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EUROPEAN CENTRAL BANK (ECB)

PH and others v European Central Bank - (Case T-323/22) EU:T:2024:460

10 July 2024 - The European General Court has considered the interpretation of the criteria used to assess a potential acquirer of a qualifying holding in a bank. Under Article 23 of the fourth Capital Requirements Directive (2013/36/EU), supervisory authorities must assess the suitability of a proposed acquirer based on specified criteria. They may oppose the acquisition only if there are reasonable grounds for doing so based on the assessment criteria or if the information provided by the proposed acquirer is incomplete.

The court considered issues that had arisen from a decision of the European Central Bank (ECB) to oppose the acquisition of a bank on the basis that the proposed acquirers did not satisfy the assessment criteria. Among other things, the court held that the assessment of the financial soundness of a proposed acquirer involves examining its future capacity to provide capital to the target undertaking. Moreover, it is sufficient that there are reasonable grounds to suspect that the proposed acquisition could increase the risk of money laundering or terrorist financing for the competent authorities to oppose the proposed acquisition. The court also concluded that a lack of clarity in the reasons for the acquisition of a qualifying holding may give rise to doubts as to the integrity of a proposed acquirer. Finally, the assessment of the reputation of the proposed acquirer must be interpreted as including an assessment of their professional competence.

PH and others v European Central Bank, (Case T-323/22) EU:T:2024:460

Non-bank PSP access to central bank payment systems and accounts - ECB publishes policy

19 July 2024 - The ECB has published a harmonised policy developed by the Eurosystem to allow non-bank payment service providers (PSPs) to access central bank-operated payment systems. Starting in April 2025, non-bank PSPs meeting certain requirements will be able to access TARGET, including T2 (for settling payments) and TIPS (for settling instant payments). Euro area national central banks that operate payment systems other than TARGET Services will develop the terms and conditions to implement access by non-bank PSPs in line with the principles outlined in the policy.

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Finally, the policy confirms that the Eurosystem will not provide accounts to non-bank PSPs for safeguarding users' funds at central banks. A related ECB decision will follow in due course.

[ECB: Policy on access by non-bank payment service providers to central bank operated payment systems and to central bank accounts](#)

[Press release](#)

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EUROPEAN BANKING AUTHORITY (EBA)

WCTR - EBA publishes final report on ‘travel rule’ guidelines

4 July 2024 - The European Banking Authority (EBA) has published its final report on guidelines on information requirements in relation to transfers of funds and certain cryptoasset transfers under the Wire and Cryptoasset Transfer Regulation ((EU) 2023/1113) (WCTR). These information requirements reflect the so-called ‘travel rule’ adopted by the Financial Action Task Force.

The guidelines specify which information should accompany a transfer of funds or cryptoassets. They further list the steps that payment service providers (PSPs), intermediary PSPs, cryptoasset service providers (CASPs) and intermediary CASPs should take to detect missing or incomplete information, and what they should do if a transfer of funds or a transfer of cryptoassets lacks the required information.

The guidelines apply from 30 December 2024.

EBA final report: Guidelines on information requirements in relation to transfers of funds and certain cryptoassets transfers under Regulation (EU) 2023/1113 (EBA/GL/2024/11)

Press release

Token issuance under MiCAR - EBA sets out supervisory priorities

5 July 2024 - The EBA has published a document explaining its supervisory priorities for issuers and offerors of asset-referenced tokens (ARTs) and e-money tokens (EMTs). Broadly, its priorities concern internal governance and risk management; financial resilience; technology risk management; and financial crime risk management. The EBA has also published a statement noting, among other things, that it expects relevant firms to “comply promptly” with the requirements of the Markets in Cryptoassets Regulation ((EU) 2023/1114) (MiCAR) as from 30 June 2024.

EBA: Priorities for ART/EMT issuers supervision – 2024/2025

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[EBA statement](#)

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2025 EU-wide stress test - EBA publishes methodology and draft templates

5 July 2024 - The EBA has published the methodology, draft templates and guidance for the 2025 EU-wide stress test. Participating banks will be required to project the impact of the exercise's defined scenarios under a common set of risks (credit, market, counterparty and operational risk).

The EBA expects to publish the final methodology at the end of 2024, launch the stress test in January 2025 and publish the results by the end of July 2025.

[Methodological note](#)

[Draft template guidance](#)

[Press release](#)

Supervisory topics - EBA publishes programme and report

8 July 2024 - The EBA has published its 2025 European Supervisory Examination Programme (ESEP) for prudential supervisors (EBA/REP/2024/14). The ESEP, which is published annually by the EBA, sets out key topics for prudential supervisory attention to drive convergence.

The key topics for 2025 include testing and adjusting to increasing economic and financial uncertainties; digital challenges (in particular, ICT risk management and building operational resilience towards the digital transformation); and the implementation of Basel III and the EU banking package.

At the same time, the EBA has published a report outlining the progress towards the 2023 ESEP key topics by most national competent authorities.

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[EBA 2025 ESEP \(EBA/REP/2024/14\)](#)

[Press release](#)

[EBA report on convergence of supervisory practices in 2023 \(EBA/REP/2024/13\)](#)

[Press release](#)

CRR - EBA launches consultation on credit value adjustment risk of SFTs

8 July 2024 - The EBA has published a consultation paper (EBA/CP/2024/14) on draft Regulatory Technical Standards (RTS) on the credit valuation adjustment (CVA) risk of securities financing transactions (SFTs) under Article 382(6) of the Capital Requirements Regulation (575/2013) (CRR) as amended by Regulation (EU) 2024/1623 (CRR III). The consultation proposes using a quantitative threshold approach to determine the materiality of CVA risk exposures arising from fair-valued SFTs.

Comments can be made until 8 October 2024. The EBA is holding a public hearing on 4 September 2024. The deadline for registering for this is 30 August 2024.

[EBA consultation paper: Draft RTS on CVA risk of securities financing transactions under Article 382\(6\) of CRR \(EBA/CP/2024/14\)](#)

[Press release](#)

CRR and internal model authorisation - EBA publishes final report on draft ITS and consultation paper

9 and 16 July 2024 - The EBA has published a final report (EBA-ITS/2024/06) on a new Commission Implementing Regulation containing Implementing Technical Standards (ITS) on supervisory reporting under the CRR. The ITS cover all the supervisory reporting requirements for firms under the CRR and reflect reforms made by CRR III relating to the output floor, credit risk, market risk, operational risk, cryptoassets and the leverage ratio.

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The application date for the ITS will be 1 January 2025 and the first reference date will be 31 March 2025.

The EBA has also published a consultation paper on draft ITS amending Commission Implementing Regulation (EU) 2016/100 on the joint decision process for internal model authorisation under Article 20(8) of the CRR, as amended by CRR III. The changes relate to the overall revised scope of application for internal models set out in CRR III. This marks the first stage of the EBA's implementation of the EU Banking Package, which comprises CRR III and the sixth Capital Requirements Directive ((EU) 2024/1619)).

The consultation remains open for comments until 16 October 2024, after which the EBA will submit the ITS to the European Commission for adoption.

[EBA final report: Final draft ITS amending Implementing Regulation \(EU\) 2021/451 on supervisory reporting referred to in Article 430 \(7\) of CRR concerning output floor, credit risk, market risk, operational risk, cryptoassets and leverage ratio \(EBA-ITS/2024/06\)](#)

[Press release](#)

[Consultation paper \(EBA/CP/2024/16\)](#)

[Press release](#)

EBA reflects on stacking orders and provides insight into EU institutions' management buffers

15 July 2024 - The EBA has released a report on the stacking orders of capital, leverage, and the minimum requirement for own funds eligible liabilities instruments and total loss absorbing capacity (MREL/TLAC) requirements and related capital buffers, together with reflections about management buffers practices in the EU. The report outlines the roles of regulatory stacks, focusing on micro-prudential aspects, and compares frameworks between the EU, UK and US. It also details institutions' management buffer practices.

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The work conducted on stacking orders aims to enhance understanding of the interactions between regulatory stacks and the stacks management buffers typically set by institutions.

The report determines all relevant regulatory stacks for assessing an institution's capital headroom above the requirements. It also includes a high-level overview of the current EU regulatory framework and descriptions of several non-EU frameworks.

Future EBA efforts will aim to further clarify interactions between different regulatory stacks.

[Report on stacking orders and capital buffers](#)

[Press release](#)

EBA consults on guidelines on reporting of data to assist authorities in their supervisory duties and significance assessment under MiCAR

15 July 2024 - The EBA has launched a consultation on draft guidelines for reporting requirements under MiCAR. These guidelines are aimed at promoting consistent supervisory approaches and level playing fields across the EU by ensuring that supervisors can supervise issuers' compliance with MiCAR requirements based on sufficient comparable information.

Issuers of ARTs and certain EMTs must report specific information under MiCAR. However, these provisions are insufficient for competent authorities and the EBA to perform their supervisory tasks and the significance assessment tasks under MiCAR. To address these gaps, the EBA is consulting on draft guidelines that specify common templates and instructions for issuers when submitting the required information. These guidelines also outline how issuers should gather necessary data from relevant CASPs.

The consultation is open until 15 October 2024.

[Consultation paper on Draft Guidelines on reporting on ARTs and EMTs](#)

[Press release](#)

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Remuneration under CRD IV - EBA publishes reports on derogations to the remuneration of identified staff and gender-neutral remuneration policies

16 July 2024 - The EBA has published two reports on remuneration under the fourth Capital Requirements Directive (2013/36/EU) (CRD IV), namely:

- a report on the application of derogations from the remuneration of identified staff under Article 94(3) and (5) of CRD IV. This report observes that smaller financial institutions and subsidiaries benefiting from derogations have an improved ability to recruit staff; and
- a report on the use of gender-neutral remuneration policies by institutions and investment firms under CRD IV and the Investment Firms Directive ((EU) 2019/2034). The report concludes that most institutions and a majority of investment firms have adopted remuneration policies that are explicitly gender-neutral.

Both reports have been submitted to the European Commission, which is expected to report to the European Parliament and the Council of the EU on the application of the derogations under Article 96(6) of CRD IV.

[Report on application of derogations under Art. 94\(3\) and Art. 94\(5\) CRD regarding the pay out of remuneration to identified staff \(EBA/REP/2024/15\)](#)

[Press release](#)

[Report on the application of gender-neutral remuneration policies by institutions and investment firms \(EBA/REP/2024/16\)](#)

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CRR III - EBA publishes statement on application of CRR III in the area of credit risk for the internal ratings-based approach

17 July 2024 - The EBA has released a statement clarifying the application of the CRR III in the area of credit risk for the internal ratings-based approach. Among other things, institutions should communicate to their competent authorities the targeted model landscape that will be used from 1 January 2025 onwards.

[Full EBA statement](#)

[Press release](#)

ESAs published second batch of policy products under DORA

17 July 2024 - The European Supervisory Authorities (ESAs) have published the second batch of policy products under the Digital Operational Resilience Act ((EU) 2022/2554) (DORA). This includes four final draft RTS, one set of ITS and two guidelines. These aim to enhance digital operational resilience in the EU's financial sector by standardising reporting for ICT-related incidents and cyber threats, while also introducing some requirements on the design of the oversight framework.

The guidelines on the estimation of aggregated costs/losses caused by major ICT-related incidents and on oversight cooperation have been adopted by the ESAs' Boards of Supervisor. The final drafts of the technical standards have been submitted to the European Commission review. The aim is to adopt these policy products within the course of the coming months.

[Joint Technical Standards on major incident reporting](#)

[Joint Guidelines on oversight cooperation](#)

[Joint Guidelines on the estimation of aggregated costs/losses caused by major ICT-related incidents](#)

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[Joint RTS on the harmonization of conditions enabling the conduct of the oversight activities](#)

[Joint RTS specific elements related to threat led penetration tests](#)

[Joint RTS on the criteria for determining the composition of the joint examination team](#)

[Press release](#)

Subcontracting under DORA - ESAs publish final report on draft RTS

26 July 2024 - The ESAs have published a joint final report on draft RTS specifying how to determine and assess the conditions for subcontracting ICT services with the objective of supporting critical or important functions under DORA.

The RTS focus on services provided by subcontractors for critical or important functions, or for material parts of these functions. Additionally, they outline requirements for the entire lifecycle of contracts between financial entities and ICT third-party service providers, including risk assessment during the precontractual phase and due diligence.

The RTS furthermore have the objective of ensuring that financial entities can effectively manage and monitor subcontractors effectively underpinning the ICT services that support critical or important functions and remain in control of their risks, through the introduction of requirements for the implementation and management of contractual arrangements on subcontracting conditions.

[Final report on Draft RTS to specify the elements which a financial entity needs to determine and assess when subcontracting ICT services supporting critical or important functions as mandated by Article 30\(5\) of Regulation \(EU\) 2022/2554](#)

[Press release](#)

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Fees for validation of pro-forma models under EMIR 3 - European Commission requests technical advice

31 July 2024 - The European Commission has requested from the EBA provisional technical advice on a possible delegated Act regarding fees for validation of pro-forma models under the proposed Regulation amending the European Markets Infrastructure Regulation (648/2012) (EMIR 3). The advice is intended to mitigate excessive exposures to third-country central counterparties and improve the efficiency of EU clearing markets (EMIR 3).

The EBA is asked to deliver its technical advice by 30 June 2025.

European Commission: Provisional request to the EBA for technical advice on a possible delegated act specifying the method for the determination of the amount of the fees, and the modalities of the payment of such fees, to be paid by financial and non-financial counterparties requiring the validation of pro-forma models under EMIR

European Commission letter

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SINGLE SUPERVISORY MECHANISM (SSM)

Digitalisation of banks in the SSM - ECB publishes report and blog post

11 July 2024 - The European Central Bank (ECB) has published a report on the digitalisation activities of banks in the Single Supervisory Mechanism (SSM). The report sets out the key criteria used by the ECB to assess banks' digitalisation activities and related risks, together with examples of sound practices. In a related blog, the ECB notes that it will focus on reviewing the use of specific technologies more broadly, including the deployment of AI and related business use cases.

ECB report: Digitalisation: key assessment criteria and collection of sound practices

ECB blog post: A key step in assessing SSM banks' digitalisation journey and related risks

Governance and risk culture - ECB consults on draft guide on governance and risk culture

24 July 2024 - The ECB has published for consultation a draft guide on governance and risk culture, which aims to serve as a practical reference point for banks. The ECB highlights that there is still room and need for improvement in this area despite progress made since the global financial crisis, and the guide will replace the 2016 SSM supervisory statement on governance and risk appetite.

The guide, which will not lay down legally binding requirements, is intended to clarify supervisors' expectations regarding how management bodies and committees should be composed and function, spell out the roles and responsibilities of the internal control functions, emphasise the importance of risk culture and outline expectations regarding the risk appetite frameworks of banks. The deadline for responses is 16 October 2024.

ECB consultation paper: Draft guide on governance and risk culture

Press release

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SINGLE RESOLUTION MECHANISM (SRM)

Resolvability of banks - SRB publishes 2023 assessment

9 July 2024 - The Single Resolution Board (SRB) has published a report setting out the results of its 2023 resolvability assessment for banks across the banking union. According to the report, banks have showed steady progress in meeting the SRB's expectations and minimum requirement for own funds and eligible liabilities (MREL) policy. Banks have also plugged outstanding gaps relating to the resolvability conditions, notably in relation to liquidity and funding in resolution, separability and restructuring.

The SRB explains that its new approach to assessing resolvability, following the launch of the SRM Vision 2028 strategy, will be more risk-based, relying on a standard template for all banks to enhance transparency. The SRB will consult on the resolvability assessment criteria and the guidance on testing in due course.

[SRB report: Resolvability of Banking Union Banks: 2023](#)

[Press release](#)

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No relevant items.

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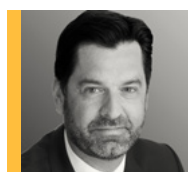
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