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European Banking Authority
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(submitted via online submission form)

Re: IRRBB AND CSRBB CONSULTATION:
EBA/CP/2021/37 – DRAFT GL ON MANAGEMENT OF IRRBB AND CSRBB

Introduction

The Bank of New York Mellon Corporation (BNY Mellon) is a global investments company dedicated to helping its clients manage and service their financial assets throughout the investment lifecycle. As one of the world's largest investment services and investment management firms, BNY Mellon welcomes the opportunity to respond to this European Banking Authority (EBA) consultation on draft guidelines on management of interest rate risk in the banking book (IRRBB) and credit spread risk in the banking book (CSRBB) – EBA/CP/2021/37.

BNY Mellon operates in the European Union through: (i) The Bank of New York Mellon SA/NV (a credit institution established in Belgium with branches in several EU jurisdictions), (ii) the Frankfurt Branch of The Bank of New York Mellon (a New York state chartered bank) and (iii) various investment firms and other duly authorised subsidiaries established in certain EU member states.

BNY Mellon provides services to clients and end-users of financial services globally. Accordingly, BNY Mellon is keen to ensure global financial markets operate fairly and consistently, and that common standards are implemented in a way that ensures a level playing field.

General Comments

Although we are only formally responding to one question in the consultation on the draft guidelines for management of IRRBB and CSRBB (EBA/CP/2021/37) – set out in Annex 1 of this response - we first make some general comments regarding the alignment of implementation timeframes. These general comments apply to the set of consultations on IRRBB and CSRBB, i.e., EBA/CP/2021/36, EBA/CP/2021/37 and EBA/CP/2021/38.

Alignment of Implementation Timeframes

We note that the timelines for implementation of the respective draft RTSs and Guidelines are not necessarily aligned with each other, and in some cases the implementation timeframes are insufficient.

In summary, we would recommend an aligned implementation (application) date of **1 January 2025** across the RTSs and Guidelines. This should enable a two year period for implementation of final legislation/guidelines (subject to the final legislation and guidelines being published by the end of this year).

Given the resources and technical system set-up required for implementation of the proposed changes to the existing Interest Rate Risk in the Banking Book (IRRBB) framework and the set-up of a new framework for Credit Spread Risk in the Banking Book (CSRBB), we propose that EBA considers an implementation date of 1 January 2025 (and in any event not earlier than 2024), in order to provide institutions sufficient time to plan, adequately resource and set-up the required technological infrastructure, including any related models, in a sustainable manner.

We provide more detail below.

EBA/CP/2021/36 – Draft RTS on Supervisory Outlier Tests

We note that the proposed regulation will enter into force (and apply) on the 20th day following publication in the Official Journal of the EU. We note that the Draft RTS is intended to supersede the existing Guidelines (EBA/GL/2018/02) in respect of the Supervisory Outlier Tests.

In our view, commencement of the regulation on the 20th day following publication is an insufficient timeframe for the industry to properly implement any changes.

Even if the European Commission accepts the final draft RTS that is proposed by the EBA following this consultation process, there remains the potential for the European Parliament or Council of the EU to object to the proposed RTS, and for changes to the legislation to be made. Accordingly, firms will not want to commence implementation until final legislation is published in the Official Journal, and 20 days is insufficient time to do this. Furthermore, firms will not want to perform a gap analysis of final legislation over the existing supervisory outlier tests as set out in EBA/GL/2018/02 until the final legislation is published in the Official Journal. EBA/GL/2018/02 commenced operation on 30 June 2019, and is intended to be superseded by this regulation in respect of the Supervisory Outlier Tests.

EBA/CP/2021/37 – Draft Guidelines on Management of IRRBB and CSRBB

We note that the application date of the draft guidelines is left open for now, as is the date of repeal of the existing guidelines (EBA/GL/2018/02). We assume the intention is that the two dates should align, so that the existing guidelines are repealed as soon as the incoming guidelines take effect – so there is no gap and no overlap.

We welcome the EBA's comments that "*it sees merits in seeking for coherence between the application date of these guidelines and the application date of the RTS on Supervisory Outlier Tests and the RTS on the Standardised Approach …*". We agree that these dates should all be aligned.

We note that the Supervisory Outlier Tests are currently covered in section 4.5 of the existing guidelines, but will not have a direct parallel in the proposed guidelines, as this will mainly be covered in the proposed RTS on Supervisory Outlier Tests. Accordingly, it is important that a specific date is chosen whereby the existing guidelines will be repealed, and when the RTS on Supervisory Outlier Tests applies. Accordingly, we strongly advise against any timeframe that is arbitrary (for example, 20th day following publication in the Official Journal), and a more deliberate choice of date is made, ideally which aligns with a quarter end/beginning.

<u>EBA/CP/2021/38 – Draft RTS on IRRBB Standardised Methodologies</u>

We note that this proposed regulation will enter into force (and apply) on the 20th day following publication in the Official Journal of the EU. In our view, commencement of the regulation on the 20th day following publication is an insufficient timeframe for the industry to properly implement any changes.

Even if the European Commission accepts the final draft RTS that is proposed by the EBA following this consultation process, there remains the potential for the European Parliament or Council of the EU to object to the proposed RTS, and for changes to the legislation to be made. Accordingly, firms will not want to commence implementation until final legislation is published in the Official Journal, and 20 days is insufficient time to do this.

Given the complexities of the various elements of the RTSs and Guidelines, we would recommend a two year implementation period (from finalisation of legislation), to provide industry with sufficient time to plan ahead and properly implement any required changes.

<u>Conclusion on Timelines</u>

Accordingly, to allow sufficient time for EBA finalisation of RTSs, adoption by the Commission and scrutiny by the European Parliament and Council of the EU – we would suggest targeting an implementation (application) date of **1 January 2025** for the RTSs and Guidelines. This should provide a full two year implementation period (2023-24), assuming that final legislation can be published by the end of this year. Furthermore, the 1 January 2025 date would align with the EU's planned implementation date for Basel 3.1 implementation (under CRD6/CRR3). If the EBA desires an earlier implementation date than 1 January 2025, we strongly recommend that the implementation date is not set any earlier than during 2024.

<u>Responses to Specific Questions</u>

Our response to Question 1 of EBA/CP/2021/37 is set out in Annex 1 below.

BNY Mellon looks forward to further engagement with the EBA in regard to this Consultation Paper and any future consultation papers on this topic.

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ANNEX 1 – Responses to Specific Questions

EBA/CP/2021/37 – DRAFT GL ON MANAGEMENT OF IRRBB AND CSRBB

Q1: In the context of the measurement of the impact of IRRBB under internal systems, paragraph 111 envisages a five year cap repricing maturity for retail and non-financial wholesale deposits without a specified maturity. Would you foresee any unintended consequence or undesirable effect from this behavioural assumption in particular on certain business models or specific activities? If this is the case, please kindly provide concrete examples of it.

Paragraph 111 provides as follows:

> The assumed behavioural repricing date for retail and non-financial wholesale deposits without any specific repricing dates (non-maturity deposits) should be constrained to a maximum weighted average repricing date of 5 years. The 5-year cap applies individually for each currency. Non-maturity deposits from financial customers should not be subject to behavioural modelling.

In our view, we prefer the approach considered (but not adopted) by the EBA, that the Guidelines would simply envisage an expectation of a prudent assumption in a generic manner, rather than specifying a particular timeframe.

Furthermore, we disagree that non-maturity deposits (NMDs) from financial customers should not be subject to behavioural modelling. It should be *possible* for non-maturity deposits from financial customers to be subject to behavioural modelling for internal risk management purposes.

We think the current proposal is overly prescriptive and would not accurately capture the universe of core deposits, the true behavioural profile of NMDs or the interest rate risk of NMDs. These standardised parameters would be particularly inaccurate for the operational deposits of custody and trust banks, as the majority of their deposits do not have contractual maturities / terms and are from financial customers - which would lead to an adverse impact to managing true interest rate risk in these institutions.

The proposed categories of retail, non-financial wholesale and financial customers excludes financial customers from behavioural modelling of NMDs and does not reflect the diversity of NMD products. Similar to retail transactional deposits, deposits from financial customers also have a stable, transactional component. This is especially true for a custody and trust bank such as BNY Mellon, which receives customer deposits as a by-product of the operational services provided to financial customers. These financial customers maintain a stable level of deposits at custody and trust banks to ensure that the bank can carry out day-to-day payment, settlement, and other operational services for the customer, with a large portion of these balances being managed rate products i.e., changes to deposit pricing not 100% reflective of market interest rate changes.

Total deposits from clients are split into operational or core and non-operational or non-core deposits. Operational deposits are deposits that are tied to clients' operational activity and are found to be stable/less sensitive to interest rates. Such deposits will have much longer duration compared to non-operational deposits that are not tied to clients' business activity. The clients maintain stable balances that are used to cover their ongoing business needs which in turn drives the operational core balance and, for the custody bank business model, has the same characteristics as retail or non-financial wholesale client activity for a retail or commercial bank respectively.

The cash balances held in custody banks are used and managed by financial customers to support custodial and other operational activities (e.g., securities purchases or sales, dividend payments) along the lifecycle of the respective business. Because of the specific nature of custody deposits, certain behavioural characteristics materialise, making the repricing date longer than the contractual maturity (e.g., demand deposit).

We note that most of the deposits received by custody banks are in turn deposited with central banks or invested in high credit quality and highly liquid securities to maintain the necessary liquidity to facilitate the operation of securities accounts under custody agreements while stabilising the earnings (net interest income) by investing the core or interest insensitive portion of the deposits in corresponding duration on the asset side (as highly liquid securities).

Not recognising the financial client's behavioural approach in relation to custody business will have a substantial impact on a custody bank's interest rate risk profile with forced and adverse impact on profitability or on client pricing.

In our view, it should be possible for non-maturity deposits from financial customers to be subject to behavioural modelling for internal risk management purposes, as part of the internal risk management associated with the provision of custody services.

This would be also consistent with Article 27 of the Liquidity Coverage Ratio (LCR) Delegated Regulation (Commission Delegated Regulation (EU) 2015/61), which recognises preferential outflow rates for certain types of deposits and does not exclude *a priori* financial customer deposits.