

Press release

8 November 2024

ECB consults on its approach to options and discretions available in EU law

This press release was updated on 2 January to reflect a new end date for the consultation.

- EU banking legislation allows national authorities to decide how to apply certain provisions
- Consistent application of options and discretions harmonises rules and fosters level playing field in euro area
- Consultation ends 24 January 2025

The European Central Bank (ECB) today launched a [consultation on its revised policies for applying options and discretions available in EU law](#).

The revised policies outline how the ECB will exercise the options and discretions available to supervisory authorities under EU law when supervising banks. These options and discretions relate to several prudential rules, such as the definition of own funds, the calculation of capital requirements for certain risk categories, the types of assets included in the trading book and the exclusions allowed when determining the consolidation scope of a banking group.

The updates are primarily necessary given the adoption of the new EU banking package (the Capital Requirements Regulation III and the Capital Requirements Directive VI). However, they also reflect other supervisory developments that have occurred since the last revision in 2022. The revised policies aim to make the exercise of options and discretions by the ECB and national competent authorities more transparent, consistent and effective.

The public consultation on the updated policies on options and discretions starts today and will end on 24 January 2025. The ECB will then publish the comments received, alongside a feedback statement and the final policy framework. Further information on the process, together with frequently asked questions, can be found on the ECB's Banking Supervision website.

European Central Bank

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Notes

- European banking rules allow Member States and banking supervisors to choose between alternative treatments (options) or how to apply certain provisions (discretions).
- The updated policies on options and discretions published today clarify how the ECB exercises the options and discretions introduced by recent changes to EU banking rules, namely Regulation (EU) 2024/1623 and Directive (EU) 2024/1619 (the “CRR III-CRD VI package”).
- The policies consist of:
 - 1) a [Guide](#), covering the exercise of options and discretions applicable on a case-by-case basis;
 - 2) a [Regulation](#), covering the ECB’s exercise of several options and discretions of a generally applicable nature in relation to significant institutions;
 - 3) a [Recommendation](#) addressed to national competent authorities concerning the exercise of options and discretions applicable on a case-by-case basis in relation to less significant institutions;
 - 4) a [Guideline](#) addressed to national competent authorities concerning the exercise of options and discretions of a generally applicable nature in relation to less significant institutions.
- The revised framework is accompanied by an [explanatory memorandum](#) which summarises the updates under consultation.
- The currently applicable framework was last revised in 2022 and is available on the ECB’s Banking Supervision website
- The deadline for submitting comments to the public consultation has been extended by two weeks, following requests from stakeholders. The new deadline is 24 January 2025.

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