20/12/2013 EBA

Consultation Paper on derogations for currencies with constraints on the availability of liquid assets under Article 419(5) of Regulation (EU) 575/2013 (Capital requirements Regulation – CRR)

Specific comments

Question 1: Do you agree with the proposed notification mechanism, its contents and timelines? If not, why not, and what should be altered?

We are of the strong belief that it will not be possible to inform the competent authorities 30 days before the use of the derogation. The reason behind that is the unpredictability of banking business. We cannot see that it is possible to plan all actions that can affect the net cash flow 30 days ahead. Although it is mentioned that EBA understand that this will be difficult to achieve we would suggest that notification of substantial use of the derogation will be notified to the competent authority when it is possible, not 30 days advance. If the use of this notification is meaningless at this time it should be dropped from the regulation.

Question 2: Are the steps to prevent the unnecessary use of a derogation clearly described? Do you see these steps as appropriate? If not, why not, and what should be altered? Are there any additional specifications that could clarify the assessments under paragraphs 1 and 2 of Article 3?

No, we do not think the steps are clearly described. We cannot see that these steps are specified in the regulation only mentioned in the explanatory text. We also have problems understanding what the steps really mean. What should banks do when they improve their "management of the inflow cap" or change their liquidity management? It is not obvious for us what the purpose of these operations really should be and how they should be possible to implement?

We would like these aspects to be better described in article 3 so it will be possible to understand what the authority would like institutions to do.

Question 3: Are the workings and conditions of derogation A clearly described? Do

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you see these steps as appropriate? If not, why not, and what should be altered?

We cannot see that it is clearly described how to handle international intra group transactions. We understand that the regulation is prepared in one way for institutions in a country with a currency which lack HQLA and another way for a group that can own that institution but reports in another currency. We should appreciate if EBA could elaborate a bit further on how to handle intra group transactions which involves different currencies, where some could be constrained when it comes to HQLA.

Question 4: What criteria would you regard as useful for evaluating the historical evidence as mentioned in paragraph (4a) of Article 4?

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Question 5: Is the additional 8% haircut on foreign-currency-denominated assets held under derogation A appropriate? If not, why not, and what alternative treatment would you propose?

It would have been more understandable if there were an argument from empiric investigations of exchanges in a stressed environment. Still, the level seems to be close to what we expect to be the costs in a stressed situation so we accept it.

Question 6: Are the workings and conditions of derogation B clearly described? Do you see these steps as appropriate? If not, why not, and what should be altered?

We have some problems understanding the possibility to make this regulation work. The regulation will just reach one part (the institution) in the agreements that are the backbone of derogation B. Is this option not eligible if the central bank want accept these conditions? For some reasons the central bank can have an agenda that makes it important for them to help the bank and therefore will not agree with the requirements that are described in derogation B.

Our opinion is that it must be feasible to reach an agreement with the central bank without having to accomplish all the requirements that EBA is discussing. If the central bank would like to have an agreement that is not in line with what EBA is stipulating the institution should be able to use derogation B.

Question 7: Is the proposal to limit the total use of the derogations by an institution to the relevant shortage percentage in the annex of the draft ITS containing a list of currencies with constraints on the availability of liquid assets under Article 419(4) CRR clearly described? If not, why not, and what further matters should be included? Do you see these stipulations as appropriate? If not, why not, and what should be altered?

In article 6 we can see that the derogation should not exceed "the relevant percentage" but we cannot understand what this should be. We can understand how

to calculate the percentage point, which is described in the article, but we cannot understand what the threshold should be.

Because of the impossibility to accomplish a study that would lead to an understanding of which currencies has a shortage of HQLA there is no list of currencies with constraints. We believe that this is possible to accomplish only when the definition of HQLA is published.

Question 8: Do you agree with the above analysis of the cost and benefit impact of the proposals?

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Question 9: Please provide any evidence or data that would further inform the analysis of the likely cost and benefit impacts of the proposals.

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SWEDISH BANKERS' ASSOCIATION

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