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Sound practices in counterparty credit risk – ECB publishes report

20 October 2023 – The European Central Bank (ECB) has published its final report on sound practices in counterparty credit risk (CCR) governance and management (the Report). The Report was released following a public consultation that concluded in July 2023.

The Report presents the findings of a targeted review that the ECB conducted in 2022. The banks selected for this targeted review were mostly global systemically important banks (G-SIBs) or investment banks that held on aggregate approximately EUR 1,245 billion of CCR exposure value and EUR 278 billion of CCR risk-weighted exposure amount (RWEA). The Report provides a collection of sound practices in CCR governance and management observed during the performance of the targeted review. In addition, the Report identifies areas that require improvement. The sound practices described in the Report go beyond mere compliance with regulatory requirements, and the ECB expects institutions to consider these practices when designing their approach to CCR management.

The Report describes sound practices as categorised by the ECB into the following sections:

- **CCR governance:** an example of a sound practice in this category is that institutions apply the three lines of defence model for monitoring, managing and controlling CCR;
- **risk control, management and measurement:** an example of a sound practice in this category is that institutions identify CCR sources and assess materiality;
- **stress testing and wrong-way risk:** an example of a sound practice in this category is that institutions have documented governance of their stress testing framework – specifically with respect to CCR and related tail risks – in place; and
- **watchlist and default management processes:** an example of a sound practice in this category is that institutions document the process for including counterparties in, or excluding them from, a watchlist in a policy.

ECB Report on sound practices in counterparty credit risk governance and management

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EU-UK Financial Regulatory Forum – HM Treasury and European Commission publish joint statement

23 October 2023 – HM Treasury and the European Commission have published a joint statement following the first meeting of the Joint EU-UK Financial Regulatory Forum, held on 19 October 2023 (the Forum). The Forum is intended to promote and progress UK/EU regulatory co-operation post-Brexit.

The Forum was co-chaired by Gwyneth Nurse, Director General for Financial Services at HM Treasury, and John Berrigan, the European Commission Director General for Financial Stability, Financial Services and Capital Markets Union. Attendees included representatives from the Bank of England, the FCA, the UK Mission to the European Union, the ECB and the Single Resolution Board. Also in attendance were representatives from the European Supervisory Authorities.

Participants provided views on the organisational aspects and practical arrangements for the future of regulatory cooperation under the UK/EU Memorandum of Understanding (MoU), including how the Forum could be used in the future to exchange views on subjects contained in the MoU. Other matters discussed included:

- the Financial Stability Board's (FSB) work on promoting the implementation of its Money Market Funds policy proposals and addressing structural liquidity mismatches in open ended funds. Both the UK and EU welcomed the FSB's upcoming review of leverage in non-bank financial intermediation;
- the work relating to the implementation of the final Basel III standards, including timelines, stages of implementation and any potential moves to T+1 settlement for transactions;
- ongoing reforms to Solvency II Directive (Directive 2009/138/EC) in the UK and EU respectively and the importance of finalising the Insurance Capital Standard for International Active Insurance Groups;
- developments concerning cryptoassets, stablecoins and retail central bank digital currencies, such as the digital pound and the digital euro. There was agreement on the importance of jurisdictions implementing the FSB's high-level recommendations on cryptoasset activities and stablecoins; and

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- progressing efforts to support an orderly transition to net zero, including participation in the G20 Sustainable Finance Working Group. Both the UK and the EU noted progress on the implementation of the UK Green Taxonomy and EU taxonomy for sustainable activities respectively and provided an update on developments regarding ESG ratings and standards for sustainability disclosure requirements. They also highlighted the importance of ensuring the interoperability of standards and support for the work of the International Sustainability Standards Board in setting reporting and accounting standards.

The next meeting is expected to take place in spring 2024.

Joint EU-UK Financial Regulatory Forum: Joint Statement, October 2023

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EUROPEAN BANKING AUTHORITY (EBA)

Annual Work Programme 2024 – published by EBA

3 October 2023 – The European Banking Authority (EBA) has published its 2024 Annual Work Programme. The EBA's main strategic priorities are: (i) finalising the Basel implementation in the EU and enhancing the Single Rulebook; (ii) monitoring financial stability and sustainability against a backdrop of increased interest rates and uncertainty; (iii) providing an infrastructure for data at the service of stakeholders; (iv) developing oversight and supervisory capacity, particularly over critical ICT third-party providers, for the Digital Operational Resilience Act and delivering new technical standards and guidelines as mandated by the Markets in Crypto Assets Regulation; (v) preparing the transition to the new anti-money laundering and countering the financing of terrorism framework; and (vi) increasing its focus on innovation and consumers.

The EBA is carrying out 19 activities in 2023 in order to deliver on its strategic priorities for 2024. These are grouped in the following categories: policy and convergence work, risk assessment and data, governance coordination and support.

In addition to its Annual Work Programme, the EBA has also announced its European Supervisory Examination Programme for 2024, which covers key topics specific to heightened supervisory attention (see item below).

[EBA Annual Work Programme 2024](#)

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2024 European Supervisory Examination Programme – EBA sets priorities for 2024 EU-wide examination programme

19 October 2023 – The EBA has published its annual European Supervisory Examination Programme (ESEP) report (EBA/REP/2023/35) (the Report), which sets the key topics for heightened supervisory attention in 2024. The ESEP forms part of the EBA's toolkit for achieving convergence in supervisory practices across the EU. The EBA expects that the national competent authorities (NCAs) will incorporate these topics into their priority setting and integrate them into their daily supervisory tasks.

The EBA chose the key topics on the basis of structural changes, such as: i) the end of abundant liquidity in the system due to the phasing out of the third targeted longer-term refinancing operations (TLTRO-3); ii) the increased interest rate environment and the implementation of the interest rate risk in the banking book (IRRBB) package in the EU; and iii) recent bank failures in the US and the case of Credit Suisse.

The Report sets out the following key topics for supervisory attention:

- liquidity and funding risk;
- interest rate risks and hedging; and
- recovery operationalisation.

On each topic, the EBA sets out the risks they have observed and provides directions on what NCAs should focus their supervisory efforts.

The Report also addresses attention points from previous ESEPS which NCAs should continue to focus on, either because the progress achieved by banks is not satisfactory in these areas or because the risk level is still increasing. These topics are: i) cyber risk and data security; ii) sustainable finance; and iii) risk data aggregation and digitalisation.

EBA Report on European Supervisory Examination Programme 2024

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MiCA – EBA launches consultations on draft RTS and guidelines

19 October 2023 - The EBA has published several consultation papers on draft Regulatory Technical Standards (RTS) and Guidelines pertaining to the Regulation on markets in cryptoassets ((EU) 2023/1114) (MiCA). Article 17(8) MiCA confers the EBA the mandate to develop these RTS and Guidelines in close cooperation with the European Securities and Markets Authority (ESMA).

More specifically, these comprise:

- draft RTS setting out the procedure for the approval of white papers for asset-referenced tokens (ARTs) issued by credit institutions;
- draft RTS on the minimum content of the governance arrangements in the remuneration policy (similar to the remuneration framework under the Investment Firms Regulation ((EU) 2019/2033) (IFR)) as specified under Article 45(4) MiCA; and
- draft Guidelines on the minimum content of the governance arrangements for issuers of ARTs.

The consultations will all close on 22 January 2024.

EBA Consultation paper: Draft RTS on the procedure for the approval for white papers of ARTs issued by credit institutions (EBA/CP/2023/21)

EBA Consultation Paper: Draft RTS on the minimum content of the governance arrangements on the remuneration policy under MiCA (EBA/CP/2023/22)

EBA Consultation Paper: Draft Guidelines on the minimum content of the governance of issuers of ARTs (EBA/CP/2023/23)

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MiCA – EBA and ESMA launch joint consultation on joint suitability assessment guidelines

20 October 2023 – The EBA and ESMA have published a Consultation Paper (EBA/CP/2023/20 and ESMA74-453128700-506) on two sets of proposed joint Guidelines regarding suitability assessments under MiCA.

The first set of Guidelines addresses the suitability assessment of members of the management body of issuers of ARTs and cryptoasset service providers (CASPs). The Guidelines provide common criteria to assess the appropriate knowledge, skills and experience of members of the management body as well as their good reputation, honesty and integrity and if they are able to commit sufficient time to perform their duties.

The second set of Guidelines addresses the suitability assessment of shareholders and members with qualifying holdings within issuers of ARTs or of CASPs. The Guidelines are intended to assist national competent authorities making this assessment in the context of the authorisation of such issuers and when assisting proposed acquisitions, particularly from a prudential perspective.

The consultation closes on 19 January 2024. The EBA and ESMA intend to publish the finalised sets of Guidelines ahead of MiCA becoming applicable.

EBA and ESMA Consultation Paper: Draft joint EBA and ESMA Guidelines on the suitability assessment of members of management body of issuers of asset-referenced tokens and of crypto-asset service providers, and Draft Joint EBA and ESMA Guidelines on the suitability assessment of asset-referenced tokens and in crypto-asset service providers (EBA/CP/2023/20 and ESMA75-453128700-506)

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Environmental and social risks in the prudential framework – EBA publishes report

12 October 2023 - The EBA has published a report (EBA/REP/2023/34) (the Report) on embedding environmental and social risk considerations into the prudential framework. The Report provides the outcome to the EBA's Discussion Paper, published in May 2022, on the appropriateness of the Pillar 1 framework to address such risks.

The EBA explains that environmental and social risks are changing the risk profile of the banking sector and are expected to become more prominent. They affect traditional categories of financial risks, such as credit, market and operational risks, and so can affect both risks faced by individual institutions and the financial stability of the entire financial system. The Report recommends risk-based enhancements to accelerate the integration of environmental and social risks across the Pillar 1 framework. The EBA also discusses the potential use of macroprudential tools and explains why it does not support the introduction of a green supporting factor or brown penalising factors at this stage.

The EBA proposes certain short-term actions to be taken over the next three years as part of implementation of the proposed regulation amending the Capital Requirements Regulation (575/2013) (CRR III) and proposed directive amending the Capital Requirements Directive (2013/36/EU) (CRD VI). These include the introduction of environmental risks as part of stress testing programmes under both the internal ratings-based and the internal model approaches under the Fundamental Review of the Trading Book. The EBA also encourages the inclusion of environmental and social factors as part of external credit assessments by credit rating agencies and a requirement for institutions to identify whether environmental and social factors trigger operational risk losses.

The Report follows the EBA's May 2022 discussion paper on the role of environmental risks in the prudential framework.

EBA Report on the role of environmental and social risks in the prudential framework (EBA/REP/2023/34)

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Independence of supervisory authorities – ESAs publish criteria

25 October 2023 – The European Supervisory Authorities (comprising the EBA, the European Insurance and Occupational Pensions Authority and ESMA) (ESAs) have published their joint criteria on the independence of supervisory authorities. This follows the publication by each ESA of individual reports on the subject in December 2021.

The ESAs explain that independence is paramount to ensuring that fair, effective and transparent decisions are taken by appropriately funded bodies, thereby providing sufficient protection for customers and consumers of financial services. Furthermore, the ESAs note that independence reduces the risk of undue influence from the supervised sector and the government.

The ESAs' criteria are intended for use by national supervisory authorities to increase independence and will be used by the ESAs when assessing supervisory independence in the EU. The criteria are grouped under the following principles:

- operational independence: supervisory authorities must operate free from undue influence from the supervised sector and the government, as well as having adequate legal powers and resources;
- personal independence: rules for the appointment, selection and removal of members of the supervisory authority's governing body must be transparent, along with high ethical standards for all members;
- financial independence: supervisory authorities must have sufficient financial resources to fulfil their mandates; and
- accountability and transparency: supervisory authorities must conduct their tasks in a transparent and accountable manner.

Joint European Supervisory Authorities' criteria on the independence of supervisory authorities (JC 2023 17)

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No relevant items.

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No relevant items.

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CRISIS MANAGEMENT AND DEPOSIT INSURANCE (CMDI) FRAMEWORK

CMDI framework reforms - European Commission publishes legislative proposals and EBA Chair makes speech

5 October 2023 – The European Parliament's Economic and Monetary Affairs Committee (ECON) has published draft reports (dated 3 October) on the following European Commission legislative proposals for amending the EU bank crisis management and deposit insurance (CMDI) framework:

- a proposed directive amending the Bank Recovery and Resolution Directive (2014/59/EU) on early intervention measures, conditions for resolution and financing of resolution action (2023/0112(COD));
- a proposed regulation amending the Single Resolution Mechanism Regulation (806/2014) on intervention measures, conditions for resolution and funding of resolution action (2023/0111(COD)); and
- a proposed directive amending the Deposit Guarantee Schemes Directive (2014/49/EU) as regards the scope of deposit protection, use of deposit guarantee schemes funds, cross-border cooperation and transparency (2023/0115(COD)).

The Commission adopted the legislative proposals in April 2023.

Separately, José Manuel Campa, chairperson of the European Banking Authority (EBA), has delivered a speech on improvements to the European crisis management framework. Among other things, Mr Campa considers the importance of facilitating the application of the resolution toolbox to medium and smaller-sized banks.

[ECON draft report \(2023/0112\(COD\)\)](#)

[ECON draft report \(2023/0111\(COD\)\)](#)

[ECON draft report \(2023/0115\(COD\)\)](#)

[EBA Speech](#)

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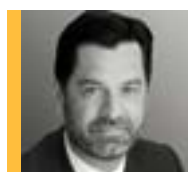
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