

EBA REPORT ON THE IMPLEMENTATION OF SELECTED COVID-19 POLICIES

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Abbreviations

AMA	advanced measurement approach
ASA	Alternative Standardised Approach
B&R	background and rationale
BIA	Basic Indicator approach
CA	competent authority
CRR	Capital Requirements Regulation
EBA	European Banking Authority
GL	guidelines
IRB	internal ratings based
NPV	net present value
RWA	risk-weighted asset
SA	standardised approach
TSA	The standardised approach for operational risk
SMEs	small and medium-sized enterprises

Executive summary

The COVID-19 pandemic has raised a significant number of policy challenges, at both the EU and national levels. The EBA took decisive actions, including, in particular, the publication of the Guidelines on legislative and non-legislative moratoria on loan repayments (hereinafter the GL on moratoria), whereby the flexibility embedded in the regulatory framework is applied with the aim of preserving comparable metrics. It is however also clear that a significant number of policy issues have arisen and are still arising. This report, therefore, is a first COVID-19 implementation report, which provides clarifications on questions raised in the context of the EBA's monitoring of the implementation of COVID-19 policies. Given that new issues may continue to arise, EBA might update the report at a later stage.

The implementation report, at the current stage, includes questions and answers brought to the attention of the supervisory community on the GL on moratoria; this is accompanied by a summary overview of the general payment moratoria in place in the EU. The GL on moratoria have been developed under extremely tight deadlines and, therefore, providing a clarification of certain paragraphs is deemed of broader interest to the industry and the public.

The report also includes considerations of criteria that institutions should adopt with regard to operational risk in the context of COVID-19. The common criteria provided in the report aim to reduce possible inconsistencies in the calculation of capital requirements calculations related to operational risk. This will allow institutions to have a clear view of supervisory and regulatory expectations, when dealing with operational risk losses.

1. Introduction

The EBA has taken a number of steps to clarify the flexibility embedded in the regulatory capital framework and provide operational relief in response to the COVID-19 pandemic; this is most clearly summarised in its Statement on the application of the prudential framework regarding Default, Forbearance and IFRS9 in light of COVID-19 measures of 25 March 2020.¹ Following up this statement, the EBA published on 2 April 2020 the Guidelines on legislative and non-legislative moratoria on loan repayments (EBA/GL/2020/02; hereinafter the GL on moratoria),² whereby conditions are provided under which exposures covered by the moratoria should not necessarily be classified as forborne under Article 47b of Regulation (EU) No 575/2013³ (Capital Requirements Regulation – CRR) and, consequently, would not have to be automatically assessed as distressed restructuring under the definition of default.

The GL on moratoria allow institutions to grant payment holidays for a pre-defined set of obligors, for which there need not be an automatic regulatory reclassification, due to the unprecedented situation, which customers and institutions face today with the COVID-19 pandemic. It however remains of utmost importance that institutions continue to monitor the portfolio and recognise losses in line with the remaining prudential framework. Therefore, while the application of the Guidelines remove the obligation to perform an automatic reclassification, when granted payment holidays under a broad moratorium, it does not remove the responsibility of institutions to continue loan monitoring and ensure that credit issues, both in the prudential, but also accounting framework, is recognised.

The aim of the first part of the report is twofold: (i) to provide a follow-up on the implementation issues around COVID-19 credit risk policy relief measures and, in particular, the GL on moratoria; and (ii) to monitor how such measures are implemented. Moreover, while the first section of the report focuses on credit risk policies, the second part provides some considerations around operational risk in the context of the COVID-19 pandemic are also included, in particular related to the recognition of credit and operational risk losses stemming from COVID-19.

The structure of the report is as follows:

- Section 2 focuses on the implementation issues around the GL on moratoria. In particular, several CAs and institutions brought up aspects of the guidelines that may deserve further clarification. The most relevant questions and answers, which should reflect the views of the EBA's members, are gathered in Section 2.1. Section 2.2, moreover, presents a summary

¹ [Link to the statement](#) on the application of the prudential framework regarding Default, Forbearance and IFRS9 in light of COVID19 measures.

² [Link to the guidelines](#) on moratoria.

³ As amended by Regulation (EU) 2019/630 of the European Parliament and of the Council of 17 April 2019 amending Regulation (EU) No 575/2013.

overview of the moratoria in place in the EU as a follow-up to the notifications that the EBA received from CAs.

- Section 3 focuses on common criteria that institutions should follow for the identification and treatment of operational risk events and losses, through the provision of a dedicated ‘risk classification schema’. The schema aims to reduce possible inconsistencies in the calculation of capital requirements by institutions, in the context of COVID-19.

It is worth noting in this context that, as a follow up of the implementation of a broad range of COVID-19 measures, including payment moratoria, public guarantee schemes and other COVID-19 related forbearance measures, EBA has developed the Guidelines on COVID-19 measures reporting and disclosure⁴. These Guidelines address data gaps associated with such measures to ensure an appropriate understanding of institutions’ risk profile and the asset quality on their balance sheets for both supervisors and the wider public.

Finally, it is important to note that, in consideration of the rapid succession of COVID-19-related events, the report may be updated in the future with additional clarification on the prudential treatment of COVID-19-related measures, as well as on the implementation issues around existing policies in the context of the current pandemic.

⁴ [Link to the guidelines](#) on Covid-19 measures reporting and disclosure.

2. Guidelines on moratoria: implementation and monitoring

The EBA published the GL on moratoria on 2 April 2020. In these guidelines, the core issue is the clarification that the payment moratoria do not automatically trigger forbearance classification, under Article 47b of the CRR, and similarly do not automatically trigger the assessment of distressed restructuring under the definition of default (i.e. not requiring the application of the 1% threshold for the NPV decrease in the case of moratoria) for obligors under legislative or non-legislative moratorium. The GL on moratoria set out in detail the criteria that legislative and non-legislative moratoria must fulfil for the treatment to apply.

Subsequent to the publication of the GL on moratoria, the EBA has received a number of questions from institutions, industry associations and CAs about the interpretation of certain paragraphs in the GL. Section 2.1 lists the questions and issues raised after the publication of the GL on moratoria and presents the EBA's clarification of these aspects. This is particularly relevant, given that on 18 June 2020 the EBA extended the possibility for institutions to benefit from the treatment set out in the GL until 30 September 2020.⁵ Moreover, as a follow up of the numerous questions received on the application of the GLs on moratoria to securitisation exposures, EBA provided the necessary clarifications in a dedicated section of the EBA statement on additional supervisory measures in the COVID-19 pandemic.⁶

Furthermore, CAs are notifying the EBA about the compliance with these GLs⁷ and about key aspects of the moratoria schemes that have been introduced in their jurisdictions. Section 2.2 presents an overview of these moratoria schemes in the EU as part of the EBA's COVID-19-monitoring efforts.

2.1 Questions and answers about the implementation of the guidelines on moratoria

A significant number of questions have been raised by CAs, industry associations as well as institutions related to relevant aspects in relation to the implementation of payment moratoria. To ensure a harmonised and swift implementation of the GL, the EBA has continually engaged with CAs. The issues raised have also been shared widely among CAs to foster a convergent implementation of the GL, which is particularly relevant for three key aspects deemed crucial for harmonised implementation. However, with the publication of this report and given the nature of the questions, this report makes these considerations public, as EBA recognises that this is of broader interest.

⁵ [Link to the press release](#) on the extension of the deadline for the GL on payment moratoria.

⁶ [Link to the statement](#) on additional supervisory measures in the COVID-19 pandemic.

⁷ [Link to the provisional compliance table](#) for the GL on moratoria.

Section 2.1.1 provides clarification on three key aspects of the GL on moratoria. The first key aspect further clarifies the condition that the moratorium has to be broadly applied, to ensure that the moratoria are similar in economic substance, regardless of whether they are legislative or non-legislative. Second, this report provides further details about the condition that a moratorium should change only the schedule of payments, and that the moratorium should not affect other conditions of the loan. The third key aspect concerns the selection criteria in the moratorium, which determine the conditions under which obligors are allowed to benefit from the moratorium; these are usually related to the extent to which the obligor is affected by the COVID-19 pandemic. However, further clarification seems needed on how this interacts with such criteria allowing any assessment of the obligor's creditworthiness.

In addition to these broader issues, Section 2.1.2 contains a list of other detailed questions that have been received, along with their answers. The questions include topics pertaining to, for instance, cross-border issues, the general scope of the guidelines, the date of application, how to treat the renewal of loans, bullet loans or seasonal loans, and the counting of days past due.

2.1.1 Key issues

Similar measures

This section provides further clarity on the requirement specified in paragraph 10(a) of the GL on moratoria that under a certain moratorium scheme similar payment relief measures must be taken by relevant institutions. This aspect is considered in relation to other conditions in these GL, in particular paragraph 10(d), which specifies that the moratorium offers the same conditions for the changes of the payment schedules to all exposures subject to the moratorium, and paragraph 10(c), which specifies that the only changes permitted to the payment schedule offered under the moratorium are suspending, postponing or reducing the payment of principal amounts, interest or full instalments, for a predefined limited period of time.

Specific questions that the EBA has received are:

- If the industry-wide moratorium offers X months of payment delay to all business loans up to EUR Y million, would it be allowed, under the GL on moratoria, that some institutions offer a longer payment delay than X months?
- If the industry-wide moratorium offers X months of payment delay to all business loans up to EUR Y million, would it be allowed, under the GL on moratoria, that some institutions offer the same X months' payment delay to business loans above EUR Y million?
- Can a moratorium offering postponement of the payment of the principal amount be considered similar to a moratorium offering postponement of the payment of the principal plus interest? In particular, would it be allowed that one institution offers to its obligors a moratorium whereby payments of principal amounts are postponed during the moratorium, whereas another institution offers to its obligors a moratorium whereby payments of both principal amounts and interest amounts are postponed?

- Can individual institutions offer different changes to the payment schedules when operationalising a general payment moratoria? In particular, would it be allowed that one institution offers, to all its obligors, an extension of the payment schedule of six months, whereas another institution offers an extension of the payment schedule of four months to its obligors?
- Would a moratorium granting obligors the right to choose the postponement of either (i) capital part of instalments only or (ii) full instalments (both capital and interest) under the moratorium be considered compliant with the GL on moratoria?

EBA considerations

When assessing whether the individual payment relief measures can be considered similar, they should be assessed in the broader context rather than by focusing on stand-alone elements. First and foremost, such an assessment must ascertain that the payment relief measures do not include borrower-specific criteria, in particular in relation to financial difficulties (in accordance with Article 47b of the CRR). Second, such an assessment must also take into account all relevant aspects to determine whether the relief offered under individual schemes can be considered similar. Certain differences in individual elements, such as the duration of the payment extension or the extent of the relief measure (only principal or principal and interest) may be permitted as long as they do not undermine the similarity of the measures.

More specifically, with regard to the duration of the moratorium, the industry- or sector-wide moratoria schemes may specify a minimum or maximum length of the payment pause to be offered by institutions to a specific range of clients. In this case, it is possible that different institutions offer moratoria of different lengths, as long as the length is within the range specified in the general moratorium scheme and these payment relief measures are similar. However, the payment relief offered by an institution as part of an industry- or sector-wide moratorium scheme has to offer the same conditions to all customers of that institution within the scope of the moratorium.

Furthermore, the moratorium offered by an institution to its customers as part of a general moratorium scheme may specify a maximum length of the payment pause (e.g. up to 12 months). In this case, it would have to be up to the obligor, and not the institution, to exercise this choice and opt for a payment delay equal to or shorter than 12 months. Hence, a differentiation has to be made between what is offered by the bank, which has to apply to all exposures within the scope, and the solution chosen by the obligor, which may be different for different obligors.

Similarly, with regard to the maximum amount of the loan, a general moratorium scheme may specify the maximum amount of the loans to which the moratorium can be applied, leaving a degree of flexibility to individual institutions to apply the moratorium up to a lower limit of the loan amount. However, once the exact limit is chosen, the institution has to offer the moratorium to all loans within the scope of the moratorium with the amount below the specified limit.

Paragraph 10(d) of the GL on moratoria requires that the moratorium specifies certain conditions for the changes of the payment schedules, as the same conditions have to be offered to all

exposures subject to the moratorium. Paragraph 10(c) of the GL on moratoria further specifies that such changes to the payment schedules may include suspending, postponing or reducing the payment of principal amounts, interest amounts or full instalments for a predefined limited period of time. Therefore, in general, individual institutions participating in a general payment moratorium should not individually decide on the exact modalities of the change in the payment schedule, as these should be consistently defined in the moratorium itself for all participating institutions. However, in some specific circumstances, the general conditions of the moratoria may leave a limited number of choices to the institutions, for instance by allowing the postponement of payments of either principal amounts or full instalments. In such cases, an individual participating institution may choose the preferred approach and offer it consistently to all of its clients. Alternatively, this choice may be left to the obligors, ensuring that the same range of options is offered to all obligors within the scope of the moratorium.

Similar considerations apply to the length of the extension of the payment schedule. While in principle this should be specified as part of the conditions for the changes of payment schedules, certain limited flexibility may be allowed to participating institutions. Similarly to the length of the moratorium period, the general conditions may specify a maximum length of the extension of the payment schedule. In this case, however, where an institution chooses a specific length of the extension within the range specified in the general conditions of the moratorium scheme, it has to offer the same conditions to all of its clients within the scope of the moratorium, such that it is left to the discretion of the client to request a shorter length. In a specific case where individual institutions participating in a general payment moratorium offer an extension of the payment schedule equal to the duration of the moratorium, and they offer to all of their clients different durations of the moratoria, individual institutions can offer different extensions of the payment schedule (equal to the duration of the moratoria) to all of their clients.

To summarise, while the notion of ‘similar measures’ used in paragraph 10(a) of the GL on moratoria leaves room for some minor differences in implementation between institutions, it is important that the number of options available to institutions participating in the general memorandum schemes is limited to ensure that the relief measures offered by individual institutions remain similar. These options may relate to the length of the moratorium, the length of the extension of the payment schedule, the application of the moratorium to principal amounts or full instalments, or other specific aspects of the conditions offered, but not to all of these elements at the same time.

Furthermore, the implementation of the moratorium may specify a limited list of options for which the choice lies with the obligor and not with the institution. In this case, however, it is important that the same range of options is presented to all obligors of the institution within the scope of the moratorium. Moreover, the list of options must be in line with the conditions of the general moratorium scheme in which the institution participates.

In this context, it should be noted that this does not imply that the same offer has to be made by an institution to all of its customers. In accordance with the last subparagraph of paragraph 10 of the GL on moratoria, ‘separate general payment moratoria may apply to different broad segments

of obligors or exposures'. Therefore, institutions may apply a different moratorium to retail mortgages, for example, and a different condition may apply to SMEs.

Effect on the NPV

The GL on moratoria mention in paragraph 24 of the background and rationale that 'the moratorium changes only the schedule of payments' and 'the moratorium should not affect other conditions of the loan, in particular the interest rate, unless such change only serves for compensation to avoid losses which an institution otherwise would have due to the delayed payment schedule under the moratorium, which would allow the impact on the net present value to be neutralised.'

Specific questions that the EBA has received are:

- Do I understand correctly that the financial position of the lender should not be diminished by the moratoria (i.e. the net present value of the credit obligation should be the same post moratorium as it was pre moratorium)? So, therefore, the interest amount has to increase for the borrower/obligor?
- In cases where institutions decide collectively to forgo a slice of the interest across the board, would that be considered as compliant with the moratorium if the NPV threshold of 1% is adhered to?

EBA considerations

These GL on moratoria do not specify what the effect of the moratorium on the NPV should be. Given this, it is up to the institution to follow the conditions set out in the legislative or non-legislative moratorium. There may be a decline in the NPV if the obligor makes use of the moratorium and postpones one or several payments and no interest is charged for the time covered by the moratorium. Alternatively, the moratorium may be NPV-neutral (i.e. no change in the NPV) if subsequently at least one of the instalments is adjusted upwards or added.

Paragraph 10(c) of the GL on moratoria permits that payments of interests may be suspended, postponed or reduced during the length of the moratorium. While this will trigger an NPV reduction, under the GL on moratoria it will not be considered a distressed restructuring and the NPV assessment does not need to be made, as the 1% threshold for NPV reduction specified in paragraph 51 of the EBA GL on the application of the definition of default⁸ is not applicable. Hence, the conditions of paragraph 10 of the GL on moratoria can be met even if the NPV decreases by more than 1%.

The legislative or non-legislative moratorium could also be set up in a way that incentivises shorter payment pauses. It would, for instance, be in line with the GL on moratoria to specify a moratorium whereby payment delays of up to three months would not increase the subsequent instalments

⁸ [Link to the guidelines](#) on the application of the definition of default.

(which implies a decline in the NPV of the loan), whereas instalments would increase if the obligor opts for a payment delay of longer than three months (which could make the loan NPV-neutral).

Selection criteria

The third key issue concerns the application of the selection criteria determining the scope of application of the moratorium. It was clarified in paragraph 22 of the background and rationale that the moratorium may be offered to clients based on their request to apply the moratorium, presenting the extent to which the obligor is affected by the COVID-19 pandemic. This section provides further clarity on how this possibility interacts with the requirement in paragraph 10(b) of the GL on moratoria that an obligor should be allowed to take advantage of the moratorium without the assessment of its creditworthiness.

Specific questions that the EBA has received are:

- What kind of assessment should the institution make with regard to an application of an obligor to make use of a moratorium?
- Does the institution have the right to reject such an application?
- Which information needs to be included in the application?

EBA considerations

Paragraph 22 of the background and rationale of the GL on moratoria clarifies that the moratorium may be offered to clients based on their request to apply the moratorium, presenting the extent to which the obligor is affected by the COVID-19 pandemic. The GL on moratoria do not specify the content of such an application, as it would have to reflect specific selection criteria defined by the moratorium. However, in order to apply the treatment specified in the GL on moratoria, the selection criteria would have to meet the conditions specified in paragraph 10(b) of these GL. Therefore, as further explained in paragraph 22 of the background and rationale, the acceptance of the obligor's application cannot be dependent on the assessment of creditworthiness of the obligor, but must depend on the objective general criteria specified in the moratorium. Such criteria may include a check on whether the obligor has a performing status, if defined in the moratorium.

However, while the decision on the application of the moratorium should not be based on the assessment of creditworthiness or payment capacities of the obligor, institutions should still perform the assessment of unlikelihood to pay based on the most up-to-date schedule of payment, in accordance with the normal timeline for such assessments. Whenever this assessment concludes that the obligor is unlikely to pay its credit obligations to the institution, a default shall be considered to have occurred. Based on this assessment, institutions should not reject any application for the general payment moratorium, but they should nevertheless apply the definition of default and assess the potential unlikelihood to pay of obligors in accordance with the usual policies and practices. It is therefore possible that an exposure subject to a moratorium will not be

considered forborne, because the criteria of the GL on moratoria are met, but it will be classified as defaulted based on the assessment of unlikeliness to pay.

2.1.2 Other questions

	Question	Paragraph	Implementation stance
1	What is the date of application of these GL? Is it the date of publication in English on the EBA website (i.e. 2 April) or is it the date of publication of these GL in all EU languages?	Paragraph 9 of these GL	The date of application of the GL is 2 April 2020.
2	Are these GL also applicable to CRR-regulated leases?	Paragraph 6 of these GL	As implied by paragraph 6 of the GL, they apply to those credit obligations that are subject to the definition of default and the definition of forbearance. Hence, CRR-regulated leases fall within the scope of these GL.
3	Do these GL allow the application of the moratorium to a sub-exposure class that is defined as clients whose income has decreased or whose financial situation has deteriorated due to COVID-19?	Paragraph 10(b) of these GL	A sub-exposure class is understood as a specific sub-category of an exposure class as defined in the CRR (e.g. specialised lending exposures within corporate exposure class or exposures secured by immovable property within retail exposure class under the IRB approach, or SMEs within either corporate or retail exposure class). Sub-exposure class is an example of a possible criterion for delineating broad groups of obligors without reference to their creditworthiness, but other criteria may be used instead. While the proposed criterion based on decreased financial situation would not be considered a sub-exposure class, it would meet the requirements set out in paragraph 10(b) of the GL. As further specified in paragraph 22 of the background and rationale, the moratorium may be addressed specifically to clients affected by the COVID-19 pandemic. Therefore, in this context, deterioration of financial situation should not be understood as differentiating between customers according to their individual rating or its decrease and institutions can select customers only on

Question	Paragraph	Implementation stance
		the basis of whether they have been affected by the COVID-19 pandemic.
4 Please specify how branches are to be treated under the non-legislative moratorium.	None	These GL do not foresee any particular treatment for branches. Depending on the scope of application of the specific moratorium, the branches would have to either follow the policy applied by the institution or participate in the moratorium scheme applicable in the jurisdiction in which they operate.
5 Is it allowed for the bank to charge fees for the application of the moratorium (as a fee for a change of contract)?	Paragraph 2 4 of the background and rationale	Yes, institutions are allowed to charge fees for handling the application for the moratorium, as long as this is in line with the terms and conditions of the loans. However, while it is not prohibited to charge fees, institutions should be mindful of customer protection issues and the objective of the contingency measures.
6 It is stated that the guidelines apply also to moratoria launched before the application of these guidelines. If the institutions are already offering (automatic) payment relief and grace periods to their own predefined portfolios/sub-exposure classes, but neither a legislative nor a non-legislative moratoria has yet been announced or agreed in the Member State as such, how should the institutions treat the grace periods that have already been granted? Can the institutions apply the guidelines in this case, i.e. can the bank later retrospectively treat previously granted grace periods as described in the guidelines (primarily with regard to loan classification)	Paragraph 1 6 of the background and rationale	Where an institution-specific moratorium is transformed into an industry- or sector-wide solution and as a consequence meets the conditions of the GL, the treatment specified in the GL can be applied. However, in this case the conditions previously offered to the clients would have to be consistent with the conditions specified by the subsequently agreed general moratorium.

Question	Paragraph	Implementation stance
and consider them subject to a moratorium?		
<p>7 One of the main aspects of the moratoria is that the counting of days past due should be suspended during that period. Paragraph 13 of these GL states that ‘Where a general payment moratorium meets the conditions referred to in par. 10, it should be treated in accordance with par. 16 to 18 of the EBA Guidelines on the application of the definition of default, issued under Article 178 of Regulation (EU) No 575/2013.’</p> <p>However, the EBA GL on the application of the definition of default (EBA/GL/2016/07) apply only from 1 January 2021. Given the contradiction, how does the EBA foresee the application of EBA/GL/2020/02 paragraph 13 and guide the Member States to implement the given paragraph?</p>	Paragraph 13 of these GL	<p>The date of application of the GL is 2 April 2020. Therefore, by reference to paragraphs 16 to 18 of the GL on default definition, the application of these paragraphs is in practice anticipated in the specific context of the moratoria. This does not lead to a contradiction, as the guidelines provide only clarifications on the application of the requirements already existing in the CRR and the CAs and institutions may choose to implement the guidelines earlier than the specified (latest) date of application.</p> <p>In particular, institutions continue to be required to calculate the days past due and apply the materiality threshold in accordance with Article 178(1)(b) of the CRR. The GL on moratoria provide additional clarification that in the context of the moratoria the calculation should be based on the revised schedule of payments.</p>
<p>8 In case there are separate moratoria for different portfolios applied, can different institutions participate in different moratoria? An example: institutions X and Y both have mortgage and corporate portfolios. Both institutions X and Y participate in the mortgage moratoria, but bank Y does not want to apply moratoria for corporates – is this possible?</p>	Paragraph 10(a) of these GL and paragraph 23 of the B&R	<p>This is allowed under these GL, in particular in the case of non-legislative moratoria, which are not compulsory for the institutions. The participation in specific moratoria by institutions may reflect their different business models and focus on different segments of clients. However, for each of the moratoria to comply with the conditions set out in these GL, they have to be broadly applied across the industry or within a specific sector of the industry (e.g. consumer finance).</p>
<p>9 If the moratorium is applied for example from June 2020, can a client ‘join’ the moratorium for example in July or beyond the</p>	Paragraph 10(f) of these GL	<p>With the updated deadline of 30 September 2020, obligors can join the moratorium until 30 September, which means that the decision on the</p>

Question	Paragraph	Implementation stance
<p>revised deadline of 30 September? Or must the number of clients be set before applying the moratoria?</p>		<p>application has to be taken before that date and the payments should be rescheduled by then.</p> <p>In case a legislative or non-legislative moratorium specifies a deadline beyond the EBA deadline, only those obligors for which the decision on the application of the moratorium is taken before 30 September 2020 may benefit the treatment specified in these GL. For those obligors where the decision on the application is taken after the deadline, the usual requirements on definition of default, forbearance and distressed restructuring apply.</p>
<p>10 Would the application of the moratorium, entailing the automatic renewal (for a predefined period of time) of revolving loans, which fulfils the other requirements in the GL, be considered compliant with these GL?</p>	<p>Paragraph 26 of the B&R</p>	<p>As long as the moratorium meets the conditions set out in in paragraph 10 of the GL, the treatment proposed in these GL can be applied. In particular, paragraph 26 in the background and rationale specifies that the use of existing credit lines or renewal of revolving loans is not considered a new loan, and, therefore, these GL can be applied to revolving loans.</p> <p>The key issue is whether an automatic renewal or revolving loan can be considered a suspension, postponement or reduction of the payment in accordance with the requirement of paragraph 10(c) of the GL. Given that the lack of renewal would render the drawn amounts due, the renewal can be considered a form of postponement of payments and hence this can be considered within the scope of these GL.</p>
<p>11 Should institutions treat the moratoria entailing the automatic renewal of the revolving loans as a separate kind of moratoria (separate from the moratoria for loans with a specified term) and consequently notify them separately?</p>	<p>Paragraph 26 of the B&R</p>	<p>Automatic renewal of revolving loans is clearly a significantly different form of moratorium from the modification of a fixed schedule of payments. In this context the following possibilities could be considered:</p> <ul style="list-style-type: none"> - If the renewal is the only measure offered for revolving loans, this should be considered a separate moratorium for a specific segment of loans in accordance

Question	Paragraph	Implementation stance
		<p>with the last sub-paragraph of paragraph 10 of the GL and should be notified separately.</p> <p>- If the moratorium generally envisages suspension, postponement or reduction of interest payments for all loans, including the revolving ones, and in addition offers automatic renewal of revolving loans if the renewal date falls within the period of the moratorium, this can be considered to be part of the same moratorium.</p>
<p>12 Would the differentiation of obligors based on only one criterion be sufficient to meet the conditions under the GL? In particular, would the criterion of a client type, i.e. (i) individuals, (ii) SMEs and (iii) large enterprises, be considered to fulfil the requirement set out in paragraph 10(b) of the GL?</p>	<p>Paragraph 10(b) of these GL</p>	<p>Yes, such a criterion would be in line with these GL. In particular, it is sufficient that the moratorium applies to a large group of obligors predefined on the basis of broad criteria, where any criteria for determining the scope of application of the moratorium should allow an obligor to take advantage of the moratorium without the assessment of its creditworthiness, and where the moratorium should not be limited only to those obligors who experienced financial difficulties before the COVID-19 pandemic.</p>
<p>13 Would it be allowed under the GL that the extension of the payment schedule that is proposed to obligors under a moratorium exceeds the period during which payments are postponed according to the moratorium?</p>	<p>Paragraph 10(d) of these GL</p>	<p>Paragraph 10(c) of the GL specifies that ‘the moratorium envisages only changes to the schedule of payments, namely by suspending, postponing or reducing the payments of principal amounts, interest or of full instalments, for a predefined limited period of time; no other terms and conditions of the loans, such as the interest rate, should be changed’.</p> <p>This provision does not specify the exact manner in which the suspended, postponed or reduced payments influence the payment schedule after the period of the moratorium. Therefore, extending the overall duration of the loan by more than the duration of the moratorium is not disallowed by these GL, as long as the same conditions are offered to all clients subject to the moratorium, in accordance with paragraph 10(d).</p>

Question	Paragraph	Implementation stance
<p>14 Regarding paragraph 10(b), ‘... the moratorium should allow an obligor to take advantage of the moratorium without the assessment of its creditworthiness ...’, we would like to confirm our understanding that, in legislative moratoria requiring the eligible obligors’ application to the bank, the latter does not have to perform any assessment of the requests received by the obligors other than what is required in the relevant Law governing the details/criteria of the moratorium.</p>	<p>Paragraph 10(b) of these GL</p>	<p>The GL specify in paragraph 10 the conditions that moratoria (legislative or non-legislative) should meet in order to benefit from the treatment set out in paragraphs 11 to 16 (i.e. under what conditions such moratoria do not trigger forbearance classification and the assessment of distressed restructuring). For the purpose of applying the moratorium, institutions are not required to perform any other assessment of the obligor apart from the assessment of whether the obligor meets the criteria for the scope of application of the moratorium specified in accordance with paragraph 10(b) of these GL.</p>
<p>15 This question relates to legislative moratoria in the case of bullet loans or seasonal loans. If such instalments are postponed under the provisions of the legislative moratorium, we understand that the said instalments will not become due as soon as the moratorium period expires. For example, assume that the moratorium period extends for 9 months and expires on 31 December 2020 and that an obligor’s contractual repayment programme involves instalments due only in the period of 30 June to 30 September 2020 as a result of the business’s cash flow profile. In such a case, it is our understanding that the due date of these instalments will be postponed till the respective June to September period a year later (i.e. 2021) in order to match the provisions of the existing contract. In other words, the counting of the days past due will start on 1 July 2021 and time will be frozen (for the</p>	<p>None</p>	<p>First, it should be noted that these GL require not that instalments become due at the point where the moratorium period expires, but rather at the point where these payments are expected according to the (shifted) payment schedule. Second, these GL do not specify the duration of the overall extension of the payment schedule. In this respect, bullet loans or loans with seasonal instalments are not treated any differently in these GL. In particular, one could imagine a moratorium whereby all payments between 1 June and 30 September are suspended (i.e. 4-month duration of the moratorium), and whereby the payment schedules are extended such that the payments become due 9 months or 12 months later than the original schedule. However, paragraph 10(f) of the GL requires that the moratorium is applied before what was originally 30 June 2020 (and has now been extended to 30 September 2020). As further clarified in paragraph 22 of the background and rationale, the decision on the application has to be taken before that date and hence the payments should be rescheduled by then. Furthermore, in accordance with</p>

Question	Paragraph	Implementation stance
<p>purposes of counting days past due) till 30 June 2021.</p>		<p>paragraph 10(d) of the GL, the same conditions have to be offered to all clients within the scope of application of the moratorium. Therefore, individual adjustment of the schedules due to the seasonal nature of specific businesses would not meet the conditions of these GL.</p>
<p>16 Are obligors that are eligible and have been approved to participate in the moratorium allowed to initiate payments (partial or wholly at the obligor's discretion) of their contractual instalments (after informing the institution) before the expiration of the moratorium period? In addition, our understanding is that the counting of the days past due will start after the official expiry of the moratorium (i.e. the payment of instalments at the obligor's discretion during the period of the moratorium does not constitute a trigger event for counting of days past due).</p>	<p>Paragraph 33 of the B&R</p>	<p>The application of the moratorium should not be compulsory for obligors. This should be clear from paragraph 33 in the background and rationale, where it is stated that 'due to the non-compulsory character of the moratorium, the number of obligors to whom the moratorium was offered may be larger than the number of obligors to whom it was actually applied'. Furthermore, the moratorium may offer the obligors certain options with regard to the length of the moratorium, and, hence, the duration of the moratorium may depend on the specific choice of the obligor. However, once the moratorium is applied and the schedule is revised in accordance with the option chosen by the obligor, this should be adhered to both by the obligor and by the institution, and this revised schedule should be the basis for the counting of days past due.</p>
<p>17 In the case of moratoria that do not specify a deadline for the submission of applications from the borrowers requesting participation in the moratorium, should obligors that apply and are approved to participate in a moratorium after 30 June be treated differently from those that applied before this cut-off date for the purpose of the counting of days past due?</p>	<p>Paragraph 10(f) of these guidelines and paragraphs 16 and 22 of the B&R</p>	<p>The treatment set out in the GL should be applied only to obligors who apply for the moratorium and for whom the decision on the application of the moratorium is taken before the originally specified deadline of 30 June 2020 (now extended to 30 September 2020).</p>
<p>18 Does a moratorium scheme implemented by some institutions using an opt-in (whereby the customer has to</p>	<p>Paragraph 10(d) of these GL</p>	<p>The application of the moratorium should not be compulsory for obligors. This should be clear from paragraph 33 in the background and rationale, where it is</p>

Question	Paragraph	Implementation stance
<p>communicate to the institution its willingness to make use of the moratorium being offered) and other institutions using an opt-out mechanism (whereby the moratorium is applied to customers unless they object) qualify as a general payment moratorium as set out in these GL?</p>		<p>stated that ‘due to the non-compulsory character of the moratorium, the number of obligors to whom the moratorium was offered may be larger than the number of obligors to whom it was actually applied’. The GL do not specify how this non-compulsory aspect should be implemented by the institutions. In particular, the moratorium may be offered by the institution to its obligors by means of an opt-in mechanism, or alternatively it may be presented to all its obligors, allowing them to opt out. However, paragraph 10(f) requires that the moratorium is applied before 30 June 2020 (now extended to 30 September 2020). As further clarified in paragraph 22 of the background and rationale, the decision on the application has to be taken before that date and the payments should be rescheduled by then.</p>
<p>19 When an obligor holds several different financial products with an institution (e.g. a loan, a current account that is in overdraft and a credit line), can the institution suspend the days past due counter for this customer if only one of these products (the loan) falls within the scope of the EBA guidelines?</p>	<p>Paragraph 10 of these GL</p>	<p>The treatment specified in the GL applies only to those loans that are within the scope of application of a given moratorium, meeting the conditions specified in paragraph 10. While institutions may decide to apply other individual measures to other exposures, these would have to be assessed on an individual basis against the definition of forbearance and distressed restructuring.</p>
<p>20 Loan payment moratoria for internationally syndicated loans: if a syndicate or an association agrees in a coordinated manner to create a moratorium on internationally syndicated loans (i.e. modifying the terms of the loan to postpone payments), could the institutions avoid having to register a sharp increase in non-performing loans? If not, but the individual bank unilaterally</p>	<p>Paragraph 10 of these GL</p>	<p>While these GL do not disallow internationally agreed moratoria, in order to apply the treatment specified in these GL the moratorium has to meet the conditions specified in paragraph 10. In particular, paragraph 10(b) requires that the moratorium applies to a large group of obligors predefined on the basis of broad criteria. This condition may be difficult to meet in the context of large syndicated loans with very individual conditions. It is of course possible to apply individual measures to such loans,</p>

Question	Paragraph	Implementation stance
<p>applies forbearance measures to such loans, should it apply the EBA GL on the definition of default?</p>		<p>but in this case an individual assessment would have to be made of whether these measures meet the definition of forbearance and distressed restructuring.</p> <p>It has to be stressed that the purpose of the GL is not to avoid an increase in non-performing loans but to identify situations where the changes in the terms and conditions of the loans do not meet the definition of forbearance because of their overall systemic character. However, any indications of unlikelihood to pay and any cases of non-performing loans have to be recognised in an appropriate and timely manner, as required by the CRR.</p> <p>These GL do not contradict or waive the GL on the definition of default. On the contrary, they confirm that defaults have to be identified in accordance with the usual processes, i.e. (i) the unlikelihood to pay has to be assessed and recognised in accordance with the normal policies for a given type of exposures, and (ii) the 90 days past due criterion continues to apply. The only additional clarification is that, in the case of exposures subject to the moratoria, the assessment of unlikelihood to pay as well as 90 days past due should be performed in relation to the modified scheduled of payments.</p>
<p>21 Do I understand correctly that for cases where public moratoria in third countries can be applied after 30 June 2020 and the EBA does not extend the deadline, the bank shall use a different treatment in terms of default and forbearance on group level versus subsidiary level to comply with these GL?</p>	<p>None</p>	<p>The GL provide clarifications on how to apply the definition of default in accordance with Article 178 of Regulation (EU) No 575/2013 as regards the specific situation of the application of general payment moratoria (legislative and non-legislative). The application of the default of an obligor on a group-wide basis is required by Article 178(1) of the CRR. This aspect is further clarified in paragraph 79 of the GL on the definition of default, requiring (i) that the same definition of default is used consistently by an institution, parent undertaking or any of its subsidiaries and across the</p>

Question	Paragraph	Implementation stance
		types of exposures, and (ii) where different definitions of default apply either within a group or across the types of exposures, the scope of application of each of the default definitions is clearly specified, in accordance with paragraphs 83 to 85 of the GL on the definition of default. Subsidiaries in third countries naturally need to comply with the local rules, even if these are not in line with the CRR; however, on the consolidated level the CRR framework needs to be adhered to. In that case different default statuses at the local and the consolidated levels may occur.
22 Do I understand correctly that for cases where public moratoria in third countries allow additional measures besides payment holidays, the bank shall use a different treatment in terms of default and forbearance at group level versus subsidiary level to comply with these GL?	None	On a consolidated level, institutions have to meet the requirements of the CRR and hence the treatment set out in the GL can be applied only to those moratoria (legislative and non-legislative) that meet the requirements of these GL. As clarified in paragraph 79 of the GL on the definition of default, requiring (i) that the same definition of default is used consistently by an institution, parent undertaking or any of its subsidiaries and across the types of exposures, and (ii) where different definitions of default apply either within a group or across the types of exposures, the scope of application of each of the default definitions is clearly specified, in accordance with paragraphs 83–85 of the GL on the definition of default.

2.2 Summary of notifications received

The EBA is currently receiving the notifications from Member States detailing aspects of the different moratoria schemes that have been introduced in each jurisdiction. A list of the moratoria in place in each jurisdiction and their basic features has also been published separately.⁹

⁹ The list of the general payment moratoria will be updated on a regular basis and published [here](#).

At the time of writing (2 July 2020), the EBA has received responses from 28 Member States. Two of these have declared that no moratorium is in place. For all of these notifying Member States, it is the supervisory authority and/or the national bank that provided notification of these moratoria.

Of the 26 Member States for which EBA has been notified that moratoria are in place, there is only a legislative moratorium in place in 8 Member States, whereas there are both legislative and non-legislative moratoria in place in 7 Member States, and a non-legislative moratorium (moratoria) in place in 11 Member States. In the 11 Member States in which there are non-legislative moratoria in place, there are 6 Member States with just one non-legislative moratorium, whereas there are 5 Member States with more than one different moratoria in place. Note that a different moratorium can be understood in different ways (i.e. in some cases different sector associations in the same Member State each issued a moratorium). In other cases, the same sector association in a Member State issued several moratoria, for instance one moratorium for consumer loans and another one for mortgages.

In the Member States where there is a legislative moratorium in place (15 including the Member States with both legislative and non-legislative moratoria), the moratorium scheme is compulsory in all except one Member State.

There are four Member States for which the application of the moratorium is accompanied by a public guarantee and in all cases this is a legislative moratorium. However, specific conditions are connected to these guarantee schemes in the different Member States, in relation, for instance, to the share of the loan that is covered. In one Member State, it is acknowledged that the guarantee scheme is not considered to be eligible unfunded credit protection (because the total quota of the state is limited and not allocated to institutions in advance).

In several Member States, the application of the moratorium is publicly encouraged, for instance by public communication, public announcement or specific letters to institutions.

The participation in the moratorium is usually very broad, with more than 90% of the banking industry participating in the scheme (on average). This share is higher for the legislative moratoria, which is driven by the fact that legislative moratoria are compulsory in most notifying Member States (see above).

Several products and obligors are in the scope of the moratorium. In several Member States, the moratorium is offered to the sector of SMEs and to the sector of self-employed persons while in 3 Member States the moratorium is also offered to non-profit organisations. In addition, in some of the Member States, the moratorium scheme also includes natural persons. With regard to the products, ten Member States apply the moratorium to mortgage loans, nine Member States consider consumer loans and three Member States also include leasing and factoring products. In six Member States the moratorium is explicitly not offered to firms and companies belonging to the financial sector.

A wide range of selection criteria is in place for obligors or exposures to be considered eligible to participate in the scheme. The criteria are mainly:

- based on the sector or segment of the obligor or exposure (in particular, the following segments have been identified: mortgages, consumer loans, self-employed obligors, non-profit organisations, households);
- based on the residence of the obligor (e.g. only domestic exposures are eligible);
- based on the performance of the obligor or exposure (in several cases, only performing or non-defaulted obligors are entitled to participate in the moratorium);
- based on the payment capacity (e.g. requiring that only obligors that have suffered a decline in their earnings are eligible, and/or only obligors with less than EUR X in their savings accounts).

In most moratoria, a combination of the above criteria applies. Only two Member States do not require specific conditions to participate in the programme.

In 22 Member States, the obligors are requested to submit an application to opt in to the moratorium process, while only 2 Member States apply the moratorium (legislative moratorium) automatically. Two Member States require the obligors to submit an application only for its non-legislative moratorium and not for the legislative one. For Member States that require an application to be submitted, there are different deadlines; most Member States set a deadline of the end of June 2020.

The conditions offered by the moratorium are various. With respect to the payments that are suspended, postponed or reduced, some of the Member States consider only the principal amount, whereas others Member States consider both the principal and interest. One Member State's non-legislative moratorium considers both the principal and interest for retail loans and only the principal for business loans. Most Member States allow a period of 6 months during which payments are suspended, postponed or reduced, whereas a period of 12 months is allowed in the other moratoria. In addition, for most Member States, the period of the extension of the payment schedule is equal to the period of postponement/suspension/reduction (usually 6 months or 12 months). In a specific Member State the overall extension of the payment schedule is 18 months for its legislative moratorium; for one of its non-legislative moratorium schemes, the overall extension is up to 24 months for firms operating in specific sectors that are suffering very significant losses because of the COVID-19 pandemic. It is worth mentioning that several Member States apply the moratorium not only to performing exposures but also to forborne and non-performing exposures when the specific conditions are met.

The date from which the moratorium applies is different for each Member State. However, it seems that most of the Member States set the starting date in March or in April.

3. Operational risk

This section of the report focuses on common criteria that institutions should follow for the identification and treatment of operational risk events and losses through the provision of a dedicated risk classification schema. The risk classification schema is presented as an analysis of the five main types of impacts that can be identified as relating to COVID-19 and that should be considered from an operational risk perspective.

For each type of impact, clarifications are provided on whether and how these events should be treated as operational risk losses to be considered under the Advanced Measurement Approach (AMA) and Basel III Standardised Approach (SA) and which ones should not be included in those calculations but should still be recorded for managerial purposes.

3.1 Background

In preparing this report, particular attention was devoted to whether or not specific events/items caused by the COVID-19 crisis should be included under the remit of operational risk and, if so, if and how the economic impact stemming from those events/items should be considered for capital requirements in AMA and, prospectively, the revised Basel III Standardised Approach for operational risk (SA)¹⁰. It is evident that the current simpler approaches, i.e. the Basic Indicator approach (BIA), the Standardised Approach (TSA) and the Alternative Standardised Approach (ASA), and the Business Indicator Component of the SA would be affected only through variation of items of, respectively, the Relevant Indicator and the Business Indicator, directly or indirectly caused by the COVID-19 crisis. While not certain, in such situations it is more likely that there will be a reduction of institutions' margins, which should imply a smaller Relevant Indicator/Business Indicator,¹¹ hence reduced risk weighted assets (RWA) figures for operational risk, which might be further assessed by institutions and competent authorities for Pillar 2 purposes.

The objective of the 'COVID-19 operational risk classification schema' presented in this section is to set out common criteria that institutions should follow for the identification and treatment of those events and losses, in order to address possible doubts and questions from industry and, more importantly, to reduce inconsistencies in their use for capital requirements calculations. If an operational risk loss described in this schema occurs, it should be appropriately collected by AMA institutions in accordance with the requirements of the CRR and Commission Delegated Regulation

¹⁰ Under the SA, operational risk losses are considered for capital calculation by all the institutions, including those not adopting the loss component, since they must feed the Business Indicator, in particular the item 'Other Operating Expenses' (see Basel III SA text, p. 135, Annex: Definition of Business Indicator components, Row: Other Operating Expenses, Column: Typical sub-items).

¹¹ However, under the SA, it might happen that the increase of operational risk losses due to COVID-19 (to be mostly accounted for under the item 'Other Operational Expenses') overweighs the reduction of revenues and this causes an increase in the Business Indicator.

(EU) 2018/959, in particular as specified in Articles 21, 22, 23 and 29¹² of the latter. Similar criteria in terms of loss data collection are envisaged for the SA, in accordance with the Basel III standards and the ‘Policy Advice on the Basel III Reforms: Operational Risk’, issued by the EBA in August 2019 in response to the Call for Advice of the European Commission. While the classification schema refers to the identification and collection of historical losses, it is expected that institutions, where relevant, take into account the effects of the COVID-19 crisis on other elements of the operational risk framework (e.g. scenario analysis, risk self-assessment) for Pillar 1 and/or Pillar 2 purposes.

This classification, besides the operational risk-specific rules, current and envisaged, also takes into account the EBA Statement on the application of the prudential framework regarding default, forbearance and IFRS9 in light of COVID-19 as of 25 March 2020, the GL on moratoria and the EBA Statement on additional supervisory measures in the COVID-19 pandemic of 22 April 2020,¹³ especially the EBA call on priority areas for digital operational resilience. In general terms, the discussion on operational risk should pursue the goal of full coherence with the objectives of the measures taken so far under other prudential frameworks, to ensure that the approach taken on the operational risk side does not undermine the positive effects for institutions of the flexibility allowed elsewhere and of the broad ranges of supportive measures implemented by Member States.

3.2 COVID-19 operational risk classification schema

While the COVID-19 crisis clearly represents an operational risk event, its possible consequences in terms of losses for institutions might affect different types of risks. Therefore, the nature of those losses should be carefully assessed to ensure their consistent and correct classification. In particular, it is likely that institutions are hit by secondary effects specifically related to market risk or credit risk, and not necessarily within the boundary of operational risk.

From a Pillar 1 operational risk perspective,¹⁴ the following main types of impact from the COVID-19 crisis should be considered:

- impacts of COVID-19 on institutions’ business continuity;
- impacts of COVID-19 on institutions’ ordinary course of business;
- impacts of COVID-19 on loss events;
- impacts of COVID-19 on credit risk and potential consequences on operational risk;
- impacts of implementing novel legislation in response to COVID-19.

¹² In particular, consistently with the internal policies and the practices implemented for all the operational risk losses, institutions should ensure an appropriate treatment of losses caused by a root event in the form of a common operational risk event or by multiple events linked to an initial operational risk event, as specified in Article 29, points h and i of Commission Delegated Regulation (EU) 2018/959.

¹³ [Link to the statement](#) on operational on additional supervisory measures in the COVID-19 pandemic.

¹⁴ The analysis is restricted to Pillar 1 aspects of COVID-19 and no consideration is provided from a Pillar 2 perspective.

The next sections describe each impact type in detail and, for each of them, include the EBA guidance.

3.3 Impacts of COVID-19 on institutions' business continuity

A possible impact of COVID-19 on institutions' business continuity is the interruption or deterioration of the quality of services provided to counterparties, customers, etc. Such events would be caused by the lack of effective business continuity and contingency plans.

Therefore, any economic consequence of such events should be considered within the scope of operational risk and should be included in the AMA/SA calculations.

3.4 Impacts of COVID-19 on institutions' ordinary course of business

A possible impact of COVID-19 on institutions' ordinary course of business is the reduction of profits from banking and financial services provided to customers, caused, for instance, by the reduced access to branches/offices due to lockdowns. Such events would generate opportunity costs, as identified by Article 22(2)(c) of Commission Delegated Regulation (EU) 2018/959.¹⁵

Accordingly, these events/losses should be recorded for managerial purposes but not be included in the AMA and the Loss Component of the SA¹⁶ calculations.

3.5 Impacts of COVID-19 on loss events

A possible impact of COVID-19 on loss events is the increase in events and/or losses either related solely to operational risk or at the boundaries between operational risk and market risk. These could be directly attributable to the impact of the COVID-19 crisis on the institutions or be correlated with it. For example, they could stem from:

- IT failures, cybercrime and frauds (internal and external);
- additional costs¹⁷ specifically resulting from the pandemic crisis, such as those, mainly one-off, costs connected with the augmented use of digital services and teleworking to ensure business continuity; and
- those costs deriving from employment practices and workplace safety, when necessary for business continuity purposes to restore the position prevailing before the operational risk

¹⁵ Article 22(2)(c) of Commission Delegated Regulation (EU) 2018/959 states: 'Opportunity costs in the form of an increase in costs or a shortfall in revenues due to operational risk events that prevent undetermined future business from being conducted, including unbudgeted staff costs, forgone revenue, and project costs related to improving processes'.

¹⁶ The reduced profits would in any case affect the Business Indicator.

¹⁷ In accordance with Commission Delegated Regulation (EU) 2018/959, Article 22(1)(b)(ii), 'costs of repair or replacement to restore the position prevailing before the operational risk event' should be included within the scope of operational risk loss.

event, such as staffing of personnel/consultants for the coverage of essential functions, one-off COVID-19-induced disinfections and medical services to restore face-to-face business.

These events/losses, including those at the boundaries with market risk¹⁸, are operational risks and should be included in the AMA/SA calculations.

3.6 Impacts of COVID-19 on credit risk and potential consequences on operational risk

Whereas COVID-19 may affect the credit risk of credit obligations, from an operational risk perspective, an institution is also exposed to its own operational risk events in relation to the COVID-19 crisis, which may have an impact on credit risk. This is analysed more in detail in the next sub-sections.

a. Impacts of COVID-19 on operational risk events relating to credit risk

The current situation derived from the repercussions of COVID-19 may have implications for the incidence of operational risk events with an impact on credit exposures, such as failures in the processing of credit exposures, (credit) fraud attempts such as identity theft, fictitious identities or fraud based on counterfeit documents provided by electronic means, which may have taken advantage of the closure of physical branches.

These types of impacts are operational risk at the boundaries with credit risk,¹⁹ which should be recorded for managerial purposes, and any loss should be considered within the scope of operational risk for the calculation of AMA/SA capital requirements when it is not already taken into account under the credit risk RWA.²⁰

b. Other impacts of COVID-19 on credit risk and implications from an operational risk standpoint

In the short term, many countries have introduced specific measures to provide obligors affected by the COVID-19 crisis with payment relief by allowing the suspension or postponement of payments within a specified period of time, allowing the obligors to return to regular payments when the situation returns to normal (e.g. general moratoria, government or other types of guarantees). While this should limit consequences on credit risk in the short term, there might be long-term consequences.²¹

¹⁸ Typical operational risk events pertaining to financial transactions, including those related to market risk, are described in Commission Delegated Regulation (EU) 2018/959, Article 5.

¹⁹ Other operational risk events relating to credit risk are described in Commission Delegated Regulation (EU) 2018/959, Article 24.

²⁰ In accordance with Article 322(3)(b) of the CRR, losses due to an operational risk event of the institution that have an impact on credit exposures fall under the scope of operational risk RWA only if the impact related to credit risk is not computed (or not fully computed) under credit risk RWA.

²¹ The Guidelines on legislative and non-legislative moratoria on loan repayments (EBA/GL/2020/02) state that 'While the EBA is supportive of the measures and initiatives taken in the Member States in order to address the economic consequences of the COVID-19 pandemic, it also sees the need to ensure that the risk is identified and measured in a true

The consequences of the abovementioned measures are understood to affect the credit risk and the credit risk RWA calculation, while the losses stemming from such a situation should not be included within the scope of operational risk for AMA/SA calculations.

As a consequence of the measures mentioned above, there may be other consequences for institutions that are not necessarily related to the credit risk of the obligors. For example, in the case of an institution not appropriately increasing the postponed payments, then the NPV of the credit obligation will decrease and this would generate losses.

From an operational risk perspective, three different situations should be distinguished:

- If the decision not to appropriately increase the postponed payments is made by the institution itself with the sole purpose of supporting the obligor and/or the economy in a crisis situation,²² then the losses are not linked to a specific operational risk event preventing the institution from collecting the revenues and, hence, they should not be included within the scope of operational risk for AMA/SA calculations.²³
- If the postponed payments are not increased, despite the intention to do so, because of an organisational/procedural issue within the institution, and the revenue should have been collected, then this is a failure of the institution's systems, processes or people and, therefore, as mentioned in Section 3.6(a), losses should be considered within the scope of operational risk for AMA/SA calculations, when these are not already taken into account under the credit risk RWA.
- If the postponed payments are not increased because a legislative moratorium applied in the light of the COVID-19 crisis allows creditors only to extend the duration of the loans within the modified schedule of payments, but forbidding adjustments to the postponed payments, then the resulting losses are due to the correct application of a legal rule. These losses are not due to legal risk, as explained in Section 3.7 and, hence, they should not be considered within the scope of operational risk for AMA/SA calculations.

3.7 Impacts of implementing novel legislation in response to COVID-19

Possible impacts of implementing novel legislation in response to the COVID-19 pandemic are the further costs incurred/assumed in adjusting to, or a result of, newly adopted legal obligations (e.g.

and accurate manner. Therefore, institutions must continue to adequately identify those situations where obligors may face longer-term financial difficulties and classify in accordance with the existing regulation.'

²² Increasing, or not, the postponement of payments is a decision in the remit of institutions whenever the general payment moratorium meets the criteria presented in paragraph 10(c) of EBA/GL/2020/02 (i.e. when the moratorium affects only the payment schedule – for a predefined limited period of time – thus leaving the possibility to adjust the schedule afterwards).

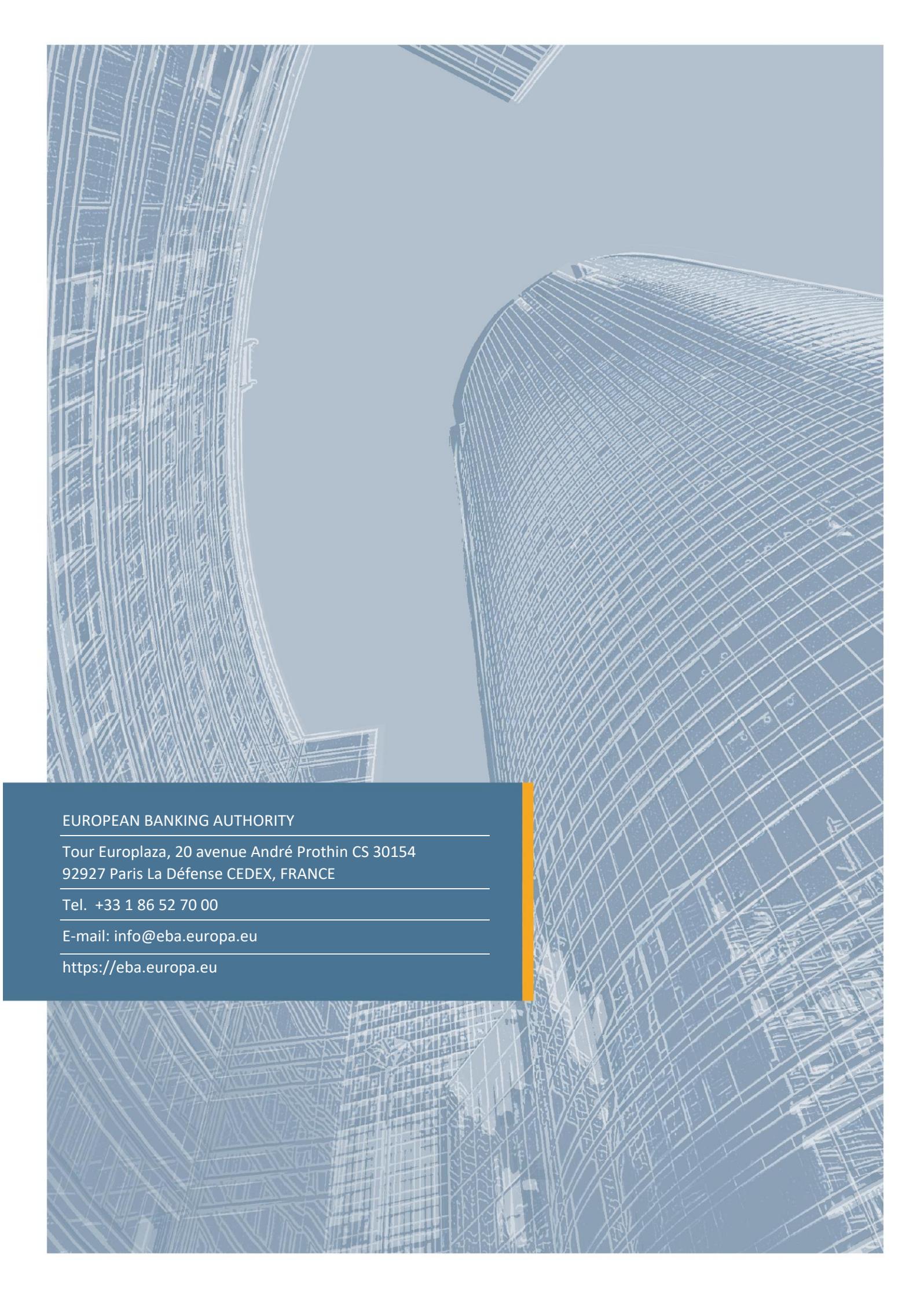
²³ However, if the decision not to increase the postponed payments is a result of a voluntary action from the institution intended to avoid or mitigate a legal risk arising from an operational risk event, this is operational risk in accordance to Commission Delegated Regulation (EU) 2018/595, Article 3(1)(b).

where mandatory changes in credit or labour standards will be introduced) where no breach of legal rules have occurred.

Such expenses, which are not related to the costs of repair or replacement to restore the position prevailing before the COVID-19 event (which are, in turn, already considered in Section 3.5), are not an operational risk loss (due to legal risk).

On the contrary, the failure to respond to the new obligations where such action is necessary to comply with a legal rule is an operational risk event related to legal risk.²⁴ Examples of this are fines and/or litigations due to non-compliance with stricter safety standards, which should be considered within the scope of operational risk for AMA/SA calculations (like the events listed in Section 3.5).

²⁴ Described in Commission Delegated Regulation (EU) 2018/959, Article 3(1)(a)(i).



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