

CEBS

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EAPB comments on CEBS' consultation paper on technical advice on options and national discretions

The EAPB would like to thank CEBS for the possibility to submit our comments on CEBS' draft advice to the Commission, setting out proposals on how to deal with the national options and discretions in the CRD.

1. Introductory Remarks

The issue of national discretions and options in the CRD is very important for our members. The EAPB acknowledges CEBS' efforts to reduce the number of national discretions and options in the CRD in order to enhance convergence. We very much appreciate that CEBS involves the industry in the discussions and welcome CEBS' consultation in this regard.

In preparation of our response to CEBS' current consultation we have closely worked together with the other European Banking Associations represented in the European Banking Industry Committee (EBIC) and have also been involved in work of the industry expert group, nominated by CEBS.

The position paper which will be submitted by EBIC, representing the common European Banking Industry's view, covers a large number of the national discretions and options discussed in CEBS' consultation paper.

Therefore, after some general comments, we will concentrate on a few national discretions and options where consensus could not be reached with other associations and which are very important for our members.

2. General Comments

- *Joint assessment process*

The EAPB particularly welcomes the proposed use of joint assessments. We are convinced that this approach which enhance cooperation between European supervisors and advance the convergence of supervisory practices.

In addition to those areas mentioned in CEBS' consultation paper, we think that joint assessment processes could also be used in other areas.

This could e.g. be the case for the categorisation of central counterparties whose transactions are fully collateralised on a daily basis (Annex III, Part 1, point 2 in conjunction with Article 78(4) of Directive 2006/48/EC). If the eligibility of entities as central counterparties were examined by CEBS in a uniform manner throughout the EU along the lines of the procedure for recognising external credit assessment institutions (ECAIs), we believe this would bring about further convergence of supervisory practices. In addition, the joint assessments would make the assessment process considerably less burdensome for both European banks and national supervisors.

Furthermore, joint assessment processes could be conducted to determine whether third countries have supervisory regimes which are substantially equivalent to the arrangements in the CRD and whether regional governments and local authorities in these countries are treated by their supervisors in the same manner as central governments (e.g. Annex VI, Part 1, point 11 of Directive 2006/48/EC).

- *Binding mutual recognition for ND justified by of local market conditions*

Where national discretions are justified by the need to take account of local market conditions, we suggest that mutual recognition should always be binding. In other words, the decision of one national competent authority should be applied in a binding manner by all competent authorities to loans granted in this market by banks from other member states. Such mutual recognition should at least be binding where decisions by national competent authorities in the EU are concerned. This is the only way to avoid competitive distortion. If there is an information gap between competent authorities, which CEBS cites as an argument for non-binding mutual recognition, this should be bridged by greater cooperation and communication between supervisors in the context of supervisory disclosure.

- *Supervisory decisions*

The rationale behind the proposed conversion of national discretions into supervisory decisions “to be used on a case by case basis” is not sufficiently clear in our view. We believe that provisions whose application is conditional on satisfying objective criteria should be made available for use by all European banks which fulfil the criteria in question. It is naturally then up to national supervisors to verify such compliance case by case.

3. Detailed comments

- **ND 22 Standardised Approach (Art 83.2)**

We believe that the quality of unsolicited ratings should be subject to joint assessment by competent authorities along the lines of the procedure for recognising ECAs for risk weighting purposes. The result of the joint assessment should be binding on all national supervisors. If it does not prove possible to come to a joint decision in the short term on the use of unsolicited ratings, we agree with the proposed supervisory decision. Supervisors should nevertheless agree on a common approach to using unsolicited ratings in the longer term.

- **ND 33 Standardised Approach (Annex VI, Part 1, point 67)**

Under this national discretion competent authorities may permit reduced risk weights to be assigned to high-risk non-past due exposures for which value adjustments have been made. We do not consider it appropriate to delete this discretion because these risk provisioning measures effectively lower the risk of the exposure.

We advocate binding mutual recognition.

- **ND 34 Standardised Approach (Annex VI, Part 1, point 68 (e))**

We do not consider it appropriate to raise the loan-to-value ratio of loans secured by commercial property from 60% to 70%. As CEBS correctly points out, the majority of member states do not exercise this discretion. To avoid competitive distortion, this national discretion should be dropped.

- **ND 43 IRB (Annex VII, Part 2, point 15)**


Competent authorities may permit banks to replace the explicit maturity adjustment of the advance IRB approach with the M of the foundation IRB approach (2.5 or 0.5 years) for exposures to companies with consolidated assets and consolidated sale of less than €500m. CEBS would like this national discretion to be dropped after a transitional period of ten years. Existing rules on the use of M would then continue to apply to loans granted before the expiry of this period (grandfathering).

We strongly recommend that this national discretion be retained. Deletion would have unforeseeable consequences for the long-term funding of SMEs throughout Europe.

We would also like to point out that this national discretion is part of the so-called “SME compromise” reached by the Basel Committee on 21 July 2002. A deletion could consequently have serious political implications and an adverse effect on the further convergence of supervisory law in the EU.

Should you have any questions, please do not hesitate to contact us.

Kind regards,

A handwritten signature in black ink, appearing to read 'Schoppmann', written in a cursive style.

Henning Schoppmann
EAPB

A handwritten signature in black ink, appearing to read 'Hemetsberger', written in a cursive style.

Walburga Hemetsberger
EAPB

The European Association of Public Banks (EAPB) represents the interests of 29 public banks, funding agencies and associations of public banks throughout Europe, which together represent some 100 public financial institutions. The latter have a combined balance sheet total of about EUR 3,500 billion and represent about 190,000 employees, i.e. covering a European market share of approximately 15%.