REPORT
2019

Prudential regulation and supervision

NationalBank
OF BELGIUM
Eurosystem

A. Introduction

The Bank performs various prudential mandates. The Law of 25 April 2014 officially designated the Bank as Belgium's macroprudential authority. The Bank's recent initiatives relating to that mandate are described in box 6 of the "Economic and financial developments" part of the Report. The Macroprudential Report published annually by the Bank presents the macroprudential framework in more detail. At microprudential level, the Bank is responsible for the supervision of credit institutions, insurance companies, financial market infrastructures and payment institutions. The operational aspects concerning the supervision of these institutions during 2019 – within the single supervisory mechanism (SSM) in the case of credit institutions – are set out in chapter B. Chapter C describes developments concerning the legal and regulatory framework applicable either to certain specific sectors or to all sectors together. Via the Resolution College which it has set up, the Bank was also designated as the national resolution authority in Belgium. Chapter D describes the measures taken in that connection. Finally, chapter E discusses the aspects of prudential supervision specifically linked to the digitalisation of financial services.

B. Operational supervision

1. Banks

During 2019, the main focus of attention for the operational supervision of the Belgian banking sector was the sector's profitability, the viability of certain business models, and the digital transition. That transition implies IT risks and cyber risks, and also requires constant adjustments to the supervision methodology.

Both the SSM and the Bank conducted stress tests during the year under review. For significant credit institutions, these tests concerned the sensitivity of their liquidity positions. For smaller Belgian banks, they covered the resilience of the solvency position in the event of severe shocks.

1.1 Mapping of the sector

The Belgian bank population was stable overall in 2019 and comprised 104 institutions at the end of the year. However, the gross changes reflect the trend towards steady consolidation of the Belgian banking sector which has persisted for many years. This concerns not only mergers and acquisitions, but also the conversion of Belgian subsidiaries of banks from the European Economic Area (EEA) possessing their own legal personality into branches of these foreign credit institutions with no separate legal personality.

The number of branches governed by the law of another EEA member state increased by one entity in net terms in 2019. In gross terms, five new licences were recorded and four were withdrawn. Most of the registrations and withdrawals relate to Brexit: owing to the relocation of UK banks in the EU, the Belgian branches of British credit institutions were converted to branches of the institutions transferred to the continent.

Table 17

Number of institutions subject to supervision

(end-of-period data)

	2018	2019
Credit institutions	105	104
Under Belgian law	32	31
Branches governed by the law of an EEA member state	47	48
Branches governed by the law of a non-EEA member state	8	6
Financial holding companies	6	8
Financial services groups	5	4
Other financial institutions [1]	7	7
Investment firms	32	34
Under Belgian law	17	17
Branches governed by the law of an EEA member state	14	16
Financial holding companies	1	1

Source: NBB.

1 Specialist subsidiaries of credit institutions and credit institutions associated with a central institution with which they form a federation.

The number of branches of third country banks declined by two institutions, one of which was an Indian bank active mainly in financing the Antwerp diamond industry.

The changes in the number of financial holding companies and financial services groups are partly technical, as classification as a financial holding company or financial services group depends on whether there are any insurance undertakings in the group. For instance, the financial services groups Anbang Belgian Holding which, since the

sale of Fidea, now has only one banking subsidiary (Bank Nagelmackers), was reclassified as a financial holding company.

Despite the trend towards bank consolidation, there were also some initiatives – albeit few in number – aimed at establishing new banks on the market with innovative business models, either by the creation of a totally new bank or by the acquisition and conversion of an existing bank. Thus, in 2019, the Bank received an application for approval for the licensing of a new cooperative bank, namely NewB SCE, which intends to concentrate specifically on ethical banking. The applicant in this case resorted to the capital market with a public offering of cooperative shares in order to raise the required regulatory capital, set at a minimum of € 30 million. Raising the said minimum amount was not only necessary so that, in the initial years, the new bank can absorb any start-up losses and continue to respect the capital ratios, but it also represented a decisive test of the likely existence of a degree of support for the project, and therefore gives NewB SCE a better chance of implementing its business plan. The capitalisation operation raised well over the set minimum amount. In regard to the procedure, it should be noted that the decision to grant a banking licence is taken by the European Central Bank, once the NBB has issued a positive opinion.

Despite the trend towards bank consolidation, there have also been initiatives – albeit few in number – aimed at establishing banks with new business models

Another initiative concerned the conversion of Banca Monte Paschi Belgio, the former Belgian subsidiary of the Italian parent bank, which was renamed Aion after being acquired by a private equity group. This bank intends to operate from Belgium offering differentiated financial products and services via a digital platform on the basis of a subscription formula.

Licensing challenger banks of this type promotes a dynamic and diverse banking landscape, but it is no guarantee of success. After their launch phase, these banks will need to prove that they can fulfil their growth potential and that their business model is viable and sustainable so that they can secure their place in a fast-changing banking environment.

Table 18

Belgian banks grouped according to the SSM classification criteria

Significant institutions (SIs)	Less significant institutions (LSIs)
Belgian parent	Aion
Argenta	Anbang Group – Nagelmackers Bank
AXA Bank Belgium	Byblos Bank Europe
Belfius	CPH
Degroof Petercam	Crelan Group – Crelan, Europabank
Dexia (financial holding company)	Datex Group – CKV
KBC Group – KBC Bank, CBC	Dierickx-Leys
Non-Belgian SSM-member parent	ENI
BNP Paribas Fortis, bpost bank	Euroclear
Beobank, Banque Transatlantique Belgium	FinAx Group – Delen Private Bank, Bank J. Van Breda
ING Belgium	Shizuoka Bank
MeDirect Bank	United Taiwan Bank
Puilaetco Dewaay Private Bankers	Van de Put & C°
Santander Consumer Bank	vdk bank
Non-SSM member parent not governed by the law of an EEA member country	
Bank of New York Mellon	

Source: NBB.

The Belgian population of investment firms remained stable, except for a few changes concerning branches, notably in the funds sector.

In the euro area, banking supervision is exercised by the SSM, supported by cooperation between the ECB and the national banking supervision authorities. The ECB exercises direct supervision over all significant institutions (SIs) and is assisted in that by the national supervisory authorities. The latter continue to exercise direct supervision over less significant institutions (LSIs), though the ECB retains the option of exercising direct supervision over those institutions if that is justified for the consistent application of its supervision standards.

In the case of the SIs, in 2019, the Bank took part in 13 Joint Supervisory Teams (JSTs), which – under the direction of the ECB – supervise significant Belgian institutions, be they Belgian banks owned by a Belgian parent company, Belgium-based subsidiaries of a non-Belgian parent company subject to the SSM, or banks established in Belgium and owned by a non-Belgian parent company not subject to the law of an EEA member country.

The group of Belgian LSIs comprises 16 local and/or specialist banks; that number increases to 20 if financial holding companies of less significant institutions are included.

On 25 October 2019, Crelan announced that it had reached an agreement with the AXA Group to take over AXA Bank Belgium. If that deal is approved by the supervisory authorities, the new consolidated entity will become a significant institution subject to the direct supervision of the ECB.

1.2 Supervisory priorities

The supervisory priorities are defined by combining the general sectoral risk analyses of the Bank and the SSM with the firm-specific risks. Prominent subjects on the agenda of the SSM and the Bank are the viability and sustainability of business models against the backdrop of low interest rates and the digital transition, IT risks and cyber risks, Brexit-related risks and more traditional risks: credit risk, in particular in the case of mortgage loans and consumer credit (conditions, pricing, risk acceptance), operational risk, combating money-laundering and terrorist financing, etc.

One of the Bank's priorities is to ensure that the supervision methodology and instruments keep pace with the digital transition currently ongoing in the banking sector. In that regard, the Bank set up an intensive training programme to equip its prudential supervision staff with the skills to analyse the impact of digitalisation on the banks' business models and organisation, and the IT and cyber risks that they face.

One of the Bank's priorities is to ensure that the supervision methodology and instruments keep pace with the digital transition

The Bank also set up a programme to identify new technologies capable of analysing vast quantities of both qualitative and quantitative prudential data and to enhance the effectiveness of supervision. In that regard, the Bank works with aligned supervisory authorities to examine how and where progress can be achieved.

BOX 11

Stress tests

SSM 2019 stress tests

Under the SSM, the ECB conducted stress tests in 2019 to analyse the sensitivity of the liquidity position of euro area banks. The Belgian credit institutions subject to the direct supervision of the SSM [1] took part in the exercise.

The aim was to analyse the banks' ability to withstand hypothetical shocks calibrated on the basis of the prudential experience gained by the SSM from recent idiosyncratic crisis events. The exercise consisted of an adverse scenario and an extreme scenario, both involving shocks whose impact persisted over a period of six months following the reference date of 31 December 2018. The six-month horizon is thus longer than the one-month period used for the statutory short-term liquidity coverage ratio (LCR).

The results showed a generally comfortable liquidity position for all institutions in the sample. Almost half the banks reported a "survival time" of more than six months in the event of an adverse shock, and more than four months in the event of an extreme shock. Only 11 banks had a survival time of less than 2 months in the event of an extreme shock. The survival time corresponds to the number of days for which the institution can continue to honour its liabilities with the cash and assets at its disposal without access to the financing markets. The long survival times in the event of the shocks simulated by the exercise would leave the banks enough time to set up their emergency financing plans.

The Belgian banks' resilience to shocks proved satisfactory, with a survival time similar to, or actually longer than, the average for all banks in the sample. However, the tests drew attention to a number of points relating to dependence on less stable funding sources with shorter maturities, such as

1 Subsidiaries of significant institutions such as BNP Paribas Fortis and ING Belgium took part indirectly via their parent institution.

interbank deposits and business deposits, and reliance on the wholesale markets. Conversely, the resilience of custodian banks proved to be greater owing to their generally bigger liquidity buffers, largely inherent in their business model.

Another point for attention is the dependence of some banks on the foreign exchange market, reflected in shorter survival times in certain foreign currencies, notably the US dollar. Some subsidiaries based outside the euro area have a relatively short survival time and depend on their parent company for finance, something which could cause tensions in the event of a liquidity crisis. Management practices, of decisive importance in a liquidity crisis, could be strengthened, particularly in regard to the ability to mobilise certain assets in order to improve the liquidity buffer.

The results had no direct impact on the institutions' capital requirements. They were taken into account in the assessment of governance and liquidity risk management. That assessment resulted in individual quantitative and qualitative measures where necessary, notably via the SREP (Supervisory Review and Evaluation Process). Thus, some banks will have to strengthen their management practices, while others will be asked to improve their ability to mobilise their liquidity buffer.

Most of the Belgian banks supplied the required data promptly, and the quality of the data was acceptable. Nonetheless, the tests revealed problems in the quality of the data in the prudential reports of some institutions. The exercise will thus lead to an improvement in the quality of future prudential reporting.

NBB solvency stress test on the LSIs

In 2019, the Bank conducted a stress test on the ten LSIs which underwent an SREP during the year under review. That stress test aimed to check whether the institutions had sufficient capital to absorb losses resulting from a series of hypothetical adverse macroeconomic and financial shocks, and to recommend an additional capital buffer if necessary.

Although this exercise has a European dimension – the common scenarios are supplied by the ECB, and all the national stress test exercises have to respect certain principles – the Bank retains the necessary flexibility to take account of the specific characteristics of the participating LSIs. For instance, it opted to analyse a broad range of risk factors so that all institutions experienced sufficient stress, whatever their business model. Conversely, the necessary proportionality was built in by using less detailed data and a simplified methodology compared to the two-yearly EBA stress test which is mandatory for SIs. The workload for the LSIs was further reduced by only asking them for additional information on their December 2018 starting position, which the Bank used as the basis for projections for 2019-2021.

The stress test results were not published, but were discussed with the LSIs and were a factor determining their capital requirements under the SREP.

2. Insurance undertakings

The low interest rate environment puts pressure on the life insurance business, prompting the Bank to pay greater attention to a number of firms in 2019.

In particular, the operational supervision of insurance undertakings focused on the annual reporting statements that firms submit to the Bank. Particular attention also centred on the detailed examination of applications made to the Bank on account of Brexit, the supplementary individual health insurance market, cyber risk and InsurTech, plus the accredited auditor's duty of cooperation. The Bank also conducted a stress test for a number of insurers.

2.1 Mapping of the sector

Insurance undertakings

At the end of 2019, the Bank exercised supervision over 81 undertakings. The number of institutions subject to supervision stabilised after the consolidation movement in the sector which followed the entry into force of the new prudential regime. Two undertakings subject to the Bank's supervision are reinsurers in the strict sense.

Table 19

Number of institutions subject to supervision [1]

(end-of-period data)

	2018	2019
Active insurance undertakings	67	66
Insurance undertakings in run-off	1	1
Reinsurance undertakings	31	31
of which:		
Undertakings also operating as insurers	29	29
Other [2]	12	12
Total [3]	82	81

Source: NBB.

1 At the end of 2019, the Bank also exercised prudential supervision over nine branches of undertakings governed by the law of another EEA member country, but that prudential supervision was confined to verifying compliance with the money-laundering legislation.

2 Surety companies and regional public transport companies.

3 The total only takes account once of undertakings active as both insurers and reinsurers.

Insurance groups

At the end of 2019, nine Belgian insurance groups were subject to the Bank's supervision, or two fewer than in 2018. Six of those groups only have holdings in Belgian insurance undertakings (national groups), while three have holdings in at least one foreign insurance undertaking (international groups).

Table 20

Belgian insurance groups subject to the Bank's supervision

Belgian national groups	Belgian international groups
Belfius Assurances	Ageas SA/NV
Cigna Elmwood Holdings	Navigators Holdings (Europe)
Credimo Holding	KBC Assurances
Fédérale Assurance	
Groupe Patronale	
Securex	

Source: NBB.

2.2 Supervision priorities

Ongoing supervision

In the long run, the persistence of a low interest rate environment is liable to cause problems for some undertakings in the life insurance business. The situation of some institutions already requires the Bank's special attention at this stage, on account of their business model. During the period under review, the Bank therefore continued to exercise closer supervision over undertakings with the highest risk profile.

Within the framework of the overall supervision approach, on-site inspections remain an important tool for detecting weaknesses, particularly in connection with the "best estimate" of the technical provisions in life insurance portfolios. The process as a whole (from ascertaining the need for an inspection to the findings resulting from the inspection) led the Bank to take severe measures for some undertakings. Verification of the best estimate is one of the key points for attention in prudential supervision, as are the means devoted to it.

Brexit

For insurance undertakings, Brexit remains a point for attention in view of the uncertainty over the arrangements for its implementation. Some of the uncertainty will disappear once EU law no longer applies to the United Kingdom and the EU passport expires.

Prudential supervision over the new undertakings formed in the context of Brexit will present a major challenge for the Bank

However, the repeated postponement of the departure date gave the undertakings concerned extra time to refine their strategy and prepare their processes taking account of the various possible scenarios ("hard" versus "soft" Brexit). In this connection, Belgian undertakings were repeatedly asked about their contingency plans. It emerged that most undertakings which already have a branch based in the United Kingdom opted to convert that institution to a third-country branch once the British authorities launch this scheme.

For British undertakings operating in Belgium, loss of the European passport also obliges them to adopt the necessary measures to achieve their objectives in terms of both the conclusion and renewal of contracts[1] and the servicing of current insurance liabilities until expiry of the existing contracts (legacy portfolio or back book). Discussions took place between the Bank and the British authorities concerning the British insurance undertakings that need to regularise their position.

1 Four undertakings now have offices in Brussels on that account: Lloyd's Insurance Company, QBE Europe SA, Amlin Insurance SE and Navigators via the takeover of Asco NV.

Data Quality and analysis of periodic reporting

During the year under review, the Bank kept a close eye on the quality of the financial reporting submitted to it periodically and certain identification data on the insurance undertakings under its supervision.

In regard to the first aspect, apart from the validation tests developed by the European Insurance and Occupational Pensions Authority (EIOPA) and applied in automated form to the periodic financial reporting, the Bank also developed and applied supplementary validation tests. The Bank attaches great importance to accurate reporting, as that is the cornerstone of prudential supervision. In the course of this exercise, various undertakings were contacted concerning the correction of inconsistencies in their financial reporting. The Bank will continue this exercise in order to achieve constant improvement in financial reporting quality.

The Bank also monitored the quality of identification data (key data such as licences, contacts, etc.) on insurance undertakings. In that regard, the "ID file" generated automatically for each insurer was modernised.

In addition, the Bank is totally committed to establishing a set of instruments permitting more detailed analysis of the data. The emphasis here will be on key factors in the financial health of firms. The Bank will accord priority to monitoring the technical provisions, the quality of the capital requirement calculations, and the nature of the firms' asset portfolios.

Horizontal analysis of non-occupational health insurance

In order to chart the profitability of supplementary individual health insurance, the Bank conducted a horizontal analysis of the Belgian market. The study showed that the profitability of the products depends on their characteristics. In order to ensure a level playing field, firms were asked, when calculating the best estimate and setting the parameters, to carry out a number of sensitivity analyses which will provide a clearer picture of these characteristics.

On the basis of the sensitivity analyses, it was possible to assess the best estimates reported by the firms and impose corrective measures where necessary. However, the exercise did not produce the desired result, so that the firms were asked to conduct a new sensitivity analysis on the assessment of the best estimate. The results of that exercise are expected during 2020.

Compliance assessment

The inspection teams conducted a transversal study of the organisation and working of the compliance function on a sample of ten small insurers. This study revealed that the firms generally opt for an internal compliance function which has a good knowledge of the firm's activities and can intervene when necessary. The resources allocated to the compliance function seemed very meagre, and duties are often combined in ways that may generate conflicts of interest for the compliance officer and the director in charge of compliance. Risk analysis and work planning are areas where improvement is desirable, to create more transparency regarding both the adequacy of the compliance function's coverage of the compliance risks facing the firm, and the human resources necessary for the proper performance of the function.

Accredited auditor's duty of cooperation

In accordance with their duty of cooperation, accredited auditors explained their approach to the best estimate at a workshop. In 2019, examination of this subject continued on a structured basis in order to obtain a sufficiently detailed insight into the actual work relating to specific areas such as methods of assessing the best estimate. This resulted in a number of general findings which were examined in greater depth in one-to-one dialogues with several firms of auditors, enabling them to explain their procedure and provide details of the audits conducted and the substantive tests. The feedback sent to the auditors and to the professional association forms the starting point for better communication with the Bank and should ultimately improve the coordination between the work of the Bank and that of the auditors.

IT risk

By means of a questionnaire and on-site interviews, the Bank collected information from eleven significant insurers and reinsurers concerning their IT risks and how they are managed. The analysis results are expected in the first quarter of 2020.

In this questionnaire, the assessment of a firm's IT risk is based on the assessment of five sub-categories of

IT risks: security, availability and continuity, change, outsourcing and integrity of the data. The assessment of the framework for monitoring IT risks is based on ten dimensions: IT governance, IT organisation and outsourcing, IT risk management, management of IT security, management of IT operations, acquisition of software, software development and project management, data quality management and ability to aggregate data, IT continuity management, IT reporting and internal IT audit.

Cyber risks

The Bank has previously drawn attention to the extensive digitalisation, the growing digital interconnection of the various economic sectors, and the scale of the resulting IT risks and cyber risks. Insurance and reinsurance undertakings and groups are thus becoming vulnerable on two fronts: on the one hand, as institutions, they are targets for cyber attacks and they need to set up sufficiently robust protection and detection systems; also, they feel the repercussions of attacks suffered by their customers, either because they explicitly provide cover (affirmative cyber insurance), or because they unwittingly provide cover (silent insurance or non-affirmative cyber insurance). The Bank polled the entire insurance sector in Belgium on these two points by means of a questionnaire. Analysis of the results will start in 2020. IT risks and cyber risks are discussed in more detail in section E.3.

InsurTech

To assess the impact on the insurance sector of the use of technological innovation, the Bank is working on a number of InsurTech projects. On the basis of a survey of firms, it is trying to take stock of initiatives concerning technological innovation and digitalisation, e.g. in regard to setting tariffs, underwriting and claims management. In addition, the Bank lists points for attention specific to InsurTech which could promote a better mutual understanding of the new technological trends and a more transparent dialogue with insurance undertakings. From 2020, these projects will actually be reflected in the prudential supervision of the Belgian insurance sector.

BOX 12

Stress tests and "flashing-light" reserves

Since EIOPA had not organised any stress tests at European level in 2019, the Bank arranged a test for a number of individual insurers that together make up a substantial share of the Belgian insurance sector. This stress test comprised two scenarios: a Belgian Adverse scenario and a Low Yield scenario. The reference date for these exercises was 31 December 2018. The impact on the balance sheet, own funds and the capital requirement had to be calculated for each scenario. The results of these stress tests were published on the Bank's website[1].

The Belgian Adverse scenario measures the impact on Belgian insurers' solvency of a rise in Belgian government bond yields of 100 and 200 basis points respectively. That scenario makes it possible to assess in practice how the volatility adjustment mechanism[2] works in a stress situation. The coverage ratio relating to the solvency capital requirement (SCR) of the seven firms taking part in the test averaged 209 % before application of the shocks, suggesting a comfortable starting position. Following a 200-basis-point shock, the average SCR coverage ratio dropped by 64 percentage points to 145 %. The fall is due mainly to the reduction in the value of the portfolio of Belgian sovereign bonds resulting from that shock (negative impact of 94 % on the SCR coverage ratio). That decline is partly offset by compensatory effects relating to certain assets and liabilities on the balance sheet. Similarly, the hedging strategies involving derivatives used by some insurers moderate the impact of the shock.

The Low Yield scenario measures the impact of a further decline in the risk-free yield curve on the solvency of Belgian insurers. The main aim of this scenario is to identify and assess the potential vulnerabilities of the insurance sector resulting from a persistent low interest rate environment. The individual results are taken into account in the assessment of applications for exemption from the formation of the flashing-light reserve for the interest rate risk.

The Royal Decree on the annual accounts of insurance and reinsurance undertakings[3] states that the additional reserves formed under Solvency I should be retained in the statutory annual accounts when switching to Solvency II and must then be topped up for as long as the interest rate risk persists. That Royal Decree contains simplified provisions on exemption from the obligation to create an additional reserve.

All the regulatory capital requirements must be covered in order to qualify for exemption from the obligation to form additional reserves. To claim exemption, firms must also conduct stress tests on their exposure to the interest rate risk, and the test results must be satisfactory. The Bank uses the results of the test simulating the Low Yield scenario mentioned above in order to grant that exemption.

1 See https://www.nbb.be/en/financial-oversight/prudential-supervision/areas-responsibility/insurance-or-reinsurance-29.
2 Adjustment of the risk-free yield curve reducing the impact of the short-term volatility of the spreads in the bond portfolio on the solvency position.
3 Royal Decree of 1 June 2016 amending the Royal Decree of 17 November 1994 on the annual accounts of insurance and reinsurance undertakings.

For 2019, firms achieving satisfactory results in 2018 were exempt from taking part in the stress test provided their interest rate risk profile had not changed significantly. The exemption was granted if the following two conditions were met and there were no other grounds for refusing the exemption: first, the institution must have a solvency ratio of over 100 % in the baseline scenario and must maintain it above 100 % after application of an adverse scenario. As an additional condition for granting exemption for the year 2019, insurers had to achieve coverage of at least 125 % of the solvency capital requirement as at 30 September 2019. The tougher conditions for granting this exemption were due to the very low interest rate environment and the serious underestimating of the capital requirement for the interest rate risk in the standard formula.

3. Financial market infrastructures and payment services

In regard to financial market infrastructures (FMIs) and payments, the year 2019 brought two significant developments: the introduction of the rules on payment initiation service providers and account information service providers, and the licences granted to two Belgian central securities depositories under the CSD Regulation. The second EU Payment Services Directive (PSD2), which requires account-servicing payment service providers to open up their online payment accounts infrastructure (Open Banking), enables payment initiation service providers and account information service providers (both banks, payment institutions and electronic money institutions) to further penetrate the payment services market. Open Banking forms the subject of a separate section in chapter E on digitalisation, which also contains more detailed information on IT risks and cyber risks, and how the Bank is monitoring them. The CSD Regulation has not led to the emergence of any new types of institution. Instead, this Regulation was intended to ensure the security and efficiency of CSDs, to encourage a level playing field and to facilitate consolidation of the CSD sector.

3.1 Mapping of the sector

The Bank is responsible for both the oversight and the prudential supervision of financial market infrastructures, custodian banks, payment service providers and critical service providers. Oversight concerns the security of the financial system, whereas prudential supervision examines the security of the operators offering these services. In cases where the Bank exercises both oversight and prudential supervision, these two activities can be considered complementary.

The table below presents the systems and institutions subject to the Bank's supervision and/or oversight. As well as being classified according to the type of services provided, these institutions are also grouped according to: (i) the Bank's role (namely prudential supervision authority, overseer, or both) and (ii) the international dimension of the system or institution (the Bank as the sole authority, international cooperation agreement with the Bank as the main player, or other role for the Bank).

At the end of 2019, twenty-six payment institutions and seven electronic money institutions under Belgian law were subject to the Bank's supervision. The Bank also supervised five branches and one payment institution providing account information services. During the year under review, that institution was granted a licence, along with two electronic money institutions and seven payment institutions under Belgian law, including Transferwise Europe and WorldRemit Belgium, which, in view of Brexit, decided to establish a subsidiary in Belgium. Finally, during the year under review four licences were withdrawn, one foreign branch was approved and two institutions progressed from limited status to full status.

Table 21

Mapping of the financial market infrastructures and payment services sector

	International cooperation		The Bank acts as the sole authority
	The Bank acts as lead authority	The Bank participates under the direction of another authority	
Prudential supervision		Custodian Bank of New York Mellon SA/NV	Payment service providers (PSP) Payment institutions (PI) Electronic money institutions (ELMI)
Prudential supervision and oversight	Central securities depository (CSD) Euroclear Belgium International central securities depository (ICSD) Euroclear Bank SA/NV Supporting institution Euroclear SA/NV	Central counterparties (CCP) LCH Ltd (UK), ICE Clear Europe (UK) LCH SA (FR), Eurex Clearing AG (DE), EuroCCP (NL), Keler CCP (HU), CC&G (IT)	Payment processors Worldline SA/NV
Oversight	Critical service provider SWIFT	Service provider TARGET2-Securities (T2S)[1]	Central securities depository NBB-SSS
		Payment system TARGET2 (T2)[1] CLS Bank	Card payment schemes Bancontact[1] Mastercard Europe
			Payment system Centre for Exchange and Clearing (CEC)[1]

Post-trade infrastructure	Securities clearing	Payments	Payment systems
	Securities settlement		Payment institutions and electronic money institutions
	Custody of securities		Payment processors
Service providers	T2S		Card payment schemes
Critical service providers	SWIFT		

Source: NBB.
1 Peer review in Eurosystem/ESCB.
See table 22 regarding the change in the number of payment institutions and electronic money institutions subject to supervision.

3.2 Supervision priorities

In 2019, there were two notable events concerning FMIs and payment services. First, there was the advent of various new payment service providers, prompted by the introduction of the PSD2. Next, the Bank approved two central securities depositories in Belgium under the CSD Regulation. A full list of all the supervisory activities relating to FMIs and payment services can be found in the latest Financial Market Infrastructures and Payment Services Report, available on the Bank's website[1].

1 See https://www.nbb.be/en/publications-and-research/economic-and-financial-publications/financial-market-infrastructures.

Table 22

Number of payment institutions and electronic money institutions subject to supervision

(end-of-period data)

	2018	2019
Payment institutions	25	31
Under Belgian law	19	26
Providing account information services[1]	0	1
Limited status institutions[2]	3	0
Branches governed by the law of an EEA member country	3	4
Electronic money institutions	9	8
Under Belgian law	5	7
Limited status institutions[3]	2	0
Branches governed by the law of an EEA member country	2	1

Source: NBB.

1 Payment institutions providing account information services are registered in accordance with Article 91 of the Law of 11 March 2018 and are subject to a limited regime.

2 Limited status institutions are registered as having limited status in accordance with Article 82 of the Law of 11 March 2018 and are subject to a limited regime.

3 Limited status electronic money institutions are registered as limited status electronic money institutions in accordance with Article 200 of the Law of 11 March 2018 and subject to a limited regime.

FinTech

In recent years, under the impetus of technological innovations and changing consumer preferences, the financial sector has become increasingly digitalised, and has introduced numerous new applications, processes and products. The digital transformation and FinTech[1] are closely linked concepts, defined partly by the market entry of new innovative service providers, and partly by existing institutions' initiatives aimed at improving their organisation, provision of services and supply of products with the aid of technological innovations.

Digitalisation in the financial sector is manifested mainly in payments

Digitalisation in the financial sector is manifested primarily in payments. Factors driving this trend include the introduction of the second Payment Services Directive (PSD2)[2] and the related concept of Open Banking (see section E.1.). In Belgium, the Bank is the national competent authority for the prudential supervision of payment service providers. For the purpose of exercising that supervision, it has a broad range of instruments incorporated in Belgian law in order to watch over the secure operation and solvency of those institutions. In its capacity as the supervisory authority for the second Payment Services Directive, the Bank also grants licences to new players, or to existing players wishing to expand their activities. As the supervisory authority, the Bank has noted the following developments on the Belgian payments market:

- increase in specialist payment service providers targeting small and medium-sized businesses;
- increase in specialist payment service providers focusing on facilitating international payments; and
- increase in specialist payment service providers trying to automate, optimise and enhance the processing of payment data.

Regarding the first trend, it is notable that a growing number of non-bank payment service providers, namely payment institutions and electronic money institutions, are trying to develop competitive, personalised services aimed at small and medium-sized businesses, which often require specific payment solutions. The second trend concerns the fact that increasing numbers of players are trying to innovate within the international payments sector. By using new technologies, those players try to offer competitive services. The third identified development concerns the wider use of data, including payment data, in the supply of services by non-bank payment service providers. For instance, certain players focus on the automation and enhancement of operational processes, such as account management and cash flow projections.

1 The Financial Stability Board (FSB) defines FinTech as "technology-enabled innovation in financial services that could result in new business models, applications, processes or products with an associated material effect on the financial markets and institutions and on the provision of financial services".

2 Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No. 1093/2010, and repealing Directive 2007/64/EC.

The above-mentioned developments are largely complementary. This can be illustrated by the fact that a significant number of new service providers are trying to respond to more than one of the market trends mentioned above. For example, some stakeholders aim to facilitate international payments for both individual consumers and small and medium-sized businesses. Future developments on the payments market, in combination with the further implementation of Open Banking, will show whether these new players can introduce a sustainable business model and secure a permanent foothold in the payments landscape.

CSD Regulation

After analysing the authorisation applications and consulting the foreign authorities as stipulated by the CSD Regulation[1], the Bank approved two CSDs, namely Euroclear Belgium and Euroclear Bank, in Belgium in 2019 under this Regulation.

The CSD Regulation implements the Principles for Financial Market Infrastructures (PFMI)[2] set out by the Committee on Payments and Market Infrastructures (CPMI) and the International Organisation of Securities Commissions (IOSCO).

The purpose of the Regulation goes beyond ensuring the security and efficiency of the CSDs by means of specific prudential requirements geared to the systemic importance of CSDs for the financial system and the operation of these institutions.

The internationalisation of securities settlement, which means that CSDs are increasingly interlinked, has also heightened the need for a common prudential framework to prevent risks which emerge in one CSD from infecting other countries, too. The Regulation does not only promote a level playing field by imposing common requirements throughout the European Union, but it also involves the authorities of other countries in the assessment of CSDs in the EU. Simply in order to grant authorisation for the settlement of securities issued under Belgian law, the Bank had to consult the authorities of 22 countries for which Euroclear Bank is important[3].

Despite the internationalisation of securities settlement, the market is still fragmented. A third aim of

1 Regulation (EU) No. 909/2014 on improving securities settlement in the European Union and on central securities depositories.

2 See https://www.bis.org/cpmi/info_pfmi.htm?m=3%7C16%7C598.

3 In the case of securities governed by the law of another Member State, there is provision for additional consultation with the authority of the Member State concerned.

the Regulation is therefore to encourage competition between CSDs, not only by standardising the requirements applicable to all CSDs in the EU, but also by granting securities issuers the right to issue their securities in any EU CSD (in some countries, it was still compulsory to issue securities through the national CSD). Although there has been little consolidation in the sector so far, the Regulation does offer that possibility. The harmonised rules applicable, for example, to the settlement cycle[1] have greatly reduced the complexity for internationally active parties – for both participants and CSDs.

The CSD Regulation aims to ensure the security and efficiency of CSDs, to promote a level playing field and to facilitate the sector's consolidation

However, the authorisations granted to Euroclear Belgium and Euroclear Bank are not the end of the process. At least once a year, a check is conducted to ensure that all EU CSDs continue to respect all the Regulation's requirements. During that check, the foreign authorities concerned are also consulted. Moreover, as a member of the Eurosystem, the Bank takes part in the assessments of the EU's foreign CSDs which carry out settlement in euros.

1 For the whole of the EU, the settlement cycle becomes "T + 2" (i.e., settlement takes place two days after the purchase/sale).

C. Regulatory and legal framework

1. Banks

During the year under review, the changes in banking legislation largely took place in the European Union, where work continued on the expansion and strengthening of the European Banking Union and the Capital Markets Union. Preparations for transposing the final points of the Basel III agreement into European legislation were also high on the agenda.

In line with this European work, attention focused at Belgian level on preparations for the transposition of all the changes to the European banking legislation (Risk Reduction Package) published in 2019 and the new European harmonised prudential framework for investment firms. There were also initiatives concerning the development of a more proportionate approach in banking supervision and in the legislation applicable to credit institutions. Finally, the Bank published a new Circular on outsourcing and paid close attention to the obligations concerning supervision of data quality under EMIR.

1.1 Further strengthening of the Banking Union and Capital Markets Union

Completion of the Banking Union and further work on the Capital Markets Union in the European Union continued to have a prominent place on the agenda of the regulatory bodies in 2019.

In regard to completion of the Banking Union, an extensive set of changes to the European banking legislation, commonly known as the Risk Reduction Package, was approved in June. These texts, which have already been explained in detail in previous annual reports, comprise the directly applicable Regulation on capital requirements (Capital Requirements Regulation – CRR 2), and two Directives which the Member States need to transpose into national law, namely the Capital Requirements Directive (CRD V) and the Bank Recovery and Resolution Directive (BRRD 2). The changes are intended to reduce the banking risks (risk reduction), a precondition for the conclusion of other European agreements on burden-sharing between Member States in cases where these risks actually materialise (risk-sharing).

One of the things necessary to facilitate this burden-sharing is the establishment of the third pillar of the Banking Union, namely the European Deposit Insurance Scheme (EDIS). In this connection, the Eurogroup examined the operation of the Banking Union and the various ways in which it could be completed. In order to obtain the fullest possible picture of how a completed Banking Union should look, the discussions were not confined to EDIS. They also concerned refinement of the supervision, resolution and liquidation framework (first and second pillars of the Banking Union), analysis of the barriers to cross-border banking, and the adoption of a more risk-based capital approach for credit institutions' exposures to governments. Each of these areas requires further technical work to define a roadmap for the political negotiations on EDIS and the completion of the Banking Union. In view of the presence in Belgium of major subsidiaries of European banks, the Bank pays special attention to the maintenance of local capital and liquidity buffers and to proposals for reducing those buffers in exchange for supplementary protection measures such as formalisation of the parent bank's support in EU legislation, or the harmonisation of certain parts of banking law concerning insolvency. In the event of resolution or liquidation, it is important that the creditors of local subsidiaries should have sufficient protection, both now and in the future.

Apart from the completion of the Banking Union, further steps were taken in 2019 for developing the Capital Markets Union, which is intended to facilitate deeper and better-integrated capital markets in the European Union. In that connection, the European Commission focused mainly on breaking down a range of market barriers and on harmonisation of procedures, in order to improve access to the financial markets. An efficient capital market also strengthens the financial system's resilience to shocks, as the risks are spread more widely among private players in different countries. The Capital Markets Union therefore largely complements the Banking Union.

During the year under review, the European Commission, the Council and the Parliament reached agreements on many questions[1], such as the reform of the prudential framework for investment firms (see below) and the European framework applicable to covered bonds, two subjects directly relevant for the Bank.

The full and consistent implementation of the Basel III standards in the EU is necessary to restore confidence in the European banking sector

The new framework for covered bonds comprises a Directive and a Regulation amending the CRR in regard to exposures to covered bonds (and indirectly to the underlying assets). The Directive's primary aim is to introduce minimum standards and promote the development of markets in covered bonds in the Member States whose markets are less developed or which lack a legal framework. The minimum standards concern structural characteristics (e.g. the conditions on the eligibility of assets as collateral for covered bonds and the coverage requirements) and supervision by the authorities. This Directive must be transposed into Belgian law by June 2021. During the transposition work, care must be taken to ensure that the high-quality standards of the current Belgian framework for covered bonds are maintained.

1 See https://ec.europa.eu/commission/news/capital-markets-union-2019-mar-15_en.

1.2 Transposition of Basel III in Europe

The conclusion in January 2019 by the Basel Committee on Banking Supervision of a final agreement on the further alignment of certain aspects of the capital requirements for market risk means that all elements of the Basel III framework are now complete. The final components of this framework, which have already been explained in detail in previous annual reports, aim to improve the credibility of the banks' risk-weighted capital ratios and, in particular, to reduce unjustified variability in the capital ratio calculated using internal models, namely by making significant changes to the method of calculating the ratio's denominator, i.e. the risk-weighted assets. The concluding element of the finalised Basel III package is the output floor. This requirement stipulates that the total risk-weighted assets calculated using internal models

Table 23

Change in the Tier 1 MRC [1]

(end of June 2018, in %)

	Number of banks	Total change in the Tier 1 MRC (in %)	Change in the Tier 1 MRC due to the output floor (in %)
All banks [2]	189	24.4	9.1
Large	104	25	9.5
of which: G-SIB [3]	8	28.6	7.6
Medium-sized	61	11.3	0.9
Small	24	5.5	0.0

Source: EBA.

1 In % of the total base MRC according to the target level, i.e. the combination of risk-based capital requirements and the leverage ratio based on the capital requirements, plus the capital conservation buffer and the G-SIB buffer, if appropriate.

2 Sample of 189 banks from 19 EU Member States; see the EBA impact study for the definition of large, medium-sized and small banks.

3 G-SIBs: Global Systemically Important Banks, as determined by the Financial Stability Board.

must not be less than 72.5 % of the risk-weighted assets calculated according to the standard approach. The agreement states that these standards are to be introduced by 1 January 2022, with the output floor initially set at 50 % and gradually rising thereafter to reach 72.5 % in 2027.

Implementation of the revised Basel III framework in the EU will entail changes to the existing regulations, and in particular the CRR 2. On 5 August 2019, in response to the Call for Advice published by the European Commission on this subject, the European Banking Authority (EBA), in cooperation with the SSM and the national supervisory authorities, issued a detailed study on the impact of the Basel III framework in Europe[1]. Both within the European Union and in Belgium, the impact is significant, heterogeneous and more limited for medium-sized and small banks. In general, the study shows that full implementation of Basel III according to conservative (and not entirely realistic) assumptions) will lead, on average, to a 24.4 % increase in the minimum required capital (MRC). The output floor represents a third of the average increase in the capital requirements.

At EU level, it can be said that the relatively high impact presents a distorted picture, given the share of that impact represented by a few large banks operating worldwide. Thus, the impact on medium-sized banks is only 11.3 %, and for small banks it is just 5.5 %. It should also be noted that this is the most conservative scenario which takes no account of the specific characteristics of the EU, even where the EU already deviates from the current Basel standards. Any future measures or behaviour that the banks might adopt to limit the impact in practice are also disregarded.

In Belgium, too, the impact on large banks is greater than on small ones, although it is more limited than elsewhere in the EU. In any case, that impact is still manageable, since the Belgian banks' current capital levels seem sufficient, even in the most cautious simulations, and there has therefore never been a capital shortfall.

The EBA – supported by the Bank – advocates full implementation of the Basel III standards with no deviations specific to the EU. The final Basel III standards reduce the risks and are vital to restore confidence in the calculation of the risk-weighted assets (and the risk-weighted capital ratios) held by large European banks. Together with the impact study, the EBA thus submitted a number of recommendations to the European Commission, whose proposals for the transposition of the final elements of the Basel III framework in the EU are expected in June 2020. That transposition will therefore also be a means of restoring confidence in the European banking sector.

1 See https://eba.europa.eu/eba-advises-the-european-commission-on-the-implementation-of-the-final-basel-iii-framework.

1.3 Transposition of the Risk Reduction Package and new prudential framework for investment firms

In June, the final legal texts of the Risk Reduction Package (CRR 2/CRD V/BRRD 2) were published (see above). This set of measures introduces a number of important elements of the supplementary regulatory standards in the Basel III package, such as the financial leverage ratio, the net stable funding ratio (NSFR), and new methods of calculating the capital requirements for counterparty risk and market risk (see also chapter D for an explanation of the changes concerning resolution). The new legislative framework for investment firms was also published; it likewise comprises a directly applicable Regulation (Investment Firm Regulation – IFR) and a Directive to be transposed (Investment Firm Directive – IFD). The revision of the prudential requirements for investment firms is also part of the development of the Capital Markets Union and is intended to make the capital, liquidity and other requirements concerning risk management for investment firms more appropriate, proportionate and risk-sensitive.

The proportionality principle is meant to gear the prudential requirements to the size, complexity and nature of the banks' activities and the associated risk

Transposition of the said Directives will take place mainly via adjustments to the Belgian Banking Law and will be a priority for the Bank in the coming year. In the case of CRDV, it will be necessary to provide for a new licensing regime for financial holding companies, the adoption of changes in the second pillar capital requirements for banks, and specific provisions concerning the interest rate risk inherent in activities other than the trading book, plus adjustments to the capital buffers of systemically important banks.

Under the IFD, only large, systemically important investment firms are subject to the banking regulations, while a new tailor-made regime has been designed for smaller investment firms.

1.4 Proportionality in banking supervision and banking legislation

The proportionality principle enshrined in the European and Belgian banking legislation means that the prudential requirements imposed on institutions are proportionate to the size, complexity and nature of their activities and the associated risk. That does not imply that there is a special regime for smaller, less complex institutions, but rather that they may be subject to simpler (but no less stringent) rules, more limited reporting obligations and less extensive supervision.

The new European Regulation, CRR2, pays particular attention to this proportionality principle. On the one hand, simpler regulatory standards were devised to complement the current regulations, e.g. for the liquidity or capital requirements relating to market risk, for small, non-complex institutions defined in the Regulation. Also, there were two initiatives to reduce the administrative burden and costs incurred by the sector on account of the obligations on reporting to the supervisory authorities. Thus, the EBA has to report on how the administrative burden on these institutions can be made more proportionate, and it must make recommendations on how the average cost of complying with the rules can be reduced for small institutions. In addition, the EBA in cooperation with all the competent authorities is to produce a feasibility report on the development of a consistent, integrated system of collecting statistical data, resolution data and prudential data from all banks. That should ultimately lead to a more efficient reporting framework with proportionately lower costs for the financial sector.

The Bank, too, pays close attention to this issue. During the year under review, it took note of a number of concerns prevalent in the sector regarding proportionality in the legislation and supervision, and – taking account of the European context – it took a range of measures to respond to these concerns expressed by the sector.

1.5 New rules on outsourcing

Given that a growing number of banks outsource certain critical or important functions or activities, and in view of the ensuing risk of concentration at sectoral level, it was necessary to adapt the regulatory framework relating to outsourcing. That adjustment is particularly relevant on account of the growing importance of FinTech and digitalisation (see chapter E). In that context, the revised EBA guidelines on outsourcing were published on 25 February 2019.

The new guidelines aim at European harmonisation of the prudential framework relating to outsourcing. In particular, they serve as a guide for defining the concepts of outsourcing and critical and important functions. In addition, the guidelines require institutions to maintain an outsourcing register. They also specify the information that must be recorded in that register for every outsourcing arrangement. In that regard, access and audit rights relating to service providers are likewise a key point for attention.

The Circular dated 19 July 2019 implemented the full text of the EBA guidelines unchanged in Belgian legislation[1]. The guidelines came into force on 30 September 2019. All outsourcing contracts concluded, renewed or amended after that date must conform to the guidelines. Existing, current outsourcing contracts must be adapted by 31 December 2021 if they do not conform to the new guidelines.

1.6 Monitoring of EMIR data quality

The Bank has the power to check on compliance with Regulation No. 648/2012[2] (European Market Infrastructure Regulation: EMIR) by institutions subject to its supervision. The three main requirements defined in EMIR are the obligation to centralise the clearing of certain transactions in derivatives, the obligation to apply risk mitigation techniques to non-centralised derivatives, and the obligation to supply detailed information on transactions in derivatives. In order to fulfil this last part of its mandate, the Bank launched a project for collecting and analysing the EMIR data of institutions subject to its supervision.

This project comprises three pillars. The first pillar concerns creation of an IT infrastructure for collecting, storing and analysing the vast quantities of data reported each day. For that purpose, an IT platform was set up and became operational in June. The second pillar concerns the checking process, to be developed and applied during 2020. The aim of this process is to check the quality of the data reported by institutions subject to the Bank's supervision. An important characteristic of the process of checking the data quality will be the use of machine learning. The project's final pillar concerns the use of data on derivatives for micro- and macroprudential risk analysis, which will help to monitor the impact on financial institutions of significant developments on the derivatives markets.

1.7 Integration of aspects of the fight against money-laundering and terrorist financing in prudential banking supervision

On 4 December 2018, following a number of recent money-laundering scandals involving several European banks, the Council of the European Union decided to set up an action plan to deal more effectively with money-laundering practices and terrorist financing[3].

Under Directive 2018/843[4] (5th Anti-Money-Laundering Directive) the regulatory framework governing the interaction between the prudential supervisory authorities and the supervisory authorities in charge of combating money-laundering and terrorist financing (AML/CFT) has already been clarified and extended to a considerable degree, notably by the introduction of the obligation on the ECB and the AML/CFT supervisory authorities to conclude an MoU for the mutual exchange of confidential prudential information on institutions subject to their supervision. In fulfilment of that obligation, the Bank as the AML/CFT supervisory authority concluded an MoU with the ECB.

The Council's action plan is based on that approach and puts forward a number of specific objectives in that respect. For instance, the Council states that a framework should be devised so that AML/CFT concerns are better integrated into all aspects of prudential supervision, and that there is a need to pursue the operational implementation of the channels created by Directive 2018/843 for the international exchange of information between prudential and AML/CFT supervisory authorities.

During the past year, the various European players have taken initiatives to put this plan into practice.

1 Circular NBB_2019_19 on the European Banking Authority (EBA) Guidelines on outsourcing arrangements of 25 February 2019 (EBA/GL/2019/02)
2 Regulation (EU) No. 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories.
3 See also section C.3.1. for measures taken by the Bank in this connection.
4 Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money-laundering or terrorist financing and amending Directives 2009/138/EC and 2013/36/EU.

For instance, the European Supervisory Authorities (ESAs, i.e. the EBA, EIOPA and ESMA[1]) drew up guidelines for the creation of AML/CFT colleges – modelled on the prudential colleges – in order to ensure a more structured exchange of information for cross-border financial groups. Here it should be noted that the prudential supervisors may also be invited to attend these colleges as observers.

As the banking supervisor, the ECB also adopted a range of measures on the subject. Thus, it established a horizontal AML/CFT coordination function internally, which operates as the central contract point and centre of expertise on AML/CFT aspects. A permanent network was also set up in which the competent national supervisory authorities are represented and which will conduct more structured monitoring of the work on policies relating to integration of AML/CFT aspects in prudential supervision. During 2019, this network has already drawn up a first set of guidelines in the following four main areas:

I. the prudential licensing phase: in this area, the guidelines on the grant and withdrawal of licences and the assessment of the suitability of directors and shareholders were adapted;

II. the SREP exercise;

III. on-site supervision; and

IV. cooperation: in this area, arrangements were defined for the management of the operational and practical aspects relating to the exchange of confidential information between prudential and AML/CFT supervisory authorities.

Finally, it is noteworthy that the Basel Committee on Banking Supervision has embarked on a revision of its Guidelines on the sound management of risks related to money-laundering and financing of terrorism, in order to clarify the expectations concerning the interaction between prudential and AML/CFT supervisory authorities.

In Belgium, the fact that – for credit institutions – the Bank is both the competent authority for AML/CFT supervision under the anti-money-laundering Law

1 European Securities and Markets Authority (ESMA).
2 Law of 18 September 2017 on the prevention of money-laundering and terrorist financing and limits on the use of cash.

of 18 September 2017[2] and the competent national authority for prudential supervision (taking part in the operation of the SSM), facilitates the exchange of information between supervisors and the practical implementation of these new policies and guidelines.

2. Insurance undertakings

The legal framework for insurance undertakings was revised during the year under review. At international level, the work included preparations for the revision of Solvency II, the approval of a new international standard for capital requirements, and development of a specific framework for systemic risks. At national level, initiatives concerned in particular the low interest rate environment and clarification of various points in the legislation.

No revolutionary changes but the regulatory framework is evolving

2.1 International work

Revision of the Solvency II Directive

Solvency II, the prudential supervision framework for European insurance and reinsurance undertakings, has applied since 1 January 2016. It covers a broad range of quantitative and qualitative requirements concerning the taking-up and the pursuit of the business of insurance and reinsurance. The Solvency II framework also provides for a series of transitional measures to ensure a gradual transition from Solvency I to the new regime, and revision mechanisms to permit any necessary regulatory adjustments on the basis of experience gained since its entry into force.

The revision of the Solvency II Directive in 2020 forms part of that. It is a broad and extensive process which may be regarded as the principal revision opportunity offered by the Directive. One of the cornerstones of this work is the opinion of EIOPA on the revision of long-term guarantee measures and measures relating to the equity risk; that opinion is to be presented to the European Commission by the end of June 2020. At the beginning of 2019, the European Commission also asked EIOPA for a technical opinion on the possible revision of a number of other elements and an analysis of the impact of the alternative options and approaches.

Many points in Solvency II are undergoing revision. For instance, the valuation of the long-term guarantees or the appropriate capital requirements for long-term investments are being reviewed. In these analyses, the experience that the supervisory authorities have gained since the Directive entered into force plays a key role, e.g. in relation to the further refinement of the supervision of insurance activities pursued under freedom to provide services, group supervision and prudential reporting. Additional instruments are also being proposed to provide an appropriate response to the macroprudential challenges or to regulate firms' recovery and resolution plans. Although more than twenty elements altogether are being analysed in depth, the revision is expected to lead to evolution of the regulatory framework, rather than revolutionary changes. The aim of the revision is in fact to refine the current regime rather than to make major structural alterations.

During 2019, in cooperation with the national supervisory authorities, EIOPA made several requests to a number of insurers, asking for information and impact analyses. These exercises provided a better idea of the impact of each of the options being considered. A detailed analysis of all the proposals was presented for consultation to the stakeholders and the broader public. EIOPA will finalise its opinion for the European Commission on the basis of the response to that consultation.

International Capital Standard

In connection with the global convergence of prudential standards for the insurance sector and the promotion of financial stability, the International Association of Insurance Supervisors (IAIS) is working on the design of a common prudential framework for internationally active insurance groups. That framework includes development of an international standard for capital requirements (International Capital Standard – ICS), comprising several elements: rules on the consolidation scope, the valuation of assets and liabilities, the capital components and the capital requirements.

A significant step towards global capital standards for insurers

During the period under review, following a final field test the international capital standard ICS 2.0 was

approved by the IAIS annual meeting. After a five-year observation period, the standard will apply to all the internationally active insurance groups concerned.

Holistic Framework for systemic risks in the insurance sector

The IAIS has developed a new framework for assessing and mitigating systemic risks in the insurance sector (Holistic Framework). This framework will enter into force at the beginning of 2020 and will support global financial stability. The Holistic Framework recognises that systemic risks can arise both from activities and exposures specific to the insurance sector as a whole, and from a concentration of those activities and exposures in individual insurers.

The framework strengthens the existing regulatory regime and extends it with a series of macroprudential provisions designed to improve the sector's resilience and prevent certain risks from becoming systemic. The new regulatory framework makes provision for additional intervention measures permitting an appropriate response if any potential systemic risks are identified.

The Holistic Framework also provides for the annual monitoring and assessment of trends and developments in the insurance sector, and the identification of potential systemic risks at the level of both individual insurers and the sector as a whole. This is an annual exercise conducted on a global scale by the IAIS, stimulating collective discussion within the IAIS on potential systemic risks in the insurance sector and possible ways of responding to them. This process should enable the IAIS to report to the FSB on potential systemic risks in the insurance sector.

2.2 National activities

Initiatives in the context of the low interest rate environment

In recent years, the low interest rate risk has materialised, creating a very challenging macroeconomic environment for insurers. The steep and rapid fall in the EIOPA risk-free yield curve, bringing much lower and more negative yields on much longer maturities since the beginning of 2019, points to a further increase in the interest rate risk in the insurance sector.

In addition, analyses relating to the revision of Solvency II showed that the capital requirement for interest rate risk may be seriously underestimated in the standard formula: the current rules specify that the yield curve used in calculating the capital requirement must not drop below 0 %; the amount by which the capital requirement for interest rate risk is underestimated therefore increases the larger the part of the yield curve located below 0 %. Also, the recent movements in the yield curve far exceed the figures to be used in calculating the capital requirement.

The very low interest rates and the possible serious underestimate of the capital requirement for interest rate risk in the standard formula prompted more stringent conditions for granting exemption from the obligation to allocate funds to the supplementary provision for the year 2019. Insurers seeking exemption must achieve – as at 30 September 2019 – coverage of at least 125 % of the solvency capital requirement specified in the Law on supervision[1], without recourse to the transitional measures referred to in Articles 668 and 669 of that Law (see box 2).

The Bank keeps a close eye on the trend in the interest rate risk, e.g. by means of annual horizontal analyses and stress tests. In 2020, the Bank is also considering revising and refining the exemption policy described in Circular NBB_2016_39[2] in order to take account of changing market conditions and the underestimate of the capital requirement for interest rate risk in the standard formula.

Amendment of the Law of 13 March 2016

The Law of 2 May 2019 containing miscellaneous provisions on the economy made some amendments to the insurance supervision Law. Apart from some minor adjustments, such as the clarification of procedural aspects concerning portfolio transfers, updating of the references and a number of terminological clarifications, three subjects can be highlighted.

The most important concerns access to the Belgian market for reinsurers established in a country which is not a member of the European Economic Area and whose supervisory regime is not deemed equivalent to that under the Solvency II Directive. In future, these reinsurers like those located in equivalent third

1 Law of 13 March 2016 on the legal status and supervision of insurance and reinsurance undertakings.
2 Circular NBB_2016_39 of 5 October 2016 on exemption from the obligation to allocate funds to the supplementary provisions.

countries will have access to the Belgian market without needing to complete any formalities and without requiring any authorisation. Nonetheless, the Bank may take various risk reduction measures in relation to firms using these reinsurers (ceding undertakings), e.g. by requiring the reinsurer to deposit a sum in the accounts of the ceding undertaking or by disregarding the risk mitigation effects of reinsurance contracts.

The other two changes concern measures that the Bank may take concerning an undertaking in difficulties. The first is the possibility of suspending or staggering the redemption of life insurance contracts. The second enables the Bank, when ordering an undertaking to transfer its portfolio, to require the simultaneous transfer of the corresponding reinsurance contracts.

Clarification of the regulations

Circular on the LAC DT

The regulatory provisions on the adjustment for the loss-absorbing capacity of deferred taxes (LAC DT) were amended by European Commission Delegated Regulation (EU) 2019/981[1] . The content of the report intended for publication and the report intended for the supervisor concerning the LAC DT was also specified in more detail.

Against that backdrop, the Bank considered it necessary to update its recommendations for calculating the LAC DT on a number of points, both to explain the practical implications of the new principles introduced in the legislation and to end the upper limit on the LAC DT, which was no longer compatible with the approach of the implementing Regulation. The Bank therefore produced a new Circular on the LAC DT in which it also spelt out its expectations regarding reporting.

Circular on the look-through approach

The scope of the look-through approach was also changed by Regulation 2019/981. In future, this approach also applies to investments in related undertakings that have as their main purpose the holding or management of assets on behalf of the investing undertaking, such as firms investing in property, a traditional investment for insurers in Belgium.

At the same time as this change in the legislation, the Bank published a Circular[2] on the guidelines for the look-through approach. In particular, Guideline 9 in that Circular describes the methodology for calculating the solvency capital requirement in the case of a debt-financed investment vehicle.

Circular on the ORSA

The Own Risk and Solvency Assessment (ORSA) forms the basis for risk management by insurers under Solvency II. The ORSA Circular provides a framework which they can use as the basis for devising their risk management. The Bank found that the stress tests which undertakings carry out do not always adequately reflect the possible crisis scenarios. Moreover, the free format of the ORSA report hampers horizontal comparison. The Circular[3] was therefore amended to strengthen the stress test framework for undertakings and to facilitate horizontal comparisons between undertakings.

1 Commission Delegated Regulation (EU) 2019/981 of 8 March 2019 amending Delegated Regulation (EU) 2015/35 supplementing Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II).

2 Circular NBB_2019_16 of 9 July 2019 on the guidelines concerning the look-through approach in the calculation of the solvency capital requirement in the standard formula.

3 Circular NBB_2019_30 of 3 December 2019 on the own risk and solvency assessment (ORSA).

3. Cross-sectoral aspects

As a prudential supervisory authority, the Bank has jurisdiction over a range of spheres which cover multiple sectors and are therefore not discussed in the sections of this Annual Report on banking, insurance and financial market infrastructures. Aspects covered in this section include the Bank's initiatives on the prevention of money-laundering and terrorist financing, governance, the approval of auditors for the payment and electronic money institutions sector, and the preparations for Brexit.

3.1 Prevention of money-laundering and terrorist financing

Prevention policy

Communication of the Bank's expectations to the financial institutions

Since the entry into force of the new Belgian legal and regulatory framework for the prevention of money-laundering and terrorist financing (AML/CFT)[1], the Bank has used a specific section on its website[2] to inform financial institutions subject to its supervisory powers of all the explanations and recommendations that it deems necessary to promote the full and effective implementation of these legal and regulatory obligations.

On 6 November 2019, the Bank held a seminar to raise financial institutions' awareness of AML/CFT issues and the supervisory authority's expectations

Having covered all the subjects that it felt necessary for that section by December 2018, the Bank made use of the flexibility of this communication tool in 2019 to refine and adjust its comments and recommendations by two website updates. The changes made at the time of each update are announced on a special page on the website, where all successive published versions of the comments and recommendations can be consulted.

In addition, in view of the significant number of branches and subsidiaries of foreign financial institutions located in Belgium, the Bank posted an unofficial English translation of the whole AML/CFT item on its website in 2019.

As a complement to this permanent communication channel which the Bank uses, and in view of the vital importance which it attaches to this subject, plus the recent discovery of serious defects in AML/CFT mechanisms in the European banking sector, the Bank held an information meeting on 6 November 2019 for the senior management and anti-money-laundering compliance officers (AMLCOs) of financial institutions, to heighten their awareness of the absolute necessity of implementing effective risk-based mechanisms to prevent ML/TF. 288 people attended this meeting. The Bank was thus able to explain its expectations on numerous topical subjects relating to AML/CFT, such as the temptation of de-risking, the use of new technologies in connection with AML/CFT, the risks associated with the repatriation of funds, and questions relating to the group approach on this subject. It informed the participants of the main aspects of the development of its internal organisation, its tools and its supervision policy on that subject, and told them about the first lessons learnt from its examination of the general ML/TF risk assessments conducted by financial institutions in accordance with the legal and regulatory requirements. An EBA representative also informed the participants of the recent developments in the European authorities' efforts to take account of AML/CFT. Finally, a representative of the Belgian Financial Intelligence Processing Unit (CTIF-CFI) also spoke about the Unit's expectations concerning the reporting of suspicious transactions by financial institutions.

Transposition of the 5th European AML/CFT Directive[3]

The Member States are required to transpose the 5th European AML/CFT Directive by no later than 10 January 2020. In 2019, in association with all the public authorities concerned, the Bank therefore took part in preparing a provisional draft Law for the purpose of that transposition. That provisional draft

1 Law of 18 September 2017 on the prevention of money-laundering and terrorist financing and limits on the use of cash, and NBB Regulation of 21 November 2017 on the prevention of money-laundering and terrorist financing.

2 See https://www.nbb.be/fr/supervision-financiere/prevention-du-blanchiment-de-capitaux-et-du-financement-du-terrorisme.

3 Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money-laundering or terrorist financing and amending Directives 2009/138/EC and 2013/36/EU.

also proposes various technical improvements to the Belgian legal framework in order to eliminate certain defects identified in practice when the Law was implemented, or forming the subject of comments by the Financial Action Task Force (FATF) in June 2018 at the time of its review of the technical conformity of the Belgian legislation with its 40 Recommendations, and by the European Commission in January 2019 following examination of the correct transposition of the 4th European Directive[1] into the national law of the EU Member States. In this connection, the Bank paid particularly close attention to formulating proposals for improvements to the legal framework for the exchange of information and cooperation with other competent authorities, and for strengthening the vigilance obligations imposed on the entities in question in accordance with the 5th European Directive.

The Bank has endeavoured to strengthen the cooperation and exchange of information between supervisory authorities responsible for AML/CFT and the prudential regulators, and with the CTIF-CFI

Cooperation and exchange of information between supervisory authorities

On 11 January 2019, the Bank signed with the European Central Bank, acting within the framework of the SSM, the agreement required by the EU anti-money-laundering Directive, setting out the practical arrangements for the exchange of information between the ECB and all national supervisory authorities responsible for AML/CFT.

In addition, the serious shortcomings identified in the European banking sector in recent years highlighted the need to step up the cooperation and exchange of information between the competent authorities. To that end, the Bank played an active part in the work of the ECB, the EBA and the Basel Committee on Banking Supervision aimed at taking greater account of the ML/TF risks in the context of prudential supervision and promoting an appropriate and proportionate exchange of information between the prudential regulators and the supervisory authorities responsible for AML/CFT matters[2].

Cooperation and exchange of information between the Bank and the CTIF-CFI

At Belgian level, on 17 September 2019, the Bank signed a Protocol with the CTIF-CFI defining the arrangements for mutual cooperation and the exchange of information, in order to improve the performance of their respective responsibilities regarding AML/CFT. Among other things, the Protocol means that, in assessing the ML/TF risks associated with each financial institution, the Bank can take account of both quantitative and qualitative information held by the CTIF-CFI on the institutions' reporting of suspicious transactions (see below).

Supervision methodology and tools

In line with the updating of the "periodic questionnaire" on AML/CFT which all financial institutions subject to the Bank's supervisory powers had to complete by 30 June 2019, the Bank developed an internal instrument for the automatic analysis and rating of the answers submitted. On the basis of predefined rating criteria, this instrument can assign to each financial institution the risk profile ("high", "medium high", "medium low" or "low") that corresponds to its answers to the periodic questionnaire. It also makes it easy to visualise and compare the financial institutions' answers and thus to conduct transversal analyses.

However, the risk profiles proposed automatically by this instrument are based exclusively on each financial institution's answers to the periodic questionnaire. In order to refine these profiles, it is also necessary to take account of a range of other relevant information, such as the other information which these same financial institutions have supplied to the Bank, notably as regards their overall risk assessments or in their AMLCOs' annual reports. Account must likewise be taken of the overall picture relating to the situation of the financial institution concerned as assessed by the team responsible for the supervision (the "supervisory judgement").

1 Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money-laundering or terrorist financing, amending Regulation (EU) No. 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC.

2 See section C.1.

For that purpose, the Bank therefore developed an additional IT tool so that the risk profiles initially assigned automatically can be refined where necessary.

The Bank has also formalised its supervision policy concerning AML/CFT on the basis of the powerful supervision instruments now available to it. That policy permits differentiation of its supervision measures on the basis of its assessment of the ML/TF risk profile of each financial institution. The differentiation concerns both the intensity (or intrusiveness) of the supervision measures to be carried out and their frequency, nature (individualised or standardised) and purpose. The four risk categories assigned via the risk assessment methodology (see above) thus correspond to four different levels of supervision ("intensive", "stricter", "normal" and "lighter").

Scope of the supervision powers and supervision personnel

A specific characteristic of AML/CFT concerns the territorial scope of the anti-money-laundering legislation. The Belgian Law and regulations on the subject apply not only to Belgian institutions but also to branches located in Belgium of financial institutions governed by the law of other EU Member States or third countries, and other forms of establishment in Belgium (such as European financial institutions established in Belgium via agents).

Table 24

Entities subject to the Bank's AML/CFT supervision

(end-of-period data)

Financial activities	Number of entities subject to the Bank's supervision	
	2018	**2019**
Credit institutions	87	85
Life insurers	42	42
Electronic money institutions	14	13
Payment institutions	46	51
Investment firms	31	33
Central securities depositaries licensed in Belgium	2	2
Mutual guarantee societies	5	5
Total	227	231

Source: NBB.

The scope of the Bank's supervisory powers thus covers around 230 financial institutions:

It is noteworthy that the number of payment and electronic money institutions within this population has been rising rapidly for a number of years, mainly as a result of Brexit and the emergence of new categories of payment institutions resulting from the transposition of the 2nd European Payment Services Directive[1] into Belgian law (payment initiation and account information service providers).

According to the risk assessment methodology applied by the Bank, there are high risks associated with 14 % of the financial institutions subject to the Bank's supervision.

The number of staff that the Bank allocates to the performance of this statutory power of supervision has been rising steadily since 2015. When the Bank first set up a specialist unit for remote supervision and participation in the definition of the anti-money-laundering policy, it allocated a total of around 7 full-time equivalents (FTEs) to handle all its work on this subject, including on-site inspections, legal support and sanction procedures. Since then, that number has constantly increased, and came to 16.6 FTEs as at 31 December 2019.

Remote supervision measures in 2019

The first element of the remote AML/CFT supervision exercised by the Bank comprises the prior checks on licence applications and applications concerning the establishment of new branches or new agency networks in Belgium, in order to ensure that these new establishments will have the required internal organisation to ensure that they actually fulfil their legal and regulatory obligations concerning AML/CFT in Belgium.

In 2019, the number of applications for new licences or for the registration of new Belgian establishments was still particularly high, primarily owing to the prospect of Brexit, so that the Bank also had to devote significant resources to examining these applications from the AML/CFT angle. This mainly concerned licence applications for new payment institutions and applications for the establishment of new branches of European credit institutions.

1 Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No. 1093/2010, and repealing Directive 2007/64/EC.

Nevertheless, the bulk of the remote supervision activities concerning AML/CFT continued to focus on the individualised, constant monitoring of existing financial institutions. This remote supervision begins with analysis of all the available relevant information, by means of the supervision instruments described above, in order to assign the appropriate risk profile to each financial institution and to determine which aspects of its AML/CFT mechanisms do not adequately meet the legal and regulatory requirements or those which exhibit weaknesses, notably in regard to their effectiveness. On the basis of this assessment, the Bank – applying the supervision policy also described above – determines and implements the remote supervision measures which it deems most appropriate in order to ensure that the financial institution concerned deals with the weaknesses and shortcomings found. This continuous remote monitoring also makes it possible to ascertain which financial institutions require on-site inspections, and to prioritise those inspections. Once the inspections have been conducted, remote monitoring verifies whether the expected measures to rectify the weaknesses and shortcomings found are actually implemented according to the agreed timetable.

On the basis of both the remote monitoring and the on-site inspections, the Bank's Board of Directors may, where appropriate, resort to the powers of constraint or even powers of sanction accorded to it by the anti-money-laundering Law.

In 2019, as part of this ongoing monitoring of financial institutions, the Bank continued the large-scale operation which it had begun in 2018 aimed at ensuring that all financial institutions have carried out a "business-wide risk assessment" (BWRA) in accordance with the statutory requirements, and drawn all the expected conclusions with a view to adjusting their internal AML/CFT mechanisms in line with the risks. Thus, in 2019, the Bank continued to analyse a large number of BWRAs and the weaknesses in the preventive mechanisms which they had detected, plus the remedial measures taken or planned. That analysis was conducted using the risk-based approach, according priority to the BWRAs of financial institutions deemed to face the highest ML/TF risks. To assess the quality of these BWRAs, the points examined included the methodology applied by the financial institution concerned, the general consistency of the BWRA with other information available to the Bank, notably the answers to the periodic questionnaire on AML/CFT and the annual reports of the AMLCOs, the extent to which the risk assessment process covers all the activities pursued, the relevance of the risk factors considered, the appropriateness of the remedial measures envisaged and the reasonableness of the planned timescale for implementing these measures. The Bank's comments based on these checks were notified individually to the financial institutions concerned so that they could take them into account, if appropriate, in improving their BWRAs and the ensuing measures. In addition, the Bank will take its comments into consideration in current or planned inspections.

The Bank also informed the financial institutions of the initial, general conclusions derived from its analysis of the BWRAs during the seminar held on 6 November 2019 (see above). Furthermore, it set out those conclusions in a written Communication at the beginning of 2020.

3.2 Impact of the new company law on the principles of good governance in the financial sector

The new Company Code does not influence the specific character of the governance model in the financial sector

The new Belgian Companies and Associations Code (CSA/WVV), which came into force on 1 May 2019 and also applies to existing companies from 1 January 2020, replaces the 1999 Company Code. This new Code offers offers – specifically for public limited companies – a choice of different governance models although the one-tier system[1] remains the standard model. Optionally, there is now the possibility of choosing certain other systems, including a full two-tier system comprising two completely separate statutory management bodies[2], with no overlap between individuals.

1 Under the one-tier system, the company is managed by a single statutory management body, namely the board of directors (1-tier board).

2 These two statutory management bodies are the supervisory board and the executive board, which both act separately and within the limits of the powers accorded to them, without any overlapping of people (2-tier board).

As stated in the Code's explanatory memorandum, in regard to the management of financial institutions the legislator rightly opted for a cautious approach by deciding to retain the existing governance model. That decision is seen in the reproduction of Articles 524 *bis* and 524 *ter* of the previous Company Code in the sectoral laws, so that the former rules on the executive committee are now included in full in the prudential legislation, which operates as *lex specialis*.

In this connection, it should be remembered that the governance of credit institutions in Belgium is traditionally subject to specific rules which deviate from ordinary company law and are derived from the "principle of the autonomy of the banking function". Those special rules, which back in the 1960s formed the subject of a protocol concluded between credit institutions and the supervisory authority, were intended among other things to limit the interference of shareholders in the management of the institution. In the ensuing years, this protocol was modified on several occasions, resulting in further refinement of the governance balance. For instance, the duties of the board of directors were restated in order to step up involvement of the non-executive directors. The said protocol rules were then incorporated in the banking law, which obliges credit institutions to form a management committee with full management powers.

Over the years, the governance model applicable to credit institutions was also extended to other financial institutions, such as stockbroking firms, insurers, (mixed) financial holding companies, etc.

The above account illustrates the long history of *sui generis* governance rules applicable to financial institutions. This singularity is justified by the particular economic role that these institutions perform in society, which also concerns the public interest. However, this *sui generis* regime is also largely based on European legislation, which generally puts forward a "neutral" form of governance that cannot be reduced to a simple one-tier or two-tier system but tries to combine the strengths of both systems[1].

1 For example, see the EBA Guidelines on internal governance EBA/GL/2017/11 in which paragraphs 21 and 22 state that there should be a distinction between the duties of the management function and those of the supervisory function (a natural feature of dual-board structures), but also stipulate that there should be effective interaction and transmission of information between all members of the management body (a constant feature of one-tier systems).

The current hybrid governance model for financial institutions permits correct and – above all – efficient implementation of the many – frequently complex – balances and requirements stipulated by the European legislation. For instance, the current model successfully combines collective responsibility for policy with clear separation between the supervisory function and the management function.

The fact that the general policy and strategy – i.e. the institution's DNA – are determined by all the directors jointly is an essential feature of the governance model. Thus, executive and non-executive directors act together and on an equal footing in defining the institution's commercial policy, for instance, as well as many other fundamental elements such as the risk policy, risk tolerance, the framework for risk management and internal control, essential aspects of capital adequacy and business continuity, remuneration policy, etc. In addition, the board of directors' meetings offer a periodic, natural forum where executive and non-executive directors can together engage in direct dialogue and discuss and mutually challenge each other's views on all essential aspects of policy. Furthermore, this last point is an important guarantee of the substantial involvement of all the directors, which also means that they must be of a certain quality (i.e. level of professional competence). The Bank also considers that this institutionalised dialogue between all the directors is an essential element of the sound and prudent management of the institution.

As things stand, it can be said that fully maintaining the so-called "1.5-tier board" for financial institutions is a good decision: this *sui generis* hybrid model is the outcome of a long and carefully considered development process, it has a long and successful track record, enjoys very widespread support in the sector, and in particular it permits the practical and consistent implementation of the European legislation.

3.3 Accreditation of auditors for the payment and electronic money institutions sector

In view of the societal importance of the supervised institutions, auditing duties can only be entrusted to auditors approved for that purpose by the Bank. The Bank grants auditors accreditation for a six-year period on the basis of the NBB's accreditation Regulation of 21 December 2012. This Regulation was amended during the year under review to introduce a new form of accreditation specifically

for auditors wishing only to take on assignments for payment institutions and electronic money institutions. That accreditation is additional to the existing approvals for auditors wishing to fulfil assignments for either financial institutions or insurance undertakings.

The accreditation for financial institutions, including payment and electronic money institutions, still exists but the amendment to the accreditation regulation offers interested auditors the option of obtaining approval solely for payment institutions and electronic money institutions. This means that the Bank can organise an examination focusing exclusively on aspects concerning that type of institution. A call for candidates in that connection was published in the *Moniteur belge/Belgisch Staatsblad* of 29 October. The first accreditation programme of this type will end in the first half of 2020.

3.4 Brexit

Preparations and contingency measures

During the year under review, the Bank continued its preparations for Brexit, in close cooperation with the competent national and European institutions, as regards both its task of maintaining financial stability and in monitoring the Brexit preparations of individual institutions.

At European level, the Bank chairs jointly with the ECB a working group of European central banks for the exchange of analyses concerning Brexit from the point of view of central banks and with a focus on the economic, commercial and financial implications of Brexit in the euro area, the EU and the EU Member States.

At Belgian level, the Bank also plays a key role in the High Level Group chaired by Count Buysse, responsible for preparing the Belgian economic world for Brexit. Together with FPS Economy and the Federal Planning Bureau, it produces the quarterly "Monitoring Brexit" report, and it also assists FPS Foreign Affairs, particularly in the sphere of financial services. The Bank contributes to the thematic Council of Ministers on "Measures relating to the United Kingdom's withdrawal from the European Union".

The Bank repeatedly warned Belgian financial institutions of the risks inherent in a "hard Brexit

The Bank works with the European Commission, authorities such as the EBA and EIOPA, and the ECB to define expectations concerning institutions' preparations for Brexit and to monitor its economic impact.

During 2019, the Bank repeatedly warned Belgian financial institutions of the risks inherent in a disorderly, "hard Brexit"[1]. On the basis of the activities and possible implications concerning each institution, it arranged bilateral contacts with the institutions in order to monitor progress with the preparations.

The Bank finds that Belgian institutions have made progress in their preparations and that the risks have therefore diminished. Thus, most institutions have taken the necessary steps to ensure their business continuity. For example, they have replaced certain British service providers with counterparts located in the EU 27 for reporting their derivatives transactions to the trade repositories. In addition, some institutions have arranged alternative access to a clearing house located in the EU 27 with the aim of reducing their dependence on British clearing houses and mitigating the adverse implications if these market infrastructures lose their European approval under the EMIR Regulation.

The Belgian financial sector has taken steps to reduce the potential risks

Although the activities of Belgian financial institutions in the United Kingdom are relatively limited, a "hard Brexit" could have indirect effects in the form of greater volatility in the value of financial assets, or in the event of an economic recession in the United Kingdom.

1 See https://www.nbb.be/fr/articles/lautorite-bancaire-europeenne-et-la-banque-nationale-appellent-les-etablissements.

The Bank maintains a close watch on the activities of British payment and insurance institutions which have been set up in Belgium on account of Brexit and which have been granted a licence. In 2019, the Bank approved three new applications for licences in the case of payment institutions set up in Belgium on account of Brexit.

The Bank also contacted British undertakings providing banking services in Belgium, to warn them that they risk losing the European passport giving them freedom to provide those services in Belgium. These undertakings were asked to take the necessary steps to avoid any interruption in their services.

Furthermore, the Bank and the Financial Services and Markets Authority (FSMA) prepared temporary contingency measures for spheres in which it was not possible to rule out a detrimental impact on private individuals in the event of a hard Brexit. Those measures guaranteed the continuity of services relating to existing insurance contracts and investment services. The European Commission considers that all players must adapt to the legislative framework that will apply after Brexit. Consequently, the contingency measures must be limited in both scope and time. The ESMA has also taken contingency measures to ensure the continuity of the services of major British clearing houses in the event of a disorderly Brexit.

Exchange of information between supervisory authorities

At the end of November 2018, in view of Brexit and in consultation with the European Commission, the EBA launched discussions with the British supervisory authorities to decide with them on a framework for future cooperation and the exchange of information between the European and British banking supervision authorities. In that connection, a template was created for bilateral cooperation agreements which,

though not binding, should as far as possible form a basis for European banking supervision authorities wishing to conclude a bilateral MoU with their British counterparts. On 10 April 2019, the Bank signed a bilateral MoU based on that principle with the Bank of England's Prudential Regulation Authority (PRA) and the Financial Conduct Authority (FCA).

In accordance with the said bilateral MoU, a second document, known as the "Split of Responsibilities", was signed by the Bank and the PRA. That document supplements the general MoU and relates specifically to the exchange of information and cooperation concerning the supervision of Belgian and British branches.

The MoU and the "Split of Responsibilities" enter into force on the date on which the European Treaties and secondary EU legislation cease to apply in the United Kingdom.

D. Resolution

The Bank's main responsibility in its capacity as national resolution authority is contributing to improve the ability of the Belgian and European authorities to resolve any problems resulting from the failure of a credit institution or stockbroking firm under Belgian law, on the one hand by preventing any adverse effects on financial stability and maintaining the functions performed by those institutions which are critical to the real economy, and on the other hand by protecting the State's resources, the depositors and investors covered by a guarantee system, and in general, the funds and assets of those institutions' clients.

This task falls within the broader context of the single resolution mechanism (SRM), which forms the second pillar of the Banking Union, with the Single Resolution Board (SRB) at its centre. The joint action of the SRB and the national resolution authorities of the participating Member States has enabled the development of a common basis for implementation in the Banking Union of the European resolution framework set up by the Bank Recovery and Resolution Directive (BRRD)[1] *and the Single Resolution Mechanism Regulation (SRMR)*[2].

In carrying out its mandate as national resolution authority, the Bank has to adopt a proactive approach based on sound preparation, in cooperation with the various institutions included in the scope of the resolution legislation. The Bank's activities, which include the preparation of a resolution plan specific to each group, aims to facilitate the use of the resolution instruments, to identify any impediments to their implementation, and to ensure the availability of sufficient loss-absorbing and recapitalisation capacity.

In accordance with the Royal Decree determining the rules on its organisation and operation[3]*, the Bank's Resolution College adopted an action plan for 2019. That plan supports the work under the SRM and is structured around four main objectives, namely (i) ensuring that a robust legislative and regulatory framework for dealing with default scenarios is developed; (ii) improving the resolvability of Belgian credit institutions and stockbroking firms; (iii) establishing a crisis management capacity and operationalising the resolution tools; and (iv) supporting resolution funding arrangements.*

1 Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No. 1093/2010 and (EU) No. 648/2012, of the European Parliament and of the Council.

2 Regulation (EU) No. 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No. 1093/2010.

3 Royal Decree of 22 February 2015 determining the rules on the organisation and operation of the Resolution College, the conditions relating to the exchange of information by the Resolution College with third parties, and the measures to prevent conflicts of interest.

1. Legal and regulatory framework

The legislative framework concerning resolution was supplemented during the year under review following the adoption by the European co-legislators of the BRRD2[1], amending the BRRD, and the SRMR2[2], amending the SRMR. These two texts, which both form part of the banking package (see section C.1), supplement in particular the rules on the Minimum Requirement for Own Funds and Eligible Liabilities (MREL). They establish, among other things, a subordination requirement directly applicable to global systemically important banks, institutions with total assets exceeding € 100 billion, and institutions whose national resolution authority considers likely to reasonably pose a systemic risk in the event of failure. The EU Member States are required to transpose the BRRD2 into national law and apply its provisions by no later than 28 December 2020, with the exception of certain provisions relating to the MREL, which only apply from 1 January 2024.

Under the SRM, the Bank has contributed to defining the practical arrangements for applying the resolution framework by taking part in the work of the both the European Banking Authority and the SRB.

The SRB's work led to the publication, in November 2019, of a consultation document setting out the SRM's expectations regarding resolvability. That document outlines the requirements concerning the development of resolution plans for institutions directly under the SRB's remit. Those requirements are structured around 7 main dimensions, namely (i) governance, (ii) loss absorption and recapitalisation capability, (iii) liquidity and funding in resolution, (iv) operational continuity and access to financial market infrastructures (v) requirements concerning information systems and data reporting, (vi) communication, and (vii) separability and restructuring.

1 Directive (EU) 2019/879 of the European Parliament and of the Council of 20 May 2019 amending Directive 2014/59/EU as regards the loss-absorbing and recapitalisation capacity of credit institutions and investment firms and Directive 98/26/EC.

2 Regulation (EU) 2019/877 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No. 806/2014 as regards the loss-absorbing and recapitalisation capacity of credit institutions and investment firms.

As stated in previous years, in performing its tasks and in its relations with the various European players, the Bank defends the use of a robust resolution model based partly on the creation of appropriate liability buffers via an MREL requirement which is satisfactory in terms of both quantity and quality, and partly on the development of resolution strategies which adequately safeguard the corporate interests of the various entities making up the banking group, taking account of the existing legal constraints. In this context, the Bank is also open to ideas on how best to safeguard those corporate interests in the future, either by leaving the legal framework unchanged or by including new mechanisms offering equivalent protection in European legislation.

The Bank advocates a resolution model based on an adequate MREL and on respect for the corporate interests of the entities forming part of a group

2. Resolvability of credit institutions and stockbroking firms

The rules introduced by the BRRD2 have to be transposed into Belgian law before they can become applicable. During the year under review, it was therefore not possible to base any MREL decisions on the new legislative framework. It is only with effect from the 2020 resolution planning cycle that the new framework set up by the BRRD2 and the SRMR2 will form the basis of MREL decisions adopted by the SRB within the Banking Union, or by the Bank for institutions within its remit.

During the course of 2019, the SRB finalised its 2018 resolution planning cycle. This led to the adoption of eleven MREL decisions for Belgian credit institutions by the SRB, including four decisions relating to the external MREL and seven concerning the internal MREL, i.e. the MREL that must be met by a subsidiary which is subject to a single point of entry resolution strategy. It falls to the Bank, as the national resolution authority to which the SRB's decisions are addressed, to implement those decisions and notify them to the credit institutions concerned.

At the same time, the Bank also finalised its 2018 resolution planning cycle relating to credit institutions under its competence. The general philosophy underlying the development of resolution plans for less significant banks and determining their MREL

requirement is described in last year's annual report. In accordance with the banking law, those plans distinguish between purely idiosyncratic crises and systemic crises. The measures to be taken in each of those scenarios may vary.

In December 2018, the Bank had launched a consultation on the resolution plans for less significant institutions. The responses it received from the competent authority and the macroprudential authority in February 2019, and from the SRB in July 2019, enabled it to finalise the resolution planning cycle by arranging the procedure concerning the right to be heard for each of the less significant credit institutions for which a binding MREL decision was adopted. During 2019, the Bank thus adopted a binding MREL requirement for eleven less significant institutions, granting a transition period to facilitate the implementation of this new requirement where appropriate. These requirements will be reviewed during the 2020 resolution planning cycle, taking into account the new provisions introduced by the BRRD2.

The Bank defined a binding MREL requirement for eleven less significant institutions

Finally, during the year under review, the Bank also launched discussions on the resolution plans for stockbroking firms falling under its competence. In this context, the Bank adopted a draft resolution plan and a draft MREL decision for two investment firms. Adoption of these draft plans and draft MREL decisions opened the way to the consultations with the supervisory authority and the macroprudential authority required by the legal framework. Following that consultation, the Bank will initiate a procedure for each of these stockbroking firms giving them the right to be heard, after which it will adopt its final MREL decision.

3. Development of crisis management capability and operationalisation of the resolution tools

Responsibility for implementing the resolution tools rests with the national resolution authorities, regardless of whether the crisis to be resolved concerns an institution under the SRB's competence or one which comes under the competence of the national authorities. In this regard, and on the initiative of the SRB, the Bank has enlarged its national handbook on the implementation of the resolution tools. The national handbook is intended to supplement the specific analyses requested by the SRB and conducted by each Belgian banking group in developing their resolution plans (playbooks). There is therefore a symmetry between the Bank's work of facilitating the execution of a resolution procedure and the work undertaken by each banking group in developing its own resolution plan.

The national handbook describes all the steps that the national resolution authority will need to take when using a resolution tool. The objective of the national handbook is twofold: first, it sets out a procedure to be followed and then it identifies the obstacles to implementation of the resolution tools and the points on which preparatory work is necessary or desirable. On this subject, the handbook is more of a starting point for steering the future work of the resolution authority, rather than the culmination of a process. The national handbook is therefore considered to be a living document.

The national handbook identifies the points requiring preparatory work

During 2018, the Bank drew up the first chapter dealing with implementation of the bail-in tool. A second chapter was added during the year under review, specifically describing the steps to be taken and the stages involved in applying the sale-of-business tool. This chapter makes a clear distinction between the use of this tool via the sale of shares (share deal) and its application in the context of a transaction concerning part of the institution's rights, assets or liabilities (asset deal). In order to cover the whole spectrum of resolution, this handbook will need to be supplemented for the other two resolution tools, namely the asset separation tool and the bridge institution tool.

Finally, in order to test its crisis management capability as a resolution authority, the Bank agreed to take part in a crisis simulation exercise organised by the SRB. Apart from the Bank, the SRB, the ECB, the European Commission, the EBA and the Austrian and Luxembourg national resolution authorities also took part in this crisis exercise, which aimed to test the resolution processes, their governance, the exchange of information between authorities, and internal and external communication. The crisis simulation exercise, which was held in early December, did not only enable the Bank to test its crisis management capability, and to demonstrate that it can incorporate a resolution scheme adopted by the SRB into its national jurisdiction, but it also confirmed the relevance of a number of concerns already raised in the past, such as the possible limitations inherent in the application of the single point of entry strategy to banking groups.

4. Resolution financing arrangements

During 2019, the SRB collected € 7.8 billion from all credit institutions in the Banking Union. This increased the size of the Single Resolution Fund (SRF) to € 33 billion. The target figure to be achieved by the end of the initial 8-year period, i.e. by 31 December 2023, is 1 % of the total covered deposits of all credit institutions authorised in the Banking Union; on the basis of the current amount of deposits covered, that can be estimated at € 58 billion. The 33 Belgian credit institutions obliged to contribute paid a total of € 270 million into the SRF, compared to € 285 million in 2018.

Institutions not covered by the SRF, namely Belgium-based branches of third-country credit institutions or investment firms, and stockbroking firms governed by Belgian law which do not fall under the ECB's consolidated supervision of their parent company, have to pay a contribution to the national resolution fund. The methodology for determining the amount of the contributions due is defined in a Bank Circular[1]. As a result of a

1 Circular NBB_2019_26/Circular of the Resolution College of the National Bank of Belgium on the calculation and collection of contributions to the Resolution Fund.

number of minor changes in the law, that Circular had to undergo some modest adjustments during the year under review, though they did not alter the calculation methodology already applicable. Following the payment of the contributions to the national resolution fund in 2019, its reserves came to just over € 1.6 million. In 2023, the reserves of the national resolution fund should amount to € 3.2 million, the current target figure.

E. Digitalisation

Disruptive technologies and innovative business models are having an ever-increasing impact on the provision of financial services. In recent years, newcomers in the high-technology field have focused heavily on certain segments, such as payments, credit scoring and automated investment advice. With their innovative methods and platforms, these newcomers are responding directly to the changing needs of end users, such as convenience, immediate processing and cost efficiency. This chapter describes two trends in more detail: innovations in the payments sector resulting from the introduction of Open Banking, and global stablecoins (cryptocurrencies). The increasing digitalisation of financial services also means that a close watch must be kept on IT risks and cyber risks. The final section deals with developments in that area.

1. Open Banking

The second European Payment Services Directive (PSD2)[1], which was transposed into Belgian law by the Law of 11 March 2018, concerns innovations in the payments sector and requires account-servicing payment service providers (such as banks) to open up their online payment account infrastructure (Open Banking). This requirement enables payment initiation service providers and account information service providers (both banks, payment institutions and electronic money institutions) to enter the payment services market.

The opening up of this payment accounts infrastructure is accompanied by strict security requirements which must be respected by all the payment service providers concerned (banks, payment institutions and electronic money institutions). These security requirements are detailed in Commission Delegated Regulation (EU) 2018/389[2], which came into force on 14 September 2019.

The banking sector did not wait until these security requirements came into force before developing these new payment services on the Belgian market. Some Belgian banks already offer the option of using their own channels to consult payment accounts held with other Belgian banks and to initiate payment orders from those other payment accounts. In addition, in 2019, the Bank granted (or extended) licences for seven payment institutions and two electronic money institutions as payment initiation service providers and/or account information service providers.

1 Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No. 1093/2010, and repealing Directive 2007/64/EC.

2 Commission Delegated Regulation (EU) 2018/389 of 27 November 2017 supplementing Directive (EU) 2015/2366 of the European Parliament and of the Council with regard to regulatory technical standards for strong customer authentication and common and secure open standards of communication.

The compulsory opening up of payment accounts by Belgian account-servicing payment service providers (principally banks) was brought about mainly by means of a dedicated interface developed by the banks concerned. At their request, and after having checked compliance with the legal requirements, the Bank exempted a number of these dedicated interfaces from the obligation to have a fallback mechanism in accordance with Delegated Regulation (EU) 2018/389. Many other banks will need to submit a similar exemption application to the Bank as soon as their dedicated interface meets the legal requirements on the subject. In view of the complexity and multiplicity of payment products offered by banks, it is taking more time than originally expected to develop an adequate dedicated interface.

The opening up of the payment accounts infrastructure is accompanied by strict security requirements

Regarding the application of strong customer authentication[1] for the secure initiation and execution of payments (both card payments and transfers), the EBA published an Opinion in June 2019 stipulating in detail the elements which can be used for strong customer authentication. However, it became apparent that the card industry needed a transitional arrangement for the use of payment cards in e-commerce settings. In accordance with the EBA Opinion on this topic, and in line with all other EU supervisory authorities, the Bank therefore published a Communication on 28 August 2019 acknowledging the challenges entailed in complying with strong customer authentication for Belgian payment card issuers and Belgian acquirers for these card transactions effected in e-commerce, and the need to cooperate with the parties concerned (payment service providers, payment card schemes, merchants and consumers associations, etc.) to agree a reasonable and acceptable migration plan – as quickly as possible after 14 September 2019 – enabling the sector to implement strong customer authentication for card payments in an e-commerce context. The Bank expects the sector to establish a migration plan that it is due to approve in the first part of 2020, so that this migration can take place by no later than 31 December 2020.

1 Strong customer authentication requires the use of at least two of the following three elements, which must be independent and confidential: an element that only the user knows (e.g. a PIN code), an element that only the user possesses (e.g. a payment card), and an element specific to the user (e.g. biometric data, such as a fingerprint).

2. Global stablecoins

One of the most striking trends in 2019 was the emergence of global stablecoins, backed by international consortia. Global stablecoin initiatives aim to set up an international financial infrastructure with a stable virtual currency and a wide user network. Price stability would be created by linking the virtual currency to assets with a fixed value, such as deposits and short-term government bonds. In addition, partners in international consortia wanting to launch these global stablecoins generally have a wide network of users (for example, Facebook as a partner in Libra) who are expected to support the use of the stablecoin as a means of payment. Price stability and network size are typical challenges for the first generation of cryptocurrencies such as Bitcoin.

Global stablecoins also reveal significant challenges for the current financial system. At present, the processing of international payments is often still inefficient and opaque. Moreover, financial inclusion is low in some parts of the world.

However, the introduction of global stablecoins may also entail major risks. Together with other international authorities the Bank is examining what those risks are, for example the use of global stablecoins for money-laundering, terrorist financing or tax evasion, or threats to privacy, competition and consumer protection (notably redeemability). There could also be significant implications for financial stability if the private consortium or one of its partners loses the confidence of the public.

It is also necessary to check whether the effectiveness of important macroeconomic instruments such as central bank monetary policy could be impaired if stablecoins gain ground.

When this Report went to press, it had not yet been possible to establish the extent to which the existing regulatory and prudential framework is adequate. Via international cooperation, the authorities are trying to obtain detailed information on the technical, operational and organisational design of global stablecoins. By an internationally coordinated approach, the authorities are endeavouring to avoid any regulatory arbitrage.

The Bank is actively involved in the continuous improvement of the payment systems used by central banks and plays an active part in the analyses on that subject in international working groups, such as the Committee on Payments and Market Infrastructures (CPMI).

3. Cyber risks and IT risks

3.1 Continuing rise in cyber threats and IT-related threats

Throughout the world, cyber attacks have become an everyday reality in recent years. At the same time, certain attackers are refining the techniques and methods used, so that some of the attacks are becoming ever more sophisticated and powerful. The number of persistent, targeted cyber attacks is therefore likely to increase further in the future, with the financial sector logically remaining one of the potential targets. Cyber criminals' ability to conceal the attack over long periods in certain cases permits misappropriation, intentional disclosure, and the modification or destruction of sensitive or critical financial data. In these circumstances, it is a challenge for financial institutions and infrastructures to provide adequate protection against the various attacks for their IT systems, services and data.

Together with other international authorities, the Bank is examining what risks global stablecoins may present

Apart from cyber risks, the financial sector's heavy dependence on IT solutions also presents other challenges. Under pressure from innovative players, higher customer expectations regarding the services offered and their availability, or growing security risks (e.g. by the use of "end-of-life" software which is no longer supported), traditional institutions are encouraged to renew their sometimes very obsolescent IT architecture in a relatively short space of time, but the complexity of their IT environment makes it a major challenge to achieve that in a responsible way. There is likewise a high risk of growing dependence on third parties for IT services and other standardised IT system components. In particular, cloud solutions are increasingly being used, and for ever more important processes. That is also contributing to the fact that, throughout the sector, a small number of critical service providers present an ever-increasing concentration risk for the financial industry. The need for sufficiently representative testing of recovery solutions remains another key point for attention.

Assessing cyber risks and IT risks and promoting their control are therefore absolute priorities for the prudential supervision and oversight of financial institutions and FMIs, with European and international cooperation becoming ever more important. Individual institutions are strongly recommended to

continue stepping up their protective measures and efforts against cyber risks and IT risks. Due attention is also being paid to the sectoral control strategies being devised in Belgium and abroad. These two aspects are discussed in more detail in the sections below.

3.2 Guidelines

In recent years, the Bank has made a substantial contribution to a regulatory framework aimed at improving the control of cyber risks and IT risks. The prudential Circular on the Bank's expectations concerning operational business continuity and security of systemically important institutions[1] remains a key reference point. The Bank is also making an active contribution to establishing a European regulatory framework for the management of cyber risks and IT risks under the aegis of the EBA. For example, that work previously led to the publication of the EBA guidelines for supervisory authorities on the assessment of the ICT risk in the SREP for credit institutions and investment firms[2]. In 2019, that led to the guidelines on outsourcing[3], which have since become part of the Bank's policies, and to the guidelines on ICT and security risk management[4]. For insurers, the Bank is also contributing to the establishment of a similar regulatory framework under the auspices of EIOPA.

In regard to FMIs, in December 2019, the CPMI brought together experts from the sector to continue defining its strategy for reducing the risk of wholesale payments fraud. This led to the identification and formalisation of new measures which have proved effective. As co-chair of this CPMI working group, the Bank made a significant contribution. Like the other central banks belonging to the group, the Bank is working on the implementation of this strategy.

Throughout the world, cyber attacks have become an everyday reality in recent years

3.3 Operational activities

Cyber risks and IT risks are a point for the Banks' attention in the course of its prudential supervision and oversight. In that sphere, it focuses on the security of individual financial institutions and FMIs and the confidence that they inspire, as well as on the sector as a whole.

The approach concerning individual institutions is two-pronged. On the one hand, institutions subject to prudential supervision are required to hold capital to cover their operational risks, including cyber risks and IT risks. Also, the operational security and robustness of the critical processes of financial institutions and FMIs are subject to close monitoring. The availability, integrity and confidentiality of the IT systems and data are crucial. In 2019, the Bank conducted a number of inspections (for banks under the SSM) to check on compliance with the regulatory framework and the proper management of IT systems in relation to cyber risks and IT risks. In addition, the Bank monitors these risks in financial institutions and FMIs in the course of its ongoing and recurrent supervisory activities.

The Bank is also paying closer attention to sectoral initiatives. For example, under the SSM, it regularly conducts transversal analyses on cyber- and IT-related subjects. All significant banks and some less significant banks were asked to complete an IT questionnaire which provides important information for the annual SREP, and also permits cross-sectoral analyses. A number of insurance undertakings were also asked to provide such information for a similar purpose.

In its role as the sectoral authority for application of the 2011 Law on the security and protection of critical infrastructures (principally systemic banks and FMIs), the Bank also assesses the effectiveness of the control systems of these critical financial infrastructures. That is likewise the context in which the Bank organises sectoral crisis simulation exercises in order to prepare the Belgian financial sector for potential operational incidents of a systemic nature. Under the law on network and data system security, the Bank acts as the sectoral point of contact for incidents in the financial sector.

1 Circular NBB_2015_32 of 18 December 2015 on additional prudential expectations concerning the operational continuity and security of systemic financial institutions.

2 EBA Guidelines on ICT Risk Assessment under the Supervisory Review and Evaluation Process (SREP), May 2017.

3 EBA Guidelines on outsourcing arrangements, February 2019.

4 EBA Guidelines on ICT and security risk management (November 2019).

Finally, since the second half of 2018, the Bank has established a framework for ethical hacking, known as TIBER-BE (Threat Intelligence-Based Ethical Red Teaming Belgium). This programme forms the Belgian part of a methodology devised by the Eurosystem and aims to boost individual financial institutions' and FMIs' cyber resilience by means of sophisticated tests, and to supply important insight into the cyber security of the Belgian financial sector as a whole. The Bank encourages these exercises in its capacity as the guardian of financial stability, and these tests are therefore conducted independently of its prudential supervision and oversight responsibilities. During the year under review, operational implementation of TIBER-BE continued.