BBVA Research

Financial Regulation Outlook

1Q19

Regulation Unit

Creating Opportunities

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Closing date: **18 January 2019**

1. Regulatory authorities' work programmes for 2019

Victoria Santillana

The main regulatory bodies have presented their work plans for 2019. The priorities for global regulators will be to: i) finalise the reforms initiated during the financial crisis, ii) conduct impact studies of the regulations implemented, and iii) monitor new risks and vulnerabilities. For their part, the European authorities will be focusing on: (i) supervisory convergence, (ii) completing the reforms initiated, (iii) monitoring new risks, (iv) developing measures to cope with Brexit, and (v) ensuring the financial stability of the European system.

Global: Focus on regulatory impact and increased international coordination

On a global level, it is surprising that prudential issues are still a very significant part of their agendas, ten years after the onset of the crisis. The FSB will be focusing its work in 2019 on a package of new initiatives aimed at assessing the effects of reforms to end the "too-big-to-fail" problem (2019-2020) and explore ways of measuring and dealing with the risk of market fragmentation. It will also be executing projects related to the implications of financial technologies for financial stability, effective recovery and resolution practices, and the response of financial institutions to cyber incidents. Finally, work will continue on climate-related transparency within the framework of sustainable finance.

The BCBS will be focusing its efforts on promoting stronger and more stable supervision, as well as evaluating and monitoring the impact of post-crisis reforms. In parallel, it will focus on developing new policies focused on: i) information exchange, ii) the development of the banking sector and of the financial markets, iii) assessing emerging risks, iv) the regulatory framework of G-SIBs, v) improving supervisory cooperation, vi) setting new standards to strengthen resilience and reduce risks in the financial sector, and vii) collaborating with other international bodies to promote financial stability.

Europe: focus on completing the reforms already under way

Europe will assume the global lines of work but adapt them to its specific needs. In this sense, in order to finish the reforms initiated in the crisis, they are calling for completion of the Banking Union, the Capital Markets Union (CMU) and advances in the reform and strengthening of the Economic and Monetary Union (EMU) as the main objectives. To this end, the European bodies (European Commission, EBA, ESMA, SRB) have proposed a series of horizontal/transversal principles common to their strategic objectives, among which the following stand out: i) improving supervisory convergence in the common regulatory framework (Single Rule Book), ii) improving the Commission's better regulation initiative and the application of the proportionality principle in the regulatory framework, iii) monitoring new risks, iv) developing rules to protect consumers, v) developing measures to adapt the EU to the future challenges posed by Brexit, and vi) guaranteeing the financial stability of the European system. Finally, among the new features in the work plans are issues related to digital banking (which is of increasing concern to a greater number of authorities), benchmarks, and Brexit.

2019: another year marked by domestic initiatives and elections in Europe

We forecast that 2019 will be an interesting year in the field of financial regulation, which will be marked by two trends: the capacity to respond globally to the challenge posed by domestic initiatives, tending towards less regulation and cooperation in the absence of a sense of urgency after the crisis; and ii) at European level, by the impact of the electoral calendar on the various initiatives which are under way.

In Europe 2019 is expected to be a year of continuity in the lines of work of the authorities, but with significant challenges marked by the milestone of the European Parliament elections in May, which will also decide who will be the new President of the Commission. Therefore, it is possible that new strategic lines will be opened for Europe in the next legislative period 2020-2024. For this reason, many agencies have announced their intention to accelerate the completion of pending initiatives during the first half of 2019.

Finally, both industry and supervisors must prepare for the outcome of the Brexit negotiations. Given the high degree of interconnection between the EU and UK financial sectors, it is important to consider a set of potential problems that could arise, on which financial institutions are working through their contingency plans.

2. Last steps in the negociation CRD V

Pilar Soler

The negotiation of the so-called "banking package" is finally coming to an end more than two years after the presentation of the Commission's proposal. After several months of trilogues with little progress, in December the Parliament and the Council reached an agreement on several important parts of the package. Other issues had been previously agreed or are in technical negotiations. It has been a tough process with a substantial political component, but it seems that most of the package is now agreed and the official endorsement by co-legislators is the only missing piece. This is expected to take place in the first quarter of 2019, before the European elections.

In November 2016, the Commission presented a comprehensive package of reforms to the banking regulation that affected both the prudential and the resolution framework. It included the transposition of the latest Basel standards (those agreed after 2014, which did not include the finalisation of the Basel III framework in 2017) and also a set of technical improvements, mostly identified in the Call for Evidence made by the Commission in 2015. More than two years after the beginning of this process, it seems that it is finally coming to an end with the bulk of the package already agreed and only pending further technical work.

Overview of the final agreement

On the prudential side of the package, during the first trilogues, some agreements were reached on several topics such as the Interest Rate Risk in the Banking Book (IRRBB), the new standardised approach for counterparty credit risk (SA-CCR), the leverage ratio surcharge for G-SIIs and some aspects of the new large exposures framework. Moreover, there were other sets of issues that went directly to technical negotiations, as the starting positions of both institutions were mostly aligned. For example, this was the case for the amendments aimed at ensuring the recognition of capital issuances in third-countries at the consolidated level.

Nevertheless, there were several issues where consensus was not easy to reach as the Council's and Parliament's initial positions were divergent. These issues have been the core of the political agreement reached, and already voted in the ECOFIN on 4 December. Among others, this agreement includes the following topics:

- The implementation of the **Fundamental Review of the Trading Book (FRTB)**, which is one of the main parts of the new regulatory framework and has been subject to much debate, especially given that the discussion in the Basel Committee has just been finished in January 2019. This is the main reason why finally, the CRR II will include a reporting requirement and the final standard will be implemented foreseeably next year.
- **Proportionality,** which is another significant part of the new package, and is one of the technical improvements that came from the call for evidence exercise. The new regulatory framework will have a new definition of "small, non-complex institution" which will trigger the application for these entities of reduced reporting and disclosure requirements in an attempt to reduce compliance cost for smaller entities.
- A **simplified NSFR** has also been agreed for small and non-complex institutions. The simplified ratio has fewer data points for calculation and reporting purposes, but remains just as conservative as the fully-fledged metric.
- The **Supporting factors for SMEs and infrastructure** were another matter of discussion. With respect to the former, it has been agreed to widen its scope so that it can be applied to loans up to €2.5M (from €1.5M). On the other hand, the latter is a new feature of the framework which will reduce capital requirements for certain infrastructure projects.

- In the area of own funds, there has been a much discussed proposal regarding **software and its mandatory deduction as an intangible asset.** After a long negotiation, an exemption from this deduction has been agreed for certain classes of software assets, always provided that they are prudently valued, and absorb losses in a gone concern situation. The CRR includes a mandate to EBA to draft the details of this new rule.
- The revision has also brought significant changes to the **macroprudential framework** that will most likely affect the buffers for Other Significant Institutions (G / O-SIIs) and their interaction with the Systemic Risk Buffer (SRB). Moreover, it is likely that the G-SII score will include a new additional methodology that does not consider activity within the Banking Union as cross-border activity (although with very targeted consequences, changing the G-SII bucket), in line with the Council's position.
- Finally, in the case of the leverage ratio, a new set of amendments has also been agreed to avoid window dressing": a practice that can lead to regulatory arbitrage. The EBA will further clarify this issue.

Next steps and assessment

After the political agreement and the vote in the ECOFIN, there is still some way to go. Technical work is still underway for many of the issues, and envisaged deadlines are a little tight. Once the whole package is finished, it has to be voted both in the Parliament and the Council (which only endorsed the previous topics). This is expected to happen in the next few weeks, ahead of the Parliamentary elections.

- **Meeting the envisaged deadlines is of the utmost importance.** This year will be marked by the European Parliamentary elections, and it is important to close this file before that milestone. It has been two years of tough negotiations of a legislative package that will have a significant impact on the current regulatory framework, and it is key to give clarity on the final rules that will apply to banks.
- **The regulatory framework needs stability.** With the banking package still in process, the authorities already have their minds on the next legislative process, the implementation of the finalisation of Basel III (so-called BIS IV). At a European Union level, the EBA is working on an impact report to help the Commission in the implementation of these latest Basel standards. After that is done, we should grant the regulatory framework a much needed stability, after more than 10 years of intense regulatory activity.
- **The political agreement is welcomed.** Some of the most important parts of the package are included, and it is important to have reached a common position on these difficult topics.
    - **The new scope for the SME supporting factor is very positive.** Financing of small and medium enterprises is always at the core of the European strategy. Thus, the broader scope for this reduction in capital requirements is very welcome as it will help meet this European objective.
    - **The exemption from deduction of certain software is also very positive.** It is important to recognise that not all intangible assets are the same, and that some software assets still have value and are used during and after resolution.
    - **Nevertheless, there are other amendments that may create some concerns.** New provisions in order to avoid window dressing practices in the calculation of the leverage ratio should be institution-specific and developed under Pillar 2.

3. CRD V negotiation: Resolution issues

Javier García

On 4 December 2018 the EU Council reached a political agreement with the EU Parliament in relation to the most significant aspects of the Banking Reform Package, commonly referred to as "CRD V", and originally published by the EU Commission two years ago. The proposed changes to the resolution framework, by way of amendments to the CRR, CRD IV, BRRD and SRMR, introduce new requirements for EU banks, several of which are more demanding than those approved at international level. Thus, the agreement represents another step towards achieving further risk reduction in the Banking Union. The legislative process will become binding in approximately two years' time, when the appropriate transition periods for regulations end and when directives are transposed into national laws.

Main aspects of the political agreement

Subordination requirement. The subordination requirement was one of the most controversial topics during the negotiations of the entire package. The final version, which will most likely be subject to further technical clarifications, is similar to the EU Council's compromise text of May 2018. It is significantly higher than those recommended by other EU institutions such as the Commission or the Parliament, and by international bodies such as the FSB. The subordination requirement will be determined based on a rather intricate formula and according to the systemic importance of the bank. First of all, G-SIIs and top tier banks (those with more than €100 bn of assets or those selected at the discretion of the resolution authority) will have to comply with a TLAC-like absolute minimum level dubbed "Pillar 1 requirement" in terms of RWAs or leverage exposure (see a simplified summary in figure 3.1). On top of that, resolution authorities may also ask banks to comply with a "Pillar 2 subordination requirement" determined case by case. G-SIIs and top tier banks will have to comply with a minimum Pillar 2 level equal to 8% of total liabilities and own funds (TLOF), which also includes the combined buffer (CBR) and an allowance to compute senior debt based on a formula (the results of which are similar to the allowances permitted under the TLAC term sheet). As a last minute addition, regulators included a cap of 27% of RWAs which means that for those top tier banks where 8% of TLOF is greater than 27% of RWAs, the 27% cap would apply. Finally, the Pillar 2 subordination requirement would be subject to a cap for all banks deemed risky[1] and equal to the higher of 8% of TLOF without any allowance or twice their Pillar 1 and Pillar 2 capital requirements without the market confidence buffer (CBR would come on top of that).

1: Up to 30% of banks (or more depending on the specificities of the national banking sectors) could be categorized as risky if: i) they have unremedied impediments to resolvability, ii) their resolution strategy is not credible, or iii) they rank among the 20% of banks with the highest Pillar 2 capital requirement.

Table 3.1 Simplified overview of the new subordination requirement for EU banks

Subordination requirement	Pilar 1	Pilar 2	
		Floor	Cap
G-SIIs	**2019 - 2022:** Higher of 16% RWAs or 6% leverage in addition to CBR (subject to the 2.5% RWAs exception) **From 2022 on:** Higher of 18% RWAs or 6.75% leverage in addition to CBR (subject to the 3.5% RWAs exception)	8% TLOF + allowance	If risky, higher of 8% TLOF without allowance or 2(P1+P2R) + CBR
Top tier banks	Higher of 13.5% RWAs or 5% leverage	Lower of 8% TLOF + allowance or 27% RWAs	If risky, higher of 8% TLOF without allowance or 2(P1+P2R) + CBR
Rest	-	-	If risky, higher of 8% TLOF without allowance or 2(P1+P2R) + CBR

Source: BBVA Research

Transitional arrangements. The deadline to comply with MREL and the subordination requirement seems to be 1 January 2024, although the resolution authority would be able to extend that period based on several considerations. To ensure a linear build-up, the resolution authority may set an intermediate target level for 1 January 2022. Grandfathering seems allowed for: i) AT1 and Tier 2 instruments not complying with new requisites during the first six years after the entry into force of CRR 2, and ii) eligible liabilities not complying with certain new conditions until their maturity or replacement.

Moratorium. The package includes the power for resolution authorities to suspend the payment of principal and interest of liabilities of a bank in difficulties. The moratorium tool can be applied for a period of up to two days in a pre-resolution scenario, but after the declaration of “failing or likely to fail” (FOLF) to a wide range of bank liabilities including covered deposits. The agreement, although milder than that initially proposed by the Commission (which included two moratorium tools usable for a period of up to five days each, and which could be combined with the resolution stays already included in the current BRRD), goes beyond the recommendations of the FSB’s Key Attributes.

M-MDA. The resolution authority may prevent an entity from distributing dividends, AT1 coupons or variable remuneration to its employees after a grace period of nine months if an entity is in breach of its CBR because it cannot rollover eligible liabilities due to a serious disturbance in the financial markets.

Insolvency. Member States will have to ensure that the declaration of FOLF automatically triggers insolvency proceedings if resolution action is not in the public interest. Furthermore, national insolvency laws will have to recognize that capital instruments or instruments ranking *pari passu* will have to absorb losses in insolvency before other subordinated claims.

Retail holdings. Selling of subordinated eligible liabilities to retail clients will not be permitted unless the seller determines their suitability. Also, a retail client’s financial instrument portfolio may not exceed €500,000, the client may not invest more than 10% of his or her portfolio in subordinated eligible liabilities, and the instrument must have a minimum denomination of €10,000. Retail clients are responsible for providing this information to the seller.

Home-host balance and internal MREL. The Council did not wish to negotiate its compromise text of May 2018. Therefore, host authorities will enjoy more power to set internal MREL than that provided initially by the Commission.

4. Contingency measures for a no-deal Brexit

Matías Cabrera

The latest developments have significantly increased the uncertainty surrounding the ratification of the Brexit deal. The likelihood of a cliff-edge scenario should not be neglected. In this setting, the European Commission has implemented its "no-deal" Contingency Action Plan which includes a specific section for financial services (as envisaged in a previous communication). This complements the SRB expectations on Brexit and other initiatives at the national level.

The recent turmoil arising from the failed attempt to get the Brexit deal through the UK Parliament has increased the uncertainties surrounding the final outcome of the process. It is unclear how the UK Government will overcome the current deadlock, and no scenario should be ruled out. Particularly, the chances of breaking apart without a deal are not negligible, raising concerns in the industry as the transition period envisaged in the withdrawal agreement would not be operational.

In light of the potential risks of a cliff-edge scenario, EU authorities have stepped up their preparations for this contingency. After issuing a communication on some measures that were being prepared, last December the European Commission finally implemented its "no-deal" Contingency Action Plan that would be operational if the Withdrawal Agreement were not ratified. The plan includes a small section for financial services with three main actions:

- A 12-month conditional equivalence for EMIR which would allow ESMA to recognize (for a limited period) UK-based CCPs, thus preventing a severe disruption in clearing services. This is expected to allow EU27 firms to have sufficient time to put in place alternative arrangements. This is indeed an important measure, as EU banks are heavily exposed to UK CCPs.
- A 24-month conditional equivalence to prevent the disruption of services provided by UK-based central securities depositories. Similarly, the objective is to allow time for EU parties to find alternatives to fulfil their obligations.
- Finally, it proposed two delegated regulations to simplify, for a limited time (12 months), the novation of some OTC derivatives with UK counterparties. This would allow EU firms to replace such counterparties with others which should be established in the EU27. In these cases, the exemption status (which prevents the contract from being subject to clearing and margin obligations) will be maintained.

Similarly, the SRB issued earlier a position paper with its expectations on Brexit and the resolvability of banks. One important issue in this regard, is whether instruments issued under UK law for MREL purposes would still be eligible. According to the SRB, new issuances would be expected: i) to be issued under EU27 law, or ii) to use third country law, but including contractual clauses which state that the instrument might be subject to write-down or conversion by EU27 resolution authorities (and banks should be able to demonstrate that such an action would be effective). Nevertheless, for the stock of instruments issued under UK law, the SRB proposes to assess their eligibility and consider the situation of each bank on a case-by-case basis. Then, if MREL shortfalls arise due to this situation, it could decide to extend the transitional period to comply with MREL for those banks.

Finally, some national authorities are issuing their own contingency plans. For instance, the Federal Ministry of Finance in Germany is preparing a draft law that would allow the supervisor to grant a transitional period of no more than 21 months to financial firms based in the UK which at the time of the withdrawal provided services in Germany (either cross-border or through a branch). The Spanish authorities have stated their intention to approve a regime to guarantee the continuity of contracts, and "*other matters not covered by the European Commission contingency plan*", but no formal measure has yet been put forward.

Final thoughts

Even though a hard Brexit would certainly be an undesired outcome, it is certainly one that we should be prepared for. Therefore, these contingency measures (regardless of the likelihood of their actually binge required) are very welcome. There is some room for improvement though: some transitional periods envisaged through temporary equivalences could be enlarged (like the one year period for CCPs), and national governments could seek to implement contingency measures at the local level in order to minimize the effects of a disruptive hard Brexit. Furthermore, these national measures should be carefully coordinated in order to prevent regulatory arbitrage, thus promoting a level playing field among EU27 member states.

5. Habemus a Macroprudential Authority in Spain

Arturo Fraile

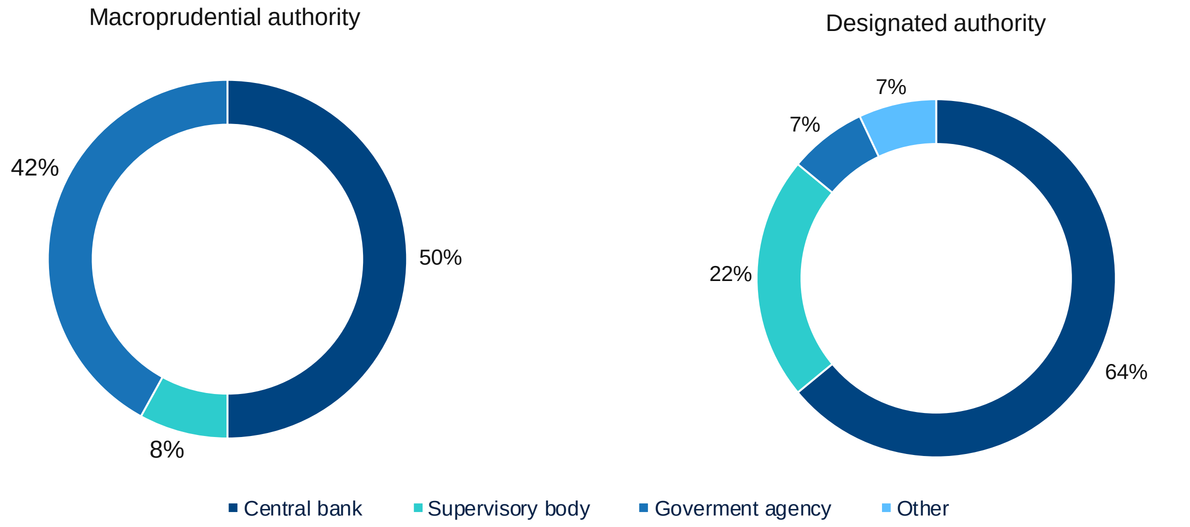
On 14 December, two developments that will contribute to improving financial stability in Spain took place: a public consultation was launched for the Royal Decree (RD) to establish the Macroprudential Authority Financial Stability Board (AMCESFI)[2], and the RD that provides supervisors with new macroprudential tools was approved.

The Banco de España will be empowered to limit the growth of total and/or sectoral credit and the exposures to specific sectors. It will also be able to restrict credit approvals by considering quantitative indicators that measure the repayment capacity of borrowers. Last but not least, Spain leads the way in providing financial market regulators (National Securities Market Commission - CNMV) and insurance regulators (Directorate-General of Insurance and Pension Funds - DGSFP) with macroprudential instruments.

An overview of the macroprudential institutional framework in the EU

The European Systemic Risk Board (ESRB) Recommendation of 2011[3] requires EU Member States to establish a macroprudential authority. Until 14th December 2018, in the EU, Spain and Italy were the only two countries that had not officially created such an authority. In both countries, their respective national central banks had been performing those functions *in pectore*.

Figure 5.1 Macroprudential authorities and designated authorities in EU Member States. (%)



Source: BBVA Research based on the European Systemic Risk Board (ESRB) document: "A Review of Macroprudential Policy in the EU in 2017". April 2018

As shown above, the macroprudential authority can be a government committee/agency, as it is in many countries, while the designated national authority tends to be the central bank.

2: The deadline for providing input to the consultation by the Ministry of Economy and Business Affairs for the creation of AMCESFI expired on 26 December.
3: *Recommendation by the European Systemic Risk Board of 22 December 2011 on the macroprudential mandate of national authorities (ESRB/2011/3).*

The AMCESFI and the use of macroprudential tools in Spain

Broadly speaking, the AMCESFI will aim at anticipating, alerting and mitigating systemic risks[4]. To this end, it will monitor and assess the factors which may influence such risk. It will issue opinions, warnings and recommendations, which, as a general rule, will be public in nature, provided that they do not have a negative impact on the financial system.

The AMCESFI will have functional independence but will lack of a legal personality. It will be a collegiate body linked to the Ministry of Economy and Business Affairs. It will consist of a Board, a Technical Committee to support the Board and the appropriate sub-committees according to the topics to be evaluated. The Minister for Economy and Business Affairs and the Governor of the Banco de España will be respectively the Chairwoman and Vice-Chairman of the Board, which will also have representatives from the CNMV and the DGSFP[5]. The Deputy Governor of the Banco de España will be in charge of the Technical Committee.

The three sectoral financial supervisors (Banco de España, CNMV and DGSFP) will be empowered with the use of the macroprudential tools. They will have previously to notify and to explain to the AMCESFI why the instruments have been activated, calibrated or deactivated in a similar way as is done to the ESRB in the EU.

It is worth noting that the Banco de España is "officially" recognised as the designated authority to apply the Article on macroprudential or systemic risk observed in a Member State (Article 458) of the Regulation on prudential requirements for credit institutions and investment firms, a task it has been doing for some time. It has also been equipped with new instruments that can be grouped into three blocks: i) impose a countercyclical capital buffer on exposures to a particular sector[6], ii) limit total exposure by a particular sector of economic activity and iii) restrict and condition credit approval by considering quantitative indicators that measure borrowers' ability to pay (e.g. loan-to-value and debt service to income[7]) and iv) limit the purchase of fixed income assets and derivatives by credit entities for transactions with the private sector based in Spain[8].

The CNMV may establish a minimum requirement in relation to the amount of liquid assets and the DGSFP will have the power to limit exposure to certain sectors and assets, in addition to restricting and conditioning the transfer of risk and insurance portfolios. Spain leads the way in the use of macroprudential measures for investment funds and insurance.

Final thoughts

The creation of the Authority and the establishment of new macroprudential tools mark an important development in strengthening the stability of the Spanish financial system. Spain is also aligning itself with other countries at a European and international level, complying with the recommendations of the International Monetary Fund and the European Systemic Risk Board. A further positive sign is that the Banco de España is now "formally" recognised as the designated authority to implement the Article on macroprudential or systemic risk of the Regulation on prudential requirements for credit institutions and investment firms.

Spanish authorities and supervisors face the exciting yet arduous challenge of properly coordinating and integrating a macroprudential policy (which is both national and European in scope) with a national fiscal policy and

4: "The risk that a deterioration in all or part of the financial system might disrupt the provision of financial services that could end up negatively affecting the real economy." source: Royal Decree XX/XX, of xx xx, on the Creation of the Macroprudential Authority Financial Stability Board.
5: Other authorities such as the Fund for Orderly Bank Restructuring (FROB) or the Independent Fiscal Accountability Authority (AIReF) may be invited to attend and request non-binding reports from independent experts.
6: Before this Royal Decree it was only established at a consolidated level for exposure as a whole.
7: *Loan-to-value* (LTV): the ratio resulting from dividing the risk in force at the date of the information on the amount of the last available appraisal. *Debt Service-to-Income* (DSTI): a percentage of the borrower's income that represents the payment of the debt each month.
8: Source: Opinion of the European Central Bank of 21 December 2018 on macroprudential tools (CON/2018/58).

with common monetary and microprudential policies in the eurozone, in order to achieve a final positive effect on the real economy.

It is essential that the same risks are subject to the same rules regardless of the sector or the agent that originates them for the application of macroprudential policies to have the intended results. In this sense, it makes sense that the three sectoral supervisors have to **notify the AMCESFI and provide justification before** implementing macro-prudential measures. Therefore, measures intended at all kind of agents can be coordinated.

With regard to the powers given to the Banco de España, it can be expected that they will have a positive impact on financial stability because they will contribute to reducing credit risk through tighter control over the criteria for granting (credit) and also by limiting sectoral concentration.

Finally, the application of the same capital requirement for all banks may not be optimal because of their different business models and the composition of their credit portfolios. It may be positive for supervisors to also consider microprudential measures that assess individual banks' risks and bank risk models to ensure consistent decisions at the micro and macro levels.

6. Trends in digital regulation

Lucía Pacheco

In 2018, the digital transformation of the financial sector consolidated its position at the top of financial authorities' priorities, with many of them defining their strategies to respond to the major challenges of digitisation. In 2019 we can expect the implementation of these strategies as well as growing attention to the definition of the best global response.

In 2018, the digital transformation of the financial sector consolidated its position at the top of financial authorities' priorities not only in Europe but also in other parts of the world and among global bodies. This year many authorities have defined comprehensive strategies or action plans to respond to the challenges of the digitisation of financial services and the emergence of new players and business models.

This has been the case in Europe, where both the European Commission and the European Banking Authority (EBA) published their action plans in the first half of the year, setting out the roadmap until mid-2019[9]. Outside Europe, it is worth noting the publication by the US Treasury of a report on non-bank financing, fintech and innovation. There have also been notable developments in Mexico, with the passage of a comprehensive financial technology law (known as the Fintech Act), which seeks to take advantage of the opportunities offered by digitisation to advance financial inclusion, one of the country's greatest challenges. Globally, the regulatory debate already initiated in 2017 has intensified markedly during 2018, while calls for greater international cooperation and coordination in defining the new regulatory framework for digital financial services have increased.

Although each of these reports or legislative actions is influenced by the circumstances of the local market or political cycle, the authorities have largely coincided in the identification of priorities. There are three main fields of action: (i) the identification of measures to encourage the development of new business models (e.g. in the cryptocurrency environment), while appropriately controlling the risks; (ii) the identification and removal of barriers to the adoption of innovative technologies in the financial sector, such as cloud computing or artificial intelligence and (iii) the implementation of schemes to facilitate innovation (regulatory sandboxes and innovation hubs). By early 2019, some results have already been seen in Europe. For example, in parallel with the publication of the Action Plan, the Commission presented a legislative proposal to regulate crowdfunding at EU level. More recently, the European Supervisory Authorities have published several reports advising the Commission on relevant aspects in relation to the crypto-environment and on regulatory sandboxes. With respect to the latter instrument, in 2018 there has also been a considerable increase in the number of countries that have set up or have planned to set up a sandbox in their country, including Spain[10].

In 2018 the debate on major policy challenges intensified

In 2017 several issues had already been pointed out as the major challenges arising from digitisation, such as data, cybersecurity and competition in the digital environment. These issues remained top priorities for the financial sector and authorities in 2018, and it is foreseeable that they will continue to be so this year.

- **In payments,** the major milestone in 2018 was the entry into force in January 2018 of the new Payment Services Directive (PSD2), which seeks to foster competition and strengthen payment security in Europe. To this end, it regulates access to customers' payment accounts by third parties which will be able to offer

9: See: Pacheco, L. (2018). A new roadmap for European Fintech: have we gone far enough?
10: See: BBVA Research. Financial Regulation Outlook 4Q18: What to expect from the forthcoming Spanish financial sandbox?

information aggregation services and initiate payments. During the year the authorities continued to work on defining the technical details.

- **Regulations on access, use and protection of data.** In 2018, there was increased recognition of the value of data as a strategic asset in the digital economy, data being increasingly regarded as necessary for creating attractive value propositions and strengthening customer confidence. In parallel, concerns about how to ensure privacy and integrity of customer data also grew. In Europe, this found expression in two regulations: the General Data Protection Regulation (GDPR), which came into force in May 2018, and the e-Privacy regulation, which is still under debate. Privacy concerns intensified in 2018 in other regions, such as the United States, where some states have already begun to update their privacy regulations.

  At the same time, open banking regulations which regulate accessibility and the right to data portability have been extended, such as the aforementioned PSD2 and GDPR and the new Fintech Law in Mexico. The new European regulation on the free flow of non-personal data was also approved in 2018.

- **Cybersecurity.** The increase in the frequency and sophistication of cyber-attacks explains why work continued in 2018 on improving harmonisation and international cooperation. Cybersecurity was at the heart of the agenda of the European Commission and the European Central Bank in 2018.
- **Competition in the big-tech era.** In 2018, the public debate intensified regarding the role of big-tech companies in the digital economy and in the financial sector. In Europe, the Commission presented a proposal for a regulation to delimit some of their obligations in their role as intermediation platforms for online services in terms of transparency and fairness. This trend is expected to continue in 2019.

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Main regulatory actions around the world over the last months

	Recent issues	Upcoming issues
GLOBAL	**On October 10, FSB** issued report on implications of crypto-assets for financial stability. **On October 17, BCBS** published its updated stress-testing principles. **On October 18, BCBS** issued consultation on the leverage ratio treatment. **On October 18, BCBS** issued statement on leverage ratio window-dressing behaviour **On October 26, BSBC** issued progress report on the implementation of Basel III standards. **On November 12, FSB** published a Cyber Lexicon. **On November14, FSB** issues communication on the identification of G-SIIs. **On November14, FSB** published progress report on the reform of interest rate benchmarks. **On November 15, FSB** published 2018 resolution report, and consults on financial resources to support CCPs resolution. **On November 16, FSB** issued 2018 G-SIB list. It includes one new bank, while two banks are removed. Two banks are moved to a lower bucket. **On November 16, FSB** published reports on correspondent banking, infrastructure finance and OTC derivatives. **On November 19, FSB, BCBS, CPMI** and **IOSCO** published report on incentives to centrally clear OTC derivatives. **On November 23, FSB** issued recommendations on compensation data reporting to address potential misconduct risk. **On November 27, ISDA** issued preliminary results of benchmark consultation **On November 28, FSB** issued report to G20 leaders on the progress on financial regulatory reforms **On December 4, BIS** published report on observed cyber-resilience practises across jurisdictions **On December 11, BIS** published updated Basel III disclosure requirements. **On December 10, ISDA** published 2018 benchmarks supplement protocol **On December 13, BIS** issued consultation on disclosure requirements to address leverage ratio window-dressing **On December 20, ISDA** published report on Benchmark fallback consultation	
EUROPE	**On October 2, ECON Committee** published revised draft report on directive on cross-border distribution of collective investment funds **On October 3, EU Parliament** adopted resolution on distributed ledger technology and blockchains **On October 9, EU Commission** adopted implementing regulation on prudent valuation for supervisory reporting **On October 9, EU Council Presidency** published compromise texts on proposed prudential regime for investment firms **On October 11, EU Council** agreed general approach on proposed Insolvency Directive **On October 11, EU Council** adopted proposed Directive on countering money laundering by criminal law **On October 25, The EU Commission** adopted a Delegated Regulation setting out the quantitative and qualitative criteria for granting simplified obligations under the Bank Recovery and Resolution Directive (BRRD). **On October 30**, **EU Official Journal** issues delegated Regulation amending LCR Delegated Regulation was published in **On October 30, EU Official Journal** issues delegated Regulations on depositary safekeeping duties under AIFMD and UCITS Directive **On October 31, EBA** published final Guidelines on management of non-performing and forborne exposures. **On November 2, EBA** published the results of the 2018 EU-wide stress test **On November 5**, **EU Official Journal** issues delegated Regulations supplementing the Benchmarks Regulation **On November 7**, EU Official Journal issues ITS on provision of information for resolution planning to repeal Commission Implementing Regulation **On November 7**, **the ESMA** updated its Q&As on the Benchmarks Regulation (BMR). **On November 8, ECON Committee** published draft report on minimum loss coverage for non-performing exposures	

	On November 9, the ECB published final guides for banks on capital and liquidity management **On November 10, European Commission** issues implementing Regulation regarding prudent valuation for supervisory reporting **On November 12, EU Official Journal** issues Directive on combating money laundering by criminal law was published in **On November 13, EU Commission** set out contingency action plan for Brexit not deal scenario. **On November 14, ESMA** updated its Q&A regarding market structures and transparency issues under MiFID II MiFIR **On November 26, ECON Committee** adopted reports on proposed Regulation and Directive on covered bonds **On November 29, ESAs** published a final report with draft RTS proposing to amend the Commission Delegated Regulation on the risk mitigation techniques for OTC derivatives not cleared by a CCP (bilateral margin requirements) under EMIR. **On December 4, EU Council** endorsed key issues agreed on banking package **On December 4, EU Council** agreed non-legislative actions for AML action plan **On December 5, EU Commission** further extended transitional period for own funds requirements for exposures to CCPs **On December 7, ECON Committee** adopted report on proposed regulation on minimum loss coverage **On December 12, EBA** published final Guidelines to provide a harmonised interpretation of the criteria for the securitisation STS **On December 14 Euro Summit:** EU leaders endorsed ESM reforms (the terms of reference of the common backstop to the Single Resolution Fund (SRF); and the term sheet on the European Stability Mechanism (ESM) reform) **On December 17, EBA** published final Guidelines on disclosure of non- performing and forborne exposures. **On December 18, EU Council and EU Parliament** reached political agreement on capital requirements **On December 18, the ESAs** published two joint draft Regulatory Technical Standards (RTS) to amend the RTS on the clearing obligation and risk mitigation techniques for non-cleared OTC derivatives. **On December 18, the ESMA** updated its Q&As on the Benchmarks Regulation (BMR). **On December 20, EU Official Journal** publishes temporary equivalence decisions for UK CCPs and CSDs.
MEXICO	**On October 3, Banco de México** issued rules aimed at debit and credit card operations: they raise security standards, improve cardholders' protection and liability **On October 5, CNBV,** the banking regulator, formally established the minimum leverage ratio of 3%, previously banks were only required to track and disclose their ratio. **On October 29, Banco de Mexico** established a new framework for payroll loans that seeks to protect clients' rights while also enabling banks to track payroll migration, subsequent loans and clients indebtedness. **On November 11, Senate** majority leader introduced a bill aimed at banning most bank commissions. **On November 27**, **CNBV** includes a new information security framework in its banking rulebook. **On December 11**, the **financial ombudsman Condusef** amended several of its regulations in order to incorporate the newly created Fintech Institutions to its regulatory framework.
LATAM	**Brazil: On October 29**, a decree by the **BCB** made easier the establishment of foreign-capital fintechs in Brazil. **Brazil: On November 27**, According to a resolution approved on November 27, banks are allowed to open digital accounts for all types of corporations, regardless of their size. **Brazil: On November 22**, some further simplifications of the rules applying to reserve requirements were adopted. **On December 21, the BCB** set the main requirements to take into account during the adoption in Brazil of a real-time payments system. **Colombia: On November 26, the Financial Supervision** released a draft to set conglomerates capital requirements. The deadline to comply with the capital adequacy would be November 8, 2019. **Colombia: On November 27, the Financial Supervision** released a regulation on instruments related to the resolution mechanisms and the Bridge Bank. **Colombia:** the TIC bill was postponed until next legislature (March) **Colombia: On December 27, the Ministry of Finance** released a regulation for Fintech. The credit institutions could invest (without limit) in financial innovation and technology companies. The latter can not invest in credit institutions.

USA	**On October 3, FED** consult on actions that could take to support faster payments in U.S. The potential actions, which would facilitate real-time interbank settlement of faster payments, build on collaborative work with the payment industry through the FED System's Strategies for Improving the U.S. Payment System (SIPS) initiative. **On October 30, Agencies** issued consultation on a proposal to update their standards for how firms measure counterparty credit risk posed by derivative contracts under the agencies' regulatory capital rules. **On October 31, Agencies** consult on a framework that would more closely match the regulations for large banking organizations with their risk profiles. The framework would establish four categories of standards and apply tailored capital and liquidity requirements for certain banking organizations with more than $100 billion in total consolidated assets. **On November 2, the FRB** finalized a new supervisory rating system for large financial institutions that is aligned with the core areas most important to supporting a large firm's safety and soundness and U.S. financial stability. **On November 21, Agencies** invited public comment on a proposal that would simplify regulatory capital requirements for qualifying community banking organizations. **On December 21, Agencies** approved a final rule modifying their regulatory capital rules and providing an option to phase in over a period of three years the day-one regulatory capital effects of updated accounting standard known as the "Current Expected Credit Losses" (CECL) methodology. The final rule also revises the agencies' other rules to reflect the update to the accounting standards. **On December 21, Agencies** invited public comment on a proposal that would exclude certain community banks from the Volcker rule, consistent with the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA).
TURKEY	**BRSA** recommended that banks with a core capital adequacy ratio lower than 12% should not distribute dividends. **BRSA** has also praised the recent announcements on rights and AT1 issues by Turkish banks as steps to further support already strong capital ratios and stated that Turkish banking sector maintains its healthy and strong position with a sufficient CAR to absorb potential asset quality risks. **BRSA** has finalized its studies on the banks' financial condition and asset quality o

Source: BBVA Research

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