The voice of banking

A response to the European Banking Authority's consultation on
Guidelines on the criteria to determine assessment of other systemically important institutions
by the British Bankers' Association

October 2014

Introduction

The BBA is pleased to respond to European Banking Authority's consultation on guidelines on the criteria to determine assessment of other systemically important institutions.

The BBA is the leading association for banks active in the UK. It represents over 170 banking members, which are headquartered in 50 countries and have operations in 180 countries worldwide. All the major banking groups in the UK are members of our association as are large international EU banks, US and Canadian banks operating in the UK as well as a range of other banks from Asia, including China, the Middle East, Africa and South America. The integrated nature of banking means that our members are engaged in activities ranging widely across the financial spectrum from deposit taking and other more conventional forms of retail and commercial banking to products and services as diverse as trade and project finance, primary and secondary securities trading, insurance, investment banking and wealth management. As well as banks headquartered in the UK our members include third country banks which operate in the UK as a UK subsidiary some of which will have further branches and subsidiaries other EU countries. So this consultation paper is relevant to the activities of the vast majority of our members.

In the Annex below, we have provided answers to the questions set out in the consultation, together with further comments responding to significant related matters not directly formulated in questions.

The BBA would be happy to provide any future assistance we can.

Yours sincerely

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Annex 1

Question 1 Can you think of any additional indicators that should be included in Table 1 of Annex 1, or indicators that are better suited to reflect systemic relevance? Please provide evidence supporting your view where possible.

With respect to the O-SII methodology, we believe that the balance struck between consistency and divergence of metrics compared with the G-SII methodology, seeing that the two approaches measure comparable characteristics but across different entity scopes and reference systems, is not the right one. Bearing in mind Principles 1-5 and paragraphs 17 and 18 of the underlying Basel framework of October 2012, it appears inappropriately skewed toward a 'worldwide' scope.

In our view, while the indicators should of course not disregard banks' significant operations outside the member-state, the focus should be very much on the importance of the activities of a bank in the domestic market of the member-state and we do not think the current scope of the indicators will enable that.

We welcome the fact that the definition of cross-jurisdictional liabilities and assets excludes those of foreign branches or subsidiaries vis-a-vis counterparties in the same host country. This improves in our view on the parallel metric in the G-SII methodology, which includes such balances. At the least, this approach should be extended to the other indicators but ideally, for those indicators aiming to capture the degree of cross-border activity, their 'worldwide' dimension should be replaced by a single, composite measure of a bank's activities outside the member-state or EU.

With regard to the scope of entity, it would be helpful, especially for those banks that report at multiple levels of consolidation, if it could be clarified to which level of consolidation is being referred at each mention in the guidelines of the term 'group'. It is in places not clear whether the reference is to the top-most consolidation of the group financial holding company, or to a consolidation at an intermediate, say, operating entity sub-group level. It is appreciated that entities in both categories may be eligible for O-SII designation, so the guidelines' terminology, definitions and formulation should make it very clear which entity is being referred to, how the methodologies for G-SII and O-SII inter-act, and what is required at each level.

For instance, on page 13 the section on payments states 'Value of domestic payment transactions', with scope 'worldwide' and definition as follows: 'Report the total gross value of all cash payments made by the reporting group ...... etc. " The reference to 'group' here could be interpreted, also in the case of an operating entity being assessed, as being to the top consolidation of their banking group, since on page 7 the guidelines have said: 'Home authorities should assess banks at the consolidated group level.' We believe, in this instance, that the relevant scope is the payment traffic of the operating entity sub-group, not that including its affiliate companies within the top-most group consolidation.

Also, the scoring methodology and calculation in particular need to be clarified and better articulated, for example, for instances where banking groups may in principle be assessed as a G-SII at the group level but also as an O-SII at one or more levels of consolidation within the group.

It is important that we gain full clarity in the O-SII assessment process, in order that there should be a robust foundation for clarity in the subsequent assignment of G-SII and/or O-SII charges to entities at different levels in such banking groups.

Question 2 Do you agree that there may be Member States where small institutions are unlikely to pose systemic threats to the domestic economy? Do you think the option to exclude these institutions could reduce the administrative burden for institutions, or do you think there is a risk that the results of the analysis could be distorted by excluding them?

It is unclear how the scoring calculation and the thresholds of 0.01% (para 10) and 4.5 basis points (para 13) are intended to work, separately or in conjunction with each other. This is especially the case for Annex II criteria that are qualitative. It is a concern of many of our members that the thresholds are too low. It is appreciated that, historically, smaller institutions have also triggered systemic fragility. Nevertheless, we believe a threshold of a minimum 1% but probably even higher would suffice under the general Annex 1, with the criteria in Annex II serving to capture the characteristics of small and/or specialised entities.

Question 3 Can you think of any additional optional indicators that should be added to the list in Annex 2?

The Annex II optional indicators appear to give national supervisors unlimited discretion to extend the list of O-SIIs in their jurisdiction. However, we welcome the appearance here of the criterion of 'Degree of resolvability', which should probably be elevated in due course to Annex 1 in view of the degree of correlation between high resolvability and lower systemic risk.

Given the very flexible and partially qualitative nature of Annex II, we recommend great care over the possible use of O-SII designation in other parts of the regulatory framework, notwithstanding its appeal as a convenient, composite indicator of systemic risk.

<u>Significant related matters</u>

We support full transparency on the part of supervisors concerning publication of the methodology for setting the O-SII buffer requirement (as required under para 15), with particular reference to the inter-action between the O-SII buffer and any G-SIIB buffer that may affect either the same entity or its banking group overall. It is of great importance there is a consistent approach taken by supervisors across all jurisdictions in order to ensure there is a level playing field.

The industry will welcome further clarification, in the light of consultation responses, of the timeline for application of the guidelines, for their publication on the EBA website and for incorporation into national supervisory procedures. The latter should include clarity on O-SII buffer requirement methodology, since in our view there remains a risk of double-counting of requirements, e.g. for a group operating company O-SII through a direct O-SII charge on the one hand being compounded by an internal capital cost deriving from its group parent's G-SIIB charge on the other. We are not convinced that the simply enunciated principle of 'the higher of the G-SIIB and O-SII charges will apply' will come to bear straightforwardly in such circumstances.