

EBA-CP-2013-20@eba.europa.eu

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EBA - Consultation on Draft Guidelines on capital measures for foreign currency lending (EBA/CP/2013/20)

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 on Draft Guidelines on capital measures for foreign currency lending and would like to submit the following position:

With regard to legal certainty and the distribution of additional costs, it is important for institutions that they can assess the capital add ons before they are initialized. Therefore, we oppose the retrospective application of the Guidelines. Moreover an application of additional regulatory own funds with regard to a high share of FX-lending has to be refused; with regard to the riskbased calculation of the own fund requirements (pillar 2), FX-lending has to be covered with own funds anyway.

EU supervisors' SREP practices are currently not harmonized - while some, as the Austrian supervisor does, follow a Pillar 2+ approach (based on bank internal ICAAP), others follow a Pillar 1+ approach with Pillar 1 as starting point. The result is always a capital add-on to Pillar 1.

- **Paragraph 2 (page 8)**

In our view, the definitions of "FX" and "FX lending" should be reconsidered. We think that the crucial factor for determining an FX risk is a mismatch of the loan currency and the currency of the hedge. Although we understand that in most cases the legal tender of the domicile of the borrower correlates with his/her (natural / financial) hedge, there are cases where this definition seems problematic. Especially for cross-border commuters this definition does not fit at all, because loans with a currency mismatch between loan currency and hedge currency do not fall under the definition of FX lending with the consequence that FX risk will not be considered.

Besides, we vote for an exemption from the definition "FX" and "FX lending" for closely correlated currencies, as defined by Art. 354 CRR. We do not see an FX risk if a currency is subject to a legally binding intergovernmental agreement to limit its variation relative to other currencies covered by the same agreement. Adverse exchange rate movements cannot

take place. We would like to ask EBA to explicitly state that the currencies falling into this category.

Does this definition only refer to borrowers domiciled in the Member States of the European Union? What if the borrower is not domiciled in a MemberState?

""unhedged' borrower"" means borrowers without a natural or financial hedge"

Is the extent of the natural hedge of the borrower of any relevance in the categorization of "hedged/unhedged"?

Is the extent of the financial hedge of the borrower of any relevance in the categorization of "hedged/unhedged"?

If yes, how can a lender check the extent of the financial hedge of a borrower with other financial institutions? Is it sufficient if the borrower confirms in writing his financial hedge with other financial institutions to consider him "hedged"?

- **Paragraph 5**

We would like EBA to clarify the conditions of application of the guidelines regarding the materiality threshold in terms of time and duration (cut-off date for determining the threshold). This is especially important for institutions moving slightly above and below the threshold.

Regarding the definition of "threshold of materiality" we would like EBA to clarify if the complete FX exposure of a partially hedged borrower will be regarded as a loan in foreign currency to an unhedged borrower, or if the FX exposure can be calculated on a pro rata basis. If applicable, it should be in the discretion of the institution to decide on the use of the complete or pro rata FX exposure.

Furthermore, the threshold of materiality is defined for an institution. In the following paragraphs measures regarding FX risk are generally defined for each currency (e.g. in paragraph 13 it says „...should therefore account for potential future credit losses as a result of exchange rate fluctuations separately for different currencies“). Hence, where an institution meets the materiality threshold according to paragraph 5, we would appreciate if EBA specifies a materiality threshold on currency level as well, so that the measures as laid out in the guidelines will apply for only those currencies where their materiality threshold is met by the individual institute.

We do not agree with the last sentence of paragraph 5, enabling a competent authority to consider the FX lending risk to unhedged borrowers to be material for an individual institution even if this institution has not met the materiality threshold. In the light of European harmonisation this clause should be deleted.

- **Paragraph 10 (page 11)**

In order to ensure a consistent application by the competent authorities regarding the type of exchange rate regime we would ask EBA to explicitly define the categories (i) to (iii) and explicitly state the currencies falling into categories (i) domestic and foreign currency closely linked; (ii) currency board/pegged rate, (iii) free float in order to avoid that individual competent authorities make different stipulations, or to refer to the relevant ITS on correlated currencies according to Art. 354 CRR.

- This should comprise at least the relations of currencies to the euro. The table should also be extended to those currency baskets for which official currency boards or managed currency systems exist.
- Moreover, a periodical review of the hedging status of borrowers, as requested in the penultimate bullet point of paragraph 10, causes disproportionate efforts and is not feasible in many cases. We suggest to limit the review of the hedging status to loans exceeding a certain tenor, e.g. 10 years.

The financial hedging status of a borrower is typically not visible to a financial institution, as a borrower might be hedged with different financial institutions at the same time. The financial institution can however request a written statement from the borrower with regards to his hedging status. We consider such written confirmation (updated periodically) as legitimate proof of the hedging status of a borrower. There should be a certain transition period for banks to collect these confirmations.

We assume that if the borrower does not agree to any regular hedging status monitoring, the financial institution will be entitled to develop internal rules (e.g. based on the size of the borrower, the international/global activities of the borrower, the existing of a treasury department, information taken from the financial statements of the borrower, etc.) in order to define whether or not a borrower shall be considered as "hedged".

- **Paragraph 23 and 24**
Due to its huge potential economic impact, in their assessment competent authorities should be obliged to justify that "institutions do not hold capital which adequately covers FX lending risk". Furthermore institutions should be given the opportunity to comment on this assessment. Art. 100 (1) CRD IV mentioned in para. 23 should now read Art, 104 (1) CRD IV.
- Regarding the additional own funds requirement multiplier, references have been made to GL 39 and the pending implementing regulation on Article 113 CRD. It is unclear to us how the criteria as laid out in the reference texts are used by the competent authority to give scores and how these references can be interpreted for an institution. In particular, we would like to have more clarity on how proposed add-ons are calibrated. The approach appears to be quite arbitrary (criteria to give scores) and we would appreciate EBA to either develop more transparent methodologies on this (e.g. derived from stress test results, statistical models, etc.) or at least to use statistical benchmarks to justify the calibration of the add-ons.
- We would like to note that those guidelines affecting contractual obligations to borrowers should only apply for new FX lending contracts.

With kind regards,

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