B. Regulatory and legal framework

1. Banks

The COVID-19 crisis has left its mark on the prudential regulatory framework of the banking sector. The previously announced modifications to that framework were suspended and special measures were taken to manage the COVID crisis at global, European and national level. The emphasis was on support for bank lending to the real economy, and on the associated credit risks.

In April 2020, the Basel Committee on Banking Supervision (BCBS) announced that entry into force of the Basel III definitive standards (Basel 3.5) would be postponed until 2023, a year later than planned, and that the transitional period for adoption of those changes to the regulatory framework would also be extended by one year (2028). The BCBS stated that the COVID-related credit loss provisions formed by banks should be gradually deducted from the regulatory capital. A strategic exercise organised at the instigation of a new Chair and a new Secretary General of the BCBS led not only to reorganisation of the Committee's sub-structures and operating procedures but also to the announcement of a "regulatory pause", which means that the Committee will concentrate more on the consistent implementation and assessment of the regulatory standards rather than on adjustments to them.

The regulatory and supervisory authorities of the banking sector took special measures to support lending to the real economy

The availability of bank credit and the financing of the real economy by the capital markets were also supported by the easing of the prudential requirements at European level in the form of adjustments to the European harmonised banking regulations (Capital Requirements Regulation, Quick Fix package) published in June plus adjustments to the European capital markets framework (Capital Markets Recovery Package). Other European Commission initiatives were postponed owing to the COVID-19 crisis – such as the entry into force of the final Basel III framework for banks in the EU (Basel 3.5), which was postponed by decision of the Basel Committee on Banking Supervision – while some suffered delays, such as the Eurogroup discussions on further reinforcement of the Banking Union. Regarding those discussions, the plan is to take new measures in the medium term on the basis of a consensus in four areas of interest: the European Deposit Insurance Scheme (EDIS), crisis management for banks, the prudential treatment of banks' exposures to public authorities, and the continuing cross-border integration of banking groups. In that context, too, Bulgaria and Croatia joined the European Banking Union on 1 October, thus taking their first steps towards membership of the euro area. The largest Bulgarian and Croatian banks were placed under the supervision of the SSM from that date.

The COVID-19 crisis also necessitated immediate action and a rearrangement of priorities at the European Banking Authority. Among other things, the EBA postponed by one year the planned stress test exercise at EU level, published guidelines on the prudential treatment of moratoria, urged limits on dividend distribution, share buybacks and variable remuneration, and adjusted the reporting framework for banks in the light of the COVID-19 crisis.

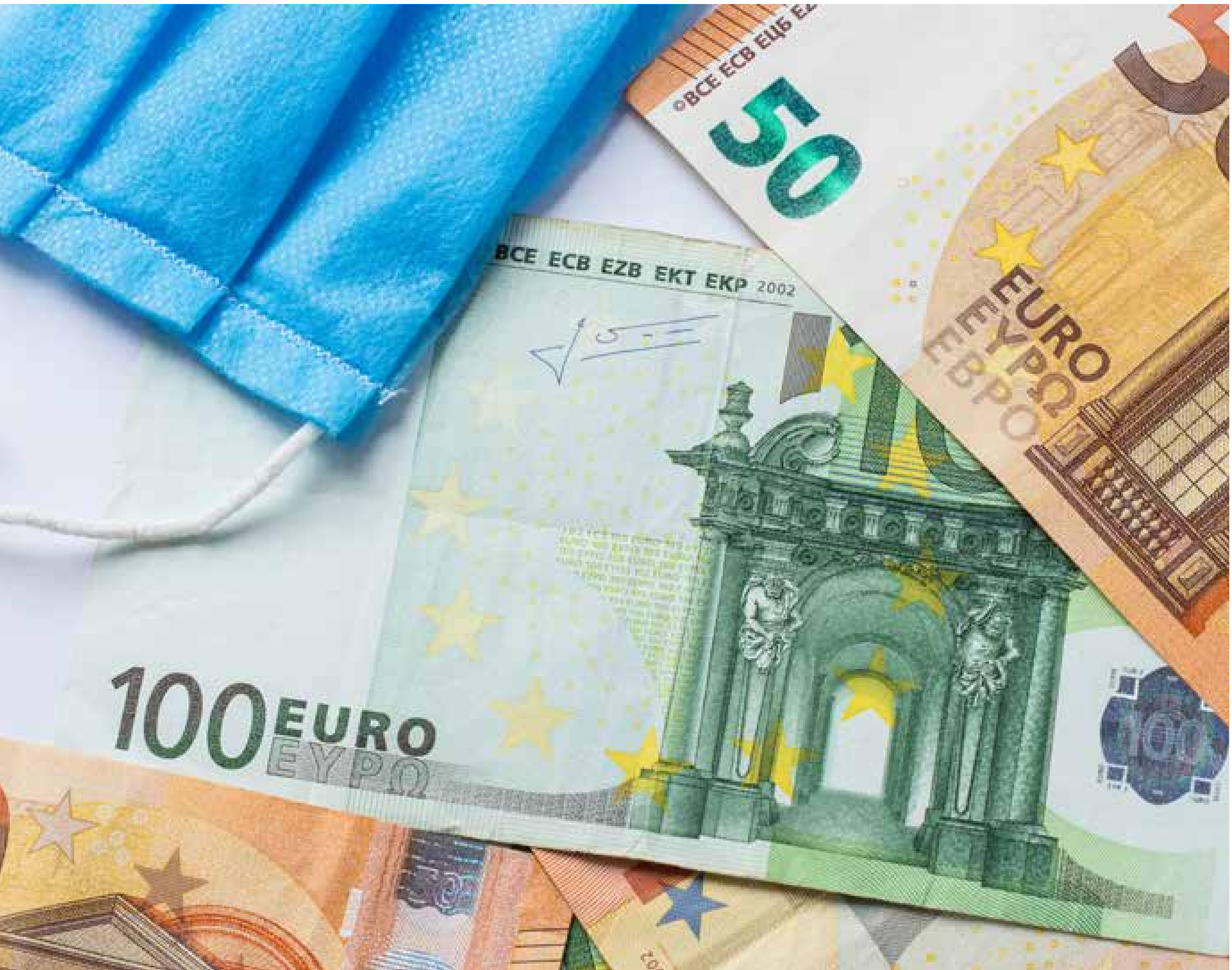
Still at European level, the SSM – which exercises direct supervision over the largest banks in the euro area – adopted a series of targeted, temporary supervision measures to support the financing of the real economy by credit institutions. The Bank took the same measures for Belgian banks subject to its direct supervision.

On the one hand, these measures imply easing of the capital requirements for credit institutions. On the other hand, credit institutions are expected to use the positive effects of these measures, such as freed-up capital, to support the economy, and they were recommended to refrain temporarily from paying dividends or increasing variable remuneration (see section 1.3).

Thus, credit institutions were urged to use their existing capital buffers, such as the management buffer, the Pillar 2 guidance (P2G) and the capital conservation buffer. They were informed that they could operate temporarily with a liquidity coverage ratio of less than 100 % and that they could make proactive use of a different composition of the capital components for their Pillar 2 requirement (P2R). The Pillar 2 requirement therefore no longer has to consist solely of common equity Tier 1 capital (CET1) but can already comprise a minimum of 56.25 % common equity Tier 1 capital and a minimum of 75 % Tier 1 capital. In addition, the supervisory authorities granted institutions extra time for their reporting (see section 1.4), and the Bank stated that it was prepared to reduce temporarily the operational pressure on credit institutions by engaging them in a dialogue on the organisational impact of supervisory work such as meetings, inspections and response times, taking account of the circumstances specific to each institution.

Despite these measures, institutions must continue to apply appropriate acceptance standards and adequate policies to take account of non-performing exposures and ensure that they are provisioned.

The above microprudential measures are intended to complement the macroprudential policy explained in more detail in the "Economic and financial developments" part (see box 5). Thus, in its capacity as the competent authority, the Bank



released the whole of the macroprudential countercyclical capital buffer. In both cases, the aim is to provide more room for manoeuvre, enabling the banks to continue to play their role in financing the real economy in order to mitigate the impact of the COVID crisis.

As well as contributing to these prudential initiatives, the Bank also played a facilitating role in the implementation of various measures to support the real economy, agreed between the financial sector and the federal authorities. These measures comprise a federal guarantee scheme to cover new short- and medium-term business loans, and moratoria on the repayment of business loans and mortgage loans to individuals (see box 8).

The regulatory framework for digitalisation and FinTech had been developed to a high degree in previous years (see the various initiatives of the EBA and the Bank described in chapter E of the Report 2019). In 2020, it was supplemented, particularly as regards strong customer authentication and open banking (see section E.2.1), and markets in crypto-assets (see section E.2.3 concerning a draft EU Regulation on the subject), as well as big data and advanced analytics which formed the subject of an EBA report in January 2020.

Finally, the Bank also plays an active part in the transposition into Belgian law of the EU Directives on prudential regulation. In that context, the Bank prepared draft proposals to adapt the Banking Law in accordance with the fifth Capital Requirements Directive (CRD V)[1].

The following sections give more detail on some of the prudential measures mentioned above and other initiatives.

1.1 Adjustments to European banking regulations[2] in response to the COVID-19 pandemic (CRR Quick Fix)

Among the initiatives in response to the COVID-19 crisis, the European Commission proposed a number of measures which gave rise to adoption of Regulation (EU) 2020/873[3]. Those measures aim to give institutions more room for manoeuvre but without compromising the financial system's stability. In view of the urgency, this Regulation applied with effect from 27 June 2020.

The measures adopted may be permanent or temporary and concern various subjects under the said Regulations. The following paragraphs give an overview of the principal measures.

In regard to the minimum coverage of losses on non-performing exposures, the preferential treatment for public export credit agencies was extended to certain public entities with a 0 % credit risk weighting.

Measures were also taken to mitigate the impact of the crisis on the capital of credit institutions in the event of a sudden increase in the accounting provisions for credit losses. The transitional measures already in force under Regulation (EU) No. 575/2013 allowed institutions to make adjustments in their prudential capital for surplus credit loss provisions following the switch in 2018 to international accounting standard IFRS9 (which had introduced a credit provisioning model based on expected losses). These transitional IFRS 9 measures were extended by two years to enable institutions to eliminate from their prudential capital some of the expected credit losses which, pursuant to IFRS 9, will be recorded in 2020 and 2021 on unimpaired financial assets. The extension of these transitional measures directly targets the credit losses expected in connection with the pandemic. Institutions which did not opt to apply the transitional measures in 2018 at the time of the switchover to IFRS 9 will be able to review that choice during the extended transitional period, subject to the prior authorisation of the competent authority.

To ensure effective transmission of the monetary policy measures, the leverage ratio was adjusted, enabling credit institutions to exclude a number of central bank exposures when the competent authority declares exceptional circumstances. The offset

1 Directive (EU) 2019/878 of the European Parliament and of the Council of 20 May 2019 amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures.

2 Amendment of Regulations (EU) No. 575/2013 and (EU) 2019/876 – Capital Requirements Regulation (CRR).

3 Regulation (EU) 2020/873 of the European Parliament and of the Council of 24 June 2020 amending Regulations (EU) No. 575/2013 and (EU) 2019/876 as regards certain adjustments in response to the COVID-19 pandemic.

mechanism provided for such exclusions was also modified with effect from 28 June 2021.

In view of the adverse impact of the crisis-related volatility on the debt instruments of public entities held by credit institutions, and hence on the latter's ability to finance the economy, a prudential filter was introduced. That prudential filter temporarily (until December 2022) and degressively neutralises the repercussions of unrealised gains and losses on the capital of the institutions.

Transitional provisions were introduced to avoid increasing the capital burden in the case of public issues denominated in the currency of another Member State. Under those provisions, a reduced risk weighting may be applied to such exposures temporarily (until the end of 2024). Moreover, the competent authorities may ease the concentration limits for those exposures until the end of 2025.

The high volatility that the COVID-19 crisis generated on the markets may also have negative repercussions on the back-testing results of internal models for market risk. If any overshootings identified are not due to deficiencies in the internal model and occurred between 1 January 2020 and 31 December 2021, the competent authorities may authorise the institutions to exclude them from calculation of the multiplier.

Finally, some provisions of Regulation (EU) 2019/876 were brought forward or postponed. For example, in regard to credit risk, the adjustment of risk-weighted non-defaulted SME exposures was applied from 27 June 2020.

1.2 Capital markets recovery measures

The Capital Markets Recovery Package (CMRP) forms an integral part of the European Commission's COVID-19 recovery strategy. The CMRP proposals were published on 24 July 2020 and aim to make it easier for firms to raise capital on the market, to facilitate investment in the real economy and to stimulate bank lending.

Mobilise the capital markets for recovery in Europe

The package includes changes to the securitisation framework as defined in the Regulations on securitisation [1] and capital requirements [2], the Markets in Financial instruments Directive [3] (MiFID II) and the Prospectus Regulation [4].

The proposed changes to the securitisation framework aim to extend the current EU rules for simple, transparent, and standardised (STS) securitisations to synthetic securitisations, whereby the credit risk on a group of loans is transferred to investors via a credit protection contract. By transferring the credit risk, banks can free up additional capital for lending to the real economy.

In addition, the Capital Requirements Regulation is amended in order to (i) eliminate obstacles to the securitisation of non-performing exposures in the current regulatory framework, which is penalising in some respects, and (ii) to better take into account the characteristics of non-performing exposures. These adjustments should enable banks to clear their balance sheet of non-performing exposures which might arise in the context of the COVID-19 pandemic, but without prejudice to compliance with high prudential standards.

On 15 December 2020, the final CMRP proposals were approved by the Member States' ambassadors to the EU and published by the EU Council [5].

1 Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulations (EC) No. 1060/2009 and (EU) No. 648/2012.

2 Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012.

3 Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU.

4 Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC.

5 See: https://www.consilium.europa.eu/en/press/press-releases/2020/12/16/capital-markets-recovery-package-council-confirms-targeted-amendments-to-eu-capital-market-rules/

1.3 Dividend distribution policy

On 27 March 2020, the European Central Bank (ECB) published a Recommendation on the dividend distribution policy to be followed during the COVID-19 pandemic[1]. The ECB Recommendation was addressed to significant institutions subject to its supervision (including a large proportion of Belgian banks) and to the competent national authorities. The latter were expected to apply the ECB policy mutatis mutandis to credit institutions subject to their supervision. On 1 April 2020, the Bank therefore published a Communication setting out its expectations for the dividend distribution policy of credit institutions subject to its direct supervision[2]. In accordance with the said ECB Recommendation, the Bank deemed it appropriate to ask these credit institutions to similarly refrain from paying dividends and other such forms of distribution until 1 October 2020.

Today, the main purpose of capital is to support banks' ability to contribute to the economic recovery

Credit institutions must continue to hold sufficient capital during this difficult period in order to keep control over systemic risks and help to revive the economy. The capital reserves freed up on account of the coronavirus crisis must therefore be allocated to those objectives and not used for distribution to shareholders. In line with the said ECB measures concerning dividend policy, the EBA in its statements on 12 and 31 March 2020[3] also urged credit institutions to moderate their remuneration policy, particularly as regards the payment of variable remuneration.

Since it was still difficult, in mid-2020, to foresee how long the crisis would persist and what its impact would be, both the ECB and the Bank extended these Recommendations until the end of the year[4].

At the end of 2020, as the crisis was far from over, the ECB and the Bank again called on the institutions subject to their supervision to continue to adopt prudent policies and be extremely cautious in taking decisions on dividends and similar distributions, at least until 30 September 2021. The Bank also asked credit institutions subject to its supervision to notify their intentions regarding dividends before 15 January 2021[5].

1.4 Reporting and disclosure under Pillar 3 in the context of COVID-19

In order to temporarily alleviate the operational workload, the EBA, the SSM, the Single Resolution Board (SRB) and the Bank allowed the institutions under their supervision to defer reporting at the start of the pandemic. This deferral applied to certain European reports that had to be submitted in the months of March, April or May 2020.

Institutions were given an extra month to submit those reports to the Bank, which also extended the deferral to certain NBB reports, and published a Communication to that effect in April 2020[6]. From June 2020 onwards, all institutions were once again expected to comply with the originally agreed deadlines for submitting their reports.

Like Belgium, a number of other EU countries adopted COVID-19 support measures in the form of moratoria and guarantees. In order to monitor loans benefiting from these COVID-19 support measures within the harmonised European framework for reporting and Pillar 3 disclosures, the EBA published

1 Recommendation of the European Central Bank of 27 March 2020 on dividend distributions during the COVID-19 pandemic and repealing Recommendation ECB/2020/1 (ECB/2020/19).

2 Communication NBB_2020_011 of 1 April 2020 – Expectations regarding dividend distribution policy in the context of the management of the coronavirus (COVID-19).

3 EBA Statement of 12 March 2020 on actions to mitigate the impact of COVID-19 on the EU banking sector and of 31 March 2020 on dividends distribution, share buybacks and variable remuneration.

4 Recommendation of the European Central Bank of 27 July 2020 on dividend distributions during the COVID-19 pandemic and repealing Recommendation ECB/2020/19 (ECB/2020/35) and Communication NBB_2020_ 33 of 30 July 2020 – Measures concerning coronavirus – Extension of the recommendations of Communication NBB_2020_011 and expectations concerning remuneration policy.

5 Recommendation of the European Central Bank of 15 December 2020 on dividend distributions during the COVID-19 pandemic and repealing Recommendation ECB/2020/35 (ECB/2020/62) and Communication NBB_2020_0149 of 22 December 2020 / Measures in the context of coronavirus – Expectations concerning the dividend policy and remuneration policy with effect from 2 January 2021.

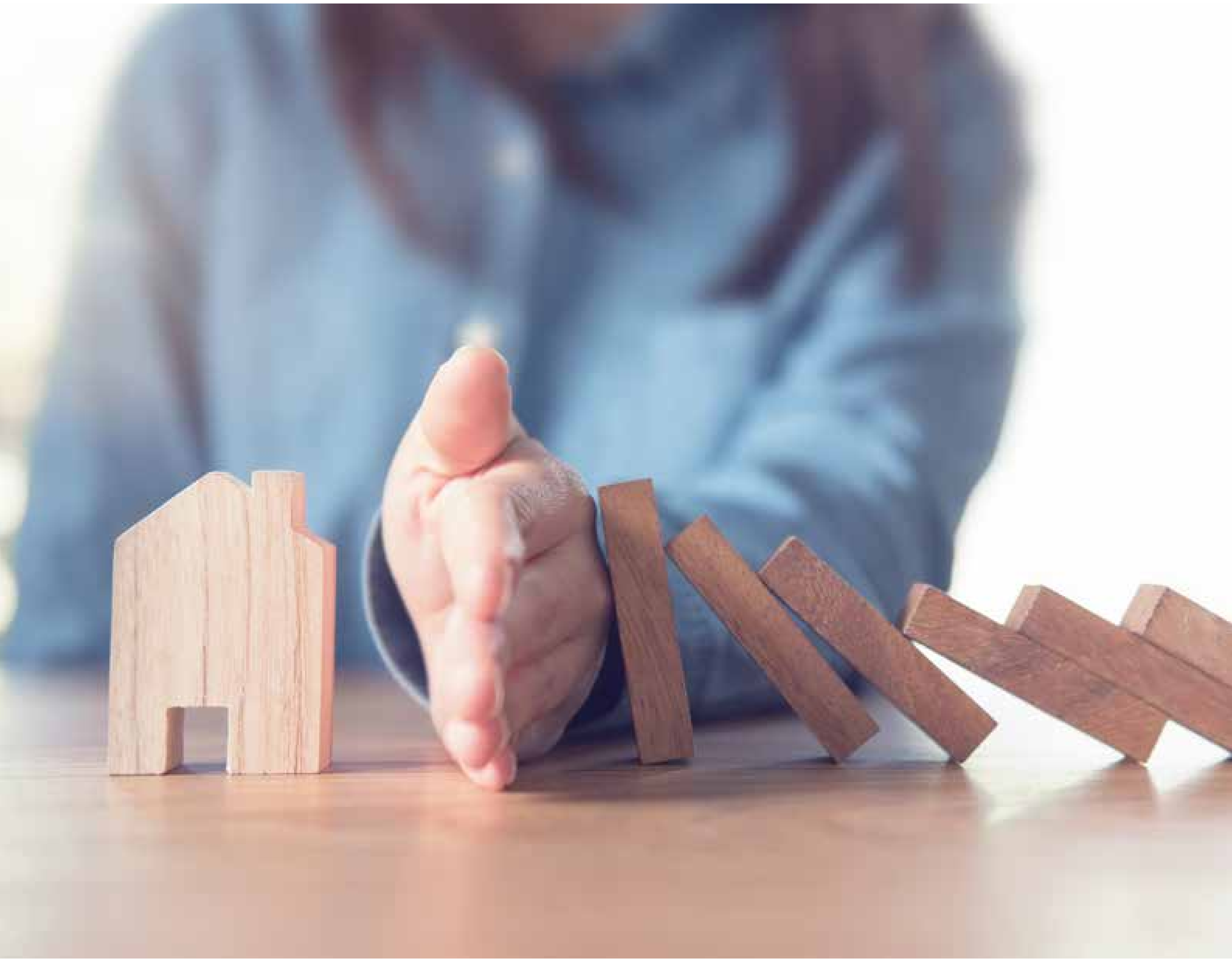
6 Communication NBB_2020_15 of 14 April 2020 on reporting to the Bank in the context of COVID-19.

additional reporting and disclosure requirements on 2 June 2020. The Bank transposed these new requirements in a Circular[1] addressed to institutions subject to its supervision with a view to proportionate implementation of the EBA guidelines.

Reporting deadlines were extended at the start of the pandemic in order to temporarily alleviate the industry's operational workload

1 Circular NBB_2020_28 on the Guidelines of the European Banking Authority (EBA) of 2 June 2020 on reporting and disclosure of exposures subject to measures applied in response to the COVID-19 pandemic (EBA/GL/2020/07).

At the same time, the CRR Quick Fix (see section 1.1) also had an immediate effect on the harmonised European framework for reporting and Pillar 3 disclosures. In order to maintain the uniformity and comparability of European reporting and disclosures, the EBA published new guidelines on 11 August 2020. These EBA guidelines clarified how certain regulatory changes introduced by the CRR Quick Fix should be reflected in the existing



harmonised European framework for reporting and Pillar 3 disclosures. The Bank transposed these new EBA guidelines in Belgium via a Circular [1] addressed to institutions under its supervision.

1.5 Prudential and accounting treatment of moratoria

On 2 April 2020, the EBA published guidelines on payment moratoria [2] (amended subsequently on 25 June 2020 [3] and 2 December 2020 [4]) to clarify the way in which the prudential framework should be applied to exposures subject to a moratorium. If a legislative or non-legislative moratorium satisfies the criteria defined in the EBA guidelines, it is regarded as a "general payment moratorium" and the payment holiday is not deemed to be a forbearance measure. At the same time, the guidelines specify that the number of days past due must be counted on the basis of the new payment schedule, and that the analysis obligation aimed at identifying distressed restructuring is not applicable. However, the EBA emphasises that it is still important for credit institutions to continue to assess in a timely manner whether the credit obligations are unlikely to be met in the case of loans subject to a moratorium.

The existing regulatory flexibility was used for the treatment of payment moratoria

In Belgium, non-legislative moratoria for business loans [5] and legislative moratoria for mortgage loans [6] and consumer loans [7] were established as support measures to alleviate the economic consequences of the COVID-19 pandemic.

The circular of 22 December 2020 [8] implements the EBA guidelines and confirms that the Belgian moratoria for mortgage loans and business loans as defined in the charters drawn up by the financial sector, and the moratoria on consumer loans as defined by the Law of 27 May 2020, fulfil the "general moratorium" criteria.

The application of the IFRS 9 principles to exposures subject to a moratorium was explained by the EBA [9] and the ESMA [10] in their publications dated 25 March 2020. IFRS 9 is principle-based and requires expert judgment, rather than mechanistic application of the international accounting rules. Granting a moratorium should not automatically imply a significant increase in credit risk (SICR). When assessing the SICR criteria under IFRS 9, it is important to take account of all reasonable and supportable information throughout the lifetime of the exposure.

1 Circular NBB_2020_41 on transposition of the EBA Guidelines on reporting and Pillar 3 disclosures in the context of the CRR Quick Fix (EBA/GL/2020/11 & EBA/GL/2020/12).

2 EBA Guidelines on legislative and non-legislative moratoria on loan repayments applied in the light of the COVID-19 crisis (EBA/GL/2020/02).

3 EBA Guidelines amending Guidelines EBA/GL/2020/02 (EBA/GL/2020/08).

4 EBA Guidelines amending Guidelines EBA /GL/2020/02 (EBA/GL/2020/15).

5 First and second Febelfin charters on business loan payment deferral.

6 First and second Febelfin charters on mortgage loan payment deferral and Royal Decree No. 11 of 22 April 2020 on measures in the light of the arrangements for mortgage loans in the context of the coronavirus crisis.

7 Law of 27 May 2020 on consumer credit, aimed at helping borrowers to withstand the crisis caused by the coronavirus.

8 Circular NBB_2020_51 on the EBA Guidelines on legislative and non-legislative moratoria on loan repayments applied in the light of the COVID-19 crisis (consolidated version of 2 December 2020 of Guidelines EBA/GL/2020/02 incorporating changes resulting from Guidelines EBA/GL/2020/08 and EBA/GL/2020/15).

9 "Statement on the application of the prudential framework regarding Default, Forbearance and IFRS9 in light of COVID19 measures" of 25 March 2020.

10 "ESMA issues guidance on accounting implications of COVID-19" of 25 March 2020.

BOX 8

Moratoria and guarantee schemes

The coronavirus dealt a severe blow to our economy. Despite a range of exceptional measures taken by the federal government to absorb the economic shock (and particularly the deferral of payment of certain tax liabilities and easing of the temporary lay-off rules), a very large number of firms, self-employed people and individuals still faced high fixed costs. In particular, they had to continue repaying their loans and pay their rents and invoices, leading to liquidity problems. It was essential to prevent sound businesses from going bankrupt and to avoid payment problems for households.

On 22 March 2020, the federal government, the Bank and the Belgian financial sector therefore concluded an agreement to provide temporary support for businesses, self-employed people and households. That agreement is based on two pillars: the deferral of payment in the case of existing loans and the grant of new State-guaranteed loans.

The financial sector immediately undertook to grant payment deferral (moratoria) to viable non-financial businesses, SMEs, the self-employed, and non-profit organisations, and to mortgage borrowers suffering payment problems as a result of the coronavirus crisis. Initially, payments could be deferred by a maximum of six months; however, when it became apparent that the crisis was persisting for longer than expected, the option of payment deferral was extended to the end of the year. In addition, in December 2020, it was decided to grant firms and individuals an extra three months maximum, provided the total deferral does not exceed nine months. These two moratoria were extensively used: by the end of September 2020, they had been applied to 13 % of outstanding business loans and 6 % of outstanding mortgage loans respectively (see also chapter 5 in the "Economic and financial developments" part). Agreements were also concluded between the sector and the federal Ministry of Economic Affairs to enable private borrowers affected by the coronavirus crisis to defer their repayments on current consumer loans [1].

The federal government also activated two guarantee schemes for new loans and credit lines granted by the banks up to 31 December 2020. The Bank provided technical support for this process, including the publication of Q&As [2].

A first guarantee scheme introduced in April [3] concerned loans to viable non-financial businesses, SMEs, the self-employed and non-profit organisations for a maximum term of 12 months. A budget of € 50 billion maximum had been provided for that purpose, to be allocated to banks according to their market share. It was obligatory for eligible loans to be covered by this scheme. Banks were authorised to charge a maximum interest rate of 1.25 % on these loans; all loans also attracted a fee for state aid at a rate of 0.25 % or 0.50 % respectively, depending on whether the borrower was an SME or a large firm. There was a graduated system for the allocation of losses. The amount of losses recorded on the bank's total loan portfolio covered by the guarantee scheme is examined at the end of the guarantee period: the bank bears the whole of the first 3 % of losses on the portfolio; losses between 3 % and 5 % are

1 Law of 27 May 2020 on consumer credit, to help borrowers withstand the crisis caused by the coronavirus.
2 See http://www.nbb.be/en/qacorona-banks
3 Royal Decree of 14 April 2020 granting a State guarantee for certain loans in order to combat the consequences of the coronavirus.

shared equally between the bank and the State ; finally, in the case of losses in excess of 5 %, the State bears 80 % and the bank 20 %. In July, this scheme – initially applicable to eligible loans granted up to 30 September 2020 – was extended to the end of the year.

When it emerged that the recovery would take longer than 12 months for some SMEs, a second guarantee system was set up in July[1] for loans with a term of between 12 and 36 months to non-financial SMEs. The banks were able to use this second guarantee scheme for up to 20 % of the budget allocated to them under the first scheme. Unlike in the first scheme, the banks could choose whether or not to apply the State guarantee to eligible loans. In addition, under this scheme the State was to cover 80 % of all losses from the start. Loans covered by this second guarantee scheme attracted a maximum interest rate of 2 % and an additional fee of 0.5 %. This scheme initially applied to eligible loans granted up to 31 December 2020, but in December that was extended to 30 June 2021. The maximum term of these loans was also increased to 5 years. Loans for a term in excess of 36 months were subject to a maximum interest rate of 2.5 % and a 1 % fee.

Although lending under these two guarantee schemes was limited overall, the schemes can be extended if circumstances so require.

In addition to the said schemes, the regional authorities took supplementary support measures which also aimed to strengthen the solvency position of firms.

1 Law of 20 July 2020 granting a State guarantee for certain loans to SMEs in order to combat the consequences of the coronavirus and amending the Law of 25 April 2014 on the status and supervision of credit institutions and investment firms.

1.6 Transposition of the CRD V Directive into Belgian law

The changes to Directive 2013/36/EU (CRD IV)[1] brought by Directive (EU) 2019/878 (CRD V)[2] form part of the measures that the European authorities adopted in May 2019 to reduce risks in the financial system and further reinforce the Banking Union.

Given the technical nature of the matters concerned, the Bank was asked to make the preparations for the transposition into Belgian law. The Bank managed to produce a legal text which is as readable and informative as possible, without breaking with the Belgian banking regime which has existed for several decades. As a reminder, this regime had already been completely updated for the transposition of the CRD IV[3].

The main new features of the CRD V transposed in the draft Law amending the Banking Law include the new approval regime for financial holding companies and mixed financial holding companies, the obligation for third-country groups operating via regulated subsidiaries in the EU to form an intermediate parent company, and new criteria for the designation of the supervisory authority responsible for the consolidated supervision of cross-border European banking groups. The new Directive also makes changes to the coverage of the specific own funds requirement known as the Pillar 2 requirement by own funds of equivalent quality to that required to meet the requirement known as the Pillar 1 requirement[4] and legally formalises a supervision tool already used in practice by the supervisory authorities : the Pillar 2 guidance (guidance on additional own funds), intended to define an adequate level of own funds to cover the overall level of own funds that the supervisory authority considers appropriate and the potential additional losses resulting from the stress tests. Repeated failure to comply with the guidance may lead to the imposition of a specific own funds Pillar 2 requirement.

The risk of leverage will be part of an extended set of rules comprising qualitative requirements, quantitative Pillar 1 Requirements supplemented, if appropriate, by a specific Pillar 2 requirement and – in the case of global systemically important credit institutions – an additional requirement in the form of a Tier 1 leverage ratio buffer, as specified by Regulation No. 575/2013[5,6].

As regards macroprudential instruments, the Bank can impose a common equity Tier 1 capital buffer for systemic or macroprudential risk (systemic risk buffer). From now on, that requirement can be based not only on the credit institution's total risk exposure[7], but also on that institution's particular categories or sub-sets of exposures (sectoral systemic risk buffer).

On remuneration policy, the draft Law states that the policy must be gender-neutral. For proportionality reasons, rules on variable remuneration are also simplified, particularly as regards payment deferral and payment in the form of instruments.

In addition, the draft Law expands the scope of strategic decisions to include both decisions taken by a subsidiary or sub-subsidiary controlled by a credit institution or by a financial holding company or a mixed financial holding company, given the potential impact of such decisions on the parent company concerned, and – for the same reason – any similar type of decision taken by controlling shareholders of

1 Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC.

2 Directive (EU) 2019/878 of the European Parliament and of the Council of 20 May 2019 amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures.

3 See the National Bank of Belgium's Annual Report 2013, Economic and financial developments, pp. 236 ff.

4 The ECB has already implemented this approach under the measures to contain the impact of the COVID-19 crisis.

5 Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012.

6 The entry into force of these provisions is scheduled for 1 January 2023.

7 This concerns the total risk exposure amount referred to in Article 92 (3) of Regulation No. 575/2013.

a credit institution or financial holding company or mixed financial holding company.

In accordance with the principle of proportionality, under certain conditions the draft Law reduces the reporting frequency in the case of the internal control report [1] to be drawn up by the management committee of credit institutions and recovery plans [2].

Finally, the draft law brings forward the transposition of Directive 2019/2034/EU (IFD) [3] for the largest investment firms, namely Class 1 investment firms, which will be converted to a special category of credit institutions and will remain subject to Regulation No. 575/2013.

2. Insurance undertakings

The Bank maintains a close watch on the progress of the COVID-19 pandemic and its significant impact on society, the financial markets and the financial sector, including the insurance sector. During the year under review, in close collaboration with international institutions such as the European Insurance and Occupational Pensions Authority (EIOPA), the European Systemic Risk Board (ESRB) and the International Association of Insurance Supervisors (IAIS), the Bank took various steps to gauge and limit the impact of the pandemic on the insurance sector. The year 2020 also saw the revision of the Solvency II framework and continuing developments concerning Insurtech.

Insurance undertakings were encouraged to maintain continuity of services for their customers

2.1 Initiatives in the context of the COVID-19 pandemic

A first set of measures aimed to ensure the continuity of services at the start of the pandemic and to free up the capacity necessary for firms to gauge and mitigate the impact of the COVID-19 pandemic on their business activities. Firms were therefore encouraged to take all necessary measures to ensure the continuity of their activities in order to maintain the supply of services for their customers and safeguard confidence in the sector. To enable firms to free up time and resources, the Bank concentrated its supervisory and regulatory initiatives on critical and essential tasks connected with monitoring the impact of the COVID-19 pandemic on insurers. For instance, the national stress test was cancelled and inspections and new policy initiatives were temporarily suspended or postponed. In addition, non-essential reporting deadlines were considerably extended, and firms had an extra two months to report the results of the EIOPA Solvency II Holistic Impact Assessment.

All the same, the Bank needed additional information to quickly obtain an accurate picture of the impact of the COVID-19 pandemic on the insurance sector. For that purpose, limited quantitative and qualitative COVID-19 reporting was introduced for firms' basic financial data and changes in their liquidity position. The frequency of that reporting was reduced during the crisis, from weekly at the start of the crisis to monthly from July onwards, given the lower volatility and partial recovery of the financial markets during that period. The reporting enables the Bank to keep a close eye on the financial situation of firms and of the sector as a whole, and to arrange prompt, appropriate intervention if necessary. Box 10 discusses the impact of the COVID-19 pandemic on the sector, using data provided by the COVID-19 reporting.

In the course of its supervisory activities, on the basis of the COVID-19 reporting, the Bank found considerable differences in the way in which firms assess both the current and future impact of the COVID-19 pandemic on their profitability and solvency. In many cases, that assessment was confined to an estimate based on the results for the current year, or use of a single scenario, without calculating the impact on solvency. Also, there was little

1 Article 59, § 2, of the Banking Law of 25 April 2014.
2 Articles 108 ff. of the Banking Law of 25 April 2014.
3 Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms and amending Directives 2002/87/EC, 2009/65/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU and 2014/65/EU.

or no evidence supporting the underlying assumptions. In these circumstances, the Bank published a Communication[1] setting out its expectations concerning the use of scenario analyses to estimate the impact of the COVID-19 pandemic on firms' profitability and solvency. To ensure adequate risk management, the Bank considers it important for firms to conduct an analysis based on at least two scenarios, and to use assumptions which are clearly supported and explained and which show how the firm can maintain its solvency in the medium and long term, taking account of any risk-mitigating management strategies or actions.

At present, there is still a big question mark over the impact of the COVID-19 pandemic on the global and Belgian economy. For the time being, it is still not possible to assess the depth, extent and duration of the recession, or the secondary effects, on the financial markets for instance. As a service provider and major financial market player, the insurance sector is exposed to all these uncertainties, In addition, the fact that a large proportion of insurance business extends over the long term adds to the difficulty and uncertainty of estimating the impact of the COVID-19 pandemic on firms' financial situation. The valuation of insurance liabilities and calculation of the solvency capital requirement are likewise both based on long-term projections. Yet the impact of the current crisis on the assumptions underlying those projections is still an open question.

In these very uncertain times, the Bank set out its expectations regarding dividend payments. The Bank's original expectations published on 7 April 2020 were in line with the EIOPA expectations and were subsequently refined, in particular to implement the ESRB Recommendation of 27 May 2020 on dividend payments. In its Circular NBB_2020_034 of 25 August the Bank emphasises that all Belgian insurers and reinsurers must temporarily suspend all discretionary measures concerning dividend payments and share buybacks, in accordance with the recommendations of the ESRB and EIOPA. Payment of variable remuneration and profit sharing is also subject to similar recommendations aimed at maintaining the solvency position of insurers and boosting the sector's resilience.

1 Communication NBB_2020_029 of 28 July 2020.

At the end of December, the ESRB published a new Recommendation[2] calling on national regulators to take the necessary measures to ensure that the payment of dividends or share buybacks were permitted only under strict conditions up to 30 September 2021. The Bank will abide by that Recommendation and publish its policy on the subject at the beginning of 2021.

2.2 Revision of the Solvency II Directive

Solvency II, the prudential 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 pursuit of the business of insurance and reinsurance. The Solvency II framework also provides for a range 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 was to be presented to the European Commission at the end of June 2020. At the beginning of 2019, the European Commission had 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.

A detailed analysis of all the measures, an overview of the relevant options and some specific proposals for possible improvements were summarised by EIOPA in a single document which formed the basis of a public consultation between mid-October 2019 and mid-January 2020. Taking account of the responses to that consultation by interest groups, EIOPA drew up a proposal for revision of the Solvency II Directive based on a number of key principles. First, the proposal aims to reflect the economic context more accurately, mainly by taking better account of the low interest rate risk,

2 Recommendation of the European Systemic Risk Board of 15 December 2020 amending Recommendation ESRB/2020/07 on restriction of distributions during the COVID-19 pandemic (ESRB/2020/15).

and especially the negative interest rate environment, in the calculation of the capital requirements. Next, the proposal provides for refinement of the existing provisions. This second principle means that any changes not designed to reflect the economic context more accurately (1st principle) must together have a neutral impact on the solvency position of firms. The third and final principle aims to supplement the regulatory framework and implies widening the Solvency II Directive with macroprudential policy instruments and a framework for recovery and resolution procedures.

In December, EIOPA adopted its final opinion on the revision of the Solvency II Directive

At the end of February 2020, the EIOPA Board of Supervisors launched an "holistic" assessment of the impact on the European market of this proposed revision of the Solvency II Directive. The aim is essentially to assess the effect of the main adjustments to the valuation of the technical provisions and capital requirements. Among the measures tested, a new technique for extrapolating the risk-free yield curve warrants particular mention. That technique permits partial account to be taken of market data while interest rates converge towards the ultimate forward rate. Other notable points concern the account taken of the asset & liability management of firms in calculating the volatility adjustment applicable to the risk-free yield curve, a gradual reduction in the cost of capital in the projection of the risk margin, and easing of the criteria for the recognition of long-term equity investment. Initially, this exercise was only expected to take one month but the timescale was extended in order to give the firms concerned some respite during the COVID-19 crisis. The main finding of this exercise is that the impact of the proposal is generally balanced, taking account of the market conditions prevailing at the end of 2019.

To take account of the impact of the COVID-19 crisis, the EIOPA Board of Supervisors decided to postpone presenting its opinion to the EC from the end of June 2020 to mid-December 2020, and the holistic assessment of the impact was supplemented by a request for additional information at the beginning of July. Selected firms had until mid-September to submit the results. This exercise shows that the impact of the proposal for revision of the Solvency II Directive is substantial in the circumstances of an exceptional crisis. That greater impact is due mainly to the dramatic decline in interest rates in the first half of 2020 and the greater account taken of market interest rates in the model for valuing the technical provisions. The proposal underwent further adjustments on the basis of those results. At the end of October, the proposal was discussed with interest groups and further refined.

The final opinion on the proposal for revision of the Solvency II Directive was adopted by the EIOPA Board of Supervisors in December and submitted to the European Commission. On the basis of that opinion, the EC will present a report to the European Parliament and to the European Council at the same time as a series of legislative initiatives relating to revision of the Solvency II Directive.

2.3 Insurtech developments at national and European level

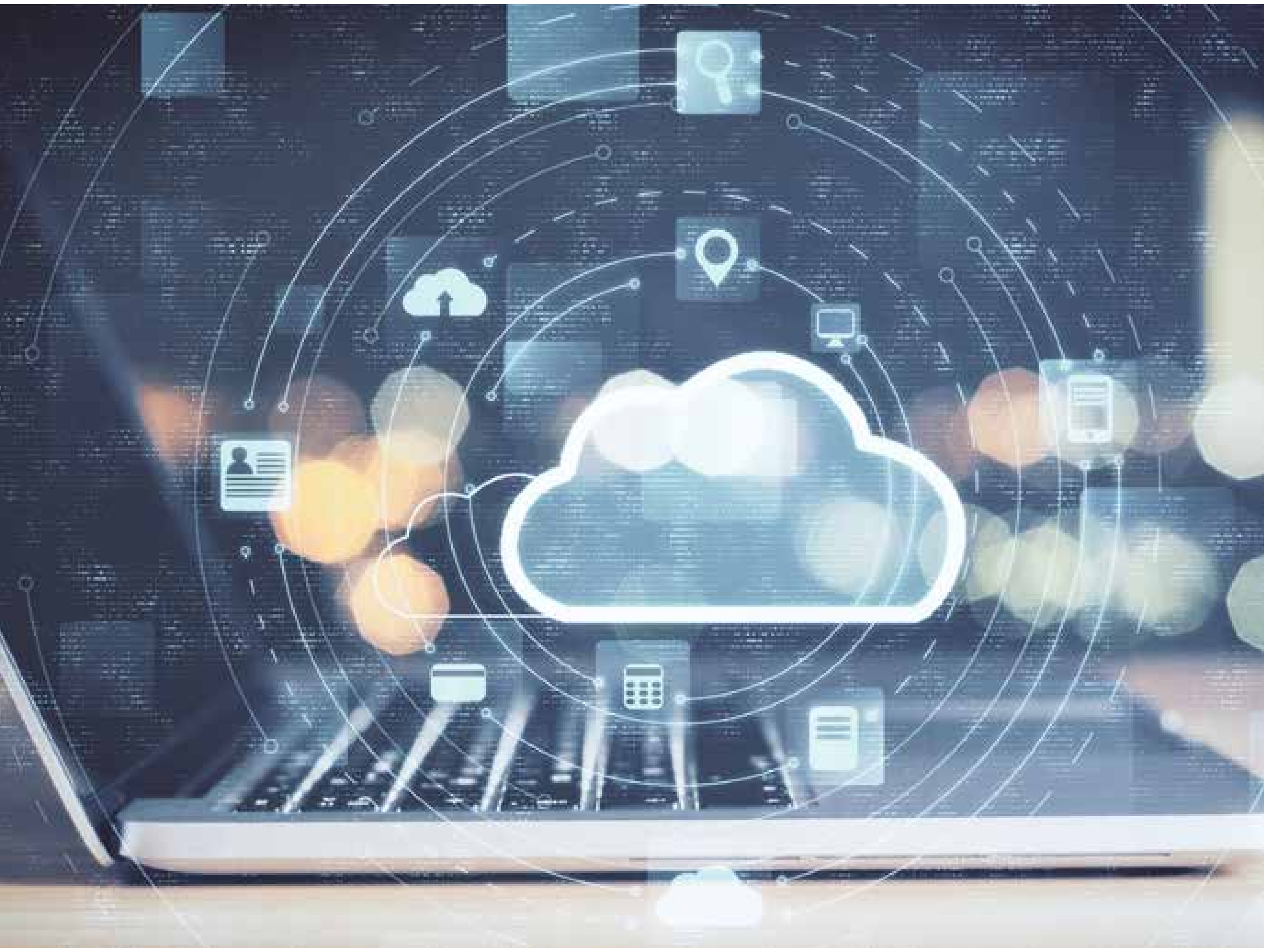
The relentless advance of technology and growing digitalisation of the economy offer new opportunities and give rise to new expectations among policyholders and investors. In response to this constantly changing environment, insurance undertakings will need to continue developing and revising their business model, often working with third parties such as Big Tech and start-ups. These developments may lead to innovations, but they could also create new risks which must be taken into account. In that context, EIOPA in collaboration with the Bank embarked on various analyses which should permit a better understanding of those risks.

The use of new technologies, such as big data, artificial intelligence, telematics and distributed ledger technology, are often accompanied by outsourcing to third parties and the use of ecosystems, or – in the case of blockchains – transactions are approved by the user community on a decentralised basis instead of by a single central player. That may cause fragmentation of the insurance value chain, possibly giving the regulator and the supervisory authority a more limited view of relevant aspects of that value chain. During the summer of 2020, EIOPA organised a public consultation to gain a better understanding of the potential fragmentation of the value chain in the European insurance sector and the challenges facing the supervisory authorities. EIOPA is analysing the responses to that consultation and devising an action plan for monitoring these challenges.

The pursuit of digitalisation is often accompanied by growing dependence on third parties for IT services. For example, insurers are increasingly using cloud solutions, and for ever more important processes. Cloud services offer a number of advantages, such as economies of scale, flexibility and operational efficiency, as well as cost efficiency. However, they also present challenges such as operational risks, data protection, security and concentration risk, not only from the individual firm's point of view but also at sectoral level, as some major operators provide cloud services for a large number of undertakings. To that end, EIOPA drew up guidelines on outsourcing to cloud service providers, which were transposed by the Bank in its Circular NBB_2020_018. That Circular aims to improve control over the risks associated with cloud services.

Adjustments to insurers' business models in response to growing digitalisation imply not only opportunities but also risks

EIOPA also launched a wide consultation with various stakeholders in order to devise a balanced, forward-looking and secure approach to open insurance and the risks and opportunities for the insurance sector and the supervisory authorities. This resulted in cross-fertilisation between insurers in possession of detailed data and high-tech start-ups which have the necessary knowledge to develop specific applications such as Application Programming Interfaces. The regulatory



work relating to open insurance is being prepared, but EIOPA considers that there is great potential for consumers (e.g. easier comparison of offers), for the sector (increased efficiency) and for the supervisory authorities (e.g. with Suptech, which permits more effective supervision).

EIOPA is also examining the risks and opportunities of the use of blockchains and smart contracts by insurance undertakings. This study likewise includes an analysis of any regulatory obstacles which could hamper this type of innovation. Finally, the risks associated with crypto-currencies are still being analysed. Regarding the use of crypto-currencies, the risk was found to be insignificant at European level, but on the other hand the regulations could be further clarified, notably regarding the valuation of cryptocurrencies under IFRS and Solvency II, and the calculation of the capital requirements.

On the subject of open insurance, blockchains and crypto-currencies, EIOPA will publish working documents at the beginning of 2021 which will be used as the basis for further regulatory work.

3. Cross-sectoral aspects

As a prudential supervisory authority, the Bank has jurisdiction over a range of spheres which cover several sectors and were therefore not discussed in previous sections of this Report. The aspects examined in this section include the Bank's initiatives concerning the prevention of money-laundering and terrorist financing, the accounting rules for interest rate risk hedging, Brexit and the risks associated with climate change and the environment.

3.1 Prevention of money-laundering and terrorist financing

3.1.1 European Union

The European legal and regulatory framework

The role played by the European Supervisory Authorities (ESAs) in combating money-laundering and terrorist financing (AML/CFT) in the financial sector has been further reinforced since 1 January 2020[1], following various cases concerning the European banking sector which revealed serious deficiencies in the systems for the prevention of money-laundering and terrorist financing (ML/FT) in some EU Member States.

The role of the ESAs regarding AML/CFT was strengthened in 2020 and the Commission published an action plan for revision of the European framework on that subject

To supplement the regulatory powers already accorded to the ESAs for the adoption of opinions or guidelines aimed at specifying the obligations set out in the 4th Anti-Money-Laundering Directive, this ESA reform centralised most of the AML/CFT powers with the European Banking Authority (EBA). It also reinforced the EBA's powers over both national supervisory authorities and financial institutions. Among other things:

- The EBA is given responsibility for conducting peer reviews to check the quality of financial institution supervision exercised by national supervisory authorities; its powers of enforcement in regard to both these supervisory authorities and the banks following these checks were strengthened.

- The EBA is also authorised to conduct proceedings for breach of EU law against national prudential supervision authorities or those in charge of controlling ML/FT which have failed to fulfil their supervisory functions properly.

In May 2020, using its power of legislative initiative, the European Commission also published an action plan for a rather ambitious in-depth revision of the European framework on the subject. That action plan was prompted by the cases mentioned above which concerned the European banking sector. In particular,

1 Regulation (EU) 2019/2175 of the European Parliament and of the Council of 18 December 2019 amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority), Regulation (EU) No. 1094/2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), Regulation (EU) No. 1095/2010 establishing a European Supervisory Authority (European Securities and Markets Authority), Regulation (EU) No 600/2014 on markets in financial instruments, Regulation (EU) 2016/1011 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds, and Regulation (EU) 2015/847 on information accompanying transfers of funds.

the Commission intends to provide the European Union with :

- first, a legislative and regulatory framework aimed at greater harmonisation of the AML/CFT obligations ;
- next, a single supervisory authority at European level ;
- and finally, a European coordination and support mechanism for financial intelligence units.

The legislative proposals of the European Commission in this connection were announced for the first quarter of 2021. They will undoubtedly lead to major changes in the current supervision model, comparable to those concerning the prudential supervision of banks with the establishment of the SSM and the granting of direct supervisory powers to the ECB.

The European Banking Authority

In accordance with the Regulation establishing the EBA as amended, a Standing Internal Committee on AML/CFT was set up to coordinate the preventive measures in that regard and to draw up, in accordance with the laws and regulations in force, all the draft decisions to be taken by the EBA under its extended powers relating to AML/CFT. This Committee comprises high-level representatives of the national supervisory authorities and the three ESAs, plus representatives of observer members including the European Commission and the ECB in its capacity as the European prudential supervision authority. The newly established Standing Committee elected a representative of the Bank as its chairman. This Committee has been very active from the start and met ten times between February and November 2020.

Taking account of the action plan published by the European Commission, the Standing Committee responded to the request for an opinion addressed to the EBA by the Commission concerning definition of the scope and implementing arrangments of an EU Regulation to be adopted on the subject of AML/CFT, totally or partially replacing the European Directive on that subject. In that opinion, the EBA recommended that the Commission harmonise completely the aspects of the EU legal framework where divergent rules and national practices have had a significant detrimental effect on prevention of the use of the EU financial system for ML/FT purposes. That applies in particular to the customer vigilance measures and the AML/CFT systems and checks that financial institutions have to implement. In addition, the EBA recommends reinforcing the aspects of the EU legal framework relating to AML/CFT where it considers that the current provisions are not sufficiently robust and create vulnerabilities in the EU's defences. That is the case, in particular, in regard to the powers of national supervisory authorities to conduct surveillance and to take the necessary steps to ensure that financial institutions respect their AML/CFT obligations, and in regard to the obligation on financial institutions to notify suspicions to the competent financial intelligence unit. Finally, the EBA recommends re-examining the scope of the EU legislation on AML/CFT to ensure that the list of reporting entities is sufficiently complete and defined in accordance with the international AML/CFT standards, and to clarify certain provisions of the sectoral legislation on financial services to ensure that they are compatible with the EU's objectives for AML/CFT.

Following the circulation of that opinion and the increased harmonisation of the legal framework which the EBA calls for, the EBA also informed the European Commission of its point of view on the future supervision architecture on that subject in Europe. In that regard, the EBA recommends linking a permanent role for the national AML/CFT authorities with that of an AML/CFT supervision authority at EU level via a hub-and-spoke approach, so that the expertise and resources of the national AML/CFT authorities are supplemented by effective supervision at European level to ensure a consistent supervisory approach and comparable results from that supervision throughout the EU. The EBA also suggests taking advantage of the existing AML/CFT infrastructure at EU level and the European and international cooperation networks already active, including within the EBA.

Apart from these two opinions on the future of AML/CFT in Europe, a variety of work was conducted under the aegis of the Standing Committee in order to fulfil the mandates assigned to the EBA by European law. Thus, intensive work went into establishing the technical regulatory standards which are to underpin the creation of a database to which the national supervisors – both prudential and AML/CFT authorities – will have to notify, with a view to the effective exchange of data, any significant weaknesses in the AML/CFT systems of financial institutions revealed by their checks, and the measures imposed for remedying those weaknesses. Work also started on updating the guidelines previously adopted by the ESAs concerning the ML/FT risk factors which financial institutions and their supervisory authorities must consider in the context of their respective risk-based approaches. The EBA is likewise re-examining the ESA guidelines on risk-based supervision. Similarly, it analyses the information available to it in order to update its opinion on the risks present in the financial market; in particular, this should enable the European Commission to conduct the twice yearly updating of the supranational risk assessment in accordance with the Directive. The Bank is actively involved in this work.

Furthermore, the joint ESA guidelines of 16 December 2019 on AML/CFT colleges[1], which aim to strengthen cooperation and the exchange of information between the relevant competent authorities, came into force on 10 January 2020. In line with that, the EBA also assists the competent authorities in the progressive implementation of these guidelines within the specified two-year period.

1 Final guidelines JC 2019 81 OF 16 December 2019 on cooperation and information exchange for the purpose of Directive (EU) 2015/849 between competent authorities supervising credit and financial institutions – The AML/CFT Colleges Guidelines.

3.1.2 The Belgian legal framework for the prevention of money-laundering and terrorist financing

Transposition of the 5th EU Directive on AML/CFT [1]

Work on drawing up the pre-draft for transposition of the 5th European AML/CFT Directive into Belgian law gathered pace in the first half of 2020 [2], leading to adoption of the law on 20 July 2020. That law primarily amends the anti-money-laundering law of 18 September 2017 [3]. As well as transposing the 5th European AML/CFT Directive into Belgian law, it makes technical improvements to the Belgian legal framework in order to resolve some imperfections identified in practice when the law was implemented, or forming the subject of observations made by the Financial Action Task Force (FATF) in June 2018 when reviewing the technical conformity of the Belgian legislation with its 40 Recommendations, and by the European Commission in January 2019 when examining the correct transposition of the European provisions into the national law of the EU Member States. In order to eliminate the barriers to cooperation and the exchange of information with other competent authorities in accordance with the requirements of the amended EU Directive, the Law of 20 July 2020 amends, restructures and also clarifies the provisions of the Bank's Organic Law [4] defining the professional secrecy which it must respect.

The Bank explained how it performs its supervision mandate relating to the prevention of money-laundering

On 15 September 2020, in view of these recent changes to the Belgian legal framework, the Bank addressed a Communication [5] to all financial institutions within its supervisory remit, notably in order to draw their attention to these legal changes and to remind them of their responsibility for reviewing their internal procedures and systems for the prevention of money-laundering and terrorist financing, in order to identify and effectively carry out the adjustments necessary to ensure that they conform fully to the amended legal obligations.

FinCEN Files

On 20 September 2020, various articles appeared in the Belgian press reporting the publication by the International Consortium of Investigative Journalists of information on a large number of financial transactions, mainly carried out in connection with correspondent banking relationships, which gave rise to notices of suspicions addressed to the American financial intelligence unit, "FinCEN". Following these reports, the Bank was heard on 10 November 2020 by the Budget and Finance Committee of the House of Representatives. At that hearing, the Bank was able to explain to the members the nature, characteristics and importance of correspondent banking relationships. It also clarified for them the international, European and national normative framework defining the obligations of financial institutions concerning the prevention of ML/FT, and to which the Bank is subject in the exercise of its legal powers as the AML/CFT supervisory authority. In addition, at the hearing it stressed the changes in its internal organisation, resources, tools and risk-based methods of supervision enabling it to perform that task, taking account of developments in international standards and the European and Belgian legal provisions, but also the growing importance attached by the press, public opinion and both Belgian and European political authorities to effective ML/FT prevention.

The Bank's action on AML/CFT

As the health crisis caused by the COVID-19 pandemic and the measures imposed to address it – particularly the lockdown and mandatory remote working – had a major impact from the first few months of 2020, the Bank in consultation with the Financial Intelligence Processing Unit (CTIF-CFI) acted promptly to assess the consequences for the AML/CFT activities of financial institutions. In a Communication

1 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.

2 Law of 20 July 2020 containing miscellaneous provisions on the prevention of money laundering and the financing of terrorism and limits on the use of cash – Moniteur belge/Belgisch Staatsblad of 5 August 2020.

3 Law of 18 September 2017 on the prevention of money-laundering and the financing of terrorism and limits on the use of cash – Moniteur belge/Belgisch Staatsblad of 6 October 2017.

4 Law of 22 February 1998 establishing the organic statute of the National Bank of Belgium.

5 Communication NBB_2020_36 of 15 September 2020 on the Law of 20 July 2020 containing miscellaneous provisions on the prevention of money-laundering and the financing of terrorism and limits on the use of cash.

dated 7 April 2020[1], the Bank passed on to all the financial institutions within its remit the official statements published on the respective websites of the EBA and the FATF, and the one published on 6 April 2020 by the CTIF-CFI on its website to alert the financial community to the resurgence of a whole range of criminal activities underlying money-laundering in the context of the COVID-19 crisis. It also sent e-mails to those financial institutions, forwarding the updates of the warnings published by the CTIF-CFI on 27 April and 21 August 2020 in that particular context. In addition, in its Communication of 7 April 2020, the Bank urged financial institutions to concentrate the available resources for implementing their internal AML/CFT systems on the work needed to maintain a high level of detection and analysis of atypical transactions, and the notification of suspicious transactions, funds and facts to the CTIF-CFI in accordance with the legal obligations. In that context, the Bank also extended the deadlines by which financial institutions must submit periodic information relating to their AML/CFT activities. Furthermore, in various individual cases the Bank took account of the effects of the crisis on the available human resources in revising the timescales for financial institutions to implement specific measures relating to AML/CFT.

The Bank alerted the financial community to the resurgence of criminal activities underlying money-laundering

1 Communication NBB_2020_14 of 7 April 2020.

Although the Bank is fully prepared both for the assessment by the European Commission – assisted by the Council of Europe – of the effectiveness of the AML/CFT mechanisms established in Belgium, including that of the Bank's surveillance mechanisms, and for the Peer Review of AML/CFT to be conducted by the EBA, the health crisis has caused these two assessments to be delayed until the first half of 2021.

On the other hand, this pandemic has not prevented the Bank from pursuing and reinforcing its AML/CFT checks in 2020, via both remote supervision and inspections. As a result of these checks, it also made greater use than in the past of the powers of constraint accorded to it by law, in particular the power to set deadlines for the implementation of measures to remedy any weaknesses or serious shortcomings detected. When that proved necessary to reduce the risk that the financial institutions concerned might be implicated in their customers' ML/FT operations, the Bank also used its power to suspend certain activities of those financial institutions until such time as the necessary remedial measures had actually been implemented.

In conducting its checks, the Bank resorted whenever necessary to the exchange of information and cooperation with other AML/CFT supervisory authorities or prudential supervisors, particularly the ECB.

To that end, the Bank plays an active part in the progressive implementation of the ESA guidelines on AML/CFT colleges[1]. The first stage in this process involves mapping the sector as described in the guidelines in order to identify systematically the financial groups pursuing activities in three or more EU Member States, including Belgium, and for which colleges need to be set up. At the end of 2020, the Bank took part in the first colleges organised by other "lead supervisors" and itself acting in that capacity organised the first meeting of an AML/CFT college relating to a Belgian credit institution. In the years ahead, these colleges will continue to be formed and organised with a view to arranging the exchange of information and coordination between the competent authorities in such colleges within two years of the entry into force of the ESA guidelines.

Similarly, in 2020, on the basis of the Protocol concluded on 17 September 2019[2], the Bank's supervision of financial institutions began to reap the benefits of the actual exchange of information with the CTIF-CFI whenever necessary. Apart from specific exchanges concerning certain financial institutions, mechanisms were also devised to make these exchanges systematic in a form which enables the information supplied by the CTI-CFI to be actually taken into account in the risk assessment tools and risk-based supervision developed by the Bank.

1 See above.
2 See Annual Report 2019, section C.3.1.

The Bank also continued its efforts to make further improvements to its AML/CFT policy, methods and supervision tools. For instance, it conducted a more formal "sectoral risk assessment" than in the past. That sectoral risk assessment – which aims to differentiate the risks which the Bank considers associated with the pursuit of the main financial activities – is an essential adjunct to the risk-based AML/CFT supervision policy which it defined in 2019[3]. It gives the Bank a sound basis for proceeding with individual analysis of the risks associated with each institution, necessary for exercising its risk-based supervision. The sectoral risk assessment is also the basis on which the Bank contributes to the updating of the national risk assessment.

Furthermore, the Bank continued to work on clarifying its expectations and raising the awareness of financial institutions. In 2020, it embarked on the updating – which will continue in 2021 – of the section of its website dedicated to AML/CFT, in particular to adapt its comments and recommendations to the legislative changes made by the Law of 20 July 2020[4]. Following the information and awareness seminar which it had arranged on 6 November 2019 for the senior management and anti-money-laundering compliance officers (AMLCOs) of all financial institutions within its remit[5], on 26 November 2020, the Bank held an information and consultation meeting with the AML/CFT officers of financial institutions engaging in asset management (private banking). That meeting was held on the basis of the specific questions of interpretation and practical implementation of the legal and regulatory obligations previously raised by AML/CFT officers in that sector. At that meeting and in making preparations for it, the Bank obtained their reactions to its draft responses to those questions and will finalise and publish on its website an official Communication on this subject at the beginning of 2021.

3.2 Interest rate risk hedging

The recording of interest rate risk hedging transactions by credit institutions is governed by Article 36bis of the Royal Decree of 23 September 1992 on the annual accounts of credit institutions, investment

3 See Annual Report 2019, section C.3.1.
4 See above.
5 See Annual Report 2019, section C.3.1.

firms and investment fund management companies. Since 1993, the Bank (and previously the CBFA) has granted individual waivers of this provision in order to enable the institutions concerned to adopt a specific, different accounting method for (in particular) transactions in interest rate derivatives concluded for the purpose of hedging a non-homogeneous set of hedged elements in connection with asset & liability management (ALM). The Bank's policy on this is described in a uniform letter dated 18 November 2014 (supplemented by a uniform letter dated 29 December 2015) whereby the waivers granted before that date would be maintained, but only up to 31 December 2021 (later extended to 2022). In view of that end date and in order to clarify certain points of accounting practice under the waiver framework, the Bank decided to prepare a draft Royal Decree adapting the accounting rules; this will also make it possible to incorporate directly into that Royal Decree the framework hitherto established via individual waivers. On this occasion, the Bank proposes to follow European practices on the subject and to strengthen the regulatory and supervisory framework relating to it. The transparency requirements concerning hedging transactions will thus be tightened up.

Pending the effective entry into force of these changes, the existing waivers will remain valid until 31 December 2022.

3.3 Brexit

On 31 January 2020, the United Kingdom officially left the European Union. A "transition period" during which the existing EU laws continued to apply ended on 31 December 2020. The end of that transition period brought major changes for citizens and businesses.

Since the UK has become a third country, British financial players lose their EU passporting right which entitled them to offer financial services to EU customers without being established in the EU. The Bank had warned the British financial intermediaries providing services in Belgium of the consequences of that loss and asked those firms to take the necessary steps to obtain a licence to avoid any interruption in their services. In all cases, the institutions had been asked to anticipate the impact and inform their customers in good time of the potential implications for the continuity of their services.

Table 19

Approved licence applications relating to Brexit

	2017	2018	2019	2020	Total
Insurance undertakings	0	3	0	0	3
Payment and electronic money institutions	2	0	3	2	7

Source: NBB.

In that context, the Bank dealt with two new applications for approval from payment institutions in 2020. The number of approval applications related to Brexit was lower than in previous years. Most institutions which were considering relocating their activities had submitted their applications before 2020. The majority of institutions operating on a small scale in the EU had decided not to continue with those activities after Brexit. A few branches of British credit institutions and investment companies are in the process of finalising the reorganisation or transfer of their business, which should lead to termination of their activities in Belgium.

Belgian financial players took the necessary steps to prevent any disruption in their services

In 2020, Belgian financial players had continued their preparations, thereby limiting the residual risks. Most institutions took the necessary measures to ensure their business continuity. For example, they replaced certain British critical service providers or derivative contract counterparties with equivalent entities located in the EU27.

To maintain the continuity of financial services after Brexit, the Bank and the Financial Services and Markets Authority (FSMA) had drawn up contingency measures in 2019 in areas where Brexit might have a detrimental impact on individuals and firms. These contingency measures, introduced by the Royal Decree of 22 December 2020, aim to ensure continuity of the services linked to existing insurance contracts, in order to preserve the rights of policy-holders and beneficiaries. The European Commission considers that all players must adapt to the post-Brexit legislative framework. Consequently, these contingency measures are limited in scope (confined to existing contracts) and apply only if the conditions stipulated by the Royal Decree are duly met.

The Commission also extended the recognition of equivalence for major British clearing houses until June 2022. The Commission reminded market participants to use that period to reduce their exposures to those British clearing houses[1].

3.4 Climate-related and environmental risks: international developments

For some years now, climate-related risks have been on the agenda of supervisory authorities and central banks. There is now a clear tendency towards taking account of not only climate-related risks but all risks concerning the environment, or more generally the environment, social affairs and good governance (environment-social-governance or ESG). In fact, there is often a link or a similarity between these risks.

The merit of having made these risks a focal point for central banks and supervisory authorities throughout the world rests mainly with the Network for Greening the Financial System (NGFS). The NGFS is a voluntary partnership between central banks and supervisors which aims at supporting and speeding up both the management of risks relating to climate and the environment in the financial sector, and the greening of the financial system. The NGFS was set up at the end of 2017 by eight central banks and

1 See https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020D1308&from=EN

supervisory authorities, and now has over 80 members, including the Bank since mid-2018. Since its creation, this network has published numerous very useful documents. The Bank has actively collaborated on most of those publications. The documents published by the network in 2020 encompass guidelines on the inclusion of climate and environmental risks in prudential supervision, a report on the situation regarding current practices in financial institutions concerning the distinction between "green", "non-green" and "brown" exposures, a manual and a set of reference scenarios for conducting scenario analyses, and a summary of current practices concerning the management of climate and environmental risks in financial institutions. In addition, the network has published a report on the potential impact of climate change on monetary policy, and a report on research priorities concerning the macroeconomic impact of climate change and its effect on financial stability[1]. In addition, the NGFS has set up two new workstreams which will focus respectively on research and collecting data on climate-related and environmental risks.

Supervisory authorities are examining what regulatory initiatives are needed in connection with climate-related and environmental risks

Important though it is, the work of the NGFS is naturally confined to making recommendations and providing data. However, the various international and European supervisory authorities have also created specific working groups to examine the regulatory initiatives needed for the supervision of banks, insurers and investment firms.

3.4.1 At international level

Together with the Sustainable Insurance Forum (SIF) – an international network of insurance sector supervisory authorities – the IAIS has drawn up a plan for application of the common prudential framework for the supervision of climate-related risks in the insurance sector[2].

In the banking sector, the Basel Committee has begun taking stock of the practices of supervisors and banks regarding climate-related risks. It is examining how these risks can be taken into account in the current legislation and how the legislation might be adapted to incorporate them more effectively.

3.4.2 At European level

At European level, the European Green Deal, the new sustainable financing strategy and the EU action plan on financing sustainable growth play a very important role. The three European supervisory authorities (EBA, EIOPA and ESMA) are helping to develop and implement the strategy and the action plan on financing sustainable growth. For instance, in 2020, they were asked to comment on the disclosure requirements in the Taxonomy Regulation[3] and published a joint consultation document on the rules concerning ESG disclosures for financial market participants[4].

EIOPA is also working on incorporating climate-related risks in the Solvency II framework. In particular, in their ORSA insurance undertakings must use scenarios to analyse the long-term impact of climate-related risks. In addition, EIOPA is laying the foundations for incorporating the effect of climate change in the next recalibration of risks of natural disasters in the standard formula. Furthermore, EIOPA conducted sensitivity analyses concerning transitional risks in order to assess the insurance sector's vulnerability to those risks.

The EBA is examining how ESG risks can be incorporated in the governance, risk management and supervision of credit institutions and investment firms[5]. In addition, the EBA is working on the drafting of Pillar 3 disclosure requirements for large credit institutions and examining how the Pillar 1 capital requirements might, in the future, be adapted to exposures linked to environmental and/or social objectives. Furthermore, it is currently conducting a pilot sensitivity analysis on climate-related risks.

1 These publications are available at: https://www.ngfs.net/en/liste-chronologique/ngfs-publications.

2 IAIS-SIF Application Paper on the Supervision of Climate-related Risks in the Insurance Sector, October 2020.

3 Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088.

4 ESAs, Joint Consultation Paper – ESG Disclosures, April 2020.

5 EBA Discussion paper on management and supervision of ESG risks for credit institutions and investment firms, October 2020.

In November 2020, the ECB published a guide containing supervisory expectations regarding risk management and the disclosure of climate-related and environmental risks within banks[1]. It also examined current practices concerning the disclosure and inclusion of those risks in risk management and the ICAAP in the European banking sector. As well as that, it is taking stock of the availability of the data needed to measure those risks. It is also preparing a microprudential and macroprudential stress test covering climate-related risks. Finally, it is working with the ESRB to develop risk indicators, methodologies and scenarios for assessing the impact of climate-related risks on financial stability. A first report accompanied by the results of the first pilot exercise on stress tests was published on this subject in June 2020[2].

The ECB published its expectations on the management and disclosure of climate-related and environmental risks

1 ECB, Guide on climate-related and environmental risks – Supervisory expectations relating to risk management and disclosure, November 2020.

2 ESRB-ECB, Positively green: Measuring climate change risks to financial stability, June 2020.