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| Your ref., Your message of | Our ref., person in charge | Extension | Date |
| | BSBV 115/Dr. Egger/St | 3137 | 20.06.2013 |

EBA - Draft ITS on Asset Encumbrance Reporting under article 95a of the draft CRR (EBA/CP/2013/05)

The Division Bank and Insurance of the Austrian Federal Economic Chamber, as representative of the entire Austrian banking industry, appreciates the possibility to comment on the EBA Consultation Paper relating to Draft ITS on Asset Encumbrance Reporting under article 95a of the draft CRR (EBA/CP/2013/05) and would like to submit the following position:

Question 1

Is the definition of asset encumbrance sufficiently clear?

Generally:

We doubt that the approach of EBA - to add a new definition and by this ignoring existing data, ignoring potential synergies and opening redundancies and adding complexity by the introduction of an additional definition not being aligned with the existing definitions- is of an additional regulatory use. We specifically question the use in light of potentially huge implementation costs depending on the final definition. This would lead to additional regulatory burdens in this respect.

The definition seems somewhat eclectic and not aligned with the existing reporting and regulatory framework. E.g. we think that the UCITS-definition for covered bonds in Art 52 (4) UCITS would be useful to refer to. What would be also necessary is a definition aligned with the existing definitions, especially those in reporting. Already now the supervisors are in the possession of many data from which they already today could retrieve the questioned information. From our perspective it is not reasonable to ask credit institutions for additional data before appropriately analyzing which data are already available.

The general hypothesis may also be questioned, which reads: In a general scenario of deteriorating values the encumbrance-ratio rises. We want to underline that there is no automatism between deterioration in values and raise in encumbrance due to the fact that many covered pool legislations contain specific buffer requirements on the one hand and valuation-haircuts on the other hand, in order to intrinsically set buffers against deteriorations, meaning

that the general assets are safe from encumbrance. On the other hand general assets are only at stake where specific legal requirements or contracts force credit institutions to additionally encumber assets in the form e.g. of call liabilities (in terms of covered pool and securitization legislation this is not necessarily the case). Also a liquidity crisis not automatically triggers a raise in encumbrance if the credit institution has other resources of liquidity than central bank liquidity.

From our perspective the following issues should be taken into account closely:

- The focus should be moved away from eclectic approach and turned to a more holistic and comprehensive approach
- Any hard caps should be avoided

Specifically:

What remains somewhat unclear seems the single entity vs. group-perspective concerning group of credit institutions. As we understand it, the reporting should take place on a consolidated as well as on a single entity-level. We understand the consolidated reporting in that sense that assets collateralized for central institution's liquidity should be treated from the single entity-view as encumbered, but not on a consolidated level as long as this asset is only collateralized within the group but not encumbered outside.

What we would strongly support is a proportionality-threshold: Only significant entities/groups should be obliged to report.

What concerns ECB collaterals it is being set out that only the used amount should be classified as encumbered. We want to underline that today the ECB-approach is not a single-instrument-approach but a pooling-approach. We today simply cannot allocate specific collateralized assets to a encumbrance/non-encumbrance-classification in this respect.

Question 2

Do you agree with the decision to follow the level of application as set out for prudential requirements? If not, what other level of application would be appropriate?

We would strongly advocate concentrating on the consolidated level for prudential requirements only.

Question 3

Do you believe the chosen definition of asset encumbrance ratio is appropriate? If not, would you prefer a measure that is based solely on on-balance sheet activities (collateral received and re-used, for instance from derivatives transactions would not be included) or a liability?

The context of the ratio is somewhat confusing: Is this encumbrance-ratio to be seen as a general measure or only a measure in the context of the proportionality-threshold? We are not quite sure.

In any case we would strongly plead not to exclude off-balance-sheet items and not to refer to the liability-side (but stick to the asset-side) of the balance sheet.

Question 4

Do you agree with the thresholds of respectively 30 bn. € in total assets or material asset encumbrance as defined as 5% of on- and off-balance sheet assets encumbered? If not, why are the levels not appropriate and what would be an appropriate level? Should additional proportionality criteria be introduced for the smallest institutions?

Although we agree with the threshold requirements, we suggest to define the 30 bn. € in total assets as a minimum level to be fulfilled since this value is also used as one of the criteria to identify a systemically important financial institution (SIFI) + 5%-threshold: Only if both thresholds are exceeded the reporting-requirement would be triggered. Furthermore we would plead to concentrate on consolidated level only.

Question 5

Under what circumstances might unencumbered assets of the types of loans on demand, equity instruments, debt securities and loans and advances other than loans on demand not be available for encumbrance?

If the credit quality and the usability of assets are insufficient and if the valuation of the assets is not reliable, unencumbered assets might not be available for encumbrance.

Question 6

What additional sources of material asset encumbrance beyond the one listed in rows 20 to 110 and 130 to 150 in template AE-Source do you see?

We do not see additional sources of material asset encumbrance.

Question 7

Do you believe the central bank repo eligibility criteria is an appropriate marketability criteria or should other criteria, such as risk weights, be used? If other criteria should be used, what could be the alternative?

We agree with the central bank repo eligibility criteria.

Question 8

Do you believe the chosen scenarios are appropriately defined? What alternative definitions would you apply?

Firstly we want to underline what has been said in the general comments (see answer 1) in the context of encumbrance in a deteriorating environment: Deterioration in valuation does not automatically trigger encumbrance in any case because this depends on the specific legal environment of the encumbered assets.

Moreover we plead for a really simple approach. A 30%-shift has never be seen before so we assume that this approach is sufficiently conservative.

Kindly give our remarks due consideration.

Yours sincerely,

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