Annex II
INSTRUCTIONS FOR REPORTING FINANCIAL INFORMATION (FORBEARANCE AND NON-PERFORMING LOANS)

Explanatory text for consultation purposes

Reporting of non-performing loans and forbearance will be integrated with the financial information templates (hereinafter “FINREP”) and based on the analysis on the data needs for supervision some templates in the framework will be amended, deleted and some new templates are introduced.

The EBA believes information on asset quality with a geographical breakdown is of particular relevance to allow for EU-wide or international assessment of asset quality issues as well as informed supervisory action in these fields. Indeed, asset quality issues may in some cases arise for specific jurisdictions or sectors. However, the provision of granular information as contained in tables NPE on non-performing exposures and FBE on forborne exposures may not be relevant in all situations.

This is why the EBA proposes that only aggregate information should be reported on a country by country basis, based on the country of residence of the counterparty and following the same methodology as in COREP (reporting will have to be provided by institutions for which foreign exposures account for more than 10% of their total exposures).

The following templates in the framework as published by 15 March 2013 are impacted:

- F10 is amended
- F14 is amended
- Templates for non-performing exposures and forborne exposures are introduced in this consultation

This Annex includes instructions for the amended or introduced templates. The templates are included in Annex II of this consultation paper.

Explanatory text for consultation purposes

FINREP tables 10 and 14 are amended to cover geographical breakdown of forborne and non-performing loans and impairments. The instructions are amended as follows (*in italics*).

1. BREAKDOWN OF LOANS AND ADVANCES TO NON-FINANCIAL CORPORATIONS BY NACE CODES (TABLE 10)

   1. Gross carrying amounts of loans and advances to non-financial corporations are classified by sector of economic activities [NACE Codes] on the basis of the principal activity of the counterparty.

   2. Additionally, institutions that are required to provide information on geographical distribution of exposures, in accordance with Article 9 of this Regulation, shall report the classification by NACE Codes on a "country-by-country" basis. Loans and advances shall be classified by country on the basis of the residence of the counterparty. The breakdown provided shall include loans and advances to "domestic" resident as well as loans and advances to residents in each foreign country in which the reporting institution has exposures.

   3. *"Non-performing" loans and advances shall be reported as defined in paragraphs 24 to 31 of this Annex.*

   4. *The classification of the exposures incurred jointly by more than one obligor shall be done on the basis of the characteristics of the obligor that was the more relevant, or determinant, for the reporting institution to grant the exposure. Among other classifications, the distribution of jointly incurred exposures by counterparty sector, country of residence and NACE codes as well as the assignation of the non-performing status should be driven by the characteristics of the more relevant or determinant obligor.*

   5. *"Accumulated impairment" shall be reported for financial assets at amortised cost or at fair value through other comprehensive income. "Accumulated changes in fair value due to credit risk" figures shall be reported for financial assets at fair value through profit or loss. "Accumulated impairment" shall include specific allowances for individually and collectively assessed financial assets as well as and "collective allowances for incurred but not reported losses" but do not include "accumulated write-offs" amounts as defined in paragraph 11 of Part 3 of Annex IV of this Regulation [note: as published by 15 March 2013].*

   6. *For debt instruments at amortised cost or at fair value through other comprehensive income, "gross carrying amount" shall mean the carrying amount excluding "accumulated impairment". For debt instruments fair value through profit and loss, "gross carrying amount" shall mean the carrying amount excluding "accumulated changes in fair value due to credit risk".*

2. GEOGRAPHICAL BREAKDOWN (TABLE 14)

   7. The geographical breakdown in tables 14.1 and 14.2 shall be reported by location of the activities, distinguishing between "domestic" and "non-domestic activities". "Location" means the jurisdiction of incorporation of the legal entity which has recognized the corresponding asset or liability; for branches, it means the jurisdiction of residence.

   8. Additionally, institutions that are required to provide information on geographical distribution of exposures, in accordance with Article 9 of this Regulation, shall report

tables 14.3, 14.4 and 14.5 “country-by-country” on the basis of the residence of the counterparty. The breakdown provided shall include exposures or liabilities with “domestic” residents as well as with residents in each foreign country in which the reporting institution has exposures.

9. *Debt forbearance comprises all “debt” contracts to which forbearance measures, as defined in paragraphs 14 to 22 of this Annex, are extended.*

10. *Non-performing exposures shall be reported as defined in paragraphs 26 to 34 of this Annex.*

11. *“Accumulated impairment” and “accumulated changes in fair value due to credit risk” shall be reported in accordance with paragraph 5 of this Annex.*

12. *For off-balance sheet exposures, the “nominal amount” shall be reported as defined in paragraph 23 of Part 3 of Annex IV of this Regulation [note: as published by 15 March 2013].*

13. *For debt instruments, “gross carrying amount” shall be reported as defined in paragraphs 6 of this Annex. For derivatives and equity instruments, the amount to be reported is the carrying amount.*

3. FORBORNE EXPOSURES (TABLE FBE)

14. For the purpose of this Annex and Annex XX [Annex of the final ITS on supervisory reporting in which the templates will be included], debts with forbearance measures are contracts the terms of which the debtor is considered unable to comply with due to its financial difficulties so that the institution decides either to modify the terms and conditions of the contract to enable the debtor to service the debt or to refinance, totally or partially, the contract. Refinancing refers to the use of contracts to ensure the total or partial payment of other contracts the current terms of which the debtor is unable to comply with.

15. “Debtor” encompasses all the natural and legal entities in a group within the accounting scope of consolidation.

16. “Debt” includes contracts under which an amount of funds is borrowed, or made available to be borrowed, from the institution. It includes loans, debt securities and loan commitments given.

17. Refinanced and refinancing debt shall include refinanced and refinancing debt under the contracts of the debtor with the parent undertaking and with any of its subsidiaries within the accounting scope of consolidation.

18. Notwithstanding paragraph 14, the following situations shall be treated as forbearance measures:

    (a) a modified contract includes more favourable terms than those that the debtor could have obtained in the market;

(b) a modified contract was classified as non-performing or totally or partially past-due more than 30 days (without being non-performing) at least once during the three months prior to its modification;

(c) a modified contract would without its modifications be classified as non-performing or totally or partially past-due more than 30 days (without being non-performing);

(d) the modification made to a contract implies a total or partial cancellation by write-offs of the debt, or repayments made by taking possession of collateral.

19. Refinancing has taken place when, simultaneously with or close in time to the concession of additional debt by the institution, the debtor made payments of principal or interest on another contract that was non-performing or totally or partially 30 days past due.

20. A contract ceases to be forborne only when all the following conditions are met:

(a) the contract is considered as performing;

(b) the institution has concluded, after an analysis of the financial condition of the debtor, that it is considered able to meet its payments;

(c) the debtor has met regularly the latest payments due.

21. A debtor has met regularly its latest payments due when both of the following conditions are met:

(a) it has paid, on a regular basis and according to the post-forbearance conditions, more than an insignificant amount of principal or interest due under the contract, including when applicable an amount equal to the entire amount that was past-due before the forbearance measures were extended or that was written-off by the forbearance measures;

(b) a probation period has passed.

22. The probation period shall end at the later of the following dates:

(a) two years after the date of the formalisation of the most recent forbearance measures without the debtor having any debt contract classified as non-performing or totally or partially 30 days past due;

(b) one year after the date at which the first payment of principal is due in the debt contract with the most recent forbearance measures without the debtor having any debt contract classified as non-performing, or totally or partially 30 days past due.

23. “Debt refinanced” includes the amounts recognized in the balance sheet at the reference date.

24. Performing exposures with forbearance comprise forborne exposures that do not meet the criteria to be considered as non-performing. Non-performing exposures with

forbearance measures comprise forborne exposures that meet the criteria to be considered as non-performing.

25. “Accumulated impairment” and “Accumulated changes in fair value due to credit risk” shall be reported in accordance with paragraph 5 of this Annex.

26. The amount of “accumulated impairment” reported for non-performing exposures shall not include incurred but not reported losses. Incurred but not reported losses shall be reported in “accumulated impairment for performing exposures”.

4. NON-PERFORMING EXPOSURES (TABLE NPE)

27. For the purpose of this Annex and Annex I, non-performing exposures are those that satisfy at least one of the following criteria:

    (a) material exposures are more than 90 days past-due;

    (b) exposures present a risk of not being paid back in full without collateral realisation, regardless of the existence of any past-due amount or of the number of days past due.

    This categorisation shall apply regardless of the classification of exposures as defaulted for regulatory purposes according to Article 174 of Regulation (EU) No xxxx/2013 [CRR] or as impaired for accounting purposes.

    Exposures that are defaulted according to Article 174 of Regulation (EU) No xxxx/2013 [CRR] and exposures that have been found impaired according to the applicable accounting framework shall always be considered as non-performing exposures. Exposures with “incurred but not reported losses” shall always be considered as performing exposures.

    Exposures shall be classified as non-performing without considering the existence of any collateral.

28. “Exposures” includes all debt instruments (loans and advances and debt securities), regardless of their classification for prudential or accounting purposes, as well as off-balance sheet exposures. “Exposures” comprises, among others, trading book positions and debt instruments held for trading. Off-balance sheet exposures comprise loan commitments given, financial guarantees given, and other commitments given.

29. “Past-due” means any amount of principal or interest that has not been paid at the date it was due.

30. A commitment shall be regarded as non-performing if, when withdrawn or otherwise used, it would lead to exposures that present a risk of not being paid back in full without realisation of collateral.

31. Financial guarantees given shall be regarded as non-performing in each of the following situations:

(a) when the counterparty is either past-due on the amount due under the guarantee contract or is considered unlikely to pay the amount in full;

(b) when the underlying guaranteed exposure meet the criteria to be considered as non-performing,

32. Whether an exposure is non-performing shall be assessed following a "debtor approach" or a "transaction approach" according to the following criteria:

    (a) for non-performing exposures that are defaulted or impaired the approaches used shall be those provided for in Regulation (EU) No xxxx/2013 [CRR] and used for the recognition of impairment, respectively

    (b) For other non-performing exposures, including those held for trading exposures, the provisions of Regulation (EU) No xxxx/2013 [CRR] for defaulted exposures shall be applied.

33. When a debtor has exposures past due more than 90 days representing 20% of all its exposures, or when the past-due amounts for this debtor represent 5% of its total exposures, all on- and off-balance sheet exposures to this debtor shall be considered as non-performing.

34. Exposures may be considered to have ceased being non-performing when, simultaneously, the situation of the debtor has improved to the extent that full repayment, according to the original or when applicable the modified conditions, is likely to be made and the debtor does not have any amount past-due. These generic exit criteria shall apply in addition to the criteria applied by reporting institutions for impaired and defaulted exposures.

35. Exposures exiting the non-performing category shall, upon exit from the non-performing category, be subject to special monitoring and separately reported for one year.

36. Past-due exposures shall be reported separately within the performing and non-performing categories. Performing exposures past-due less than 90 days shall be reported separately.

37. Non-performing exposures shall be reported broken down by past-due time bands. Exposures that are not past-due or are past-due 30 days or below but nevertheless are identified as non-performing due to likelihood of non-full repayment shall be reported in a dedicated column. Exposures that present both past-due amounts and likelihood of non-full repayment shall be allocated by past-due time bands consistent with their number of days past-due. In case of a performing forborne exposure presenting past-due amounts 90 days or below, the reporting institution shall assess in a conservative way the need to report it in the "unlikely to pay non-performing" category.

38. Impaired exposures and defaulted exposures shall be identified in separate columns.

39. "Accumulated impairment" and "accumulated changes in fair value due to credit risk" shall be reported in accordance with paragraph 5 of this Annex.

40. The amount of “accumulated impairment” reported for non-performing exposures shall not include incurred but not reported losses. Incurred but not reported losses shall be reported in “accumulated impairment” for performing exposures.

41. Information on collateral held and financial guarantee received on non-performing exposures shall be reported separately. Amount reported for collateral received and financial guarantees received shall be calculated in accordance with paragraphs 2 to 4 of Part 5 of Annex IV of this Regulation [note: as published by 15 March 2013]. Therefore, the sum of the amounts reported for both categories is capped at the carrying amount of the related exposure.

Explanatory text for consultation purposes

The separate identification of performing exposures which have been past-due for fewer than 90 as well as of the exposures under special monitoring acknowledges for the non-monolithic nature of the performing category.

A special reporting in a separate column is required for exposures that have recently exited the non-performing category as they have been seen as presenting a high probability of becoming non-performing again. This separate reporting will allow for their special monitoring.

The breakdown of non-performing exposures by time-band aims at providing information on the ageing of non-performing exposures.

Data on Accumulated impairment, provisions or changes in the fair-value due to credit risk enable to assess the coverage of the non-performing exposures by country. The structure of Tables NPE and FBE enables to differentiate impairment, provisions and changes in fair-value due to credit risk without being necessary to present them separately.

Separate identification of impairment on both amortised cost and AFS assets is separately provided in FINREP (Table 3.3 and Table 3.4). Separate identification of fair-value adjustments due to credit risk for fair-valued through profit or loss exposures is provided in FINREP (Table 3.1 and Table 3.2).

28) Do the instructions provide a clear description of the reporting framework? If not, which parts should be clarified?

29) Are there specific aspects of forbearance and non-performing loans that are not covered or addressed properly in the templates?

30) Do the reporting requirements include items which would be disproportionately costly to implement? If yes, how the templates could be modified to cover the necessary supervisory information? Institutions are especially encouraged to provide their views on which break-downs are easier to fill in, or whether they believe there are redundancies with information reported in other supervisory reporting templates, or if they believe alternative definitions could achieve similar results as those in this Consultation Paper but at lesser costs .