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EU Bulletin

K&P EU LAW BULLETIN #1

COVID-19: Council adopts exceptional rules to facilitate bank lending in the EU

Following the approval by the European Parliament's plenary on 18 June 2020, the Council adopted on 24 June 2020 a Regulation amending CRR and CRR II with a view to temporarily providing the necessary flexibility to the banks. This will support credit flows to companies and households and absorb losses, mitigating the economic consequences of the COVID-19 lock-down while preserving the key elements of the prudential framework.

The adopted changes include:

- preferential capital treatment of NPLs guaranteed by public sector guarantors in the context of measures aimed at mitigating the economic impact of the COVID-19 pandemic.
- mitigating the impact of IFRS 9 provisions on regulatory capital, by extending transitional arrangements for the application of IFRS 9 by two years to 2024.
- the temporary reintroduction of a prudential filter for sovereign bond exposures
- additional flexibility for supervisors to mitigate negative effects of the extreme market volatility observed during the COVID-19 pandemic, in particular by excluding "overshootings" that occurred in 2020 and 2021 in banks' internal models for market risks.
- targeted changes to the calculation of the leverage ratio (i.e. the ratio between banks' capital and its exposures) and a delay in the introduction of the leverage ratio buffer by one year to January 2023
- transitional arrangements for exposures to national governments and central banks denominated in a currency of another member state, in order to support funding options in non-euro member states mitigating the consequences of the COVID-19 pandemic.
- the earlier introduction of some capital relief measure for banks under CRR 2, most notably with respect to preferential treatment of certain loans backed by pensions or salaries and their SMEs and infrastructure loans, thus encouraging the credit flow to pensioners, employees, businesses and infrastructure investments.
- the earlier introduction of the treatment of some software as the bank's own capital. This could also encourage banks to invest in software and digitalisation.

The package of measures will become applicable on the day following its publication in the Official Journal of the European Union and at the latest by end June 2020.

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K&P EU LAW BULLETIN #2

EBA publishes the extension of application of its Guidelines on treatment of public and private moratoria in light of COVID-19 measures.

Following the publication of its Guidelines on legislative and non-legislative moratoria on loan repayments in the context of COVID-19 on 02 April 2020, the European Banking Authority (EBA) announced on 18.06.2020 the extension of the application of its Guidelines to 30 September 2020.

The COVID-19 pandemic has raised a significant number of policy challenges, both at the EU and national level, as the EU economies are not yet fully opened and EU countries to be affected in a different way and at a different pace. One of the main decisive EBA actions to apply the flexibility embedded in the regulatory framework, was the publication of the Guidelines on legislative and non-legislative moratoria on loan repayments on 02 April 2020 pursuant to Article 16 of Regulation (EU) No 1093/2010 (EBA Founding Regulation).

The aim of these Guidelines is to clarify the requirements for public and private moratoria, which if fulfilled, will help avoid the classification of exposures under the definition of forbearance or as defaulted under distressed restructuring. Moreover, these guidelines ensured that banks, while maintaining comparable metrics, would also be able to grant payment holidays to customers, under either legislative or non-legislative moratoria.

Acknowledging the crucial role played by banks in providing financing to European businesses and citizens during the ongoing COVID-19 pandemic, the EBA has decided to legally extend the application date of the Guidelines by three months. In granting this extension, the EBA is highly aware of the trade-off faced in making the extension, as persistent liquidity shortages under the current circumstances may develop into solvency issues that need to be properly assessed by banks on a case-by-case basis.

In addition, the EBA highlights that the implementation timeline envisaged in the EBA's IRB roadmap to repair internal models remains overall unchanged. The EBA, nonetheless, also recognizes that there may be institution-specific circumstances requiring more flexibility. Consequently, the EBA notes that supervisors may want to use their supervisory discretion in line with Article 146 of the Capital Requirements Regulation (CRR).

You may find here the statement of 2 April 2020.

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