Greece

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REGULATORY FRAMEWORK

Key policies

1 What are the principal governmental and regulatory policies that govern the banking sector?

The European Union (EU) banking legislation and principles have been incorporated into the Greek core banking laws aiming at:

- safeguarding the stability of the financial system; for that purpose the banking laws set out rules with regard to the authorisation, conducting of business and withdrawal of authorisation of banks, the micro-prudential and macro-prudential supervision of banks, the recovery and resolution of banks, state-aid of banks for their recapitalisation and the deposit-guarantee provisions; and
- ensuring adequate protection of banks' customers and transparency of transactions.

The Bank of Greece (BoG), which is the central bank of Greece, exercises its prudential powers in the banking sector and in particular, it supervises Greek banks along with the European Central Bank (ECB) established within the Single Supervisory Mechanism in accordance with the SSM Regulation (Council Regulation (EU) 1024/2013) and SSM Framework Regulation (Regulation (EU) 468/2014).

Regulated institutions

2 What are the defining characteristics of a bank to be caught by the banking laws and regulations? Is non-bank fintech regulated differently?

A bank is an undertaking the business of which is to take deposits or other repayable funds from the public and to grant credits for its own account. Entities that are not licensed as banks are prohibited to carry out the business of taking deposits or other repayable funds from the public. Greek banks are subject to licensing and other requirements under Greek Law 4601/2014 implementing Capital Requirements Directive (CRD) IV (Directive 2013/36/EU) in Greece (Law 4601).

A non-bank fintech is not, in principle, subject to the same regulatory requirements applicable to banks. Depending on the nature of its activities it might be subject to other licensing requirements (eg, payment institutions or account information service providers, as well as equity or lending crowdfunding platforms) that are less stringent than the requirements applicable to banks. However, the notion of 'fintech bank' has already been reflected in the ECB guide published in 2018 referring to bank business models in which the production and delivery of banking products and services are based on technology-enabled innovation.

3 Do the rules vary depending on the size or complexity of the banking institution?

The rules, principles and procedures apply to all Greek banks. However, banks may take into account the principle of proportionality (ie, the bank's size, internal organisation and nature, and the complexity of their activities) when applying the internal organisational and governance rules.

Primary and secondary legislation

4 Summarise the primary statutes and regulations that govern the banking industry.

The primary statutes governing the Greek banking industry are:

- Law 4261 and Capital Requirements Regulation (CRR) (Regulation (EU) 575/2013 on capital requirements, as amended by CRR 2 (Regulation 2019/876)). Law 4261 sets out, inter alia, the provisions as regards the establishment, authorisation and operation of banks, the passport procedure, the prudential supervision rules, the powers of supervisory authorities and administrative penalties they may impose on banks, the corporate governance of banks and their remuneration policy and the introduction of capital buffers to be maintained by banks. However, a new bill of law transposing CRD V (Directive (EU) 2019/878) was published on 18 February 2021 and is currently in public consultation;
- Law 4335/2015 transposing the ***Bank Recovery and Resolution Directive*** (*BRRD*) (Directive 2014/59/EU) in Greece for the recovery and resolution of banks and investment firms. BRRD has been amended by BRRD II (Directive (EU) 2019/879) and a new bill of law was published on 18 February 2021 for its transposition, which is currently in public consultation;
- Law 4557/2018 (as amended by Law 4734/2020) setting out the Anti-Money Laundering/Combating Financing of Terrorism (AML/CFT) framework and incorporating the AMLD IV and AMLD V (Directives (EU) 2015/849 and 2018/843 respectively) in Greece;
- Law 4370/2016 transposing into Greek law, among others, Directive on Deposit Guarantee Schemes (Directive 2014/49/EU); and
- Law 2251/1994 on consumer protection, as amended and recently codified (Consumer Protection Law).

Depending on the type of services offered to clients, banks should also comply with other laws of the financial sector, including Markets in Financial Instruments (Regulation (EU) 600/2014) and Law 4514/2018 transposing Markets in Financial Instruments Directive II (Directive 2014/65/EU) in Greece while providing investment services and Law 4537/2018 transposing Payment Services Directive 2 (Directive 2015/2366/EU) in Greece while providing payment services.

Primary regulations that govern the Greek banking industry are issued by the BoG and include, inter alia, the following:

- BoG Governor's Act 2501/2002 on the information that the banks have to provide to their customers;
- BoG Governor's Act 2577/20.03.2006 on the organisational requirements and internal control functions of credit and financial institutions;
- BoG Governor's Act 2651/2012 on the information that the supervised institutions have to report on a regular basis to the BoG (to the extent applicable);
- BoG Executive Committee Act 142/11.6.2018 (as amended by BoG Act 178/4/2.10.2020) on the procedures for:
  - the authorisation of banks in Greece;
  - the acquisition of, or increase in, a holding in banks; and
  - the taking up of a post as a member of the board of directors and as a key function holder of banks; and
- BoG Executive Committee Act 178/2.10.2020 as regards the outsourcing of activities.

Regulatory authorities

5 Which regulatory authorities are primarily responsible for overseeing banks?

The BoG is the national competent authority for supervising the banking sector and exercising prudential supervision over Greek banks. However, within the Single Supervisory Mechanism, the ECB supervises directly the following significant credit institutions authorised in Greece:

- Alpha Bank SA;
- Eurobank SA;
- National Bank of Greece SA; and
- Piraeus Bank SA.

Less significant banks are supervised directly by the BoG, which is the competent authority for overseeing entities of the financial sector, including payment institutions and credit companies and credit servicing firms.

The BoG is also the national resolution authority and along with Single Resolution Board (SRB) established within the Single Resolution Mechanism exercise the resolution powers. The SRB is competent for the banks supervised directly by the ECB.

The BoG is also responsible for supervising compliance of banks with the AML/CFT framework.

The Hellenic Capital Market Commission (HCMC) is the competent authority for monitoring the implementation of Law 4514 with respect to investment services. However, the BoG remains responsible for supervising the banks' compliance with Law 4514 and cooperates closely with the HCMC in that respect.

The HCMC is also competent for ensuring the implementation of market abuse legislation and overseeing the compliance by any obliged entity, including Greek banks, with Market Abuse Regulation (MAR) (Regulation (EU) 596/2014) in Greece.

Government deposit insurance

6 Describe the extent to which deposits are insured by the government. Describe the extent to which the government has taken an ownership interest in the banking sector and intends to maintain, increase or decrease that interest.

The Hellenic Deposit and Investment Guarantee Fund (TEKE) is the operator of the deposit guarantee and investment compensation schemes and the resolution fund of Greek banks and is governed by law 4370/2016 (Law 4370) transposing into Greek law, among others, Directive on Deposit Guarantee Schemes (Directive 2014/49/EU). According to Law 4370, all Greek banks (ie, CRR credit institutions) are required to become members of the Deposit Coverage Scheme (DCS) held with TEKE. Such participation automatically activates the participation of banks in the Resolution Scheme of TEKE. Participation in the Investor Compensation Scheme, which is another department of TEKE, is also mandatory for Greek banks.

The maximum level of coverage is set to €100,000 per depositor, per credit institution (irrespective of the number of deposit accounts held in the credit institutions, the currency of such deposits and the location of the deposit accounts) with certain limited exemptions where the compensation may be up to €300,000 (eg, for sale or expropriation of private residential property, payment of lump-sum retirement benefit or periodical pension benefits, compensation due to termination of employment).

Following the global financial crisis of 2007–2009 and its consequences for the Greek financial system, one of the measures taken for the enhancement of the capital adequacy of Greek banks was the establishment of the Hellenic Financial Stability Fund (HFSF). The HFSF was incorporated with the objective of contributing to the stability of the Greek banking system for the public interest and currently has the following participations in the Greek systemic banks:

- Alpha Bank SA: 10.9 per cent;
- Eurobank SA: 14 per cent;
- National Bank of Greece SA: 40.3 per cent; and
- Piraeus Bank SA: 61.34 per cent (after recent CoCo conversion).

The government and the HFSF are seeking to reduce the HFSF's participation in the share capital of Greek banks through share capital increases (eg, they are seeking to reduce the participation in Piraeus Bank of the HFSF below 30 per cent). In parallel, the government is currently engaging in consultations to amend the HSFS Law (Law 3864/2010) to safeguard the HFSF's interests allowing its participation in share capital increases regardless of whether such an increase takes place because the bank in question does not fulfil its capital adequacy obligations.

Transactions between affiliates

7 Which legal and regulatory limitations apply to transactions between a bank and its affiliates? What constitutes an 'affiliate' for this purpose? Briefly describe the range of permissible and prohibited activities for financial institutions and whether there have been any changes to how those activities are classified.

Greek Law 4548/2018 on *sociétés anonymes* (Law 4548) prohibits the conclusion of transactions with related parties unless certain corporate approvals (ie, a specific permission by a resolution of the board of directors (BoD) or the shareholders' general meeting of the company, as the case may be) and publicity requirements are met. Related parties are determined as follows:

- by reference to the parties qualifying as 'related parties' in accordance with the international accounting standard (IAS) 24 as well as the legal entities controlled by them in accordance with IAS 27 for listed companies (ie, all Greek systemic banks);
- the BoD members, the persons who exercise control over the bank, close family members of such persons as well as legal entities controlled by these individuals of non-listed companies; or
- other persons (such as managing directors) to which the provisions of related parties have been extended by virtue of the companies' articles of association.

However, Law 4548 excludes from the scope of article 99 et seq thereof (ie, provisions on related-party transactions) the transactions that are concluded by banks by virtue of measures adopted for ensuring their stability following the approval of the authority that is competent for their prudential supervision.

In addition, there are specific rules established by the BoG with respect to the conclusion of transactions by banks with persons who

have a 'special relationship' with them, which may apply in parallel with the provisions of Law 4548 on related-party transactions. Such specific rules of the BoG will be considered as lex specialis, and therefore will prevail over the aforementioned provisions of Law 4548.

More specifically, the BoG act 2651/20-1-2012 defines the persons having a 'special relationship' with banks by specifying, among others, the following categories (which are similar to the aforementioned categories of Law 4548):

- its shareholders, that is, (1) the shareholders holding directly or indirectly, an interest equal to or higher than 5 per cent of the share capital or (2) the 10 largest shareholders, (3) the persons controlling directly or indirectly the banks through written or other arrangements or in concert, (4) or the persons controlling the legal persons included in the aforementioned categories;
- the legal persons directly or indirectly controlled by the banks or where the banks have a qualifying holding;
- the legal persons who are under joint control with the banks;
- the natural or legal persons who have close links with the banks; and
- the natural persons exercising managerial powers on the banks (including, the board of directors' members and the chief officers of the internal control functions as well as their close family members).

The BoG Act 2577/2006 impose certain conditions with regard to transactions with persons having a special relationship, which concern the internal procedures and documentation that banks should implement to ensure that the relevant loan terms do not deviate from the terms applied to other credit facilities of the same type. In addition, each participation in or lending to persons having a special relationship with banks is subject to the bank's BoD approval or general meeting's resolution, where required by law (see the above provisions of Law 4548 on related parties). However, it is possible that the BoD establishes a reasonable credit limit up to which a simple post-transaction notification of the respective loan suffices and no prior approval by the BoD is required.

Besides the procedures and restrictions mentioned above, there are reporting requirements both for the persons having a special relationship with the banks as well as for the banks themselves towards the BoG. Banks are also subject to increased disclosure obligations in the context of the external audits in accordance with the international audit standards on related parties. In addition, the listed banks are subject to additional disclosure obligations in accordance with Law 3556/2007 transposing the Transparency Directive (Directive 2004/109/EC) and with MAR.

Regulatory challenges

8 | What are the principal regulatory challenges facing the banking industry?

Banks have to comply with a series of newly introduced requirements in light of new legislations, including CRD V, CRR 2, BRRD II, Securitisation Regulation (Regulation (EU) 2017/2402) and other legislative texts and are subject to extensive reporting requirements. Besides the above, the current regulatory challenges are focused on the following.

Non-performing loans

Despite the current juncture, the important institutional changes introduced in 2020, including the reform of bankruptcy law and the activation of the Hellenic Asset Protection Scheme (HAPS) in the context of securisation transactions of Greek banks (by virtue of which the Greek state guarantees the senior notes in a securitisation covering any interest and the principal due for a certain premium) as well as other initiatives and efforts made to reduce the non-performing loans (NPLs), the NPL ratio of Greek banks remains very high. At the end of September 2020, NPLs amounted to €58.7 billion and the NPL ratio was 35.8 per cent and therefore additional efforts are required for banks to be able to deleverage their balance sheets and reduce their NPL portfolios.

Covid-19 pandemic

The pandemic was a key determinant in 2020, as it disrupted financial stability at a global level and weighed heavily on economic activity, including the Greek financial sector. According to statistics recently published by the BoG, Greek banks reported heavy losses after taxes and discontinued operations amounting to €688 million, compared with profits in the corresponding period of 2019. The short and medium-term risks that the Greek banking sector is facing are mainly in four areas: asset quality, profitability, capital adequacy and liquidity. However, fiscal, monetary and supervisory measures taken by the competent national and euro-area authorities have mitigated, to a certain extent, the impact of the pandemic.

Consumer protection

9 | Are banks subject to consumer protection rules?

Banks are subject to consumer protection rules, which are mainly set out in the Consumer Protection Law.

The main consumer protection rules that are included in the Consumer Protection Law and are relevant to the banking sector are:

- provisions relating to the general terms of business and the prohibition of abusive and unfair terms in contracts with consumers; in particular, terms are abusive if they result in an excessive imbalance of the rights and obligations of the parties to the detriment of the consumer; and such terms are considered void;
- provisions for the consumers' pre-contractual and contractual information in respect of the distance provision of financial services; and
- provisions regarding the advertising and unfair commercial practices.

Particular scrutiny has been drawn in relation to the compliance of the banks with pre-contractual disclosure requirements (where applicable), the content of the agreements entered into with consumers, including the existence of any unfair or abusive terms, as well as the advertising practices. Ministerial Decision No. Ζ1-798/25.06.2008, as amended, provides for an indicative list of abusive and unfair terms that have been determined by the Consumer Protection Law and relevant jurisprudence to be unfair terms and are therefore deemed null and void.

The BoG Governor's Act No. 2501/2002 sets out the information obligations that the banks have towards their customers. There are also specific rules regarding the provision of consumer credit, which are included in Ministerial Decision No. Z1-699/23.06.2010 and which apply to consumer credit agreements involving a total amount of credit from €200 up to €75,000. In the case of consumer credits, the banks have increased pre-contractual and contractual information obligations towards their customers.

The General Secretariat of Commerce and Consumer Protection (of the Ministry of Development and Investments) is the supervisory authority for the implementation of the Consumer Protection Law and in case of breaches of consumer legislation administrative sanctions are imposed by virtue of the decision of the Ministry of Development and Investments. Where the breaches of the Consumer Protection Law are committed by banks the administrative sanctions are imposed following the BoG's decision. The General Secretariat of Commerce and Consumer Protection is also responsible for breaches of banks relating to the payment services legal framework (Law 4537 implementing PSD II in Greece). The BoG is responsible for monitoring the banks' compliance

with the consumer protection rules included in BoG acts and with the BoG's relevant instructions.

Future changes

10 | In what ways do you anticipate the legal and regulatory policy changing over the next few years?

In general, we expect that the legal and regulatory policy will move towards the enhancement of the Capital Market Union. New Greek laws will be adopted in the coming months to transpose CRD V and BRRD II into Greek law (as two bills of law for the transposition of each directive are currently in public consultation).

Taking into account the recent report published by the ECB with regard to the SSM Supervisory Priorities for 2021 and the current situation of the banking sector that has been affected by the covid-19 pandemic, priorities are expected to be given (at least in the short term) to:

- banks' credit risk management to ensure that banks have adequate risk management practices in place to identify, measure and mitigate the impact of credit risk, as well as the operational capacity to manage the expected increase in distressed borrowers;
- capital strength to ensure that banks will follow sound capital planning practices based on capital projections that are able to adapt to a rapidly changing environment, particularly in a crisis situation;
- business model sustainability through the banks' strategic plans and underlying measures taken by the BoD to overcome shortcomings; and
- sound governance practices and robust internal controls to mitigate the risks that banks deal with in both normal and crisis times.

In addition, we expect that banks' and supervisors' focus will be towards banks' alignment with the ESG framework (including, the expectations set out in the ECB Guide on climate-related and environmental risks), prudential risks emanating from money laundering, cyber and digitalisation risks and banks' preparedness for the final stages of the implementation of Basel III.

SUPERVISION

Extent of oversight

11 | How are banks supervised by their regulatory authorities? How often do these examinations occur and how extensive are they?

The Bank of Greece (BoG) and the European Central Bank (ECB) supervise banks on an ongoing basis to ensure compliance with the banking legislation. More specifically, the supervision exercised by the BoG and the ECB is geared towards the stability and the smooth functioning of the financial system, as well as transparency in transactions.

The main supervisory tasks of the BoG are the following:

- monitoring, on an ongoing basis, compliance with the regulatory framework on capital adequacy, liquidity and risk concentration, and cooperating with the ECB in the context of the Single Supervisory Mechanism (SSM);
- evaluating applications for licensing and other authorisations in cooperation with the ECB;
- examining banks' compliance, on a solo and a consolidated basis, with the regulatory framework governing their operation;
- assessing banks' governance system (including, management and internal control systems);
- monitoring compliance with legislation on pre-contractual customer information, as well as on transparency in the procedures, terms and conditions of transactions, excluding matters of any abusive practices, for which the BoG has no authority;
- conducting on-site inspections of banks with the aim of assessing the implementation of the supervisory and regulatory framework; such inspections are conducted on a periodic and ad hoc basis;
- monitoring banks' compliance with the obligations arising from the Anti-Money Laundering/Combating Financing of Terrorism (AML/CFT) legal framework;
- controlling and supervising the special liquidation of banks following the withdrawal of their authorisation and the appointment of a special liquidator; and
- imposing administrative sanctions and other administrative measures for breaches of the legislative and regulatory framework within its scope of supervision.

In the context of the ongoing supervision, the BoG and the ECB assess (at least) annually the risks that banks face and ensure that banks are equipped to manage those risks properly in accordance with the Supervisory Review and Evaluation Process (SREP) set out in articles 89 et seq of Law 4261 and the relevant guidelines issued at an EU level. SREP's focus is on the following areas:

- business model analysis;
- assessment of internal governance and institution-wide control arrangements;
- assessment of risks to capital and adequacy of capital to cover such risks; and
- assessment of risks to liquidity and adequacy of liquidity resources to cover such risks.

The BoG and ECB use stress tests (at least annually) to identify and address banks' vulnerabilities in order to facilitate the SREP process. In certain cases, the prudential regulator adopts (at least annually) a supervisory examination programme for the banks it supervises and takes the necessary measures provided in Law 4261.

Banks must submit information to the BoG and the ECB on a periodical basis so that the regulators are able to exercise their prudential powers. The BoG and the ECB may perform examinations or investigations either on the basis of such information or following a relevant complaint.

Enforcement

12 | How do the regulatory authorities enforce banking laws and regulations?

The BoG may take initial measures that are preventative in nature, such as to request further information or for the submission of documents, to examine the books and records of the banks (including, persons belonging to banks and third parties to whom banks have outsourced operational functions or activities) and to carry out on-site inspections. Depending on the nature of the breach and other conditions, the enforcement powers may vary (eg, penalties may be imposed in relation to the lack of authorisation or lack of regulator's approval regarding a qualifying holding, as well as for breaching the corporate governance rules or other provisions). In this respect, the BoG is empowered to impose notably one of the following administrative penalties:

- issuing of a public statement;
- issuing of an order requiring the natural or legal person responsible to cease the conduct and to desist from a repetition of that conduct;
- imposition of administrative fines (for legal person up to 10 per cent of the total annual net turnover and for natural persons up to €5 million);
- administrative pecuniary penalties of up to twice the amount of the benefit derived from the breach where that benefit can be determined;
- where relevant, suspension of the voting rights of the shareholders held responsible for certain breaches;

- where relevant, a temporary ban against a member of the banks' board of directors (BoD) from exercising functions; and
- in extreme cases, withdrawal of bank's authorisation.

To determine the administrative penalty to be imposed the BoG takes into account a series of factors (including, the nature and duration of the breach, the damages of third parties, etc). The BoG may publish the penalties imposed on banks on its website according to Law 4261, provided that the deadline to appeal before the Supreme Administrative Court has lapsed.

The ECB has also administrative powers on the four systemic banks in accordance with the SSM Framework Regulation and SSM Regulation. In addition, sanctions may be imposed by the BoG to less significant banks in proceedings opened at the ECB's request.

13 What are the most common enforcement issues and how have they been addressed by the regulators and the banks?

Sanctions intend to punish misconduct by a supervised bank and serve as a deterrent to the bank concerned and also to the whole banking sector. The most common administrative measures imposed by the BoG relate to non-compliance of banks with the AML/CFT framework as well as breaches with regard to transparency of banks towards their customers. In addition, penalties have been recently imposed by the ECB on a systemic bank for non-compliance with own funds requirements.

RESOLUTION

Government takeovers

14 In what circumstances may banks be taken over by the government or regulatory authorities? How frequent is this in practice? How are the interests of the various stakeholders treated?

The Hellenic Financial Stability Fund (HFSF), which contributes to the maintenance of the financial stability in Greece, has provided capital support to all Greek systemic banks and therefore it participates in their share capital. However, the government is seeking to reduce the HFSF's participation in Greek banks.

Besides the establishment of the HFSF, Law 4335 has incorporated the provisions of the Bank Recovery And Resolution Directive (BRRD) into Greek legislation, which sets out the legal framework for recovery and resolution of banks and is subject to the amendments that will be introduced by the transposition of BRRD II into Greek law.

Bank failures

15 What is the role of the bank's management and directors in the case of a bank failure? Must banks have a resolution plan or similar document?

The bank's board of directors (BoD), which considers the bank to be failing or likely to fail on the basis of certain objective criteria must notify without undue delay the BoG in accordance with Law 4335 and the Bank of Greece (BoG) Act No. 111/2017.

Greek banks (or an EU parent undertaking) must draw up and maintain a recovery plan, which provides measures to be taken by banks to restore their financial position in the event of a significant deterioration of their financial situation. The competent authority ensures that banks update their recovery plans at least annually or after a change in their legal or organisational structure or business or financial situation, which could have a material effect on, or necessitates a change to, the recovery plan. The banks' BoD must assess and approve such recovery plans before their submission to the competent authority, which will thereafter evaluate the adequacy of such plans.

Besides the recovery plan, the resolution authority (either the Single Resolution Board for the banks supervised by the European Central Bank (ECB) or the BoG for the less significant banks), after consulting the relevant competent authorities (where relevant) must draw up a resolution plan for each bank that is not part of a group subject to consolidated supervision, which will provide for the resolution actions that the resolution authority may take where the bank in question meets the conditions for resolution. Equally, the resolution authority of the group must draw up the group resolution plan. The resolution plan must be updated at least annually and the resolution authority may require banks to assist it in the drawing up or updating of the resolution plan.

16 Are managers or directors personally liable in the case of a bank failure?

Bank failure does not automatically result in, or link to, the liability of bank's BoD. However, both Law 4261 and Law 4335 provide certain measures that the competent authorities may take towards the BoD members.

According to article 57(2) of Law 4261, the BoG is empowered to impose administrative penalties for breaches of Law 4261 and Capital Requirements Regulation (CRR) on the BoD members and other natural persons held responsible for the breach, action or omission, to the extent that this occurs during the exercise of the tasks they have been delegated. In addition, Law 4261 sets out fines (between €100,000 and €300,000) that the BoG is entitled to impose on the members of a bank's BoD, if they do not take the necessary actions for the convocation of a general shareholders' meeting if a share capital increase is required by the BoG.

In the case of a bank failure, the resolution authority when implementing the resolution tools or exercising its resolution powers is entitled to take all appropriate measures to ensure, among others, that:

- the BoD (and the senior management) of the bank under resolution is replaced (unless its retention is considered to be necessary for the achievement of the resolution objectives);
- the BoD (and the senior management) of the bank provides all necessary assistance for the achievement of the resolution objectives; and
- natural and legal persons are made liable under civil or criminal law for their responsibility for the failure of banks.

In addition, in the event of an infringement of Law 4335, administrative penalties may be imposed on the BoD members or other natural persons who are responsible for the infringement. For example, sanctions may be imposed where the BoD does not notify the BoG in due time that the bank is considered to be failing or likely to fail. Administrative penalties include a temporary ban against any BoD member or senior management of the bank (or other natural persons, who are held responsible, to exercise authority in such banks) as well as administrative fines of up to €5 million for natural persons.

From a corporate law perspective the BoD members are liable towards banks for any damage caused as a result of an act or omission that constitutes a violation of their duties, unless they are able to demonstrate that they acted with due diligence of a prudent business person. Any individual who acts or represents a company within the context of an authorisation may be also held liable. In past, criminal penalties have been imposed to BoD members of Greek banks for the offence of misappropriation, violation of duties and fraud. The Greek Criminal Code (that has been recently revised) includes a specific provision as regards the procedure of the prosecution of persons (eg, BoD members) that are held liable towards banks for misappropriation.

Planning exercises

17 Describe any resolution planning or similar exercises that banks are required to conduct.

Law 4335 transposed BRRD into Greek law and contains detailed provisions with regard to recovery and resolution of banks. As explained above, banks must draw up and maintain a recovery plan and the resolution authorities should prepare the banks' resolution plan.

The recovery plan, which constitutes part of the governance arrangements of banks, must include:

- where applicable, an analysis of how and when the bank may apply, in the conditions addressed by the plan, for the use of any facilities provided by the ECB and identify those assets expected to qualify as collateral;
- the appropriate conditions and procedures to ensure the timely implementation of recovery actions and the range of recovery options, taking into account a range of scenarios of severe macroeconomic and financial stress relevant to the bank's specific conditions; and
- a detailed list of information that is set in section A of Annex of Law 4335 (eg, a range of capital and liquidity actions required to maintain or restore the viability and financial bank's position, preparatory arrangements and measures).

The BoG will intensively assess appropriateness of the recovery plan taking into consideration the appropriateness of the bank's capital and funding structure to the level of complexity of the organisational structure and the risk profile of the bank. The BoG may require banks to submit a revised recovery plan within two months (unless this deadline is extended) or require banks to take any appropriate measures, including to reduce their risk profile (including liquidity risk) to enable timely recapitalisation measures, to review their strategy and structure, to make changes with respect to their funding strategy or their governance structure.

The resolution plans that are drawn up by the resolution authorities (with the assistance of the banks where so requested) must include detailed and quantified (where possible) information and determine the options for applying the resolution tools and resolution powers. A detailed list of the information that a resolution plan must contain is set out in Law 4335, also taking into account the EU technical standards (Commission Delegated Regulation (EU) 2016/1075 and Commission Implementing Regulation (EU) 2018/1624). Greek banks are obliged to cooperate with the resolution authority (which draws up the resolution plans) and provide the resolution authority with all information required for the preparation and implementation of such resolution plans.

CAPITAL REQUIREMENTS

Capital adequacy

18 Describe the legal and regulatory capital adequacy requirements for banks. Must banks make contingent capital arrangements?

The Capital Requirements Regulation (CRR) and the Capital Requirements Directive (CRD) IV (transposed into Law 4261) set out the capital adequacy requirements for banks. However, the capital and prudential regime for banks continues to evolve as CRD IV and CRR have been amended by CRD V and CRR 2 respectively. A bill of law transposing CRD V in Greece was published on 18 February 2021 and is currently in public consultation.

Banks are required to have a minimum paid-up initial capital of €18 million.

The capital resources that a bank is required to maintain can be constituted by a mixture of common equity Tier 1 capital, additional Tier 1 capital and Tier 2 capital. The CRR contains detailed legal and technical requirements for eligibility of capital instruments.

In particular, banks must at all times satisfy the following own funds requirements (which are expressed as a percentage of the banks' total risk exposure):

- a Common Equity Tier 1 capital ratio of 4.5 per cent;
- a Tier 1 capital ratio of 6 per cent; and
- a total capital ratio of 8 per cent.

CRR 2 implements some additional own funds requirements for banks. In particular, CRR 2 introduced a 3 per cent leverage ratio requirement that will constitute part of the above own funds requirements and will become applicable on 28 June 2021. The European Central Bank (ECB) allowed eurozone banks under its direct supervision to exclude certain central bank exposures from the leverage ratio due to covid-19 pandemic until 27 June 2021.

CRR 2 introduced also a leverage ratio buffer requirement for institutions identified as global systemically important institutions (G-SIIs) to be applicable as of 1 January 2023. On 16 February 2021, the EU Commission issued a report and concluded that it does not consider it appropriate to introduce a leverage ratio surcharge for other systemically important institutions (O-SIIs) for the time being.

In addition, Law 4261 provides that a capital conservation buffer of 2.5 per cent of bank's total exposures should be maintained so that banks are able to avoid breaches of minimum capital requirements during periods of stress. In the context of its macroprudential supervision, the Bank of Greece (BoG) is responsible for setting the countercyclical capital buffer rate for Greece on a quarterly basis (following the consent of the Hellenic Capital Market Commission). Since 1 January 2016 to the date of writing (in accordance with the most recent BoG Act of 180/17.12.2020), the countercyclical capital buffer rate for Greece has been set at zero per cent (ie, at the lowest end of the permissible range), thus not affecting the capital requirements for banks.

The O-SII buffer consists of Common Equity Tier 1 capital and its rate is set by the BoG at a level up to 2 per cent of the total risk exposure amount and is reviewed at least once a year.

The CRR requires all instruments recognised as Additional Tier 1 capital of a bank to be written down, or converted into Common Equity Tier 1 instruments, when the Common Equity Tier 1 capital ratio of such bank falls below 5.125 per cent. It also allows banks to issue Additional Tier 1 instruments with a trigger higher than 5.125 per cent.

The quantitative capital requirements under the CRD IV and CRR are supplemented by the obligation under the *Bank Recovery And Resolution Directive* (BRRD) as amended by BRRD II for banks to satisfy at all times a minimum requirement for own funds and eligible liabilities.

Banks are required to assess themselves the adequacy of their capital in the process of Internal Capital Adequacy Assessment Process, which is then subject to review by the regulator in the context of the Supervisory Review and Evaluation Process (SREP). The BoG or the ECB may impose additional capital requirements following the annual SREP if such evaluation reveals major deficiencies or in other cases provided by law. In particular, the Pillar 2 Requirement (P2R), which is determined via the SREP, is a bank-specific capital requirement that applies in addition to, and covers risks that are underestimated or not covered by, the minimum capital requirement. The capital the ECB or BoG asks banks to keep based on the SREP also includes the Pillar 2 Guidance (P2G), which indicates to banks the adequate level of capital to be maintained to provide a sufficient buffer to withstand stressed situations. Unlike the P2R, the P2G is not legally binding. On 12 March 2020, due to covid-19 pandemic the ECB decided to allow banks to partially use capital instruments that do not qualify as Common Equity Tier 1

capital (eg, Additional Tier 1 and Tier 2 instruments) to meet the P2Rs. For the 2020 SREP cycle, the ECB decided to keep banks' P2Rs stable in 2021, unless changes are justified by exceptional circumstances affecting an individual bank.

In accordance with the statistics made available by the BoG in the first nine months of 2020, the capital adequacy of Greek banks deteriorated but remained at a satisfactory level.

19 | How are the capital adequacy guidelines enforced?

The enforcement of the capital adequacy requirements falls within the supervisory mandate of the prudential regulators (ie, BoG for less significant banks and ECB for significant banks). Accordingly, the prudential regulator could take measures to improve the bank's own funds and liquidity and in particular:

- to require banks to have additional own funds in excess of the requirements set out in Law 4261 and in CRR;
- to require the reinforcement of the arrangements, processes, mechanisms and strategies implemented in relation to their internal capital, corporate governance and recovery and resolution plans;
- to require banks to submit a plan to restore compliance with supervisory requirements and set a deadline for its implementation, including improvements;
- to require banks to apply a specific provisioning policy or treatment of assets in terms of own funds requirements;
- to restrict or limit the business, operations or network of banks or to request the divestment of activities that pose excessive risks to the soundness of a bank;
- to require the reduction of the risk inherent in the activities, products and systems of banks;
- to require banks to limit variable remuneration as a percentage of net revenues where it is inconsistent with the maintenance of a sound capital base;
- to require banks to use net profits to strengthen own funds;
- to restrict or prohibit distributions or interest payments by a bank to shareholders, members or holders of Additional Tier 1 instruments where the prohibition does not constitute an event of default of the bank;
- to impose additional or more frequent reporting requirements (including reporting on own funds and liquidity);
- to impose specific liquidity requirements, including restrictions on maturity mismatches between assets and liabilities;
- to require additional disclosures;
- to require banks to obtain the BoG's prior approval for carrying out transactions that, in BoG's opinion, could be detrimental to bank's solvency; such measure may be adopted by the BoG for a period up to three months; and
- to require the increase of the share capital of banks.

Undercapitalisation

20 | What happens in the event that a bank becomes undercapitalised?

If it is presumed that a bank will not be able to comply with the capital adequacy requirements, the prudential authorities may order such a bank to take measures to improve its own funds and liquidity. In particular, the BoG (or the ECB) may, inter alia:

- require banks to take the necessary measures at an early stage to address relevant problems where banks do not meet the requirements of Law 4261 and CRR (or where there is evidence that banks are likely to breach such requirements within the following 12 months); in this instance the prudential authorities may take one of the supervisory powers analysed above;
- exercise their supervisory powers and require, among others, banks to have additional own funds in excess of the requirements set out in CRR or Law 4261 (ie, P2R). Articles 104a et seq of CRD V that has not yet been transposed into Greek law determine the conditions under which the prudential authorities may impose the additional own funds requirements taking into account the risk profile of each individual bank, the risks to which the bank is exposed; clarifications on additional own funds will be further provided by the prudential authorities on a bank tailor-made basis; and
- request banks (and their board of directors (BoD)) to increase the banks' share capital within a set deadline (with a parallel nominal reduction of the capital, if necessary) to comply with the capital adequacy requirements.

Under certain conditions (including where a bank does not maintain sufficient own funds) the BoG may also appoint a special commissioner in order for the latter to safeguard the smooth operation of the bank and its further recovery or to prepare the implementation of the resolution measures by replacing the BoD of the bank under resolution.

Insolvency

21 | What are the legal and regulatory processes in the event that a bank becomes insolvent?

A bank may not be declared bankrupt or be subject to pre-bankruptcy collective proceedings in accordance with Greek Law 3588/2007, which was replaced by Greek Law 4738/2020 (the Greek Bankruptcy Code) or other Greek laws of similar effect.

The resolution authorities have a number of resolution tools, resolution powers and other powers at their disposal. At an earlier stage of deterioration of banks' financial conditions, the resolution authorities may adopt one of the early intervention measures provided in Law 4335 (eg, to require the BoD of the bank to implement one or more of the arrangements or measures set out in the recovery plan or to require one or more members of the management body to be removed or replaced).

In addition, the resolution authorities may take a resolution action where all the following conditions are met and regardless of whether an early intervention measure has been adopted:

- the bank is failing or likely to fail;
- there is no reasonable prospect that any alternative private sector measures or supervisory action would prevent the failure of such bank within a reasonable time frame; and
- a resolution action is necessary in the public interest.

In particular, the resolution authorities may use one or more of the following resolution tools:

- the power to transfer to a purchaser shares or other instruments of ownership issued by, or all of any assets, rights or liabilities of, the bank under resolution (the 'sale of business' tool);
- the power to transfer to a bridge institution, which shall be a legal person that is wholly or partially owned by one or more public authorities and controlled by the resolution authority, shares or other instruments of ownership issued by, or all of any assets, rights or liabilities of, the bank under resolution (the 'bridge institution' tool);
- the power to transfer assets, rights or liabilities of the bank under resolution or of a bridge institution to one or more asset management vehicles (the 'asset separation' tool); or
- the write-down and conversion powers in relation to liabilities of a bank under resolution ('bail-in' tool).

Other tools can be used to the extent that they conform to the principles and objectives of resolution set out under the BRRD. In circumstances of extraordinary systemic crisis, the bank's resolution may, as a last resort, involve government financial stabilisation tools consisting of public equity support and temporary public ownership tools. These measures would nonetheless only become available after certain conditions are met, including that the bank's shareholders and creditors bear losses equivalent to 8 per cent of the bank's liabilities.

When applying the resolution tools and exercising the resolution powers, the following principles are taken into account by the resolution authorities:

- shareholders of the bank under resolution bear first losses;
- creditors of the bank under resolution bear losses after the shareholders in accordance with the order of priority of their claims under normal insolvency proceedings, save as expressly provided otherwise in Law 4335;
- BoD members of the bank under resolution are replaced, except in those cases when their retention is considered to be necessary for the achievement of the resolution objectives;
- BoD members of the bank under resolution shall provide all the necessary assistance for the achievement of the resolution's objectives;
- natural and legal persons are made liable under civil or criminal law for their responsibility for the failure of the bank;
- creditors of the same class are treated in an equitable manner (unless otherwise provided);
- no creditor shall incur greater losses than would have been incurred if the bank had been wound up under normal insolvency proceedings;
- covered deposits are fully protected; and
- resolution action is taken in accordance with the safeguards of Law 4335.

A special commissioner may be appointed by the resolution authorities to replace the BoD of the bank under resolution.

In any case, the resolution authority should inform the Ministry of Finance of its decisions and if such decisions have a direct public impact or systemic consequences then the consent of the Ministry of Finance is required.

If the bank's authorisation is revoked, the bank will be mandatorily placed under a special liquidation in accordance with Law 4261. The provisions of the Greek Bankruptcy Code may apply additionally to the provisions of the special liquidation of a bank, to the extent that they do not contradict article 145 of Law 4261 or any delegated BoG acts. Law 3458/2006, as amended, incorporates Directive 2001/24/EC into Greek legislation and provides for the special liquidation procedure applicable to banks.

Recent and future changes

22 | Have capital adequacy guidelines changed, or are they expected to change in the near future?

The provisions of CRD IV (as transposed into Law 4261) and of CRR have already adopted macro-prudential measures that are aligned with Basel III. In June 2019 the revised rules on capital and liquidity (CRR2 and CRD V), which complete and improve the existing framework, and on resolution (BRRD II (Directive (EU) 2019/879) and SRMR 2 (Regulation 2019/877)) were published in the Official Journal of the EU and most changes will start to apply from mid-2021 (though some provisions are already applicable). We are anticipating the implementation of CRD V and BRRD II into Greek legislation in the coming months (as two bills of law for the transposition of each directive are currently in public consultation).

Besides the development made in question 18 regarding the CRR 2 provisions, the main changes that will be introduced by CRD V in the context of the macro-prudential supervision and capital adequacy concern, notably, the following:

the application of the additional own funds requirements of Pillar 2 (P2R) should be set by the competent authorities in relation to the specific situation of a bank and therefore cannot be imposed for addressing macro-prudential or systemic risks;

- the manner according to which the P2R is placed in relation to the minimum own funds of article 92 CRR and the combined buffer requirement is clarified. Banks must not, notably, use Common Equity Tier 1 capital that is maintained to meet one of the elements of its combined buffer requirement to meet also other applicable elements of its combined buffer requirement;
- the notification procedure with regard to countercyclical capital buffer (CCyB) is simpler; the CCyB is determined or adjusted only if it is necessary through an assessment of its appropriateness on a trimestral basis;
- the systemic risk buffer may be used to address macro-prudential or systemic risks; and
- the maximum level of Other Systemically Important Institution (O-SII) buffer that the competent authorities may impose on O-SIIs increase from 2 per cent to 3 per cent of the total risk exposure amount.

OWNERSHIP RESTRICTIONS AND IMPLICATIONS

Controlling interest

23 | Describe the legal and regulatory limitations regarding the types of entities and individuals that may own a controlling interest in a bank (or non-bank). What constitutes 'control' for this purpose?

There are no legal or regulatory limitations as to the types of entities and individuals that may own a controlling interest in a bank (or non-bank). For the purpose of this question, a controlling interest should be interpreted in light of the definition of 'qualifying holding', which means a direct or indirect holding in an undertaking that represents 10 per cent or more of the capital or of the voting rights or that makes it possible to exercise a significant influence over the management of that undertaking. The acquisition of a qualifying holding in a Greek bank is subject to the assessment of the Bank of Greece (BoG) and) the final approval of the European Central Bank (ECB).

In any case, if the influence exercised by the persons having a qualifying holding is likely to operate to the detriment of the prudent and sound management of the bank, the BoG or ECB may take appropriate measures to resolve this situation.

Foreign ownership

24 | Are there any restrictions on foreign ownership of banks (or non-banks)?

There are no legal or regulatory restrictions on foreign ownership of banks or other financial institutions. The BoG and the ECB are entitled to oppose the proposed acquisition only if there are reasonable grounds for doing so on the basis of the criteria set out in Law 4261 and the respective regulatory guidance.

We note, however, that additional considerations must be taken into account. For example, if the registered office of a parent undertaking (acting as the acquirer) is outside the EU and the parent undertaking has two or more subsidiaries (CRR institutions) in the EU, then the establishment of a single EU intermediate parent undertaking might be required if certain conditions are met (including, if the total asset value within the EU of the third-country group exceeds €40 billion).

Implications and responsibilities

25 What are the legal and regulatory implications for entities that control banks?

There are no restrictions on the business of an acquirer of a Greek bank; however, its business will be taken into account in the qualifying holding assessment process.

Depending on the structure of the group and the entities involved, a consolidated supervision may be triggered for the group (where relevant). Consolidated supervision applies at the level of the highest EU group entity whose subsidiaries are banks or other regulated entities engaging in broadly financial activities.

Depending on the activities and the participation of the parent entity additional regulatory implications may be triggered that the entities wishing to control a Greek bank should carefully take into account. In particular, the legal entity may fall within the definition of the financial holding company that under certain conditions will be subject to the approval regime under article 21a of CRD V (which has not yet been transposed into Greek law). Equally, the obligation to establish an EU intermediate parent undertaking may apply to certain cases.

26 What are the legal and regulatory duties and responsibilities of an entity or individual that controls a bank?

Natural or legal persons with a qualifying holding in a Greek bank must notify the BoG in writing of any intention to increase, sell or decrease such holding, directly or indirectly, in a way that would cross, reach or fall below certain thresholds and submit specific information to the BoG.

Any change on the information submitted by the controlling shareholders to the BoG has to be promptly notified to the regulator. In particular, any entity controlling a bank must notify the BoG in writing of any change in, among others, the board of directors (BoD) members, members of its senior management, the shareholders holding at least 5 per cent, and where appropriate their ultimate beneficial owner identity. Such a notification requirement lies equally with the aforementioned natural persons.

Banks' shareholders may also be subject to other obligations arising from the banking legislation (eg, they have to comply with the instructions of the BoG requiring an increase of the bank's share capital in accordance with article 136 of Law 4261).

Given that all systemic banks are also listed on the Athex exchange (ATHEX), banks' controlling shareholders are also subject to additional disclosure requirements.

27 What are the implications for a controlling entity or individual in the event that a bank becomes insolvent?

A bank does not become insolvent. In the case of bank failure, Law 4335 ensures that the costs will first be borne by shareholders. This is obviously the case when applying the bail-in tool, where the reduction of principal or outstanding amount due, conversion or cancellation takes effect and is immediately binding on the bank under resolution and affected shareholders. Where a resolution authority decides to exclude or partially exclude an eligible liability or class of eligible liabilities in the context of the bail-in, the Resolution Scheme (ie, a department of Hellenic Deposit and Investment Guarantee Fund) may make a contribution only if, among others, a contribution to loss absorption and recapitalisation equal to an amount not less than 8 per cent of the total liabilities, including own funds of the bank under resolution has been made by the shareholders. Law 4335 also provides that no procedural impediments to the conversion of liabilities to shares or other instruments of ownership exist by virtue of their instruments of incorporation or statutes, including pre-emption rights for shareholders or requirements for the consent of shareholders to an increase in capital. Similarly, the government financial stabilisation tools may be applied only if, among others, a contribution to loss absorption and recapitalisation equal to an amount not less than 8 per cent of total liabilities, including own funds of the bank under resolution, has been made by the shareholders.

If the bank is placed under special liquidation, the provisions of the Greek Bankruptcy Code will apply to the extent that they do not contradict Law 4261 and the special regime applicable to banks. Shareholders' claims are satisfied after the satisfaction of all other creditors.

CHANGES IN CONTROL

Required approvals

28 Describe the regulatory approvals needed to acquire control of a bank (or non-bank). How is 'control' defined for this purpose?

Any natural or legal person (or such persons acting in concert) who have decided either to acquire, directly or indirectly, a qualifying holding in a bank or to further increase, directly or indirectly, such a qualifying holding in a bank as a result of which the proportion of the voting rights or of the capital held would reach or exceed 20, 30 or 50 per cent or so that the bank would become its subsidiary must notify the BoG in advance in accordance with the qualifying holding process set out in Law 4261.

The BoG will assess whether the potential acquisition complies with all regulatory conditions and will prepare a draft decision for the European Central Bank (ECB) whether to oppose the acquisition. The ECB will thereafter decide whether or not to oppose the acquisition on the basis of its assessment of the proposed acquisition and the BoG's draft decision.

It is possible for a person to be considered as acquiring a qualifying holding even in circumstances when he or she acquires less than 10 per cent of the shares and voting rights, since the definition of qualifying holding also includes cases where a proposed acquirer is deemed to exercise a 'significant influence' over the management of a bank on the basis of a non-exhaustive list of factors issued by the BoG Act 178/2.10.2020.

A prior notification to the BoG is also required with respect to the acquisition or increase of a holding that would reach or exceed a percentage of 5 per cent in the capital or the attached voting rights of a Greek bank. The BoG will, thereafter, conduct an ad hoc assessment and decide, within five business days, whether such acquisition or increase will constitute a 'significant influence', and if so, it will notify the proposed acquirer and carry out an assessment in light of the qualifying holding process.

Besides the aforementioned qualifying holding approval process, notification requirements under Greek Law 3556/2007 (Law 3556) implementing the Transparency Directive (Directive 2004/109) in Greece might be also triggered as regards the acquisition of a significant shareholding in entities whose shares are traded on a regulated market (noting that all significant Greek banks are listed on ATHEX). The shareholders should notify the issuer and the Hellenic Capital Market Commission of the percentage of voting rights held by them if they acquire or dispose of shares of the issuer carrying voting rights and if, as a result of that acquisition or disposal, the percentage of their voting rights reaches or exceeds or falls below the applicable thresholds (ie, 5, 10, 15, 20, 25, 1/3, 50 per cent and two-thirds) or reaches, exceeds or falls below the aforementioned applicable threshold as a result of corporate events changing the breakdown of voting rights and on the basis of information disclosed by an issuer. A notification obligation also lies with any shareholder who holds voting rights exceeding 10 per cent, if such percentage changes by 3 per cent or more, following acquisition

or disposal of voting rights or other corporate events altering the breakdown of voting rights. New changes exceeding 3 per cent create a new notification obligation.

Additional requirements may be also triggered under competition law.

Foreign acquirers

29 | Are the regulatory authorities receptive to foreign acquirers? How is the regulatory process different for a foreign acquirer?

The nationality or the place of establishment of the proposed acquirer is not relevant. The BoG and the ECB are entitled to oppose the proposed acquisition only if there are reasonable grounds for doing so on the basis of the criteria set out in Law 4261.

The regulatory process, however, contains the following provisions as regards the assessment of foreign acquirers:

- the assessment should not take longer than 60 working days from receipt of a complete file. If, however, additional information is required, the aforementioned assessment period may be extended by the BoG by another 30 working days (instead of an additional 20 working days) if the acquirer is situated or regulated in a third country or is a natural or legal person not subject to supervision under the legislation applicable to banks, investment firms, (re-) insurance undertakings or UCITs; and
- the BoG should cooperate with the national competent authorities of other member-states supervising the proposed acquirer (if any).

30 | Under what circumstances can a foreign bank (or non-bank) establish an office and engage in business? For example, can it establish a branch or must it form or acquire a locally chartered bank?

Foreign banks may establish a branch in Greece without the need to form or acquire a locally chartered bank. More specifically, banks established in other EU member states are entitled to use their benefit of the EU 'passport' to offer services in Greece either by establishing a branch in Greece or alternatively through the freedom to provide services cross-border. The Greek branch may be established and commence its activities in Greece upon receipt of a communication from the BoG within the time frame set by law.

Third country banks may operate and provide banking activities in Greece only by establishing a branch in Greece, which must be authorised by the BoG, on conditions of reciprocity and provided, inter alia, that such activity is covered by their operation licence granted in a third-country bank's country of origin.

Besides the above, a foreign institution may acquire a Greek chartered bank within the ambit of engaging in business in Greece, to the extent that the relevant organisational and internal governance requirements are met, including that such bank will not be an empty shell that lacks the substance to remain authorised.

Factors considered by authorities

31 | What factors are considered by the relevant regulatory authorities in an acquisition of control of a bank (or non-bank)?

Law 4261 sets out a list of factors that are considered by the BoG and the ECB, which are notably the following:

- the reputation of the acquirer;
- the reputation, knowledge, skills and experience of any person who will direct the business of the bank;
- the financial soundness of the acquirer, in particular in relation to the type of business that the bank pursues;
- whether the bank will be able to comply with applicable prudential requirements on an ongoing basis (including whether the group of which the target will become a part has a structure that makes it possible to exercise effective supervision); or
- whether there are reasonable grounds to suspect money laundering or terrorist financing in connection with the proposed acquisition.

Filing requirements

32 | Describe the required filings for an acquisition of control of a bank.

The proposed acquirer should notify its intention to acquire a qualifying holding in a Greek bank to the BoG in accordance with the regulatory process set out in Law 4261 and the BoG Act of 142/11.6.2018 (as amended by BoG Act of 178/2.10.2020) and submit the relevant questionnaires and documentations set out in the aforementioned act. Such information includes:

- information on the proposed acquisition (eg, aim and expectations of the proposed acquirer);
- information on the natural or legal person (including general information as well as information to assess the financial position and creditworthiness of the proposed acquirer);
- in the case of natural person, direct or indirect holdings in legal entities, management positions;
- suitability of the natural person or legal entity (eg, criminal records or administrative proceedings);
- financing of the proposed acquisition (including the source);
- in the case of legal entity, the members of the board of directors and persons that effectively direct the business of the acquiring legal entity; and
- in the case of legal entity, information on the shareholding structure of the legal entity and determination of beneficial owner.

Time frame for approval

33 | What is the typical time frame for regulatory approval for both a domestic and a foreign acquirer?

The typical time frame for regulatory approval for a proposed acquirer is as follows:

- submitting of a notification (ie, complete file) to the BoG by the proposed acquirer;
- the BoG will acknowledge receipt upon receiving the notification by the proposed acquirer within two working days;
- the BoG will assess the proposed acquisition within 60 working days as from the date of the written acknowledgment of receipt (and is referred to as the 'assessment period'); and
- the BoG may request further information, which is necessary to complete its assessment, during the assessment period and no later than the 50th working day of such period; in this case, the assessment period may be extended to either up to 80 days for domestic acquirers or up to 90 days for foreign acquirers.

The BoG and the ECB may set a maximum period for concluding the proposed acquisition and extend it where appropriate. The approval of a proposed acquirer will take less time if the proposed acquirer has already been assessed and approved by the regulators in a previous qualifying holding process and depending on the circumstances the proposed acquirer may provide only those pieces of information that have changed since the previous assessment or a declaration.

UPDATE AND TRENDS

Key developments of the past year

34 Are there any emerging trends or hot topics in banking regulation in your jurisdiction?

NPLs and securitisation

Greek banks have already sold and transferred several non-performing loans (NPLs) portfolios to special purpose companies, with the servicing of such portfolios being assigned to licensed credit servicing companies. The trend to reduce NPL has been accelerated mainly through securitisation transactions and on the back of an intragroup transfer of NPLs from a systemic bank by way of a hive-down. Likewise, the government is seeking the extension of the HAPS regime, while the Bank of Greece (BoG) has proposed the creation of an asset management company for the management of NPLs aiming at finding a comprehensive solution for the problems facing the Greek banking sector.

Fintech

The BoG and the Hellenic Capital Market Commission have recently taken initiatives to support the financial technology (fintech) in the banking sector by introducing fintech hubs and regulatory sandboxes, as fintech is considered an important tool to improve the efficiency of the financial system. An open dialogue between the regulators and supervised entities providing or using financial innovative products or services based on information technology as well as non-regulated entities (eg, start-ups) wishing to start activities in the financial sectors is encouraged to promote the widespread use and application of fintech.

Environmental, social, and corporate governance and climate-related risks

The shift towards a greener and more sustainable economy has become a key priority at a global and EU level. Following the publication of the 2030 Agenda for Sustainable Development by the UN General Assembly (back in 2015) setting out the core sustainable development goals (SDGs), the EU Commission took into account these SDGs for the next steps towards a sustainable European Union future and presented the European Green Deal in 2019, whose part is also the European green investment plan aiming to establish a framework to facilitate public and private investments needed for the transition to a climate-neutral, green, competitive and inclusive economy. A series of legislation and other initiatives in relation to the sustainable finance and environmental, social and corporate governance (ESG) factors have also been published at an EU level. In Greece, one of the systemic banks issued the first green bond in 2020.

ESG has evolved and moved from the sidelines to the forefront of decision-making for an increasing number of companies (including, banks) and investors when making investment decisions in the financial sector, which leads to increased longer-term investments into sustainable economic activities and projects. In this respect, banks are already subject to extensive non-financial disclosure requirements (in accordance with Law 4548) and will need to comply with additional disclosure and organisational requirements in light of Regulation (EU) 2020/852 (Taxonomy Regulation) and include in their non-financial statement information how and to what extent their activities are associated with economic activities that qualify as environmentally sustainable. In addition, Regulation (EU) 2019/2088, as amended by the Taxonomy Regulation (Sustainable Finance Disclosures Regulation), and Regulation (EU) 2019/2089 on sustainability benchmarks should be taken into account in the ESG framework.

In Greece, initiatives have been taken both from Greek market players who developed the Greek Sustainability Code 2020 as well as from ATHEX which published the ESG Reporting Guide in 2019, to promote and enhance the ESG reporting practices of listed companies. In addition, the impact of climate-related risks is becoming more apparent to banks and supervisors alike, and the pandemic has led to an increased focus on the need to speed up progress in the management and disclosure of such risks. To that end, the European Central Bank (ECB) report on the vulnerabilities 2021 concluded that despite the increasing awareness of climate-related risks and the growing involvement of high-level decision-making bodies in monitoring such risks, only a few banks incorporate climate risk comprehensively in their risk management frameworks as well as banks do not properly disclose their climate-related risk profile. The focus of the supervisors will, therefore, turn towards the compliance of banks with the ESG principles and requirements (taking into account the EBA discussion paper on management and supervision of ESG risks for credit institutions and investment firms, aimed at defining and developing assessment criteria for ESG factors as well as the ECB Guide on climate-related and environmental risks).

CORONAVIRUS

Coronavirus

35 35 What emergency legislation, relief programmes and other initiatives specific to your practice area has been implemented to address the pandemic? Have any existing government programmes, laws or regulations been amended to address these concerns? What best practices are advisable for clients?

A series of programmes and other initiatives have been adopted by EU authorities and the Greek government and national authorities to mitigate the impact of the pandemic in the financial sector, including the following.

Borrower support measures

The Hellenic Bank Association (HBA) has taken measures as of the beginning of the covid-19 pandemic for the suspension of the repayment of loan principal for business loans as well as the suspension of loan repayment for borrowers-individuals who are evidently affected by covid-19 under certain conditions; such suspension has been extended in accordance with the most recent announcement published on 3 December 2020. The Greek government had adopted legal acts to extend certain deadlines in favour of the borrowers. The HBA in its latest announcement (dated 3 December 2020) published additional support measures as follows:

- borrowers who have applied and are eligible to join the Gefyra programme for subsidy of loan instalments with a main residence as collateral, will pay, from the date of the programme's activation and during the next nine months, only the amount of the instalment attributed to them, while the balance will be covered by the state; and
- borrowers required to pay as of 1 January 2021 their standard loan instalment as defined before the deferral and facing liquidity problems will be able under certain conditions to apply for a short-term gradual recovery programme for paying their contractual instalment, which will be examined by the banks. An extension of deadlines also applies with regard to obligations arising of bills of exchange, cheques and promissory notes.

Business financing

The Greek government has announced certain measures for the financing of businesses, including:

- granting of new loans of €2 billion to businesses through the European Investment Bank;

- establishing a new guarantee mechanism for working capital loans to small and medium-sized enterprises of up to €1.5 billion and for working capital loans to large enterprises of up to €2 billion;
- increased funding for the Hellenic Development Bank's Entrepreneurial Fund by €250 million for the granting of new loans to businesses affected by covid-19; and
- financing in the form of refundable advance payments of a total amount of €1 billion with a low interest rate and five-year maturity.

At an EU level, the most recent developments include the following initiatives and actions:

- EU Commission's action plan to tackle NPLs in the aftermath of the covid-19 pandemic,
- EBA guidelines on moratoria, covid-19 reporting and disclosure and on legislative and non-legislative moratoria;
- ECB's announcements regarding the request to banks to refrain from or limit dividends (until September 2021); and
- ECB decision to allow banks to exclude central bank exposures from leverage ratio (banks may benefit from relief measure until 27 June 2021).

The situation is subject to change and therefore the readers should seek the most updated actions and measures on the websites of the relevant authorities (including, BoG, the ECB and the European Banking Association) and the relevant ministries (including, the Ministry of Finance and Ministry of Development and Investments).

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