Bundesverband der Deutschen Volksbanken und Raiffeisenbanken e. V.
Bundesverband deutscher Banken e. V.
Bundesverband Öffentlicher Banken Deutschlands e. V.
Deutscher Sparkassen- und Giroverband e. V.
Verband deutscher Pfandbriefbanken e. V.

Die Deutsche Kreditwirtschaft

Comments on

EBA Consultation Paper on Draft Implementing Technical Standards on Supervisory reporting requirements for large exposures (CP 51)

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The German Banking Industry Committee is the joint committee operated by the central associations of the German banking industry. These associations are the Bundesverband der Deutschen Volksbanken und Raiffeisenbanken (BVR), for the cooperative banks, the Bundesverband deutscher Banken (BdB), for the private commercial banks, the Bundesverband Öffentlicher Banken Deutschlands (VÖB), for the public-sector banks, the Deutscher Sparkassen- und Giroverband (DSGV), for the savings banks financial group, and the Verband deutscher Pfandbriefbanken (vdp), for the Pfandbrief banks. Collectively, they represent more than 2,200 banks.

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Comments on EBA Consultation Paper on Draft Implementing Technical Standards on Supervisory reporting requirements for large exposures (CP 51)

Dear Sir or Madam,

On 13 February 2012, EBA published the Consultation Paper on Draft Implementing Technical Standards on Supervisory reporting requirements for large exposures (CP 51). On behalf of the German Banking Industry Committee we appreciate the present opportunity to share our comments.

I. General

Implementation Deadline

According to EBA's current proposals, the present ITS should come into effect as early as 1 January 2013 which means that reporting on the basis of the new templates will have to take place as of 31 March 2013. For German banks, this deadline is utterly unfeasible.
A maximum implementation timeline of nine months would only be warranted if and when the current plans of handing over the ITS to the Commission by the end of July materialise and if and when said ITS will come into effect without any further amendments. However, it is absolutely possible that there are still going to be future adjustments. This absence of legal certainty renders reliable project planning unfeasible. However, implementation projects can only be initiated on the basis of a final legal regime. Furthermore, we would like to point out that the resources in the respective operational and IT departments are already heavily tied up by other regulatory projects; whilst not limited to, this especially applies to the implementation of COREP and FINREP. This is further compounded by the fact that the new proposals will also have to be implemented by the manufacturers of standard software - only afterwards will it be possible to introduce them in the respective banks. At that point, generally, a comprehensive testing phase will follow. In our view, imposing such an ambitious implementation timeline is unnecessary. Even under Article 383(3) of the Draft CRR, the maximum requirement is that the EBA submits a draft standard by 1 January 2013 to the Commission. We vigorously advocate postponing the introduction of the new large exposure reporting templates by at least one year, i.e. to 1 January 2014.

Furthermore, Article 94 of the Draft CRR could be construed as meaning that in future, data will have to be calculated on the basis of IFRS also for the purposes of large exposures regimes. At least in Germany, at present, there is no obligation to use IFRS data. Instead, it is possible to use the national accounting standards. However, if IFRS were to become applicable once the CRR comes into effect, this would result in additional implementation costs which, to date, have not been factored into the existing project budgets.

The benefits of the large exposures regime for macro-prudential purposes

The rationale behind the large exposures regime consists in limiting the risk of a client default or, moreover, default by a group of connected clients. As a backstop regime, in this case there will be use of amounts without conversion factors, risk weights and the like. This means that not the actual economic risk but a value which was calculated on the basis of very conservative standards will have a limiting effect. It strikes us that, suddenly, the instrument of large exposures monitoring and reporting shall also serve macro-prudential purposes. Furthermore, to this end, the data requirements will be expanded significantly, and there are plans to introduce a new threshold of EUR 150 million. In our view, when it

Comments on EBA Consultation Paper on Draft Implementing Technical Standards on Supervisory reporting requirements for large exposures (CP 51)

comes to collating valid data on macro-prudential risks and drawing the right conclusions from this, the large exposures regime is genuinely not fit for purpose.

First, the large exposures rules exclusively serve the purpose of limiting credit risk. There is no explicit focus on neither individual sectors nor on geographical risks. This was also the general understanding during the consultation process of the CEBS guidelines on the revised large exposures regime. Statistical reports as well as COREP and FINREP are far better suited for capturing such risks. Especially as regards the latter two, the EBA ITS on reporting (CP 50) has significantly expanded the reporting requirements thus leading to a considerable increase in the implementation costs as well as the ongoing operational costs. From our point of view, additionally reporting data for macro-prudential purposes also under the large exposures regime is redundant and leads to duplicate reporting of the same content.

Furthermore, in our view, using the large exposures regime in the proposed form would potentially lead to a blatant exaggeration of exposures thus failing to provide a true and fair view. This is due to the fact that the proposed reporting regime would lead to multiple assignments of exposures due to reporting by partners of a civil-law association (GbR), guarantee obligations or consolidation scenarios. At present, there seems to be an absence of a differentiated analysis at the level of the prudential supervisor. Hence, we doubt the meaningfulness of macro-analyses on the basis of large exposures reporting. Our reservations are also owed to the fact that the volume of large exposures which will be reported depends considerably on the structure of the banking market in a given country. Hence, a country with a highly fragmented banking sector, i.e. many small banks, will generally report more large exposures as opposed to, for instance, a country in which but a limited number of large banks operate.

We strongly object to the proposed introduction of a new reporting threshold of EUR 150 million. Article 381 defines the "large exposure" as an institution’s exposure to a client group or group of connected clients where its value is equal or exceeds 10 % of its eligible capital. Even the mandate conveyed under Article 383(3) of the Draft CRR only authorises EBA to flesh out the reporting itself, i.e. uniform formats, frequencies, IT solutions. However, the CRR contains no mandate covering the definition of a new threshold.

Furthermore, the calibration of the threshold is left opaque and appears to have been defined at random. As we have pointed out above, we feel it is unlikely that such a high threshold will be able to generate meaningful results. Above all, in our view, a new reporting threshold creates administrative red tape. Initial data collected by our member institutions suggests that the number of reporting cases will at least be three times greater. We are therefore in favour of using the regulatory text of the CRR and keeping the large exposures threshold stable at 10% of the eligible capital.

On a consolidated basis reporting

For the purposes of reporting on a consolidated basis, institutions need to aggregate the exposures of all companies forming part of the group in order to find out whether a large exposure exists to a client or group of connected clients. Especially when it comes to institutions with many companies affiliated with the group, this ties up a considerable amount of resources. Hence, we would welcome it if a pragmatic approach were adopted which, however, still guarantees that the large exposures rules can be complied with at any point in time on a consolidated basis. To this end, we would like to propose the following procedure:

Comments on EBA Consultation Paper on Draft Implementing Technical Standards on Supervisory reporting requirements for large exposures (CP 51)

All exposures of a company affiliated with the group to a client or a group of connected clients should be included in the observation on a consolidated basis if and when said exposures exceed 5% of the eligible capital of said company after recognition of credit risk mitigation techniques and exemptions.

Under the provisions of Article 11(3) of the Draft ITS in conjunction with Article 383(1) of the draft CRR, an IRBA institution needs to report at least its 20 largest exposures on a consolidated basis. We suggest clarifying that the status as per reporting deadline shall be applicable when it comes to the definition of the 20 largest exposures.

II. Responses to EBA's questions

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.

Under EBA's proposal, the new large exposures reporting templates shall be applied by institutions as early as 1 January 2013. In view of the major implementation challenges which would arise, this implementation period is clearly too short. The new reporting requirements should come into effect on 1 January 2014 at the earliest.
Once all preconditions have become clear and after consultation with the data processing centres and the manufacturer of the reporting standard software – including the necessary adjustments to the IT architecture (e.g. adjustments of interfaces, implementation of test runs) – our initial estimate is that a lead time of at least one more year will be required before full implementation of the new reporting requirements will be feasible.

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?

Not applicable

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

Due to the fact that the consultation with (foreign) subsidiaries tends to be very time consuming, on principle, the implementation period for large exposures reporting requirements on a consolidated basis would be longer. Therefore, in view of the deployment of heterogeneous reporting software within the group or, moreover, partly manual reporting, it can be assumed that the implementation of new reporting requirements at a consolidated level will take at least one year. At this juncture, there is a particular need to redefine and/or test the deliveries and interfaces.

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

Comments on EBA Consultation Paper on Draft Implementing Technical Standards on Supervisory reporting requirements for large exposures (CP 51)

Yes, there are disproportionate costs which are, for instance, caused by the reporting requirement concerning the NACE code which is currently not available within institutions' systems. The same applies to the information requirements resulting from the references to FINREP which, to date, are still absent from the basic reporting data, or at least absent in the form required.
Further disproportionate costs are caused due to the fact that a host of mandatory additional encryptions have to be introduced, ranging from the front office systems to the electronic file in the raw format. Due to the fact that the institution will have to ensure the availability of the corresponding resources, the end-to-end further processing of the raw data is a cause for disproportionately high costs. However, if alternatively, the raw data were to be processed in intermediate steps, the institution would not have to keep the entire data volumes available in their entirety across all systems.

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.

1. LE 1:
The use of a "civil law association" (*GbR*) should be duplicated to every individual partner so that in the final analysis only the partners are reported. Is this interpretation correct? Does this statement only refer to civil law associations featuring joint ownership (*Gesamthands-GbRs*)? What about civil law associations featuring quotas (*Quoten-GbR's*), joint accounts, communities of heirs and so-called straw-man loans?

2. LE 1 Pos. 010, 020, 040, 050, 060:
For these positions it is envisaged that the content will be defined using the biggest exposure of a group of connected clients to which exposures exist provided that there is no parent company. In our view, this is not a very promising proposal since the exposures within a group of connected clients may shift from one reporting date to the next reporting date and thus clients shown as the highest link in the group of connected clients would differ accordingly. This would be at odds with the implementation of time series analyses and thus macro-prudential analyses. We would like to suggest that the designation of a group of connected clients be determined on the basis of first-time reporting; subsequent to this, it should serve as a reference for the constructions and content of the other fields. As a defining characteristic of control in the event of summary scenarios, the parent company or, moreover, the controlling member should be a leading member of the group of connected clients on the basis of economic dependencies, the dependency provider.

3. LE 1 Pos. 010:
The name of the group or in the absence of a group, the name of the client – the name of the group includes the name of the parent company, should there be no parent company, the name of the largest client from the group of connected clients.
This may lead to inconsistent group designations on the part of the institutions that are subject to the reporting requirement. We cannot possibly imagine that this is in line with the rationale behind the initial proposal.

4. LE 1 Pos. 050:
This position requires a re-classification. To date, in Germany, there have been consistent classifications in terms of sections 13 and 14 German Banking Act (also known as debtor classifications: "business

enterprise and private individuals", "public entities", "banks"…). Are there any more detailed explanations on the new classifications?

5. LE 1 Pos. 100 [eligible equity instrument (e.g. participation) and off-balance sheet transactions]:
In our view, at this juncture, both equity instruments and also off-balance sheet transactions are included. Is this correct? A detailed list of the equity instruments would be helpful.

6. Pos. 200:
Article 379(7) Draft CRR regulates the formation of groups of connected clients if and when this concerns schemes with underlying assets, the goal being that the exposures resulting from a scheme with underlying assets shall be aggregated with existing exposures or, moreover, the loans gathered during the look-through shall be taken into account for the purposes of large exposures monitoring and reporting. Hence, these exposures are already included in column 090-190. An additional recognition in column 200 would signify their duplicate recognition. Furthermore, we are not aware of any benefit inherent in reporting exposures gathered from the look-through.

7. Pos. 220:
The items mentioned under Article 379(6) Draft CRR do not constitute loans within the meaning of the large exposures rules and shall therefore not be recognised in the calculation of credit amounts. This means that, in column 070, they shall be absent already. In our view, it is not covered by EBA's mandate to expand, by means of an ITS, the definition of the loan concept which is standardised in the Draft CRR. We therefore propose deleting column 220.

8. Item 260-300
In our opinion, the strict breakdown for the reporting of Credit Risk Mitigation (CRM) Techniques is too far-reaching. For us, it is not immediately clear which value added is generated by the supervision which is not already generated by other reports.
In our preliminary understanding, the recognition of CRM-techniques constitutes a discretionary choice meaning that these cells will only be reported if and when the substitution approach is being used. We would encourage EBA to issue a corresponding clarification.

9. Pos. 90-140 / 150-190 / 260-300
It is erroneous to believe that data which exists for FINREP will also be available for the purposes of prudential supervision reporting. The reporting of financial data and of regulatory information is generally fed from different data sources which are incompatible with each other as far as the underlying systems are concerned. Whilst it fails to live up to a cost-benefit analysis, the use of FINREP data within the framework of large exposures reporting is extremely aggravating in terms of implementation. We therefore suggest deleting fields 090 and 100.

In this context, we feel it is appropriate that the breakdown of the exposures is geared towards supervisory categories; this is in line with the initial provisions under the 2009 CEBS reporting guidelines. Consequently, there would be a breakdown on the basis of balance sheet assets, off-balance sheet transactions and derivatives.

We would like to share the following comments on "Annex VIII – validation rules":

Comments on EBA Consultation Paper on Draft Implementing Technical Standards on Supervisory reporting requirements for large exposures (CP 51)

1. Perhaps lines 9 {LE.1;070}>=ABS({LE.1;210}) and 11 {LE.1;070}>=ABS({LE.1;220}) ought to be summarised into one single rule?

2.In our view, what is missing in line 21 is {LE.1;230}>=ABS({LE.1;270}+{LE.1;280}+{LE.1;290}+{LE.1;300}+{LE.1;310}+{LE.1;320}+{LE.1;330}) the inclusion of LE.1;260 into the summation. The correct version should read: {LE.1;230}>=ABS({LE.1;260}+{LE.1;270}+{LE.1;280}+{LE.1;290}+{LE.1;300}+{LE.1;310}+{LE.1;320}+{LE.1;330}).

3. The condition set out in the last validation rule is not always met and should therefore be deleted. Accordingly, the indebtedness of a civil-law association, the partners of which are at the same time members of a group of connected clients would only be recognised once in the overall exposure of the group of connected clients in LE.1 whilst in Le.2 (due to the fact that they will be jointly and severally liable) when it comes to reporting the indebtedness of the members of the group of connected clients, the debt would be allocated to every partner of the civil law association. In LE.1 of the group, the exposure would thus be lower than the sum total of the exposures of the members of this group.

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

With regard to a template cell in the data requirement, a specific answer to this question is not possible. Furthermore, we have difficulties in comprehending the rationale behind this question in the context of large exposures reporting. In our opinion, reporting will be performed by individual counterparties. A breakdown would only make sense in the event of aggregated reporting.

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

Cf. our response to question number 6.

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

At the moment we are incapable of providing any reliable cost estimate. Qualitatively speaking, it is possible to say that at present, numerous information is derived by means of the hitherto existing Bundesbank client classification. Consequently, a migration to the NACE code requires comprehensive migration and testing work affecting all reporting areas. Hence, we feel that the cost implications will be considerable. As a result, it would be helpful to have an official and legally binding "mapping‟ document reconciling the Bundesbank client classification and the NACE code.

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

Basically, efficiency can only be boosted by cutting the amount of information reporting obligations. In this context, we suggest waiving the need for forwarding raw format data. The data in the ongoing reporting procedure are already reported permanently on master data displays. An additional reporting of

Comments on EBA Consultation Paper on Draft Implementing Technical Standards on Supervisory reporting requirements for large exposures (CP 51)

redundant information triggers disproportionately high cost implications. Furthermore, we feel that maintaining the Bundesbank client classification is efficient.

We would appreciate it if our views were taken into account in the ongoing consultation process.

Yours faithfully,
on behalf of the German Banking Industry Committee
Federal Association of German Cooperative Banks

Dr. Andreas Martin Dr. Constantin Terton