Consultation on the 8th MaRisk amendment

National implementation of the EBA guidelines on IRRBB and CSRBB

analytical. quantitative. tech.

Mar 2024

Content

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Abbreviations

BCBS	Basel Committee on Banking Supervision
CSRBB	Credit Spread Risk in the Banking Book
EBA	European Banking Authority
EVE	Economic Value of Equity
ECB	European Central Bank
IRRBB	Interest Rate Risk in the Banking Book
LSI	Less Significant Institution
NPE	Non Performing Exposure
NII	Net Interest Income
RTS	Regulatory Technical Standard

01. Introduction

On 15 February 2024, BaFin published the consultation version of the 8th MaRisk amendment [1]. The consultation phase will run until 14 March 2024 and the final version is to be published as early as April 2024. The amendments to MaRisk relate exclusively to requirements for interest rate and credit spread risks.

In addition to the already published requirements for the supervisory outlier tests (SOTs), which now also include NII, and the standardised methods[1] , the amendment acts as the final implementation of the EBA guidelines on IRRBB and CSRBB [2] from 2022 into national law.

The amendment contains a new section on CSRBB as well as selective adjustments to IRRBB in the main text. Most of the changes consist of direct references to the EBA guidelines, which represent far-reaching additions to the content of the previous MaRisk requirements. The previously implicit requirements are thus explicitly included.

The most important changes result from the new section on CSRBB. The topic of credit spread risks is not new, as it is explicitly mentioned in the guidelines on risk-bearing capacity [3]. Nevertheless, the MaRisk amendment results in important changes to this topic:

- Credit spread risks are explicitly categorised as material.
- Both an EVE and an NII view are required for CSRBB.
- The requirements for the perimeter and the risk factors for CSRBB differ from the guidelines on risk-bearing capacity.

For IRRBB, the changes are significantly smaller as no fundamentally new requirements are formulated. However, the significance of the requirements is increased by their explicit mention.

As the publication of the final version brings the new requirements on IRRBB and CSRBB closer to coming into force for all German institutions, the start of the consultation on the MaRisk amendment is an important signal for all institutions that have not yet fully implemented the corresponding EBA requirements. This applies in particular to LSIs, as BaFin's interpretation of the EBA guidelines is crucial for them. In this context, it is therefore also important that the supervisory authority explicitly emphasises the principle of proportionality in the cover letter for MaRisk, which indicates certain room for interpretation.

The EBA guidelines apply to all EU countries and do not address special features that specifically affect German institutions, such as the interpretation of NII with market value changes for institutions that prepare their accounts in accordance with the German Commercial Code (HGB). Unfortunately, the MaRisk amendment does not provide any assistance in interpreting the EBA requirements in these areas either. The same applies, for example, to questions regarding the perimeter and risk factors for CSRBB, which are the subject of much debate in the banking industry. The new MaRisk requirements are described in detail below and their implications explained.

1 Twenty days after publication in the European Official Journal, the new RTS on the outlier tests [8] and the standardised methodologies [9] apply. The current BaFin Circular 06/2019 (BA) will then become obsolete and will no longer apply. This is expected in April 2024.

02. Extension to interest rate risks

The current version of MaRisk already contains specific requirements on interest rate risks (MaRisk BTR 2.3). These have been significantly expanded by the new consultation, particularly in the areas of governance and methodology. The following key changes have been included:

- **Regulations on stress testing and stress scenarios** (MaRisk AT 4.3.3 para. 1 and para. 3): IRRBB stress tests should be included in the ICAAP in accordance with the proportionality principle and integrated into the general stress testing concept. Supervisory and institution-specific stress scenarios should be used for the stress testing and the economic environment should be appropriately taken into account in the design (e.g., by using negative interest rate scenarios).

- **Additions to requirements for risk management and controlling processes** (MaRisk BTR para. 1): Extensive requirements are placed on the minimum scope for IRRBB risk regulations, including a description of the risk methodology for EVE and NII measurement, modelling of cash flows and the definition of margins. These apply independently of the proportionality principle, i.e., they must be applied as a guideline for all institutions.

- **Measurement approaches for interest rate risks** (MaRisk BTR 2.3 para. 5): The determination and measurement of interest rate risk is explicitly required for all components of IRRBB, i.e., for gap risk, basis risk and option risk. The materiality of the components should therefore be analysed as part of the regular risk inventory and exclusions should be justified.

- **Scope of the items to be included** (MaRisk BTR 2.3 para. 5): Due to the reference to point 20 of the EBA guideline, non-performing exposures (NPEs) must be taken into account for internal control/pillar 2.

- **Management perspectives** (MaRisk BTR 2.3 para. 6): The previously possible focus on a primary management-relevant process in relation to the present value or income value perspectives is no longer envisaged. Instead, the consideration of both perspectives in the management and controlling processes is explicitly required. The risk-bearing capacity must also take into account both the present value and the income perspective. In accordance with the EBA guidelines, the income perspective is now described for the internal view as a change in the result under commercial law including interest-induced changes in market value. As the EBA only uses IFRS terms to explain the transactions for which the changes in present value are to be included, it would have been helpful at this point to provide information on interpretation for institutions that prepare their accounts in accordance with the German Commercial Code (HGB). Such information is not included in the MaRisk amendment.

- **Requirements for the modelling of embedded options and deposits** (MaRisk BTR 2.3 para. 7): MaRisk refers to extensive requirements from the EBA guideline (including interest rate-dependent modelling of early loan redemptions). In addition, no tenors over 10 years should be used for deposit modelling. This requirement was taken from a position paper of the German supervisory authority [3]. Deposits from financial customers should not be modelled but assumed to be repayable on demand.

- **Internal risk transfers** (MaRisk BTR 2.3 para. 9): Documentation requirements apply to internal transactions between the banking book and trading book. In addition, the effects of these transactions on IRRBB and CSRBB must be taken into account.

- **Risk appetite and hedging transactions** (MaRisk AT 4.2 para. 2): A risk appetite should be explicitly defined for the present-value and income-value perspectives. This can take the form of limits or other risk-limiting measures. It is also required to define a strategy for hedging open positions and to assess the impact of this strategy.

- **Requirements for risk reports** (MaRisk BT 3.1 para. 1, BT 3.2 para. 4): Minimum requirements are set for IT systems and the content of IRRBB and CSRBB reporting.

03. New section on credit spread risks

Requirements for credit spread risks are explicitly included in a separate section of MaRisk for the first time (MaRisk BTR 5). The new, far-reaching regulations deviate in part from the current market standard and the requirements from the guidelines on risk-bearing capacity [3][2]. This applies in particular to the product scope to be considered and the definition of credit spread risks, stress analyses as well as requirements for governance, IT systems, data quality and internal reporting. Like the EBA guidelines, the requirements regarding CSRBB deliberately fall short of those for IRRBB in some points due to the special features of this risk category.

As with IRRBB, credit spread risks must be taken into account in both the present value and the income value perspective. The conceptual innovation here is not the consideration of spreads in the interest rate calculation (the external interest rate is also to be simulated for IRRBB), but the calculation of the risk if the credit spread curves in the credit spread scenarios are changed. Methodologically, the credit spread risk is induced by new business and market value changes.

Credit spread risk was explicitly included in the list of material risks (MaRisk AT 2.2 para. 1). It should be noted that it is still possible to take credit spread risk into account as part of credit risk models or as a separate risk category (MaRisk BTR 5 para. 1).

The scope of the positions to be taken into account for credit spread risk is not explicitly specified (MaRisk BTR 5 para. 2). However, no positions may be excluded from consideration ex ante: All non-defaulted asset and liability positions must be checked for sensitivity to credit spread risks, regardless of their accounting treatment. Any exclusions made must be justified and documented, whereby fair value positions that are sensitive to credit spread movements must always be taken into account. The consultation paper does not provide a more detailed description of how the relevant positions are to be determined. There are extensive discussions on this in the banking industry, e.g., the European Banking Federation has published a related argumentation aid [5].

2 Requirements for measuring credit spread risks have long been addressed in the guidelines on risk-bearing capacity (in contrast to some other countries in Europe). However, the current interpretation and implementation do not correspond to the EBA requirements, which have now been incorporated into the MaRisk amendment.

In contrast to IRRBB, no requirements are placed on the methods for determining risk. Migration risks are excluded from the definition of credit spread risk in accordance with the EBA guidelines. In addition, the credit spread risk only relates to the market-related liquidity and credit spread. Idiosyncratic risk components may be taken into account in the credit spread calculation, provided that the determination of the risks is more conservative. An explanation of the idiosyncratic components is not explicitly given in the consultation (MaRisk BTR 5 para. 3). However, reference is made elsewhere to the passages of the EBA guideline in which the definition of credit spread risk is formulated (see commentary on MaRisk BTR 5 para. 2). Contrary to common market practice, however, the idiosyncratic risk component also includes the sector or country spread. The credit spread risk therefore only includes the rating and currency spread components.

Overall, the introduction of credit spread risks in the banking book in MaRisk sets out comprehensive requirements for their implementation. The challenge for the institutions lies in interpreting these new requirements and closing the identified gaps appropriately.

04. Implications for your organisation

Risks from significant interest rate rises are the number one risk in BaFin's focus for 2024 [6] and one of the ECB's audit priorities for 2024-2026 [7]. In response to the rise in interest rates, the Basel Committee has also published a new consultation on the adjustment of interest rate shocks [10].

With the consultation of the 8th MaRisk amendment, far-reaching EBA requirements on interest rate and credit spread risks in the banking book have been adopted, which affect measurement, management and reporting. The general strengthening of the NII view, including through the new outlier test, is also reflected in MaRisk. Overall, these adjustments come as no surprise as the German supervisory authority already declared in May 2023 that it plans to fully implement the EBA guidelines ("intends to comply")[3] .

The requirements relating to CSRBB have been newly included in MaRisk and in some cases deviate from the market standard. This results in institution-specific implementation requirements in many areas. It should be noted that changes to MaRisk generally come into force upon publication without transitional periods. In the past, the supervisory authority has categorised certain changes as innovations and set a transition period for these. Final clarity as to whether the supervisory authority will also make use of this option in this case will probably not be available until the publication of the final version and the associated cover letter.

3 BaFin had already announced at the time that it would revise the MaRisk accordingly in the second quarter of 2024 at the earliest. Publication in April 2024 would meet this timetable.

Conclusion

With the consultation, BaFin is largely explicitly transposing the requirements of the EBA guidelines on IRRBB and CSRBB into German supervisory law. Although this does not result in any new requirements in principle, the fundamental importance of MaRisk as a national interpretation of the European requirements means that there is a need for action, particularly for LSIs.

What action do you need to take?	Feel free to contact us for an informal exchange! We would be happy to work with you to analyse the specific implications of the new requirements for your institution as part of a gap analysis.

Dr. Jens Rödiger
Principal and IRRBB/CSRBB Expert
d-fine GmbH, Frankfurt/Main
Jens.Roediger@d-fine.com

Dr. Christian van Enckevort
Principal and IRRBB/CSRBB Expert
d-fine B.V., Utrecht
Christian.Van.Enckevort@d-fine.com

Appendix

[1] Consultation 02/2024 - Draft MaRisk in the version dated 15 February 2024 - Amendment version with explanations, 15 February 2024

[2] EBA: Guidelines on interest rate risk and credit spread risk in the banking book, EBA/GL/2022/14, 20 October 2022

[3] BaFin: Aufsichtliche Beurteilung bankinterner Risikotragfähigkeitskonzepte und deren prozessualer Einbindung in die Gesamtbanksteuerung („ICAAP") – Neuausrichtung

[4] Bundesbank and BaFin: Gemeinsame aufsichtliche Position zur Verwendung verlängerter Stützstellen im Modell der gleitenden Durchschnitte – Ablehnung von Stützstellen von mehr als zehn Jahren, 26 November 2020

[5] EBF: Credit Spread Risk in the Banking Book – Banking Industry Common understanding

[6] BaFin: Risks in focus 2024
https://www.bafin.de/SharedDocs/Downloads/DE/RIF/Risiken_im_Fokus_2024.pdf

[7] ECB Banking Supervision: SSM supervisory priorities for 2024-2026

[8] EBA/RTS/2022/10: Final draft RTS on supervisory outlier tests, 20.10.2022

[9] EBA/RTS/2022/09: Final draft RTS on standardized methodologies on IRRBB, 20.10.2022

[10] BCBS, Recalibration of shocks for interest rate risk in the banking book, 12.12.2023

d-fine

Berlin
d-fine GmbH
Kranzler Eck
Kurfürstendamm 21
10719 Berlin
Germany
berlin@d-fine.de

Dusseldorf
d-fine GmbH
Dreischeibenhaus 1
40211 Dusseldorf
Germany
duesseldorf@d-fine.de

Frankfurt
d-fine GmbH
An der Hauptwache 7
60313 Frankfurt
Germany
frankfurt@d-fine.de

Hamburg
d-fine GmbH
Am Sandtorpark 6
20457 Hamburg
Germany
hamburg@d-fine.de

London
d-fine Ltd
14 Aldermanbury Square
London, EC2V 7HR
United Kingdom
london@d-fine.co.uk

Milan
d-fine s.r.l.
Via Giuseppe Mengoni 4
20121 Milano MI
Italy
milano@d-fine.com

Munich
d-fine GmbH
Bavariafilmplatz 8
82031 Grünwald
Germany
muenchen@d-fine.de

Stockholm
d-fine AB
Brahegatan 10
11437 Stockholm
Sweden
stockholm@d-fine.se

Utrecht
d-fine BV
Stadsplateau 7
3521 AZ Utrecht
Netherlands
utrecht@d-fine.nl

Vienna
d-fine Austria GmbH
Seilerstätte 13
1010 Vienna
Austria
wien@d-fine.at

Zurich
d-fine AG
Brandschenkestrasse 150
8002 Zurich
Switzerland
zuerich@d-fine.ch