

12 February 2016

## EAPB Position Paper on EBA Draft Guidelines on the Treatment of CVA Risk under SREP

### I General Remarks

The European Association of Public Banks (EAPB) welcomes the possibility to comment on the European Banking Authority's (EBA) draft guidelines on the treatment of credit value adjustment (CVA) risk under the supervisory review and evaluation process (SREP). However, the EAPB would like to use this opportunity in order to express some general reservations in the context of this draft guidelines publication.

First and foremost, the EAPB perceives the legal backbone to EBA's draft guidelines on the treatment of CVA risks under SREP as somewhat blurred. While generally it is desirable to aim for consistent regulatory and supervisory treatment at the European level to promote transparency and a level playing field, Article 456(2) of the Capital Requirements Regulation (CRR) confers the mandate to EBA to only monitor own funds requirements for credit value adjustment risk and to compile a report on the treatment of CVA risk. No specific mandate is given for the formulation of the proposed draft guidelines which may thus be perceived to be at odds with European legislation. Moreover, some of the suggestions made in the EBA guidelines such as the re-inclusion of certain exemptions into the perimeter of calculation of own fund requirements would be in breach of CRR provisions. EU legislators consciously allowed for exemptions for certain transactions in the CRR and the exemptions under CRR Article 382(4) benefit from a specific protection from any possible changes.

Further reservations regarding the draft guidelines arise with view to cost-benefit and materiality considerations. As a matter of fact, the SREP guidelines classify CVA risk as a sub-category of market risk specifying that such sub-categories should be monitored individually and only assessed if they present a material risk. EAPB believes however that CVA risk cannot be considered material for the vast majority of banks. If at some future date the European legislators decide that there is a need for guidelines at the European level, EBA would have to redraft the present proposal to ensure that materiality thresholds reflect this fact, and should in such a case also ensure that low risk business models, such as public and promotional banks, mainly using derivatives for hedging purposes, are not unfavourably treated by their low risk assets. In addition, taking into consideration the global developments on the treatment of CVA risks as followed up in the work streams in the Basel Committee on Banking Supervision (BCBS) and given the fact that a CVA framework revision is expected to be published by the BCBS soon, the question sparks off in how far the European level is currently in need of new guidelines in the CVA framework which anyways would have to be revisited subsequently to the publication of the BCBS proposals. For the sake of regulatory consistency on the global and European level, EAPB would suggest to firstly await the BCBS publication of a revised CVA framework before any follow-up measures on European level would be taken. Guidelines published as a Pillar 2 approach might not



rectify regulatory provisions nor serve as an effective tool for improving the assessment of Basel III implementation in the EU under the BCBS's Regulatory Consistency Assessment Programme (RCAP). It is only by going through the entire EU legislative process of amending the CRR which would make it possible to modify the current rules in a way which respects EU legislation and might change the analysis of the RCAP.

Therefore, the EAPB believes that it would be premature at this stage to support and implement EBA's present proposal for draft guidelines on the treatment of CVA risk under the SREP.

## **II About EAPB**

The European Association of Public Banks (EAPB) gathers 31 member organisations (financial institutions, funding agencies, public banks, associations of public banks and banks with similar interests) from 17 European Member States and countries, representing directly and indirectly the interests of over 90 financial institutions towards the EU and other European stakeholders. With a combined balance sheet total of about EUR 3,500 billion and a market share of around 15%, EAPB members constitute an essential part of the European financial sector and fulfill a unique countercyclical role with their promotional activity, as shown in the recent crisis.