
Consultation paper on mandates in the loss group for Operational Risk

Public hearing - 4 July 2024

Guidance for participants

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 - Draft RTS on specifying how institutions shall determine the adjustments to their loss data set following the inclusion of losses from merged or acquired entities or activities under Article 321(2) of the CRR
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Welcome and introduction

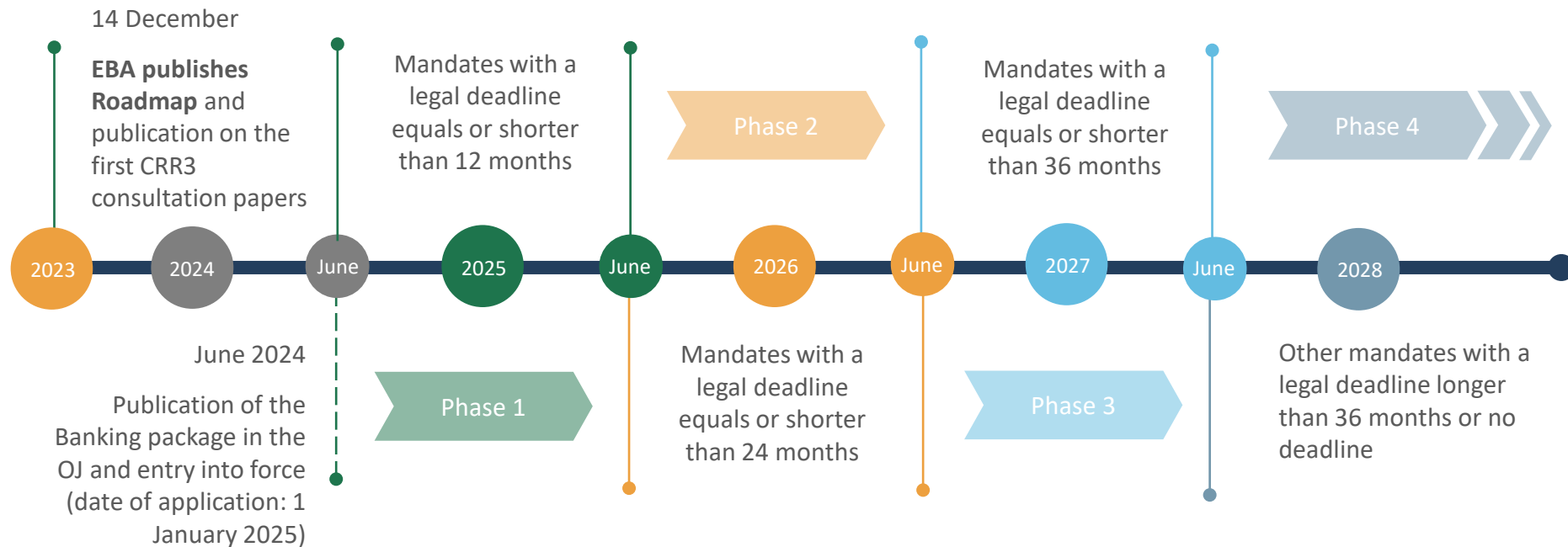
EBA roadmap on strengthening the prudential framework

The EBA roadmap on strengthening the prudential framework was published in December 2023 ([link](#))

Main objectives:

- Providing clarity to the industry on how it will develop the mandates implementing the legislation
- Showing how the EBA expects to finalise the most significant components ahead of the application date
- Setting out EBA policy work for the Banking package
- Intended as a useful reference for industry and other stakeholders in their own implementation efforts

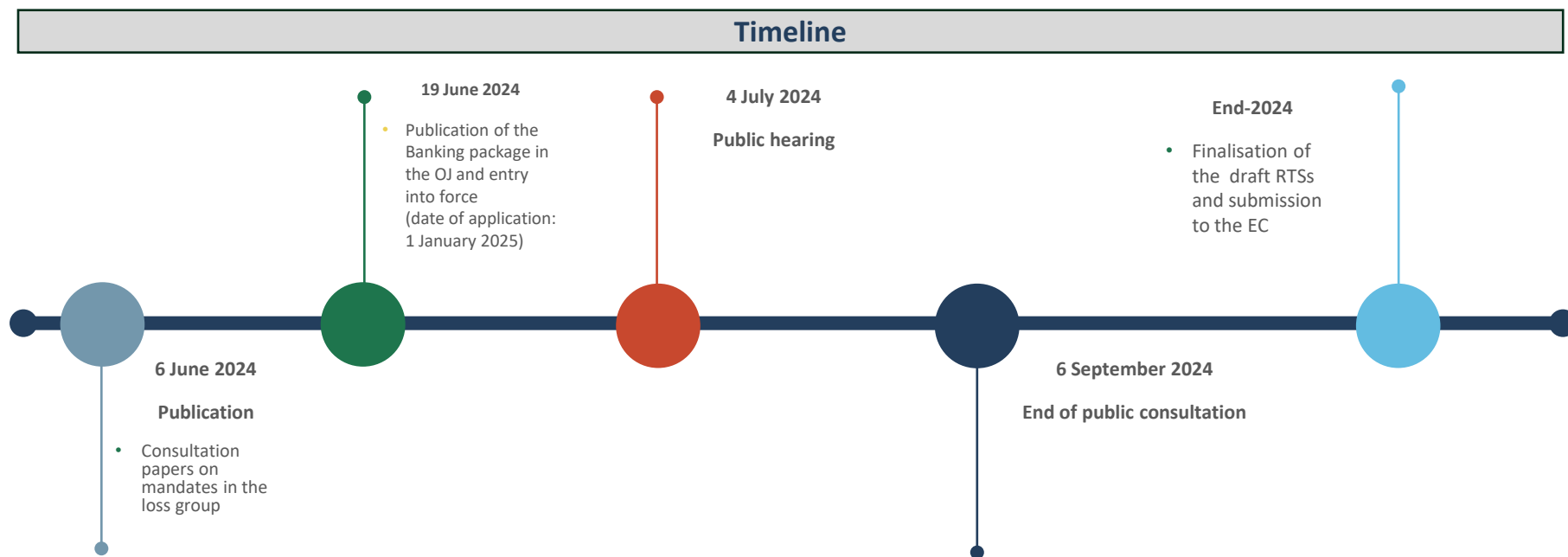
Sequencing in four phases of 12 months each



Operational risk



Timeline for CP on mandates in the loss group



02

Draft RTS on the Operational Risk Loss

Draft RTS on establishing a risk taxonomy on operational risk that complies with international standards and a methodology to classify the loss events included in the loss data set based on that risk taxonomy on operational risk under Article 317(9) of the CRR

Draft RTS on establishing a risk taxonomy on operational risk under Article 317(9) of the CRR

- A list of Level 1 event types, Level 2 categories and attributes has been developed. The Level 1 event types, the Level 2 categories and some attributes have the feature of being mutually exclusive and collectively exhaustive (MECE)
- Main source: CRR2, Basel standards, work carried out by the EBA in response to EC's CfA and published in the "EBA Policy Advice on the Basel III Reform: Operational Risk", industry best practices

Structure of the draft RTS:

- Article 1: Classification of loss events
- Article 2: List of Level 1 event types
- Articles 3 to 8: List of Level 2 categories
- Article 9: List of attributes

Draft RTS on establishing a risk taxonomy on operational risk under Article 317(9) of the CRR

List of Level 1 event types

- The draft RTS provide a list of seven Level 1 event types that matches the current list in the CRR2.
- An institution must assign each loss event above EUR 20,000 (and above EUR 100,000) to a single Level 1 event type.

Draft RTS on establishing a risk taxonomy on operational risk under Article 317(9) of the CRR

List of Level 2 categories

- Level 2 categories specify in greater details the nature of the operational risk loss
- The draft RTS provide a list of 38 Level 2 categories for each Level 1 event type (except for “Physical damage” event type).
- An institution must assign each loss event attributed to a specific Level 1 event type to the corresponding Level 2 category.

Draft RTS on establishing a risk taxonomy on operational risk under Article 317(9) of the CRR

List of attributes

- The draft RTS provide a list of 19 attributes (also called “flags”) to add specific features to an operational risk loss. They help identify risk events with common risk characteristics or causes.
- Some attributes retain the characteristic of being MECE.
- An institution should assign all applicable attributes to an operational risk loss. Some attributes must be assigned mandatorily, while others are optional.

Draft RTS on establishing a risk taxonomy on operational risk under Article 317(9) of the CRR

Schema of the new Taxonomy on operational risk losses

Level 1 event types	Level 2 categories	Large loss event	Ten largest loss events	Pending Losses	Legal risk - Misconduct	Legal risk - Other than conduct	Model risk	ICT risk	Credit risk boundary (those not included in RWA on credit risk)	Market risk boundary flag	Third party risk	Environmental risk - Physical risk	Environmental risk - Transition risk	Social risk	Governance risk	Greenwashing risk	Retail (including Banking and Retail brokerage)	Commercial (including Banking and Corporate Finance)	Trading&Sales	Other (Payments & Settlements, Asset management, Agency Services, Corporate Items)
Internal Fraud	Bribery and Corruption				Yes															
Internal Fraud	Insider Trading not on institution's account				Yes															
Internal Fraud	Intentional mismarking				Yes															
Internal Fraud	Internal fraud committed against other stakeholders				Yes															
Internal Fraud	Internal fraud committed against the institution					Yes														
Internal Fraud	Malicious physical damage to employees, institution's physical asset and public assets					Yes														
Internal Fraud	Intentional sanctions violation				Yes															
Internal Fraud	Intentional money laundering and terrorism financing				Yes															
External Fraud	Second party fraud																			
External Fraud	Cyber-attacks							Yes												
External Fraud	Data theft and manipulation							Yes												
External Fraud	First party fraud																			
External Fraud	Third party fraud										Yes									
Employment Practices and Workplace Safety	Inadequate Employment practice																			
Employment Practices and Workplace Safety	Inadequate workplace safety																			
Clients, Products & Business Practices	Anti-trust / anti-competition				Yes															
Clients, Products & Business Practices	Client mistreatment / failure to fulfil duties to customer				Yes															
Clients, Products & Business Practices	Data privacy breach / confidentiality mismanagement																			
Clients, Products & Business Practices	Improper market practices, product and service design or licensing				Yes															
Clients, Products & Business Practices	Rights/obligation failures in preparation phase					Yes														
Clients, Products & Business Practices	Insider Trading on firm's account																			
Clients, Products & Business Practices	Model / methodology design error						Yes													
Clients, Products & Business Practices	Accidental money laundering and terrorism financing				Yes															
Clients, Products & Business Practices	Accidental sanctions violations				Yes															
Clients, Products & Business Practices	Sale service failure				Yes															
Damage to Physical Assets	NA																			
Business Disruption and System Failures	Hardware failure not related to management of transactions							Yes												
Business Disruption and System Failures	Inadequate business continuity planning / event management																			
Business Disruption and System Failures	Network failure not related to management of transactions							Yes												
Business Disruption and System Failures	Software failure not related to management of transactions							Yes												
Execution, Delivery & Process Management	Processing / execution failures																			
Execution, Delivery & Process Management	Client account mismanagement				Yes															
Execution, Delivery & Process Management	Rights/obligation failures in execution phase					Yes														
Execution, Delivery & Process Management	Data management																			
Execution, Delivery & Process Management	Improper distribution / marketing				Yes															
Execution, Delivery & Process Management	IT failures related to management of transactions							Yes												
Execution, Delivery & Process Management	Model implementation and use						Yes													
Execution, Delivery & Process Management	Third party management failures										Yes									
Execution, Delivery & Process Management	Regulatory and Tax authorities, including reporting				Yes															

Draft RTS on establishing a risk taxonomy on operational risk under Article 317(9) of the CRR

Rapidly recovered losses

- The draft RTS specify that losses fully recovered within 5 working days shall not be included in the loss data set.
- In case of partial recovery, only the portion unrecovered within 5 working days shall be recorded in the loss data set.

Overview of the questions for consultation

- **Question 1:** Do you think that the granularity of and the distinction between the different Level 2 categories is clear enough? If not, please provide a rationale.
- **Question 2:** Do you perceive the attribute “greenwashing risk” as an operational risk or as a reputational risk event? Please elaborate.
- **Question 3:** To which Level 1 event types and/or Level 2 categories would you map greenwashing losses? Please provide a rationale.
- **Question 4:** Is “Environmental – transition risk” an operational risk event? If yes, to which Level 2 categories should it be mapped? Please provide a rationale.
- **Question 5:** Which of these attributes do you think would be the most difficult to identify? Please elaborate.
- **Question 6:** Do you agree with the inclusion of the attribute “Large loss event”? If not, please elaborate.
- **Question 7:** Do you think that the granularity of the proposed list of attributes is clear enough? Would you suggest any additional relevant attribute? Please elaborate your rationale.
- **Question 8:** Would it be disproportionate to also map the three years preceding the entry into force of these Draft RTS to Level 2 categories? If yes, what would be the main challenges?

Draft RTS on specifying the condition of 'unduly burdensome' for the calculation of the annual operational risk loss under Article 316(3) of the CRR

Draft RTS on specifying the condition of ‘unduly burdensome’ for the calculation of the annual operational risk loss under Article 316(3) of the CRR

- The draft RTS specify the conditions when it would be unduly burdensome for an institution to calculate the annual operational risk loss, and thus to build the loss data set.
- The draft RTS are applicable only to institutions whose business indicator (BI) is between EUR 750 million and EUR 1 billion.
- The conditions when it would be unduly burdensome to calculate the annual operational risk loss are the following:
 - **Mergers and acquisitions:** institutions that breach the EUR 750 m threshold for the BI, may be exempted from 1 to 3 years;
 - **Temporary breach of the BI threshold:** institutions that breach the EUR 750 m threshold for the BI for no more than 4 consecutive reporting dates and for no more than 8 reporting dates in the past 20 reporting dates may be exempted;
 - **Bridge institutions:** institutions set up according to Art. 40 of the BRRD may be exempted.

Overview of the questions for consultation

- **Question 9:** Is the length of the waivers (three years and one year) for institutions that, post merger or acquisition fall into the EUR 750 million – EUR 1 billion band for the business indicator, sufficient to set up the calculation of the operational risk loss following a merger or acquisition? If not, please provide a rationale.
- **Question 10:** Are there other cases where it should be considered to be unduly burdensome for institutions to calculate the annual operational risk loss?

Draft regulatory technical standards for the specification on how institutions shall determine the adjustments to their loss data set following the inclusion of losses from merged or acquired entities or activities as referred to in Article 321(1) of the CRR under Article 321(2) of the CRR

Draft regulatory technical standards for the specification on how institutions shall determine the adjustments to their loss data set following the inclusion of losses from merged or acquired entities or activities as referred to in Article 321(1) of the CRR under Article 321(2) of the CRR

- The draft RTS specify the adjustments to the loss data set of an institution following a merger or acquisition, or the incorporation of an activity.
- **Following a merger or an acquisition**, or the incorporation of an activity, losses stemming from merged or acquired entities or activities shall be recorded in the loss data set of the reporting institution using the operational risk taxonomy developed in the RTS.
- **In case of different currencies**, losses stemming from merged or acquired entities or activities shall be included in the loss data set applying, for each year of the ten-year window, the exchange rate used at the end of the relevant year in the institution's financial statement.
- When the acquiring entity is not able to promptly incorporate in the loss data set losses stemming from acquired entities or activities, the draft RTS provide a proxy formula than can be used for one year.

Overview of the questions for consultation

- **Question 11:** Which of the provisions of Article 317(7), as developed by the draft RTS on the development of the risk taxonomy, and Article 318 of the CRR would be most difficult to implement after a merger or acquisition for the reporting entity? Please elaborate.
- **Question 12:** In your experience, would the provisions of this article apply to most mergers and acquisitions, or would data usually be promptly implemented in the loss data set of the reporting institution?
- **Question 13:** Are there other adjustments that should be considered in these draft RTS? If yes, please elaborate.



03

Q&As

References

- Consultation Paper on Operational risk mandates in the loss group ([link](#))
- Submit your response by **6 September 2024** ([link](#))

Thank you!



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