EUROPEAN CENTRAL BANK

BANKING SUPERVISION

Template for comments

Public consultation on the draft addendum to the ECB guidance to banks on non-performing l

Institution/Company

European Banking Federation

Contact person

Mr/Ms

First name

European Banking Federation

Surname

Email address

[redacted]

Telephone number

[redacted]

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General comments

Template for comments

Public consultation on the draft addendum to the ECB guidance to banks on non-performing loans

Please enter all your feedback in this list.
When entering feedback, please make sure that:
- each comment deals with a single issue only;
- you indicate the relevant article/chapter/paragraph, where appropriate;
- you indicate whether your comment is a proposed amendment, clarification or deletion.

Deadline:	8 December 2017

ID	Chapter	Paragraph	Page	Type of comment	Detailed comment	Concise statement as to why your comment should be taken on board	Name of commenter	Personal data
1	1 - Background	1	2	Clarification	The background section should make a reference to the EU Council Action Plan to tackle NPL in Europe.	The draft addendum will be part of the NPL Guidance published in March 2017. In the meantime, he EU Council has launched a comprehensive action plan to tackle NPL in Europe. It would therefore be advisable to make a reference to he Council Action Plan and in particular to the Commission task on prudential backstops for the sake of coordination. In our view it is of the outmost importance to ensure coherence and consistency of approaches between the Commission legislative initiative and the ECB Addendum, at least in terms of perimeter of application (newly originated loans vs. newly originated NPLs) and implementation timeline (January 2018 for the ECB, which is well ahead the likely implementation date of the Pillar 1 backstop proposed by the EU Commission).	, European Banking Federation	Publish
2	2 - General Concept	2.1	3	Clarification	First paragraph: The scope of applica ion needs to be clarified and its consequences addressed.	The application to subsidiaries of significant institutions in countries out of the Euro Area would put hem at a competitive disadvantage vis-à-vis credit institutions in those third countries. The level-playing field between significant institutions and less significant institutions could become impaired.	, European Banking Federation	Publish
3	2 - General Concept	2.1	3	Deletion	Third paragraph: Delete «at a minimum».	The scope of NPE should be clear and unequivocal. The term “at a minimum” opens the door to other NPEs without specification. It should be clearly specified. In the view of the EBF, the addendum should apply to newly originated loans from the date of entry into force that later become NPE. For that purpose, “at a minimum” should be deleted.	, European Banking Federation	Publish

4	2 - General Concept	2.1	3	Amendment	Third paragraph: Replace “new NPEs” with “newly originated exposures from the date of entry into force that later become non-performing”.	In the view of the EBF, he addendum should apply to newly originated exposures from the date of entry into force that later become non-performing. The addendum introduces changes that can significantly influence business decisions, including the decision to grant a loan, the value that the collateral has for he bank and the price of the loan. Existing exposures have been granted by banks under current rules and these should prevail for those exposures until maturity.	, European Banking Federation	Publish
5	2 - General Concept	2.1	3	Amendment	Third paragraph: Replace «from January 2018» with «The date of entry into force will be 1 January 2019».	During 2018 the ECB should assess the impact of the proposed measures and calibrate he periods of time of section 4.2 accordingly. Banks also need time to prepare the necessary changes in IT and processes, as well as the new templates for NPE vintage required in section 5.	, European Banking Federation	Publish
6	2 - General Concept	2.1	3	Amendment	New paragraph after third paragraph: The ECB shall conduct an impact assessment during 2018.	The impact of the proposed measures should be taken into account for the calibration of the periods of time of section 4.2. The impact assessment should ideally es imate the additional volatility and cyclicality of the prudential provisions and capital requirement as a result of the addendum. Another aspect to examine is the impact on banks due to the asymmetric treatment of excess and shortfall of provisions, because the additional provision due to supervisory expectations does not change the expected loss of the loan, after all.	, European Banking Federation	Publish
7	2 - General Concept	2.2	4	Amendment	Fourth paragraph: Replace “need to determine whether banks have…” with “may require he institution to apply a specific provisioning policy…”. Replace “supervisors are obliged to ensure that banks…” with “supervisors can require a bank to…”.	The wording of this paragraph turns a power into an obligation. Competent authorities have been granted powers to require specific provisioning policies and other measures as recalled in the quotes of page 4, however they do not have an obligation as follows from the language used in “need to” or “are obliged to”. Also importantly, the use of plural in “banks” makes the treatment a sort of Pillar 1 measure. The language should refer to “ he bank concerned” in order to make it totally clear that this is a Pillar 2 measure.	, European Banking Federation	Publish
8	2 - General Concept	2.3	4	Clarification	First paragraph: Clarify the level of application of the addendum in terms of exposures.	It would be appreciated if the ECB could clarify if the functioning of the prudential provisioning backstop applies to every exposure or facility, or debtor, or portfolio. We understand that the key factor is the NPE age and therefore the proposed treatment would only apply to the aged NPE, but it would be good to clarify it at the beginning of this subsection.	, European Banking Federation	Publish

9	2 - General Concept	2.3	5	Amendment	New paragraph after first paragraph: Add “The Pillar 1 capital requirement for the non-provisioned part of a defaulted exposure should be factored in”.	Next to the provisions for non-performing exposures, institutions also hold Pillar 1 capital against the unexpected losses that might occur on these non-performing exposures. The regulatory capital is based on the difference between he in-default Loss Given Default (LGD) and the provision LGD. Often the in-default LGD’s increase with time in default. The in-default LGD models are supervised by he SSM. In our view the ECB should check and prove per institution whether the sum of the capital and provisions is considered to be insufficient compared to the actual risk profile before additional Pillar 2 capital would be required.	, European Banking Federation	Publish
10	2 - General Concept	2.3	6	Clarification	Last paragraph: Further detail should be provided by the SSM regarding the implication and measures mentioned in the sentence “non-compliance may trigger supervisory measures”.	The SSM already takes into account the level of provisions, the quality of credit risk mitigation (including collateral) and an overall assessment of the non-performing exposures in its SREP assessment as envisaged in the EBA guidelines on common procedures and methodologies for the SREP (paragraphs 169 to 177). The following factors are assessed and evaluated in the SREP 4-grade scale: (i) The coverage of provisions and of credit valuation adjustments; and (ii) the coverage and quality of guarantees and collateral. Those factors are scored from 1 to 4, impacting he final SREP scoring, and therefore the level of capital requirement of each entity. The measures included in this addendum should be fully considered in the SREP score to avoid duplication of supervisory effects. For example, if a bank had a score of 3 in coverage and that coverage is increased as a result of the addendum, then its score should improve accordingly. We think that ECB DG MPS IV should include this aspect in its methodology for JSTs to ensure proper coordina ion.	, European Banking Federation	Publish
11	3 - Definitions	3.1	7	Amendment	First paragraph: Replace “after 1 January 2018… prior to that date” with “It will only apply to newly originated exposures after the date of entry into force”.	In the view of the EBF, he addendum should apply to newly originated exposures from the date of entry into force that later become non-performing. The addendum introduces changes that can significantly influence business decisions, including the decision to grant a loan, the value that the collateral has for he bank and the price of the loan. Existing exposures have been granted by banks under current rules and these should prevail for those exposures until maturity.	, European Banking Federation	Publish

12	3 - Definitions	3.1	7	Amendment	First paragraph: Add “NPL in the probation period after forbearance measures should be exempted”.	EBF suggests to the ECB to carve out NPL, which are in the probation period after forbearance measures, from the requirements of the addendum. These exposures have been restructured recently and on their way back to performing. It would be counter intuitive to introduce at this stage a provision at 100%, especially if these companies are current on the restructured loans. Applying provisions at this stage would bring unnecessary volatility in capital.	, European Banking Federation	Publish
13	3 - Definitions	3.1	7	Amendment	First paragraph: Add “NPL that are not defaulted exposures should be exempted”.	There are subsets of NPEs that should not be subject to the prudential backstop. - Non performing exposures which are no longer considered defaulted according to article 178 of the CRR should be outside of the scope of the guidance. - The exis ing ECB Guidance includes an expectation that banks should “implement well-defined forbearance policies”, something that banks would generally undertake through their normal course of business. Where a bank has aligned its prac ices with this guidance and implemented a well-defined forbearance policy, NPE exposures hat are currently adhering to a forbearance plan agreed in line with such a policy should not be subject to further regulatory provision. These NPEs should be removed from the scope of the addendum, with no burden of proof on banks. - NPL need to be qualified more precisely, not only according to their classification but also to their capacity to generate cash-flows. Also, the ECB should clarify he scope of the Guidance regarding uncalled market guarantees (and particularly Performance Bonds). These include exposure types already identified by the ECB as being possible justifica ions for non-compliance with the addendum in the section that addresses deviations. The final Guidance should clarify that hese are automatically exempt from he backstop (instead of forcing the “comply or explain” procedure) and are namely forborne exposures and NPEs solely through contagion.	, European Banking Federation	Publish

14	3 - Definitions	3.1	7	Deletion	Second paragraph: Delete “regardless of the trigger… and is not reset”.	We would invite the ECB to reassess whether exposures in “unlikely to pay” (UTP) status should be included in the scope of the addendum. A UTP exposure is not problematic until it actually becomes past due. The UTP status does not permit the bank to take effective recovery measures. If an exposure remains in UTP for a long time and then becomes past due, the calendar will be shortened without the bank having been able to manage the case with full capacity. On the other hand, if a defaulted exposure changes to an UTP status the vintage count should be suspended while it remains as UTP.	, European Banking Federation	Publish
15	3 - Definitions	3.1	7	Deletion	Third paragraph: Delete the whole paragraph.	Consistently with the proposal to apply the addendum only to newly originated exposures that later become non-performing, this paragraph should be removed.	, European Banking Federation	Publish
16	3 - Definitions	3.2	7	Amendment	First paragraph: Replace the last sentence of the paragraph “This is based on the principle… from a supervisory perspective” with a less categorical language. For instance: “This is based on the capacity that the supervisor has to complement the accounting provisions according to the prudential assessment of the bank”.	We would recommend to say “complement” instead of “deviate”. Also, not to let slip that the accounting treatment could be considered not prudent. We think the ECB does not mean it and therefore we recommend to review the language for the sake of a clear interpretation of all readers. In the past, supervisory papers were read only by technical staff on the side of the supervisor and the banks, but hese days they are scrutinised by many stakeholders.	, European Banking Federation	Publish

17	3 - Definitions	3.2	7	Amendment	New letter c) after second paragraph: To include another type of eligible collateral with the following wording: “(c) Other physical collateral with reliable and updated valuation”.	At present, he only types of physical collateral considered eligible would be real estate and leased assets. Whether and, if so, in which markets vehicles would be eligible as CRR collateral for the purposes of securing auto loans is unclear as things stand. This is because the EBA has not issued a list of “other” physical collateral under Article 199(8) of the CRR which can be assumed to meet the conditions of Article 199(6)(a) and (b), namely liquid markets for the swift and economically efficient disposal of the collateral and well-established, publicly available market prices. The EU has efficient and smoothly functioning used car markets, in which automobile prices are regularly set by agencies such as DAT. It should be made clear that for vehicles in the EU serving as collateral for auto finance, the conditions set out in Ar icle 199(6)(a) and (b) of the CRR with respect to liquid markets and well-established, publicly available market prices may be regarded as met. However, without the recogni ion of the general conditions of Art. 199 (6) a) and b) CRR, it would be impossible that motor vehicles could be used for risk mi igation purposes. That would be harmful to the real economy. Motor vehicles where there is a func ioning second-hand car market should be eligible for risk mi igation purposes.	, European Banking Federation	Publish
18	4 - Prudential provisioning backstop	4.1	10	Amendment	Second paragraph: Replace “after seven years as set out in Section 4.2” with “after a period of time to be determined according to an assessment of the characteris ics of the market where the bank operates”.	The backstop should consider the average period for enforcement of collateral. If a judicial system is too slow, then EU authorities should undertake measures to make it more effective. But requiring banks to incur in significantly greater costs does not solve the root cause of the problem and forces banks to bear the cost of the inefficiency of national institutions. We propose that only if the bank is unable to cash in the collateral within average national timelines, there would be reason to start the extra provisioning calendar.	, European Banking Federation	Publish
19	4 - Prudential provisioning backstop	4.1	10	Deletion	Second paragraph: Delete the last sentence of the paragraph “It is immaterial whe her… to conclude legal proceedings)”.	If a judicial system is too slow, hen EU authori ies should undertake measures to make it more effective. This issue deserves further analysis and coordinated ac ion by all EU authorities. Passing the cost to banks with no regard to he root cause of the problem should not be the solu ion.	, European Banking Federation	Publish

20	4 - Prudential provisioning backstop	4.1	10	Clarification	New paragraph after four h paragraph (at the end of section 4.1): Potential conflict wi h banks' duty of care.	Most banks seem to sufficiently provision against their non performing exposures. Next to these provisions, capital is allocated based on the difference between he in-default LGD and the provision LGD. If banks would provision more in the form of additional Pillar 2 capital, based on he ECB addendum, the total buffer (provisions and capital) against NPE's could significantly exceed the economic risk profiles. As a result, the ECB guidance might create an incentive to terminate the NPE's rather than curing hem, also in he first years of the non performing status. This conflicts with the banks' duty of care. Therefore, if banks have proven to adequately provision, these banks should rather 'explain' their provision strategy, rather than 'comply' with the ECB addendum. The banks should also provide cure rates when articulating their provision strategies.	, European Banking Federation	Publish
21	4 - Prudential provisioning backstop	4.2	10	Amendment	Chart: Replace "after two years" with "after a period of time to be determined according to an assessment of the characteristics of he market where the bank operates". Replace "after seven years" with "after a period of time to be determined according to an assessment of the characteristics of he market where the bank operates".	The backstop should consider the average period for enforcement of collateral. If a judicial system is too slow, then EU authorities should undertake measures to make it more effective. But requiring banks to incur in significantly greater costs does not solve the root cause of the problem and forces banks to bear the cost of the inefficiency of national institutions. We propose that only if the bank is unable to cash in the collateral within average national timelines, there would be reason to start the extra provisioning calendar.	, European Banking Federation	Publish
22	4 - Prudential provisioning backstop	4.2	11	Deletion	Second paragraph: Delete "For the secured backstop, banks should therefore assume at least a linear path for he backstop, building up to 100% over the seven years".	In the view of the EBF, here is no evidence to justify that a "suitably gradual way" for the application of the backstops coincides with, at least, a linear path for the secured backstop. Therefore, we would invite the ECB to ensure that NPL exposures are prudentially covered after a specific period of time avoiding a cliff-effect but without prescribing a linear path. In addition, we consider that it may not be fully consistent with two recent regulatory developments, firstly the valuation of immovable property and other eligible collateral, and secondly the sensitivity of LGD internal model to vintage years.	, European Banking Federation	Publish
23	4 - Prudential provisioning backstop	4.2	11	Amendment	Last paragraph: Replace the paragraph with the following or a similar one: "The prudential backstop is a Pillar 2 measure that will therefore be applied on a case-by-case basis. In normal circumstances, the majority of institutions should not have to apply it".	We consider it important to emphasise the Pillar 2 nature of the backstop.	, European Banking Federation	Publish
24	5 - Related supervisory reporting	1	12	Amendment	First paragraph: Replace "newly classified NPEs after 1 January 2018" with "newly originated exposures from the entry into force that later become non-performing".	This amendment would be necessary for the sake of consistency with the EBF proposal to apply the addendum to newly originated loans.	, European Banking Federation	Publish

6 December 2017

[redacted]

SUBJECT: Response to ECB consultation on addendum to NPL guidance

POINTS

- General:

  ECB and banks have been making significant progress reducing NPL in the last months following individual bank targets and supervisory monitoring. The NPL Guidance published in March 2017 sets a general framework to improve and further harmonise risk management across SSM banks. This draft addendum should underpin the objectives enshrined in the NPL Guidance however the degree of prescriptiveness in some elements should be carefully reviewed. The EBF gives advice in this response on how to improve certain parts of the addendum considering the wider range of measures that EU institutions and banks are undertaking to improve the management of NPL in Europe.

- Chapter 1, first paragraph, page 2, clarification:

  The background section should make a reference to the EU Council Action Plan to tackle NPL in Europe.

  The draft addendum will be part of the NPL Guidance published in March 2017. In the meantime, the EU Council has launched a comprehensive action plan to tackle NPL in Europe. It would therefore be advisable to make a reference to the Council Action Plan and in particular to the Commission task on prudential backstops for the sake of coordination. In our view it is of the outmost importance to ensure coherence and consistency of approaches between the Commission legislative initiative and the ECB Addendum, at least in terms of perimeter of application (newly originated loans vs. newly originated NPLs) and implementation timeline (January 2018 for the ECB, which is well ahead the likely implementation date of the Pillar 1 backstop proposed by the EU Commission).

- Chapter 2, first paragraph, page 3, clarification

  The scope of application needs to be clarified and its consequences addressed.

  The application to subsidiaries of significant institutions in countries out of the Euro Area would put them at a competitive disadvantage vis-à-vis credit institutions in those third countries.

  The level-playing field between significant institutions and less significant institutions could become impaired.

- Chapter 2, third paragraph, page 3, deletion:

  Delete « at a minimum ».

The scope of NPE should be clear and unequivocal. The term "at a minimum" opens the door to other NPEs without specification. It should be clearly specified. In the view of the EBF, the addendum should apply to newly originated loans from the date of entry into force that later become NPE. For that purpose, "at a minimum" should be deleted.

- Chapter 2, third paragraph, page 3, amendment:

  Replace "new NPEs" with "newly originated exposures from the date of entry into force that later become non-performing".

  In the view of the EBF, the addendum should apply to newly originated exposures from the date of entry into force that later become non-performing. The addendum introduces changes that can significantly influence business decisions, including the decision to grant a loan, the value that the collateral has for the bank and the price of the loan. Existing exposures have been granted by banks under current rules and these should prevail for those exposures until maturity.

- Chapter 2, third paragraph, page 3, amendment:

  Replace « from January 2018 » with « The date of entry into force will be 1 January 2019 ».

  During 2018 the ECB should assess the impact of the proposed measures and calibrate the periods of time of section 4.2 accordingly. Banks also need time to prepare the necessary changes in IT and processes, as well as the new templates for NPE vintage required in section 5.

- Chapter 2, new paragraph after the third paragraph, page 3, amendment:

  The ECB shall conduct an impact assessment during 2018.

  The impact of the proposed measures should be taken into account for the calibration of the periods of time of section 4.2. The impact assessment should ideally estimate the additional volatility and cyclicality of the prudential provisions and capital requirement as a result of the addendum. Another aspect to examine is the impact on banks due to the asymmetric treatment of excess and shortfall of provisions, because the additional provision due to supervisory expectations does not change the expected loss of the loan, after all.

- Chapter 2, fourth paragraph, page 4, amendment:

  Replace "need to determine whether banks have…" with "may require the institution to apply a specific provisioning policy…".

  Replace "supervisors are obliged to ensure that banks…" with "supervisors can require a bank to…".

  The wording of this paragraph turns a power into an obligation. Competent authorities have been granted powers to require specific provisioning policies and other measures as recalled in the quotes of page 4, however they do not have an obligation as follows from the language used in "need to" or "are obliged to".

  Also importantly, the use of plural in "banks" makes the treatment a sort of Pillar 1 measure. The language should refer to "the bank concerned" in order to make it totally clear that this is a Pillar 2 measure.

- Chapter 2, sixth paragraph, page 4, clarification:

Clarify the level of application of the addendum in terms of exposures.

It would be appreciated if the ECB could clarify if the functioning of the prudential provisioning backstop applies to every exposure or facility, or debtor, or portfolio. We understand that the key factor is the NPE age and therefore the proposed treatment would only apply to the aged NPE, but it would be good to clarify it at the beginning of this subsection.

- Chapter 2, new paragraph after sixth paragraph, page 5, amendment:

  Add "The Pillar 1 capital requirement for the non-provisioned part of a defaulted exposure should be factored in".

  Next to the provisions for non-performing exposures, institutions also hold Pillar 1 capital against the unexpected losses that might occur on these non-performing exposures. The regulatory capital is based on the difference between the in-default Loss Given Default (LGD) and the provision LGD. Often the in-default LGD's increase with time in default. The in-default LGD models are supervised by the SSM. In our view the ECB should check and prove per institution whether the sum of the capital and provisions is considered to be insufficient compared to the actual risk profile before additional Pillar 2 capital would be required.

- Chapter 2.3, fifth paragraph, page 6, clarification:

  Further detail should be provided by the SSM regarding the implication and measures mentioned in the sentence "non-compliance may trigger supervisory measures".

  The SSM already takes into account the level of provisions, the quality of credit risk mitigation (including collateral) and an overall assessment of the non-performing exposures in its SREP assessment as envisaged in the EBA guidelines on common procedures and methodologies for the SREP (paragraphs 169 to 177). The following factors are assessed and evaluated in the SREP 4-grade scale: (i) The coverage of provisions and of credit valuation adjustments; and (ii) the coverage and quality of guarantees and collateral. Those factors are scored from 1 to 4, impacting the final SREP scoring, and therefore the level of capital requirement of each entity. The measures included in this addendum should be fully considered in the SREP score to avoid duplication of supervisory effects. For example, if a bank had a score of 3 in coverage and that coverage is increased as a result of the addendum, then its score should improve accordingly. We think that ECB DG MPS IV should include this aspect in its methodology for JSTs to ensure proper coordination.

- Chapter 3, first paragraph, page 7, amendment:

  Replace "after 1 January 2018… prior to that date" with "It will only apply to newly originated exposures after the date of entry into force".

  In the view of the EBF, the addendum should apply to newly originated exposures from the date of entry into force that later become non-performing. The addendum introduces changes that can significantly influence business decisions, including the decision to grant a loan, the value that the collateral has for the bank and the price of the loan. Existing exposures have been granted by banks under current rules and these should prevail for those exposures until maturity.

- Chapter 3, first paragraph, page 7, amendment:

Add "NPL in the probation period after forbearance measures should be exempted".

EBF suggests to the ECB to carve out NPL, which are in the probation period after forbearance measures, from the requirements of the addendum. These exposures have been restructured recently and on their way back to performing. It would be counter intuitive to introduce at this stage a provision at 100%, especially if these companies are current on the restructured loans. Applying provisions at this stage would bring unnecessary volatility in capital.

- Chapter 3, first paragraph, page 7, amendment:

  Add "NPL that are not defaulted exposures should be exempted".

  There are subsets of NPEs that should not be subject to the prudential backstop.

  - Non performing exposures which are no longer considered defaulted according to article 178 of the CRR should be outside of the scope of the guidance.
  - The existing ECB Guidance includes an expectation that banks should "implement well-defined forbearance policies", something that banks would generally undertake through their normal course of business. Where a bank has aligned its practices with this guidance and implemented a well-defined forbearance policy, NPE exposures that are currently adhering to a forbearance plan agreed in line with such a policy should not be subject to further regulatory provision. These NPEs should be removed from the scope of the addendum, with no burden of proof on banks.
  - NPL need to be qualified more precisely, not only according to their classification but also to their capacity to generate cash-flows. Also, the ECB should clarify the scope of the Guidance regarding uncalled market guarantees (and particularly Performance Bonds).

  These include exposure types already identified by the ECB as being possible justifications for non-compliance with the addendum in the section that addresses deviations. The final Guidance should clarify that these are automatically exempt from the backstop (instead of forcing the "comply or explain" procedure) and are namely forborne exposures and NPEs solely through contagion.

- Chapter 3, second paragraph, page 7, deletion:

  Delete "regardless of the trigger… and is not reset".

  We would invite the ECB to reassess whether exposures in "unlikely to pay" (UTP) status should be included in the scope of the addendum. A UTP exposure is not problematic until it actually becomes past due. The UTP status does not permit the bank to take effective recovery measures. If an exposure remains in UTP for a long time and then becomes past due, the calendar will be shortened without the bank having been able to manage the case with full capacity. On the other hand, if a defaulted exposure changes to an UTP status the vintage count should be suspended while it remains as UTP.

- Chapter 3, third paragraph, page 7, deletion:

  Delete the whole paragraph.

  Consistently with the proposal to apply the addendum only to newly originated exposures that later become non-performing, this paragraph should be removed.

- Chapter 3, fourth paragraph, page 7, amendment:

  Replace the last sentence of the paragraph "This is based on the principle… from a supervisory perspective" with a less categorical language. For instance: "This is based on the capacity that the supervisor has to complement the accounting provisions according to the prudential assessment of the bank".

  We would recommend to say "complement" instead of "deviate". Also, not to let slip that the accounting treatment could be considered not prudent. We think the ECB does not mean it and therefore we recommend to review the language for the sake of a clear interpretation of all readers. In the past, supervisory papers were read only by technical staff on the side of the supervisor and the banks, but these days they are scrutinised by many stakeholders.

- Chapter 3.2, new letter c) after second paragraph, page 7, amendment:

  To include another type of eligible collateral with the following wording: "(c) Other physical collateral with reliable and updated valuation".

  At present, the only types of physical collateral considered eligible would be real estate and leased assets. Whether and, if so, in which markets vehicles would be eligible as CRR collateral for the purposes of securing auto loans is unclear as things stand. This is because the EBA has not issued a list of "other" physical collateral under Article 199(8) of the CRR which can be assumed to meet the conditions of Article 199(6)(a) and (b), namely liquid markets for the swift and economically efficient disposal of the collateral and well-established, publicly available market prices. The EU has efficient and smoothly functioning used car markets, in which automobile prices are regularly set by agencies such as DAT. It should be made clear that for vehicles in the EU serving as collateral for auto finance, the conditions set out in Article 199(6)(a) and (b) of the CRR with respect to liquid markets and well-established, publicly available market prices may be regarded as met. However, without the recognition of the general conditions of Art. 199 (6) a) and b) CRR, it would be impossible that motor vehicles could be used for risk mitigation purposes. That would be harmful to the real economy. Motor vehicles where there is a functioning second-hand car market should be eligible for risk mitigation purposes.

- Chapter 4, second paragraph, page 10, amendment:

  Replace "after seven years as set out in Section 4.2" with "after a period of time to be determined according to an assessment of the characteristics of the market where the bank operates".

  The backstop should consider the average period for enforcement of collateral. If a judicial system is too slow, then EU authorities should undertake measures to make it more effective. But requiring banks to incur in significantly greater costs does not solve the root cause of the problem and forces banks to bear the cost of the inefficiency of national institutions.

  We propose that only if the bank is unable to cash in the collateral within average national timelines, there would be reason to start the extra provisioning calendar.

- Chapter 4, second paragraph, page 10, deletion:

  Delete the last sentence of the paragraph "It is immaterial whether… to conclude legal proceedings)".

If a judicial system is too slow, then EU authorities should undertake measures to make it more effective. This issue deserves further analysis and coordinated action by all EU authorities. Passing the cost to banks with no regard to the root cause of the problem should not be the solution.

- Chapter 4, new paragraph after fourth paragraph (at the end of section 4.1), page 10, clarification:

  Potential conflict with banks' duty of care.

  Most banks seem to sufficiently provision against their non performing exposures. Next to these provisions, capital is allocated based on the difference between the in-default LGD and the provision LGD. If banks would provision more in the form of additional Pillar 2 capital, based on the ECB addendum, the total buffer (provisions and capital) against NPE's could significantly exceed the economic risk profiles. As a result, the ECB guidance might create an incentive to terminate the NPE's rather than curing them, also in the first years of the non performing status. This conflicts with the banks' duty of care. Therefore, if banks have proven to adequately provision, these banks should rather 'explain' their provision strategy, rather than 'comply' with the ECB addendum. The banks should also provide cure rates when articulating their provision strategies.

- Chapter 4, sixth paragraph (chart), page 10, amendment:

  Replace "after two years" with "after a period of time to be determined according to an assessment of the characteristics of the market where the bank operates".

  Replace "after seven years" with "after a period of time to be determined according to an assessment of the characteristics of the market where the bank operates".

  The backstop should consider the average period for enforcement of collateral. If a judicial system is too slow, then EU authorities should undertake measures to make it more effective. But requiring banks to incur in significantly greater costs does not solve the root cause of the problem and forces banks to bear the cost of the inefficiency of national institutions.

  We propose that only if the bank is unable to cash in the collateral within average national timelines, there would be reason to start the extra provisioning calendar.

- Chapter 4, first paragraph, page 11, deletion:

  Delete "For the secured backstop, banks should therefore assume at least a linear path for the backstop, building up to 100% over the seven years".

  In the view of the EBF, there is no evidence to justify that a "suitably gradual way" for the application of the backstops coincides with, at least, a linear path for the secured backstop. Therefore, we would invite the ECB to ensure that NPL exposures are prudentially covered after a specific period of time avoiding a cliff-effect but without prescribing a linear path. In addition, we consider that it may not be fully consistent with two recent regulatory developments, firstly the valuation of immovable property and other eligible collateral, and secondly the sensitivity of LGD internal model to vintage years.

- Chapter 4, second paragraph, page 11, amendment:

  Replace the paragraph with the following or a similar one: "The prudential backstop is a Pillar 2 measure that will therefore be applied on a case-by-case

basis. In normal circumstances, the majority of institutions should not have to apply it".

We consider it important to emphasise the Pillar 2 nature of the backstop.

- Chapter 5, first paragraph, page 12, amendment:

  Replace "newly classified NPEs after 1 January 2018" with "newly originated exposures from the entry into force that later become non-performing".

  This amendment would be necessary for the sake of consistency with the EBF proposal to apply the addendum to newly originated loans.