

EBA-CP-2013-10@eba.europa.eu

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	BSBV 115/Dr. Egger/St	3137	12 August 2013

EBA - Consultation on Draft ITS on joint decisions on institution-specific prudential requirements (EBA/CP/2013/10)

The Division Bank and Insurance of the Austrian Federal Economic Chamber, as representative of the entire Austrian banking industry, appreciates the possibility to comment on the EBA Consultation Paper on Draft ITS on joint decisions on institution-specific prudential requirements and would like to submit the following position:

General remarks:

We regard the Draft Implementing Technical Standards as critical regarding its relation to administrative legislation in at least some Member States. Especially due to the Draft ITS' (potential) huge impact on an institution's economic situation it is of importance to establish within the joint decision process as a procedural element a right of hearing of party for the institutions (EU parent institutions and entities) concerned before the final decision is being taken. It must be ensured that institutions have an opportunity to comment on the prudential joint decisions - in any case prior to their finalization, and that these comments are adequately taken into account in the final joint decision.

Art. 4:

As to the planning of the joint decision process it is important to involve the EU parent institution at an early stage.

Regarding Art. 4 (2)(h) we would like to highlight that it is crucial not to only consult with the EU parent institution and its entities on the joint decision documents, but also to grant them full status of a party to the proceedings. Such status should be a procedural element in any case, not only in cases where it is locally required. Please refer to our introductory remarks. The clause "where required by the legislation of a Member State" should therefore be deleted.

Art. 6 (4):

We agree with the general statement in this paragraph, however, it is essential to define the criteria according to which the "relevance of the entities within the group" and the

“significance in the local market” shall be assessed. Furthermore, it is unclear which legal consequences such a classification will entail.

Art. 9 (5)(a):

Editorial mistake: jurisdiction.

Art. 11:

The numbering of paragraphs should be reviewed (paragraphs 7 + 8).

Art. 13 (3):

In our view, a supervisory discussion should be an obligatory element of the communication process. The wording “where appropriate” should therefore be deleted.

Kindly give our remarks due consideration.

Yours sincerely,

Dr. Franz Rudorfer
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