European Association of Co-operative Banks
Groupement Européen des Banques Coopératives
Europäische Vereinigung der Genossenschaftsbanken

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EACB COMMENTS on
Proposal for a regulation on prudential requirements for credit institutions (COM (2011) 452) LIQUIDITY

Contents

I. General Remarks

A. Observation Period

The members of the EACB strongly appreciate that there will be an observation period for the LCR, allowing a careful empirical definition of highly liquid assets and to counter an unintended consequences.

As the observation period concerning highly liquid assets will begin in 2013 only, the members of the EACB are very concerned by the press release issued by the Basel Committee on 28 September 2011[1] according to which it is intended "to arrive at any adjustments in key areas well in advance of the mid-2013 deadline". The members of the EACB remain concerned that such adjustments could prejudice the observation period.

In addition, the EACB members suggest implementing grandfathering rules for liquidity buffer assets in order to allow for a smooth transition from the observation period (any assets dedicated by a bank to the liquidity buffer are eligible for inclusion in the LCR calculation starting from 1 January 2015 until 1 January 2018).

B. Extension of the Observation Period

The observation period for the LCR will start only once EBA has developed uniform reporting formats, i.e. in the beginning of 2013. Thus, the observation phase will span 1 year at the most and result in a tight, restricted time-frame. We therefore strongly suggest an extension of the observation period at least until the end of 2014.

We strongly support that the period when the institutions know the final parameters should be long enough so that institutions have time to adapt before the actual implementation of the regulation, i.e. 2015.

Suggestion for wording -
Proposal for a Regulation
Article 481(2)

Text proposed by the European Commission	*EACB Suggestion for wording*
EBA shall, by 31 December 2013, report to the Commission on appropriate uniform definitions of high and of extremely high liquidity and credit quality of transferable assets for purposes of Article 404.	EBA shall issue, by 31 December 2013 ***a preliminary report, and by 31 December 2014 a final*** report to the Commission on appropriate uniform definitions of high and of extremely high liquidity and credit quality of transferable assets for purposes of Article 404.

[1] http://www.bis.org/press/p110928.htm

C. Proportionality in case of non compliance

In the case of non compliance with liquidity requirements, proportional discretion should be applied for a credit institution. We propose a more flexible reporting to the competent authority in that case.

It is therefore suggested amending Article 402 as follows:

Suggestion for wording -
Proposal for a Regulation
Article 402

Text proposed by the European Commission	*EACB Suggestion for wording*
Where a credit institution does not meet, or is expected not to meet the requirement set out in Article 401(1), it shall immediately notify the competent authorities and shall submit without undue delay to the competent authority a plan for the timely restoration of compliance with Article 401. Until such compliance has been restored, the credit institution shall report the items daily by the end of each business day unless the competent authority authorises a lower frequency and a longer delay. Competent authorities shall only grant such authorisations based on the individual situation of a credit institution. They shall monitor the implementation of the restoration plan and shall require a more timely restoration if appropriate	Where a credit institution does not meet, or is expected not to meet the requirement set out in Article 401(1), it shall immediately notify the competent authorities and shall submit without undue delay to the competent authority a plan for the timely restoration of compliance with Article 401. Until such compliance has been restored, the credit institution shall report the items daily by the end of each business day unless the competent authority authorises a lower frequency and a longer delay. Competent authorities shall only grant such authorisations based on the individual situation of a credit institution ***and taking into account the nature, scale and complexity of the institution's activities.*** They shall monitor the implementation of the restoration plan and shall require a more timely restoration if appropriate.

II. Particularities of Co-operative Banking Groups

A. Consolidated Treatment of Co-operative Banking Groups

i. Consolidation according to article 12 of Directive 83/349/EC

The Basel Committee has indicated in point 187 of the "International framework for liquidity risk measurement, standards and monitoring"[2] *that liquidity requirements should be applied to all [internationally active] banks on a consolidated basis*". The members of the EACB therefore strongly appreciate that CRR provisions allow the application of the liquidity standards on a consolidated level only. Article 7(1) and (2) CRR allow the application of these rules to different kinds of groups, consolidating as well as non-consolidating. The precondition for the application of Article 7(1) is a parent-subsidiary relationship, while 7(2) requires the adherence to an institutional protection scheme.

Unfortunately, the provisions do not make reference to consolidation according to Article 12 of the Directive 83/349/EC which allows consolidation on different grounds than a parent-subsidiary relationship. Consolidation according to that provision leads to a privileged treatment in other places of the liquidity provisions (Article 413(4)(b) CRR). Moreover, it is indirectly referred to in article 413(1) CRR, since such consolidation addressed in Article 108(6) CRR as well. Groups and Subgroups that apply Article those provisions should therefore also be able to qualify for consolidated treatment, provided that the relevant requirements are met:

Suggestion for wording -
Proposal for a Regulation
Article 7(2) sub-paragraph 3

Text proposed by the European Commission	*EACB Suggestion for wording*
Competent authorities may also apply paragraph 1 also to institutions which that are members of the same institutional protection scheme referred to in 108(7)(b), provided that they meet all the conditions laid down in Article 108(7).	Competent authorities may also apply paragraph 1 also to institutions which that are members of the same institutional protection scheme referred to in 108(7)(b), provided that they meet all the conditions laid down in Article 108(7), ***and institutions linked by a relationship within the meaning of Article 12 (1) of Directive 83/349/EEC***.

ii. Co-operative Groups according to Article 389(2)(d)

Moreover, there are some co-operative groups with strong ties, adhering to an institutional protection scheme, which do not fulfill the requirements of Art.108(7) CRR. However, such groups meet the requirements of Article 389(2)(d) CRR, since they are associated in a network in accordance with legal or statutory provisions and where a central institution is responsible, under those provisions, for cash-clearing operations within the network.

[2] http://www.bis.org/publ/bcbs188.pdf

As a consequence, we strongly support the enlargement of the derogation to the application of liquidity requirements on an individual basis to those institutions which have an IPS but do not fulfill the conditions of Art.108 (7) CRR or which will not have time to meet the conditions by the implementation date of the LCR in January 2015.

Suggestion for wording -
Proposal for a Regulation
Article 7(2), subparagraph para 4 (new)

Text proposed by the European Commission	*EACB Suggestion for wording*
	New Competent authorities may also apply paragraph 1 to institutions associated in a network and where in accordance with legal or statutory provisions a central or regional credit institution is responsible, under those provisions, for cash-clearing operations within the network, as mentioned in Article 389 (2) d) and where the central institution manages deposits and other funds from the members of the network, provided that the intra-network co-operation covers also liquidity.

iii. Consolidated Approach to liquidity in Institutional Protection Scheme

The EACB suggests an Amendment on the liquidity requirements applied in a consolidated treatment in Institutional Protection Scheme. We think that a consolidated approach to liquidity in Institutional Protection Schemes should not imply duplication of requirements and interferences in the rules of Institutional Protection Schemes. Indeed Article 7(2) makes reference to Article 7(1) with several conditions difficult to meet. In order to better consider the co-operative groups, we then propose to delete the stringent conditions of Article 7(1) mentioned in Article 7(2).

Suggestion for wording -
Proposal for a Regulation
Article 7(2), sub-paragraph 3

Text proposed by the European Commission	*EACB Suggestion for wording*
Competent authorities may also ***apply paragraph 1 also to institutions which*** that are members of the same institutional protection scheme referred to in 108(7)(b), provided that they meet all the conditions laid down in Article 108(7).Competent authorities shall in that case determine one of the institutions subject to the waiver to meet Article 401on the basis of the consolidated situation of all institutions of the single liquidity sub-group.	Competent authorities may also ~~***apply paragraph 1 also to institutions which***~~ ***waive in full or in part the application of Article 401 to institutions which*** are members of the same institutional protection scheme referred to in 108(7)(b), provided that they meet all the conditions laid down in Article 108(***7) and supervise them as a single liquidity sub-group.*** Competent authorities shall in that case determine one of the institutions subject to the waiver to meet Article 401 on the basis of the consolidated situation of all institutions of the single liquidity sub-group.

B. Inflows from operational deposits in certain co-operative groups (Art 410 (4) CRR

While members of the EACB appreciate that the special situation of co-operative liquidity groups, that do not take a consolidated approach as stipulated in Art. 7, is reflected in Article 410(4)(b), which transposes the Basel provisions on "liquidity systems of co-operative banking groups", we do not think that the provision sets the right incentives. In fact, it would have as a consequence that an institution may prefer to place deposits in a bank outside the liquidity group since when those deposits were placed in the group, 0% would be available as inflows for the institution. Thus, 25 % of money would be lost. This seems inappropriate, since the purpose of liquidity is to ensure and keep the liquidity and not to lose it.

As a consequence, we propose to establish a treatment, which reflects the situation better, by modifying article 413 (2)(c), so that the lost 25% of moneys are an inflow to the deposit bank.

We propose the following amendments to ensure the symmetrical treatment of internal operational deposits other than those specific to cooperative banks. Indeed, there is no reason to apply an asymmetrical treatment on these deposits too.

Suggestion for wording -
Proposal for a Regulation
Article 413(2)(c)

Text proposed by the European Commission	*EACB Suggestion for wording*
(c) monies due that the institution owing those monies treats according to Article 410(4), any undrawn credit or liquidity facilities and any other commitments received shall not be taken into account.	(c) monies due that the institution owing those monies treats according to Article 410(4) ***shall be reduced by 75%***. ***A***ny undrawn credit or liquidity facilities and any other commitments received shall not be taken into account..

i. Minimum Reserves held with co-operative central banks (Outflows/Inflows)

There is a special situation as regards deposits held at national central banks or the ECB.

All deposits at Central Banks should be considered part of the liquidity buffer, including the mandatory reserves.

Otherwise, the LCR would act as another layer of mandatory reserves since a portion of the deposits need to be invested in liquid assets.

This will deprive the economy as a whole of additional funding that is needed to fuel growth.

The integration of minimum reserves in the buffer is all the more necessary to ensure a fair treatment of banks in different jurisdictions in the world. Indeed, the different jurisdictions do not all have the same level of minimum reserves requirement (example: around 2% of the deposits in Europe vs around 20% in China). Thus, the non-recognition of minimum reserves in the LCR buffer would not allow the level playing field between different institutions in the world.

Suggestion for wording -
Proposal for a Regulation
Article 404(1)(a)

Text proposed by the European Commission	*EACB Suggestion for wording*
1. Institutions shall report the following as liquid assets unless excluded by paragraph 2 and only if the liquid assets fulfil the conditions in paragraph 3: (a) cash and deposits held with central banks ***to the extent that these deposits can be withdrawn in times of stress***;	1. Institutions shall report the following as liquid assets unless excluded by paragraph 2 and only if the liquid assets fulfil the conditions in paragraph 3: (a) cash and deposits held with central banks ~~to the extent that these deposits can be withdrawn in times of stress;~~

Should this treatment not be recognized, cooperative banks have a specific issue with the treatment of minimal reserves.

Indeed, in some countries co-operative banks fulfill their minimum reserve requirements indirectly through their central institutions. In this case the central institutions are simply an intermediary between the European Central Bank or other Central Bank and the local co-operative banks.

In that case the central institution does not have a liquidity inflow nor reserves as far as the LCR framework is concerned, since the deposits are finally held by the European Central Bank. It seems imperative to neutralize the inflows in/outflows out of the central institution regarding these funds, so that they do not give rise to any additional liquidity requirement

Suggestion for wording -
Proposal for a Regulation
Article 410 (9) new

Text proposed by the European Commission	*EACB Suggestion for wording*
	Institutions shall not report as outflow liabilities resulting from deposits by other institutions if they correspond to minimum reserves required by the ECB or by the central bank of a Member State.

Suggestion for wording -
Proposal for a Regulation
Article 413 (8) new

Text proposed by the European Commission	*EACB Suggestion for wording*
	Institutions shall not report as inflow assets resulting from deposits in other institutions if they correspond to minimum reserves required by the ECB or by the central bank of a Member State.

C. Adjustment of to inflows and outflows for co-operative liquidity networks

ii. Adjustment regarding 75% cap

The current text allows to exempt internal flows from several requirements (75% cap on inflows, possibility to apply a symmetrical treatment). Certain co-operative networks should also benefit from these exemptions.

We think that the special relationships between co-operative banks in certain co-operative networks that do not apply Article 7 CRR have to be taken into consideration as well. We therefore suggest extending the waiver in Article 413(1) CRR from the cap to the networks mentioned under Article 389(2)(d) CRR i.e. networks where banks are associated in a network in accordance with legal or statutory provisions and where a central institution is responsible, under those provisions, for cash-clearing operations within the network.

Suggestion for wording -
Proposal for a Regulation
Article 413 (1)

Text proposed by the European Commission	*EACB Suggestion for wording*
Institutions shall report their capped liquidity inflows. Capped liquidity inflows shall be the liquidity inflows limited to 75% of liquidity outflows. Institutions may exempt liquidity inflows from deposits placed with other institutions and qualifying for the treatments set out in Article 108(6) or Article 108(7) from this limit.	Institutions shall report their capped liquidity inflows. Capped liquidity inflows shall be the liquidity inflows limited to 75% of liquidity outflows. Institutions may exempt liquidity inflows from deposits placed with other institutions and qualifying for the treatments set out in Article 108(6) or Article 108(7) ***or Article 389 (2) d)*** from this limit.

iii. Increasing supervisory discretion regarding inflows and outflows also for co-operative groups

We think that competent authorities should have the discretion to allow lower outflow on a case by case basis, also to co-operative networks as in the amendment of the Article 410(8). The recognition of lower outflow percentages at national discretion on a case by case basis should be extended to the institutional protection schemes and the networks under the meaning of Article 389(2)(d).

Suggestion for wording -
Proposal for a Regulation
Article 410 (8)

Text proposed by the European Commission	*EACB Suggestion for wording*
By derogation from paragraph 7, competent authorities may grant the permission to apply a lower percentage on a case-by-case basis when where all of the following conditions are fulfilled:	***In order to minimise the conflict of interests within a group or network of institutions*** by derogation from paragraph 7, competent authorities may grant the permission to apply a lower percentage on a case-by-case basis when where all of the following conditions are fulfilled:

(a) the depositor is a parent or subsidiary institution of the institution or another subsidiary of the same parent institution or linked to the institution by a relationship within the meaning of Article 12(1) of Directive 83/349/EEC;	(a) the depositor is ***one of the following***: ***(i)*** a parent or subsidiary institution of the institution or ***(ii)*** another subsidiary of the same parent institution or ***(iii)*** linked to the institution by a relationship within the meaning of Article 12(1) of Directive 83/349/EEC ***(iv) member of an institutional protection scheme compliant with Article 108 (7)*** ***(v) the central institution or member in a network compliant with Article 389 (2) d);***
(b) there are reasons to expect a lower outflow over the next 30 days even under combined idiosyncratic and market-wide stress scenario;	(b) there are reasons to expect a lower outflow over the next 30 days even under combined idiosyncratic and market-wide stress scenario;
(c) a corresponding symmetric or more conservative inflow is applied by the depositor by derogation from Article 413;	(c) a corresponding symmetric inflow is applied by the depositor by derogation from Article 413***, in order to reflect a neutral position of the joint positions;***

As stated below for the liquidity outflows, we propose to establish a symmetrical treatment by modifying Article 413(4). Therefore, the recognition of higher inflow percentages at national discretion on a case by case basis should be extended to the institutional protection schemes and the networks under the meaning of Article 389(2)(d) and to the other networks meeting the requirements of Article 108(7).

Suggestion for wording -
Proposal for a Regulation
Article 413 (4)

Text proposed by the European Commission	*EACB Suggestion for wording*
Competent authorities may grant the permission to apply, by derogation from paragraph 2 point c), a higher inflow on a case by case basis for credit, and liquidity facilities when all of the following conditions are fulfilled:	***In order to minimise the conflict of interests within a group or network of institutions*** competent authorities may grant the permission to apply, by derogation from paragraph 2 point c), a higher inflow on a case by case basis for credit and liquidity facilities when all of the following conditions are fulfilled:
(a) there are reasons to expect a higher inflow even under idiosyncratic stress;	(a) there are reasons to expect a higher inflow even under idiosyncratic stress;
(b) (b) the provider is a parent or subsidiary institution of the institution or another subsidiary of the same parent institution or linked to the institution by a relationship within the meaning of Article 12(1) of	***(b)*** the ***beneficiary or*** provider is ***one of the following:*** ***(i)*** a parent or subsidiary institution of the institution or ***(ii)*** another subsidiary of the same parent

Directive 83/349/EEC;	institution or ***(iii)*** linked to the institution by a relationship within the meaning of Article 12(1) of Directive 83/349/EEC or ***(iv)*** ***an institution falling within the same institutional protection scheme meeting the requirements of Article 108(7)*** ***(v)*** ***the central institution or member in a network compliant with Article 389 (2) d);***

D. Prefunded Liquidity Lines

In the case where a local bank places a fixed inter-bank deposit at the central institution, this pre-funded liquidity lines should also be recognized as cash inflow for the small institution in networks of Article 389(2)(d). Therefore, this liquidity lines would be available for the small bank for a short period, if needed.

Suggestion for wording -
Proposal for a Regulation
Article 413 (8) new

Text proposed by the European Commission	*EACB Suggestion for wording*
	Pre-funded liquidity lines from the central institution to the members of the networks complying with Article 389 (2) d) may be included in the cash inflow of the network members, provided that the competent authorities are satisfied with the contractual background.

III. Highly Liquid Assets

A. Definition of Highly Liquid Assets

i. General

The ongoing crisis clearly shows that even sovereign bonds can quickly lose their 'market-liquidity'. This calls for not building a liquidity regulation which relies too much on sovereign instruments as "highly liquid".

It is acknowledged that institutions should rely first of all on the market and then only as a last resort on the central banks. However, it is required to rely not only on market liquidity but also on other mechanisms underlying the credit quality of the assets concerned. This is necessary as market liquidity proves to be too pro-cyclical and volatile. In addition, it is deemed necessary because assets which are liquid on the market are not always those which are of the best quality. Furthermore, the development of capital market is varying from one jurisdiction to another. Reliance solely on market liquidity would create an uneven playing field between jurisdictions.

Therefore, we should divide assets into two categories:

- *Assets which benefit from market liquidity*:
  There is no reason for this category to be subject to a compulsory central bank eligibility criterion. Shares or UCITS for example should be integrated in that category with appropriate haircuts
- *Assets which are of good credit quality:*
  If the market liquidity completely disappears, at least what is left is of good quality and can still be used as collateral. That is what central banks recognize with their minimum criteria to central bank refinancing. Moreover, this criterion allows the level playing field between jurisdictions.

We propose in the following amendments a series of conditions that the assets must fill to be eligible in one category or the other. EBA should study these conditions during the observation period to finalize the list of assets which are eligible as far as the LCR is concerned.

Suggestion for wording -
Proposal for a Regulation
Article 404

Text proposed by the European Commission	*EACB Suggestion for wording*
1. Institutions shall report the following as liquid assets ***unless excluded by paragraph 2 and only if the liquid assets fulfil the conditions in paragraph 3:***	1. Institutions shall report the following as liquid assets ***~~unless excluded by paragraph 2 and only if the liquid assets fulfil the conditions in paragraph 3~~:***
(a) cash and deposits held with central banks ***to the extent that these deposits can be withdrawn in times of stress;***	(a) cash and deposits held with central banks ***~~to the extent that these deposits can be withdrawn in times of stress;~~***
(b) transferable assets that are of ***extremely*** high liquidity ***and credit quality***;	(b) transferable assets that are of ***~~extremely~~*** high liquidity ***~~and credit quality~~***;

(c) transferable assets representing claims on or guaranteed by the central government of a Member State or a third country ***if the institution incurs a liquidity risk in that Member State or third country that it covers by holding those liquid assets;***	(c) transferable assets representing claims on or guaranteed by the central government of a Member State or a third country ~~***if the institution incurs a liquidity risk in that Member State or third country that***~~
(d) transferable assets that are of high ***liquidity*** and credit quality.	(d) transferable assets that are of high ~~***liquidity and***~~ credit quality ***that meet at least the quality criteria set by central banks for monetary policies.***
Pending a uniform definition in accordance with Article 481(2) of ***high and extremely*** high liquidity and credit quality, institutions shall identify themselves in a given currency transferable assets that are respectively of ***high or extremely*** high liquidity and credit quality. Pending a uniform definition, competent authorities may, taking into account the criteria listed in Article 481(2), provide general guidance that institutions shall follow in identifying assets of ***high and extremely*** high liquidity and credit quality. In the absence of such guidance, institutions shall use transparent and objective criteria to this end, including some or all of the criteria listed in Article 481(2).	Pending a uniform definition in accordance with Article 481(2) of ~~***high and extremely***~~ high liquidity and ***of high*** credit quality, institutions shall identify themselves in a given currency transferable assets that are respectively of ~~***high or extremely***~~ high liquidity and ***of high*** credit quality. Pending a uniform definition, competent authorities may, taking into account the criteria listed in Article 481(2), provide general guidance that institutions shall follow in identifying assets of ~~***high and extremely***~~ high liquidity and ***of high*** credit quality. In the absence of such guidance, institutions shall use transparent and objective criteria to this end, including some or all of the criteria listed in Article 481(2).
2. The following shall not be considered liquid assets:	2.The following shall not be considered ***high*** liquid assets:
a) assets that are issued by a credit institution unless they fulfil one of the following conditions:	(a) assets that are issued by a credit institution unless they fulfil one of the following conditions:
(i) they are bonds eligible for the treatment set out in Article 124(3) or (4);	(i) they are bonds eligible for the treatment set out in Article 124(3) or (4);
(ii) they are bonds as defined in Article 52(4) of Directive 2009/65/EC other than those referred to in (i);	(ii) they are bonds as defined in Article 52(4) of Directive 2009/65/EC other than those referred to in (i), ***especially bonds backed by loans and exposures to small or medium sized enterprises; or equivalent items subject to the approval of the competent authorities;***
	(iia) they are bonds eligible for the treatment set out in Article 124 (3) or (4) or asset backed instruments of high liquid and credit quality as established by EBA pursuant to Article 481 (1) and which are subject to supervision and fulfill the requirements [as set forth in Article 174b (2),(5),(6),(7) and (8) of the Solvency I

	draft implementing measures;
(iii) the credit institution has been set up and is sponsored by a Member State central or regional government and the asset is guaranteed by that government and used to fund promotional loans granted on a non-competitive, not for profit basis in order to promote its public policy objectives;	(iii) the credit institution has been set up and is sponsored by a Member State central or regional government and the asset is guaranteed by that government and used to fund promotional loans granted on a non-competitive, not for profit basis in order to promote its public policy objectives; ***(iv) the issuer of transferable assets and the investing institution are both part of the same institutional protection scheme referred to in 108(7)(b), provided that they meet all the conditions laid down in Article 108(7).***
(b) assets issued by any of the following:	(b) assets issued by any of the following:
(i) an investment firm;	(i) an investment firm;
(ii) ***an insurance undertaking;***	~~***(ii)an insurance undertaking;***~~
(iii) a financial holding company;	~~***(iii)***~~ ***(ii)*** a financial holding company;
(iv) a mixed-activity holding companies;	~~***(iv)***~~ ***(iii)*** a mixed-activity holding companies;
(v) any other entity that performs one or more of the activities listed in Annex I of Directive [inserted by OP] as its main business.	~~***(v)***~~ ***(iv)*** any other entity that performs one or more of the activities listed in Annex I of Directive [inserted by OP] as its main business. ***(v) special purpose entities, unless they are bonds eligible for the treatment set out in Article 124 (3) or (4) or asset backed instruments of high liquid and credit quality as established by EBA pursuant to Article 481 (1)***
3. Institutions shall only report as liquid assets that fulfil ***each*** of the following conditions:	3. Institutions shall only report as ***highly*** liquid assets that fulfil ~~***each***~~ ***one*** of the following conditions:
(a) they are not issued by the institution itself or its parent or subsidiary institutions or another subsidiary of its parent institutions or parent financial holding company;	(a) they are not issued by the institution itself or its parent or subsidiary institutions or another subsidiary of its parent institutions or parent financial holding company;
(b) they are eligible collateral in normal times for intraday liquidity needs and overnight liquidity facilities of a central bank ***in*** a Member State or ***if the liquid assets are held to meet liquidity outflows in the currency*** of a third country, ***of the central bank of that third country;***	(b) ***ideally*** they are eligible collateral in normal times for intraday liquidity needs and overnight liquidity facilities of a central bank ~~***in***~~ ***of*** a Member State or ~~***if the liquid assets are held to meet liquidity outflows in the currency***~~ of a third country, ~~***of the central bank of that third country;***~~
(c) their price can be determined by a formula that is easy to calculate based on publicly	(c) their price can be determined by a formula that is easy to calculate based on publicly

available inputs and does not depend on strong assumptions as is typically the case for structured or exotic products;	available inputs and does not depend on strong assumptions as is typically the case for structured or exotic products;
(d) they are listed on a recognised exchange;	(d) ***ideally*** they are listed on a recognised exchange;
(e) they are tradable on active outright sale or repurchase agreement markets with a large and diverse number of market participants, a high trading volume, and market breadth and depth.	(e) they are tradable on active outright sale or repurchase agreement markets with a large and diverse number of market participants, a high trading volume, and market breadth and depth.
The condition in point (b) shall not apply in case of liquid assets held to meet liquidity outflows in a currency in which there is an extremely narrow definition of central bank eligibility. In case of currencies of third countries, this exception shall apply and only apply if the competent authorities of the third country apply the same exception and the third country has comparable reporting requirements in place.	***deleted***
4.EBA shall develop draft implementing technical standards listing the currencies which meet the conditions referred to in the paragraph 3.	***deleted***
EBA shall submit those draft technical standards to the Commission by 1 January 2013.	
Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 15 of Regulation (EU) No 1093/2010. ***Before the entry into force of the technical standards referred to in the previous subparagraph, institutions may continue to apply the treatment set out in the first subparagraph, where the competent authorities have applied that treatment before 1 January 2013.***	
5. Shares or units in CIUs may be treated as liquid assets ***up to an absolute amount of 250 million EUR*** provided that the requirements in Article 127(3) are met and that the CIU, apart from derivatives to mitigate ***interest rate or credit risk***, only invests in liquid assets.	5. Shares or units in CIUs may be treated as liquid assets ~~***up to an absolute amount of 250 million EUR***~~ provided that the requirements in Article 127(3) are met and that the CIU, apart from derivatives to mitigate ~~***interest rate or credit risk***~~ ***risk or permitted investments***, only invests in liquid assets. ***Monetary UCITS meeting generally approved standards by ESMA shall be considered as highly liquid assets***.

ii. Appropriate diversification

Article 405 mentions a series of operational conditions for admission in the liquid assets.

Diversification of liquid assets cannot represent a compulsory requirement, especially in the case of smaller banks. Rather than requiring a rough diversification criterion, which favors sovereign bonds, diversification should be more adapted to market situations. Moreover, availability for the treasury function would be a more credible benchmark than the use for banking transactions.

Suggestion for wording -
Proposal for a Regulation
Article 405(b)

Text proposed by the European Commission	*EACB Suggestion for wording*
The institution shall only report as liquid assets those **holdings of liquid assets** that meet the following conditions: (a) they are appropriately diversified; **(b) not less than 60% of the liquid assets that the institution reports are assets referred to under points (a) to (c) of Article 404(1). Such assets owed and due or callable within 30 calendar days shall not count towards the 60% unless the assets have been obtained against collateral that also qualifies under points (a) to (c) of Article 404(1);**	The institution shall only report as ***high*** liquid assets those ~~***holdings of liquid assets***~~ that meet the following conditions: (a) they are appropriately diversified; ***deleted***

iii. Availability of the assets

It should be laid down that the liquidity assets are readily available to the liquidity management function in case of a crisis, according to Article 405 (f).

Suggestion for wording -
Proposal for a Regulation
Article 405(f)

Text proposed by the European Commission	*EACB Suggestion for wording*
(f) price risks associated with the assets may be hedged but the liquid assets are subject to appropriate internal arrangements that ensure that they ***will not be used in other ongoing operations, including:*** ***(i) hedging or other trading strategies;*** ***(ii) providing credit enhancements in structured***	(f) price risks associated with the assets may be hedged but the liquid assets are subject to appropriate internal arrangements that ensure that they ***are readily available to the treasury function when needed*** ~~***will not be used in other ongoing operations, including:***~~ ~~***(i) hedging or other trading strategies;***~~

transactions; ***(iii) to cover operational costs.***	***~~(ii) providing credit enhancements in structured transactions;~~*** ***~~(iii) to cover operational costs.~~***

B. Undertakings for Collective Investment (CIUs)

CIUs are a highly important for smaller banks in many countries in order to ensure a professional management of their portfolios. We therefore appreciate that they will be accepted as highly liquid assets.

However, we think that Monetary UCITS as defined in "CESR's Guidelines on a common definition of European money market funds" from 19 May 2010 should be admitted as well, since they are the most liquid UCITS. Those monetary UCITS invest their liquidity in short-term money market funds, which are convertible into cash very fast in a downturn period.

Moreover, we think that Article 404(5) CRR, according to which shares or units in CIUs may be treated as liquid assets up to an absolute amount of 250 million EUR if requirements are met – needs to be amended. More particularly, the cap of EUR 250 million needs to be removed as it has up to now no economic justification. We propose to apply a cap of EUR 500 million.

Suggestion for wording -
Proposal for a Regulation
Article 404 (5)

Text proposed by the European Commission	*EACB Suggestion for wording*
Shares or units in CIUs may be treated as liquid assets ***up to an absolute amount of 250 million EUR*** provided that the requirements in Article 127(3) are met and that the CIU, apart from derivatives to mitigate interest rate or credit risk, only invests in liquid assets.	Shares or units in CIUs may be treated as liquid assets ***~~up to an absolute amount of 250 million EUR~~*** provided that the requirements in Article 127(3) are met and that the CIU, apart from derivatives to mitigate interest rate or credit risk, only invests in liquid assets. ***Monetary UCITS meeting generally approved standards by ESMA shall be considered as highly liquid assets.***

IV. Liquidity Outflows

A. Treatment of SMEs

SMEs understood in the Basel and European framework as the companies which turnover is inferior to 50 million EUR, are treated like corporates in the liquidity framework, whereas they do not have the same possibilities as bigger companies to issue directly on the market, and whereas they are going to be heavily impacted by the liquidity regulation since their deposits are not recognized as stable. We suggest treating their deposits as retail deposits.

Suggestion for wording -
Proposal for a Regulation
Article 400 (2)

Text proposed by the European Commission	*EACB Suggestion for wording*
'Retail deposit' means a liability to a natural person or to a small and medium sized enterprise ***where the aggregate liability to such clients or group of connected clients is less than 1 million EUR***.	'Retail deposit' means a liability to a natural person or to a small and medium sized enterprise ~~***where the aggregate liability to such clients or group of connected clients is less than 1 million EUR***~~***. The deposits of corporates which turnover is inferior to 50 million EUR can be treated as retail deposits.***

B. Retail deposits covered by an Institutional Protection Scheme

The amount of retail deposits not covered by a Deposit Guarantee Scheme according to Directive 94/19/EG or an equivalent deposit guarantee scheme in a third country should be treated as stable deposits provided that:(i) it is guaranteed by an institutional protection scheme meeting the conditions laid down in Article 108(7); (ii) the institutional protection scheme provides equivalent protection; (iii) the conditions set forth in article 409(1)(a) and (b) are satisfied.

Suggestion for wording -
Proposal for a Regulation
Article 409(1)

Text proposed by the European Commission	*EACB Suggestion for wording*
Institutions shall multiply the amount of retail deposits that are covered by a Deposit Guarantee Scheme according to Directive 94/19/EG or an equivalent deposit guarantee scheme in a third country by at least 5% where the deposit is either:	Institutions shall multiply the amount of retail deposits that are covered by a Deposit Guarantee Scheme according to Directive 94/19/EG or an equivalent deposit guarantee scheme in a third country***, and an institutional protection scheme meeting the requirements of Article 108(7) that provides equivalent protection*** by at least 5% where the deposit is either:

C. Definition of the notion of "operational relationship"

The current definition of "operational relationship" almost eliminates the possibility for banks to benefit from the lighter run off rate of 25% applied on deposits in the context of an operational relationship. Especially, the criterion "the institution shall have objective evidence that the client is unable to withdraw those amounts over a 30 day horizon without compromising its operational functioning" is almost impossible to meet.

We therefore propose to create a new definition of the notion of "established relationship" allowing for a distinction between stable and unstable corporate deposits. We propose that institutions are left with more freedom to determine the relevant criteria to identify deposits with operational relationship, in collaboration with their supervisors.

Suggestion for wording -
Proposal for a Regulation
Article 410(4)(a)

Text proposed by the European Commission	*EACB Suggestion for wording*
Institutions shall multiply liabilities resulting from deposits that have to be maintained: (a) by the depositor ***in order to obtain*** clearing, custody or cash management services ***from*** the institution;	Institutions shall multiply liabilities resulting from deposits that have to be maintained: (a) by the depositor in ***the context of an established relationship with the institution, including but not limited to*** ~~***order to obtain***~~ clearing, custody or cash management services ***with*** ~~***from***~~ the institution

The "objective evidence" requirement is simply not achievable and risks nullifying the application scope of art. 410(4)(a). In practice it would be impossible to distinguish money that is addressed for operational functions and in turn to get objective evidence that the client is unable to withdraw those amounts over a 30 day horizon without compromising its operational functioning.

Suggestion for wording -
Proposal for a Regulation
Article 410(4) subparagraph 2

Text proposed by the European Commission	*EACB Suggestion for wording*
Clearing, custody or cash management services referred to in point (a) only covers such services to the extent that they are rendered in the context of an established relationship ***on which the depositor has substantial dependency. They shall not merely consist in correspondent banking or prime brokerage services and the institution shall have objective evidence that the client is unable to withdraw those amounts over a 30 day horizon without compromising its operational functioning.***	Clearing, custody or cash management services referred to in point (a) only covers such services to the extent that they are rendered in the context of an established relationship ~~***on which the depositor has substantial dependency. They shall not merely consist in correspondent banking or prime brokerage services. and the institution shall have objective evidence that the client is unable to withdraw those amounts over a 30 day horizon without compromising its operational functioning.***~~

Suggestion for wording -
Proposal for a Regulation
Article 410 (4a) new

Text proposed by the European Commission	*EACB Suggestion for wording*
	Pending a uniform definition of "established relationship", institutions shall identify themselves the criteria to qualify for "established relationship". Competent authorities may provide general guidance to institutions that they shall follow in identifying deposits with operational relationship.

D. Corporate Run-off Rate

We are deeply concerned that the 75% run-off rate that is applied to corporate and other non-financial institutions deposits, as it is stated in the Art. 410(5), is extremely punitive to the European industry.

We suggest a 50% run-off factor which is more consistent with actual experience.

Suggestion for wording -
Proposal for a Regulation
Article 410(5)

Text proposed by the European Commission	*EACB Suggestion for wording*
Institutions shall multiply liabilities resulting from deposits by clients that are not financial customers by ***75%*** to the extent they do not fall under paragraph 4	Institutions shall multiply liabilities resulting from deposits by clients that are not financial customers by ~~75%~~ ***50%*** to the extent they do not fall under paragraph 4

V. Liquidity Inflows

A. The 75% Cap on Inflows/Deposits and off-balance sheet commitments

Whilst we acknowledge that liquidity inflows limited to 75% of liquidity outflows would permit to maintain a certain level of highly liquid assets, we remain worried about the consequences such obligation for banks. They would be obliged to acquire an amount of highly liquid assets to that goes beyond the necessary to meet the criteria of LCR.

As this cap would be very costly for co-operative banks and since it would seriously limit their capacity to provide loans, we suggest deleting the cap on inflows.

Moreover, we recommend that all the internal flows should be allowed to be excluded from the cap on the inflows, including the loans and off balance sheet commitments.

Suggestion for wording -
Proposal for a Regulation
Article 413(1)

Text proposed by the European Commission	*EACB Suggestion for wording*
Institutions shall report their ***capped*** liquidity inflows. ***Capped liquidity inflows shall be the liquidity inflows limited to 75% of liquidity outflows.*** Institutions may exempt liquidity inflows from deposits placed with other institutions and qualifying for the treatments set out in Article 108(6) or Article 108(7) from this limit.	Institutions shall report their ~~***capped***~~ liquidity inflows. ~~***Capped liquidity inflows shall be the liquidity inflows limited to 75% of liquidity outflows.***~~ Institutions may exempt liquidity inflows from deposits placed with other institutions ***as well as inflows from loans and off balance sheet commitments*** and qualifying for the treatments set out in Article 108(6) or Article 108(7) from this limit.

B. The cap on Inflows - Reporting of highly liquid assets

As we propose to delete the cap of inflows, we therefore suggest amending Article 405(g) in that respect:

Suggestion for wording -
Proposal for a Regulation
Article 405(g)

Text proposed by the European Commission	*EACB Suggestion for wording*
(g) the denomination of the liquid assets is consistent with the distribution by currency of liquidity outflows after the deduction of ***capped*** inflows	(g) the denomination of the liquid assets is consistent with the distribution by currency of liquidity outflows after the deduction of ~~***capped***~~ inflows

C. Inflows and outflows resulting from collateralized assets

i. Recognition of Liquid Assets as inflows

Moreover, we think that either ***assets tradable on markets*** *or* ***eligible collateral assets*** should be recognized as inflows for 70% even if they do not meet all the conditions of highly liquid assets, according to Article 404.

Suggestion for wording -
Proposal for a Regulation
Article 413(3a) new

Text proposed by the European Commission	*EACB Suggestion for wording*
	Notwithstanding paragraph 2, monies from assets which do not qualify as liquid assets according to Article 404 but which meet the requirements of Article 404(3) (a) or (b) shall be taken as inflow for [70%] of the value of such assets.

ii. Outflows of Repos

This amendment requires two other amendments to ensure the consistency of the regulation on the treatment of repos/reverse repos which underlying security is an asset not recognized as a highly liquid asset but recognized as inflows.

Indeed if we allow that certain non highly liquid assets are recognized as inflows for 70%, we need to modify the treatment of repos by reducing the recognition of liabilities outflows by 30%.

Suggestion for wording -
Proposal for a Regulation
Article 410(3)

Text proposed by the European Commission	*EACB Suggestion for wording*
3.Institutions shall multiply liabilities resulting from secured lending and capital market driven transactions as defined in Article 188 by ***25%*** if the assets would not qualify as liquid assets according to Article 404 ***and the lender is the central bank or another public sector entity of the Member State in which the credit institution was authorized***	3. Institutions shall multiply liabilities resulting from secured lending and capital market driven transactions as defined in Article 188 by ***~~25%~~ [30%]*** if the assets would not qualify as liquid assets according to Article 404 ***~~and the lender is the central bank or another public sector entity of the Member State in which the credit institution was authorized~~ but would meet the requirements of Article 404(3)(a) and (b).***

iii. Inflows of reverse repos

Symmetrically, the recognition of reverse repos needs also to be reduced by 70%.

Suggestion for wording -
Proposal for a Regulation
Article 413(2)(d) new

Text proposed by the European Commission	*EACB Suggestion for wording*
	(d) new monies due from secured lending and capital market driven transactions as defined in Article 188 if they are collateralised by assets which do not qualify as liquid assets according to Article 404 but which meet the requirements of Article 404(3) (a) or (b), shall be reduced by [70%];

iv. Outflows from collateralized credit and liquidity facilities

Symmetrically, credit and liquidity facilities collateralized by assets not recognized as a highly liquid asset but recognized as inflows need also to be reduced by 70%.
The status "committed" has been added both to maintain the consistency with the text of the Basel Committee and because the rationale behind the inclusion of uncommitted limits is not clear. Due to the effects of BCCs geographical, dimensional and operational diversification and the consequent reduced risk of their simultaneous behaviour with respect to the central institutions there might be reasons to expect a lower outflow for undrawn credit lines granted by the latter to the former even under idiosyncratic and market stress. Therefore a 100 per cent outflow rate might not be realistic even under stress situations.

Suggestion for wording -
Proposal for a Regulation
Article 412(1)

Text proposed by the European Commission	*EACB Suggestion for wording*
(1) Institutions shall report outflows from credit and liquidity facilities, which shall be determined as a percentage of the maximum amount that can be drawn. This maximum amount that can be drawn may be assessed net of the value according to Article 406 of collateral to be provided if the institution can reuse the collateral and if the collateral in the form of liquid assets in accordance with Article 404. ***The collateral to be provided may not be assets issued by the counterparty of the facility or one of its affiliated entities. If the necessary information is***	1. Institutions shall report outflows from ***committed*** credit and liquidity facilities, which shall be determined as a percentage of the maximum amount that can be drawn. This maximum amount that can be drawn may be assessed net of: ***(i)*** the value according to Article 406 of collateral to be provided if the institution can reuse the collateral and if the collateral **is** in the form of liquid assets in accordance with Article 404; ~~***The collateral to be provided may not be assets issued by the counterparty of the***~~

available to the institution, the maximum amount that can be drawn for credit and liquidity facilities provided to SSPEs shall be determined as the maximum amount that could be drawn given an SSPEs own obligations coming due over the next 30 days.	~~***facility or one of its affiliated entities. If the necessary information is available to the institution, the maximum amount that can be drawn for credit and liquidity facilities provided to SSPEs shall be determined as the maximum amount that could be drawn given an SSPEs own obligations coming due over the next 30 days.***~~ ***(ii)*** the ***[70%] of the value of*** collateral to be provided ***if the institution can reuse the collateral and if the collateral is in the form of assets which do not qualify as liquid assets according to Article 404 but which meet the requirements of Article 404(3) (a) or (b).***