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Your ref., Your message of Our ref., person in charge Extension Date

 BSBV 115/Horvath 3141 7 January 2016

**EBA Consultation on criteria for a preferential treatment in cross-border intragroup financial support under LCR**

The Division Bank and Insurance of the Austrian Federal Economic Chamber, as representative of the entire Austrian banking industry, appreciates the possibility to comment on the above cited consultation and would like to submit the following position:

**Q1: Do respondents agree with the specifications of the criterion relating to the low liquidity risk profile? If not, what alternatives would you suggest to assess the liquidity risk profile of the liquidity receiver and provider?**

We would appreciate if the text of Art. 2(a) of the Draft RTS could be clarified in the way that any plan to be prepared and communicated to the responsible supervisory authority shall be prepared only when it is required according to Art. 414 CRR.

To avoid contagion and unintended effects the potential change of a preferential treatment, initiated following the assessment by “involved authorities”, should be combined with a transitional period. This would ensure that the provider will not be overly burdened by an abrupt change and would have an adequate time for necessary changes with liquidity levels and to be compliant with regulative ratios at any time. Any automatism needs to be avoided.

**Q2: Do respondents agree with the specifications of the criterion relating to binding agreements and commitments?**

The background and rationale of the RTS is a more detailed description of objective criteria that are in general already given by the CRR and the LCR DA. The aim should not be the creation of new burdens by excessive requirements for Groups and IPS. One example for excessive requirements can be found in Art. 3(b) Draft RTS which requires the fixing of a currency alignment of potential liquidity flows. The CRR or LCR DA (here: Art. 7 and 8) already set conditions for the management of liquidity flows and its risks which is not limited to actual liquidity transactions but is also relevant for contractual agreed transactions. The risks that will be already observed by a bank’s risk management include risks that come along with different currencies. We also talk about already harmonized regulatory conditions for relevant regions that would be affected by these kind of liquidity transfers. Hence we do not see the necessity for any further conditions of that kind.

Another aspect would be the requirement to provide “an external written and reasoned legal opinion” (see Art. 3(a) of the Draft RTS). We suggest not making a difference between an external and an internal “written and reasoned legal opinion”. A number of reasons can be given for why this requirement would be an unnecessary burden:

* The responsible authority will be notified on a regular basis (at least yearly), and hence it would be able to intervene when it observes any undue risks;
* There is no rationale why internal statements are worse than external opinions;
* External statements are always an additional cost driver;
* In combination with the authority’s approval process the bank’s legal statements would always be challenged.

Therefore we argue to delete the condition of a mandatory external statement for liquidity agreements.

**Q3: Do respondents agree with the specifications of the criterion relating to liquidity risk management of the liquidity provider?**

When it comes to a liquidity support it seems to be reasonable to “monitor and oversee the liquidity position of the receiver”. This regulation could be seen as a parallel condition as to other institutions that fall below the liquidity coverage ratio (see Art. 414 CRR). Nevertheless, the CRR is conditioning a daily monitoring and/or reporting only to those institutions that already fall short the ratio. In contrast, Art. 4 of the Draft RTS is demanding this condition at all times, as long as the preferential treatment is given. Again here we see this regulation as an unnecessary and overburdening condition that needs to be deleted or at least modified to get in line with the regulation in Art. 414 CRR.

We ask you to give our remarks due consideration.

Yours sincerely,

Dr. Franz Rudorfer

Managing Director

Division Bank and Insurance