
QUICK LINKS

[EUROPEAN CENTRAL
BANK \(ECB\)](#)

[EUROPEAN BANKING
AUTHORITY \(EBA\)](#)

[SINGLE SUPERVISORY
MECHANISM \(SSM\)](#)

[SINGLE RESOLUTION
MECHANISM \(SRM\)](#)

[CRISIS MANAGEMENT
AND DEPOSIT
INSURANCE \(CMDI\)
FRAMEWORK](#)

[EFIG GROUP](#)

EUROPEAN CENTRAL BANK (ECB)

ECB wrong to not consider circumstances in requiring BAWAG PSK to pay absorption interest - CJEU BAWAG PSK v ECB (Case T-667/21)

28 February 2024 - The judgment by the General Court of the Court of Justice of the EU (the General Court) annulled the European Central Bank's (ECB) decision of 2 August 2021 (ECB/SSM/2021-ATBAW-7-ESA-2018-0000126), which required the Austrian credit institution BAWAG PSK Bank für Arbeit und Wirtschaft und Österreichische Postsparkasse AG (the Applicant) to pay EUR 19,332,923.82 in absorption interest.

During an on-site inspection, the ECB found that the Applicant did not have the data needed to individually identify the debtors of a portfolio of approximately 20,000 mainly secured real estate loans. The ECB inferred from this that the Applicant could not apply the “look-through” approach to these exposures, envisaged in Article 390(7) Capital Requirements Regulation ((EU) 575/2013) (CRR). As a result, the treatment of the portfolio under the scheme applicable to large exposures showed that the 25% limit on eligible capital set by Article 395(1) CRR had been exceeded.

Contrary to the Applicant's contention, the General Court held that the ECB was competent to levy absorption interest for the Article 395(1) CRR infringement. In that context, the ECB had relied on the Austrian courts' interpretation of point 2 of Paragraph 97(1) Bundesgesetz über das Bankwesen, according to which the levying of absorption interest is “automatic” where the conditions laid down in that provision are satisfied. However, in doing so, the General Court found that the ECB had failed to comply with the principle of proportionality as set in Article 65(1) in conjunction with Article 70 of the Capital Requirements Directive (2013/36/EU), which requires the ECB to consider all relevant circumstances of a case.

BAWAG PSK v ECB Case T-667/21

QUICK LINKS

[EUROPEAN CENTRAL
BANK \(ECB\)](#)

[EUROPEAN BANKING
AUTHORITY \(EBA\)](#)

[SINGLE SUPERVISORY
MECHANISM \(SSM\)](#)

[SINGLE RESOLUTION
MECHANISM \(SRM\)](#)

[CRISIS MANAGEMENT
AND DEPOSIT
INSURANCE \(CMDI\)
FRAMEWORK](#)

[EFIG GROUP](#)

Supervisory decisions - ECB publishes FAQs on the Administrative Board of Review

4 March 2024 - The ECB has published an FAQ on the Administrative Board of Review (ABoR) and ABoR's review process to provide clarity on its purpose, scope and procedures. Any bank or individual issued with an ECB supervisory decision, as well as any natural or legal person directly and individually affected by an ECB supervisory decision, can request, within one month of its adoption, that the ABoR conduct an internal administrative review of such decisions to ensure compliance with rules in all areas of European banking supervision, both procedurally and substantively.

[FAQs on the Administrative Board of Review](#)

Joint Bank Reporting Committee - established by ECB and EBA

18 March 2024 - The ECB and the European Banking Authority (EBA) have established the Joint Bank Reporting Committee (JBRC) based on an accompanying memorandum of understanding. The aim of the JBRC is to promote integration across regulatory supervisory, resolution and statistical reporting by banks. One of its key deliverables will be a common data dictionary. The establishment of the JBRC reflects a mandate in Article 430c of the CRR.

[ECB and EBA MoU on the establishment of the Joint Bank Reporting Committee](#)

[Press release](#)

DPM Alliance - EBA, ECB and EIOPA publish MoU

20 March 2024 - The ECB has published a memorandum of understanding (MoU) that it has entered into with the EBA and the European Insurance and Occupational Pensions Authority (EIOPA) on a joint governance framework for collaboration on the data point model (DPM) standard. The MoU refers to the framework as the "DPM Alliance". The ECB, EBA and EIOPA have established the framework with a view to upgrading and maintaining the DPM standard, as well as harmonising reporting definitions and the processing of regulatory data.

[Memorandum of Understanding \(MoU\) on the establishment of the DPM Alliance](#)

QUICK LINKS

[EUROPEAN CENTRAL
BANK \(ECB\)](#)

[EUROPEAN BANKING
AUTHORITY \(EBA\)](#)

[SINGLE SUPERVISORY
MECHANISM \(SSM\)](#)

[SINGLE RESOLUTION
MECHANISM \(SRM\)](#)

[CRISIS MANAGEMENT
AND DEPOSIT
INSURANCE \(CMDI\)
FRAMEWORK](#)

[EFIG GROUP](#)

Internal model breaches - ECB imposes fines

22 March 2024 - The ECB has published a decision imposing two administrative penalties on Confédération Nationale du Crédit Mutuel (the bank), amounting to EUR 3,540,000 for breaching requirements set out in two ECB decisions on internal models that permit the use of certain internal models for calculating own funds requirements for credit risk.

The ECB found that, between May 2021 and April 2022, when using its internal models to determine its risk-weighted assets, the bank did not apply floors that had been set by the ECB in two internal model decisions for calculating credit risk for certain exposures. Underestimating risk-weighted assets means the bank reported a higher Common Equity Tier 1 ratio than it should have done. Among other things, this prevented the ECB from having a comprehensive view of the bank's risk profile. Out of the severity categories "minor", "moderately severe", "severe", "very severe" and "extremely severe", the ECB classified one of the breaches as moderately severe and the other as minor.

The bank may challenge the ECB's decision before the Court of Justice of the EU.

Imposition of two administrative penalties on Confédération Nationale du Crédit Mutuel

Press release

QUICK LINKS

[EUROPEAN CENTRAL
BANK \(ECB\)](#)

[EUROPEAN BANKING
AUTHORITY \(EBA\)](#)

[SINGLE SUPERVISORY
MECHANISM \(SSM\)](#)

[SINGLE RESOLUTION
MECHANISM \(SRM\)](#)

[CRISIS MANAGEMENT
AND DEPOSIT
INSURANCE \(CMDI\)
FRAMEWORK](#)

[EFIG GROUP](#)

EUROPEAN BANKING AUTHORITY (EBA)

CRR - EBA launches consultation on off-balance sheet items under the standardised approach to credit risk

4 March 2024 - The European Banking Authority (EBA) has published a Consultation Paper (EBA/CP/2024/08) on draft regulatory technical standards on the allocation of off-balance sheet items and unconditionally cancellable commitment considerations under the Capital Requirements Regulation ((EU) 575/2013) (CRR) as amended by the CRR III Regulation (2021/0341(COD)).

Amendments will be introduced to update the calibration of percentages used to convert nominal amounts of off-balance sheet items into on-balance sheet equivalent amounts. This will result in the introduction of an adjusted weighting scheme and the addition of a risk bucket to the current 4 (grouped under ‘full risk’, ‘medium risk’, ‘medium/low risk’ and ‘low risk’). A definition of the term “commitment” is also being introduced.

The consultation is open until 4 June 2024.

[EBA Consultation Paper: Draft RTS on the allocation of off-balance sheet items and UCC considerations under article 111\(8\) of Regulation \(EU\) No 575/2013 \(EBA/CP/2024/08\)](#)

[Press release](#)

PSR and PSD3 - ECON publishes adopted texts

5 March 2023 - The European Parliament’s Economic and Monetary Affairs Committee (ECON) has published the adopted text of the following:

- the proposal for a regulation on payment services in the internal market and amending the European Banking Authority Regulation (1093/2010) (2023/0210 (COD)) (known as the Payment Services Regulation (PSR)); and
- the proposal for a directive on payment services and electronic money services in the Internal Market amending the Settlement Finality Directive (98/26/EC) and repealing the Payment Services Directive (2015/2366/EU) and the Electronic Money Directive (2009/110/EC) (2023/0209 (COD)) (PSD3).

EUROPEAN BANKING NEWSLETTER

APRIL 2024

BONELLIEREDE
BREDIN PRAT
DE BRAUW
HENGELER MUELLER
SLAUGHTER AND MAY
URÍA MENÉNDEZ

QUICK LINKS

[EUROPEAN CENTRAL
BANK \(ECB\)](#)

[EUROPEAN BANKING
AUTHORITY \(EBA\)](#)

[SINGLE SUPERVISORY
MECHANISM \(SSM\)](#)

[SINGLE RESOLUTION
MECHANISM \(SRM\)](#)

[CRISIS MANAGEMENT
AND DEPOSIT
INSURANCE \(CMDI\)
FRAMEWORK](#)

[EFIG GROUP](#)

ECON voted to adopt the report at a meeting on 14 February 2024, having originally published the drafts of the reports in November 2023.

[ECON report on the proposal for a regulation of the European Parliament and of the Council on payment services in the internal market and amending Regulation \(EU\) 1093/2010 \(2023/0210 \(COD\)\)](#)

[ECON report on the proposal for a directive of the European Parliament and of the Council on payment services and electronic money services in the Internal Market amending Directive 98/26/EC and repealing Directives 2015/2366/EU and 2009/110/EC \(2023/0209 \(COD\)\)](#)

EUROPEAN BANKING NEWSLETTER

APRIL 2024

BONELLIEREDE
BREDIN PRAT
DE BRAUW
HENGELER MUELLER
SLAUGHTER AND MAY
URÍA MENÉNDEZ

QUICK LINKS

*EUROPEAN CENTRAL
BANK (ECB)*

*EUROPEAN BANKING
AUTHORITY (EBA)*

*SINGLE SUPERVISORY
MECHANISM (SSM)*

*SINGLE RESOLUTION
MECHANISM (SRM)*

*CRISIS MANAGEMENT
AND DEPOSIT
INSURANCE (CMDI)
FRAMEWORK*

EFIG GROUP

SINGLE SUPERVISORY MECHANISM (SSM)

No relevant items.

QUICK LINKS

[EUROPEAN CENTRAL
BANK \(ECB\)](#)

[EUROPEAN BANKING
AUTHORITY \(EBA\)](#)

[SINGLE SUPERVISORY
MECHANISM \(SSM\)](#)

[SINGLE RESOLUTION
MECHANISM \(SRM\)](#)

[CRISIS MANAGEMENT
AND DEPOSIT
INSURANCE \(CMDI\)
FRAMEWORK](#)

[EFIG GROUP](#)

SINGLE RESOLUTION MECHANISM (SRM)

MBDT - Single Resolution Board opens public consultation

13 March 2024 - The Single Resolution Board (SRB) has opened a public consultation on the Minimum Bail-In Data Template (MBDT) package. The MBDT provides an integrated approach for implementing the SRB Bail-in Data Set Instructions and Explanatory Note published in 2020 and updated in 2022. It enhances definitions and provides an outline to ensure standardised data collection across banks under the SRB's remit.

The consultation aims to gather stakeholders' views on the following areas:

- content of the MBDT documentation;
- data point model and format; and
- data collection process.

The consultation is part of the SRB's mandate to implement the new strategy, SRM Vision 2028, in respect of which enhanced crisis readiness plays a particular role. The consultation is open until 8 May 2024.

[Press release](#)

MREL reforms - Council of the EU adopts proposed amendments

26 March 2024 - The Council of the EU has adopted the proposed Directive making targeted amendments to the Bank Recovery and Resolution Directive (2014/59/EU) (BRRD) and the Single Resolution Mechanism Regulation (806/2014) concerning the minimum requirement for own funds and eligible liabilities (MREL). Also referred to as the Daisy Chains directive, it includes targeted proportionality requirements on the treatment of internal MREL in bank resolution groups. These include removing the obligation for resolution authorities to set MREL for liquidation entities in certain circumstances, as well as allowing resolution authorities to set internal MREL on a consolidated basis to a resolution entity's subsidiary.

The European Parliament adopted the Directive in February 2024. The Directive will enter into force on the 20th day following its publication in the Official Journal.

[Press release](#)

QUICK LINKS

[EUROPEAN CENTRAL
BANK \(ECB\)](#)

[EUROPEAN BANKING
AUTHORITY \(EBA\)](#)

[SINGLE SUPERVISORY
MECHANISM \(SSM\)](#)

[SINGLE RESOLUTION
MECHANISM \(SRM\)](#)

[CRISIS MANAGEMENT
AND DEPOSIT
INSURANCE \(CMDI\)
FRAMEWORK](#)

[EFIG GROUP](#)

CRISIS MANAGEMENT AND DEPOSIT INSURANCE (CMDI) FRAMEWORK

Legislative proposal for European Deposit Insurance Scheme - ECON publishes draft report

4 March 2024 - The European Parliament's Economic and Monetary Affairs Committee (ECON) has published a draft report (PE758.704v01-00) on the European Commission's legislative proposal for a Regulation establishing the European Deposit Insurance Scheme (EDIS) (2015/0270(COD)). The updated draft Regulation focuses on the first of three proposed stages for setting up the EDIS. This would involve it operating as a "reinsurance scheme that covers a share of the liquidity shortfall and of the excess losses of participating DGSs". It is envisaged that EDIS would progress to a full insurance scheme with loss coverage at a later stage.

[ECON draft report on the EDIS Regulation \(2015/0270\(COD\)\)](#)

CMDI framework reforms - ECON votes to adopt proposals

20 March 2024 - The ECON has voted to adopt draft reports on the proposals relating to the review of the EU bank crisis management and deposit insurance (CMDI) framework. The proposals relate to amendments to the Bank Recovery and Resolution Directive (2014/59/EU), the Single Resolution Mechanism Regulation (806/2014) and the Deposit Guarantee Schemes Directive (2014/49/EU).

The Plenary is expected to vote on the texts during its session in April 2024.

[Press release](#)

EUROPEAN BANKING NEWSLETTER

APRIL 2024

BONELLIEREDE
BREDIN PRAT
DE BRAUW
HENGELER MUELLER
SLAUGHTER AND MAY
URÍA MENÉNDEZ

QUICK LINKS

*EUROPEAN CENTRAL
BANK (ECB)*

*EUROPEAN BANKING
AUTHORITY (EBA)*

*SINGLE SUPERVISORY
MECHANISM (SSM)*

*SINGLE RESOLUTION
MECHANISM (SRM)*

*CRISIS MANAGEMENT
AND DEPOSIT
INSURANCE (CMDI)
FRAMEWORK*

EFIG GROUP



BONELLIEREDE

Stefano Micheli
stefano.micheli
@belex.com



HENGELER MUELLER

Dirk Bliesener
dirk.bliesener
@hengeler.com



BONELLIEREDE

Giuseppe Rumi
giuseppe.rumi
@belex.com



HENGELER MUELLER

Christian Schmies
christian.schmies
@hengeler.com



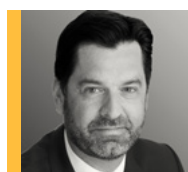
BREDIN PRAT

Didier Martin
didiermartin
@bredinprat.com



SLAUGHTER AND MAY

Jan Putnis
jan.putnis
@slaughterandmay.com



BREDIN PRAT

Matthieu Pouchepadass
matthieupouchepadass
@bredinprat.com



SLAUGHTER AND MAY

Nick Bonsall
nick.bonsall
@slaughterandmay.com



DE BRAUW

Mariken van Loopik
mariken.vanloopik
@debrauw.com



URÍA MENÉNDEZ

Pedro Ravina
pedro.ravina
@uria.com



DE BRAUW

Pete Lawley
pete.lawley
@debrauw.com



URÍA MENÉNDEZ

Carlos Costa Andrade
carlos.andrade
@uria.com

EUROPEAN BANKING NEWSLETTER

APRIL 2024

BONELLIEREDE

www.belex.com

Milan, Genoa, Rome, Addis Ababa*, Brussels, Cairo*,
Dubai, London

*: in cooperation with local law firm

BREDIN PRAT

www.bredinprat.com

Paris, Brussels

DE BRAUW

www.debrauw.com

Amsterdam, Brussels, London, Shanghai, Singapore

HENGELER MUELLER

www.hengeler.com

Frankfurt, Berlin, Dusseldorf, Munich, Brussels,
London

SLAUGHTER AND MAY

www.slaughterandmay.com

London, Beijing, Brussels, Hong Kong

URÍA MENÉNDEZ

www.uria.com

Madrid, Barcelona, Bilbao, Bogotá, Brussels, Lima,
Lisbon, London, New York, Porto, Santiago, Valencia
