

# Summary of EU and UK Monetary Stimulus, Liquidity Support and Prudential Measures in Response to COVID-19

*Update of June 17, 2020*

The primary objective of the European System of Central Banks consists in maintaining price stability, while supporting the Union's economic policies, such as a balanced and sustainable economic growth, the fostering of a competitive social market economy, full employment and social progress.

The COVID-19 pandemic represents a considerable challenge with respect to the above objectives. In the face of such challenge, the European Central Bank (ECB) has so far adopted several measures pursuant to its monetary policy powers as well as its bank supervision powers.

Similarly, in the United Kingdom, the BoE committed to taking necessary steps to support the UK economy and financial system during the period of economic disruption caused by the outbreak of COVID-19, consistent with its statutory responsibilities.

These decisions have been supplemented and accompanied by a wide variety of economic support measures adopted by national authorities.

This alert memorandum provides a brief summary of:

- I. the main monetary policy measures adopted by the ECB and the BoE;
- II. the key measures adopted on a country level by Belgium, France, Germany, Italy and the UK to increase credit and liquidity to the real economy; and
- III. supervisory and capital relief measures, adopted in the wake of the COVID-19 pandemic.



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## I. ECB Monetary Policy Decisions

### 1. Easing of Targeted Longer Term Refinancing Operations (TLTRO) conditions

On March 12, 2020, the ECB announced the application of more favourable terms to ongoing Targeted Longer Term Refinancing Operations (TLTRO III) operations, in order to facilitate the granting of credit to households and businesses (in particular, SMEs).<sup>1</sup>

— Term: March 2020 to June 2021.

— Key terms:

- Reduction of interest rates;
- Increase of borrowing allowance (from 30% to 50% of banks' eligible loans);
- Removal of the 10% limit on funds borrowed in a single operation;
- Deactivation of the lending performance threshold required to obtain minimum interest rates; and
- Early repayment option available as of 1 year (instead of 2) after settlement.

— Precedents: No comparable initiative was unrolled in the context of the 2008 financial crisis. The first series of TLTROs was announced in June 2014 to enhance the transmission of monetary policy liquidity in favour of the real economy.

### 2. Bridge Longer-Term Refinancing Operations (Bridge LTROs)

On March 12, 2020, the ECB announced a series of LTROs to provide banks with a liquidity “bridge” until the planned date of settlement for the current TLTRO III, such as to safeguard liquidity and money market conditions.

— Term: March to June 24, 2020 maturity (staggered sequence).

— Key terms: Under the Bridge LTROs, the ECB provides financing to EU credit institutions on a weekly basis, through fixed rate tender procedures with full allotment. Rates are set at the average of the deposit facility rate over the life of the respective operation, with interest to be paid at maturity.

— Precedents: Bridge LTROs are structurally similar to the LTROs carried out following the 2008 financial crisis.<sup>2</sup>

### 3. Pandemic Emergency Longer-Term Refinancing Operations (PELTROs)

On April 30, 2020, the ECB decided to conduct a new series of seven additional longer-term refinancing operations always directed at EU credit institutions, called Pandemic Emergency Longer-Term Refinancing Operations (PELTROs), aiming to ensure sufficient liquidity and smooth market conditions during the pandemic and to provide banks with an effective backstop after the expiry of the above Bridge LTROs.

— Term: May 2020 to Q3 2021 maturity (staggered sequence).

— Key terms: PELTROs are carried out on a near monthly basis as fixed rate tender procedures with full allotment, with interest rates set at 25 basis points below the average rate applied in the Euro-system's main refinancing operations (currently 0%) over the life of the PELTRO.

<sup>1</sup> TLTROs are targeted operations, as the amount that banks can borrow is linked to their loans to non-financial corporations and households. A first series of TLTROs was announced on June 5, 2014, a second series (TLTRO II) on March 10, 2016 and a third series (TLTRO III) on March 7, 2019.

<sup>2</sup> In particular, (i) in March 2008, the ECB offered its first supplementary LTRO with a 6-month maturity; (ii) in June 2009, the ECB announced its first 12-month LTRO; (iii) in December 2011, the ECB announced its first LTRO with a 3-year term with a 1% interest rate and usage of the banks' portfolios as collateral; and (iv) in February 2012, the ECB held a second 36-month auction, known as LTRO II.

- Precedents: PELTROs are structurally similar to the LTROs carried out following the 2008 financial crisis.<sup>3</sup>

#### 4. Asset Purchase Programmes

On March 12, 2020, the ECB announced new net asset purchases for Euro 120 billion to be carried out through to the end of 2020.

On March 18, 2020 – in order to further lower borrowing costs, increase lending in the Euro area and enhance liquidity resources for the corporate sector – the ECB launched the Pandemic Emergency Purchase Programme (PEPP): a new temporary asset purchase programme of both public and private sector securities for an overall worth of 750 billion Euro. All asset categories eligible under the existing Expanded Asset Purchase Programme (EAPP)<sup>4</sup> fall within the PEPP<sup>5</sup> (including asset backed securities, covered bonds, public sector securities and investment grade corporate debt instruments), plus all commercial paper of “*sufficient credit quality*”.<sup>6</sup>

- Term: March to December 2020.
- Precedents:
  - The PEPP is structurally similar to the 60 billion Euro Covered Bond Purchase Programme (CBPP) launched in July 2009 (limited however to covered bonds).
  - **For a detailed comparison between the PEPP and the ECB’s pre-existing EAPP, see the annexed “Comparison Chart”.**

On June 4, 2020, the ECB announced the expansion of the PEPP by 600 billion Euro (to a total of 1,350 billion Euro).

#### 5. Collateral easing measures

On April 7, 2020, the ECB adopted a package of temporary collateral easing measures intended to ensure that EU banks make full use of liquidity support such as that derived from ongoing TLTROs.

- Term: Linked to the duration of the PEPP.
- Key terms: In order to support bank lending, these measures (i) ease the conditions at which credit claims may be accepted as collateral and (ii) increase the ECB’s risk tolerance to support the provision

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<sup>3</sup> See footnote 2 above.

<sup>4</sup> Launched by the ECB in 2015, in order to address the risks of an excessively prolonged period of low inflation.

<sup>5</sup> In January 2015, the ECB launched the EAPP to support investment and spending in a context of low growth. This programme initially covered asset backed securities, covered bonds and public sector securities. It was extended to the corporate sector in June 2016. The ECB conducted net purchases of securities under this programme until December 2018. Between January and October 2019, the ECB aimed to maintain the size of its cumulative net purchases under the EAPP at the level of December 2018. In November 2019, the ECB announced that net purchases would be restarted at a monthly pace of 20 billion Euro per month. This programme is still ongoing.

<sup>6</sup> In its judgment of May 5, 2020 (2 BvR 859/15 and others), the German Constitutional Court (*Bundesverfassungsgericht*) held, among other things, that the German Central Bank (*Deutsche Bundesbank*) must cease to participate in the Public Sector Purchase Programme of the ECB if the ECB does not adopt a new decision on the PSPP within 3 months, conducting a proper proportionality test. The judgment does not directly apply to the PEPP and the German Central Bank’s participation in it. However, the content and the effects of the judgment are highly controversial, and the findings therein may also be relevant for the PEPP and the German Central Bank’s future participation therein. The press release relating to the judgment with a link to the judgment can be found [here](#).

of credit via refinancing operations, particularly by lowering collateral valuation haircuts for all assets consistently.

On April 22, 2020, in order to reinforce the aforementioned measures, the ECB announced that it will grandfather the eligibility of marketable assets used as collateral in the Eurosystem credit operations falling below current minimum credit requirements until September 2021.

- Term: April 2020 to September 2021.
- Key terms: Appropriate haircuts will apply for assets that fall below the Eurosystem credit quality requirements.

## II. Selected National Initiatives

### 1. Belgium

#### 1.1 Federal guarantee schemes

[On April 14, 2020](#), the Belgian federal government enacted a 50 billion Euro guarantee scheme to support continued access to financing by the corporate sector.

- **Eligible Borrowers:** The scheme benefits viable (within the meaning of the General Block Exemption Regulation) non-financial companies registered in Belgium or having a branch in Belgium, including holding companies whose main activity consists in holding shares in non-financial undertakings.
- **Eligible Loans:** Eligible loans include all types of short-term sector credit facilities granted favour of corporate (*i.e.*, non-financial) sector stakeholders between April 1 and September 30, 2020, for up to 50 million Euro per borrower and 1.25% of annual interest rates (and excluding refinancing of pre-existing loans). Aggregate losses incurred on guaranteed loans will be allocated between the financial sector and the public authorities.<sup>7</sup> Eligible loans are subject to a maximum interest rate of 1.25% per annum and to a guarantee fee equal to 50 bps (reduced to 25 bps for SMEs) of the facility amount.

*For more information on this Belgian federal guarantee scheme, see our [alert memorandum of May 14, 2020](#).*

#### 1.2 Regional liquidity measures

Regional governments within Belgium adopted various liquidity measures within the scope of their respective competences, including increases of existing guarantee schemes and one-off premiums for companies which were temporarily closed during the COVID-19 pandemic crisis.

*For more information on Belgian regional liquidity measures, see our [alert memorandum of May 14, 2020](#).*

#### 1.3 Payment reliefs

[On March 31, 2020](#), in order to protect their liquidity position, non-financial companies, SMEs and self-employed entrepreneurs with a permanent establishment in Belgium were granted the right to defer principal amount payments under existing loans at no cost, and for a maximum period of 6 months. Only amortising loans are eligible (whereas bullet repayment loans, factoring and financial leasing agreements are, among others, excluded).

[Always on March 31, 2020](#), The Belgian financial sector federation (Febelfin) also agreed on a deferral of mortgage payments, available to individuals who experience financial difficulties as a result of COVID-19 (similarly, for a maximum period of 6 months ending no later than October 31, 2020).

*For more information on Belgian bank loans deferrals, see our [alert memorandum of May 14, 2020](#).*

### 2. France

#### 2.1 State guarantee scheme

[On March 23, 2020](#), France also launched a State guarantee scheme, in place until the December 31, 2020. The law and order by which such scheme is regulated are available [here and here](#).

Guarantees (i) are subject to a fee varying according to the size of the undertaking and the loan maturity; (ii) cover up to 90% of the principal, interest and incidental charges of the loan, but not the entire loan; (iii) are

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<sup>7</sup> A first tranche of losses (equal to 3% of all losses suffered under the entire eligible loan portfolio) will be borne by the financial sector; a second tranche of losses (equal to 2%) will be borne equally (50-50) by the financial sector and public authorities; and any further losses will be borne for 80% by the public authorities and for 20% by the financial sector.



callable after a two-month waiting period from the disbursement of the loan (or shorter, in case subject to an individual decision of the European Commission); (iv) are irrevocable and unconditional and are granted for the entire duration of the loan; and (v) remain attached to the loan in case of use of credit claims as collateral in the context of monetary policy credit operations.

- **Eligible Borrowers:** French companies, including farmers, craftsmen, merchants, liberal professions, micro-entrepreneurs, associations and foundations having an economic activity, certain financial institutions and certain specific real estate companies. Enterprises experiencing financial difficulties as a result of the COVID-19 pandemic are also eligible borrowers. Guarantees may be granted in favour of French companies not already subject to insolvency proceedings as of the end of 2019, and *vis-à-vis* credit institutions, finance companies and crowdfunding intermediaries, for up to a total guaranteed amount of 300 billion Euro.
- **Eligible Loans:** Eligible loans shall have (i) a minimum deferred amortisation period of 12 months; (ii) a clause enabling the borrower, at the end of the first year, to amortise the loan over an additional period of 1 to 5 years; and (iii) the institution must not have reduced the funding granted to the undertaking between March 16, 2020 and the date on which the loan covered by the guarantee is granted. In addition, the amount of loans that may be granted to a single company is capped to the estimated value of its payroll in France over 2 years, or 25% of the beneficiary's 2019 annual turnover. Moreover, banks specified that they were committed to grant loans secured by the State guarantee to eligible borrowers whose last Fiden rating or equivalent before the COVID-19 pandemic was between 3++ and 5+, and to grant such loans at cost price.
- **Restrictions:** In the case of loans granted to large companies with at least (i) 5,000 employees and (ii) a 2019 turnover greater than 1.5 billion Euro, the State guarantee will be granted through the adoption of an *Arrêté* by the Minister for Economic Affairs, provided that, in addition to the above-mentioned eligibility conditions, they (a) undertake to refrain from dividend distributions to their shareholders in France or abroad and from share buy-backs as from March 27, 2020 and until the end of the year, and (b) do not have their fiscal residence or a subsidiary without economic substance in a non-cooperative tax jurisdiction. In the case of loans granted to other companies, the State guarantee will be granted only if the loan is not secured by any other guarantee or security.

FAQs on this measure are available [here](#). FAQs specific to loans granted by crowdfunding intermediaries are available [here](#). FAQs on the commitments that apply to large companies intending to benefit from the scheme are available [here](#).

*For more information on the French loan guarantee scheme, see our alert memoranda of [March 19 and March 25, 2020](#).*

## 2.2 French Banking Federation commitments

On March 15, 2020, the French Banking Association (FBF) announced several commitments to support customers (and in particular, small retailers, professionals and SMEs) throughout the COVID-19 pandemic. Among them are:

- the establishment of fast-track credit approval procedures for customers dealing with cash flow problems, with a decision issued within 5 days and priority given to urgent cases;
  - loan instalment payments deferred for up to 6 months for businesses;
  - elimination of penalty fees and additional charges on deferrals and business loans.
- ❖ **Use of dematerialised communication channels:** In order to provide greater legal certainty to financial institutions using dematerialised communication channels during the current health state of emergency (*i.e.*, until July 10, 2020), French ordinance no. 2020-534 of May 7, 2020 temporarily amended the rules

applicable to (i) communications on loan instalment payment deferrals as well as on the granting of a loan eligible for State guarantees, and (ii) the performance of any act or formality to ensure the preservation of the insurance, guarantees or security interests related to the credit agreements concerned by the deferral.

The FBF press release and ordinance are available [here](#) and [here](#).

### 3. Germany

Germany's development bank, *Kreditanstalt für Wiederaufbau (KfW)*, launched or amended several loan programmes in connection with its special 2020 programme (*KfW-Sonderprogramm 2020*) to increase liquidity of borrowers and to mitigate the effects of the COVID-19 pandemic. Most of KfW's programmes are granted via German banks and savings banks (*Sparkassen*) as intermediaries who in turn pass on the borrower's application for a specific programme to KfW for approval. All of the following KfW loan programmes are operational today.

#### 3.1 KfW Instant Loan

##### [\(078 Kredit – KfW Schnellkredit 2020\)](#)

In order to facilitate the prompt financing of medium sized enterprises throughout the COVID-19 pandemic crisis, until December 31, 2020, Instant Loans can be issued by the KfW in favour of lending banks or savings banks (acting as intermediaries), thereby releasing lenders in full of the credit risk of the ultimate borrowers.

- **Eligible Borrowers:** Majority-privately owned business enterprises headquartered in Germany, individual entrepreneurs and self-employed individuals with more than 10 employees. Borrowers must have been active in the market since at least January 1, 2019 and profitable in the aggregate throughout the 2017-2019 period (or portion thereof), and not qualified as an enterprise in difficulty under EU law, as of December 31, 2019.
- **Eligible Loans:** Unsecured loans of up to 500,000 Euro (for businesses with 10 to 50 employees) or 800,000 Euro (more than 50 employees), not exceeding 25% of the 2019 group turnover. Loans may have a term of up to 10 years. Interest is fixed for the entire term of the loan on the commitment day based on prevailing market conditions. Payments are made quarterly, mandatory repayments may be suspended for a period of up to 2 years.
- **Restrictions:** No payment of dividends or distribution of profits during the term of the loan (unless legally required). Director's annual remuneration may not exceed 150,000 Euro. Restrictions applicable to the use of loan proceeds include: debt restructuring (*Umschuldung*), repayments of drawn credit line (*Ablösung von Kreditlinieninanspruchnahmen*), refinancing of completed projects or follow-up financing (*Anschlussfinanzierungen*) or prolongations, mere financial investments (*e.g.*, investments in the equity of other companies, granting of loans or collateral), payment of advisory fees in excess of average fees disbursed throughout 2017-2019 by more than 10%. Certain investments on a black-list (to be found [here](#) – German only) are also excluded (*e.g.*, production or trade of certain weapons or important components thereof; destruction or significant impairment – without adequate compensation according to international standards – of areas particularly worthy of protection; etc.)

#### 3.2 KfW Entrepreneurial Loan

##### [\(037/047 Kredit – KfW Unternehmerkredit\)](#)

In order to allow the financing of investments and working capital of medium and large business enterprises, until December 31, 2020, Entrepreneurial Loans can be issued by the KfW in favour of lending banks or savings banks (acting as intermediaries), thereby releasing lenders of the underlying credit risk for up to 90% (in the case of small and medium cap borrowers) or 80% (in the case of large cap borrowers).

- **Eligible Borrowers:** Majority-privately owned business enterprises headquartered in Germany or with subsidiaries in Germany, individual entrepreneurs and self-employed individuals, classified alternatively as “small and medium cap borrowers” (where having less than 250 employees and an annual turnover of less than 50,000,000 Euro, or a balance sheet total of less than 43,000,000 Euro) or “large cap borrowers” (above). Borrowers shall not have qualified as an enterprise in difficulty under EU law, as of December 31, 2019.
- **Eligible Loans:** Secured loans of up to 100,000,000 Euro, and in any case not exceeding the higher of (a) 25% of the 2019 group turnover, (b) twice the amount of total 2019 wages (*Lohnkosten*) and (c) current liquidity needs (for the next 18 months for small and medium cap borrowers, and for the next 12 months for large cap borrowers). For loans exceeding 25,000,000 Euro, loans are limited to the higher of (a) 50% of total indebtedness and (b) 30% of the balance sheet total of the group. The term of the loans may range from 2 to 10 years. For loans exceeding 800,000 Euro, interest rates are fixed for the entire term of the loan on the commitment day, based on prevailing market conditions and the creditworthiness of the borrower. Loans may be repaid at maturity (*endfällig*) or in quarterly repayments, and mandatory repayments may be suspended for a period of up to 2 years. Prepayments are subject to prepayment penalty (*Vorfälligkeitsentschädigung*).
- **Restrictions:** Loans must be used for investments that promise sustainable economic success, or for operating expenses including inventory or the acquisition of assets from other companies, including takeovers (*Übernahmen*) and active investments (*tätige Beteiligung*). No payment of dividends or distribution of profits during the term of the loan (unless legally required). Director’s remuneration may not exceed market-standards. Restrictions on use of loan proceeds include: debt restructuring (*Umschuldung*, except for restructuring of loans from KfW’s Instant Loan program), repayments of drawn credit lines (*Ablösung von Kreditlinieninanspruchnahmen*), refinancing of completed projects or follow-up financing (*Anschlussfinanzierungen*), prolongations, residential, non-profit or municipal use (in case of letting and leasing), trust or silent participation arrangements without connection to active investments (*tätige Beteiligungen*), and self-dealing. Blacklisted investments apply, as for the KfW Instant Loans.

### 3.3 KfW General Start-Up Loan

#### [\(073/074-075/076](#) Kredit – ERP-Gründerkredit Universell)

In order to provide low-interest rate financing to start-ups (programme 073/074) and to “young” companies active in the market for 3 to 5 years (programme 075/076), KfW Start-Up Loans can be issued by the KfW in favour of lending banks or savings banks (acting as intermediaries).

- Programme 073/074 (currently not subject to a termination date) does not provide for a release of the banks of the credit risk of the ultimate borrowers.
- 075/076 (active until December 31, 2020) provides for a release of the lending banks for up to 90% (in the case of small and medium cap borrowers) or 80% (in the case of large cap borrowers) of the credit risk.
- **Eligible Borrowers:**
  - Programme 073/074: Majority-privately owned business enterprises headquartered in Germany or with subsidiaries in Germany, individual entrepreneurs and self-employed individuals and individuals who establish, consolidate (*Festigungsmaßnahmen*) or acquire a start-up or engage or consolidate to act as self-employed. Moreover, non-German projects are generally eligible for loans; eligible borrowers are: business enterprises, individual entrepreneurs or self-employed individuals in Germany, non-domestic headquartered subsidiaries of such German business enterprises, individual entrepreneurs or self-employed individuals and non-domestic joint ventures with significant German participation.

- Programme 075/076: Majority-privately owned business enterprises headquartered in Germany or with subsidiaries in Germany, individual entrepreneurs and self-employed individuals. Borrowers are classified as “small and medium cap borrowers” or “large cap borrowers” (as above). Borrowers shall not have qualified as an enterprise in difficulty under EU law, as of December 31, 2019.

— Eligible Loans:

- Programme 073/074: Secured loans of up to 25,000,000 Euro. The term of the loans may range from 5 to 20 years. Interest is fixed for the entire term of the loan on the commitment day based on prevailing market conditions and the creditworthiness of the borrower. Loans may be repaid at maturity (*endfällig*) or in monthly repayments, and mandatory repayments may be suspended for a period of up to 2 years. Prepayments are subject to prepayment penalty (*Vorfälligkeitsentschädigung*).
- Programme 075/076: Secured loans of up to 100,000,000 Euro, not exceeding the higher of (a) 25% of the 2019 group turnover, (b) twice the amount of total 2019 wages (*Lohnkosten*) and (c) current liquidity needs (for the next 18 months for small and medium cap borrowers, and 12 months for large cap borrowers). For loans exceeding 25,000,000 Euro, the loan amount is limited to the higher of (a) 50% of total indebtedness and (b) 30% of the balance sheet total of the group. The term of the loan may range from 2 to 10 years. Interest is fixed for the entire term of the loan on the commitment day based on prevailing market conditions and the creditworthiness of the borrower. Loans may be repaid at maturity (*endfällig*) or in monthly repayments, and mandatory repayments may be suspended for a period of up to 2 years. Prepayments are subject to prepayment penalty (*Vorfälligkeitsentschädigung*).

— Restrictions:

- Programme 073/074: Proceeds of the loan must be used for investments that promise sustainable economic success, operating expenses including inventory or acquisition of assets from other companies including takeovers (*Übernahmen*) and active investments (*tätige Beteiligung*), including the (re-)establishment or takeover of companies or the acquisition of an active participation in start-ups, also as an ancillary business (*Nebenerwerb*), succession arrangements. The mere acquisition of shares as a financial investment is not permissible. If the loans are used for non-domestic projects, environmental and social standards of the relevant country must be met. If the loans are used for non-domestic projects in a non-EU or OECD jurisdiction, a case-by-case eligibility check is performed. The use of loan proceeds is restricted: no debt restructuring (*Umschuldung*), no refinancing of completed projects or follow-up financing (*Anschlussfinanzierungen*) or prolongations, no financing of projects for assisted living, no trust or silent participation arrangements without connection to active investments (*tätige Beteiligungen*), no self-dealing (*e.g.*, re-purchase of shares or purchase of shares from spouses, capital transfers/movements between companies within a group or in the context of divisions of enterprises (*Betriebsaufspaltung*) or between corporations and their shareholders. Certain investments for blacklisted companies (*i.e.*, companies that do not qualify for state aid – *beihilferechtlicher Förderausschluss*) or uses listed on a black-list (to be found [here](#) – German only) are excluded (*e.g.*, production or trade of certain weapons or important components thereof; destruction or significant impairment – without adequate compensation according to international standards – of areas particularly worthy of protection; etc.). The combination with further KfW loan programmes and state aid is generally possible, but may be excluded for certain programmes or subject to certain limitations.
- Programme 075/076: Proceeds of the loan must be used for investments that promise sustainable economic success, operating expenses including inventory or acquisition of assets from other companies including takeovers (*Übernahmen*) and active investments (*tätige Beteiligung*). No payment of dividends or distribution of profits during the term of the loan (except if legally required). This also applies to already adopted shareholder resolutions. Director’s remuneration may not exceed market-

standard. The use of the loan proceeds is restricted: no debt restructuring (*Umschuldung*, except for restructuring of loans from KfW's Instant Loan program) or repayments of credit line drawdown (*Ablösung von Kreditlinieninanspruchnahmen*), no refinancing of completed projects or follow-up financing (*Anschlussfinanzierungen*) or prolongations, no residential, non-profit or municipal use (in case of letting and leasing), no trust or silent participation arrangements without connection to active investments (*tätige Beteiligungen*), and no self-dealing (*e.g.*, re-purchase of shares or purchase of shares from spouses, capital transfers/movements between companies within a group or in the context of divisions of enterprises (*Betriebsaufspaltung*) or between corporations and their shareholders). Certain investments for blacklisted companies (*i.e.*, companies that do not qualify for state aid – *beihilferechtlicher Förderausschluss*) or uses listed on a black-list (to be found [here](#) – German only) are excluded (*e.g.*, production or trade of certain weapons or important components thereof; destruction or significant impairment – without adequate compensation according to international standards – of areas particularly worthy of protection; etc.). The combination with further KfW loan programmes and state aid is generally possible, but may be excluded for certain programmes or subject to certain limitations.

### 3.4 KfW Special Programme - Syndicate Financing

#### [\(855 Kredit – Sonderprogramm Direktbeteiligung für Konsortialfinanzierung\)](#)

In order to secure financing of investments and working capital of medium and large business enterprises that experience temporary financing difficulties due to the COVID-19 pandemic, until December 31, 2020, KfW Special Programme– Syndicate Financing loans can be issued directly to the ultimate borrower by the KfW acting as a syndicate lender or sub-participant, thereby releasing other participating banks of 25% to 80% of the credit risk of the ultimate borrower (capped at 50% of the borrower's total indebtedness).

- **Eligible Borrowers:** Domestic and non-domestic business enterprises, the majority of which is privately-owned if the purpose of the loan is limited to projects in Germany. Borrower is in appropriate financial condition, *i.e.*, syndicate banks are not aware of (a) any material covenant breaches of borrower and/or (b) irregular arrears of borrower of more than 30 days and/or (c) moratoria due to creditworthiness-related deferrals and therefore equal to a loss of creditworthiness. Syndicate banks conclude on the basis of the economic condition of the borrower as of 31 December 2019 that the borrower (a) is in a position to honour the loans to be taken out to cover the crisis, (b) after the crisis and assuming that the overall economic situation returns to normal after 3 months at the latest, it will continue to be viable beyond 31 December 2020 and (c) will be in a position to raise appropriate replacement financing. Borrowers shall not have qualified as an enterprise in difficulty under EU law, as of December 31, 2019.
- **Eligible Loans:** Syndicated loans in generally unlimited amount. Loans may not exceed the higher of (a) 25% of group turnover 2019, (b) twice the amount of total wages (*Lohnkosten*) for 2019 and (c) current liquidity needs (for the next 12 months). KfW's credit risk assumption regularly amounts to 25,000,000 Euro. However, it is limited to 80% of the project costs. For loans exceeding 25,000,000 Euro, the loan amount is limited to the higher of (a) 50% of the total indebtedness and (b) 30% of the balance sheet total of the group. The loans may have terms up to 6 years but are subject to market-standard conditions (term, instalments, margins, provisions, fees and collateral).
- **Restrictions:** Loans may be used for investments or working capital. The use of loan proceeds is restricted: no debt restructuring (*Umschuldung*), no follow-up financing (*Anschlussfinanzierungen*). Certain uses listed on a black-list (to be found [here](#) – German only) are excluded (*e.g.*, production or trade of certain weapons or important components thereof; destruction or significant impairment – without adequate compensation according to international standards – of areas particularly worthy of



protection; etc.). The combination with further KfW loan programmes and state aid is generally possible, but may be excluded for certain programmes or subject to certain limitations.

### 3.5 *Interim aid program*

Together with its 130 billion Euro economy recovery package (*Konjunkturpaket*), the German government has announced to set up an *interim* aid programme active through to August 31, 2020 (*Programm für Überbrückungshilfen*) with a volume of up to 25 billion Euro. The details of this programme are not yet available. However, several key aspects can be derived from a press release of the Federal Ministry of Economic Affairs dated June 3, 2020:

- **Eligible Beneficiaries:** business enterprises the turnover of which decreased by at least (i) 60% in April and May 2020 compared to April and May 2019 and (ii) 50% in June to August 2020. Should the business enterprises have been established after April 2019, the turnover is compared with the turnover in November and December 2019. The support programme focuses on hotels and restaurants, caterers, pubs, clubs and bars, youth hostels, school country homes, carriers of youth facilities of international youth exchanges, facilities for the disabled, travel agencies, professional sports clubs of the lower leagues, showmen, event logistics companies and businesses in the sector of trade fair events.
- **Available Subsidies:** up to 80% of the operating costs, but not more than 150,000 Euro over a period of 3 months. For business enterprises with not more than 5 or 10 employees, respectively, the subsidies should not exceed 9,000 and 15,000 Euro, respectively.

### 3.6 *Various programmes of the Bundesländer*

The German federal states (*Bundesländer*) launched various programmes to increase liquidity of the borrowers during the COVID-19 pandemic. These programmes mainly consist of state subsidies (*Zuschuss*) or guarantees (*Bürgschaften*). For details of the various programs, please see [here](#) (German only). Moreover, Bavaria has set up an economy stabilisation fund (“*BayernFonds*”) which may grant comparable stabilisation measures as the German Economy Stabilisation Fund (described below) may grant. The guarantee volume of the BayernFonds, however, is limited to 36,000,000 Euro, although the thresholds for eligible beneficiaries are much lower.

### 3.7 *German Economy Stabilisation Fund (WSF)*

The German government has refined the Financial Market Stabilisation Fund introduced in the wake of the 2008 crisis and focused on stabilisation measures for banks and financial institutions. The new Economy Stabilisation Fund (*Wirtschaftsstabilisierungsfonds* - WSF) has been created with the purpose of easing liquidity shortages in the real economy and providing a framework for strengthening the capital base of enterprises whose jeopardised existence would have a significant impact on the economy, technological sovereignty, security of supply, critical infrastructure or the labour market of Germany.

Depending on (a) the importance of the individual enterprise for the German economy, (b) the urgency, (c) the impact on the labour market and competition and (d) the principle of economical and efficient use of the resources of the funds, the WSF may, in its discretion:

- **Grant guarantees** in an aggregate amount of up to 400,000,000,000 Euro for issued debt instruments or debt of enterprises (adequately remunerated, subject to conditions set by the WSF and with a maximum duration of 60 months);
- **Participate in the recapitalisation** of enterprises by either (a) acquiring subordinated debt instruments, hybrid bonds, profit participation rights, convertible bonds, (b) acquiring shares or other equity instruments of enterprises, or (c) entering into silent partnership arrangements in each case if this is necessary for the stabilisation of the enterprise (although each of such measures shall be adequately remunerated and subject to conditions set by the WSF).

- **Refinance the KfW** by granting loans to refinance special programs.

Businesses may apply for WSF stabilisation measures until December 31, 2020 (although equity interests held by the WSF as of December 31, 2021, may continue to be held thereafter).

- **Eligible Beneficiaries:** all enterprises of the real economy (except enterprises in the financial sector, credit institutions and bridge institutions (*Brückeninstitut*)) which meet at least two of the following criteria throughout the 2 subsequent financial years prior to January 1, 2020: (a) a balance sheet total exceeding 43,000,000 Euro; (b) revenues (*Umsatzerlös*) exceeding 50,000,000 Euro or (c) more than 249 employees on annual average. Enterprises that do not meet these criteria may be eligible on a case-by-case basis (e.g., if they are considered significant enterprises for defence purposes or for the economy, or if private investors have valued the enterprise in at least one completed financing since January 1, 2017 at a minimum of 50,000,000 Euro). Beneficiaries must not have other financing possibilities, have an evident going-concern prognosis for the period after the COVID-19 pandemic and shall not have qualified as an enterprise in difficulty under EU law, as of December 31, 2019.

## 4. Italy

### 4.1 Statutory moratorium on residential mortgages

**On March 17, 2020**, Decree-Law no. 18/2020 (*Decreto Cura Italia*) introduced a moratorium of up to 18 months on residential mortgages worth up to 400,000 Euro, available for a period of 9 months, while providing for the temporary extension of the related Solidarity Fund (*Fondo di solidarietà per i mutui per l'acquisto della prima casa*) in order to partially cover the moratorium's costs (i.e., by 50% of the interests accrued on the outstanding debt during the suspension period).

- **Eligible Beneficiaries:** (i) persons subjected to a suspension from work or a reduction of working hours for a period of at least 30 days; and (ii) self-employed workers and freelancers who self-certify having suffered a decrease of their quarterly turnover by at least 33%, since February 21, 2020.

### 4.2 Statutory support measures for SMEs and micro-enterprises

**On March 17, 2020**, through Decree-Law no. 18/2020 (*Decreto Cura Italia*), Italy also introduced certain statutory support measures in favour of SMEs and micro-enterprises affected by the COVID-19 pandemic, granting them the possibility to obtain:

- The irrevocability of existing lines of credit (whether drawn or undrawn) until September 30, 2020;
- The automatic extension to September 30, 2020 of bullet loans with earlier contractual maturity date (and any associated collateral or guarantee);
- With respect to mortgages and other loans repayable in instalments, the deferral until September 30, 2020 of principal payment instalments or lease payments having an earlier maturity date (and consequent adjustment of the related repayment schedule).

In turn, lenders shall be entitled to obtain (free of charge) a guarantee by the Central Guarantee Fund for SMEs (*Fondo centrale di garanzia per le PMI*) covering 33% of the additional drawdowns on the credit lines affected by the above measures.

### 4.3 Enhancement of the Central Guarantee fund for SMEs

**On April 8, 2020**, through Decree-Law no. 23/2020 (*Decreto Liquidità*), additional liquidity support measures were introduced in favour of SMEs, consisting essentially in temporary enhancements of the above mentioned Central Guarantee Fund, such as to give access to the Fund by eligible borrowers at no cost until December 31, 2020, for up to a maximum guaranteed amount per borrower of 5,000,000 Euro (up from 2,500,000 Euro), covering up to 100% of loans whose amount does not exceed (i) 25% of the borrower's 2019 turnover, or (ii)

twice the borrower's 2019 labour costs (on a consolidated basis, if the borrower belongs to a group). Loans with nominal value higher than 25,000 Euro may benefit from a 24-month grace period (*preammortamento*).

- **Eligible Borrowers:** Companies with up to 499 employees, or companies with less than 499 employees whose share capital or voting rights is held directly or indirectly, for up to at least 25%, by a public entity, professional association or professional organisation.
- **Eligible Loans:** Loans with a maximum term of 72 months, granted after January 31, 2020, including refinancing of existing loans with additional financing for at least 25% of the outstanding amount. In the case of loans of up to 30,000 Euro assisted by a State guarantee, the repayment period is extended from 6 to 10 years.

*For more information on Italian liquidity measures, see our [alert memorandum of April 8, 2020](#).*

#### **4.4 State guarantee for SMEs and large enterprises**

**On April 8, 2020**, Decree-Law no. 23/2020 (*Decreto Liquidità*) also enacted a 200 billion Euro State guarantee scheme intended to facilitate access to bank financing by both SMEs and large enterprises. Pursuant to the scheme, SACE S.p.A. (SACE), the Italian export credit agency, will issue guarantees (fully backed in turn by a State guarantee) in connection with new loans (having terms of up to 6 years) granted to businesses affected by the COVID-19 outbreak after April 9, 2020, until December 31, 2020. Guaranteed loans may benefit from a 36-month grace period (*preammortamento*).

The annual fees payable by borrowers for the SACE guarantee range from 25 to 50 basis points for the 1<sup>st</sup> year, rising up to 100 or 200 basis points over time (depending on whether the borrower is a SME or large enterprise).

- **Eligible Borrowers:** Businesses with their registered office in Italy that, as of December 31, 2019, have not qualified as enterprises in difficulty under EU law and, as of February 29, 2020, were not classified as impaired exposures within the banking system.
- **Eligible Loans:** Guarantee may cover up to (i) 90% of the loan, for businesses with fewer than 5,000 employees in Italy and a turnover of up to 1.5 billion Euro; (ii) 80% of the loan, for businesses with more than 5,000 employees in Italy or a turnover between 1.5 and 5 billion Euro; and (iii) 70% of the loan, for businesses with a turnover greater than 5 billion Euro. The aggregate amount of loans to the same borrower (including other entities of its group) that may be covered by SACE's guarantees (including loans assisted by other State guarantees) cannot exceed the higher of (i) 25% of the borrower's 2019 turnover and (ii) twice the borrower's 2019 labour costs (also on a consolidated basis if the borrower belongs to a group). In addition, lenders must demonstrate an increase in the total amount of their exposure towards the borrower by effect of having granted the guaranteed loan.
- **Restrictions:** No dividend distributions and share buy-backs in 2020 (or the 12 months following the request). In addition, borrowers must (i) undertake to manage employment levels through trade union agreements and (ii) certify that the guaranteed loan will be used to support labour costs, investments or working capital in production plants and business activities located in Italy, or for the payment of rent and (for up to a maximum of 20% of the loan's nominal amount) for expenses related to the instalments of other loans outstanding during the course of the emergency.

*For more information on Italian liquidity measures, see our [alert memorandum of April 8, 2020](#).*

#### **4.5 Italian Banking Association commitments**

**On March 6, 2020**, the Italian Banking Association (ABI) and SME trade associations signed an agreement expanding certain measures set forth under the pre-existing 2019 Credit Agreement (*Accordo per il Credito 2019*) in favour of businesses affected by the COVID-19 pandemic (without any time limitation).



[On May 22, 2020](#), a second agreement executed by the ABI extended these measures to larger businesses (although only until June 30, 2020, unless extended).

According to the above commitments, borrowers may request, in relation to loans outstanding as of January 31, 2020:

- a suspension of the principal payment instalments for up to 12 months, in relation to medium- or long-term loans and leasing agreements;
- the extension of the terms of payment of loans and short-term financing for up to 100% of the original repayment schedule for medium- and long-term loans, 270 days for short-term loans, and 120 days for agricultural loans.

#### **4.6 State Guarantee on Newly Issued Bank Liabilities**

[On May 19, 2020](#), Decree-Law no. 34/2020 (*Decreto Rilancio*) extended State guarantees to newly issued bank liabilities of up to a nominal amount of 19 billion Euro (for over 6 months, and with a possible 6-month extension).

According to the scheme, the Italian Ministry of Economic and Financial Affairs shall guarantee new liabilities issued by Italian banks, also to close the gap between the nominal and the market value of the underlying collaterals posted by Italian banks as a guarantee to “emergency liquidity assistance” loans granted by the Bank of Italy. The State guarantee is reserved to banks that meet own funds requirements pursuant to EU law, or banks holding positive net assets with urgent need of liquidity support.

### **5. United Kingdom**

The measures taken by UK authorities in response to the pandemic include the introduction by the BoE and UK government of a wide range of schemes to support businesses of various sizes mitigate the challenges of cash-flow disruption as a result of COVID-19.

*For more information on UK responses to the pandemic, see our [alert memorandum of May 28, 2020](#).*

#### **5.1 Term Funding Scheme with additional incentives for SMEs (TFSME)**

- Operational date: the drawdown period opened on April 15, 2020 and will run until April 30, 2021.
- Eligible Participants: Banks and building societies that are participants in the BoE’s Sterling Monetary Framework (SMF) and that are signed up to access the Discount Window Facility (DWF).
- Main Features of the Measure:
  - The TFSME will offer 4-year funding of at least 10% of banks’ lending to the real economy at interest rates at or close to Bank Rate, with the option to extend the term of some funding to 6-years.
  - Additional funding will be available for banks that increase lending, especially to SMEs.

#### **5.2 Covid Corporate Financing Facility (CCFF)**

- Operational dates: From March 23, 2020. The Bank’s intention is for the CCFF to operate for an initial period of 12 months.
- Eligible Borrowers: UK incorporated companies, including those with foreign-incorporated parents and a genuine business in the UK, that make a material contribution to economic activity in the UK. Issuers must be investment grade rated (or equivalent) as at March 1, 2020.
- Main Features of the Measure:

- The CCFF will provide funding to businesses by purchasing, at a minimum spread over reference rates, newly issued commercial paper of up to 1-year maturity and meeting certain other eligibility criteria issued by eligible non-financial businesses (including their finance subsidiaries).
- On May 19, 2020, HM Treasury announced that issuers participating in the CCFF may be required to commit to restraint on their capital distributions and on senior pay. Issuers will be required to provide a letter of commitment in relation to this if:
  - an increase in an issuer's CCFF limit, over and above that suggested by the issuer's investment rating, is requested and approved; and/or
  - a CCFF transaction is entered which involves commercial paper maturing on or after May 19, 2021.

### 5.3 Asset Purchase Facility

- Operational date: From April 7, 2020.
- Eligible Issuers: Companies (including their finance subsidiaries) that make a material contribution to the UK economy.
- Eligible Bonds:
  - Conventional investment grade senior unsecured or secured, unsubordinated debt securities that are, *inter alia*, admitted to official listing on an EU stock exchange and have a minimum residual maturity of 12 months (no perpetual debt). Bonds with complex or non-standard structures will not be eligible. Convertible or exchangeable bonds will not be eligible.
  - The Bank also purchases conventional gilts with a minimum residual maturity of greater than three years in the secondary market.
- Main Features of the Measure:
  - The Bank's Corporate Bond Purchase Scheme was launched in 2016 and is designed to purchase a balanced portfolio of bonds across eligible issuers and sectors, so that the Bank purchases a representative portion of the market and does not influence the allocation of credit to particular companies or sectors of the economy.
  - In response to the COVID-19 crisis, the Bank will increase its holding of UK government and corporate bonds to a total of £645 billion to be funded by the issuance of central bank reserves. Purchases are undertaken via reverse auctions.

### 5.4 Contingent Term Repo Facility (CTRF)

- Operational dates: March 26, 2020 to June 16, 2020. In light of more stable funding market conditions and recent usage patterns, the Bank discontinued 3-month CTRF operations at the end of May 2020. The Bank will continue to offer 1-month term CTRF operations on a weekly basis at least through June 2020.
- Eligible Participants: Banks and buildings societies that are signed up to the DWF.
- Main Features of the Measure:
  - The CTRF provides term repo funding for a period of either 1 or 3 months, which will allow participants to use the CTRF as a way to bridge beyond the point at which drawings under the TFSME, discussed above, can be made in order to support lending to the real economy as quickly as possible.
  - The CTRF is a flexible liquidity insurance tool that allows participants to borrow central bank reserves, in all major currencies, in exchange for collateral.

- The size of the CTRF operations will be unlimited, and the price will be a fixed rate of Bank Rate plus 15 basis points.

### **5.5 Coronavirus Business Interruption Loan Scheme (CBILS)**

- Operational dates: From March 23, 2020.
- Eligible Borrowers: UK SMEs with a turnover of no more than £45 million per year. Businesses from any sector can apply, except credit institutions, insurers and reinsurers, building societies, public-sector bodies and state-funded primary and secondary schools.
- Main Features of the Measure:
  - The CBILS is a temporary loan scheme operated by the British Business Bank through accredited lenders that provides participating lenders with a government-backed guarantee of 80% on each loan, with the UK government covering the first 12 months of interest payments and any lender-levied fees.
  - A lender can provide up to £5 million in the form of term loans, overdrafts, invoice finance or asset finance. The finance terms can be up to 6 years for term loans and asset finance facilities and up to 3 years for overdrafts and invoice finance facilities.
  - Accredited lenders will not be permitted to take personal guarantees for facilities below £250,000, but may do so for larger facilities with recoveries capped at 20% of the outstanding balance of the facility after the proceeds of business assets have been applied.
  - Principal private residences cannot be taken as security under the CBILS.

### **5.6 Coronavirus Large Business Interruption Loan Scheme (CLBILS)**

- Operational dates: From April 20, 2020.
- Eligible Borrowers: UK businesses with an annual turnover of over £45 million. Businesses from any sector can apply, except credit institutions, insurers and reinsurers, building societies, public-sector bodies and state-funded primary and secondary schools.
- Main Features of the Measure:
  - Similar to the CBILS, the CLBILS is a temporary loan scheme operated by the British Business Bank that provides participating lenders with a government-backed guarantee of 80% on each loan given to larger UK businesses, with the UK government covering the first 12 months of interest payments and any lender-levied fees.
  - Lenders can provide loans of up to £25 million to businesses with an annual turnover of over £45 million up to £250 million, and up to the lesser of 25% of a business's turnover or £200 million to businesses with an annual turnover over £250 million.
  - Loans will be available on repayment terms of up to 3 years.
  - Companies borrowing more than £50m through CLBILS will be subject to restrictions on dividend payments, senior pay and share buy-backs during the period of the loan.

### **5.7 Future Fund**

- Operational dates: May 20, 2020 to end of September 2020 (expected).
- Eligible Borrowers: Unlisted UK registered companies that have previously raised at least £250,000 in equity investment from third party investors in the last 5 years.
- Main Features of the Measure:

- The Future Fund is a £500 million loan scheme for high-growth companies that have been impacted by COVID-19 to be delivered in partnership with the British Business Bank, providing funding from the UK government and the private sector on a matched funded basis.
- The UK government will provide convertible loans to UK-based companies ranging between £125,000 and £5 million, subject to at least equal match funding from private investors, with the intention that these loans will automatically convert into equity on the company's next qualifying funding round, or at the end of the loan term if they are not repaid.

### 5.8 Bounce Back Loan Scheme (BBLs)

— Operational dates: From May 4, 2020.

- Eligible Borrowers: Businesses based in the UK that have been established before March 1, 2020 and have been adversely impacted by the outbreak of COVID-19. Businesses from any sector can apply except banks, insurers and reinsurers, public-sector bodies and state-funded primary and secondary schools.

— Main Features of the Measure:

- The BBLs enables smaller businesses to access financing more quickly, borrowing up to 25% of their annual turnover, with the maximum loan amount capped at £50,000.
- Loans will be fully guaranteed by the government, with no repayments due and no fees or interest payable for the first 12 months, following which the interest rate on such loans will be 2.5% per annum.
- Each loan will have a 6-year term but may be repaid early without incurring fees or penalties.

### 5.9 Insolvency law reform

In addition, on May 20, 2020, the UK government published its highly anticipated corporate insolvency reforms, which are intended, in part, to provide businesses with increased flexibility and breathing space to continue trading despite the challenges presented by the COVID-19 pandemic.

— Measures in the Corporate Insolvency and Governance Bill (the “Bill”) include:

- Temporary prohibitions on the service of statutory demands and making of winding-up petitions against companies that are unable to pay a debt as a result of the disruption caused by COVID-19. Statutory demands against companies between March 1, 2020 and June 30, 2020 also cannot be used as the basis of a winding-up petition if such petition is presented on or after April 27, 2020. In addition, a winding-up petition cannot be presented by a creditor during the period from April 27, 2020 (retrospectively) until the later of June 30, 2020 or one month following the Bill coming into force, unless the creditor has reasonable grounds for believing that:
  - COVID-19 has not had a financial effect on the debtor; or
  - the debtor would have been unable to pay its debts even if COVID-19 had not had a financial effect on the debtor.
- Temporary suspension of wrongful trading rules. Existing insolvency rules provide that directors of limited liability companies may be personally liable for business debts if they allow the company to continue to trade once insolvent administration or liquidation becomes unavoidable. The Bill temporarily suspends such provisions with retrospective effect from March 1, 2020 to June 30, 2020. Certain financial services firms are excluded from the scope of the suspension.
- Temporary extension of certain filing deadlines. UK companies are required to make a number of different filings by fixed deadlines with the registrar of companies, Companies House, each year. The

Bill grants a temporary extension to the period in which public companies are required to file their annual accounts with the registrar at Companies House. For example, a company with a filing deadline of June 1, 2020 will have until September 30, 2020.

*For more information on UK measures in support of businesses, please refer to our [alert memo of June 1, 2020](#).*

### III. Supervisory and Capital Relief Measures

#### 1. International measures

##### 1.1 Postponement of Basel III

[On March 27, 2020](#), the Basel Committee delayed the implementation of certain remaining Basel III standards by one year to free up additional operational capacity for banks and supervisory institutions to respond to COVID-19.

In particular:

- The Basel III standards finalised in December 2017 (sometimes known as “Basel IV” or the “Basel III end-game”) now will be required to be implemented on January 1, 2023, and the accompanying transitional arrangements for the output floor will be required to be implemented on January 1, 2028;
- The revised market risk framework finalised in January 2019 will be required to be implemented on January 1, 2023; and
- The revised Pillar 3 disclosure requirements finalised in December 2018 will be required to be implemented in January 1, 2023.

##### 1.2 Other international measures

- Deferral of final implementation phases of the margin requirements

[On April 3, 2020](#), the Basel Committee and IOSCO, in order to provide additional operational capacity for counterparties to respond to the immediate impact of COVID-19, announced the extension of the deadline for completing the final two implementation phases of the margin requirements for non-centrally cleared derivatives by one year (to September 1, 2022).

[On May 4, 2020](#), EBA, EIOPA and ESMA published joint draft Regulatory Technical Standards (RTS) to incorporate a one-year deferral of the two implementation phases of the bilateral margin requirements under European Markets Infrastructure Regulation (EMIR) in response to COVID-19.

- Basel Committee’s guidance

[On April 3, 2020](#) the Basel Committee issued guidance concerning: (i) the exceptional measures introduced by governments and banks to alleviate the impact of COVID-19; and (ii) expected credit loss (ECL) accounting. The guidance seeks to ensure that the various extraordinary support measures adopted by its member jurisdictions are fully recognised in risk-based capital requirements. In addition, it sets out amended transitional arrangements for the regulatory capital treatment of ECL accounting, which will provide jurisdictions with greater flexibility on how to phase in the impact of ECL on regulatory capital.

- Postponement of implementation of the revised G-SIB framework

[On April 3, 2020](#), The Basel Committee has [decided](#) to postpone the implementation of the revised G-SIB framework by one year, from 2021 to 2022, to provide additional operational capacity for banks and supervisors in the current juncture.

#### 2. EU-level Measures

##### 2.1 SSM Measures and EBA Statements

- Stress tests

[On March 12, 2020](#), the European Banking Authority (EBA) announced its decision to postpone the 2020 stress tests to 2021, in order to allow banks to focus on continuity of operations and ongoing support to

customers and save on operational costs. For 2020, the EBA announced that it will carry out an additional EU-wide transparency exercise, in order to obtain updated information on banks' exposures and asset quality.

**On June 8, 2020**, the EBA published the bank-level data it gathered as part of its additional EU-wide transparency exercise.

— Capital relief

**On March 12, 2020**, the ECB announced that banks will be allowed to:

- Temporarily (*i.e.* until further notice) operate below their Pillar 2 guidance (P2G) level and the requirements set forth under the capital conservation buffer (CCB) and liquidity coverage ratio (LCR) rules; and
- Partially use non-CET1 instruments (*i.e.* AT1 or T2 instruments) to meet their Pillar 2 requirements (P2R), thereby frontloading CRDV rules.<sup>8</sup>

The capital relief measures announced on March 12, 2020, were activated by the ECB on March 20, 2020.

**On April 16, 2020**, the ECB announced a temporary reduction in capital requirements for market risk (*i.e.* the qualitative market risk multiplier).

**On April 22, 2020**, the EBA issued a statement providing clarifications on how additional flexibility will guide supervisory approaches in relation to market risk.

— Dividend distributions and share buy-backs

**On March 27, 2020**, the ECB recommended banks not to pay dividends for 2019 and 2020 and to refrain from share buybacks aimed at remunerating shareholders until at least October 2020.<sup>9</sup>

**On March 31, 2020**, the EBA issued a statement urging banks to refrain from dividends distribution or share buy-backs which result in a capital distribution outside the banking system, in order to maintain its robust capitalisation.

**On May 27, 2020**, the ECB (ESRB) recommended<sup>10</sup> that, at least until 1 January 2021 relevant authorities request financial institutions under their supervisory remit to refrain from (a) making a dividend distribution or give an irrevocable commitment to make a dividend distribution, (b) buying-back ordinary shares; and (c) creating an obligation to pay variable remuneration to a material risk taker, which has the effect of reducing the quantity or quality of own funds at the EU group level (or at the individual level where the financial institution is not part of an EU group), and, where appropriate, at the sub-consolidated or individual level. As highlighted in the ESRB publication of June 2020, “[I]eaving it to individual banks to decide to cancel pay-outs might create a stigma effect for banks that go ahead with such decisions. If banks were keen to avoid this stigma pay-outs could exceed the optimal level. While there are arguments against such restrictions, including in the banking sector, the costs of restricting pay-outs might be a price worth paying to preserve the critical

<sup>8</sup> In particular, paragraph 4 of art. 104a of CRD V provides that (a) at least three quarters of P2 requirements shall be met with T-1 capital, and (b) at least three quarters of the T-1 capital referred to in point (a) shall be composed of CET-1 capital.

<sup>9</sup> Please note that the ECB's recommendation does not apply to AT1 coupons. Indeed, AT1 coupon payments will only be restricted if banks dip into the combined buffer requirement.

<sup>10</sup> Recommendation of the European Systemic Risk Board of 27 May 2020 on restriction of distributions during the COVID-19 pandemic (ESRB/2020/7).



role of the banking system during these times of crisis and, crucially, during the recovery phase”.<sup>11</sup> In general terms, the measures are aimed at avoiding a reduction in the quantity or quality of own funds.

— Supervisory reporting and Pillar 3 disclosures

On March 31, 2020, the EBA issued a statement:

- allowing national competent and resolution authorities to admit delay (up to one month) in the submission of all the data or subsets of the data included in the EBA reporting framework due between March and end of May 2020, except for specific data and/or information (*e.g.*, information on LCR)
- encouraging competent authorities to be flexible when assessing the institutions’ compliance with the deadlines for the publication of their Pillar 3 reports as set out in accordance with Article 106 (1) CRD.

— Inspections and investigations

The ECB announced that individual initiatives will be discussed and agreed upon on a case-by-case basis, aimed at alleviating the supervisory burdens on banks’ operations to the maximum extent possible.

In particular, the ECB decided to:

- Extend by 6 months existing deadlines for remedial actions imposed as a result of on-site inspections, investigations related to internal models and targeted review of internal models (TRIM);
- Postpone by 6 months the issuance of TRIM decisions, on-site follow-up letters, and internal model decisions not yet communicated to banks (unless any such decision is explicitly requested by a bank);
- Postpone by 6 months the verification of compliance with qualitative supervisory review and evaluation process (SREP) measures.<sup>12</sup>

— Prudent valuation standards

On April 22, 2020, to mitigate the impact of exceptional volatility triggered by COVID-19 on the prudential requirements for market risk, the EBA proposed to adjust the capital impact by amending its RTS on prudent valuation. In particular, the EBA proposed to introduce the use of a 66% aggregation factor to be applied until December 31, 2020 under the so-called core approach.

— Treatment of exposures towards clients facing payment challenges

On March 20, 2020, the ECB introduced supervisory flexibility regarding the treatment of non-performing loans (NPLs), in particular to allow banks to fully benefit from guarantees and moratoria put in place by public authorities to tackle the current distress. In particular, the ECB announced that:

- It would exercise flexibility regarding the classification of debtors as “unlikely to pay” when banks call on public guarantees granted in the context of COVID-19;
- Loans which become non-performing and are under public guarantees would benefit from preferential prudential treatment in terms of supervisory expectations about loss provisioning.

— NPL reduction targets

On March 20, 2020, the ECB announced that JSTs will exercise flexibility in evaluating banks’ NPL reduction strategies, acknowledging that current market conditions may make current targets difficult to achieve.

<sup>11</sup> ESRB, System-wide restraints on dividend payments, share buybacks and other pay-outs, June 2020.

<sup>12</sup> On April 22, 2020, the EBA issued a statement recognising, among other things, the need for a pragmatic approach to SREP assessments in 2020, focusing on the most material risks and vulnerabilities driven by the crisis.



— EBA Guidelines on moratoria on loan repayments

Following its statement of [March 25, 2020](#), on [April 2, 2020](#), the EBA issued Guidelines on legislative and non-legislative moratoria on loan repayments.

The EBA Guidelines aim to clarify the following points:

- The criteria that payment moratoria have to fulfil not to trigger forbearance classification;
- The application of the prudential requirements in the context of these moratoria; and
- Ensuring the consistent treatment of such measures in the calculation of own funds requirements.

[On April 22, 2020](#), the EBA issued a statement providing, among other things, clarifications on how the EBA Guidelines apply to securitisations.

*For more information on the EU authorities' measures, see our [alert memorandum of March 25, 2020](#).*

## 2.2 Initiatives by the European Commission

— Temporary Framework on State Aid

[On March 19, 2020](#), the Commission adopted a communication setting out a temporary framework for the implementation of less stringent State aid rules in order to support the economy in the context of the COVID-19 crisis (the “Temporary Framework”).

The Temporary Framework has been further expanded: (i) to enable Member States to accelerate the research, testing and production of coronavirus relevant products, to protect jobs and to further support the economy in the context of the coronavirus outbreak on April 3, 2020 and (ii) to recapitalisation and subordinated debt measures on May 8, 2020.

Importantly, the Temporary Framework makes clear that measures aimed at channelling liquidity aid to the real economy through the banks constitute aid to the bank's customers, not to the banks themselves, and that guarantees such as the State guarantee are not considered as extraordinary public financial support for the purpose of the Bank Recovery and Resolution Directive, which entails that they do not trigger placement in resolution.

The consolidated version of the text of the Temporary Framework, as amended on April 3 and May 8, 2020 is available [here](#).

*For more information on the measures adopted by the European Commission, see our [alert memoranda of March 20, March 25, and April 6, 2020](#).*

— EU banking package

[On April 28, 2020](#), the EU Commission issued a comprehensive “banking package” consisting of:

- a. A legislative Proposal for a Regulation amending Regulation (EU) No. 575/2013, as amended (CRR) to make a number of “quick-fix” targeted adjustments to address specific needs arising from the COVID-19 crisis;<sup>13</sup> and
- b. An Interpretative Communication which sets out a number of recommendations for banks and supervisory authorities on the use of flexibility embedded in certain EU accounting and prudential rules.

The key proposed adjustments to CRR consist of:

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<sup>13</sup> The Commission optimistically expects that the proposed Regulation could be adopted by the Parliament and the Council as early as June 2020.

- Resetting the IFRS 9 transitional arrangements to mitigate the impact on regulatory capital and on banks' lending capacity of the likely increases in expected credit loss (ECL) provisioning under IFRS 9 due to the economic consequences of the COVID-19 crisis;
- A 7-year preferential treatment for non-performing exposures (NPEs) guaranteed or counter-guaranteed by the public sector pursuant to measures adopted by EU Member States to mitigate the economic impact of COVID-19, for purposes of the rules on the minimum loss coverage for NPEs (subject to compliance with applicable state aid rules);
- A 1-year delay of application of the Global Systemically Important Institution (G-SII) leverage ratio buffer introduced by Regulation (EU) 2019/876 (CRR2);
- Adjustment to the leverage ratio mechanism for offsetting the impact of using the discretion to temporarily exclude certain central bank exposures from total exposure measure;
- A 1-year acceleration of the ability not to deduct "prudently valued software" from CET1 capital under CRR2;
- Acceleration of the application of the favourable treatment for certain loans backed by pensions or salaries under CRR2;
- Acceleration of the application date of the revised SME supporting factor and the infrastructure supporting factor under CRR2, allowing a more favourable treatment of certain exposures to SMEs and infrastructure with a view to incentivise institutions to prudently increase lending to those entities.

The legislative proposal is available [here](#) and the Interpretative Communication is available [here](#).

**On May 20, 2020**, the ECB issued an opinion on the Proposal.<sup>14</sup>

The Proposal is in the process of being adopted, and is still subject to amendments by the EU legislators.

— Delegated Regulation on Prudent Valuation Standards

**On May 28, 2020**, following the EBA's proposal, the EU Commission published a delegated regulation amending Delegated Regulation (EU) 2016/101 supplementing Regulation (EU) No 575/2013 with regard to regulatory technical standards for prudent valuation, in order to mitigate the impact of exceptional volatility triggered by the COVID-19 pandemic on the prudential requirements for market risk.

*For more information on the EU banking package, see our [alert memorandum of May 1, 2020](#).*

### **2.3 SRB Measures**

**On March 25, 2020**, aiming to alleviate certain operational burdens, the Single Resolution Board ("SRB") issued a letter to banks clarifying that – while Liability Data Reports, Additional Liability Reports and the MREL quarterly templates shall be expected to be delivered on time – it shall assess possible leeway in submission dates applicable to other reports, such as those related to Critical Functions and Access to FMIs.

As regards existing binding MREL targets (set in the 2018 and 2019 cycles), in the current crisis, the SRB intends to take a forward-looking approach to banks that may face difficulties meeting those targets before new decisions (with 2022 intermediate targets) take effect.<sup>15</sup>

<sup>14</sup> The ECB observed that the proposed changes should be tweaked. In particular, based on the ECB opinion, changes to the measurement of bank leverage to discount central bank holdings should be calibrated from the beginning of the COVID-19 crisis, not from the end of June when holdings will already have expanded.

<sup>15</sup> See SRB's blog post of April 8, 2020 at <https://srb.europa.eu/en/node/967>

### 3. Belgium

#### 3.1 Reporting relief

— National Reporting

**On April 14, 2020**, the National Bank of Belgium (NBB) granted to significant and non-significant institutions an extension of applicable deadlines to comply with the following national reporting requirements:

- National quantitative prudential reporting (incl. reporting by stockbroking firms on their financial position, reporting on proprietary trading activities and reporting on interest rate risk arising from non-trading activities); and
- National qualitative prudential reporting (except reports specifically intended for AML).

Institutions should comply with their reporting obligations as close as possible to the original deadlines, and continue to guarantee the quality of the data reported as much as possible.

— European Prudential and Resolution Reporting

In the abovementioned circular, the NBB also fully abide to relief measures adopted by the EBA, ECB and SRB reducing the reporting burden on supervised institutions during the COVID-19 crisis. Accordingly, the NBB will grant institutions under its supervision up to one additional month to comply with certain EBA reporting requirements that are to be submitted between March and May 2020.

#### 3.2 Capital relief

— Full Release of the Countercyclical Tier 1 Capital Buffer

**On March 10, 2020**, the NBB announced a release of the countercyclical capital buffer for banks in light of the COVID-19 crisis. The NBB set the countercyclical tier 1 capital buffer rate for exposures in Belgium at 0%. The release provides banks with extra (preventive) capacity to deal with loan losses resulting from the global economic slowdown due to COVID-19. Approximately 1 billion Euro worth of capital buffers is made available this way.

— Temporary Relief from Capital Requirements

**On March 13, 2020**, the NBB reiterated the measures taken by the ECB as regards capital requirements to the financial institutions for which the NBB functions as prudential supervisor. The measures include (i) the possibility for credit institutions to operate temporarily below the level of capital defined by the Pillar 2 Guidance, the capital conservation buffer (CCB) and the liquidity coverage ratio (LCR), and (ii) the possibility for banks to partially use capital instruments that do not qualify as Common Equity Tier 1 (CET1) capital.

The NBB also urged credit institutions to revise their continuity plan in light of threats posed by the COVID-19 crisis.

#### 3.3 Dividend payments and share buy-backs

**On April 1, 2020**, in line with the ECB recommendations of March 27, 2020, the NBB required credit institutions and financial holding companies under its direct supervision to suspend dividends or share buy-backs aimed at remunerating shareholders until October 1, 2020. Dividends already paid out for the financial year 2019 do not need to be cancelled retroactively.<sup>16</sup>

<sup>16</sup> However, institutions that asked their shareholders to vote on a dividend distribution proposal in their upcoming general shareholders meeting are expected to amend such proposals.

## 4. France

### 4.1 Deadline extensions

[On March 25, 2020](#), through ordinance no. 2020-306 (as amended), modifies certain procedural deadlines and limitation periods (as identified below), set to apply between March 12 and June 23, 2020 (the “Covered Period”).

*For more information on the French procedural deadline extensions, see our [alert memorandum of May 14, 2020](#).*

#### — Reporting relief

[On March 25, 2020](#), ordinance no. 2020-306 (as amended), article 2, extended certain deadlines in the context of the COVID-19 crisis, by providing that acts, remedies, legal actions, formalities, registrations, declarations, notifications or publications that are required by law or regulation to be performed within an initial deadline or time limit that expires during the Covered Period are deemed to have been made on time if they are performed within the original legal deadline starting at the end of the Covered Period and up to a two-month time limit.

[On April 9, 2020](#), the ACPR clarified to which extent this article applies to the remittance dates of supervisory reporting set by French regulations. It also announced that it will give institutions some leeway in relation to the remittance dates of certain prudential and accounting reporting set by EU regulations, and decided to give regulated institutions some leeway regarding compliance with electronic signature requirements.

- SURFI prudential and financial reporting

Reporting whose remittance dates are set by French regulations are covered by Article 2 of ordinance no. 2020-306 of March 25, 2020. As a result, reporting required by law or regulation to be made during the Covered Period is deemed to have been made on time if it is made within the legal deadline set for such reporting starting at the end of the Covered Period and up to a two-month time limit.

In practice, the starting point of the initial legal deadline for the reporting is shifted to June 24, 2020 and its duration remains unchanged unless it is longer than two months.

This provision applies to prudential and financial reporting (SURFI), except for SURFI reports required for monetary, financial and balance of payments statistics set forth in EU regulations, as well as to documents and reports, such as the report on internal control.

The ACPR published a document setting forth the deadlines to be complied with for each of these reporting requirements, that is available [here](#).

- COREP and FINREP reporting

Concerning the prudential (COREP) and accounting (FINREP) reports submitted by Less Significant Institutions (LSIs) and by certain investment firms, the ACPR has decided, in line with the EBA's recommendations, to give institutions some leeway with respect to remittance dates by accepting delays of up to one month, except for reports whose timely submission is essential in the COVID-19 crisis context. These essential reports are (i) the monthly statements relating to the calculation of liquidity requirements and (ii) the statements required to develop and/or update the most important resolution plans.

- Easing of electronic signature requirements

In addition, as the COVID-19 pandemic may make it difficult or impractical to comply with electronic signature requirements, the ACPR has decided to accept, on a temporary basis for the duration of the health emergency state, reports or statements without an electronic signature or with a non-compliant signature. The

ACPR may also accept, on a case-by-case basis, and upon a duly justified request, that documents and reports be sent via email. In these cases, such documents will need to be properly submitted to the ACPR within one month following the end of the emergency health state.

— Inspections expiring during the Covered Period

Inspections ordered by administrative authorities, such as the ACPR or the AMF, and expiring during the Covered Period remain in force for a period of three months following the end of the Covered Period.

The administrative authority may, however, choose to amend or put an end to the investigative measures. In addition, when it is necessary to protect the interests at stake, the administrative authority may decide to nonetheless require the application of such measures or of new investigative measures during the Covered Period and within a set deadline. In this case, the administrative authority shall take into account the constraints imposed by the COVID-19 pandemic when deciding on the investigative measures and when setting the related deadlines.<sup>17</sup>

— Deadlines on supervised entities compliance

When an administrative authority imposed a deadline on a regulated institution for compliance with requirements of any kind, in accordance with the laws and regulations, this deadline (provided it has not expired before March 12, 2020) is suspended during the Covered Period, except where it has been imposed by a judicial decision.

Moreover, when an administrative authority imposed a deadline for compliance with requirements of any kind that should have started to run during the Covered Period, the starting point of the initial deadline is shifted to June 24, 2020 and its duration remains unchanged.

The administrative authority may choose to amend or put an end to such requirements. In addition, when it is necessary to protect the interests at stake, the administrative authority may decide to nonetheless impose such requirements on regulated institutions, or demand the application of new requirements during the Covered Period within a set deadline. In this case, the administrative authority shall take into account the constraints imposed by the COVID-19 pandemic when deciding on the requirements to be complied with and when setting the related deadlines.<sup>18</sup>

The French competition authority has expressly stated in a press release that it considers these provisions to be applicable to the implementation of commitments, requirements to bring an infringement to an end and interim measures. Although the ACPR and the AMF did not issue any similar statement, these provisions should also apply to the deadlines for compliance with requirements of any kind that would have been imposed on a supervised entity on the basis of the powers that were conferred to them by national law, such as requirements to take measures to ensure or restore compliance with the entity's obligations or to submit a recovery plan detailing the measures the entity will take to restore or strengthen its financial or liquidity situation.

#### **4.2 Relaxation of the countercyclical buffer**

— Entry into force: April 2, 2020.

— Duration of the measure: Until further notice.

— Description of the measure. The countercyclical buffer rate, which was set to 0.25% since July 1, 2019, was to be increased to 0.5% as from April 2, 2020. However, following the outbreak of COVID-19, the High Council for Financial Stability (*Haut Conseil de Stabilité Financière*) adopted Decision no. D-

<sup>17</sup> See Article 3 of ordinance no. 2020-306

<sup>18</sup> See Article 8 of the ordinance no. 2020-306.

HCSF-2020-2 on April 1, 2020, on a proposal from the *Banque de France*, that lowers the countercyclical buffer rate to 0%, thereby enabling French banks to use this buffer that has been built up precisely to address emergency situations like the COVID-19 crisis.

The decision from the High Council for Financial Stability is available [here](#).

#### 4.3 Dividend payments and share buy-backs

- Context of the measure. Banking supervisory authorities have complemented stimulus and relief measures with the issuance of additional restrictions and recommendations in respect of banks' actions justified by the need to ensure that banks are fully mobilised to support the economy through the COVID-19 crisis. On March 27, 2020, the ECB issued a recommendation that banks refrain from dividend distributions and share buy-backs until at least October 1, 2020, which the ACPR extended to banks under its supervision on March 30, 2020.
- Description of the measure. On March 30, 2020, the ACPR called on credit institutions under its direct supervision and on finance companies to ensure that:
  - they do not distribute any dividends nor take any irrevocable undertakings to distribute dividends for the fiscal years 2019 and 2020. The term “dividend” refers to any type of cash payment that is subject to the approval of the general meeting; and
  - they do not undertake to buy back shares aimed at remunerating shareholders.

Although this recommendation has no binding effect on French banks, the ACPR specified that credit institutions and finance companies that would not be in a position to defer the payment of dividends because they consider themselves legally obliged to pay shall justify their position to the ACPR.

- Duration of the measure: At least until October 1, 2020. The ACPR will further assess the economic situation and consider whether an extension of this measure is required.

The recommendation from the ACPR is available [here](#).

## 5. Germany

The German banking regulator *Bundesanstalt für Finanzdienstleistungsaufsicht – BaFin* has issued FAQs on its homepage, updated from time to time. The FAQs can be found [here](#) (please note that not all FAQs are available in the English language version of the FAQs). We set out below some non-exhaustive examples from such FAQs. Generally, the BaFin will apply reliefs granted or recommended at the European level also at the national level.

### 5.1 Deadline extensions

- The stress test for less significant institutions (LSIs) is postponed from 2021 to 2022.
- For certain reports, particularly those based on the German Financial and Internal Capital Adequacy Information Regulation (*Finanz- und Risikotragfähigkeitsinformationenverordnung – FinaRisikoV*) and the reporting of large exposures and loans of 1 million euro or more, BaFin and the Deutsche Bundesbank will not be taking supervisory measures with regard to any late submissions.
- BaFin will accept belated submissions (up to one or two months) for certain reports of LSIs and financial service institutions, including institutions subject to the reporting regime of Section 1a of the German Banking Act (*Kreditwesengesetz*), under the ITS on Reporting (exceptions apply), the ITS on Benchmarking, and the Guideline on Funding Plans that have to be submitted between March 1, 2020 and May 31, 2020.
- BaFin grants certain reliefs for LSIs in connection with the preparation of recovery plans, *e.g.*, relevant institutions may update their recovery plans only in respect of key elements.



## 5.2 Capital relief

- LSIs may continue to count shares as high quality liquid assets (HQLA) in the liquidity coverage ratio (LCR) under certain conditions even if the 40% limit under Art. 12(1) c) of the supplement Regulation (EU) No 575/2013 is exceeded.
- In the current situation, it is possible for institutions to use the capital contained in the capital conservation buffer (CCB), the Pillar 2 Capital Guidance (P2G) and the countercyclical capital buffer (CcyB), in particular for the purposes of granting loans. A shortfall associated with the individual capital buffers of the combined capital buffer requirement does not constitute a violation of regulatory minimum capital requirements in the current situation. The quota for the countercyclical capital buffer has been lowered to 0% effective April 1, 2020.
- Institutions can use the liquidity buffer in the current situation; even if this means the LCR minimum requirements are not met, it will not be necessary to obtain the prior approval of the competent supervisory authority, the institution must merely notify the competent authority without delay.
- P2R: The SREP-capital surcharge (SREP-Zuschlag) will remain unchanged in 2020.
- BaFin accepts that institutes do not back loans with capital if KfW assumes the credit risk of the ultimate borrower.
- BaFin loosens certain requirements in connection with defaulting loans and moratoria.

## 5.3 Inspections

- On-site inspections are temporarily suspended. All suspended inspections will be resumed after the end of the pandemic.
- Due to current travel restrictions and the requirements to limit personal contact, the possibilities for conducting the otherwise obligatory external and particularly internal inspections of real estate to be mortgaged are currently very limited at best. For the time being and in light of these factors, in such cases BaFin will tolerate that mortgage banks (*Pfandbriefbanken*) include mortgages in their Pfandbrief coverage on the basis of valuations of the encumbered real estate without a prior inspection of the property to be mortgaged, provided that certain conditions are met.

## 5.4 Business continuity plans

- BaFin will accept a digital submission of the annual financial statements as of December 31, 2019.
- To mitigate the impact of staff shortages resulting from the crisis, BaFin considers a more flexible deployment of staff members, *i.e.*, through alternately distributing staff experienced in the granting of loans between the front and back office, acceptable in exceptional circumstances in order to maintain the functioning of the institution.
- Under the the BaFin's guidelines for market risk (MaRisk), depending on the nature, scale, complexity and risk of the exposure in question, a credit decision requires the approval of each one authorised signatory of the front office and the back office. For credit decisions with regard to transactions that are considered immaterial in terms of risk, the institution may determine that only one approval is necessary and that the organisational segregation of the front office and the back office need not be adhered to. It does not appear acceptable to omit entirely the two signatory approval requirement because such segregation of functions is of crucial importance in order to prevent institutions from taking on unmanageable credit risks.
- In BaFin's view, the wording of the MaRisk allows for the strict rules regarding trading to be relaxed temporarily in response to the crisis in order to allow staff to work from home.

- Institutions should review and document which, if any, audits by the internal audit function can still be carried out properly. If the contact persons for the internal audit function are unavailable or if they are required to focus on other issues relating to the COVID-19 pandemic, BaFin is of the view that it is acceptable to delay the audits in question.

## 6. Italy

### 6.1 *Deadline Extensions*

[On March 20, 2020](#), the Bank of Italy announced the extension of certain procedural terms applicable to supervised entities' compliance obligations (e.g., 60 days for the obligations notably concerning, among the others: ICAAP/ILAAP for banks and securities investment firms (SIMs) and ICAAP for nonbank financial intermediaries (FIs) pursuant to Article 106 of the Consolidated Law on Banking (TUB); 150 days for submission of the first Report on Operational Risks and Safety for banks).

### 6.2 *Dividend payments and share buy-backs*

[On March 27, 2020](#), the Bank of Italy, in line with ECB recommendation of March 27, 2020, recommended less significant banks to suspend dividends or share buy-backs aimed at remunerating shareholders until October 1, 2020.

## 7. United Kingdom

The UK banking regulator (the Prudential Regulation Authority or PRA) and the Bank's Financial Policy Committee (FPC) have also taken a number of measures to provide capital and operational relief to UK banks. These include the following.

[For more information on UK regulatory and operational relief measures, see our alert memorandum of March 23, 2020.](#)

### 7.1 *Capital relief*

On March 11, 2020, the FPC announced it would set the UK countercyclical capital buffer rate at 0% with immediate effect.

Subsequently, on April 9, 2020, the PRA, with support from the FPC, announced its decision to maintain firms' systemic risk buffer rates at the rate set in December 2019. These rates will be reassessed in December 2021.

On May 7, 2020, the PRA announced that it would set Pillar 2A as a nominal amount in the 2020 and 2021 Supervisory Review and Evaluation Processes ("**SREPs**"). The PRA has invited all firms who do not have a SREP assessment due in 2020 to apply for a conversion of their current Pillar 2A requirement into a nominal amount using RWAs as of end-December 2019. This change is voluntary, subject to supervisory agreement, and would apply until the firm's next regularly-scheduled SREP. Where the PRA judges that RWAs are a more accurate reflection of a firm's risks between assessments, it may reject the application.

### 7.2 *Stress Test Delay*

On March 20, 2020, the Bank and PRA announced the cancellation of the 2020 stress test for the eight major UK banks and building societies is intended to help lenders focus on meeting the needs of UK households and businesses via the continuing provision of credit.

The authorities also announced amendments to the biennial exploratory scenario (BES) timetable. The Bank had been due to publish the results of the 2019 BES on liquidity in mid-2020 but in order to alleviate burdens on core treasury staff at banks, the Bank paused this exercise until further notice.

In addition, the Bank published a discussion paper on the 2021 BES on the financial risks from climate change on December 18, 2019. The Bank stated that it would take stock of the responses as well as the evolving



situation with a view to announcing the way forward for this exercise in the summer. On May 7, 2020, the Bank and PRA confirmed their decision to postpone the launch of the exercise until at least mid-2021.

### **7.3 VAR back-testing**

On March 30, 2020, the PRA published a statement on a temporary approach to VAR back-testing exceptions to mitigate the possibility of excessively pro-cyclical market risk capital requirements. In order to mitigate the possibility of excessively pro-cyclical market risk capital requirements through the automatic application of a higher VAR multiplier (i.e.  $m_c$  and  $m_s$ , as defined in Article 366 of CRR), the PRA will allow firms to temporarily offset increases due to new exceptions through a commensurate reduction in risks-not-in-VAR (RNIV) capital requirements. This approach will be reviewed by the PRA after six months.

### **7.4 Resolution measures**

On May 7, 2020, the Bank and PRA announced changes to resolution measures aimed at alleviating operational burdens on PRA-regulated firms in response to COVID-19. The Bank also provided an update for firms on MREL. In particular:

- The dates for the major UK banks and building societies to submit their first reports on their preparations for resolution and publicly disclose a summary of these reports have been extended by a year. These firms will now be required to submit their first reports to the PRA by October 2021 and make public disclosures by June 2022. The BoE will also make its first public statement on these firms' resolvability by June 2022;
- The compliance deadline for the Bank's Statement of Policy on valuation capabilities to support resolvability<sup>19</sup> has been extended by three months to April 1, 2021. The deadline for firms to implement the Bank's other Statements of Policy relevant to resolvability remains January 1, 2022; and
- 2021 MRELs will reflect the PRA's policy changes to Pillar 2A capital setting. The BoE will also continue to keep MRELs under review and monitor market developments carefully in Q3 of 2020 to inform its approach in Q4 2020 to setting January 2021 MRELs and indicative January 2022 MRELs.

### **7.5 Reporting relief**

On April 2, 2020 (updated on April 9, 2020), the PRA announced the extension of certain reporting requirements under CRR and the Bank Recovery and Resolution Directive, and Pillar 3 disclosures, for UK banks, building societies, credit unions (and designated investment firms), following the EBA's 'Statement on supervisory reporting and Pillar 3 disclosures in light of COVID-19'.

The PRA will also accept delayed submission for certain aspects of PRA-owned regulatory reporting where the remittance deadlines contained in the PRA rulebook fall on or before May 31, 2020. The PRA will consider whether to also grant extensions in respect of reporting due after the end of May 2020 in due course.

### **7.6 IFRS9 guidance**

On March 26, 2020, the CEO of the PRA issued a "Dear CEO letter" providing guidance on consistent and robust IFRS 9 accounting and regulatory capital treatment of IFRS 9 in line with the previous PRA guidance. In particular, the PRA has confirmed that the use of government-endorsed payment holidays by a borrower will not on its own trigger the counting of days past due for the 30 days past due backstop used to determine a significant increase in credit risk ("SICR"). Lenders are expected to ask themselves whether an increase in credit risk for certain borrowers, as may be evinced by the use of a government-endorsed payment holiday, will be significant when evaluated over the expected life of the loan, not just in the short term.

<sup>19</sup> <https://www.bankofengland.co.uk/paper/2018/the-boes-policy-on-valuation-capabilities-to-support-resolvability>

On May 22, 2020, the PRA published a statement setting out further information on the application of regulatory capital and IFRS 9 requirements to payment holidays granted or extended to address the challenges of COVID-19.

The PRA issued a further Dear CEO letter on June 4, 2020 with further guidance on initial and further payment deferrals.

### ***7.7 Leverage ratio***

On May 4, 2020, the PRA published a statement on credit risk mitigation eligibility and leverage ratio treatment of loans under the BBLs, setting out the PRA's observations on the risk-weighted treatment of exposures under the BBLs.

The PRA also published a "modification by consent" for banks subject to the UK leverage ratio to exclude loans under this scheme from the leverage ratio total exposure measure, if they choose to do so. It also permits firms to exclude loans made pursuant to schemes of a similar character which are 100% guaranteed by a government or central bank of an EEA state or the ECB, provided that such loans do not exceed €60,000 per loan. The PRA will consider further modifications for substantively similar EEA schemes which do not meet these criteria on a case-by-case basis.

In addition, the PRA has also taken action on dividends and other discretionary distributions by banks.

### ***7.8 Dear CEO letters***

On March 31, 2020, the PRA published letters from its CEO to the seven largest systemically important UK banks. It welcomed the decisions of their boards to suspend dividends and buy-backs on ordinary shares until the end of 2020, and to cancel payments of any outstanding 2019 dividends in response to a request from the PRA.

### ***7.9 PRA statement***

Also on March 31, 2020, the PRA issued a statement on deposit takers' approach to dividend payments, share buy-backs and cash bonuses in response to COVID-19. The PRA stated that it expected banks not to pay any cash bonuses to senior staff, including all material risk takers, and was confident that bank boards would take any appropriate further actions with regard to the accrual, payment and vesting of variable remuneration over coming months.

## ANNEX

## Comparison Chart – PEPP (2020) and EAPP (2015-2020)

The chart below summarises the characteristics of the Expanded Asset Purchase Programme (EAPP) ongoing since 2015 and of the newly launched Pandemic Emergency Purchase Programme (PEPP). The EAPP includes four constituent programmes – Secondary Markets Public Sector Asset Purchase Programme (PSPP), Corporate Sector Purchase Programme (CSPP), Asset-backed Securities Purchase Programme and Third Covered Bond Purchase Program<sup>20</sup> – and was launched in January 2015 to support investment and spending in a context of low growth. The PEPP was announced by the ECB on March 18, 2020 as a temporary programme with an overall envelope of 750 billion Euro that will be conducted at least until the end of 2020 to ensure that all sectors of the economy can benefit from supportive financing conditions enabling them to absorb the shock resulting from the COVID-19 outbreak<sup>21</sup>. The ECB also announced on March 18, 2020 the expansion of the range of eligible assets under the CSPP in the context of the COVID-19 crisis<sup>22</sup>.

The ECB has declared that it is prepared to increase the size of its asset purchase programmes and adjust their composition, by as much as necessary and for as long as needed in the context of the COVID-19 crisis. On June 4, 2020, the ECB decided to increase the overall envelope of the PEPP by 600 billion Euro, to a total of 1,350 billion Euro, and to extend the horizon for net purchases under the PEPP to at least the end of June 2021<sup>23</sup>. The characteristics of the programs set forth below may be subject to further changes over time.

	EAPP PROGRAMME		PEPP PROGRAMME
	Corporate sector asset purchase programme (CSPP) <sup>24</sup>	Public sector purchase programme (PSPP) <sup>25</sup>	
Purchasing Central Banks	Certain Eurosystem central banks <sup>26</sup>	Eurosystem central banks	Eurosystem central banks
Description of the Programme	Eurosystem central banks purchase eligible private sector corporate bonds from eligible counterparties in the	Eurosystem central banks purchase eligible marketable debt securities from eligible	The PEPP programme is established as a separate asset purchase programme with an overall envelope of 1,350 billion Euro, enabling purchase by the Eurosystem

<sup>20</sup> The characteristics of the Asset-backed Securities Purchase Programme and Third Covered Bond Purchase Programme are not detailed in the chart.

<sup>21</sup> Decision (EU) 2020/440 of the ECB of 24 March 2020 on a temporary pandemic emergency purchase programme sets out the characteristics of the PEPP.

<sup>22</sup> Decision (EU) 2020/441 of the ECB of 24 March 2020 amending decision (EU) 2016/948 of the ECB on the implementation of the corporate sector purchase programme was adopted to amend the characteristics of the existing CSPP.

<sup>23</sup> ECB press release of June 4, 2020, available at : <https://www.ecb.europa.eu/press/pr/date/2020/html/ecb.mp200604~a307d3429c.en.html>.

<sup>24</sup> The CSPP was launched by the ECB under decision (EU) 2016/948 of the ECB of 1 June 2016 on the implementation of the corporate sector purchase programme, which was subsequently modified by decisions (EU) 2017/103 and 2017/1359 of the ECB of 11 January and 18 May 2017, before being modified by the aforementioned decision (EU) 2020/441 (see note 3).

<sup>25</sup> The PSPP characteristics are set forth in decision (EU) 2020/188 of the ECB of 3 February 2020 on a secondary markets public sector asset purchase programme.

<sup>26</sup> The Eurosystem central banks conducting the purchases are listed on the ECB's website at <https://www.ecb.europa.eu/mopo/implement/omt/html/cspp-qa.en.html>.

	EAPP PROGRAMME		PEPP PROGRAMME
	Corporate sector asset purchase programme (CSPP) <sup>24</sup>	Public sector purchase programme (PSPP) <sup>25</sup>	
	primary and secondary markets, and eligible public sector corporate bonds <sup>27</sup> in the secondary markets.	counterparties on the secondary markets.	<p>central banks of the following marketable debt instruments:</p> <ul style="list-style-type: none"> <li>- Marketable debt securities eligible under the PSPP;</li> <li>- Corporate bonds and other marketable debt instruments eligible under the CSPP;</li> <li>- Covered bonds eligible under the third covered bond purchase programme; and</li> <li>- Asset-backed securities eligible under the asset-backed securities purchase programme.</li> </ul> <p>The Executive Board of the ECB will have the power to set the appropriate pace and composition of PEPP monthly purchases within the total overall envelope of 1,350 billion Euro. In particular, the purchase allocation may be adjusted under the PEPP to allow for fluctuations in the distribution of purchase flows, over time, across asset classes and among jurisdictions.</p>
Eligible Issuers	<p>Eurozone corporations that:</p> <p>1) are not:</p> <ul style="list-style-type: none"> <li>- credit institutions within the meaning of Regulation n°575/2013 of 26 June 2013 (the “CRR”);</li> <li>- publicly owned credit institutions within the meaning of Article 123(2) of the Treaty on the functioning of the European Union;</li> </ul>	<p>The following issuers are eligible under the PSPP:</p> <ul style="list-style-type: none"> <li>- central, regional or local governments of a Member State whose currency is the euro;</li> <li>- recognised agencies located in the euro area;</li> <li>- international organisations located in the euro area; and</li> <li>- multilateral development banks</li> </ul>	<p>The eligible issuers are the eligible issuers under each constituent programme of the EAPP.</p>

<sup>27</sup> Public sector corporate bonds are bonds issued by public undertakings, *i.e.* undertakings over which the State or other regional or local authorities may directly or indirectly exercise a dominant influence by virtue of their ownership of it, their financial participation therein or the rules which govern it.

	EAPP PROGRAMME		PEPP PROGRAMME
	Corporate sector asset purchase programme (CSPP) <sup>24</sup>	Public sector purchase programme (PSPP) <sup>25</sup>	
	<ul style="list-style-type: none"> <li>- members of a supervised group, or entities subject to prudential supervision, within the meaning of Regulation n°468/2014 of 16 April 2014 (the “SSM Framework Regulation”), or subsidiaries of any of those supervised entities or supervised groups;</li> <li>- investment firms;</li> <li>- entities, whether publicly or privately owned, that have as their main purpose the gradual divestment of their assets and the cessation of their business, or asset management or divestment entities established to support financial sector restructuring and/or resolution, including asset management vehicles resulting from a resolution action in the form of the application of an asset separation tool;</li> <li>- eligible issuers for the PSPP;</li> </ul> <p>2) do not have a parent undertaking that is a credit institution or a parent company subject to supervision outside the euro area; and</p>	located in the euro area.	

	EAPP PROGRAMME		PEPP PROGRAMME
	Corporate sector asset purchase programme (CSPP) <sup>24</sup>	Public sector purchase programme (PSPP) <sup>25</sup>	
	<p>3) have not issued any of the following:</p> <ul style="list-style-type: none"> <li>- asset-backed securities;</li> <li>- <i>multi cédula</i>; or</li> <li>- structured covered bonds.</li> </ul>		
Eligible Assets	<p>Marketable debt instruments issued by corporations must comply with the general collateral eligibility requirements for marketable assets<sup>28</sup> and with the following additional requirements:</p> <ol style="list-style-type: none"> <li>1) be issued by an eligible issuer under the CSPP;</li> <li>2) be denominated in euro;</li> <li>3) the issue must be rated at least BBB-/Baa3, and, in the absence of any external credit assessment institution's rating, the issuer or guarantor rating must be rated at least BBB-/Baa3 (Note: in case of split ratings, the first-best rating shall be taken into account)<sup>29</sup>; and</li> </ol>	<p>The marketable debt securities must comply with the general collateral eligibility requirements for marketable assets<sup>31</sup> and with the following conditions:</p> <ol style="list-style-type: none"> <li>1) be issued by an eligible issuer under the PSPP;</li> <li>2) be denominated in euro;</li> <li>3) the issuer or guarantor must be rated at least BBB-/Baa3<sup>32</sup> (Note: in case of split ratings, the first-best issuer or guarantor rating shall apply. In the absence of an issuer or guarantor rating, the issue should have at least one issue rating of at least BBB-/Baa3) or, failing that, the issuer or guarantor shall be the central government of a euro area Member State under a financial</li> </ol>	<p>The eligible assets under the PEPP are the eligible assets under each constituent programme of the EAPP, but for the following:</p> <ul style="list-style-type: none"> <li>- All marketable public debt securities with a minimum remaining maturity of 70 days (as compared to 1 year under the PSPP) are eligible for purchase under the PEPP; and</li> <li>- Under the PEPP, a waiver is given to euro-denominated marketable debt securities issued by the central government of the Hellenic Republic, provided they comply with the criteria for purchases relating to the yield to maturity. As a result, even if the Hellenic Republic is not at least rated BBB-/Baa3 as an issuer, the marketable debt securities it issues will be eligible for purchase under the PEPP.</li> </ul>

<sup>28</sup> The applicable general collateral eligibility requirements for marketable assets are listed in the note below the chart.

<sup>29</sup> Only credit assessment information that is provided by an external credit assessment institution accepted within the Eurosystem credit assessment framework is taken into account for the assessment of the credit quality requirements.

<sup>31</sup> The applicable general collateral eligibility requirements for marketable assets are listed in the note below the chart.

<sup>32</sup> The credit rating of the issuer or guarantor complying with the rating requirements must be provided by an external credit assessment institution accepted within the Eurosystem credit assessment framework.

	EAPP PROGRAMME		PEPP PROGRAMME
	Corporate sector asset purchase programme (CSPP) <sup>24</sup>	Public sector purchase programme (PSPP) <sup>25</sup>	
	<p>4) have a minimum remaining maturity of (i) at least 28 days if the marketable debt instrument has an initial maturity of 1 year or less and (ii) at least 6 months if the marketable debt instrument has an initial maturity of more than 1 year, and (3) have a maximum remaining maturity below 31 years<sup>30</sup>.</p> <p>Note: for public sector corporate bonds, no purchases are permitted of a newly issued or tapped public sector corporate bond, or of public sector corporate bonds issued by the same entity or by the entities within the issuer's group with maturities that expire close in time to, either just before or after, the maturity of the marketable debt instruments to be issued or tapped, over a period to be determined by the Governing Council.</p>	<p>assistance programme to which the Eurosystem's credit quality threshold does not apply<sup>33</sup>; and</p> <p>4) have a minimum remaining maturity of 1 year and a maximum remaining maturity of 30 years at the time of their purchase (Note: marketable debt instruments with a remaining maturity of 30 years and 364 days shall also be eligible under the PSPP).</p> <p>Note: no purchases are permitted in a newly issued or tapped security and the marketable debt instruments with a remaining maturity that are close in time, before and after, to the maturity of the marketable debt instruments to be issued, over a period to be determined by the Governing Council ('blackout period').</p>	
Yield to maturity	Purchases of nominal corporate bonds at a negative yield to maturity (or yield to worst) equal to or above	Purchases of nominal marketable debt instruments at a negative yield to maturity (or yield to worst) equal to or above	The conditions relating to the yield to maturity are the conditions that apply to each constituent programme of the EAPP.

<sup>30</sup> This condition has been amended by decision (EU) 2020/441 of the ECB of 24 March 2020 amending decision (EU) 2016/948 of the ECB on the implementation of the corporate sector purchase programme in the context of the COVID-19 crisis.

<sup>33</sup> Under decision (EU) 2018/1148 of 10 August 2018 on the eligibility of marketable debt instruments issued or fully guaranteed by the Hellenic Republic, the Hellenic Republic is no longer considered a euro area Member State under a European Union/International Monetary Fund programme, and as such, its marketable debt instruments may not benefit from the derogation to the requirement of having at least a BBB-/Baa3 rating to be eligible for purchase under the PSPP.

	<b>EAPP PROGRAMME</b>		<b>PEPP PROGRAMME</b>
	<b>Corporate sector asset purchase programme (CSPP)<sup>24</sup></b>	<b>Public sector purchase programme (PSPP)<sup>25</sup></b>	
	the deposit facility rate are permitted.  Purchases of nominal corporate bonds at a negative yield to maturity (or yield to worst) below the deposit facility rate are permitted to the extent necessary.	the deposit facility rate are permitted.  Purchases of nominal marketable debt instruments at a negative yield to maturity (or yield to worst) below the deposit facility rate are permitted to the extent necessary.	
Allocation Rules	None specified.	<p>1. The book value of net purchases over the calendar year shall be allocated as follows:</p> <p>(a) 10 % in marketable debt securities issued by supranational organisations</p> <p>(b) 90 % in marketable debt securities issued by governments.</p> <p>2. The book value of net purchases of marketable debt securities over the calendar year shall be allocated across Eurosystem central banks as follows:</p> <p>(a) 10 % to the ECB;</p> <p>(b) 90 % to NCBs.</p> <p>3. Principal payments are reinvested in accordance with the same allocation and shall be distributed over the year to allow for a regular and balanced market presence.</p>	None specified.
Capital Key	The Eurosystem shall apply a specialisation scheme for the allocation of corporate bonds to be purchased under the CSPP based on the issuer's country of incorporation. The	The allocation of cumulative net purchases of marketable debt securities issued by governments across eligible jurisdictions shall be guided, on a stock basis, by the respective	The allocation of cumulative net purchases of marketable debt securities issued by governments across eligible jurisdictions of the euro area shall be guided, on a stock basis, by the respective NCBs' subscription to the ECB's capital as



	<b>EAPP PROGRAMME</b>		<b>PEPP PROGRAMME</b>
	<b>Corporate sector asset purchase programme (CSPP)<sup>24</sup></b>	<b>Public sector purchase programme (PSPP)<sup>25</sup></b>	
	<p>Governing Council shall allow ad hoc deviations from the specialisation scheme if there are objective considerations obstructing the scheme's implementation or if such deviations are advisable in order to achieve the CSPP's overall monetary policy objectives.</p> <p>Each NCB shall only purchase eligible corporate bonds issued by issuers incorporated in specified Member States within the euro area.</p>	<p>NCBs' subscription to the ECB's capital as referred to in Article 29 of the Statute of the ESCB.</p> <p>NCBs shall apply a specialisation scheme for the allocation securities. The Governing Council shall allow for ad hoc deviations from the specialisation scheme should objective considerations obstruct the achievement of the said scheme or otherwise render deviations advisable in the interests of attaining the overall monetary policy objectives of the PSPP.</p> <p>Each NCB shall purchase eligible securities of issuers of its own jurisdiction.</p> <p>Securities issued by supranational organisations may be purchased by all NCBs.</p> <p>The ECB shall purchase securities issued by central governments and recognised agencies of all jurisdictions.</p> <p>Purchases of debt securities issued by supranational organisations and regional and local governments shall be made by NCBs only.”</p>	<p>referred to in Article 29 of the Statute of the ESCB.</p> <p>Purchases under the PEPP shall be conducted in a flexible manner allowing for fluctuations in the distribution of purchase flows over time, across asset classes and among jurisdictions.</p> <p>The Governing Council delegates to the Executive Board the power to set the appropriate pace and composition of PEPP monthly purchases within the total overall envelope. In particular, the purchase allocation may be adjusted under the PEPP to allow for fluctuations in the distribution of purchase flows, over time, across asset classes and among jurisdictions.</p>

	EAPP PROGRAMME		PEPP PROGRAMME
	Corporate sector asset purchase programme (CSPP) <sup>24</sup>	Public sector purchase programme (PSPP) <sup>25</sup>	
Limits per Issuer	<p>Capped at 70% per ISIN, after consolidating holdings in all of the portfolios of the Eurosystem central banks, for all corporate bonds other than public sector corporate bonds.</p> <p>A lower issue share limit may apply in specific cases, including for public sector corporate bonds or for risk management reasons.</p> <p>Additional purchase limits for issuer groups are defined based on a benchmark allocation related to an issuer group's market capitalisation to ensure a diversified allocation of purchases across issuers and issuer groups.</p>	<p>Both an issue share limit per ISIN and an aggregate limit per issuer apply<sup>34</sup>.</p> <p>The issue share limit per ISIN applies as follows, after consolidating holdings in all of the portfolios of the Eurosystem central banks:</p> <ol style="list-style-type: none"> <li>1) 50% per ISIN for eligible marketable debt securities issued by eligible international organisations and multilateral development banks; and</li> <li>2) 33% per ISIN for other eligible marketable debt securities<sup>35</sup>.</li> </ol> <p>The aggregate limit per issuer is the following, after consolidating holdings in all of the portfolios of the Eurosystem central banks:</p> <ol style="list-style-type: none"> <li>1) 50% of the outstanding securities of an issuer which is an eligible international organisation or a multilateral development bank; and</li> </ol>	<p>None specified.</p> <p>Purchases shall be carried out to the extent deemed necessary and proportionate to counter the threats posed by the extraordinary economic and market conditions on the ability of the Eurosystem to fulfil its mandate, due to the COVID-19 outbreak.</p> <p>Moreover, the consolidation of holdings in the portfolios of the Eurosystem central will not apply to PEPP holdings.</p>

<sup>34</sup> By way of exception, the Governing Council sets the limits applicable for the purchase of marketable debt securities issued by issuers under a financial assistance program.

<sup>35</sup> An exception applies to marketable debt securities containing a collective action clause (CAC) that differs from the euro area model CAC elaborated by the Economic and Financial Committee and implemented by the Member States in accordance with Article 12(3) of the Treaty establishing the European Stability Mechanism. In this case, the issue share limit is 25% per ISIN, but will be increased to 33%, subject to verification on a case-by-case basis that a holding of 33% per ISIN of those securities would not lead the Eurosystem central banks to reach blocking minority holdings in orderly debt restructurings.

	EAPP PROGRAMME		PEPP PROGRAMME
	Corporate sector asset purchase programme (CSPP) <sup>24</sup>	Public sector purchase programme (PSPP) <sup>25</sup>	
		2) 33% of the outstanding securities for other issuers.	
End Date	None specified. The Governing Council plans to pursue this programme until it sees a sustained adjustment in the path of inflation consistent with its aim of achieving inflation rates below, but close to, 2 % over the medium term.	None specified. The Governing Council expects purchases under the PSPP to be carried out for as long as necessary to reinforce the accommodative impact of policy rates and to end shortly before the Governing Council starts raising the key ECB interest rates.	The Governing Council will terminate PEPP net asset purchases once it considers that the COVID-19 crisis phase is over, but in any event not before the end of June 2021.
Other	The securities purchased under CSPP shall be made available for lending, including repos.	The securities purchased under PSPP shall be made available for lending, including repos.	The securities purchased under the PEPP shall be made available for lending, including repos.

Note: The marketable debt instruments or securities must meet the following general collateral eligibility requirements in order to be eligible assets under the CSPP and the PSPP<sup>36</sup>:

- 1) have a fixed and unconditional principal amount, or an unconditional principal amount linked, on a flat basis, to only one euro area inflation index at a single point in time, containing no other complex structures<sup>37,38</sup>;
- 2) have either of the following coupon structure: (i) fixed, zero or multi-step coupons with a pre-defined coupon schedule and pre-defined coupon values, or (ii) floating coupons defined by reference to certain reference rates plus a margin, where the leveraging/deleveraging factor and floor and ceiling of the coupon rate meet certain conditions<sup>39</sup>;
- 3) not give rise to rights to the principal and/or the interest that are subordinated to the rights of holders of other debt instruments of the same issuer;

<sup>36</sup> The ECB publishes a list of eligible marketable assets on its website. See <https://www.ecb.europa.eu/paym/coll/assets/html/index.en.html>.

<sup>37</sup> Debt instruments with a principal amount linked to only one euro area inflation index at a single point in time shall also be permissible provided that the coupon structure meets certain conditions.

<sup>38</sup> Assets with warrants or similar rights attached are not eligible.

<sup>39</sup> Acceptable coupon structures shall have no issuer optionalities, i.e., during the entire lifetime of the asset, based on a forward- and backward-looking perspective, changes in the coupon structure that are contingent on an issuer's decision are not acceptable.

- 4) be denominated in euro or in one of the former currencies of the Member States whose currency is the euro;
- 5) be issued in the European Economic Area (the “EEA”) with a central bank or with an eligible securities settlement system<sup>40</sup>;
- 6) be transferable in book-entry form and be held and settled in Member States whose currency is the euro through an account with a national central bank or with an eligible securities settlement system<sup>41</sup>;
- 7) be admitted to trading on a regulated market, or on certain acceptable non-regulated markets<sup>42</sup>;
- 8) be issued or guaranteed by central banks of Member States, public sector entities, agencies, credit institutions, financial corporations other than credit institutions, non-financial corporations, multilateral development banks or international organisations. For marketable assets with more than one issuer, this requirement shall apply to each issuer<sup>43</sup>.
- 9) be issued by an issuer established in the EEA or in a non-EEA G10 country<sup>44</sup> or by an issuer established in non-EEA G10 country if the Eurosystem has ascertained to its satisfaction that its rights would be protected in an appropriate manner under the laws of the relevant non-EEA G10 country, and guaranteed by a guarantor established in the EEA, unless a guarantee is not needed to establish that the credit quality requirements are met; and
- 10) have a credit assessment provided by at least one accepted external credit assessment institution system in compliance, at a minimum, with credit quality step 3 in the Eurosystem harmonised rating scale, i.e be an investment-grade marketable instrument (with a rating at least of BBB-/Baa3). It should be noted that the grandfathering until September 2021 of the eligibility of marketable assets falling below minimum credit quality requirements announced by the ECB on April 22, 2020 does not apply to outright purchases under the EAPP and the PEPP<sup>45</sup>.

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<sup>40</sup> Debt instruments issued or guaranteed by a non- financial corporation for which no credit assessment has been provided by an accepted external credit assessment institution system for the issue, issuer or guarantor, the place of issue must be within the euro area. International debt instruments issued through international central securities depositories may be eligible provided that they meet certain conditions.

<sup>41</sup> Certain conditions apply where the central securities depositories where the asset is issued and held are not identical.

<sup>42</sup> A list of the acceptable non-regulated markets is provided on the ECB’s website. See <https://www.ecb.europa.eu/paym/coll/standards/marketable/html/index.en.html>

<sup>43</sup> Debt instruments issued or guaranteed by investment funds are not eligible.

<sup>44</sup> Certain exceptions apply if (i) there is no credit assessment available from an accepted external credit assessment institution system for the issue, issuer or guarantor, and (ii) debt instruments are issued or guaranteed by agencies or by multilateral development banks or international organisations.

<sup>45</sup> Article 8b (11) of the Guideline ECB/2014/31, as amended by Guideline 2020/634 of 7 May 2020.

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