EUROPEAN CENTRAL BANK

BANKING SUPERVISION

EN **ECB-PUBLIC**

RECOMMENDATION OF THE EUROPEAN CENTRAL BANK

of 27 July 2020

on dividend distributions during the COVID-19 pandemic and

repealing Recommendation ECB/2020/19

(ECB/2020/35)

THE GOVERNING COUNCIL OF THE EUROPEAN CENTRAL BANK,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions[1], and in particular Article 4(3) thereof,

Whereas:

(1) On 27 March 2020, the European Central Bank (ECB) adopted Recommendation ECB/2020/19 of the European Central Bank[2] which recommended that at least until 1 October 2020 no dividends are paid out and no irrevocable commitment to pay out dividends is undertaken by credit institutions for the financial years 2019 and 2020 and that credit institutions refrain from share buy-backs aimed at remunerating shareholders. This recommendation was based on the consideration that it is crucial that credit institutions continue to fulfil their role of funding households, small and medium-sized businesses and corporations amid the COVID-19-related economic shock. Therefore it was considered essential that credit institutions conserve capital to retain their capacity to support the economy in an environment of heightened uncertainty caused by the COVID-19 pandemic. To this end, conserving capital resources to support the real economy and absorb losses was considered as needing to take priority over discretionary dividend distributions and share buy-backs.

(2) In connection with Recommendation ECB/2020/19, the ECB has undertaken work to further evaluate the economic situation and consider whether further suspension of dividends is advisable after 1 October 2020. In this context, the ECB considers that the level of economic uncertainty due to the COVID-19 pandemic remains elevated and, consequently, that credit institutions face difficulties in forecasting accurately their medium-term capital needs. The ECB also considers that there is an ongoing need in this environment of exceptional systemic uncertainty and stressed economic conditions for prudent capital planning, which includes preserving credit institutions' capital position by postponing or cancelling distributions. Therefore, the ECB considers it

1 OJ L 287, 29.10.2013, p. 63.

2 Recommendation ECB/2020/19 of the European Central Bank of 27 March 2020 on dividend distributions during the COVID-19 pandemic and repealing Recommendation ECB/2020/1 (OJ C 102I, 30.3.2020, p. 1).

necessary to extend the dividend recommendation until 1 January 2021 and repeal Recommendation ECB/2020/19. This approach is also consistent with Recommendation ESRB/2020/7 of the European Systemic Risk Board[3].

(3) Having full regard to the unity and integrity of the internal market, the ECB sees the need to engage in discussions with the relevant authorities of concerned Member States to determine whether it is appropriate that dividends are paid out to a parent institution, parent financial holding company or parent mixed financial holding company located in a Member State which is not a participating Member State. These discussions should be guided inter alia by the principles of equivalence and reciprocity with a view to supporting the smooth functioning of the internal market of the Union as a whole, to preserving a sound capital position of a credit institution from a prudential perspective and to contributing to the stability of the financial system within the Union and each Member State.

(4) In order to maximise support to the real economy, it is also appropriate that discretionary dividend distributions should also not be made by less significant credit institutions.

(5) While this measure has a temporary nature that is warranted only by these exceptional circumstances, the ECB intends to decide in the fourth quarter of 2020 on the approach to be followed after 1 January 2021, taking into account the economic environment, the stability of the financial system and the level of certainty around capital planning,

HAS ADOPTED THIS RECOMMENDATION:

I.

1. The ECB recommends that until 1 January 2021 no dividends[4] are paid out and no irrevocable commitment to pay out dividends is undertaken by credit institutions for the financial years 2019 and 2020 and that credit institutions refrain from share buy-backs aimed at remunerating shareholders[5].
2. Credit institutions that are unable to comply with this Recommendation because they consider themselves legally required to pay out dividends should immediately explain the underlying reasons to their joint supervisory team.
3. This Recommendation applies on a consolidated level of a significant supervised group as defined in point (22) of Article 2 of Regulation (EU) No 468/2014 of the European Central Bank (ECB/2014/17)[6] and on an individual level of a significant supervised entity as defined in point (16)

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3 Recommendation ESRB/2020/7 of the European Systemic Risk Board of 27 May 2020 on restriction of distributions during the COVID-19 pandemic (OJ C 212, 26.6.2020, p. 1).

4 Credit institutions may have various legal forms, e.g. listed companies and non-joint stock companies such as mutuals, cooperatives or savings institutions. The term ‘dividend’ as used in this Recommendation refers to any type of cash pay-out in connection with Common Equity Tier 1 capital which has the effect of reducing the quantity or quality of own funds.

5 If a financial institution wanted to replace ordinary shares, this would be in line with this Recommendation.

6 Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities (SSM Framework Regulation) (ECB/2014/17) (OJ L 141, 14.5.2014, p. 1).

of Article 2 of Regulation (EU) No 468/2014 (ECB/2014/17), if such significant supervised entity is not part of a significant supervised group.

4. Credit institutions that intend to pay out dividends or undertake an irrevocable commitment to pay out dividends to their parent institution, parent financial holding company or parent mixed financial holding company which is established in a Member State that is not a participating Member State should contact their joint supervisory team to determine whether such dividend pay-outs or irrevocable commitments to make a dividend pay-out are appropriate.

II.

This Recommendation is addressed to significant supervised entities and significant supervised groups as defined in points (16) and (22) of Article 2 of Regulation (EU) No 468/2014 (ECB/2014/17).

III.

This Recommendation is also addressed to the national competent authorities with regard to less significant supervised entities and less significant supervised groups as defined in points (7) and (23) of Article 2 of Regulation (EU) No 468/2014 (ECB/2014/17). The national competent authorities are expected to apply this Recommendation to such entities and groups, as deemed appropriate.

IV.

Given the temporary nature of this measure, the ECB will further evaluate the economic situation and consider whether further suspension of dividends is advisable after 1 January 2021.

V.

Recommendation ECB/2020/19 is hereby repealed.

Done at Frankfurt am Main, 27 July 2020.

[signed]

The President of the ECB

Christine LAGARDE