

BANKING, FINANCE & CAPITAL MARKETS BRIEFING: Special Edition

Latest Developments in Banking, Finance and Capital Markets Sector: Urgent Measures Relating to the Covid-19 Pandemic

This Briefing provides an overview of Covid-19 pandemic emergency measures relating to the Banking, Finance and Capital Markets Sector

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A. ECB Recommendation on Dividend Distributions by Credit Institutions

On 27 March 2020 the European Central Bank (ECB) issued a recommendation on the payment of dividends by credit institutions (https://www.ecb.europa.eu/ecb/legal/pdf/ecb_2020_19_f_sign.pdf). In particular:

- a. ECB asks credit institutions not to pay dividends or buy back shares during Covid-19 pandemic;
- b. ECB recommendation concerns dividends for 2019 and 2020 financial years, at least until 1 October 2020;
- c. ECB expects credit institutions to keep funding households, small businesses and corporations.

This new recommendation does not retroactively cancel the dividends already paid out by some credit institutions for the 2019 financial year. However, credit institutions that have asked their shareholders to vote on a dividend distribution proposal in their upcoming General Shareholders Meeting will be expected to amend such proposals in line with updated recommendation.

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B. EBA Provides Clarity to Banks and Consumers on the Application of the Prudential Framework in Light of Covid-19 Measures

Following its call on 12 March 2020 to competent authorities to make use of the full flexibility provided for in the existing regulation, the European Banking Authority (EBA) issued a second statement (<https://eba.europa.eu/eba-provides-clarity-banks-consumers-application-prudential-framework-light-covid-19-measures>)

to explain a number of additional interpretative aspects on the functioning of the prudential framework in relation to the classification of loans in default, the identification of forbore exposures, and their accounting treatment.

These clarifications will help ensure consistency and comparability in risk metrics across the whole EU banking sector which are crucial to monitor the effects of the current crisis. The EBA also reminds financial institutions of their consumer protection obligations, temporarily lifts some reporting obligations for payment service providers (PSPs), and calls on PSPs to raise their contactless payment thresholds to the legal limit). In particular:

- a. the EBA calls for flexibility and pragmatism in the application of the prudential framework and clarifies that, in case of debt moratoria, there is no automatic classification in default, forbore, or IFRS9 status;
- b. the EBA, nonetheless, insists on the importance of adequate risk measurement and expects institutions to prioritise individual assessments of obligors' likelihood to pay when possible;
- c. consumer protection remains a priority and financial institutions should ensure full disclosure and act in the interest of customers, with no hidden charges or automatic impact on credit ratings.

The EBA statement further notes that well-functioning payment services are vital at this time, and contactless payments should be stepped up to the threshold allowed under EU law.

C. Basel III: Governors and Heads of Supervision Announce Deferral of Basel III Implementation to Increase Operational Capacity of Banks and Supervisors to Respond to Covid-19

According to a press release issued by the Basel Committee on Banking Supervision on 27 March 2020 (<https://www.bis.org/press/p200327.html>), the Basel Committee's oversight body, the Group of Central Bank Governors and Heads of Supervision (GHOS), has endorsed a set of measures to provide additional operational capacity for banks and supervisors to respond to the immediate financial stability priorities resulting from the impact of the coronavirus disease (Covid-19) on the global banking system.

These measures comprise the following changes to the implementation timeline of the outstanding Basel III standards:

- a. the implementation date of the Basel III standards finalised in December 2017 has been deferred by one year to 1 January 2023; the accompanying transitional arrangements for the output floor has also been extended by one year to 1 January 2028;
- b. the implementation date of the revised market risk framework finalised in January 2019 has been deferred by one year to 1 January 2023;
- c. the implementation date of the revised Pillar 3 disclosure requirements finalised in December 2018 has been deferred by one year to 1 January 2023.

The statement further notes that these standards were finalised with the objective of complementing the initial set of Basel III standards and that, therefore, the revised timeline is not expected to dilute the capital strength of the global banking system, but will provide banks and supervisors additional capacity to respond immediately and effectively to the impact of Covid-19.

D. Ban on Short Selling

1. On 17 March 2020, the Hellenic Capital Market Commission (HCMC), in line with other EU

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securities regulators and the relevant public statement of ESMA, prohibited short sales and transactions, other than short sales which create or increase the net short positions in shares listed on the Athens Exchange, for which the HCMC is the competent authority, irrespective of the venue where the transaction is executed.

2. The temporary prohibition includes sales of shares covered by subsequent intraday purchases. The prohibition does not apply to market makers performing certain market making activities, when the short selling transactions are conducted for hedging purposes on:
 - a. the above shares;
 - b. stock derivatives of the above shares;
 - c. warrants of the above shares; and
 - d. ETFs and index derivatives of which the above shares are part of their composition.

The prohibition is effective from 18 March 2020 until 24 April 2020.

E. Suspension of Deadlines for Procedural Acts and Suspension of Instalment Payments for Debtors Having Applied for or Currently in Debt Settlement Agreements under Laws 4605/2019, 4469/2017 and 3869/2010

1. The Act of Legislative Content dated 30 March 2020 (Official Government Gazette A/75, Article 5) introduced a three-month suspension period for all deadlines concerning:
 - a. the procedural acts for the consensual out-of-court settlement of debts of individuals (Article 74, Law 4605/2019) and the out-of-court settlement of debts of business undertakings (Articles 7, 8 and 11, Law 4469/2017);
 - b. the provisional protection of primary residence of individuals (Article 78, par. 1, Law 4605/2019); and
 - c. the suspension of enforcement procedures with respect to debts of business undertakings (Article 13, Law 4469/2017).
2. The above suspension is granted provided that the relevant application for settlement has been timely

submitted by the debtor. Deadlines for the submission of the said applications (30 April 2020) are not suspended. With respect to debtors severely affected by the Covid-19 pandemic pursuant to the relevant Acts of Legislative Content (either already issued or that are to be issued in the future), the payment of instalments under settlement agreements that are in effect pursuant to the Laws 4469/2017, 4605/2019 and 3869/2010 is suspended for a three-month period. The above suspension of instalment payments does not result in default of payment with any further consequences thereof and does not affect the duration of any existing debt settlement.

3. Debtors not included in the above Acts of Legislative Content may benefit from the above suspension upon submission of an application to the creditor and evaluation thereof by the latter.

F. Suspension of Deadlines for the Presentation and Payment of Cheques

1. The Act of Legislative Content dated 30 March 2020 (Official Government Gazette A/75, Article 2) introduced the following measures concerning post-dated cheques:
 - a. Commencing from 30 March 2020 and until (including) 31 May 2020, the deadlines for presentation and payment of cheques will be suspended for seventy-five days after the due date of each cheque. The measure applies to business undertakings whose operations have mandatorily been suspended or which have been severely affected by the Covid-19 pandemic (for the types of business included in the issued Acts of Legislative Content and those to be included in Acts of Legislative Content to be issued in April 2020). The measure concerns cheques electronically notified to the banks by the persons having a right or an obligation under those cheques (through a special application of Interbanking Systems SA or Tiresias SA), within three business days of the issue of this Act of

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Legislative Content or (if applicable) of the issue of an Act of Legislative Content pursuant to which the relevant business undertaking is included in the list of severely affected businesses.

- b. Holders of cheques which (at the time of issue of this Act of Legislative Content) are not included in the list of affected businesses, may apply to benefit (from 1 April 2020) from the suspension of their insurance and tax obligations on the terms of the Act of Legislative Content dated 11 March 2020, provided that the amount of the cheques so suspended exceeds 20% of their average monthly turnover for 2019. The above measure does not apply to businesses included in sectors with a significant increase in their turnover during the Covid-19 crisis. Details of application will be set out in a Ministerial Decision to be issued to this effect.
2. The above measures do not prevent the parties concerned from agreeing on payment of their cheques on the initial due date.

G. Joint Ministerial Decision 21159/27.03.2020 on the Temporary Suspension of the Judicial System

1. Under the Joint Ministerial Decision 21159 dated 27 March 2020, all hearings, deadlines, time bars, actions of enforcement and auctions are suspended from 28 March 2020 until 10 April 2020, with certain limited exceptions.

H. Act of Legislative Content Dated 30 March 2020 on Measures to Address the Pandemic of Covid-19 and Other Urgent Provisions

1. Article 8 of the Act of Legislative Content dated 30 March 2020 provides for a two-month extension to the 30 April 2020 original deadline for the publication by companies, the shares of which are listed on the Athens Exchange, of their annual financial statements for the year ended 31 December 2019. The new deadline has been set at 30 June 2020 and this extension is in line with ESMA's public statement made on 27 March 2020 on "Actions to mitigate the impact of COVID-19 on the EU financial markets regarding publication deadlines under the Transparency Directive".
2. In addition, the HCMC urged domestic issuers to:
 - a. timely make publicly available all material information which may have an impact on their fundamental financials, their prospects and financial condition as a result of Covid-19, as required under Article 17 of the Market Abuse Regulation; and
 - b. confirm or disconfirm any unconfirmed information which may significantly affect the price of financial instruments issued by them or the price of other financial instruments which are linked to financial instruments issued by such issuers.

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