EUROPEAN CENTRAL BANK

BANKING SUPERVISION

Template for comments

Public consultation on the draft Guide on the supervisory approach to consolidation in the banking sector

Type of respondent
Banking association

Institution/company
European Savings and Retail Banking Group (ESBG)

Contact person

Mr/Ms
Mr

First name
Roberto

Surname
Timpano

Email address
roberto.timpano@wsbi-esbg.org

Telephone number
+32 2 211 11 66

☐ Please tick here if you do not wish your personal data to be published.

General comments
Dear Sir/Madam The European Savings and Retail Banking Group (ESBG) and its members welcome the opportunity to contribute and comment on the .work of the European Central Bank (ECB) on the ECB's supervisory approach to consolidation The ESBG appreciates the ECB's initiative to publish a guide that clarifies the current prudential supervisory approach to consolidation in the banking sector. We share the main objectives of improving the applicability of the current regulatory framework by increasing its -transparency, offering predictability as well as the adoption of a flexible enough approach to evaluate consolidation transactions on a case by-case basis. The guide is a step forward in the right direction since it establishes a roadmap on merges and acquisitions by including the .treatment of key aspects such as the determination of P2R and P2G, the bad will or the use of internal models, among others issues We would like to share with you some reflections that we believe will contribute to improve the supervisory approach and, therefore, we .hope will be considered by the ECB

Template for comments

Public consultation on the draft Guide on the supervisory approach to consolidation in the banking sector

Please enter all your feedback filling in the table below as following :
- Fill in the 5 green columns only: "Paragraph", "Type of comment", "Detailed comment", "Concise statement as to why your comment should be taken on board", "Proposal for adjusted wording";
- Respect drop-down menus. Do not alter the drop-down menus.
- Other columns, blue columns, are filled in automatically; do not alter them;
- Each comment shall deal with a single issue only; you can enter two comments for the same paragraph if you see several issues in the same paragraph; you can enter the same comment several times if it applies to several paragraphs;
- Indicate whether your comment is a proposed amendment, clarification, deletion or addition to the guide;
- Propose an alternative wording when appropriate.

Please do not make any changes to the structure of the template. Any feedback provided in a modified template will not be processed.
To ease the feedback process, please ensure you provide your feedback in an xls format only (i.e. not pdf)

Deadline: **1 October 2020**

Id	Paragraph	Page	Section	Type of comment	Detailed comment	Concise statement as to why your comment should be taken on board	Proposal for adjusted wording	Type of respondent	Institution/company	Name of commenter	Personal data
1	8	3	1.2.1. Early communication	Clarification	It is understood that the ECB is keen to be involved in a banking consolidation transaction asap and before the public information of market participants occurs. In that respect, we would like to mention that parties of a consolidation transaction will have to be compliant with all obligations related to Confidentiality Agreements, which might limit the freedom to disclose even the sheer existence of the specific consolidation opportunity (however, this can be addressed in the NDA/CA).	It reflects the practical implementation of such projects.		Banking association	European Savings and Retail Banking Group (ESBG)	Timpano, Roberto	Publish
2	9	3	1.2.1. Early communication	Clarification	It should be taken into account that in an early stage of the process and with respect to the mostly tight time schedules, business plans and integration plans are usually drawn up based on a set of assumptions with a significant degree of uncertainty, which during due diligence can be narrowed down but not eliminated. Therefore, the earlier the ECB is involved the less detailed and reliable the provided information might be. Even at signing of a transaction document such business and integration plans may still be, to a certain extent, abstract and high level and mainly reflecting the one-sided management view of the purchasing party. These plans will however be refined further in a later stage in parallel to the regulatory application procedure and finalized once the interaction and information flow between the two entities is not restricted anymore. Especially the IT-integration, which requires interaction between both sides and with external providers regarding the planning of necessary changes and develoonly (i.e. not pdf)nd, therefore, we hope will be considered by the ECB.ns and milestones.	It reflects the practical implementation of such projects.		Banking association	European Savings and Retail Banking Group (ESBG)	Timpano, Roberto	Publish
3	1	1	Introduction	Clarification	We would like to stress that in a microeconomic dimension all these activities pertain to the core functions of the banks´ corporate bodies and are to be fulfilled in addition to the business-as-usual activities and other business initiatives and projects. A timely execution - including the time period between signing and closing – is a key success factor for a transaction and it reduces operational risk. Execution risks are inherent to integration projects and in case they materialize, the steering and the management of such risks and of the related mitigation measures is a key task of the project management and the Corporate bodies of the bank(s). We expect that “close supervision by ECB in the implementation phase” does not result in unreasonably excessive, additional work-load and/or unplanned regulatory reviews, which could endanger successful and in-time implementation.	It reflects the practical implementation of such projects.		Banking association	European Savings and Retail Banking Group (ESBG)	Timpano, Roberto	Publish

4	13	4	1.2.3. Implementation phase	Clarification	We would like to stress that in a microeconomic dimension all these activities pertain to the core functions of the banks´ corporate bodies and are to be fulfilled in addition to the business-as-usual activities and other business initiatives and projects. A timely execution - including the time period between signing and closing – is a key success factor for a transaction and it reduces operational risk. Execution risks are inherent to integration projects and in case they materialize, the steering and the management of such risks and of the related mitigation measures is a key task of the project management and the Corporate bodies of the bank(s). We expect that "close supervision by ECB in the implementation phase" does not result in unreasonably excessive, additional work-load and/or unplanned regulatory reviews, which could endanger successful and in-time implementation.	It reflects the practical implementation of such projects.		Banking association	European Savings and Retail Banking Group (ESBG)	Timpano, Roberto	Publish
5	30	9	3.3. Badwill	Clarification	We appreciate that the ECB encourages banks to benefit from the generation of badwill in the framework of consolidation transactions, while we do not expect the implementation of any additional regulatory requirements or limitations beyond the requirement of appropriate accounting treatment of badwill, according to the applicable accounting principles. It might be a rather questionable method to increase provisions without material indication. Should the accounting treatment of risk provisions and charges for integration costs really be different from a so called "goodwill-generating" or "at book value" transaction?. Besides, it should be noted that badwill itself does not generate an additional capacity to increase provisions or cover restructuring costs. This capacity depends in practice on excess capital/solvency. The ECB should be aware of this because some M&A may generate badwill but no excess capital and thus no capacity to increase provisions.	It refers to the accounting standards and reflects the practical implementation.		Banking association	European Savings and Retail Banking Group (ESBG)	Timpano, Roberto	Publish
6	31	9	3.3. Badwill	Clarification	We appreciate that the ECB encourages banks to benefit from the generation of badwill in the framework of consolidation transactions, while we do not expect the implementation of any additional regulatory requirements or limitations beyond the requirement of appropriate accounting treatment of badwill, according to the applicable accounting principles. It might be a rather questionable method to increase provisions without material indication. Should the accounting treatment of risk provisions and charges for integration costs really be different from a so called "goodwill-generating" or "at book value" transaction?. Besides, it should be noted that badwill itself does not generate an additional capacity to increase provisions or cover restructuring costs. This capacity depends in practice on excess capital/solvency. The ECB should be aware of this because some M&A may generate badwill but no excess capital and thus no capacity to increase provisions.	It refers to the accounting standards and reflects the practical implementation.		Banking association	European Savings and Retail Banking Group (ESBG)	Timpano, Roberto	Publish
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10	32	9	3.3. Badwill	Clarification	The decision to distribute dividends is usually the result of available resources (profit, capital), the management´s mid-term capital plan taking into account the expectations of the owners and rather not related to the question regarding a specific origin of the profit. Furthermore, there should not be any further restrictions for the payments of dividends besides the already existing (legal) regulations.	It refers to the existing (legal) regulations with respect to the distribution of dividends and reflects the practical implementation.		Banking association	European Savings and Retail Banking Group (ESBG)	Timpano, Roberto	Publish
11	33	9	3.3. Badwill	Clarification	We appreciate that the ECB encourages banks to benefit from the generation of badwill in the framework of consolidation transactions, while we do not expect the implementation of any additional regulatory requirements or limitations beyond the requirement of appropriate accounting treatment of badwill, according to the applicable accounting principles. It might be a rather questionable method to increase provisions without material indication. Should the accounting treatment of risk provisions and charges for integration costs really be different from a so called “goodwill-generating” or “at book value” transaction?	It refers to the accounting standards and reflects the practical implementation.		Banking association	European Savings and Retail Banking Group (ESBG)	Timpano, Roberto	Publish
12	35	10	3.4. Internal models	Clarification	Among the questions stated in paragraph 35, the situation in which an existing legal entity (the acquiring part) might decide to use the models of the acquired entity is not considered, and it should be. That is, in this Guide, all IRB models, from previously existing entities on a merger or from both the acquirer or acquired entity in an acquisition, have to be equal in terms of the requirements in order to be used in the new or acquiring entity. The non-existence of differences due to the origin of the models should be clearly stated.	More guidance for the approach of consolidating existing internal models is needed.		Banking association	European Savings and Retail Banking Group (ESBG)	Timpano, Roberto	Publish
13	35	10	3.4. Internal models	Clarification	Shall we understand that for newly authorised legal entities, in case of a business combination, the expectation is that a completely new IRB implementation plan is needed, requiring new applications for the internal models for credit risk? This would take many years and be unnecessarily burdensome when both entities have prior IRB experience (i.e. approved IRB models). In case of existing legal entities it is mentioned that they "may not have the approval to use their internal models for newly acquired exposures." Paragraph 34 mentions that "approvals are not transferable to another legal entity". The two paragraphs seem to be at odds.	It is important to have more clarity on the expectations for the approach of consolidating the internal models in order to avoid full-fledged roll-out plans that may take years to implement for entities that may already have years of model use experience. The aim shall be, especially when the acquirer has experience with model use, to minimize the need for new applications for approval of the models at the time or for a period after the business combination.		Banking association	European Savings and Retail Banking Group (ESBG)	Timpano, Roberto	Publish

14	36	10	3.4. Internal models	Clarification	The granting of this limited period in which the bank, resulting from the combination, might continue using previously approved IRB models, regardless of the entity that had this permission, should be granted as the general norm if requested by the bank. Furthermore, the period should allow the necessary time to complete the integration of information systems and recalibrate or prove the performance of these models. The supervisor shall not impose it to be shorter than two years. Last but not least, the time period should be automatically extended from the moment in which there is a formal pre-application to the date in which a Decision Letter is sent by the supervisor.	It is important to have more clarity on the expectations for the approach of consolidating the internal models in order to avoid full-fledged roll-out plans that make take years to implement for entities that may already have years of model use experience. The aim shall be, especially when the acquirer has experience with model use, to minimize the need for new applications for approval of the models at the time or for a period after the business combination.	n such cases, subject to a clear model mapping and a credible internal models rollout plan to address the specific internal model issues created through the merger, as well as other conditions where appropriate, ECB banking Supervision acknowledges that there will be a limited period of time in which banks, resulting from the business combination, might continue to use the internal models that were in place before the merger. The granting of this limited period, regardless of the entity that had this permission, will allow the necessary time to complete the integration of information systems and recalibrate or prove the performance of the models and won't be shorter than two years. Additionally, it will be automatically extended from the moment in which there is a formal pre-application (date in which a Decision Letter is sent by the supervisor). The aim is to avoid an unnecessary supervisory burden linked to undue volatility in risk-weighted assets and reduction in risk sensitivity if legal entities temporarily revert to the standardised approach.	Banking association	European Savings and Retail Banking Group (ESBG)	Timpano, Roberto	Publish