

Template for comments

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

Institution/Company
European Association of Public Banks

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General comments

In general, EAPB deems it superfluous to introduce a prudential provisioning backstop for NPLs, since accounting rules and the related assessment procedures seem sufficient to provide for an appropriate provisioning level. Contrary to the general tendency of aligning the accounting rules with the prudential regime, the draft addendum would create economically unjustified discrepancies between the two regimes. Further, the ECB is already equipped with sufficient instruments and information through the SREP, to impose additional capital requirements on outlier institutions in terms of NPL provisioning. Therefore, the draft addendum should not contain another set of rules in this context. Further, EAPB would like to point out that the supervisory expectations contained in the NPL guidance from March 2017 need to be taken into account already in the SREP when determining the Pillar 2 capital requirements of an institution. The draft addendum therefore contradicts the guidance, since it would introduce **general**

rules

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Please enter all your feedback in this list.

When entering your feedback, please make sure:

that each comment only deals with a single issue;

to indicate the relevant article/chapter/paragraph, where appropriate;

to indicate whether your comment is a proposed amendment, clarification or deletion.

Deadline:

| ID | Article of the regulation | Page | Type of comment | Detailed comment | Concise statement why your comment should be taken on board | Name of commenter | Personal data |
|----|---------------------------|------|-----------------|--|---|-------------------|---------------|
| 1 | 2.3 | 5 | Clarification | EAPB represents the view that 'newly booked provisions' according to figure 1 on page 5 of the draft, may be recognized immediately, even if the requirements of Art. 26 para. 2 CRR are not met. A respective clarification in the final version of the addendum would be very helpful. | | | Publish |
| 2 | 2.3 | 6 | Amendment | Even though it is mentioned that the draft addendum is not intended to substitute the applicable accounting rules, some of the proposed measures would be contradictory to international financial reporting standards (FRS). In particular, the draft addendum tends towards a provisioning policy which is very conservative (mostly 'worst case') and not focused on individual exposures (one-size-fits-all approach depending on the credit protection). More specifically, the draft addendum expects banks to 'close potential gaps relative to the prudential minimum expectations by booking the maximum level of provisions possible under the applicable accounting standard. If the applicable accounting treatment does not fulfil the prudential provisioning backstop, banks should adjust their Common Equity Tier 1 capital on their own initiative, applying Article 3 of the CRR on the application of stricter requirements.' From EAPB's point of view, the aforementioned phrase raises the question whether the applicable accounting treatment can be seen as insufficient, even though the requirements of FRS are fulfilled. EAPB believes that the applicable accounting treatment according to IFRS 9 offer sufficient provisioning. | A one-size-fits-all provisioning policy which does not take into account the level of credit protection would raise the pressure concerning the realization of collateral. This in turn would disincentivise institutions to await changes in the economic cycle and thereby reduce potential losses when realizing collateral. In this regard, EAPB would like to highlight that an additional prudential provisioning backstop would require institutions to give additional information to investors in case they are active on the capital markets. Apart from prudential and accounting provisions, there would be a third aspect which however only applies to a subset of the two. Against this background, EAPB proposes not to introduce a prudential provisioning backstop. | | Publish |
| 3 | 2.3 | 6 | Clarification | EAPB believes that the capital deduction according to Art. 3 CRR qualifies as ' <i>other own funds reductions</i> ' in terms of Art. 159 CRR, which would mean, that it could be taken into account in the comparison of total eligible provisions with the total regulatory expected loss amount. In order to avoid the risk of different interpretations, EAPB would thus ask for clarification. | | | Publish |
| 4 | 2.3 | 6 | Clarification | EAPB would suggest clarifying that the possibility of the ' <i>comply or explain process</i> ' is applicable to an institution as a whole or at least parts of a portfolio. This would allow an exclusion of institutions or certain portfolios with low stocks of NPL or with sufficient credit protection. | | | Publish |
| 5 | 3.2 | 7 | Amendment | The draft addendum disregards well established prudential concepts (loss given default-quotas (LGD), expected losses (EL), excess amount/shortfall calculations according to Art. 158 and 159 CRR). The restriction to collateral defined by the CRR conceals the fact that there is economically recoverable collateral for which an LGD history or appraised mortgage lending values can be demonstrated. | Restricting the recognition of collateral results in the inappropriate calculation of the backstop provisioning requirement and significantly exaggerates the actual risk provisioning requirement. | | Publish |
| 6 | 3.2 | 7 | Clarification | Page 6 of the draft foresees the possibility to deviate from the prudential provisioning backstop via the 'comply or explain process'. In order to provide for sufficient certainty concerning the practical application of this mechanism, EAPB proposes to include some examples of credit protection which fulfills the eligibility criteria on page 7 or to include exemptions in the addendum. For instance, it would be helpful to include guarantees granted by central or regional governments, loans which are guaranteed by Export Credit Agencies or other loans which are guaranteed and qualify as investment grade. Should a bank require state support (for its managed AMC) to bridge times of economic recession or depression, this could be provided e.g. in the form of bridge financing or capital support at arms-length conditions. Further, EAPB would like to ask for clarification concerning the treatment of eligible and ineligible credit protection. Moreover, we would like to point out that the inclusion of examples allowing treatment can be seen as insufficient, even though the requirements of FRS are fulfilled. | The clarification through the inclusion of examples is deemed necessary, in order to achieve a uniform application in practice. | | Publish |
| 8 | 4.1 | 11 | Amendment | In the case of unsecured positions, the capital deduction will have an impact starting from the second year of the default and therefore provide incentives for an accelerated reduction of the NPL position. From our point of view, this is not sufficient to restructure an NPL, such as especially corporate loans, but instead creates incentives for transferring non performing exposures to entities such as unregulated funds. This means that clients who are not willing to pay back their loan, could try to put pressure on banks to act in the aforementioned way. | Against the abovementioned background, EAPB would suggest to review and consequently amend the proposed period of 2 years. Further, it would be welcome if there would be a differentiation between asset categories. | | Publish |