

EBF\_046391

18 March 2024

**Subject: Activation of the Delegated Act on market risk (Art. 461a CRR3)**

The purpose of this letter is to request the European Commission to activate the Delegated Act on market risk set out in Article 461a of CRR3 and to provide adequate and sufficient clarification on how it is meant to be implemented.

In view of the latest information about comparable third countries' regulation timeframes and implementation plans, it is clear that the EU is risking a substantially more exigent prudential framework for market risk in comparison with, for example, the UK and the US.

**Postponing the new FRTB framework or the application of scaling factors should be seriously taken into consideration.**

EU banks must have clarity on the timeframe for the implementation of the fundamental review of the trading book (FRTB) under CRR3, both for operational reasons and capital planning purposes. In order to ensure readiness and adequate implementation of the new framework from an operational, technical, governance and methodological perspective, it is imperative the EC provides clarity on the expected implementation dates or, at least, the potential minimum delay envisaged should be clear well in advance.

From a level-playing field perspective, the date of entry into force of the FRTB framework in the EU is set for 1 January 2025, but other jurisdictions have already announced delay of implementation in comparison with the EU, such as the United Kingdom with the implementation date of 1 July 2025. Meanwhile in the U.S, the Notice of Proposed Rulemaking (NPR) which was under consultation until 16 January 2024, has generated intense debates; considering the US political context with the upcoming presidential and congressional elections, the finalisation of the NPR is subject to heightened uncertainties both in terms of time frame and content, especially after the testimony of Federal Reserve Chairman Powell before Congress on 6 March 2024, announcing broad material changes to the proposal and even reproposing the rule to solicit further feedback. Therefore, the implementation date of the US Basel 3 endgame is likely to be pushed back way beyond the provisional date of 1 July 2025. Given the recent discussions and proposals from the industry, significant relief measures in terms of capital consumption are very probable, especially in comparison with the CRR3 market risk framework.

For obvious reasons of competitiveness, it is crucial that EU banks are not penalised compared to other jurisdictions. This is precisely the reason why the two EU co-legislators have included in the CRR3 text the importance of preserving a level playing field and compensating for the differences observed.

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This level-playing field requirement is translated in the CRR3 mandate to the Commission, via the Delegated Act contained in article 461a, to identify differences in the transposition of the Basel rules among different and comparable jurisdictions, in order to preserve a level playing field and to take measures to effectively offset those observed differences.

Therefore, we urge the Commission to make use of all its prerogatives provided in the Level 1 text to ultimately preserve a fair competition between jurisdictions. In this regard, we believe that the application date should be delayed by two years, or that scaling factors should be applied, whilst also allowing banks to migrate to FRTB standardised approaches earlier upon their choice.

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### Article 461a CRR3

*'The Commission shall monitor the differences between the implementation of the international standards on own funds requirements for market risk in the Union and the implementation of those international standards in third countries, including as regards the impact of the rules in terms of own funds requirements and as regards their date of application.*

*Where significant differences in such implementation are observed, the Commission shall be empowered to adopt a delegated act in accordance with Article 462 to amend this Regulation by:*

- (a) applying, until the date of application of the legislative proposal referred to in the fourth paragraph or for up to three years in the absence of such a proposal, and where necessary to preserve a level playing field and to offset those observed differences, targeted operational relief measures or targeted multipliers equal to or greater than 0 and lower than 1 in the calculation of the institutions' own funds requirements for market risk, specific risk classes and specific risk factors, using one of the approaches referred to in Article 325(1), and laid out in:
  - (i) Articles 325c to 325ay, specifying the alternative standardised approach;*
  - (ii) Articles 325az to 325bp, specifying the alternative internal model approach;*
  - (iii) Articles 326 to 361, specifying the simplified standardised approach**
- (b) postponing by up to two years the date from which institutions shall apply the own funds requirements for market risk set out in Part Three, Title IV, or any of the approaches to calculate the own funds requirements for market risk referred to in Article 325(1).';*

*Where the Commission adopts the delegated act referred to in the second paragraph, the Commission shall, where appropriate, submit a legislative proposal to the European Parliament and the Council to adjust the implementation in the Union of the international standards on own funds requirements for market risk to preserve in a more permanent manner a level playing field with third countries, in terms of own funds requirements and impact of those requirements.'*

It is crucial to ensure the economic strength and competitiveness of the Union's banking players, and these objectives must be a priority for the single supervisor and the European regulatory authorities.

From a specific market perspective, the implementation of FRTB is complex in terms of IT systems, operations, data, governance and methodological implementation to compute required metrics. All QIS have also shown that FRTB increases capital requirements significantly for a large number of European banks, in a competitive environment where it is almost certain that the US will delay FRTB implementation and make various facilitating adjustments compared to the EU implementation.

Operating complexities and increasing costs also derive from the fact that banking activities are becoming more global in its nature, specifically for the larger banks with important wholesale and investment banking activities. Many of these banks have substantial activities simultaneously in the EU, UK and US, and the misalignment regarding local prudential requirements further complicate the calculation and reporting of FRTB, which might disincentivize some players to pause new activities, or even reducing or shutting off some businesses.

Banks need sufficient visibility to prepare for the 1<sup>st</sup> January 2025 deadline; it is thus crucial that the European Commission indicates at the earliest possible time its intentions with regard to the activation of the Delegated Act deferring FRTB and/or applying targeted measures or multipliers to it. If the prudential requirements differences materialize or are delayed substantially, clearly EU banks will need a relief in some of those actions.

**Having regard to the facts explained in this letter, the EBF is of the opinion that the Commission should communicate without further delay its intentions with respect to the activation of the said Delegated Act. I offer the quick engagement of the EBF groups with the Commission DG FISMA services to clarify any aspect.**

**Thanking you for your continued dialogue with the EBF, I remain at your disposal.**

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