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	BSBV 115/Dr. Egger/St	3137	18th July 2013

EBA – Consultation RTS on own funds (Part III) – EBA-CP-2013-17

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 RTS on own funds (Part III) – CP-2013-17and would like to submit the following position:

Q 1: Are the provisions of Art 14a sufficiently clear? Are there issues which need to be elaborated further?

With the exception of the remarks below we consider the provisions of Article 14a as sufficiently clear and understandable.

In general we want to point out, that the provisions regarding indirect and synthetic holdings laid down within Part 3 of the RTS on Own Funds are strongly linked to the Disclosure Requirements according to Part 2 of RTS of Own Funds published by the EBA on 7 June 2012.

We would highly appreciate that the EBA will support us with more detailed information in respect of disclosure of deductible items due to indirect and synthetic holdings, especially for the purposes shown on page 56 and 57 of Part 2 of RTS issued on 7 June 2012, due to the fact that the indirect as well as the synthetic holding could affect more than one of balance sheet items, e.g. Trading Portfolio Assets, Financial Assets designated at fair value, Available for sale financial assets, etc.

We believe that the provisions on indirect holdings and synthetic holdings should be considered separately within disclosure and therefore kindly ask EBA if it is planned to update the disclosure requirements respectively or to set out additional provisions on how to consider the provisions of Part 3 of RTS on own funds within the disclosure according to Part 8 of the CRR.

What remains unclear for us is whether holding companies fall under the provisions of a "financial institution" according to the CRR or if they are regarded as intermediate entities

according to the RTS own funds (part III). Especially holding companies which do not aquire holdings but only keep holdings should be treated as intermediate entities. Therefore we would ask for clarifications regarding the following questions in conjunction with Art 14a paragraph 1 of the RTS:

1. What is the difference between

Art 4 (26) CRR 'financial institution' means an undertaking other than an institution, the principal activity of which is to acquire holdings

and Own Funds Standard Part 3?

Art 14a (1).... "Intermediate entities shall be entities other than institutions in the meaning of article 4(4) of Regulation xx/XX/EU [CRR]and shall include:
....
(ii) these entities are special purpose entities or entities other than institutions or entities that are subject by virtue of applicable national law to requirements of Regulation xx/XX/EU [CRR] and Directive [CRDIV] whose activity is to hold financial instruments issued by financial sector entities.

2. Is a holding company, that has no own business activity and just one holding in an industrial enterprise a financial institution?

3. Is a holding company, that has no own business activity and just one holding in a financial sector entity a financial institution or an intermediate entity?

4. If it is a financial institution, does it matter if the acquisition of the one and only holding took place already before registration of the holding company because of a contribution in kind, so that the "activity" of the company never was to acquire holdings but to keep a holding?

Q 4: Do you agree with the examples of synthetic holdings provided in paragraph2of the following Article 14a? Should other examples be added to this list?

The provisions laid down in paragraph 2 are sufficiently clear.

Q 5: Are the provisions contained regarding synthetic holdings in paragraph 2 of the following Article 14a and in Article 14e sufficiently clear? Do you agree that the amount to be deducted shall be the notional amount? Would you see any situations where another amount shall be used?

The provisions laid down in paragraph 2 regarding synthetic holdings are sufficiently clear.

We doubt that the notional amount should be used for determination of the respective deductible amount.The investment via synthetic holding is directly linked to the value of the respective capital instrument.We strongly believe that the amount to be deducted should be linked to the amount representing the Fair Value of the instrument held via synthetic holding.There are different cases which would cause double-counting in different circumstances.The fair value reflects the current carrying amount of an instrument based on the applicable accounting standards.

In case the FV is below the notional amount the differential amount already impacts the CET-1 of an institution.
Deduction of the notional amount, which in this case would be the higher amount of notional amount versus carrying amount would mean to consider the negative impact in carrying amount for a second time.

We also assume that application of prudent valuation as defined within the CRR would lead to threefold such negative impact within the carrying amount:

1. Negative impact within the balance due to consideration of the lower carrying amount
2. Deduction of additional difference within the carrying amount in case measurement based on prudent valuation would result into a lower carrying amount than under applicable accounting standards
3. Deduction of the notional amount according to Article 14 of the RTS on own funds – part 3 - disregarding the negative impact on CET-1 due to measurement according to accounting standards as well as according to prudent valuation.

Q 6: Are the provisions relating to the deduction of serial or parallel holdings through intermediate entities sufficiently clear? Do you see any unexpected consequences? Are there issues which need to be elaborated further?

The provisions relating to the deduction of serial or parallel holdings through intermediated entities are sufficiently clear.

Q 7: Are the provisions of Article 14d relating to a structure-based approach sufficiently clear? Are there issues which need to be elaborated further?

The provisions of Article 14d relating to a structure-based approach are sufficiently clear.

Kindly give our remarks due consideration.

Yours sincerely,

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