

EBF RESPONSE TO EBA CONSULTATION PAPER ON THE IMPLEMENTING TECHNICAL STANDARDS ON PUBLIC DISCLOSURES BY INSTITUTIONS OF THE INFORMATION ON OPERATIONAL RISK

The European Banking Federation (EBF) welcomes the opportunity to put forward our comments on the EBA Consultation Paper. The EBF response to the consultation represents the consolidated view from all EBF members i.e., 33 national banking associations from across Europe representing in total about 3,500 banks.

While we appreciate these technical standards as a first overview of the Pillar 3 templates required from 2025, we see general critical aspects mainly related to:

- The short time range between the availability of final instructions (in 2nd half of 2024) and the first official notification (referred to 31st March 2025). According to this short timeline, banks would be forced to start IT projects and implementation according to the instructions reported in this Consultation Paper. Moreover, for what concerns Operational Risk, this would imply that the EBA had shorten the implementation time from 31st March 2025 to the 2nd half of 2024 to be compliant with the CRR, instead of extending the timeline, or else it would have to put forward new ad-hoc-data-collections.
- The new template EUI OR1, the rationale to report amount and number of excluded losses is not clear. If these losses are not relevant for the ILM (which is fixed to 1) and are in any case reported in the Pillar 3 template, please clarify the purpose for which they are excluded.
- The reference date used for reporting quarterly BI calculation on EU OR2: the same comments as those made on the COREP equivalent C 16.02 apply. We find difficulties and inconsistencies in the proposed framework for the reporting of the full set of information on the Business Indicator as of 31/12/N at the Q4 remittance date. The draft RTS on the adjustments to the Business Indicator requires to calculate and to report information based on audited financial figures. However, it will be not feasible to use the 31/12/N data, as these audited financial figures are not available when producing and publishing the Q4 COREP. The issues and challenges highlighted in the proposed framework for reporting the Business Indicator demand further discussion among our members to establish a unified perspective on feasible solutions.
- The Frequency of disclosures: the EBA did not provide at this stage information on the frequency of disclosures. Institutions shall consequently deduct the frequencies of the Pillar 3 templates based on their understanding of the related CRR3 requirements (Article 433 CRR3 mainly). Accordingly, this could result in different and possible wrong interpretations among institutions. In this context, it is important to have clarification about the frequencies expected for all Pillar 3 disclosures, i.e., not only for the new operational risk disclosures but also for all current, reviewed and new disclosures.
- The Track changes Final draft ITS: we noticed that when final versions of ITSs are published on the EBA's website the track changes versions of the templates (Excel) and instructions (Word) provided are the ones between the former ITSs and the amended

ITSs. No track changes versions of templates / instructions are provided between draft ITSs consultation and final draft ITSs. In this sense, to ease the comparison between the consultation versions and the final amended versions, we find important for the EBA to:

- continue providing the track changes versions of templates/disclosures between the current ITSs in application and the amended ITSs to be applied (as is currently the case), and the track changes versions of templates and instructions between draft ITSs submit to consultation and final draft ITSs.
- As a general consideration, in the future we would appreciate receiving guidance that is less prescriptive and more strategy-oriented, while maintaining a balance between flexibility and risk management.

RESPONSES TO QUESTIONS LISTED IN THE CONSULTATION PAPER

Question 1: Are the amended/new templates EU ORA, EU OR1, EU OR2 and EU OR3 and the related instructions clear to the respondents? If no, please motivate your response.

- EU ORA:
The requests are quite vague. Some examples of the required details would be really appreciated.
- EU OR1:
It would be useful to understand if the losses can be reported according to the institution scope referred to the reporting date, avoiding reporting data related to disposed/closed entities/activities. This would avoid overburdening institutions, which otherwise have to store all scopes of the past 10 years (considering that the scope can be updated every month).

It would be necessary to have clearer instructions with regards to the application of thresholds of annual net loss in a given financial year.

Article 316 in CRR3 could be interpreted as if the rules regarding loss data is not applicable to institutions whose BI is < EUR 750 million. However, according to the Pillar 3 template, it looks like all institutions shall publish incident statistics in the sheet "*Template EU OR1*". Please clarify whether all institutions, even those with BI < EUR 750 million, are expected to fully implement the requirement regarding loss data in CRR3. We consider that it should be clarified if OR1 is applicable or not for institutions with BI < EUR 750 million.

- EU OR2 and EU OR3:
Both are clear as long as the linked COREP templates are clear.

Question 2: Do the respondents identify any discrepancies between these templates and related instructions and the calculation of the requirements set out in the underlying regulation?

TEMPLATE EU OR1 (OPERATIONAL RISK LOSSES)

As a general point, the disclosure of entities operational risk losses is a sensitive topic that needs to be handled with care, in order to avoid misinterpretations by the market, analysts and investors. In this regard, we consider that it is important that the following points are taken into consideration:

- Template EU OR1 requires institutions to disclose detailed information on operational risk losses over the last ten years, including exclusions, despite the fact that the RTS that have been mandated to EBA to harmonize what is considered an exclusion or how to include losses from merger or acquired entities or activities have not been published. These mandates are in particular the ones in:
 - a. Article 320 (Exclusion of losses), where EBA shall define the conditions for the competent authority to assess the exclusion of losses, including how the annual operational risk losses should be computed and the specifications on the information

to be collected for the justification or any further information that is deemed necessary to perform the assessment.

- b. Article 321 (Inclusion of losses from merger or acquired entities or activities), where EBA shall determine how institutions shall determine the adjustments to their loss data set following the inclusion of losses from merged or acquired entities or activities.

It is also important to note that the starting point for institutions as of January 1, 2025 will be different: not all institutions will have a loss data and for the ones that have it, the management and characteristics of the loss data set may be different as well as the criteria for the exclusion of losses. This will only be guaranteed once the competent authorities have reviewed the quality of loss data sets and ensured that the criteria used by institutions are homogeneous (Article 322). This means that institutions are going to have to provide sensitive information on operational risk losses to the market from the last 10 years that is not harmonized and comparable, which can therefore be misleading to the market and, for instance, negatively impact institutions that may have been more comprehensive in the collection of the losses.

We consider that the disclosure to the market of such a sensitive information can only be done once there is guarantee that all institutions are applying the same rules and that the information is comparable and harmonized. For this reason, we consider that this disclosure should be postponed until the RTS have been released and it is guaranteed that the disclosed information is effectively comparable.

- Threshold to be applied for the disclosure of operational risk losses. Article 319.2 CRR3 requires institutions to disclose their annual operational risk losses using a threshold of €100.000. However, the template proposed by EBA goes beyond the CRR3 requirements by also asking institutions to disclose their annual operational risk losses from €20.000. We consider that the template should be aligned with the CRR3 and therefore remove any request to disclose losses using a €20.000 threshold.
- Instructions of template EU OR1.

The BCBS Standards for the disclosure of operational risk (DIS60)¹ specify, with regards to accompanying narrative in Template OR1 (historical losses):

*Banks are expected to supplement the template with narrative commentary explaining the **rationale in aggregate**, for new loss exclusions since the previous disclosure.*

*Banks should disclose any other material information, **in aggregate**, that would help inform users as to its historical losses or its recoveries, with the exception of confidential and proprietary information, including information about legal reserves.*

We consider that it would be necessary that the same exclusion should be inserted in the instructions of template EUR O1.

We propose amending the instructions as follows:

¹ https://www.bis.org/basel_framework/chapter/DIS/60.htm

5) *In the accompanying narrative, institutions shall disclose the justifications **in aggregate** for the exceptional operational risk events that were excluded from the calculation of the annual operational risk losses, in accordance with Article 446 (2), point b) of Regulation (EU) 575/2013.*

TEMPLATE EU OR2

- *Field EU 2e: Memorandum item: Total losses, expenses, provisions and other financial impacts resulting from operational risk events.*

We do not understand what the purpose of this field is, since it is not required neither by BCBS DIS 60 nor by Article 446. In addition, there is already information on operational risk losses being provided in in EU OR1, so we think that including this field is going to confuse the market. We propose the removal of this field.

- We understand that comments that have been made for the Reporting Templates 16.01 and 16.02 should also apply to Templates EU OR2 and Templates EU OR3.

TEMPLATE EU OR3

- The proposed EU OR3 template for the disclosure of own funds' requirements and exposure amounts includes a line that refers to the Internal Loss Multiplier (ILM) and sets it at 1. We do not consider that this template should refer to the ILM since the ILM is not part of the operational risk framework under the CRR3 and therefore, it is not and should not be a requirement under Article 446, which only requires institutions to disclose the BIC and the BI. We therefore consider that the ILM line should be removed from the template EU OR3.
- The SMA model is providing a generic approach for banks, but for entities whose income only comes from "*fees from payment services*" the component can be misleading as it does not take any risk mitigation into consideration since the Internal Loss Multiplier (ILM) was removed. Thus, making the capital charge somewhat insensitive to the quality of the internal control environment. Furthermore, the requirement to include "*losses, expenses, provisions and other financial impacts due to operational risk events accounted for in any items of the profit and loss statement*" under Other operating expenses make the capital requirement even more burdensome for these entities, as they usually have low Other operating income. Furthermore, due to lack of risk sensitivity in the Services component due to removal of ILM and the impact it has for entities whose income only comes from fees from payment services, a more appropriate way in the Services component would be to take into account the fee expenses and include that as a net of the commission income. This approach would reflect the reality of the business of the said entity in a more realistic way since fee expenses and fee income usually correlate, which will be reflected in the same way as it does for IC component under ILDC.
- We understand that comments that have been made for the Reporting Templates 16.01 and 16.02 should also apply to Templates EU OR2 and Templates EU OR3.

Question 3: Do the respondents agree that the amended draft ITS fits the purpose of the underlying regulation?

No comment.

Question 4: Do the respondents consider that the “mapping tool” appropriately reflects the mapping of the quantitative disclosure templates with supervisory reporting templates?

No comment.
