



BANKING AND FINANCE | CAPITAL MARKETS

News – Banking and Finance and Capital Markets 1st quarter of 2021

Below, you will find the issue of our Banking and Finance and Capital Markets newsletter for the 1st quarter of 2021, which compiles the most significant news in this area.

BANKING AND FINANCE

I. Banco de Portugal

Banco de Portugal press release on the countercyclical capital buffer for the 2nd quarter of 2021. The countercyclical capital buffer percentage in force from 1 April 2021 will remain at 0% of the total amount of exposures ([link](#)).

Banco de Portugal press release on the implementation of the macro prudential recommendation in force in the context of consumer credit. It concludes that there was general compliance with this measure and an improvement in the risk profile of borrowers during 2020. Almost all new credit agreements for borrowers to buy their own permanent homes had an associated LTV (loan-to-value) ratio below the 90% limit. This confirmed what had already been observed in 2019. In turn, around 93% of all new housing and consumer credit agreements were granted to borrowers with a DSTI (debt service-to-income) ratio of 50% or less. ([link](#)).

[Instruction \(Historical\) no. 1/2021](#) - Revokes Banco de Portugal Instruction no. 2/2007, which requests the disclosure of information on the evolution of the credit portfolio.

[Instruction \(Historical\) no. 2/2021](#) - Defines low and high risk factors for money laundering and terrorist financing and specific simplified or enhanced identification and due diligence measures.

[Instruction \(Historical\) no. 4/2021](#) - Strengthens regulation of the operational and security risks of payment service providers.

[Circular Letter no. CC/2021/00000001](#) - Updates the cut-off date for signing up for and applying General Payment Moratoriums and implements the changes resulting from the Guidelines amending the EBA/GL/2020/02 Guidelines on legislative and non-legislative moratoriums on loan repayments applied in the light of the COVID-19 crisis (EBA/GL/2020/15), while maintaining all other content of Circular Letter CC/2020/00000022 in force.

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[New rules](#) came into force on 1 January that limit or prohibit the charging of commissions for providing services associated with credit agreements and for making transfers through payment applications operated by third parties.

"Banco de Portugal has presented the Cooperation Plan for 2021 and this plan sets out the cooperation activities the bank plans to carry out with the central banks of emerging and developing countries."

Banco de Portugal has presented the [Cooperation Plan for 2021](#) and this plan sets out the cooperation activities the bank plans to carry out with the central banks of emerging and developing countries. Despite the difficulties caused by the pandemic, 158 actions are planned for this year and they are expected to take place mainly remotely.

Banco de Portugal publishes a reporting template for financial entities operating under the freedom to provide services ([link](#)).

Banco de Portugal discloses the maximum rates applicable to consumer credit contracts in the 2nd quarter of 2021 ([link](#)).

II. Government / Parliament

[Law 8/2021](#) authorises the Government to approve the system of penalties applicable to infringements of the provisions of Council Regulation (EC) No 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country.

[Decree-Law 22-C/2021](#) extends grace periods on public sector guaranteed loans and approves a special scheme for the Mutual Counter-guarantee Fund to provide guarantees in connection with the COVID-19 pandemic.

[Resolution of the Assembly of the Republic 39/2021](#), which recommends that the government should not transfer further funds to the Resolution Fund to inject capital into Novo Banco until the audit of its accounts has been completed.

[Resolution of the Assembly of the Republic no. 60/2021](#) and [no. 68/2021](#), which suspend the period of operation of the Potential Parliamentary Committee of Inquiry into the losses recorded by Novo Banco and imputed to the Resolution Fund, from 3 to 17 February 2021 and from 18 February to 4 March 2021.

[Resolution of the Assembly of the Republic 74/2021](#), which, in the context Portugal's Presidency of the Council of the European Union, recommends that the Government should promote reflection on the adoption of mechanisms to effectively combat money laundering and the phenomena of fraud, tax evasion and tax avoidance, and it should also ensure the conclusion of the legislative process of the proposal for a directive of the European Parliament and of the Council amending Directive 2013/34/EU of 26 June 2013.

[Resolution of the Council of Ministers 4/2021](#), which authorises the issuance of public debt, in implementing the State Budget for 2021.

III. European Union

Call for expression of interest in the appointment of members of the Board of Appeal of the three European Supervisory Authorities for the financial services sector (European Banking Authority, European Insurance and Occupational Pensions Authority and European Securities and Markets Authority) ([link](#)).

Targeted consultation on the review of the Directive on settlement finality in payment and securities settlement systems ([link](#)).

Targeted consultation on the review of the Directive on financial collateral arrangements ([link](#)).

[Commission Delegated Regulation \(EU\) 2021/236 of 21 December 2020](#), amending technical standards laid down in Delegated Regulation (EU) 2016/2251 as regards to the timing of when certain risk management procedures will start to apply for the purpose of the exchange of collateral.

[Commission Delegated Regulation \(EU\) 2021/237 of 21 December 2020](#), amending regulatory technical standards laid down in Delegated Regulations (EU) 2015/2205, (EU) 2016/592 and (EU) 2016/1178 as regards the date at which the clearing obligation takes effect for certain types of contracts.

The European Commission launched as public consultation to review the bank crisis management and deposit insurance framework ([link](#)).

[Regulation \(EU\) 2021/337 of the European Parliament and of the Council of 16 February 2021](#), amending Regulation (EU) 2017/1129 as regards the EU Recovery prospectus and targeted adjustments for financial intermediaries and Directive 2004/109/EC as regards the use of the single electronic reporting format for annual financial reports, to support the recovery from the COVID-19 crisis.

The Commission launched a targeted consultation on the supervisory convergence and the single rulebook: To take stock of the supervisory framework for European capital markets, banks, insurance companies and pension funds ([link](#)).

[Commission Implementing Regulation \(EU\) 2021/453 of 15 March 2021](#), laying down implementing technical standards for the application of Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to the specific reporting requirements for market risk.

Targeted consultation on the designation of a statutory replacement rate for CHF LIBOR ([link](#)).

The Commission launched a public consultation on instant payments ([link](#)).

The EBA publishes final draft technical standards to identify investment firms' risk takers and to specify the instruments used for the purposes of variable remuneration ([link](#)).

A The European Commission launched a targeted consultation on the review of the crisis management and deposit insurance framework ([link](#)).

The EBA launched a public consultation on the draft technical standards on supervisory disclosure under the Investment Firms Directive ([link](#)).

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The EBA launched a public consultation on guidance to assess breaches of the large exposure limits ([link](#)).

The EBA published a final draft of the technical standards on disclosure of indicators of global systemic importance by G-SIIs ([link](#)).

The EBA published a final draft of the technical standards on indirect exposures arising from derivatives underlying a debt or equity instrument ([link](#)).

"The EBA published a final draft of the technical standards on disclosure of indicators of global systemic importance by G-SIIs."

The EBA launched a public consultation on draft technical standards to improve supervisory cooperation for investment firms ([link](#)).

The EBA launched a public consultation on draft technical standards on Pillar 3 disclosures of ESG risks ([link](#)).

The EBA published a final revised Guidelines on money laundering and terrorist financing risk factors ([link](#)).

"The European Banking Authority today published its biennial Opinion on risks of money laundering and terrorist financing."

The European Banking Authority (EBA) today published its biennial Opinion on risks of money laundering and terrorist financing (ML/TF) affecting the European Union's financial sector ([link](#)).

The EBA issued new supervisory reporting and disclosures framework for investment firms ([link](#)).

[Final Report on draft Regulatory Technical Standards \(RTS\)](#). The European Supervisory Authorities (ESAs) have developed through the Joint Committee (JC) draft Regulatory Technical Standards (RTS) with regard to the content, methodologies and presentation of sustainability-related disclosures under empowerment Articles 2a, 4(6) and (7), 8(3), 9(5), 10(2) and 11(4) of Regulation (EU) 2019/2088 (Sustainable Finance Disclosure Regulation "SFDR").

The EBA carried out a consultation regarding guidance on how to grant authorisation as credit institution ([link](#)).

The EBA issued a revised list of ITS validation rules ([link](#)).

The EBA released its annual assessment of the consistency of internal model outcomes for 2020 ([link](#)).

[EBA reports on the monitoring of the LCR implementation in the EU](#). The EBA published its second Report on the monitoring of liquidity coverage ratio (LCR) implementation in the EU. This Report, which complements the one published on 12 July 2019, highlights areas in which further guidance is deemed useful for banks and supervisors in order to foster a common understanding and harmonisation of the application of the liquidity standard across the EU, as well as to reduce some level playing field issues. The EBA will continue regularly monitoring the implementation of the LCR for EU banks and will update these reports on an ongoing basis to set out its observations and provide further guidance, where necessary.

The EBA has carried out a consultation on changes to its Guidelines on Risk-based AML/CFT supervision ([link](#)).

The EBA launched public consultation on regulatory technical standards on disclosure of investment policy by investment firms ([link](#)).

CAPITAL MARKETS

I. CMVM

The Portuguese Securities Market Commission (CMVM) issued seven administrative offence decisions ([link](#)).

The CMVM has published annual circulars to issuers, financial intermediaries and asset managers ([link](#)).

The CMVM has made available the model report for disclosure of non-financial information ([link](#)).

The CMVM has published a circular on the implementation of the new duties of regular information reporting to the CMVM ([link](#)).

The CMVM has published questions and answers on the reporting duties applicable to auditors in the context of the prevention of money laundering and terrorist financing ([link](#)).

II. European Union

The ESMA withdraws the registrations of six UK-based credit rating agencies and four trade repositories ([link](#)).

The ESMA has published today its first set of Financial Instruments Reference Data System (FIRDS) files following the end of the Brexit transition period ([link](#)).

The ESMA has launched a common supervisory action with NCAS on the supervision of costs and fees of UCITS ([link](#)).

The CFTC and the ESMA today announced the signing of a new Memorandum of Understanding regarding cooperation and the exchange of information with respect to certain registered derivatives clearing organisations established in the United States that are central counterparties (CCPs) recognised by the ESMA ([link](#)).

The ESAS have published a final draft its on reporting templates for intra-group transactions and risk concentration under FICOD ([link](#)).

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The ESMA has updated the guidelines on written agreements between CCP college members ([link](#)).

The EIOPA has published the second paper on the methodological principles of insurance stress testing with focus on liquidity ([link](#)).

The Joint Committee of the three European Supervisory Authorities launched a public consultation to amend the Implementing Regulations on the mapping of credit assessments of External Credit Assessment Institutions (ECAIs) for credit risk ([link](#)).

The European Commission today adopted an equivalence decision determining that the United States Securities and Exchange Commission (SEC) regime for US central counterparties (CCPs) is equivalent to EU rules ([link](#)).

The ESMA has launched a common supervisory action with national competent authorities on the application of MiFID II product governance rules across the European Union ([link](#)).

The ESMA has published a final report on implementing technical standards under the Regulation on cross-border distribution of funds ([link](#)).

The ESMA has published the Final Report on its Technical Advice regarding supervisory fees for benchmarks administrators ([link](#)).

The ESMA has published its annual report on the application of waivers and deferrals for equity instruments ([link](#)).

The EIOPA Board of Supervisors has agreed to amendments to the key information document for packaged retail and insurance-based investment products (PRIIPs) ([link](#)).

The three European Supervisory Authorities published the final report and the draft Regulatory Technical Standards (RTS), on disclosures under the EU Regulation on sustainability-related disclosures in the financial services sector (SFDR) ([link](#)).

The ESMA has published its second Annual Report on waivers and deferrals for non-equity instruments under MiFIR ([link](#)).

The ESMA has published the final report on Guidelines aimed at assisting competent authorities in the application of EMIR provisions that deal with the review and evaluation of central counterparties (CCPs) ([link](#)).

The ESMA carried out a consultation regarding the methodology to calculate a benchmark in exceptional circumstances under the Benchmarks Regulation (BMR) ([link](#)).

The ESMA has published the first questions and answers regarding crowdfunding service providers for business ([link](#)).

The ESMA has launched a consultation on draft technical standards on crowdfunding under the European crowdfunding service providers regulation (ECSPR) ([link](#)).

The European Supervisory Authorities have published recommendations on the application of the Regulation on sustainability-related disclosures in the financial services sector (SFDR). ([link](#)).

The ESMA made a declaration on the “Cum-Ex/Cum-Cum” tax fraud scandal in the European Parliaments sub-committee on tax affairs ([link](#)).

The ESMA has published the results of the annual transparency calculations for equity and equity-like instruments ([link](#)).

The ESMA decided not to renew its decision to require holders of net short positions in shares traded on a European Union (EU) regulated market, to notify the relevant national competent authority (NCA) if the position reaches, exceeds or falls below 0.1% of the issued share capital. The measure, which has applied since 16 March 2020, will expire on 19 March 2021 ([link](#)).

European Supervisory Authorities consult on disclosure of taxonomy-related product disclosures ([link](#)).

The ESMA has updated its statement on the application of key provisions of the Benchmark Regulation (BMR) ([link](#)).

The ESMA has launched a public consultation on the simplification of supervisory fees for Trade Repositories (TRs) under EMIR and SFTR ([link](#)).

The European Supervisory Authorities have published a Joint Opinion on the jurisdictional scope of the obligations of the non-EU parties to securitisations under the Securitisation Regulation (SECR) ([link](#)).

"The European Supervisory Authorities have issued a report on the application of their guidelines on complaints-handling."

The European Supervisory Authorities have issued a report on the application of their guidelines on complaints-handling ([link](#)).

III. INSURANCE

[Law 75-B/2020 of 31 December](#), which approved the State Budget for 2021, has established exceptional rules for the early repayment of Savings Plans, which will be in force until 30 September 2021.

[Ministerial Order 62/2021](#) of the Presidency of the Council of Ministers and Finance, which establishes the requirements of the civil liability insurance contract arising from the activity of provision of services of trust .

[Commission Delegated Regulation \(EU\) 2021/473 of 18 December 2020](#), supplementing Regulation (EU) 2019/1238 of the European Parliament and of the Council with regard to regulatory technical standards specifying the requirements on information documents, on the costs and fees included in the cost cap and on risk-mitigation techniques for the pan-European Personal Pension Product.

[Commission Implementing Regulation \(EU\) 2021/178 of 8 February 2021](#), which lays down technical information for the calculation of technical provisions and basic own funds for reporting with reference dates from 31 December 2020 until 30 March 2021 in accordance with Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance.

Regulatory Standard 13/2020-R of 30 December on the regulation of the legal framework for insurance and reinsurance distribution ([link](#)).

Regulatory Standard 2/2021-R of 2 March, which makes the second amendment to the Plan of Accounts for Insurance Companies (PCES), approved in annex to Regulatory Standard 10/2016-R of 15 September ([link](#)).

Public Consultation 1/2021 on qualifying holdings in insurance or reinsurance undertakings and pension fund management companies ([link](#)).

Public Consultation 2/2021 on the draft Regulatory Standard establishing the quarterly indexes of capital for policies in the “Fire and Natural Elements” class ([link](#)).

Public Consultation 4/2021 on the draft Regulatory Standard incorporating the EBA Guidelines on interpretation of the STS criteria applicable to ABCP and non-ABCP securitisation ([link](#)).

Public consultation on the challenges for health insurance supervision and regulation in Portugal ([link](#)).

"The European Insurance and Occupational Pensions Authority has published the Consumer Trends Report 2020."

The European Insurance and Occupational Pensions Authority (EIOPA) has published the Consumer Trends Report 2020. The Consumer Trends Report analyses the evolution in the behaviour of insurance and pension fund consumers, identifying risks that may emerge from new market trends and which may require specific supervisory action ([link](#)).

Publication of the Portuguese language Brexit Consumer Guide on the website of the European Insurance and Occupational Pensions Authority (EIOPA) ([link](#)).

The European Insurance and Occupational Pension Authority (EIOPA) has launched a public consultation on open insurance, focused on access to and sharing of insurance-related data. In its Discussion Paper, EIOPA explores questions on whether and how far insurance value chains should be ‘opened’ up by the sharing of insurance-related and specific policyholder data amongst insurance and non-insurance firms, to protect policyholder rights and to allow for innovation in products and services. ([link](#)). ■