



Chapter 8

New regulatory developments in supervisory matters

Banco de España
Supervision Report 2024



Chapter 8

Takeaways

- The Banco de España prepares circulars implementing higher-ranking regulations, as well as technical guidelines with criteria and procedures for compliance with supervisory regulations. Also, in matters within its remit, it can adopt as its own the guidelines issued by the European Banking Authority (EBA).
- In 2024 it published a circular relating to information on the capital structure of credit institutions and other supervised institutions and guidelines on the internal capital and liquidity adequacy assessment processes of credit institutions. In addition, it adopted as its own eight EBA guidelines implementing various aspects of supervisory regulations.
- Two draft circulars are also under way: one on institutions' conduct and another on the calculation method for contributions to the Deposit Guarantee Scheme.
- In addition to the regulations published by the Banco de España, other notable developments in the supervisory field are the European regulation on instant credit transfers in euros and the draft law on credit servicers and credit purchasers.

1 Banco de España Circulars and Guidelines and adopted EBA guidelines

The Banco de España published Circular 1/2024 of 26 January 2024 to banks, credit cooperatives and other supervised institutions in relation to information on the capital structure and amending Circular 1/2009.

- The amendments in recent years to legislation on the capital structure of banks, credit cooperatives, specialised lending institutions (SLIs), payment institutions and electronic money institutions made it advisable to update and harmonise the information that these institutions were reporting to the Banco de España. This new circular comprehensively and fully regulates confidential information on capital structure and repeals the rules on this matter contained in Circular 1/2009.
- The new circular also repeals the requirements of Circular 1/2009 on registration in the Senior Officer Register and on the submission to the Banco de España of information relating to other positions in other companies, since these requirements have been superseded by subsequent legislation of equal or higher rank. However, institutions still fall under the obligations to report to the Banco de España on this matter that derive from other legislation applicable to them.

In February 2024, the Banco de España published the Amendments to the Guidelines on the Internal Capital Adequacy Assessment Process (ICAAP) and the Internal Liquidity Adequacy Assessment Process (ILAAP) at credit institutions. The amendments affect the treatment of interest rate and credit spread risks of non-trading book activities.

- In April 2023, the Banco de España adopted the guidelines of the European Banking Authority (EBA) on interest rate risk management and the assessment and monitoring of credit spread risk of non-trading book activities (EBA/GL/2022/14). These guidelines specify the criteria for the identification, evaluation, management and mitigation of the risks arising from potential changes in interest rates and for the assessment and monitoring of credit spread risk of institutions' non-trading book activities.
- Following the adoption of these guidelines, it became advisable to amend the 2017 Banco de España guidelines on ICAAP and ILAAP to ensure their consistency with these guidelines and with Directive 2013/36/EU, fundamentally in relation to credit spread risk and supervisory outlier tests.
- In addition, consistent with the sphere for which the Banco de España adopted these guidelines, SLIs were included in the subjective scope of application of the guidelines, albeit only the SLIs that prepare the annual internal capital adequacy assessment report.

In addition to publishing its own circulars and guidelines, the Banco de España can adopt as its own the guidelines of international regulatory and supervisory bodies that contain criteria, practices, methodologies or procedures that it deems appropriate. In 2024, the Banco de España adopted eight EBA guidelines as its own.



The guidelines adopted by the Banco de España as its own each year can be found at [this link](#)

2 Draft circulars in progress

A circular is being drafted on requirements and obligations in the area of conduct, transparency of information and proper treatment of customers, the prior public consultation of which was published in March 2024.

- The draft is intended to adapt the circular to the current legal framework. Also, it aims to promote a preventive conduct supervision approach, which is based on an early assessment of the institution's internal control framework and is conducive to the establishment of business models and commercial organisation structures that ensure adequate market practices.
- The new circular is also intended to make progress on the rationalisation and systematisation of the obligations in the area of conduct, information transparency and proper treatment of customers. To this end, the new circular incorporates and updates in a single text the provisions currently set out in three circulars: Circular 5/2012, on the transparency of banking services and responsible lending; Circular 2/2019, on the requisites of the Fee Information Document and Statement of Fees and on comparison websites for payment accounts, and Circular 4/2020, on advertising of banking products and services.

In addition, the Banco de España commenced the review of Circular 5/2016 of 27 May 2016 on the calculation method to be used to ensure that the contributions of institutions belonging to the Deposit Guarantee Scheme for Credit Institutions are proportionate to their risk profile. The mandatory prior public consultation was published in December 2024.

- The Banco de España is the competent authority responsible for the methods of calculating contributions to the Deposit Guarantee Scheme and, as such, it adopted the EBA guidelines on methods for calculating contributions to deposit guarantee schemes (EBA/GL/2023/02). Work began in 2024 to adapt the circular on this matter to these guidelines.
- The guidelines aim to clarify and improve the method for calculating institutions' contributions to deposit guarantee schemes, in order to better adapt contributions to the risk profile.

3 Other new regulatory developments

Among the regulations approved in 2024 at the European level, it is worth mentioning Regulation (EU) 2024/886 amending Regulations (EU) No 260/2012 and (EU) 2021/1230 and Directives 98/26/EC and (EU) 2015/2366 as regards instant credit transfers in euro.

- The main objective of this regulation is to encourage the use of instant credit transfers in euros, amending, among other regulations, Regulation (EU) No. 260/2012, which establishes technical and business requirements for credit transfers and direct debits in euros.
- The new regulation addresses the main obstacles encountered in the expansion of instant credit transfers: the dissuasive charges as compared to alternative means of payment; the concern for the security of payments given the immediacy in the reception of funds; the lack of incentives for payment service providers (PSPs) to offer instant credit transfers in euros; and the high rate of mistakenly rejected transactions related to persons on the European Union (EU) sanctions lists.
- The main measures included are as follows: the obligation for PSPs that receive and accept credit transfers in euros to also receive and accept instant credit transfers; the possibility of direct participation of payment institutions and electronic money institutions in designated payment systems, as detailed in Box 8.1; the establishment of a maximum execution time of ten seconds for instant credit transfers; the obligation that charges not exceed those of ordinary credit transfers in euros; and the obligation that PSPs offering instant credit transfers allow the customer to verify that the ownership of the account receiving the funds corresponds to the name of the beneficiary.
- It also amends Regulation (EU) 2021/1230 on cross-border payments in the Union, to incorporate the aforementioned restrictions on charges in this cross-border area. In addition, it amends Directive 2015/2366 so as to include certain requirements for payment institutions and electronic money institutions applying to participate in designated payment systems.

As regards draft Spanish regulations in progress, it is worth mentioning the Draft Law on Credit Servicers and Credit Purchasers amending Law 16/2011 of 24 June 2011 on Credit Agreements for Consumers and Law 5/2019 of 15 March 2019 Regulating Real Estate Credit Agreements.

- The draft law, published in May 2024 for public hearing and information, is intended to transpose Directive 2021/2167 on credit servicers and credit purchasers into Spanish law.
- The draft law establishes a common framework for credit servicers and credit purchasers. This framework impacts on the purchases of non-performing loans (NPLs) made by a credit institution established in the EU or by an SLI and on the credit servicers that manage these NPLs on behalf of the credit purchasers.

- The main new features of the draft law include most notably the following: credit servicers are subject to prior administrative authorisation and to registration by the Banco de España; it regulates the possibility for the credit servicer to receive and hold funds from borrowers in order to transfer them to credit purchasers and for the credit servicer to provide services in another Member State, and the credit purchaser is not subject to authorisation or any requirements other than those provided for in the draft law or in private law for purchasing NPLs. Also, the draft law establishes reporting obligations to the Banco de España: credit institutions and SLIs must report every six months on their NPL sales to credit purchasers; credit purchasers must report every six months on sales of purchased NPLs; and the credit servicer must report certain aggregate information.
- In addition, the draft law introduces amendments to Law 16/2011 on credit agreements for consumers and to Law 5/2019 regulating real estate credit agreements in order to transpose other amendments introduced by the directive to reinforce borrower protection.

Also worthy of note is the prior public consultation, carried out in September 2024, of the draft law that will transpose Directive (EU) 2023/2225 on credit agreements for consumers and repealing Directive 2008/48/EC.

- This draft law is intended to create an appropriate environment in which to strengthen consumer protection, guaranteeing a high level of protection for the consumer, and to facilitate the cross-border consumer credit market. Additionally, it extends the scope of application and establishes rights not included in Directive 2008/48/EC.

Lastly, it is worth mentioning that in September 2024 the public hearing and information process for the Draft Order amending Ministerial Order ECO/805/2003 on rules for the valuation of real estate and certain rights for specific financial purposes was concluded.

- The amendments refer fundamentally to the inclusion of sustainability factors in the valuations and to the consideration of new urban planning figures that have emerged to expedite the commencement of building works, which allow construction to begin while the definitive licence is being processed.

Box 8.1
ACCESS OF PAYMENT INSTITUTIONS AND ELECTRONIC MONEY INSTITUTIONS TO DESIGNATED PAYMENT SYSTEMS

Regulation (EU) 2024/886 on instant credit transfers in euro includes amendments to:

- a) Directive 98/26/EC on settlement finality (Settlement Finality Directive), to enable payment institutions and electronic money institutions —collectively referred to as non-bank payment service providers (PSPs)— to be eligible to participate in payment systems designated by Member States under this Directive; and
- b) Directive 2015/2366 on payment services (PSD2). Accordingly:
 - To ensure the stability and integrity of payment systems, certain requirements are imposed on non-bank PSPs participating in designated systems under the Settlement Finality Directive. In particular: a description of the safeguarding measures; a description of the governance arrangements and internal control mechanisms in relation to the payment or electronic money services to be provided; and a settlement plan in the event of non-payment.
 - In addition, it includes the option for non-bank PSPs to safeguard customer funds in an account held with a central bank, where that central bank, at its own discretion, offers this possibility.

The transposition of the amendments to both Directives into Spanish law must be completed by 9 April 2025 at the latest.

Traditionally, non-bank PSPs have not been able to participate directly in the payment systems designated by each Member State under the Settlement Finality Directive and they have accessed them through credit institutions. These amendments are intended to enable non-bank PSPs to offer a full range of payment services without relying on credit institutions for the settlement of transactions.

In view of the above, in July 2024 the Eurosystem approved a harmonised policy on access by non-bank PSPs to payment systems operated by central banks in the euro area. The main points of this harmonisation are:

- a) The decision to grant direct access to central bank-operated payment systems and to offer accounts for the purposes of safeguarding is at the Eurosystem's discretion.
- b) Access to euro area central bank-operated payment systems may be granted to non-bank PSPs provided that they meet all necessary risk-mitigation requirements, as stipulated in the TARGET Guidance or in the terms and conditions of the national retail payment systems operated by national central banks. The Eurosystem will rely on the procedures established by Member States to ensure that non-bank PSPs comply with the risk management requirements set out in PSD2.
- c) Eurosystem central banks will not offer safeguarding accounts to non-bank PSPs or crypto-asset service providers, as this could have a negative impact on the safety and soundness of the financial system.
- d) Non-bank PSPs will not be able to become counterparties in Eurosystem monetary policy operations or have access to intraday credit.
- e) The harmonised policy will be implemented in TARGET services with the update of the TARGET Guidance, which will enter into force on 9 April 2025 or shortly after (depending on the national transposition of the corresponding European legislation).

Lastly, it should be noted that, regarding other national central bank-operated payment systems, the terms and conditions of such payment systems must not contradict the harmonised policy of the Eurosystem or the terms and conditions of TARGET once the guidance has been amended.