Regulation Outlook

3Q17

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Executive summary

During this quarter the FSB published principles on the internal TLAC of G-SIBs. At European level, the EBA published Final Guidelines on internal governance and on the assessment of the suitability of the management body, and a Consultation Paper on Guidelines regarding the disclosure of information under IFRS 9 transitional arrangements. In Spain, should be noted that the Bank of Spain (BdE) approved the Circular 1/2017 on the Risk Information Centre (CIR).

Global publications

- At international level, the FSB published **principles on the internal TLAC of G-SIBs**, which aim to assist home and host authorities in the implementation of internal TLAC mechanisms consistent with the TLAC standard.
- The BCBS released the results of its latest **Basel III monitoring report**. In parallel with this report, the EBA conducted its twelfth **report of the CRDIV-CRR / Basel III** monitoring exercise on the European banking system.

European publications

- The EBA published **Final Guidelines on internal governance** that update GL 44. These Guidelines address, among others, the role and composition of the management body and its committees, the governance framework, the risk culture and business conduct, etc.
- Further, the EBA and the ESMA published **Final Guidelines on the assessment of the suitability of members of the management body and key function holders**.
- The EBA launched a **consultation on Guidelines on disclosure under transitional mechanisms** for mitigating the impact of IFRS 9 on own funds, which specifies a uniform disclosure format to be applied by institutions in order to increase consistency and comparability of information disclosed.
- The EBA published a **Consultation Paper on ITS amending the EC Implementing Regulation 650/2014 on supervisory disclosure** in order to introduce certain recent changes to the EU legal framework.

European publications (continuation)

- Furthermore, the EBA published **Final RTS on the information** that applicants shall provide to CAs when applying for **authorisation to act as credit institutions**. Along with these RTS the EBA published **Final ITS on the application format** to be used to obtain such authorisation.
- Regarding counterparty credit risk, the ECB published a **Guide on materiality assessment of extensions and changes of internal models under the internal model method (IMM) and the advanced method for credit valuation adjustment risk (A-CVA)**.

Local publications

- In Spain, the BdE published the **Circular 1/2017 amending Circular 1/2013 on the CIR**, which aims to adapt the CIR to the information requirements established by AnaCredit. This Circular introduces certain amendments regarding reporting agents and the reported entities, and also in relation to the information to be reported to the BdE.
- The PRA published a **Consultation Paper on Pillar 2A capital requirements and disclosure**, which aims at setting Pillar 2A capital as a requirement, rather than as guidance, and introducing the term Total Capital Requirement (TCR), among other aspects.
- The PRA published **a Consultation Paper that proposes to update the Supervisory Statement 16/16**, setting out the PRA's proposed expectations with regard to the relationship between MREL and buffer requirements, as well as the consequences of not meeting these requirements.

Regulatory projections

The review of Basel III is still pending, and its completion date remains unknown. At European level, policymakers continue to deliberate on the reform package of the financial system proposed by the European Commission. In Spain, the BdE will publish the Circular that supersedes Circular 4/2004 to adapt the Spanish accounting framework to IFRS 9 and IFRS 15, which will apply as of 1January 2018.

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.
- **(Spain) To be determined**: the BdE will publish the Circular that supersedes Circular 4/2004.
- **(Global) November 2017**: the FSB will update the list of G-SIBs.
- **(Europe) November 2017**: the ECB Guidance on leveraged transactions will be applicable.
- **(Europe) November 2017**: the EBA will publish consultative Guidelines on the review of the SREP.
- **(UK) November 2017**: the BoE will publish the results of the 2017 stress test.
- **(Global) December 2017**: some of the Pillar 3 disclosure requirements issued by the BCBS will be applicable.

2. Next year

- **(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).
- **(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.
- **(Europe) January 2018**: Member States shall implement MiFID II and PSD2.
- **(Europe) January 2018**: the 2018 EU-wide stress test will be launched, and its final methodology published.
- **(Europe) January 2018**: the EBA Guidelines on credit risk management practices and accounting for expected credit losses 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 that supersedes the Circular 4/2004 will be applicable.
- **(Europe) May 2018**: the General Data Protection Regulation (GDPR) will be applicable.
- **(Europe) June 2018** : the EBA Guidelines on internal governance and the EBA and ESMA Guidelines on the assessment of suitability of the management body and key functions will be applicable.
- **(Europe) July 2018**: the 2018 EU-wide stress test results will be published.
- **(Europe) September 2018**: institutions are expected to start reporting under AnaCredit.

3. More than a year

- **(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.
- **(Global) December 2019**: the BCBS 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
Financial Stability Board			
TLAC	• Guiding Principles on the Internal TLAC of G-SIBs	07/07/2017	8
Basel Committee on Banking Supervision / European Banking Authority			
Monitoring report	• Basel III Monitoring Report • CRD IV/CRR Monitoring exercise	13/09/2017	9
European Banking Authority			
IFRS 9	• Consultation Paper on Guidelines on uniform disclosures under the proposed draft Article 473a of Regulation (EU) No 575/2013 as regards the transitional period for mitigating the impact on own funds of the introduction of IFRS 9	14/07/2017	10
Authorisation of credit institutions	• Final RTS on the information to be provided for the authorisation of credit institutions, the requirements applicable and obstacles, and Final ITS on standard forms, templates and procedures for the provision of the information	17/07/2017	11
Supervisory disclosure	• Consultation Paper on ITS amending Commission Implementing Regulation (EU) 650/2014 on the format, structure, contents list and annual publication date of the supervisory information to be disclosed by competent authorities • Draft Annex I / Draft Annex II / Draft Annex III / Draft Annex IV / Draft Annex V	25/09/2017	12
Governance	• Final Guidelines on internal governance	27/09/2017	13
European Banking Authority / European Securities and Markets Authority			
Assessment of the suitability	• Final Guidelines on the assessment of the suitability of members of the management body and key function holders under the CRD IV and MiFID II	27/09/2017	15

07/07/2017
Guiding Principles on the Internal TLAC of G-SIBs.

1. Context

In November 2015 the FSB, in consultation with the BCBS, published a new standard on the adequacy of total loss-absorbing capacity for global systemically important banks (G-SIBs) in resolution ('the TLAC standard'). This standard requires a certain amount of the TLAC resources of a G-SIB ('internal TLAC') to be committed to material sub-groups that are located in host jurisdictions.

In this regard, following the consultation launched in December 2016, the FSB has published **Guiding principles on the internal TLAC of G-SIBs**, which aim to assist home and host authorities in the implementation of internal TLAC mechanisms consistent with the TLAC standard. Some of these principles are described below.

2. Main points

- **Material sub-group identification and composition**. Among other principles, it is proposed that:
  - Host authorities should, in consultation with the home authority and the Crisis Management Group (CMG), identify material sub-groups in their jurisdiction and determine their composition and the distribution of internal TLAC among the entities that form the material sub-group.
  - Material sub-groups should only consist of entities in more than one jurisdiction where there is a single resolution regime in those jurisdictions (or a high degree of cooperation between the host authorities).
- **Size of the internal TLAC requirement**. Among other principles, it is proposed that:
  - Host authorities retain ultimate responsibility for setting the internal TLAC requirement (between 75% and 90% of the external minimum TLAC, as set out in the TLAC standard) for the material sub-groups in their jurisdiction (but it should be done in consultation with the home authority).
  - Surplus TLAC (i.e. TLAC at the resolution entity that is not distributed to material sub-groups) should be readily available to the resolution entity to recapitalise any direct or indirect subsidiary.
- **Composition and issuance of internal TLAC**. Among other principles, it is proposed that:
  - Host authorities should determine the composition of internal TLAC in consultation with the home authority. They may consider the inclusion of an expectation that internal TLAC consist of debt liabilities accounting for an amount of at least 33% of the requirement.
  - The issuance of internal TLAC should credibly support the resolution strategy. If not, authorities should require G-SIBs to change their internal TLAC issuance strategies.
- **Features of trigger mechanisms for internal TLAC**. It is proposed that:
  - Triggers for internal TLAC should specify the conditions under which a write-down and/or conversion into equity is expected to take place.
- **The home-host process for triggering internal TLAC**. The FSB proposes principles divided into 3 stages:
  - Stage 1: home and host communication prior to triggering internal TLAC (e.g. host authorities should make home authorities aware that they are considering making a determination that the material sub-group has reached the Point of Non-Viability or PONV).
  - Stage 2: determination to trigger internal TLAC (e.g. the host authority's decision to trigger internal TLAC should be based on the determination that the material sub-group has reached PONV).
  - Stage 3: write-down and/or conversion of internal TLAC (e.g. the host authority should determine the capital shortfall and recapitalisation level of a material sub-group that has reached PONV).

3. Next steps

- G-SIBs should be expected to meet the internal TLAC requirement as from the date specified in the TLAC standard. If during the implementation period or thereafter a new sub-group is identified as material (e.g. due to restructurings, acquisitions, etc.), the sub-group should meet the internal TLAC requirement within **36 months** from the date of its identification as a material sub-group.
- The FSB will undertake a review of the technical implementation of the TLAC standard **by the end of 2019**.

13/09/2017

- **Basel III Monitoring Report**.
- **CRD IV/CRR Monitoring exercise**.

1. Context

The BCBS has published the results of its latest **Basel III monitoring report**. In parallel with this report, the EBA has conducted its twelfth report of the **CRDIV-CRR/Basel III monitoring exercise** on the European banking system. In particular, these exercises allow gathering aggregate data on capital, leverage ratio (LR), liquidity coverage ratio (LCR) and net stable funding ratio (NSFR).

Moreover, the BCBS report provides information on the progress made by global systemically important banks (G-SIBs) in meeting the requirements for additional loss-absorbing capacity (TLAC) and, for the first time, it also provides not only global averages but also a regional breakdown for many key metrics.

Both exercises classify banks in Group 1 (those internationally active banks with a Tier 1 capital of more than €3billion) and Group 2 (all other banks). For the BCBS exercise, data were provided for a total of 200 banks from several geographies (e.g. Europe, America, etc.), including 105 Group 1 banks and 95 Group 2 banks. The EBA exercise included a sample of 164 European banks, comprising 45 Group 1 banks and 119 Group 2 banks.

2. Main points

- The results are based on data as of **31 December 2016**.
- The main **average results** obtained (assuming full implementation of the Basel III/CRD IV-CRR framework) were:

Organism	Group	CET1 ratio	Capital shortfall*	TLAC shortfall**	LR	LCR	NSFR
BCBS	1	12.3%	0	116.4bn€	5.8%	131.4%	115.8%
	2	13.4%	0	N/A	5.5%	159.3%	114.1%
EBA	1	13.2%	1.4bn€	-	4.9%	134.2%	108.4%
	2	14.0%	0.3bn€	N/A	5.6%	170.1%	126.9%

* Shortfall with respect to the target level (CET1 + Capital Conservation Buffer).
** Applying the 2022 minimum requirement for G-SIBs.

14/07/2017
Consultation Paper on Guidelines on uniform disclosures under the proposed draft Article 473a of Regulation (EU) No 575/2013 as regards the transitional period for mitigating the impact on own funds of the introduction of IFRS 9.

1. Context

In November 2016, 'IFRS 9 - Financial Instruments' was adopted in the EU. Further, in May 2017 the Council adopted a Proposal for a Regulation amending the CRR as regards, among other aspects, the transitional period for mitigating the impact on own funds of the introduction of IFRS 9.

This proposal suggests the insertion of a new Article 473a in the CRR, which also includes a requirement for those institutions that choose to apply the transitional arrangements to disclose their effect on own funds and risk-based-capital and leverage ratios.

In this context, the EBA has published a **consultative document on Guidelines on disclosure of IFRS 9 transitional arrangements**, which specify a uniform disclosure format to be applied by institutions in order to increase consistency and comparability of information disclosed during the transitional period.

2. Main points

- **Scope of application.**
    - Institutions that choose to apply Article 473a of the CRR should disclose the <u>quantitative template contained in Annex I</u> of the Guidelines, including the accompanying qualitative narrative.
    - Institutions mentioned in that article that are subject to CRR disclosure requirements but choose not to apply the transitional arrangements should instead disclose a <u>narrative commentary</u> explaining that they are not applying the transitional arrangements, the reasons behind that decision and that their own funds, capital and leverage ratios already reflect the full impact of IFRS 9 (or analogous ECL models).
- **Annex I of the Guidelines**.
    - <u>Content</u>:
        - The template includes <u>regulatory own funds</u>, <u>risk-based capital ratios</u> and <u>leverage ratio</u> compared to the same metrics as if they were not subject to the IFRS 9 (or analogous ECL transitional arrangements).
        - As for the <u>accompanying qualitative narrative</u>, institutions should <u>explain the key elements</u> of the transitional arrangements (e.g. explanations of the changes to RWA and leverage exposure measure that are due to the application of the transitional arrangements, where these changes are material).
    - <u>Disclosure frequencies</u>: those specified in the EBA Guidelines on disclosure requirements.
    - <u>Format</u>: a fixed format is prescribed.

3. Next steps

- Comments to this consultative document shall be submitted by **13 September 2017**.
- The final Guidelines will apply from **1 January 2018** until the **end of the transitional period** referred to in Article 473a of the CRR (i.e. December 2022).
- Once the final Regulation inserting new Article 473a in the CRR is published in the Official Journal of the EU, any appropriate adjustments will be made, if necessary to align the draft guidelines with the final version of that article.

17/07/2017

RTS on the information to be provided for the authorisation of credit institutions, the requirements applicable and obstacles, and Final ITS on standard forms, templates and procedures for the provision of the information.

1. Context

The information submitted to the competent authorities (CAs) in the applications for authorisation referred to the CRD IV should enable the CAs to carry out a comprehensive assessment of applicant credit institutions in order to be satisfied that they meet the requirements for the granting of authorisation.

In this context, following the consultation launched in November 2016, the EBA has published **Final RTS on the information that applicants shall provide to CAs when applying for authorisation as credit institutions**, which cover the following aspects: i) a comprehensive list of information to be provided; ii) the requirements applicable to shareholders and members with qualifying holdings; and iii) obstacles which may prevent effective exercise of the supervisory functions of the CA.

Along with the RTS, the EBA has **published Final ITS on the form (template) to be used by undertakings seeking to obtain the authorisation**, as well as relevant procedures and requirements relating to the submission of such applications and to the approach to be taken in respect of incomplete applications.

2. Main points

- **Information to be provided by credit institutions in the application for authorisation**.
  - Presentation of the applicant credit institution, place of head office and history: e.g. the name and contact details of the person to contact regarding the application; information on the identity of the applicant credit institution; and a summary of the history of the applicant credit institution and of its subsidiaries.
  - Programme of activities: list of the activities that the applicant credit institution intends to carry out, and a description of how the scope of the application aligns with the proposed activities.
  - Financial information: e.g. forecast information on a base case and stress scenario basis; statutory financial statements for at least the last three financial years where the applicant credit institution has been in operation; and an outline of any indebtedness incurred or expected to be incurred prior to the commencement of its activities as a credit institution.
  - Programme of operations, structural organisation, internal control systems and auditors: programme of operations for at least the first three years which shall cover, on a base case and stress scenario basis, information on planned business and the structural organisation; and information on the organisational structure and internal control function of the applicant (including the organisational chart).
  - Initial capital: paid-up capital and capital which is not yet paid up. Further, the applicant shall specify the types and amounts of own funds corresponding to the initial capital.
  - Effective direction: e.g. a description of the responsibilities, powers and proxies conferred upon the members of the management body.
  - Shareholders or members with qualifying holdings: e.g. information relating to the identity and participation of each natural and legal person and other entities that have a qualifying holding. Where there is no qualifying holding, the applicant shall provide the list of the 20 largest shareholders or members in the credit institution.
- **Requirements applicable to persons having qualifying holdings**. To ensure the suitability of the shareholders, the CAs should assess the following criteria: i) their reputation, ii) the reputation, knowledge, skills and experience of any members of the management body that will be appointed by such shareholders, iii) the financial soundness of such shareholders, iv) whether such holdings would cast doubts on the applicant credit institution's ability to comply with the CRD IV and CRR, and v) whether there are reasonable grounds to suspect that money laundering or terrorist financing is being or has been committed in connection with such authorisation.
- **Obstacles which may prevent the effective exercise of the supervisory functions of the CAs**. In this regard, CA shall consider any relevant information, circumstance or situation, including those of a legal, geographical, financial or technical nature (e.g. the links between the credit institution and other natural or legal persons).

3. Next steps

- The RTS and the ITS shall enter into force on the **twentieth day** after their publication in the Official Journal of the European Union (OJEU).
- The EBA encourages the Commission to adopt the RTS and ITS at the earliest possible opportunity to support the consistent, efficient and rigorous assessment of any applications for authorisation to be submitted by entities seeking to relocate in the context of the UK's withdrawal from the EU.

25/09/2017

- **Consultation Paper on ITS amending Commission Implementing Regulation (EU) 650/2014 on the format, structure, contents list and annual publication date of the supervisory information to be disclosed by competent authorities**.
- **Draft Annex I / Draft Annex II / Draft Annex III / Draft Annex IV / Draft Annex V**.

1. Context

In November 2014, the European Commission (EC) published the Implementing Regulation 650/2014 on supervisory disclosure, which specifies the format, structure, contents list and annual publication date of the supervisory information to be disclosed by competent authorities (CAs). However, since the adoption of this Implementing Regulation the EU supervisory landscape has changed and new regulations and guidelines affecting also supervisory disclosure have been enacted.

In this context, the EBA has published a **Consultation Paper (CP) on ITS amending the EC Implementing Regulation 650/2014 on supervisory disclosure** in order to take into account changes to the EU legal framework, namely the following: i) the Liquidity Coverage Ratio (LCR) Delegated Act; ii) the EBA Guidelines on the Supervisory Review and Evaluation Process (SREP); and iii) the establishment of the Single Supervisory Mechanism (SSM).

In particular, this CP clarifies the level of consolidation and the approach to be taken when aggregating the data, amends the relevant annexes, and adds instructions to fill in the templates on supervisory disclosure. Despite these amendments, the structure and the legal basis of both the draft revised ITS and of its related Annexes remain unchanged.

2. Main points

- A **consolidated approach** in line with the existing reporting framework is specified, with the aim of avoiding additional burden and enhance the comparability of the data.
- The **scope and the split of supervisory responsibilities to disclose information** between the ECB and National Competent Authorities (NCAs) within the SSM is clarified. The NCAs shall publish aggregated data for less significant supervised entities and less significant groups (LSIs) while the ECB shall publish aggregated data in relation to significant supervised entities and significant supervised groups (SIs).
- The relevant **annexes of the amending** ITS, which shall continue to be filled in by CAs by the 31 July of each year with reference to data and information of the preceding year, are amended as follows:
    - Annex I on rules and guidance. The template and its structure will in substance stay as they currently are. The proposed amendments aim primarily to correct wrong references and the model approval section now also covers the respective information for market risk and counterparty credit risk.
    - Annex II on options and discretions (O&Ds). The template has been updated to:
        - Consider the new O&Ds stemming from the LCR Delegated Act.
        - Bring more consistency specifying the differentiation between permanent and transitional O&Ds.
        - Distinguish the information for credit institutions and for investment firms since it is possible to exercise O&Ds for credit institutions and investment firms in a specific jurisdiction in different ways. It also differentiates between O&Ds whose exercise has been entrusted to CAs and O&Ds whose exercise has been entrusted to Member States (e.g. on large exposures).
    - Annex III on SREP. The template has been updated to incorporate EBA's new Guidelines on SREP which introduce the Internal Liquidity Adequacy Assessment Process (ILAAP).
    - Annex IV on aggregate statistical data. The template has been amended to clarify the level of consolidation and approach to be taken when aggregating and computing the data. In addition, some other minor amendments have been made (e.g. two missing formulas have been added, wording related to IRB has been corrected, etc.).
    - New Annex V on instructions to fill in the templates on supervisory disclosure. This annex has been added in order to enhance transparency, ensure consistency between the templates and the instructions, and also reduce the different interpretations between CAs

3. Next steps

- Comments to this CP shall be submitted by **22 December 2017**.

27/09/2017
Final Guidelines on internal governance.

1. Context

According to the CRD IV, the EBA is mandated to further harmonise institutions' internal governance arrangements, processes and mechanisms within the EU. In this regard, in September 2011, the EBA published its Guidelines on internal governance (GL 44) with the objective of enhancing and consolidating supervisory expectations and improving the internal governance framework.

In this context, following the consultation launched in October 2016, the EBA has published **Final Guidelines on internal governance** that updates GL 44 and puts more emphasis on the duties and responsibilities of the management body in its supervisory function in risk oversight. In particular, this document covers the principle of proportionality; the role and composition of the management body and its committees; the governance framework; risk culture and business conduct; the internal control framework; business continuity management; and the principle of transparency.

2. Main points

- **Principle of proportionality**. As established in these GL, institutions should take into account their size (in terms of total assets), internal organization, and the nature, scale and complexity of their activities when developing and implementing internal governance arrangements.
- **Role and composition of the management body and its committees**. These GL include provisions regarding:
    - The role and responsibilities of the management body, which include, among others, the approval and oversight of the implementation of the overall business strategy and overall risk strategy.
    - The management function of the management body, which involves, among others, implementing the strategies set by the management body and discussing regularly their implementation and appropriateness.
    - The supervisory function of the management body, which involves, among others, monitoring and challenging the strategy of the institution and the management decision-making and actions; and ensuring and periodically assessing the effectiveness of the institution's internal governance framework.
    - The role of the chair of the management body, who should lead the management body, contribute to an efficient flow of information within the management body and between the management body and the committees thereof, and be responsible for its effective overall functioning.
    - The setting up, composition, processes, etc. of committees. Among others, the GL specify the following:
        - All significant institutions (at individual, sub-consolidated and consolidated level) must establish **risk, nomination and remuneration committees**.
        - Non-significant institutions, including when they are within the scope of prudential consolidation of an institution that is significant in a sub-consolidated or consolidated situation, are not obliged to establish those committees.
        - Institutions may establish other committees (e.g. ethics, conduct and compliance committees).
- **Governance framework**. Among others, these GL specify that:
    - The organisational framework and its structure should ensure the independence of the internal control functions; and that the management body should have the appropriate financial and human resources, as well as powers to effectively perform their role.
    - The outsourcing policy should be regularly reviewed and should consider the impact of outsourcing on an institution's business and the risks it faces (such as operational, reputational and concentration risk).
- **Risk culture and business conduct**. The GL specify certain aspects regarding: i) risk culture; ii) corporate values and code of conduct; iii) conflict of interest policy at institutional level; iv) conflict of interest policy for staff; v) internal alert procedures; and vi) reporting of breaches to competent authorities (e.g. a dedicated whistleblowing unit, internal alert procedures, etc.).
- **Internal control framework and mechanisms**. These GL provide more guidance on how internal control functions are organised and how internal controls are implemented. They also specify that:
    - The risk management framework should encompass all relevant risks with appropriate consideration of both, financial and non-financial risks, including credit, market, liquidity, concentration, operational, information technology, reputational, legal, conduct, compliance and strategic risks.
    - The institution's well documented new product approval policy (NPAP) should address the development of new markets, products and services, and significant changes to existing ones, as well as exceptional transactions.
    - The internal control functions that an institution should have in place, and in particular the risk management function, the compliance function and the internal audit function.

- **Business continuity management**. The GL specify that institutions should establish a sound business continuity management plan to ensure their ability to operate on an ongoing basis and to limit losses in the event of severe business disruption.
- **Principle of transparency**. According to these GL, the management body should inform and update the relevant staff about the institution's strategies and policies in a clear and consistent way, at least to the level needed to carry out their particular duties.

3. Next steps

- These GL will apply as of **30 June 2018** to Competent Authorities across the EU, as well as to institutions on an individual and consolidated basis. The existing Guidelines on internal governance (GL 44) will be repealed on the same date.

27/09/2017

Final Guidelines on the assessment of the suitability of members of the management body and key function holders under the CRD IV and MiFID II.

1. Context

In November 2012, the EBA published Guidelines (GL) on the assessment of the suitability of the management body and key function holders which set out the process, criteria and minimum requirements for assessing the suitability of those persons, in order to ensure robust governance arrangements and appropriate oversight.

In this context, following the consultation launched in October 2016, the EBA and the ESMA have published **Final Guidelines on the assessment of the suitability of the members of the management body and key function holders**. In particular, these GL covers among others, the scope of suitability assessments, notions of suitability, other relevant notions, and assessment of suitability by competent authorities (CAs).

These GL apply to all institutions, regardless of their governance structures (unitary board, dual board or other structures), without advocating or preferring any specific structure.

2. Main points

- **Scope of suitability assessments**. Among others, the GL specify that institutions should ensure that members of the management body, individually and collectively, are suitable at all times (according to the notions specified below). This assessment should be carried out on an ongoing basis an in certain situations (e.g. when material changes to the composition of the management body occur).
- **Notions of suitability**. In particular, institutions should assess the following aspects, for which the GL provide common criteria:
  - Sufficient time commitment of a member. Institutions should consider aspects such as the number of directorships in financial and non-financial companies, the member's geographical presence and the travel time required for the role, etc.
    - Significant institutions must comply with the limitation of directorships set out in the CRD IV. The GL specify how to calculate the number of directorships.
  - Adequate knowledge, skills and experience. This assessment should consider, among others, the role and duties of the position and the required capabilities, the knowledge and skills attained through education, training and practice, etc. Consideration should be given to experience relating to banking and financial markets, regulatory framework, risk management, etc.
  - Reputation, honesty and integrity. Institutions should consider factors such as the convictions or ongoing prosecutions of a criminal offence (e.g. fraud, tax offences, etc.), financial and business performance of entities owned or directed by the member, etc.
  - Independence of mind. Some situations that can create conflicts of interests should be considered (e.g. relationships with the owners of qualifying holdings in the institution).
  - Collective suitability criteria. Among other aspects, the GL specify that members of the management body should collectively be able to take appropriate decisions considering the business model, risk appetite, strategy and markets; there should be a sufficient number of members with knowledge in each area; etc.
- **Other relevant notions**. The GL also specify certain aspects regarding:
  - Human and financial resources for training. Institutions should have in place policies for the induction and training of members of the management body, a process to identify the areas in which training is required, and an evaluation process to review the execution and the quality of induction and training.
  - Diversity policy. It should at least refer to educational and professional background, gender, age and, for institutions that are active internationally, geographical provenance.
  - Suitability policy and governance arrangements. The GL specify that institutions should implement a suitability policy aligned with the institution's overall corporate governance framework, corporate culture and risk appetite.
- **Assessment of suitability by CAs**. The GL specify, among others, that CAs are required to assess all members of the management body, and for significant institutions also the heads of internal control functions and the CFO (when they are not part of the management body).

3. Next steps

- These GL will apply as of **30 June 2018** to CAs across the EU, as well as to institutions on an individual and consolidated basis. The existing GL on the assessment of the suitability of members of the management body and key function holders will be repealed on the same date.

EUROPEAN CENTRAL BANK

EUROSYSTEM

26/09/2017

Guide on materiality assessment for IMM and A-CVA model extensions and changes.

1. Context

The CRR requires model approval by the competent authority (CA) for material model extensions and changes to credit, operational and market risk internal models. In this regard, RTS have been adopted for the materiality assessment of model extensions and changes to the IRB approach, the AMA and the IMA.

For counterparty credit risk (CCR) for both the internal model method (IMM) and the advanced method for credit valuation adjustment risk (A-CVA), the adoption of similar RTS is not mandated by the current text of the CRR. Nonetheless, it should be noted that the EBA may regulate this field by adopting guidelines.

In this context, following the consultation launched in December 2016, the ECB has published a **Guide on materiality assessment of IMM and A-CVA (EGMA)**, which indicates how the ECB intends to interpret the existing legal framework. The EGMA provides assistance to significant institutions in their self-assessment of the materiality of changes and extensions to IMM and A-CVA models under the applicable legal framework, although is not intended to have legal effect.

2. Main points

- **Scope of the EGMA**. The permission of CAs for the use of IMM relates to the methods, processes, controls, data collection and IT systems. Therefore, this Guide does not cover elements such as the ongoing alignment of the IMM and the A-CVA to the calculation data-set used, correction of errors or minor adjustments, which occur within the already approved methods, processes, controls, data collection and IT systems.
- **Overview**. Within the EGMA, the materiality of extensions and changes is subject to:
    - A self-assessment, which is the first step and can lead to two classifications:
        - Not material extensions and changes, which are notified to the ECB and implemented.
        - Extensions and changes that need to be investigated.
    - The extension and changes categorised as needing to be investigated are subject to an ECB internal model investigation, which allows the ECB to finally classify them as material or not material. When the extension or change is material, the institution receives a decision from the ECB.
- **IMM Approach. Extensions and changes that need to be investigated**. They are submitted to the ECB in order to investigate materiality if they fulfil any of the following conditions:
    - They fall under any of the extensions described in Annex I, Part I, section 1 (e.g. exposures of an additional type of transaction, new legal agreement types with regard to netting and margining if they require new or other modelling, etc.); or
    - They fall under any changes described in Annex I, Part II, section 1 (e.g. significant changes in the way the model captures the effect of existing margining agreements); or
    - They result in a change (calculated as specified in the Guide):
        - In absolute value of 1% or more, computed for the 1st business day of the testing of the impact, in the overall risk-weighted exposure amounts; and
        - In absolute value of 5% or more in the overall risk-weighted exposure amounts.
- **IMM Approach. Extensions and changes considered not material.** They are notified to the ECB at least 2 weeks before their implementation if they are described in Annex I, Part II, Section 2. All other extensions and changes are notified after their implementation on at least an annual basis.
- **A-CVA approach. Changes that need to be investigated**. They are submitted to the ECB in order to investigate materiality if they fulfil the following conditions:
    - Where the institution was granted permission to set maturity equal to 1, they affect the modelling of CVA risk for counterparties in a significant way as regards this permission; and either
    - They fall under any of the changes described in Annex II, section 1 (e.g. changes in the methodology used to determine the proxy spreads); or
    - They result in a change (calculated as specified in the Guide):
        - In absolute value of 1% or more, computed for the 1st business day of the testing of the impact of the change, in one of the relevant risk numbers referred to in the CRR (non-stressed or stressed VaR); and either
        - Of 5% or more in the full CVA capital charge; or
        - Of 10% or more in at least one of the relevant risk numbers referred to in the CRR (non-stressed or stressed VaR).

- **A-CVA approach. Changes considered not material**. Changes that do not meet the above-mentioned conditions are classified as not material and are notified 2 weeks before their planned implementation or on at least an annual basis (depending on the type of change).
- **A-CVA approach. Exceptions**. The following exceptions should be considered:
    - For A-CVA extensions, the EGMA refers to the RTS on IMA and to the IMM part of the EGMA.
    - For A-CVA changes that coincide with an IMM model change, the EGMA refers to the IMM part of the EGMA.
    - For A-CVA changes that coincide with an IMA model change, the EGMA refers to the RTS on IMA.
- **Documentation**. For extensions/changes that need to be investigated, institutions are expected to submit certain documentation (e.g. description of the extension or change, the implementation date, relevant technical documents – pricing, netting and margining, backtesting, etc.-).

3. Next steps

- The implementation of the Guide will be part of the day-to-day supervisory dialogue with individual institutions.

12/07/2017

Opinion on supervisory convergence in light of the United Kingdom withdrawing from the European Union.

1. Context

Solvency II allows insurance and reinsurance undertakings to pursue business in the EU only if the undertaking is authorised. However, upon withdrawal from the single market, UK undertakings will lose their right to conduct business across the EU Member States. This will have as a consequence that UK-based undertakings may seek to relocate to or set up a new business in the EU27 in order to maintain access to the EU single market.

In this regard, the EIOPA has issued an **Opinion on 5 principles to support supervisory convergence in light of the UK withdrawing from the EU**, addressed to the 27 national competent authorities (NCAs) which supervise undertakings falling under the Solvency II framework.

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

2. Main points

- **Principle 1**. **Authorisations and approvals**.
    - Supervisory authorities are responsible for granting authorisations to undertakings seeking to provide insurance or reinsurance services in the EU. They should apply a prospective and risk-based assessment of the authorisation (including assessing the business model of the undertaking, uncertainties associated with the strategy, etc.) to satisfy that the undertaking complies the relevant legislation.
    - No automatic recognition of existing authorisation should be granted.
    - Any previous approval (e.g. use of an internal model, etc.) should be subject to a new approval by the relevant supervisory authority.
- **Principle 2**. **Governance and risk management**.
    - Supervisors should assess governance arrangements to guarantee effective decision-taking and risk management.
    - Undertakings should demonstrate an appropriate level of corporate substance (e.g. appropriate presence of administrative, management or supervisory board members), proportionate to the nature, scale and complexity of the planned business.
    - Supervisory authorities should carefully scrutinise any transfer of risks and require a minimum retention of risks (a 10% of the business written could be envisaged) from the authorised undertaking.
- **Principle 3**. **Outsourcing of critical and important activities**.
    - Supervisors should assess that outsourcing of undertakings' important functions is subject to the full responsibility of the administrative, management or supervisory body and that outsourcing shall not materially impair the quality of governance, increase operational risk, impair the ability of supervisors to monitor compliance or undermine continuous and satisfactory service to policyholders.
    - Considerations on proportionality on the outsourcing of critical or important functions should at a minimum consider the complexity of the business model, average number of employees, the total amount of the balance sheet and net annual turnover.
- **Principle 4**. **On-going supervision**.
    - Supervisors should have in place the appropriate monitoring tools to assess existing and arising risks and to conduct specific supervisory review in the course of the first years following authorisation to ensure the consistency with the initial business model.
    - They should ensure that initial conditions set (at the moment of authorisation) are met on a continuous basis, including those relating to outsourcing.
- **Principle 5**. **Monitoring by EIOPA**. The EIOPA will monitor the developments applying a risk-based approach and using information collected from Member States.

BANCO DE ESPAÑA
Eurosistema

10/07/2017
Circular 1/2017, por la que se modifica la Circular 1/2013, sobre la Central de Información de Riesgos (CIR).

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, following the consultation launched in April 2017, the BdE has published the **Circular 1/2017 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 Circular 1/2017 introduces the following elements:
    - The definitions of observed agent and reporting Member State from AnaCredit are incorporated.
    - In addition to the instruments currently reported to the CIR (e.g. loans, debt securities, etc.), institutions shall report, among others, loans granted to foreign branches from the institution's head office, 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 amount of risk (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 certain existing data modules (i.e. modules B, C and D), and introduces new modules (i.e. module E with regard to information on interest rates applied, and module H on supplementary prudential information).
    - Excludes certain institutions from the submission of certain specific modules (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 criteria defined by the ECB 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 continue to report loans to the CIR until they are written-off.
- All the **transitional provisions from the Circular 1/2013 are deleted**, and the Circular 1/2017 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

- 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.

BANK OF ENGLAND
PRUDENTIAL REGULATION AUTHORITY

13/07/2017
Consultation Paper: Pillar 2A capital requirements and disclosure.

1. Context

The PRA sets Pillar 2A capital for risks that are not fully captured under CRR. It assesses those risks as part of the SREP, in light of both the calculations included in a firm's Internal ICAAP document and the PRA's Pillar 2A methodologies set out in its Statement of Policy.

In this regard, the PRA has published a **Consultation Paper on Pillar 2A capital requirements and disclosure** that sets out proposed adjustments to the PRA Pillar 2A capital framework. This document is relevant to all banks, building societies and PRA-designated investment firms.

In particular, this consultation paper covers three areas: i) setting Pillar 2A capital as a requirement, rather than as guidance, and introducing the term Total Capital Requirement (TCR); ii) revising the capital disclosure policy; and iii) clarifying when and how Pillar 2A capital requirements may be set at individual level.

2. Main points

- **Pillar 2A capital as a requirement**.
  - To reflect the change from guidance to requirement, the PRA proposes to update its Capital Buffers and Pillar 2 Model Requirements by adding a Pillar 2A capital requirement that should be met with at least 56% of CET1 capital and not more than 44% AT1 capital or 25% Tier 2 capital; and to discontinue the term Individual Capital Guidance (ICG).
  - The TCR (Pillar 1 plus Pillar 2A) would represent the PRA's view of the capital necessary to comply with the Overall Financial Adequacy Rule. Nonetheless, a deviation by a firm from the terms of the Pillar 2A and TCR set by the PRA does not automatically mean that the firm is in breach of this rule.
- **TCR disclosure expectations**.
  - The PRA sets out as a general expectation that firms should disclose the TCR which applies to them at the highest level of consolidation in the UK as follows:
    - Where the PRA is the home regulator, the PRA expects disclosure of the global consolidated group TCR figure.
    - Where the PRA is the host regulator, the PRA only expects disclosure of the UK consolidated TCR figure (i.e. the UK sub-group of the global consolidated group).
    - If a firm is not part of a UK consolidation group, the PRA expects disclosure of the individual entity TCR figure.
  - As Pillar 2A has not yet been set as a requirement, firms should disclose their existing total ICG. This expectation could be met by including their total Pillar 1 plus Pillar 2A figure (i.e. ICG) within their annual reports.
- **Level of application.**
  - The PRA may decide to set an individual Pillar 2A requirement calibrated to represent a share of the UK consolidated TCR (or ring-fenced body (RFB) sub-consolidated TCR) where the firm is part of a UK consolidation group or RFB sub-group and the following conditions are met:
    - There is an adequate allocation of capital between subsidiaries.
    - The members of the UK consolidation group or RFB sub-group are strongly incentivised to support each other.
    - There are no impediments to the transfer of financial resources between members of the UK consolidation group or RFB sub-group.
  - Where a firm is not considered to have significant systemic impact or where it has a very similar risk profile to its consolidation group or RFB sub-group, the PRA may decide to set an individual Pillar 2A requirement calculated by reference to the UK consolidated or RFB sub-consolidated Pillar 2A calculation.

3. Next steps

- Comments to this consultation paper shall be submitted by **12 October 2017**.
- The PRA proposes that the final policy will apply from **1 January 2018**.

BANK OF ENGLAND
PRUDENTIAL REGULATION AUTHORITY

28/07/2017
Consultation Paper 15/17 on the minimum requirement for own funds and eligible liabilities (MREL) – buffers.

1. Contexto

In November 2016, the PRA published the Supervisory Statement (SS) 16/16, which sets out how the PRA views the relationship between MREL and the buffer requirements from the two going-concern regimes: i) risk-weighted capital buffers (i.e. capital conservation, countercyclical capital, G-SII, systemic risk, and the one set by the PRA); and ii) leverage buffers (i.e. countercyclical leverage ratio buffer, and G-SII additional leverage ratio buffer).

SS16/16 states that the PRA expects firms not to simultaneously count CET1 capital towards both MREL and the buffer requirements. Subsequently, the PRA has been asked about the situation where MREL is calibrated on the basis of one going-concern regime (e.g. leverage, in circumstances where the minimum leverage requirement is larger than the minimum risk-weighted requirement), but the largest requirement for buffers derives from the other regime (e.g. risk-weighted capital).

In this context, the PRA has published a **Consultation Paper (CP) that proposes to update SS16/16**, setting out the PRA's proposed expectations with regard to the relationship between MREL and buffer requirements, as well as the consequences of not meeting these. This CP is relevant to all PRA-regulated banks, building societies and PRA-designated investment firms.

2. Main points

- **CET1 that should not count simultaneously towards buffers and MREL**
  - For the majority of firms it occurs that:
    - The largest going-concern minimum requirement (minimum risk-weighted capital requirement or minimum leverage requirement, without including buffers) and the largest going-concern total capital requirement (minimum plus any applicable buffers) will derive from one regime only. MREL would also be calibrated on the basis of the same going-concern regime.
    - The PRA would expect that the amount of CET1 capital that firms should not count simultaneously towards buffers and MREL to be equal to <u>the buffer requirement of the regime from which that MREL is calibrated</u>.
  - For a small number of firms it occurs that:
    - MREL will be calibrated on the basis of one going-concern regime (where that regime has the largest minimum requirement), but the largest requirement including buffers will derive from the other going-concern regime.
    - The amount of CET1 capital that should not count simultaneously towards buffers and MREL is the <u>amount of CET1 that is usable or 'usable buffer</u>' (i.e. amount of CET1 that a firm subject to both the risk-weighted capital and leverage regimes would be able to lose before breaching a minimum going-concern requirement).
- **Consequences of not maintaining sufficient CET1**. If a firm fails to maintain the amount of CET1 to meet the usable buffer and the total amount of capital required to meet both minimum and buffer requirements of the risk-weighted capital regime is larger than that of the leverage regime, the firm will be considered to have used the buffers of the risk-weighted capital regime. Otherwise, the firm will be considered to have used the buffers of the leverage regime.
  - <u>Not sufficient CET1 to meet MREL and risk-weighted capital buffers</u>: a firm would expect enhanced supervisory action and might be required to prepare a capital restoration plan. If the PRA was not satisfied with this plan, it would consider requiring a firm to take steps to strengthen its capital position (e.g. restricting or prohibiting distributions).
  - <u>Not sufficient CET1 to meet MREL and leverage ratio buffers</u>: if a firm was prevented from counting CET1 used to meet its MREL towards the usable buffer and did not do so, the PRA would consider to impose this requirement on its own initiative.

3. Next steps

- Comments to this CP shall be submitted by **29 September 2017**.
- The PRA aims to publish the updated SS before the **end of 2017**.

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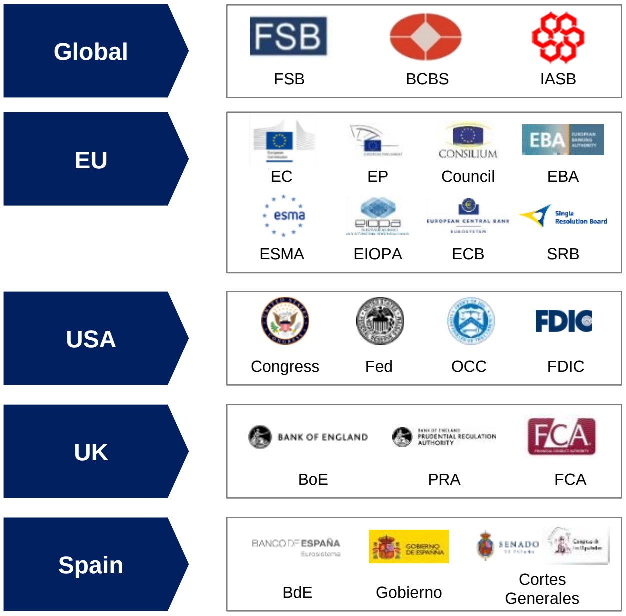

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