

Comments

on the Draft Guidelines on Loan Origination and Monitoring (EBA/CP/2019/04)
to the European Banking Authority

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1 About Us

The Bankenfachverband is the German Association of Credit Banks and represents the interests of 52 banks that specialize in traditional lending business in Germany. Credit banks finance consumer spending and business investment mainly for small and medium-sized enterprises. They have currently lent more than EUR 170 billion to consumers and companies. In doing so, credit banks serve the real economy. They focus on traditional low-risk lending, such as loans, leasing and factoring.

The credit banks are pursuing a responsible lending policy with regard to both consumers and companies. This reflects in their very low proportion of non-performing exposures. Against the background of their core expertise and local market knowledge and based on their business model and risk appetite, they have developed well-graded best practice procedures for loan origination and monitoring over the past decades, differentiating between risk-relevant and non-risk-relevant exposures.

The credit banks are utilizing all common kinds of distribution channels. Predominantly, they are offering lending contracts at their branches, via the internet or at the point of sale. Thus, their loan origination processes are fine-tuned to every single distribution channel in terms of efficiency, risk-sensitivity and customer convenience. We are convinced that a flexible and proportionate regulatory framework is crucial for developing best practice procedures in the common interest of both the customer and the banking industry.

2 General Comments

In principle, we appreciate the EBA's intention to harmonize the supervisory framework for loan origination and monitoring within the EU. However, we consider the draft guidelines to be overly detailed and therefore lacking both flexibility and proportionality. They are reading as if they were designed for granting high value loans at the bank counter. The reality of granting credit also includes small value loans that are approved online and fully automated in shortest time.

We believe that the above 1.500 banks in Germany are already having loan origination and monitoring processes in use that are of high quality with regard to adequacy, efficiency and risk sensitivity. This stems on the one hand from a supervisory framework (the German minimum requirements on risk management, MaRisk) which is specifying the general principles for loan origination and monitoring without being too detailed. On the other hand, the supervisor is reviewing the appropriateness of a bank's loan origination and monitoring processes through on-site inspections on a regular basis.



This approach has helped ensuring that best practices could have been developed over the past 20 years. In Germany, it is generally accepted that the distinction between risk-relevant and non-risk-relevant business is made independently by every bank based on its risk profile and risk appetite. That this well-proven approach is both proportionate and adequate reflects in the comparatively low NPL-ratio of banks in Germany which is currently averaging out at around 2 percent.

Although the principle of proportionality and its application are effectively described in the preliminary chapter of the guidelines, we strongly recommend including the principle of proportionality expressly and repeatedly in the following chapters, particularly in chapter 5 on loan origination procedures. Furthermore, in the context of collecting information in order to assess the borrower's creditworthiness, we consider the repeated use of the term "at least" to be contradictory to the principle of proportionality, since it implies the subsequent requirements to be minimum requirements. We believe that the selection of data points and the design of proper procedures should remain in every bank's responsibility to ensure the suitability of processes and data against the background of its own business model and risk appetite as well as the particular lending product and distribution channel. Therefore, we advocate replacing the term "at least" by the term "for example" in the entire guidelines.

In addition, we consider the inclusion of requirements stemming from separate level 1 regulation to be redundant. Particularly with regard to consumer credit, we would urge not to prejudge the outcome of the European Commission's review of the EU Consumer Credit Directive (CCD).

We would like to re-emphasize the importance of a regulatory framework to be flexible and proportionate without being overly detailed since otherwise, it would have severe negative effects on banks' lending business. We fear that the draft guidelines in their current state would force banks to redesign their lending processes making them lose their accuracy and performance. As a consequence, banks' procedures would become less efficient and more costly at the same time. This would in particular penalize small value lending at which margins are relatively low, especially with regard to SME financing. As an unintended side effect, the guidelines would either lead to SME financing becoming more expensive or at worst, to a prudentially induced credit crunch for SMEs. In either case, this would contradict the European Union's efforts to boost SME financing, for example by extending the SME supporting factor with the CRR II regulation.

All in all, we strongly recommend adding significantly more flexibility and proportionality into the guidelines by removing overly detailed requirements and the term "at



least” throughout the entire guidelines. Against this background, we’re focusing our following comments on the proportionality-related questions.

3 Specific Comments

Q1. What are the respondents’ views on the scope of application of the draft guidelines?

While the general scope of application of the draft guidelines is clear, we are observing several problems with regard to the definitions given. On the one hand, the definition of the principle of proportionality should be moved from the preliminary chapter to chapter 2 of the actual guidelines and become part of the definitions listed there. In addition, as highlighted above, the term “at least” should be replaced by the term “for example” throughout the entire guidelines in order to ensure consistency with the principle of proportionality. On the other hand, the definition of a professional is too broad and captures every entity from a small owner-operated shop to a big international enterprise. Hence, we propose to add to this definition an explicit reference to the principle of proportionality to avoid a “one-size-fits-all” approach here.

Q2. Do you see any significant obstacles to the implementation of the guidelines by the application date and if so, what are they?

We expect the implementation of the guidelines to require extensive modifications with regard to internal policies, IT systems and credit processes, including training for staff involved in the credit process. The application date proposed, 30 June 2020, will not provide banks with sufficient time to adjust their internal systems and processes in a comprehensive and coherent manner. In addition, the ongoing evaluation of the CCD should be taken into consideration in terms of content and timing. Ideally, the effective date of the guidelines should be harmonized with the CCD review. Against this background, we propose that the guidelines should not apply before 31 December 2021 at the earliest.

Q7. What are the respondents’ views on the requirements for collection of information and documentation for the purposes of creditworthiness assessment (Section 5.1)?

The guidelines in general and the requirements for collection of information and documentation in particular seem to be designed for high value lending at the bank counter. The credit banks have however specialized in small value lending via the internet or at the point of sale. Moreover, even “micro credits” are playing a substantial role for financing electronic devices like smartphones or white goods. We believe that a



clear reference to the principle of proportionality is essential for preventing overly strict requirements to be imposed on low value lending. Furthermore, in the paragraphs 91 to 94, the term “at least” should be replaced by “for example”.

Q8. What are the respondents’ views on the requirements for assessment of borrower’s creditworthiness (Section 5.2)?

As pointed out above, the requirements for assessing a borrower’s creditworthiness seem to be designed for high value lending. In order not to penalize low value lending, we strongly recommend to add references to the principle of proportionality to chapter 5 and each of the 3 subchapters. We believe that the assessment of an applicant borrower’s creditworthiness should provide sufficient flexibility in order to allow banks to take into account the type, value, risk and complexity of the transaction. This should be reflected in all relevant parts of the guidelines.

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