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## EUROPEAN CENTRAL BANK (ECB)

### **Climate-related disclosure for structured finance products – Joint Statement published by the ECB and the ESAs**

13 March 2023 – The European Central Bank (ECB) and European Supervisory Authorities (ESAs) have published a Joint Statement which aims to encourage the development of disclosure standards for securitised assets through harmonised climate-related data requirements, improve sustainability-related transparency in securitisations and promote consistent and harmonised requirements for similar instruments.

The ECB and ESAs have identified that the lack of climate-related data on the assets underlying structured finance products poses a problem for properly assessing and addressing climate-related risks and impedes the classification of products and services as sustainable under the EU Taxonomy Regulation (EU) 2020/852 (Taxonomy Regulation) and Sustainable Finance Disclosure Regulation (EU) 2019/2088 (SFDR). As securitisation transactions are often backed by assets that could be directly exposed to physical or transition climate-related risks, such as real estate mortgages or auto loans, the ESAs and the ECB share the view that the reporting on existing climate-related metrics needs to improve and additional metrics are necessary. Additional climate related data will allow investors to better identify climate-related risks, while avoiding overreliance on estimates from external sources.

[Joint Statement](#)

[Press Release](#)

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### **Credit Suisse – Joint Statement published by the ECB, the EBA and the SRB**

20 March 2023 – The ECB, the European Banking Authority (EBA) and the Single Resolution Board (SRB) published a joint statement on 20 March 2023 welcoming the actions taken by Swiss authorities to ensure financial stability. The statement notes that the “European banking sector is resilient, with robust levels of capital and liquidity” and explains that the EU resolution framework means common equity tier 1 (CET 1) instruments should be the first to absorb losses.

This approach, it says, has been consistently applied in previous cases and will continue to guide the actions of both SRB and ECB banking supervision in crisis interventions. It should be noted, however, that these statements refer to the hierarchy in resolution and not before resolution.

[Joint Statement](#)

[EBA statement](#)

[FINMA press release](#)

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### **Access to documents – Satabank v. ECB**

22 March 2023 – The General Court of the Court of Justice of the EU (the Court) has annulled the decision of ECB of 26 November 2019, in which the ECB refused access to its files on Satabank.

At the time the action was brought, the applicant, Satabank, was a credit institution under Maltese law, which had been classified as a less significant institution for the purposes of the Single Supervisory Mechanism Regulation (1024/2013/EU) (SSM Regulation). The ECB stated that Satabank was not the subject of proceedings within the meaning of article 22 of the SSM Regulation and that, as a consequence, no access to any file could be granted to it pursuant to article 32(1) of the SSM Framework Regulation (468/2014/EU).

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Satabank brought an action in the General Court, where it submitted that the ECB had refused access to its files based on an unduly narrow interpretation of article 32(1) of the SSM Framework Regulation and that the ECB was required to process its request for access on the basis of the general principle relating to access to documents.

The findings of the Court included that:

- article 32(1) of the SSM Framework Regulation expressly uses the expression ‘supervisory procedure’, which is ‘any ECB activity directed towards preparing the issue of an ECB supervisory decision’, which is not ‘prudential supervision’. Therefore, the mere persistence of prudential supervision, without a specific pending supervisory procedure, cannot be regarded as justifying access to the file under article 32 of the SSM Framework Regulation.
- article 2(1) of Decision of the ECB on public access to ECB documents (Decision 2004/258/EC) gives any EU citizen, and any natural or legal person residing or having its registered office in a member state, a right to access the ECB document. A person requesting access is not required to justify that request and, therefore, to demonstrate any interest in having access to the documents requested. Even though Satabank did use the term ‘file’ in its request, the ECB could not conclude that the request for access was based solely on article 32 of the SSM Framework Regulation, as Satabank did not make reference to any legal basis for its request.
- since no supervisory procedure was pending in respect of the applicant at the time of its request for access, and therefore no ‘file’ existed within the meaning of article 32 SSM Framework Regulation, that request should be examined as a request for access to documents on the basis of the general provisions, in particular Decision 2004/258/EC. Therefore, the Court held that the ECB had erred in law in failing to examine the applicant’s request on the basis of the general provisions and, consequently, the Court upholds Satabank’s action and annuls the contested decision.

*Case T-72/20 Judgement of the General Court (First Chamber) (ECLI:EU:T:2023:149)*

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## **Management of climate and environmental risks – ECB publishes speech**

27 March 2023 – The ECB has published a speech by Frank Elderson, Member of the Executive Board and Vice-Chair of the Supervisory Board of the ECB, in which he refers to 2023 as a key milestone for banks in stepping up the management of climate and environmental (C&E) risks.

Among other things, Mr Elderson notes mixed results from the ECB's climate stress tests and its thematic review of C&E risks published in 2022. Although banks have made meaningful progress in accounting for and addressing C&E risks, overall risk management capabilities remain insufficient. He notes a material gap between where banks currently stand and the ECB's supervisory expectations.

In particular, banks need to do more to establish a climate stress testing framework; to eliminate blind spots in the identification of C&E risks; and focus more on the broader environmental risks that go beyond purely climate-related risks.

The ECB expects all supervised banks to be aligned with its expectations by the end of 2024. It will monitor banks' progress, and if necessary, use its toolkit to ensure compliance with its expectations. This might include imposing penalties and setting Pillar 2 capital requirements.

*[ECB Speech: Stepping up the management of climate and environmental risks](#)*

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## **Asset quality reviews – ECB publishes results**

31 March 2023 – The ECB has published the results of its asset quality reviews (AQRs) of Crelan, Citadele banka, Goldman Sachs Bank Europe and Morgan Stanley Europe Holding. AQRs apply to all banks that are directly supervised by the ECB.

AQRs are done on market risk or credit risk for the respective selected banks. The ECB concludes that the AQRs have not identified any capital shortfalls.

*[Press release](#)*

*[Disclosure template Crelan SA/NV](#)*

*[Disclosure template: AS Citadele banka](#)*

*[Disclosure template: Goldman Sachs Bank Europe SE](#)*

*[Disclosure template: Morgan Stanley Europe Holding SE](#)*

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## EUROPEAN BANKING AUTHORITY (EBA)

### **Benchmarking diversity practices and the gender pay gap - EBA publishes report**

7 March 2023 - The European Banking Authority (EBA) has published a report on the benchmarking of diversity practices and the gender pay gap within management bodies at the EU level under the Capital Requirements Directive IV (2013/36/EU) (CRD IV) and the Investment Firms Directive ((EU) 2019/2034) (IFD). The data in the report shows the position as at 31 December 2021 and is based on a representative sample of 662 credit institutions and 129 investment firms selected by national competent authorities (NCAs) on the basis of common criteria.

Under Article 91(11) of the CRD IV, the EBA and NCAs are required to benchmark diversity practices in institutions' management bodies. They are also mandated to collect information on the gender pay gap of members of the management body under Article 75(1) of the CRD IV and Article 34(1) of the IFD.

The objective of these requirements is to achieve diversity within the management bodies and achieve a more appropriate gender balance within these bodies. In addition, significant institutions are required under Article 88(2)(a) of the CRD IV to set a target for the representation of the underrepresented gender in the management body and to take measures to increase its number. The report notes that more diverse management bodies can help improve decision-making on strategy and risk-taking by incorporating a broader range of views, opinions, experiences, perceptions, values and backgrounds. A more diverse management body reduces the phenomena of 'group think' and 'herd behaviour'. The report also references the fact that diversity is not limited to gender, but also concerns the age, social mobility and geographical provenance of the members of the management body.

Key points from the report include:

- despite the legal requirements, a significant proportion of institutions have not adopted a diversity policy;

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- more than half the institutions and nearly half the larger credit institutions reviewed have no female executive director;
- the representation of women and men in boards is “insufficiently balanced” with only 11.32% of 689 CEOs being female; and
- the data on the gender pay gap shows that gender imbalances in the remuneration of directors exist. On average, female executive directors received 9.43% less remuneration than male colleagues over the period reviewed.

The data presented in the report makes clear that further improvements to gender balance, and diversity generally, in institutions’ management bodies is needed. Further work by institutions and the NCAs is needed to overcome the identified shortcomings, with the EBA particularly calling on firms to adopt a diversity policy.

The EBA will continue to monitor diversity, and issue periodical benchmark studies on diversity and the gender pay gap, in relation to management bodies.

[\*EBA Report on the benchmarking of diversity practices and the gender pay gap\*](#)

[\*Press release\*](#)

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### **Annual assessment of banks’ internal approaches for the calculation of capital requirements - EBA publishes report**

*10 March 2023* – The EBA has published a report on the annual market and credit risk benchmarking exercises conducted in 2022. The exercises are aimed at monitoring the consistency of risk weighted assets (RWAs) across all EU institutions authorised to use internal approaches for the calculation of capital requirements.

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Key findings include:

- market risk exercise: except for a minority of instruments, the variability of foreign exchange and commodity portfolios exhibit a lower level of dispersion than the interest rate, equity and credit spread asset classes; and
- credit risk exercise: the in-depth analysis of the observed and potential impact of COVID-19 on the internal ratings-based (IRB) parameters used to calculate own funds requirements imply that the support measures continue to significantly influence the observed default rates and the average probability of default (PD) estimates. In addition, the horizontal analyses reveal a notable decrease in defaulted exposures and a notable increase in non-defaulted exposures.

[Report results from the 2022 market risk benchmarking exercise](#)

[Report results from the 2022 credit risk benchmarking exercise](#)

[Credit risk benchmarking – chart pack](#)

[Press release](#)

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## **Data submission for supervisory benchmarking - EBA publishes Handbook**

16 March 2023 – The EBA has published a Handbook on supervisory benchmarking of internal models.

The Handbook is an online tool and includes overviews for all applicable Q&As relevant to credit risk, market risk and International Financial Reporting Standards (IFRS) 9 benchmarking. The EBA intends to update the Handbook on a regular basis.

[Handbook on supervisory benchmarking](#)

[Press release](#)

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## Retail risk indicators – EBA publishes report

28 March 2023 – The EBA has published, for the first time, a set of ‘retail risk indicators’ (RRI) to identify consumer detriment arising from the misconduct of financial institutions offering retail banking products in the EU.

The document comprises a list of 11 RRIs that cover a wide variety of different types of products in the EBA’s remit, including mortgage credit, consumer credit, and payment and deposit accounts. The RRIs are intended to assist the EBA and national competent authorities to prioritise their regulatory and supervisory work in the area of consumer protection. The RRIs are summarised in a table, together with a set of charts showing results at EU member state-level and a methodological note that interprets the results.

The RRIs will be updated and refined on an annual basis and published as part of the EBA’s annual risk assessment report.

[Report: EBA’s retail risk indicators](#)

[Webpage](#)

[Press release](#)

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## EU wide stress testing – EBA publishes speech

29 March 2023 – The EBA has published a speech by José Manuel Campa, EBA Chair, on the future of EU-wide stress testing. Among other things, Mr Campa notes:

- the coverage of the 2023 EU-wide stress test has been enlarged to allow for the identification of potential risk pockets in mid-sized banks, and includes 70 banks in the EU covering 75% of total assets of the banking system in the EU and Norway;
- looking ahead, the EBA is exploring broadening the risk coverage of the EU-wide stress test by including relatively new risks, and in this regard climate related risks have “high priority”;



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- the EBA plans to review its guidelines on institutions' stress testing to provide guidance for institutions on how to test their resilience to climate change, as well as long-term negative impacts of environmental, social and governance (ESG) factors. This work is expected to take place in 2023; and
- cyber risk is firmly on the EBA's radar as part of its mandate to assess the resilience of financial institutions, particularly in light of recent geopolitical tensions.

[EBA speech: Path to the future of EU-wide stress testing](#)

### **Guidelines on risk-based AML/CFT supervision - EBA publishes Consultation Paper on extension of scope to cryptoasset service providers**

29 March 2023 – The EBA has published a Consultation Paper (EBA/CP/2023/05) on amendments to its Guidelines on risk-based anti-money laundering and countering the financing of terrorism (AML/CFT) supervision, produced under Article 48(10) of the Fourth Money Laundering Directive ((EU) 2015/849) (MLD4).

The proposed changes extend the scope of these Guidelines to AML/CFT supervisors of cryptoasset service providers (CASPs). The EBA notes that by its nature, the provision of cryptoasset services is a cross-border activity, and as such it is important that the same standards apply wherever CASPs operate in the single market.

The deadline for responses to this Consultation Paper is 29 June 2023.

[EBA Consultation Paper: Guidelines on the characteristics of risk-based approach to AML/CFT, and the steps to be taken when conducting supervision on a risk-sensitive basis under Article 48\(10\) of Directive \(EU\) 2015/849](#)

[Webpage](#)

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## SINGLE SUPERVISORY MECHANISM (SSM)

### Single Supervisory Mechanism - ECB decisions published in OJ

23 March 2023 – Decisions made by the European Central Bank (ECB) on delegating the power to adopt decisions relating to on-site inspections and internal model investigations under the Single Supervisory Mechanism (SSM) have been published in the Official Journal of the European Union (OJ).

In broad terms, these Decisions set out criteria for the delegation of decision-making powers to the heads of work units of the ECB. This allows for amendments to ECB decisions on supervisory examination programmes for credit institutions made under Article 99(1) of the Capital Requirements Directive (2013/36/EU).

*Decision (EU) 2023/672 of the ECB of 10 March 2023 on delegation of the power to adopt decisions relating to on-site inspections and internal model investigations (ECB/2023/5)*

*Decision (EU) 2023/673 of the ECB of 14 March 2023 nominating heads of work units to adopt delegated decisions relating to on-site inspections and internal model investigations (ECB/2023/6)*

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## SINGLE RESOLUTION MECHANISM (SRM)

### **Single Resolution Fund (SRF) – SRB publishes consultation**

17 March 2023 – The Single Resolution Board (SRB) has published a consultation on the 2023 preliminary contributions to the Single Resolution Fund (SRF). This year marks the last year of the initial SRF eight-year built up period (running since 2016).

Approximately 2,800 banks and other financial institutions, across the 21 EU countries that make up the Banking Union, will contribute to the SRF in 2023. The consultation invited these banks and financial institutions to provide comments on the proposed 2023 preliminary ex-ante contributions calculation by 5 April 2023.

The SRB will adopt a final decision on the amount each bank and other financial institution will be required to contribute to the SRF and contributions are due to be paid by 30 June 2023.

[Press Release](#)

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# EUROPEAN BANKING NEWSLETTER

APRIL 2023

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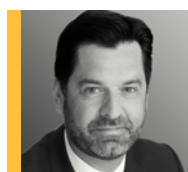
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