The voice of banking
& financial services

European Banking Authority
Tower 42 (Level 18)
25 Old Broad Street
London EC2N 1EX
United Kingdom

26 March 2012

Dear Sir/Madam,

BBA Response to EBA CP51: Supervisory reporting requirements for large exposures

The British Bankers' Association ("BBA") is the leading association for UK banking and financial services for the UK banking and financial services sector, speaking for over 220 banking members from 60 countries on the full range of the UK and international banking issues. All the major banking players in the UK are members of our association as are the large international EU banks, the US banks operating in the UK and financial entities from around the world. The integrated nature of banking means that our members are engaged in activities ranging widely across the financial spectrum encompassing services and products as diverse as primary and secondary securities trading, insurance, investment banking and wealth management, as well as deposit taking and other conventional forms of banking.

The BBA is pleased to respond to this consultation.

Implementation timetable

We are concerned that the lead time is too short and firms will need a longer period to incorporate the new regulations into their frameworks. The 150m EUR threshold would entail a dramatic increase in the amount of data reported, which could only be achieved via a fundamental change in the banks' operating models for large exposure reporting. This would be further exacerbated by the broadening of the depth of data with the sectoral and geographical breakdown. Furthermore, in the UK this is on top of the previous CEBS requirement to break down large exposures into constituent counterparties

Design, parallel runs, testing data and running validations are all essential to deliver accurate regulatory returns. In order to give firms enough times to make the necessary changes and ensure they will be in a position to report meaningful and accurate data, we recommend reporting does not commence until 1.1.2014 at the earliest.

The EBA also needs to take into account the other regulatory changes which include counterparty specific data developed, as these will also need to be developed in a similar time period. Examples are Recovery and Resolution Plans, and the FSB work on data templates for systemic banks. The combination of these will place enormous strains on bank resources and staff, and needs to be taken into consideration when deciding on a realistic implementation timetable.

150m EUR level for exposures

The current proposal of reporting every original exposure with a value larger than or equal to 150m EUR would result in a significant increase in the reporting burden placed on firms. In some cases the number of counterparties reported will increase by a factor of hundreds. Moreover, a substantial population of counterparties below the 150m EUR threshold would need to be investigated to ensure comprehensive coverage.

This is alongside a substantial amount of regulatory change to existing reporting systems. This dramatic increase in the reporting burden would inevitably lead to a negative impact on the accuracy of data reported because less resource will be available for validation of each data element.

It could also have a negative impact on firms' internal governance. For many of the requirements (particularly data items that are not typically used by management for the running of the business) there is a potential difficulty for senior management to demonstrate ownership and sign off the returns that will be submitted.

We also question the use of such extensive data for macro-prudential purposes in the absence of common legal identifiers to link cross-border exposures; the proposals use only national codes for counterparties (which incidentally would need to be developed in the UK).

The expanded number and scope of the data attributes required to be collected for each counterparty also have significant cost impacts. For instance, looking through into schemes' exposures, gathering indirect exposures and mitigation details represent a departure from the usual credit-based information available and compiling this data completely and accurately for hundreds or even thousands of counterparties will require significant development costs. This additional cost would be disproportionate to the amount of regulatory benefit that will be received by setting the level at 150m EUR.

150m EUR is not in any way a systemically important sum and the current approach needs to be reviewed. The EBA proposals contrast with the FSB paper Understanding Financial Linkages: A Common Data Template for Globally Systemically Important Banks (6 October 2011) which recommended a much more realistic requirement for the "Top 50" counterparties. The EBA's draft impact assessment in CP51 provides only very brief details of why the 150m EUR threshold was chosen and we would have expected much more analysis for changes of this scale.

The BBA proposes that one option the EBA should consider is to adopt reporting requirements along the lines suggested by the FSB, to help align reporting with global standards. Another option is to replace the 150m EUR with a specified percentage in relation to a firm's capital as we believe that macro-prudential supervision is better served by focusing on the largest exposures. Moreover, the conservative, and non-risk based nature of large exposure reporting makes it unsuitable for macro-prudential reporting. Forcing the two together will detract from the usefulness of both.

The 150m EUR limit as per Article 384(1) of CRDIV only applies for firms using the Institutional exemption limit (i.e. where the client is an institution then exposure cannot exceed 25% of capital or 150m EUR whichever is higher). Based on this another option to consider could be that a firm only needs to report exposures above 150M EUR where entities are applying this exemption.

We are concerned about the length of the report, which seems likely to be too unwieldy to be of much value. At least one member will have to report in excess of 3,000 exposures above 150m EUR and some of the larger groups of connected clients can comprise hundreds of subsidiaries. One option is an approach used by the UK's Financial Services Authority (under its FSA008 large exposure reporting form) which allowed certain individual subsidiaries' exposures under 2.5% of capital resources to be grouped into one single line in the equivalent section of the return. We recommend this as a viable solution in order to potentially avoid the significant burden of reporting thousands of lines of further exposures in the LE2 template.

Data protection

The EBA will need to consider data protection issues if details of firms' clients where exposures above 150m EUR are intended to be published externally. We ask for the EBA to clarify the official position on this potentially important legal issue.

For some of our internationally active members, some countries forbid firms to disclosure their customer's names to third parties. In these instances firms would need to hide the names of these customers in relation to the relevant countries. An alternative approach could be to report at an aggregate level in these circumstances.

Conclusion

The BBA recommends that the implementation date for the reporting of large exposures under this framework is delayed until at least 1.1.2014. As it stands, the 150m EUR limit is far too low. We would argue this is very much an exposure rather than a "large" exposure, and the limit needs to be changed as highlighted in this response.

We hope these comments are useful and the BBA would be delighted to provide assistance in any way we can on the future development of this initiative.

Yours sincerely

Robert Driver

Robert Driver
Policy Advisor
Prudential Capital & Risk
Tel: 020 7216 8813
Email: robert.driver@bba.org.uk

Annex I

1. What would be the minimum implementation period to adjust IT and reporting systems to meet the new ITS reporting requirements? Please elaborate on the challenges which could arise.

As stated above, firms need sufficient time to incorporate the considerable additional data requirements of the new regulations into their frameworks, including time for testing the new systems. We recommend the reporting requirements "go live" no earlier than 1.1.2014, which in turn would mean the first reporting reference date would be 31.3.2014.

Furthermore, the consultation suggests 1.1.2013 based on the start date for CRD IV. However, CRD IV contains no substantive changes for large exposures, where rules were updated in CRD II.

Please also see comments above.

2. What would be the minimum implementation period required for institutions NOT subject to large exposures reporting at the moment to implement the large exposures reporting described in this consultation paper?

N/A BBA members.

3. Would the required implementation period be the same for reporting requirements on an individual basis and on a consolidated basis?

Implementation would be complex whether individual, consolidated or both.

4. Compared to previous versions of the large exposures templates are there additional reporting requirements which, cause disproportionate costs?

As detailed above, the introduction of the 150m EUR limit will greatly increase the number of counterparties for large exposures reporting. Given that the benefit to regulators of these extra counterparties will be minimal, the high additional extra costs are disproportionate.

Please also see question below regarding NACE codes.

5. Are the templates, related instructions and validation rules included in Annex VIII and Annex IX sufficiently clear? Please provide concrete examples where the implementation instructions are not clear to you.

General

- The templates refer to a need for a "code". More details would need to be given on how the code will operate in practice, for example, who will issue the code, is there a cross over between clients of banks, would it be based on the current legal entity identifier initiative, and would it be ready for the proposed implementation date of 1.1.2013.

- Clarity is needed on the definitions of debt, equity and derivatives, and an explanation of why they refer to FINREP definitions.

- The EBA is proposing that exposures are to be reported pre and post the application of CRM; it should be noted that this is not feasible in the case of exposures reported under the Effective Expected Positive Exposure (EEPE) method which calculates exposures on derivatives and securities financing transactions (SFTs) to report pre CRM values.

- The term "original exposure" is confusing and too similar to "original exposure method". It also sounds like it means the exposure originally agreed with the counterparty. We suggest that "exposure" is sufficient.

- We were not clear what a "Civil-law association" refers to. Is it a business partnership where the partners are not legally separate from the business? If so, it seems more appropriate to report a single large exposure but also to set a threshold above which individual partners in a business partnership do not need to be aggregated to the partnership (say 30 partners).

- Confirmation is needed on whether firms with IRB approval reporting their 20 largest exposures in addition to the 150M EUR limit.

LE I Template

- Row 020 and Row 030:- The instructions say these "….. can also be the limit determined by the institution in accordance with the policies and procedures to address and control concentration risk." Does this mean that firms have the option to include a lower, internal limit? If so, this seems an unusual option to include in a regulatory return and we question the purpose of it.

- Column 020: The code needs clarification (see above).

- Column 040: Does this refer to county of incorporation, country of main business or country of location? At present the ISO code varies significantly depending on the area of business.

- Column 060: The link in the instructions to the NACE codes needs updating because the webpage states it is no longer being updated. The webpage does provide a link to a "Case tool" but that does not seem suitable either. Also we did not understand the reference to "one level detail" and "two level details".

- Column 070: The instructions are silent on whether repos, derivatives and composite facilities are reported net or gross. We recommend these products are reported on a net basis to avoid disproportionately high and misleading exposure values being included here.

- Columns 90 – 140: Full clarity on the products to be included within each definition is required to ensure consistency

- Columns 110, 160 & 270: "Derivatives" needs further clarification. For example, does this include Securities Financing Transactions (SFTs)"? These are segregated in other COREP returns, but it is unclear here. If SFTs and other similar issues are not to be included, are they to be reported separately, and if so where?

- Columns 260-320: There is a typing error as real estate treatment is reported in column 320 and not in column 330 as given in the guidance.

- Column 370: "number of breaches during reporting period". This requires further clarification, for example, does this refer to the number of days during the period for which there was a breach, or the number of individual occasions a breach has occurred. We suggest the number of days would be a more useful measure.

LE 2 Template

Products such as multi-option facilities or derivative netting agreements are available to a number of counterparties within a group of connected clients. The instructions are silent on how the exposures are to be apportioned between those counterparties. Without clarity on this, the final output is likely to vary considerably between firms.

In the explanation of this template it suggests only external exposures are to be reported. If this is indeed the case, where will internal exposures be recorded?

Validation Rules: The ninth validation rule should also include {LE.1,260}.

- Row 035: In regards to the type of connection, will firms needs to assess whether a counterparty is connected or not. If so, it would be beneficial to understand why the additional details are required.

6. What are the cost implications of introducing a breakdown by residence of the counterparties?

Clarity is required on the country of reporting i.e. is it the country of incorporation, country of domicile or country or risk.

7. What are the cost implications of introducing a breakdown by sector of the counterparties?

See question 6.

8. What are the cost implications of introducing a breakdown by economic sector by using NACE codes?

The vast majority of our members do not use NACE codes, and as a result there will be a significant cost to the industry in mapping over from current methodologies to the NACE codes. If the EBA wants the industry to sue NACE codes, it should consider clarifying why they need to be used, and provide support on how current classifications should be aligned to them.

9. Would other classifications be more suitable or cost efficient?

Firms should be allowed to keep using their current classification systems. We see no benefit in the compulsory use of NACE codes, particularly as the changeover is potentially costly and of no obvious tangible benefit.