EACB Comments

EBA draft GL on disclosure requirements under Part Eight CRR

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Introduction

The members of the EACB welcome the opportunity to comment on the EBA draft Guidelines (GL) on disclosure requirements under Part Eight CRR.

While we appreciate this transparency effort, we are concerned that such an own initiative to impose Pillar 3 disclosure requirements exceeds the mandate of level 1 legislation, where such requirements are fixed.

In addition, some definitions leave room for ambiguity and are difficult to implement. Also, the appropriateness of certain disclosure requirements and their usefulness to the public seem questionable. In many instances the requirements go beyond a feasible and practical level of detail and would not be useful to market participants.

General Comments

It is our understanding that the draft GL are not meant to directly implement the first stage of the Basel Pillar 3 Review (BCBS 309) in the EU, but rather to provide EU banks with the possibility to reconcile existing CRR requirements with the revised Basel recommendations. This would allow to meet "market expectations" without having to provide two sets of templates, i.e. CRR compliant and BCBS 309 compliant templates.

In light of this, we ask for an appropriate degree of flexibility in applying the GL. In order to allow a proportionate approach it should be up to each individual institution to decide if, and to what extent, abiding to them. This is especially the case so that the draft GL do not go beyond existing legislation. To make the requirements legally binding on all European institutions a CRR amendment would be necessary. Issuing guidelines at this stage would needlessly pre-empt the requisite Level 1 legislation.

The scale and amount of disclosures is continuing to increase significantly. We have serious concerns that the sheer amount of information may be more likely to overwhelm users rather than enabling them to better assess the risks carried by the disclosing bank. Some proposals of the EBA to bring the Basel requirements in line with the CRR, are very demanding (e.g. exposure classes in template EU OV1-B, EU CRB-B).

We would rather encourage EBA to develop the GL with a view to require relevant information only. Furthermore, some of the fixed templates in the GL have such dimensions that they are not fit to be published in common paper or pdf formats (e.g. EU CR1-A or EU CR1-B). Especially these types of templates containing huge amount of information should adhere to principles of proportionality and relevance and also ensure flexibility in format of information.

The principle of proportionality should play a key role in the context of pillar 3 requirements, and while these GL are focussed on G-SII and O-SII in recent years this principle has not been adequately applied to smaller banks. For less complex regionally active banks, in particular, the costs generated by growing disclosure and reporting requirements represents a substantial burden.

For less complex banks that have low-risk business models, the disclosure requirements constitute an especially onerous burden. This burden is not proportionate to the benefit which can be derived from the requirements.

Also timing of disclosure is a critical issue. While the BCBS proposes that prudential data is disclosed at the same time as annual financial statements, the CRR requires the publication of a separate disclosure report soon after the release of the annual accounts. We consider this arrangement sensible and sufficient and we welcome the EBA stance indicating that the publication can occur within reasonable delay (page 21).

Comments on Template EU INS 1 – "Non-deducted insurance participations"

Under Art. 49(1) CRR for the purposes of calculating own funds, competent authorities may, under certain conditions, permit credit institutions to not deduct from their own funds the holdings of own fund instruments issued by insurance companies in which they have a significant investment, and rather risk-weight those holdings. Such permission can be given pursuant to a specific exemption decision (an "Exemption Decision"), granted by the competent authority. Several conglomerates in the EU have received such exemption.

In the draft GL the EBA proposes that financial conglomerates benefiting from an Exemption Decision disclose (the "New Disclosure Requirements"):

i. the amount of holdings of own funds not deducted as a consequence of using the option provided under Article 49(1) (the "Carrying Amount");
ii. the total risk weighted exposure amounts associated with those exposures (the "RWA Amount").

We believe that requiring institutions, which have been granted an Exemption Decision, to disclose the Carrying Amount would seriously undermine the effect of the Decisions.

The ECB has recently reaffirmed the validity of such Exemption Decisions: "*in cases where permission for non-deduction has already been granted by the national competent authority prior to 4 November 2014, the credit institutions may continue to not deduct the relevant holdings on the basis of that permission provided that appropriate disclosure requirements are met.*"

We understand that the EBA is proposing the New Disclosure Requirements on the basis of Art. 43(c) and (d) CRR: "The disclosures in accordance with Template EU INS 1 are to be provided as part of the information on capital requirements from article 438(c) and (d), since non-deducted insurance participations are then risk-weighted in accordance with the CRR credit risk framework."

However, we believe that Art. 438 CRR should not be interpreted as allowing to require a separate disclosure of the Carrying Amount of non-deducted insurance participations: indeed, such an interpretation would legally deprive both Article 49(1) of the CRR and the Exemption Decisions of any useful effect for the institution. Article 438 cannot provide an appropriate legal basis to issue GL that require a separate disclosure of the Carrying Amount of non-deducted insurance participations. Indeed, para. (c) and (d) of Art. 438

require that credit institutions disclose 8% of the risk-weighted exposure amounts for each exposure class specified in Art. 112 or Art. 147 (depending on the manner used by the institution to calculate its risk-weighted exposure amounts) and allow for requiring information on amounts of exposures, but not on amounts of own funds that would have to be deducted absent an Exemption Decision.

Art. 437(1)(d) CRR already provides for an exhaustive list of items that must be subject to a separate disclosure by credit institutions: "(i) each prudential filter applied pursuant to Article 32 to 35 of the CRR; (ii) each deduction made pursuant to Articles 36, 56 and 66 of the CRR ; and (iii) items not deducted in accordance with Articles 47, 48, 56, 66 and 79". There is no reference to Article 49(1) CRR in that list, thus insurance participations, which are not deducted, are not regarded by the CRR as needing a separate disclosure. The legislator's intent was clearly not to apply separate disclosure requirements to amounts of non-deducted insurance participations.

Based on the EU principle of useful effect, Art. 438 CRR is to be interpreted in a manner consistent with the other provisions of the CRR so as not to deprive any of them of their effectiveness. The European Court of Justice has consistently held that "where a provision of EU law is open to several interpretations, preference must be given to the interpretation which ensures that the provision retains its effectiveness" and that the "provision must be interpreted, as far as possible, in such a way as not to detract from its validity".

Moreover, the proposed requirement to disclose the Carrying Amount would harm the principle of legal certainty and legitimate expectations. Financial conglomerates authorized not to deduct their holdings of own funds instruments of insurance companies in accordance with Art. 49(1) CRR, can legitimately expect the "full" benefit of the Exemption Decision.

Finally, the proposed new disclosure requirement would exceed the mandate of the EBA Regulation ((EU) 1093/2010). The Draft GL would add new disclosure obligations in an area where the disclosure requirements have already been specified by the Commission Implementing Regulation No 1423/2013, in accordance with Art. 437 of the CRR.

The draft GL also do not provide elements that would justify why such additional disclosure is necessary to ensure the effective and consistent application of CRD IV or the CRR. The potential concern of market pressure due to misalignments between CRR and the revised Pillar 3 from the BCBS is not sufficient, as the BCBS does not require the disclosure of the amount of non-deducted holdings of own funds in insurance companies.

The EBA should therefore not require a separate disclosure of the Carrying Amount of non-deducted insurance participations.

Answers to specific questions

Q.1 Do users prefer a comprehensive template providing a breakdown of capital requirements and RWA by exposure classes for credit risk in Template EU OV1-B, or would they prefer to have the detailed breakdown by exposure classes provided in

Template EU CR5-B for the Standardised approach and Template EU CR6 for the IRB approach?

The scale and amount of disclosures is continuing to increase significantly. We believe that the amount of information is more likely to overwhelm users than enabling them to better assess the risks carried by the disclosing bank. Some proposals of the EBA to bring the Basel requirements in line with the CRR, are very demanding (e.g. template EU OV1-B). We think that the level of details should be reduced. However the EU OV1-B (being consistent with COREP) is preferred to the implementation of CR6 and CR5-B.

Q.2 Do members prefer a breakdown by exposure classes for Article 442 CRR using the granularity from COREP, the CRR or the Transparency exercise? In case users prefer a combination of the different exposure classes available in these breakdowns, please indicate the combination you would favour.

COREP granularity is preferred as these data/reporting is already available, easing the burden of implementation.

Q.3 Do you believe information on the exposure-weighted average maturity by PD grade is useful for understanding of an institution's IRB RWA?

We take the view that this question is model driven, however the implementation could cause additional cost due to new reporting / mappings, etc. However, only relevant for A-IRB corporate and bank exposures as in F-IRB and retail A-IRB fixed maturities are applied.

Moreover, maturities are required to be reported already according to IFRS in financial statement. Pillar III information on exposure weighted average maturity by PD grade does not necessarily bring added value.

Reflecting Basel Committee's current work on future of A-IRB, it might be short sighted to require information on average maturities as certain A-IRB approaches might even not be relevant in the future.

Q.4 Would it be feasible to breakdown the value adjustments and provisions by PD grade for the fixed PD grade bands that are provided in the master scale? Would this information be useful to users?

The value adjustments for the non defaulted exposure would be marginal compared to the defaulted exposures no matter which exposure class is reported.

The implementation could cause additional costs (e.g. additional reporting). Furthermore, we think that this information is not useful to investors (high range of PD bands, thus limited comparability across banks).

In addition, as specific credit risk adjustment is a default trigger according to Art. 178 CRR, only a larger concentration in default grade would be noticeable and the rest of PD-grade information would carry only partial and non-significant information.

It should also be noted that collective impairments (general credit risk adjustments) are not necessarily available at exposure or counterparty level, so they cannot necessarily be fixed to PDs.

Templates EU CR7 and EU CR8 – Other quantitative information

Template CR8 (RWA flow) would require massive effort to be implemented, whereby an exact calculation is impossible. In particular, row 4 (model updates) and 5 (methodology and policy) are hardly of any use, as calculation would be strongly influenced by hypothesis the comparison of results across institutions would be questionable and so the meaningfulness of the disclosure. The EBA GL itself mentions that the template is not based on an explicit CRR requirement.

Q.5 Is information on the sources of counterparty credit risk (breakdown by type of transactions) for exposures measured under the Internal Model Method useful for users? Should this breakdown be expanded to the other methods of computation of the exposure value?

IMM is based upon the use of statistical tools, assumptions and models that are used on a portfolio basis and may greatly vary from an institution to another. As consequence :

- Breaking down the counterparty risk may have limited explanatory sense;
- Comparability across the industry would be limited if not questionable;
- Implementing the breakdown requires additional computation and may prove impractical;

Additionally, the split of credit derivatives between an institution's own credit portfolio and intermediation activities is not required and it has not been reported as a request from users.

Q.6 Is the split of credit derivatives between used for the institution's own credit portfolio and one for credit derivatives used in the institutions' intermediation activities useful or relevant to users? What definitions or policies do you currently use to identify credit derivatives used for your own portfolio, and credit derivatives used for your intermediation activities?

See. Q.5

Q.7 Which impediments, if any, including issues of availability of information, currently prevent you from disclosing the information on total (Standardised plus Internal model

approaches) capital requirements by types of market risk as required under Article 445 CRR or are likely to render the disclosure of Template EU MR1-A unduly burdensome?

As a general comment, we believe that amendments on the Trading Book disclosure should be avoided until the Fundamental Review is not been implemented.

Q.8 Is the separate disclosure of end of period and average values for VaR, stressed VaR, IRC and CRM useful for users?

We rather believe that additional questions could arise for investors, e.g. on which factors drove a higher average VaR compared to beginning/end of period. Thus, the benefit of this template is questionable.

Table EU CRB-A: Additional disclosure related to the credit quality of assets

Implementation would only be possible after 1 year from publication of the final EBA guideline and competent authority reception.

Template EU CR9: IRB – Backtesting of probability of default (PD) per exposure class

- This could reveal as a very cumbersome table depending on the institution's model landscape and the definition of "model".
- Exact definitions on which models should be reported, and what constitutes a separate model, are needed (group wide vs. local, is each calibration unit a separate model, level of sub-models). The model map for the SSM TRIM exercise can give a flavour of the intricacies that even a very simple model landscape could give.
- A possible standardizatio could include backtesting on COREP asset class level (group wide across models).
- On a technical level we do not see the benefit of column *g* vs *h* in the table: usually defaults in a rating grade are defined as a flow in a particular period (the "new defaults"), column g seems like a measure for the stock of defaults, which in this context would not be relevant. The potential information content of this value should be contained in column i (the average historical default rate).

Q.9 Do you agree with the proposed scope of application of the Guidelines?

We do not agree with the proposal. The rules for "broader scope of application" should be deleted. There is no need for these "reconciling" disclosures for small banks and banks, which are not active on the capital market, and they do not provided added value for their stakeholders. The emerging costs are nor proportionate to the economic benefits of the disclosure.

In addition, for some aspects the GL propose a quarterly disclosure. However, while currently disclosed figures are audited quarterly data are not audited. Therefore the scope of application is questionable in terms of frequency of data disclosure.

Q.10 In case you support the development of key risk metric template(s) that would apply to all institutions, which area of risks and metrics would you like to be covered in such template(s)?

As already recalled, the principle of proportionality should be envisage that small banks and banks, which are not active on the capital market, shall not need to disclose additional templates. The "Key risk metric templates" for all banks are not appropriate.

Q.11 Do you regard making available quantitative disclosures in an editable format as feasible and useful?

Generally, this is feasible and useful, especially if it would be possible to create disclosure data and templates within *.xls* only. Using a text and *.xls* document separately creates additional effort.

Q.12 In case you do not support making available all quantitative information specified in these Guidelines under an editable format, which subset of quantitative information should in your views be made available?

We believe that the decision on the additional information should be taken by the institutions in accordance to the different risk/business and threshold structures. This would also be in line with the original intention of Pillar III.

Q.13 Does an early implementation of a selected set of information specified in these Guidelines appear feasible?

We do not see it as feasible. This particularly in light of the additional effort to practically implement earlier only certain subsets.

Q.14 Which amendments, if any, would you bring to the selected set intended to be included in the recommendation for early application?

Please see Q.13.

Q.15 Do you agree with the content of these Guidelines? In case of disagreement with specific parts of these Guidelines, please outline alternatives regarding these specific part(s) to achieve the implementation of the revised Pillar 3 framework in a fully compliant way with the current CRR requirements.

We believe that the strict harmonization of templates, data etc., are not in line with the original spirit of Pillar III. Moreover, we are not convinced that the risk profile of an institution can be rightly interpreted by investors and stakeholders in relation with some

elements (e.g. PD time bands). Also, especially the usefulness of a quarterly disclosure of some information (with not audited data) seems questionable.

Q.16 Do you agree with the impact assessment? In case of disagreement, please identify areas where costs and benefits are misstated or suggest alternative options.