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FRENCH BANKING FEDERATION RESPONSE TO EBA CONSULTATION ON METHODS FOR CALCULATING CONTRIBUTIONS TO DEPOSIT GUARANTEE SCHEMES CP/2014/35

The French Banking Federation (FBF) represents the interests of the banking industry in France. Its membership is composed of all credit institutions authorized as banks and doing business in France, i.e. more than 390 commercial, cooperative and mutual banks. FBF member banks have more than 38,000 permanent branches in France. They employ 370,000 people in France and around the world, and service 48 million customers.

General comments

The FBF welcomes the opportunity to respond to the EBA's consultation on methods for calculating contributions to deposit guarantee schemes (hereafter "DGS") in the context of the mandate given to the EBA by the new Deposit Guarantee Schemes Directive (Directive 2014/49/EU, hereafter "DGSD") as well as in the context of the transposition of the Bank Recovery and Resolution Directive (Directive 2014/59/EU, hereafter "BRRD") and the forthcoming entry into force of Regulation N° 806/2014 establishing a Single Resolution Mechanism (hereafter "SRM").

We believe it is important to keep all these regulatory developments in mind while determining the contributions to be paid to the DGS. In fact, the regulatory landscape has dramatically changed since the start of the recast of DGSD in 2010. Moreover, the implementation of BRRD creates a new framework to address banks difficulties preventively (recovery plans, early intervention), while CRR has required credit institutions to strengthen their capital and liquidity levels. In addition, should prevention not succeed, resolution planning ensures that critical functions (including access to deposits) can be preserved.

Therefore both the failure of a sizeable credit institution and the probability of recourse to the DGS have become much more remote. It has now become nearly obvious that DGS are dedicated to the failure of small and medium-sized banks. To some extent this has already been recognised by the DGSD which allows the DGS target to be reduced where the banking sector is highly concentrated. It has become even clearer in the draft EBA standard about MREL which aims at warranting that any SIB would be resolved by high levels of MREL and through resolution funds.

Moreover, the Preference provided to insured deposits results in a reduced loss given default for the DGS. All these recent elements should be taken into account in the contributions model.

In our understanding of the DGSD, the risk criteria used for the calculation of contributions by a covered institution aim at assessing the probability of using the deposit guarantee fund. We do not believe that risk criteria retained by the EBA fully allow reaching this goal. In particular, we believe that EBA risk criteria are too close to those retained for contributions to Resolution Funds with respect to their definition as absolute criteria as opposed to criteria relative to a country's banking sector risk profile, and need to be more articulated on this basis (see response to question 5 below).

Please find our detailed comments below.

Answer to questions related to the draft Guidelines

Q1. Do you have any general comments on the draft Guidelines on methods for calculating contributions to DGSs?

While we approve the general principles enumerated in Part II and recognize the benefits of more common practices in the EU, we are of the opinion that new crisis management regulation, mutualisation of the Single Resolution Fund (hereafter "SRF") and the variety of banking models in the EU should leave more room for manoeuvring to national discretion. This is why we believe that Part III of the Guidelines goes beyond the BRRD's spirit, i.e. setting out guidelines implementing the general criteria quoted in the level 1 text: risks and business models.

The DGSD states in article 13-2 that "DGSs may use their own risk-based methods for determining and calculating the risk-based contributions by their members"; these methods are to be approved by the supervisory authority and transmitted to EBA.

As stated above, we understand and support the goal of a greater convergence; nevertheless the guidelines as currently drafted provide a list of mandatory indicators with associated weights, whereas we believe the guidelines should propose indicators to be adapted to national circumstances.

We believe that more leeway should be left to Member States to implement the principles within their national regime and adapt the criteria to the type of institutions and business models that are most represented in their respective countries. The share of criteria left to national authorities (25%) is much too low. Only a minimum of 50% would ensure that national DGSs can be tailored appropriately to the jurisdictions and markets they belong to.

Q2. Do you consider the level of detail of these draft Guidelines to be appropriate?

No comment

Q3. Is the proposed formula for calculating contributions to DGS sufficiently clear and transparent?

We believe that the weighting method is complex and will not be transparent to institutions.

Q4. Considering the need for sufficient risk differentiation and consistency across the EU, do you agree on the minimum risk interval (75%-150%) proposed in these Guidelines?

We understand the rationale of taking into account risk factors in contributions. Nevertheless we believe that the risk interval should not be higher than 75%-150%.

Q5. Do you agree with the core risk indicators proposed in these Guidelines? If not, please specify your reasons and suggest alternative indicators that can be applied to institutions in all Member States. Do you foresee any unintended consequences that could stem from the suggested indicators?

We support principle 1, stating that contributions must reflect the probability of default of an institution and the loss incurred by the fund in case of failure. Nevertheless, as stated in the introduction, we believe that EBA risk criteria are conceptually close to the Resolution Fund ones with respect to their definition as absolute criteria as opposed to criteria relative to a country's banking sector risk profile.

We would like to comment further on the following criteria:

- MREL ratio

The criteria ultimately retained by the EBA should not only take into account the fact that an institution may fail, but also the fact that a DGS could be drawn on (in resolution or in liquidation). In particular, EBA's RTS 41/2014 on MREL provide that systemic institutions will be required to maintain very significant levels of MREL to be used prior to recourse to the resolution fund. This implies that the probability of SIBs drawing on a DGS is very low.

Conversely, the draft MREL RTS leaves open the usage of the DGS for resolving small and medium-sized banks, when liquidation is not considered possible. Although we do not believe this provision may be appropriate, we understand it does reflect on the authorities' view that on the low risk for a DGS to be called upon.

Therefore, a risk factors should, at the very least, take into consideration the amount of own funds and eligible debt owned by a bank in compliance with MREL requirements, and a ratio comparing the MREL and regulatory own funds, taking into account the shortfall to the 8% threshold as provided in article 44 of BRRD.

- NPL ratio

We do not believe that this ratio is appropriate due to lack of comparable definition (level playing field issue) and to the difficulty to assess it without the amount of specific and general provisions. In addition, the NLP ratio only partially covers the business mix of banking activities.

- Return on assets

We strongly oppose to the use of this ratio which does not reflect risks taken by banks. ROA reflects neither the institution's probability of default, nor the loss given default of the fund as it ignores, for example, the business mix, the level of covered positions of the balance sheet (e.g. repos), etc…

As previously mentioned in other consultations, for example on the leverage ratio, total asset does not give any indication on the type of risks incurred by the bank, nor does it take into account different business models (for instance mortgage activities have low risk intensity).

Regarding the potential loss to the DGS, we believe that this factor is significantly underweighted in the draft EBA guidelines.

Q6. Do you agree with the option to use either capital coverage ratio or Common Equity Tier 1 ratio as a measure of capital? Would you favour one of these indicators rather than the other, and why?

We favour the use of Common Equity Tier 1 ratio as a measure of capital given its widespread availability and consistency of definition across Europe.

Q7. Are there any particular types of institutions for which the core risk indicators specified in these Guidelines are not available due to the legal characteristics or supervisory regime of these institutions? Please describe the reasons why these core indicators are not available.

Some credit institutions benefit from a waiver of capital and/or liquidity ratios on a solo basis according to articles 7 and 8 of CRR. The guidelines should accommodate the rule to ensure that the indicators can be provided on a consolidated basis.

Q8. Do you think that more guidance, or specific thresholds, should be provided in these Guidelines with regard to calibration of buckets for risk indicators, or minimum and maximum values for a sliding scale approach?

We suggest that risk indicators buckets or sliding scale approach result into linear impact and minimise any cliff effects.

Answer to questions related to the Impact Assessment

Q9. Do you agree with our analysis of the impact of the proposals in this Consultation Paper? If not, can you provide any evidence or data that would explain why you disagree or might further inform our analysis of the likely impacts of the proposals?

No comment