

TRAINING & DEVELOPMENT PROGRAMME

# Knowledge Network

Webinar Series

## COVID-19: Implications for the Financial Services Landscape – Providers and Users

Wednesday, 13 May 2020 | 8.30 am to 9.30 am



**Josh Hogan**  
Partner  
+353 1 607 1720  
Josh.Hogan  
@mccannfitzgerald.com



**Imelda Higgins**  
Senior Associate  
+353 1 611 9172  
Imelda.Higgins  
@mccannfitzgerald.com

---

# COVID-19: Implications for the Financial Services Landscape – Providers and Users

13 May 2020

Josh Hogan, Partner, Imelda Higgins, Senior Associate



---

# COVID-19: A Shock to the Financial System!

- Covid-19 is a public health crisis that is testing the global financial system
- Key priority for financial system is to maintain financial stability

# COVID-19 – The Financial Regulators

## Credit Institutions, Payment Institutions, E-money Institutions

- Central Bank of Ireland (CBI)
- European Banking Authority (EBA)
- European Central Bank (ECB)

## Fund Managers, Investment Firms

- CBI
- European Securities and Markets Authorities (ESMA)

## (Re)Insurers and Occupational Pension Providers

- CBI
- European Insurance and Occupational Pensions Authority (EIOPA)

# COVID-19 – the CBI’s Response

## COVID-19 FAQ

- Regulated Firms FAQ
- Consumer FAQ
- SME FAQ

## COVID-19 - Prudential Regulatory Flexibility Measures

- Credit institutions
- Credit unions
- Insurers and reinsurers
- Securities markets, investment management, investment firms and fund service providers.

# COVID-19 - EBA

## Prudential and supervisory measures to support bank lending into the real economy

- Joint RTS on amendments to the bilateral margin requirements under EMIR in response to the COVID-19 outbreak (04 May 2020)
- Amending RTS on prudent valuation (22 April 2020)
- EBA statement on additional supervisory measures in the COVID-19 pandemic (22 April 2020)
- EBA Statement on the application of the prudential framework on targeted aspects in the area of market risk in the COVID-19 (22 April 2020)
- Guidelines on legislative and non-legislative moratoria on loan repayments applied in the light of the COVID-19 crisis (02 April 2020)
- Statement on supervisory reporting and Pillar 3 disclosures in light of COVID-19 (31 March 2020)
- Statement on the application of the prudential framework regarding Default, Forbearance and IFRS9 in light of COVID-19 measures (25 March 2020)
- EBA statement on actions to mitigate the impact of COVID-19 on the EU banking sector (12 March 2020)

## Consumer, conduct and financial crime issues

- Statement on actions to mitigate financial crime risks in the COVID-19 pandemic (31 March 2020)
- Statement on consumer and payment issues in light of COVID19 (25 March 2020)

## Actions expected of banks

- Statement on dividends distribution, share buybacks and variable remuneration (31 March 2020)

## Adjustments to the EBA activities

- Further actions to support banks' focus on key operations: postponed EBA activities (25 March 2020)

# ECB

- Relief measures regarding capital and liquidity requirements
- Relief measures regarding the operational aspects of supervision
- Relief measures regarding asset quality deterioration and non-performing loans
- Actions expected of banks – payment of dividends
- FAQs on ECB supervisory measures in reaction to coronavirus

---

## COVID-19 – ESMA

- ESMA's initiatives cover:
  - The Benchmarks Regulation (external audit requirements)
  - Corporate Disclosure Issues (accounting, financial reporting deadlines and alternative performance measures)
  - Fund Management Periodic Reporting
  - MiFID/MiFIR Measures
  - Short-Selling Measures
  - Backloading under the Securities Financing Transactions Regulation



---

# COVID-19 - ESMA

---

ESMA MiFID/MiFIR related measures:	Clarify requirements on call taping under MiFID II (20 March 2020)
	Set out approach on MiFIR tick-size regime for Systematic Internalisers (20 March 2020)
	Confirm application date of equity transparency calculations (27 March 2020)
	Clarify requirements for best execution reports under MiFID II (31 March 2020) (extended deadlines)
	Extend MiFID II/MiFIR transparency review report consultation to 14 June 2020 (9 April 2020)
	Postpone publication dates for annual non-equity transparency calculations and quarterly SI data (9 April 2020)
	Conduct of business and retail investors (6 May 2020)

---

---

# COVID-19 and European Insurance and Occupational Pensions Authority

---

EIOPA

Statement on actions to mitigate the impact of Coronavirus/COVID-19 on the EU insurance sector (17 March 2020)

---

Recommendations on supervisory flexibility regarding the deadline of supervisory reporting and public disclosure (20 March 2020)

---

Call to action to mitigate the impact of Coronavirus/COVID-19 on consumers (1 April) 2020

---

Statement on dividends distribution and remuneration practices (2 April 2020)

---

Statement on other measures impacted by the Coronavirus/COVID-19 pandemic outlining deadline extensions and delayed projects (2 April 2020)

---

# COVID-19: The Regulatory Response



---

## COVID-19 – Protecting Supply of Credit

- Lenders are offering
  - a range of credit facilities to help businesses deal with the impact of Covid-19 such as emergency working capital, short-term loans to address cashflow issues, supply chain supports, trade finance and foreign currency products
- 6 month payment breaks – mortgages, personal and business loans
  - Moratorium payment breaks
  - Interest only payment breaks
  - Stream-lined simplified application processes
  - No adverse impact on credit
- Court repossession proceedings are being deferred for three months

---

# COVID-19 – Measures to Support Provision of Credit

- Monetary Policy Response
  - Broad-based asset purchases to address illiquidity and heightened volatility in core segments of euro area financial markets
    - €750 billion Pandemic Emergency Purchase Programme (PEPP)
  - Measures that ensure that banks remain reliable carriers of ECB's monetary policy and continue lending to the real economy
    - enhanced targeted longer-term refinancing operations (TLTROs), as well as a comprehensive set of collateral easing measures
- Measures taken in capacity of lender of last resort

# COVID-19 – Measures to Support the Provision of Credit

- Regulatory measures to enhance banks lending capacity
  - Capital and Liquidity Buffers
    - Reduction in Counter Cyclical Capital Buffer (CCyB) from 1% to 0%.
      - Free up EUR 1 billion in capital
      - Capacity for new lending EUR 10 – 16 billion
  - Credit institutions are allowed to operate temporarily below the level of capital defined by the Pillar 2 Guidance, the capital conservation buffer and the liquidity coverage ratio
    - Capital relief for significant banks amounting to EUR 120 billion which could be used to absorb losses or finance new lending – could finance EUR 1.8 trillion in loans

---

# COVID-19 – Measures to Support Provision of Credit

- Flexibility for capital instruments
  - Credit institutions will be permitted to use capital instruments that do not qualify as Common Equity Tier 1 (CET1) capital, namely Additional Tier 1 or Tier 2 instruments, to partially meet the Pillar 2 Requirements
    - This brings forward a measure that was scheduled to come into effect in January 2021, as part of the latest revision of the Capital Requirements Directive (CRDV).

---

## COVID-19 – Measures to Support Provision of Credit

- Commission Interpretative Communication on the application of the accounting and prudential frameworks to facilitate EU bank lending Supporting businesses and households amid COVID-19 (28 April 2020)
  - Flexibility embedded in IFRS 9
    - Assessment of a Significant Increase in Credit Risk
  - Flexibility embedded in the prudential rules on the classification of non-performing loans
- Role and Responsibility of the Banking Sector
  - Accelerate digital transformation
  - Refrain from dividend distributions/share buy backs
  - Conservative approach to variable remuneration



# COVID-19 and Bank Regulators

- Restrictions on dividend payments, variable remuneration and share buy backs
- ECB - Out of €35 billion in dividends that were planned to be paid, €30 billion were not paid.

“Our recommendation on dividend distribution restrictions is intended to keep precious capital resources within the banking system in these difficult times to enhance its capacity to lend to the real economy and to support other segments of the financial sector as they come under stress” - Andrea Enria – Chair of ECB Supervisory Board

---

## COVID-19 – Measures to Support Provision of Credit

- Central Bank has enhanced its monitoring of daily liquidity reporting of funds domiciled in Ireland
  - Industry communication to investment funds in light of ongoing market uncertainty due to COVID-19 (30 April 2020)
    - Effective liquidity management should include an assessment as to whether a UCITS or AIF has appropriate liquidity management tools in place

---

## COVID-19 – Measures to Support Operational Resilience

- Measures to support operational resilience include:
  - Postponement of Deadlines for Remedial Actions/Measures
  - Extension of remittance dates for regulatory returns and for disclosures
  - Deferral of planned legislative activity
  - Extension of implementation dates
    - Bilateral margining requirements
  - Guidance on compliance with applicable regulatory requirements in COVID-19 context
    - Vacancies for Pre-Approval Controlled Functions
  - Working with individual firms on business continuity plans and COVID-19 issues

---

## COVID-19 – Consumer Protection

- According to the CBI, it has
  - been working with financial services providers to help provide breathing space for customers in financial difficulties
  - expects all regulated firms to take a consumer-focused approach and to act in their customers' best interests
- published Central Bank of Ireland Expectations of Insurance Undertakings in Light of COVID-19 (27 March 2020)
  - Insurers must put forward consumer-focused solutions on policy payment breaks, rebates and claims
  - Doubts about the interpretation of an insurance policy should be resolved in favour of the consumer
  - CEOs must take responsibility for oversight of determination as to whether claims covered by insurance

---

# COVID-19 – Consumer Protection

- **EBA** - Statement on Consumer and Payment Issues in light of COVID-19 (25 March 2020)
  - Financial institutions must
    - Act in the interest of the consumer with respect to temporary measures
    - Grant temporary measures in full compliance with EU law, including
      - Full information disclosure, especially of any potential costs and charges
      - Transparency and clarity of terms and conditions
  - Carefully consider any new and additional charges and any cross-selling of products to consumers from a legal and reputational perspective

---

## COVID-19 – Consumer Protection

- **ESMA - COVID-19:** Reminder of firms' MiFID II conduct of business obligations in the context of increasing retail investor activity
  - Significant increase in the number of investment accounts opened by retail clients and a surge in trading by retail clients
  - Need to comply in particular with product governance, information disclosure, suitability and appropriateness requirements

---

## COVID-19 – Consumer Protection

- **EIOPA** - Call to action for insurers and intermediaries to mitigate the impact of Coronavirus/COVID-19 on consumers
  - Provide clear and timely information to consumers on contractual rights
  - Treat consumers fairly and be explicit in all communications
  - Inform consumers about contingency measures that insurers and intermediaries are taking
  - Continue applying product oversight and governance (POG) requirements
  - Consider the interests of consumers and exercise flexibility in how they are treated, where reasonable and practicable

---

## COVID-19 – Financial Crime

- CBI - Credit and financial firms should:
  - Remain alert to ML/TF techniques that might change due to an economic downturn and, where necessary update their ML/TF risk assessments accordingly
  - Continue monitoring transactions and pay particular attention to any unusual or suspicious patterns in customers' behaviour and financial flows and
  - Continue to report suspicions of ML/TF to the Financial Intelligence Unit (FIU)



---

## COVID-19 – Financial Crime

- CBI reminder to –
  - issuers of financial instruments of their obligation under Article 17 of the Market Abuse Regulation to disclose inside information to the market as soon as possible, e.g. in circumstances where there is a material change to financial expectations for the issue;
  - relevant regulated financial service providers of obligation to continue to employ appropriate trade surveillance, including to detect potential market abuse and breach of position limits.

---

## COVID-19 – Financial Crime

- ESMA Recommends Action by Financial Market Participants for COVID-19 Impact (11 March 2020)
  - Market disclosure obligations for issuers
- EBA statement on actions to mitigate financial crime risks in the COVID-19 pandemic (31 March 2020)
  - National competent authorities should share information on emerging ML/TF risks
  - Set clear regulatory expectations
  - Use supervisory tools flexibly

---

## COVID-19 – Financial Crime

- FAFT Statement by the FATF President: COVID-19 and measures to combat illicit financing (1 April 2020)
  - Encourages fullest use of responsible digital customer on-boarding and delivery of digital financial services
- FATF- COVID-19-related Money Laundering and Terrorist Financing Risks and Policy Responses (4 May 2020)
  - Identifies challenges, good practices and policy responses to new money laundering and terrorist financing threats and vulnerabilities arising from COVID-19 crisis

---

## COVID-19 – Impact on Financial Services

- Returning to a COVID-19 Work Place - COVID-19 Compliance Officers
- Increased role of digital in all areas
  - Remote working
  - Non face to face transactions with customers
  - Digital payments
  - Sup-tech/Reg-tech
- Implications for Banking Union/Capital Markets Union
- Increased regulatory focus on shadow banking sector
- Need for increased consumer protection ?
  - Review of the Consumer Credit Directive (2008/48/EC) and the Mortgage Credit Directive (2014/17/EU), foreseen in 2021