Template for comments

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

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☑ Pleas

General comments

RBI Group welcomes the opportunity to comment on the ECB Draft Addendum to the Guidance on non-performing loans.

We understand, that a high level of non-preforming loans in the banking system poses a risk to some banks. Nevertheless, we would like to point out, that any constraints imposed on the banks can have a large number of unintended consequences. This includes the impact on the profitability and capitalisation of the affected banks, which may in turn also have macroeconomic implications (e.g. the effect on economic growth).

Moreover, due to the lack of clarity in the text of Draft Addendum many questions arise, which we use in our comments:

Our general questions highlight the following issues:

· Treatment of non-performing but non-defaulted NPEs: We notice, that some questions are not addressed in the addendum with regards to this class of NPE exposures

· Relation of the ECB Draft Addendum with the European Commission's consultation regarding a "Statutory Prudential Backstop addressing insufficient provisioning for newly originated loans that turn non-performing":

Our specific questions deal both with the functioning and calibration of the prudential provisioning backstop.

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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	2 - General Concept	2.1	3	Clarification	General question regarding the Treatment of non-performing but non-defaulted NPEs: •What will be the treatment / calculation for off Balance Sheet items like "Per-formance guarantees" (e.g. exposure towards construction companies) when there is no reason to call the guarantee; i.e. no performance basis to call the guarantee?	Treatment of non-performing but non-defaulted NPEs is not clear	[redacted]	Don't publish
2	2 - General Concept	2.1	3	Clarification	General question regarding the Treatment of non-performing but non-defaulted NPEs: • How shall we ensure sufficient provisions for non-performing non-defaulted exposures? • What will be the treatment of NPEs that are non-performing, but non-defaulted (i.e. still "going concern")? New Addendum to Guidance does not address going concern NPEs (non-performing but non-defaulted loans), and does not take into account any expected recovery from their operational income, as the vintage logic is built on NPE start date and it is not built on gone concern or legal enforcement start date (non-performing defaulted loans)? • Will there be any changes on provisioning rules (e.g. after 2 years of "going concern" and no cash flow is received, will it still be viewed as "going concern" or rather as “gone concern”)?	Treatment of non-performing but non-defaulted NPEs is not clear	[redacted]	Don't publish
3	2 - General Concept	2.1	3	Clarification	General question regarding the Treatment of non-performing but non-defaulted NPEs: • How can a collateral be treated ineffective if the customer was still operating and no enforcement had started (as in case with non-performing but non-defaulted loans)?	Treatment of non-performing but non-defaulted NPEs is not clear	[redacted]	Don't publish
4	2 - General Concept	2.1	3	Clarification	General question regarding the Treatment of non-performing but non-defaulted NPEs: • How can it be ensured that banks will not stop implementing viable forbear-ance solutions? The guidance only addresses simple restructurings and liquidation procedures. Complex restructurings which involve often several banks can be time consuming and are punished by the propose addendum. This can have negative consequences on the whole economy if banks have no incentive to bring problematic loans of operating companies to life again.	Treatment of non-performing but non-defaulted NPEs is not clear	[redacted]	Don't publish
5	2 - General Concept	2.1	3	Clarification	General question regarding the Treatment of non-performing but non-defaulted NPEs: • The ‘comply or explain’ criteria for the backstop have to be described more precisely. Ex post rejection of explanations for large cases are very sensitive, therefore the criteria have to be clear. In our opinion a) minimum criteria to see a company as going concern b) implementation and monitoring (probation period) of viable forbearance solutions c) proof of regular future payments from credit protection according to a schedule would be examples which should also be taken into consideration as potential ‘explanations’.	Treatment of non-performing but non-defaulted NPEs is not clear	[redacted]	Don't publish
6	2 - General Concept	2.1	3	Clarification	General question regarding the Retail portfolio: • How will the prudential provision backstop be calculated for Retail segment: based on products or single exposures?	Calculation of the prudential provision backstop for Retail segment is not clear.	[redacted]	Don't publish

7	2 - General Concept	2.1	3	Clarification	General question regarding the relation with European Commission’s (EC)“Consultation document “Statutory Prudential Backstop addressing insufficient provisioning for newly originated loans that turn non-performing”: • To which extent does the ECBs “Addendum to the ECB Guidance to Banks on NPL: Prudential provisioning backstop for NPE” and European Commission’s Consultation document “Statutory Prudential Backstop addressing insufficient provisioning for newly originated loans that turn non-performing” complement / exclude each other? • EC presents 2 approaches on how to treat NPEs: Deductive approach (progressive / linear) and Haircut approach (differentiation between eli-gibility of the collateral / “form of credit protection”) • Will ECB follow the approach of EC, i.e. in case where the minimum coverage requirement is not met and backstop applies, will the difference be deducted from CET1?	The Relation with European Commission’s “Consultation document “Statutory Prudential Backstop addressing insufficient provisioning for newly originated loans that turn non-performing” is not clear.	[redacted]	Don't publish
8	2 - General Concept	2.3	4-6	Clarification	General question regarding the Functioning of the prudential provisioning backstop: • Will the comparison of prudential provisioning backstop and actual bank sup-ply be tested on loan level (whether each loan is sufficiently covered) or on a portfolio level (i.e. impact on Bank's capital)?	Functioning of the prudential provisioning backstop is not clear	[redacted]	Don't publish
9	2 - General Concept	2.3	4-6	Clarification	General question regarding the Functioning of the prudential provisioning backstop: • Shall only the ILLP/EL shortfall (individual loan loss provisions/expected loss shortfall) calculation for newly issued/ defaulted loans trigger the backstop re-quirement or shall a shortfall calculation for the overall portfolio serve as a trigger?	Functioning of the prudential provisioning backstop is not clear	[redacted]	Don't publish
10	2 - General Concept	2.3	4-6	Clarification	General question regarding the Functioning of the prudential provisioning backstop: • If the consequences from the ILLP/EL shortfall calculation according to the CRR are not conservative enough according to your opinion, we see rather a value added in adapting this specific rule according to pillar 1 than inventing a new tool which is in contradiction to IFRS 9 for going concern cases.	Functioning of the prudential provisioning backstop is not clear	[redacted]	Don't publish
11	2 - General Concept	2.3	4-6	Clarification	General question regarding the Functioning of the prudential provisioning backstop: • Are both PLLPs (portfolio loan loss provisions) and ILLPs (individual loan loss provisions) reflected in the Existing provisions in the Prudential Provisioning concept (Figure 1)?	Functioning of the prudential provisioning backstop is not clear	[redacted]	Don't publish
12	2 - General Concept	2.3	4-6	Clarification	General question regarding the Functioning of the prudential provisioning backstop: • When will ECB check the prudential provisioning backstop compliance for the NPEs originated from January 1, 2018 for the first time: • Starting 2019 on annual basis to check if coverage is done linearly (annually / quarterly / monthly)? • Starting 2020 (when first 2018 originated NPEs need to be 100% cov-ered): such loans should either be 100% covered or if not accompanied by explanation as to why not?	Functioning of the prudential provisioning backstop is not clear	[redacted]	Don't publish
13	2 - General Concept	4.2	10-11	Clarification	General question regarding the calibration of the prudential provisioning backstop: • It is stated that the application of the backstop should be applied in a grad-ual way. Does this mean that ECB will check: • Whether loan / portfolio complies with the backstop after 2Y (unse-cured) / 7Y (secured) loans? • Or shall it also check how the backstop was applied (gradual way; p.11 "..banks should at least therefore assume at least a linear path for the backstop, building up to 100% over the seven years.")?	Calibration of the prudential provisioning backstop is not clear	[redacted]	Don't publish