

ELFA Legal & Regulatory Update 20/04/2020 – 24/04/2020

Key Points:

- [PRA](#) clarifies position regarding IFRS 9 capital requirements and loan covenants.
- [FCA](#) sets expectations for wet-ink signatures in light of Covid-19 restrictions.
- [ESMA](#), [EBA](#), and [EIOPA](#) (ESAs) consult on Environmental, Social and Governance Disclosure Rules.
- [ECB](#) takes steps to mitigate impact of possible rating downgrades on collateral availability.
- [CSSF](#) Survey on the amount of covered deposits held by Lux credit institutions on 31 March 2020.

Bank of England (BoE)

20 April 2020: Q&A on the usability of liquidity and capital buffers

The PRA published a [set of Q&A](#) on the usability of liquidity and capital buffers and their operation as set out in the PRA rules and guidelines and in response to the Covid-19 outbreak. This document is relevant to all firms to which the Capital Requirements Directive IV applies.

22 April 2020: Statement on increase to APF gilt lending limits

To further support gilt market functioning, the BoE, working with the UK Debt Management Office (DMO), [announced](#) that it will from the 22nd of April 2020 increase the proportion of gilts held in the Asset Purchase Facility (APF) that are made available to the DMO to use in its market operations and for the DMO's Standing and Special Repo Facilities.

The BoE will more than double the total percentage of the APF's gilt holdings available each day. When combined with the current ongoing expansion of gilt holdings, this will mean that the DMO can access in excess of £30 billion of the APF's gilt holdings for on-lending to the market.

There will be no specific limit on particular stocks. The purpose of this action is to mitigate operational frictions and ensure that gilt collateral absorbed by the APF continues to be available to support the DMO's normal channels.

23 April 2020: Follow-up note to insurers on the letter from Sam Woods 'Covid-19: IFRS 9, capital requirements and loan covenants'

The PRA published a [follow-up note](#) for PRA-regulated insurers clarifying the PRA's position regarding IFRS 9, capital requirements and loan covenants. On Thursday 26 March 2020, [Sam Woods wrote to Chief Executive Officers of UK Banks](#) setting out the PRA's position regarding IFRS 9, capital requirements for their firms and loan covenants. Some insurance firms have sought clarification as to how the points in that letter should be read across to their internal assessments of loan creditworthiness and treatment of unrated assets. This follow up aims to clarify those issues.

24 April 2020: Extension of the Contingent Term Repo Facility (CTRF)

The BoE [announced](#) that it will continue to offer 3-month and 1-month term Contingent Term Repo Facility (CTRF) operations on a weekly basis through May 2020, with the final operation scheduled on 29 May.

20 - 24 April 2020: Staff working papers

During the week, the BoE published the following staff working papers that might be of interest to our readers:

- [Workers, capitalists, and the government: fiscal policy and income \(re\)distribution](#)
- [The missing link: monetary policy and the labor share](#)
- [Understanding US export dynamics: does modelling the extensive margin of exports help?](#)

Financial Conduct Authority (FCA)

20 April 2020: FCA sets expectations for wet-ink signatures in light of Covid-19 restrictions

The FCA [explained](#) that its rules do not explicitly require wet-ink signatures in agreements, nor do they prevent firms from using electronic signatures in agreements. The validity of electronic signatures is a matter of law. Firms must also consider any related requirements set out in the [Principles for Businesses](#) and general rules. The FCA recently stated that it would accept electronic signatures for [fund-related applications](#) and on all applications from [mutual societies](#).

24 April 2020: FCA confirms support for motor finance and high-cost credit customers

The FCA is introducing a [package of measures to support consumer credit customers](#) facing payment difficulties due to coronavirus (Covid-19). The targeted temporary measures being implemented are a three month payment freeze for motor finance, buy-now pay-later (BNPL), rent-to-own (RTO) and pawnbroking agreements. For high-cost short term credit (including payday loans) payments will be frozen for one month with no additional interest to be charged.

The measures will be in force on Monday 27 April 2020. Customers should be able to request a payment deferral at any point after the guidance comes into force for a period of three months.

European Securities and Markets Association (ESMA)

20 April 2020: ESMA Newsletter - N°13

ESMA published its [thirteenth edition of ESMA's Newsletter](#). The newsletter provides a full list of ESMA publications¹ and some important statements delivered by Steven Maijoor, ESMA's Chair, on the measures ESMA has taken to address the effects of COVID-19. Additionally, ESMA has launched its [new page on COVID-19](#) as it continues to closely monitor the situation in view of the impact the virus is having on EU financial markets.

European Banking Authority (EBA)

22 April 2020: EBA provides further guidance on the use of flexibility in relation to COVID-19 and calls for heightened attention to risks

The European Banking Authority (EBA) [provided further clarity](#) on how additional flexibility will guide supervisory approaches in relation to market risk, the Supervisory Review and Evaluation Process (SREP), recovery planning, digital operational resilience and ICT risk and securitisation. At the same time, the EBA notes the need for stringent attention by supervisors and financial institutions in relation to key risks in these areas.

Amongst other things mentioned in the guidance, the EBA provides further clarity on the prudential application of the definition of default and forbearance as well as how the EBA Guidelines on legislative and non-legislative moratoria on loan repayments apply to securitisations. Furthermore, acknowledging the increased operational challenges faced by banks in the area of reporting, the EBA also intends to delay reporting for the first FRTB-SA figures to September 2021.

European Insurance and Occupational Pensions Authority (EIOPA)

24 April 2020: EIOPA publishes weekly information for Relevant Risk Free Interest Rate Term Structures and Symmetric Adjustment to Equity Risk - with reference to 21 April 2020

Due to COVID-19 outbreak, the European Insurance and Occupational Pensions Authority (EIOPA) [announced](#) that it will carry out extraordinary calculations on weekly basis to monitor the evolution of the relevant risk-free interest rate term structures (RFR) and the symmetric adjustment to equity risk (EDA).

EIOPA is publishing this information in order to support insurance and reinsurance undertakings in the monitoring of their solvency and financial position. The information will be published weekly on a specific area of the websites created for this purpose both for [RFR](#) and [EDA](#) named "Extraordinary weekly updates".

European Supervisory Authorities (ESAs)

23 April 2020: EBA, EIOPA and ESMA (ESAs) consult on Environmental, Social and Governance Disclosure Rules

The three European Supervisory Authorities (EBA, EIOPA and ESMA - ESAs) [have issued a Consultation Paper](#) seeking input on proposed environmental, social and governance (ESG) disclosure standards for financial market participants, advisers and products. The ESAs welcome comments on this [consultation paper](#) setting

out the proposed Regulatory Technical Standards (RTS) on content, methodologies and presentation of disclosures under the Sustainable Finance Disclosure Regulation (SFDR).

These standards have been developed to:

- strengthen protection for end-investors;
- improve the disclosures to investors from a broad range of financial market participants and financial advisers; and
- improve the disclosures to investors regarding financial products.

The ESAs welcome feedback to this consultation by **1 September 2020**. Following the close of the consultation, the draft RTS will be finalised and submitted to the European Commission.

European Central Bank (ECB)

22 April 2020: ECB takes steps to mitigate impact of possible rating downgrades on collateral availability

The European Central Bank (ECB) [announced](#) that it adopted temporary measures to mitigate the effect on collateral availability of possible rating downgrades resulting from the economic fallout from the coronavirus (COVID-19) pandemic. The decision complements the [broader collateral easing package](#) that was announced on 7 April 2020.

Together these measures aim to ensure that banks have sufficient assets that they can mobilise as collateral with the Eurosystem to participate in the liquidity-providing operations and to continue providing funding to the euro area economy. Also, the ECB published a very helpful [blogpost](#) explaining the economic rationale behind its collateral easing packages.

Central Bank of Ireland (CBI)

23 April 2020: Central Bank publishes research on understanding SMEs in the Covid-19 pandemic

The Central Bank of Ireland [announced](#) that it has published two new Financial Stability Notes (FSNs): [‘SME liquidity needs during the COVID-19 shock’](#) & [‘COVID-19 and the transmission of shocks through domestic supply chains’](#). In the former, the authors use a combination of sector- and bank-level data to estimate Small and Medium Enterprises (SME) liquidity needs over a three-month period, under a range of scenarios. If private sector liquidity is insufficient to meet

demand, the authors outline three options available to policymakers. These include credit guarantee schemes, lending schemes, and direct fiscal supports. In the latter, the authors find that linkages through the supply chain represent an important potential transmission mechanism for the COVID-19 shock in Ireland due to the substantial economic activity that occurs between businesses across sectors in Ireland.

Commission de Surveillance du Secteur Financier (CSSF)

20 April 2020: Circular CSSF-CPDI 20/20 ‘Survey on the amount of covered deposits held on 31 March 2020’

The aim of this [circular](#) is to carry out a survey on deposits, and more particularly on covered deposits, as held by credit institutions incorporated under Luxembourg law, the POST Luxembourg for its provision of postal financial services, and Luxembourg branches of credit institutions having their head office in a third country (hereinafter, referred to as “institutions”) as at 31 March 2020

FGDL members are requested to provide the data at the level of their legal entity, comprising data from branches located within other Member States, by 29 May 2020. The requested data shall be reported with utmost care, as it also constitutes the basis to determine the contribution to the Resolution Fund. In the context of COVID-19, FGDL members may choose to delay this reporting and submit the requested data together with the 2020 2nd quarter-end data.

24 April 2020: Circular CSSF- CODERES 20/10 ‘Single Resolution Fund - Information on/announcement of raising 2020 ex-ante contributions’

The CSSF released a circular explaining that the Single Resolution Board (hereafter “SRB”) has determined the 2020 ex-ante contribution for all the institutions as defined in Article 2 of the SRMR. The amounts are due by 5 June 2020.

The concerned credit institutions have to transfer upon instruction given by the CSSF, the requested amounts to an account of the Fonds de résolution Luxembourg, which in return will transfer the collected amounts to the Single Resolution Fund.

International Capital Markets Association (ICMA)

21 April 2020: ICMA publishes 38th survey of the European repo market and report on market conditions during the COVID-19 pandemic

ICMA [published](#) the 38th in its series of semi-annual surveys of the repo market in Europe, together with a report on market performance during the COVID-19 pandemic. The special COVID-19 market report reveals that while demand for repo subsequently increased significantly during the height of the crisis in February/March, dealers' capacity to intermediate that demand was relatively constrained, limiting access to many firms that needed it. A smaller snapshot survey at the end of March 2020 suggests that while most larger banks did increase their balances during the crisis, many smaller banks tended to reduce their repo footprint, in some cases dramatically. The sample data points to an overall increase in outstandings of about 8% from the December 2019 survey, but a median adjustment of -4% across the sample.

22 April 2020: ICMA ERCC releases updated version of its SFTR recommendations

The ICMA European Repo and Collateral Council (ERCC) [published](#) an updated version of the ICMA Recommendations for Reporting under SFTR. This version includes relevant updates, including to reflect the recently granted 3-month delay to the first phase of the SFTR go-live as well as the forbearance on backloading.

Regulators & Associations Monitored:

1. FCA
2. BoE
3. The Pensions Regulator
4. ESMA
5. EBA
6. EIOPA
7. ECB
8. European Commission
9. CSSF
10. FINMA
11. CBI
12. ICMA
13. IOSCO
14. FSB

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