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EBF response to EBA consultation paper on Draft Regulatory Technical Standards on the specification of the calculation of specific credit risk adjustments

Amending Delegated Regulation (EU) No 183/2014 supplementing Regulation (EU) No 575/2013 of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms, with regard to regulatory technical standards for specifying the calculation of specific and general credit risk adjustments

Question 1: Do you agree with the proposed amendment to Commission Delegated Regulation (EU) No 183/2014

The EBF supports the proposed changes in the Regulatory Technical Standards.

In principle, we welcome the initiative to change the RTS, as it aims to eliminate an obvious unequal treatment between IRB and CRSA.

EBF members would appreciate to see it clarified in the text that the proposed changes would also apply to purchases of NPLs done by a securitisation Special Purpose Entity (SPE) - where the bank (for example, acting as an investor in the securitisation tranche) calculates the capital requirements for the underlying pool based on the Credit Risk Standardised Approach (i.e. using SEC-SA).

The example given in the discussion paper seems not plausible and does not correspond to the accounting regulations according to IFRS for POCI assets (= "Purchased or Originated Credit-Impaired Financial Assets"). POCIs are posted upon access (phase 2) at fair value and without any risk provisioning. This means that the SCRA of 1 that existed in the example in phase 2 are not plausible. Regarding phase 3 - reassessment: POCIs are not assessed as FVPL after access. A "revaluation" takes place via the expected credit loss and the risk provision. In the example, a "revaluation" of +30 is assumed with unchanged credit loss. We therefore consider the example very questionable and unhelpful for the user to understand. Consequently, more examples should be introduced to clarify the understanding. Also accounting rules would be helpful because the imposed modification impacts COREP reporting and CET1 funds deductions.

In addition, we believe the wording on article 1 would benefit from a rewording, using clearer vocabulary or expressions already mentioned in recitals 4 and/or 6 (changes in **bold**), for instance:

"Amendments to Commission Delegated Regulation (EU) No 183/2014

In Article 1 of the Commission Delegated Regulation (EU) No 183/2014, paragraph 6 shall be added as follows:

*6**. By way of derogation from paragraph 1, t**o calculate the sum of specific credit risk adjustments in the cases referred to in Article 127, paragraph 1, points (a) and (b) of Regulation (EU) No 575/2013 for an exposure constituted by an item, where the obligor has defaulted in accordance with Article 178 of that Regulation, or in the case of retail exposures, constituted by a credit facility which has defaulted in accordance with Article 178 of that Regulation, institutions shall include **any discount in a transaction price that the buyer has not recognised by increasing CET1 capital that is** any positive difference between the total outstanding amount of credit obligations on the exposure and the sum of (i) the additional own funds reduction if the exposure was written-off fully and (ii) any already existing own funds reductions related to this exposure."*

Finally, although the EBF supports the proposed changes, the suggested amendment seems to us only part of what is needed to support an agile European NPL secondary market. The main element affecting the risk weight is the CRR Prudential Backstop (CET1 loss coverage), which effectively can bring the risk weight up to 1,250%.

In addition, we consider a different adjustment to the RTS to be urgent in order to avoid unnecessary administrative effort (cost of compliance) and a double burden on CET1 due to newly created risk provisions.

Art. 1 (1) 2nd paragraph of Delegated Regulation 183/2014 regulates that the existing risk provisions on the reference date may only be taken into account in the Own Funds report as a general or specific risk adjustment if

a) there is an (interim) loss that is deducted from CET1 or

b) there is an interim or year-end profit for which the institution has the approval of the supervisory authority for attribution to CET1 in accordance with Article 26 (2),

c) or, in the case of (interim) profits which have not yet been recognized in accordance with Article 26(2), if the CET1 is reduced directly by the corresponding amounts.

This regulation means that institutions with profits or interim profits that voluntarily waive the crediting of profits (on the same date) are not allowed to take the current state of accounting risk provisions into consideration. In our opinion, however, only the consideration of the current risk provisions (and all other current balance sheet items) gives a realistic picture of the solvency of the institutions. In practice, this means that newly created risk provisions either have to be deducted again from CET1 or an application for the attribution of "zero" interim profits has to be submitted to the supervisory authority. (see also EBA Q & As 2014/1087 2016/2629, 2017/3330).

For example, in the case of a marginal interim loss of -1, an infinite number of new risk provisions, e.g. +1,000, may be taken into account. With a marginal interim profit of +1, however, this would not be possible and the 1,000 would also have to be deducted from CET1. In order to avoid this unnecessary and inexplicable double counting in CET by the capital deduction, the only way left is to submit an application for the attribution of "zero" interim profit to the supervisory authority.

We understand that the supervisory authorities require a certain amount of evidence from the institutions that risk provision has been taken into account in their accounts. However, the unequal treatment of institutions with interim losses vs. profits is incomprehensible.

The accounting figures reviewed by the responsible auditor (analogous to the requirement for interim profit accounting in accordance with Art. 26 Para. 2 a CRR) should be sufficient as evidence.

We therefore ask for changes to Art. 1 (1) 2nd paragraph of Delegated Act 183/2014:

Any amounts resulting pursuant to the first subparagraph which have been recognised during the financial year, may only be included in the calculation of general and specific credit risk adjustments if the respective amounts have been deducted from an institution's Common Equity Tier 1 capital, either in accordance with Article 36(1) of Regulation (EU)

No 575/2013, or, in the event of interim profits or year-end profits ~~that have not been approved in accordance with Article 26(2) of that Regulation, by way of a corresponding immediate reduction in Common Equity Tier 1 capital for the determination of own funds~~ the requirements according to Article 26 Paragraph 2 a) of Regulation (EU) No. 575/2013 are met.