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Cyber resilience – ECB launches new initiative to facilitate cyber information and intelligence sharing

15 September 2020 – The ECB has launched a new initiative to facilitate cyber information and intelligence sharing. Members of the Euro Cyber Resilience Board for pan-European Financial Infrastructures (ECRB) have created the Cyber Information and Intelligence Sharing Initiative (CIISI-EU) in order to enhance the cyber resilience of the financial sector.

The multilateral initiative brings together public and private entities to share strategic, operational and tactical cyber information through technical platforms and meetings. By exchanging knowledge and experience within a trusted community, the members of ECRB hope to improve both their individual and joint preparedness to tackle potential cyber threats.

The core objectives of CIISI-EU are to protect the financial system by preventing, detecting and responding to cyberattacks; to facilitate the sharing of information, intelligence and best practices between financial infrastructures; and to raise awareness of cybersecurity threats.

The ECRB initiative is further explained in the Community Rulebook and Terms of Reference and the accompanying practical example document.

Euro Cyber Resilience Board for pan-European Financial Infrastructures (ECRB) - Cyber Information & Intelligence Sharing Initiative: Community Rulebook is [here](#).

Euro Cyber Resilience Board for pan-European Financial Infrastructures (ECRB) - Cyber Information & Intelligence Sharing Initiative: Terms of Reference is [here](#).

Cyber information and intelligence sharing: a practical example is [here](#).

Webpage is [here](#).

Press release is [here](#).

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COVID-19 – ECB adopts and publishes Decision excluding certain central bank exposures from leverage ratio

16 September 2020 – The European Central Bank (ECB) has adopted and published a Decision on the temporary exclusion of certain exposures to central banks from the total exposure measure, as a result of the exceptional circumstances brought on by the COVID-19 pandemic.

After consulting the relevant central bank, banking supervisors will be permitted to allow banks to exclude central bank exposures (such as coins, banknotes and deposits) from their leverage ratio under the Capital Requirements Regulation (575/2013/EU) (CRR), as amended by Regulation (EU) 2020/873. Banks may benefit from this exclusion until 27 June 2021.

According to the ECB, the impact of the exclusion will raise the aggregate leverage ratio of 5.36% by about 0.3 percentage points. If the exclusion is to be extended beyond 27 June 2021, the ECB will need to adopt a new Decision as a 3% leverage ratio requirement will then be binding under the CRR II Regulation (EU) 2019/876.

ECB Decision excluding certain central bank exposures from leverage ratio is [here](#).

Press release on ECB allowing temporary relief in banks' leverage ratio is [here](#).

Press release on ECB's Governing Council justifying leverage ratio relief in light of COVID-19 is [here](#).

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ECB publishes final guide on the assessment of banks' counterparty credit risk calculations

18 September 2020 – The European Central Bank (ECB) has published its final guide on the assessment methodology for the internal model method for calculating exposure to counterparty credit risk, and the advanced method for own fund requirements for credit valuation adjustment risk.

The guide has been developed by the ECB as the EBA is not mandated to develop regulatory technical standards in relation to the assessment methodology for either model. It is not intended to replace, overrule or affect currently applicable EU and national laws, but it is relevant to banks when they seek to extend or make changes to their models.

The final guide follows the ECB's consultation on the draft guide published in February 2020.

ECB guide on assessment methodology is [here](#).

ECB press release is [here](#).

Reponses to public consultation is [here](#).

BMR – ECB issues opinion on proposed amendments to the Benchmarks Regulation

18 September 2020 – The ECB has issued its opinion regarding a proposal for amendments to the Benchmarks Regulation (EU) 2016/1011 (BMR) in relation to the exemption of certain third country foreign exchange benchmarks and the designation of replacement benchmarks for certain benchmarks in cessation, following a request from the Council of the European Union.

In its opinion, the ECB welcomes the main objective of the amendment to empower the European Commission to adopt an implementing act to designate a statutory replacement rate that would replace, by operation of law, certain benchmarks which, if no longer published, would cause significant disruption to the functioning of financial markets in the EU and which are undergoing a supervised process of orderly cessation.

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The ECB notes that the Commission's proposed power to designate a replacement rate is aimed primarily at contracts with EU supervised entities that reference LIBOR, as this benchmark may not be sustained after the end of 2021, but may also be applied to contracts that reference other benchmarks, including EURIBOR.

Opinion of the ECB on a proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2016/1011 as regards the exemption of certain third country foreign exchange benchmarks and the designation of replacement benchmarks for certain benchmarks in cessation is [here](#).

CRR II - ECB publishes ESCB feasibility report

21 September 2020 – The ECB has published a feasibility report from the European System of Central Banks (ESCB) on reducing the burden for European banks. The report is required under Article 430c of the CRR, as amended by CRR II (EU) 2019/876. The report proposes the following in order to reduce the statistical, resolution and prudential reporting burden on banks:

- use of a common standard data dictionary and common data model;
- use of harmonised transmission reporting formats and improvements to data sharing between regulatory authorities; and
- greater co-operation between European regulatory authorities, and between banks and regulatory authorities.

The report indicates that the Supervisory Board of the Single Supervisory Mechanism was also consulted on the report.

Feasibility report is [here](#).

ECB press release is [here](#).

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CRR II – ECB amends Guidance Annexes on the qualification of capital instruments as Additional Tier 1 and Tier 2 instruments

30 September 2020 – The European Central Bank (ECB) has published amendments to the Annexes in its July 2016 Guidance on the procedure to be followed when reviewing the qualification of capital instruments as Additional Tier 1 (AT1) and Tier 2 instruments.

The ECB explains that the Capital Requirements Regulation II (EU) 2019/876 (CRR II) amends several provisions of the Capital Requirements Regulation (575/2013/EU) (CRR) relating to the eligibility conditions that capital instruments must fulfil to be classified as AT1 or Tier 2 instruments under Articles 52 and 63 respectively of the CRR. The templates in the guidance concerning the main features of the instruments and self-assessment therefore need to be updated to reflect these newly introduced eligibility criteria. The ECB advises institutions to use the updated templates for their new issuances of AT1 and Tier 2 instruments.

Amended Guidance Annexes on the qualification of capital instruments as AT1 and Tier 2 instruments is [here](#).

Please see the Single Supervisory Mechanism (SSM) section for an item on new banks that the ECB directly supervises from 1 October 2020.

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NEWS FOR THE SINGLE SUPERVISORY MECHANISM (SSM)

Close cooperation – ECB lists Bulgarian and Croatian banks it will directly supervise as of October 2020

11 September 2020 – The European Central Bank (ECB), after establishing close cooperation with Българска народна банка (Bulgarian National Bank) and Hrvatska narodna banka (Croatian National Bank) and assessing the significance of the countries' banks, announced today that it will start directly supervising five banks in Bulgaria and eight banks in Croatia.

In particular, the ECB will be responsible for directly supervising four Bulgarian and seven Croatian subsidiaries of existing significant banking groups headquartered in Belgium, Greece, Italy and Austria. This ensures that the ECB fulfils the regulatory requirements that it must directly supervise a) at an individual level all banks belonging to significant groups, and b) at least the three most significant banks in each country.

The ECB will also directly supervise two new institutions, DSK Bank AD in Bulgaria as of 1 October and Addiko Bank AG group in Austria as of 7 October. The supervision of Addiko Bank AG group will include supervision of its subsidiaries Addiko Bank d.d. in Slovenia and Addiko Bank d.d. in Croatia.

Press release is [here](#).

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NEWS FOR THE SINGLE RESOLUTION MECHANISM (SRM)

Landesbank Baden-Württemberg v Single Resolution Board (SRB), (Case T-411/17) (EU:T:2020:435) and two similar judgments

23 September 2020

Calculation of ex-ante contributions to the Single Resolution Fund – legality of Delegated Regulation 2015/63

The European General Court has considered the decisions of the Single Resolution Board (SRB) on the calculation of the 2017 ex-ante contributions to the Single Resolution Fund (SRF), and the legality of certain aspects of Delegated Regulation 2016/63.

On 11 April 2017, the SRB set the 2017 ex-ante contributions to the SRF in respect of approximately 3,500 financial institutions, including Landesbank Baden-Württemberg (LBW), Hypo Vorarlberg Bank and Portigon, three German credit institutions. These three credit institutions disputed this decision and brought an action for annulment before the General Court.

The SRB's decision has been annulled as far as it related to these credit institutions. The Court found that the SRB's decision was not "adequately authenticated", did not contain an adequate statement of reasons and the calculation of the banks' contributions was not transparent.

In the judgment on the action brought by LBW, the Court also concluded that certain provisions in the Delegated Regulation were illegal. The Court's view was that this calculation method had not been specified by the legislature when drafting the Bank Recovery and Resolution Directive (2014/59/EU) (BRRD).

Landesbank Baden-Württemberg v Single Resolution Board (SRB), (Case T-411/17) (EU:T:2020:435) is [here](#).

Press release is [here](#).

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BRRD II – European Commission notice relating to interpretation of BRRD II

29 September 2020 - The European Commission has published a notice in the Official Journal of the European Union in response to questions raised by EU member states on the interpretation of certain provisions of the Bank Recovery and Resolution Directive II (EU) 2019/879 (BRRD II). The notice provides information on:

- the power to prohibit certain distributions;
- powers to suspend payment or delivery obligations;
- selling of subordinated eligible liabilities to retail clients;
- the minimum requirement for own funds and eligible liabilities;
- the bail-in tool; and
- the interaction between BRRD II and: (i) the Capital Requirements Regulation (575/2013/EU) (CRR); (ii) the Capital Requirements Directive (2013/36/EU) (CRD IV); and (iii) the Regulation on the Single Resolution Mechanism (806/2014/EU) (SRM Regulation).

The Commission also notes that it will soon publish a communication with answers to questions raised by the European Banking Authority in relation to BRRD II.

European Commission Notice relating to the interpretation of certain legal provisions of the revised bank resolution framework in reply to questions raised by Member States' authorities is [here](#).

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If you would like to discuss any of the developments in this update, or any other financial regulatory matter, please contact one of the following or your usual EFIG contact.

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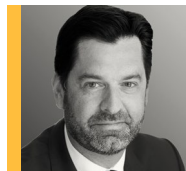
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