Warsaw, 21 May 2024

European Banking Authority

The response of Polish Bank Association to
Draft Regulatory Technical Standards on the components of the Business Indicator under Article 314 (6) (a) of the CRR and the elements to be excluded from the Business Indicator under Article 314 (6) (b) of CRR

https://www.eba.europa.eu/activities/single-rulebook/regulatory-activities/operational-risk/technical-standards-new-business
(deadline 21.05.2024)

The Polish Bank Association welcomes the opportunity to express its opinion in the EBA Consultation on the Regulatory Technical Standards (hereinafter: RTS) supplementing the CRR and aiming to clarify how the Business Indicator (hereinafter: BI) components have to be calculated. This draft is very important for industry, since in general the approach is to use items from the Regulatory Reporting Finrep with the exception of cases in which further details not included in the Finrep reporting are requested.

As the general comment we would like to underline that in order to avoid misunderstandings or false interpretations more clarifications is needed to properly identify which kind of item or data has to be considered from an accounting and supervisory point of view. With these clarifications, it will be possible to understand if (i) the item requested for the BI calculation is available in the official supervisory reporting or in the accounting systems, (ii) if it's not available and has to be requested with a specific data collection (this can be a further effort for banks also in terms of costs and reconciliations), (iii) if it's not an accounting or supervisory item but a managerial item that has to be managed differently (in this case the current link to FinRep item has to be revised).

In current shape, banks are obliged to prepare separate reporting processes, every time verifying:

- Appropriate classification of lease items;
- Appropriate division between banking and trading book;
- Appropriate reporting of costs connected with operational risk events;

Managing one process could be easier for banks, but it will force banks to report additional data quarterly instead of yearly.

In our opinion it is necessary to add the temporary solution concerning the appropriate application of the proposed RTS during the period of few years after the adoption of the RTS. As it is well known, the BI computation includes the period of last 3 years. In the first year of application of the proposed RTS bank will have to calculate the business indicator including the date for the years 2022, 2023 and 2024. In our opinion not all historical dates will be accessible for banks according to the computation model included in this RTS. This is the reason to recommend to add in the RTS the temporary solution which would explain how to calculate the indicator in the interim period of first 3 years of the RTS application. These interim regulation should accept the methodology of calculation for the years 2022-2024 as the rules were in force in this period and it should avoid to recalibrate date for these years for the BI computation in the year 2025, 2026 and 2027.

Question 1: What are your views with regards to the proposal for the ILDC component? Please explain and provide arguments for your answer.

The definition of "interest earning assets" still contains in our opinion a substantial portion of assets which are actually non-interest earning, primarily from brokerage receivables and non-interest earning deposits with central banks and other banks. We recommend to clean further the metodology in this area.

Question 2: What are your views with regards to the proposal for the Services component? Please explain and provide arguments for your answer.

We have no comments.

Question 3: What are your views with regards to the proposal for the Financial component? To which extent are you carrying out operations or making accounting choices as referred to under paragraph 2, point a) of Article 9 of this draft RTS? Are you carrying out operations or making accounting choices, other than those specified under paragraph 2, point a) of Article 9 of this draft RTS, that could justify the use of the PBA? Please explain and provide arguments for your answer.

We have no comments.

Question 4: What are your views with regards to the proposal for the specification of the items to be excluded from the BI? Please explain and provide arguments for your answer.

We see only limited explanation, we expect more examples, which will show in which cases exactly banks should exclude some elements from calculation process.

Question 5: What are your views with regards to the proposed mapping of the BI items to the FINREP cells? Please explain and provide arguments for your answer.

We welcome the proposal to map FINREP cells into BIC requirements, but we see that in many cases this will need further split FINREP cells into two or three items. In case of leased assets in many undertakings it will be quite simple to extract them from the data, but in case of operational risk events we see some technical problems.
First of all, banks do not have consistent databases of operational risk events registered in line with CRR3 requirements, so it will be difficult to fulfil in appropriate way or even extract data from FINREP cells. What is also very important, in many cases events are registered with significant delay and not updated with required frequency. In context of GL on resubmission recently published it will be more expensive to update of reporting more frequently. We assume that this has not been an EBA expectation.

Question 6: What are your views with regards to consider the financial statements used for the final valuation as the only reference for the acquisition of activities under the baseline approach (i.e. full historical data)? Please explain and provide arguments for your answer.

We have no comments.

Question 7: What are your views with regards to the proposed three alternative calculation approaches instead of a unique alternative approach to be defined? Please explain and provide arguments for your answer.

In our view, requiring banks to apply among three different methods the most conservative constitutes an excessive effort. Therefore, we propose to define a ranking among these three methods, in order to apply only the first one which is feasible. Three alternative calculation approaches should be replaced by a unique alternative approach.

Question 8: What are your views with regards to not providing any alternative method but adjustment to the effective perimeter of the disposal? Please explain and provide arguments for your answer.

We have no comments.

Question 9: What are your views with regards to the inclusion of a threshold? Please explain and provide arguments for your answer as well, if applicable, further evidence on situations where BI adjustments as set out under articles 1 and 2 would not be feasible or deemed excessively cumbersome and identify potential consequences on the dynamics of the European financial markets. ii) Level of application: the materiality threshold would apply at the level where capital requirements for operational risk are calculated, i.e. at individual level. iii) Basis of calculation of the threshold: while the use of operational risk capital requirements is considered the most relevant basis for calculation, this would entail going through the full calculation of the adjustments to the business indicator for every operation.

We have no comments.

Question 10: What are your views with regards to the basis for the calculation of the threshold? Please explain and provide arguments for your answer. i) The calibration of the threshold: the calibration of the threshold will be carried out based on information from the data collection exercise on size of operations.

We have no comments.

Question 11: What are your views with regards to the level you consider would be appropriate for the threshold? Please explain and provide arguments for your answer.

We have no comments.

dr Tadeusz Białek
President of Polish Bank Association