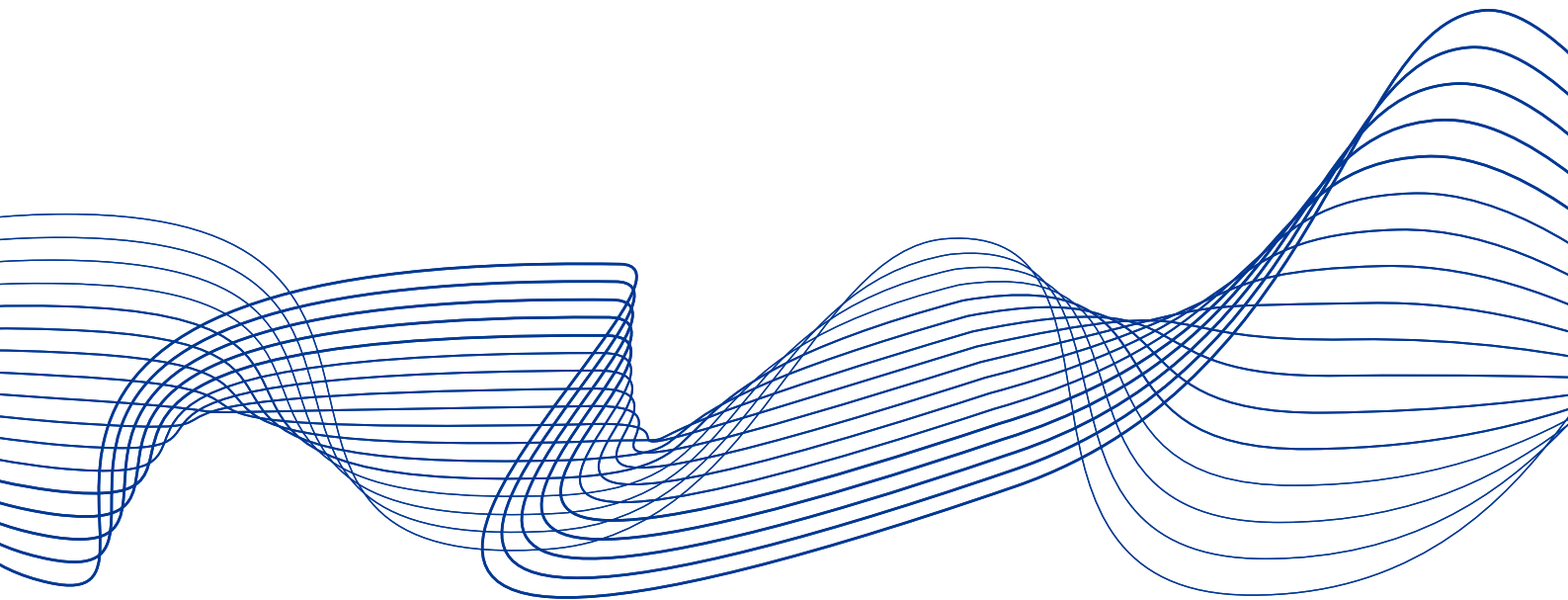


System-wide restraints on dividend payments, share buybacks and other pay-outs

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European Systemic Risk Board

European System of Financial Supervision

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1 System-wide restraints on pay-outs

A number of European Systemic Risk Board (ESRB) member institutions (European Banking Authority (EBA), European Insurance and Occupational Pensions Authority (EIOPA), European Central Bank (ECB)) have encouraged banks and insurance corporations in the European Union (EU) to refrain from voluntary pay-outs (e.g. dividends, bonuses and share buybacks aimed at remunerating shareholders). UK authorities have also issued recommendations along the same lines to banks and insurance companies. Such measures can enhance the resilience of the financial sector of the ongoing crisis, strengthening its capacity to lend to the real economy and reducing the risk of failures of financial institutions.

This short report discusses complementary macroprudential actions recommended by the ESRB. The ESRB has an exclusive macroprudential and Single Market-wide mandate. It intends to promote a uniform approach across Single Market jurisdictions and different segments of the financial sector, while taking into account the critical role of the financial sector for the real economy during these times of crisis.

1.1 Pay-out restrictions for banks and other financial institutions

On 27 March 2020, the ECB issued a recommendation that, at least until 1 October 2020, no dividends should be paid out and no irrevocable commitment to pay out dividends should be undertaken by credit institutions for the financial years 2019 and 2020 and that credit institutions should refrain from share buybacks aimed at remunerating shareholders.¹ This recommendation was addressed to significant institutions (SIs) directly supervised by the ECB and to national competent authorities (NCAs) with regard to less significant institutions (LSIs). The recommendation was followed by an EBA statement on 31 March 2020 urging banks “to refrain from dividends distribution or share buybacks which result in a capital distribution outside the banking system, in order to maintain its robust capitalisation”.² Many NCAs subsequently issued their own regulatory announcements in a similar vein.³ In some jurisdictions outside the EU, competent authorities (including the Prudential Regulation Authority in the United Kingdom) have also asked banks to refrain from paying dividends. In other jurisdictions, they have refrained from doing so – most notably in the United States, with Federal Reserve Chairman Jerome Powell citing very high capital levels.⁴ However, this approach might be set to change, with recent data indicating a major economic slump. In an article published on 16 April 2020, Neel Kashkari, President of the Federal Reserve Bank of Minneapolis, urged banks to stop paying dividends and raise equity capital to ensure that they can endure a deep economic downturn.⁵ So far, many European banks have followed the recent guidance from the ECB and the EBA, while most large

¹ See [press release](#).

² See [EBA statement](#).

³ See Annex 2.1, Table A.1.

⁴ Reference to the [statement by Jerome Powell](#), Chairman of the Board of Governors of the Federal Reserve System.

⁵ See [article](#) in the *Financial Times*.



US banks have decided to go ahead with planned pay-outs. Jamie Dimon, CEO of JPMorgan Chase & Co., stated that this approach would only be revisited in the event of a catastrophic downturn (with consequent losses in the banking system).⁶

As outlined in Box 1, there are strong arguments in favour of pay-out restrictions on banks, given their critical function in the economy, the regulatory capital relief they have received and the need to avoid risk-shifting. Leaving it to individual banks to decide to cancel pay-outs might create a stigma effect for banks that go ahead with such decisions. If banks were keen to avoid this stigma pay-outs could exceed the optimal level. While there are arguments against such restrictions, including in the banking sector, the costs of restricting pay-outs might be a price worth paying to preserve the critical role of the banking system during these times of crisis and, crucially, during the recovery phase. Investment firms are included in the list of financial institutions subject to the recommendation, as they play an important role in market functioning and may present similar risks to those presented by banks. Although there has not yet been a systematic evaluation of the effectiveness of profit distribution, imposing such restrictions is one of the supervisory measures often applied in crisis conditions⁷, as was the case for instance in European jurisdictions during the last crisis.⁸

Box 1

General arguments for and against restrictions on pay-outs in the banking sector during the current crisis

Arguments in favour of restrictions

Critical function: Banks constitute a critical sector for economic recovery, so there is a need to maintain sufficiently high capitalisation. Given the direct effect of pay-outs on the resolvability of banks, the severe externalities in the event of a bank's failure, and the fiscal and other measures put in place by authorities during the COVID-19 crisis which limit losses for banks' shareholders and could encourage more risk-taking than optimal from society's viewpoint, there is a strong case for arguing that such a decision cannot be left to shareholders themselves.

Avoiding risk-shifting: With governments using various means to support companies during the lockdown, shareholders and senior management should not shift capital allocation for the benefit of

⁶ Reference to the **statement by Jamie Dimon**, CEO of JPMorgan Chase & Co. on 6 April 2020.

⁷ See, for example, Lim, C., Columba, F., Costa, A., Kongsamut, P., Otani, A., Saiyid, M., Wezel, T. and Wu, X. (2011), "Macroprudential Policy: What Instruments and How to Use Them? Lessons from Country Experiences", *IMF Working Paper*, No 13/166.

⁸ Budnik, K. and Kleibl, J. (2018), "Macroprudential regulation in the European Union in 1995-2014: introducing a new data set on policy actions of a macroprudential nature", *Working Paper Series*, No 2123, ECB.



their own personal wealth. In the case of banks, regulators have provided significant capital relief (€120 billion for SIs under direct ECB supervision),⁹ which would be partly offset by pay-outs.¹⁰

Mitigating procyclicality: Banks behave in a procyclical manner in their lending. During recessions and times of crisis, banks show a propensity to build reserves against credit losses and reduce lending, with this reduction in lending being caused by an increase in information asymmetries between borrowers and lenders and a reduction in collateral values.¹¹ Another source of procyclical behaviour is capital regulation requiring higher risk weights.¹² High capital buffers can, to a degree, mitigate this tendency towards deleveraging. This in turn suggests that pay-outs should be suspended so as not to offset the effect of these capital buffers.

Avoiding stigma and a race to the bottom: If banks use dividend payments as a signal of strength to the market, then any bank not paying dividends will fear being stigmatised. This is another argument in favour of coordinated and mandatory action to restrict pay-outs.¹³

Arguments against restrictions

Avoiding disruptions to income flows: Charities, foundations, pension funds and retail investors often depend on steady dividend income. While in a complete market shareholders would be able to sell their shares and thus receive equivalent income, this is a suboptimal strategy in the current volatile times.

Allowing resource reallocation: The prohibition of pay-outs could limit resource reallocation that might be needed during the recovery stage. This represents an argument in favour of limiting the period for which restrictions are applied.

Negative signal to investors in capital instruments: Banning dividend payments may undermine the relationship between a bank and its investors. This could potentially restrict the bank's future access to market funding. Capital instruments subject to the restrictions might become less

⁹ The impact assessment of the ECB capital release package announced on 12 March 2020 together with the profit distribution restrictions announced on 27 March 2020 provides evidence for a high degree of complementarity between regulatory capital releases and profit distribution restrictions. The assessment was based on a large-scale model for the euro area with individual banks. It shows that the positive lending impact of dividend restrictions more than doubles when these restrictions are implemented jointly with the release of capital requirements rather than as a stand-alone measure. For a description of the model, see Budnik, K., Mozzanica, M.B., Dimitrov, I., Groß, J., Hansen, I., di Iasio, G., Kleemann, M., Sanna, F., Sarychev, A., Siġenko, N. and Volk, M. (2019), "Macroeprudential stress test of the euro area banking system", *Occasional Paper Series*, No 226, ECB.

¹⁰ At an aggregate level, SIs originally proposed to pay €35.6 billion in dividends for the 2019 financial year. Of this, €27.5 billion has not been paid out, almost €6.2 billion had already been paid out by the time the ECB's recommendation was published, while just under €2 billion was paid out after the recommendation was published, for instance because it was not possible to reverse a decision taken at a general shareholders' meeting.

¹¹ This "financial accelerator" explanation has been put forward by, for example, the following: Bernanke, B. S. and Gertler, M. (1995), "Inside the Black Box: The Credit Channel of Monetary Policy Transmission", *Journal of Economic Perspectives*, No 9, p. 27-48; Kiyotaki, N. and Moore, J. (1997), "Credit Cycles", *Journal of Political Economy*, No 105, p. 211-248; and Bernanke, B.S., Gertler, M. and Gilchrist, S. (1999), "The Financial Accelerator in a Quantitative Business Cycle Framework", in Taylor, J.B. and Woodford, M. (eds.), *Handbook of Macroeconomics*, Elsevier, pp. 1341-93.

¹² See, for example, Brei, M. and Gambacorta, L. (2016), "Are bank capital ratios pro-cyclical? New evidence and policy", *Economic Policy*, No. 31, pp. 357-403.

¹³ The stigma problem has been widely documented, with banks trying to avoid accessing solvency or liquidity support during times of financial distress. See, for example, the discussion by former Federal Reserve Chairman Ben Bernanke in Bernanke, B.S. (2009) "The Federal Reserve's Balance Sheet: An Update", speech at the Federal Reserve Board Conference on Key Developments in Monetary Policy.



attractive to investors, particularly compared with instruments of entities in jurisdictions that do not impose such restrictions. In turn, this could reduce the ability of the affected banks to raise additional capital, or it could increase their cost of capital. This represents another argument in favour of limiting the period for which a restriction on pay-outs is in place.

Box 1 also outlines the arguments against profit distribution restrictions, although it is likely that the material impact of such restrictions would be curtailed if they were to apply for a limited time only. Looking at the stock market reaction on Monday 30 March 2020 to the ECB recommendation published on Friday 27 March 2020, the share prices of euro area SIs suffered only a limited additional fall (of around 80 basis points) compared with the fall in the share prices of European banks not supervised by the ECB, although effects on individual institutions varied. Larger banks tended to be more affected by the dividend restrictions. Stock prices of euro area global systemically important institutions (G-SIIs) dropped by 280 basis points more than the stock prices of non-euro area G-SIIs. Banks' own announcements also seem to have had an impact on their stock prices. Over a relatively short time frame (one day), large banks that announced dividend cancellations tended to underperform the broader banking index (EURO STOXX Banks). The greater impact of individual bank announcements clearly points to the stigma effect outlined in Box 1. This would suggest a need for coordinated action rather than relying on individual bank initiatives.¹⁴

Over the past two months, the depth and length of the crisis have become clear. This further highlights the need for banks to refrain from paying dividends, buying back shares and paying variable compensation until at least 1 January 2021 – and possibly even longer if additional data indicate a slower release from containment policies and potentially a deeper economic slump. In addition, a broad-based recommendation to restrict pay-outs, aimed at banks and non-bank financial institutions that lend to the real economy, such as leasing companies, would ensure a level playing field across credit institutions within the Single Market.

Insurance and reinsurance companies, like banks, are likely to suffer losses from the coronavirus (COVID-19) crisis. The COVID-19 pandemic has caused significant losses in financial markets, including steep falls in stock markets, across-the-board spread widening and swap-rate tightening. For the insurance sector, these events are noteworthy because their magnitude is already comparable to Solvency Capital Requirement (SCR) shock levels and because there is a high positive correlation between stocks, rates¹⁵ and credits. Adverse developments in claims may also be expected, although their nature and magnitude are uncertain. In past stress test exercises, EIOPA has tested combinations of shocks similar to those in the current situation. It carried out such exercises in particular in 2016 ("double-hit" scenario: market shocks in the form of an increase in risk premia and a decrease in the risk-free rate affecting both sides of insurers' balance sheets) and 2018 (when the exercise included insurance-specific shocks alongside market shocks). COVID-19 could be seen as a "triple-hit" scenario, combining market shocks and additional insurance specific shocks.

¹⁴ See Annex 2.2 for further details.

¹⁵ Declining rates lead to declining own funds, as most or all insurance firms hold short-duration portfolios.



Expected losses, along with the systemic importance of the insurance sector, mean that insurers' and reinsurers' capital buffers need to be safeguarded. Given the important role of insurance and reinsurance companies in financial markets (European insurance companies hold around €10 trillion in assets), and the expected severity of the financial crisis following the COVID-19 pandemic, which is potentially comparable to stress test scenarios applied in recent European stress tests, it is important to maintain own funds and capital buffers to safeguard the resilience of the insurance sector. Furthermore, maintaining a level playing field within the financial sector is a further argument in favour of limiting pay-outs in the insurance sector in a manner similar to the banking sector.¹⁶ There has been a broad and timely follow-up to the EIOPA statement of 2 April 2020¹⁷ requesting that insurance companies “temporarily suspend all discretionary dividend distributions and share buybacks aimed at remunerating shareholders”.¹⁸ The legal scope for introducing pay-out restrictions varies across countries, and some NCAs have therefore reiterated EIOPA's statement while others have called for a company-by-company approach.¹⁹

Given their role in clearing financial market transactions, central counterparties (CCPs) represent another important segment of the financial sector, so it is recommended that CCPs limit pay-outs as well, which would help ensure that they maintain adequate prefunded own resources in addition to initial margins and default funds. As in the case of banks and insurance companies, investor rights have to be weighed against financial stability concerns. In addition, it is important to note that while CCPs are not directly involved in real-sector funding, their critical role in financial market transactions means that banks and insurance companies rely on them for their hedging activities. Ensuring that CCPs maintain additional own resources could (i) help maintain adequate own resources to meet non-default losses, which at the moment is particularly relevant when considering operational risk²⁰ (which CCPs are expected to address by themselves without recourse to clearing members' contributions); (ii) ensure consistency across financial institutions, at a time when CCPs' revenues might benefit from higher market transaction volumes and when CCPs – as key risk mitigants in the financial markets – should set an example and participate in the build-up of stronger financial buffers along with a significant proportion of their clearing members; (iii) where relevant, allow CCPs to increase their “skin in the game” in the default waterfall on a voluntary basis, in the light of generally increased financial risks due to higher market volatility; and (iv) ensure that the chance of any recourse to taxpayers' money in the event of losses (whether or not related to defaults) remains remote, at a time when fiscal spending is already under particular pressure.

This report proposes that the ESRB should implement the following policy.

¹⁶ It is also worth noting that some analysts believe the market is increasingly pricing in dividend cuts, a view which is based on expectations of total 2020 capital returns from the insurance sector. It would therefore be advisable to call for pay-out restrictions not only at banks but also at insurance companies across the Single Market.

¹⁷ See **EIOPA statement**.

¹⁸ Please refer to Annex 2, Table A.2 for further details on the follow-up by NCAs.

¹⁹ Please refer to Annex 2, Table A.3 for the relevant supervisory powers of NCAs.

²⁰ The current situation of staff teleworking and large transaction volumes increases the risks of operational losses (notably via cyber attacks) which might not be accounted for by the CCP's capital or insurance policies.



It is recommended that at least until 1 January 2021 relevant authorities request financial institutions under their supervisory remit²¹ to refrain from undertaking any of the following actions:

1. make a dividend distribution or give an irrevocable commitment to make a dividend distribution;
2. buy-back ordinary shares;
3. create an obligation to pay variable remuneration to a material risk taker.

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

In summary, there are strong macroprudential arguments for a wide-ranging restriction on pay-outs across the different segments of the financial system, applicable to institutions irrespective of their current capital level, in order to avoid a reduction in the quantity or quality of own funds. Given the lack of global coordination discussed below in Section 1.4, urgent action at the EU level is called for, particularly in the light of the ESRB's responsibility for the macroprudential oversight of the financial system within the Union and for ensuring a sustainable contribution of the financial sector to economic growth. At the same time, the recommendation focuses on the effects of pay-outs on own funds: if a financial institution wanted to replace ordinary shares, this would be in compliance with this recommendation. In addition, due regard should be paid to the principle of proportionality, in particular taking into account the nature of financial institutions and their ability to (i) contribute to the mitigation of the systemic risk to financial stability that arises from the COVID-19 crisis and (ii) contribute to the economic recovery. Finally, relevant authorities may exempt a financial institution from the restriction on undertaking any of these pay-outs if that financial institution is legally obliged to do so.

1.2 Dividend restrictions in the Single Market

Several national authorities have asked all banks in their jurisdiction – including subsidiaries of European Union cross-border banks – to suspend pay-outs. These national policies are driven by financial stability concerns and are part of wider national policy packages that are aimed at ensuring stable funding to the real sector in the respective countries. In their statements of 31 March 2020²² and 2 April 2020 respectively, the EBA and EIOPA referred to the relevance of capital distributions within banking groups in a way that ensures the proper functioning of the Single Market. It is important to stress that there are strong arguments on both sides of this debate from the macroprudential angle.

²¹ This does not include branches of financial institutions.

²² "The EBA also considers that ensuring the efficient and prudent allocation of capital within banking groups is crucial and should be monitored by competent authorities. Capital distributions within a banking group should serve the need to support the local and the broader EU economies as well as to ensure the proper functioning of the Single Market, particularly crucial in this time of crisis.



The ESRB is responsible for macroprudential oversight within the Union and for contributing to the smooth functioning of the internal market, thereby ensuring a sustainable contribution of the financial sector to economic growth.

Therefore, it is important to communicate to all relevant authorities the vital importance of taking the Single Market into consideration alongside the prevention and mitigation of systemic risks to financial stability in their own jurisdictions. To this end, it is important to ask them to govern those pay-out restrictions that have a greater potential to adversely affect the functioning of the internal market, i.e. within EU cross-border financial groups, by means of a dialogue within established frameworks.

There are risks of negative externalities arising from the decisions of cross-border financial groups during times of financial distress.

Given the reliance of some Member States on cross-border financial groups for local financial service provision, a flight to safety or a home bias as often seen during times of financial distress can have negative effects on local economies.²³ A flight to safety or a home bias might transform into a collective action problem: if several systemically important financial institutions pull their resources out of host countries where subsidiaries of cross-border financial groups play an important role, local lending will be undermined. The negative effect on the provision of local financial services might be particularly pronounced in economies where cross-border financial groups are systemically important. In extreme cases, the distress in local economies could affect large parts of the EU economy and the European financial system. Trust in the financial system might deteriorate, with a possible spread to other jurisdictions resulting in widespread contagion effects. These risks have occasionally materialised during previous crisis periods.²⁴ They provide the background for national authorities advocating the temporary suspension of dividend payments within financial groups.

Pay-out restrictions should be also considered in conjunction with other policy actions aimed at supporting the extension of lending to the real economy, many of which have been taken at national level.

First, support programmes for households and non-financial corporations that are initiated and funded at national level indirectly benefit banks that lend to the ultimate beneficiaries of these programmes. Second, in the absence of full risk-sharing across the Union, possible losses by depositors and other claimholders would have to be funded primarily at national level. In these circumstances, some national authorities may regard the cross-border payment of dividends from subsidiaries to non-domestic parent companies as running counter to the intention of both their national support measures and national macroprudential measures that have gradually built up capital reserves in recent years that are now being released.

There are other, equally strong financial stability arguments in favour of limiting the pay-out restrictions within cross-border financial groups.

First, in line with the Single Market principle of free capital flows, financial institutions should retain the flexibility to allocate their resources with a view to bolstering their resilience and their ability to support the real economy. This is true both in a

²³ Aggregate dividend payments from subsidiaries to parent banks in the Single Market were between €4 billion and €5 billion in 2019 according to the SNL database. These data comprise 25 listed subsidiaries and thus provide a lower bound estimate of the true impact, as many subsidiaries are not listed. The importance of such payments also differs significantly across different subsidiaries and host countries.

²⁴ For a discussion in the context of central and eastern Europe, see De Haas, R., Korniyenko, Y., Pivovarsky, A. and Tsankova, T. (2015), "Taming the herd? Foreign banks, the Vienna Initiative and crisis transmission", *Journal of Financial Intermediation*, No 24, pp. 325-55.



domestic and a cross-border context.²⁵ For this reason, dividend restrictions should, in general, apply at the group level and not at the subsidiary or sub-consolidated levels. Second, it is important to look beyond CET1 and profit distribution and to consider the overall level of loss-absorbing capacity provided by parent institutions, including pre-positioned resources to meet the minimum requirement for own funds and eligible liabilities (MREL) in the case of subsidiaries that form part of a single point of entry for resolution purposes. Finally, the precedent of limiting pay-outs within cross-border groups can potentially create room for broader ring-fencing, i.e. measures targeting other intra-group capital flows, possibly leading to even more stringent capital controls.

In summary, in this unprecedented crisis all authorities should prevent or mitigate systemic risk to financial stability in their Member State and in the Union as a whole. This includes recognising – alongside financial stability concerns on a national level – the need to support the smooth functioning of the internal market and the need for the financial sector to provide a sustainable contribution to economic growth in all Member States. This balance may be difficult to strike for cross-border financial groups. Therefore, these groups, along with the relevant authorities, should carefully monitor financial and real sector developments across all economies and factor these developments into their decisions. The surplus capital should flow where it is most needed to support lending or absorb losses. This calls not only for banks but also for (re)insurers and CCPs to play their part.

It is recommended that relevant authorities adhere to the following principles in assessing whether it is appropriate to apply the restrictions at sub-consolidated or at individual level.

1. **Principle 1:** Whilst taking into account the need to prevent or mitigate systemic risk to financial stability in their Member State and in the Union, relevant authorities should support the smooth functioning of the internal market and recognise the need for the financial sector to provide a sustainable contribution to economic growth in Member States and the Union as a whole.
2. **Principle 2:** Relevant authorities should ensure that any restriction does not entail disproportionate adverse effects on the whole or parts of the financial system in other Member States or in the Union as a whole.
3. **Principle 3:** Relevant authorities should closely cooperate with each other and with the relevant resolution authorities, including in colleges, where applicable.

In the light of these considerations, ongoing dialogue is called for between all relevant competent and designated authorities and financial institutions. As part of this dialogue, it should be recognised that financial institutions need to take decisions in the best interests of their shareholders. However, it should also be recognised that these decisions may have critical repercussions for local host economies and societies that have come to rely on financial services from cross-border financial groups.

²⁵ A more complicated case is that of subsidiaries not 100% owned by their parent institution, as in this case minority shareholders could receive dividend payments while shareholders of domestic institutions would not.



There are existing institutional frameworks for such a dialogue, for example the framework for cooperation in supervisory or resolution colleges. In addition, the Vienna Initiative was critical ten years ago for agreements between regulators and banks to maintain funding for subsidiaries in central, eastern and south-eastern Europe and lending in these countries. This forum is still active and has been discussing reactions to the current crisis and threats to financial stability across the region. In the Nordic-Baltic region, the Nordic-Baltic Macroprudential Forum has provided an informal platform for public authorities across this financially closely integrated region to discuss these issues. The ESRB supports the use of existing frameworks but stands ready to provide further support to facilitate the necessary dialogue.

1.3 Non-financial corporations

It was decided that non-financial corporations should not be considered a priority area for the ESRB with respect to pay-out restrictions. There is an ongoing debate among policymakers and researchers on the benefits and costs of imposing pay-out restrictions on non-financial corporations. Given the wide variety of legal forms and the strong variations in performance during this crisis, a general statement or recommendation by the ESRB is not considered advisable. The action of the European Commission in imposing binding pay-out restrictions on firms that receive state aid is greatly welcomed.²⁶ As there is no immediate and direct financial stability concern, no further follow-up is recommended at this stage.

1.4 Global cooperation

Given the global interconnectedness of the financial sector, a level playing field in terms of pay-out restrictions would be preferable. However, it seems that there is currently no agreement in international fora such as the Basel Committee or the Financial Stability Board regarding globally coordinated action on pay-out restrictions. It is therefore preferable to select actions that ensure that capital is preserved within the Union. The ESRB Secretariat will continue to monitor the situation.

²⁶ See [European Commission on state aid](#).



2 Annexes

2.1 Pay-out restrictions

Table A.1

NCA regulatory announcements on bank pay-outs²⁷

Country	Legal footing	Description
AT	Recommendation	Until 1 October 2020 credit institutions, irrespective of their legal form, should not agree to any dividend distribution and should not make any pledges, whether binding or not, for the 2019 and 2020 financial years. In addition, they should not conduct any share buybacks that are aimed at remunerating shareholders. The ECB recommendation is also applied to LSIs.
BE	Communication	The Nationale Bank van België/Banque Nationale de Belgique expects the LSIs and (mixed) financial holding companies that are under its direct supervision to comply with the ECB recommendation.
BG	Communication	Retaining year-end 2019 profit for all banks, including a restriction on the redistribution of profit accumulated during previous years.
CY	Communication	The ECB recommendation is applied LSIs in Cyprus.
CZ	Communication	Česká národní banka has called on banks to withhold dividend payments and refrain from other steps which might jeopardise their capital resilience.
DE	Communication	The ECB recommendation is applied to LSIs in Germany.
DK	Communication	The Danish Financial Supervisory Authority (Finanstilsynet) has urged banks not to pay out dividends or buy back shares.
EE	Communication	The ECB recommendation is applied to LSIs in Estonia.
ES	Communication	The ECB recommendation is applied to all credit institutions under the Banco de España's direct supervision (LSIs). A press statement has been issued, and letters have been sent to the Spanish banking industry associations.
FI	Recommendation	The restriction applies to all credit institutions under the direct supervision of the Financial Supervisory Authority (Finanssivalvonta), including LSIs, the savings banks amalgamation and the cooperative banks amalgamation.
FR	Communication	The restriction applies to all credit institutions, including LSIs under the direct supervision of the Prudential Supervision and Resolution Authority (Autorité de contrôle prudentiel et de résolution).
GR	-	For LSIs the Bank of Greece has implemented the ECB's recommendation via the individual SREP decisions, which were all taken after the issuance of the recommendation.
HR	Communication	Hrvatska narodna banka has requested that credit institutions (including LSIs) retain the net profits they generated in 2019.
HU	Communication	The Magyar Nemzeti Bank has asked banks and their owners to make sure that dividends are neither approved nor paid until the end of September.
IE	Communication	The ECB recommendation is applied to LSIs in Ireland.

²⁷ The ECB applies the ECB recommendation of 27 March 2020 to all SIs in the euro area. It is also addressed to the national competent authorities with regard to LSIs.



Country	Legal footing	Description
IS	Communication	The Financial Supervision Committee (Fjármálaeftirlitið) has stressed that financial institutions should exercise restraint in making dividend payments and other distributions of capital. It also notes that the Financial Supervisory Authority is authorised to block such payments under specified conditions.
IT	Recommendation	The ECB recommendation is applied to LSIs in Italy until at least 1 October 2020.
LI	Communication	The Financial Market Authority (Finanzmarktaufsicht) supports the EBA recommendation and expects its supervised banks to adopt both a prudent distribution policy and a prudent approach to share buyback programs and variable remuneration.
LT	Communication	Market participants, with the exception of central credit unions, are to restrict pay-outs.
LU	Communication	The ECB recommendation is applied to LSIs in Luxembourg.
LV	Communication	The ECB recommendation is applied to LSIs in Latvia.
MT	Communication	The ECB recommendation is applied to LSIs licensed in Malta.
NL	Communication	The ECB recommendation is applied to LSIs in the Netherlands.
NO	Communication	Ministerial statement to the effect that Norwegian banks and insurers should postpone their planned dividend payments owing to the economic uncertainty caused by the coronavirus outbreak. The statement stops short of an outright ban.
PL	Communication	Retention of all profit generated by banks (including LSIs) and insurance companies in 2019.
PT	Recommendation	Recommendation by the NCA to its LSIs that no dividends for the 2019 financial years and 2020 should be distributed until at least 1 October 2020.
RO	Recommendation	Local commercial banks are not to distribute dividends from 2019 profits.
SE	Communication	Letter to all banks and credit market companies under the supervision of the Financial Supervisory Authority (Finansinspektionen) urging boards of directors to modify their proposed dividends and spring annual general meetings to resolve not to pay any dividends.
SK	Communication	Narodná banka Slovenská LSIs and their shareholders to review upcoming dividend pay-outs for 2019 so as to ensure that the total amount of Tier 1 capital increases by at least the level of 2019 profit.
SI	Decision	A macroprudential measure was adopted placing temporary restrictions on LSIs and savings banks in their profit distribution.
UK	Communication	The Prudential Regulation Authority expects all banks to ensure that any proposals or discussions relating to potential dividends or share buybacks are undertaken in a manner consistent with their safety and soundness and subject to a transparent governance process. Letters sent to the seven largest systemically important UK deposit-takers requesting that they cancel payments of any outstanding 2019 dividends.

Source: National authorities' websites.



Table A.2

Insurance supervisors' response to the EIOPA statement of 2 April 2020

Country	Legal footing	Description
AT	Recommendation	Reiteration of EIOPA's statement.
BE	Recommendation	Reiteration of EIOPA's statement.
BG	Recommendation	Reiteration of EIOPA's statement.
CY	Recommendation	Reiteration of EIOPA's statement.
CZ	Recommendation	Reiteration of EIOPA's statement.
DE	Communication	The Federal Financial Supervisory Authority (Bundesanstalt für Finanzdienstleistungsaufsicht) issued a press release on 2 April 2020 stating: "The European Insurance and Occupational Pensions Authority (EIOPA) urges insurers and reinsurers to forego dividend payments and share buybacks. This emerges from a statement that EIOPA published on its website on 2 April 2020." BaFin confirms its expectations published on 24 March 2020 that financial institutions should refrain from buying back shares and carefully consider dividend payments, profits and bonuses. In contrast, BaFin is not currently considering a blanket distribution ban for insurance companies and pension funds.
DK	Recommendation	Reiteration of EIOPA's statement.
EE	Communication	Finantsinspeksioon has communicated that it is actively discussing methods to be used to persuade undertakings that have not already paid dividends not to distribute dividends.
ES	Recommendation	Reiteration of EIOPA's statement.
FI	Recommendation	Reiteration of EIOPA's statement.
FR	Recommendation	The ACPR issued a press release asking insurers to refrain from distributing dividends until at least 1 October 2020.
GR	No announcement/measure.	
HR	Decision	In Croatia, insurance companies, including the Raiffeisen Pension Insurance Company (ILO), are banned from paying dividends from realised profits until 30 April 2021.
HU	Communication	The Magyar Nemzeti Bank has sent insurers an executive circular requesting that they refrain from any pay-outs in accordance with EIOPA's statement.
IE	Communication	The Central Bank of Ireland set out its position in an FAQ on its website where it said, "...The impact of COVID-19 on solvency and liquidity positions of insurance firms remains uncertain, but it is likely to be significant for many of the insurance firms under our supervision. In that context, we consider that insurance firms should postpone any payment of dividends until they can forecast their costs and future revenues with a greater degree of certainty. This approach is consistent with the recently published EIOPA Statement on dividends distribution and variable remuneration policies."
IS	Communication	The Financial Supervision Committee has stressed that financial institutions should exercise restraint in making dividend payments and other distributions of capital. It notes that the Financial Supervisory Authority (Fjármálaeftirlitið) is authorised to block such payments under specific conditions.
IT	Communication	IVASS recommended that undertakings use extreme caution in the distribution of dividends, and sent a letter to the undertakings with head offices in Italy requesting that they use extreme caution, at individual and group level, in the distribution of dividends and in the payment of variable remuneration components of key manager salaries. The EIOPA statement was published with a link.
LI	Communication	The Financial Market Authority (Finanzmarktaufsicht) supports the EIOPA statement. It expects its supervised insurers to adopt a prudent distribution policy and a prudent approach to share buyback programs and variable remuneration.



Country	Legal footing	Description
LT	Recommendation	Lietuvos bankas issued a note to insurance undertakings on 7 April 2020 that strongly recommended that they suspend the distribution of dividends and conservatively review variable salary policies and postpone pay-outs of variable salaries until the financial and economic effects of the COVID-19 pandemic becomes clearer.
LU	Recommendation	Reiteration of EIOPA's statement.
LV	Recommendation	Reiteration of EIOPA's statement.
MT	Recommendation	Reiteration of EIOPA's statement.
NL	Recommendation	Temporarily postpone dividend payments and share buybacks.
NO	Communication	Ministerial statement to the effect that Norwegian banks and insurers are expected to postpone their planned dividend payments owing to the economic uncertainty caused by the coronavirus outbreak. The statement stops short of an outright ban.
PL	Recommendation	Retention of all profit generated in previous years.
PT	Recommendation	Reiteration of EIOPA's statement.
RO	No announcement/measure.	
SE	Reiteration of EIOPA's statement.	
SK	Communication	Národná banka Slovenska has sent letters to insurance undertakings recommending that they not pay out dividends.
SI	Recommendation	Expectation of a temporary suspension of all discretionary dividend distributions and share buybacks.
UK	Communication	Letters sent to insurers stating that the Bank of England expects them to pay close attention to the need to protect policyholders and maintain safety and soundness when considering any distributions to shareholders or making decisions on variable remuneration.

Source: National authorities' websites and EIOPA's assessment (as of 27 April 2020).

Under Solvency II, there are defined mechanisms for the automatic cancellation or deferral of dividends/distributions when the Solvency Capital Requirement (SCR) and Minimum Capital Requirement (MCR) are breached. From a Pillar 2 perspective, supervisors could also challenge an undertaking's medium-term capital management plan, including the impact of their dividend policy. When the undertaking is above the SCR level, Solvency II does not provide supervisors with specific powers to cancel/defer distributions. The following table outlines the powers available in some ESRB Member States when the SCR and MCR are not breached.



Table A.3

Insurance supervisory powers to restrict pay-outs

Country	Powers available to restrict pay-outs in normal times when above SCR and MCR	Conditions which must be met for the supervisor to avail of these powers
BE	<ul style="list-style-type: none"> a) Prohibition of profit sharing. b) Prohibition of dividends, other payments (a.o. interests) and variable part of the remuneration. c) Prohibition of surrendering life insurance policies. d) Prohibition of the free disposal of assets. e) Limitation of the activity. 	<ul style="list-style-type: none"> a) If the profit sharing risks jeopardising the undertaking's short- and long-term financial situation. b) if the undertaking is not operating or may no longer operate in accordance with the law and after a period with which the undertaking must remediate the situation (except in case of emergency). For restriction of dividends and other payments to shareholders as long as there is no risk of bankruptcy (additional condition). c) If the surrender is likely to affect significantly the financial position of the undertaking. d) In case of failure of the remediation actions taken in accordance of Art. 508. e) Same as d).
BG	In the national legislation (the Insurance Code, Article 587, par. 3, point 9) it is postulated that the Financial Supervision Commission could temporarily ban the pay-out of dividends. (These powers are in line with Article 34 'General supervisory powers' of Solvency II Directive)	<p>Such a measure can be taken, if one of the following conditions are met under Article 587, par.1 of the Insurance Code:</p> <ol style="list-style-type: none"> 1. a violation of the provisions of the Insurance Code, the secondary legislation concerning its implementation, the directly applicable law of the European Union, the acts of the Commission or of the Deputy Chairperson or the policies of the insurer or reinsurer under Article 77 of the Insurance Code; 2. impeding the exercise of insurance supervision; 3. jeopardising the financial or organisational stability of an insurer or a reinsurer; 4. jeopardising the interests of the insurance service consumers.



Country	Powers available to restrict pay-outs in normal times when above SCR and MCR	Conditions which must be met for the supervisor to avail of these powers
CY	<p>(A) In Chapter THREE headed "SUPERVISORY AUTHORITY AND GENERAL RULES" of the Insurance Law N(38) I of 2016 to 2019, Section 31 (1) (f) which is headed "General competencies of the Superintendent and supervisory powers", it is stated that "The Superintendent takes any other necessary measure in order to – (i) ensure compliance with the legislative regulatory and administrative provisions that apply in the Republic and in other member states, where applicable; and (ii) avoid or eliminate any anomaly that may affect the interests of the insured" . One such measure could be the restriction of pay-outs.</p> <p>(B) Furthermore, in Chapter SEVEN headed "INSURANCE AND REINSURANCE UNDERTAKINGS IN DIFFICULTY OR IN AN IRREGULAR SITUATION" of the Insurance Law N(38) I of 2016 to 2019, Section 148 (1), which is headed "Supervisory powers in deteriorating financial conditions", it is stated that "Notwithstanding the provisions of Sections 145 and 146 of this Law, where the solvency position of the insurance or reinsurance undertaking continues to deteriorate, the Superintendent shall have the power to take all measures necessary to safeguard the interests of policy holders in the case of insurance contracts, or the obligations arising out of reinsurance contracts. ". Based on the powers provided under this Section, notwithstanding the provisions of Section 145 "Non-Compliance with the Solvency Capital Requirement" and Section 146 "Non-Compliance with the Minimum Capital Requirement", the Supervisor is able to enforce all measures he considers necessary in order to safeguard the interests of policy holders in the case of insurance contracts, or the obligations arising out of reinsurance contracts. One such measure could also be the restriction of pay-outs.</p>	The condition for (A) is "the observation of an anomaly that could affect the interests of the insureds, and the condition for (B) is that the solvency position of the insurance or reinsurance undertaking begins to deteriorate and it continues to deteriorate.
CZ	<p>(1) The power to impose non-payment of accessories, revenues or similar revenues from equity items.</p> <p>(Note that the local legislation mentions deficiencies in the activity of an individual company, which we consider as possible even in "normal times".</p> <p>(2) Additionally, the Czech national bank (CNB) may restrict or prohibit the free disposal of assets in case of a risk that the insurance or reinsurance company will fail to fulfil its obligations – although not directly stating pay-out restrictions, this provision implicitly offers powers to do so.</p>	If deficiencies are found in the activities of insurance or reinsurance companies that could jeopardize the fulfilment of its obligations. The provision used depends on the nature and extent of the identified deficiencies. A more holistic view of regulation is applied.



Country	Powers available to restrict pay-outs in normal times when above SCR and MCR	Conditions which must be met for the supervisor to avail of these powers
DE	<p>In general, BaFin can only prohibit a full or partial dividend payment if the solvency or minimum capital requirement of an insurance company is not met. A notifiable mere deterioration of the financial situation according to Section 132 (2) VAG (Act on the Supervision of Insurance Undertakings) is insufficient.</p> <p>But: For Life insurance companies in the legal form of a stock corporation Section 139 (2) VAG applies: A net profit can only be distributed if it exceeds a possible security requirement in accordance with paragraph 4.</p> <p>In the current interest rate environment, however, the security requirement generally exceeds the company's annual net profit, so that this regulation actually leads to a distribution block. However, this applies only for the stock corporation as an individual legal entity. In cases where the life insurance company is part of a group, the life insurance company would not be allowed to pay dividends to its parent company but the parent/holding company would not be bound by the restrictions pursuant to Section 139 (2), (4) VAG – and would thus be able to pay dividends to its shareholders.</p>	
EE	<p>Finantsinspeksioon has the right to restrict the dividend pay-out by issuing a percept. However, dividend pay-out restriction is not mentioned explicitly in the law. According to the law, Finantsinspeksioon may apply all measures which are necessary to safeguard the interests of the policyholders, insured persons and beneficiaries. Finantsinspeksioon can demand the reduction of the performance pay of the members of the management board and responsible persons of the insurance undertaking, suspension of their payment or return of the payments made (stated explicitly).</p>	<p>Suspending dividend pay-out is possible only in severe conditions, when circumstances emerge which endanger or may endanger the activities of an insurance undertaking or an intermediary or the interests of policyholders, insured persons or beneficiaries or the reliability or transparency of the insurance market as a whole, as well as in case of necessity to prevent or avoid danger.</p>
ES	<p>Going to the "Ley 20/2015, de 14 de Julio, de Ordenación, Supervisión y Solvencia de las Entidades Aseguradoras y Reaseguradoras" (Act 20/2015, of 14 July, on ordering, supervision and solvency of insurance and reinsurance undertakings) a reference to articles (159), 160 (and 161). Supervisory measures that can be adopted (special control measures following the Spanish Law in a literal way). Between these, the DGSFP will be able to forbid to the insurance and reinsurance undertaking and its subsidiaries, with the exception of those situations where the latter should be financial entities under supervision, to carry out a series of actions... distribution of dividends, payments to be made to mutual members, returns. Reglamento de Ordenación, Supervisión y Solvencia" (Regulation on Ordering, Supervision and Solvency). Transitional Provision Sixteenth. Limitation linked to the application of transitional measures is included. Those undertakings which have been authorized to apply the transitional measures on the risk free- interest rate or on the technical provisions will not be able without previous approval to distribute dividends or contributions in the following situations: where without the application of the mentioned transitional measures the undertaking should have presented a deficit in relation with the fulfilment of the obligatory solvency capital or in relation with the fulfilment of the obligatory minimum share capital or, where this deficit could arise of this dividend distribution</p>	<p>These are specified by the Law</p>
FI	<p>There is no such power</p>	



Country	Powers available to restrict pay-outs in normal times when above SCR and MCR	Conditions which must be met for the supervisor to avail of these powers
GR	There is no such power	
HR	<p>a) According to the Article 164. of the Croatian Insurance Act, an undertaking shall not distribute the profits in the form of interim profit or dividends or in the form of payments based on participation in the profit of the undertaking management board, supervisory board or employees if:</p> <p>3. the insurance undertaking does not satisfy the minimum liquidity requirement or would no longer satisfy the minimum liquidity requirement as a result of distribution of profits;</p> <p>4. the Agency has instructed the insurance undertaking to remedy the illegalities and irregularities in relation to the misstatement of on-and off-balance sheet items and operating results of the insurance undertaking and the insurance undertaking has failed to comply with the Agency's measures to remedy the illegalities and irregularities.</p> <p>b) According to the Article 238. of the Croatian Insurance Act, if during the supervision the Agency finds that the insurance undertaking seriously violates risk management rules, it may, in its decision requiring the elimination of illegalities and irregularities, prohibit the insurance undertaking from distributing the profits in the form of interim profit or dividends , profits or dividends or from performing payments to certain persons.</p>	
HU	<p>Section 291 of Act LXXXVIII of 2014 on the Business of Insurance gives the power for restricting pay-outs: In order to enforce the obligations of insurance and reinsurance companies and to safeguard the interests of clients, and in order to enforce compliance with the provisions of this Act and other relevant regulations on insurance and reinsurance activities, and with the Authority's resolutions, the Authority shall have powers to take the following actions:</p> <p>q) prohibit, limit or make subject to conditions:</p> <p>qa) the payment of dividends,</p> <p>qb) the payment of remuneration of senior executives and non-management officers,</p> <p>qc) transactions between the owners and senior executives, and between enterprises belonging to their sphere of interests and the insurance company,</p> <p>qd) the conclusion of new insurance contracts, the renewal of existing contracts,</p> <p>qe) exercise of the right of disposition over the assets of the insurance or reinsurance company,</p> <p>qf) operations in specific classes of insurance, risks or risk groups, and the pursuit of activities involved in or closely related to insurance,</p> <p>qg) the settlement of insurance contracts, their repurchase in part or in full, and the provision of policy loans;</p>	



Country	Powers available to restrict pay-outs in normal times when above SCR and MCR	Conditions which must be met for the supervisor to avail of these powers
IT	In the exercise of its supervisory functions, if the situation requires it, further to the supervisory review process, or with the aim to safeguard the stability of the financial system as a whole and to counter systemic risks under the provisions of the EU law concerning macroprudential supervision of the financial system, IVASS may take preventive and corrective measures in relation also to the individual insurance and reinsurance undertakings, including restrictions to sharing of profits or of own funds as well as the setting up of limits to the total amount of the variable part of the remuneration (extensive pay-outs definition). This either in normal times or in the case of a crisis.	IVASS may avail of these powers quite extensively in the exercise of its supervisory functions over the technical, financial, assets/liabilities management of undertakings: IVASS may restrict pay-outs of the single undertaking, if the specific situation requires it, and also as a macroprudential measure with the aim to safeguard the stability of the financial system as a whole.
LI	<p>As part of the authorisation process, the insurance undertaking needs to demonstrate its financial ability to cover its solvency requirements (Art. 18 Solvency II directive transposed into Art. 12 Insurance Supervision Act, ISA). Changes in this regard with negative impact on this ability can be blocked by the FMA (Art. 19 ISA, no equivalence in the Solvency II directive). This is complemented by the necessity to hold sufficient own funds at all time to cover the SCR (Art. 100 et. seqq. Solvency II directive transposed into Art. 42 ISA) and the MCR (Art. 128 et. seqq. Solvency II directive transposed into Art. 49 ISA) and has to be seen together with the forward looking supervisory approach prescribed by EIOPA and applied by the FMA.</p> <p>Dividend pay-outs are financial transactions with an adverse effect on the financial soundness of the insurance undertaking. Thus, depending on the financial situation of the insurance undertaking, the FMA may restrict dividend pay-outs in order for the insurance undertaking to adhere with the legal provisions in a forward looking way.</p>	Restricted financial soundness of the insurance undertaking, combined with pay-outs that will result in a SCR/MCR-ratio that is less than comfortable from a forward looking, supervisory point of view.
LU	There is no such power	



Country	Powers available to restrict pay-outs in normal times when above SCR and MCR	Conditions which must be met for the supervisor to avail of these powers
LV	<p>Directive 2019/138/EC Article 34</p> <p>General supervisory powers:</p> <p>1. Member States shall ensure that the supervisory authorities have the power to take preventive and corrective measures to ensure that insurance and reinsurance undertakings comply with the laws, regulations and administrative provisions with which they have to comply in each Member State.</p> <p>2. The supervisory authorities shall have the power to take any necessary measures, including where appropriate, those of an administrative or financial nature, with regard to insurance or reinsurance undertakings, and the members of their administrative, management or supervisory body. LV national legislation: Insurance and Reinsurance Law Art 89 (2) If the report prepared by a sworn auditor is qualified, dividends shall be disbursed only subject to the approval of the disbursement thereof by the Financial and Capital Market Commission (the FCMC).</p> <p>3. An insurance or reinsurance company shall notify the FCMC of the intention to disburse dividends (including interim dividends) one month before doing so. The FCMC may prohibit that company to disburse dividends if after the disbursement of dividends the company will not meet the parameters and limitations laid down in this Law and directly applicable European Union legislation, the amount (level) of which is affected by the dividend disbursement.</p>	<p>Regulations No 4 of the FCMC (06.01.2016.) "Regulations on Licensing of Insurance Activities, Obtaining Supervisory Approval for Certain Activities of the Insurance Undertakings, Coordination Arrangements and Notification" Art 25-28 specify the documents to be submitted by the undertaking to the FCMC upon notification of dividend payment or to receive approval of the FCMC for dividend payment in case of external auditor's qualified opinion on the financial statements. https://www.fktk.lv/en/law/insurance/fcmc-regulations-en-3/?l=2</p>
NL	<p>Based on article 3:97 Dutch Act on Financial Supervision (Wft), DNB can solely prevent the reduction of the institution's equity amongst others via repayment or pay-out (of dividends) out of own funds/reserves on a declaration of no objection basis if this pay-out would lead to undershooting of the SCR (or would lead to undershooting thereof in the foreseeable future i.e. within 12 months' time).</p>	
NO	<p>Financial Institutions Act, § 10-5 (3), 10-6 (1) and (4), § 10-8 and § 18-3 (3). Concerns all kinds of pay-outs.</p>	<p>Finanstilsynet may, when necessitated by a financial institution's financial position, order the institution not to pay out dividend or to pay less dividend than that proposed by the board of directors or adopted by the general meeting</p>
PL	<p>There are soft measures (non-legally binding) available and applied in practice even if no breach of capital requirements has occurred or is likely to occur. These are applied in the course of the supervisory review process, especially in conducting the Risk Assessment Framework (ref. Art. 36 of SII Directive, Art. 341 of PL implementing Act). KNF may publish a statement regarding dividend policy (in normal cases statement is published on yearly basis) and specific cases. The fulfilment of that statement is analysed during the yearly RAF process.</p> <p>Link to the statement.</p>	



Country	Powers available to restrict pay-outs in normal times when above SCR and MCR	Conditions which must be met for the supervisor to avail of these powers
PT	In normal times ASF has no power to restrict pay-outs. However, in the context of a recuperation process of insurers (and reinsurers), ASF has the power to prohibit dividend payments. ASF also has the power to subject "certain operation or certain acts to prior approval" (sic). This 2nd power, general power, should be interpreted as applicable to acts such as share buybacks and other pay-outs.	The general condition is the insurer (or reinsurer) being in such situation of financial deterioration, or risk of financial deterioration, that there is a risk of non-compliance with its capital requirements (see article 141 of Solvency II). Also foreseen in the law, are the following special conditions (each also being sufficient 'per se'): a) the insurer's (or reinsurer's) non-compliance with technical provisions regime (art. 137 of Solvency II), b) the non-presentation, by the insurer (or reinsurer) of a recovery plan (see art. 138/2 of Solvency II) or finance scheme (see art. 139/2 of Solvency II), or the non-approval of the plan or scheme by the NSA, and c) the presentation, by the insurer (or reinsurer), of a serious liquidity risk.
SE	There are no national powers available to the insurance supervisor to restrict pay-outs of any kind in normal times. However there are limits in that way that all undertakings, including insurance undertakings, are required to take caution with regards to all forms of pay-outs.	
SI	Insurance Supervision Agency can prohibit the pay-outs in normal times in accordance with the first indent of point six of the first paragraph Article 308 of the Insurance Act (Official gazette. 93/15, 9/19, 49/20 – ZIUZEOP, from here on: IA) According to the Article 308 of the IA The Insurance Supervision Agency may impose additional measures to implement the rules on the management of an insurance undertaking and can: - prohibit the insurance undertaking from: - making certain types of payment to certain persons; - insurance supervision agency imposes this sanction with an Order.	Conditions are specified in the article 307. of the Insurance Act and are: 1. the undertaking has not established or has not been implementing a solid and reliable management system in accordance with the IA and the regulations on the management of the undertaking; 2. the undertaking has not established or has not been implementing the reporting system referred to in the IA; 3. the undertaking does not meet the requirements as determined by the IA and the regulations on the management of the undertaking in accordance with this IA and the regulations on risk management; 4. the undertaking does not carry out its own risk and solvency assessment according to the IA; 5. in its operations, the undertaking does not observe the limitations stipulated by the IA and the regulations on the management of the undertaking;

Source: Responses by NCAs to ATC/C/2020/011 on insurance supervisory powers.



2.2 Analysis of the effect of dividend restriction announcements on the stock prices of banks

This section discusses the financial market reaction to the announcement by the ECB recommending that banks suspend dividend pay-outs and share buybacks. Dividend restrictions decrease the cash flows that equity investors receive in the near term and might therefore be received negatively by financial markets. First, we present an analysis of the market reaction, comparing ECB-supervised banks with non-euro area banks. We then illustrate the impact on the stock prices of four banks resulting from explicit statements that they made regarding their intention to cancel dividend payments (namely UniCredit, ING Group, Standard Chartered and ABN AMRO).

The stock market response to dividend restrictions was relatively limited in general, although it appeared to be significant in the case of some banks. After the **ECB recommended** on 27 March 2020 that ECB-supervised banks abstain from paying dividends or buying back shares until October 2020, euro area bank stocks fell by 82 basis points more than their non-euro area counterparts, which were not affected by the measure. Larger banks tended to be more affected by the dividend restrictions. The difference between euro area and non-euro area banks increases to 209 basis points for banks with total assets exceeding €100 billion. In addition, stock prices of euro area G-SIIs dropped by 280 basis points more than stock prices of non-euro area G-SIIs in the EU. The difference is also greater for more liquid stocks: 196 basis points for stocks with average daily trading volumes above €1 million in the preceding month.

Banks' own announcements also seem to have made an impact on their stock prices. The stocks of the four large banks making announcements on the cancellation of dividend payments fell by between 161 and 539 basis points relative to an index of large banks in the euro area. The order of magnitude was also confirmed when the long-term relationship between stock prices and market movements was taken into account. Based on a capital asset pricing model (CAPM), the stock prices of banks that made announcements declined by between 48 and 542 basis points more than would have been expected given the overall decline in euro area bank stocks.

2.2.1 Event study of the effect of the ECB dividend restriction announcement on the stock prices of banks

Timeframe:

- Pre-announcement observation: stock price as of Friday 27 March 2020, average of prices at 16:30, 17:30 and 18:30 CET.
- Post-announcement observation: stock price as of Monday 30 March 2020, average of prices at 9:30, 10:30 and 11:30 CET.



Sample:

- All European Union bank stock data available from Bloomberg.
 - 111 banks from 17 euro area countries (AT, BE, CY, DE, EE, ES, FI, FR, GR, IE, IT, LT, MT, NL, PT, SK, SI)
 - 106 banks from 12 non-euro area European Union countries (BG, CZ, DK, HR, HU, IS, LI, NO, PL, RO, SE, UK)

Methodology: Difference in differences (average price change for euro area banks versus average price change for non-euro area banks). Banks whose stock price did not change at all in the relevant timeframe were discarded from the baseline specification. Various robustness checks were performed with respect to the time window and sample of banks.

Result:

- Euro area bank stocks dropped by 82 basis points more than their non-euro area counterparts. On average, the stock prices of euro area banks declined by 2.3%, while those of non-euro area banks fell by only 1.5% relative to the pre-announcement observation. This is significant at a 10% level (see first row of Table A.4).
- This result is confirmed by a range of robustness checks (see Table A.4).
- As the market overshot after the announcement and partially corrected afterwards, a post-announcement observation close to the time of the stock exchange opening (9:30 CET on Monday 30 March 2020) shows a larger effect which is highly statistically significant.
- The effect is larger for banks from Member States without applicable bans on short selling. When banks from Member States with a short-selling ban are excluded from the analysis, the effect increases to 133 basis points, 50 basis points more than for the baseline case which included banks of all Member States.
- Large banks experienced a higher response. For banks with total assets exceeding €50 billion and €100 billion the effect is 115 and 209 basis points, respectively.
- For G-SIIs, the effect is even greater: 280 basis points in the baseline specification (Table A.5).
- More liquid stocks experienced a higher response. For banks with average daily stock trading turnover exceeding €1 million and €10 million in the 20 days before the announcement, the effect is 196 and 253 basis points, respectively.



Table A.4

Results under various timeframe and sample specifications

	Sample size		Timeframe		Results			
	Euro area	Non-euro area	Before	After	Δ euro area	Δ non-euro area	Difference	p-value of difference
Baseline specification (broad time window + excluding banks with no stock price changes)	80 banks (16 MS)	81 banks (12 MS)	16:30 17:30 18:30	09:30 10:30 11:30	-2.33%	-1.51%	-82 bps	0.0522
Robustness test 1: Narrow time window	70 (15 MS)	67 (10 MS)	18:30	09:30	-3.89%	-1.84%	-205 bps	0.00004***
Robustness test 2: Including banks with no stock price changes	111 banks (17 MS)	106 banks (12 MS)	16:30 17:30 18:30	09:30 10:30 11:30	-1.68%	-1.15%	-53 bps	0.116
Robustness test 3: Removing observations outside the 5th-to-95th percentile range in the individual euro area and non-euro area samples	71 (16 MS)	77 (12 MS)	16:30 17:30 18:30	09:30 10:30 11:30	-2.14%	-1.60%	-54 bps	0.118
Robustness test 4: Narrow time window + removing observations outside the 5th-to-95th percentile range in the individual euro area and non-euro area samples	61 (14 MS)	60 (10 MS)	18:30	09:30	-3.81%	-2.23%	-158 bps	0.00005***
Robustness test 5: Excluding banks from Member States with a ban on short selling in place (AT, ES, FR, GR and IT)	29 banks (11 MS)	81 banks (12 MS)	16:30 17:30 18:30	09:30 10:30 11:30	-2.83%	-1.51%	-133 bps	0.0162*
Robustness test 6: Banks with average daily stock price turnover > €1 m (including those with no stock price changes)	51 banks (12 MS)	36 banks (9 MS)	16:30 17:30 18:30	09:30 10:30 11:30	-3.56%	1.60%	-196 bps	0.0002***
Robustness test 7: Banks with average daily stock price turnover > €10 m (including those with no stock price changes)	34 banks (11 MS)	19 banks (6 MS)	16:30 17:30 18:30	09:30 10:30 11:30	-4.68%	-2.14%	-253 bps	0.00001***
Robustness test 8: Banks with total assets > €50 bn (including those with no stock price changes)	39 banks (12 MS)	14 banks (6 MS)	16:30 17:30 18:30	09:30 10:30 11:30	-3.47%	-2.32%	-115 bps	0.207
Robustness test 9: Banks with total assets > €100 bn (including those with no stock price changes)	25 banks (9 MS)	11 banks (4 MS)	16:30 17:30 18:30	09:30 10:30 11:30	-4.59%	-2.50%	-209 bps	0.0104*

Sources: Bloomberg, ESRB calculations.

Notes: MS = Member States. One and three asterisks denote statistical significance at 5% and 0.1%, respectively.



Table A.5

Effect on stock prices of G-SIIs and large banks compared with the baseline specification including all listed banks

	Results		
	Δ euro area	Δ non-euro area	Difference
G-SIIs (11 banks)	-5.84%	-3.05%	-279 bps
Banks with total assets above €100 bn (including banks with no price change)	-4.59%	-2.50%	-209 bps
Baseline specification (all banks as in Table A.4 baseline specification)	-2.33%	-1.51%	-82 bps

Sources: Bloomberg, ESRB calculations.

Note: The time window is the same as in the baseline specification.

2.2.2 Effect of banks' own announcements on their stock prices

Subsequent to the announcement made by the ECB (Friday 27 March 2020 at 18:50 CET), a number of euro area banks separately announced their decisions to cancel planned dividends on different days.

The banks in question were the following European G-SIIs: UniCredit, ING Groep, Standard Chartered and ABN AMRO. For each of these banks, we sourced the time of the announcement through the bank's press release. Please note that these banks are merely taken as examples given the availability of information on the exact time their announcements were made. Notably, each of these announcements was made outside trading hours.

We have taken two approaches to identifying the impact of the banks' announcements: one illustrates the one-day stock price change relative to the banking index following each announcement (Table A.6 and Chart A.1), while the other presents the abnormal stock returns for each bank one day after its announcement, calculated using a CAPM (Table A.7).

First approach: In Table A.6 and Chart A.1, the individual banks' stock prices and the EURO STOXX Banks Index²⁸ level have been normalised (to 1) at the level directly before each announcement, i.e. the closing price on the day prior to the announcement. As such, Chart A.1 tracks the price changes for the individual bank stocks and the EURO STOXX Banks index prior to each announcement and also allows the changes in the two price levels following the announcement to be compared.

²⁸ The first approach uses the market index for banks instead of the overall market index to compare banks' performance with that of an index that excludes non-financials. The EURO STOXX Banks index comprises 24 banks from euro countries. The EURO STOXX Banks index has underperformed the STOXX Europe 600 over the last three months; this underperformance comes against the backdrop of pre-existing struggles within the banking sector relating to negative interest rates and weak profits. Comparing the performance of the banks with that of the banking index was therefore considered the best choice in the framework of this first approach.



The third and fourth columns of Table A.6 report the differences between the stock price changes for each bank and the change in the EURO STOXX Banks index on the day before and the day after each announcement (i.e. the difference in price change between the two).²⁹ The fifth column, meanwhile, reports the difference between the difference the day before and the difference the day after each announcement.

Second approach: Table A.7 shows the one-day abnormal returns for each bank following its own announcement. The abnormal return is the actual one-day change in a bank's stock price minus the expected change in its stock price as estimated using the CAPM.

Each bank's beta has been calculated over a ten-year period from 27 April 2010 to 24 April 2020, with the exception of ABN AMRO, for which data is only available from November 2015. The market risk premium is calculated in two ways: (i) as the difference between the observed returns of the banking index and risk-free rate as measured by the EONIA and (ii) as the difference between the observed returns of the market index and the risk-free rate as measured by the daily returns for the ten-year bund. Abnormal returns are calculated as the difference between banks' observed returns and banks' expected returns.

Results: Both approaches illustrate that stock prices fell to a greater extent than (1) the banking index and (2) their expected returns on the day.

With regard to the first approach, each of the four banks underperformed the EURO STOXX Banks index on the day following their own cancellation announcement. In other words, the fall in price for each bank was greater than the fall in price of the EURO STOXX Banks index on those respective days. The price fall was particularly pronounced for ING and ABN AMRO.

With regard to the second approach, it is evident that for each of these banks, the actual decline in returns on the day following its announcement was larger than the expected decline in returns according to the CAPM.

Table A.6
Effect on stock prices of selected banks that announced the cancellation of planned dividends

Bank	Announcement date	1 day before announcement EURO STOXX Banks (data point)	1 day after announcement EURO STOXX Banks (data point)	Difference (before and after)
UniCredit	29/03/2002 21:57 CET	0.05%	-1.77%	-182 bps
ING	30/03/2020 07:30 CET	2.20%	-3.19%	-539 bps
ABN AMRO	30/03/2020 08:00 CET	-0.62%	-4.25%	-363 bps
Standard Chartered	01/04/2020 08:00 CET	-1.31%	-2.92%	-161 bps

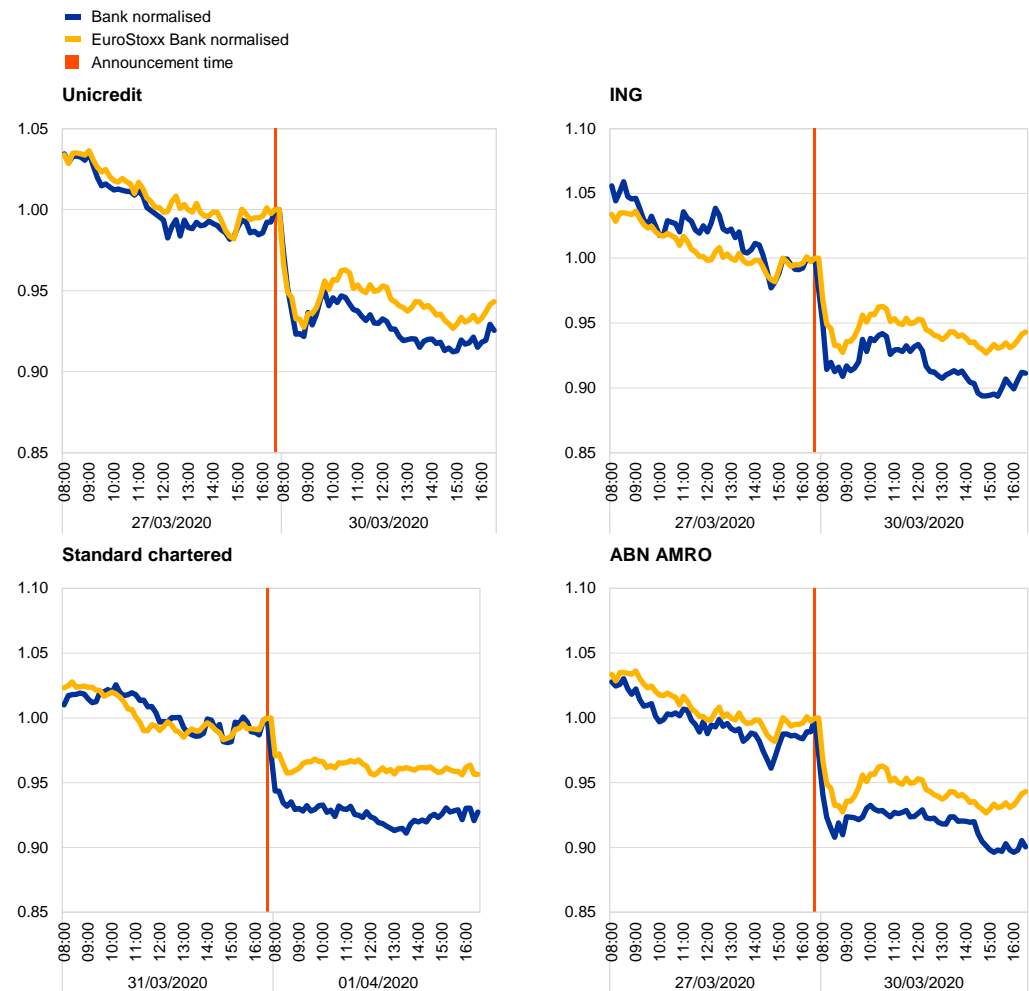
Sources: Bloomberg, ESRB calculations.

²⁹ Given that these announcements were made out of trading hours, this difference is based on the opening and closing prices.



Chart A.1

Development of stock prices of selected banks compared with the EURO STOXX Banks index



Sources: Bloomberg, ESRB calculations.



Table A.7

Abnormal returns relative to a CAPM, one day after announcement

CAPM specification	UniCredit	ING	ABN AMRO	Standard chartered
Risk-free return = EONIA, market return = EURO STOXX Banks	-0.44 p.p.	-3.25 p.p.	-6.05 p.p.	-4.75 p.p.
Risk-free return = EONIA, market return = STOXX Europe 600	-9.78 p.p.	-11.15 p.p.	-11.43 p.p.	-4.08 p.p.
Risk-free return = ten-year bund, market return = Eurostoxx Banks	-0.85 p.p.	-3.65 p.p.	-6.30 p.p.	-4.87 p.p.
Risk-free return = ten-year bund, Market return = EuroStoxx600	-9.32 p.p.	-10.68 p.p.	-11.35 p.p.	-4.33 p.p.

Sources: Bloomberg, ESRB calculations.

Notes: Negative values mean the stock price declined by more than could have been expected given the overall fall in the euro bank market index. The values therefore represent an estimate of the specific effect of the announcement of a dividend cancellation by the particular bank.

2.3 ESRB Workstream 4 mandate

System-wide restraints on dividend payments, share buybacks and other pay-outs

A number of ESRB member institutions (EBA, EIOPA, ECB Banking Supervision) have encouraged banks and insurance corporations in the EU to restrain voluntary pay-outs (e.g. dividends, bonuses, share buybacks aimed at remunerating shareholders). Where enforced, these measures enhance the resilience of the financial sector, strengthening its capacity to lend to the real economy and reducing the risk of failures of financial institutions and needs for public intervention. In respect of banks, UK authorities have followed the example of the EU.

The ESRB could further support these welcome developments by exploring the following directions of work:

- promoting uniform adoption by all national supervisory authorities of measures recommended by the European Supervisory Authorities;
- making the case for global or regional arrangements beyond the EU going in the same direction;
- considering pros and cons of the extension of the same recommendation to other financial corporations and possibly to non-financial corporations;
- investigating the impact of the recommendations on the functioning of the Single Market, including issues of the payment of dividends of subsidiaries to the groups;
- linking future (i.e., beyond 2020) limitations on pay-outs to possible recapitalisation; need for legislative action versus voluntary requests.

Expected deliverables will include:



- an assessment of pay-out trends in the financial and non-financial corporate sector and their implications for the resilience of the financial sector and its ability to provide credit to the real economy;
- identification (in a short report) of areas where EU-wide coordination by the ESRB would enhance the ESRB member authorities' ability to cope with cross-border and cross-sectoral issues;
- preparation of possible communications to be issued either by the ESRB or in coordination with the ESRB member institutions;
- preparation of possible informal statements to be transmitted to stakeholders;
- preparation of possible ESRB warnings and recommendations.



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For specific terminology please refer to the [ESRB glossary](#) (available in English only).

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