



# A Guide to Key Regulatory Issues for Financial Institutions in Europe during the COVID-19 Crisis

Financial Institutions Industry Group | EMEA



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The Austrian Federal Government has set up a government support fund of up to EUR 38 billion by establishing a financing company (COVID-19 Finanzierungsagentur des Bundes GmbH), which is tasked with the handling of financial aid packages consisting of emergency aid for particularly affected sectors ("Corona Relief Fund"), guarantees and warranties for current loans of affected companies and tax deferrals. Austrian banks play a major role in the distribution of the financial aid provided by the government, since they serve as a single point of contact to any company applying for a loan or guarantee provided under the support package.

Maintaining the supply of loans for companies and households is the primary objective of banking supervision in Europe as well as Austria. To support lending, the Austrian Financial Market Authority (FMA) has adopted supervisory practices providing financial institutions with the necessary flexibility and relief in under the existing regulatory standards.

## Regulatory Standards and Best Practices

Together with the Austrian Central Bank ("Oesterreichische Nationalbank"), the FMA has fully implemented the recommendations of the EU supervisory authorities and is consistently submitting contributions to further improve the operational framework of financial institutions in light of the COVID-19 crisis.

### Extension of application periods

If a Federal Act under the supervision of the FMA requires a supervised entity to file certain applications, such as under the Banking Act, Insurance Supervision Act, Securities Supervision Act, the FMA may extend the applicable periods for such notification, reporting, submission, publication or other contribution obligations. A prerequisite is a justified request by the supervised company. As reasons for extending the periods, the legislative documents cite, for example, general meetings being delayed due to COVID-19. Other reasons (e.g., the absence of key personnel due to COVID-19) will probably also be recognized.



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## No supervisory action for delayed publication of financial reports and annual financial statements

In a statement dated 27 March 2020, the European Securities and Markets Authority (ESMA) recommended that national authorities do not prioritize supervisory actions for a delay in the publication of financial reports for periods ended prior to 1 April 2020. With this guidance, ESMA intends to address difficulties that issuers may encounter in finalizing their financial reports in light of the COVID-19 outbreak. The Austrian financial markets authority (FMA) has announced that it will follow the ESMA recommendation.

In addition, pursuant to the 4th COVID Act the statutory time period for the preparation of the annual financial statements and other accounting documents is now extended by up to 4 months without penalty.

## KYC Procedures

The FMA is of the opinion that granting loans under the financial support measures introduced by the Austrian government indicate a low risk of money laundering and terrorist financing within the meaning of the Austrian Anti-Money-Laundering Act (FM-GwG). Financial institutions may therefore apply simplified due diligence requirements when granting the underlying loans in the context of customer identification.

## Prohibition of short-selling

On 18 March 2020, in response to significant losses in the Austrian benchmark index ATX, the FMA issued a ban on short sales of all shares admitted to official trading on the Vienna Stock Exchange (FMA Ordinance on the Restriction of Short Sales of Certain Financial Instruments in an Exceptional Situation). Due to the urgency of the ban on short selling, the ordinance entered into force upon publication on the FMA website. The prohibition shall remain in place until 18 May 2020.

The prohibition does not apply to those transactions that an institution conducts in course of its role as a market maker, nor to transactions relating to financial instruments that only lead to indirect short positions. This includes, for example, financial instruments that relate to an index or basket of securities, but also exchange-traded funds (ETF).



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## Deferral of principal and interest payments under certain loan agreements

The 4th COVID-19 Act provides that creditors' claims arising from loan agreements concluded by consumers or micro-enterprises before 15 March 2020 and due between 1 April 2020 and 30 June 2020 are deferred for a period of three months. However, the borrower must prove that, as a result of the exceptional circumstances caused by the spread of the COVID 19 pandemic, it has suffered a loss of income which makes it unreasonable to expect the borrower to pay the due loan instalments, including principal and interest.

### Latest Guidance

#### FMA extends ban on short selling (15 April 2020)

<https://www.fma.gv.at/en/fma-extends-ban-on-short-selling-of-certain-financial-instruments-listed-on-vienna-stock-exchange-while-also-modifying-it/> [insert content here]

While short selling has been prohibited since 18 March 2020 concerning individual transactions, the FMA has amended the regulation and shifted its focus on net short positions. The ban under the amended regulation now extends to establishing new net short positions or increasing existing net short positions.



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## Information for Borrowers and Consumer FAQs

<https://www.fma.gv.at/en/covid-19/consumer-faqs/>

As described above, consumers and micro-enterprises may contact their bank and apply for a deferment of payments under certain loan agreements, if they have suffered severe losses of income as a result of the COVID-19 pandemic. In the case of deferment, any payments due are suspended for a period of 3 months. The FMA has published a FAQ website directed at consumers and micro-enterprises, which contains useful information on the eligibility criteria and the application procedures to be followed.

## FMA Information Letters on banking supervision, securities supervision and insurance and pension fund supervision (19 and 23 March 2020)

<https://www.fma.gv.at/download.php?d=4384> (banking supervision, only available in German)

<https://www.fma.gv.at/download.php?d=4383> (securities supervision, only available in German)

<https://www.fma.gv.at/download.php?d=4404> (insurance and pension fund supervision, only available in German)

The information letters on banking supervision, securities supervision, and insurance and pension fund supervision contain information about meetings of the supervisory board and its committees, reporting obligations and data collection procedures and deadlines as well as resolution planning.



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## Actions to Consider

### Summary of the key points to be considered by firms in Austria

- Debtors in arrears are not automatically to be classified as being in default, in the case of the repayment of capital and interest having been suspended as a result of the Coronavirus.
- In relation to the disclosure of financial circumstances when being granted a loan, it has been clarified that for the purpose of the creditworthiness assessment it is sufficient to analyse the most recent available annual financial statement for 2018 where the annual financial statement for 2019 is not yet available.
- Institutions may rely on a previous full-year liquidity statement for the borrower when assessing the ability to service the loan.
- Distribution of dividends, bonuses and share buy-backs: a large number of measures have been issued with the aim to increase granting of loans and for the absorption of loss. Against this background and in light of the high level of uncertainty in regard to further developments, the FMA recommends refraining from share buy-backs as well as considering with particular care the payment of dividends, profits and bonuses.
- Furthermore, the FMA recommends that banks apply the transitional rules for the IFRS9 accounting standards. Banks should shift their focus to a medium-term perspective. In case the COVID-19 pandemic leads to delayed payments, a "through the cycle" approach should be adopted, which takes into consideration the government relief measures for mitigating economic consequences.



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## Key Contact/s



Dr. Eva-Maria Segur-Cabanac  
Partner  
+43 1 24 250 426  
eva.segurcabanac  
@bakermckenzie.com



Dr. Robert Wippel  
Counsel  
+43 1 24 250 544  
robert.wippel  
@bakermckenzie.com

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<https://www.bmf.gv.at/public/top-themen/corona-hilfspaket-faq.html>
- Current information about COVID-19 Measures of the FMA, including latest press releases  
<https://www.fma.gv.at/en/covid-19/>
- Information for Borrowers and Consumer provided by the FMA  
<https://www.fma.gv.at/en/covid-19/consumer-faqs/>
- COVID-19 information provided by the Federal Banking and Insurance Division of the Austrian Economic Chamber (only available in German)  
[https://www.wko.at/branchen/bank-versicherung/coronavirus-appell-an-oesterreichische-banken.html#heading\\_Appell\\_an\\_oesterreichische\\_Banken](https://www.wko.at/branchen/bank-versicherung/coronavirus-appell-an-oesterreichische-banken.html#heading_Appell_an_oesterreichische_Banken)
- COVID-19 legislation is published on the website of the Federal Ministry of Social Affairs, Health, Care and Consumer Protection (only available in German)  
<https://www.sozialministerium.at/Informationen-zum-Coronavirus/Coronavirus---Rechtliches.html>



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Since the outbreak of COVID-19, the Belgian government, the Belgian Financial Services and Markets Authority ("FSMA") and the National Bank of Belgium ("NBB") have taken various measures to mitigate the impact of COVID-19 on the Belgian financial services industry and financial system as a whole.

In this alert, a high-level summary of the most important measures is provided, together with some key takeaways for financial institutions to consider. As this is a fast-evolving situation, however, more regulatory measures are to be expected in the next few weeks and months to come.

## Regulatory Standards and Best Practices

### Is regulatory relief provided in relation to capital requirements?

Yes. On 10 March 2020, the NBB decided to release the full countercyclical buffer ("CCyB") for credit risk exposures of credit institutions to the Belgian private, non-financial sector. Through this release of the CCyB, the NBB is making approximately 1 billion EUR worth of capital buffers available to Belgian credit institutions to cover potential risks. Click [here](#).

Also, in a letter addressed to credit institutions under its direct supervision (click [here](#)), the NBB announced that:

- credit institutions can make use of certain capital buffers and the liquidity buffer, including Pillar 2 Guidance capital
- credit institutions will benefit from relief in the composition of capital for Pillar 2 Requirements
- it will apply operational flexibility in the implementation of bank-specific supervisory measures (meetings, response times, inspections, etc.)



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## Are measures to be taken in relation to dividend distributions?

Yes. In line with earlier recommendations of the European Central Bank ("ECB") and the European Insurance and Occupational Pensions Authority ("EIOPA"), the NBB expects (mixed) financial holding companies, credit institutions under its direct supervision (click [here](#)) and (re)insurance companies (click [here](#)) to refrain from paying out dividends and irrevocable commitments until 1 October 2020. Furthermore, the NBB urges (re)insurance undertakings and groups to adopt a prudent and conservative approach to their variable remuneration policies and their profit-sharing and rebates policies.

## Is regulatory relief provided in relation to supervisory reporting and disclosure requirements?

Yes. The NBB published several communications, announcing supervisory flexibility in the deadlines of supervisory reporting and public disclosure for credit institutions, stockbroking firms, central securities depositories and their supporting institutions, and insurance undertakings under its supervision. The extensions in reporting and disclosure deadlines are generally aligned with statements and communications published by the European Banking Authority ("EBA"), the ECB, the Single Resolution Board ("SRB") and EIOPA.

Deadlines are generally extended with periods ranging from one week to one month:

- [Communication NBB\\_2020\\_15](#) of 14 April 2020 / Reduction of reporting to the Bank in response to COVID-19
- [Communication NBB\\_2020\\_009](#) of 31 March 2020 / OneGate Communication regarding the postponement of certain quantitative reporting following the COVID-19 pandemic
- [Communication NBB\\_2020\\_010](#) of 31 March 2020 / eCorporate Communication concerning the postponement of certain qualitative reports and certain reports expected from the statutory auditors following the COVID-19 pandemic



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## Is the regulator taking measures to monitor the insurance sector?

Yes. The NBB issued a circular to insurance and reinsurance undertakings introducing weekly (and one-off) qualitative and quantitative reporting requirements to monitor the impact of the COVID-19 pandemic on Belgian (re)insurance undertakings and groups. Click [here](#).

## Did the regulator adopt measures to address market volatility?

Yes. The FSMA announced a prohibition of short selling and similar transactions on the regulated markets of Euronext Brussels and Euronext Growth Brussels, effective from 18 March 2020 to 18 May 2020. The ban applies regardless of the place where the transaction is executed, whether it be on a trading venue or OTC. Click [here](#).

## Did the FSMA take measures in relation to entities under its direct supervision?

Yes. The FSMA issued several communications in relation to COVID-19, addressed to entities under its direct supervision, such as financial intermediaries and credit lenders ([newsletter of 19 March 2020](#)), institutions for occupational retirement provision (press release of 30 March 2020) and undertakings for collective investment ([press release of 8 April 2020](#)). In summary, the FSMA announced that it:

- will urge entities under its supervision to regularly inform themselves of the government measures to limit the COVID-19 pandemic and to immediately apply such measures
- is continuously in touch with the various sector federations to monitor and analyse the situation
- will limit any initiatives in the coming weeks that may hamper or complicate the functionality of entities under its supervision. For example, no large-scale requests for information will be made within the framework of its normal supervisory practice for the time being
- nevertheless expects supervised entities to continue to comply with all legal and regulatory provisions applicable to them, despite the exceptional character of the situation and the problems supervised entities may incur in this respect. COVID-19 will not be accepted as an excuse to violate such laws and regulations



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## Are measures taken in relation to telephone taping under MiFID II?

Yes. Under MiFID II, firms are among others required to record telephone conversations with their clients when receiving, transmitting and executing orders.

Considering the exceptional circumstances created by the COVID-19 outbreak, some scenarios may emerge where the recording of relevant conversations may not be practicable, for example due to sudden remote working by a significant part of staff, or the lack of access by clients to electronic communication tools.

The FSMA acknowledges the statements made by ESMA in this respect (click [here](#)). If, under these exceptional scenarios, firms are unable to record voice communications, ESMA (and the FSMA) expects them to consider what alternative steps they could take to mitigate the risks related to the lack of recording. This could include the use of written minutes or notes of telephone conversations when providing services to clients, subject to the client being informed that it is not possible to record the call and that written minutes or notes of the call will be taken instead. In these scenarios, firms should also ensure enhanced monitoring and ex-post review of relevant orders and transactions.

## What measures did the government take to relieve financially distressed borrowers and to enhance liquidity in the market?

The federal government, the NBB and the Belgian financial sector federation (Febelfin) have agreed on the provision of temporary support for businesses, self-employed persons and households. The support package consists of two pillars.

Firstly, non-financial businesses and the self-employed, as well as mortgage borrowers that are facing payment difficulties as a result of the COVID-19 crisis may postpone payment of capital and interest until 31 October 2020 without charge.

Secondly, the federal government activated a 50 billion EUR guarantee scheme for all new loans and credit lines with a maximum duration of 12 months, which banks provide to viable, non-financial businesses, SMEs, non-profit organisations and the self-employed. Click [here](#).



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## Did the government adopt a moratorium on bankruptcies?

Yes, the Belgian government implemented a moratorium on insolvency and enforcement proceedings for Belgian companies. Subject to certain exceptions, debtors are protected from (i) conservatory and executory attachments, (ii) the obligation to file for bankruptcy (voluntary filings remain possible), (iii) forced judicial dissolution and (iv) termination of contracts concluded before 24 April 2020 for the payment of a debt due and payable during the moratorium. The measures entered into force on 24 April 2020 and will last until 17 May 2020, but can be extended.

## Are there any specific COVID-19 related developments in relation to anti-money laundering and the fight against terrorism?

Yes. The NBB encourages financial institutions under its supervision to concentrate resources to prevent money laundering and terrorist financing (AML/CFT) on the tasks that are most important to maintain a high level of effectiveness. The NBB also extends the deadline for communicating the AMLCO annual activity report 2019 and for replying to the 2020 periodic questionnaire on combating money laundering and terrorist financing to 31 August 2020. Click [here](#).

The rules on remote customer due diligence and the use of innovative solutions in the customer due diligence process remain unchanged (click [here](#) and [here](#)), and may now be of particular relevance in light of the teleworking measures.

## Did the regulators take any particular measures in relation to cybersecurity?

The regulators or government have not adopted any measures or guidance in relation to cybersecurity in light of COVID-19. However, on 15 April 2020, the FSMA issued a warning to the financial sector on the need for increased vigilance with regard to the risk of cyber attacks, because of the major impact it can have on business continuity, which has already been weakened by the COVID-19 outbreak. Click [here](#).



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## Latest Guidance

Please refer to the sections above, which contain references to all latest guidance on COVID-19 of the Belgian regulators.

## Actions to Consider

In light of the regulatory developments around COVID-19, financial institutions are recommended to:

- continue gathering information from the Belgian government and Belgian supervisory authorities to monitor further developments on COVID-19
- analyse how they are exactly impacted by the various measures taken so far and whether they can benefit from any relief measures
- liaise with their competent supervisory authority to discuss the impact of COVID-19 on their business continuity and potential mitigating actions that may be required in this respect (e.g., to discuss or flag urgent liquidity issues, cybersecurity issues, etc.)
- ensure compliance with applicable COVID-19 guidance and regulations of foreign jurisdictions in which they operate under the free provision of services or freedom of establishment (if any)
- verify how teleworking may impact their business from a regulatory point of view, among others in relation to the rules on distance selling of financial services products, remote customer due diligence, KYC-checks through videoconference, the rules on telephone taping under MiFID II (if applicable), additional cybersecurity measures that may be required, etc.



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## Key Contact/s



Michael Van Acker  
Partner  
+32 2 639 36 11  
michael.vanacker  
@bakermckenzie.com



Olivier Van den broeke  
Associate  
+32 3 213 40 40  
olivier.vandenbroeke  
@bakermckenzie.com



Steffi Illegems  
Associate  
+32 3 213 40 40  
steffi.illegems  
@bakermckenzie.com

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- <https://www.nbb.be/en/financial-oversight/general/news?page=0%2C0%2C0>
- <https://bakerxchange.com/cv/0ffaeb583445ffe59f78dd3f08778698d8a5acd4/p=7733123>



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## Regulatory Standards and Best Practices

France and the EU authorities have taken several measures with regards to Capital Markets and Financial Institutions. These measures are very diverse and touch upon short selling, transparency but also the continuity of business for financial institutions in times of crisis, reporting deadlines or measures to insure that banks and financial institutions can continue to finance the real economy.

### I. CAPITAL MARKETS

#### Short selling

- On 14 April<sup>1</sup> the AMF extended the ban initially imposed on 17 March on building up net short positions or increasing such positions. This ban will apply until 18 May at 11:59 pm. The basis for this ban is Art. L. 421-16 II of the Monetary and Financial Code and Article 20 of the European regulation on short selling.

#### Disclosure

- Quarterly disclosures<sup>2</sup> are not mandatory, but the AMF recommends adopting a clear line on this subject, which must be consistent over time. In other words, issuers that used to publish quarterly information are encouraged to continue to do so to the extent possible, even though the AMF recognizes that the current context may not allow for the publication of reliable information or requires the format of the publication to be changed. This means that these issuers must communicate the new schedule to the market as soon as possible and are invited to continue to disclose as soon as they have reliable information.



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<sup>1</sup> <https://www.amf-france.org/fr/actualites-publications/communiqués/communiqués-de-lamf/lamf-annonce-la-prolongation-de-linterdiction-des-positions-courtes-nettes-jusquau-18-mai-2020>.

<sup>2</sup> <https://www.amf-france.org/fr/actualites-publications/actualites/societes-cotees-communiquant-au-trimestre-quelles-informations-publier-dans-le-contexte-covid-19>.

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- As regards periodic and ongoing disclosure<sup>3</sup>, listed companies must publish their annual and half-yearly accounts. The Transparency Directive requires the publication of annual accounts no later than four months after the end of the financial year (for a financial year ending on 31 December this implies publication no later than 30 April) and half-yearly reports must be published within three months (if a half-year ends on 31 December, the half-yearly report must be published no later than 31 March). In other words, in practice many half-yearly and annual reports fall in the midst of the COVID-19 crisis.

Issuers that are unable to publish their reports by the deadline are invited to communicate immediately with the AMF and the market on the reasons for the delay and a provisional publication deadline. Issuers that fail to publish and whose financial year end between 31 December and 31 March benefit from an additional two months beyond the deadline for annual reports and one month for half-yearly reports

- No accommodation is made for ad-hoc disclosure on market abuse. All inside information must be disclosed to the market as soon as possible. Current circumstances may give rise to inside information and there is no reason to delay market disclosure.

## II. FINANCIAL INSTITUTIONS

### A. Funds and financial service providers Funds

#### Funds<sup>4</sup>

Management companies must ensure the continuity of their activity even during the COVID-19 crisis. Teleworking is not incompatible with the obligations of a management company, however, it is necessary to ensure that there are no possible conflicts of interest with persons present at home and that confidentiality is respected; possible latency risks which would make it difficult to monitor market activities in real time and of cyber security risks must also be taken into account. In other words, teleworking does not exempt the management company and its employees from their obligations.



3 <https://www.amf-france.org/fr/actualites-publications/actualites/continuite-de-linformation-periodique-dans-le-contexte-depidemie-de-coronavirus>.

4 [https://www.amf-france.org/sites/default/files/2020-03/faq\\_covid-19\\_0.pdf](https://www.amf-france.org/sites/default/files/2020-03/faq_covid-19_0.pdf).



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Further, teleworking does not relieve the management company of its obligation to audit and record conversations.

With regard to **deadlines**, the following measures have been provided for:

- The deadline for the submission of the information sheets<sup>5</sup> for management companies which closed their accounts at the end of December and the annual internal control report on the fight against money laundering is extended to 24 June 2020.
- Management companies that have to complete the questionnaire on the monitoring of climate commitments are granted an extension until 30 April 2020.
- Companies that must perform SFTR reporting<sup>6</sup> benefit from the authorities' supervisory forbearance until July 13, 2020.

## Investment service providers<sup>7</sup>

- The same recommendations apply to telework and conversation recording and auditing.
- Postponement of deadlines:
  - Following a press release from ESMA<sup>8</sup>, the so-called RTS 27<sup>9</sup> and 28<sup>10</sup> reports on the best execution obligation need not be published until 30 June 2020.
  - The annual RCSI questionnaire need not be submitted until 30 June (instead of 30 April).
  - The report on asset protection, which is normally due by June 30, is extended to September 30, 2020.



5 art. 318-37 RGAMF et art. 321-75 RGAMF.

6 Règlement 2015/2365 relatif à la transparence des opérations de financement sur titres et de la réutilisation, dont certaines obligations de reporting devaient rentrer en vigueur le 13 avril 2020.

7 <https://www.amf-france.org/fr/actualites-publications/actualites/continuite-des-activites-de-marche-en-periode-de-covid-19-lamf-precise-ses-attentes>.

8 <https://www.esma.europa.eu/press-news/esma-news/esma-provides-clarifications-best-execution-reports-under-mifid-ii>.

9 Ce rapport devait être publié jusqu'au 31 mars 2020.

10 Ce rapport devait être publié jusqu'au 30 avril 2020.

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## B. Banks & Insurers

Following the positions taken by the European Banking Authority (EBA)<sup>11</sup>, which include postponing stress tests until 2020, and the European Insurance and Occupational Pensions Authority (EIOPA)<sup>12</sup>, the French and European authorities have taken several decisions to take into account the effects of the pandemic and to ensure the financing of the economy.

### ACPR (French Prudential Supervisor)

ACPR has provided for the postponement of certain reporting dates for **insurers** [https://acpr.banque-france.fr/sites/default/files/media/2020/03/26/report\\_delais\\_exigences\\_europeennes\\_et\\_nationales.pdf](https://acpr.banque-france.fr/sites/default/files/media/2020/03/26/report_delais_exigences_europeennes_et_nationales.pdf) and for **banks** [https://acpr.banque-france.fr/sites/default/files/media/2020/04/09/20200409\\_acpr\\_flexibilite\\_remise\\_reportings.pdf](https://acpr.banque-france.fr/sites/default/files/media/2020/04/09/20200409_acpr_flexibilite_remise_reportings.pdf).

- The ACPR also calls on credit institutions<sup>13</sup>, finance companies and insurance companies<sup>14</sup> to **refrain from distributing dividends until 1 October 2020**. Banking institutions must also refrain from repurchasing shares over the same period.

### Measures of the High Council for Financial Stability (HCSF)

The HCSF has decided to **reduce the counter-cyclical bank capital cushion to zero** until further notice to encourage credit to SMEs<sup>15</sup>. This cushion was set at 0.25% and was to be reduced to 0.5% on 2 April.



<sup>11</sup> <https://eba.europa.eu/coronavirus>.

<sup>12</sup> [https://www.eiopa.europa.eu/content/recommendations-supervisory-flexibility-regarding-deadline-supervisory-reporting-and-public\\_en?source=search;](https://www.eiopa.europa.eu/content/recommendations-supervisory-flexibility-regarding-deadline-supervisory-reporting-and-public_en?source=search;)  
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<sup>13</sup> [https://acpr.banque-france.fr/sites/default/files/medias/documents/20200330\\_communique\\_presse\\_recommandation\\_lsi\\_et\\_sf.pdf](https://acpr.banque-france.fr/sites/default/files/medias/documents/20200330_communique_presse_recommandation_lsi_et_sf.pdf).

<sup>14</sup> [https://acpr.banque-france.fr/sites/default/files/medias/documents/20200403\\_communique\\_presse\\_dividendes\\_assurances.pdf](https://acpr.banque-france.fr/sites/default/files/medias/documents/20200403_communique_presse_dividendes_assurances.pdf).

<sup>15</sup> [https://www.economie.gouv.fr/files/files/directions\\_services/hcsf/HCSF\\_20200318\\_Communique\\_de\\_presse\\_de\\_seance.pdf](https://www.economie.gouv.fr/files/files/directions_services/hcsf/HCSF_20200318_Communique_de_presse_de_seance.pdf).

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## State guaranteed loans

In order to make it easier for credit institutions and finance companies to grant loans to companies, the State has decided, through BPIFrance Financement SA, to act as guarantor for these loans<sup>16</sup>.

To benefit from this type of guarantee, the following conditions must be met in particular<sup>17</sup>:

- the guarantee only benefits loans granted between 16 March 2020 and 31 December 2020;
- only companies (legal or natural persons including craftsmen, farmers and liberal professions), associations or foundations that carry out an economic activity can benefit from it; real estate companies, credit institutions, finance companies or companies in insolvency proceedings are excluded;
- only loans without any other guarantee are covered;
- no repayment shall be required during the first 12 months;
- at the end of the first year, the borrower shall have the possibility to amortize the loan over a period of five years;
- there are ratios in terms of the loan amount to be respected.



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<sup>16</sup> <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041746813&categorieLien=id>.

<sup>17</sup> <https://www.economie.gouv.fr/files/files/PDF/2020/dp-covid-pre-garanti.pdf>.

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## ECB

The ECB has announced a **securities purchase programme of more than €1,100 billion** over the year 2020 to enable governments and companies to finance themselves.

- Credit institutions can now refinance themselves on a long-term basis (over three years) at a rate of -0.75%, provided that they maintain continue to finance the real economy. Otherwise, the refinancing rate will be higher.
- From the point of view of the collateral accepted, the ECB has broadened the securities it accepts to ensure bank liquidity. This broadening should also encourage banks to maintain or increase their outstanding loans.
- Finally, the ECB has relaxed prudential rules to avoid a tightening of credit conditions. Indeed, such a risk results from a deterioration in the quality of the assets held by banks.

## Latest Guidance

The European Commission published on 28 April 2020 an interpretative communication on banking measures to enable banks to finance the real economy<sup>18</sup>. It encourages banks, in particular, to make full use of the flexibility given to them by the current regulatory framework to be able to finance businesses and households during the COVID-19 crisis. The Commission suggests three lines of action:



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- Firstly, banks should use regulatory flexibility to assess the risk that a borrower will not repay its loan, which will affect the bank's capital requirements;
- Secondly, prudential rules on non-performing loans shall take account of public (Member States) or private (banks) moratoria;
- Finally, accounting flexibility with regard to moratoria to manage short-term liquidity risks can also be used.

In concrete terms, what does the Commission suggest? It calls on banks not to apply mechanically their provisions on **Expected Credit Losses (ECL)** under IFRS 9, but to use common sense to decide whether in the exceptional circumstances of this pandemic these measures should be applied.

Similarly, the assessment of **Significant Increases in Credit Risk (SICR)** should not be based on the sudden increase in the probability of default due to the pandemic, but should take into account the remaining term of a loan. Thus, banks are invited to assess credit risk against a long-term scenario with stable macroeconomic forecasts. Loans should not be assessed as having a significant increase in credit risk simply because they benefit from a moratorium. Banks are invited to assess quantitatively and qualitatively whether the moratorium leads to a significant increase in risk.

The Commission has proposed the following amendments to the **CRR Regulation (575/2013)**:

- IFRS 9 leads to a sudden and significant increase in expected credit losses (ECL) which would result in an erosion of their capital base and thus their ability to finance the economy. The Commission has therefore proposed an extension of the current transitional measures by two years. These measures would only apply to provisions recognized since 1 January 2020;
- Systemic entities (G-SIIs) must set up a leverage ratio from 1 January 2022. In view of the pandemic, it is proposed to delay the coming into force of this ratio by one year.



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- Finally, the Commission proposes to extend the more favourable treatment of non-performing loans (NPLs) that benefit from a public guarantee.

In addition, the Commission proposes some additional measures on the treatment of loans secured by a salary or pension, exemptions from the deduction of IT assets from own funds or the prudential treatment of loans to SMEs.

## Actions to Consider

- Abstain from building or increasing short positions;
- Be clear in the information you give to the market;
- Check potential conflicts of interest related to home offices;
- Make sure teleworking does not increase your cyber security risk;
- If you need a loan due to the crisis, check if you can benefit of a State guarantee.

## Key Contact/s



Iris M. Barsan  
Counsel  
+33 1 44 17 59 41  
iris.barsan  
@bakermckenzie.com



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# GERMANY

The German banking and financial services regulator, BaFin, issued a [statement](#) on 4 March 2020 to the effect that it takes the current risk situation caused by the coronavirus very seriously and is in intensive discussions with banks and financial services companies on possible responses and emergency plans. BaFin is monitoring the situation continuously.

In Germany, banks and financial services firms have extensive risk management obligations under the Banking Act, which are complemented by BaFin's Circular "Minimum Requirements on Risk Management" ([MaRisk](#)). MaRisk also requires banks and financial services firms to have contingency plans, which typically include emergency plans in case of a pandemic. Most banks have separated their management teams in critical areas and made sure these teams work from different locations so they do not meet physically.

## BaFin frequently asked questions

BaFin has also published FAQs that address a number of basic questions relevant to the current situation.

- BaFin has stated that using capital buffers in connection with potentially negative developments, including for the purpose of granting further loans to their customers, is acceptable — even if this means that a bank is in breach of its capital requirements. Banks are still required to report to BaFin and explain the reasons for not meeting capital requirements.
- In times of crisis, banks are permitted to dispense with liquidity buffer requirements. However, this is subject to meeting their information obligations towards the regulator.
- On the other hand, BaFin plans to implement CRR II / CRD V (the EU "Banking Package") on time, unless there is action at EU level to postpone the implementation date.



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- One area of relaxation on operational rules relates to the general prohibition of "out of office trading" in the MaRisk. BaFin has explicitly allowed banks to operate outside this rule where traders work from the home. Banks are reminded, however, to implement suitable replacement procedures in a timely manner.
- Where banks grant credits, they need certain documentation, including the latest financial information from the borrower. BaFin has stated that 2018 financial statements are acceptable where, due to the current situation, borrowers have not been able to adopt the 2019 financial statements and/or statutory periods for the adoption of financial statements have been relaxed.
- BaFin has dispensed with on-site audits by auditors for the time being but points out that this applies only for the "peak period" and only in connection with fighting the coronavirus. Documents in connection with audits must still be made available on a "remote basis". If this is not possible either, it is permissible to postpone the completion of an audit without incurring sanctions and, moreover it is unnecessary to formally notify BaFin. In fact, BaFin has suspended its own onsite audits and is not currently requiring further onsite audits.

## SSM flexibility

Concurrently, the European Central Bank has granted similar flexibility for Single Supervisory Mechanism (SSM) supervised institutions. On 20 March 2020, the ECB announced relaxations in the prudential treatment of loans backed by public support measures and activated capital and operational relief measures previously announced, such as flexibility in applying the guidance on non-performing loans, extending remediation periods for detected deficiencies by 6 months, and accelerating certain releases of full Pillar 2 (P2G) buffers as foreseen under CRD V. The ECB expects these measures to afford relief of approximately €120 billion in regulatory CET1 capital, which could lead to additional loans to households of €1.8 trillion.

BaFin has implemented and will continue to implement relaxations of certain supervisory rules, which means to some extent less supervisory control. Nonetheless, BaFin trusts that banks will use these freedoms responsibly.



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## Key Contact/s



Manuel Lorenz  
Partner  
+49 69 2 99 08 606  
manuel.lorenz  
@bakermckenzie.com



Manuel Metzner  
Counsel  
+ 49 69 2 99 08 570  
manuel.metzner  
@bakermckenzie.com



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# ITALY

Italy has been one of the country most severely affected by the COVID-19 outbreak worldwide. As a response to this unprecedented state of emergency, the Italian government imposed a total lockdown on the country, allowing only smart working activities.

With specific reference to the Italian financial sector, in the light of its complex supervisory architecture, which is composed by three different national Supervisory Authorities<sup>1</sup> (in addition to the EU Supervisory Authorities<sup>2</sup>), the Italian regulatory response has been made through several measures, the application of which is mostly limited to specific entities (i.e., applicable from time to time to banks, investment firms, funds, insurance undertakings, etc.).

## Regulatory Standards and Best Practices

As Italy is currently under lockdown, now only some fundamental services (e.g., banking, insurance and payment services) might be provided physically in the firms' premises. The remaining personnel of financial institutions have been required to work from home using smart working devices. Although a gradual reopening of many business, employees are still required to work from home where possible.

The Supervisory Authorities' approach towards financial institutions has been aimed at ensuring business continuity. In this respect, the Supervisory Authorities urged entities under their supervision to adopt effective measures to provide their services remotely (i.e., home banking, home insurance, etc.). They also recommended applying contingency plans, with particular attention to the adoption of adequate IT infrastructure and safety systems to support the digitalization of business during the lockdown.



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<sup>1</sup> The "Supervisory Authorities" are (i) the Bank of Italy, the Italian central bank, which is responsible for the supervision on the banking industry, (ii) the Consob (*Commissione Nazionale per le Società e la Borsa*), the Italian securities market authority and (iii) the IVASS (*Istituto per la Vigilanza sulle Assicurazioni*), the Insurance industry supervisory authority.

<sup>2</sup> The "EU Supervisory Authorities", or ESAs, are (i) the European Bank Authority (the "EBA"), (ii) the European Security Market Authority (the "ESMA") and (iii) the European Insurance Occupational and Pension Authority (the "EIOPA").

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Where possible, Italian and EU supervisors extended the deadlines for the submission of supervisory reports, and adopted a tolerant approach towards firms that face difficulties in fulfilling reporting obligations. Also on-site inspections, hearings, documentation requests and other supervisory actions have been postponed unless urgent or strictly necessary.

All the administrative procedures, including those before the Supervisory Authorities, were suspended until 15 May 2020, with no extension. Similarly, the two alternative dispute settlement mechanisms available for financial and banking disputes, the Arbitro per le Controversie Finanziarie and the Arbitro Bancario Finanziario, suspended their activities until 15 May 2020, also without extension. Insurance undertakings received additional time to reply to claims made by customers.

The following is a list of industry-specific measures of particular interest:

## A. Banking industry

- the Bank of Italy and the ECB recommended that banks withhold the distribution of dividends until 1 October 2020, unless strictly necessary or required by law;
- the Bank of Italy and the EBA also recommended that banks ensure that the award of variable remuneration to their personnel did not prejudice their capital ratios;
- banks have been authorized by the Supervisory Authorities to operate temporarily below the level of capital defined by the Pillar 2 Guidance, the Capital Conservation Buffer and the Liquidity Coverage Ratio;



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## B. Securities market industry

- the Consob introduced a temporary regime of enhanced transparency on the shares held by investors in 104 Italian companies of with widespread shareholdings listed on the Italian regulated markets until 11 July 2020. Any investment exceeding 1% of the share capital issued by listed companies (or 3% if the listed companies qualify as small-medium enterprises) must be notified to the Consob;
- the Consob introduced a temporary regime of enhanced transparency in respect of investments in 104 Italian listed companies with widespread shareholdings until 11 July 2020. In particular, whoever holds an investment which exceeds the 5% threshold of the share capital issued by a listed company in scope, must notify to Consob what is the purpose of the investment and any intention to further increase its shareholding or to acquire influence or control over the listed company;
- the Consob introduced a general prohibition of net short positions (short selling and other bearish operations) that applies to all the shares traded on the Italian regulated markets until 18 June 2020. Any form of bearish speculative operation is currently prohibited, including those carried out through derivatives or other financial instruments and bearish intraday trades;
- the Consob provided guidance for shareholders meetings of Italian listed companies. In particular, shareholders or their representatives must be able to participate and vote via distance communication means;



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## C. Insurance industry

- the IVASS and EIOPA recommended to insurance undertakings to proceed with caution in paying out of dividends, to avoid weakening their capital position;
- in consideration of the role of the insurance sector during this epidemic emergency, the EIOPA urged insurance undertakings to apply specific measures:
  - to keep customers informed about their contractual rights (i.e., the scope of their cover, any exemption applicable) and the impact of COVID-19 on their insurance policies;
  - to continue applying product oversight and governance requirements;
  - with regard to the social distancing and self-isolation measures that are now in place, as these measures may make consumers unable to fulfil contractual obligations (e.g., consumers may not be able to submit a claim within a prescribed timeframe, or to carry out a prescribed check, as a car check-up or a medical check-up, or they may be using their usual residence as a workspace, which may be in breach of their household policy)



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## Legal Guidance

In relation to the latest guidance provided by Supervisory Authorities, the Bank of Italy issued the following communications:

- Bank of Italy Communication of 21 April 2020, which extends to less significant banks and investment companies the extensions to the deadlines for the submission of supervisory reports provided by the EBA statement on supervisory reporting and Pillar 3 disclosures in light of COVID-19, and by the ECB Supervisory reporting measures in the context of the COVID-19 pandemic. Less significant banks and investment companies will be able to submit harmonized reports by up to one month after the original deadline, which was originally 31 May 2020. This extension is also applicable to the supervisory reports of financial intermediaries which do not fall under the scope of Regulation (EU) 575/2013 of 26 June 2013 (the "CRR") and Directive 2013/36/EC of 26 June 2013 (the "CRD IV"). The reports on Liquidity Coverage Requirements and Additional Liquidity Monitoring Metrics are excluded from the extension of the deadline for their submission, as they are deemed as high priority reports;
- Bank of Italy Communication of 24 April 2020, applicable to non-financial operators which handle cash, which are subject to the Bank of Italy's supervision for anti-money laundering purposes. The Bank of Italy extended to 30 September 2020 the deadline for the submission of (i) the report on anti-money laundering and prevention of financing of terrorism for the second trimester of 2020, and (ii) the report on the anti-money laundering function (which includes the self-assessment of the anti-money laundering risk relating to 2019).



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## Actions to Consider

In this unprecedented emergency situation, financial institutions should:

- continue to monitor their relevant Supervisory Authorities' websites, in order to promptly adopt any measures imposed by them. Financial institutions should also monitor the Italian governments' decrees, which may have an impact on their activity (e.g., in case of re-opening of activities) or be the legal basis for implementing regulations adopted by the Supervisory authorities;
- ensure that all their employees have been provided with the equipment for smart working, as personnel employed in non-essential services may be obliged to smart work for a long period;
- start preparing for the re-opening phase, i.e. reorganizing the workplace to comply with the healthcare measures and stock personal protection items (face masks, gloves) to be distributed to employees;
- evaluating existing contracts with customers, but also suppliers and service providers, and consider whether to implement alternative arrangements to ensure business continuity;
- constantly monitor the impact of the COVID-19 outbreak on their business, update and, if necessary, implement their business contingency plans. Particular attention should be paid to the IT infrastructure;
- continue to liaise with customers on legal and regulatory developments and the impact on their relationships with the financial institution.



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**Switzerland**



**United Kingdom**

# ITALY

## Key Contact/s

Piazza Filippo Meda, 3  
20121 Milan (Italy)  
Tel: +39 02 76231321  
Fax: +39 02 76231630  
milan.info  
@bakermckenzie.com



Eugenio Muschio  
Counsel  
+39 02 76231-468  
eugenio.muschio  
@bakermckenzie.com

Viale di Villa Massimo, 57  
00161 Rome (Italy)  
Tel: +39 06 440631  
Fax: +39 06 44063306  
rome.info  
@bakermckenzie.com



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<https://eba.europa.eu/coronavirus>

Consob website on COVID-19

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ESMA website on COVID-19

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IVASS website on COVID-19

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EIOPA website on COVID-19

[https://www.eiopa.europa.eu/browse/covid-19-measures\\_en](https://www.eiopa.europa.eu/browse/covid-19-measures_en)



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The Netherlands uses what is known as a 'Twin Peaks' model of financial services regulation, whereby one regulator (the Dutch Central Bank, "DNB") is supervising the prudential aspects of financial services and financial markets and the other regulator (the Netherlands Authority for the Financial Markets, "AFM") is tasked with the supervision of behavioral aspects of financial services and financial markets.

Under normal circumstances, the Dutch regulators are known to be strict and exacting. Financial institutions are inter alia required to implement thorough risk management procedures and markets are assessed closely.

During the COVID-19 crisis, however, the Dutch regulators, together with their EU supervisory authorities EIOPA, EBA and ESMA, have shown some willingness to provide leniency on a discretionary basis.

## Regulatory Standards and Best Practices

Financial institutions are generally expected to have business continuity policies in place to prepare for unexpected and severe scenarios. Such expectations however are limited in the event of crisis. Whilst financial institutions such as banks, pension funds, asset managers and insurers are expected to be sufficiently resilient not to default on their obligations, there is – in the present circumstances – a realistic expectation that such entities may (from time to time) not meet the prudential thresholds for their liquidity or solvability. In such cases, the Dutch regulators have expressed willingness to offer some leniency, such as the extension of liquidity assessment deadlines, the lowering of capital requirements and altering the risk weighting in the provision of loans or mortgages.

However, in return for such leniency, the regulators expect financial institutions to provide similar leniency to their own clients and debtors. Banks have been asked to temporarily suspend mortgage payments, and many banks have complied with this request. Also, financial institutions have been strongly advised not to issue dividends and to stop any share buyback programmes for the time being. Health insurers have been allowed room to fund healthcare providers.



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ESMA, EIOPA and the EBA have granted the entities under their supervision delays for their reporting deadlines, such as (semi-)annual reports, best execution reporting and liquidity reports. EBA has postponed any stress tests until 2021.

As most financial institutions have implemented or been forced to implement structural 'work-from-home' measures, the regulators have been at pains to stress the need for data protection. Financial institutions must be aware of the added risks in working from home and the IT-infrastructure which can be applied in such cases. In a more general sense regulators have stressed that financial institutions have to be aware of additional risks of cyber-attacks at this time, as potential attackers may be more opportunistic. In a similar vein, financial institutions have been asked to be more vigilant about AML/CTF policies and the reporting of transactions. Currently, no restrictions have been implemented in the Netherlands on short-selling. However, ESMA has temporarily lowered the threshold for notification of net short positions so as to have more insight into market behaviour and possible abusive practices, which lower threshold also applies in the Netherlands.

## Actions to Consider

Firms should be aware that there will be some leeway in terms of their reporting deadlines and the information that needs to be reported. Firms should also be aware that any leniency in terms of solvency or liquidity will be considered a quid pro quo of sorts for their own leniency towards clients and customers in these times of financial distress, as well as their efforts not to pay dividends and halt any share buyback programs.

Firms should be aware of increased cyber-security, data protection and privacy risks, especially now that a majority of people is being asked to work from home. Firms should take all necessary precautions to ensure that all systems are functional and safe. This also related to the systems that are used to monitor transactions from an AML/CTF perspective.



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# THE NETHERLANDS



## Key Contact/s



Tim Alferink  
Local Partner  
+31 20 551 7519  
tim.alferink  
@bakermckenzie.com



Martijn Stolze  
Junior Associate  
+31 20 551 7443  
martin.stolze  
@bakermckenzie.com



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# SPAIN

The spread of the COVID-19 has obliged European countries to enter into a lockdown situation in relation to their economic activities which is resulting in a halt of the daily life of millions of people. Such a situation, is having an extremely disruptive impact on the financial sector, although the authorities are taking steps in order to mitigate the worst effects.

Spain, as a member state of the European Union is following the path discussed and signaled at European level. In this sense, the different member states are looking forward to solutions that allow them to mitigate the impact of the COVID-19 in their respective countries.

As of today, the Spanish financial institutions regulators have either followed the recommendations issued by European regulators and authorities, or implemented the actions decided at European level.

Accordingly, a limited number of measures have been implemented unilaterally by the Spanish regulators.

## Regulatory Standards and Best Practices

### *Discuss the regulator's expectations over business continuity and operational resilience*

The European Central Bank ("ECB") has recently published its opinion on the alternative scenarios for the impact of the COVID-19 pandemic on economic activity in the euro area. This is premise is that (i) the outbreak of the COVID-19 pandemic has dramatically affected global economic activity since early 2020; and (ii) the high uncertainty surrounding the economic impact of the COVID-19 pandemic requires analysis of alternative scenarios.

In this line, the ECB has presented three alternative scenarios to illustrate the range of likely impacts of the COVID-19 pandemic on the euro area economy. From the ECB's point of view, the euro area real gross domestic product is expected to drop sharply in the short term, while effective containment measures would be crucial to ensuring a robust recovery thereafter.



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The ECB conclusions are based on the idea that given the unprecedented uncertainty surrounding the developments and economic impact of the COVID-19 pandemic, the assessments underlying the different illustrative scenarios will need to be continuously updated.

In relation to operational resilience, the Bank for International Settlements ("BIS") recently concluded, based on the different guidance issued by financial sector authorities in response to the COVID-19 crisis, that international efforts in relation to operational resilience standards should take into account at least (i) critical or essential employees, (ii) the IT infrastructure; (iii) the third-party service providers; and (iv) the cyber resilience.

Since 13th of March 2020, the Technical Committee of the Autoridad Macropudencial ("AM") is conducting continuous monitoring of the effects of COVID-19 in the Spanish financial market, specifically in relation to financial stability, with the objective of assessing its development and taking the appropriate actions when necessary.

In this sense, the main task of the AM is the macro prudential supervision of the financial system, having the capacity to carry out different risk analysis and issue corresponding opinions and warnings on the different aspects that may pose a systemic risk affecting financial stability. Therefore, the MPA has the power to make recommendations for specific measures that need to be developed when such risks are detected, having also the possibility to publish and monitor such indications when necessary.

However, the Spanish government has decided to give, under these exceptional circumstances, additional powers to the Bank of Spain ("**BoS**") and the Spanish National Securities Market Commission ("**CNMV**"), in order to limit credit, investment or, in general terms, the exposure of financial institutions to certain assets if appropriate.

As of today, CNMV and BoS are following the recommendations and implementing the measures adopted by the different European regulatory authorities, such as the European Securities and Markets Authority ("ESMA") and the European Banking Authority ("**EBA**").



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In this regard, such recommendations and measures adopted at European level, are specifically directed to allow the different financial institutions to continue providing their services in the most appropriate manner, and to reduce as much as possible the impact of the COVID-19 in the provision of such services.

The widespread view is that regulators, both Spanish and European, are searching for solutions that allow financial institutions to continue with their business while respecting their obligations as regulated entities. Accordingly, a certain flexibility in relation to complying with these obligations is the hallmark of the steps being adopted at Spanish and European level in this matter.

*What regulatory relief is available to firms (e.g., prudential requirements, reporting, deferred implementation of new rules)?*

The CNMV has issued the following statements that may affect financial institutions carrying out their business in Spain:

- **CNMV considerations on listed companies general meetings in view of the health situation created by the COVID-19 (10th of March 2020)**
- CNMV considers reasonable that, under the present circumstances and in line with Spanish corporate law rules, listed companies should encourage as much as possible that shareholders attend general meetings by proxy rather than in person. Furthermore, listed companies have the possibility to maximize the use of remote assistance and remote voting, including through telepresence systems, real-time video-based connection or any other means, even if they are not expressly provided for in the articles of association, the rules of procedure of the meeting or in the notices issued.
- **Considerations on certain reporting obligations of Opened Collective Investment Institutions Managers ("SGIIC") and Closed Collective Investment Institutions Managers ("SGEIC") in view of the situation created by COVID-19 (27th of March 2020)**



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Such announcements provide explanations on the flexibility applicable to the following matters:

- I. iFormulation, audit and approval of the annual accounts (referral to the CNMV, public dissemination and sending to investors).
- II. Publication and forwarding to participants and shareholders of the quarterly report for the first quarter of 2020.
- III. Disclosure to the CNMV of restricted information and statistical information statements on assets and liabilities.
- IV. Proceeding and reporting required by Regulation (EU) 2017/1131 on monetary funds.
- V. Internal audit report.
- VI. Information requirements.
- VII. Communication of relevant incidents.

- **Application during the COVID-19 crisis of Technical Guide 4/2017, for the evaluation of the knowledge and skills of reporting and advisory staff, as regards examinations** (13th of April 2020)

The CNMV exceptionally accepts distance tests during these extraordinary circumstances, provided that the institutions had implemented procedures for remote assessment that meet a series of conditions established in the statement.

BoS for its part has published an **Information note on the use of the flexibility provided for in the accounting regulations to deal with the shock caused by COVID-19** (30th of March 2020). This relates to the measures communicated by the ECB and extends them to all financial institutions over which the BoS exercises its supervisory powers. The document provides that financial institutions are able to make use of capital and liquidity buffers, and a more flexible approach to timing and supervisory processes is introduced. Such actions aim to reduce the operational burden of financial institutions.



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We need to bear in mind that, as of today, Spanish regulators are in essence following the proceedings recommended or imposed by the European authorities such as ESMA, EBA or the ECB, rather than designing and implementing their own specific actions.

Therefore, in order to predict future reliefs in Spain, we should monitor measures being discussed at a European level. The decisions derived from such discussions, would be the precursor to the actions taken by the Spanish regulators in the near future.

*Treatment of clients and addressing conduct risk i.e. miss-selling during stressed markets*

On 6th April 2020, BoS issued a press release informing financial institutions of its intention to review their compliance with regulations and good banking practice, in relation to the public guarantees issued by the Spanish government as part of its economic plan to mitigate the impact of COVID-19 in the Spanish economy. These consist of public guarantees covering some of the loans granted by financial institutions in order to provide companies with liquidity during this time of financial stress.

The press release states that the BoS, considers that the public guarantees approved by the Spanish government and intended to facilitate the maintenance of employment and mitigate the economic effects of COVID-19, need to be marketed by financial institutions in strict compliance with the conditions and requirements set out in the regulations governing such guarantees and with the criteria of good banking practice. Therefore, the BoS is going to verify the protocols and procedures and, where appropriate, review specific operations in order to verify their compliance with the applicable regulations.

***As commented in the answers above, we need to remember that the Spanish regulators are following the steps of the European authorities such as the ESMA, the EBA or the ECB, rather than establishing their own specific measures.***



# SPAIN

## *The risk of cyber-attack and cyber-security*

Even though the Spanish regulators have not made announcements in relation to the specific impact of this issue in respect to financial institutions, several cybersecurity companies have advised of the growth of cyber-attacks in Spain since the COVID-19 outbreak. The types of cyber-attacks that the authorities are recording during these exceptional circumstances are mainly phishing and smishing. Both crimes, with the same modus operandi, impersonate an official body and attempt to redirect the user to a spoofed website to enter their personal or banking details.

## *What are regulators saying about compliance and oversight of market trading e.g., recording of communications and market abuse?*

Spanish regulators have not made, as of today, any specific announcements in relation to this matter.

Notwithstanding the above, Spanish regulators are following the different measures recommended or imposed by the European authorities.



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Among the actions taken by the European regulators in relation to this subject, we can highlight the following announcements:

- **ESMA issues a public statement to clarify issues regarding the application by firms of MiFID II requirements on the recording of telephone conversations (20th of March 2020)**

ESMA considers that, if under these exceptional scenarios, firms are unable to record voice communications, financial institutions must consider what alternative steps they can develop to mitigate the risks related to the lack of recording. In this sense, ESMA expects firms to deploy all possible efforts to ensure that the alternative measures remain temporary and that the recording of telephone conversations is restored as soon as possible.

- **EBA issues an statement on consumer and payment issues in light of COVID-19 (25th of March 2020)**

In light of the exceptional circumstances caused by the spread of COVID-19 across the globe, EBA considers that there is a need to adopt appropriate measures to contribute to the protection of consumers and the orderly functioning of payment services across the European Union.

***As discussed in the answers above, we need to recall that the Spanish regulators are following the steps of the European authorities such as ESMA, EBA or the ECB, rather than establishing their own specific measures.***

*What is the regulatory response to market volatility i.e. some regulators have imposed short -selling bans?*

On 17th March 2020, the CNMV decided to prohibit the creation or increase of net short positions over shares admitted to trading on Spanish trading venues.



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Such measures were implemented following earlier steps developed by ESMA. On 16th of March, ESMA temporarily required holders of net short positions in shares traded on a European Union regulated market to notify the relevant national competent authorities if such a position reaches or exceeds an specific percentage of the issued share capital.

The CNMV's decision is explained in the following statements:

- **CNMV temporarily prohibits the creation or increase of net short positions on listed shares**  
(16th of March 2020)

Under the provisions contained in the document, CNMV enacts a 1-month prohibition on the creation or increase of net short positions over shares admitted to trading on Spanish trading venues. In the communication, CNMV indicates that the ban affects any transaction over shares or related to indexes, including spot transactions, exchange-traded derivatives or over the counter derivatives which entails the creation of a net short position or an increase of a pre-existing position. Without prejudice to the above, CNMV establishes several exceptions.

- **CNMV extends during one month the temporary ban on the creation or increase of net short positions on listed shares** (15th of April 2020)

This statement contains the decision adopted by the CNMV to extend for one month the prohibition regarding the creation or increase of net short positions on listed shares. In this regard, the CNMV has decided to introduce one modification in relation to the operations excluded from the prohibition.



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This prohibition may in turn be extended by the CNMV for renewable periods not exceeding three months if such circumstances continue, or may be lifted at any time without exhausting the period if deemed necessary.

***As commented in the answers above, we need to recall that the Spanish regulators are following the steps of the European authorities such as ESMA, EBA or the ECB, rather than establishing their own specific measures.***

*What is the regulator saying about fund liquidity and redemptions?*

On 1st April 2020, the Spanish government decided to introduce a modification in relation to the provisions governing the functioning of Collective Investment Institutions.

Such a modification expressly provides the ability to CNMV to require an Asset Manager (Sociedad Gestora de Instituciones de Inversión Colectiva - SGICs) to put in place the measures necessary to strengthen liquidity. These are aimed at establishing notice periods to enable SGICs in extreme cases to manage, in an orderly and equitable manner, possible scenarios of high levels of redemption requests that can affect stability and confidence in the financial system.

As of today, the CNMV has not decided to exercise its powers in this area and appears to have no intention to exercise them in that near future as no large redemptions are taking place.

***As commented in the answers above, we need to consider that the Spanish regulators are following the steps of the European authorities such as ESMA, EBA or the ECB, rather than establishing their own specific measures.***



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## Legal Guidance

Please note that the Spanish regulators have not yet issued any specific guidance directed to clarify the different actions that need to be taken by financial institutions in relation to the COVID-19 outbreak. Therefore, we consider the guidance published by the European regulators to contain the main principles that financial institutions in Spain must comply with.

The main guidelines are the following:

- I. **Business continuity planning:** All financial market participants, including infrastructures, must be ready to apply their contingency plans, including deployment of business continuity measures, to ensure operational continuity in line with regulatory obligations.
- II. **Market disclosure:** Issuers must disclose, as soon as possible, any relevant significant information concerning the impacts of COVID-19 on their fundamentals, prospects or financial situation, in accordance with their transparency obligations under the market abuse regulation.
- III. **Financial Reporting:** Issuers must provide transparency on the actual and potential impacts of COVID-19, to the extent possible based on both a qualitative and quantitative assessment on their business activities, financial situation and economic performance in their 2019 year-end financial report if these have not yet been finalized or otherwise in their interim financial reporting disclosures.
- IV. **Fund Management:** Asset managers should continue to apply the requirements on risk management, and react accordingly.



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- v. **Banks focus on core operations:** Addressing any operational challenges banks may face should be the priority. Banks should focus on and ensure continuity of their core operations, including support for their customers. In addition, supervisory activities should be planned, including on-site inspections, in a pragmatic and flexible way, and possibly postpone those deemed non-essential, giving the banks also some leeway in the remittance dates for some areas of supervisory reporting, without putting at stake key information needed to monitor closely banks' financial and prudential situation.
- vi. **Making use of the flexibility:** A number of provisions in the regulatory framework ensure that banks build up adequate capital and liquidity buffers. These buffers, including macro prudential ones, are designed to be used in order to absorb losses and ensure continued lending to the economy during a downturn. Banks should also follow prudent dividend and other distribution policies, including variable remuneration.



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## Actions to Consider

### ✓ **Ensure customer and staff safety:**

- Implement safe distancing measures in all aspects of their business operations, especially customer touch points.
- Provide employees with appropriate hygiene training and tools.
- Implement social distancing techniques to reduce face-to-face contact (e.g., teleconference calls, flexible work hours and telecommuting).
- Establish adequate measures of infection control in the workplace.
- Reduce traffic at bank branches.
- Remind customers of the various channels for accessing banking services without physically going to a branch.
- Limit the number of people waiting at the premises and ensuring a minimum separation between customers.

### ✓ **Review appropriateness of contingency plans to address a pandemic scenario:**

- Assess to what extent contingency plans appropriately include a pandemic scenario.
- Develop the necessary actions to minimize the potential adverse effects of the spread of COVID-19.
- Assess how quickly measures foreseen under a pandemic scenario could be implemented and how long operations could be sustained under such a scenario.
- Assess operational risks and the ability to serve customers and markets with split teams and remote working.



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## Actions to Consider

- Establish a strategy to deal with the pandemic that includes a range of actions that can be deployed depending on the severity of the various possible scenarios.
  - Consider scenarios that provide for scaling measures commensurate with the institution's geographic footprint and business risk for the particular stages of a pandemic.
  - Document a strategy that includes actions that are consistent with the effects of a particular stage of a pandemic.
- ✓ **Assess telecommuting capabilities and increase cyber resilience:**
- Test IT and other critical capabilities.
  - Consider the additional strains resulting from the increased use of online banking and remote working arrangements.
  - Anticipate and be prepared to manage any increase in demand for online financial services.
  - Assess and test the capacity of existing IT infrastructure, in the light of a potential increase of cyber-attacks.
- ✓ **Identify critical financial workers:**
- Identify the activities, services or operations, which are likely to lead to the disruption of essential services to the real economy or financial stability.
  - Identify the individuals that are essential to support these functions.



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## Actions to Consider

### ✓ **Coordinate with critical third-party service providers:**

- Enter into a dialogue with critical service providers to understand how services continuity would be ensured in case of a pandemic.
- Monitor service providers, identify potential weaknesses in the service and supply chains.
- Develop potential alternatives for obtaining critical services and supplies.
- Verify that critical suppliers and service providers have taken adequate measures and are sufficiently prepared for a pandemic.

### ✓ **Maintain clear communication with internal and external parties:**

- Ensure that employees understand their role and responsibilities in responding to a pandemic event.
- Inform customers of the availability of services and operating hours.



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## Key Contacts



Jaime Denis  
Team Leader  
+34 91 168 09 97  
jaime.denis  
@bakermckenzie.com

## References

Please find a hyperlink to the following information sources. Please, bear in mind that some of them have only been published in Spanish:

- **CNMV Communications**

CNMV considerations on listed companies' general meetings in view of the health situation created by the COVID-19 *10th March 2020*

The CNMV temporarily prohibits the creation or increase of net short positions on listed shares.  
*16th March 2020*

Considerations on certain reporting obligations of SGIIC and SGEIC in view of the situation created by COVID-19. *27th March 2020*



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- **CNMV Communications**

Application during the situation arising from COVID-19 of Technical Guide 4/2017, for the assessment of knowledge and skills of reporting and advisory staff, in relation to examinations. *13th April 2020*

CNMV extends during one month the temporary ban on the creation or increase of net short positions on listed shares. *15th April 2020*

Q&A on the temporary ban of 13th April 2020 of increase of net short positions in shares admitted to trading center listings for which the CNMV is the competent authority. *17th April 2020*

Supplementary joint communication of the Spanish registers association of registrars of Spain and the CNMV on the general meetings of listed companies called to be held while restrictions or recommendations are in force resulting from the health crisis. *28th April 2020*

Joint communication of the Spanish registers association, the accounting and auditing institute and the CNMV in relation to the formulation and deposit of the annual accounts of the issuers of securities in a single European electronic format. *30th April 2020*



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In view of the novel coronavirus ("**COVID-19**") outbreak in Europe (including in Switzerland), the Swiss Federal Council still classifies the situation in Switzerland as an exceptional situation under the Federal law on the control of communicable human diseases ("**Epidemics Act**"). It has issued measures to the population, (financial) organisations and institutions as well as the cantons.

The Swiss Confederation, the Swiss National Bank and the financial regulator, the Swiss Financial Market Supervisory Authority ("**FINMA**"), have continued to be proactive in monitoring the evolving situation and the implications for the market and have taken various measures to reduce the consequences by means of certain facilitations.

It is important for financial institutions to have in place relevant measures to ensure continuity and sustainability. We will discuss below the regulatory expectations, as well as the risk areas financial institutions should watch out for and the steps to take.



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## Regulatory Standards and Best Practices

### A. FINMA's expectations over business continuity and operational resilience

According to FINMA's latest press releases on the topic, FINMA is of the view that the financial institutions and financial market infrastructures in Switzerland are continuing to work very well at an operational level. Even in the current exceptional situation, the financial institutions' services have remained available unbroken thanks to remote working methods. The Swiss financial institutions were also well prepared financially to deal with the current market turbulence. Moreover, banks and insurers are equipped to deal with extreme stress scenarios. The stability of the banks and the significant build-up of solid capital and liquidity buffers were a key concern of the Swiss authorities in recent years. On average, insurers' capital buffers are also well above the minimum requirements. Nevertheless, FINMA shares the assessment that in the current environment for the financial markets and the world economy, both banks and insurers will begin to experience pressure on their credit books and investments, which in turn will over time reduce the buffers they have built up. These buffers are intended to be used when needed and FINMA announced it was taking decisions to allow this to be done in practice (see section b. below).

### B. Regulatory reliefs available to firms as well as supervised institutions by FINMA (FINMA Guidances 03/2020 and 04/2020) <sup>1</sup>

#### I. The following exemptions concern the insurance sector and money laundering regulation:

- Upon request, FINMA is willing to accept a 10-day average of the yield curves as the calculation basis for the Swiss Solvency Test ("SST"). Such a choice cannot be reversed within a calendar year and must be disclosed accordingly.



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- Insurance companies must meet the following supervisory obligations by 30 April 2020 (this deadline will be extended until 31 May 2020 upon notice being given to FINMA. FINMA must receive the notice before 30 April 2020):
  - Regular reporting as defined in article 25 para. 3 of the Federal law on the supervision of insurance undertakings ("ISA");
  - FINMA is willing to accept an SST report with reduced content this year. The remaining minimum requirements for the SST report will be communicated to the insurance companies in the next few days; and
  - Publishing the financial condition report on the website (as part of their supervisory reporting).
- Simplified identification under the Anti-Money Laundering Act ("**AMLA**"):
  - FINMA is granting a facilitation for new business relationships entered into before 1 July 2020: It is extending the 30-day period set out in Article 45 of the Swiss Banks' Code of Conduct with Regard to the Exercise of Due Diligence ("**CDB 20**") to 90 days in cases where the identification document's authenticity has not been confirmed. This relaxation can be extended or adjusted by FINMA as needed.
  - Financial intermediaries to whom article 45 CDB 20 applies: This provision can be applied to new business relationships for the time being, such that they can be entered into with a simple copy of the identification document. For business relationships with increased risks (unlike those without increased risks), however, it must continue to be assessed and documented on a case-by-case basis whether this application of the exception is acceptable in view of the associated money laundering risks. The confirmation of authenticity must, regardless of the risk category of the relationship, be presented within 90 days (instead of 30 days).
  - Self-regulatory organisation ("**SRO**") can also grant a facilitation as described in this section. This needs not be approved in advance, provided that it does not go further than FINMA's rules in any way.



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- II. These facilitations relate to institutions with a licence to use the market risk model approach and a deadline extension for supervised institutions when introducing new rules in the derivatives area:

The number of exceptions that result in an increase in the bank-specific multiplier pursuant to margin no. 332 of FINMA Circular 2008/20 "Market risks – banks" and consequently to the minimum capital requirements for market risks pursuant to article 88 para. 3 of the Capital Adequacy Ordinance ("**CAO**") will be frozen at the level of 1 February 2020 until 1 July 2020. Exceptions must continue to be reported in accordance with margin no. 333 of FINMA Circular 2008/20. Within one month of new exceptions occurring, the bank must submit an analysis of their causes.

As announced in a joint statement published on 3 April 2020, the Basel Committee on Banking Supervision ("**BCBS**") and the International Organization of Securities Commissions ("**IOSCO**") have extended the deadline for completing the final two implementation phases of the margin requirements for non-centrally cleared OTC derivatives by one year.<sup>2</sup> The FINMA supports the above-mentioned deferral by BCBS and IOSCO and is extending the timeframes set out in article 131 para. 5 let. dbis and let. e of the Financial Market Infrastructure Ordinance ("**FMIO**") by one year in each case.

## C. Further information as well as temporary exemptions for banks specifically by FINMA (FINMA Guidances 02/2020 and 03/2020)<sup>3</sup>

With the FINMA Guidances 02/2020 and 03/2020, FINMA provides the banks with

- clarifications for dealing with the COVID-19 Loans with federal guarantees within the framework of the capital and liquidity requirements (see section d. below) as well as the treatment of these credits for financial accounting purposes;



<sup>2</sup> <https://www.bis.org/press/p200403a.htm>.

<sup>3</sup> <https://www.finma.ch/en/documentation/dossier/dossier-covid-19/>.



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- on temporary exemptions relating to the leverage ratio (that is among other things FINMA temporarily allows the banks to calculate the leverage ratio without central bank reserves until 1 July 2020. FINMA will announce a possible extension by the beginning of June 2020 at the latest. COVID-19 Loans fall within the scope of the leverage ratio);
- on risk diversification; and
- information about the expected credit loss approach under IFRS 9 and its application in the context of the COVID-19 crisis.

## D. Loan programme for Swiss small and medium-sized enterprises

On March 25, 2020, the Swiss Federal Council announced the launch of a loan programme for Swiss small and medium-sized enterprises taking effect as of March 26, 2020<sup>4</sup>. The programme is a joint initiative between the Federal government, the Swiss National Bank and the Swiss banks to ensure that companies facing liquidity problems as a result of the COVID-19 pandemic have access to bridging loans.

Under the programme, each enterprise meeting the eligibility criteria may apply for a loan on a website maintained by the Swiss Federal government<sup>5</sup>. The two types of loans which may be granted include a COVID-19 Loan up to an amount of CHF 500,000 for immediate liquidity needs and a COVID-19 Loan PLUS up to an amount of CHF 20 Million for companies whose liquidity needs exceed the threshold for normal COVID-19 Loans. COVID-19 Loans benefit from a 100% Federal government guarantee via the Federal Surety Organizations. COVID-19 Loans PLUS benefit from a 85% Federal government guarantee.



<sup>4</sup> <https://www.admin.ch/opc/de/classified-compilation/20200869/index.html>.

<sup>5</sup> <https://covid19.easygov.swiss/>.

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## E. Prudent distribution policy and suspension of share buyback programmes

FINMA welcomes the fact that, following its investigations, all financial institutions in Switzerland have decided to suspend their share buyback programmes. FINMA recommends that boards of directors of financial institutions carefully the level of dividends in the current environment and in the context of these considerations.

### Latest Guidance

Companies holding a General Meeting may, irrespective of the expected number of participants and without observing the invitation deadline, order that shareholders can only exercise their rights a) in writing or in electronic form or b) by proxy designated by the company.

The State Secretariat for Economic Affairs ("**SECO**") and the Federal Office of Public Health ("**FOPH**") have published a fact sheet concerning protective measures in the workplace and in dealing with clients. The latest version of the fact sheet can be found on the SECO website<sup>6</sup>. People at high risk should work from home. The should inform their employer if they belong to the high-risk group. The employer may request a doctor's certificate regarding the employee's high-risk status.

The FOPH recommends that companies prepare a pandemic plan. The FOPH has published an information handbook in this respect, directed at small and medium enterprises<sup>7</sup>. Depending on the evolution of the COVID-19 situation, such a plan may become mandatory.



<sup>6</sup> [https://www.seco.admin.ch/seco/de/home/Publikationen\\_Dienstleistungen/Publikationen\\_und\\_Formulare/Arbeit/Arbeitsbedingungen/Merkblätter\\_und\\_Checklisten/merkblatt\\_arbeitgeber\\_covid19.html](https://www.seco.admin.ch/seco/de/home/Publikationen_Dienstleistungen/Publikationen_und_Formulare/Arbeit/Arbeitsbedingungen/Merkblätter_und_Checklisten/merkblatt_arbeitgeber_covid19.html).

<sup>7</sup> <https://www.bag.admin.ch/bag/en/home/krankheiten/ausbrueche-epidemien-pandemien/pandemievorbereitung/pandemiehandbuch.html>.

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The Swiss Federal Council on 20 March, 2020, extended the normal judicial vacations<sup>8</sup>. They applied from 21 March to 19 April 2020. The specific effects of this suspension depend on the applicable procedural law. However, the Swiss Federal Council has decreed that the suspension also applies to deadlines set by public authorities or courts if their end date fell between 21 March and 19 April 2020. In the current situation, we advise firms to verify every deadline carefully.

On 1 April 2020, the Swiss Federal Council decided on a temporary amendment to the Ordinance on Electronic Signatures ("**VZertES**") for a period of six months<sup>9</sup>. It provides for a general possibility of video identification when issuing certificates. A new article in the ordinance provides in this respect that the identity of a person applying for a regulated certificate can in principle be established in real time by means of audiovisual communication. However, this possibility was previously limited to the financial sector. The condition is that the identification is carried out within the framework of a procedure that meets the requirements of the AMLA or a procedure that has been assessed in a member state of the European Union in accordance with the corresponding EU Regulation (No. 910/2014). This helps to avoid travel and personal contacts.

Despite the various government support measures, companies face liquidity problems and are unable to meet their maturing liabilities, or are over-indebted. In the Ordinance on Insolvency Law Measures to deal with the Corona Crisis ("COVID-19 Ordinance on Insolvency Law") of 16 April 2020<sup>10</sup>, the Swiss Federal Council has now taken measures to provide such companies with easier creditor protection or to protect them from bankruptcy. The Ordinance entered into force on 20 April 2020.

The cantons may issue additional measures or guidelines in areas not regulated by the Swiss Federal Council (and FINMA). The current measures of each canton can be found at <https://www.ch.ch/de/coronavirus/#informationen-und-kontakte-in-den-kantonen>.



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<sup>8</sup> <https://www.admin.ch/opc/de/classified-compilation/20200834/index.html>.

<sup>9</sup> <https://www.admin.ch/opc/de/classified-compilation/20162168/index.html>.

<sup>10</sup> <https://www.ejpd.admin.ch/dam/data/bj/aktuell/news/2020/2020-04-16/vo-covid19-insolvenz-d.pdf>.

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## Actions to Consider

- Review potential insurance coverage and check whether your policies provide the right types and levels of coverage for crisis situations and are responsive to any changes in the business.
- Monitor the announcement of any new governmental or regulatory policies in response to the outbreak of COVID-19, which may lead to changes in the applicable law, the options for relief and the assessment of compensation or a COVID-19 Loan.
- Appoint a coordinator or a group of cross-functional coordinators, which is responsible for tracking the latest developments, reviewing guidance from any governmental agencies and who can be a point of contact for concerned employees.
- Review applicable government health alerts and requirements for reporting. For instance, primarily due to data privacy laws, employers in Switzerland generally may not notify health authorities that an employee was infected.
- Companies whose business involves travel by its workforce into areas where the virus is particularly active should immediately try to establish customer contact or business contact through other means, e.g., teleconference, webinar, or videoconference. Businesses with employees who are working overseas or who are traveling should track travel and health restrictions to allow the company to move quickly in response to concerns these employees may have. Limit business travels as much as possible.



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## Actions to Consider

- Develop plans to enable key positions and functions and personnel to continue working, possibly through remote operations. Identify and, if necessary, cross-train back-up personnel to ensure critical functions are not compromised. Consider physically separating key position holders.
- Identify contact information for key suppliers, utilities, and local and national governments. Keep this "list" available and updated so that the company can both advise them of steps it is taking to mitigate the effects of a pandemic, as well as make requests for assistance, if necessary.
- If employees work from home on an exceptional basis, it must be ensured that company data is protected in a suitable manner (e.g., remote access to company data via a secure connection). In addition, employees should receive instructions on how to handle company data (e.g., to delete data from private data media immediately after leaving the home office).
- Health data should not be stored in an employee's personal file, but separately. In addition, they should be deleted no later than 5 weeks after they were entered. Employees must be informed transparently about what personal data is collected in connection with COVID-19 and how it is processed.
- It should be noted that if the company is threatened with illiquidity or over-indebtedness, special duties and rules of conduct apply to the Board of Directors and the Executive Board so that liability risks can be avoided. In this context, the insolvency law measures of the Swiss Federal Council of 16 April 2020 must be observed (see above).



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## Key Contact/s



Ansgar Schott  
Partner  
+41 44 384 12 51  
ansgar.schott  
@bakermckenzie.com



Tanja Schmid  
Associate  
+41 44 384 15 33  
tanja.schmid  
@bakermckenzie.com

## References

Further news, regional law perspectives and other information can be viewed at Baker McKenzie's [Coronavirus Resource Center](#).



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The Bank of England (BoE), the Prudential Regulation Authority and the Financial Conduct Authority are in close contact with those key firms they directly supervise to ensure that their senior management is evaluating and planning to mitigate the risks posed by COVID-19 and, in particular, to take steps to see that financial markets continue to function.

Together with the European Securities and Markets Authority (ESMA), with respect to the EU, regulators are watching emerging trends closely. In a scenario where up to a fifth of the UK workforce could be affected at its peak, the BoE is aiming to ensure that "all necessary contingency plans are in place."

## Regulators' statements

The BoE has issued a [statement](#) confirming that its prudential supervisors were reviewing the contingency plans of banks, insurers and FMI (e.g., trading venues and CCPs). This included assessments of operational risks and the ability of these entities to serve customers and markets using split teams and remote working. For its part, the FCA, in [guidance](#) (see also the FCA Coronavirus [webpage](#) for more resources) expects firms to have contingency plans to deal with major events including operational risk assessments. This is consistent with the FCA's current focus on operational risk and systems and controls more generally; however, there has been relatively limited thematic guidance to the market on the regulator's expectations for dealing with pandemic scenarios. For example, with the exception of a review of the payments system in 2016, UK regulators have not carried out a market wide pandemic exercise for many years. ESMA in a similar [statement](#) has said firms should be ready to apply their contingency plans to ensure operational continuity in line with regulatory obligations.



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## Expectations over operational risk

UK regulators' expectations over operational risk and management of market-wide events such as the coronavirus outbreak are described in a recent consultation [paper](#) "Building Operational Resilience." Financial institutions should identify critical business

services and establish related "impact tolerances" (i.e., thresholds for maximum tolerable disruption). They must test their ability to remain within these through a range of severe but plausible disruption scenarios. The process is intended to focus on the response and recovery actions firms would take to continue the delivery of an important business service in the event of disruption. The proposals note that in some circumstances, taking the systems and therefore the business service off-line might be the safest option where a tolerance level has been triggered (which, on a much larger scale, is effectively what happened when a circuit breaker was triggered on the NYSE after the S&P 500 plunged 7% on 9 March 2020). Recent market volatility and the need to perform a general operational risk assessment may cause firms to revisit whether their current impact tolerances are fit for purpose and what actions are needed in the event of a tolerance breach. The resilience of third-party service providers' systems and controls for outsourced services may also need to be reviewed in light of recent events.





# UNITED KINGDOM



## Business continuity and regulatory obligations

In common with firms in other sectors of the economy, the financial sector has arranged for staff to work from home and/or from alternative back-up locations. Issues arise, in particular, around managing staff who are engaged in sales and trading activities, and who are required to operate remotely. The FCA's guidance on COVID-19 notes that all firms should take "reasonable steps to meet their regulatory obligations." Although trading activities may take place from backup sites or with staff working from home, (i) orders must be promptly entered into trading systems, (ii) staff must use recorded lines, and (iii) compliance support must be available when needed. While many firms have remote recording solutions (e.g., software applications on mobile phones), safeguards may be needed to ensure that staff only use recorded lines. ESMA has shown more flexibility; in a [statement](#), it concedes that where recording is not practicable, firms should consider what alternative steps they can take to mitigate the risks. The US Commodity Futures and Trading Commission has also provided much clearer relief for firms they regulate — see below. In the worst-case scenario, regulators may grant waivers over specific rules, but for the moment we expect regulators to take a "business as usual" approach to operational monitoring and oversight procedures. Senior management and compliance oversight and internal reporting systems need, therefore, to be tested and working as close to "normal" as possible.



# UNITED KINGDOM



## Key Contact/s



Mark Simpson  
Partner  
+442079191403  
mark.simpson  
@bakermckenzie.com



Caitlin McErlane  
Partner  
+442079191894  
caitlin.mcerlane  
@bakermckenzie.com



Philip Annette  
Partner  
+442079191776  
philip.annette  
@bakermckenzie.com



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## EMEA FINANCIAL INSTITUTIONS INDUSTRY WORKING GROUP CONTACTS



**Marnin Michaels**  
Partner  
+41 44 384 12 08  
marnin.michaels  
@bakermckenzie.com



**Christian Reichel**  
Partner  
+49 69 2 99 08 234  
christian.reichel  
@bakermckenzie.com

## EMEA FINANCIAL SERVICES & REGULATION CONTACTS



**Manuel Lorenz**  
Partner  
+49 69 2 99 08 606  
manuel.lorenz  
@bakermckenzie.com



**Mark Simpson**  
Partner  
+442079191403  
mark.simpson  
@bakermckenzie.com

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