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BanqueNationaleBank DE BELGIQUE VAN BELGIË
Eurosystem

Communication

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Coronavirus measures - Extension of the recommendations in Communication NBB_2020_011 and expectations regarding remuneration policy

Scope

Belgian (mixed) financial holding companies and credit institutions that are not under the direct supervision of the European Central Bank[1].

Summary/Objectives

In light of the corona crisis (COVID-19), this Communication extends until 1 January 2021 the Bank's previous recommendations on dividend distribution policy as set out in Communication NBB_2020_011. In addition, certain expectations are also formulated regarding the remuneration policy.

Dear Madam,
Dear Sir,

In the context of the corona crisis, both the European Central Bank ('ECB') and the European Banking Authority ('EBA') have already made a number of recommendations as regards credit institutions' dividend policy and remuneration policy.

In parallel, the European Systemic Risk Board ('ERSB') issued on 27 May 2020 - in support of the initiatives already taken by the ECB and the EBA - its *Recommendation ESRB/2020/7 on restriction of distributions during the COVID-19 pandemic* (Annex 1), which sets out the following recommendations:

relevant authorities should request financial institutions under their supervision to refrain from undertaking any of the following actions at least until 1 January 2021:

- make a dividend distribution or give an irrevocable commitment to make a dividend distribution;
- buy back ordinary shares;
- create obligations to pay variable remuneration to persons subject to the specific rules on remuneration policy;

1 The list of institutions under the direct supervision of the ECB can be consulted through the following link: https://www.bankingsupervision.europa.eu/banking/list/who/html/index.en.html.

which has the effect of reducing the quantity or quality of own funds at the level of the European group (or at individual level where the financial institution is not part of a European group) and, where applicable, at sub-consolidated or individual level.

It is currently unclear how long the corona crisis will last and how heavy it will eventually weigh. As a consequence, the ECB and the ESRB consider that the recommendations already made on dividend and remuneration policies should be renewed in order to ensure that financial institutions continue to hold sufficient capital to manage systemic risks and contribute to the recovery of the economy. The recently released capital buffers should be used for the above purposes and should not be used to make distributions to shareholders.

In line with the above, the Bank makes the following recommendations:

1. <u>Dividend policy</u>

The ECB already issued on 27 March 2020 its *Recommendation ECB/2020/19 on dividend distributions during the COVID-19 pandemic and repealing Recommendation ECB/2020/1*.

As a follow-up to this Recommendation, the Bank in turn published "*Communication NBB_2020_011*"[2] whereby the above ECB Recommendation was made applicable *mutatis mutandis* to credit institutions under the Bank's supervision.

On 27 July 2020, the ECB decided – through "*Recommendation ECB/2020/35 on dividend distributions during the COVID-19 pandemic and repealing Recommendation ECB/2020/19*" - to extend its previous Recommendation on dividend policy until 1 January 2021 (Annex 2).

Point I of Recommendation ECB/2020/35 stipulates the following:

1. The ECB recommends that until 1 January 2021 no dividends[3] are paid out and no irrevocable commitment to pay out dividends is undertaken by credit institutions for the financial years 2019 and 2020 and that credit institutions refrain from share buy-backs aimed at remunerating shareholders.

2. Credit institutions that are unable to comply with this Recommendation because they consider themselves legally required to pay out dividends should immediately explain the underlying reasons to their joint supervisory team.

3. This Recommendation applies on a consolidated level of a significant supervised group as defined in point (22) of Article 2 of Regulation (EU) No 468/2014 of the European Central Bank (ECB/2014/17)6 and on an individual level of a significant supervised entity as defined in point (16) of Article 2 of Regulation (EU) No 468/2014 (ECB/2014/17), if such significant supervised entity is not part of a significant supervised group.

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

[2] Communication NBB_2020_011 / Expectations regarding dividend distribution policy in the context of the management of the coronavirus (COVID-19).

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

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

In line with the fourth recital of the Recommendation, the Recommandation addresses in Point III to the national competent authorities with regard less significant supervised entities and less significant supervised groups as defined in points (7) and (23) of Article 2 of Regulation (EU) No 468/2014 (ECB/2014/17).

The national competent authorities are expected to apply this Recommendation to such entities and groups, as deemed appropriate. Consequently, in accordance with Point III of the ECB Recommendation, the Bank has also decided to apply this Recommendation *mutatis mutandis* to credit institutions under its supervision, thereby extending the application period to 1 January 2021.

2. Remuneration policy

On 31 March 2020, the EBA published its *Statement on dividends distribution, share buybacks and variable remuneration* (Annex 3).

In its statement of 12 March 2020, the EBA already urged credit institutions to adopt a prudent policy with regard to the payment of dividends and other distributions, including variable remuneration.

The EBA endorses all measures taken so far to ensure that credit institutions maintain a strong capital base and provide the necessary support to the economy. The EBA also stresses that the support provided through the measures taken by the competent authorities in response to the COVID-19 crisis should be used to finance businesses and households and not to distribute more dividends or to buy back shares to remunerate shareholders.

In its Statement, the EBA also mandates competent supervisors to request institutions to review their remuneration policies, practices and distributions so as to ensure that such policies, practices and distributions guarantee sound and effective risk management, given the current economic context. Remuneration, in particular the variable component thereof, should therefore be set at a prudent level. In order to adequately address the risks arising from the COVID-19 pandemic, a higher proportion of variable remuneration could be deferred for a longer period and a higher proportion could be paid out in instruments of own funds.

In line with the EBA Statement, the Bank requires that these recommendations for moderation in remuneration policy be respected and that the existing expected impact of this crisis on the institution be taken into account in determining the 2020 remuneration schemes (to be paid out in 2021). In this context, we remind the institutions that the assessment of the appropriateness of the remuneration policy is also part of the SREP exercise.

The Bank will closely monitor the further progress of the measures adopted in managing the coronavirus COVID-19 and will inform the institutions concerned of any changes to the expectations set out in this Communication.

A copy of this Communication will be sent to your institution's accredited statutory auditor(s).

Yours faithfully,

Pierre Wunsch
Governor

Annexes - only available through www.nbb.be:

1. *Recommendation ESRB/2020/7 on restriction of distributions during the COVID-19 pandemic (ESRB)*
2. *Recommendation (ECB/2020/35) on on dividend distributions during the COVID-19 pandemic and repealing Recommendation ECB/2020/19 (ECB)*
3. *Statement on dividends distribution, share buybacks and variable remuneration (EBA)*