

28 July 2020

Circular to Credit Institutions on the Extension to the Restriction on Dividend Distributions or Share Buy-backs and Variable Remuneration

Dividend distributions and share buy-backs

Reference is made to the [MFSA Circular](#) dated 2 April 2020, wherein all credit institutions licensed in terms of the Banking Act (Chap. 371 of the Laws of Malta) were informed of the applicability of the [ECB Recommendation \(ECB/2020/19\)](#) on dividend distributions during the COVID-19 pandemic, at least until 1 October 2020.

The [ECB today adopted Recommendation ECB/2020/35](#) by means of which it extended its previous recommendation to credit institutions on dividend distributions and share buy-backs until 1 January 2021 and asked banks to be extremely moderate with regard to variable remuneration. In this respect, Recommendation ECB/2020/19 has been repealed. The ECB Recommendation clarifies that the ECB deems that since the level of economic uncertainty due to the COVID-19 pandemic remains heightened, credit institutions are still facing difficulties in accurately forecasting their medium-term capital needs.

The ECB also emphasises the continuing need in the current climate of exceptional systemic uncertainty and stressed economic conditions for prudent capital planning, which involves the preservation of the capital position of credit institutions by postponing or cancelling distributions. The ECB also clarified that it will give enough time for credit institutions to replenish their capital and liquidity buffers in order not to act pro-cyclically. Credit institutions are reminded that this measure is temporary in nature and warranted solely by the extraordinary circumstances of the current economic environment.

The MFSA is hereby announcing that Recommendation ECB/2020/35 of the ECB shall also apply in its entirety to all credit institutions licensed in terms of the Banking Act from today and at least until 1 January 2021. This is also consistent with [Recommendation ESRB/2020/7](#) of the European Systemic Risk Board, adopted on 27 May 2020, which requires the relevant authorities to request financial institutions under their supervisory remit to refrain from making distributions, performing share buy-backs and create an obligation to pay variable remuneration to a material risk taker, at least until 1 January 2021.

The MFSA will continue to follow the ECB and the ESRB's recommendations, whilst further evaluating the economic situation, and consider whether further suspension of dividends is advisable after 1 January 2021.

Variable Remuneration Payments

The ECB also [issued a letter](#) to banks directly supervised by it with regard to remuneration policies in the context of the COVID-19 pandemic. In order to address the need for banks to maintain a sufficient

amount of capital to absorb potential losses and support the real economy, the ECB informed banks which it directly supervises to adopt extreme moderation with regard to variable remuneration payments until 1 January 2021, especially to identified staff, insofar as these payments may result in a deterioration in the amount or quality of total capital for the relevant banks. The ECB expects that credit institutions consider the extent to which it is possible to reduce the payment of variable remuneration. This approach is also consistent with the approach undertaken by the ESRB in the above-mentioned ESRB Recommendation, wherein competent authorities are recommended to request institutions under their remit to refrain from creating an obligation to pay variable remuneration to a material risk taker.

In light of the above, the MFSA deems it necessary that all credit institutions licensed in terms of the Banking Act are guided by the contents of the aforementioned letter to banks issued by the ECB.

The MFSA will continue to follow the ECB and the ESRB's recommendations, whilst further evaluating the economic situation, and consider whether further guidance is advisable after 1 January 2021.