EUROPEAN CENTRAL BANK

BANKING SUPERVISION

Template for comments

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

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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				Eurofinas, the voice of specialised consumer credit providers at European level, welcomes the opportunity to respond to the consultation on the addendum to the European Central Bank's (ECB) Guidance to banks on non-performing exposures. We take note of the ECB's objective to reduce NPLs in banks' balance sheets and understand the background of this initiative. In this context, the Federation welcomed the release by the ECB of the stocktake of national practices as well as the opportunity to contribute to its March 2017 guidance document on the treatment of NPLs. We believe these documents constitute a very valuable work material. Eurofinas agrees that a high-stock of NPLs can have important and diverse implications. Against this background, we believe it is important to address the causes of non-performing exposures and not to restrict action to consequences. As pointed out by the European Systemic Risk Board in its July 2017 report on the resolution of NPLs in Europe, NPL ratios differ sign ficantly across jurisdictions as well as across banks The NPL ratio is highly dispersed across EU countries, ranging from 1% to circa 50%. NPL ratios are the highest in medium-sized banks. Larger and smaller institutions have been able to contain the growth of NPLs at around 3% (compared to an average 7% for medium-sized institution). The NPL ratio of exposures in SMEs (15.5%) is significantly higher than exposures in large corporates (7%) and households (4.6%). This may point out to the health of non-financial corporations across Europe but also to applicable origination standards in some jurisdictions. We believe these findings are critical and should be considered when designing policies concerning the treatment of NPLs. It is also important to ensure that the strategy and methodologies adopted are indeed consistent with firms' technical abilities and resources. Smaller and specialised firms with a less complex asset structure are likely to be more severely affected by the introduction of potential prudential backstops for non-performing exposures		[redacted]	Publish
2	2 - General Concept				We think the proposal is inconsistent with the ECB actual mandate within the Single Supervisory Mechanism (SSM). We see the proposed prudential provisioning backstops as harmonised and general prudential standards. It is clear to us that, for those firms under its direct supervision, the ECB has full legitimacy to require the implementation of micro-prudential measures. The latter shall however be based on individual operational assessments and we do not believe it is the ECB's responsibil ty to introduce Pillar 1 equivalent constraints. Though we take note that there will be no automatic application of the backstops, it does not provide the ECB with the competence to issue such requirements that are intended to apply to an entire class of banking operators. Neither the nature of the proposal (i.e. a guidance) nor its compliance procedure (i.e. comply-or-explain) appear to provide sufficient guarantees. The legal effects of the proposal on banking operators do not depend on the type of instrument used by the ECB but rather substance and intention as explicitly recognised by the General Court in United Kingdom v. European Central Bank (T-495/11). Also, it is worth stressing that non-compliance, which is not based on acceptable justification and material evidence, as defined by the ECB, will trigger supervisory powers. We agree with the legal services of the Council of the European Union and of the European Parliament that, in its current form, the guidance is inconsistent with the ECB's supervisory powers.		[redacted]	Publish
3	4 - Prudential provisioning backstop				We think the proposal is principally unfair regarding the treatment of retail exposures which despite showing better performance than exposures to businesses are treated in a similar fashion. We also think that the proposal will particularly badly hit unsecured lending facilities. We believe this will negatively impact risk analysis as it w ll create an incentive to shift from a cash flow and behavioural assessment to mere collateral valuation. This proposal will not only affect lending operators but also all business partners involved in the distribution of credit as well as households who will have a reduced number of financing options at higher costs. The proposed period of 2 years of vintage for unsecured exposures is also inconsistent with the various local bankruptcy regimes in several countries which are designed to bring back borrowers to a solvency position and which impact the performance status of an exposure. Should the introduction of prudential backstops for new NPLs be confirmed, we would recommend excluding retail exposures from the scope of this in tiative. Against this background, we would like to stress that for retail consumer loans, lending institutions' recovery processes are very efficient as evidenced by high recovery rates. The latter are closely monitored, and the models used for their estimation are based on sound statistical methodologies and data. Regular back-testing of predictive models are also in place to guarantee their efficiency. By default, we would advocate for an alignment of the treatment of retail exposures and require a full coverage of all non-performing retail exposures after 7 years of vintage. We would also recommend an alignment of the application date with the adoption of the CRD V/CRR II.		[redacted]	Publish
4	5 - Related supervisory reporting				We think the proposed backstops will have an immediate and mechanical impact on firms' ability to finance the real economy. We would like to warn the European Central Bank against a potential exclusion of the market of lower income households together with those borrower segments with unconventional risk profiles. We think this is particularly likely in a number of sensitive recovering jurisdictions. Also, we think that, in the current context, the proposed backstops will create a strong incentive for some providers to transfer non-performing exposures that are not sufficiently profitable in terms of capital to the highest bidder. We think the secondary market is simply not prepared for that. We see this as a major risk which contradicts European stability objectives. The measure will also induce a bias in the price on the side of banks/sale side (weaker negotiation position of banks in any NPL sale as vintage buckets approach deadlines under the proposed backstops). The impacts of the measures on pricing and issuance volume of NPL securitizations have not been properly assessed. Planed at the same time as the implementation of the new IFRS 9, the ECB proposal seems to deny the value of the new IFRS 9 accounting regime and raises taxation issues. The lack of coordination between accounting and prudential initiatives would result in blurring interactions and make it difficult to understand re ied effects on cost of risk.		[redacted]	Publish