

# Banks and investment firms

## Regulatory update

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## AML/CFT

### Due diligence to asylum seekers from higher-risk jurisdictions

In this Opinion, the EBA sets out how credit and financial institutions can strike the right balance between providing asylum seekers from higher-risk third countries and territories with access to financial products and services on the one hand, and complying with EU Anti-Money Laundering and Counter-Terrorist Financing (AML/CFT) requirements on the other hand.

ML/TF risks can in most cases be managed effectively:

- by offering a more limited range of services and/or
- by setting up stricter monitoring controls, which will be conducive to early intervention in the event of suspicion.

The EBA calls on competent authorities to consider taking steps to clarify how the views expressed in this Opinion apply under their legal and regulatory framework.

## BRRD

### Confidential information under BRRD

These guidelines are addressed to financial institutions, competent authorities and resolution authorities.

The EBA reminds the general rules in relation to professional secrecy and confidentiality requirements when dealing with confidential information in the recovery and resolution plans.

To ensure the proper functioning of the BRRD regime, these guidelines specify how information should be provided in summary or collective form such that individual institutions or entities cannot be identified.

## IRRBB

### Standards issued by BCBS

The Basel Committee on Banking Supervision (BCBS) issued on April 21, 2016 standards for Interest Rate Risk in the Banking Book (IRRBB). These standards revise the Committee's 2004 Principles for the management and supervision of interest rate risk, which set out supervisory expectations for banks' identification, measurement, monitoring and control of IRRBB as well as its supervision.

For the new framework, the BCBS opted for a Pillar 2 framework based around banks' internal measurement systems (supervisory review) instead of a Pillar 1 framework (minimum capital requirements). However, this framework includes also a revised standardised approach, which supervisors could mandate their banks to follow or banks could choose to adopt.

The key updates to the enhanced Pillar 2 approach are as follows:

- More detailed guidance on supervisory expectations for banks' management processes around IRRBB (such as the development of interest rate shock scenarios);
- Enhanced disclosure requirements, including some based on common interest rate shock scenarios; and
- A stricter threshold for identifying "outlier banks" which may have "undue IRRBB", such that they should be subject to additional supervisory reviews or actions (such as capital raising, reduction of IRRBB exposures, changes to risk management, etc.).

The proposed framework would be applied to large internationally active banks on a consolidated basis.

The banks are expected to implement the standards by 2018.

## MiFID II

### Level II measures

On 7 April 2016, the Commission adopted a MiFID Delegated Directive, a first level II measure under MiFID II.

On 25 April 2016, the Commission adopted a delegated regulation supplementing MiFID II.

## PRIIPs

### The data exchange challenge

Following the publication of the final draft RTS on 7 April 2016, the main challenge for asset managers will be the exchange of cost, risk and performance data to support other PRIIP manufacturers in the preparation of product KIDs, in particular for the insurance industry.

Insurance companies will need to rely on the quality and accuracy of data provided by the asset management industry, with varying levels of demand in terms of PRIIP data support.

## UCITS V

### Law of 10 May 2016 transposing the UCITS V Directive

The Law amends the law of 17 December 2010 ("loi OPC") and the law of 12 July 2013 ("Loi AIFM") based on the Directive UCITS V.

The Law is not limited to a faithful transposition of the directive. Among others, it also extends rules applicable to depositaries under the UCI law to all funds which are not under the AIFM regime.

From now on, the depositary regime applicable to part II UCI will be aligned to stricter rules of the depositary regime applicable to UCITS, and regardless if the assets under management of the part II UCI are above or below the threshold set out in the AIFMD regime. This decision is in line with the European regulator's objective to create a stricter depositary regime for funds aimed to be distributed to the public.

### Level 2 on depositary regime

On 24 March 2016, the long awaited UCITS V Level 2 on depositary regime has been published in the European Official Journal. Commission delegated Regulation (EU) 2016/438 (hereafter "the delegated Regulation") supplements Directive UCITS 2009/65/EC amended by Directive 2014/91/EU (UCITS V) by clarifying further the technical aspects of the implementation of the UCITS V depositary regime.

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