Dentons

Navigating 2021
Eurozone, Banking Union and Capital Markets Union policy and Supervisory Priorities in the remaining year ahead

A Background Briefing from Dentons' Eurozone Hub

Welcome to Navigating 2021

From all the supervisory changes and announcements made during the course of a challenging 2020 and start of 2021, our **Eurozone Hub** has collated the key points in the form of a non-exhaustive "Playbook" for Banking Union Supervised Institutions (**BUSI**s) and other regulated market participants (**RMP**s) (collectively **firms**) already based in or otherwise relocating to the EU and/or the Eurozone.

This "Playbook" is intended to serve as a resource that complements specific dedicated coverage from our Eurozone Hub on key developments as published/updated from time to time. Firms may want to refer periodically to this Playbook—regardless of the sector of the market they be active in—especially as a number of priorities and developments have overlapping supervisory aims, expectations and compliance challenges that exist both at the EU-level as well as in individual jurisdictions, as set out below.

This Background Briefing is split into four parts. The first three parts provide a non-exhaustive overview of the key themes for firms and what this means for their compliance priorities. Part four of this Background Briefing concludes with a brief recap on key developments in individual Eurozone and EU jurisdictions from Dentons' European Financial Institutions Regulatory Team.

Part 1: The Banking Union supervisory authorities and policymakers comprised of:

- The European Central Bank – Banking Supervision (**ECB**) at the helm of the Single Supervisory Mechanism (**SSM**) and the participating national competent authorities (**NCA**s)
- The Single Resolution Board (**SRB**) at the helm of the Single Resolution Mechanism (**SRM**) and the participating national resolution authorities (**NRA**s)

Part 2: The European Supervisory Authorities (ESAs), which are in addition to the NCAs/NRAs, part of the EU-wide European System of Financial System Supervision (ESFS), comprised of the:

- The European Banking Authority (**EBA**)
- The European Securities and Markets Authority (**ESMA**)
- The European Institutional and Occupational Pensions Authority (**EIOPA**)
- The European Systemic Risk Board (**ESRB**)

Part 3: The European Commission's policy and rulemaking priorities; and

Part 4: National updates from the wider Dentons Financial Institutions Regulatory team concerning the priorities of the NCAs/NRAs

This public version of the 2021 edition in the Navigating Series comes somewhat later than usual as a result of EU and national policymakers having been impacted by constraints caused by COVID-19. The content covered herein is as available on February 28, 2021 unless indicated to the contrary.

If you would like to discuss the contents herein in further detail, such as how the 2020 priorities translate into firm-specific regulatory workstreams and possible compliance solutions, please do get in contact with our Eurozone Hub via eurozone-hub@dentons.com.

We hope you enjoy this edition!

Your Dentons Financial Institutions Regulatory Team in Europe and your Eurozone Hub Team

Executive Summary – Where are we now, key trends and where are we headed?

If 2019 was dominated by disagreements and delays leading to a last minute agreement on Brexit and a transition period, in 2020 these disagreements carried on through to an 11th hour deal on a EU-UK Trade and Cooperation Agreement[1] (the EU has yet to ratify this deal in 2021). If Brexit were not complicated enough, financial markets, market participants, their clients, counterparties and customers including end-users and retail financial services customers were also forced in 2020 to confront COVID-19.

This new and very much prolonged pandemic[2] that is continuing in 2021 has caused a shift in regulatory policymaking and supervisory action point timelines, as well as unprecedented monetary policy support and national, often fragmented, fiscal policy efforts to help the real economy through various channels and by various actors.

Moreover, as financial services firms and much of the real economy embarked on the world's largest continuing experiment in remote working, the notion of how financial services firms' staff work, from where (including as digital nomads[3]), and on what basis and how the traditional three lines of defense model[4] operates in a digitally and decentralized manner has changed. For many financial services firms the impact of COVID-19 has brought pressures on viability, sustainability and the general outlook of their own business models, as well as the needs and channels of interaction with the clients, counterparties, communities and customers they had previously served.

As in past crises, the impact of COVID-19 also unearthed a range of bad actors in 2020 and 2021, as well as serious failings at national supervisory authorities. Yet in the spirit of never letting a good crisis go to waste, EU policymakers have pushed for an even greater Europeanization of financial services rulemaking and supervision. This on the one hand aims to deliver on the continued aim to complete the Banking Union (which grew in 2020 with the addition of Bulgaria and Croatia to 21 out 27 EU member states)[5], as well as the completion of the relaunched Capital Markets Union (**CMU**) 2.0[6]. But it also aims to help complete the Digital Single Market and apply lessons learned from COVID-19 driven lockdowns and plug identified gaps, while future-proofing

1 See coverage on the TCA available here and on the EU-27 and the UK's Equivalence Decisions framework here.
2 See coverage available here.
3 See coverage available here.
4 See coverage available here.
5 See coverage available here.
6 See coverage available here.

solutions for a much more digital world, where one is being asked to do more together but from a safe social distance.

Financial services policymakers across the EU indicated that they would pick-up those priorities that had been paused due to the pandemic but would also issue even more new policy and Supervisory Priorities, as well as wider-reaching Action Plans. In certain instances, planned actions are scheduled to reach well beyond the middle of the new decade. Coinciding with the implementation of agreed new responsibilities, as well as a push for even more new powers and rules, the existing pillars of post-crisis legislation are slated for a review.

These reviews are set to affect many of the principles, rules and supervisory expectations that, for many market participants, may have become part and parcel of how business is structured, executed, custodied, reported and supervised across the EU-27 and certainly within the Eurozone-19 and the Banking Union.

Some of this change is welcome in that EU policymakers are set to revisit and reform rules and principles to ensure (continued) workability, notably operationalizing reforms in EMIR Refit as it applies to derivatives, as well as the breadth of scheduled reviews to the MiFID II/MiFIR affecting capital markets, as well as Solvency II specifically for the insurance sector, and AIFMD for the non-UCITS and non-money market fund asset management sector.

Climate change and ESG-driven reforms have also continued to speed up and take center stage, reflecting a much bigger common threat than COVID-19. The EU's Green Deal, in which financial services are to act as a catalyst to transition Europe to achieve (or at least come sufficiently close to) climate targets set for 2030 and ultimate carbon neutrality, was echoed by efforts of other EU authorities including the European Central Bank as well as the European Supervisory Authorities as set out below. The new EU Commission, despite its shift to crisis management on multiple fronts, has delivered an extensive breadth of reforms focusing on combatting climate change and improving ESG.

When taken together, these efforts aim to improve supervisory convergence and ultimately make the Single Rulebook for financial services more "single" and more workable for stakeholders but also for supervisors. Other changes are scheduled to "Brexit-proof" both the European System of Financial Supervision (**ESFS**) and the Single Market more generally. Regardless of the aims, the existing changes that were proposed during 2019 and those that are set to be advanced by the European Commission are likely to have far-reaching impacts.

Continued complexity will likely arise in that the UK is reforming its own rules and is set to diverge away from existing EU concepts. For financial services firms and their counterparties and clients, this will require firms, whether in the UK and the EU-27 as well as other jurisdictions, to carefully navigate a much more muddled jungle of regulatory acronyms and compliance obligations.

Picking-up from 2019 and 2020 – laying the foundation for 2021 and beyond

EU policymakers largely achieved progress on or completion of "their" core 2019[7] and 2020[8] goals. This included, but was not limited to, focusing on how to incorporate sustainable finance and social responsibility into traditional finance and compliance workstreams, thus enabling the European Commission to concentrate on the Green Deal. Items that were paused are now being picked up in 2021.

Such items that were temporarily paused or prolonged included the finalization of much of the detail on how to implement Basel III and IV reforms, through CRR II/CRD V, going through to CRR III/CRD VI, and how to reform resolution and resolvability, as well as revisiting stress-testing for the banking and insurance sectors. At the same time, difficult reforms such as ESMA's work on the CSD Regulation, convergence of supervisory practices for CCPs by initiating, coordinating and conducting EU-wide assessments and peer reviews on CCP supervision were advanced.

Other areas where the EU has certainly continued a much more aggressive pace at the start of 2021 include, partly due to some very public conduct of business failings, anti-money laundering and combatting financing terrorism (commonly referred to as anti-financial crime), with the entry into force of the 5th and 6th Anti-Money Laundering Directives, along with greater centralized powers awarded to the European Supervisory Authorities (**ESA**s), notably the European Banking Authority (**EBA**), to lead, manage and coordinate National Competent Authorities (**NCA**s) within the ESFS.

Other institutional breakthroughs during 2019 and 2020 included European policymakers managing to advance consensus on completing Banking Union's "third pillar" in the form of a common EU-wide national depositor guarantee scheme, and creating a European Deposit Insurance Scheme (**EDIS**). EDIS is to be managed by the Single Resolution Board, which heads the Banking Union's second pillar, the Single Resolution Mechanism (**SRM**). This big-ticket political shift has yet to translate into specific solutions being advanced but previous German concerns were replaced with Italian ones.

The authorities that make up the ESFS as well as those making up the Banking Union have also adopted more intrusive supervisory practices, including a greater use of on-site inspections, thematic reviews and deep dives to take the ongoing supervisory dialogue with firms to direct engagement.

This change in trend has also meant that, as in 2019 and 2020, supervisors remain more interested in assessing firms' business models, profitability drivers (as monetary policy changes), "strategic steering" and governance, risk profiles and appetites, risk management and compliance frameworks. In addition they are focused on how to hold governance and executive functions accountable for the outcomes and operation of regulated and non-regulated business activities, including the use of technology-enabled solutions such as FinTech, digitization and activity in respect of digital assets and cryptocurrency, culminating in both a proposal for an EU Regulation on Markets in Crypto Assets (**MiCA**)[9], which would create the world's largest single market for crypto-assets, as well as a proposal on an EU Regulation on Digital Operational Resilience Act (**DORA**)[10], along with accompanying reforms and targeted amendments, all of which are discussed in further detail below.

Convergence, divergence and conceptual comparability

Importantly, while the EU and the Eurozone continue to focus on supervisory convergence within its Union, the global regulatory approach is — partly due to geopolitical and macroeconomic pressures — moving away from globally coordinated action to increased divergence, including geographical and activity-based ring-fencing and/or extraterritorial application by supervisors of "their" rules. The UK's vision of what its financial services regulatory regime might look like is likely to change as the UK charts its own course and tailors existing EU rules, including those that stem from the 2009 G-20 Pittsburgh Commitments and post "great financial crisis" responses, to the needs of "its" market.

For financial services firms, this means taking note of the EU's Single Market[11] for financial services, finalizing its Single Rulebook and interfacing with a much more active EU-led "single supervisory culture and institutional culture" during a period when other jurisdictions nearby, such as the UK, or far away, such as the US, begin to diverge or go it alone. That being said, all EU and major global jurisdictions in 2021 and beyond are still focusing on some very common themes beyond just COVID-19 firefighting.

Some of these common issues include supervisors exercising increased scrutiny over how financial services firms show compliance in their governance

7 See Navigating 2019.
8 See Navigating 2020.

9 See dedicated coverage from our Eurozone Hub on this development available here: Meet MiCA – The EU pushes forward its proposal for its Markets in Crypto-Assets Regulation plus a pilot regime for DLT infrastructure ECB issues opinion on Markets in Crypto Assets Regulation (MiCA) and European Parliament Rapporteur tables own changes
10 See dedicated coverage from our Eurozone Hub on this development available here:
- 1st Alert in our series of deep dives on the EU's Digital Operational Resilience Act (DORA)
- 2nd Alert in our deep dives on DORA
- 3rd Alert in our deep dives on DORA and the ESAs response to policymakers

11 The EU has long sought to construct a single financial market through different legislative and non-legislative means. The degree of integration is usually assessed by reference to convergence/divergence of asset prices by asset class type, as well as investor participation from retail and wholesale sectors in domestic as well as cross-border situations, as well as the degree of cross-border market activity in primary and secondary markets, as well as the operational footprint and pan-EU market infrastructure. The EC, in its European Financial Stability and Integration Reviews (EFSIR) and the ECB, in its Financial Integration in Europe Report (the awkwardly named "Fintec Report") provide annual updates on the levels of integration, trends and policy outlook.

(including diversity and gender equality amongst decision-makers), risk management, company culture and the management approach to prudential and conduct of business rules, principles and supervisory expectations. 2020 and the start of 2021 also saw the increased use by EU supervisors of EU-wide supervisory investigations and thematic reviews, as well as a greater focus on assessing operational resilience along with cyber-resilience. Moreover, 2020 and 2021 saw the start of the EU-level supervisors increasing their use of "Common Supervisory Actions" in respect of financial services firms across the EU, i.e., multi-state based investigations as well as the use of "Fast-Track Peer Reviews" in addition to "Peer Reviews" to evaluate the performance and compliance of national-level financial services supervisors, so as to drive supervisory convergence and truly build a Single Market that relies on a Single Rulebook and a Single Supervisory Culture.

Rulemaking but not as many may know it

2019 and 2020 also saw the EU's increased use of "soft law" instruments such as "guidelines" or additional supervisory expectations set by the ESFS, including the supervisory principles on relocations (**SPoR**s)[12]. This is set to continue in 2021 and beyond.

These soft law instruments are often used as they are easier to pass and adapt, and they are more flexible in discretions, which can change the tone of how regulatory principles and rules are made and policed. The SPoRs set specific quantitative and qualitative criteria that national competent authorities apply in relation to those firms relocating to the EU-27 and those EU-27 firms looking to expand their UK business.

The SPoRs build upon but also sharpen existing EU regulatory principles and concepts. They are both broad in what they cover and prescriptive in setting supervisory expectations. And to further complicate matters, they have been often overlooked by firms operating from non-EU-27 jurisdictions and their professional advisers. This has caused some relocating firms to have their post-Brexit licence applications sent back and forced others to rethink their Brexit-planning, in particular as the ECB, as super-supervisor for the Eurozone's banking sector at the head of the Banking Union's Single Supervisory Mechanism (**SSM**), continued, as in 2018, to shift the tone in 2019 and 2020 on references from "home" and "host" state responsibilities to "on-shore" i.e., within the EU-27, and "off-shore" i.e., non-EEA "capabilities" (human, financial and other resources). Brexit also offers the EU as well as the ESFS an opportunity to further centralize rulemaking and supervision of the Single Market. The reforms of the ESAs as well as the ECB's setting up its own AML Task Force[13] are good examples of this on-going "Europeanization" of who makes the rules but also who supervises and enforces compliance with them.

Despite the continuing evolution of the ESFS in terms of institutional capabilities and aims, the way rules and principles that apply to those ECB-SSM directly supervised BUSIs (i.e. significant credit institutions – **SCI**s) in terms of how these are made and how they continue to be rolled-out to those BUSIs that are categorized as "less-significant institutions" – **LSI**s) is important. So too is the case that these rules/approaches are often mirrored at EU and/or national level by copying or adopting similar rules for wider EU financial markets.

Such a move in the Banking Union started in 2018 and carried on through 2019 with the increasing harmonization of SSM-run SREP exercises between SCIs and LSIs, the streamlining of national options and discretions in respect of CRR/CRD IV within the Banking Union and the potential application to the wider EU, and the Consilium taking the ECB-SSM's NPL framework as it applied to SCIs and rolling it out, in the form of a dedicated Action Plan, to the wider EU banking sector. This approach is now being replicated by efforts at other ESAs. This reflects not only a change in how rules are made but also how they are applied, often in a phased/concentric approach[14] and marks a tectonic shift in technocratic influence but also a new tone from distinct and dynamic actors in policymaking as well as supervision.

12 See our overview of the SPoRs here.

13 See our Client Alert here.

14 It is important to recall that the ECB-SSM has, as a result of the Banking Union, emerged as a distinct supranational influencing force in shaping EU financial regulatory policy (including more recently CMU 1.0 and 2.0), and while there is growing evidence that all stakeholders at the ECB (as SSM and central bank/financial stability) see a need for a single EU capital markets supervisor that would strengthen financial stability and support the completion of the EU's Economic and Monetary Union (of which the Single Market for financial services is a key component), there is no direct indication that the ECB supports strengthening the ESMA, even if it supports ESMA's proposed allocation of greater powers and resources. This is largely in part to the often difficult relationship that exists where ESMA aims to protect "its mandate" from ECB encroachment, and the ECB has aimed concurrently to expand its own supervisory and/or financial stability mandate beyond the original purist prudential regulatory and limited governance mandate that it was granted. Both ECB and ESMA, as well as to a lesser degree the sister ESAs of EBA and to a lesser extent EIOPA, are each aiming to establish their regulatory capacity—often in ambitious and expansionist use of "soft law" instruments as this advances supervisory expectations and outcomes of firms as well as NCAs. This approach and exercise of greater influence/authority can leapfrog or circumvent institutional hierarchies and boundaries set by the EC or NCAs operating their own mandate, which are in theory subject to the ESA's direction, even if at times the ESA/NCA relationship can shift from collegiate and cooperative to fractious and outright competitiveness. The Banking Union established a clear distinction with the ECB and SRB at the head of the SSM and the SRM, and this is increasingly being replicated by the ESAs in their own areas and "own" NCAs.

Contents

Common themes within the Eurozone and the EU – differing impact and compliance challenges

Each of the EU-level and national-level supervisory authorities have published individual "Work Programmes" or "Action Plans" for 2021 and beyond. These documents detail their specific priorities within their specific prescribed mandates. Whilst the Eurozone, Banking Union and CMU policymakers have not published a common document that sets out the overarching regulatory and supervisory strategy for 2020 and beyond, each of the individual publications share common themes and priorities. Alongside the overriding topics of supervisory convergence and the aftermath of Brexit, there is agreement on the longer-term goal to deliver on the Green Deal and economic and social responsible investing. The continuing wave of digitalization and transformation as a result of machine learning, artificial intelligence and the growth of cryptocurrency and digital assets has also taken center stage, with more regulations being planned or put into place both on country-individual and European levels. The ECB, acting in its central bank capacity, has continued to put cyber-resilience front and center by pushing for rules set out in its TIBER-EU Framework[15] and its Cyber Resilience Oversight Expectations (**CROE**)[16].

Assessing these priorities and the impact in terms of the pain points for firms and their ***"run the business" as well as "change the business***" workstreams may be relevant for strategic forward-planning of how to shape business operating models as well as how and when to strengthen existing or implement new compliance measures. The ESFS are placing an even greater emphasis on FinTech and RegTech matters, and will continue to do so in the future, and that ever-changing legal landscape matters especially in light of the supervisory tone adopted by the ESFS. Banking Union authorities and the wider ESFS are increasingly focusing on compliance with the letter and spirit of BCBS 239 standards, which has caused some concern from certain firms in select jurisdictions. Consequently, BUSIs certainly, but also other RMPs will be held to a higher standard in terms of being benchmarked against one another but also in terms of how they take ownership and follow-through on supervisory findings in terms of remedial action but more importantly future-proofing against weaknesses.

The European Supervisory Authorities (**ESA**s, comprised of EBA, ESMA and EIOPA) have increasingly moved to a more common supervisory and enforcement approach on how tools are used in respect of the respective parts of the EU's Single Rulebook that are within the respective ESA's mandate. Indeed the ESAs are set to gain a range of new supervisory responsibilities and tools between 2020 and 2024. This trend builds upon the Banking Union's move to a much more common supervisory culture that has also caused some non-Banking Union national competent authorities (**NCA**s) in the EU as well as some non-EU NCAs to copy approaches taken within the Banking Union.

As in previous years, governance and executive functions of firms, themselves under increased scrutiny in their processes and outcomes-based supervision, may want to consider setting up dedicated working groups of internal and external stakeholders to take greater "ownership" of delivery of impact of individual but also overarching themes. This means not only setting the tone from the top and improving the "strategic steering" of the firm but also a bottom-up approach to communicate and embed expectations and accountability across all levels.

15 See our coverage here
16 See our coverage here

The ESFS's common themes and priorities may be of relevance to firms and may assist in prioritizing their own compliance workstreams:

Common overriding themes:	Published Supervisory Priorities of:	Possible actions for firms:
Continuing to reduce risks posed by non-performing loans and exposures (jointly referred to herein as **NPL**s) in particular in light of COVID-19	ECB, EBA, EC and ESRB	• Form a working group to start work on compliance with the NPL Guide with COVID-19's longer- term impact in mind as this applies to the banking and trading book on the retail and wholesale side • Start the portfolio segmentation process of identifying and categorizing NPLs (and COVID-19 specific NPLs) that are resolvable and those that are non-viable • Test resilience of divestment channels
Embedding post-Brexit operating models as they relate to: • legal entity structuring and booking models • client and counterparty- facing documentation • interoperability with financial market infrastructure • adequacy of documented fallbacks and alternative contingency arrangements within firm but also linkages with peers	All relevant entities	• Revisit existing Brexit-planning arrangements to ensure compliance with SPoRs • Ensure policies and procedures read like and operationally reflect the requirements applicable to firms operating in the EU and specifically BUSIs operating in the Eurozone, while still being interoperable with UK, US and other global requirements, or split governance along regional lines • Firms are still expected by supervisors to be seen to be active in moving past "day 1 readiness" even if the assumption is that many are rather working towards a "day 90 or day 180" readiness (i.e., full Brexit-proofed arrangements) where possible. This includes a review of all "onshore" i.e. EU-27 capabilities (human, capital and operating resources) as compared to "offshore" i.e., non-EEA operations

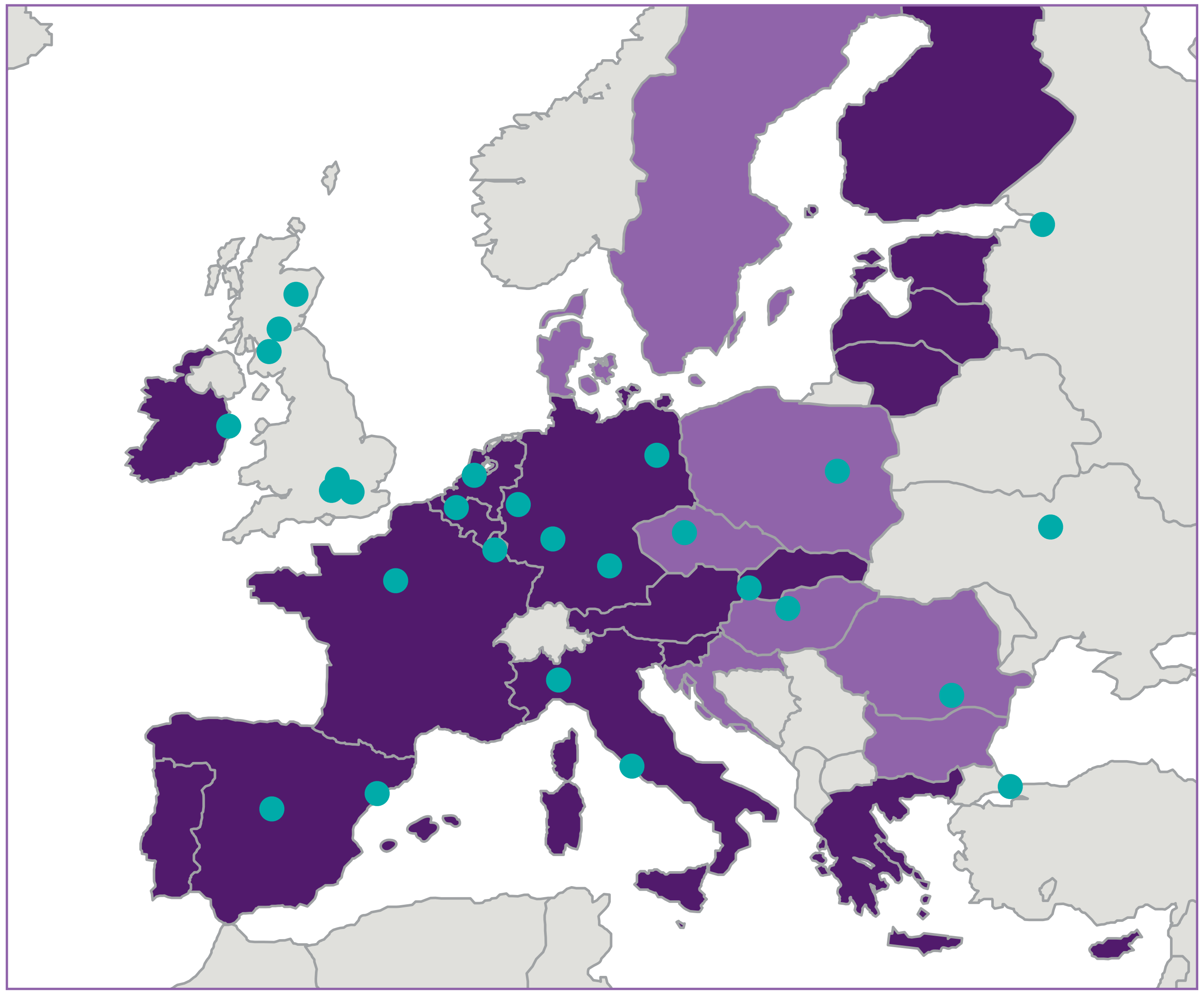
Supervisory convergence of rules but increasingly also supervisory standards in particular on: • Prudential standards, whether new (CRD V/CRR II) or existing building blocks (ICAAP, ILAAP, SREP (incl. specifically ECB-SSM application thereof) outputs and stress testing), as well as proportional application of standards to MiFID investment firms[17] as well as the Solvency II review • Resolvability and resolution planning/funding • Model governance and model risk management • Resilience and ability to replace credit and/or financial leverage in liquid and illiquid operating conditions • Profitability drivers and lending standards • Tackling financial crime • Benchmark regulation compliance and migration to risk-free replacement rates from current Interbank Offered Rates (**IBOR**s) • Improved incident management, improving operational risk management but also cyber-resilience • Permitted use of inducements and payment for research • Sustainable finance and socially responsible investments • Delivering CMU 2.0 with more conceptual in-progress work being actioned into actual proposed or adopted legislation	All relevant entities It should be noted that despite statements from commentators, including the European Court of Auditors, none of the relevant entities have dedicated extensive resources to establishing harmonized technical and continuing training standards and/or staff qualification outcomes between relevant EU authorities and relevant national authorities or amongst these authorities. Consensus is emerging that tackling supervisory convergence from the bottom-up would help shape the common supervisory and administrative culture that each of the EU authorities continue to implement within their respective mandates	• Expect more calibration of existing rules as well as those in the pipeline (notably ECB, EBA and ESMA). This will require an oversight at the individual jurisdictional and business unit level but also across the Eurozone to ensure appropriate regulatory optimization by firms • Greater focus on really moving the Single Rulebook from fiction to fact, including more active use of harmonized SREP. This includes also a greater supervisory interest in firms' compliance with MiFID II, PSD2, Insurance Distribution Directive, MAR, MLD 4 (with a view to MLD 5 and 6), AIFMD/R as well as GDPR (and ethical use of "big data"), which are either at the end of informal grace-periods for full compliance, have recently been introduced, or where significant breaches/shortcomings have been identified or where serious "under preparedness," such as with IBOR transition beyond limited activity, is perceived in terms of firm-internal processes but also where there are risks when engaging with clients and counterparties • Expect greater scrutiny of the appropriateness and resilience of margin, clearing and settlement arrangements (including settlement discipline) during stressed and "normal" market operating conditions as well as of available funding lines. This comes on top of the continued phase-in of mandatory margining entering into force and as EMIR 2.1 as well as 2.2 begins to become applicable and/or finalized and settlement discipline rules begin to apply • Considerable scrutiny of how firms meet compliance and supervisory expectations as part of their risk, compliance and governance culture but also operationally across levels from oversight through to business processes and how decisions are challenged, justified and documented to avoid "group think" across the firm • Greater emphasis on design, documentation and testing of performance of each component of three-lines of defense and to ensure equally that the operating as well as compliance framework implemented by a firm is designed in an effective manner, is operationally effective and audit results are implemented in a timely and effective manner

Consumer protection and increased focus on: • Product governance and distribution • Ensuring products are non-complex and enhance consumers—a prime example is ESMA and other national authorities making use of product intervention powers for binary options and retail CFDs as well as certain cryptocurrency access products • Products that are perceived to provide poor value, especially where fee structures and cost/return relationships are opaque • Changing role and distribution models of insurers and insurance as well as increased interest in creating a uniform recovery and resolution regime for (re-)insurers	EBA, ESMA and EIOPA	• Further uncertainty on timeline on PRIIPS review and other investor protection standards despite the prominence attached to making progress on finalizing output in this area • Greater focus on ensuring risk, return, payout profiles and cost structures (including indirect/direct costs – with a preference for total expense ratios and comparative performance) are communicated prior to the start of and during the business relationship • Improved oversight arrangements by AIFMs and UCITS management companies of fund governance, delegation as well as performance and service quality of investment managers generally but also where functions are delegated
Regulatory reporting, notably transaction reporting and level of data quality, both in breadth and accuracy of what is collated	All relevant entities	• Expect a notable change in the move to a more "European Reporting Framework" and a common taxonomy that may bring with it challenges and compliance risks
FinTech	All relevant entities	• Expect MiCA and DORA to be pushed forward • Greater supervisory scrutiny of all firms' cyber-resilience and vulnerabilities, including interconnectedness and risk propagation channels between FinTech and non-FinTech firms

17 See dedicated coverage from our Eurozone Hub on this development available here:
1. "EBA publishes IFR/IFD Roadmap to 2021 implementation" July 14, 2020
2. "Preparing for IFR and IFD - What next on the road to June 2021" April 29, 2020
3. "Consilium agrees position on IFR and IFD – moving to a new prudential regulatory regime for investment firms" January 11, 2019
4. "The impact of the European Commission´s proposals for a new prudential capital framework on MiFID Investment Firms" July 18, 2018

Internal improvements to information and communication technology solutions (ICT); however, still no significant mention of moving to embrace RegTech	All relevant entities – although it should be noted that if these entities shared ICT and administrative systems in terms of standards or across entities, then this might improve harmonization through supervisory standards and processes converging. A similar cost-saving and improvements to comparability, and thus certainty, might be achievable if the relevant authorities were to make greater use of common templates. By way of example, each of the Action Plans of the relevant entities have a different style and very few standardized features/ commonalities	• Expect a greater supervisory focus on "cyber resilience"

Dentons' footprint in the Eurozone and Europe



EU-27
Eurozone-19
Dentons offices

Part 1 – Banking Union Supervisory Priorities for 2021

2020 proved to be very different than expected as financial regulatory policymaking focused on firefighting the economic impact of the COVID-19 pandemic and ensuring supervised firms were a key part of the solution in channeling credit and investment where it was needed to fight what was a very new type of crisis to reach Europe's shores. In many ways the regulatory reforms that were put in place following the Global Financial Crisis of 2008 have meant that financial services firms weathered their first real stress test quite well even if far-reaching pandemic-induced pressures and losses are inevitable.

While central bank led and government fiscal support measures have helped support the real economy and financial markets, there remain concerns over negative interest rates, growing household and government debt levels and their sustainability, and thus a risk of significant wide-spread sharp downgrades as well as a stark sustained rise of non-performing exposures and loans.

Consequently, in 2021 and possibly for longer, the EU and the Banking Union will continue to be subjected to the formidable challenge posed by COVID-19 and various variants, which will, despite vaccines, complicate the economic outlook. In order to combat these adverse pressures, policymakers will likely need to ensure the economic recovery, government and regulatory policymaking responses continue to prioritize financial and operational resilience, but also look to adapt to the New Dynamic and the operating environment post-Brexit and COVID, as well as to minimize the adverse impact on financial services firms and the real economy as various COVID support measures begin to be unwound by governments.

The priorities of the ECB-SSM and SRB for the 2021 supervisory cycle aim to embed the lessons learned from 2020, pick up the policy areas and reform priorities that were put on pause in 2019 due to Brexit, as well as for both the ECB-SSM and SRB to adopt their new organizational structure and supervisory tone, including implementing the Guide to methods for determining penalties for regulatory breaches (see coverage from our Eurozone Hub). They also look to strengthen EU and Banking Union unity across a Single Rulebook for financial services that continues to grow in new thematic areas, becoming subject to greater Europeanization of oversight (ESG, crypto-assets, digitalization and (digital) operational resilience and much more, just at a time when globally regulatory divergence between global jurisdictions is growing and not just in relation to Brexit. Global financial services firms and BUSIs will need to work with counsel to navigate the interplay between such diverging regimes, which, unless managed carefully and comprehensively, adds costs and complexity to an increasingly challenging compliance process.

Europeanization of reforms - So what's ahead for the rest of 2021?

Banking Union authorities along with the ESAs and the EU policymakers continued their efforts in 2020 and will do so in 2021 to further implement the "banking package" (CRR II/CRD V, BRRD 2, SRMR 2), with key changes notably in relation to authorizing and supervising financial holding companies, mixed activity financial holding companies, intermediate parent undertakings, due to CRD V changes as well as an expansion of supervision due to the EU's Investment Firms Regulation and Investment Firms Directive (IFR/IFD). These points are being pushed ahead of longer-term moves to what is being dubbed CRR III/CRD VI, which remain at the forefront of firms' and supervisors' focus. So too is the on-going pressure to replace interbank offer rates (IBORs) with risk-free rates (RFRs), which requires a wealth of preparatory action to meet looming deadlines to comply with the EU Benchmarks Regulation, which itself is subject to revisions.

Some of these areas that both the ECB-SSM and SRB aim to advance are known priorities that are more specific to the functioning of the Banking Union and the SSM/SRB's own mandate. These include Banking Union authorities pressing ahead with new revised plans for a European Deposit Insurance Scheme to further improve on the system of national deposit guarantee schemes and thus provide a much needed third pillar to the Banking Union to complement the SSM and SRB. Other areas for revised reforms relate to finalizing a breadth of new ECB-SSM Guides (which, despite being framed as "non-binding", do read like and should in many ways be applied similarly to rulebooks) ranging from the supervisory approach to consolidation in the banking sector[18], reforms to the ECB-SSM's NPL Guide and the EU's NPL Action Plan as well as plans to update the ECB-SSM's Fit and Proper Guidelines, which would be the first update since 2018[19] and will for the first time focus on diversity and inclusion in the composition of key function holders and boards.

Other more fundamental changes are also being cemented as the ECB-SSM steps into a much more proactive role in supervising AML prevention efforts, a growing focus on BUSIs' operational resilience as well as supervising BUSIs' compliance with the ECB-SSM's expectations on ESG and its efforts on combatting climate change.

The start of 2021 also saw the restart of moves on the delayed ECB Strategic Review, which was set to close by end of 2020. The review largely focused on reviewing monetary policy (**MonPol**) activity, which has changed and grown due to COVID-19 pressures, but the ECB also aims and commits to "leaving no stone unturned" generally and also specifically in terms of embedding the Green Deal. It will also will focus on economic and quantitative analysis that affects both inflation targets and real economy development, as well as the ECB's use of models for financial stability purposes, including counter-cyclical buffer levels.

18 See coverage available here.
19 See coverage available here.

ECB publishes SSM Supervisory Priorities for 2021

The 2021 SSM's Supervisory Priorities[20] published on January 28, 2021[21], build upon and extend the 2020 Supervisory Priorities as well as reflect the risk mapping conducted by the ECB-SSM. These two documents, which are discussed in detail below, are also being run during a very different supervisory cycle.

Besides the COVID-19 pandemic changing how supervision is conducted i.e., more off-site and remote investigations for the moment, the ECB-SSM itself is in the process of changing, both in terms of its breadth – through the accession of Bulgaria and Croatia[22] to the Banking Union that commenced on October 1, 2020, and thus both to the SSM and SRM and its institutional pillars, but equally in terms of the way the ECB is set-up in its SSM operations more generally.

ECB-SSM changes to its organization and supervisory tone

On July 29, 2020, the ECB-SSM announced changes (the **July 2020 Changes**) to its internal organizational set-up.[23] This was the first shake-up of the SSM's structure in six years. In the ECB-SSM's own words (our emphasis added in bold):

"The reorganization builds on six years of experience in European banking supervision and **shifts the focus towards more risk-focused supervision**. It will reinforce the supervisory strategy and risk function – our second line of defense – and facilitate **closer cooperation between bank-specific and thematic supervisory teams**, ensuring greater consistency in the treatment of banks and thus fostering the transparency and predictability of supervisory actions."

Consequently, the July 2020 Changes aim to:

- Ensure continued effective supervision of BUSIs "in the euro area and beyond" – which can be read not only in reference to the ECB-SSM's new areas of interest but also in relation to the post-Brexit operating environment, as well as the extension of close-cooperation arrangements with respect to Bulgaria and Croatia that commenced on October 1, 2020;[24]
- Reinforce the ECB-SSM's supervisory strategy and risk function while concurrently ensuring greater consistency in supervisory outcomes;
- Align and increase coordination between bank-specific and thematic supervisory teams – i.e., BUSIs' Joint Supervisory Teams will be more centrally coordinated and one might expect an increase in thematic reviews as well as on-site inspections; and
- Improve transparency and predictability of supervisory actions.

20 See here
21 In contrast the ECB-SSM's 2020 Supervisory Priorities were published on October 7, 2019, and thus well before COVID-19 began to take grip across Europe.
22 See coverage from our Eurozone Hub available here:
1. "Bulgaria and Croatia join the EU's ERM II and establish close-cooperation with the Banking Union" July 27, 2020
2. "Croatia's accession to the European Banking Union – the outlook ahead" August 9, 2019
23 See coverage from our Eurozone Hub available here: "ECB-SSM announces July 2020 changes to its internal organization and supervisory tone" July, 31, 2020.
24 See latest coverage in our Eurozone Hub's dedicated series on this development available here.

As part of the July 2020 Changes, the ECB-SSM also created[25] two additional "business areas" in addition to the existing five areas and redistributed the tasks across these. Consequently, due to the change in how BUSIs will be supervised, i.e., by business model, the ECB-SSM has decided that:

1. Bank-specific supervision (**BSS**) will be grouped into three Directorates, "…generally structured according to the business models" of BUSIs to "…create more synergies and allow a better comparison of common risks and challenges.". Consequently, BUSIs subject to the supervision of the former Directorates General (**DG**) and Microprudential Supervision (**MS**)[26] will be reallocated to the following new DGs:

A. DG Systemic and International Banks (**DG/SIB**), where the majority of former SCIs in DG MS I have migrated to;

B. DG Universal and Diversified Institutions (**DG/UDI**), where some former DG MS I but more DG MS II firms may be assigned to;

C. DG Specialized Institutions and Less Significant Institutions (**DG/SPL**), where some SCIs may be allocated, but which will be responsible for supervisory engagement and oversight in respect of LSIs;

2. Dedicated horizontal supervision will be led by a new Directorate General Horizontal Line Supervision (**DG/HOL**)[27] to strengthen risk expertise in the supervision of BUSIs, to conduct benchmarking and industry-wide assessments, such as thematic reviews, and to develop policy stances and maintain supervisory methodologies;

3. A strengthened and improved supervisory risk function in the form of Directorate Supervisory Strategy and Risk (**D/SSR**) will be introduced to conduct strategic planning, propose Supervisory Priorities and ensure consistent treatment of all BUSIs (not just SCIs). The creation of a new Directorate in this area takes over a number of responsibilities from a number of Divisions previously housed in DG MS IV;

4. A structurally independent on-site supervision function, the Directorate General On-site and Internal Model Inspections (**DG/OMI**) will be created, which grows from the previous Centralized On-Site Inspections Division as a subset of the previous DG MS IV;

5. It will build a stronger governance and operations function in the Directorate General SSM Governance and Operations (**DG/SGO**) to support decision-making. DG/SGO will also be responsible for authorizations (such as fit and proper assessments and qualifying holding procedures) and innovation. As in the changes summarized above, DG-SGO will operate as a standalone Directorate General and take over responsibilities from large parts of the former DG MS IV and some divisions housed in the DG Secretariat General to the Supervisory Board.

The July 2020 Changes not only refine the SSM's efficacy but also its reach, while equally sharpening the supervisory tone. For BUSIs and their relevant business lines and their control functions, the challenges will be in responding to perhaps greater and more intrusive supervisory engagement, with a more confident supervisor which is adapting to a new set-up with new staff joining or moving into new roles across all levels of seniority. It also remains to be seen whether the ECB-SSM will publish an updated public version of its (internal) Supervisory Manual, which details ECB-SSM relevant policies and procedures for supervision of new as well as existing BUSIs.

Equally, even if these changes are ECB internal, they will impact Banking Union NCAs and also more broadly those NCAs, as well as the other European Supervisory Authorities (EBA, ESMA and EIOPA), that form the European System of Financial Supervision (**ESFS**) in their interactions with the ECB-SSM related to their respective supervisory mandates and areas of responsibility. These developments should be kept in mind when assessing the ECB-SSM's risk mapping and Supervisory Priorities.

25 It claims on a headcount-neutral and cost-neutral basis – although over time we expect that headcount and costs will have to rise to reflect the additional scope of work and also to incorporate new and suitably qualified supervisory staff from Bulgaria and Croatia, who have historically been underrepresented in the ECB (-SSM).

26 These formerly being comprised of: of DG MS I, which in eight divisions led on the direct supervision (**SCI**s), through Joint Supervisory Teams (**JST**s), as complemented by eight divisions in DG MS II in respect of supervision of smaller SCIs as supported by DG MS III in respect of LSI supervisory coordination and relations with NCAs.

27 Which replaces some SSM shared functions/expert lines previously grouped in teams in DG MS III and DG MS IV.

Overarching themes in the ECB-SSM risk mapping and Supervisory Priorities 2020 and 2021

An overarching theme in both the risk mapping and setting of SSM Supervisory Priorities is that BUSIs will need to demonstrate ability to deal with COVID-19 prolonged pandemic preparedness[28] as well as digital operational resilience – an area that is in focus ahead of the EU's proposed Regulation for a Digital Operational Resilience Act (DORA)[29], as well as the existing and on-going work of the ECB, in its central bank and financial stability oversight role more generally[30], as well as the new focus area on anti-money laundering, terrorist financing and financial crime prevention.[31]

Surprisingly the ECB-SSM's two publications for 2021 say little to nothing about how it will approach new authorization requirements and changes to supervision standards in respect of financial holding companies (FHCs), mixed financial holding companies (MFHCs) as well as intermediate parent undertakings (IPUs) as a result of changes in CRD V that take effect in 2021.[32] The SSM's 2021 publications are equally silent on the proposed supervisory approach that it will take in respect of supervising those MiFID investment firms that, due to the changes coming into effect by way of the Investment Firms Regulation and Investment Firms Directive (**IFR/IFD**), now qualify as "Class 1 Firms" that undertake "bank-like" activity and would therefore become subject to Banking Union supervision.[33]

2021 Risk mapping

The ECB-SSM's 2021 assessment of the key challenges facing BUSIs in the current economic, regulatory and supervisory environment was set out on January 28, 2021, in the "Key Risk and Vulnerabilities in the Banking Sector"[34], formerly referred to as the "ECB-SSM's Risk Assessment", and the 2020 version of that publication[35], published on October 7, 2019, also mapped out risks, as known prior to COVID-19, that carry through to 2023. These remain applicable and are compared with the 2021 assessment set out below.

While a number of the risk drivers are the same, the way these are ranked, as well as presented (and thus the priority), markedly differ:

28 See coverage from our Eurozone Hub available here: "Financial Institutions: key considerations for prolonged COVID-19 pandemic preparedness" March 31, 2020, as well as our coverage on the impact on COVID-19 on BUSIs' three lines of defense (3LoD) model available in "Re-assessing the Three Lines of Defense (3LoD) model during a time of continued crisis and remote working" May 6, 2020. .

29 See dedicated coverage from our Eurozone Hub on this development available here:
1. 1st Alert in our series of deep dives on the EU's Digital Operational Resilience Act (DORA)
2. 2nd Alert in our deep dives on DORA
3. 3rd Alert in our deep dives on DORA and the ESAs response to policymakers

30 See dedicated coverage from our Eurozone Hub on this development available here:
1. "Setting the controllers' conduct expectations during cyber-resilience exercises", June 14, 2019
2. "New Cyber-resilience Oversight Expectations may carry compliance challenges", December 2018
3. "ECB releases procurement guidelines for selecting service providers in cyber-resilience testing", September 2018
4. "Central Bank of Cyber? ECB releases first new framework on testing cyber-resilience and combatting digital financial crime", July 2018

31 See coverage from our Eurozone Hub on: "New AML Powers for ESAs and ECB AML Office", January 7, 2019

32 See coverage on this development from our Eurozone Hub available here: "CRD V's changes for Financial Holding Companies (FHCs) and Mixed Financial Holding Companies (MFHCs) as well as Intermediate Parent Undertaking (IPU) requirements for non-EU banking and financial services groups – how to prepare", April 17, 2019

33 See dedicated coverage from our Eurozone Hub on this development available here:
1. "EBA publishes IFR/IFD Roadmap to 2021 implementation" July 14, 2020
2. "Preparing for IFR and IFD - What next on the road to June 2021" April 29, 2020
3. "Consilium agrees position on IFR and IFD – moving to a new prudential regulatory regime for investment firms" January 11, 2019
4. "The impact of the European Commission's proposals for a new prudential capital framework on MiFID Investment Firms" July 18, 2018

34 Available here

35 See here

2019 published ECB-SSM Risk Assessment for 2020 and longer term through to 2023	January 28, 2021 published Key Risk and Vulnerabilities in the Banking Sector	Observations
The ECB-SSM had identified the following key drivers of risk affecting BUSIs and the Eurozone banking system between 2020 and 2023 as (no specific ranking): i. economic, political and debt sustainability challenges in the Eurozone – which the ECB-SSM concludes have increased since its 2019 outlook; ii. business model sustainability (specifically prolonged low interest rates, increased intense competition and rising expenses – with half of BUSIs generating a return on equity which is below the estimated cost of equity); and iii. cybercrime and IT deficiencies, which the ECB-SSM also highlights in the context of growing interconnectedness to non-regulated third-/fourth-party providers of services.	The ECB-SSM has identified the following key drivers of risk for 2021: i. prolonged economic downturn (including through COVID-19 in addition to "persistently high private debt-to-GDP ratios and future sustainability of non-financial corporates and households) and increase in NPLs (higher probability, higher risk impact); ii. cybercrime and IT disruptions (medium-high probability and risk impact); iii. repricing in financial markets (medium-high probability and risk impact) including due to an abrupt reassessment of risk premia; iv. geopolitical tensions and corresponding outlook impact on supervised institutions (medium-high probability and risk impact); v. increase in misconduct/money laundering, terrorist financing and financial crime cases (lower probability and lower risk impact); and vi. correction in real estate markets (lower probability and lower risk impact).	The ECB-SSM has concluded that the risk drivers identified in 2021 (and equally those from 2020) could cause the following vulnerabilities for BUSIs and thus require ECB-SSM supervisory action and use of various parts of the supervisory toolkit: **Issues internal to BUSIs** • Weaknesses in management and coverage of credit risk • Structurally low income levels and profitability • IT deficiencies • Weak governance, including weak strategic steering • Lingering cost inefficiencies **Issues external to BUSIs** • High public and private debt levels in the euro area • Overcapacities in banking • Fragmentation in the regulatory and legal framework The ECB has pointed to an unprecedented fall in euro area economic activity in the second quarter of 2020, with activity projected to remain below pre-pandemic levels until mid-2022, and the recovery is forecast to be asymmetric across countries and sectors. A prolonged economic downturn until an effective vaccine becomes widely available is expected. The ECB's Key Risk and Vulnerabilities Report very much echoes the issues of a "perfect storm" brewing in the economic outlook: 1. High private debt-to-GDP ratios and worsening outlook of financial sustainability for non-financial corporates and households; 2. Surging public debt ratios, following governments having introduced COVID-19 driven protection regimes, as well as an increase in BUSIs' exposures to domestic government debt, reinforcing the sovereign-bank nexus and the potential for reviving adverse feedback loops if public debt sustainability emerges; 3. Increase in NPLs (due to the above) but also compounded by threats from a correction in real estate markets; and 4. BUSIs continue to face structural challenges, including overcapacity and lingering cost efficiencies in their business models as well as low income levels and profitability, accentuated by the impact of digitalization and non-bank competition.
These are followed by (in no specific ranking): iv. execution risks attached to bank strategies for non-performing loans/exposures (summarized herein as NPLs); v. easing lending standards – which the ECB-SSM warns could lead to a renewed build-up of NPLs that have been reduced through Banking Union driven rules and principles being copied and expanded into EU-wide requirements; vi. repricing in financial markets – given heightened volatility and possible asset price bubbles; vii. misconduct, money laundering and terrorist financing – an area that the ECB-SSM has begun to consider in its SSM-run SREP; viii. Brexit, including through the EU-UK transition period to at least December 31, 2020; ix. the global outlook and political uncertainties – including risks from rising populist movements; x. reaction to regulation – notably finalization of CRR III/CRD VI; and xi. climate change-related risks.	These are followed by an assessment of risk drivers that are expected to "increase strongly over the next five years": vii. climate change (medium probability and lower risk impact); and viii. disruptive digital innovation and non-bank competition (medium probability and medium risk impact).	

Unlike in earlier risk mapping exercises, the ECB-SSM has for the first time in its 2021 conclusions specifically (and quite rightly) stated that (emphasis from the ECB-SSM):

"Despite the significant progress made so far, **the EU regulatory and legal framework remains fragmented** and there are still national differences in the implementation of some EU rules. Harmonizing the EU regulatory framework and completing the banking union are crucial elements in increasing the efficiency and resilience of the EU banking sector. In this regard, harmonization will foster cross-border activities and facilitate consolidation among banks, which in turn will strengthen the overall sector. Moreover, the third pillar, a European deposit insurance scheme (**EDIS**), needs to be established. Further efforts are needed along a number of dimensions, including designing the EDIS, addressing the sovereign-bank nexus, improving crisis management frameworks, removing barriers to cross-border flows of capital and liquidity, and enhancing cross-border banking integration. These efforts should be consolidated by removing impediments to further private risk sharing and by increasing the integration of European capital markets under the umbrella of a capital markets union. Moreover, the full, timely and consistent implementation of the finalized Basel III reforms will be vital in order to avoid further fragmentation of the EU regulatory and legal framework."

While the call to establish EDIS and thus complete the third pillar of the Banking Union goes back to when EDIS was first proposed in 2015 i.e., when the SSM was in its first year of operation and the SRB was itself gearing up to become fully operational by 2016 this renewed call for action to establish EDIS in 2021 is clearly needed given the warnings presented by the risks above.

As summarized in the overarching themes, the ECB-SSM also continues to use its Supervisory Priorities in 2021, as in 2020 and 2019, to focus on advancing its own regulatory and supervisory responses to those risks that BUSIs face from climate change, improvements needed on internal governance and strategic steering of BUSIs, as well as digital operational resilience, cyber-resilience and cybercrime prevention. These risks have historically not been in the mandate that the ECB-SSM has as per its founding regulations, but nevertheless they have become an area where the ECB-SSM is shaping supervisory policymaking and reducing fragmentation, by contributing through rules, supervisory expectations and policy statements, key principles that now form a much more single Single Rulebook, certainly as applied across the Banking Union.

36 Available here

ECB-SSM Supervisory Priorities for 2021

The ECB-SSM's Supervisory Priorities for 2021 identified four priority areas for 2021 that BUSIs will be supervised on:

1. credit risk management;
2. capital strength;
3. business model sustainability;
4. governance

The ECB-SSM also communicated that its supervisory activity in 2021 will also focus on action taken by BUSIs in meeting the rules and expectations set in relation to:

A. the ECB Guide on Climate Related and Environmental Risks;[36]
B. prudential regulatory threats stemming from money laundering and financial crime;
C. cyber and digitalization-related risks; and
D. BUSIs' preparedness for Basel III/IV implementation.

In the majority of these headings on priorities for 2021, the ECB-SSM has clarified that it will build on those areas that it announced for supervision in 2020. In many ways this makes sense, given that COVID-19 put BUSIs and indeed supervisors under different types of pressures that warranted specific measures, thereby putting the traditional timeline of the supervisory cycle on the wayside.

It is worth recalling that the ECB-SSM stated that its 2020 focus and priorities had shifted from that of 2019. While for 2019 the annual high-level priorities were heavily focused on risk, with the priorities being: (1) credit risk, (2) risk management and (3) activities comprising multiple risk dimensions, the 2020 priority areas, which carry on into the supervisory cycles of 2021 and beyond, are comprised of: (A) continuing balance sheet repair, (B) strengthening future resilience and (C) other priorities.

As in previous years the ECB-SSM will use the full breadth of its supervisory toolkit and supervisory dialogue (as adapted to prolonged pandemic operation conditions) so that Joint Supervisory Teams (**JST**s) are able to scrutinize BUSIs' compliance with an obligations in an appropriate manner. In addition to SREP and the 2021 stress test that is conducted by the EBA, the ECB's SSM 2021 Supervisory Priorities make it clear that in addition to sector-wide thematic reviews, JSTs will use targeted deep dives and both on- and off-site inspections.[37]

37 See coverage from our Eurozone Hub on how inspections are carried out available here: "ECB-SSM's final Supervisory Guide to "On-site Inspections and Internal Model Investigations:" What now?", October 2018

SSM priority area in 2021	Announced supervisory actions for 2021	SSM priority area in 2020:	Announced supervisory actions for 2020:	Multiple year actions possible?	How can BUSIs take action?
1. Credit Risk	• Strengthen the follow-up on 2020 supervisory actions • Focus review of adequacy of BUSI's credit risk management, operations, monitoring and reporting • Particular attention to be placed on BUSI's capacity to (A) identify any deterioration in asset quality at an early stage and make timely and adequate provisions accordingly; and (B) continue taking the necessary actions to appropriately manage loan arrears and NPLs	**1. Continuing balance sheet repair**	• Follow up on NPL Guidance and Addendum (see our dedicated Eurozone Hub coverage on this) and BUSI-specific supervisory expectations– but note that the EU Commission's approach to rolling out the ECB-SSM's rules to the whole of the EU will also be important	While this has been a priority area since 2016 there are activities planned for2020 to 2023 possibly, which include: • Targeted follow-ups on BUSI-specific supervisory expectations	1. Assess gaps, weaknesses and remedial actions in respect of current policies and procedures in how to deal with NPLs, as well as adequacy of reporting and IT systems to current ECB-SSM and EU Commission NPL Framework as well as EBA Guidelines on non-performing triggers, as well as harmonized definition of "default" and any related IFRS 9, 13 and other workstreams, as supplemented by BUSI's SREP score and actions for remediation 2. Conduct an analysis of which NPLs can be worked out, which can be divested and which are too "difficult" to resolve – and justify reasons for such allocation and/or any outsourcing and/or delegation of certain NPL Guidance-related functions – workout function, valuation function, complaints management, IT, as well as other dedicated experts 3. Improve on or draft new NPL Action Plans (as required by the NPL Guidance) on work-out, divestment, as well as how to manage backstops as they apply to new and/or legacy NPLs 4. Strengthen measures to prevent new NPLs from arising 5. Forward-plan improvements on NPL data and IT-systems, as well as governance and internal processes 6. Prepare for on-site inspections and how to present evidence of compliance with NPL Guidance from governance to operational arrangements
Follow-up on work from 2020			• Follow-up on internal ratings-based models building off the ECB-SSM's Targeted Review of Internal Models (**TRIM**) exercise	While this has been a priority area since 2016 there are activities planned for 2020 & possibly 2021, which include: • Targeted follow-ups on TRIM findings for individual BUSIs and across the market • Interaction with BUSIs on the EBA's IRB repair program, which is the regulatory review of the IRB approach that led to various rules on IRB assessment methodology, definition of default, risk parameter estimation and treatment of defaulted assets and credit risk mitigation	1. Comply with and operationalize TRIM-finalization outcomes into respective processes and look ahead to TRIM Part 3, which is set to be announced in 2Q 2020 2. Carry out redress to relevant models methodology, data quality, supervision and governance 3. Forward-plan for TRIM follow-on work[38], including embedding the ECB-SSM Guide into Internal Models[39] (see our coverage on this) 4. Embed lessons learned into responding to internal model investigations and on-site inspections (the **OSIIM Guide**)[40]
Follow-up on work from 2020			• Trading risk and asset valuations, including on-site missions focusing on trading and market risk aspects notably with respect to complex products marked at fair value • Supervisors are expected to step-up the use of on-site inspections, possibly with a preceding "deep dive" to focus the on-site mission	While this has been a priority area since 2019 there are activities planned for 2021 & beyond: • On-site targeted work on trading and market risk aspects	1. Review and assess potential shortcomings and exposures for firms with high volumes of trading activity and/or derivative portfolios, as these will be the primary focus of increased scrutiny of trading, risk and valuation governance structures, along with IFRS 13, valuation adjustments and profit and loss treatment 2. Build on lessons gained from TRIM and prepare/improve data aggregation and reporting systems and capabilities, as well as the quality of decisions being taken and controls in place as they relate to valuations 3. Forward-plan measures related to review of FTRB compliance, as well as trading and collateral-related documentation, which could come into scope and raise discussion points for remedial action in the case of deficiencies

38 See here
39 See here
40 See our coverage on these rules here: "ECM-SSM's final Supervisory Guide to "On-site Inspections and Internal Model Investigations:" What now?" October 25, 2018.

SSM priority area in 2021	Announced supervisory actions for 2021	SSM priority area in 2020:	Announced supervisory actions for 2020:	Multiple year actions possible?	How can BUSIs take action?
2. Capital strength	• General supervisory focus on BUSIs' capital planning practices based on capital projections that are able to adapt to a rapidly changing environment • JSTs will scrutinize the appropriateness of BUSIs' capital planning and challenge the adequacy of their dividend and share buyback policies in this respect (see coverage from our Eurozone Hub	**2. Strengthening future resilience**	• Credit underwriting criteria and exposure quality (e.g. real estate, leveraged finance)	While this has been a priority area since 2016/17 there are activities planned for 2020 & possibly 2021, which include: • On-site targeted assessments of credit underwriting standards • On-site analysis on real estate exposures and leverage finance	1. Assess suitability and adequacy of management information presented to governance, risk and control functions, and executive functions, to ensure compliance with Risk Appetite Framework, reporting requirements and overall strategic steering, including capital and liquidity needs under normal market conditions and prolonged periods of stress 2. Review lending standards (internal policies and procedures, as well as client-facing agreements – lending and security), and document justifications for decisions as to how this meets risk appetite, risk and controls framework (at origination and through lifetime), quality control of Risk Appetite Framework and Risk Appetite Statements, as well as overall culture and business model sustainability, including mitigants, which may include implementation testing and covert dry-runs of credit models, rules and origination processes 3. Assess compliance gaps to EBA Guidelines on origination, as well as ECB Guidance on NPLs and Addendum 4. Focus as well on use of and justification for using "sophisticated" i.e., enhanced algorithmic risk scoring, and the need to explain how controls are in place to prevent over-reliance on "black-box" solutions 5. Assess degree of compliance with ECB-SSM's Guidance on Leveraged Transactions (see our Eurozone Hub's coverage on this) published by the ECB-SSM in May 2017 and specific focus on governance, controls and risk management
			• Improvement of BUSI's ICAAP and ILAAP approaches and further integration into SREP	While this has been a priority area since 2016 there are activities planned for 2020 & possibly 2021, which include: • Thematic reviews and on-site missions of ICAAPs and ILAAPs	1. Finalize, with counsel, in implementing the ECB-SSM's guides on ICAAP and ILAAP (see our Eurozone Hub's dedicated coverage on this development), including specific reviews of policies and procedures on determination of Pillar 2 Own Funds Requirement(s), as well as liquidity risk management 2. Review and improve risk quantification methodologies, their testing and governance 3. Align ICAAP and ILAAP with other regulatory requirements and risk management pillars such as recovery plans 4. Strengthen internal stress testing frameworks 5. Forward-plan preparation for on-site inspections, possibly with intensive data requests
3. Business model sustainability	• The ECB-SSM remains concerned about how BUSIs' profitability and business models remain under pressure from the current economic environment of low interest rates, excess capacity, low cost efficiency, and competition from banks and non-banks. The COVID-19 pandemic is exacerbating these pressures • During 2021 the ECB-SSM will continue efforts to challenge BUSIs' strategic plans and the underlying measures taken by banks' senior management to overcome existing shortcomings. Moreover, since the pandemic has accelerated the process of digital transformation, supervisors will be assessing banks' progress in response to these developments. Where appropriate, JSTs will engage in a structured supervisory dialogue with banks' management on the oversight of their business strategies • Further consolidation efforts (mergers & acquisitions) will be viewed in line with the ECB-SSM's supervisory principles and Guide on this area (see dedicated coverage from our Eurozone Hub on these new rules)		• Business model sustainability	While this has been a priority area since 2016 (excl. 2019) there are activities planned for 2020 & possibly 2021, which include: • Assessment of BUSI's business models and profitability within SREP • Review of the role of digitalization	1. ECB-SSM concerns over business model sustainability are primarily attributable to the risk drivers of low interest rates, higher costs and the threat of digitization, as well as NPLs. This means that firms will want to consider how to document contingency planning, optimization scenarios and testing of resilience of financing lines, given that the SSM's views on business models directly affect BUSI's SREP scores 2. As part of on-going supervisory dialogue and on-site inspections, senior management and key business area leads ought to be prepared to answer more intrusive questions on actual versus projected business model sustainability, including in light of digitization and new entrants, as well as more general strategic steering 3. The ECB-SSM has also indicated that it would welcome consolidation of BUSIs (both SCIs and LSIs) in order to boost resilience, increase efficiency through greater synergies, and raise investment in technology and digitalization. Building on the point 2 above, BUSIs should be prepared to explain their views on how to future-proof themselves in light of policymakers pushing consolidation

SSM priority area in 2021	Announced supervisory actions for 2021	SSM priority area in 2020:	Announced supervisory actions for 2020:	Multiple year actions possible?	How can BUSIs take action?
Follow on work from 2020			• Assess IT & cyber risk	While this has been a priority area since 2016 (excl. 2018) there are activities planned for 2020 & possibly 2021, which include: • Assessment of BUSI's IT risks and compliance with SSM cyber incident reporting	1. Prepare for on-site work on ICT/cyber-risks and step-up internal training and awareness, including "ownership" at governance level (through non-executive director), as well as executive level, through improved outcomes that Chief Information Security Officers are required to meet. See notably our Eurozone Hub's coverage on these points as part of the ECB's Cyber-Resilience Oversight Expectations41,which may be expanded beyond the current list of addresses and/or replicated by the ECB acting in its SSM capacity – this extends to cyber-security incident response plans 2. Prepare for convergence of ECB-SSM and ECB central bank financial stability expectations on cyber risk and resilience (see dedicated coverage from Dentons' Eurozone Hub)
Follow on work from 2020 and coordination with the EBA			• EU-wide (biennial) and/or ECB stress test exercises	While this has been a priority area since 2016 there are activities planned for 2020, which include: • conducting EBA EU-wide stress tests (now in its 7th edition) and ECB-stress tests (of ca. 35 BUSIs) with results feeding into SSM-run SREP	1. Set-up an internal Task Force— including involvement and oversight by senior management — on specifically the governance function (possible involvement of dual board if in structure), prepare for climate change specifics in this newest round of stress testing and process outcomes from the 2019 liquidity stress test (LIST)—especially with justifiable and compliant model use—for resilience against liquidity shocks, as well as preparation of appropriate data sets, identify shortcomings in historical reporting and reconciliations, earmark provisioning resources as well as liquidity buffers and any remedial action to processes and liquidity risk management measures, both on quantitative and qualitative measures 2. Certain BUSIs may wish to assess the adequacy of documented and undocumented arrangements providing standby capital and liquidity in the event of shocks and how this is reflected (including by reference to ICAAP and ILAAP and/or recovery and resolution planning, as well as SSM and non-SSM run SREP-related supervisory dialogue 3. Apply any lessons learned from earlier ECB-SSM stress tests such as the 2017 Interest Rate Risk in the Banking Book (IRRBB) stress test

41 See here

SSM priority area in 2021	Announced supervisory actions for 2021	SSM priority area in 2020:	Announced supervisory actions for 2020:	Multiple year actions possible?	How can BUSIs take action?
4. Governance	• The ECB-SSM will continue to focus efforts on reviewing the strength of board governance and the adequacy of "strategic steering", along with the adequacy of BUSIs' crisis management frameworks and their ability to adapt and implement actions in the context of the current prolonged pandemic operating conditions • Management bodies of BUSIs will be expected to have access to, evaluate, and effectively challenge the accuracy of risk information, especially information related to credit risk management practices, including about operational capacity and the adequacy of provisioning mechanisms in the current environment • The ECB-SSM will challenge BUSIs on their risk data aggregation capabilities and the risk information reported to management. • Furthermore, the ECB-SSM will follow up on BUSIs' IT and cyber risk management practices and governance, including risks resulting from the outsourcing of services to third-party providers – this marks a step towards preparing for DORA[42] • Finally, the ECB-SSM will continue its assessment of the prudential impact of money laundering and terrorism financing and wider financial crime risks, particularly in relation to BUSIs' internal control frameworks and prevention measures		• Governance	While this has been a priority area since 2015 (thematic review) 2016 (excl. 2017, 2018 and 2019) there are activities planned for 2020 & possibly 2021, which include: • Assessment of BUSIs' adherence to governance expectations across specific areas	1. Implement any lessons learned from the ECB-SSM's 2019 and 2020 set of on-site inspections focused on risk (and compliance) culture and, where required, make changes to Risk Appetite Frameworks and strengthen risk management culture along all levels, including ahead of any possible deeper focus from the SSM on relationships between risks appetite and remuneration schemes 2. Review and focus on strengths and shortcomings of BUSI's governance frameworks from operation of the board and executive functions to internal control functions (across each of three lines of defense) and data quality, as well as the ECB-SSM's focus on what is being termed "non-financial risk" management and operational resilience, which, while historically conduct of business issues, and thus outside the primary prudential mandate of the SSM, have, due to "governance" being a CRR and thus, in turn, a SSM consideration, become an area the ECB is increasingly focusing on 3. Review characteristics, resources and performance of BUSI's key functions, such as Chief Risk Officer and Chief Compliance Officer, against the supervisory expectations set by the ECB-SSM, as well as the EBA's Guidelines on Internal Governance 4. Consider diversity and inclusion as part of composition of management and governance functions, given the EBA's recent findings published on February 3, 2020[43]
Follow-on work from 2020			• Follow-up on Brexit work	While this has been a priority area since 2017, there are activities planned for 2020 and likely beyond through 2021, which include: • Monitoring and implementation of a BUSI's "Brexit-planning"	1. Review assumptions on Brexit-planning, compliance with the ESA and ECB's SPoRs[44] and the amount of business that can be conducted form outside of the EU-27 2. Assess how to, if needed, accelerate the move of key function holders and supporting positions to being based in the Banking Union, given the ECB-SSM's concerns on many firms, including those that are EU-headquartered, maintaining actual key risk-taker, internal control, governance and executive functions outside of the EU-27
			• IFRS 9	While this has been an area that has not been carried over as a formal priority during 2020, it does mark a thematic area that carries over in the ECB-SSM's work and therefore merits consideration	1. With most BUSIs having had to implement IFRS 9 and report thereunder, the ECB-SSM is expected to take a further interest in benchmarking BUSI's impairment charges against peers and to assess whether individual firms are looking to game their results to keep their credit costs and risks comparable with peers. BUSIs are encouraged to assess whether their justifications for specific IFRS 9 calculations and assumptions are sufficiently robust and explainable 2. As with items discussed above, the ECB-SSM's interest in credit risk management frameworks and related areas of BUSI's operations and "strategic steering" may lead to further interest in IFRS 9

42 See dedicated coverage from our Eurozone Hub on this development available here:
- 1st Alert in our series of deep dives on the EU's Digital Operational Resilience Act (**DORA**)
- 2nd Alert in our deep dives on DORA
- 3rd Alert in our deep dives on DORA and the ESAs response to policymakers

43 See findings here
44 See our overview of the SPoRs here.

While the ECB-SSM has in the past seven years of its operation become more comfortable in the exercise of its information-gathering powers, a whole new range of BUSIs are set to join its flock of ca. 120 SCIs and ca. 5,000+ LSIs. We anticipate that the forward-looking focus of the ECB-SSM, like the ESA and notably the EBA, on the resilience of individual firms, their business models and risk-exposures, coupled with new tools and attitudes, will mean firms have to face more thematic reviews, on-site inspections and deep dives that deal with individual issues but also shape the supervisor's views on horizontal themes and peer comparisons. Deeper more intrusive supervision is here to stay and the SSM's supervisory culture is likely to continue to evolve while at the same time becoming more uniform in how it operates.

BUSIs may wish to work with counsel to forward plan for on-site inspections, including involving external counsel for support (as well as mock visits) on how the ECB-SSM operates as part of its OSIIM Guide or how to otherwise "explain or defend files" specifically in the first instance for on-site work, but also to assess whether any action by the ECB-SSM may give rise to similar inspections from other supervisors.

SRB publishes SRM Supervisory Priorities for 2021

The SRB published its 2020 Work Programme[45] on October 28, 2019, and thus earlier than in 2018. That 2020 Work Programme remains in force and is complemented by a much broader-reaching 2021-2023 Multi-Annual Work Programme (**MAP**) that also sets the annual work priorities for 2021. The 2021-2023 MAP was published on November 30, 2020.[46] This is the SRB's second MAP and aims to set out a roadmap with a clear focus on achieving resolvability and a robust recovery and resolution framework and compliance culture for BUSIs under the SRB's remit.

The SRB returned to work in 2021 operating at a full capacity of close to 400 supervisors, yet, as in 2020, it is faced with new challenges posed by the pandemic, as well as finalizing the continued build-up of the Single Resolution Fund's (**SRF**) firepower in line with the 2023 target of 1% of covered deposits and be fully mutualized. Later in December, euro area ministers of finance agreed to advance the introduction of the ESM's common backstop to the SRF to the beginning of 2022. This is especially important at this time in light of the pandemic, which has stalled improvements to banks' health that followed the euro crisis. The backstop is an important element of the Banking Union, its completion aims to create deeper integration alongside a stronger safety net and an upgraded regime for orderly resolutions.

The SRB has also had to, like the ECB-SSM, accommodate structural changes to reflect the accession of new Banking Union members to the SRM – namely, Bulgaria and Croatia from October 1, 2020. The SRB also plans to change its internal structure so as to streamline its operations. This includes the following deliverables:

The SRB Secretariat is separated from the Legal Service following the start of this process in 2020	• The Secretariat, incorporating also the Document Management Office, focuses on supporting SRB governance and decision-making. The Legal Service's priority remains the provision of legal advice to other SRB functions and the work on ongoing litigation cases; • The Secretariat will mature as a horizontal function supporting all three formations of the Board, the SRB decision-making policies, and the overall governance; • With respect to the SRB decision-making process, the SRB Secretariat will develop policies in light of the revisions of the Rules of Procedure and the related processes for the Executive and Plenary Session. It will support the Chair in the implementation of the Internal Rules of Procedure and act as the single contact point for all SRB stakeholders with respect to decision-making; • The SRB Secretariat also comprises the Document Management Office and will, over 2021-2023, grow as the gateway to SRB decision-making and as the first point of contact under the applicable public access regime;
Introduce a new function, the Resolution Planning Office	• During the summer of 2020, the SRB established a Resolution Planning Office (**RPO**) that will provide resolution units with operational support concerning the planning and implementation of the RPC; • The new functions will, amongst others, monitor the cycle and contribute to maintaining the required quality standards for resolution planning practices across the Banking Union; • The RPO will also contribute to the consistent application of SRB policies and serve as a single point of contact with respect to the management of the RPC.

45 See here
46 See here

Priorities for the SRB's Legal Service	• The SRB Legal Service covers two main areas: a. it deals with litigation actions that involve the SRB, mainly consisting of proceedings brought before the Court of Justice of the EU and appeals filed with the Appeal Panel; and b. it provides advice to other SRB functions in relation to legal matters, including advice on resolution planning, aspects related to the SRF, crisis cases, and internal administrative functions. • In the first area, the priority in the 2021-2023 period is to deepen in-house expertise and management of litigation proceedings. This will be achieved by the direct involvement of SRB lawyers in pending cases. • In the second area, the provision of legal advice at the various levels of the organization, the SRB states that it will aim to ensure a centralized and consistent implementation of the legal framework. To provide a central forum for the exchange of views on legal matters related to the EU resolution framework, and following the earlier creation of an external Legal Network with representatives from other EU bodies and NRAs, the SRB established the Internal Legal Network. The Internal Legal Network, formed by legal experts representing the various units of the agency, is entrusted with tasks related to the dissemination of legal information, in order to allow the enhanced sharing of expertise and ensure the consistent implementation of the legal framework across the SRB;

Priorities for the SRB's Compliance function	• The SRB in its 2021-2023 MAP states that the Compliance function is an organizational function directly reporting to the SRB Chair. It ensures, as a second line of defense, that the SRB as an organization and its staff members individually are adhering to internal and external requirements while safeguarding the SRB values of integrity, EU spirit, and excellence in resolution. This implies that all staff are compliant with all relevant regulatory requirements and the SRB's internal policies, rules, and procedures, including, among others, the SRB Code of Ethics and the SRB Code of Conduct.
	  • During the period 2021-2023, the Compliance function plans to:
	  • Conduct compliance risk management, including monitoring and reporting;
	  • Provide advanced guidance and advice in particular with a view to the implementation of the new Code of Ethics;
	  • Provide advanced staff training focused on staff awareness for compliance standards, as well as on specific compliance issues.

Priorities for the SRB's Internal Control function	• The SRB in its 2021-2023 MAP states that the Internal Control function helps the SRB to achieve its objectives and sustain both operational and financial performance, while respecting rules and regulations. It supports sound decision-making and organizational development, while taking into account risks to the achievement of objectives, and reducing them to acceptable levels through cost-effective controls; • The SRB Internal Control team maintains an Internal Control Framework (**ICF**) in order to monitor the effectiveness, efficiency and economy of the SRB's activities and its resources, safeguard its assets and information, prevent and detect irregularities and fraud, provide reliability of reporting and facilitate the risk management process for its operations and environment. • In 2022, the SRB Internal Control team will start the implementation of the adapted version of a new, principles-based ICF, which will be based on best international practices and, by analogy, on the ICF laid down by the European Commission for its own services;

Priorities for the SRB's Internal Audit function	• The SRB in its 2021-2023 MAP states that the Internal Audit function is to provide the SRB with assurance and advice as to the effectiveness and efficiency of the risk management, control and governance processes. In 2021- 2023, Internal Audit will continue to do this through assurance and consulting engagements in line with its yearly risk-based audit plan. The audit plan, while approved annually, is built with a view to ensure an audit coverage of all key areas of the SRB over a time span of three years, taking into consideration the audits performed by the external auditors.
	  • As part of its planning cycle, Internal Audit will report on the implementation of the audit plan in its annual report to the Board. In addition to conducting audits, Internal Audit will aim to:
	  • continue to develop its knowledge and expertise to ensure a high level of certification of its staff and knowledge of all SRB activities – supplemented where needed with external expertise; and
	  • assess its compliance with the standards of the Institute of Internal Auditors through an external assessment and annual self-assessments, and develop Action Plans where further improvement is needed.

Priorities for the Data Protection Office	• The SRB in its 2021-2023 MAP states that the next three years will focus on consolidating the achievements of previous years and assessing the progress made on data protection at the SRB. This will include:
	  • reviewing and refining the SRB's contractual frameworks with a view to data protection clauses, in particular with regard to new safeguards required for international transfers of personal data to third countries;
	  • cooperation between the Data Protection Office (**DPO**) and the SRB's experts on new developments in the sphere of digital communication practices as well as on ICT security;
	  • to further train SRB staff concerning their rights and obligations regarding personal data protection to the best possible standard, including the prevention of any data breaches; and
	  • to focus on the principles of "data protection by design and default", which the recent data protection legislation defined.

The SRB's 2021-2023 Work Programme also echoes the ECB-SSM's calls to finalize EDIS and directs its own call to legislative action for EU policymakers to press ahead with the harmonization of liquidation rules for SRB-supervised BUSIs.

The 2021-2023 MAP, however, welcomes the substantial progress on building up Minimum Requirement for own funds and Eligible Liabilities (**MREL**) where the SRB will look to push BUSIs to keep up momentum. The SRB will over the 2021-2023 period continue to "fully operationalize the use of resolution tools, and their combined use. In this regard, more work is planned particularly on transfer tools."

That being said, even if 2021 marks the sixth anniversary of the SRB taking up its full powers as with the delivery of its 2018-2020 MAP, a lot of the priorities the SRB sets itself continue from 2020 or are rebranded from 2019 or even 2018. The 2021-2023 MAP is drawn along the same lines of that of the same five areas in the 2018-2020 MAP, and thus the SRB will for 2021 and through to 2023 focus on:

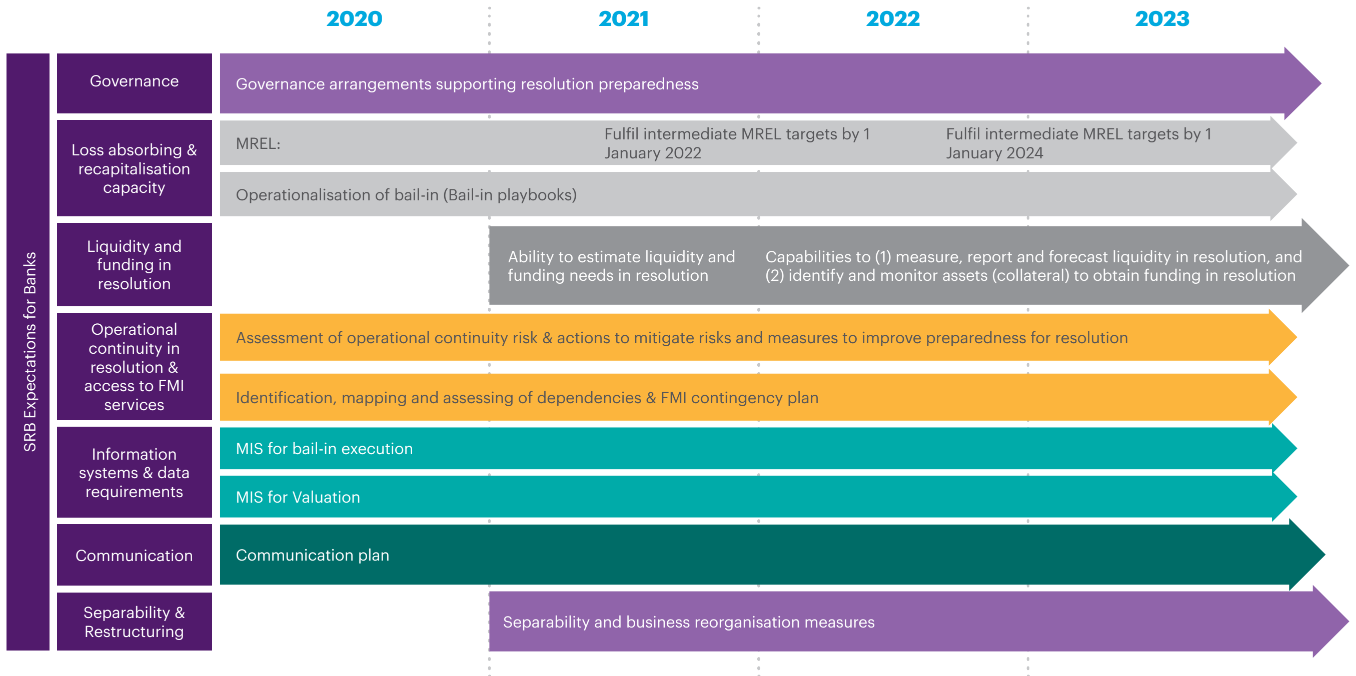
1. Achieving resolvability of SRB BUSIs (including LSIs), in particular the phase-in by 2023 in full of the SRB's Expectations for Banks (**EfB**) which sets supervisory expectations of BUSIs;
2. Fostering a robust resolution framework;
3. Preparing and carrying out effective crisis management;
4. Operationalizing the Single Resolution Fund (**SRF**) further; and
5. The SRB as an organization.

Building on the SRB's work in 2019 on integrating global "Total Loss Absorbing Capital" (**TLAC**) standards into the EU's Minimum Requirements of own funds and Eligible Liabilities" (**MREL**) framework, and the SRB setting binding requirements at consolidated and individual levels, the reality of Brexit having occurred means that the SRB expects an impact on MREL instruments issued under English law. As a result, the SRB published its expectations on January 31, 2020, for treatment during and after the EU-UK transition period that ran to December 31, 2020, as well as some suggestions as to possible actions to be taken by issuers. In addition to these expectations, the introduction due to CRR II /CRD V of Intermediate Parent Undertakings (**IPU**s) for certain third-country groups of financial institutions[47] will also likely continue to keep the SRB busy.

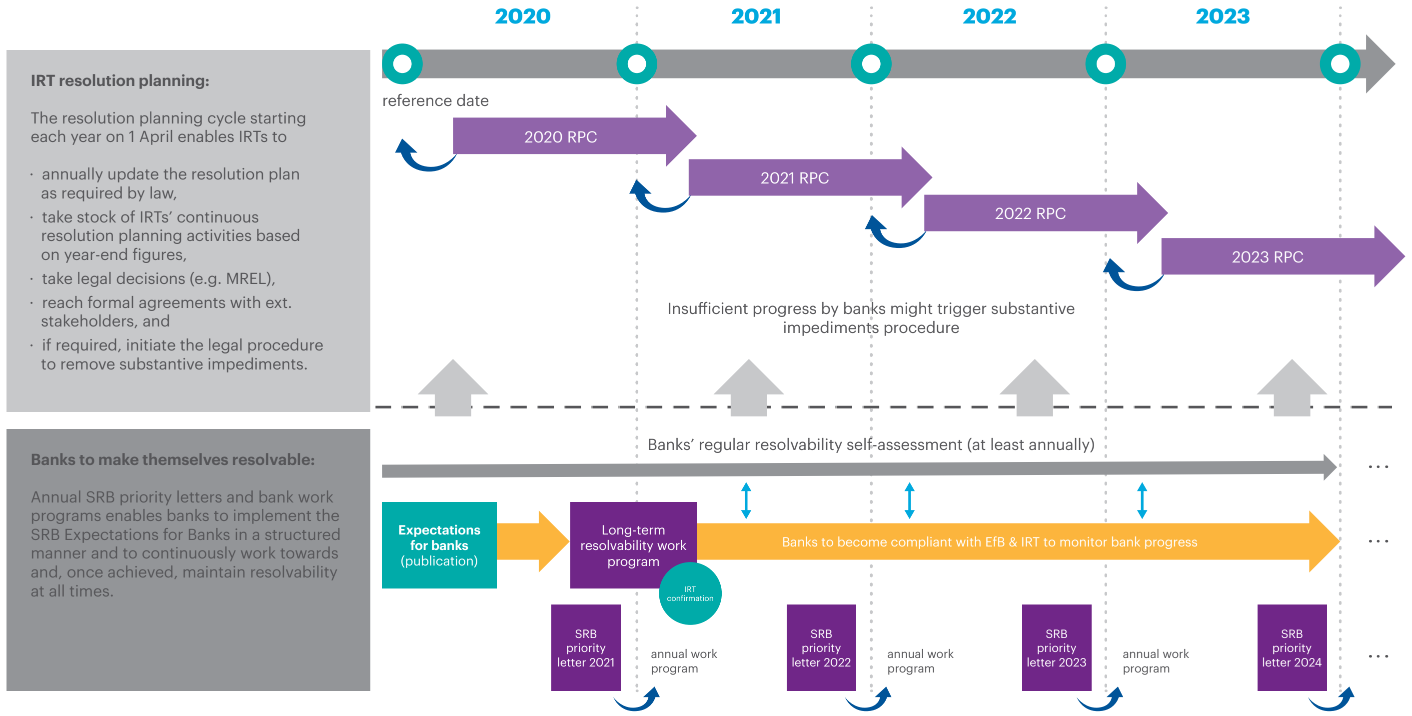
All of this issues above come in addition to the SRB's continued assessment of impediments to resolvability i.e., scrutinizing individual BUSIs and the sector generally, as well as holding BUSIs to the SRB's general expectation that BUSIs (large or small) will continue to ensure an appropriate level of resolvability set in the EfB. Moreover, the SRB has also announced that:

1. It will step up its communications of individual minimum expectations and Work Programmes addressed to specific BUSIs that are SCIs i.e., under the SRB's direct remit;
2. It will continue issuing yearly priority letters to BUSIs defining horizontal as well as BUSI-specific priorities in compliance expectations with the EfB;
3. It requires BUSIs to submit long-term resolvability Work Programmes, which cover 2021 and the following years, in order to plan for the development of capabilities in all dimensions of the EfB by end-2023;
4. These programs should be fully developed and budgeted for, and have the involvement of BUSIs' senior management;
5. As part of the resolution planning process, Internal Resolution Teams (**IRTs**), formed by SRB and NRAs resolution experts, will assess the banks' Work Programmes at the beginning of 2021 and, if relevant, request banks to adjust them; and
6. Once finalized, IRTs will continue monitoring and steering the implementation of the bank-specific resolvability Work Programme.

The SRB has visualized the EfB transition and key deliverables in Figure 3 from the 2021-2023 MAP – "EfB phase in over 2020-2023", which is set as follows:



Equally, the SRB has put forward in Figure 4 – the interaction between RPCs, EfB implementation during the 2021-2023 MAP period as follows:



47 See ou coverage: "CRD V's changes for Financial Holding Companies (FHCs) and Mixed Financial Holding Companies (MFHCs) as well as Intermediate Parent Undertaking (IPU) requirements for non-EU banking and financial services groups – how to prepare" April 17, 2019

SRM priority area 2021-2023	Announced supervisory actions 2021-2023	Announced supervisory actions for 2020:
Achieving resolvability of SRB BUSIs (including LSIs) – in 2020 this was referred to as "strengthening the resolution readiness of BUSIs (**SCIs** and **LSIs**) by sound resolution planning"	• **Implementing SRB's "Expectations for Banks" (EfB)** – the SRB's EfB is the key document of reference for BUSIs to build, under the steering and guise of the SRB, their capabilities to become more resolvable. • **The SRB will send bespoke priority letters to BUSIs, who should then describe how these EfB priorities will be actioned, by submitting to the SRB annual Work Programmes.** The SRB will subsequently review the long-term Work Programmes (to be delivered by BUSIs in early 2021) and their resolvability self-assessments. These responses will feed into the SRB BUSI-specific resolvability assessment and horizontal heat map. The Internal Resolution Teams (**IRT**s), formed by SRB and NRAs staff, conduct these processes for all SRB BUSIs as part of the annual Resolution Planning Cycle (**RPC**).[48] Besides BUSI-specific annual priorities, the SRB sets common EfB priorities across the SRB BUSIs. For 2021, these are: a. liquidity in resolution; b. management information system (MIS) and valuation capabilities; and c. bail-in preparedness. • **Further operationalize resolution plans.** The SRB has already drafted resolution plans for all SRB BUSIs. Therefore, the focus for 2021-2023 will be to (update and) operationalize the resolution plans and to make them truly actionable at short notice. The majority of SRB-supervised BUSIs' resolution strategies entail bail-in, alone or in combination with other tools. Therefore, the SRB work will focus on detailing BUSIs' bail-in playbooks. For resolution tools other than bail-in, i.e. transfer strategies, IRTs will steer BUSIs to develop the necessary preconditions to enable transfers. • **SRB will conduct resolvability assessments, feeding into an SRB "heat map", and take action in case of insufficient progress.** Building on the above-mentioned milestones, the SRB performs resolvability assessments as part of the annual RPC. In 2021-2023, such assessments will feed into a central "heat map", aimed to track individual BUSIs' progress and benchmark it across SRB BUSIs. If and when the SRB finds BUSIs' progress to be insufficient, it will take action, including formal procedures for the removal of substantive impediments. • **SRB will design and perform on-site inspections (OSI).** The SRB plans to develop gradually over 2021-2023 its OSI capacity. As first stepping stone, the SRB will perform in 2021 pilot on-site visits with BUSIs deemed to be of specific interest. Leveraging the lessons learnt from these visits, and from the experience of other relevant European and national authorities, the SRB will then coordinate and plan fully fledged OSIs by 2023. It is expected but not guaranteed that the SRB will leverage the ECB-SSM's own work on its OSIIM Guide[49]. • **Enhance oversight function of less significant institutions (LSI).** LSIs are under NRAs' direct remit, with the SRB performing oversight functions. For 2021, NRAs expect to have around 2193 LSIs in scope and to cover 92% of them with resolution plans (reaching 100% by 2023). The SRB has already received the majority of first resolution plans for LSIs: thus, the priority for 2021-2023 is to cover all incoming plans with a deeper assessment. This will be achieved through, inter alia, intensified interaction with NRAs (e.g. bi-annual workshops) and their implementation of comply-or-explain LSI guidelines (SRM-internal), aimed to attain common high-quality standards in resolution planning across SRB BUSIs and LSIs.	• Drafting resolution plans for direct SRB-supervised SCIs and setting minimum requirements for own funds and eligible liabilities (**MREL**) targets. The plan is to have all SRB BUSIs on the same 12-month resolution cycle that will start in April, with the regular data submission from BUSIs to be finalized by March 2021, followed by targeted communications to BUSIs • Identifying impediments to resolvability and requiring remedial measures; • Increasing coordination between the SSM's JSTs and the SRB's Internal Resolution Teams (**IRT**s). This may also prompt a need for a greater degree of sharing of information; • Continuing with the requesting of individual BUSIs' information on MREL levels through 2020, due to the new reporting requirements introduced by the BRRD2; • Further deepening of the analysis of BUSIs resolvability and encouraging BUSIs to propose possible measures to address or remove potential substantive impediments in case of any such being identified; • Enhancing consistency among LSI's resolution plans received from the NRAs.

48 The 2021 RPC will be the second steady-state 12-month cycle for the SRB (i.e. April to April). As such, the SRB expects to deliver efficiency gains, particularly through the improvement and automation of data that underpins the RPC. To quantify the deliverables for the 2021 RPC, the SRB and NRAs expect to adopt 109 resolution plans and 233 MREL decisions.

49 See our coverage on these rules here: "ECM-SSM's final Supervisory Guide to "On-site Inspections and Internal Model Investigations:" What now?" October 25, 2018.

SRM priority area 2021-2023	Announced supervisory actions 2021-2023	Announced supervisory actions for 2020:
Fostering a robust resolution framework	• **In delivering on this priority area, the SRB will during 2021-2023, in close cooperation with NRAs, revise and develop further policies and BUSI guidance.** The policy program for 2021- 2023 is tailored to underpin the EfB and RPC. Key areas of policy development for 2021-2023 are: a. **MREL:** The priority is to refine the 2020 MREL policy to complete the implementation of the Banking Package's new rules as they fall due. For 2021, revisions will cover: a. responses to MREL breaches, including minimum distributable amounts (MDA); b. new aspects of the eligibility framework (and BUSIs' sign-off letters); c. implications of the requirement to set up an intermediate-parent undertaking (**IPU**) in the EU; and d. refining the No Creditor Worse Off (**NCWO**) model. e. PIA: The plan is to extend the SRB's methodology, by strengthening the analysis against the five resolution objectives, and in particular of the impact on financial stability of BUSIs' critical functions, and in case of use of the DGS. f. Financial continuity framework: This objective refers to policy work, for 2021 and 2022, on liquidity and funding in resolution, and on solvent wind-down (SWD) of BUSIs' trading books. g. Beyond these three areas above, other policy developments programmed for 2021-2023 include work on: a. resolution scenarios; resolvability assessment, including separability analysis and restructuring; b. resolution tools; c. ancillary powers and moratorium; and d. the SRB will also, as part of its Policy Programme, implement all relevant Technical Standards by the EBA, and the FSB Recommendations. • **Mirroring the three EfB horizontal priorities for 2021**, the SRB will develop supervisory guidance for BUSIs on: a. Management Information System (MIS) capabilities for valuation; b. MIS capabilities for bail-in execution; c. Estimation of liquidity and funding needs in resolution. • **Ex-ante and ex-post quality assurance and consistency improvements.** While SRB policy developments aim to attain consistency ex-ante, the SRB will also continue to work to ensure consistency ex-post (or ad-interim), through quality assurance. To do so, the SRB revises draft plans in two phases of the cycle. This allows systematic benchmarking of the plans against SRB policy developments, and fosters harmonized and high-quality practices for SRB BUSIs. • **Contribute to external policymaking:** The key priority for the SRB in the coming years is to call for and support the completion of the Banking Union. More specifically, the SRB expects and will push as priority areas: a. the establishment of the common backstop to the SRF; b. the issue of liquidity in resolution; c. progress towards a common deposit guarantee system; and d. "measures for a robust bank resolution and insolvency framework". • **International cooperation:** On the one hand, the SRB in 2021-2023 will continue to negotiate agreements with non-Banking Union authorities and with third-country authorities to support the work of Crisis Management Groups (CMGs). On the other hand, the SRB will contribute to the work of standard setters, such as the FSB, and bilateral, trilateral and multi-lateral dialogues with third-country authorities to improve international cooperation.	• Continuing with the implementation of the new Single Resolution Mechanism Regulation (**SRMR2**), the Bank Recovery and Resolution Directive (**BRRD2**), the Capital Requirements Regulation (**CRR II**) and the Capital Requirements Directive (**CRD V**) rules through internal SRB policies • Operationalizing the SRB policies into concrete expectations for BUSIs to enhance and demonstrate resolvability • Introducing new or revised operational guidance to focus on bail-in execution, financial and operational continuity, access to financial market infrastructures (**FMI**s) and resolvability assessment • Continuing policy work concerning the separability, liquidity and funding in resolution, and the 'solvent wind-down' of trading books. • Continuing progress with respect to SRB on-site inspections (**SRB OSIs**) via the development of internal operational guidance for the performance of SRB OSIs – it remains, as in previous years, to be seen whether this will follow the ECB-SSM's principles set in its OSIIM Guide. In the 2019 priorities the SRB stated that it plans to cooperate with the ECB-SSM in terms of human, financial and know-how resources – possibly copying/adopting from the ECB-SSM approaches, a point that the SRB also mentioned during 2019 • Continuing the negotiation of memoranda of understanding (**MoUs**) with non-Banking Union authorities in the EU with the objective of reaching an agreement on multilateral MoUs between the SRB, the ECB and the resolution and competent authorities of each of the relevant non-participating Member States • Contributing to the EBA's focus on the development of technical standards and guidelines on the relevant parts of the BRRD2, SRMR2, CRR2 and CRD V

SRM priority area 2021-2023	Announced supervisory actions 2021-2023	Announced supervisory actions for 2020:
Preparing and carrying out effective crisis management	• **Operationalize resolution tools other than bail-in:** The aim of this project is to enhance readiness of the SRB for implementing resolution schemes based on transfer strategies. The focus for 2021 will be to obtain the front-to-back competencies for executing the sale of business tool (both share and asset deals). Work will be divided into three streams: 1. setting-up a virtual data room (**VDR**) and organizing investors' due diligence process; 2. approaching investors and managing the marketing process; and 3. creating the transaction documentation. • **Refining data, procedures, documents and tools for crisis cases:** The SRB will work to enhance its own procedures and documentation (also in light of possible lessons learnt) and, with NRAs, to update and expand National Handbooks (that look at the implementation of resolution schemes). Moreover, the SRB aims to refine its quantitative tools (e.g. bail-in tool calculator, sale of business tool calculator, crisis dashboard). This is supported by the overarching priority of maintaining an effective ICT platform, aligning data sources and expanding data available to crisis management teams. • **Post-resolution priorities:** The objective is to elaborate policy stances and operational procedures on, for instance, impacts on business model, governance arrangements, special manager role, etc. • **Dry-run exercises:** To test crisis preparedness, the objective for 2021-2023 is to perform several "fully-fledged" and "technical" dry-runs. The former type of dry-run simulates the entire management process and decision-making in resolution cases, while the latter investigates specific topics and/or processes in a crisis. Beyond this, the SRB also encourages "bank-specific deep dives", i.e. dry-runs by IRTs to assess specific topics (i.e. governance, communication, use of the resolution tools, etc.), and dry-runs by NRAs to enhance readiness to implement resolution decisions.	• Updating the SRB's 'Crisis Governance Handbook', detailing procedures and processes to be followed in crisis, by incorporating lessons learnt from previous cases and inter-institutional simulation exercises. Achieving collective progress concerning "national handbooks", which set out country-specific steps to be implemented after resolution • Improving the SRB's centralized Crisis Management Team (**CMT**), established 2019, and its coordination function to provide consistent and targeted guidance and support to BUSI-specific CMTs and other SRB staff • Carrying out further dry-runs to test procedures, tools and cooperation during crises • Participating in a trilateral collaboration project involving several authorities from the United Kingdom and the United States (and with the Banking Union)
Operationalizing the Single Resolution Fund (SRF) further	The SRF by 2023 should have available financial means to reach at least 1% of the amount of covered deposits of all credit institutions authorized in the Banking Union. Consequently work in achieving this will concentrate on: • **Contributions**: : A key priority for 2021-2023 is the monitoring of the evolution of covered deposits, for the annual target setting as well as with regard to the objective of reaching the overall target level of 1% of covered deposits. Other multi-annual priorities regard the evaluation of the current contribution framework, and enhancement of the ICT environment. For 2021, the SRB will work to calculate the individual 2021 ex-ante contributions, notifying NRAs as soon as possible accordingly, and on-boarding two new participating Member States, i.e. Bulgaria and Croatia, into the contributions cycle. The growing number of litigation cases related to ex-ante contributions before the EU courts in recent years will also require substantial work in 2021. • **Investments:** Key priorities for 2021 are the monitoring of the implementation of the 2021 investment plan by the external investment manager, and the onboarding of a second investment manager. Year-by-year, the SRB will review the investment strategy, update the annual investment plan, and further develop the risk and portfolio management tools. Finally, the SRB will work to operationalize the SRF liquidity. • **Funding and financing:** Over 2021-2023, the SRB will continue analyzing the optimal financing instruments for capital and/or liquidity support, covering any possible combination of resolution tools. This work will build on existing SRB procedures and past dry-runs. In terms of additional financial means, the SRB aims to conclude the technical work to operationalize the agreements on the Common Backstop, including the completion of the repayment capacity methodology, jointly with the European Stability Mechanism (**ESM**).	• Further operationalizing the SRF with key tasks relating to the calculation and collection of 2020 ex-ante contributions in close coordination with the NRAs, the SRB will publish, as in 2019, supplementary information concerning the collection process and calculation results • Continuing with the crisis preparedness work for different potential uses of the SRF in case of liquidity or capital support; exploring possibilities that could leverage the SRB's financial capabilities, with a view to fostering a Banking Union resolution liquidity solution • Completing technical work to operationalize the agreements on the common backstop reached in 2019, including developing a repayment capacity methodology and a procedure for calculating and collecting ex-post contributions from institutions. • Updating the annual investment plan for the subsequent year and carrying out further work on developing the risk and portfolio management tooling

SRM priority area 2021-2023	Announced supervisory actions 2021-2023	Announced supervisory actions for 2020:
The SRB as an organization. In 2020 this was referred to as "establishing a lean and efficient organization"	The primary focus, underpinning all SRB MAP-WP priorities, is on SRB staff. In this sense, the priority for the SRB will be the retention, training, mobility and career development of its staff, while ensuring the recruitment of an additional 50 staff members, as a key enabler for the SRB multiannual objectives. Another vital support function for the SRB priorities is ICT and the SRB's ICT Work Programme for 2021 and coming years includes several projects, for instance in the domain of reporting from BUSIs, the expansion of data sources, improvements (and automation) of data processing, ultimately achieving an effective management information system (MIS) and a "digital-SRB". On the communication front, the SRB will in 2021 implement a comprehensive and ambitious communications Work Programme across different channels, including the launch of a new website, and it will develop the SRM Communication Forum. While other functions and their priorities are further described in the SRB's 2021-2023 MAP, it may be worth noting here that the SRB is now working with a renovated and streamlined structure, whereby: • **The SRB Secretariat is separated from the Legal Service**. The Secretariat, incorporating also the Document Management Office, focuses on supporting SRB governance and decision-making. The Legal Service priority remains the provision of legal advice to other SRB functions and the work on ongoing litigation cases. • A new function, the **Resolution Planning Office**, operates as a point of reference to support the implementation of the "steady-state" 12-month RPC, and to promote consistent, efficient and high-quality resolution planning across SRB BUSIs. In keeping with the 2020 Work Programme, the SRB will also in future constantly assess its structure and workflow to maintain a lean and efficient structure.	• The SRB will be operating at full staff capacity for the first time with ca. 400 staff by the end of the first quarter of 2020 – this number is set to rise if EDIS becomes an institutional reality that the SRB is planned to be in charge of • Implementing differentiated appropriations for operational expenditure of a multi-annual nature for the first time • Launching new or further implementing IT projects started in 2018/2019 related to resolution-reporting data, collection of ex-ante contributions, resolution case support systems, a system to facilitate executive decision-making, amongst others • Extending the SRB's data infrastructure and analytical capabilities through the development of two additional data flows in 2020: (1) a resolution reporting data flow to enable the collection of data from BUSIs via the NRAs; and (2) a data flow to enhance the collection of ex-ante contributions data and contribution management from BUSIs via the NRAs • Further IT priorities in 2020 include: (1) building a dedicated system to facilitate decision-making by the SRB's executive management; and (2) the final establishment of the disaster recovery center • Continuing the SRB's Legal Service's initiatives from 2019 to strengthen cooperation with lawyers from the SRB business units

The SRB's 2021-2023 MAP also sets out the planned areas of work for SRB MREL policies in 2021-2023 as follows:

SRB Policy Deliverable	2021	2022	2023
SRB MREL Policy			
• ***MREL:*** *Implementation/application/contribution to EBA Regulatory Technical Standards (RTSs) on eligible liabilities, on permission to reduce eligible liabilities instruments, EBA Implementing Technical Standards (**ITSs**) on MREL/ TLAC reporting and disclosure, on reporting of MREL decisions to the EBA, relevant EBA reports on MREL*			
• ***MREL:*** *EBA RTSs on the MREL setting in relation to Pillar 2 Requirement (P2R) and CBR for groups not subject to P2R under CRDIV; and on internal MREL and implementation of the resolution strategy*			
• ***MREL:*** *EBA RTS 3.0 on ITS on reporting (BRRD2)*			
• ***Reporting:*** *EBA RTS 2.10 and ITS on resolution templates*			
Resolution scenarios to be considered for resolution planning			
Public interest assessment policy and any EBA work in this area			
Liquidity and funding in resolution (focus on capabilities to measure, report and forecast their liquidity position in resolution)			
Liquidity and funding in resolution – focus on capabilities to identify and monitor assets that can be used as collateral to obtain funding in resolution			
Solvent wind-down			
Methodology for resolvability assessment, including separability analysis and restructuring, resolution tools specifics and relevant EBA work in this area			
Bail-in: use of ancillary powers (Art. 64 BRRD) and use of moratorium powers			
Bail-in: EBA RTSs on Art. 55 BRRD and on contractual terms for resolution stay powers			
FMIs: FSB templates of information that banks and RAs need from FMIs for resolution planning and execution			
FSB paper on approaches to promote information exchange and communication protocols between FMIs, RAs and banks			

Some of the workstreams have new objectives, whilst others have recurring objectives. Delivery against the MAP is measured against key performance indicators – which are set out in Annex 12 of the 2021-2023 MAP.

Top three takeaways for BUSIs and their compliance priorities in meeting SSM and SRM priorities

1. BUSIs should establish a working group and retain external counsel to assist with complying with supervisory expectations and a considerable increase in on-site inspections and thematic reviews on new but also follow-ups to existing/on-going areas of concern – ICAAP/ILAAP, governance, business model viablity/sustainability, risk culture, resolution planning and MREL compliance. This is especially the case as Banking Union supervisory teams are likely to request much more quantitative and qualitative data than in previous years, as supervisors shift to policing Supervisory Priorities from earlier supervisory cycles and as the immediate challenges of the pandemic become more familiar and where, in supervisors' views, BUSIs should have embedded compliance – notably with respect to NPLs. New pressures are likely to emerge as supervisory teams set expectations for individual BUSIs and the sector generally in relation to those items that have historically been more conduct-of-business issues, rather than the prudential regulatory items that they are now, due to the 2021 and multi-annual priorities.
2. BUSIs should expect a more intrusive (and more joined-up) supervisory approach by JSTs and IRTs on periodic, ad hoc and thematic reviews and workstreams, including in relation to the impact of the wider reaching changes in the "Banking Package".
3. BUSIs should step up 2021 efforts to assess and expand the capabilities of their relevant control functions in relation to the range of governance, risk and compliance deliverables, in addition to risk culture, so that these better meet Banking Union specific supervisory expectations (ahead of those of other levels of the ESFS), the overall focus on "strategic steering" of BUSIs, as well as the challenges posed by greater depth of reporting requirements (including BCBS standards) set by the ESFS.

All of these supervisory issues that the SSM and SRB have committed to advance during 2020 and beyond and the resulting workstreams at BUSIs are likely to have enterprise-wide impact and spillovers to other *"change the business," "run the business"* and/or *"change the compliance"* projects outside of the Banking Union and/or the EU.

Part 2 – ESA Supervisory Priorities for 2021

ESA's Work Programmes are usually published (in 2021 these were published far later than in previous years) in the context of their "multi-annual programming" or "strategic orientation documents". These serve to focus the overriding strategic areas and deliverables for the given year ahead. The ESAs are all mandated, as gatekeepers of the Single Rulebook and in fostering Single Market integration, with regulatory governance, supervisory convergence and (at present limited) direct supervision/intervention tasks and powers in relation to sectoral EU financial market legislation.

Supervisory convergence remains a key theme since 2016 and has been framed by all ESAs, notably ESMA, and the ESAs are each set to operationalize the further supervisory powers and expanded mandates they were granted in 2019. Those institutional changes also led to an amended scope of the Joint Committee (**JC**) of the ESAs, as set out in its joint "2021 Work Programme" which in turn builds on that set out in the JC's "2020 Work Programme"[50].

The JC of the ESAs works in particular in the areas of retail investment products, retail financial services and consumer and investor protection issues, micro-prudential analysis of cross-sectoral developments, risks and vulnerabilities for financial stability, cybersecurity, financial conglomerates and prudential consolidation, as well as accounting, auditing and regulatory work on external credit assessment institutions (**ECAI**s) – specifically ESA's mandate on the mapping and monitoring of ECAI's credit assessment under the regulatory framework of the CRR and CRR II, as well as Solvency II.

The ESAs, via the JCs, jointly explore and monitor potential emerging risks for EU-27 financial markets, participants and the financial system as a whole. Moreover, the JC is an important forum for discussing key cross-sectoral trends and vulnerabilities to financial stability, with the publication of the bi-annual cross-sectoral Risk Reports and their submission and presentation to the Financial Stability Table of the Economic and Financial Committee (**EFC-FST**). This will have particular importance in 2021, in light of the necessity to deal with the economic and financial implication of the COVID-19 pandemic, as well as possible repercussions of the United Kingdom having left the EU.

Key themes for 2021 described therein included a greater emphasis, certainly when compared to previous years, on consumer protection issues, sustainable finance and financial innovation, notably on:

1. Increasing the ESA's efforts on digital finance (in particular, as in 2020, on retail financial services along with depositor protection) with a special emphasis on:
   a. monitoring and analyzing technological innovations, including use of supervisory technology (SupTech) and, as in 2020, continuing their work on artificial intelligence along with machine learning with a publication of findings and policy options. The JC will also study the use of behavioral finance findings for supervisory purposes, where policy options will be published in a joint report;
   b. as in 2020, cybersecurity, now notably the EU's Regulation known as the Digital Operational Resilience Act (**DORA**)[51];
   c. delivery of the European Commission Digital Finance Strategy and supporting of the European Forum for Innovation Facilitators (**EFIF**), as well as the further coordination and cooperation among national innovation facilitators (regulatory sandboxes and innovation hubs) to foster the scaling up of innovation in the EU's financial sector in line with the EU's FinTech Action Plan. A separate EFIF Work Programme is set out below;
   d. as in 2020, assessing the role of artificial intelligence, tokenization and distributed ledger technologies, open banking and application program interfaces (**API**s);

50 See the 2021 version here and the 2020 version here.
51 See ddicated coverage from our Eurozone Hub on this development available here:
- 1st Alert in our series of deep dives on the EU's Digital Operational Resilience Act (DORA)
- 2nd Alert in our deep dives on DORA
- 3rd Alert in our deep dives on DORA and the ESAs response to policymakers

2. Consumer and investor protection issues – notably (building on work in 2020):
   a. review of the PRIIPS Regulation and drafting technical standards, as well as finalizing related regulatory standards – notably the development of Q&As and other Level 3 tools to promote supervisory convergence and give NCAs and market participants further guidance on the practical application of the PRIIPs rules. The ESA will also prepare an Annual Report based on data received from NCAs on administrative sanctions or measures imposed;
   b. finalizing and operationalizing regulatory standards on sustainability-related disclosures in the financial services sector, in particular the Sustainable Finance Disclosure Regulation (SFDR)52, the Non-Financial Reporting Directive (NFRD), and the ESAs might be asked to contribute to the development disclosure standards for non-financial information;
   c. following up on individual ESA drafted Guidelines on complaints handling – notably the EBA/ESMA Guidelines for the securities and banking sector and the EIOPA Guidelines for insurance undertakings and creating a common and consistent standard;
3. As in 2020, improving effective supervision of financial conglomerates and in 2021 further developing and finalization of work on specific reporting formats for financial conglomerates, as well as a 2021 list of identified financial conglomerates;
4. As in 2020, deploying an increased focus on anti-money laundering and financial crime prevention, but a transfer of responsibility from JC to a centralized competence center led by the EBA, which ESMA and EIOPA will support;
5. Supporting the ESAs to address other cross-sectoral matters, such as the cross-sectoral mandates and questions and answers stemming from the implementation of the regulatory framework of the EU's Securitization Regulation (in force since 2017), a flagship of CMU 1.0 first launched in 2015. The JC's Securitization Committee (JCSC) will review on the functioning of the Regulation and stand ready to contribute to the European Commission report on the function of the regulatory framework and possible legislative proposals to be provided by January 2022. Till then, the ESAs will work on developing Q&As and other Level 3 tools to promote supervisory convergence and give NCAs further guidance on the implementation of cross-sectoral areas; and
6. A range of "other work" including:
   a. the delivery of the 9th Joint Consumer Protection Day 2021. Since its inception, the Consumer Protection Day has become an important milestone for stakeholders across the EU that have an interest in the topic of consumer protection;
   b. continue to discuss progress on the reform of fees and long-term performance of retail investment products;
   c. support any legacy issues in order to ensure investor protection, EU market integrity and financial stability following Brexit; and
   d. improve the exchange of information on fit and proper assessments (see also developments on the ECB's own Fit and Proper Guide 2021 discussed above). The ESAs will start with the implementation of information exchange on fit and proper assessments (Article 31a ESAs Regulation). To this end, a pilot business case for possible IT solutions, supporting the exchange of information and covering the banking and insurance sectors first, will be launched. The JC will provide a steer for the implementation to ensure cross-sectoral consistency.

52 The ESAs will deliver seven empowerments for RTS under the SFDR in January 2021. Six new technical standards are due to be developed in the course of 2021. The taxonomy regulation added three empowerments for taxonomy-related product disclosures that are due to be delivered by June 2021 for climate mitigation and adaptation objectives, and three empowerments by June 2022 for other environmental objectives. In addition to that, the SFDR gives an optional mandate to the ESAs to work on one optional Implementing Technical Standard (ITS) on marketing communications.

EFIF Work Programme – for the period May 2020 to April 2021

The tasks and organization of the EFIF are prescribed in the Terms of Reference which that came into effect on May 25, 2019.

In 2020 the EFIF monitored developments in:

A. the design and operation of innovation facilitators, taking account of the best practices set out in the January 2019 joint report of the ESAs on regulatory sandboxes and innovation hubs, and facilitating joint testing;

B. the innovative products, identified in the context of innovation facilitator activities, and related regulatory and supervisory issues arising.

Additionally, the EFIF is tasked with following the thematic areas:

i. artificial intelligence (AI), machine learning (ML) and Big Data analytics;

ii. tokenization and distributed ledger technologies – including supporting work on MiCA;

iii. Open Banking/application program interfaces (APIs) – including work on specifying trends in the design of API and areas where standardization is occurring or would be desirable, as well as barriers or gaps;

iv. Multi-purpose digital platforms facilitating the provision of financial services (retail and institutional);

v. use of innovative technology for customer due diligence (CDD), in particular, identity verification and/or transaction monitoring;

vi. RegTech.

In 2021, the EFIF committed to improve the visibility of its innovation facilitators (innovation hubs and regulatory sandboxes) and will update the list of those resources, specify areas of best practice and consistency and convergence across the EU and draft joint guidance on their operation. Furthermore, the EFIF will identify the output from these innovation facilitators and major regulatory and supervisory issues, including recurrent regulatory obstacles or gaps that impede the scaling up of financial innovation.

Despite these greater powers, not all of the ESAs have received increased financial and/or human capital resources. The following sections focus on the 2021 Supervisory Priorities of each of the ESAs. In comparison to previous years the priorities of the ESAs are much more joined up amongst each other as well as with the Banking Union supervisory authorities.

EBA's 2021 Work Programme

The EBA announced its 2021 Work Programme[53] on September 30, 2020, and subsequently adjusted it to reflect COVID-19's impact and thus to "…take into account this environment, addressing the immediate concerns, while delivering on existing mandates and delaying some. The EBA also revisited its planning for 2021, reprioritized its tasks, and identified a new horizontal priority to address the aftermath of COVID-19." One key delivery that was postponed was the 2021 EU-wide stress test exercise from 2020 to 2021. These stress tests will be key to assessing the resilience of financial institutions to adverse market developments, particularly in light of COVID-19's continuing impact.

Similar to ESMA and EIOPA, the EBA presented its 2021 specific activities and tasks in the context of its multi-annual Work Programme. The EBA's 2021 Work Programme also continues its 2020-2022 strategy. In 2019, Andrea Enria, who left to head up the SSM at the ECB, was replaced by Jose Manuel Campa, the former Global Head of Regulatory Affairs at Santander as chair of the EBA. 2020 also was the first year of full operation of the EBA in Paris, as well as the year of a further move, where COVID-19 was seen as a catalyst, towards the EBA becoming a fully digital agency in the years ahead, as it delivers its internal IT strategy that was approved in 2019. In March 2021 it became subject to a series of cyber-attacks.

For the first time, the EBA's 2021 Work Programme benefitted from input from the newly established Advisory Committee on Proportionality (**ACP**), whose core task is to provide input on to how the EBA's Work Programme can be enhanced to reflect differing standards of proportionality. For 2021 this included possible enhancements of proportionality measures for:

a. The IFR/IFD new prudential capital regime for MiFID investment firms;

b. The revised SREP Guidelines;

c. The guidelines on internal governance;

d. The EBA's cost of compliance study; and

e. The EBA's disclosure template on ESG risks.

The ACP's work and its findings will be set out in the 2021 EBA Annual Report.

In total, as in 2019 and 2020, the EBA in 2021 will address six[54] strategic areas and 36[55] activities plus two[56] horizontal priorities for work across the EBA as detailed below. Each of these are to be benchmarked against Key Performance Indicators[57] and target outputs. The EBA has a continuing workload in supporting the European Commission (**EC**), delivering materials in response to EC calls for advice, as well as providing input into a number of legislative reforms, including specifically working on the following "specific priorities" for 2021 as compared to the 2020 "strategic priorities" set out below. Conceptually these are largely identical, save that some have an expanded focus increasingly on resolution powers or new powers altogether, including with respect to anti-money laundering, terrorist financing and financial crime prevention powers. At the end of 2019 the EBA received more than 100 new mandates in respect of CRR (II)/CRD IV(V), BRRD(II) and IFR/IFD legislative reforms known as the "risk reduction package", requiring that the EBA act and create policy but also monitor the "…good and convergent implementation of the Single Rulebook in the EU…"

2020 Strategic Priorities	2021 Specific Priorities
1. Supporting the deployment of the risk reduction package and the implementation of global standards in the EU	1. Supporting deployment of the risk reduction package and the implementation of effective resolution tools
2. Providing efficient methodologies and tools for supervisory convergence and stress testing	2. Reviewing and upgrading the EU-wide EBA stress-testing framework
3. Moving towards an integrated EU data hub and a streamlined reporting framework	3. Becoming an integrated EU data hub, leveraging on the enhanced technical capability for performing flexible and comprehensive analysis
4. Making AML a real priority in the EU	4. Contributing to the sound development of financial innovation and operational resilience in the financial sector
5. Contributing to the sound development of financial innovation and sustainability	5. Building the infrastructure in the EU to lead, coordinate and monitor AML/CFT supervision
6. Promoting an operational framework for resolution	6. Providing the policies for factoring in and managing ESG risks

"Horizontal Priorities" are usually multi-sector and multi-annual, yet between the 2020 and 2021 EBA Work Programmes there are differences as follows:

2020 Horizontal Priorities	2021 Horizontal Priorities
a. Improving a culture of good governance in financial institutions, in particular with respect to conduct and sustainability	a. establishing a culture of sound and effective governance and good conduct in financial institutions, notably with respect to governance, conduct, including the treatment of customers and AML/CFT, as well as sustainability factors, and to ensure these are covered in relevant supervisory frameworks
b. Ensuring effective cooperation with third countries, with a focus on the equivalence assessment and the facilitation of the flow of information	b. Addressing the aftermath of COVID-19 by monitoring resilience in financial institutions, intensifying asset quality reviews, as well as monitoring the use of moratoria and public guarantees to ensure that risk metrics remain reliable and that the banking sector can support the recovery and cope with potentially increasing losses, while equally having clarity on the timing of lifting dividend restrictions and re-building capital buffers.

53 See here.
54 In 2019 there were five strategic areas:
1. Leading the Basel III implementation in the EU as well as the EU "banking package" of CRR II/CRD V, BRRD 2 and SRMR 2 – this is a pervasive theme that applies through the majority of the 37 activities;
2. Understanding the risks and opportunities arising from financial innovation – by building on its FinTech Road Map, the continued expansion of the EBA FinTech Knowledge Hub (of which Dentons' Eurozone Hub is a member) and setting EU-wide policy on regulatory sandbox regimes, prudential capital treatment and the risks of FinTech firms and traditional firms exposed to FinTech (including treatment in resolution) and the impact of FinTech on anti-money laundering and financial crime prevention legislation;
3. Collecting, disseminating and analyzing banking data – through the finalization of data infrastructure projects that allow the EBA to be in a position to function as an EU-wide data hub;
4. Ensuring a smooth relocation of the EBA to Paris;
5. Fostering the increase of loss-absorbing capacity i.e. MREL in the EU banking system.

55 The Work Programme actually sets out 37 but this is a numbering error given that while Activity 29 – Brexit was deleted – the remainder of the Work Programme numbering for 2021 was not updated.
56 In 2019 there were four strategic areas:
1. Improving implementation of the "proportionality principle" in all of the EBA activities;
2. Strengthening supervisory convergence and integrity of the Single Rulebook – using existing tools to identify and eliminate divergent practices and/or outcomes, including more use of peer reviews and bilateral engagements with NCAs, as well as training to ensure consistent compliance by firms with the framework, that the framework is consistent, and that NCAs' approach to supervising compliance is consistent;
3. Enhancing consumer protection – focusing specifically on mortgages, personal loans, deposits (incl. structured deposits), payment accounts, payment services and electronic money, with a view to improving transparency, simplicity and fairness in consumer financial products and services across the EU's Single Market;
4. Preparing for Brexit.

57 See Annex I of the EBA Work Programme.

Despite all of these individual workstreams, the EBA will still continue its rulemaking role, which lies at the heart of its mandate, in tying things together by developing and maintaining (certainly its portion) of the Single Rulebook for financial services in the EU through Implementing Technical Standards (**ITS**) and Regulatory Technical Standards (**RTS**) and Guidelines (**GL**). The EBA has in 2020 been tasked with implementing over 100 new mandates in less than two years, including creating the new prudential regime for MiFID investment firms[58], revising stress testing methodology for the banking sector, but also those that it takes over from the JC of the ESAs as the new centralized competence center on anti-money laundering and financial crime prevention. This number has grown in 2021.

In addition to rulemaking, the EBA remains responsible in its supervisory convergence role and its mission to:

"build a single supervisory framework for the entire banking sector in the EU, so as to ensure an efficient, transparent and stable Single Market that benefits its consumers, businesses and the broader economy"

In fulfilling that mission the EBA aims to contribute to a single supervisory culture through investigating, remedying and preventing incorrect or insufficient application of EU law by NCAs, and taking individual actions against NCAs or remediating disputes amongst them, along with acting as an independent advisory body to the European Parliament, the European Council or the European Commission.

58 See the following coverage here and more recent dedicated coverage from our Eurozone Hub.

For 2021, the EBA's activities and actions will, much in the same way as for 2020, focus specifically on:

EBA key priority/activity:		Announced supervisory action for 2021:
1.	**Capital** – specifically by: a. Continuing to monitor CET1 issuance and maintaining a public list of CET 1 instruments b. Engaging in dialogue to monitor and reflect on financial innovation and the applicable regulation	• Maintenance of standardized templates on AT1 instruments (same as in 2020). • Analysis of interactions with loss-absorbency requirements (same as in 2020). • Assessments of post-CRR instruments and review of pre-CRR instrument (same as in 2020). • Monitoring of the AT1 issuances and related calls. • Maintenance and publication of the EBA CET1 list. • Questions and answers support on capital. • Report on the monitoring of the CET 1 List (expected Q3/Q4 2021).
2.	**Liquidity risk and interest rate risk in the banking book** – specifically by: a. Scrutinizing the ways in which firms and NCAs have implemented the CRR and RTS provisions in terms of notifications and the use of options and national discretions b. Delivering the GL and RTS stemming from CRR II/CRD V relating to the Interest Rate Risk in the Banking Book (**IRRBB**) framework	• Developing regulatory products and updating liquidity requirements (same as in 2020). • Monitoring national practices on liquidity and national options and discretions, especially regarding the concrete implementation of the LCR rules and definitions (same as in 2020). • Monitoring of notifications, national practices and national options and discretions related to liquidity and follow-up actions (same as in 2020). • Updating the list of credit institutions waived from the 75 percent inflow cap under Art. 33(5) of the LCR Delegated Regulation (same as in 2020). • Monitoring of interdependent assets and liabilities for the net stable funding ratio (**NSFR**). • Monitoring of interdependent inflows and outflows for the liquidity coverage ratio (**LCR**). • Q&A support on liquidity risk and IRRBB. • Work on Guidelines and Regulatory Technical Standards on the IRRBB. • Amendments to RTS specifying currency with constraints on the availability of liquid assets (Q4). • Report on the monitoring of LCR implementation (Q4).
3.	**Leverage ratio**	• Monitoring and promoting consistent application (including reporting and disclosure) of the leverage ratio (same as in 2020). • Monitoring of notifications related to the leverage ratio and follow-up notifications. • Delivering regulatory products that update leverage ratio requirements where necessary.
4.	**Loss absorbency**	• Monitoring of TLAC/MREL issuances. • Report on monitoring of MREL eligible liabilities issuances – update (Q4).

EBA key priority/activity:		Announced supervisory action for 2021:
5.	**Accounting and audit** – which includes monitoring accounting standards and comment letters to the IASB where needed and delivering regulatory output and technical advice to the EC where requested	• Monitoring and promoting consistent application of IFRS 9 and interaction with prudential requirements, including monitoring the institutions' practices in the COVID-19 circumstances in order to understand better the impact of IFRS 9 on capital requirements. • Monitoring the use of transitional provisions. • Continuing the work on the modelling aspects of IFRS 9 and their related impact on capital, using a benchmarking exercise, as per the roadmap. • Monitoring the ongoing quantitative impact of the application of IFRS 9 through selected indicators. • Continuation of integration of the IFRS9 benchmarking in the ITS on benchmarking, and monitoring the institutions' practices in the current circumstances in order to understand better the impact of IFRS 9 on capital requirements, as well as the way banks are applying judgment in the assessment of the level of and changes in credit risk of their exposures. • Monitoring accounting standards and comment letters to the International Accounting Standards Board, where needed. • Delivering regulatory products and technical advice to the Commission on the topics requested. • Report on the monitoring of LCR implementation. • Follow-up report on IFRS 9 qualitative implementation. • Feedback on IFRS 9 benchmarking of models. • EBA to issue guidelines specifying the activities that are a direct extension of banking, activities ancillary to banking, and similar activities.
6.	**Large exposures** focus on CRR II's amended provisions for large exposures and developing the EBA's mandate as off the (yet unpublished) roadmap	• Regulatory Technical Standards on the identification of shadow banking entities. • Guidelines specifying the exceptional circumstances under which the large exposures limits may be breached, and corrective measures.

EBA key priority/activity:		Announced supervisory action for 2021:
7.	**Credit risk** with a particular focus on the IRB approach for credit risk in respect of all the business activities of an institution, excluding the trading book business, under CRD V/CRR II. The EBA will focus on the implementation of the IRB roadmap and will continue to monitor its effects after application, ensuring supervisory consistency and increasing transparency	• Maintaining credit-related lists, including identification of the eligibility of PSEs for the credit risk framework (same as in 2020). • Monitoring and promoting consistent application of credit risk and credit risk modelling, notably the implementation of the IRB roadmap (same as in 2020). • Issuing Q&A on credit risks (same as in 2020). • Supporting transposition of Basel III on credit risk. • Monitoring credit risk related issues of COVID-19, including Guidelines on public moratoria. • EBA revised decision on the use of unsolicited credit assessments (Q1). • Amendments to ITS ECAI mapping under Art.136 CRR and Solvency II (Q2). • Preparation of 2022 benchmarking portfolios – update of ITS (Q2). • Development of RTS on collective investment undertakings under Article 132 of CRR II (Q2). • 2021 benchmarking report on IRB models (Q4).

EBA key priority/activity:		Announced supervisory action for 2021:

8.	**Market risk** with a particular focus on introducing:
	more risk-sensitive capital requirements following Basel work on the Fundamental Review of the Trading Book (**FRTB**) introduced in CRR II/CRD V and the EC delegated act
		• Preparatory work on the implementation of the FRTB – Phase IV: regulatory products whose substance will be derived from the monitoring of the application of the revised frameworks:
		  • Regulatory Technical Standards on emerging markets and advanced economies.
		  • Regulatory Technical Standards on material extensions and changes under the Internal Models Approach.
		  • Regulatory Technical Standards on the assessment methodology for the IMA – RTS on extraordinary circumstances for being permitted to continue using the IMA.
		  • Regulatory Technical Standards on extraordinary circumstances for being permitted to limit the backtesting add-on.
		  • Guidelines on the meaning of exceptional circumstances for the reclassification of a position – Report on the impact and relative calibration of the SA for CCR, the simplified SA for CCR and original exposure method.
		  • Report on the impact and relative calibration of the SA-CCR; simplified SA-CCR and OEM.
		• Regular updates to the list of diversified stock indices, incorporating any additional relevant indices and applying the quantitative methodology outlined in the implementing Technical Standards.
		• Monitoring and promoting consistent application of market risk requirements.
		• Q&A support on market risk, market infrastructure and CCR.
		• 2020 Benchmarking Report on market risk models (Q1).
		• Regulatory Technical Standards on Initial Margin Model Validation (Q1).
		• Annual update to the list of closely correlated currencies, incorporating any additional relevant currencies and applying the quantitative methodology outlined in the ITS (Q2/Q3).
		• RTS on PDs and LGDs for default risk model under the IMA (Q2/Q3).
		• Preparation of 2022 benchmarking portfolios – update of ITS (Q3).
		• RTS on instruments exposed to residual risk (Q4).
		• RTS on gross jump-to-default amounts (Q4).
		• 2021 Benchmarking report on market risk models (Q4).

EBA key priority/activity:		Announced supervisory action for 2021:

9.	**Operational risk and investment firms -** The main priority in this area will be the development of mandates stemming from the new regulatory regime for investment firms (IFR/IFD), which is to be implemented in 2021. In addition, the EBA's work in relation to operational risk focuses on the monitoring of regulatory operational risk requirements and preparatory work for the implementation of the new operational risk framework, the Standardized Measured Approach, which is part of the final Basel III framework.	• Implementation of IFR/IFD regime – preparatory work Phase IV: review all existing guidelines, database sanctions and notifications, and other mandates:
		  • EBA central database and website with links to administrative penalties.
		  • Guidelines on benchmarking of remuneration practices.
		  • Guidelines on the application of sound and gender neutral remuneration policies.
		  • Guidelines on supervisory information on high earners.
		  • Guidelines on liquidity risk.
		  • Guidelines on procedures and methodologies for the supervisory review and evaluation process (SREP).
		  • Review of all the existing EBA guidelines applicable to investment firms.
		• Monitoring and promoting consistent application of operational risk and investment firms' requirements.
		• Q&A support on operational risk and investment firms.
		• Regulatory Technical Standards on information exchange between Competent Authorities in different Member States (Q4).
		• Regulatory Technical Standards on the conditions for the establishment of a college of supervisors (Q4).
		• Implementing Technical Standards to establish standard forms, templates and procedures for supervisory information sharing (Q4).
		• Report and, if appropriate, Guidelines on the technical criteria for the SREP on a potential bespoke prudential treatment of assets (Q4).

10.	**Supervisory review** – focusing on overall further policy development in line with the published Pillar 2 Roadmap[59] and the CRR II/CRD V package and in relation to emerging risks or areas where an international practice (read BCBS and other principles/standards) has been developed	• Finalizing a supervisor risk taxonomy, a "Single Supervisory Handbook" and annual reports on supervisory convergence and colleges (same as in 2020). • Delivering regulatory products to the Commission in relation to the CRD V/CRR II package. • Considering ML/TF from a prudential viewpoint (same as in 2020). • Preparatory work on the Regulatory Technical Standards and Implementing Technical Standards on the functioning of colleges of supervisors and on institution-specific prudential requirements. • Work on the inclusion of the ESG risks in the SREP. • Annual report on supervisory convergence and colleges (Q2). • Guidelines specifying the manner of cooperation and information exchange between Competent Authorities, financial intelligence units and other authorities (Q2). • Second review Guidelines on common procedures and methodologies for SREP.

59 See here.

EBA key priority/activity:		Announced supervisory action for 2021:
11.	**Internal governance and remuneration –** including the EBA's monitoring and benchmarking of diversity practices at EU level	• Monitoring and promoting consistent application of internal governance and remuneration regulations. • Delivering regulatory products in relation to the CRD V/CRR II and IFR/IFD package. • Support in the implementation of the IFD/IFR regime. • Q&A support on internal governance and remuneration. • Establishment by the three ESAs of a system on the exchange of information on fitness and propriety assessments by the competent authorities (new Article 31a). • Review of the Guidelines on the assessment of suitability of the members of the management board and key function holders (Amendments to existing Guidelines to take into account amendments introduced by CRD 5 and IFD) (Q1/Q2). • Review of the Guidelines on internal governance (Amendments to existing Guidelines to take into account amendments introduced by CRD 5 and IFD) (Q1/Q2). • Review of the Guidelines on sound remuneration to integrate gender-neutral remuneration policies for institutions (Amendments to existing Guideline to take into account amendments introduced by CRD V and IFD) (Q2/Q3). • High earners (data for 2019) (Q2/Q3). • Review of the guidelines on data collection of high earners under CRD/CRR framework. • Review of the guidelines on benchmarking of remuneration practices. • Guidelines to ensure consistency of information collected on remuneration.

EBA key priority/activity:		Announced supervisory action for 2021:

12.	**Recovery and resolution - ** The revised BRRD II/CRR II legislation has mandated the EBA to develop a wide range of binding technical standards, Guidelines and reports. The key work will focus on the development of the regulatory mandates that have been addressed by a specific resolution roadmap, including the production of an MREL report that monitors the building up of the MREL resources in the European banking sector. In the context of crisis preparedness, the EBA will continue to monitor evolving practices in relation to recovery planning, triggers for early intervention, and the determination of failing or likely to fail. It will also focus on improving synergies between recovery and resolution plans; increasing the quality of cooperation between supervisory and resolution authorities; and identifying good practices, potential friction points and things to avoid.	• Report on convergence in the area of resolution.
		• Quantitative report monitoring the build-up of MREL resources in the EU.
		• A combination of products in resolution planning, which includes:
		    • the relationship between recovery and resolution plans
		    • recovery indicators
		    • the operationalization of resolution tools through crisis simulation exercises
		    • resolution reporting
		    • resolvability assessment and identification of impediments
		    • public interest assessment
		    • critical economic functions and critical services
		    • management of information systems
		• Implementation of the BRRD II roadmap.

13.	**Reporting -** The completion of work on a feasibility study of an integrated EU reporting framework, mandated by the CRR II, will be key to helping cover a wider scope of data and an efficient integrated system for collecting and sharing data. This will further increase standardization, ensure common definitions, reduce redundancies and increase efficiency of reporting systems.	• Maintenance of Implementing Technical Standards on supervisory reporting (legal act, templates, instructions). • Maintenance of validation rules, the data point model and XBRL taxonomies. • Review of proportionality in the reporting framework. • Project to improve data-modelling tools. • Cost of compliance study (Q2). • Feasibility study on integrated reporting (Q3).
14.	**Transparency**	• Monitoring of Pillar 3 disclosures. • Regulatory Technical Standards on investment policy disclosures (Q2). • Sustainable finance Pillar 3 and amendments to Pillar 3 implementing standards (Q3).

EBA key priority/activity:		Announced supervisory action for 2021:
15.	**Loans management and valuation** – which will have a number of knock-on effects and have been in the making, by various actors, including the ECB (as central bank) since 2015 in the context of workstreams linked to NPLs. The European Commission's proposal for a new directive on credit servicers, credit purchasers and the recovery of collateral, and amendments to the CRR set out some mandates for the EBA to develop Implementing Standards on NPL data and Guidelines on valuation.	• Assisting the implementation of the EBA's loan origination Guidelines. • Follow-up work from the Council's Action Plan for tackling NPLs in Europe.
16.	**Market access, authorization and equivalence** – The EBA will continue monitoring regulatory perimeter and authorization practices, and will prepare guidelines on common assessment methodology for authorizations and reports on the treatment of third-country branches. The EBA will assess regulatory and supervisory frameworks of third countries and their equivalence with the EU framework, provide an opinion to the Commission and monitor together with the Commission the ongoing equivalence of countries covered by the Commission's equivalence decisions. The EBA will enter into cooperation agreements with the Competent Authorities of third countries, covering prudential, conduct and crisis management cooperation.	• Cooperation agreements with third-country authorities on supervision, resolution, conduct and AML/CFT. • Monitoring of regulatory perimeter and new financial activities across the EU. • Report on the treatment of third-country branches (Article 21b of the CRD) (Q2). • Review of RTS on authorization (Q3) – which will also have an impact on ECB-SSM processes. • EBA opinion on the equivalence of regulatory and supervisory frameworks of third countries. • Reports on the assessment of the equivalence of regulatory and supervisory frameworks and ongoing monitoring of equivalence decisions, including the submission of an annual confidential report summarizing the findings of its monitoring activities on equivalent third countries. • Guidelines on the equivalence of third-country authorities' confidentiality requirements (supervision and resolution). • Guidelines on common assessment methodology for the authorization of institutions (Article 8 of the CRD) (Q4) which may impact the work of the ECB-SSM.

EBA key priority/activity:		Announced supervisory action for 2021:
17.	**Banking markets, Securitization, covered bonds and sustainable finance** – notably the new European framework for the simple, transparent and standardized (STS) securitizations regulation (the **Securitization Regulation**), which came into force in January 2019, sets out a large number of mandates for the EBA. The EBA's work on the Securitization Regulation will focus on technical standards, Guidelines and reports for the new Securitization Regulation. There will also be follow-up work related to the new directive on covered bonds. In addition, the EBA will contribute to the Commission's work on sustainable finance, particularly regarding the taxonomy of sustainable finance and the green bonds standards, as well as to the work required by the specific mandates for the EBA that are included in the CRD, the CRR, the IFD and the IFR, and in the Commission Action Plan for sustainable finance. New mandates on securitization and sustainable finance are expected from Commission's legislative and non-legislative initiatives, in particular related to STS synthetic securitization and Renewed Sustainable Finance strategy.	• Monitoring market development and promoting the consistent application of frameworks on securitization and covered bonds. • Contribution to Commission activities in this area (including Platform on sustainable Finance). • Implementation of the Covered Bonds Directive. • Preparatory work on Guidelines on computation of an internal ratings based (IRB) approach for dilution and credit risk. • ESA Report on securitization's contribution to funding the real economy and small and medium-sized enterprises, risk retention, third-party certifiers, third-country equivalent regimes and other topics. • Joint Regulatory Technical Standards on ESG disclosure standards for financial market participants (Q1). • Guidelines on estimates of probability of PD and LGD using IRC. • Report on the incorporation of ESG into risk management and supervision (Q2). • Regulatory Technical Standards on the method for calculating the nominal amount for the undrawn part of a liquidity facility(Q4). • Implementing Technical Standards on the mapping of the external credit assessment institutions' credit assessment for securitization positions (Q4). • Guidelines on practices on the hierarchy of approaches for calculation of risk weights (Q4).

EBA key priority/activity:		Announced supervisory action for 2021:
18.	**Innovation and FinTech** - which very much aims to advance the EBA's FinTech Roadmap as well as (i) a regulatory perimeter and the European Forum of Innovation Facilitators; (ii) impacts on the business models, and risks and opportunities for financial institutions from FinTech; (iii) operational resilience; and (iv) regulatory obstacles for innovative technologies and business models. The EBA will continue its activities concerning the FinTech Knowledge Hub, in order to facilitate information and experience sharing, to raise awareness, to support the transfer of knowledge on FinTech, and to support information sharing among national innovation facilitators under the Forum of European Innovation Facilitators. New mandates on digital finance, operational resilience and crypto assets are expected from the Commission's legislative and non-legislative initiatives following the public consultations on these topics.	• Publishing EBA Thematic Reports on: ◦ Monitoring of financial innovation and targeted reports on new developments (same as in 2020) ◦ Business model changes, risk and opportunities from FinTech, innovative products and emerging trends (same as in 2020) ◦ Activities regarding the FinTech Knowledge Hub (workshops, roundtables, seminars) ◦ Supporting the forum of European Innovation Facilitators and related activities ◦ Follow-up work on digital operational resilience ◦ Monitoring and coordination on crypto-assets activities ◦ Report on Platforms (Q2) ◦ Report on regulatory technologies (RegTech) (Q2)

EBA key priority/activity:		Announced supervisory action for 2021:
19.	**Consumer and depositor protection** – which includes reviewing the existing legislative and institutional framework of Depositor Guarantee Schemes (**DGS**) under the EU Directive (**DGSD**). This workstream is independent of but will influence discussions on how to finalize EDIS as the "third pillar" of the Banking Union.	• <u>On depositor protection issues:</u> ◦ Publishing uses of DGS funds including bank failure, covered deposits and financial resources of the DGSs (same as in 2020). ◦ Monitoring liquidations with a DGS payout (same as in 2020). ◦ Assessing notifications received under DGSD (same as in 2020). ◦ Having fulfilled in 2019 the EBA's mandate under Article 19(6) of the DGSD to support the Commission in its review of the DGSD, an assessment of the merits of additional own initiative work to address urgent issues that have been identified. ◦ Answers to questions that the EBA receives on the DGSD through the EBA Q&A tool. • <u>On consumer protection issues:</u> ◦ Supervisory convergence work on EU requirements pertaining to consumer protection. ◦ Assessment of the need for regulatory or supervisory measures as a result of the EU Consumer Credit Directive being added to the EBA's scope of action. ◦ Input to potential reviews by the EU Commission of the EU Consumer Credit Directive and/or the EU Distant Marketing of Financial Services Directive. ◦ Answers to questions that the EBA receives on the Mortgage Credit Directive through the EBA Q&A tool. ◦ EBA Consumer Trends Report 2020/21 (Q1). ◦ Final revised Guidelines on DGS stress test (Q2). ◦ Report on supervisory convergence of EBA Guideline on remuneration of sales staff (Q4).

EBA key priority/activity:		Announced supervisory action for 2021:
20.	**Payment services**	• Contributing to the EBA's statutory objective of supervisory convergence across the EU, in the area of payment services (same as in 2020). • Assess and develop answers to the questions that the EBA receives, in relation to PSD2, through its Q&A tool (same as in 2020). • Monitoring the consistent application and implementation of the RTS on strong customer authentication and common and secure communication (the RTS on Strong Consumer Authentication and Common Secure Communications, published as Commission Delegated Regulation (EU) 2018/389) and taking action where required (same as in 2020). • Monitor the implementation of the guidelines on the fall-back exemption (EBA/GL/2018/07) and continue to fulfil the EBA's consultative role under Article 33(6) of the RTS on Strong Consumer Authentication and Common Secure Communications (same as in 2020). • Operate and maintain the EBA register under PSD2 and ensure that competent authorities keep the information up to date, as required under Article 14(2) of PSD2 (same as in 2020). • Monitor the consistent implementation by CAs and financial institutions of the EBA Guidelines on fraud reporting (EBA/GL/2018/05) and contribute to the compliant integration of the guidelines into the forthcoming reporting framework of the ECB (same as in 2020). • Reviewing the Guidelines on authorization (EBA/GL/2017/09), as required under Article 5(5) of PSD2 (same as in 2020). • Assessing the need for regulatory or supervisory measures as a result of the EU Interchange Fee Regulation being added to the EBA's scope of action (same as in 2020). • Report on the work of the EBA working group on APIs (Application Programming Interface) under PSD2 (Q2). • Final Revised Guidelines on major incident reporting (Q2). • Final Guidelines on limited network exclusion under PSD2 (Q3).

EBA key priority/activity:		Announced supervisory action for 2021:
21	**Anti-money laundering and combatting the financing of terrorism (financial crime)** – where the work in 2021 is centered around completion of the European Council Action Plan on anti-money laundering (**AML**), for which the EBA has taken the lead. The EBA will also review the effectiveness of the approaches to the AML/ financial crime supervision of banks used by NCAs.	• Executing the EBA's new tasks and powers, including establishing a database through which to collect information and identify vulnerabilities. • Enhanced monitoring and requests for action. • Deliverables resulting from the European Council Action Plan on AML, including an EBA database with EU sanctions information. • Participation in AML colleges, to foster the exchange of information between national competent authorities, including the development of reports. • Individual and thematic feedback to Competent Authorities on their approaches to AML supervision. • AML-focused follow-up work that results from the EBA's roadmap on FinTech. • Answers to the questions that the EBA receives in relation to Anti-Money Laundering Directive (AMLD4/AMLD5), through its Q&A tool. • Execution of the EBA Cum-Ex Action Plan. • Training activities. • Opinion on AML risks in the financial sector in the EU (Q1). • Incorporation of AML aspects into various prudential supervision Guidelines, such as the Guidelines on internal control and governance, the Guidelines on fit and proper assessments, and the SREP Guidelines (Q2). • Second report on EBA staff-led reviews of NCAs' approaches to AML supervision (Q2). • Final draft Regulatory Technical Standards under Article 9a (use of data) (Q2). • Final draft Regulatory Technical Standards under Article 9a (data base information) (Q2). • Consultation Paper on draft Guidelines on AML compliance officers (Q2). • Final revised Guidelines on risk-based supervision (Q3).

EBA key priority/activity:		Announced supervisory action for 2021:
22.	**Risk analysis**	• Updating EBA's quarterly EU Risk Dashboards. • Managing process of collating information from bi-annual Risk Assessment Questionnaires as well as annual assessment report of EU banking sector risks and funding plans as well as asset encumbrance reports. • Publishing Opinions on macroprudential measures. • Contributing to the Joint Committee of the ESA's "Spring Risk Report" (Q1) and "Autumn Risk Report" (Q3) (Same as in 2020). • Publishing Regulatory Technical Standards on the assessment of appropriate risk weights and appropriate minimum loss given default values (Q2). • Publishing a Funding Plans and Asset Encumbrance Report (Q3). • Presenting an annual risk assessment report on the European Banking System (Q4).
23.	**Stress testing –** notably that the EBA commits itself to improve the EU's stress test methodology	• Conducting the 2021 EU-wide stress test in Q3, improving stress test methodology and developing common methodology and templates in cooperation with NCAs, as well as presenting preparatory work on the 2023 EU-wide stress test exercise and incorporating climate risk into stress-testing exercises.
24.	**Data analysis and infrastructure –** which builds off a major infrastructure development program that started in 2017 and will be finalized in 2020	• Going live with the new data infrastructure project (EUCLID) and decommission of the old one (ESP). • Providing support to all regulatory proposals through the quantitative analysis of data (same as in 2020). • Delivering regulatory products and technical advice to the Commission on the topics requested (same as in 2020). • Delivering quantitative analysis and developing analytical tools to underpin the development of regulatory products (same as in 2020). • Providing support for the EBA's data infrastructure (same as in 2020).
25.	**Statistical tools**	• Interaction with NCAs to ensure a smooth data flow and effective quality checking (same as in 2020). • Providing training on data and analysis tools shared with EBA and NCAs' data users (same as in 2020). • Implementing a full list of validation rules and additional quality checks for statistical analysis (same as in 2020). • Developing interactive and visualization tools for internal and external data dissemination (same as in 2020). • Continuing work on Risk Dashboards and other tools for internal and external data users (same as in 2020). • Conducting a transparency exercise (same as in 2020).

EBA key priority/activity:		Announced supervisory action for 2021:
26.	**Ad hoc data collections**	• Management of the data workflow with templates to be pre-populated by the EBA whenever possible (same as in 2020). • Interaction with NCAs to ensure a smooth data flow and effective quality checking (same as in 2020). • Development of interactive and visualization tools for internal and external data dissemination (same as in 2020). • Statistical support for report drafting (same as in 2020).
27.	**Management of the notification process (very much as in 2019)**	• Improving the current process of the EBA's "eGate portal", including better triaging of received notifications as well as allocation and monitoring of workflows, which was in 2019 and 2020 criticized publically in recent court cases (same as in 2020).
28.	**Economic analysis and impact assessment**	• Work on ESG factors, financial innovation and AML (in addition to the risk reduction mandate). • Contribution to enhancing the stress-testing methodology. • Technical background studies / research projects to support regular EBA analysis and possibly be published in the EBA staff papers series. • Work for the Advisory Committee on Proportionality. • Impact assessment reports accompanying the EBA's regulatory proposals. • Calls for advice and regulatory initiatives. • Organization of regulatory workshops. • CRR II /CRD V Basel III Monitoring Report to be published annually following approval by the Management Board. • Annual report on the impact and phase-in of the LCR (Q4). • Policy research workshop (Q4). • Report on the quantitative impact of the removal of, or the setting of a limit to, some exemptions to the large exposures framework (Q4).
29.	**Policy coordination and communication**	• Supporting the EBA's participation in EU and international institutions/bodies. • Development of internal policies/processes to support the EBA's activities. • Support for the EBA's document management. • Updating and implementing the communication strategy. • Implementation of the legislative package of the ESA review. • Consolidated annual activity report (Q2). • Peer review on a package of guidelines on non-performing exposures (Q2). • Annual and multi-annual Work Programme (Q3). • Peer review on the guidelines on ICT risk assessment under SREP (Q4).

EBA key priority/activity:		Announced supervisory action for 2021:
30.	**Q&As**	• Providing regular updates of the EBA's Interactive Single Rulebook tool – which reflects areas under the EBA's main thematic areas i.e., CRR II/CRD V as well as BRRD II. • Monitoring the implementation of published Q&As. • Adjusting the scope of the Q&A process and tools to include new pieces of EU regulation.
31.	**Training for NCAs**	• Developing and providing a *"comprehensive training program for EU supervisors to promote the convergence of supervisory practices…"* for EU supervisors, resolution and DGS authorities in the ESFS with whom the EBA primarily interacts; delivery is to be a mix of on-site training and online courses. • Strengthening the EBA online training platform (the EBA learning hub) by updating current modules and launching new ones (e.g. CFT/AML).
32.	**Legal services**	• Implementing the legislative package of the ESAs review. • Legal advice to the EBA's staff and boards across the EBA's core functions. • Representation of the EBA before the Board of Appeal and the Court of Justice. • Identification of potential breaches of EU law, with investigations and recommendations where appropriate. • Settlement of disputes between NCAs through mediation and the adoption of binding decisions. • Monitoring the implementation of the legislative package of the ESA review.
33.	**Finance, procurement and accounting**	• Execution of the 2021 annual budget. • Establishment and acquisition of the 2022 budget. • Establishment of the 2023 budget. • Creation of the 2021 procurement plan. • Implementation of the 2021 procurement plan. • Production of the 2021 annual accounts.
34.	**Human Resources**	• Continued focus on fulfilment of the EBA's "Establishment Plan", which includes expanding headcount (as described above) to full operating capacity, as well as upskilling staff and delivering on relocation to Paris. • Adoption of further HR implementing rules. • Improvement of the HR processes. • Update of existing and introduction of new internal policies. • Migration from Allegro to Sysper.

EBA key priority/activity:		Announced supervisory action for 2021:
35.	**Information technology**	• Implementation of the EBA's IT strategy 2020-2025. • Master and reporting data collection via the EUCLID platform (including committed information rate, peak information rate, supervisory, resolution, investment firms (CRR) and fraud payments data). • Improving the EBA's data validation engine. • Developing AML solutions for EBA-led supervision. • Support and enhancement of analytics solutions. • Designing and deploying a collaboration platform. • Support and tools for the Single Rulebook/sign posting. • Implementation and on-boarding of key enablers to cloud infrastructure. • Enhancing access management and security protocols. • Supporting the annual business continuity exercise.
36.	**Corporate support**	Generally, the "actions" in this priority area reiterate previous items and serve as a catch-all and receive a budget allocation of €1,182,568 for 2021.

ESMA's 2021 Work Programme

ESMA announced its 2021 Work Programme[60] on October 2, 2020. In keeping with the approach taken by other ESAs, ESMA's[61] priorities are each measured against "Key Performance Indicators."[62] ESMA's scope of what it is responsible for (but not its powers/mandate/resources) is continuously expanding as new sectors either become regulated, or ESMA is assigned responsibility for direct supervision, such as with respect to Credit Rating Agencies, Trade Repositories and systemically relevant third-country CCPs under EMIR (2.2) and the Investment Firms Regulation and Directive (IFR/IFD). Following 2020, a year of preparing for and operationalizing these new tasks and powers, in the year of 2021 ESMA's focus will largely be on the actual execution of the tasks corresponding to these new responsibilities. In addition, in 2021, ESMA will be preparing for its new direct supervision mandates of Benchmarks and Data Service Providers that will begin in 2022.

Much of ESMA's attention in 2021, also building on 2020, will be on ensuring these responsibilities, along with the governance and organizational changes they imply, are initiated and developed to the highest quality standards. EMSA, in helping to deliver CMU 2.0, will also undertake efforts in "...developing a large retail investor base to support the CMU, promoting sustainable finance and long-term oriented markets, dealing with the opportunities and risks posed by digitalization, strengthening the EU's role in global capital markets and ensuring a proportionate approach to regulation".

ESMA will also, along with the NCAs, focus on supervisory convergence, including identifying areas for improved consistency of supervisory outcomes across the EU and giving ESMA the right tools to take action. This is reflected in the key overarching themes, as well as key priorities and supervisory actions.

60 See here.

61 ESMA organizes its activities into nine major related policy areas:

1. Corporate disclosure/financial reporting, primarily the EU's Prospectus Directive/Prospectus Regulation, Transparency Directive and the International Accounting Standards Regulation;
2. Credit Rating Agencies;
3. Fund management;
4. Investor Protection;
5. Market Abuse;
6. Markets and Investment Firms;
7. Benchmarks;
8. Short Selling; and
9. Post-Trading;

62 See: Annex III of the 2020 Work Programme.

The following table sets out an overview of ESMA's priorities and announced supervisory actions for 2021.

ESMA key overarching themes:	Commitments:
1. Transversal themes	• Supporting new initiatives stemming from: • the CMU 2.0 Action Plan • the EU's renewed sustainable finance strategy and a roadmap for supervisory convergence in sustainable finance • new digital finance strategy and FinTech Action Plan (and thus work on MiCA and DORA)
2. Supervisory convergence	• ESMA's 2021 supervisory convergence priorities will be to build an EU common risk-based and outcome-focused supervisory culture. Actions will be prioritized through enhanced supervisory risk identification and data collection, allowing it to focus on those areas that could pose a high risk or problem for investor. protection, financial stability and orderly functioning of EU financial markets. • ESMA will continue to foster convergence in the areas of liquidity risks in funds and the use of liquidity management tools by funds, following the work done in this area in 2020 in the context of COVID-19. It will also maintain a focus on performance and cost of retail investment products, in particular in the funds area. • ESMA will also foster convergence and commonly agreed actions to improve the quality and usability of data across the various reporting regimes. In addition, ESMA will foster convergence in supervision over ESG reporting and usage of ESG data by capital market participants. • In 2021, ESMA expects to work on peer reviews on supervision of cross-border activities of investment firms, NCAs' handling of relocation to the EU27 in the context of the UK's withdrawal from the EU, supervision of CCPs, supervision of CSDs, and on the scrutiny and approval procedures of prospectuses.
3. Risk assessment	• In the risk assessment area, ESMA will focus on integrating the new focus on financial innovation and ESG into our risk analysis. • ESMA will also focus on data for risk-based supervision, in particular in support of ESMA's new supervisory mandates, and to support policy and convergence work. • ESMA will continue to monitor the impact on markets of the (post) COVID-19 pandemic and the end of the UK's transition period, intervening when necessary in support of investor protection, orderly markets and financial stability.
4. Single Rulebook	• As part of a program of regular post-implementation reviews of laws and technical standards, ESMA will contribute to the legislative reviews of MiFID and AIFMD and assess whether changes to the rulebook are needed to develop the Capital Markets Union, enhance the attractiveness of EU capital markets, and/or to promote sustainable finance or proportionality. • Following the review of EMIR and the changes introduced under EMIR Refit, ESMA will review technical standards where necessary. Depending on market developments, these reviews may be in the area of clearing thresholds and the clearing obligation.
5. Direct supervision	• Under its direct supervision activity, in 2021, ESMA will focus on third-country central counterparty supervision as critical financial market infrastructures under EMIR 2.2. • ESMA will prepare for new supervisory mandates regarding Benchmarks and Data Service Providers, as well as continuing direct supervision in the areas of Credit Rating Agencies (**CRA**s), Trade Repositories (**TRs**) (both under EMIR and SFTR) and Securitization Repositories (**SRs**).

ESMA key priority/activity:	Announced supervisory action for 2021:

1. Promoting supervisory practices	• Ensure a consistent implementation of:
	  • The EMIR regulatory framework for EU CCPs through the newly created CCP Supervisory Committee, including for instance the issuance of opinions following the consultations of NCAs on a range of supervisory topics and decisions, as well as the continued and enhanced co-ordination across EU NCAs. In 2019 and 2020, ESMA was preparing for and implementing the new EMIR 2.2 framework. From 2021, the bulk of ESMA's CCP activity will be centered around supervisory convergence work related to EU CCPs. In order to do this, ESMA will develop opinions following the consultations of NCAs on a range of supervisory topics and decisions. In addition, ESMA has the obligation to run an annual peer review on EU-CCPs, as well as running stress tests, and coordinating across all CCP colleges.
	  • The CCP Recovery and Resolution Regulation, once adopted, including for instance the issuance of Guidelines in this area.
	  • Producing Opinions on a wide range of topics.
	  • Coordination across supervisory colleges.
	  • Coordinating Annual peer reviews.
	  • Administering CCP Stress Tests.
	  • Finalizing Guidelines and Q&As under EMIR 2.2 and under the CCP Recovery and Resolution Regulation (if adopted).
	  • Drafting procedures corresponding to this enhanced EU supervisory convergence framework.

2. Market integrity	• Ensuring consistent application of critical areas of the Market Abuse Regulation (**MAR**) in line with the recommendations included in the MAR review final report. In particular ESMA will:
	  • Review the existing Guidelines on delayed disclosure under MAR to cover the information conveyed to issuers that are also financial institutions in the SSM Supervisory Review and Evaluation Process. Within this objective, ESMA is planning to address the disclosure of draft and tentative information and is intending to provide guidance on the inside nature of the information contained in the Pillar 2 Capital Requirements and Capital Guidance.
	  • Foster the regular exchanges of supervisory experiences amongst regulators. Furthermore, ESMA will issue opinions on proposed MAR accepted market practices (either new ones or regular revisions of the existing ones) and/or proposed SSR restrictions on short-selling and creation of net short positions.
	  • also pay attention to the consistency in the interpretation of MAR and other pieces of EU legislation such as the Regulation on Wholesale Energy Market Integrity and Transparency (REMIT), including ongoing exchanges with the Agency for the Cooperation of Energy Regulators (ACER) and national regulators of wholesale energy markets, the new Capital Requirements Directive and Regulation and the Banking Recovery and Resolution Directive.
	• Ensuring consistent application of the Short Selling Regulation (**SSR**) by providing guidance to market participants by clarifying the scope of application of the SSR obligations and prohibitions as well as Opinions on national restrictions on short selling under SSR, if required.

ESMA key priority/activity:	Announced supervisory action for 2021:

3. Data reporting	• ESMA will improve the quality of reported data, identified as a continued priority for supervisory convergence and as a precondition for data-driven risk-based supervision, by implementing ESMA's Data Strategy following the enactment of the SFTR, EMIR Refit, AIFMD, MMF, Prospectus, MAR and MiFIR reporting regimes.
	• ESMA will work on the implementation of ESMA's Data Strategy and supervisory convergence work, in particular on the enhancement of data quality for the different reporting regimes under its mandate (AIFMD, MMF, Prospectus, EMIR Refit, SFTR, MiFIR/MiFID II, MAR). In the context of Data Quality Action Plans (DQAPs) and within Data Quality Engagement Frameworks (DQEFs), ESMA will foster convergence, application of the commonly agreed actions and develop consistent methodologies to improve the quality and usability of data across various reporting regimes in the interest of, among others, facilitating data-driven supervision. It will focus on developing and establishing a common approach to data quality, where the supervision is regular, pro-active, thorough, comprehensive, advanced and well established.
	• The report on the peer review into supervisory actions aiming at enhancing the quality of data reported under EMIR3 outlined a series of recommendations with regard to the potential short and long-term supervisory actions pertaining to EMIR and extendable to other reporting regimes. In line with the supervisory and policy recommendations to improve data quality that were identified in the report, NCAs and ESMA will, among other things, explore the delegation to ESMA of some tasks related to EMIR as well as other reporting regimes' data.
	• ESMA will publish Guidelines on:
	  • EMIR Refit and revised validation rules; and
	  • SFTR requirements.

4. Post-Trading	• ESMA will continue to monitor the consistent implementation of EMIR regarding clearing and bilateral margining requirements, including the changes introduced under the EMIR Refit text, and provide guidance where necessary. Notably, ESMA will produce an annual report on the supervisory measures and penalties imposed by NCAs regarding market participants' compliance with EMIR, covering also how NCAs prepared for and supervised the implementation by counterparties of the new regulatory requirements introduced by the EMIR review. • ESMA will monitor the level of internalized settlement based on the reports received by ESMA under Article 9 of CSDR, and the level of CSD settlement efficiency based on the reports sent to ESMA by the CSD competent authorities on a voluntary basis (prior to the entry into force of the CSDR settlement discipline regime). Additionally, ESMA will develop guidance and other supervisory convergence mechanisms related to CSDR requirements, in particular in relation to the settlement discipline regime. Furthermore, ESMA will report to the Commission on various aspects of CSDR implementation and launch its first peer review exercise on the supervision of CSDs providing cross-border services or participating in interoperable links. • ESMA will publish Guidance on EMIR implementation regarding the clearing obligation and bilateral margining requirements, as well as the changes introduced under EMIR Refit as well as an Annual Report on supervisory measures and penalties taken under EMIR. • ESMA will also publish Guidance on CSDR's implementation, in particular relation to the settlement discipline regime, and support to the European Commission on various aspects of CSDR's implementation.

ESMA key priority/activity:	Announced supervisory action for 2021:
5. Investment Management	• ESMA will aim to achieve greater convergence and consistency of NCAs' supervisory approaches and practices in relation to the EU legislation on investment management, with a particular focus on improving investor protection and financial stability through ESMA's work on funds' liquidity. • Equally, ESMA will facilitate mutual understanding and common approaches on the application and supervision of the relevant sectoral requirements through initiatives such as facilitating discussions among NCAs on supervisory cases with cross-border relevance and organizing workshops with NCAs. In this context, ESMA will facilitate common supervisory actions (CSA): the planned 2020 work on liquidity management by UCITS will continue in 2021, in addition a CSA on the topic of costs and fees will be launched in 2021. ESMA will also keep facilitating exchanges of information with NCAs for supervisory convergence purposes. It will build on the experience gained in 2020 through its convergence work on liquidity risks in funds and the use of liquidity management tools by funds in the context of the COVID-19 crisis to assess whether any further convergence work is worthwhile in this area. • Moreover, ESMA will continue promoting supervisory convergence of NCAs' practices by issuing and reviewing guidelines, supervisory briefings and Q&As and making use of other supervisory convergence tools concerning investment management matters. In particular, in the context of the Regulation on facilitating cross-border distribution of collective investment undertakings (Regulation (EU) 2019/1156), it will issue guidelines on the application of the requirements for marketing communications and prepare its first report on marketing requirements and marketing communications. ESMA will also publish its annual reports on UCITS and AIFMD sanctions. • Furthermore, ESMA will keep focusing on stress testing, in particular by updating its guidelines on MMF stress testing, taking into account the latest market developments. ESMA will also continue to use its fund stress simulation framework to assess the resilience of the EU fund industry and identify potential vulnerabilities in funds. • In line with its convergence priority, ESMA will carry out follow-up work on the cost and performance of retail investment products to bring consistency to NCAs' supervision and enforcement around cost and performance. This will include ensuring proper implementation of the convergence tools it adopted in 2020 (guidance on performance fees and supervisory briefing on the supervision of costs) and possibly continuing coordination of NCAs' work in the area of closet indexing. in this respect, the above mentioned 2021 CSA on costs and fees is expected to represent a major area of focus to increase convergence in the supervision of costs in UCITS and AIFs, including securities lending fees and costs. • ESMA will update its Guidelines on Money Market Funds' stress testing. • ESMA will also publish Guidelines on marketing requirements as well as a report on marketing requirements and communications.

ESMA key priority/activity:	Announced supervisory action for 2021:
6. Investor protection and intermediaries	• ESMA will ensure consistent application of MiFID II and MiFIR requirements and co-ordination between NCAs in the area of investor protection and intermediaries (including cross-border activities), in line with the identification of supervisory convergence as a continued priority for ESMA's activities in the area of investor protection. • ESMA will continue focusing on the consistent application of MiFID II/MiFIR, by developing supervisory convergence tools concerning authorization and supervision of investment firms, amongst others in relation to conduct of business, organizational requirements and sustainable finance. This will include Q&As, guidelines and supervisory briefings on MiFID II/MiFIR (including reviewing MiFID I guidelines) on topics such as costs and charges and product governance. In this context, ESMA will also facilitate common supervisory actions (**CSA**) on suitability (including the element of cost as part of the suitability assessment), on which NCAs will start to conduct a CSA in 2020 that will continue in 2021, in addition to the topics that will be identified for the CSA 2021. • Additional activities will arise from the ESAs' Review in the area of consumer protection (such as coordination of mystery shopping activities by NCAs). The purpose is to learn from each other's experiences and to compare the results found by individual NCAs. ESMA will also facilitate mutual understanding and common approaches on the application and supervision of relevant MiFID II / MiFIR requirements through initiatives such as real case discussions, trainings and workshops among NCAs. ESMA will aim at improving its ability to reach out to investors' representatives to receive direct feedback and input. • ESMA will also look to take Decisions on ESMA product intervention (PI) measures and Opinion on national PI measures.
7. Secondary markets	• ESMA will look to promote a consistent application of MiFID II and MiFIR requirements and further develop a common understanding on arising supervisory challenges in the area of secondary markets. ESMA will follow-up on supervisory guidance in areas where different practices across the EU have been detected, and it might issue further guidance in other areas. • Following the submission of the first MiFID review reports to the Commission, ESMA will be working on several follow-up measures to address the divergent approaches identified. ESMA intends to deliver in 2021 guidelines clarifying its expectations on how trading venues, APAs and SIs should comply with the obligation to provide market data on a reasonable commercial basis (RCB), including the requirement to make data available free of charge 15 minutes after publication (Art. 13(1) MiFIR. Moreover, ESMA will continue its preparatory work towards the potential establishment of a consolidated tape (CT), and in particular at improving the quality of OTC-data. • ESMA has various reporting and monitoring tasks under MiFID II/MiFIR. These activities include monitoring the implementation of the tick size regime, issuing annual reports on the use of pre-trade transparency waivers and deferred publication arrangements, and monitoring the implementation of position limits set. • ESMA will continue issuing opinions on pre-trade transparency waivers and position limits, as well as contributing to the smooth operation of the IT systems developed in the context of MiFID II/MiFIR (Double Volume Cap (DVC), Financial Instruments Transparency System). • ESMA will also continue its assessment of third-country trading venues for transparency and position limit purposes.

ESMA key priority/activity:	Announced supervisory action for 2021:
8. Corporate finance	• ESMA will continue to strengthen the level of supervisory convergence and facilitate the exchange of experience in the areas within the remit of the Corporate Finance Standing Committee (CFSC), namely the Prospectus Regulation regime, notifications of major holdings, corporate governance and takeover bids. • ESMA will continue its supervisory convergence work in the area of the prospectus, with a focus on providing guidance on the application of the Prospectus Regulation. In addition to continuing to publish Q&As, ESMA will revise the existing supervisory briefing regarding certain elements of the Prospectus Directive to align it with the Prospectus Regulation and to update it for new developments in the area of prospectus supervision. • ESMA will also continue discussions of real cases in the areas of prospectus and takeovers with a view to promoting the convergence of supervisory practices among NCAs and ensuring that the provisions of the Prospectus Regulation and the Takeover Bids Directive are implemented in a harmonized manner across the EU. Furthermore, in the takeover area, ESMA might engage in the review of the 2014 White List on acting in concert. • ESMA expects to begin the mandatory peer review relating to the scrutiny and approval procedures of prospectuses by NCAs that is foreseen in the Prospectus Regulation in 2021. • ESMA will also undertake work on transparency in order to enhance supervisory convergence in the area of major holdings. Regarding corporate governance, work will be undertaken to improve the convergence of national practices under the revised Shareholder Rights Directive, taking ESG-related factors into particular account.
9. Corporate Reporting	• ESMA will strengthen supervisory convergence in the area of supervision and enforcement of financial and non-financial information with a particular focus on issues related to alternative performance measures, sustainable finance and the European Single Electronic Format (**ESEF**). • ESMA will continue to foster supervisory convergence on supervision and enforcement of financial and non-financial information, as well as to prepare common enforcement priorities on an annual basis. In the area of enforcement of financial information, ESMA will continue to organize meetings of the European Enforcers Coordination Session (EECS), where discussion of real cases are taking place in order to ensure a common supervisory response, some of which are subject to publication. • Following the amendments to the Guidelines on enforcement of financial information (**GLEFI**) in 2020 (and related supervisory briefings), ESMA will actively promote and support their timely application by NCAs as of January 1, 2022, before monitoring their application once effective. • In addition, ESMA will consider any required follow-up actions coming from the outcome of the 2020 fast-track peer review launched at the invitation of the European Commission following the Wirecard scandal. • Considering non-financial reporting by issuers and Alternative Performance Measures (**APM**s), ESMA will continue to closely monitor the developments in this area and foster common supervisory approaches. This might entail developing specific guidance for the supervision and enforcement of non-financial information as well as developing Q&As in the area of APMs to be applied by financial market participants. • ESMA will also actively monitor the application by issuers of the requirements related to the ESEF, publish updates to support material whenever relevant and consider if there is a need to provide new guidance to market participants. In addition, ESMA will support NCAs in supervisory activities relating to, and leveraging on, electronic reports. • ESMA will also engage with representatives of European audit oversight bodies in order to increase the cooperation between accounting and auditing supervision activities.

ESMA key priority/activity:	Announced supervisory action for 2021:

10. Horizontal Supervisory Convergence	• One of ESMA's key priorities is to promote supervisory convergence. This includes ESMA undertaking efforts to:
	  • Promote a common EU risk-based and outcome-focused supervisory and enforcement culture, foster similar outcomes through reinforced dialogue and cooperation among NCAs' supervisors and enforcement specialists, select appropriate convergence tools to risks and problems identified.
	  • Coordinate supervisory action by issuing Union Strategic Supervisory Priorities and promoting the coordination of NCAs' supervisory activity.
	  • Increase knowledge on NCAs' market context, organization, resources and independence.
	• Engage in structured risk and problem identification ensuring a more coordinated and consistent supervision in the EU. To foster risk-based and outcome-focused supervisory convergence using a data-driven approach, ESMA – together with the NCAs – will more proactively identify risks and problems having a potential impact in the EU on investor protection, orderly functioning of markets or financial stability. In particular, ESMA will follow a consistent and structured framework based on an annual risk/problem identification exercise through qualitative and quantitative information from various sources.
	• Foster NCAs' risk and problem-driven approach to supervision, ensuring effective outcomes as well as practical supervisory experience sharing. ESMA will make use of the Senior Supervisors Forum (the SSF) in the risk and problem identification process, to provide its strategic direction, input and advice on how to address risks and problems that affect investors and markets in the EU.
	• In the aim of promoting a common EU risk-based and outcome-focused supervisory and enforcement culture, ESMA is committed to bringing together supervisors from NCAs to exchange views on strategic and topical supervisory issues. ESMA will foster a risk-based and problem-driven approach to supervision by NCAs that will encourage more effective outcomes, as well as on other supervisory methods as needed. ESMA will increase knowledge on NCAs' market context, organization, resources and independence.
	• Through its Enforcement Network, ESMA will continue to foster closer collaborative relationships amongst enforcement specialists to facilitate cross-border investigations and encourage early discussions on enforcement cases. The Network will continue to share practical experiences as well as developing best practices in key areas such as enforcement tools, efficient ways to progress investigations and publication of enforcement outcomes. The ultimate objective is to ensure that similar infringements of EU law lead to similar enforcement outcomes, including as regards financial penalties and publication.
	• As part of ESMA's EU Strategic Supervisory Priorities & Coordination of NCAs' supervisory activities, following the changes brought forward as part of the ESA review, ESMA will:
	• identify up to two Union strategic Supervisory Priorities that NCAs shall take into account when drawing up their annual Work Programmes.
	• In a structured manner, monitor NCAs progress in this regard and undertake appropriate follow-up work. ESMA also aim to promote coordination of NCAs' supervisory activity to address identified risks and problems.

ESMA key priority/activity:	Announced supervisory action for 2021:
	• Ensure an effective response to cross-border issues as needs arise ESMA will by continuing to foster sharing of supervisory information through the Voluntary Supervisory Colleges (VSCs) framework. The VSCs will continue to be practical and flexible tools to enhance the supervision of groups of financial market participants operating in the EU by exchanging information between participating NCAs, promoting best practices, reducing supervisory fragmentation and ensuring a joined-up supervisory approach to complex structures and business models. • Deploy new tools such as co-ordination groups if the need arises aiming at achieving a more coordinated supervision of securities markets across all the Member States. • Update its framework for convergence tools and work on the development of an EU supervisory handbook, including setting out supervisory best practices and high-quality methodologies and processes. ESMA will continue to evolve its existing tools, such as guidelines, supervisory briefings and Q&As, and put in place a web-based IT tool to implement the provisions of the revised ESMA Regulation for Q&As. This should allow market participants to have enhanced transparency on the Q&A process. Building on the revised peer review framework, ESMA will carry out a number of peer reviews as set out in the two-year workplan. In this context, ESMA will also follow up on issues and shortcomings that were identified in previous peer reviews.

ESMA key priority/activity:	Announced supervisory action for 2021:
11. Financial innovation and product risk analysis	• ESMA will identify opportunities and risks related to financial innovation and systematically monitor retail investor trends and ESG market developments. It will achieve a coordinated approach to the regulation and supervisory treatment of new or innovative financial activities and technological innovation and provide advice to the EU institutions, market participants or consumers. It will work to ensure a convergent approach to the identification of areas where product intervention powers provided by MiFIR could be used. • In 2021, ESMA will continue monitoring financial activities and retail investor trends, with a particular focus on financial and technological innovation and on ESG developments. ESMA's monitoring framework is designed to ensure that financial innovation does not undermine the core objectives of investor protection, financial stability and orderly markets. To prioritize which financial innovations require deeper analysis and potential responses, ESMA has developed the financial innovation scoreboard: a methodology based on quantitative and qualitative assessment. Key analytical areas are FinTech, crypto-assets, SupTech/RegTech, artificial intelligence, machine learning, ESG developments and technology risk, including outsourcing to cloud providers and cyber resilience. • ESMA will play a proactive role in gathering the necessary market intelligence, collecting data and developing retail risk metrics, systematically reviewing product-related consumer trends, including monitoring cost and performance of retail investor products in the EU as well as ESG trends. This allows the timely identification of potential causes of consumer and investor harm that will guide ESMA in identifying product risks and determining when and where ESMA will employ its own product intervention powers or other measures at its disposal. The analysis work on financial and technological innovation, product risk, retail investors and ESG development supports ESMA's supervisory convergence activities as well as ESMA's risk assessment mandate. • ESMA will continue to contribute to the European Forum for Innovation Facilitators (EFIF) together with EBA and EIOPA. The EFIF was launched by the European Commission in April 2019 and has been established to promote coordination and cooperation among national innovation facilitators to foster the scaling up of innovation in the EU financial sector and to promote a common response to new technologies. This will include working on an ongoing basis on monitoring of product-related retail investor trends, financial activities and innovation, including FinTech, market intelligence gathering and data collection, development of product-related retail risk indicators, development of ESG indicators, coordination of supervisory convergence follow-up on financial and technological innovation issues, and the contribution to financial innovation, retail investors and ESG workstreams at an international level (FSB, IOSCO).

ESMA key priority/activity:	Announced supervisory action for 2021:
12. Risk monitoring and analysis	• ESMA monitors and analyzes market developments, particularly through its Trends, Risks and Vulnerabilities (TRV) reports and its Risk Dashboard (RD), and supported by its Annual Statistical Report series, in light of its objectives of promoting financial stability, orderly markets and investor protection. The risk monitoring and analyzes contribute to core ESMA activities, including regulatory impact assessments and topical studies for single rulebook measures, stress testing methods and analysis as well as risk metrics for supervisory convergence work. • Importantly, ESMA risk assessment draws on data and statistics sourced and managed through an integrated approach, ensuring high quality, efficient management, and an effective use of (especially) the proprietary data ESMA collects. As part of this integrated approach the EU has established an Annual Statistical Report series on EU derivatives markets based on EMIR data, EU alternative fund markets based on AIFMD data, cost and past performance of EU long-term retail investment products, EU securities markets based on MiFID II data, and EU Credit Rating markets based on CRA data. These reports complement ESMA's ongoing market monitoring and provide risk indicators available for use at ESMA level, as well as by NCA supervisors, with the aim of promoting supervisory convergence and data-driven, evidence-based entity supervision. • On the basis of its sectoral risk assessments for the EU, ESMA will contribute to the European systemic risk analysis by performing in-depth research and monitoring work – alongside the European Systemic Risk Board (ESRB), other European Supervisory Authorities (ESAs), and Joint Committee (JC) – and will also contribute to international risk monitoring undertaken by the International Organization of Securities Commission (IOSCO) and Financial Stability Board (FSB). • ESMA will continue to publish an annual statistical report series (EU derivatives markets based on EMIR data, EU alternative fund markets based on AIFMD data, EU securities markets based on MiFID II data, EU Credit Rating markets based on CRA data; cost and past performance of EU long-term retail investment products).

ESMA key priority/activity:	Announced supervisory action for 2021:
13. Data management and statistics	• In order to provide market participants, regulators and the general public with information, ESMA maintains and operates over 20 IT systems that it has built in response to legislative mandates. In 2021, ESMA will have an enriched dataset, with sources from the previously established framework – MiFID II/MiFIR, AIFMD, EMIR, UCITS, MAR, CSDR, SFTR, Rating Agencies (RADAR) – as well as regulatory data from future or reviewed frameworks such as the Prospectus, STS Securitization, and MMF Regulations, and from third-country CCPs. In 2021, ESMA will also need to prepare for forthcoming data from Data Reporting Service Providers (DRSP), information on cross-border distributed funds and transaction data. Carrying on ongoing and new data quality analysis to support the data Action Plans executed in coordination with NCAs and those relevant for ESMA direct supervision. Maintenance of comprehensive dashboard on data quality for main datasets reported to ESMA. • In 2021 ESMA and NCAs will design and implement data quality Action Plans on AIFMD, MMFR, Prospectus and MiFIR/MiFID II. Emphasis will be placed on ensuring data usability to support all ESMA activities and those of NCAs and other stakeholders. This will be achieved by supporting the entities that report data to ESMA, developing and applying data processes and statistical analyses to improve the quality of data and contribute to its enhancement, and processing both internal and commercial data and statistical reports. ESMA's new supervisory mandates for SRs, data reporting service providers, and benchmark administrators will require the setup of data-driven analyses. In support of the single rulebook, ESMA will contribute to the design of reporting regimes, such as through the AIFMD Review process. • Further efforts will be directed to finalize the implementation of ESMA's Data Strategy. Actions in 2021 will include the combination of data to support analysis, the development of supervisory methodologies for data analysis and quality monitoring, and the enhancement of data analytical systems.
14. Completing the Single Rulebook - CCPs	• ESMA will conduct a review of the appropriateness of the current Regulatory Technical Standards in relation to third-country CCP recognition application, and ESMA may propose amendments; • ESMA will also develop reports on the regulatory framework of certain CCP-related matters, such as certain reports mandated under EMIR Refit (e.g. report on highly liquid financial instruments under Art 85(2)) or MIFIR (e.g. report on access Art 52). • If the CCP Recovery and Resolution Regulation is adopted in 2021, ESMA will develop the corresponding Level 2 regulations mandated. • Lastly, ESMA may review existing RTS about CCP- related requirements where needed, for instance with regards to anti-pro-cyclicality rules.
15. Completing the Single Rulebook – Post-Trading	• Following the review of EMIR and the changes introduced under EMIR Refit, ESMA intends to review where necessary certain technical standards. ESMA expects to conduct a review of the appropriateness of the current clearing thresholds and may propose, if assessed as necessary, amendments to the existing Regulatory Technical Standards setting the applicable value of these thresholds. • ESMA may also review and update if necessary, the Clearing Obligation Regulatory Technical Standards, depending on market developments and possible changes in the clearing offers. ESMA will also develop reports on the regulatory framework of certain post-trading matters, such as certain reports mandated under EMIR (for instance on the potential clearing solutions for pension scheme arrangements).

ESMA key priority/activity:	Announced supervisory action for 2021:
16. Completing the Single Rulebook – Market Integrity	• In case MAR is amended following the ESMA Report on the MAR review, ESMA will issue new technical standards or revise the existing ones as required by legislation. • ESMA may also take advantage of the lessons learnt in 2020 after the COVID-19 outbreak in relation to short-selling bans and related emergency measures and re-consider some aspects of the short selling regulatory framework at its own initiative.
17. Completing the Single Rulebook – Data Reporting	• The review of MiFID II/MiFIR may lead to single rulebook work in relation to reporting (e.g. transaction and reference data) and other related requirements in the context of the MiFID II/MiFIR review. When doing so, ESMA will take into account the experience gained with the relevant reporting requirements which were introduced in 2018 and will leverage on the established data quality frameworks under various other reporting regimes. • Furthermore, the review of the AIFMD may lead to some additional single rulebook work in relation to the reporting requirements envisaged therein.
18. Completing the Single Rulebook– Investment Management	• ESMA will deliver three technical standards related to the implementation of the legislation on cross-border distribution of investment funds. The review of the AIFMD (and possibly the UCITS Directive) may lead to some additional single rulebook work in relation to these pieces of legislation. • Similarly, the Commission's review of the PRIIPs Regulation may give rise to additional work within the Joint Committee. Moreover, further work on draft Regulatory Technical Standards on ESG disclosure will be carried out within the Joint Committee. • (Potential) Technical advice/other input on the investment management legislation (mainly UCITS Directive and AIFMD). • Implementing Technical Standards with respect to standard forms, templates and procedures in relation to information contained in the central databases and other IT systems to be developed by ESMA.

19. Completing the Single Rulebook – Investor Protection and Intermediaries	• ESMA will continue to contribute to:
	  • Development of a Single Rulebook in the area related to investment firms, the provision of investment services and the application of the third-country firms' regime by ensuring that the relevant Technical Standards and other relevant documents are delivered to the European Commission within the deadline.
	  • The review of MiFID II, also by reviewing Technical Standards (if needed). Following the start of the work on the MiFID review reports in 2019 and 2020, ESMA will continue in 2021 to assist the Commission in any follow-up work on MiFID II/MiFIR in the investor protection and intermediaries area. Furthermore, ESMA will review MiFID II technical standards in the same area, as the need arises. The need for changes in the MiFID II/R framework may also arise from innovative products and services (such as crypto-assets).
	  • ESMA will co-operate with the EBA on the development of Technical Standards, Guidelines and other legal acts required under the new prudential framework for investment firms in the IFR/IFD.
	  • Development of a Single Rulebook in the area related to crowdfunding.
	  • Assessing the outcome of common reporting templates on firms' cross-border activities in the EU, voluntarily adopted by NCAs in the previous year, and will consider reviewing relevant RTS/ITS and intervening on its registers to give further evidence to firms' cross-border activities.

20. Completing the Single Rulebook – Secondary Markets	• ESMA will:
	  • Continue contributing to the review of MiFIR/MiFID II by providing expertise and market intelligence and making recommendations regarding possible amendments in the area of secondary markets.
	  • Provide technical advice and/or develop technical standards as a follow-up to the MiFID II/MiFIR review covering transparency, market structure and commodity derivative issues.
	  • Ensure that the Regulatory Technical Standards and Implementing Technical Standards further specifying MiFID II/MiFIR deliver on their objectives and propose amendments to the relevant Regulations if and where necessary.

21. Completing the Single Rulebook – Corporate Finance	• ESMA will contribute to the development of the single rulebook by continuing to monitor developments in prospectus supervision, notifications of major holdings and corporate governance in order to continually evaluate if the single rulebook in these areas remains fit for purpose. ESMA will also continue to assist the European Commission in any work relating to these areas, notably:
	  • Potential new technical standards and review of existing technical standards where necessary.
	  • Potential advice to the Commission on prospectus disclosure requirements for specialist issuers.
	• In addition, the Commission may request that ESMA gives its advice on disclosure requirements for specialist issuers.

22. Completing the Single Rulebook – Corporate Reporting	• Contribute to the set-up of high-quality corporate reporting standards, including standards for non-financial reporting, also through the provision of enforcers' views on endorsement advice and views on new pronouncements on IFRS, and maintenance of an updated regulatory framework for digital reporting. • ESMA will continue to contribute actively to the accounting standard setting and IFRS endorsement in the EU through its observership at the EFRAG Board and at the Commission's Accounting Regulatory Committee. In addition, ESMA will contribute to the International Accounting Standards Board (IASB) in charge of developing those global standards, including the IFRS Advisory Council and the IFRS Taxonomy Consultative Group (ITCG). ESMA will also advance technical positions on new IFRS pronouncements and amendments. • ESMA will also undertake Single Rulebook work in the audit area by providing views on relevant International Standards on Auditing (ISA) and by participating in the Committee of European Audit Oversight Bodies (CEAOB), where ESMA chairs the subgroup of International Adequacy and Equivalence. • ESMA will monitor developments and provide advice to the Commission on any potential review of the Transparency Directive requirements relating to periodic reporting. ESMA also monitors the developments in the area of non-financial reporting and stands ready to undertake any related technical work if the need arises. Furthermore, ESMA will update the regulatory technical standards relating to the ESEF core taxonomy to be used for the preparation of annual financial reports in ESEF format, to reflect the most recent version of the IFRS Taxonomy

ESMA key priority/activity:	Announced supervisory action for 2021:
23. Policy (and convergence) activity to support ESMA's supervisory mandate – Benchmarks Regulation (BMR)	• ESMA will continue to contribute to the establishment of a robust BMR regulatory framework, provide support to the preparation of ESMA's future BMR supervisory activity and promote supervisory convergence in the area of BMR among NCAs. • In the context of the BMR new supervisory powers, ESMA will prepare a technical advice on the fees that third-country administrators and critical benchmark administrators will have to pay to ESMA for registration under BMR. A second technical advice refers to ESMA's future power to impose fines or periodic penalty payments on benchmark administrators. ESMA will deliver this technical advice to the Commission in Q1 2021. • For each third-country administrator applying for recognition to an NCA, ESMA will continue to issue an advice to the relevant NCA focusing on the types of benchmarks provided by the applicant third-country administrator. Also, in order to ensure consistent approaches among the NCAs, in 2021 ESMA will have to issue opinions to the NCAs who recognized or endorsed third-country benchmarks in the last two years, assessing how these NCAs have applied the relevant BMR requirements. • For any new BMR equivalence decision that the Commission will adopt, ESMA will establish cooperation arrangements with the third-country NCAs whose jurisdiction is covered by this BMR equivalence decision. • Finally, ESMA will continue to foster supervisory convergence in the area of the BMR among the NCAs. Supervisory convergence work is based on ongoing exchanges of views among regulators. These exchanges may take different forms, ranging from the analysis of certain questions posed by market participants to the sharing of views on specific cases addressed by national regulators and can result in the production of Q&As, opinion, or other supervisory convergence tools.
24. Policy (and convergence) activity to support ESMA's supervisory mandate – Credit Rating Agencies (CRAs)	• ESMA will continue to contribute to the establishment of a robust regulatory framework under the CRA Regulation and provide support to ESMA's supervisory activities. • ESMA will develop necessary policy tools to ensure the implementation of the CRA Regulation supports ESMA's objectives of investor protection and financial stability by reacting to new trends and supervisory observations. This includes a continuous monitoring of the implementation of relevant RTS/ITS with the possibility of proposing changes where necessary and developing Guidelines or Q&As to support the consistent application of the CRA Regulation. • ESMA will also actively contribute to the work undertaken by international bodies, including the ESRB, IOSCO and FSB, regarding CRAs, as a result of COVID-19 as well as the consideration of ESG factors in credit ratings. This will include assessing developments in areas such as ESG data and ratings providers within the context of ESMA's mandate for assessing risks to investors, markets and financial stability. In addition, ESMA will perform assessments of third-country regulatory frameworks for endorsement as needed and will provide Technical Advice to the European Commission on the equivalence of third countries in case the Commission requests this. ESMA will continue co-operating with EBA and EIOPA to provide a mapping to newly registered External Credit Assessment Institutions (**ECAI**s) as well as to monitor the mapping provided to already registered ECAIs in order to promote a consistent implementation of the CRR and Solvency II Directive across the EU. • Finally, ESMA will provide Technical Advice on the European Commission's delegated regulation on fees charged by ESMA to CRAs. Furthermore, ESMA will provide guidance to CRAs in the area of preliminary ratings and further develop its views on the availability and use of credit rating data.
25. Policy (and convergence) activity to support ESMA's supervisory mandate – Securitization Repositories	• ESMA will promote consistent application of the Securitization Regulation requirements and exchange of supervisory experiences and coordination among NCAs, in particular, in the area of STS securitization. • ESMA will monitor the consistent implementation of the Securitization Regulation in particular, the recently adopted delegated acts and consider whether any need for additional guidance will be necessary. ESMA will also develop the necessary legislative mandates to include synthetic securitizations as a new category of simple, transparent and standardized (STS) securitization following the Commission's legislative proposals within the COVID19 Recovery Package. • ESMA will continue to publish Q&As to provide clarifications on Level 2 measures related to its remit, such as disclosure templates or STS notifications. ESMA will also monitor the Union securitization market on a comprehensive basis and assess potential adjustments to the data completeness thresholds to be applied by securitization repositories to the securitization disclosure templates. • ESMA will contribute to the Securitization Committee established within the Joint Committee of the ESAs with a view to prevent divergent approaches in the implementation of cross-sectoral aspects of the Securitization Regulation and assessing practical issues that could arise regarding the implementation of the STS criteria. • ESMA will also assist the Commission in the report to be produced on the functioning of the securitization legal framework by 2022. The report will include an assessment of the effects of the Securitization Regulation and if appropriate, will be accompanied by legislative proposals. • ESMA will continue to foster supervisory convergence and co-operation among the relevant NCAs in the securitization field and, in case of disagreement among NCAs regarding potential infringements on STS notifications, use its mediation power.
26. Policy (and convergence) activity to support ESMA's supervisory mandate – Data Reporting Service Providers (DRSPs)	• ESMA will become the direct supervisor of DRSPs from January 2022. The related preparatory work will require ESMA to provide a number of pieces of technical advice to the EC, including, among others, the one specifying criteria to identify those approved reporting mechanisms (ARMs) and approved publication arrangements (APAs) that, by way of derogation from MiFIR on account of their limited relevance for the internal market, are subject to authorization and supervision by a NCA. • ESMA will continue to contribute to the establishment of a robust DRSP regulatory framework, provide support to the preparation of ESMA's future DRSP supervisory activity and promote supervisory convergence of how NCAs engage with DRSPs.

ESMA key priority/activity:	Announced supervisory action for 2021:
27. Direct supervision of specific financial entities	In 2021 ESMA will have direct supervisory powers in three areas: Credit Rating Agencies, Trade Repositories and Securitization Repositories. In addition, it recognizes third-country CCPs and third- country central securities depositaries. Preparation work will also take place in 2021 for supervisory responsibilities on benchmark administrators and DRSPs that will begin in 2022.

- **Third-country CCPs (TC-CCPs) – recognition.** Under EMIR, ESMA has direct responsibilities regarding the recognition of TC-CCPs providing clearing services within the EU. This work includes conducting the tiering determination, as well as the assessment of comparable compliance where applicable, processing applications, monitoring of compliance with recognition conditions by TC-CCPs, taking new recognition decisions and the review of existing ones.
- **Third-country Central Security Depositaries (TC-CSDs) – recognition.** Under CSDR, ESMA has direct responsibilities regarding the recognition of third country CSDs providing notary or central maintenance services in relation to financial instruments constituted under the law of a Member State or establishing a branch in a Member State. This activity includes periodic monitoring of the compliance with recognition conditions by third-country CSDs on the basis of information received from the responsible third-country authorities and granting of new recognition decisions.
- **Credit Rating Agencies (CRAs).** ESMA is responsible for:
  - Assessing registration applications under the CRA Regulation, ensuring registrants meet regulatory requirements and objectives on an ongoing basis and ensuing applications are completed on a timely basis.
  - Ensuring credit ratings in the EU are independent, objective and of high quality, as well as accessible by users by conducting timely supervisory activities with lasting impact.
  - Applying a risk-based approach to the supervision of CRAs as prioritized by their risk category as well as, based on ESMA's monitoring of key market trends in the CRA industry, including the impact of COVID-19, the increased focus on ESG products, the rising importance of cloud technology and data analytics and an aggressive and sophisticated cyber-risk threat environment.
  - Requesting timely and effective remediation of supervisory breaches and concerns by CRAs and adopting enforcement actions where breaches of the CRA Regulation are identified.
- **Trade Repositories (TRs) under EMIR.** ESMA is responsible for, as part of a "data-driven risk-based supervisory approach":
  - Assessing TRs' registration applications under EMIR and the smooth winding down plans of any registered TR withdrawing its registration.
  - Ensuring the (enhanced) data quality, as well as the integrity, confidentiality and availability of TR data by conducting timely supervisory activities with lasting impact.
    - Implementing the Data Quality Action Plan for TR supervision as well as a "holistic Action Plan to tackle firms' high risk profile, in relation to ESMA's significant concerns (e.g. data quality, IT strategy, IT system development, and IT outsourcing)".
    - Requesting remediation at individual TR level. Assess registration applications under EMIR: ensure delivery within regulatory deadlines and quality standards.
    - Minimizing disruptions in the transition to EU TRs following the end of the UK transition period.

ESMA key priority/activity:	Announced supervisory action for 2021:

- **Trade Repositories (TRs) under SFTR.** ESMA is responsible for, as part of a "data-driven risk-based supervisory approach":
  - Assessing TRs' registration applications under EMIR and the smooth winding down plans of any registered TR withdrawing its registration.
  - Performing re-validations on SFTR submissions to ensure reports are in line with validation rules, assessing completeness and accuracy of SFTR Trade State and Activity reports and assessing STFR reconciliation.
  - Monitoring resource allocation to SFTR and IT performance and the capacity of the SFTR system. ESMA will also focus on ensuring uninterrupted and stable TR SFTR service in the context of Brexit and COVID-19. Further, ESMA will aim to ensure firms' regulatory change implementations comply with its expectations in particular on cloud computing and SFTR Guidelines on positions (estimated to apply end Q2 / beginning Q3 of 2021).
  - Conducting day-to-day supervision and specific reviews and on-site inspections, ESMA will request TRs to adopt remedial actions, where areas of concern have been identified.
  - Engaging and cooperating with relevant stakeholders such as NCAs, the ECB, ESRB, and other regulatory and supervisory bodies at EU and third-country level to ensure timely and accurate access to SFTR data.
- **Securitization Repositories (SRs) under the Securitization Regulation.** ESMA is responsible for:
  - Assessing SRs' registration applications under EMIR and the smooth winding down plans of any registered SR withdrawing its registration.
  - Promoting consistent application of the Securitization Regulation requirements and exchange of supervisory experiences and coordination among NCAs, in particular, in the area of STS securitization.
  - Assessing registration applications under the Securitization Regulation and being the gatekeeper ensuring the registration of firms with high quality standards.
  - Effectively identifying the risks linked to the quality of the data of the SRs.
  - Timely and lasting impact supervisory activities at individual SR level.
- **Benchmark Regulation (BMR) providers – EU Critical Benchmarks Administrators and Third-Country Administrators of Benchmarks.** From January 2022, ESMA will have direct supervisory responsibilities over EU critical benchmarks and their administrators, and it will be responsible for the recognition and supervision of third-country administrators of benchmarks. ESMA will focus on:
  - Ensuring a proper transition of BMR supervisory duties from NCAs to ESMA. ESMA is adapting its internal organizational structure, establishing the required internal procedure and developing a BMR supervisory strategy. Preparation for these tasks began in 2020 and will continue throughout 2021.
  - Transitioning the oversight of EURIBOR from the Belgian NCA, the FSMA, to ESMA during 2021. A close cooperation with FSMA is foreseen in the course of 2021. In relation to this, ESMA will continue to participate in the EURIBOR college chaired by the FSMA, while at the end of 2021 ESMA will have to be ready to establish and chair a new college of supervisors for EURIBOR.

ESMA key priority/activity:	Announced supervisory action for 2021:
	• ESMA will work in concert with the relevant competent authorities to ensure a smooth transition of responsibilities for those third-country administrators that have been already recognized and supervised in the EU before 2022, while also preparing all the internal arrangements and procedures to be ready to recognize new third-country administrators applying directly to ESMA. As part of this effort, ESMA will review the functioning of ESMA BMR registers to ensure that these registers effectively play the role assigned to them by the BMR. • In the context of the Euro Risk-Free Rates Working Group, ESMA will also continue steering industry efforts towards a more resilient interest rate environment in the EU. The main deliverable of the Working Group in 2021 will be the finalization of the recommendations on EURIBOR fallback provisions, with the aim of setting industry standards and increasing contractual robustness. • **Data Reporting Service Providers (DRSP**s**).** Starting January 2022, ESMA will also have the supervisory powers to authorize and supervise DRSPs, i.e. Approved Publication Arrangements (APAs), Authorised Reporting Mechanisms (ARMs) and Consolidated Tape Providers (CTPs). Preparation for these tasks began in 2020 and will continue throughout 2021. As part of this work, ESMA will prepare the internal organizational structure, set up the required processes and systems, deliver draft implementing and regulatory technical standards and ensure a proper transition of supervisory duties from NCAs, who currently supervise the DRSPs, to ESMA. In addition, ESMA will need to develop a significant IT infrastructure for the access and analysis of transaction reports reported to NCAs by ARMs and subsequently to ESMA.
28. Enforcement of directly supervised entities listed above	• ESMA will continue to ensure that its internal processes can lead to the adoption of enforcement actions in the most efficient and effective way within the framework of the applicable legal constraints. • ESMA will adopt effective and legally-sound enforcement decisions where infringements are established and ensure that its enforcement actions have a deterrent effect and lead to lasting changes in the supervised entities' behavior. The Independent Investigation Officer (**IIO**) thoroughly investigates potential infringements and uses their investigatory powers where needed. • Where infringements are established, ESMA adopts effective and robust enforcement actions that range from the issuance of public notices to the withdrawal of registration and the imposition of fines. • ESMA also publishes detailed versions of its enforcement decisions to strengthen the impact on the supervised industries.

ESMA's Peer Review Work Programme 2021-2022

Under the revised ESMA Regulation, ESMA, in its 2021 Work Programme, has prepared a peer review work plan for 2021 and 2022. Peer reviews are an important tool for supervisory convergence. These exercises focus on achieving an equally high level of supervisory outcomes and on promoting investor protection, orderly markets or financial stability through convergence in the EU. ESMA performs two types of peer reviews:

a. discretionary peer reviews; and

b. mandatory peer reviews.

Discretionary peer reviews are exercises performed at ESMA's own initiative, whereas mandatory peer reviews are required by sectoral EU legislation. ESMA also follows up on the recommendations made in the context of previous peer reviews.

In 2021 ESMA expects to conduct and possibly conduct three peer reviews that had been already planned under the 2020 Annual Work Programme. These include the following peer reviews:

1. on NCA's supervision of cross-border activities of investment firms;
2. on NCA's handling of relocations to the EU-27 in the context of Brexit; and
3. supervision of CCPs focusing on liquidity stress tests.

Additionally, ESMA expects to launch in 2021 and 2022 the following peer reviews:

Mandatory peer reviews

1. **CSD peer review on their supervision of those providing cross-border services or participating in interoperable links.** This peer review is mandated by CSDR, which requires that, at least every three years, after consulting the members of the European System of Central Banks (ESCB), ESMA carries out a peer review on the supervision of CSDs which make use of the freedom to provide services in another Member State or to participate in an interoperable link.
2. **Prospectus scrutiny and approval peer review.** This peer review is mandated by the Prospectus Regulation, which requires that ESMA organizes and conducts at least one peer review of the scrutiny and approval procedures of competent authorities, including notifications of approval between competent authorities. The peer review shall also assess the impact of different approaches with regard to scrutiny and approval by competent authorities on issuers' ability to raise capital in the EU. The report on the peer review shall be published by July 21, 2022. In carrying out this peer review, ESMA will build on the experience of the 2016 peer review on the prospectus approval process.
3. **CCP annual peer review.** In 2021 and in 2022, ESMA will carry out yearly peer reviews on the supervision of CCPs. These peer reviews are mandated under EMIR, requiring that to further strengthen consistency in supervisory outcomes, ESMA conducts every year a peer review of the supervisory activities of all competent authorities in relation to the authorization and the supervision of CCPs. In 2021, the annual CCPs supervision peer review is expected to focus on due diligence of clearing members. In 2022, the annual CCPs supervision peer review is expected to focus on concentration risk.
4. **Implementation of the securitization STS criteria peer review.** In 2022, ESMA will carry out a peer review on the implementation of the STS criteria for asset-backed commercial paper ABCP (transaction and program level) and non-ABCP securitization. This peer review is mandated by the Securitization Regulation requiring that ESMA carries it out three years from the date of application of the Regulation.

Discretionary peer reviews

ESMA may, in the case of urgent or unforeseen events (as with Wirecard), or when it considers a peer review appropriate, carry out a fast-track peer review as an alternative to the following standard discretionary peer reviews.

1. **Supervision of depositary obligations peer review.** In 2022, ESMA expects to carry out a discretionary peer review on the depositary obligations under the UCITS Directive and AIFMD. The peer review would focus on the oversight and safekeeping functions of depositaries, which play a key role for the protection of investors.
2. **Trading Venues – Provision of market data (pre- and post-trade transparency) by trading venues.** ESMA will continue carrying out work to promote the consistent application of MiFID II and

MiFIR requirements and further develop a common understanding of supervisory challenges arising in the area of secondary markets. In this context, ESMA expects to carry out in 2022 a discretionary peer review on NCAs' supervision of Trading Venues. The exact scope of this peer review will be defined closer to its starting date but it is expected to focus on the provision and the cost of market data.

3. **Following up on peer reviews conducted between 2017 and 2019, including:**

- Peer Review on the Guidelines on the Enforcement of Financial Information.
- Peer Review on Certain Aspects of the Compliance Function under MiFID II.
- Peer Review on the Guidelines on ETFs and other UCITS issues.
- Peer review into supervisory actions aiming at enhancing the quality of data reported under EMIR.
- Peer review on the collection and use of STORs under MAR as a source of information in market abuse investigations.

ESMA used the publication of the 2021 Work Programme to build upon its existing "One Mission" to enhance investor protection and promote stable and orderly financial markets and the "Three Objectives" of investor protection, orderly markets and financial stability, which are supported by its "Four Activities" of promoting supervisory convergence, assessing risks to investors, markets and financial stability, completing the Single Rulebook for EU financial markets and directly supervising specific financial services entities.

Delivering on its Mission, its objectives and activities in relation to the Work Programme, ESMA has addressed the EC with a 2020 budget request of €59 million and 219 full time equivalents. As in previous years, ESMA's efficacy to deliver against the volume of the technical, supervisory, administration and coordinating workload set by the EC and other policymakers needs to be viewed in light of the lean resources that it is allocated for the given year. In many ways it may need to continue to do more with less, a trend that ESMA has continued to deliver with a wealth of output and improvements to engagement.

ESMA has committed itself to improving its organizational and delivery capabilities across key business units. In summary this includes a move to a centralized document management system, "activity-based budgeting and costing" along with greater digitization of finance and procurement decisions. These changes should improve how ESMA operates, given its budget considerations.

For supervised firms and other external stakeholders, however, the most important commitments by ESMA include improvements to its new Corporate Affairs Department, which facilitates strategic planning and communications with stakeholders. ESMA has also, as in 2019, continued to commit itself to improving the legal drafting and soundness of its legal and rulemaking instruments, including the governance process, minimizing the legal risk and proactively handling complaints, appeals and other actions against ESMA, as well as providing greater clarity on the range of tools available to ESMA and making these available in a more user-friendly manner to stakeholders.

Picking up ESMA's "other" key priorities for 2020-22

ESMA published its Strategic Orientation for 2020-22[63] on January 9, 2020, which remains in force for 2021 and sets out ESMA's future focus and objectives and reflects its expanded responsibilities following the ESAs Review, in which it was granted greater responsibility and powers, and EMIR 2.2, in which the range of entities supervised by ESMA was expanded.

The new powers and responsibilities include developments in the areas of:

- supervisory convergence, such as enhanced supervisory convergence tools and strategic Supervisory Priorities while developing an EU supervisory handbook;
- investor protection, such as developing retail risk indicators and collecting and analyzing consumer trends;
- direct supervision centered around critical benchmarks, securitization repositories and securities financing transactions; as well as
- a range of international and transversal topics, including new tasks for third-country equivalence assessments, and embedding technological innovation, sustainable finance and proportionality in ESMA's activities.

ESMA's strategic direction is to contribute to mitigating the challenges faced by the EU, its citizens and capital markets. As such, ESMA aims to:

- Further promote the development of a large retail investor base to develop capital markets and ensure long-term financial planning. As part of that, it also intends to improve small and medium-sized enterprises' (**SME**) access to capital markets;
- Promote sustainable finance and long-term oriented capital markets, with ESMA developing its risk identification related to environmental, social and governance (**ESG**) factors;
- Examine digitalization as an opportunity for market participants and regulators. ESMA, together with NCAs will require EU market participants to acknowledge the risks that may stem from digitalization by ensuring business continuity and the use of adequate and up-to-date technology and adequate protection against cyber-threats;
- Continue striving for openness of the EU financial markets to ensure the EU's voice is heard in the global financial markets context. This ties in with the concept of decreasing market fragmentation and promoting global standards to regulate capital markets. ESMA also aims to further develop its co-operation with third-country authorities to ensure investor protection and financial stability; and
- Continue following a proportionate approach in its activities. The emphasis on the need for a strong EU Single Rulebook remains, as part of ESMA's commitment to enhance investor protection and promote stable and orderly financial markets, however ESMA is committed to take into account the factors important for small companies and market players as well.

63 Available here.

EIOPA's 2021 Work Programme

EIOPA's approach to publishing its Work Programme follows the European Commission's "new" approach introduced in 2016, and condenses its multi-annual Work Programme and strategy into a "Single Programming Document" 2021-2023, "Guiding EIOPA towards a New Normal" (the **SPD**), which was published on January 28, 2021.[64] EIOPA's multi-annual objectives set the strategic direction in:

1. Driving forward conduct of business regulation and supervision. EIOPA commits itself to building supervisory capacity to identify conduct risks and proactively address poor consumer outcomes, where necessary, via coordinated EU supervisory approaches. EIOPA plans to publish supervisory opinions, reports and technical advice, including in the context of the review of the IORP II Directive, as well as the move, due to the EU Benchmarks Regulation, to risk-free rates;
2. Leading supervisory convergence towards high-quality prudential supervision through the EU, which includes the legislative-mandated Solvency II Review and relevant EIOPA technical advice and annual reports on the issues through to at least 2022 and in keeping with the standards set by the International Association of Insurance Supervisors (**IAIS**);
3. Strengthening the financial stability of the insurance and occupational pensions sectors; and
4. Delivering EIOPA's mandate, which follows the same route as Annual Priority 4 but also focuses on how EIOPA acts in terms of its transparency and accountability but equally its corporate social responsibility goals.

The 2021 Work Programme and also the SPD confirm EIOPA's focus on its original strategic priorities for CMU (2.0) generally, but also specifically in:

1. Enhancing supervisory convergence notably in relation to conduct of business supervision, focusing *inter alia* on good product oversight, product governance, fairness, transparency and reinforcing cross-sectoral consistency, including supporting the development of an internal market for pensions in the EU's Single Market as well as the further development of its "Supervisory Handbook," which aims to enhance further a single supervisory culture;
2. Reinforcing preventive consumer protection in developing a risk-based framework for conduct of business supervision as well as improving crisis management measures;
3. Preserving financial stability (including in light of Brexit), which also means improving EIOPA's databases and data capture; and
4. Delivering EIOPA's mandate effectively and efficiently, including in relation to new tasks and powers that EIOPA will begin to discharge as part of its work on the Pan-European Personal Pensions Product (**PEPP**). These include the two new "cross-cutting themes" that EIOPA introduced in 2020, namely on digitalization/cyber (in a quasi-identical approach to that adopted by sister ESAs in light of the EU's Digital Operational Resilience Act (**DORA**) proposal for an EU Regulation, [65] as well as the ECB-SSM), and sustainable priorities, specifically with a focus on long-term assets as well as environmental, social and governance factors.

Overall the tone of messages in the SPD and each of the "Strategic Action Points", which supplement the above "strategic priorities," albeit with vague statements of what is to be delivered to a vaguer timeline, point to a much more confident EIOPA leading NCAs in thematic areas as "merely" coordinating. The messaging and the depth of what EIOPA intends to do is much more akin to EBA and ESMA, having taken the lead in respect of improving supervisory convergence and coordination amongst relevant NCAs in the ESFS in "their" respective mandates.

As with its ESA counterparts, EIOPA's plans are supported by multi-annual objectives as well as 2019 and 2020 objectives and relevant key performance indicators. Some of these will be familiar from previous years, whereas EIOPA's SPD, by far the longest Work Programme of the ESAs due to detailed "justification" statements in relation to various actions, earmarks areas where EIOPA, as in 2020, "stands ready to act" if requested.

Solvency II, the publication of the risk-free rate, following up on risk margins and CAT calibration, establishing good practices on internal model governance and supervision, and overall EIOPA's shift from rulemaking to supervision of the prudential capital regime, is a key theme of the SPD, as is the practical implementation of the International Association of Insurance Supervisors' (**IAIS**) International Capital Standard (**ICS**). EIOPA has indicated that it has and will continue to narrow down optionality on valuation (market-adjusted valuation) and develop and/or refine aspects relating to activities-based methodology for systemic risk. Another key theme that is of prime relevance to the main strategic objectives is EIOPA's focus on addressing deliverables under PRIIPs or the Insurance Distribution Directive (**IDD**).

Moreover, EIOPA will lead the coordination of NCAs so as to ensure safe, sustainable and adequate pensions, in light of pension deficits, proportionate implementation of the institutions for occupational retirement provision directive (**IORP II**), and in relation to national reforms incentivizing the creation of funded complementary pension schemes through occupational or personal schemes. Rulemaking and convergence is likely to continue as EIOPA leads on the PRIIPs regime, the IDD and a range of other workstreams related to Insurance- Based Investment Products (**IBIP**s). EIOPA engages in the new tasks and power transferred to it by the PEPP Regulation as well as the ESA review regulation.

What is perhaps important to note is that despite the systemic importance of the insurance and pensions firms that EIOPA is responsible for across the EU-27, it does have the lowest level of human capital resources. It envisions that it will only grow its headcount by 32 persons, as compared to an outlook of just 16 new persons in the 2020 Work Programme.

EIOPA has also reconfirmed that for 2021, as in 2020, it remains committed to improving its internal functioning through reforms to working processes, staff and ICT competencies, notably in relation to data collection and methodologies, as well as a number of improvements, which will feed into EIOPA's Supervisory Handbook.

The following table sets out 10 of the most relevant key priorities and activities as well as corresponding supervisory actions for 2021. Other items that are set out in the SPD that relate to how EIOPA will assist NCAs and create a more 'single' Single Rulebook in the areas within EIOPA's mandate, or improvements within EIOPA's own set-up etc., are not included below.

64 See here.
65 See dedicated coverage from our Eurozone Hub on this development available here:
- 1st Alert in our series of deep dives on the EU's Digital Operational Resilience Act (DORA)
- 2nd Alert in our deep dives on DORA
- 3rd Alert in our deep dives on DORA and the ESAs response to policymakers

EIOPA key priority/ activity:	Announced supervisory action for 2021:

1. Developing and strengthening the regulatory framework for the protection of consumers	EIOPA will input into conduct of business regulatory reviews and developments through to Q4/2021 and Q2 2022, as well as through to June 2023
	Continuous work
	• IDD: on-going work on Q&As on IDD and its implementing measures.
	• PRIIPs: on-going work on Q&As.
	• Sustainable Finance Disclosure Regulation: optional mandate to the ESAs to work on one optional Implementing Standard (ITS) on marketing communications.
	• Sustainable Finance Disclosure Regulation: work on Q&As.
	• PEPP Regulation: work on Q&As.
	• Policy work to promote more streamlined EU legislation concerning consumer disclosures and promote simple products and digital disclosures.
	• Policy work on the implementation of findings reached under thematic reviews.
	• Policy work to review and co-ordinate financial education and literacy initiatives by national competent authorities (Article 9(1)(b), EIOPA Regulation).
	Work due by Q1 2021
	• IDD: development of the IDD Rulebook on EIOPA's website
	• Sustainable Finance Disclosure Regulation: finalization, through the Joint Committee, of seven empowerments for regulatory technical standards (**RTS**) by January 2021:
	    • Details of the presentation/content of information in relation to the principle of 'do not significantly harm' [1 RTS].
	    • Public due diligence policy statements (websites) [2 RTS].
	    • Pre-contractual disclosures [2 RTS].
	    • Public disclosure (websites) of how relevant products meet environmental or social characteristics [1 RTS].
	    • Periodic reporting requirements on how financial products meet their environmental or social characteristics [1 RTS].
	Work due by Q2 2021
	• Report on implementation of Joint Committee Guidelines on complaints-handling.
	Work due by Q3 2021
	• Contribution to IORP II Opinion on the reporting of costs and charges of IORPs, including templates.
	Work due by Q4 2021
	• IDD: Completion of review of the decision on the co-operation of competent authorities as part of work on IDD application report (see below).
	• IDD: Finalization of report on the application of the IDD (Articles 41(4), (6) and (8)), including an analysis at least of:
	    • whether competent authorities are sufficiently empowered and have adequate resources to carry out their tasks;
	    • any changes in the insurance intermediaries' market structure;
	    • any changes in the patterns of cross-border activity;
	    • the improvement of quality of advice and selling methods and the impact of the IDD on insurance intermediaries that are SMEs; and
	    • the general impact of the IDD.
	• PRIIPs: Annual report on national sanctions imposed under the PRIIPs Regulation.
	Work due by Q2 2022
	• IDD: Work on a potential call for advice from the European Commission on the Commission's Review of the IDD (Article 41(2)), including:
	    • general survey of the application of rules under the IDD, taking into account experience from PRIIPs and MIFID II;
	    • evaluation of whether specific conduct of business rules for the distribution of IBIPs deliver appropriate/proportionate results;
	    • reflection on application of the IDD to products falling under the IORP II Directive;
	    • analysis of the impact of rules on conflicts of interest and transparency in the IDD for products other than life insurance products, and the impact of those rules on intermediaries that are SMEs; and
	    • possible other topics that the COM might raise (reflections on treatment of third countries, business-to-business (B2B) activities, digitalization etc.)
	• PRIIPs: Input into the Commission's review of the regulation that is expected to include:
	    • scope of the Regulation and possible expansion to other types of pensions;
	    • input to survey covering the operation of the comprehension alert;
	    • input to Commission survey of the practical application of the regulation;
	    • input to consumer testing carried out by the Commission, which is expected to include inter alia proposed approaches to be tested and example products; and
	    • input to Commission market study on use of online calculator tools.
	• Sustainable Finance Disclosure Regulation:
	    • Three RTS empowerments for taxonomy-related product disclosures that are due to be delivered by June 2021 for climate mitigation and adaptation objectives; and
	    • Launch in Q3 in 2021 of work on three RTS empowerments by June 2022 for other environmental objectives.
	Work due by June 2023
	• IDD: RTS adapting the base euro amounts for professional indemnity insurance and for financial capacity of insurance and reinsurance intermediaries.

EIOPA key priority/ activity:	Announced supervisory action for 2021:
2. Developing and strengthening a comprehensive risk-based and preventive approach to conduct of business supervision	**Continuous** • Periodic retail risk indicators reporting and conduct risk assessment including review of data collected, including development of conduct risk dashboard for monitoring the indicators and possible publication of heat maps of risks. • Facilitation and coordination of national market monitoring and of market-wide and company-specific monitoring activities. • Conduct of business visits to NCAs to foster the exchange of ideas and experiences and identify issues in convergence between the different authorities. • Preparation of draft decisions in the case of the use of product interventions on insurance-based investment products. • Work to address conduct issues arising out of cooperation platforms on cross-border activity or following other signals. • Work to address conduct issues arising in the context of Supervisory Colleges. • Conduct of Business Supervisory workshops. • Sharing of expertise in conduct data analysis, data mining, assessments and consumer-behavior / behavioral economics work. • Coordination of mystery shopping activities of NCAs. **Work due by Q2 2021** • Publication of Annual Trends Report. • Publication of Annual Net Performance and Fees of Long-Term Retail and Pension Products Report. **Work due by Q4 2021** • Conducting various thematic reviews (TBD). • Finalizing Conduct of Business chapters for the Supervisory Handbook. • Identifying Conduct of Business Strategic Supervisory Priorities in cooperation with NCAs.
3. Providing successful implementation of the Pan-European Personal Pension Product (PEPP)	**Work due by Q3 2021** • Process for product intervention powers set up. • Implemented solution for up-to-date registers of NCA actions and national regulations. • Process for PEPP-related mediation defined. **Services to be provided from Q3 2021 onwards** • Registration and monitoring of PEPPs provided or distributed in the European Union. • Monitoring proportionality and consistency of actions taken by NCAs, including, where relevant, issuing an opinion on whether a prohibition or restriction is justified and proportionate. • Monitoring the market for PEPPs and, where necessary, exercising the power to temporarily prohibit or restrict in the Union the marketing, distribution or sale of certain PEPPs or PEPPs with certain specified features.

EIOPA key priority/ activity:	Announced supervisory action for 2021:
	• Functioning database of authorized PEPPs, including web-based comparison tool. • Functioning up-to-date registers of NCA actions and national regulations. **Work due by Q4 2021** • Structures in place to receive information for the Annual Report on PEPP Market. • Implemented solution for database of authorized PEPPs, including web-based comparison tool. • Processes for PEPP-related supervisory convergence issues, including cooperation between NCAs and EIOPA and coordination of supervisory plans.

4. Enabling supervisory convergence with a sound, smart and robust regulatory framework that is responsive to market developments	**Continuous work**
	• Step-by-step implementation of supervision of sustainable finance – oversight.
	• Drafting and sending of "No-Action-Letters" (in exceptional circumstances).
	Work due between Q1 and Q4 2021
	• Inclusion of climate change in natural catastrophe calibration, including work on:
	  • Methodology to potentially include climate change in the natural catastrophe (nat cat) calibration;
	  • Initiate work for reassessment of the nat cat SF factors based on a defined list of criteria which includes climate change; and
	  • EIOPA to review its analysis on Pillar 1, having regard to any new evidence on impact of climate change on investments and provisioning.
	• Impact underwriting, including work on:
	  • Approval and publication of final paper on underwriting and pricing in light of climate change following consultation;
	  • Collect best practices on impact underwriting, and synthetize potential blueprints; and
	  • Pilot use of impact underwriting with voluntary participation.
	• Shared resilience solutions, including work on:
	• Developing solutions with an exploratory group, to extent requested;
	• Considering extent to which solutions can read across to other systemic risks;
	• Contribute to EU Commission inter-service working group;
	• Use of climate change scenarios in ORSA, including work on:
	  • Approval and publication of final Opinion following consultation;
	  • Pilot use of scenarios with voluntary participation; and
	  • Developing supervisory approach to reviewing use of scenarios in ORSA.
	Work due by Q2 2021
	• Follow-up to wide-ranging call for advice from the European Commission in the context of the Solvency II 2020 Review.
	• Dashboard on the protection gap for natural catastrophes: publication of the pilot dashboard following the consultation.

EIOPA key priority/ activity:	Announced supervisory action for 2021:
	Work due by Q4 2021 • Development/annual update of Risk Free Rate Methodology - in respect of representative portfolios, deep/ liquid transparent criteria, and ultimate forward rate. • Pilot review of System of Governance Guidelines, considering as well specific work on Outsourcing and Third Party Providers in the context of DORA66. • Prepare for later review the technical standards and guidelines potentially impacted by the 2020 SII review. • IBOR transitions: impact assessment and consultation paper with potential implementation. • Dashboard on the protection gap for natural catastrophes: development and publication of an updated version. • Consideration of the regulatory treatment of composites.
5. Contribution to and coordination of EIOPA's work with the International Association of Insurance Supervisors (IAIS) and dialogues with authorities in third countries	EIOPA will coordinate the European position and contribute to the implementation of a common ICS, the convergence of international supervisory standards and building trust and understanding with third countries. **Continuous** • EIOPA to coordinate with members and contribute to the monitoring of the ICS 2.0. • EIOPA contributes to the development of detailed comparability criteria to assess whether the Aggregation Method will produce similar results as the ICS. • Wider engagement with IAIS as required for example on new trends and issues. Continuing regulatory work relating to the UK's withdrawal from the EU. • Equivalence and professional secrecy assessments of other third countries (if required). • EU-US Covered Agreement – practical implementation after signature. **Steps to be achieved by:** • Technical dialogue with third country supervisors in key jurisdictions and elsewhere (TBC). • China dialogue and operationalization of the EIOPA Chinese Insurance Regulatory Commission Memorandum of Understanding (TBC). • Take steps to formalize a Memorandum of Understanding (or a similar instrument) with Japan (JFSA) and operationalize it (Q1 2021). • EU-US – twice yearly dialogue with one public event / EU-US insurance project lead (EU-side) and coordination (Q4 2021). • EU-US Covered Agreement – practical implementation after signature (also: participate in "Joint Committee" of the European Commission) (Q4 2021). • Continued participation in development of sustainable finance approaches at international level via Network for the Greening of the Financial System and the Sustainable Insurance Forum of the IAIS (**Q4 2021**).

66 See dedicated coverage from our Eurozone Hub on this development available here:
- 1st Alert in our series of deep dives on the EU's Digital Operational Resilience Act (DORA)
- 2nd Alert in our deep dives on DORA
- 3rd Alert in our deep dives on DORA and the ESAs response to policymakers

EIOPA key priority/ activity:	Announced supervisory action for 2021:
6. Lead the development of a sound and prudent regulatory framework for pensions to improve the functioning of the EU internal market for private pensions	EIOPA will focus on delivering: • Technical advice on a "Pensions Dashboard" NB this is a new development for the EU-27, similar to what is being proposed in the UK. See coverage from our Eurozone Hub. • Technical advice on a pensions tracking service. • Technical advice on the role of occupational pension funds in the context of the EU Commission's renewed strategy on sustainable finance. • Preparation ahead of technical advice on the scheduled review of the IORP II Directive. • Opinion on the reporting of costs and charges of IORPs, including templates. • Opinion on DC risk assessment Q3 2/137 IORP II Rulebook on website. • Monitoring of cross-border pension schemes following UK withdrawal from the EU.

7. Regular and close cooperation between the three European Supervisory Authorities to ensure cross-sectoral consistency	EIOPA will focus on delivering:
	Continuous
	• Active consultative support in anti-money laundering work led by the European Banking Authority.
	• Joint ESAs Consumer Protection Day 2021.
	• Integrating the Joint Committee website into the EIOPA website.
	• ESAs' cooperation on data and IT-related issues covering the entire supervisory reporting chain: data standardization (including master data management and the registers), data acquisition and data exploitation, from both a data governance and IT implementation angle.
	Work due by Q2 and Q4 2021
	• Bi-annual Joint Report on Risks and Vulnerabilities (presented at the Council's Economic and Financial Committee's Financial Stability Table).
	Work due by Q4 2021
	• Consumer protection work as defined in the Joint Committee Work Programme.
	• Regulatory work to promote the establishment of a Capital Markets Union addressing securitization and recovery and resolution issues.
	• Technological Innovation and Cybersecurity as defined in the Joint Committee Work Programme.
	• Financial conglomerates:
	  ◦ updated list of financial conglomerates (in close coordination with the European Central Bank/Single Supervisory Mechanism) and reporting templates for Fico (e.g. capital adequacy).
	  ◦ Develop joint position on securitization

EIOPA key priority/ activity:	Announced supervisory action for 2021:
8. Enhancing the evolution towards a digitally transformed, user-focused and data-driven organization that meets its strategic objectives effectively and efficiently – production of the Solvency II Risk Free Rate and Equity Dampener	EIOPA will focus on delivering: **Work due by:** • Implementing any improvements of the data management platform solution dedicated to support the RFR production process (by Q2 2021). • Updates to the RFR and Equity Dampener production tool (by Q4 2021). • Assurance analysis of RFR and Equity Dampener process after implementation of the data management platform solution (between **Q3 2021- Q1 2022**). **Services as follows:** • Risk Free Rate production on a monthly basis. • Equity Dampener production on a monthly basis. • Implementation of methodology changes into the production process regarding the regular update of representative portfolios, deep/ liquid transparent criteria, and ultimate forward rate on a continuous basis. • Monitoring of implementation of improved data management platform solution dedicated to support the RFR production process on a **continuous basis.**
9. Enhancing the evolution towards a digitally transformed, user-focused and data-driven organization that meets its strategic objectives effectively and efficiently – data standardization and management	EIOPA will focus on delivering: • Updates to the insurance taxonomy (Q3 2021). • Updates to the pensions taxonomy (Q3 2021). • PEPP taxonomy (Q3/2021). • Central Repository – release for updated insurance taxonomy (Q4/2021). • Central Repository – release for updated pensions taxonomy (Q4/2021). • Analyzing options and prepare implementation of information exchange for fitness and propriety (Q4/2021). • Data Point Modelling (DPM) work and refit and development of DPM tooling in cooperation with EBA (by **Q2/2022**). **And the following services on a continuous basis:** • Taxonomy support (NCAs and market). • Pensions data collection and validation for a Central Repository. • Insurance data collection and validation for a Central Repository. • Questions and answers on data and reporting. • Functioning Central Repository. • Functioning Register of Insurance Undertakings. • Functioning Register of Insurance Groups. • Functioning Register of IORPs Prudential Provisions. • Functioning Register of Institutions for Occupational Retirement Provision. • Functioning Register of Financial Conglomerates.

EIOPA key priority/ activity:	Announced supervisory action for 2021:
	• Functioning Database of Pension Plans and Products. • Functioning Single Electronic Register for Passporting Intermediaries. • Initiate work on the creation of European Single Access Point, development of a strategy on supervisory data in 2021, as well as reinforcement of the message on data sharing and cooperation within the authorities of the financial sector.
10. Improving quality and consistency of supervision to ensure the same level of consumer protection throughout the EU and contribute to a level playing field in the insurance and pensions market enhancing coherent application of EU insurance regulation and developing a common supervisory culture	ESMA will focus on delivery of: • Annual Supervisory Convergence Work Plan by Q1/2021. • Annual Supervisory Activities Report including functioning of colleges (timing tbc). • Annual Report on the use of Capital Add-ons (by Q4/2021). • Annual Report on the use of limitations and exemptions from reporting (Q4/2021). • Maintenance of the Supervisory Handbook. • Issue of EIOPA Opinions, Recommendations or Supervisory Statements as needed. • Projects addressing priority areas identified in the Annual Supervisory Convergence Work Plan. • Work on multi-employer IORPs as potential basis of a chapter of the Supervisory Handbook for the IORPs. • Preparation for the Annual Report on Proportionality on Continuous ID Services Frequency. • Maintenance of the digital Supervisory Handbook. • Improve awareness of the Supervisory Handbook through training on the Handbook and other “advertising” tools. • Monitoring and developing supervisory reporting requirements. • Questions and Answers on supervision under Solvency II framework. • Finalizing the methodology of the Advisory Committee on Proportionality Q2/2021. • Deliver training on Solvency II under the project with EU Commission’s DG REFORM team.

ESRB's 2021 priorities

The ESRB is responsible for macro-prudential oversight within the ESFS and flanks the work of the ESAs, the Banking Union supervisors, as well as the relevant NSAs and NCAs. The mission of the ESRB is to prevent and mitigate systemic financial stability risk in the European Union, not just the Eurozone. It does this by collecting and analyzing data, issuing warnings, making regulatory recommendations and monitoring their follow-up, and coordinating with other EU and international supervisory bodies. The ECB provides the ESRB secretariat, and the ECB's President is also the Chair of the ESRB.

The ESRB's main periodic working output is its "Risk Dashboard." The last update was the December 2020 Risk Dashboard[67] released on December 18, 2020. As in previous years, this publication provides a set of quantitative and qualitative indicators of systemic risk in the EU's financial system, including calculated systemic interlinkages and estimated probabilities of simultaneous defaults. The ESRB is also responsible for coordinating and at times tailoring various "buffers" such as the "Capital Conservation Buffer," global and national systemic buffers, etc. and in 2020 highlighted the trends and decreases in the median solvency ratios in the EU insurance sector.

In the December 2020 Risk Dashboard, the ESRB assessed the worsening outlook for non-financial corporate debt, household debt, as well as NPLs, and the sustainability of sovereign debt in light of COVID-19's impact and those fiscal measures that were put in place to stem the economic contraction and help support the recovery efforts. The ESRB concluded that CCPs remained resilient during the COVID-19 pandemic.

In addition to the Risk Dashboard and the continuing work on buffers, the ESRB also pressed forward its work on cyber risk as part of its own general mandate and the work of the European Systemic Cyber Group, which the ESRB established in 2017 to identify common and individual vulnerabilities in individual financial systems.

The ESRB also continued its transaction-level data monitoring of derivatives activity, CCP interoperability arrangements, as well as how to further prevent system-wide increases in NPLs – with a range of specific reports on these topics expected to be announced in 2021, building upon the work conducted during 2019 and 2020.

67 See here.

Top three takeaways for firms and their compliance priorities in meeting the priorities of the ESAs and the ESRB

1. In keeping with 2019 and 2020, firms should position themselves to meet the ESA's ongoing shift from rulemaking to calibrating, i.e., revising as well as harmonizing supervisory standards in the pipeline or those already in place, including those that were paused due to COVID-19. Now that the ESAs have formally been granted more power, we would anticipate that the ESAs will press ahead in deploying their new tools in their expanded mandate. The Europeanization of financial services rulemaking and supervision will step up over the remainder of the decade, both as part of completing Banking Union and CMU, but also in light of the new relationship between the UK and the EU-27. For firms this translates into more intrusive supervision from the relevant national authorities within the ESFS, as well as the ESAs where they have direct supervisory mandates.
2. Firms, to the extent they have not done so, should form an internal working group, supported by relevant advisors, to map how pending Guidelines from the ESAs are likely to impact a number of "*run the compliance*", "*change the compliance*" and "*change the business*" work, as part of the impact from the transition to CRR II/CRD V as well as IFR/IFD, the new operating environment under the BMR, especially in light of the fact that cessation dates are now well known to conclude at the end of 2021.
3. Firms should consider the impact of how changes to supervision of branches as well as various approval processes impact their legal and regulated entity structuring, in addition to any BRRD-driven changes and/or national structural reform processes, including ring-fencing changes being advanced in certain EU jurisdictions.

Part 3 – European Commission priorities and DG-FISMA

The European Commission (**EC**) generally publishes its legislative and policymaking Work Programme for each year, which delivers on the goals from the overall multi-annual legislative cycle set out in the "Political Guidelines". In addition the EC's individual Directorate Generals, including the Directorate General for Financial Stability, Financial Services and Capital Markets Union (**DG-FISMA**), set out their annual "Management Plans", which define a further detailed direction for financial services regulatory and supervisory policymaking that sits alongside and at times are superordinate to those authorities discussed above.

European Commission's 2021 Work Programme

The EC published[68] its 2021 Work Programme[69] on October 19, 2020, ambitiously entitled "A Union of vitality in a world of fragility" accompanied by various annexes[70], as well as an overview of new policy objectives.[71] The Work Programme itself sets out the actions the EC will take in 2021 to turn the Political Guidelines of President von der Leyen (Political Guidelines for the next Commission (2019-2024) "A Union that strives for more: My agenda for Europe)"[72] into tangible benefits for European citizens, businesses and society.

In terms of structure, the 2021 Work Programme has four annexes, which cover respectively (i) new policy and legislative initiatives; (ii) REFIT initiatives, to review existing legislation; (iii) the priority pending legislative files where co-legislators are to take the swiftest action; (iv) intended withdrawals of pending proposals. Unlike in 2020 there is no Annex (v) on existing legislation which the Commission proposes to repeal[73]. In 2021 there are in total 44 new policy objectives, 41 REFIT initiatives, 50 priority proposals and 14 withdrawals.

In its own words in 2020, "the Work Programme and the first year of this mandate will set the vision, direction and pace for the next five years". In the 2021 programme, the Commission stated:

"In the last year, the people of Europe have made sacrifices to protect each other and we must protect the progress we have made together. This means keeping our guard and keeping our focus on ensuring we can manage the crisis, pull through together and work on a long-term solution to get past this.

But as and when Europe does get past this, we need to be ready to do things in a better way and live in a healthier, fairer, more prosperous society. This means making ourselves more resilient but it also means accelerating on the transformative agenda on which this Commission was elected and on which it has been focused since its first day in office.

This is the dual purpose of this Commission Work Programme and all of the initiatives listed in it. They may each focus on different areas but they must all be pulling in the same direction. They are all ultimately about making lives easier, our environment healthier, societies fairer, opportunities more varied and accessible, and economies more modern and geared towards wider objectives.

To make sure that they have their desired impact, the Commission will work closely in partnership with both the European Parliament and the Council. This collective spirit is what made Europe come together to agree on NextGenerationEU. It is what will enable us to overcome this pandemic and to deliver the systemic change Europe needs. We have the vision, we have the plan, we have the investment – and we now have to recover today by building a better world for tomorrow."

68 See details here.
69 Available here and here.
70 Available here.
71 Available here.
72 Which was published July 16, 2019 and is available here.
73 Annex (v) from 2020 is available here.

Undoubtedly the 2021 goals as those in 2020 are ambitious and the 2021 document looks at a plethora of areas where the Commission sets itself the task of building the European Union of the future.

The Work Programme itself is structured under just two headings:

i. In 2020 this was "a Union that strives for more" in 2021 this became "Repairing the world of today by shaping the world of tomorrow";
ii. Delivery of the six headline ambitions which were slightly altered in 2021 as indicated below.

The 2021 Work Programme dropped the following headings that were in the 2020 Work Programme.

iii. Review of initiatives proposed under previous mandates not yet agreed by the European Parliament and Council; and
iv. Better regulation, policymaking, implementation and enforcement of EU law.

Delivery on the six headline ambitions

The six headline ambitions of the European Commission's priorities for 2019-2024 remain broadly the same and include:

1. **A European Green Deal – the new growth strategy with a focus on the following projects:**
    a. European climate law;
    b. A new EU ambition to reduce greenhouse gas emissions by 2030;
    c. Strategy for Smart Sector Integration and a Renovation Wave;
    d. Strategy for Sustainable and Smart Mobility;
    e. Circular Economy Action Plan;
    f. EU Biodiversity Strategy for 2030;
    g. 'Farm to fork' strategy for the whole food chain
    h. European Green Deal Investment Plan;
    i. Renewed Sustainable Finance Strategy;
    j. Just Transition Mechanism and Just Transition Fund;
    k. A European Climate Pact.

In the 2021 Work Programme, the European Commission committed to:

a. Developing a carbon border adjustment mechanism to help motivate foreign producers and EU importers to reduce their carbon emissions, while ensuring a level playing field conducive to trade in a WTO-compatible way.

2. **A Europe fit for the digital age ensuring the European approach is human, ethical and values-based via developing a:**
    a. European Data Strategy;
    b. White Paper on Artificial Intelligence (see point 2(l) below);
    c. Digital Services Act (which has been tabled);
    d. Review of the Directive on Security of Network and Information Systems;
    e. EU-wide regulatory proposal on Crypto Assets (see MiCA[74]);
    f. New Industrial Strategy for Europe (including a review of Competition and State Aid rules);
    g. SME Strategy (which has been tabled);
    h. Single Market Enforcement Action Plan;
    i. White Paper on an Instrument on Foreign Subsidies;
    j. Updated Digital Education Action Plan.

In the 2021 Work Programme, the European Commission set out that it would progress the:

a. Delivery of Europe's Digital Decade with clearly defined goals for 2030, including as part of the Digital Single Market Strategy, such as connectivity, skills and digital public services. The approach will follow clear principles: the right to privacy and connectivity, freedom of speech, free flow of data and cybersecurity;
b. Introduction of legislation on the safety, liability, fundamental rights and data aspects of artificial intelligence and a Data Act to set the right conditions for better control and conditions for data sharing for citizens and businesses. In the same spirit, the European Commission will propose a new European digital identity to make it easier to do tasks and access services online across Europe and ensure people have greater control and peace of mind over what data they share and how it is used;
c. Measures to uphold fairness in the digital world. The EU will continue to work for an international agreement for a fair tax system that provides long-term sustainable revenues. Failing this, the Commission will propose a digital levy in the first half of next year. In the same spirit of a fair business environment, the Commission will propose a legal instrument to level the playing field as regards foreign subsidies;
d. Finalization of legislative proposals to ensure dignified, transparent and predictable working conditions, as well as a legislative proposal to improve the working conditions of people providing services through platforms, with a view to ensuring fair working conditions and adequate social protection.

3. **An economy that works for people putting the social and the market together with a focus on the following measures:**
    a. Action Plan to implement the European Pillar of Social Rights;
    b. Fair minimum wages for workers in the EU;
    c. Proposal for a European Unemployment Reinsurance Scheme;
    d. European Child Guarantee;
    e. Reinforcing the Youth Guarantee;
    f. Action Plan on the Capital Markets Union (which was delivered and led to CMU 2.0);
    g. Action Plan on Anti-Money Laundering (which was delivered and is being expanded through various means);
    h. Communication on Business Taxation for the 21st century;
    i. Action Plan to Fight Tax Evasion;
    j. Action Plan on the Customs Union;
    k. legislative proposal on a Customs Single Window.

In the 2021 Work Programme, the European Commission committed itself to:

a. A new EU strategic framework on health and safety at work. We will also propose an Action Plan for the social economy to enhance social investment, support social economy actors and social enterprises to start-up, scale-up, innovate and create jobs;
b. Continued policy support for economies that strive for a balance to be struck between providing financial support and ensuring fiscal sustainability. As the spread of the virus and containment measures pick up, Member States are expected to continue to make sound use of fiscal flexibility to support the economy. Global trade and its integrated value chains will remain a fundamental growth engine and a key driving force for a truly global recovery. A review of the EU's trade policy is underway and the European Commission will adopt a new instrument to deter and counteract coercive actions by third countries;
c. A renewed commitment that, over the longer-term, there is no greater way to stability and competitiveness than through a deeper Economic and Monetary Union, which will also ensure a stronger international role for the euro. This involves making progress on the Capital Markets Union and the Banking Union. As part of this, the European Commission will revise the framework for handling EU bank failures (**BRRD III and SRMR III**), take measures to boost cross-border investment in the EU, and step up the fight against money laundering;
d. Legislation on sustainable corporate governance to foster long-term sustainable and responsible corporate behavior. This includes continued progress on sustainable financing, notably by proposing to establish an EU green bond standard;
e. Review and increase of the effectiveness, efficiency and capacity of public administrations and services across the European Union.

74 See dedicated coverage from our Eurozone Hub on this development available here:
- Meet MiCA – The EU pushes forward its proposal for its Markets in Crypto-Assets Regulation plus a pilot regime for DLT infrastructure
- ECB issues opinion on Markets in Crypto Assets Regulation (MiCA) and European Parliament Rapporteur tables own changes

4. **A stronger Europe in the world – this highlights the Commission's commitment to ensuring that Europe upholds, updates and upgrades the rules-based global order to ensure it is fit for the current times, namely by:**
    a. Developing a new comprehensive Strategy with Africa (largely being delivered);
    b. Completing negotiations on a new Partnership Agreement with Africa, the Caribbean and the Pacific;
    c. Deepening its partnership with the Western Balkans (being delivered on an on-going basis);
    d. Putting forward a new Eastern Partnership post-2020;
    e. Launching a broad initiative on WTO reform – which the EU states it will continue to push ahead in 2021;
    f. Strengthening Europe's economic and financial sovereignty;
    g. Creating an Action Plan on Human Rights and Democracy;
    h. Putting forward an Action Plan on Gender Equality and Women Empowerment in External Relations.

In the 2021 Work Programme the European Commission committed to:

a. Presenting a Communication on the Arctic to update EU policy towards a region "… particularly exposed to climate change and environmental pressures and its economic and security impact";
b. A new strategic approach to support disarmament, demobilization and reintegration of ex-combatants, which is key for ensuring lasting stability and peace in conflict-stricken countries and regions;
c. Tabling a communication on the EU's humanitarian aid, which will focus in particular on new ways of working with our partners and other donors, the use of digital tools and innovative approaches to financing and aid delivery modalities, including on the Commission's own rapid response capacity and ways to enhance work on the humanitarian development-peace nexus;
d. Reviewing the Consular Protection Directive, which will allow improvements to facilitate the exercise of the Union citizenship right to consular protection and to reinforce EU solidarity to better protect EU citizens abroad, in particular during crises. It will enhance cooperation among Member States and strengthen the EU's supporting role, making best use of its unique network of EU delegations.

5. **Promoting our European way of life – built around the values of solidarity, equality and fairness, which aims at:**
    a. Putting forward Europe's Beating Cancer Plan;
    b. Launching a Pharmaceutical Strategy for Europe;
    c. Making the European Education Area a reality by 2025;
    d. Presenting a new Skills Agenda for Europe;
    e. Presenting a new Action Plan on Integration and Inclusion;
    f. Setting out an EU Strategy for a more effective fight against child sexual abuse;
    g. Putting forward a new EU Security Union Strategy;
    h. Putting forward with a New Pact on Migration and Asylum.

In the 2021 Work Programme the EU Commission signaled it would:

a. Draw lessons in other areas, notably when it comes to the Schengen area and upholding free movement of people without internal border control. The European Commission will work with the European Parliament and Member States to preserve and improve a functioning Schengen Area on the basis of a new strategy for the future of Schengen and stronger Schengen rules and will continue the work completing the Schengen Area;
b. Present a comprehensive strategy on combating antisemitism, to complement and support Member States' efforts;
c. Propose an initiative on individual learning accounts to empower individuals to undertake training and manage their career, and set out a European approach to micro-credentials to widen personalized learning opportunities for all.

6. **A new push for European democracy – here the European Commission will:**
    a. Present a European Democracy Action Plan;
    b. Join forces in a debate in the Conference on the Future of Europe (which it has already begun doing in 2021);
    c. Launch its first Annual Rule of Law Report;
    d. Put forward a new Strategy for the Implementation of the Charter of Fundamental Rights;
    e. Present a Gender Equality Strategy;
    f. Promote equality and better inclusion of Roma people;
    g. Help ensure the equality of LGBTI people across the EU;
    h. Put forward an EU Strategy for Victims' Rights;
    i. Present a Report on the Impact of Demographic Change;
    j. Propose a long-term vision for rural areas and a Green Paper on Ageing;
    k. Develop the new Consumer Agenda (which it has already begun doing in 2021).

In the 2021 Work Programme the EU Commission promised it would:

a. Advance cross-border judicial cooperation by making full use of digital technologies; and
b. Press ahead with the Better Regulation goals, policymaking, implementation and enforcement of EU law. The upcoming Communication on better regulation will focus on burden reduction, notably in implementing the 'one-in, one-out' approach. This will ensure that newly introduced administrative burdens are offset by relieving people and businesses of equivalent burdens at EU level, in the same policy area. As of next year, the 'Fit-for-Future' platform, a high level expert group, will support the Commission to identify simplification and burden reduction potential.

In conclusion, the European Commission will press ahead with the above targeted reforms in addition to facilitating support for the completion of the Banking and Capital Markets Union(s) and this will mean that firms are likely to be faced with ongoing change as the EU-27 seeks to build upon its own post-Brexit financial services architecture in a new post-COVID-19 operating environment.

DG-FISMA's 2021 Work Programme

DG-FISMA published its 2021 Management Plan75 on January 14, 2021. The 2021 Management Plan forms part of DG-FISMA's overall 2020-2024 Strategic Plan76 and serves to describe DG-FISMA's main outputs for the year and how they contribute overall to the Strategic Plan in an effective manner. The Management Plan will set out DG-FISMA's new policy priorities and initiatives, efforts on regulatory simplification, evaluations, fitness checks, consultations, enforcement actions and communication activities. The Management Plan as in previous years sets out a detailed annex with performance tables presenting actions and expected delivery times.

In 2021, the Strategic Plan, in Part 2 sets out how DG-FISMA will itself will modernize its administration in order to drive forward measures to improve the functioning of financial markets and to address longer-term structural challenges such as climate change, demographic change, geopolitical uncertainty and digital transformation as well as the COVID-19 pandemic.

What DG-FISMA plans to push forward in 2021

DG-FISMA's Management Plan focuses on following up on many of the measures announced in the CMU 2.0 Action Plan. DG-FISMA will propose a number of legislative and non-legislative initiatives in 2021, including:

1. Driving forward proposals for a European Single Access Point (**ESAP**) to help make financing more accessible to companies;
2. Revising the rules of the Securitization Regulation and the prudential rules that influence the equity investment of banks and insurance companies;
3. Assessing rules applicable to listed companies to promote and diversify small and innovative companies' access to funding in order to strengthen market integration;
4. Improving the framework for the Central Securities Depositories Regulation (**CSDR**) to further develop cross-border settlement services, as well as to present a proposal to strengthen (A) the rules on investor protection in the securities markets rulebook (Markets in Financial Instruments Directive - MiFID), and to review (B) the rules that govern market infrastructure for securities trading in the European Union after the UK withdrawal (Markets in Financial Instruments Regulation - MiFIR);
5. Finalizing the MiFIR Review which will focus on creating an effective and comprehensive consolidated securities tape i.e. a data feed;
6. Introducing a legislative proposal on an investment protection and facilitation framework in the EU in Q2 2021;
7. Assessing the feasibility of further possible legislative and non-legislative actions to advance with CMU. These include a possibility to redirect SMEs with a declined bank credit towards alternative sources of funding or ways to enable retail investors to benefit more from investment opportunities offered by capital markets via improved financial education (development of a financial competence framework) or adequate advice (development of an EU label for financial advisors);
8. Taking stock of progress on supervisory convergence and development of an enhanced rulebook and continuing its work to further streamline and improve supervisory data collection;
9. Establishing a set of key performance (goal) indicators to better monitor progress on the CMU;
10. Finalizing preparatory acts relating to Pan-European Personal Pensions (PEPP), thus offering new cross-border long-term investment opportunities to households;
11. Introducing targeted changes to incentivize the insurance sector to play its role as a key long-term investor. The work following the fitness check of supervisory reporting will continue with further actions in the first half of 2021, as well as amendments to the Solvency II Directive framework to improve the robustness of the insurance regulatory framework, including the adequacy of prudential requirements and the effectiveness of tools and powers to address insurers' failures (recovery and resolution).[77] DG-FISMA will press ahead with a proposal for a Directive on the minimum harmonization of rules for national insurance guarantee schemes (IGSD) and play an important role in supporting the finalization of negotiations of amendments to the Motor Insurance Directive;
12. Presenting in the 4Q 2021 legislative amendments relating to the Alternative Investments Funds Managers Directive (AIFMD) and partly to the Undertakings for the Collective Investment in Transferable Securities Directive (UCITS). Moreover DG-FISMA will press ahead with reviewing the rules of the European Long-term Investment Funds (**ELTIF**) framework;
13. Putting forward Delegated and Implementing Acts relating to the European Market Infrastructure Regulation (EMIR), the Markets in Financial Instruments Regulation (MiFIR) and Benchmarks. It will also work on the mapping of External Credit Assessment Institutions (ECAI);
14. Publishing its annual European Financial Stability and Integration review;
15. Working to ensure that during the phase out of many COVID-19 measures (including, but not limited to, fiscal support, moratoria and, regulatory relief), those which have been made available to the banking sector will be pared back in a manner so that macro-prudential buffers are used as intended, in order that the sector can support the recovery and not be impaired by the rise in non-performing loans and exposures (NPLs);
16. Stepping up country surveillance efforts to map the impact of COVID-19 and crisis response measures in place and to assess national Recovery and Resilience Plans to align broader financial sector reforms and investments;
17. Introducing further finalized changes to the Banking Package related to the Bank Recovery and Resolution Directive (BRRD), the Deposit Guarantee Schemes Directive (DGSD), and the Single Resolution Mechanism Regulation (SRMR). DG FISMA will also put forward legislative proposals implementing the final elements of the Basel III reform;
18. Introducing a comprehensive legislative package that builds upon the Action Plan for Anti-Money Laundering and Countering the Financing of Terrorism (**AML/CFT**) presented in 2020. The package will cover: the creation of a single rulebook for EU AML/CFT rules, the establishment of an EU AML/CFT authority and the setting-up of a central support, a coordination mechanism for Financial Intelligence units in the EU and a further strengthening of the approach towards third countries. Another element of the Action Plan includes a Communication on the rules applicable to the use of public-private partnerships in the fight against money laundering and terrorism financing, which will be adopted later in the year, along with the biennial Supranational Risk Assessment, a key document providing guidance to national AML/CFT supervisors on the areas for focus in their work. Another important task during 2021 in the AML/CFT field will be the transfer of FIU.net, an important communication network for national AML bodies, from Europol to the Commission, as required by a decision of the European Data Protection Supervisor;
19. Presenting its report on the Market Abuse Regulation;
20. Preparing a new Retail Investment Strategy to be adopted in the first half of 2022 to improve investor and consumer confidence in retail financial services;
21. Conducting a review of the Mortgage Credit Directive (MCD) with a view to possible legislative amendments to ensure that the Directive fully achieves its aims and addresses the challenges of digitalization and sustainability. It will also prepare a review of the Payment Accounts Directive (PAD). In addition, DG FISMA will increase its efforts to empower consumers and step up its work on financial literacy: the Commission will conduct a feasibility assessment for the development of a

75 Available here.
76 Available here.

77 See coverage from our Eurozone Hub from this development as proposed in 2018 available here.

dedicated EU financial competence framework by Q2 2021 and continue its work on safeguarding the interests of consumers in financial services, in particular through its financial services user expert group, the support of Finance Watch and Better Finance, and managing the network of alternative dispute resolution bodies in the area of financial services, FIN-NET;

22. Continuing its work on endorsing the International Financial Reporting Standards (IFRS), and equally DG-FISMA will publish output following receipt of its final report of a study launched to monitor the impact of the Audit Directive and Regulation;

23. Publishing, as part of the European Green Deal, a Renewed Sustainable Finance Strategy and a proposal for an EU Green Bond Standard Regulation will be presented in mid-2021. Moreover, following the adoption of the Climate Change and Adaptation Taxonomy Regulation, another Delegated Regulation on taxonomy-alignment of undertakings reporting nonfinancial information will be presented mid-2021. The Platform on Sustainable Finance will advise the Commission on the Delegated Regulation covering the four broader environmental objectives set out in the Taxonomy Regulation and on future taxonomy developments. The Platform on Sustainable Finance will also advise the Commission on extending the scope of the Taxonomy to feed into a Commission report due by December 31, 2021. The Commission is also seeking to scale up sustainable finance globally. In this regard, the International Platform on Sustainable Finance (IPSF) published its first Annual Report in October 2020. The second Annual Report is expected to be published in the last quarter of 2021. The IPSF also plans to publish a report on 'Common ground Taxonomy' in the third quarter of 2021 and a report on sustainability-related disclosures in the fourth quarter of the year. A Delegated Regulation on sustainability-related disclosures will be presented during the year. DG FISMA is also contributing significantly to a Commission Decision establishing the EU Ecolabel criteria for financial retail products. In the spring of 2021, DG FISMA will present a legislative proposal for the revision of the Non-Financial Reporting Directive (NFRD) as regards disclosure by certain undertakings and groups. DG FISMA will furthermore continue to look at the Environmental, Social and Governance (ESG) assessment tool providers to determine if strengthening of the legislative framework is needed. There will be research into the ESG benchmark labels and the inclusion of a green bond standard in the prospectus rules;

24. Implementing a number of initiatives set out in the Digital Finance Strategy to support the scaling-up of digital finance across the EU. To remove barriers in the Digital Single Market for financial services, the Commission will start to set up an interoperable cross-border framework for digital identities by proposing to harmonize rules on customer onboarding in the context of the AML review and by building on the eIDAS (electronic Identification, Authentication and trust Services). In addition, DG FISMA will, together with the European Supervisory Authorities (ESAs), further support the scaling-up of innovative firms in the EU, including by enhancing the role of the European Forum of Innovation Facilitators and launching a cross-border testing framework in the EU. DG FISMA will also ensure that the financial services legislative framework is fit for digital technologies, and consider complementing the new horizontal rules on AI (artificial intelligence) with guidance at EU level;

25. Continuing its work facilitating digital payments by implementing the policy actions in the Retail Payments Strategy for the EU adopted in 2020. This will include work to support the full roll-out of instant payments, in particular, as announced in the Retail Payments Strategy, the assessment of the main issues conditioning the full success of instant payments' take up (e.g. consumer protection, pricing, AML/sanctions etc.). In addition, DG FISMA will continue its efforts to monitor and support the wide adoption of strong customer authentication as required by PSD2 (Payment Services Directive) and its regulatory technical standards, and the development of open banking. It will also start preparations for launching the PSD2 review, addressing the uneven level playing field related to the access of payment institutions and E-money institutions to payment systems, and contributing to reducing the costs of cross-border payments between the EU and other jurisdictions;

26. Presenting a policy Communication entitled "the European economic and financial system: fostering openness, strength and resilience", scheduled for the beginning of 2021. In order to strengthen the role of the EU as a credible actor on the international stage, DG FISMA will work on the implementation of this communication in order to: (i) promote a stronger international role for the euro; (ii) increase the resilience of EU financial infrastructures; and (iii) ensure that Europe is more resilient to extraterritorial sanctions imposed by third countries and that EU sanctions are properly enforced; and

27. Cooperating in international fora and with standard setting bodies through bilateral negotiations and dialogues with a number of partners. A number of equivalence decisions will be adopted and monitored. The overall objectives are to promote sound international standards, manage risks deriving from cross-border activity and promote the international role of the euro and the competitiveness of the EU financial system. From 2021, substantial activity will be related to cooperation with the United Kingdom and managing risks deriving from the level of financial integration with the EU.

While the above is a tall order of deliverables, they are necessary in order to embed a wide range of very timely and necessary reforms that have been on the to-do list since 2018, some of which have been paused or slightly derailed due to COVID-19.

Part 4 – National updates

Belgium

Jurisdiction	Belgium
Who are the lead national regulators for financial services (*banking, securities, insurance, funds*) in your jurisdiction?	Twin Peaks model[78] National Bank of Belgium (NBB) – Nationale Bank van België, Banque Nationale de Belgique" Financial Services and Markets Authority (FSMA) – Autoriteit voor financiële diensten en markten, Autorité des services et marchés financiers." The NBB is, in addition to the supervision of the market infrastructure and payment services, responsible for the prudential supervision of credit institutions, (re) insurance companies and stock exchange companies. The supervision on credit institutions is carried out by the NBB within the framework of the Joint Super Visionary Teams (JTS). The FSMA is responsible for the (semi-prudential) supervision of pension funds, management companies of alternative collective investment undertakings, companies for asset management and investment advice, independent financial planners, crowd funding platforms, (re) insurance intermediaries, intermediaries in bank and investment services, credit providers, intermediaries in consumers and mortgage credits and regulated real estate companies, and this in addition to its historical supervision of financial markets as well as information provisions by listed companies.
Have individual Work Programmes already been published? If *yes*, what are the main themes in the jurisdiction? Please outline in bullet points and provide hyperlinks	Following recent developments related to the COVID-19 pandemic and the subsequent impact on financial markets, the NBB has decided to cancel the 2020 Stress Test Exercise. In 2020, the Belgian insurance sector is subject to a stress test consisting of one scenario (low yield). The scenario was developed by the NBB and is applied to all Belgian insurance undertakings having life activities. More information can be found here

78 Law of 2 July 2010 restructuring the supervision of the financial sector in Belgium, Official Gazette 28 September 2020 (link – in French only).

Please highlight the developments of supervisory trends which would be most relevant for clients*[79]	• The future developments will mainly be Brexit-related but very little guidance has been provided yet at the moment. Insurance intermediaries https://www.fsma.be/en/news/newsletter-brexit-update-european-passport-certain-intermediaries-and-impact-brexit Financial institutions https://www.nbb.be/en/financial-oversight/general/brexit • The Law of 28 April 2020 implemented the Directive (EU) 2017/828 of 17 May 2017 amending the Directive 2007/36/EC with regard to the encouragement of long-term shareholder engagement (SRD II) into Belgium law[80]. The purpose of the SRD II is to assure transparency and a dialogue between issuers and investors in listed companies. The changes relate to (i) the identification of shareholders, transmission of information, facilitation of exercise of shareholders' rights; (ii) transparency of institutional investors, asset managers; (iii) transparency of proxy advisors; (iv) remuneration of directors and executives ; and (v) related party transactions • The fifth Money Laundering Directive has been implemented in the Belgian law of 18 September 2017 on the prevention of money laundering and terrorist financing and through the restriction of the use of cash by the law of 22 July 2020[81]. The changes relate to (i) the inclusion of new "obliged entities", (ii) a reduction of the threshold for customer due diligence measures for e-money instruments; (iii) the identification of politically exposed persons; (iv) the process of access of beneficial owners in the UBO register; (v) the harmonization of the due diligence obligations; and (vi) the improvements in the cooperation between the competent authorities of the EU Member States. • Draft law: Tax on a securities account An annual levy shall be due on the holding of the securities account held by individuals and corporates in Belgium, including for example non-Belgians holding a securities account at Euroclear or any other Belgian financial intermediary. The annual tax of 0.15"% shall be due if the average value on the account exceeds €1,000,000.
Dentons Team members and notable Dentons News in your jurisdiction	Nora Wouters, Partner Nathan Wymeersch, Associate

79 Special COVID – 19 measures have not been included in this survey.
80 *Belgian Official Gazette* 6 May 2020 (link – in French only).
81 *Belgian Official Gazette* 5 August 2020 (link – in French only).

Czech Republic

Jurisdiction	Czech Republic
Who are the lead national regulators for financial services (*banking, securities, insurance, funds*) in your jurisdiction?	The Czech National Bank ("CNB") is the central bank of the Czech Republic and the only regulator of financial services in the Czech Republic. CNB is responsible for the complete regulatory oversight of financial services and providers thereof in the Czech Republic i.e. banking, securities, insurance, investment funds and investment companies, etc. CNB is also responsible for AML/compliance oversight in relation to financial institutions.
Key Supervisory Priorities and Work Programmes	The CNB publishes its regular Financial Market Supervision Reports, which contain basic information about licensing activities, regulation and financial market supervision and aggregate analyses of individual financial market sectors. These publications are published by June 30 of the following year. Hence, the last available report summarizes 2019 and is available here. In the Financial Market Supervision Report for 2019 the CNB highlighted several significant legislative changes, for example: • Risk mitigation package for the banking sector, which included a relatively broad regulation, which covers in particular the topics of prudential consolidation, large exposures, equity exposures in funds, leverage ratios, capital buffers for systemic risk, and stable funding. • Regulation of the European Parliament and of the Council on the prudential requirements of investment firms and amending Regulations. The aim is to create a regulatory framework that better reflects the risks to which investment firms are exposed, while respecting the principle of proportionality. In terms of scope and importance, investment firms will be divided into three classes, which will regulate their level of prudential requirements. • Amendment of the PRIIP Regulation, in relation to collective investment funds; the obligation of the regulation will apply from 2022. In addition to the Financial Market Supervision Report, a major amendment was enacted in 2020 that relates to laws of financial regulation is act no. 119/2020 Coll. This amendment amended in particular the Capital Markets Act, the Act on Bonds, the Act on Banks and other laws as well in relation to the Prospectus Regulation. The CNB also publishes basic information on individual financial market sectors through the ARAD application. In this way, it gives the general public access to basic quantitative data on the size, financial condition and prudential business of banks, credit unions, insurance companies, investment firms, management companies, collective investment funds, pension management companies and funds operated by pension management companies. As for 2021, several laws have been prepared and submitted to the Parliament of the Czech Republic, however the legislative procedure is currently protracted due to the COVID-19 pandemic and related measures. These laws include in particular: • Amendment to the Act on Banks with regards to CRD V; and • Amendment to the Act on Recovery and Resolution in the Financial Market with regards to BRRD II.

Recent supervisory trends and developments	**Mortgage loans development** The CNB reduced the bank's countercyclical capital buffer rate to 0.5% with effect from July 1, 2020. The partial release of the countercyclical capital buffer will support the ability of banks to lend smoothly to non-financial corporations and households. The capital position of the domestic banking sector is robust thanks to capital reserves and a voluntarily held surplus of capital. Most banks currently meet the aggregate capital requirement and have sufficient spare capacity to lend. CNB set the limit of the LTV indicator (ratio of the amount of the mortgage loan to the value of the mortgaged property) at 90% and at the same time abolished the limit of the DSTI indicator (ratio of monthly debt repayment to net income). **Crowdfunding regulation** The aim of the regulation is to harmonize legislation and simplify the cross-border provision of group funding services. The Regulation introduces a new licensed category of group financing service providers and introduces the conditions under which group financing services may be provided. The scope of the regulation is limited to those crowdfunding projects where the financing is requested by the entrepreneur, so it does not affect consumer financing. The regulation is set to take effect on November 10, 2021. **Statistics on deferrals of repayments and loans in COVID programs** In connection with the COVID-19 pandemic, CNB introduced extraordinary reporting, the aim of which is to monitor in detail data on deferrals and on loans granted using state aid schemes. CNB publishes these data in aggregate form on a regular basis. **FinTech** CNB has published several opinions in relation to FinTech and crowdfunding initiatives. FinTech companies might use these opinions as guidelines. Furthermore, CNB decided to create a new specialized communication channel for receiving inquiries from all financial market participants concerning financial innovations. It is called the contact point for FinTech. FinTech companies can submit inquiries through this form. **Extension of restrictions on the payment of dividends** The General Council of the European Systemic Risk Board (ESRB) extended the horizon of limiting the payment of dividends by financial institutions during the coronavirus crisis until September 30, 2021. CNB will assess individual institutions' proposals for dividend payments individually, and will evaluate their capital adequacy, risk profile, business model and other significant factors. CNB will set the limits for the payment of dividends conservatively in accordance with the ESRB Recommendation.
Key Dentons Team members	Daniel Hurych, Partner, Co-Head of Banking & Finance Jiří Tomola, Partner, Co-Head of Banking & Finance Petr Kotáb, Honorary member Martin Fiala, Associate

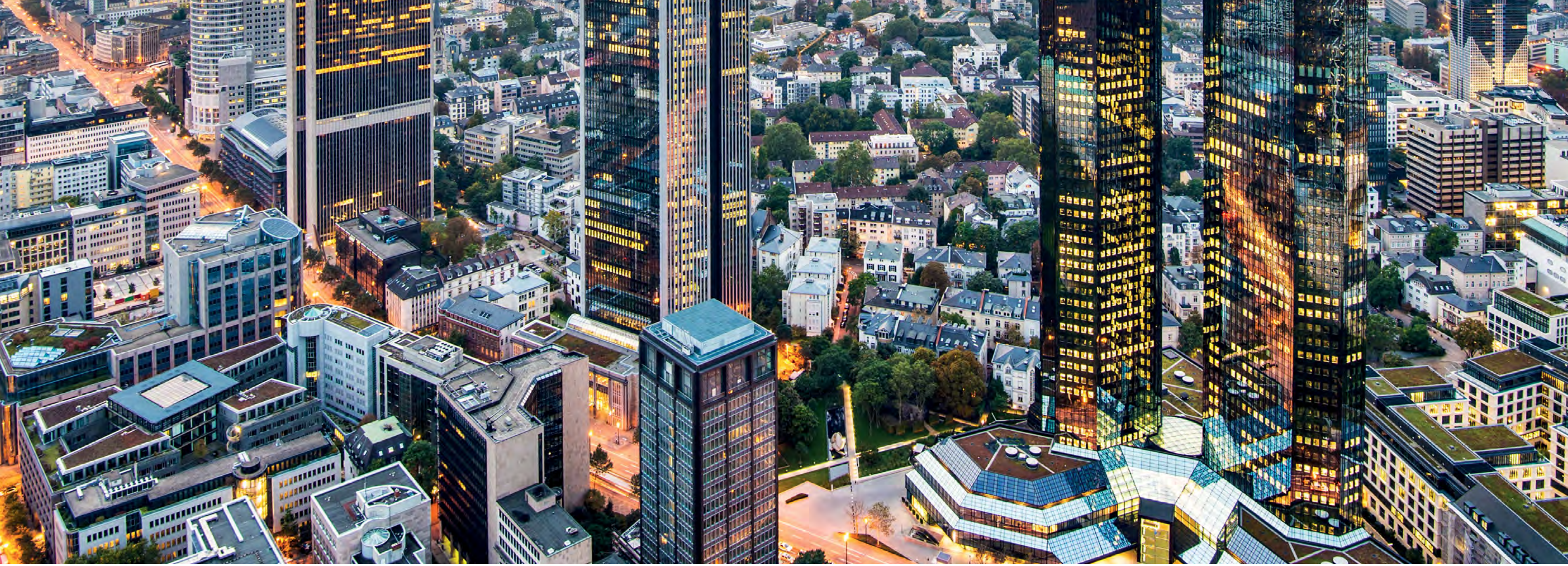
Germany

Jurisdiction	Germany
Who are the lead national regulators for financial services (*banking, securities, insurance, funds*) in your jurisdiction?	Federal Financial Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht*, "**BaFin**"). • German Federal Central Bank (*Deutsche Bundesbank*), which is jointly responsible for banking supervision together with BaFin and the ECB-SSM.
Key Supervisory Priorities and Work Programmes	While the BaFin is coming under new management, some of the plans raised towards the end of 2020 will likely stay in place. Namely: The BaFin plans in close cooperation with the Federal Ministry of Finance to undertake a number of concrete initiatives, especially in the area of financial reporting enforcement. As a governmental supervisory authority, BaFin's powers in this area are to be strengthened extensively. In the future, BaFin is to be granted powers to intervene faster, and its competencies are to be clearly defined. This is set out in the German draft Financial Market Strengthening Act (*Finanzmarktintegritätsstärkungsgsetz* - **FiSG Draft Act**). More details are set out below in the section "Recent supervisory trends and developments". In relation to Brexit, the BaFin aims to help firms have a smooth transition and has provided information about the applicable legal requirements to companies willing to move to Germany, alongside holding discussions, organizing workshops and answering questions directly. The aim is to remain in close contact with London post Brexit. In January, the BaFin also published a "General Ruling" (*"Allgemeinverfügung"*) that imposes binding general rules on UK insurers. The Digital Agenda set forward by BaFin and the Bundesbank is also at the forefront. The aim is not only to supervise and regulate the digital transformation of banks but also to further unlock the potential of digital technologies. This will be achieved by work in three innovation areas: • Obtaining and processing data more rapidly and more easily. The current banking supervisory reporting system is elaborate and highly complex for both banks and financial supervisors. The BaFin aims to establish more flexible digital channels in the future. Instead of requesting information to be reported by a specific deadline as part of an inflexible procedure, the aim is for supervisors to be able to obtain the information they need from the institutions directly if and when required and to be able to gather more up-to-date and tailored information without overburdening the banks. • Improving the quality of BaFin's analyses. The objective is to allow financial supervisors to easily access, link and analyze all of the available data and information regarding a bank. The goal is to rapidly evaluate large amounts of data and, for instance, use artificial intelligence to find ways to alert supervisors. • Optimizing the internal processes between the Bundesbank and BaFin. The plan is to make all relevant information in the area of banking supervision available on a common desktop, similar to a dashboard. This will ensure that BaFin and the Bundesbank can see the same data and information at any given time.

Recent supervisory trends and developments	**FiSG Draft Act** In the aftermath of Wirecard, the German Federal Finance Ministry's most recent reform proposal announced in February 2021 included seven reform areas and three overarching principles (**the Scholz Seven-Point Plan**). These in turn build off the efforts being advanced in the form of the German draft Financial Market Strengthening Act (*Finanzmarktintegritätsstärkungsgsetz* - **FiSG Draft Act)** – in summary, more power, more people, more rigor and more efficiency for a reformed BaFin 2.0. 1. **A focus unit** dedicated to complex companies will be created; covering all sections of supervision under the roof of BaFin and supervising companies even more closely than before. 2. A new, **forensically trained task force** will be established. 3. The **financial reporting enforcement system** will be fundamentally reformed. BaFin will receive substantially enhanced enforcement rights, plus additional experts, especially auditors, to enable it to check financial reports more effectively. 4. There will be a closer exchange with market participants; whistleblowers' findings will be systematically recorded and evaluated. **Information obtained from the market and from whistleblowers** is particularly valuable for BaFin's work. 5. BaFin's powers will be strengthened in the field of **investor and consumer protection** and the respective instruments will be expanded. 6. The position of the future **BaFin President** will be strengthened by providing him with more responsibility in terms of managing BaFin centrally. 7. A **central Data Intelligence Unit** (DIU) and a **digital supervisor cockpit** will form the backbone of an IT-driven supervision of the financial sector. The FISG Draft Act is the core legislative response in respect to the Wirecard collapse. It is based on the financial integrity Action Plan announced by the Ministries of Finance and Justice in the autumn of 2020. The proposal aims to reform the two-tier enforcement process between the recognized body and BaFin, to strengthen the independence and the quality of internal and external audits, to increase the deterrent effect of violations against accounting rules, as well as the quality of listings. In respect to BaFin, the Action Plan sets out more control rights as well as a prohibition of trading for BaFin employees. To combat money laundering more efficiently, the Action Plan proposes further information rights for the Financial Intelligence Unit. Finally, prospectus requirements for precious metals and gold investments are proposed to increase investor protection. Further to a consultation process in 2020, the BaFin has recently published a circular on group insurance policies. The key objective of the circular is to expand the supervision of group insurance coverage to insured persons. It aims to fill certain gaps of the Insurance Distribution Directive (IDD). One should read this circular in light of the recent referral of a case from Germany's Federal Court of Justice (BGH) to the European Court of Justice (ECJ). The ECJ case will tackle the issue to what extent the inclusion of insured persons into a group insurance contract is actually outside the scope of the IDD. These regulatory issues are of high importance for insurance offerings in the area of marine, transportation, car and credit-card insurance.
Key Dentons Team members	Holger Schelling, Partner Kai Goretzky, Partner Markus Schrader, Counsel

Hungary

Jurisdiction	Hungary
Who are the lead national regulators for financial services (*banking, securities, insurance, funds*) in your jurisdiction?	Prior to 2014, the Hungarian Financial Supervisory Authority ("**HFSA**") was in charge of the supervision of the securities, investment services (including funds), banking, and insurance markets in Hungary. In 2014, the Act on Central Bank was changed, and since that time the National Bank of Hungary ("**NBH**"), in addition to its central bank functions, became the general financial regulator by taking over all functions from the HFSA.
Key Supervisory Priorities and Work Programmes	The NBH publishes annual and monthly reports on the activity, development and regulatory news of the financial insurance and securities sectors. These reports are published regularly and the publication timetable is also available on the NBH web site. Please see for further information the www.mnb.hu web site and the "*publications*" and the "*supervision*" sub-sites. The NBH is regularly publishing on its website the most relevant opinions released to market participants, to provide guidance on the interpretation of the relevant laws and align the practice of the market participants, as well as the regulatory benchmarks and official answers related to the provision of financial/investments/securities and insurance services in Hungary
Recent supervisory trends and developments	• Since the NBH has taken over the regulatory role from the HFSA, we see that NBH is taking a more and more restrictive/conservative approach when it is interpreting the relevant sectoral laws. Such interpretation tends to be significantly different/stricter than the approach of other EU-based regulators'. • In line with the recent trend of EU central banks and regulators, the NBH launched its Green Program in early 2019. The aim of the program is to encourage investments and broaden the common knowledge on green financing while mitigating the risks of climate change and other environmental problems. The NBH introduced preferential capital requirements for companies operating in environmentally sustainable industries. The NBH intends to expand the list of green transactions falling under the preferential capital requirement program. In 2020, the first green bonds were issued in Hungary by CPI Investments Hungary Kft. During the issue process, Dentons Budapest advised the issuer. • As a reflection of the adverse economic effect of the COVID pandemic, the Hungarian parliament passed an act in March 2020, which is limiting the investments in certain sectors by non-EU/EEA investors. Such restriction is applicable in the strategically important sectors which are, amongst others, the (i) telecom; (ii) energy; and (iii) transport sectors. In case foreign investors with a non-EU/EEA beneficial owner background intend to (directly or indirectly) invest in a strategic company operating in the above sectors, the acknowledgement of the competent minister is required for the change of control and, in certain cases, even for the establishment of a pledge over the assets of the strategic company. • Also as a result of the COVID-19 pandemic, the Hungarian government introduced a moratorium on all payment obligations of debtors (both private individuals and companies) arising from facilities, loan and leasing agreements, provided that the disbursement occurred prior to March 19, 2020. The effect of such regulation has been extended recently until July 1, 2021. • In relation to the capital and insurance market recently no major changes were made. Generally, the local regulator is keen to implement/apply the EU directives/regulations in a timely manner.



Key Dentons Team members	Gergely Horvath, Partner Gabriella Pataki, Senior Associate Bence Boszormenyi, Associate Latest news and recognition Dentons Budapest has a strong reputation as a leading law firm, which is demonstrated by the recognition by prestigious independent benchmarking publications. For example, in 2020, for the fifth consecutive year, we were named **Hungarian Law Firm of the Year** by the *International Financial Law Review (IFLR).* In addition, our Budapest office significantly contributed to our Firm being recently named **CEE Law Firm of the Year** at the *Chambers Europe Awards*, 2020 and **Europe Law Firm of the Year** at the *Chambers Europe Awards*, 2017, and **International Law Firm of the Year** at *TrustLaw Awards*, 2019. Our Banking & Finance team is also highly recognized by clients and has been Tier 1 ranked by Legal 500 EMEA each year since 2016, while Gergely Horváth, our Head of Banking and Finance, has been ranked amongst the few Band 1 individuals since 2017, according to Chambers Europe.

Italy

Jurisdiction	Italy
Who are the lead national regulators for financial services (*banking, securities, insurance, funds*) in your jurisdiction?	• **Bank of Italy**: National Competent Authority in charge of the supervision of the banking sector. • **Consob**: National Competent Authority in charge of the supervision of the financial markets. • **IVASS**: National Competent Authority in charge of the supervision of insurance companies and intermediaries. • **Bank of Italy and Consob**: National Competent Authorities jointly in charge of the supervision of asset management companies and collective investment schemes. • **COVIP:** National Competent Authority in charge of the supervision of occupational pension funds.

Key Supervisory Priorities and Work Programmes	The below also includes a summary for the years 2019-2020. • Bank of Italy Annual Report for 2019, published on May 29, 2020, (available in English at this link). Please see also the Annual Report at a glance (available in English at this link) and the Governor's Remarks for 2019 (available in English at this link). • Consob Report for the year 2019, published on March 31, 2020, (available only in Italian at this link). Please see also the speech by the Chairman in the context of the 'annual meeting with the financial market' (available in English at this link). • IVASS Report for the year 2019, published in June 18, 2020, (available only in Italian at this link). Please see also the "Chairman's Remarks" for 2019 (available in English at this link). • COVIP Report for the year 2019, published on June 24, 2018, (available only in Italian at this link). Please see also the related 'Supplementary pension funds in Italy at end-2019: main data' (available in English at this link).
Recent supervisory trends and developments	**Supervisory trends and regulations on banks** 1. **Technological innovation** The public health emergency caused by COVID-19 and the related containment measures have made the advantages of digital solutions even more tangible. The Bank of Italy is active in addressing the changes prompted by technological innovation. In this context, the authority: (i) is strengthening the dialogue with operators through its innovation hub, the FinTech Channel, and through new procedures to authorize market access; (ii) is participating in the FinTech Committee set up by the Ministry of Economy and Finance, (iii) is collaborating with the Ministry of Economy and Finance in a forum on digital innovation, and participating in the launch of a regulatory sandbox; (iv) is supporting the development of system solutions designed to ensure the proper balance between the need for standardization and competition in innovative sectors; (v) is working to establish a dedicated unit tasked with proposing and coordinating FinTech initiatives, as well as monitoring retail payment services and instruments, electronic payments and digital services. 2. **Anti-money laundering** The Bank of Italy is working to improve its supervision in the areas of anti-money laundering and transparency using advanced data analysis. In particular, the authority is experimenting with new ways of using artificial intelligence to extract specific data from suspicious transaction reports and complaints, with the aim of both identifying phenomena requiring intervention by the Italian Financial Intelligence Unit and of guiding the work of prudential supervision and customer protection initiatives. 3. **Customer protection and financial education** The Bank of Italy is working to (i) improve the channels of communication with users of banking and financial services; (ii) strengthen controls on intermediaries' behaviour; (iii) reinforce the Banking and Financial Ombudsman (ABF); and (iv) promote financial education. **Supervisory trends on financial markets** 1. **FinTech regulations** Consob (i) is participating in the FinTech Committee set up at Ministry of Economy and Finance, which has the tasks of identifying the objectives, defining programs and implementing actions to promote the development of techno-finance as well as formulating proposals of a regulatory nature and facilitating contact with sector operators with institutions and authorities; and (ii) is collaborating with the Ministry of Economy and Finance in a forum on digital innovation and participating in the launch of a regulatory sandbox.

	Consob is assessing the applicability of investment services regulations to crypto-assets. 2. **Supervision and artificial intelligence** Consob is exploring the applicability of artificial intelligence technologies to supervisory activities and is developing prototypes and experimental projects based on the most innovative artificial intelligence techniques aimed at improving the effectiveness of information systems. 3. **ESG** Consob has set up a Steering Committee to enhance action in the areas of regulation and supervision relating to the development of sustainable finance. In this regard, staff training initiatives, studies and research have been launched, as well as activities aimed at fostering greater attention of issuers and investors, both institutional and non-institutional, to ESG issues.
	4. **Financial education** Consob intends to intensify study and research activities, investigating profiles useful for enhancing the effectiveness of financial education initiatives relating to the motivational and behavioral levers that can influence learning; a further area of investigation will concern the educational role of financial advisors vis-à-vis their clients. In order to raise investors' awareness of their rights and encourage greater responsibility in dealings with intermediaries, initiatives will be organized by the authority to raise awareness in the local area and at universities and study centres. **Supervisory trends on insurance undertakings** 1. **Customer protection** IVASS is working to ensure the national regulatory framework using so-called mystery shopping exercises to intercept improper distribution behavior. In this context, the authority has also obtained the financial support of the EU Structural Reform Support Program to develop mystery shopping methodology as part of its supervision tools. IVASS is working on the establishment of an Ombudsman for the insurance sector. 2. **InsurTech** IVASS is closely monitoring the impact of technological innovation on the insurance market (InsurTech), with a view to encourage solutions extending and improving the insurance offer within a framework of modern costumer protection. In this context, the authority (i) is participating in the FinTech Committee set up at the Ministry of Economy and Finance; (ii) is collaborating with the Ministry of Economy and Finance in a forum on digital innovation and participating in the launch of a regulatory sandbox; and (iii) is participating in the EIOPA InsurTech Task Force. The authority has also launched several initiatives to expand the use of technology for the compliance actions of operators (RegTechRegTech) and for the supervisory and analytical activities carried out by itself (SupTechSupTech).

	IVASS is further strengthening its Innovation Hub. Experimental projects are underway with industry, academia and public administration to offer fully-digital policies through blockchain and smart contracts. The authority is also working with the Agency for Digital Italy (AgID) to promote the spread of digital identity tools (SPID) and electronic signatures to facilitate remote identification processes. 1. **Insurance education** In line with the National Strategy for Financial, Insurance and Pensions Education, IVASS is directing its action along two paths: (i) the involvement of an increasingly wide audience of citizens in education programs; and (ii) the use of both traditional and innovative tools. To this end, the authority is conducting customers' insurance tests with the financial support of the Ministry of Economic Development.
	Supervisory trends on occupational pension funds 1. **Rationalization and transparency** COVIP is focused on the need to achieve more consistent size of pension funds and to adapt the current configuration of the pension system to the evolution of the assets corporate groups. In this respect, COVIP is focusing its attention on the provisions regulating the relationship between pension funds and their members, i.e. pre-contractual information and transparency during the participation relationship and during the payment of benefits. 2. **Real economy** COVIP encourages the development of those initiatives aimed at financing the growth of national companies and infrastructures by pension funds in their role as institutional investors.
Key Dentons Team members	Alessandro Engst, Partner Valerio Lemma, Counsel Lorenzo Toppini, Counsel Carlotta Riggi, Associate Federico Atorino, Associate

Luxembourg

Jurisdiction	Luxembourg
Who are the lead national regulators for financial services (*banking, securities, insurance, funds*) in your jurisdiction?	• The Luxembourg financial supervisory authority (*Commission de Surveillance du Secteur Financier* – **CSSF**) is responsible for banks, investment firms, investment funds, and capital markets • The Insurance Commission (*Commissariat aux Assurances* - **CAA**) is responsible for the insurance sector
Key Supervisory Priorities and Work Programmes	Both the CSSF and the CAA published their annual report for 2019 in September 2019, available here and here respectively. The reports provide an overview of the significant developments in the Luxembourg financial services sector and offer an insight into the regulatory approach and supervisory practices of both authorities. **CSSF** The CSSF has been pursuing the following priorities: i. consumer and investor protection, ii. financial innovation (**FinTech**) and digitalization, iii. fight against money laundering and terrorist financing (anti-money laundering – **AML**), iv. the review of business models, and v. sustainability risks. **Consumer and investor protection** The CSSF emphasized the importance of this topic as one of its core missions, which cuts across all activities under its supervision. The CSSF continues to scrutinize compliance with transparency/disclosure requirements towards consumers/investors, in particular regarding the ex-ante and ex-post disclosure of costs and charges under MiFID II[82], as well as regarding the KIID and UCITS prospectuses. Moreover, the CSSF actively promotes financial education, including via a dedicated website letzfin.lu, applications for personal finance, as well as through awareness-raising campaigns in schools. **FinTech and digitalization** The CSSF carries on adapting the supervisory framework to the developments brought about by FinTech and digitalization. On the other hand, it remains alert to risks associated therewith, in particular the increasing dependence on IT systems and cybercrime, including the emergence of fake websites. One of the projects announced is the consolidation of all regulatory rules in relation to outsourcing in a single circular, including a registry template for outsourcing arrangements, by the end of 2021.

82 Directive 2014/65/EU on markets in financial instruments.

AML

Due to Luxembourg's status as an international financial center with high inherent risks of money laundering and terrorist financing, the CSSF will maintain its efforts in this area.

A special point of attention, related to FinTech and digitalization, remains the implementation of new AML rules related to virtual asset service providers (VASPs).

Review of business models

Profitability risks is are one of the key concerns, in particular as regards banks and private portfolio managers. The CSSF assigns this to various factors, such as insufficient volume of activity, costs of compliance, continuing growth in salaries, as well as high investments in the modernization of IT systems and digitalization. The CSSF expects the consolidation of small entities.

Sustainability risks

The financial supervisor has reiterated its view that Luxembourg, with almost €5 trillion of assets under management, should play a key role in the transition to sustainable finance. Furthermore, the CSSF expressed its conviction that sustainability considerations should form an integral part of the corporate strategy and culture of the entities under its supervision, including the remuneration policy.

CAA

Solvency

Despite the good general health, the CAA expressed concerns regarding recently established insurance companies with significant international activities, which are facing an erosion in profitability. The CAA will thus keep a close eyes on the level of regulatory capital.

AML

Similarly to the CSSF, and taking into account Luxembourg's status as an international financial center, the CAA dedicates considerable resources towards ensuring AML compliance.

Recent supervisory trends and developments

CSSF

MiFID third-country firms (TCFs) regime / Brexit

In July 2020, the CSSF further operationalized the national TCF regime through circular 20/743, which updated circular 19/716. It delineated the territorial remit of the Luxembourg license requirements, by clarifying the circumstances in which a service is performed "in Luxembourg"

On top, the CSSF adopted an equivalence decision for Canada, Switzerland, the United States of America, Japan, Hong Kong and Singapore. In December 2020, equivalence was also granted for UK firms.

FinTech and Digitalization

The CSSF' innovation hub received a significant amount of queries regarding the conditions for providing services related to virtual assets, in particular regarding cryptocurrency exchanges and security tokens.

The CSSF explained that the main challenges related to such projects are the (i) determination on whether the product qualifies as a MiFID financial instrument and (ii) AML considerations. The CSSF also clarified that it favors a European, or even international, regulatory solution for virtual assets.

Moreover, the CSSF was presented with several projects in relation to payment services under PSD2, including innovative solutions for KYC checks.

Substance

As a result of mounting international pressure, the CSSF closely verifies if supervised entities are in effect properly managed and do not serve as shell companies. Examples are the observation letters sent to certain specialized professionals of the financial sector (**PFS**), criticizing insufficient presence and/or effective involvement of daily managers.

On the other hand, supervised entities are often chastized for not carrying out appropriate initial due diligence and ongoing monitoring of their delegates.

IFM's risk management procedures (**RMP**)

Following the entry into force of circular 18/698 on the authorization and organization of investment fund managers (**IFMs**), the CSSF noted its dissatisfaction with the RMP that are provided to it. Generally, the RMPs lack appropriate detail. The CSSF thus provided useful guidance on the content and presentation and appealed to the IFMs to review the quality of the RMPs to ensure compliance with regulatory requirements.

Market abuse

The CSSF is dedicating special attention to ensuring compliance with the obligations regarding the detection and notification of orders or transactions that may constitute market abuse, especially with respect to IFMs.

	Macro-prudential policy On a national level, the CSSF identified real estate and cyclical risks as key issues requiring a targeted macro prudential response. The residential real estate market has been subject to the CSSF's close attention for a considerable time. Household indebtedness has been building up considerably because of rising residential prices coupled with a decrease in lending standards. Following the recommendation of the ESRB (ESRB/2019/06), Luxembourg adopted a law on borrower-based measures in December 2019. 2020 saw the first use of this law, when the CSSF imposed an 80% loan-to-value limit. Related to the above, the CSSF also identified persisting cyclical risks as credit continued its rapid expansion despite lower short-term growth estimates. Thus, the CSSF increased the countercyclical capital buffer rate from 0.25% to 0.5% with effect from January 1, 2021. **Enforcement action** In 2018, the CSSF imposed fines of €2.2 million, which is relatively low (in 2019 the fines amounted to €5.5 million). **CAA** **Brexit** Brexit caused 12 UK non-life insurance companies to relocate the headquarters for their EU-focused activities to Luxembourg. This resulted in considerable transfers of portfolios. In turn, the features of the Luxembourg non-life insurance sector have changed significantly, with a pronounced cross-border orientation. **Regulation 20-01** The regulation modified regulation 19-01 on the distribution of insurance and reinsurance by modernizing the conduct of exams for insurance agents and insurance sub-brokers, but also by clarifying the practical rules on continuing education and the fit and proper test for intermediaries. **Enforcement action** The CAA relatively seldom uses sanctions to enforce the applicable rules. A small number of supervised entities were formally called to the CAA's premises to be heard on their alleged non-compliance with professional rules. In one instance, the CAA issued a fine for problems related to annual reporting and in one case, a disciplinary measure was imposed for not notifying a change in shareholding and non-compliance with a refusal decision from the CAA.
Key Dentons Team members	Bruno Hrovat, Counsel Stéphane Hadet, Partner Katarzyna Bozekowska-Zawisza, Counsel

The Netherlands

Jurisdiction	The Netherlands
Who are the lead national regulators for financial services (*banking, securities, insurance, funds*) in your jurisdiction?	In the Netherlands, the Authority for the Financial Markets (*Autoriteit Financiële Markten*, **AFM**) and The Dutch Central Bank (*De Nederlandsche Bank*, **DNB**) are the lead national regulators for financial services. The AFM supervises the conduct of business of financial institutions and the financial markets, while the DNB is responsible for prudential supervision. Conduct of business supervision covers orderly and transparent financial market processes, clear relationships between market parties and proper treatment of clients. Prudential supervision covers the solidity of financial enterprises and the stability of the financial system.
Key Supervisory Priorities and Work Programmes	**AFM Agenda 2021** On January 14, 2021, the AFM published its Agenda 2021. In this document, the AFM shares its Supervisory Priorities and key activities for 2021. A distinction is made between four areas of AFM supervision. Below we have set out some of the main activities for 2021. **Area 1: Supervision of financial services providers (such as offerors of consumer and mortgage credit)** • Investigate the policy and treatment of late payments (due in part to the coronavirus crisis) by providers of consumer credit and mortgages. • Investigate the design and operation of distribution channels and products. Special attention is paid to the customer experience in a digital environment. • Strengthening the AFM assessment process of policymakers. • Follow-up research into the organization of the compliance function. • Examination of the extent to which the internal audit function at banks and insurers contributes to AFM's supervisory objectives. **Area 2: Supervision of the capital markets** • Contributing to the MiFID II-review. • Detection and enforcement of market abuse on various trading platforms. • Issuers' compliance with the duty to publish inside information will receive greater attention in 2021. • The review process for new prospectuses and offering memoranda will be further automated. • The AFM is going to take stricter action against harmful advertising and violations of the bidding and prospectus rules. **Area 3: Asset management** • Providing structural insight into (the control of) outsourcing within the asset management chain. • Make an inventory of the extent to which asset management parties comply with the frameworks resulting from the sustainability transition. • Preparing market participants for new laws and regulations (e.g. cross-border distribution, Investment Firms Directive and –Pan-European Personal Pension Products). • Follow-up research on liquidity risks in asset management, paying particular attention to margin requirements on outstanding derivatives.

Area 4: Accountancy

- Continuation of the research started in the 2020 on realizing the improvement in quality of audit firms. The AFM is investigating the quality of statutory audits, quality safeguards and aspects of a quality-oriented culture.

Apart from these main priorities and activities related to the four supervision areas, the AFM Agenda 2021 also lists two more general supervisory topics which are at the top of the AFM's agenda for 2021: (i) **sustainability**, and (ii) **countering of money laundering and other financial-economic crimes.**

AFM Examination Agenda 2021-2022

Also on January 14, 2021, the AFM published – for the first time – its Examination Agenda 2021-2022. This document contains the most important AFM research topics for the next two years. The AFM has chosen to focus its research over the next two years on five themes:

- <u>Theme 1: The interaction between financial markets, regulation and the real economy</u>
  Research within this theme focuses on recent developments around mortgage lending and whether higher loan-to-income ratios (LTI ratios) at the start of a mortgage lead to greater financial vulnerability over the life of the mortgage.
- <u>Theme 2: The impact of market behavior on financial stability</u>
  Research within this theme deals, for example, with the liquidity effects of exchange traded funds, the margin pressure at Dutch asset managers during COVID-19 market shocks and on the effect of high frequency trading on the functioning of capital markets.
- <u>Theme 3: The impact of digitization on the financial sector</u>
  Research on determining how vulnerable consumers can be protected, for example, against unauthorized use of their data, and on the consequences of shared IT infrastructure, often managed by parties outside the financial sector.
- <u>Theme 4: The protection of consumers in vulnerable situations</u>
  With studies within this theme, the AFM wants to better understand where, when and why vulnerable situations arise. For example, when does taking out a loan lead to payment problems and when does taking out a loan actually prevent greater suffering? In its research the AFM pays attention to the financial resilience of specific groups of people. This also includes research on the choices made available by financial undertakings, the way in which those options are offered (online) and the information that is provided.
- <u>Theme 5: The effective influencing of the behavior of financial firms</u>
  A research direction within this theme focuses on the question of which forms of supervision contribute most to compliant behavior and to the motivation of firms to do the right thing. Other relevant research within this theme focuses on better understanding the causes of (non-)compliant behavior within firms. Field experiments can help with this.

DNB Supervisory Strategy 2021-2024

At the date of writing, DNB did not yet publish its supervisory agenda for 2021. However, DNB bases its supervisory agenda for 2021 inter alia on the supervisory strategy 2021-2024 (among other things). This gives some direction as to what themes we could expect in DNB's supervisory agenda for 2021. DNB sets out three focus areas for its supervision in 2021-2024:

i. Responding to technological innovation;

ii. Sustainability and looking forward;

iii. The fight against financial and economic crime.

- <u>Responding to technological innovation:</u> In the coming years, this focuses in particular on (a) the increasing use of data in the market which brings with it new opportunities and risks; (b) intensifying the use of data in supervision; and (c) digital communication with the sector.
- According to DNB, there are plenty of opportunities in <u>sustainability and looking forward</u>. It is important that: i) the control of sustainability risks are anchored in institutions; (ii) robust international regulation of sustainability is being developed; iii) it is also necessary that institutions are agile for changing market conditions in order to develop their earning model; and (iv) that they take into account their risk profile.
- <u>Combating financial and economic crime</u> is aimed at the elimination of unlawful use of the financial system by (i) strengthening the supervisory approach; (ii) use of smarter methods; and (iii) a more international approach to financial and economic crime. With the recent coming into force in the Netherlands of the registration requirement under AMLD 5 for crypto service providers, this branch may expect the DNB's specific attention.

January 1, 2021: New DNB supervisory methodology

From January 1, 2021, the DNB will supervise according to an updated supervisory methodology, referred to by DNB as the Actualization Supervision Methodology (**ATM**):

- The risk tolerance of supervision is important in the ATM. DNB states that the purpose of its supervision is to limit the risk and impact of a failing institution and not to prevent this at all times. This means that DNB wants to deploy its available capacity where the greatest prudential (and integrity risks) are identified.
- The intensity of supervision increases as the negative impact of the risks on confidence increases. With this risk-based approach DNB aims to use its capacity as effectively and efficiently as possible.
- In addition, DNB wants to work in a more data-driven way with the updated methodology. DNB will be working more and more on the digitization of supervisory processes in the coming year. This will mean that the number of meetings with DNB will decrease. This is because DNB will be doing less in regular supervision based on conversations and visits and more on what it gets from the data.
- All supervised financial institutions will be divided into impact classes. There are three classes in total, from small and less complex to large and complex. The larger and more complex, the more intensive the supervision.

Recent supervisory trends and developments	Both the DNB and the AFM focus on a more data-driven supervisory practice. Also, the effects of the COVID-19 pandemic and the ongoing low interest rate have supervisors' attention, as well as the digitization of the financial sector and the transition to a sustainable economy and society. For more details, see above.
Key Dentons Team members	Pien Kerckhaert, Partner Arno Voerman, Partner

Poland

Jurisdiction	
Who are the lead national regulators for financial services (*banking, securities, insurance, funds*) in your jurisdiction?	Financial Supervisory Authority – "Komisja Nadzoru Finansowego"(**KNF**)
Key Supervisory Priorities and Work Programmes	In general, the KNF does not publish its work plans apart from some specific (sectoral) ones, e.g. for the auditing sector or in extraordinary situations. The latter occurred in 2020 due to COVID-19 and through three special documents (stimulus packages) covering the banking, capital markets and insurance sectors, KNF revealed its attitude and the directions it would take in the pandemic months. Those three documents are available under the following links respectively: More information can be found here, here and here Moreover, KNF publishes regularly its Annual Report. The latest version is from 2019 and is available in Polish under the following link
Recent supervisory trends and developments	Recently KNF focused on its flexible approach towards supervised institutions during COVID-19. However, it has also taken several individual decisions in order to discipline the market, e.g. imposing various financial penalties. In general, KNF follows new EU legislation governing financial markets and takes part in the legislative process (KNF has no power to initiate such a process as it is the domain of the Ministry of Finance). But it could be noticed that there were several initiatives taken over by the KNF, e.g. imposing more personal credentials for members of executive boards of investment funds etc.
Key Dentons Team members	Jaroslaw Beldowski, Counsel

Romania

Jurisdiction	Romania
Who are the lead national regulators for financial services (*banking, securities, insurance, funds*) in your jurisdiction?	• National Bank of Romania (**NBR**) prudential supervision of credit institutions, non-banking financial institutions (**NBFI**), payment institutions and electronic money institutions. • Financial Supervisory Authority (**FSA**) – supervision of the non-banking financial market in Romania (the insurance-reinsurance market, the capital market and the private pensions market).
Key Supervisory Priorities and Work Programmes	**Overview of the sectors** According to the NBR Report for 2019[83], the prudential and financial indicators for the local banking sector remained at adequate levels, but a series of structural vulnerabilities persist. The provision coverage ratio for non-performing loans has increased and remains adequate, significantly superior to the EU average. The NBFI sector saw a 12 percent rise in the volume of corporate and household credit, the largest increases being recorded by foreign currency loans to non-financial corporations and leu-denominated loans to households. The insurance sector, the component holding the lowest share in the financial system (4 percent), posted a favourable evolution. Private pension funds (Pillars II and III) saw a significant increase in net assets in 2019 due to higher contributions amid the rise in contributors' income. The sector shows a notable degree of concentration, the three largest private pension funds making up around 71 percent of total net assets. Faced with significant challenges in the context of the COVID-19 global pandemic, the NBR has adopted a series of measures to reduce the negative impact on the Romanian financial system and on the real economy in order to ensure the continuity of financial intermediation. These measures concerned: • The application of macroprudential policy instruments (e.g. allowing credit institutions to temporarily use the previously established capital buffers in order to maintain their supportive role in the real economy, and not making them comply with the minimum liquidity ratio, for the purpose of using these reserves to contribute to the smooth functioning of the banking sector and to help banks ensure sufficient liquidity to firms and households); and • The European Central Bank (ECB) and the NBR setting up a €4.5 billion repo line arrangement to provide euro liquidity to the BNR to address possible euro liquidity needs in the presence of market dysfunctions due to the COVID-19 shock. At a national level, responses included: • The IMM INVEST government programme supports SMEs affected by the COVID-19 pandemic by enabling recourse to funds for continuing their activity under optimal conditions. They can access investment loans or working capital credit lines with up to 90 percent state guarantees, without exceeding the allocated guarantee ceiling of RON 15 billion. • Instituting a debt repayment moratorium and several other legislative initiatives proposing changes for broadening the scope of applicability of payment deferrals and of benefits granted to pandemic-affected borrowers.

83 The Annual Report for 2019 was examined and approved by the NBR Board on 22 June 2020 and was submitted to the Parliament of Romania. The statistical data used are those available at 19 June 2020 here.

Increasing the capitalization of the non-financial corporations sector

At end-2018, approximately 260,000 firms (38 percent of the total) reported a capitalization level below that required under the current legal framework, most of them (252,000 firms) having negative net assets (calculated as the difference between assets and liabilities). The Ministry of Public Finance prepared a draft ordinance on measures addressing undercapitalized companies, but the process was not finalized and appears to have been stopped. Other actions considered are the revision of the legal framework on the insolvency of legal entities and, similarly to other EU countries, the creation of "blacklists" comprising the persons responsible for the repeated mismanagement of a company.

Public debt held by the banking sector on the rise

According to the NBR Financial Stability Report (dated June 2020), with a 22.8 percent share in total assets (April 2020), the public debt held by the banking sector could pose significant challenges in the event of unfavourable developments in the sovereign rating. These challenges softened after the entry into force of GEO No. 70/2020, which sets out the tax deductibility of expenses associated with the transfer of government securities.

Going green

The NBR became a member of the Network of Central Banks and Supervisors for Greening the Financial System (NGFS). This was established by eight central banks and supervisors in December 2017 at the One Planet Summit in Paris to strengthen the global response required to meet the goals of the Paris agreement, and comprises 72 members and 13 observers as of September 18, 2020.

The NBR has taken a close interest in the analysis and research related to the impact of financial risks associated with climate change and is looking to identify, develop and utilize some of the specific climate risk analysis tools.

Recent supervisory trends and developments

Payment services and electronic money

While 2019 marked the adoption of new laws on payment services and the issuance of electronic money, the NBR issued further secondary legislation ensuring full implementation of the EBA Guidelines on the information to be provided for the authorization of payment institutions and e-money institutions and for the registration of account information service providers.

Anti-money laundering

The legislative framework was enhanced through:

- The adoption of Law No. 129/2019 on the prevention and control of money laundering and combating the financing of terrorism, as well as secondary legislation issued by the NBR; and
- The FSA Regulation no. 13/2019 on establishing of measures to prevent and fight against money laundering and terrorist financing through financial sectors supervised by the FSA.

Prudential assessment of acquisitions of qualifying holdings

The NBR has adopted Regulation no. 12/2020 regarding the authorization process of credit institutions implementing provisions of the joint Guidelines for the prudential assessment of acquisitions of qualifying holdings in the financial sector issued by the European Banking Authority, European Insurance and Occupational Pensions Authority and The European Securities and Markets Authority.

Elimination of the tax on bank assets

An important legal improvement that was made in 2020 was the elimination of the tax on bank assets, pursuant to GEO No. 1/2020[84].

Romanian capital market promoted to Secondary Emerging Market status

In September 2020, the British multi-asset index provider FTSE Russell promoted Romania to the status of Secondary Emerging market and included two Romanian shares in the FTSE Global All Cap Index dedicated to emerging markets. Romania, previously a Frontier market according to the same index, was screened for inclusion as part of the Emerging Europe review. The reclassification could have a big impact on investors, as it signals the potential of future growth for the Romanian capital market and the Bucharest Stock Exchange (BVB) and could attract new investments from specialized investment funds in emerging markets.

Country rating revised downward

During April 2020, the major rating agencies revised from stable to negative the outlook for Romania's long-term debt sovereign rating, which entails higher financing costs for both government and credit institutions. This is important for banks in terms of the lower market value of their government security holdings, due to the higher yield at maturity, but also in terms of increased exposures to the public sector.

84 The tax had been introduced by GEO No. 114/2018 (whose potential adverse effects on financial stability were significantly mitigated by the changes laid down in GEO No. 19/2019, which however also replaced the ROBOR rate in household loan agreements with a benchmark index).

	A new law on mutual insurance companies As shown in the FSA 2019 Annual Report[85], an important legislative project, to which the FSA considerably contributed with its technical opinions, is Law no. 71/2019 regarding mutual insurance companies, the purpose of this act being creating the necessary legal framework for establishing, organizing and regulating the specific aspects for the functioning of mutual insurance companies in Romania. *The occupational pension system introduced in Romania* Law no. 1/2020 regarding occupational pensions creates the premises for obtaining an occupational pension, additional and separate from the one provided by the public system, obtained after the participant qualifies for an occupational pension fund. The purpose for introducing the occupational funds refers to guaranteeing an additional safety level for future pensioners, by imposing some supervision, as well as efficient management rules for the occupational pension system. *Further regulation of alternative investment funds* The FSA has adopted Regulation no. 7/2020 that implements the 2019 law on alternative investment funds[86]. *Implementation of the Shareholder Rights Directive II* With the threat of an infringement on the horizon, the Romanian parliament passed a much awaited law which, among other things, implements in Romania, with no material golden plating, the EU Directive 2017/828 amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement (referred to as SRDI). The implementation takes the form of changes to Law 24/2017 on issuers and market operations and it entered into force on August 28, 2020. The main changes brought by the new framework cover the following: (i) issuers have the right to identify their shareholders; (ii) intermediaries must facilitate the transmission of information to issuers and the exercise of shareholder rights; (iii) there are new transparency requirements for institutional investors, asset managers and proxy advisors aiming at promoting the development of longer-term investment strategies and committing asset managers to act in the best medium- to long-term interest of the institutional investor and its final beneficiaries; (iv) shareholders have the right to vote on director remuneration policy and annual remuneration reports (to be made public) that provide information on directors' pay during the previous financial year; and (v) material transactions between a listed company and a related party are scrutinized and publicly reported on. *Other examples of the FSA regulating activity in 2019* • Regulation no. 1/2019 on the assessment and approval of the members of the management structure and of persons holding key functions within entities regulated by the FSA; • Regulation no. 9/2019 for the amendment and completion of the Regulation no. 2/2016 on the application of corporate governance principles by entities authorized, regulated and supervised by the FSA;
Key Dentons Team members	Loredana Chitu, Partner

85 See text here
86 Law no. 243/2019 entered into force on 24 January 2020.

Slovak Republic

Jurisdiction	Slovak Republic
Who are the lead national regulators for financial services (*banking, securities, insurance, funds*) in your jurisdiction?	The National Bank of Slovakia (the **NBS**) is the independent central bank of the Slovak Republic and the only national regulator authorized to supervise the provision of all currently regulated financial services in the financial markets of the Slovak Republic.
Key Supervisory Priorities and Work Programmes	**NBS's input on Recovery Plan for Europe** In the NBS's view, the highest priorities of the Slovak Republic are the following: • modern and inclusive education; • strengthening the innovation potential of Slovakia, especially in the progressive areas (artificial intelligence, robotization, electro-mobility, carbon-free economy); • reducing regional disparities and marginalized groups, in particular the Roma ethnic group; • improving institutions and enhancing the business environment and • long-term sustainable public finances. The NBS aims to support the Recovery Plan by: • financial education; • green strategy; • supporting FinTech; • encouraging immediate payments and central bank digital currency (CBDC); • creating an environment for financial institutions to allow them to create innovative products for companies, in particular to SMEs and startups and • enabling easier access to alternative sources of investment financing. **Regulatory Sandbox** In summer 2020, the NBS initiated a public consultation on a regulatory sandbox, which would provide FinTech start-ups or established companies that aim to launch innovative business models or services with an opportunity to repeatedly, and over several months, consult with the NBS´s experts on the implementation of innovative solutions in a way both compliant with applicable regulations and contributing to the progress of financial services. The launch of such a regulatory sandbox for the financial market is expected in the course of 2021. **Immediate payments** The NBS´s *National Plan for the Introduction of Immediate Payments in the Slovak Republic* sets February 1, 2022, as the deadline for the introduction of immediate payments in the Slovak Republic. Three providers of payment services (as a minimum requirement for the number of participants) have already confirmed to the NBS their aim to make immediate payments available to their clients and have acceded to the National Plan.

Recent supervisory trends and developments	**Strong Customer Authentication (SCA)** As of January 1, 2021, the NBS, like other national regulators in the EU, has gained a new competence arising under the PSD2 directive, i.e. the authority to supervise and demand the fulfilment of payment services providers' obligation to enable the SCA of a payment services user. In the case of breach of such an obligation, the NBS may impose a sanction of up to €300,000 (or €600,000 in the case of repeated or serious deficiencies). **Restriction on use of 1 and 2 cent coins** The NBS has proposed to amend the applicable legislation to eliminate the use of the two coins of the smallest denomination, by implementing the mandatory rounding of the end amount (in case of cash payments) to the nearest zero or 5 euro cents. An amendment to the relevant legislation is currently undergoing a legislative procedure in the Slovak parliament. However, one and two euro cent coins shall continue to be legal tender in the Slovak Republic.
Key Dentons Team members	Stanislava Valientová, Partner Patricia Gossányiová, Counsel

Spain

Jurisdiction	Spain
Who are the lead national regulators for financial services (*banking, securities, insurance, funds*) in your jurisdiction?	• Bank of Spain – Banco de España. • National Securities Market Commission – Comisión Nacional del Mercado de Valores ("**CNMV**", in its Spanish acronym). • General Insurance and Pension Funds Directorate – Dirección General de Seguros y Fondos de Pensiones ("**DGSFP**", in its Spanish acronym).
Key Supervisory Priorities and Work Programmes	**Bank of Spain** has published its Annual Report on Banking Supervision for 2019. In this report, there are set out the Supervisory Priorities of the Bank of Spain: • Continue to clean up balance sheets, to strengthen the capacity of future resistance and to continue the work on Brexit. • Assessment of the model of business and its sustainability over time, monitoring of loan reduction strategies, analysis of the conditions of concession of operations, valuation of risk control and management, and the monitoring of operational risk. • Regular or simplified monitoring depending on the risk profile, size, and volume of deposits captured in the retail market or the business model. • Supervision of other entities, compliance of the reserve of activity and monitoring of the provision of payment service. **CNMV** publishes its Activity Plan annually. Although the Activity Plan for 2021 has not been published yet, the Activity Plan for 2020 is available and has been recently reviewed due to the COVID-19 pandemic. The main objectives of the Activity Plan for 2020 are: • Prioritize the supervision activity related to markets and financial intermediaries; • Improve the functioning of CNMV and its digitalization; • Relationship with investors and other interested parties in relation with certain European regulations which are being reviewed, financial education, and sustainable finance. **DGSFP** has published its supervision priorities for 2020-2022: • Supervision of insurance entities with unfavorable ratios or adjusted coverage of its solvency position. • Supervision of entities that, due to their size, can have an impact in the sector or industry as a whole. • Monitoring of dividend distribution policies and variable remunerations. • Follow-up on the estimates of liquidity needs and their evolution. • Monitoring of cyber-risk protection policies against the special situation generated by COVID-19. • Monitoring of the business models and strategy of entities, especially in the fields of automobile insurance, healthcare, deaths and credit. • In the area of pension funds, monitoring and control of cases of non-compliance with investment limits, falls or significant variations in the profitability of the funds, in the net asset value or delays in the mobilization of consolidated rights. • Analysis of the impact on the portfolios and assets of pensions, insurance plans and mutual insurance companies for the year of the new liquidity assumption foreseen in the twentieth additional provision of Royal Decree Law 11/2020, of December 31, March.

Recent supervisory trends and developments	• **Public statement on certain bad practices in cross-border marketing of investment services by firms located in other EU countries.** CNMV plans to continue reinforcing its monitoring and supervision activities of the marketing of particularly complex products. The institution is specially focusing on marketing of investment services and client acquisition activities through non-authorized third parties, and promotion of CFD transactions via group entities located in third counties, which are not authorised to operate in the EU. • **CNMV Technical Guide on non-professional advisers of collective investment schemes.** The objective is to include in a Technical Guide the criteria that the CNMV considers should be applied to advisers who are unauthorized professionals. • **Bank of Spain Circular 4/2020, of 26 June, on advertising banking products and services.** This Circular establishes appropriate regulatory and supervisory measures to ensure that advertising of banking products and services is clear, sufficient, fair and not misleading. • **CNMV Circular 2/2020, of October 28, on advertising investment products and services.** This Circular establishes appropriate regulatory and supervisory measures to ensure that advertising is clear, sufficient, fair and not misleading and, to disseminate certain criteria that the CNMV has been lately applying in its supervisory activities regarding the content of advertising messages and other aspects. • **Law 7/2020, of November 13, on digital transformation of the financial system.** Creates a test environment or sandbox that aims to promote innovation in the financial sector.
Key Dentons Team members	Jesús Mardomingo, Partner Lola Noguera, Associate María José Escribano, Junior associate

United Kingdom

Jurisdiction	United Kingdom
Who are the lead national regulators for financial services (*banking, securities, insurance, funds*) in your jurisdiction?	The Financial Conduct Authority (**FCA**; and the Prudential Regulation Authority (**PRA**;). • **FCA**: the conduct regulator for nearly 60,000 financial services firms and financial markets in the UK and the prudential supervisor for over 49,000 firms, setting specific standards for 19,000 firms. • **PRA**: the prudential regulator of around 1,500 banks, building societies, credit unions, insurers and major investment firms. As a prudential regulator, it has a general objective to promote the safety and soundness of the firms it regulates.
Key Supervisory Priorities and Work Programmes	**FCA Business Plan 2020/21** **Areas of focus** The FCA had intended to focus resources on areas of greatest harm. This had to be "fundamentally reshaped" due to the impact of COVID-19. As a result, the Business Plan for 2020/21 is significantly shorter than in previous years and contains less detail. The FCA proposed to further its conduct agenda by seeking to ensure that: • **Payment services**: customers can rely on safe and accessible payments services. • **Investments**: customers can make effective investment decisions, and are not exposed to risky or poor value investment products. • **Debt**: customers don't get into unaffordable debt and are treated well if they do, so that credit markets work well for consumers. • **Digital products**: customers are offered fair value products, noting that use of consumer data through digital channels leads to the risk that they are not treated fairly on pricing and other terms. The FCA proposed to also focus on: • transforming the FCA's own operations for a digital age; • shaping the post-Brexit regulatory framework, including rebalancing away from rules and process towards principles and outcomes, empowering consumers to make good decisions, and on regulatory action to prevent harm. **COVID-19 response** In respect of its COVID-19 response, The FCA's priorities were to: • ensure orderly markets; • ensure that firms support customers and maintain access to essential banking services; • protect people from being scammed; • ensure that firms know what the regulator expects of them. **PRA Business Plan 2020/21** **Areas of focus** Similarly to the FCA, the PRA acknowledges it has had to reassess and reprioritize its plans due to the impact of COVID-19.

	The PRA proposed to further its safety, soundness and competition objectives as follows. • **Risk management**: paying particular attention to newer firms, in particular where business models have not yet matured, and to areas where risks may be crystallising. • **LIBOR**: the Bank of England ("BoE") and PRA to act unilaterally to remove barriers to transition, including considering further potential supervisory tools to encourage the reduction of legacy LIBOR contracts to an absolute minimum before the end of 2021. • **Regulatory returns**: consider introducing more formal s 166 reviews of key prudential information supplied by banks through their regulatory data returns. • **Regulatory data**: the BoE to continue reviewing how to reform regulatory data over the next decade, in order to decrease the burden on industry and increase the timeliness and effectiveness of data. • **ICAAP**: consult on enhancing the process of reviewing the internal capital adequacy assessment process for mid-sized UK banks from 2020. • **Competition**: conduct further analysis on barriers to growth for smaller firms, and consider options for harmonizing and rationalizing regulatory thresholds. **COVID-19 response** In respect of its COVID-19 response, The PRA's priorities were to: • support dual-regulated firms and the wider economy; • ensure the safety of firms' staff to be able to continue to deliver on core functions; • focus in particular on firms whose business models mean they are particularly exposed to the effect of the pandemic.

Recent supervisory trends and developments	Key supervisory trends in respect of both the FCA and the PRA are as follows. **COVID-19** Both regulators have focused heavily on COVID-19. More recently, the FCA has: • published draft guidance setting out its proposed approach to repossessions for both mortgage and consumer credit customers from January 31, 2021; • published guidance to firms setting out enhanced support that should be available to mortgage borrowers experiencing payment difficulties as a result of COVID-19; • updated guidance to firms setting out enhanced support that should be available to consumer credit customers experiencing payment difficulties as a result of COVID-19. As to the PRA, it has recently published: • an updated statement on COVID19 guidance to replace previous guidance for PRA-regulated firms ('Statement by the PRA on key financial workers who are critical to the COVID-19 response'), in light of updates from the UK government; • new proposals in a consultation paper (CP19/20; 'Resolution assessments: Amendments to reporting and disclosure dates') made in light of the PRA's decision to alleviate operational burdens on firms due to the impact of COVID-19, and to ensure firms' senior management are able to engage fully in the Resolvability Assessment Framework (RAF) report submission (reports) and disclosure (public disclosures) process. **Brexit** Both regulators have worked with the UK government, and with other European regulators, on the post-Brexit regulatory system, including on transitional measures such as the temporary permissions regime for EEA-based firms passporting into the UK. The FCA has: • made use of its temporary transitional power to ensure that firms and other regulated persons do not generally need to adjust to the changes to their UK regulatory obligations brought about by 'onshoring' (i.e. the amendment of EU legislation and regulatory requirements so that they work in a UK-only context, including directly applicable EU legislation); • updated its guidance on the temporary permissions regime enabling relevant EEA firms and funds that were passporting into the UK when the transition period ended to continue operating temporarily in the UK while they seek full authorization. The PRA has, jointly with the BoE, published a Policy Statement (PS30/20; 'UK withdrawal from the EU: Changes before the end of the transition period') containing the final PRA Rulebook EU Exit instrument, PRA transitional direction and related guidance documents.
Key Dentons Team members	Daren Allen, Partner Celyn Armstrong, Partner Jonathan Garforth, Partner Katharine Harle, Partner Greg McEneny, Partner Craig Neilson, Partner Michael Wainwright, Partner

Ukraine

Jurisdiction	Ukraine
Who are the lead national regulators for financial services (*banking, securities, insurance, funds*) in your jurisdiction?	The National Bank of Ukraine (the "**NBU**") is the central bank of Ukraine, being the main regulator of the banking system in Ukraine. The National Securities and Stock Market Commission (the "**NSSMC**") conducts state regulation of securities market in Ukraine and is the main regulator in this area. Starting from July 1, 2020, the National Commission carrying out the State Regulation of Financial Services Markets ceased to exist (the "Financial Services Commission"). Pursuant to the Law "On Introduction of Amendments into Certain Laws of Ukraine on Improvement of State Regulation of Financial Services Markets" (the "Split Law"), the functions of the Financial Services Commission have been re-allocated between the NBU and the NSSMC (the "Split"). Namely, starting from July 1, 2020, the NBU regulates and oversees activities of insurance companies, financial leasing and factoring companies, pawnshops, credit unions and credit bureaus. At the same time, the NSSMC regulates and oversees activities of private pension funds and construction financing funds. Currently, non-banking financial institutions are regulated by the previously adopted legislation, however, within the new competences under the Split Law, the NBU and the NSSMC have introduced a number of new regulations, including, among others: • Resolution of the NBU No. 106 dated July 28, 2020, "On approving of the Regulation on imposing by the NBU of enforcement measures on institutions for breach of the legislation with regard to financial monitoring"; • Resolution of the NBU No. 107 dated July 28, 2020, "On approving of the Regulation on conducting financial monitoring by the institutions"; • Resolution of the NBU No. 157 dated December 11, 2020, "On approving of the Regulation on establishing criteria, according to which the level of risk from the activity of the members of the market of non-banking financial services is evaluated, their social importance, on the basis of which the regularity of their routine inspections, and the procedure for their application are determined"; • Decision of the NSSMC No. 379 dated July 23, 2020 "On approving of the procedure of drafting and submission and disclosure of administrative data by the administrator of non-state pension funds, including reports on non-state pension funding"; • Decision of the NSSMC No. 393 dated July 23, 2020 "On approving of the Regulation on the procedure of issuance of certificates of real estate transaction funds and their circulation". At present time, the NBU is preparing several additional regulatory acts under the Split. The following drafts were published: • Resolution "On approving of the Regulation on determination of the terms of provision of financial services, rendering of which requires the respective license (licensing terms)"; • Resolution "On approving of the Regulation on the mandatory requirements and capital adequacy ratio and creditworthiness, liquidity, profitability, assets' quality and riskiness of operations of an insurer"; • Resolution "On approving of the Regulation on organization, provision and documenting of the results of the inspections of members of the market of non-banking financial services". **Both the NBU and the NSSMC are still developing new regulatory framework under the Split.**
Key Supervisory Priorities and Work Programmes	1. **The comprehensive program of Ukrainian financial sector development until 2025** (link) The Comprehensive Program of Ukrainian Financial Sector Development Until 2025 approved by the NBU, the NSSMC, the Ministry of Finance of Ukraine, the Deposit Guarantee Fund and the Financial Services Commission (ceased to exist) in 2020 remains relevant in 2021. According to the program, the progress should be made in the five following areas: 1. Ensuring financial sector stability 2. Macro-economic development 3. Financial inclusion 4. Financial markets development 5. Innovative development The program contains the status of implementation of actions under the program and a road map of further actions. 1. **Fintech development strategy of the nbu until 2025 (the "strategy")**(link) In July 2020 the NBU approved the mid-term strategy of development of FinTech sector in Ukraine until 2025. The strategy is mainly based on the Strategy of the Comprehensive Program of Ukrainian Financial Sector Development until 2025. In particular, this document structures and details the trends and directions of financial innovation development for the next five years. The key elements of the strategy will be: • Development and implementation of the concept of a full-fledged regulatory "sandbox" for rapid testing of innovative projects; • Raising the level of financial awareness and involvement (inclusion) of the population and business; • Launching an academic base with a focus on outdoor banking. The implementation of the Strategy will also largely depend on the implementation of related digital projects, which the NBU is elaborating. In particular, it is a matter of introduction of remote identification and verification, implementation of the European directive PSD2, granting of an opportunity of realization of instant payments from the account to the account in System of Electronic Payments in the 24/7 format; strengthening the regulatory perimeter in the field of cybersecurity and other innovative projects.

Recent supervisory trends and developments	

Recent supervisory trends and developments

The Ukrainian parliament passed the Law "On Introduction of Amendments into Certain Laws of Ukraine regarding the Attraction of Investments and Introducing New Financial Instruments" (the "Capital Markets Law") **(**link**)**

Most of the provisions of the Capital Markets Law are to enter into full force and effect on July 1, 2021; however, certain provisions (for example, such as governing close-out netting, settlement finality under derivatives and securities transactions, etc.) became effective on August 16, 2020.

The Capital Markets Law aims to address the key fundamental provisions of the EU legal framework (MiFID II, MiFIR, EMIR, FCAD, SFD and MAR).

Among the key novelties of the Capital Markets Law are the following:

Updated capital market infrastructure model

Under the Capital Markets Law, trading activities, instead of current stock exchanges, will be carried out in the organized capital markets, including:

1. Regulated markets. In a regulated market (analogue of the existing stock exchanges) will be traded securities, derivatives and foreign exchange assets pursuant to its non-discretionary rules. Given its nature, a regulated market should serve as a trading platform for major business.
2. Multilateral trading facilities (the **"MTF"**). Pursuant to a MTF's non-discretionary rules, securities and derivatives will be traded at a MTF. MTF should serve as a trading platform for medium-sized and small businesses.
3. Organized trading facilities (the **"OTF"**). Pursuant to an OTF's discretionary rules, non-equity securities, specifically bonds and derivative contracts, will be traded at the OTF.

The Capital Markets Law also restates the Law of Ukraine "On commodity exchange". According to this law, commodity exchanges would operate based on the respective license (the licensing requirements are expected to be adopted by the NSSMC).

The Capital Markets Law introduces the institute of a trade repository. A trade repository would consolidate information on derivative transactions and keep records as to the concluded derivative contracts.

Among the novelties introduced by the Capital Markets Law is an updated model of the clearing system of the capital markets, whereby the clearing activities are divided into:

- Clearing activities related to determining liabilities; and
- Clearing activities of the central counterparty.

Settlements under agreements concluded at the regulated market and MTF (if such an obligation is provided by the MTF rules) are made exclusively through the central counterparty.

Introduction of new instruments on capital markets

The Capital Markets Law introduces a wide range of financial instruments, which now include options, futures, swaps, forwards and other *derivative contracts*, the underlying assets of which are products, securities, currencies, rates, yields, exchange rates, etc. The Capital Markets Law also introduces the definition of money market instruments.

Moreover, the list of securities is expanding; in particular, option certificates, stock warrants, credit notes, and depository receipts have been added to the list of securities. The Capital Markets Law also presents such new types of securities as green bonds and infrastructure bonds.

Introduction of the regulatory field for operation of derivative contracts

The derivative contracts are divided into:

- Delivery contracts (which provide for delivery of the underlying asset);
- Settlement contracts (which provide for settlements between the parties depending on a value of the benchmark); and
- Mixed contracts (which provide for the possibility of settlements both via delivery of the underlying asset and settlements).

By type of the underlying asset, the following derivative contracts are envisaged:

- Money market derivative contracts;
- Commodity derivative contracts;
- Stock derivative contracts; and
- Other derivative contracts.

The Capital Markets Law defines that the list of derivative contracts presented therein is not exhaustive and provides for the possibility of the NSSMC to establish other types of derivative contracts.

It is expected that the Capital Markets Law will provide a possibility to use standardized ISDA documentation as well as other standardized documentation, in particular, GMRA and GMSLA, when concluding derivative contracts, in particular with non-residents of Ukraine.

Introduction of the concept of close-out netting;

The Capital Markets Law introduces the concept of close-out netting into the Ukrainian legal framework. Relevant amendments were also introduced into the Bankruptcy Code of Ukraine.

Starting from August 16, 2020, the close-out netting mechanism is provided for securities derivatives and starting from July 1, 2021, the close-out netting will become effective for a wide range of derivative contracts, as it is stipulated by the Capital Markets Law.

Introduction of the institute of investment firms

The Capital Markets Law introduces the concept of investment firms. On the basis of the relevant license, the investment firms may carry out professional activities related to trading in financial instruments, the list of which has been expanded and includes:

1. Sub-brokerage activities;
2. Brokerage activities;
3. Dealer activity;
4. Financial instruments portfolio management activities;
5. Investment consulting;
6. Underwriting and/or placement with issuance of guarantees; and
7. Placements without issuance of guarantees.

Each type of trading with financial instruments is carried out on the basis of the respective license issued by the NSSMC.

Scoring of investors, in particular, the concept of qualified and institutional investors was introduced

The Capital Markets Law establishes a separate category of investors in the capital markets qualified investors. The qualified investors may independently assess risks and enter into transactions with financial instruments.

The list of qualified investors includes:

- International financial organizations;
- Foreign countries and their central banks;
- The State of Ukraine represented by the Ministry of Finance of Ukraine and the National Bank of Ukraine;
- Professional participants in capital markets and organized commodity markets, banks and insurance companies; and
- Foreign financial institutions, legal entities that meet the special criteria set by the NSSMC.

The Capital Markets Law also establishes the concept of institutional investors – entities/persons that carry out transactions with financial assets in the interests of third parties. The list of institutional investors includes:

- Mutual investment institutions;
- Investment funds;
- Mutual funds of investment companies;
- Private pension funds;
- Banking management funds;
- Insurance companies; and
- Other financial institutions.

Improvement of the requirements for combating abuses in the capital markets, prevention of market manipulation and misuse of insider information.

In particular, the key novelties include:

- Regulating the definition of insider information and establishing a list of actions that the persons who possess such information are prohibited to take;
- Enabling capital market participants to provide market sounding; and
- Expanding the list of actions qualifying as manipulation in the capital markets.

The implementation of the regulation in line with the Capital Markets Law is in the pipeline for the NSSMC.

Draft Law "On Payment Services" (link)

On November 12, 2020, the Ukrainian parliament registered the draft Law "On Payment Services" (the "**Draft Law on Payment Services**"), which will regulate payment services, e-money transactions and the payment infrastructure in Ukraine. In particular, the Draft Law on Payment Services implements provisions that are designed to unify the legislation of Ukraine with the Second Payment Directive (PSD2) and the Electronic Money Directive (EMD).

The Draft Law on Payment Services is waiting for its adoption by the parliament.

Under the Draft Law on Payment Services the following changes are introduced, among others:

- The Draft Law on Payment Services distinguishes seven financial payment services. Financial services may be provided by duly licensed institutions registered with the register of payment infrastructure that is maintained by the NBU;
- It introduces two new types of non-financial payment services: (i) initiation of payment operations and (ii) provision of consolidated information on the accounts;
- No license will be required for rendering non-financial payment services and the registration with the State Registry of Financial Institutions will be sufficient;
- Certain financial institutions would be automatically authorized to provide payment, on the basis of the basic license for provision of financial services (depending on the type of services, on a temporary or permanent basis);
- Non-banking institutions would be entitled to provide certain payment services that currently can be provided only by banks (e.g. issuance of payment cards and e-money, opening of current bank accounts). Also, certain payment services may be rendered by so-called providers of "limited payment services", e.g., telecom and internet providers, etc;
- The requirement of membership in a payment system as a prerequisite for rendering payment services will be lifted and such a participation will be voluntary;
- The Draft Law on Payment Services implements the concept of open banking, which previously did not exist on the Ukrainian market. The concept provides that Ukrainian banks and other providers of payment services shall grant access to their data to new market participants (so-called account information service providers and payment initiation service providers) authorized by the NBU. Open banking requires enhanced approaches to data security standards, which are also covered by the draft law.

It is expected that the new payment system infrastructure based on international standards (ISO 20022) will bring the Ukrainian payment market to a new level of development, encourage competition among market participants and, thus, ensure provision of customized client-oriented services.

Draft Law "On Financial Services" (link)

In view of the NBU receiving supervisory powers over non-banking financial institutions, and considering the high market demand for the replacement of the outdated regulation on financial services, the new Draft Law "On Financial Services and Rendering Financial Services" (the "**Draft Law on Financial Services"**) was designed. Currently it is under review by the relevant committee of the Parliament of Ukraine.

Besides setting a general legal framework for the industry, the Draft Law on Financial Services also provides a framework related to the activity of FinTech firms.

In particular, the Draft Law on Financial Services distinguishes between financial services and subsidiary services such as agent services and ancillary services (i.e. consulting, information services, identification and verification of customers, collection and analysis of documents, data processing, etc.). Such service providers may be subject to registration pursuant to the NBU regulations.

In addition, the Draft Law on Financial Services allows the NBU or NSSMC (as applicable) to apply a simplified authorization procedure for legal entities which intend to provide financial and subsidiary services by using innovative technologies and instruments, without the need to obtain a license (for a term up to two years) and establishes a specific procedure for their business activity.

Among other things, the Draft Law on Financial Services defines both "outsourcing" and "outstaffing". It indicates that a financial company can outsource certain types of its activity, processes and functions. In order to outsource certain services a financial service provider will need to inform the regulator about its intention to outsource certain processes and/or functions and enter into an outsourcing agreement in compliance with the requirements of the regulator. The detailed requirements and procedures for outsourcing/outstaffing are yet to be developed. It is expected that the changes will provide regulatory certainty, give another push for collaboration between banks and FinTech firms, and generally support the development of FinTech in the Ukrainian financial market.

Draft Law "On Virtual Assets" (link**)**

On September 16, 2020, the draft Law "On Virtual Assets" (the "**Draft Law on Virtual Assets**") was registered in the Parliament of Ukraine. The Draft Law on Virtual Assets has been adopted in the first reading by the parliament and now is waiting for the second reading.

The Draft Law on Virtual Assets aimed to establish legal certainty to the status of virtual assets in Ukraine.

The Draft Law on Virtual Assets defines a virtual asset as a separate category of intangible benefits.

The Draft Law on Virtual Assets envisages the following types of intermediary services:

- virtual assets exchange;
- virtual assets transfer;
- custody and administration of virtual assets and virtual asset keys; and
- financial services related to public offer and/or sale of the financial virtual assets.

Under the Draft Law on Virtual Assets, intermediary services providers in order to provide the aforementioned intermediary services have to be registered with the Ministry of Digital Transformation of Ukraine.

The intermediary services providers are subject to compliance with the AML legislation.

The Law of Ukraine "On Amendments to Certain Legislative Acts Aimed at Ensuring Additional Social and Economic Guarantees Connected to the Spread of Coronavirus Disease (COVID-19)" (the "COVID Law")

The COVID Law introduced several anti-crisis measures to mitigate the negative impact of COVID-19 pandemic during the period of implementation of the anti-COVID-19 measures in Ukraine, which include, among others:

- A prohibition on raising interest rates under loan agreements;
- The possibility to conduct distanced shareholders meeting for securities market participants;

On April 16, 2020, the NSSMC pursuant to the COVID Law adopted the "Temporary Regulation on Convening and Remote Holding of General Shareholders Meetings and General Meeting of Participants of Corporate Investment Funds". The regulation stipulates the procedure by which joint-stock companies and corporate investment funds could be convoked and hold remote general meetings during the COVID-19 quarantine.

For more information in English, please click here.

For full text of the COVID Law in Ukrainian, please click here.

Corporate Governance Code (the "Code") approved by the NSSMC (link)

The Code, which was approved on March 12, 2020, by the NSSMC generally applies to joint-stock companies with shares admitted to trading on stock exchanges in Ukraine, and aims at building an effective management system of companies.

The Code is not of a mandatory, but of a recommended nature an instrument of "soft law".

	Regulatory changes introduced by the NBU Promotion of BankID in Ukraine (link) On March 17, 2020, the NBU adopted Resolution No.32 "On Approval of Regulation on the BankID System of the NBU" (the "**BankID Resolution**") in order to further develop a remote identification system. The BankID Resolution replaced the former Resolution No.378 approved back in 2016 and introduced a number of changes. By way of background, the main purpose of creating BankID in Ukraine is to provide reliable and convenient user identification for the provision of administrative, banking and other services via the Internet on special portals. The system provides for online requests from service portals to the banking system of a particular bank and performs data transfer in an encrypted form. All requests go exclusively through the central node BankID of the NBU. In order to benefit from the BankID identification system, a customer should be a client of a bank connected to the BankID system and the service provider should be connected to the same BankID system. The NBU created a special authority controlled by the NBU – the Council – which will be responsible for general management and coordination of the BankID System, developing target regulations and monitoring their implementation. In order to promote development of BankID, the BankID Resolution allows Ukrainian banks that participate in the NBU's BankID verification system to receive fees from the commercial services providers for running authentication of their clients (as the banks will be performing identification of their clients). The NBU allowed non-resident banks to purchase and sell foreign currency by using Ukrainian Hryvnia (link) Starting on February 8, 2020, the NBU enabled foreign banks to carry out hryvnia settlements for FX deals with other foreign banks under agreements concluded outside of Ukraine using their correspondent accounts in Ukrainian banks. Additionally, foreign banks have been allowed to enter into agreements with Ukrainian banks to buy and sell foreign currency for hryvnias. The NBU relieve FX requirements for FX forward transactions (link) Starting from January 17, 2021, the NBU eases FX requirements for FX forward transactions for clients (both international and local) of Ukrainian banks. Now, local and foreign clients of Ukrainian banks can enter into forward contracts with Ukrainian banks to sell foreign currency and purchase UAH.
Key Dentons Team members	Natalia Selyakova, Partner, Head of Banking & Finance - Ukraine Nadiya Shylienkova, Counsel Artur Savin, Associate

Your key contacts: Eurozone Hub and EU Financial Regulatory group

Dentons' dedicated and integrated Eurozone Hub and the Eurozone Group are composed of lawyers from across the Eurozone and other continental EU member states. The Eurozone Hub and the wider Eurozone Group supports business units, internal counsel, regulatory, governance and compliance teams with smarter, more efficient solutions to navigate challenges and seize opportunities in the evolving EU-27 and Eurozone-19 regulatory, supervisory and monetary policy landscape.

Please do get in contact with our Eurozone Hub, any Eurozone Group member or any of the wider network with any queries you may have including via eurozone-hub@dentons.com

Our Eurozone Hub

Dr. Holger Schelling
Partner, Frankfurt
D +49 69 45 00 12 345
holger.schelling@dentons.com

Dr. Holger Schelling is a partner in Dentons' Frankfurt office and a member of the Banking & Finance practice. He advises banks, investment firms, fintechs and other financial institutions on financial regulation, including banking regulation, securities regulation and payment services regulation. He has successfully advised domestic and international clients on the implementation of regulatory changes, such as MiFID II, BMR and the reform of EURIBOR and LIBOR, PSD2 and EMIR. A further focus of his practice is on legal and commercial aspects of sustainable finance.

Dr. Arne Klüwer
Head of Banking & Finance Germany
Head of Structured Finance Europe
Partner, Frankfurt
D +49 69 4500 12 360
arne.klüwer@dentons.com

Arne provides legal advice on a broad range of transactions from the structuring and implementation of a variety of structured finance transactions.

Robert Michels
Office Managing Partner Frankfurt
Co-Head European and Global Capital Markets Group
Partner, Frankfurt
D +49 69 45 00 12 250
robert.michels@dentons.com

Robert specialises in capital markets, banking and securities law. He advises national and international clients in connection with listings/IPOs/SPOs on European and US Stock Exchanges as well as with corporate bonds.

Dr. Kai Goretzky
Partner, Frankfurt
Insurance
D +49 69 45 00 12 460
kai.goretzky@dentons.com

Dr. Kai Goretzky is a partner in Dentons' Frankfurt office and part of the insurance team. He has focused on insurance contract law, intermediary law and supervisory law, as well as the specific compliance issues of the insurance industry. He advises international clients on entering the German insurance market as well as small and medium-sized insurers under Solvency II. Another focus of his practice is the digitization of the insurance industry. In addition, he advises banks and funds on specific insurance topics and has experience in insurance-related M&A transactions.

Dr. Markus Schrader
Counsel, Frankfurt
Banking & Finance
D +49 69 45 00 12 362
markus.schrader@dentons.com

Dr. Markus Schrader, LL.M. (Virginia) is a counsel in our Frankfurt office. Markus advises banks and other financial institutions including FinTech companies, as well as unregulated entities on all aspects of financial regulatory law. He focuses on German and European banking and securities regulation, as well as compliance and bank governance topics. Furthermore, Markus has broad experience in structuring derivative and securitization transactions, as well as advising on national and cross-border M&A transactions in the finance sector.

Table of Abbreviations

AIFMD	EU's Alternative Investment Fund Managers Directive
AIFMD/R	EU's AIFMD and supporting Commission Delegated Regulation
Brexit	Withdrawal of the UK from the EU
BMR	EU's Benchmark Regulation
BUSI	Banking Union Supervised Institution
CCPs	Central clearing counterparties
CJEU or ECJ	Court of Justice of the European Union
CRD IV	EU's fourth Capital Requirements Directive
CRR	EU's Capital Requirements Regulation
CMU	Capital Markets Union
CSDR	EU's Central Securities Depositories Regulation
DGS	Deposit Guarantee Scheme
DGSD 3	EU's third Deposit Guarantee Scheme Directive
EBA	European Banking Authority
EC	European Commission
ECB	European Central Bank
ECB-SSM	ECB in its role as the head of the Single Supervisory Mechanism – as 'Pillar I' of the Eurozone's Banking Union
EDIS	Proposed European Deposit Insurance Scheme, which would operate as a common Deposit Guarantee Scheme – as potential 'Pillar III' of the Eurozone's Banking Union
EEA	European Economic Area
EIOPA	European Insurance and Occupational Pensions Authority
ELTIF Regulation	EU's European Long Term Investment Fund Regulation
EMIR	EU's European Market Infrastructure Regulation
ESAs	European Supervisory Authorities (EBA + ESMA + EIOPA) often acting as well as through its coordinating Joint Committee
ESFS	European System of Financial Supervision (ESAs + ESRB + NCAs – and, to a lesser degree, in Banking Union – SSM as well as SRM)
ESMA	European Securities and Markets Authority
ESRB	European Systemic Risk Board
EU	European Union
EU-27	EU excluding the United Kingdom
EUSEF Regulation	EU's European Social Entrepreneurship Fund Regulation
EUVECA Regulation	European Venture Capital Fund Regulation
FSB	Financial Stability Board
IFRS	International Financial Reporting Standards
ITS	Implementing Technical Standards
LSIs	BUSIs that are categorized as Less Significant Institutions and thus subject to direct NCA and indirect ECB supervision
MAR	EU's Market Abuse Regulation
MiFID II	EU's Markets in Financial Instruments Directive II
MiFIR	EU's Markets in Financial Instruments Regulation
MMF Regulation	EU's Money Markets Fund Regulation
NCAs	National Competent Authorities of EU Member States which may include NRAs or NSAs
NRAs	National Resolution Authorities
NSAs	National Supervisory Authorities
RTS	Regulatory Technical Standards
SCIs	BUSIs that are categorized as Significant Credit Institutions and thus subject to direct ECB and indirect NCA supervision
SMEs	Small and medium-sized enterprises
SRB	Banking Union's Single Resolution Board at the head of the SRM – as 'Pillar II' of the Eurozone's Banking Union
SRF	SRB administered Single Resolution Fund
SRM	Banking Union's Single Resolution Mechanism – as 'Pillar II' of the Eurozone's Banking Union
SSM	Banking Union's Single Supervisory Mechanism – as 'Pillar I' of the Eurozone's Banking Union
TRV	ESMA's Trends, Risks and Vulnerabilities in EU Securities Markets Report
UCITS	Undertakings for Collective Investment in Transferable Securities

Publications from the Eurozone Hub during 2020 and 1st Quarter 2021

- **"More bite for BaFin 2.0?"**, April 16, 2021
- **"The taming of the crypto Wild West: a look at the UK's alternative plans to MiCA"**, March 31, 2021
- **"The UK's overseas framework: HM Treasury's call for evidence"**, March 25, 2021
- **"New rules for registration of non-resident companies as CIT-payers in Ukraine"**, March 25, 2021
- **"The Spanish reform of the Securities Market Law will allow CNMV to monitor cryptocurrency advertising"**, March 19, 2021
- **"ECB issues opinion on Markets in Crypto Assets Regulation (MiCA) and European Parliament Rapporteur tables own changes"**, March 16, 2021
- **"FinTech Ins & Outs: an X-ray of your envisaged investments and partnerships"**, March 8, 2021
- **"Changing times: Brexit's impact on the EU's financial services market"**, March 3, 2021
- **"Ukraine introduces new law to attract significant foreign investment"**, March 2, 2021
- **"ESMA publishes supervisory warning following very high volatility in trading of certain stocks spurred by social media action"**, February 18, 2021
- **"Meet the ECCC – the EU's new cybersecurity competence center"**, February 18, 2021
- **"ESMA launches two common supervisory actions (CSA), first on UCITS fees and costs and secondly on MiFID II product governance"**, February 16, 2021
- **"European Supervisory Authorities publish joint letter on the EU's proposed regulation for a digital operational resilience act (DORA)"**, February 12, 2021
- **"Brexit and the future of cross-border (re-) insurance and pensions business from the UK and Gibraltar in Germany – BaFin issues new Post-Brexit Access Ruling"**, January 29, 2021
- **"ESMA publishes final cloud outsourcing guidelines what do firms need to do to prepare?", January 25, 2021**
- **"ESMA's reminder on reverse solicitation principles and its supervisory expectations"**, January 19, 2021
- **"Switzerland's new regulatory landscape"**, January 11, 2021
- **"Italian measures for UK banking, financial intermediaries and electronic money institutions after Brexit"**, January 5, 2021
- **"The Equivalence Decisions Framework of the EU and UK – Brexit and beyond"**, December 28, 2020
- **"Post-Brexit EU-UK Trade and Cooperation Agreement – Key considerations for financial services"**, December 21, 2020
- **"Digital Nomads – Challenges and opportunities, navigating the EU regulatory considerations for financial services firms"**, December 23, 2020
- **"EU Crowdfunding Regulation and Directive - Preparing for November 2021 and 2022"**, December 22, 2020
- **"EU supervisory authorities warn on status for certain securitizations post-Brexit transition period"**, December 9, 2020
- **"European Commission offers further details on DORA and the wider efforts of global policymakers"**, December 3, 2020
- **"CNMV releases a public statement on certain malpractices in connection with cross-border commercialization of investment services by entities based in other EU member states"**, November 27, 2020
- **"The CNMV increases surveillance over advertising of investment products and services"**, November 27, 2020
- **"Spain extends measures to promote solvency and liquidity for companies affected by COVID-19"**, November 24, 2020
- **"Overview of legal and regulatory aspects of negative interest rates in the Eurozone"**, November 19, 2020
- **"Germany implements the 6th Anti-Money Laundering"**, November 18, 2020
- **"Meet MiCA – The EU pushes forward its proposal for its Markets in Crypto-Assets Regulation plus a pilot regime for DLT infrastructure"**, November 13, 2020
- **"Blockchain has been transformative and MiCA marks the "Big Bang" in regulation in the EU"**, November 13, 2020
- **"The EBA's loan origination guidelines – taking a closer look at the road to June 2021 and beyond"**, November 13, 2020
- **"German financial services supervisor amends supervisory requirements for IT in financial institutions"**, November 12, 2020
- **"DORA's debut - the EU's Digital Operational Resilience Act"**, November 12, 2020
- **«BaFin's consultation on ORA – A Solvency 2 déjà-vu?", October 12, 2020**
- **"ESMA issues final report on MAR"**, October 08, 2020
- **"ECB-SSM publishes changes to delegated decision-making of supervisory powers"**, September 29, 2020
- **"European Court of Justice annuls three 2017ex antecontribution decisions by the SRB"**, September 29, 2020
- **"The PEPP – the last mile towards a European finish line for product development?"**, September 28, 2020
- **"Drastic changes to AIFMD and UCITS Directive?"**, September 18, 2020
- **"What's next for the EU's Capital Markets Union project? Charting the path beyond 2020"**, August 13, 2020
- **"EBA and ESMA publish consultations on new revised guidelines on internal governance as well as on suitability and appropriateness for management and key function holders"**, August 7, 2020
- **"Germany's priorities for the 2020 presidency of the Council of the EU"**, August 5, 2020
- **"Consultation on new Banking Union supervisory guidelines on the approach to consolidation in the European banking sector"**, August 4, 2020
- **"ECB-SSM announces July 2020 changes to its internal organization and supervisory tone"**, July 31, 2020
- **"What could happen when bonds go bad? The ESRB publishes its July 2020 assessment on Fallen Angels Risk"**, July 31, 2020
- **"The new ECSP-Proposal reaches the home straight on harmonized crowdfunding rules"**, July 30, 2020
- **"ESG in structured finance transactions (United Kingdom)"**, July 28, 2020
- **"Inducements, costs and charges: utopia or realism?"**, July 28, 2020
- **"Implementation in Romania of the Shareholder Rights Directive II"**, July 27, 2020
- **"Bulgaria and Croatia join the EU's ERM II and establish close-cooperation with the Banking Union"**, July 27, 2020
- **"New judgments show tightening control over ECB's supervisory role"**, July 24, 2020
- **"Coming full circle: The German Constitutional Court dismisses complaints on ECB's Corporate Sector Purchase Program"**, July 22, 2020
- **"EBA publishes IFR/IFD Roadmap to 2021 implementation"**, July 14, 2020
- **"Resolving Karlsruhe – What's happened since?"**, July 6, 2020
- **"Views of the Dutch AFM on sustainability"**, July 3, 2020

- **"Payments Blog: PSD2 Update 5 - Licensing requirements for API Hubs? - The Netherlands"**, June 18, 2020
- **"Payments Blog: PSD2 Update 4 - Licensing requirement for contracted interfaces? - The Netherlands"**, June 11, 2020
- **"ESMA publishes final 2020 Guidelines on the MiFID II compliance function"**, June 10, 2020
- **"The draft bill for the German Risk Reduction Act - Essential innovations for the implementation of CRD V and BRRD II in Germany"**, June 8, 2020
- **"Payments Blog: PSD2 Update 3 - Scope of the account information service - The Netherlands"**, June 3, 2020
- **"Returning staff to skyscrapers - Key issues for financial services firms in post COVID-19 office planning – a focus on Germany"**, June 2, 2020
- **"To bond or not to bond? Competing visions on common financing to combat COVID-19 – what now?",** May 27, 2020
- **"Payments Blog: PSD2 Update 2 - The Dutch PISPS and AISPS - The Netherlands"**, May 26, 2020
- **"Dutch Financial Market Authority recommendations for the review of MiFID II"**, May 26, 2020
- **"Innovations in asset management under a regulatory perspective"**, May 20, 2020
- **"Payments Blog: PSD2 Update 1 - Introduction to PSD2 - The Netherlands"**, May 14, 2020
- **"German Federal Constitutional Court issues ultra vires verdict on ECB's bond-buying program on grounds of ultra vires"**, May 12, 2020
- **"Re-assessing the Three Lines of Defense (3LoD) model during a time of continued crisis and remote working"**, May 6, 2020
- **"Legislative wishes Dutch regulators 2020"**, May 5, 2020
- **"An overview of the EU's "Spring 2020" fiscal support and regulatory relief measures (EU)**", April 30, 2020
- **"Looking beyond the lockdown and towards a new normal – The EU announces its Roadmap on Reopening (EU)"**, April 30, 2020
- **"DeFiing Gravity – Decentralized finance on the rise"**, April 29, 2020
- **"Preparing for IFR and IFD - What next on the road to June 2021"**, April 29, 2020
- **"The trouble with trading venue shutdowns"**, April 20, 2020
- **"ESMA guidelines on performance fees in UCITS funds and selected alternative investment funds (AIF)"**, April 7, 2020
- **"Current measures of the German federal government to combat the economic effects of the COVID-19 pandemic"**, April 3, 2020
- **"COVID-19: ESMA and UKNF postpone deadline for publication of reports on the quality of execution required under RTS 27 and 28 of MiFID II (Poland)"**, April 2, 2020
- **"Brexit talks and transition – what next for EU-27 financial services?", April 1, 2020**
- **"Financial Institutions: key considerations for prolonged COVID-19 pandemic preparedness"**, March 31, 2020
- **"EU agrees to start accession talks with Albania and North Macedonia"**, March 31, 2020
- **"ESMA: COVID-19 and postponement of the securities financing transactions (SFT) reporting obligations"**, March 30, 2020
- **"Sovereign bond backed securities or Corona bonds - can you spot the differences?",** March 27, 2020
- **„Aktuelle Maßnahmen des Bundes zur Bekämpfung der wirtschaftlichen Auswirkungen der COVID-19-Pandemie (Current Federal Measures to combat the economic impact ot the COVID-19 pandemic)",** March 27, 2020
- **"EBA acknowledges Commission's decision on equivalence for South Korea – strengthening ties"**, March 24, 2020
- **"Coronavirus and initial next steps for insurers operating in the EU-27"**, March 23, 2020
- **"Emergency management and communications with Italian supervisory authorities (Italy)"**, March 16, 2020, 2020
- **"COVIP - Guidelines on the adoption of measures for the containment and management of the epidemiological emergency due to COVID-19 (Italy)"**, March 16, 2020, 2020
- **"Potential impact on derivatives repo and stock lending of the measures adopted due to COVID 19 (Italy)"**, March 12, 2020, 2020
- **"Potential impact on derivatives, repo and stock lending of the measures adopted due to COVID-19 (Italy)"**, March 12, 2020, 2020
- **"EU-27 and the UK: Key European supervisory authorities publish statements on compliance expectations during COVID-19 (Coronavirus) times"**, March 11, 2020
- **"Deciphering opportunities in DECCs – Eurosystem collateral assets back in focus?",** March 11, 2020
- **"ECB-SSM publishes 2019 SREP findings – what next for Banking Union Supervised Institutions?",** March 10, 2020
- **"EBA acknowledges Commission's decision on equivalence for Serbia – an outlook on the opportunities ahead"**, March 9, 2020
- **"The EU's new Credit Servicers Directive – where are we now?", March 9, 2020**
- **"Update on Foreign Direct Investments in Germany"**, February 18, 2020
- **"Transposition of the second shareholder rights directive into German law"**, February 17, 2020
- **"EBA criticizes firms in Benchmarking Report on Diversity Practices – what now?",** February 13, 2020
- **"Transitioning towards risk-free rates"**, January 24, 2020

ABOUT DENTONS

Dentons is the world's largest law firm, connecting top-tier talent to the world's challenges and opportunities with 20,000 professionals including 12,000 lawyers, in more than 200 locations, in more than 80 countries. Dentons' polycentric and purpose-driven approach, commitment to inclusion and diversity, and award-winning client service challenge the status quo to advance client interests.

dentons.com

CSBrand-56774-Navigating 2021 Eurozone Hub brochure_03 — 21/07/2021