



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

Feedback Statement – Consultation Paper 149

Consultation on updates to the Implementation
Notice for Competent Authority discretions in the
Capital Requirements Regulation and Capital
Requirements Directive

December 2022

Feedback Statement

As outlined in Consultation Paper 149, the Central Bank proposed to update its November 2021 version of the Implementation Notice regarding Options and Discretions (O&Ds) in the Capital Requirements Regulation (CRR) and the Capital Requirements Directive (CRD), in view of the following developments:

- (i) Revisions made to the ECB's O&D framework, notably:
 - Recommendation ECB/2022/13 amending Recommendation ECB/2017/10 on common specifications for the exercise of some options and discretions available in Union law by national competent authorities in relation to less significant institutions ("LSI Recommendation"); and
 - Guideline (EU) 2022/508 amending Guideline (EU) 2017/697 of the European Central Bank on the exercise of options and discretions available in Union law by national competent authorities in relation to less significant institutions ("LSI Guideline").
- (ii) Revisions made to Regulation (EU) 2015/61, stemming from the Commission Delegated Regulation (EU) 2018/1620.
- (iii) Revisions made to the prudential regime for investment firms as a result of the adoption of the Investment Firm Directive (2019/2034) and Investment Firm Regulation (2019/2033).

At a high level, the Central Bank proposed to update the November 2021 version of the Implementation Notice as follows:

- Revisions to the non-binding LSI Recommendation as outlined in (i) above would be applied in full to LSIs¹; and
- The existing approach in the Implementation Notice of exercising O&Ds in a harmonised manner (unless otherwise specified) with respect to credit institutions and investment firms² would be maintained. In so doing, those additional parts of the SSM O&D framework that have not historically applied to "Class 1 minus" investment firms prior to IFR/IFD and SSM revisions to its LSI O&D instruments would be applied to such firms.

A public consultation was held between 18/7/2022 and 18/10/2022. Only one submission was made, which pointed out certain typos in relation to the reproduction of Article 478(2) (Applicable percentages for deduction from Common Equity Tier 1, Additional Tier 1 and Tier 2 items) in Annex I of the Notice, which have now been corrected. As no further comments were received, the Implementation Notice will now be finalised and published on the Central Bank website with no further changes beyond those included in the consultation and the subsequent correction of relevant typos.

¹ Noting that the LSI Guideline (and revisions therein) are legally binding on NCAs, and are applied as a matter of course.

² In this case "Class 1 minus" investment firms, as defined in paragraph 1.10 of the Notice.