.9	8.9
Bank of America Corporation	12.1	8.9	8.9	13.6	10.5	10.5	16.3	13.2	13.2	8.9	6.8	6.8	n/a	5.4	5.4
The Bank of New York Mellon Corporation	12.3	12.8	11.2	14.5	15.0	13.4	15.2	15.6	14.1	6.6	6.7	6.0	n/a	6.1	5.5
Capital One Financial Corporation	10.1	7.0	7.0	11.6	8.4	8.4	14.3	11.6	10.9	9.9	7.3	7.3	n/a	6.3	6.3
Citigroup Inc.	14.9	10.8	9.7	15.8	12.3	11.3	19.1	15.4	14.5	10.1	7.8	7.3	n/a	5.9	5.5
The Goldman Sachs Group, Inc.	14.5	9.4	8.4	16.6	11.4	10.2	19.8	14.3	13.3	9.4	6.3	5.9	n/a	4.3	4.1
HSBC North America Holdings Inc.	17.9	12.9	12.9	20.1	15.6	15.6	25.3	19.3	19.3	9.6	7.1	7.1	n/a	5.4	5.4
JPMorgan Chase & Co.	12.5	9.3	9.1	14.2	10.9	10.7	16.4	13.3	12.9	8.4	6.4	6.4	n/a	5.0	5.0
Morgan Stanley	17.8	11.1	9.4	20.0	13.4	11.7	23.2	16.3	14.9	8.4	5.5	4.9	n/a	4.2	3.8
Northern Trust Corporation	11.8	11.0	10.9	12.9	12.1	12.1	14.5	13.7	13.7	8.0	7.4	7.4	n/a	6.2	6.2
The PNC Financial Services Group, Inc.	10.6	8.3	8.0	12.0	9.5	9.3	14.3	11.4	11.4	10.1	8.1	8.0	n/a	6.8	6.7
State Street Corporation	11.6	8.7	7.4	14.7	11.6	10.4	16.0	12.6	11.5	6.5	5.1	4.6	n/a	4.6	4.2
TD Group US Holdings LLC	13.6	11.9	11.3	13.7	11.9	11.3	14.8	13.1	12.7	7.8	6.6	6.4	n/a	6.0	5.8
U.S. Bancorp	9.4	7.6	7.6	11.0	9.0	9.0	13.2	11.0	11.0	9.0	7.4	7.4	n/a	6.0	6.0
Wells Fargo & Company	11.1	8.8	8.6	12.8	10.4	10.2	16.1	13.4	13.4	8.9	7.2	7.2	n/a	6.2	6.1

Table 4.B. Capital ratios, actual 2016:Q4 and projected 2017:Q1–2019:Q1 under the severely adverse scenario: Non-advanced approaches firms

Percent

Bank holding company	Common equity tier 1 capital ratio			Tier 1 capital ratio			Total capital ratio			Tier 1 leverage ratio		
	Actual 2016:Q4	Ending	Minimum	Actual 2016:Q4	Ending	Minimum	Actual 2016:Q4	Ending	Minimum	Actual 2016:Q4	Ending	Minimum
Ally Financial Inc.	9.4	6.5	6.5	10.9	8.1	8.1	12.6	10.1	10.1	9.5	7.0	7.0
BancWest Corporation	13.1	9.1	9.1	13.4	9.5	9.5	15.3	11.6	11.6	11.1	7.9	7.9
BB&T Corporation	10.2	7.9	7.9	12.0	9.5	9.5	14.1	11.7	11.7	10.0	7.9	7.9
BBVA Compass Bancshares, Inc.	11.5	7.7	7.7	11.9	8.0	8.0	14.3	10.5	10.5	9.5	6.3	6.3
BMO Financial Corp.	12.5	8.0	8.0	12.8	8.7	8.7	15.7	11.7	11.7	9.5	6.4	6.4
CIT Group Inc.	14.0	14.5	12.9	14.0	14.5	12.9	14.8	15.8	14.0	13.9	11.9	11.9
Citizens Financial Group, Inc.	11.2	7.7	7.7	11.4	7.8	7.8	14.0	10.4	10.4	9.9	6.8	6.8
Comerica Incorporated	11.1	9.4	9.4	11.1	9.4	9.4	13.3	11.0	11.0	10.2	8.5	8.5
Deutsche Bank Trust Corporation	64.4	60.2	60.2	64.4	60.2	60.2	64.7	61.2	61.2	14.6	13.5	13.5
Discover Financial Services	13.2	10.8	10.4	13.9	11.4	11.0	15.5	12.8	12.4	12.3	10.1	10.0
Fifth Third Bancorp	10.4	8.0	8.0	11.5	9.0	9.0	15.0	12.0	12.0	9.9	7.7	7.7
Huntington Bancshares Incorporated	9.6	7.0	7.0	10.9	8.3	8.3	13.1	10.1	10.1	8.7	6.6	6.6
KeyCorp	9.5	6.8	6.8	10.9	7.5	7.5	12.9	9.7	9.7	9.9	6.8	6.8
M&T Bank Corporation	10.7	7.9	7.9	11.9	9.0	9.0	14.1	11.0	11.0	10.0	7.5	7.5
MUFG Americas Holdings Corporation	14.8	12.5	12.5	14.8	12.5	12.5	16.4	14.1	14.1	9.9	8.2	8.2
Regions Financial Corporation	11.2	8.2	8.2	12.0	8.9	8.9	14.2	11.0	11.0	10.2	7.5	7.5
Santander Holdings USA, Inc.	14.5	12.4	12.4	16.1	13.6	13.6	18.0	15.3	15.3	12.5	10.5	10.5
SunTrust Banks, Inc.	9.6	7.1	7.1	10.3	7.7	7.7	12.3	9.8	9.8	9.2	7.0	7.0
Zions Bancorporation	12.1	8.5	8.5	13.5	9.9	9.9	15.2	11.5	11.5	11.1	8.1	8.1

29/06/2017
Comprehensive Capital Analysis and Review 2017: assessment framework and results.

1. Context

In November 2011, the Fed began requiring firms with consolidated assets of $50 billion or more to submit annual capital plans for review. In this regard, within the Comprehensive Capital Analysis and Review (CCAR), each firm must include in its annual capital plan its capital adequacy, capital planning process, and planned capital distributions. When the Fed objects to a firm's capital plan, the firm may not make any capital distribution unless expressly permitted by the Fed.

The CCAR includes both a quantitative assessment that evaluates a firm's capital adequacy and planned capital distributions, and a qualitative assessment of capital planning practices. Earlier 2017, the Fed amended the capital plan rule to remove large and noncomplex firms from the qualitative assessment of CCAR.

In this context, and following the publication of the Dodd Frank Act Stress Test 2017 results, the Fed has now published the **assessment framework and results of the CCAR 2017**, in which 34 firms have participated. Nonetheless, in accordance with the above-mentioned amendment to the capital plan rule, only 13 firms have been subject to the qualitative assessment.

2. Main points

- **Quantitative assessment results**:
  - As in the 2016 CCAR, no firm was objected to on quantitative grounds in CCAR 2017.
  - The aggregate Common Equity Tier 1 ratio (CET1) for the firms participating in the CCAR 2017 would decline in the severely adverse scenario from 12.5% in 4Q16 to 7.2% at its minimum point over the planning horizon (from 1Q17 to 1Q19); whereas in the adverse scenario it would decline to 9.2%.
  - Firms have significantly increased their capital positions since 2009. In this regard, the CET1 ratio has more than doubled from 5.5% in 1Q09 to 12.5% in 4Q16. This reflects an increase of more than $750 billion in common equity capital.
  - In the aggregate, the 34 firms participating in CCAR 2017 have estimated that their common equity will remain near current levels between 3Q17 and 2Q18.
- **Qualitative assessment results**:
  - Many firms continued to improve their capital planning practices, both in terms of the estimation methods used to conduct their stress tests and the risk measurement and management, internal controls, and governance.
  - The Fed did not object to any firm's capital plan on qualitative grounds.
  - The Fed issued a conditional non-objection to Capital One's capital plan and is requiring this firm to address certain weaknesses identified (regarding oversight and execution of the capital planning practices, etc.) and to resubmit its capital plan by 28 December 2017.

3. Next steps

- The Fed's decisions with regard to planned capital distributions in CCAR 2017 will apply from the **beginning of 3Q17 to the end of 2Q18**. The capital distributions for the three out quarters in CCAR 2017 (from 3Q18 to 1Q19) will be addressed in CCAR 2018.

BANK OF ENGLAND

08/05/2017
Indicative MREL data for UK banks.

1. Context

The Minimum Requirements for Eligible Liabilities (MREL) is an element of the resolution strategy that determines the minimum loss-absorbing capacity institutions must hold, and can comprise both going-concern resources (i.e. common equity that absorb losses in times of stress and ensures that a bank can keep operating) and gone-concern resources (i.e. debt that absorb losses when a bank undergoes resolution or is placed into insolvency).

The BoE published a Statement of Policy (SoP) on the approach to setting MREL for UK banks, building societies and the large investment firms in November 2016.

In this context, the BoE has published **indicative MREL data for UK banks** establishing the minimum MREL requirements for both UK systemically important banks (UK G-SIBs and D-SIBs) and other firms with a resolution plan that involves the use of bail-in or transfer powers. These indicative MRELs are not binding or a definitive determination of future consolidated MRELs, which will require consultation with competent authorities and relevant EU resolution authorities.

2. Main points

- **Indicative MREL requirements**. The BoE has provided two tables on the estimation of the interim and final consolidated MREL requirements for 2020 and 2022, respectively.
  - Indicative MREL for UK G-SIBs and D-SIBs (Table 1). The BoE specifies the going concern requirements, the gone concern requirements, the interim and final MREL, and the loss absorbing capacity (MREL plus buffers) for these institutions.
    - Currently, UK's systemically important banks are HSBC Bank Plc, Barclays, Royal Bank of Scotland Group, Standard Chartered Bank, Lloyds Banking Group, Santander UK, and Nationwide Building Society.
    - The indicative MRELs are based on the calibration methodology set out in the above-mentioned SoP, with reference date to their minimum capital requirements and balance sheets as at December 2016.
  - Average indicative MREL for 7 UK firms that currently have a resolution plan that involves the use of BoE's resolution tools (Table 2). The BoE specifies the average of the going concern requirements, the gone concern requirements, the interim and final MREL, and the loss absorbing capacity (MREL plus buffers) for seven UK banks and building societies.
    - Institutions for which the average indicative MREL is specified are Clydesdale Bank, Coventry Building Society, Metro Bank, Skipton Building Society, Tesco Bank, Virgin Money, and Yorkshire Building Society (Co-operative Bank has been excluded as is currently seeking a sale).
    - The average for these firms is provided as publishing MRELs for each of them would also reveal the firm-specific element of their capital assessments, many of which have not previously been disclosed.

3. Next steps

- The interim requirements will apply to large banks and building societies from **1 January 2020**, prior to the final requirements coming into force in **1 January 2022**.
- Ahead of the 2020 interim requirements coming into force for all banks, **UK G-SIBs** will be required from **1 January 2019** to meet the minimum requirements set out in the FSB TLAC standard.

BANK OF ENGLAND
PRUDENTIAL REGULATION AUTHORITY

22/06/2017
Consultation Paper: Recovery planning.

1. Context

In December 2013, the PRA published the Supervisory Statement (SS) 18/13 on recovery planning which sets out PRA's expectations on the content of recovery plans and group recovery plans. This SS was updated in January 2015 to reflect the transposition of the Bank Recovery and Resolution Directive (BRRD) into UK law.

In this context, the PRA has now published a **Consultation Paper on recovery planning** that supersedes SS18/13 and proposes a new SS to enhance the quality of recovery plans and increase the likelihood that these plans are credible and useable in stress.

In particular, this document would update the SS18/13 by setting out proposals relating to the following aspects: i) recovery planning; ii) recovery planning for UK subsidiaries of non-EU banks; and iii) amendments to SS8/16 on 'Ring-fenced Bodies' (RFBs).

2. Main points

- **Proposals for recovery planning**. The draft SS would update the SS18/13 by setting out PRA's expectations on the following aspects:
  - Recovery options. Firms should provide sufficient analysis in their plans to justify the choice, impact, timelines and dependencies of recovery options; and should consider the impact of taking recovery options on any subsequent resolution. Further, the proposed approach sets out the expectation that aspects of solvent wind-down should be reflected in firm's recovery plans.
  - Recovery capacity. Firms should provide a self-assessment of their recovery capacity, meaning the financial benefits they could currently credibly realise in a stress (e.g. by selling assets to raise capital).
  - Indicators. Firms should consider several factors to satisfy that recovery plan indicators are appropriately calibrated (e.g. the range of credible recovery options, the speed with which the firm can respond to a stress and the firm's risk appetite and risk tolerance).
  - Scenario testing. Firms should design scenarios as established in the draft SS and should use those scenarios for testing their plans.
  - Fire drills. Firms should perform a fire drill exercise (i.e. live simulation type exercises) to test parts of their recovery plan. The frequency of this exercise would be agreed with the firm's supervisor, taking into account the firm's size and complexity.
  - Governance. Firms should not only explain the governance associated with any implementation of the recovery plan but also the governance associated with the production, review and sign off of the recovery plan.
  - Interaction between group and subsidiary plans. Material legal entities should be sufficiently covered in all sections of the group recovery plan.
  - Interaction with other relevant regimes and requirements. Firms should consider the relationship between firm's recovery planning and the concurrent stress test (CST) management actions, ICAAP and ILAAP, contingency funding plans, etc.
  - Other areas. Firms should consider other updates on the SS18/13 regarding recovery plan information template, communication plan, etc.
- **Proposals for recovery planning for UK subsidiaries of non-EU parents**. The draft SS clarifies how UK subsidiaries of non-EU parents should meet expectations for recovery planning by providing a core set of information that their recovery plan should include (e.g. summary of the UK entity business, UK specific recovery options, etc.).
- **Proposal to amend SS8/16 on RFBs**. The draft SS clarifies that the indicator framework, design of scenarios, and governance arrangements set out in the group recovery plan should have regard to recovery planning for the RFB sub-group, rather than only the individual RFB as currently stated.

3. Next steps

- Comments to this consultation paper shall be submitted by **21 September 2017**.
- Subject to consultation responses, the PRA intends to publish a final Policy Statement in **the second semester of 2017**.

28/06/2017

- **Consultation Paper on changes to the UK leverage ratio framework relating to the treatment of claims on central banks – CP11/17.**
- **Financial Stability Report, June 2017.**

1. Contexto

In July 2016, the FPC recommended to the PRA to allow firms to exclude claims on central banks from the calculation of the total exposure measure used to calculate the leverage ratio (LR). In this regard, the PRA invited firms to apply this temporary rule modification.

In this context, the FPC has now published a **Consultation Paper (CP) on changes to the UK LR framework relating to the treatment of claims on central banks**. This CP is relevant to PRA-regulated banks and building societies with retail deposits equal to or greater than £50 billion on an individual or a consolidated basis.

Moreover, alongside this CP the FPC has published the **Financial Stability Report of June 2017**.

2. Main points

CP on changes to the UK LR framework relating to the treatment of claims on central banks

- **Excluding central bank claims from the leverage exposure measure**. The FPC proposes that the PRA should exclude claims on central banks from the calculation of the total leverage exposure measure, where they are matched by deposits accepted by the firm, denominated in the same currency and of identical or longer maturity.
- **Adjusting the LR calibration**. As the intention of the FPC is not to alter the level of resilience as a result of adjusting the definition of the exposure measure, the FPC proposes that the PRA should increase the minimum LR requirement by 25 basis points, from 3% to 3.25% of total exposures.
- **Links with other policy initiatives**. The recommendations are linked to certain policy initiatives as follows:
    - MREL. The FPC's proposed changes will apply to the applicable LR exposure measure used in setting a firm's MREL.
    - Stress testing. The LR exposure measure and threshold against which banks will be assessed in the 2017 stress test will be updated, to reflect the outcomes of this consultation.

Financial Stability Report of June 2017

- **Policy initiatives**. Among other aspects, the Financial Stability Report highlights that the FPC is:
    - Increasing the UK countercyclical capital buffer to 0.5%, from 0%.
    - Bringing forward the assessment of stressed losses on consumer credit lending in the 2017 annual stress test.
    - Overseeing contingency planning to mitigate risks to financial stability as the UK withdraws from the EU.
    - Setting out the essential elements of the regulatory framework for maintaining cyber resilience.

3. Next steps

- Comments to the CP shall be submitted by **12 September 2017**.

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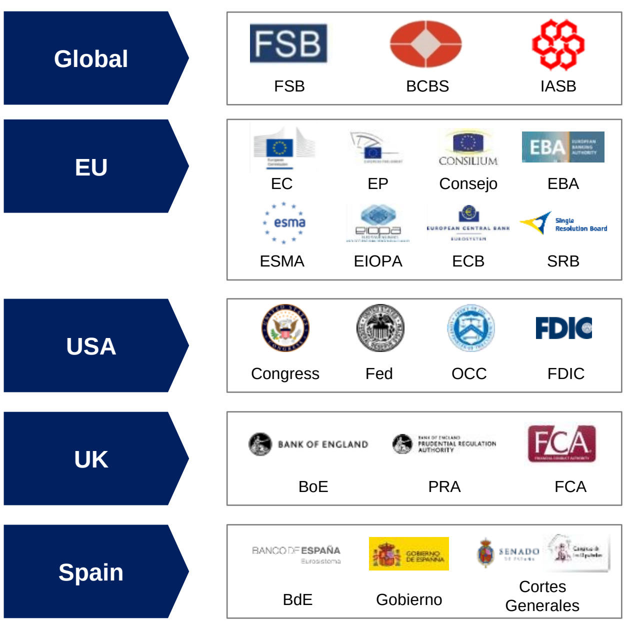

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