Bundesverband der Deutschen Volksbanken und Raiffeisenbanken e. V.
Bundesverband deutscher Banken e. V.
Bundesverband Öffentlicher Banken Deutschlands e. V.
Deutscher Sparkassen- und Giroverband e. V.
Verband deutscher Pfandbriefbanken e. V.

Die Deutsche Kreditwirtschaft

Comments

On the European Banking Authority's (EBA) Consultation Paper "On Disclosure for the leverage ratio under Article 451(2) of Regulation (EU) No 575/2013 (Capital Requirements Regulation – CRR)" EBA/CP/2013/41

Contact:
Dr. Markus Tischer
Telephone: +49 30 20225-5334
Fax: +49 30 20225-5325
Email: Markus.Tischer@dsgv.de

Berlin, 24. Januar 2014

Federführer:
Deutscher Sparkassen- und Giroverband e. V.
Charlottenstraße 47 | 10117 Berlin
Telefon: +49 30 20225-0
Telefax: +49 30 20225-250
www.die-deutsche-kreditwirtschaft.de

On 24 October 2013, the European Banking Authority (EBA) published its Consultation Paper entitled "On Disclosure for the leverage ratio under Article 451(2) of Regulation (EU) No 575/2013 (Capital Requirements Regulation – CRR)". We appreciate the present opportunity to submit our comments.

I. General Comments

On principle, due to the fact that its meaningfulness concerning banks' stability is extremely limited, we have strong reservations over the leverage ratio. Hence, we also doubt that any further specification of the rules on its disclosure will improve its fitness for purpose. However, allow us to preface our more specific comments on the individual templates under Part II by a number of more general remarks.

Along with the CRR, the present Consultation Paper on the disclosure of the leverage ratio refers to the Basel proposal on the revised definition of the leverage ratio. First and foremost, the latter leads to a very significant increase of the exposure metric (denominator of the leverage ratio). Provided all other conditions are identical, this leads to a considerable capital requirement in the international financial system in the absence of any [adequate] consideration of the economic risk inherent in the on-balance sheet transactions and off-balance sheet transactions. Furthermore, the EBA opts for a capital calculation approach which is divorced from risk [considerations]; in our view, this is a source for major concern.

In conjunction with this and in line with the Basel Committee resolution, the calibration shall and may not prejudice the leverage ratio in its capacity as a "backstop ratio". Neither the equal footing of the leverage ratio nor the domination of the risk based standards (leverage ratio as a front-stop) is consistent with the existing resolutions adopted by the Basel Committee. This should not be undermined by a definition of the leverage ratio that is considerably more stringent.

In light of the above reasons, we would like to reiterate our reservations over the meaningfulness of a migration to the treatment of the leverage ratio from pillar II to pillar I.

Whilst we welcome the supervisory goal of developing a leverage ratio definition which is not being influenced or, moreover, which is not being distorted by the application of any accounting standard in particular (be it IFRS, US-GAAP or any other national GAAP), even under due consideration of the amendments proposed in the Basel Consultation Paper e.g. concerning the treatment of derivatives and securities financing transactions (SFT), in terms of their definition, the leverage ratio shall remain essentially dependent upon the respectively applicable accounting standard. Whilst not limited to, this is e.g. due to the fact that - in its capacity as a residual metric and as the denominator in the definition of the leverage ratio - the "regulatory capital ratio" depends directly on the rules on carrying amounts and measurements under the respective accounting standard or, for instance on the requirement set out under indent 35 (gross SFT assets recognised for accounting purposes); in other words, it is based on a ratio which obviously depends on the accounting requirements. This does not translate into any elimination of differences between IFRS and US-GAAP. Hence, particularly in terms of the accounting values of the leverage ratio's risk metric we do not expect any material differences between the on-balance sheet figures and those reported in the LR reporting templates. In light of

the above, we doubt the meaningfulness of a comparison between the leverage ratio and the balance sheet as part of the disclosure exercise. As a consequence, we propose deleting the LRSum template.

Furthermore, European banks are already at a disadvantage given the structural differences (scope of the loan supply through the banking system) e.g. between European and the US; yet, this is not factored into the current leverage ratio calibration regime[, either].

Furthermore, please cf. the annexed GBIC comments on the Basel Consultation Paper. Initially, before the EU-COM takes action on the basis of its mandate under Article 456(1) (j) CRR for a delegated legal act and amends the definition and prior to any ensuing changes to the disclosure requirements by the EBA, we recommend waiting for the outcome of the Basel discussions. Compared to the present Basel draft, we are still expecting major changes which will also have an impact on the disclosure.
The two European amendments should only follow on the basis of the final version of the leverage ratio; the delegated legal act should be promulgated first and should only then be followed by the disclosure ITS that, necessarily, builds on the former. However, in order to avoid any distortion of competition, it is invariably of paramount importance that the amendments to the Basel requirements be implemented on a 1:1 basis in Europe.

II. Specific questions submitted for consultation purposes

Q01: Are the provisions included in this draft ITS sufficiently clear? Are there aspects which need to be elaborated further?

In our preliminary understanding, in line with the requirement under Article 433 CRR, the disclosure will generally have to be made at least once a year in the Pillar 3-report, i.e. usually at the reporting day 31 December. In other words, the figures reported in the templates should correspond to the figures in column 030 in the LR reporting template LRCalc as at the 31 December deadline. In our understanding, it will still be possible to include specific references to the relevant LR reporting templates in the instructions after approval of the ITS on Reporting by the EU COM.

Q02: Are the instructions provided in Annex II on the balance sheet reconciliation of LRSum sufficiently clear? Should the instructions for some rows be clarified? Which ones in particular? Are some rows missing?

In line with Art. 429(4) CRR, page 21 (chapter 1, indent 2.c) stipulates that financial sector entities shall be included in the disclosure of the individual bank. In our view, this requirement only makes sense on the consolidated or sub-consolidated level; however, in terms of a disclosure on an individual basis it does not yield any [decision-]useful information. Hence, we are of the opinion that this indent ought to be deleted.

In order to render the instructions clearer, it would be advisable to further elaborate the instructions on the supervisory data contained in column 020 by including a clear reference to the supervisory reporting templates

for the leverage ratio (for more details, please cf. Q01); on an individual basis, this approach has also been adopted for the table LRSpl.

Q03: Are the instructions provided in Annex II on the breakdown of leverage ratio exposure of LRCom and LRSpl sufficiently clear? Should the instructions for some rows be clarified? Which ones in particular? Are some rows missing?

There are no rows missing in LRCom and LRSpl. In order to make the requirements clearer, in our view it would be judicious to follow the procedure already spelt out under Q01, i.e. enhancing the instructions on table LRCom by including clear references to the supervisory reporting templates for the leverage ratio; this approach was similarly adopted for the table LRSpl on an individual basis.

The benefit of additional disclosures in the area of off-balance sheet items is not immediately obvious to us; neither do the instructions provide a rationale for such an approach. At this juncture, "material product types" have to be disclosed. We recommend stipulating a sufficiently high "materiality threshold" for the latter. This materiality threshold should be based on the total exposure of the leverage ratio (e.g. similar to the derivative threshold specified under chapter 6(3 b) ITS on Reporting, at least 2% contribution to the total exposure). From our point of view, to readers of such financial information, the disclosures of product types which contribute to less than 2% to the total exposure sum delivers no additional information benefit.

Furthermore, we object to the disclosure of the LRSplit on the following grounds: First, a disclosure without SFTs and derivatives does not differ in any significant manner from the existing EAD disclosure of credit risks. If external third parties (e.g. investors) wish to compare both ratios, a disclosure would lead to confusion. Furthermore, the break-down is unnecessary for the purposes of calculating the leverage ratio. We assume that the information shall only be used for the purposes of calibrating the leverage ratio. However, such information does not require any disclosure. Furthermore, we object to the disclosure of the year-end ratio since it might give rise to misunderstandings and confusion. The relevant ratio, on the other hand, constitutes an average ratio (sum total of the leverage ratios reported on the quarterly reporting dates divided by four). Any delta between the year-end figure and the average value which needs to be calculated would give rise to questions and leaves too much scope for misunderstandings and confusion.

Q04: Our analysis shows no significant impacts incremental to those caused by the provisions in the CRR and CRDIV are likely to materialise. Do you agree with our assessment? If not please explain why and provide estimates of such impacts whenever possible.

We do not share this point of view.

Neither for the calculation of the leverage ratio nor for COREP reporting purposes is there a need for a detailed off-balance-sheet item break-down on the basis of material product types. This requirement creates additional costs in the absence of any apparent justification for this. First, for the purposes of a break-down on the basis of main products a dynamic calculation is necessary which requires respective templates. Second, the structure of the data supplied by banking groups is at least partly based on aggregated data. In order to obtain respective information merely for disclosure purposes, these data supplies would have to see a corresponding

and costly expansion in order to facilitate an automated determination. Hence, we recommend limiting the disclosure obligation to that information which is included in the COREP templates for the purposes of calculating the leverage ratio. As far as we can see, the additional benefit of such a breakdown is rather spurious, to say the least.

Neither does the analysis apply to the qualitative requirements with regard to the description of an "excessive leverage". The description of the approaches for monitoring the risk of excessive leverage as well as the description of the factors which had an impact on the leverage ratio during the reporting period constitute comprehensive new disclosures that have to be drawn up from scratch.