Update on emergency measures in the Greek Banking and Capital Markets Sector in Response to the COVID-19 Crisis.

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Update on emergency measures in the Greek Banking and Capital Markets Sector in Response to the COVID-19 Crisis adopted from 31.03.2020 to 29.04.2020

The points below provide an update on emergency measures adopted to mitigate the COVID-19 public health crisis effects in the **Greek Banking and Capital Markets** Sector.

A. Greek market specific measures

- **Short Selling Ban Extension**

The **Hellenic Capital Markets Commission (the HCMC)** decided during its meeting of 15.04.2020, in coordination with the regulatory authorities in France, Belgium, Spain and Austria to extent, pursuant to article 24 of Regulation 236/2012 the ban on short selling or other transactions that create or increase a net short position in shares listed on the ATHEX, irrespective of the place of execution of the relevant orders as well as to all related instruments relevant for the calculation of the net short position, which had been decided on 17.03.2020 and applied from 18.03.2020, 00.00.01 (CET), until 24.04.2020, 24.00.00 (CET).

The extension applies from 25.04.2020 00.00.01 (CET) until 18.05.2020 24.00.00 (CET). The HCMC closely monitors the developments in financial markets and may, in coordination with the European Securities and Markets Authority (ESMA), lift the ban before the lapse of the deadline or further extend it depending on market conditions.

In its press release of 19.04.2020 ESMA announced the issuance of positive opinions on short selling bans by regulatory authorities in Greece, France, Belgium, Spain and Austria, covering also the extension of said measures.

The ban applies to all financial instruments that are taken into account to calculate the net short position based on articles 5 and 6 and Annex I, part 1 of Regulation (EU) no 918/2012. The HCMC has published revised Q&As on 15.04.2020 in relation to the scope of the restriction, clarifying inter alia the scope of application and exemptions therefrom, in line with ESMA guidance.

- **Guidance on AML customer due diligence during the COVID-19 pandemic**

Acknowledging the difficulties encountered by obliged persons, within the meaning of Directive 2015/849/EU on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, when performing customer due diligence in view of the restrictions imposed to address the COVID-19 pandemic, the HCMC provided on 24.04.2020 guidance on alternative, temporary ways to implement due diligence requirements in relation to the establishment of new and the monitoring of existing business relationships, as well as in the context of execution of one-off transactions.

In particular, the HCMC suggested temporary, alternative tools that obliged persons could use to verify the identity of a potential business counterparty to replace authentication through physical presence, which is currently restricted. Such alternative tools include scanned identity documents sent by email, customer identification using video-calls or selfies, identification through key-question patterns via teleconference or through the use of unique identifiers sent to the customer's email address, verification of counterparty's geolocation and IP address or telephone numbers and use of publicly available data from third party providers, such as social security number database for Greek counterparties. The HCMC clarifies that there is no requirement for a formal amendment of the obliged person's written policy to provide for the use of the above alternative due diligence tools; it is sufficient for obliged parties to keep a record of all temporary alternative due diligence tools used during the pandemic.

The HCMC also urged market participants to thoroughly monitor any transactions in the context of existing business relationship, adopting risk-sensitive due diligence measures to ascertain the source of non-predictable funds especially coming from customers that have been economically affected by the COVID-19 crisis.

B. EU-wide measures

- **Temporary collateral easing measures**

On 07.04.2020, the **Governing Council of the European Central Bank (ECB)** adopted a package of temporary collateral easing measures to facilitate availability of eligible collateral for Eurosystem counterparties to participate in liquidity providing operations, such as the targeted longer-term refinancing operations (TLTRO-III).

The package is complementary to other measures announced by ECB in March 2020, including additional longer-term refinancing operations (LTROs) and the Pandemic Emergency Purchase Programme (PEPP) as a response to the COVID-19 emergency.

The measures collectively:

- ❑ Support the provision of bank lending, especially by easing the conditions at which credit claims are accepted as collateral;
- ❑ Increase the risk tolerance of the Eurosystem to support the provision of credit via its refinancing operations, particularly by lowering collateral valuation haircuts for all assets consistently.

The emergency collateral package contains three main features.

First, the Governing Council adopted a set of collateral measures to facilitate an increase in bank funding against loans to corporates and households. This will be achieved by expanding the use of credit claims as collateral, in particular through the potential expansion of the additional credit claims (ACCs) framework. The ACC frameworks provide the possibility to National Central Banks (NCBs) to enlarge the scope of eligible credit claims for counterparties in their jurisdictions, including the possibility to accept loans with lower credit quality, loans to other types of debtors, not accepted in ECB's general framework, and foreign-currency loans.

In this respect, the Governing Council decided to temporarily extend the ACC frameworks further by accommodating the requirements on guarantees, enlarging the scope of acceptable credit assessment systems used in the ACC frameworks and reducing the ACC loan level reporting requirements.

Second, the Governing Council further adopted the following temporary measures:

- ❑ A lowering of the level of the non-uniform minimum size threshold for domestic credit claims to EUR 0 from EUR 25,000;
- ❑ An increase, from 2.5% to 10%, in the maximum share of unsecured debt instruments issued by any single other banking group in a credit institution's collateral pool;
- ❑ A waiver of the minimum credit quality requirement for marketable debt instruments issued by the Hellenic Republic for acceptance as collateral in Eurosystem credit operations.

Third, the Governing Council decided to temporarily increase its risk tolerance level in credit operations through a general reduction of collateral valuation haircuts by a fixed factor of 20%.

The measures will apply until September 2021 when the first early repayment of the third series of TLTRO-III takes place.

Finally, the Governing Council decided to adjust the haircuts applied to non-marketable assets, both in the general collateral framework and for ACCs, by fine-tuning some of haircut parameters. This adjustment, which is not linked to the duration of the PEPP, leads on average to a further haircut reduction of this type of collateral by around 20%.

- **Mitigation of possible rating downgrades effect on collateral availability**

On 22.04.2020, the Governing Council of ECB adopted further temporary measures to mitigate the effect on collateral availability of possible rating downgrades resulting from the economic fallout from COVID-19 pandemic.

Specifically, the Governing Council decided:

- ECB to grandfather until September 2021 eligibility of marketable assets and the issuers of such assets that fulfilled minimum credit quality requirements on 7 April 2020 (BBB- for all assets, except asset-backed securities (ABSs)) in the event of deterioration in credit ratings decided by credit rating agencies accepted in the Eurosystem as long as the ratings remain at or above credit quality step 5 (CQS5, equivalent to a rating of BB) on the Eurosystem harmonised rating scale.
- Future issuances from grandfathered issuers will be eligible provided they fulfil all other collateral eligibility criteria.
- Currently eligible covered bond programmes will be grandfathered under the same conditions.
- Currently eligible ABSs to which a rating threshold in the general framework of CQS2 applies (equivalent to a rating of A-) will be grandfathered as long as their rating remains at or above CQS4 (equivalent to a rating of BB+).
- Assets falling below the minimum credit quality requirements will be subject to haircuts based on their actual ratings.

Non-marketable assets are not part of the scope of temporary grandfathering. All measures will enter into effect as soon as the relevant legal acts enter into force.

The measures will apply until September 2021 when the first early repayment of the third series of TLTRO-III takes place.

- **EBA report on revisions to RTS on prudent valuation under CRR**

On 22.04.2020, the European Banking Authority (EBA) published the amended final draft Regulatory Technical Standards (RTSs) on prudent valuation under Article 105(14) of the Capital Requirements Regulation (CRR). To mitigate the impact of exceptional volatility triggered by the COVID-19 pandemic on the prudential requirements for market risk, EBA is proposing to adjust the capital impact by amending its standards on prudent valuation of fair-valued financial instruments. In particular, EBA is proposing to introduce the use of a 66% aggregation factor to be applied until 31 December 2020 under the so-called core approach (besides the 50% aggregation factor to be used under normal market conditions that is already provided for in the formulae contained in the Annex to Delegated Regulation (EU) 101/2016). While using the 66% aggregation factor, institutions are required to continue computing additional value adjustments (VAs) in accordance with the requirements included in Delegated Regulation (EU) 101/2016 and the principles prevailing before the crisis.

- **EBA statement on additional supervisory measures in the COVID-19 pandemic**

On 22.04.2020, EBA issued a statement complementing its strategic communications of 12th, 25th, 31st March and 2nd April with respect to additional supervisory measures in the context of the COVID-19 pandemic. EBA’s statement includes guidance for the implementation of the principles of flexibility and pragmatism in relation to the 2020 supervisory review and evaluation process (SREP) and the key elements of recovery plans under the BRRD, as well as with respect to the application of EBA guidelines on information and communication technology and security risk management during the current crisis environment. EBA further provides clarifications on certain aspects of the application of its guidelines of 02.04.2020 on legislative and non-legislative moratoria on loan repayments applied in the light of the COVID-19 crisis in relation to securitized exposures and securitization positions.

- **ESMA new Q&A on alternative performance measures (APMs)**

On 17.04.2020, ESMA updated its Q&A on APMs, providing guidance on parameters that issuers should take into account when adjusting APMs and/or including new APMs to address the impact of COVID-19 on their operations. In this context, ESMA encourages issuers to improve their disclosures and include narrative information on their communication documents in order to explain in a MAR-compliant way how COVID-19 impacted and/or is expected to impact their operations and performance, including where necessary details on how the specific circumstances related to COVID-19 affected the assumptions and estimates used in the determination of inputs to specific APMs.

- **Fund managers periodic reporting**

Acknowledging the significant difficulties encountered by fund managers in complying with their period reporting obligations under European legislation within the current market circumstances, ESMA issued on 09.04.2020 a public statement in relation to fund managers, including UCITS management companies, self-managed UCITS investment companies, authorised AIFMs, non-EU AIFMs marketing AIFs pursuant to Article 42 of the AIFMD, EuVECA managers, and EuSEF managers urging national authorities to adopt a risk-based approach and not prioritize supervisory actions against these market participants in respect of upcoming reporting deadlines during a one-to-two month “tolerance” period following lapse of the respective deadlines.

- **Postponement of deadline for benchmarks’ external audit requirements**

ESMA issued a second public statement on 09.04.2020 regarding the timeliness of fulfilling external audit requirements for interest rate benchmarks under Regulation 2016/1011. In particular, taking into account burdens on interest rate benchmark administrators and contributors to interest rate benchmarks associated with the COVID-19 outbreak, ESMA urged national authorities to adopt a risk-based approach and not prioritise supervisory actions against administrators and supervised contributors relating to the timeliness of fulfilling those audit requirements where the audits are carried out by 30 September 2020.

- **Publication dates for annual non-equity transparency calculations and quarterly Systematic Internaliser data**

On 09.04.2020, ESMA issued a public statement postponing the application of the annual non-equity transparency calculations and the quarterly calculations for the systematic internaliser (SI) test for derivatives, under MiFID II. The publication of the calculations including the liquidity assessment and the determination of the pre-trade and post-trade large in scale and size specific to the instrument thresholds for derivatives, ETCs, ETNs, emission allowances and structured finance products is be postponed from 30 April 2020 to 15 July 2020 and their application from 1 June 2020 to 15 September 2020. The transitional transparency calculations (TTC) will continue to apply until and including 14 September 2020. The extension will not apply with respect to the publication and application of the annual transparency calculations for bonds, which will be applicable from 01.01.2020. Data for the performance of the systematic internaliser test for derivatives, ETCs, ETNs, emission allowances and structured finance products will be published by 1 August 2020 and the mandatory SI regime for derivatives, ETCs, ETNs, emission allowances and structured finance products will apply from 15 September 2020.

- **Publication of best execution reports under MiFID II**

In view of the difficulties encountered by execution venues and firms in preparing execution reports under MiFID II due to the repercussions of the COVID-19 pandemic, ESMA issued a public statement on 31.03.2020 urging competent authorities to adopt a risk-based approach and not prioritise supervisory actions against execution venues and firms that are unable to meet the 31.05.2020 deadline for publishing the RTS 27 reports, provided they do so as soon as reasonably practicable after that date and no later than by the following reporting deadline (i.e. 30 June 2020) and/or the 30.04.2020 deadline for publication of the RTS 28 reports, provided they do so on or before 30.06.2020.

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