

Template for comments

ECB Guide on financial conglomerate reporting of significant risk concentrations and intragroup transactions

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General comments

The French Banking Federation welcomes the opportunity to provide comments on ECB consultation on the draft Guide on financial conglomerate reporting of significant risk concentrations and intragroup transactions, where the ECB indicates that it intends to provide general minimum policy guidance and minimum thresholds for these reporting requirements defined under EU regulation.

As illustrated below with some key specific concerns for our financial conglomerate members, certain provisions of this draft Guide are deemed unexpected, as they do not seem clearly in line with the current applicable regulation and reporting instructions or with the previous discussions of these members with their respective JST.

Therefore, as a foreword, we would like to clarify that ECB general expectations in its draft Guide should not exceed or contradict the binding requirements established in level 1 or level 2 texts, namely Directive 2002/87/EC ('FICOD'), Commission Delegated Regulation (EU) 2015/2303 ('RTS on RC-IGT') and Commission Implementing Regulation (EU) 2022/2454 ('ITS on RC-IGT reporting').

Under these binding texts, the ECB holds, in our view, the power to adopt individual supervisory measures on a case-by-case basis, considering the specific group and risk management structure of the financial conglomerate and the existing sector-specific requirements on intragroup transactions and risk concentrations.

Since the provisions of FICOD and its related RTS and ITS shall prevail over the recommendations set out in the Guide, we understand that our financial conglomerates members would implement the obligations as provided by the ITS and carefully consider the application of ECB recommendations on a case-by-case basis, based on their own specificities and to the extent of their compliance with the ITS.

As a result also, whereas ITS-related implementation projects have been completed or are in their final phase and the first reference date for reporting is in less than 3 months now, the necessary IT and process changes that would be triggered by the Guide if it is not reviewed (changes which, according to our members, could not be anticipated from the ITS or from the informal exchanges with their JST) and its late publication would likely leave no other choice to financial conglomerates than to produce the first report on a best-effort basis, with a primary reliance on the interpretation of existing regulations. This is especially the case for significant intragroup transactions where information on flows within the reporting period is required (cf. transactions incepted and expired or matured).

More specifically, we would like to raise a few selected issues which are deemed the most critical to our financial conglomerate members:

1. On the Single Economic Operation vision

The Single Economic Operation ('SEO') vision seems to be completely mitigated as the draft Guide provides for an aggregation of amounts by nature of transactions following the structure of the IGT templates, whereas the only aggregation of transactions that was expected by our members concerned SEOs, as defined in Article 2(5) of the RTS on RC-IGT ("Transactions that are executed as part of a single economic operation shall be aggregated for the purpose of calculating the thresholds pursuant to Article 8(2) of Directive 2002/87/EC"). Since the entry into force of the Regulation 2015/2303 (RTS on IGT-RC), financial conglomerates have been only explicitly required indeed to aggregate the transactions which are part of a SEO and to explain how they interpret the notion of SEO through a procedure. Banks would need to understand how to combine the new expectations of the draft Guide with the existing binding regulation which foresees a threshold calculation based on the SEOs. Aside from being potentially questionable from a legal perspective, the requirement at hand would also not be operationally feasible by the first reporting date in view of the very short timeframe for implementation.

2. Level of thresholds for the reporting of intragroup transactions

The new proposed minimum level of thresholds which are expressed in absolute values appear to be very low compared to the current situation (e.g. ratio of 15 to one) and they do not 'take into account the specific group and risk management structure of the financial conglomerate', which is required in the Annex II of FICOD.

Our financial conglomerates members question the legal basis of this new threshold of €300m which does not appear in any former regulation (neither the FICOD nor the ITS and the RTS on IGT-RC nor the current reporting instructions). Indeed, Article 8(2) of the FICOD refers to its Annex II which states that: 'In order to identify significant intra-group transactions and significant risk concentration to be reported in accordance with the provisions of Articles 7 and 8, the coordinator, after consultation with the other relevant competent authorities and the conglomerate itself, shall define appropriate thresholds based on regulatory own funds and/or technical provisions.' And Article 2(5) of the RTS on IGT-RC refers to the same FICOD article.

We would therefore suggest that ECB keep the current methodology and maintain a threshold expressed as a percentage of the total amount of capital adequacy requirements for financial conglomerates headed by a significant credit institution as set out in Article 8(2) FICOD and in the ITS on RC-IGT reporting, in order to remain consistent with the relevant applicable regulation and in accordance with the principle of proportionality.

3. Reporting basis and scope of significant intragroup derivative transactions

The basis for calculating the threshold for derivatives is modified in the Guide as the carrying amount of derivatives foreseen in ITS on RC-IGT reporting has been replaced by the nominal value (i.e., the notional amounts). According to the off-balance sheet definition provided by Annex V of FINREP based on Annex I of CRR, the notional amount of derivatives is not considered and listed as an off-balance sheet item. It is not reported in the financial statements but only provided in the Annexes. It represents only an indication of an institution's volume of activity on markets in financial instruments and does not reflect market risks attached to them. In this regard, we believe that the nominal value is not, under FICOD and the ITS, a relevant regulatory metric to evaluate the necessity to report these transactions. This change of methodology would also have a significant impact in terms of implementation, raising proportionality issues in light of the massive volume of transactions that would need to be reported on this basis.

Accordingly, we believe that the basis for calculating the threshold for derivatives should remain as in the current binding methodology defined in the ITS on RC-IGT reporting, i.e., the carrying amount.

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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: [last date for providing comment]

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							JARFEACH, Eron	Publish