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Banking regulation

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9 August 2024 - CRR: changes to technical standards on internal model risk benchmarking

On 9 August 2024, the European Banking Authority (EBA) [published](#) its draft Implementation Technical Standards (ITS) revising those relating to the internal model benchmark for the year 2025.

The sample of banks and the content will remain the same as for the 2024 benchmarking exercise for market risks. For the benchmarking of market risks, EBA is nevertheless proposing a minor modification to the previous templates for the Alternative Standardized Approach (ASA).

This is due to the European Commission's decision to postpone implementation of the comprehensive review of the trading book (FRTB). As a result, the FRTB models and the instructions for the collection of FRTB Alternative Internal Approach (AIMA) risk measures (expected loss, default risk charge and stress scenario risk measure) have been suspended.

For credit risk benchmarking, minor changes have been made to clarify the mandatory nature (if any) of the reporting of probability of default (PD) and loss given default (LGD) risk parameters, with regard to margin of conservatism (MoC), regulatory add-ons and downturn components. The amendments also clarify the use of internal model identifiers used with the competent authorities.

Banking supervision

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27 August 2024 - The European Banking Authority presents an update of the indicators used to define systemically important institutions

On 27 August 2024, the European Banking Authority (EBA) published updated indicators for identifying systemically important financial institutions.

The 13 indicators updated by EBA determine systemic importance and the underlying data for the 33 largest EU institutions whose leverage ratio exposure exceeds €200 billion. EBA updates these data annually and forwards them to the national supervisory authorities. The identification of a systemically important financial institution (SIFI), which entails higher capital requirements, is the responsibility of the relevant national authorities.

The main changes identified by EBA are as follows:

- A stable sample of 27 institutions shows that the sum of total exposures of systemically important banks has increased by 1.3% by the end of 2023.

- Indicators for securities outstanding and tier 3 assets increased by 14.9% and 12.6% respectively, both reaching the highest aggregate value since 2013.
- Assets on deposit also saw a notable increase of 11.2%.
- The payment activity indicator is the only one to show a downward trend (-3.7%) between 2022 and the end of 2023.

13 August 2024 - EBA publishes its report on the European Resolution Review Programme (EREP) for 2025

On 13 August 2024, the European Banking Authority (EBA) [published](#) its report on the European Resolution Review Programme (EREP). This report sets out the EBA's priorities for 2025 towards resolution authorities and banks, it also reviews the progress made in 2023 and identifies areas for improvement.

For 2025, the 2024 objectives, although updated, are maintained:

- Make the tools for resolving a large bank operational in the event of failure, i.e. first affect the shareholders of a bank subject to resolution. In 2023, EBA notes that the level of preparedness and awareness among stakeholders remains low, and could pose challenges in the event of implementation. These potential problems concern the identification of instrument holders, the suspension of transactions or prospectus requirements for new instruments.
- Deepen strategies related to liquidity available during resolution by intensifying bank testing to verify that a bank has sufficient liquid securities in the event of resolution. 2023 has highlighted a lack of rigor on the part of banks. EBA calls for further efforts on collateral mobilization, particularly for assets not eligible for monetary policy operations.
- Refine asset valuation information systems by improving data quality, automation, granularity and speed of reporting.

The target relating to minimum capital requirements and liabilities eligible for internal replenishment ("MREL") is not included in the 2025 targets, as EBA notes that most banks have achieved their targets. The qualitative and quantitative aspects of MREL will still be monitored.

7 August 2024 - EBA publishes findings on credit assessment practices of non-bank retail lenders (NBLs)

On 7 August 2024, the European Banking Authority (EBA) [published](#) the results of its investigation into the solvency assessment practices of non-bank lenders (NBLs).

The results of the EBA survey revealed that while some NBLs provide services to a proportion of the population with limited access to credit from traditional banks, a significant number of the NBLs surveyed appear to apply inadequate information gathering and verification practices during their creditworthiness assessment. The report also points out that the absence of a harmonized definition of NBLs and a regulatory authorization framework at EU level could lead to variable supervision of these entities across member states.

EBA points out that the recent revision of the Consumer Credit Directive, which will apply from November 2026, sets out clearer and stricter requirements for assessing the creditworthiness of NBLs, and introduces harmonized rules for the admission, registration and supervision of non-institutional creditors and credit intermediaries, as well as rules on the obligation to assess the creditworthiness of consumers. It should therefore help resolve some of the problems identified by EBA.

Finally, the EBA recommends the introduction of a thorough assessment of the creditworthiness of potential borrowers, to prevent the mis-selling of credit products to consumers who lack the ability to repay.

Digital issues

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4 September 2024 - FiDA Regulation: Hungarian Presidency working on new compromise text for agreement

On the occasion of the first meeting of the EU Council's "Financial Services" working group, to be held on 4 September 2024, the Hungarian Presidency of the EU Council has been working on drafting new compromise proposals concerning the proposed FiDA regulation, which aims to establish a framework for access, use and re-use of customer data in financial services.

This new compromise version includes the previous modifications made to the Commission's proposal during the negotiations organized by the Belgian and Spanish presidencies. In particular, the Hungarian Presidency is questioning Member States on the processing of data relating to occupational pension schemes, on financial data sharing schemes, and on an establishment criterion for third-country financial information service providers (third-country FISPs).

Discussions are continuing on the relationship between the chapter on direct customer data access (Title II Data access) and the sharing of financial data via standardized sharing schemes (Title IV Financial data sharing schemes). The debate centers on the need to determine whether data access should be strictly linked to these schemes, or whether it should also be possible outside the structures established by the regulation. Member States are divided on the issue, with some pointing to the risks of fragmentation and security if data is shared outside the schemes, while others argue for more flexible access and prioritize innovation.

Some Member States have called for further discussion on schemes, including how they should work in practice and what governance structures should ensure that they are well managed, particularly as regards the sufficient presence in discussions of users of innovative data (FISP).

In this context, the Hungarian Presidency is asking Member States to provide feedback on the following points in particular:

- Question 1: Do Member States consider it necessary to align the FiDA Regulation with a customer-centric approach, as is the case with other EU legislative acts that facilitate data access, namely that access to customer data must be initiated by the customer in order to ensure that customers retain control over the sharing of their data?
- Question 2: What risks do Member States identify in sharing data outside schemes? Do Member States have any proposals for mitigating these risks?
- Question 3: What additional incentives do Member States consider necessary to ensure that data holders and data users join a sharing scheme? Do Member States agree that removing the standardization requirement in Title II, Article 5(3) would ensure that high-quality data could only be accessed through Title IV schemes?

- Question 4: What additional governance rules would the Member States specifically suggest introducing in Article 10?
- Question 5: What are Member States' views on a possible market-led consultative forum/platform? Do Member States agree that such an arrangement could be established without necessarily being regulated at regulation level?

In addition, forthcoming negotiations are also expected to address the regulatory arrangements for financial information service providers based outside the Union (third country FISPs). The majority of member states support a strict rule requiring these companies to have a presence in the EU in order to operate there, in order to ensure adequate supervision of the latter.

However, some countries are proposing a more flexible approach, allowing foreign service providers access to the European market if they meet standards equivalent to those of the EU, following an assessment by the Commission. The choice to be made is between a strict establishment requirement and a more flexible equivalence regime.

The Hungarian Presidency has clarified at the request of Member States, the wording of provisions where several parties are involved in a given financial product or service, e.g. joint accounts, credit agreements, joint mortgage agreements relating to real estate. This new addition also clarifies that compulsory membership of group contracts such as group insurance and occupational pensions should not require the application of this provision.

Finally, the new compromise text of the regulation provides for sensitive data ("sensitive data") to be defined with reference to Article 9 of the Regulation on the Protection of Personal Data (RGPD) adopted in 2016, as desired by the Member States.

Next steps:

The Hungarian Presidency of the Council hopes to find a general direction before the end of October.

While this date may seem ambitious, it is plausible that an agreement could be reached between Member States before the end of the year.

With the European Parliament having already adopted its position, the first trialogue meetings could be held before the end of the year.

1 August 2024 - "Smart contracts": ESMA publishes discussion paper

On 1 August 2024, the European Securities and Markets Authority (ESMA) published a working paper on "smart contracts" entitled "[Decentralized Finance: A categorisation of smart contracts](#)". It explores the implications of these technologies for the financial system, including regulatory aspects and potential risks for users and financial stability.

Smart contracts are programs embedded within a blockchain that execute once predefined conditions are met. Doing so, they are intended to enable quick and automatic transactions without intermediaries, relying on the security provided by the blockchain's architecture.

The authors distinguish five categories of smart contracts: financial contracts, enabling financial transactions such as lending protocols; operational contracts, executing operations necessary to the blockchain's functioning; tokens; wallets; infrastructure contracts, including string data processing, signatures, encryption, etc.

While smart contracts could be a source of innovation, authors warn about their complexity and the consequences for assessing the associated risks for investors and, ultimately, for financial stability. They particularly draw attention to the "dependency risk".

Sustainable Finance

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7 August 2024 - The European Commission clarifies the relationship between the European sustainable finance framework and pre-existing corporate auditing rules

On 7 August 2024, the European Commission [published](#) a new accompanying document, in Question & Answer format, the purpose of which is to clarify the articulation between the European Sustainable Finance Framework on the one hand, and the Accounting Directive and the Audit Regulation on the other.

Commissioner McGuinness stated on the occasion of the publication of the FAQ document:

- that the Commission was continuing its efforts to make the EU Sustainable Finance Framework easier to use for companies, and to reduce the administrative burden on them.
- that the purpose of the FAQ is to provide important clarifications and reduce the need for companies to rely on external legal advice or consultants to apply sustainable finance rules.

In particular, the sustainability statement for companies falling within the scope of the Accounting Directive has been clarified, and its relationship with the ESRS standards clarified. As a reminder, the first set of ESRS standards was adopted by the European Commission through the Commission Delegated Regulation adopted on 31 July 2023.

The application of ESRS standards in relation to the value chain, and the consistency of mandatory publications under Article 8 of the taxonomy, are also specified in the document.

It is also made clear that, on the basis of Article 26a of the Audit Directive, the Commission will have to adopt standards for sustainability assurance (limited assurance) by 1 October 2026. The Commission will also have to adopt sustainability assurance standards for (reasonable assurance) by 1 October 2028, following an assessment of whether reasonable assurance is feasible for auditors and companies.

Other topics

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9 September 2024 - Mario DRAGHI's report on EU competitiveness

On 9 September 2024, Mario DRAGHI's report on the future of European competitiveness was made public. Against a backdrop of slowing European growth, Mario DRAGHI, former Italian Prime Minister and former

President of the European Central Bank (ECB), was commissioned by the European Commission at the end of 2023 to draw up a report on the economic challenges and reforms needed to strengthen Europe's competitiveness.

The European Union's lag in the digital revolution has exacerbated the decline in productivity, widening the gap with the United States. This gap is also widened by the slowdown in world trade, as European companies face stiffer competition and Russia, their main energy supplier, becomes inaccessible. If Europe fails to improve its productivity, the report argues, it will be forced to make difficult choices, unable to become a technological leader, a climate role model, an independent global player, and maintain its social model all at the same time.

The report is divided into two parts, the [first](#) reviewing the current situation and the [second](#) containing Mr. DRAGHI's in-depth analysis and recommendations. Three key areas for action to relaunch growth in Europe are identified:

- **Closing the innovation gap** with the USA and China, particularly in advanced technologies. The report points out that innovation is struggling to be converted into marketable products, and innovative companies seeking to expand in Europe face obstacles at every stage due to inconsistent and restrictive regulations.
- **Develop a coherent common plan for decarbonization and competitiveness**, so that the former becomes an opportunity for growth.
- **Strengthen security and reduce dependencies to ensure sustainable growth**. According to Mario DRAGHI, the EU needs a genuine “external economic policy”, coordinating trade policies and investments to secure supply chains and reduce dependencies, as well as harmonizing the defense industry.

Mario DRAGHI highlights several major challenges facing Europe:

- Although common objectives are defined, they are not accompanied by clear priorities or coordinated political measures.
 - For example, innovation is theoretically encouraged, but in reality European companies, particularly SMEs, face additional regulatory burdens that create barriers, especially in digital sectors.
- Despite significant spending capacity, funds are dispersed between various national and European instruments.
- The decision-making process in Europe is too slow and disorganized, hampering a coherent and effective response to the challenges faced.

The report proposes policy recommendations that are both sectoral - covering areas such as energy, health, digital, defense and transport, etc. - and horizontal, notably with regard to the development of new technologies. - and horizontal, notably with regard to strengthening governance, financing the economy and simplifying European standards.

Among the cross-cutting issues, the report highlights the cumbersome nature of European legislation and the lack of differentiation between SMEs and large companies. **EU excessive regulatory and administrative burden is said to undermine the competitiveness of EU companies vis-à-vis other economic blocs**, by negatively affecting productivity, increasing operational costs, raising barriers to entry for new businesses, and leading to higher prices for consumers. **Examples include the Corporate Sustainability Reporting Directive (CSRD), the Corporate Sustainability Due Diligence Directive (CSDD) and the General Data Protection Regulation (GDPR).**

The report draws two main conclusions regarding the financing of the massive investments needed to transform Europe's economy

1. Although Europe must move forward with its Capital Markets Union (CMU), public sector support will always be needed.
2. The more the EU is prepared to reform itself to increase productivity, the more fiscal leeway it will have, thus facilitating public sector support.

a) Draghi's takeaways of interest for EUF

The report addresses the failure of the EU's high savings to flow into productive investment in Europe. This low level of productive investment, combined with an aging population, has resulted in low growth, which is expected to hamper Europe's environmental and digital transition, its R&I spending and the planned increase in defense spending. The report estimates the need for additional investment at a minimum of €750-800 billion a year, or 4.4%-4.7% of EU GDP.

Among the reasons for the low level of investment financing in Europe, the report mentions :

- Fragmentation of capital markets. The report points out that, despite recent progress on withholding taxes, Member States' tax and insolvency regimes are still not aligned.
- Excessive reliance on banks :
 - **Europe relies excessively on bank debt financing.**
 - **Banks are not best placed to finance innovation.** Banks are generally subject to heavy prudential regulation and lack the expertise to select and monitor innovative companies. A financial structure that supports innovation should not rely solely on bank financing. It should be at least partially financed by equity or use long-term borrowing.
- A EU banking sector financing capacity hampered by several causes :
 - **EU banks' ability to finance major investments is limited by lower profitability,** higher costs and smaller scale than their US counterparts.
 - **Stricter regulation in Europe** results in a less developed securitization market than in the US.
 - **The tightening of Basel III rules,** making the regulatory environment too strict for banks.
 - **The fragmentation of the European banking sector** is largely due to the incomplete implementation of the Banking Union. Although the eurozone has unified prudential supervision of banks, it has not yet introduced common deposit insurance, and the single resolution authority lacks financial backing, complicating the management of large systemic banks.

b) Mario DRAGHI's proposals for strengthening the Union's competitiveness:

- **Reduce dependence on bank financing** in Europe by accelerating the development of the Capital Markets Union (CMU) and increasing flows to capital markets by encouraging greater take-up of private pension plans.
- **Broaden bank financing by revising excessively restrictive rules on securitization:**
 - By proposing a reduction in capital charges for certain categories of securitized assets (such as assets meeting the STS or *Simple, Transparent, and Standardized* criteria) where current requirements do not reflect actual risks.
 - Setting up a securitization platform, to reduce costs for banks, especially smaller ones, and encourage standardization of securitized products, making their acquisition more attractive.

- **Complete the Banking Union** and revise prudential rules:
 - **By examining whether current prudential regulations**, particularly with the implementation of Basel III, are sufficient to guarantee a solid, internationally competitive European banking system.
 - By creating a separate jurisdiction for European banks with significant cross-border operations.
- Introduce regular and substantial issuance by the EU of a secure and liquid common asset to enable joint investment projects between Member States and help integrate capital markets.

Presenting the report, Ursula von der LEYEN [affirmed](#) that it would contribute to enriching the European Commission's program : *"your conclusions will of course continue to inspire our work in the months and years to come"*.

3 September 2024 - Member States choose their candidates for the European Commission

On 3 September 2024, the Member States nominated their respective candidates to join the College of Commissioners of the European Commission.

Candidates for the post of Commissioner are to be interviewed and then put to the vote by the European Parliament. Some Member States have complied with Ursula von der LEYEN's request to nominate two candidates per Member State, to ensure gender equality.

The list of Commissioners-designate is as follows:

- **Austria:** Magnus BRUNNER, Austrian Finance Minister and staunch opponent of the RIS.
- **Belgium:** Hadja LAHBIB, Belgian Minister of Foreign Affairs.
- **Bulgaria:** Ekaterina ZAHARIEVA, member of the Bulgarian Parliament, and Julian Popov, researcher with the European Climate Foundation.
- **Croatia:** Dubravka SUICA, European Commissioner for Democracy and Demography.
- **Cyprus:** Costas KADIS, former Cypriot Minister of Agriculture.
- **Czech Republic:** Jozef SÍKELA, Minister of Industry and Trade of the Czech Republic.
- **Denmark:** Dan JØRGENSEN, Danish Minister for Development and Global Climate Policy.
- **Finland:** Henna VIRKKUNEN, Member of the European Parliament.
- **France:** Thierry BRETON, European Commissioner for the Internal Market.
- **Greece:** Apostolos TZITIKOSTAS, Governor of North Macedonia.
- **Hungary:** Oliver VARHELYI, European Commissioner for Neighborhood Policy and Enlargement.
- **Ireland:** Michael MCGRATH, Irish Minister for Finance.
- **Italy:** Raffaele FITTO, Italian Minister for European Affairs.
- **Latvia:** Valdis DOMBROVSKIS, Vice-President of the European Commission in charge of an economy that works for people and European Commissioner for Trade.
- **Lithuania:** Andrius KUBILIUS, Member of the European Parliament.
- **Luxembourg:** Christophe HANSEN, Member of the Luxembourg Parliament.
- **Malta:** Glenn MICALLEF, advisor to the Maltese Prime Minister.
- **Netherlands:** Wopke HOEKSTRA, European Commissioner for Climate Action.
- **Poland:** Piotr SERAFIN, Polish representative to the European Union.
- **Portugal:** Maria Luís ALBUQUERQUE, member of Morgan Stanley's Board of Directors.
- **Romania:** ROXANA MÎNZATU, Member of the European Parliament.
- **Slovakia:** Maroš ŠEFČOVIČ, Executive Vice-President of the European Commission for the Green Deal and Vice-President of the European Commission for inter-institutional relations.

- **Slovenia:** Marta KOS, former ambassador to Germany, she replaced Slovenia first candidate, Tomaž VESEL, former President of the Court of Audit of Slovenia.
- **Spain:** Teresa RIBERA, Spanish vice-president in charge of green transition.
- **Sweden:** Jessika ROSWALL, Swedish Minister for European Affairs.

As a reminder, Kaja KALLAS and Ursula von der LEYEN were proposed and validated by the Member States following the 2024 European elections, the former for the post of Head of European Diplomacy and the latter for the post of President of the European Commission. Ursula von der LEYEN was also elected by the European Parliament.

Ursula von der LEYEN must now allocate the portfolios to each Commissioner, in view of the announcement made by the various European representatives to place the Capital Markets Union at the heart of the European Commission's priorities, several Member States have expressed interest in this position and have put forward candidates with expertise in these issues (Ireland or Austria).

Note that the commissioner appointed may change if a Member State decides to withdraw its candidate.

Next steps:

Once the portfolios have been allocated by the President of the European Commission, the candidates for the post of European Commissioner will be auditioned and validated by the European Parliament. The Parliament may also decide to exclude certain European Commissioners.

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