CRÉDIT AGRICOLE S.A.

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Sent by e-mail on 25.07.13 to: EBA-CP-2013-11@eba.europa.eu

Paris, 25.07.2013

Subject: Crédit Agricole Group response to EBA consultation on criteria to identify categories of staff whose professional activities have a material impact on an institution's risk profile under Article 90(2) of the proposed Capital Requirements Directive (reference : EBA/CP/2013/11)

Dear Sir/Madam,

Crédit Agricole S.A. welcomes the opportunity to respond to the EBA consultation on criteria to identify categories of staff whose professional activities have a material impact on an institution's risk profile under Article 90(2) of the proposed Capital Requirements Directive

Please find attached our detailed comments.

We trust you will take the attached responses into consideration and remain at your disposal should you have any question or comments regarding our contribution.

Yours faithfully,

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EBA CONSULTATION ON

Criteria to identify categories of staff whose professional activities have a material impact on an institution's risk profile under Article 90(2) of the proposed Capital Requirements Directive

CONSULTATION REFERENCE N°: EBA/CP/2013/11

- Crédit Agricole Group Response -

The Group Crédit Agricole S.A. is a leading international banking and insurance group with total assets of € 1,842 bn (as of 31 December 2012). Its Basel 3 Core Tier 1 ratio is 9,3%. It is present in 70 countries worldwide (28 countries in Europe) and servicing more than 51 million customers through a network of 11,600 branches solidly anchored in their territories. The group employs 150.000 people worldwide (140.000 in Europe) and offers a wide range of financial services, including retail banking, consumer finance, insurance, asset management, private banking, leasing, factoring and corporate and investment banking. Crédit Agricole Group intends to fulfil its role as a leading European player with global scale, while complying with the commitments that stem from its mutualist background. It focuses its development on servicing the real economy and is committed to the principle of responsible growth.

* * *

Article 2 – Internal identification process

The proposed process and criteria are clear and coherent.
We have no comments concerning this article.

Article 3 – Qualitative and quantitative criteria

(1) Staff shall be identified as having a material impact on an institution's risk profile if they meet one or more of the following criteria:

a. the staff member is a member of the management body;

b. the staff member is a member of the senior management;

c. the staff member is responsible and accountable to the management body for the activities of the internal risk control function, the compliance function or the internal audit function;

d. the staff member heads a business unit (within the meaning of Article 137(1)(3) of Regulation (EU) No xxxx/2013 [CRR]);

Article 137 (1) (3) reads: 'business unit' means any separate organizational or legal entities, business lines, geographical locations;

e. the staff member heads a function responsible for legal affairs, taxation, human resources, information technology, budgeting, economic analysis, or ~~business continuity planning~~;

Q1: Is the list of specific functions listed appropriate or should additional functions be added?

The specific functions proposed in point a, b, c and d are appropriate.
To reflect effective impact of these functions on the risk profile of the Group and to respect the principle of proportionality, identification should be performed at the Group level, or at significant business unit level.

Point e proposes a more extensive definition of functions directly characterized as material risk takers. The terms 'budgeting' and 'economic analysis' are very broad and should be made more specific to ensure only the intended staff is captured. We do not understand why 'business continuity planning' needs to be specifically mentioned here. This function is already identified within the risk functions. We therefore suggest deleting it.

f. the staff member has, individually ~~or collectively~~ with other staff members, authority to commit to credit risk exposures of a nominal amount per transaction which represents 0.25% of the institution's Common Equity Tier 1 capital;

Q2: Can the above criteria be easily applied and are the levels of staff identified and the provided threshold appropriate?

The proposed approach of a threshold expressed as a % of CET1 is relevant.

However, the assessment should be made at Group level or at least, at significant business unit level.

The reference to collective authority to commit to credit risk exposure seems incorrect, as it can concern junior positions who are simply executing orders. It seems much more coherent to target the individual staff member who is directly accountable for the risk taken.

g. in relation to an institution to which the derogation for small trading book business under Article 89(1) of Regulation (EU) No xxxx/2013 [CRR] does not apply, the staff member has, individually ~~or collectively~~ with other staff members, authority to commit to transactions on the trading book which in aggregate represent one of the following:

> i. where the standardized approach is used, an own funds requirement for market risks of 0.25% or more of the institution's Common Equity Tier 1 capital;
>
> ii. where an internal model based approach is used, 5% or more of the institution's internal value-at-risk limit for trading book exposures at a 95th percentile, one-tailed confidence interval level;

Q3: Can the above criteria be easily applied and are the levels of staff identified and the provided thresholds appropriate?

The assessment with respect to value-at-risk (VAR) limits for market risks is appropriate.

However, the reference to collective authority to commit to transactions seems incorrect, as it can concern junior positions who are simply executing orders. It seems much more coherent to target the individual staff member who is directly accountable for the risk taken.

h. the staff member has managerial responsibility for a group of staff members who have individual authorities to commit the institution to transactions, and the sum of those authorities equals or exceeds a threshold set out in point (f) or in point (g);

The criteria can lead to define as material risk takers managers who individually are not entitled to a delegation as defined in point f or g. Authority of managers to commit to credit risk exposure should rather be appreciated based on their own delegation, not as the sum of the individual delegations under their responsibility.

i. the staff member has managerial responsibility for a staff member whose professional activities have or may have a material impact on the institution's risk profile according to the internal risk identification process in Article 2;

See point h comments

j. the staff member has, individually ~~or collectively~~ with other staff members, the authority to take, approve or veto decisions on the introduction of new products, material processes, or material systems.

The criterion seems coherent with the definition of MRT.
However, an extensive application could capture collectively many advisors whose personal impact on decision making is limited.
Therefore, it seems much more coherent to limit this criterion to staff members who individually have authority to take, approve or veto decisions.

Article 3 (2) (i.e. Criteria relating to remuneration level)

(2) Staff shall be identified as having a material impact on an institution's risk profile if they meet one or more of the following criteria, subject to Article (4):

a. the staff member could, in accordance with the institution's remuneration policy, be awarded variable remuneration that exceeds both of the following amounts

i. 75% of the fixed component of remuneration;

ii. EUR 75 000;

Q4 a) Is this criterion appropriate to identify risk takers? Q4 b) Are the thresholds set in the criterion appropriate? Q4 c) What would be the number of staff members identified in addition to all other criteria within the RTS? Q4 d) What would be the additional costs of implementation for the above criterion if an institution applies Article 4 in order to exclude staff from the group of identified staff?

As this criterion is conditional ("could be awarded"), every employee subject to compensation policy with no formal cap or target (as it is the case for entities over bonus pools) could potentially receive a 75% bonus and then (if the fix criterion is reached) be considered as MRT. This will lead to the identification of a significant number of MRT.

Consequently, the demonstration to supervisor that the MRT identified don't have effectively an impact on the risk profile of the bank will be lengthy, costly and burdensome.

As most Material Risk Takers will be excluded based on article 4 exemption, this criterion won't have any impact on the number of MRT identified and presents no benefits.

We suggest either to delete it, or to improve significantly the cap.

b. the staff member has been awarded total gross remuneration in one of the two preceding financial years which is equal to or greater than the lowest total remuneration that was awarded in that year to a member of staff who performs professional activities for the same entity and who either is a member of senior management or meets one of the criteria in paragraph (1) or one of the internal criteria referred to in Article 2;

Q5 a) Can the above criterion be easily applied? Q5 b) Would it be more appropriate to use remuneration which potentially could be awarded as a basis for this criterion? Q5 c) What would be the difference in implementation costs if the potentially awarded remuneration would be used as a basis?

This criterion is the most closely aligned with the initial definition "... any employee receiving total remuneration that takes them into the same remuneration bracket as senior management and risk takers".

However, the definition raises a number of issues:

- As remuneration level is very different from one location to another and depends on the economic environment. Therefore, the analysis should be realized at each entity / subsidiary / level in a given location in order to avoid the inclusion of too many people
- Control function should be excluded from this criterion, as their compensation level is different from the front office employees
- The levels of remuneration that this criterion sets could vary from year to year, which would increase the administrative burden in attempting to apply it.

c. the staff member has been awarded total gross remuneration of EUR 500 000 or more in one of the two preceding financial years.

Q6: Can the above criterion be easily applied and are the threshold and the levels of staff identified appropriate?

This criterion will identify material risk takers only ex-post with the risk of having a large number of employees concerned with no effective material impact on the risk profile.

It does not take into account the cost of living or the impact of exchange rates, creating therefore competitive distortion especially when applied outside EEA.

In consequence, the threshold should be defined at a higher level and should take into account the cost of living for every location.

d. the staff member is within the 0.3% of staff who received the highest total gross remuneration at the Group level in either the most recent financial year or in the preceding financial year.

Q7: Can the above criteria be easily applied and are the levels of staff identified appropriate?

Given the principle of proportionality and in order not to capture Material Risk Takers at small entities level, the identification should be done at Group level

Article 3 (3)

In paragraph (1), a reference to staff members having, individually or collectively with other staff members, authority to commit to transactions or exposures or to take, approve or veto a decision includes both of the following categories of staff:

a. ~~staff who are responsible for advising on or initiating such commitments or decisions~~;

b. staff who are members of a committee which has authority to make such commitments or to take such decisions.

Q8: Are there additional criteria which should be used to identify staff having a material impact on the institutions risk profile?

We consider that many staff (credit analyst, junior advisor, operational risk functions), can provide advice but not be either a decision-maker or considered to have a material impact on an institution's risk profile. This criterion can therefore have the consequences of identifying an extensive number of Material Risk Takers. It could also create the incentive for the staff to no longer give their opinion or participate to committees who manage risks.

We recommend therefore to delete the criterion 3 (3) a.

Article 5 - Entry into force

Given the consequences of the RTS on the 2014 remuneration provisions, a publication as late as mid 2014 seems very late.

We therefore request for the publication of the final RTS on identification criteria for Material Risk Takers by end 2013.