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EBF Response to the EBA Consultation Paper on draft Regulatory Technical Standards on the treatment of structural FX positions under Article 104c of Regulation (EU) No 575/2013 (CRR) and on the reporting on structural FX positions

Key points:

- **Regulatory Continuity and Simplification**: The EBF emphasizes maintaining continuity with existing guidelines and reporting frameworks. We discourage unnecessary new reporting obligations and support alignment with the current supervisory template.

- **Thresholds and Internal Trade Restrictions**: The EBF opposes thresholds for significant currency identification and restrictions on recognizing internal trades as hedges, arguing that these measures lack regulatory basis, create administrative burdens, and penalize internationally diversified banks.

- **Flexibility for Risk Mitigation**: Concerns are raised about the limitations on using "delta" as a risk management measure, as it restricts efficient hedging strategies, including those involving complex instruments.

- **Inclusion of Strategic Business Lines and Branch Structures**: The EBF calls for clearer recognition of positions stemming from long-term strategic investments, cross-border operations, and branch structures that contribute to structural FX positions.

- **Simplified Calculation of Capital Requirements**: The EBF supports simplifying the method for calculating maximum open positions (MAX_OP) to reduce artificial capital requirements and better align with risk management practices.

- **Adaptability to Market Volatility**: A more flexible approach is recommended to address structural FX positions under adverse market conditions and currency crises.

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Preliminary Comments

Continuity with the Currently Applicable Guideline

The *EBA Guidelines on the Treatment of Structural FX under Article 352(2)* (*EBA Guidelines*) has entered into force in January 2022 and already factored in all existing and expected regulatory requirements.

It is expected that the RTS is aligned with the existing Guidelines and that its implementation would not trigger yet another waver of application request update.

It would be valuable that EBA clarifies that the implementation of the RTS is not expected to lead to jeopardize or restrict the currently applicable exemptions.

Continuity with the Currently Applicable Supervisory Reporting

When approved exemptions, banks have been subject to regular supervisory reporting (e.g., SSM Template).

It is expected that the ITS, if any (*), should be aligned with currently applicable templates in terms of content and reporting frequency.

(*) we believe it is not necessary to have yet another ITS reporting requirement, that is not envisaged by level 1 text.

References to group entities as "institutions in/of the group"

There are several references to group entities being "*institutions in*" / "*institutions of*" / "*in the scope of consolidation of*" the group (e.g. Article 7(d) Article 5(d)). As *institution* is a defined term for a specific type of entity, it should be replaced by 'undertakings' or 'entities'.

Delta Sensitivity

The draft RTS introduces a notion of 'delta' in Article 1(a) and in Article 4(1)(d) that was not in the *EBA Guidelines* and that would unduly limit risk management. Indeed, within risk management requirement (described in Article 8), options may be relevant FX risk mitigating instruments and there is no reason (nor limitation from the Level 1 text) that such instruments are prohibited for such risk mitigation.

We call to delete

- 'delta' in Article 1(a): '*the net unweighted ~~delta~~ sensitivity […]*';
- Article 4(1)(d): '~~*the overall risk position is a delta risk position*'~~.

The impossibility to waive higher order greeks limit the hedging strategy to linear instruments as potential RWA relief from Delta could be offset by additional RWA stemming from Delta+.

Moreover, for Institutions for which 325b is granted, the short position that the bank might undertake to hedge the excess capital stemming from participation in non-EUR countries is automatically reducing the capital ratio volatility via netting. Hence, the benefit of waiver would result from waiving Delta +.

Questions relating to the draft RTS

Q1. Do you agree with the clarification provided in Article 1 of these proposed RTS?

1. IMA application

The draft RTS explains under Art. 1 that banks will have the possibility to use two standardized approaches for computing own funds requirements for market risk. It is not clear though, if banks applying internal model approach (Art. 325 (1) (a)) are equally applying Art. 1. We would appreciate a clarification for IMA banks.

2. Items that may lead to gains or losses that do not impact CET1

Consistent to the current EBA Guidelines on Structural FX this draft RTS allows the exclusion of items that may lead to gains or losses that do not impact CET1 in addition to maxOp, if they are of structural character. However, it is unclear, which items precisely might qualify for such treatment. From our perspective prudential filters listed under Art. 32-35 CRR should be captured by the term "items that may lead to gains or losses that do not impact CET1". This should be clarified in Art. 6 (1) (a) (ii) draft RTS.

3. Capital deduction items

It is acknowledged in Art. 325 (1) CRR3 that capital deduction items shall not be considered when calculating the own funds requirements for fx risk. We would still appreciate, that EBA in addition clarifies, that the exemption covers items listed in Art. 36.

4. Calculation of maximum open position

In order to reduce potential disagreements/misalignments with supervisors it would be beneficial to further clarify that the calculation of the maximum open position should include all assets within an entity or consolidation of entities to correctly capture the sensitivity of the capital ratio with regards to changes in FX rates.

Assume the following example, a parent (reporting in SEK) has two branches, branch 1 reporting in SEK and branch 2 reporting in EUR. Branch 2 has a net-long position in EUR taken in order to hedge the CET1-ratio from a consolidated perspective. However, since the net EUR assets in branch 1 equals zero the net-long EUR position in branch 2 has to account for the FX-effects on the CET1-ratio stemming from branch 1 as well. Hence, if only EUR assets in branch 2 is included the maximum open position will not be the position that hedges the consolidated CET1-ratio.

Branch 1, SEK as reporting currency			
	Value in SEK		Value in SEK
Assets in SEK	140	Liabilities in SEK	105
Assets in EUR	10	Liabilities in EUR	10
		CET1 in SEK	35

Branch 2, EUR as reporting currency			
	Value in SEK		Value in SEK
Assets in EUR	30	Liabilities in EUR	20
		CET1 in EUR	10

Consolidated branches with SEK as reporting currency			
	Value in SEK		Value in SEK
Assets in SEK	140	Liabilities in SEK	105
Assets in EUR	40	Liabilities in EUR	30
		CET1 in SEK	45

This becomes apparent in the table below where we assume that all assets have a risk-weight of 100% and assume an appreciation/depreciation of EUR against SEK by +/- 10%. Given the inclusion of the EUR assets in branch 1, the maximal open position hedges the CET1-ratio.

Consolidated RWA and CET1 in SEK			
	Before stress	EUR +10%	EUR -10%
RWA	180	184	176
CET1	45	46	44
CET1-ratio	25.0%	25.0%	25.0%

The above illustration is for example relevant for Nordic non-euro countries with substantial EUR and USD assets due to customer demand from global export companies.

Q2. Do you agree with the criteria to identify the significant currencies for an institution? Do you agree with a threshold set at 1% or do you deem that a higher threshold (e.g. 2%) would create more level playing field across institutions If not, what would be alternative criteria? Please elaborate.

No, we do not agree with the proposal, and we urge to delete Article 3, as well as Article 2 (1)(a) and recital (1).

Such a limitation has simply no regulatory basis and hence would conflict with Level 1 text. It would lead to capital requirement for no reason. It would also increase complexity as the contribution of each currency to the institution evolves overtime making currency crossing up or down any envisaged threshold, leading to additional administrative burden for both banks and supervisors to modify the scope of the exemption (notably for currency that would exceed the threshold). This would hardly be consistent with the simplification initiative at European level. These threshold crossings would also unduly introduce variability in capital requirements with the scope of exemptions having to be modified, and would lead to frequent adjustment needing to be made to hedging strategy (as well as the requirement of maintaining the 6 month horizon for the application of strategy).

As the request for exemption is at the discretion of each bank, it is expected that there might be differences between institutions of the currencies they request and apply the exemptions to: no 'harmonization' should be sought in that respect. In addition, the exemption request remains at the discretion of the bank, the suggested limitation would not even address this non-harmonization that the EBA refers to.

The envisaged limitation would unduly penalize diversified banks with a large international presence.

The regulation should support instead of penalizing the management of structural foreign exchange-risks in the banking book.

In addition, the reference to only credit risk weighted amount does not make sense as the very objective required by the exemption relates to hedging capital ratio that are not limited to credit risk.

Q3. Do you agree that internal trades cannot be considered as taken for hedging the ratio? Please elaborate.

No, we do not agree with the proposal, and we urge to amend Article 4(1)(e) and delete recital (4).

We understand '*internal trades*' in the Q3 as transactions from the non-trading book to the trading book.

To the extent that transactions are executed by the non-trading book in the framework consistent with Article 8, they should be eligible to be included in the net open position for the identification of potential capital requirement.

To the extent that those transactions are with the trading book, the risk would be transferred to the trading book and generate a foreign exchange trading risk capital requirement if those positions are not offset. The discrepancy, if any, between the internal transactions and the offset of its risks would hence generate capital requirement for foreign exchange risk in the banking book.

In this framework whereby:

- the transactions are consistent within the risk framework required by Article 8,
- the trading book capitalizes any discrepancy between the transferred risk from the internal transactions and the offsetting trading book transactions.

There is no reason to exclude those internal risk mitigating transactions from the calculation of the overall risk position.

Should additional requirement be envisaged, they should consist in evidencing that external transactions in the trading book are offsetting internal transactions mitigating banking book foreign exchange risk. This is similar to the offsetting process to account internal transaction for hedge accounting transaction. Considering this offsetting process, internal transactions can actually hedge capital ratios.

Recognizing internal risk mitigating align the calculation of the foreign exchange risk in the banking book position with internal risk management, a requirement to fulfill the prudent requirements. Disregarding internal transactions would be detrimental to execution of the risk mitigation, increase operational and counterparty risks as it would require increasing external transactions and not benefitting from netting effects, and it would be inconsistent with level 1 text and other risks (e.g. Interest Rate Risk in the Banking Book, IRRBB).

Further, it is important to clarify that funding transactions between entities of the same Group are not considered *internal trades*.

Transactions between different non-trading books should not be excluded when the foreign exchange-position is calculated for each separate entity.

Therefore, we would suggest amending article 4.1.e as follows:

> *Article 4.1(e) The overall risk position does not include positions resulting from internal trades between the trading book and non-trading book ~~business~~ of the same entity ~~institution~~; unless arrangements are implemented to evidence that such internal trades are initiated by the banking book to mitigate structural foreign exchange risk as per Article 8, and that external trading book transactions are offsetting risks from internal trades*

Net position, internal transactions, branches

The draft RTS separate it discussion between separate and consolidated entities focusing on separate legal entities. The analysis made and the conclusions drawn is based on that structure. The draft therefore lacks an analysis of entities having a branch structure instead of a structure with subsidiaries.

The analysis therefore misses that group internal as well as parent internal lending and funding may have an impact on the financial position and P&L, something that is recognized in IFRS standards that accept internal transactions to be formally documented as hedges of fx-risk since they may have an impact on the financial position and performance of an entity (IFRS 9.6.3.5f.).

The example on page 17 may illustrate that lack of analysis of branch structures. If S1 and S2 was changed to B1 and B2 instead, the lending to the parent from the branches would be considered to be internal transactions that should be ignored. If being ignored the "B1" has a short position that EBA considered should be carefully considered even though in internal risk management B1 has a zero position.

P49 states that EBA expects that only the parent entity has a short position to hedge an overall long fx-position.

The EBA guidance should clarify that this statement does not consider that an internal loan funded with an external debt instruments is considered to be a short position at the subsidiary/branch level, i.e. that internal lending from a subsidiary/branch to the parent with the purpose of moving liquidity to the parent, create a short position. E.g., a bond issuance made of an US branch may finance USD lending of a parent having EUR as it reporting and functional currency.

In the Corep report for the parent and the group, the USD position of a branch is a short position at the branch level, given that internal transactions are eliminated in the consolidation of both the parent and the group.

Q4. What do you think should be cases of positions potentially exempted under the provisions included in Article 5(c)? Please elaborate.

We recommend amending Article 5 as below:

Article 5: Structural nature of the risk position

A risk position shall be considered structural when it is made exclusively of one or more of the following categories of risk positions:

a) *on an individual basis, non-trading book risk positions that correspond to investments in* ***undertakings*** *~~institutions~~ that are included in the same scope of consolidation;*

b) *on a consolidated basis, non-trading book risk positions that stem from investments in ~~an institution~~* ***undertakings*** *that ~~is~~* ***are*** *included in the scope of consolidation ~~and are in the reporting currency of the institution holding those positions~~;*

c) *non-trading book risk positions that relate to the cross-border nature of the institution* ***(e.g. foreign branches)*** *or to a well-established business of the institution which is stable over time* ***(e.g. strategic and long term investment in equity)****.*

This enables to clarify that the below positions are part of the structural position:

- Investments in entities, not unduly limited to institutions, which are being consolidated should be considered; this notably includes undertakings such as subsidiaries and foreign branches. This clarifies the inclusion of foreign branches as in the scope together with subsidiaries mentioned in the current Guideline

- Business lines which are developed within the balance sheet of an entity but which products are denominated in a foreign currency in a stable way through time, For instance, an entity which original capital is denominated in EUR and with assets (e.g. loans) and liabilities (e.g. deposits) denominated in USD.

- Structural / strategic investments in which a relevant/strategic and stable participation is maintained over time

- When investments of subsidiaries denominated in FX are funded with liabilities in the same currency. The short exposures arising from these liabilities should be considered structural and also as taken to hedge the ratio.

- FX forwards purchased by the bank which are held in the banking book as they are taken with the purpose of hedging the ratio. The FX position stemming from the FX forwards would be part of the structural position that is eligible to be exempted.

The inclusion of these examples in the proposed RTS would be key to reduce potential disagreements/misalignments with supervisors.

Illustration with Swedish market:

The draft RTS focuses on cross-border transactions. It is equally relevant to include non-trading book positions in foreign currencies. The structure of the Swedish market is a good example of why that is relevant. The Swedish large corporate market is characterized by several global export companies as well as large importers of goods. The trading currencies for those entities are dominated by EUR and USD wherefore they often lend in those currencies. Based on the wording of the draft RTS, those would only be accepted by exception if the lending is made by the export and import companies in Sweden but would be accepted if their foreign subsidiaries instead lent those funds from Sweden. We fail to see the merit in such restrictions. Important to notice is that the funding of those non-trading book positions may be made from foreign branches or subsidiaries that have lent the foreign currency locally in their functional currency, whereafter the funds are transferred in internal lending transactions from the branches and subsidiaries to the parent entity in Sweden.

Q5. Do you agree with the simplification allowing institutions to use only credit risk RWA in the determination of the MAX_OP? Please elaborate.

First, a typo needs to be fixed in Article 6(1) by substituting 'comparing' to 'summing':

> *The amount neutralising the sensitivity of the capital ratios to the adverse movements in foreign exchange rates shall be determined by ~~summing~~ **comparing**.*

We agree on the simplification method as it can provide a better alternative aligned to the management of the FX exposure to hedge the CET1 ratio (or TIER ratio) than the proposed method included in the existing guidelines, and it avoids the circular effect of calculating the maximum open position neutralizing the ratio. However, bank should be permitted if they wish to include components other than credit risk RWA in their MAX-OP calculation, e.g. CVA.

However, institutions would benefit from additional clarity on several aspects as described below.

1. We would request that EBA consider the description of the definitions associated with the terms of the formulae in Article 6 e.g.: for MaxOPFC below, to ensure that the operation of a formula as regards when the terms operate as numerical variables or as descriptions is more clearly highlighted.
   We feel this would be beneficial in particular for new users and in the context of the change in status of the document to being a legal text.

$$MaxOP_{FC} = CET1 \cdot \frac{\frac{RWA_{NoFX_{FC}}(1.01 \cdot FX_{FC}) - RWA_{NoFX_{FC}}(FX_{FC})}{0.01 \cdot FX_{FC}}}{RWA_{NoFX_{FC}}(FX_{FC})}$$

2. The current proposed formula in the guidelines is biased as it artificially increases FX capital requirements when the waiver is granted for more than 2 currencies. The reason of this bias is the calculation of maximum net open exposure as "if no waivers were granted for other currencies in accordance with Article 352(2) of Regulation (EU) No 575/2013 for positions in other currencies." As specified in paragraph 21 (b) of Guidelines On the treatment of structural FX under Article 352(2) of Regulation (EU) No 575/2013 (CRR).
Although this approach aims to limit the possibility of regulatory arbitrage having different size of maximum open position depending on the sequence of currencies used to calculate the size of maximum open position for a currency, it creates an artificial FX exposure that increases the size of RWA No FX FC thus increasing the size of the denominator and reducing the size of the maximum open position. This effect creates the paradox of having capital requirements when the CET1 (or TIER1) ratio is perfectly hedged. This effect is not shown in the guidelines, as Example 4 only includes one currency with waiver.
In the following example we show how this effect works, In the example, for simplicity, only structural positions are taken (no trading or other banking book exposures), no deductions are considered, and no additional market hedges are needed to hedge the ratio. The reporting currency is the EUR and a waiver is granted for 5 currencies.

OWN FUNDS EUR	**100**	Eur mn
RWA	**600**	
CET1 RATIO	**16,7%**	

	Credit RWA	Foreign Investment Structural FX exposure
Currency 1	180,0	30
Currency 2	120,0	20
Currency 3	120,0	20
Currency 4	30,0	5
Currency 5	30,0	5
EUR	120,0	
Total	600,0	80

The investment in each subsidiary is equal to Credit RWA in currency x CET1 ratio.

In case an appreciation (or depreciation) of 20% in all currencies would occur, the new CET1 would remain unaltered as the new value of RWA will be offset by the new value of own funds. For this reason, no capital requirements would be needed.

Appreciation	20%	
Deppreaciation	-20%	
OWN FUNDS EUR	**116**	**84**
RWA	**696,0**	**504,0**
CET1 RATIO	**16,7%**	**16,7%**

	Appreciation		**Deppreciation**	
	Credit RWA	Foreign Investment Structural FX exposure	Credit RWA	Foreign Investment Structural FX exposure
Currency 1	216,0	36,00	144,0	24,00
Currency 2	144,0	24,00	96,0	16,00
Currency 3	144,0	24,00	96,0	16,00
Currency 4	36,0	6,00	24,0	4,00
Currency 5	36,0	6,00	24,0	4,00
EUR	120,0		120,0	
Total	696,0	96	504,0	64

The new simplified approach, established the following amount for Max Open exposure

$$MaxOp_{FC} = CET1 \cdot \frac{\frac{RWA_{CR}(1.01 \cdot FX_{FC}) - RWA_{CR}(FX_{FC})}{0.01 \cdot FX_{FC}}}{RWA_{CR}(FX_{FC})}$$

Being total RWA CR Fc = 600mn the same for all currencies.

To obtain the Max Open exposure a ratio of 16,7% (100 / 600) has to be multiplied to all sensitivities for each currency, being the aggregated Max Open Exposure equal to the total investment.

Simplified Method

RWA cr	CET1 / RWA Cr	Max Op Fc	RWA FX
600		30	0
600		20	0
600	16,7%	20	0
600		5	0
600		5	0
		80	0

Simplified Method			
Max Open Exp		80	Eur mn
RWA	Credit	600	Eur mn
RWA	FX Market	0	Eur mn
Total		600	Eur mn
CET1 ratio		16,7%	

Capital Requirements for FX would be 0 for this bank.

However, when applying the current approach different “theoretical ratios” appear as the RWA No FX fc depend on the FX exposure of the rest of the currencies, as if no waiver was in place. This approach artificially increases total RWA No FX as in all case the amount is higher than Eur 600mn as expected in the previous approach, therefore reducing the Max Open Exposure and creating the need to capitalize 7 mn of new RWA.

Original Method

RWA No FX fc	CET1 / RWA Cr	Max Op Fc	RWA FX
650	15,4%	28	2,3
660	15,2%	18	1,8
660	15,2%	18	1,8
675	14,8%	4	0,6
675	14,8%	4	0,6
		73	7

Original Method			
Max Open Exp		73	Eur mn
RWA	Credit	600	Eur mn
RWA	FX Market	7	Eur mn
Total		607	Eur mn
CET1 ratio		16,5%	

With this approach the CET1 ratio is lower than from starting point although FX volatility does not affect the CET1 ratio. In case the artificial remaining long exposure 7 mn would be hedged with a short exposure to avoid capital requirements, this would then unhedged the CET1 ratio creating volatility. In other words, it is not possible to hedge the CET1 ratio without penalization.

For these reasons, it is our opinion that the simplified approach is better aligned to the management of structural FX risk to hedge the CET1 ratio and it should apply without considering any threshold.

This approach is aligned with the regulatory framework as non-structural FX exposures are capitalized independently of the size of the maximum open position and operational RWAs will not be materially exposed to fx since the average exchange rate is fixed in each of the 3 years instead of taking them into account at fixing

It important to highlight that the threshold would be most probably breached when the trading activity in one currency weights relatively more than structural exposures, which is usually the case where the structural exposure is not so material in the strategy of the bank.

This adds the burden to calculate a more complex approach in the less material currencies.

In case the threshold is kept, we would welcome clarity in some aspects:

1. **It is not entirely clear how the threshold of 80% must be calculated. The consultation paper establishes that institutions using the simplified approach when the following paragraph is met:**

   "*where the overall risk position in the foreign currency stemming from non-trading book items is at least 80% of the overall risk position in that currency including both non-trading book and trading book*"

In order to avoid misunderstandings in the usage of the simplified approach, additional guidance of how this overall risk position must be calculated is welcomed in aspects such as if the overall risk position should be calculated before or after hedges taken to hedge the ratio, at what level of aggregation must be calculated in case of art 325b is not granted and how to treat short non-structural position in banking book.

In our view this overall risk position should be calculated using the following approach:

- It should be calculated using long structural positions before hedges and waiver. This is because this exposure is a better representation of the "natural" structural business of the balance sheet to be compared with the trading activity.
- When Art. 325b permission is sought on a consolidated basis It should be calculated offsetting all exposures per currency among entities. This is because, as mentioned in the consultation paper, *"it is important to observe that the permission in Article 325b CRR does not affect the calculation of CET1/T1/own funds of the institution at a consolidated level, as it deals only with the calculation of the own funds requirements (i.e. the denominator of the ratio). Accordingly, the CET1/T1/own funds of an institution are calculated regardless of the permission. As a result, the numerator of the capital ratio is sensitive to the exchange rate regardless of whether the permission in Article 325b CRR has been granted or not. "*
- Non-structural FX exposures should be calculated as net exposures across all entities. The resulting FX net exposure, whether short or long, should be considered in absolute value in both the numerator and denominator. This approach would allow to have a better comparison of the level of trading activity within a Group by each currency.

2. **When permission is sought on a consolidated basis, in case a currency does not meet the threshold, different approaches have to be used which will result in unnecessary complexity.**

In order to avoid using different methods to calculate the Maximum Open exposure, a solution could be that the 80% threshold should me met by the aggregating all exposures in different currencies for which a waiver has been granted in a single metric. A consolidated view would also achieve the desirable outcome of allowing the simplified approach when no relevant FX trading activity is in place. Furthermore, the presence of FX activity should not weight so much in the threshold as capital requirements for trading activity have to be calculated independently from capital requirements for structural FX.

	Currency	Positive Structural Position BEFORE hedges	Net Trading book exposure	non trading book items / Overall risk position	
Currencies with waiver	Currency 1	100	20	83%	✓
	Currency 2	100	20	83%	✓
	Currency 3	100	20	83%	✓
	Currency 4	100	20	83%	✓
	Currency 5	100	30	77%	☒
	Currency 6	100	20	83%	
	Currency 7	100	20	83%	
	Currency 8	100	20	83%	
	Aggregate sum currencies with waiver	**500**	**110**	**82%**	✓

Q6. Do you expect that institutions currently using the derogation referred to in Article 6(4) would qualify for the treatment referred to in paragraph 3 of that Article? Please elaborate.

Institutions currently using the derogation referred to in Article 6(4) will not necessarily qualify for the treatment referred to in paragraph 3 of this article as additional simplification options in accordance with Article 6(4) compared to Article 6(3) are necessary: The monthly revaluation of credit risk RWA components (e.g. credit derivatives) with applied currency shifts, which is still required under the simplification in Article 6(3), is very complex and overly burdensome. Article 6(4) should therefore remain in place. We would accordingly suggest that the assumption of a linear impact of fx shifts in RWA in foreign currency should be explicitly permitted.

- Regarding part a) *they are able to show the effect of such simplifications on the value of the maximum net open position;*

  It would be beneficial to further clarify regulatory expectations about this point. Our understanding is that this should be shown by analyzing the (low) sensitivity of the CET1 ratio where RWA No FX Fc should be substituted by RWA CR Fx) as per article 8.1.m.(vi)

$$sensitivity_1 = \frac{S\_OP - MaxOP_{FC}}{RWA_{NoFX_{FC}}}$$

or
the sensitivity of the capital ratio with respect to changes in the exchange rate as calculated by the institution.

It would not make sense to calculate two Max Open exposures using two different approaches, as this will add an unnecessary additional burden.

- Regarding part "b) *the effect of the simplifications referred to in point (a) does not represent an overestimation of the maximum open position. "*

  It should be beneficial about what is understood by "overestimation". i.e which is the comparable concept to compare against the Max Position using the simplified approach.

  As shown in the example in answer to Q5, in the presence of more than 2 currencies with waiver the current approach will show higher RWA No Fx Fc than RWA Cr as in the latter there is no additional RWA No FX exposures for currencies as if no waivers were granted for other currencies. As these affect the denominator, the current approach provides a lower Max Open Exposure compared to the simplified approach.

Q7. Do you agree with the requirements set out in Article 7(1)(j), and in Article 7(3)? Do you see the need to introduce additional safeguards to address, for example, currency crisis? Please elaborate.

Rem: there are typos in Q7 as the referred to Article 7 should be substituted by Article 8.

Bar the waiver, a Group is subject to a capital requirement for structural foreign exchange risk when it simply injects capital in a foreign subsidiary in line with its Risk Weight Assets (RWA). Hence, bar a waiver, a Group is subject to capital requirement for consistently capitalizing a subsidiary, which hardly makes sense. In such a situation, there should be no capital requirement for structural foreign exchange risk. As recognized by the waiver, a structural foreign exchange position below the max open position should not attract capital requirement for foreign exchange risk. **There is no need to have a liquid currency to have this position that reduces the sensitivity of capital ratios. As such, it does not necessarily make sense to have requirements on the currency market liquidity**.

Despite the existence of tools to enable the implementation of the strategy contained in the policy, certain external and internal circumstances can affect the viability of the strategy to manage and hedge the ratio from Structural FX positions as designed initially in the Policy, Therefore, we don't agree with the requirements in its current form.

The active management of a structural currency, as prescribed, is incomplete. Active management does not only imply hedging. For instance, considering investment in Argentina, there is no liquid market that allows to hedge the exposition with derivatives, however there is active investment management through the consumption of RWAs, the payment of dividends, and debt issuances, and there is also a strict control of limits and compliance with target capital.

Therefore, we consider that the redaction of the RTS must

a) consider these different adverse scenarios and casuistic of active management of a structural currency, and

b) allow institutions to have time and additional tools to adapt to such changes, without considering that the FX management strategy of the policy does not comply with articles 8.1.j and 8.3.

We do not see the need for the introduction of additional safeguards and recommend deleting Article 8(3) and Article 8(1)(j).

Questions relating to the reporting ITS

Q8. Did you identify any issues regarding the representation of the RTS policy framework for S-FX in the ITS reporting requirement?

The representation of the RTS policy framework is leading to some issues from our understanding especially on the definitions in the template itself (see question 9).

Q9. Are the scope of application of the reporting requirements, the template itself and instructions clear?

The new template looks pretty similar to the FXBB one but some columns need further clarifications :

Column (030) and column (040):

- 030: is this columns referring to the 8.1.m.ii "the overall risk position meeting the requirement referred in art 2-1" (ie. Exempted SOP)
- 040: is this column referring to article 6(1)(a) « overall risk position relating to item that are structural..."(Total SOP) ?

Label of the column is not in line with the definition: “S_OP”. We understand this column should be the difference between Total NOP minus the exempted SOP but in the template, it’s represented in the section “Positions that are structural and deliberately taken for hedging the ratio”. This column is not clear to us and needs further clarification.

What is the difference between the column (070) and the (050) one. From our understanding the 2 columns as described and defined are summing the same data….

- Column (070) should be equal to the “Position not suitable for exemption” from the previous template (over capitalization and operational position)
- And should be therefore equivalent to the Net Open Position – Exempted SOP already reported in column (050)

Q10. Does the reporting of the net reduction in own funds requirements (c0130) by currency, or any other element of the reporting requirement, trigger a particularly high, or in your view disproportionate, effort or cost of compliance? If yes, please explain the trigger/source of the cost and offer suggestions on alternative ways to achieve the same/a similar result with lower cost of compliance.

N/A

Additional Comments

Allocation of the remaining position after the waiver

Within the scope of the RTS a particular challenge arises when dealing with structural FX positions that exceed the maximum open position eligible for exemption. In such cases, determining which entity within a consolidated group should bear the remaining FX position becomes essential, especially in the absence of permission referred to in Article 325b of the CRR, which restricts the ability to offset FX positions between the parent and subsidiary.

In a scenario where the structural FX position arises from a currency that is neither the operating currency of the subsidiary nor the parent, the allocation of the remaining position after the waiver could be assigned to the subsidiary and/or the parent, as it creates FX risk for both entities.

However, when permission is sought on a consolidated basis and the FX position arises from the reporting currency of the subsidiary, the allocation of the remaining position after the waiver should be based on where the risk materializes. Under the CRR’s FX risk calculation framework, and in the absence of the permission referenced in Article 325b (which restricts the ability to offset FX positions between the parent and subsidiary), assigning the remaining position after the waiver (or the full structural position when the waiver is not granted) to the parent, where the risk materializes, can be justified for the following reasons:

1. Local Currency of Subsidiary Does Not Generate FX Risk for the Subsidiary

- The subsidiary operates i.e. in MXN, which is its functional and operating currency. As such, its assets and liabilities are naturally denominated in MXN, creating no FX exposure for the subsidiary.
- Movements in the MXN exchange rate relative to operating currency of the consolidated group i.e. EUR does not impact the subsidiary's local currency operations or its profitability in MXN terms.
- Therefore, assigning the remaining position to the subsidiary does not address the underlying FX risk that arises exclusively at the consolidated level.

2. FX Risk Arises at the Consolidated (Parent) Level

- From a consolidated perspective, the parent (EUR reporting currency) faces translation risk due to fluctuations in the MXN/EUR exchange rate. This translation risk affects:
    - The valuation of the subsidiary's MXN-denominated balance sheet when consolidated into EUR.
    - The consolidated capital ratios reported in EUR.
- Assigning the remaining position to the parent aligns the risk with the entity responsible for reporting and managing the consolidated FX exposure (this risk cannot be managed at local level because it does not exist at that level).

3. FX Losses (or Gains) Materialize at the Parent Level

- Any depreciation or appreciation of MXN against EUR impacts the consolidated financial statements through the conversion process, not the subsidiary's standalone financials.
- Since the parent bears the economic impact of these fluctuations, it is logical to assign the remaining position to the parent.

4. Managing Translation Risk is a Parent-Level Responsibility

- Translation risk is a consolidated-level issue that affects the reporting currency of the group, which is managed by the parent. The parent's ALM and risk management teams typically oversee such exposure and determine appropriate hedging and mitigation strategies.
- Assigning the remaining position to the parent ensures that it is factored into consolidated risk management frameworks and accurately capitalized under CRR requirements.

Therefore, assigning the remaining FX position after the maximum open position exemption to the parent entity is the only logical approach. This method accurately reflects the source of the FX risk and where it is managed within the consolidated group. By acknowledging that the parent company bears the translation risk related to its investment in the subsidiary, financial institutions can ensure proper capitalization against FX risk and implement effective risk management strategies.

In conclusion, we believe that the principles for allocating the remaining position after the waiver, when the permission referred to in Article 325b is not granted, should be incorporated into the RTS. This would enable competent authorities to consider this aspect as well when assessing the application of the structural FX waiver.

Transitional arrangements

Art. 6 (3) Commission Delegated Regulation should reflect the transitional arrangements for the output floor according to Art. 465 CRR3 instead of introducing the static 72,5%, which is only relevant from 2030.

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