German Banking Industry Committee

Die Deutsche Kreditwirtschaft

Comments

on the ECB Draft Guidance to banks
on non-performing loans

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The **German Banking Industry Committee** is the joint committee operated by the central associations of the German banking industry. These associations are the Bundesverband der Deutschen Volksbanken und Raiffeisenbanken (BVR), for the cooperative banks, the Bundesverband deutscher Banken (BdB), for the private commercial banks, the Bundesverband Öffentlicher Banken Deutschlands (VÖB), for the public-sector banks, the Deutscher Sparkassen- und Giroverband (DSGV), for the savings banks financial group, and the Verband deutscher Pfandbriefbanken (vdp), for the Pfandbrief banks. Collectively, they represent more than 2,200 banks.

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The key points in brief

- This guidance goes largely beyond pure interpretation and application of existing rules. Instead, in many areas it sets standards and redefines terms that have already been given a legal definition (e.g. forbearance). This is at odds with SSM Regulation No 1024/2013, which requires the ECB to comply with relevant Union law and national legislation in its supervisory activity. To ensure consistency, the definitions used to date in the various guidelines, regulations and standards should be adopted and no divergent or contradictory aspects and explanations added.
- This also means that the guidance should be more principles-based. At present, it is highly rules-based, in our view, and would result in increasing complexity. A strictly standardised procedure to be followed by all banks in the same way is neither possible nor sensible and even has serious legal implications (liability for damages).
- Some of the guidance, particularly the separation of high and low NPL banks, does not differentiate enough, in our view. We would welcome clarification as regards the importance of the guidance for less significant institutions (LSIs) and emphasis on the principle of proportionality in order to avoid any confusion about the scope.
- Some of the ECB's proposals are very far-reaching, so that it should be made clear at various points whether they are a minimum requirement or a best practice requirement. Generally speaking, the guidance should be principles-based so as to be able to take better account of local circumstances and already existing requirements.
- Gearing harmonisation of NPL management practices solely to best practices is inappropriate, in our view, if one bears in mind that the cost of NPL management for banks with small NPL portfolios is disproportionately high.
- The guidance should make clearer which requirements are relevant for retail business and which are relevant for wholesale business.
- The guidance explicitly relates to NPLs. For this reason, we fail to understand why the scope of chapter 7 "*Collateral valuation for immovable property*" is to be extended to include further bank processes.

Contents

Comments on EBC Draft Guidance to banks on non-performing loans

General remarks

The NPL guidance proposed by the ECB is to be applied by all banks directly supervised by the SSM. Some parts of the guidance, particularly the separation of high and low NPL banks, do not differentiate enough, in our view, however. For example, page 5 of the draft guidance says that: "*Hence, parts of this document, namely chapters 2 and 3 on NPL strategy, governance and operations, may be more relevant for banks with high levels of NPLs ("high NPL banks") that need to deal with this extraordinary situation. Nonetheless, SIs with a relatively low overall level of NPLs might still find it useful to apply certain parts of those chapters, e.g. to high NPL portfolios. Chapters 4, 5, 6 and 7 are considered applicable to all SIs.*" This wording suggests that it is up to banks to decide which requirements they consider useful – particularly in chapters 2 and 3 for banks with a low level of NPLs (but also sections 2.6, 3.7, 4, 5.6, 6.8, 7). In contrast, the accompanying document "*FAQs on the NPL guidance*", question 4 (page 2) reads: "*As this is guidance, it is a non-binding instrument, although we expect the banks to consider guidance from their supervisors very seriously. The ECB therefore expects the institutions it directly supervises to apply the guidance, in line with the scale and severity of the NPL challenges they face*." Although the size of the NPL problem is mentioned here too, the wording "*might still find it useful*" is difficult to reconcile with "*expects […] to apply the guidance*".

This lack of clarity seriously hampers an assessment of the guidance's potential impact on institutions. Clarification therefore needs to be included in the guidance establishing a clearer and more understandable connection to the (double) proportionality principle and a separation of high and low NPL banks. The requirements should thus be geared to classification as high or low NPL banks, with implementation of certain requirements being waived for low NPL banks. In addition, clarification of the guidance's importance for less significant institutions (LSIs) would be helpful to avoid any uncertainty about the scope. Generally speaking, it should be made clear which parts of the guidance are binding for all banks and which are merely binding for SSM banks, and which are not.

This lack of differentiation means that new processes, reports, organisational requirements and major adjustments to IT systems are deemed necessary also for low NPL banks, although these are, in our view, inappropriate for low NPL banks and counter-productive from a risk angle since they restrict the efficiency and effectiveness of existing processes.

We welcome in principle the ECB's plans to harmonise NPL management practices and its approach to reducing NPL portfolios. At the same time, some proposals are very far-reaching, so that it should be made clear at various points whether they are a minimum requirement or a best practice requirement. Gearing harmonisation of NPL management practices solely to best practices is inappropriate, in our view, if one bears in mind that the cost of NPL management for banks with small NPL portfolios is disproportionately high. In this context, the proposed reduction in NPLs should not be understood to mean that banks are to be hindered in, for example, doing business in new markets or accepting what they consider to be a reasonable increase in the number of NPLs in loan segments that are seen as profitable (possibly only temporarily).

The guidance explicitly relates to NPLs. For this reason, we fail to understand why the scope of chapter 7 "*Collateral valuation for immovable property*" is to be extended to include further bank processes. ("*The main focus is on provisioning but the guidance can also be used where appropriate in the loan processing, monitoring and underwriting process*"). Guidance which explicitly relates to NPLs should be restricted to this area and contain no options encouraging its application to other areas of banking.

The guidance fails to differentiate between NPLs that were loans provided by banks and that became non-performing (as defined) in the course of the loan relationship and NPLs that were already non-performing when purchased by third parties. Whilst some passages of the guidance cannot logically be applied to purchased NPL portfolios, we should nevertheless welcome clarification whether, and if so, to what extent the guidance does apply to purchased NPLs; in this context, it should be ensured that NPL reductions through sales to third parties are not made unduly difficult for banks.

We should like to point out in general that a country's legal framework (insolvency regime, portfolio sale arrangements, etc.) may have a major influence on the NPL ratio. Banks often conclude agreements with their debtors under pre-insolvency measures. A bank's approach in this respect is geared to national legislation, which differs from country to country. The content and term of these measures may therefore vary from one case to the next, depending on the country-specific exposure situation. National legislators have laid down in their jurisdictions rules on handling such pre-insolvency measures adapted to the respective circumstances. Banks also set up loan loss provisions for this purpose based on the accounting standards applied and remain embedded in the agreed measures once these provisions have been set up. The ECB guidance should thus be principles-based so that national specificities reflecting the political will of each jurisdiction are duly taken into account. Moreover, the principles-based approach by German supervisors that is already determinative for Germany is partly at odds with the more rules-based requirements of other countries. The principles-based "*Minimum Requirements for Risk Management*" (MaRisk) already constitute, in our view, a suitable NPL management regime in Germany across all exposure classes and are also regularly checked by external auditors and banking supervisors. It should therefore be ensured in this context that tried-and-tested practices are not replaced by the more rules-based ECB guidance. This is why we continue to call for a principles-based approach.

We should also like to stress that it does not always make good business sense to write off NPLs as soon as possible. A purely quantitative goal ignores the positive financial impact of restructuring. As long as banks have established the loan loss necessary provisions, the risks associated with a loan will be adequately covered and the bank will have time to wind down the loan in a way that does the least damage.

When it comes to application of the individual chapters of the guidance, the ECB divides banks into high NPL banks and low NPL banks. High NPL banks are defined as banks with an NPL level that is "*considerably higher than the EU average*." Where such a relative threshold is used, it should be noted that any desired reduction in high NPL levels means that the EU average drops at the same time, so that more and more banks are required to apply best practice approaches although they are rightly deemed today to be low NPL banks and do not fall under the focus of the guidance because of their orderly business situation. Moreover, classification of individual banks as high NPL banks may fluctuate from year to year if the size of all banks' NPL portfolios moves around the EU average. This results in limited legal certainty for users. While the threshold may make sense at the start of application, we request a review or modification of the threshold over the course of time. To obtain more legal certainty, we would welcome clarification on this point (also on, for example, the question of whether group level is the basis for classification or whether classification has to be made at individual group entity level).

Although the guidance differentiates at some points between (portfolios of) retail NPLs and non-retail/wholesale NPLs, this (in our view, appropriate) differentiation does not seem to have been made throughout. For proportionality reasons, we believe that the guidance should differentiate more strongly between retail NPLs and non-retail NPLs. In addition, it should be made clearer which requirements are relevant for retail business and which are relevant for wholesale business. The requirements and specificities of both segments differ so much that a "one size fits all" approach is not justified.

The guidance also contains requirements that can only be realised in the context of implementation of other upcoming regulatory requirements. For example, Annex 7 (table 5 "*Public disclosure example tables for forbearance"*) contains some requirements that are already laid down in template EU CR1-E of the EBA "*Guidelines on disclosure requirements under Part Eight of Regulation (EU) 575/2013*" (EBA/CP/2016/07). It is therefore unclear why things that are already to be mentioned in the disclosure report (Pillar 3) have to be included again in the annual financial statements (notes) (see ECB draft guidance, page 63). We therefore believe that the disclosure requirements laid down in Annex 7 should be dropped.

The guidance sets different definitions and requirements for terms already defined by supervisors. This includes, for example, the EBA's definition of forbearance (and thus associated requirements) differing from, unlikely-to-pay criteria, minimum provisioning levels (which are at odds with the IFRS rules) and other IAS/IFRS and CRR terms (cf. section 6.6). To ensure consistency, the definitions used to date in the various guidelines, regulations and standards should be adopted and no divergent or contradictory aspects and explanations added. There are, for example, differences with regard to the identification of financial difficulties in connection with a forbearance measure (compare section 5.3.1 on page 54 of the guidance with paragraph 174 of the European Commission's delegated Regulation (EU) No 680/2014).

In addition, we would like to mention that the ECB is not authorised by Union law to specify the format or content of bank disclosures. These are determined solely by other acts of Union law, namely IFRS as endorsed by the EU (cf. recitals 19 and 39 of the SSM Regulation).

The term "*management body*" is defined under Article 4(1), point 9 of the CRR, in conjunction with Article 3 (1), point 7 of CRD IV, as the "*body or bodies, which are appointed in accordance with national laws, which are empowered to set the institution's strategy, objectives and overall direction, and which oversee and monitor management decision-making, and include the persons who effectively direct the business of the institution."* This must be distinguished from the term "*senior management*", which is defined under Article 4(1), point 10 of the CRR, in conjunction with Article 3(1), point 8 of CRD IV, as "*those natural persons who exercise executive functions within an institution and who are responsible, and accountable to the management body, for the day-to-day management of the institution.*" Bearing in mind the special nature of the governance structure common in Germany, which comprises a management board and supervisory board, we regard the above-mentioned provisions of the CRR as determinative when interpreting the management body's responsibilities and powers of delegation.

Specific remarks

2 NPL strategy

2.1 Purpose and overview

It is, generally speaking, understandable that supervisors expect NPL reduction requirements from banks. Yet is questionable whether these requirements need to be so detailed.

It should, in particular, be borne in mind that NPL management depends heavily on the macroeconomic environment. This environment can only be influenced marginally by an individual bank. Dealing with macroeconomic uncertainty should, at any rate, also be part of any NPL strategy.

As later outlined in section 2.3, the NPL strategy should be based on a self-assessment and the NPL strategy implementation options outlined. Quantitative factors should not be included in the NPL strategy as the main guidance to be followed, since usage of different options based on the underlying single loan can lead to different times of realisation of expected cash flows and maximisation of recoveries. To prevent the NPL strategy from being a mechanism to simply control planned reduction versus actual reduction, the strategy should concentrate on strengthening operational processes for new options but not lead to use of options which – contrary to the goals stipulated in section 2.2, first bullet point ("*i.e. maximise recoveries*") – just keep the bank in line with its quantitative NPL reduction goals. A purely quantitative goal neglects the positive financial impacts of restructurings versus foreclosures in large-scale and complex business.

2.2 Assessing the operating environment

2.2.2 External conditions and operational environment

It should be made clear here that external factors can only be included in the NPL strategy to the extent that publicly accessible information on these is available. For instance, representative, useful information on the NPL market or the NPL servicing industry is unlikely to be available; some NPL management processes are not available for large sector-specific exposures (project finance outside Germany, ship portfolios) due to the absence of an active market.

2.3 Developing the NPL strategy

2.3.1 Strategy implementation options

As already outlined in our comments in reply to section 2.1, a reduction in NPL volume per se and individually is not a performance indicator adequately showing the effectiveness of workout strategies and operations. A high NPL volume can, of course, be an obstacle to new credit business. Nevertheless, the inherent risks in these non-performing assets and the coverage of these risks (operationally as well as financially) should be the main component of an NPL strategy. We should also like to point out that simply documenting existing requirements and activities in a comprehensive NPL strategy (including an annual review and adjustment of operational planning) will not prevent any increased risks for low NPL banks, as it does not deliver any added value for banks' risk profile and risk management.

2.3.2 Targets

It does not appear possible, when setting (future) NPL targets, to already identify concrete reduction strategies ("*implementation options*"), particularly as the future composition of an NPL portfolio, i.e. the individual exposures, is inevitably still unknown at the time of planning. In addition, we consider the implementation of "*gross and net of provisions*" targets unnecessary, as there appears to be no correlation between targets and the net or gross NPL volume reduction.

According to the guidance, banks are to set at least reduction targets for foreclosed assets, where these are material, in their overall NPL strategy. The ECB should bear in mind in this context that foreclosure proceedings may differ in some countries due to different national regulations on the nature and duration of such proceedings. These differences have to be taken into account by banks for correct and proper valuation of foreclosed assets also in connection with loan loss provisioning. It would not be right if some banks were to be put at a disadvantage by the requirement to take into account national foreclosure proceedings differing in nature and duration.

2.5 Embedding the NPL strategy

We would like to point out that integration of quantitative NPL reduction targets into a bank's remuneration policy increases incentives to just sell NPL volume without trying to maximise recoveries for the bank. We deem it necessary to clearly state within the whole NPL strategy that maximisation of recoveries for the bank should be the key rationale behind workout activities. This clearly includes foreclosures, but only in situations where other measures are not agreeable or doable.

It should be clarified that a "*NPL loss budget*" should on no account be used to control performance or steer remuneration policy as this, in our view, would set incentives not to take losses in situations where necessary. The intention of a loss budget should be clarified, as losses that could arise from the NPL volume are a "normal part" of business planning and, as such, resulting losses should not be ignored solely because of “budget restrictions”. Loss identification and recognition should always follow accounting rules and not availability of loss budgets.

3 NPL governance and operations

The guidance calls for close, separate monitoring of the entire NPL management processes. It should be borne in mind in this respect that front office, back office and independent oversight are not always clearly separated.

3.2 Steering and decision making

With respect to the involvement of the management body and in view of the existing requirements of the CRR in this area, we assume this section is to be understood as broad guidance, and not as detailed working instructions in the context of day-to-day business (in the sense of a fixed regime).

3.3 NPL operating model

3.3.1 NPL workout units

The draft guidance recommends banks to start the NPL workout process as soon as borrowers default on payments (“*from the moment of early arrears*”). Default may also occur due to, for example, temporary liquidity shortages on the part of a borrower and should therefore not automatically result in an exposure being included in the NPL workout process.

The recommendation to have, within NPL exposures, a separate NPL workout process geared to the phases of the NPL life cycle/a mandatory separation of restructuring and resolution processes into different units is inappropriate. Switches within the workout process always involve a familiarisation and examination period, as well as a loss of knowledge. Particularly where complex NPL exposures are concerned, a fixed contact or team consulting experts where necessary makes sense. In addition, given the German insolvency regime – outside retail business, at any rate – any strict separation of restructuring and resolution processes or of dedicated workout units (WU) would be artificial since under insolvency proceedings in Germany restructuring processes are also possible and often actually the aim. It would at any rate have to be made clear that, in line with the proportionality principle, any separation of restructuring and resolution units should be at the discretion of each bank.

According to the guidance, the WUs are to be separate from the front office. The regulations already in force in Germany stipulate that the restructuring or resolution process or monitoring of these processes should always be managed outside the front office. While responsibility for the methodology therefore lies with the back office, we believe it would be unreasonable if individual activities in this context could not to be performed by front office functions as well. Clarification to this effect should be included here in the guidance.

3.3.2 Portfolio segmentation

As regards the reference to the list of potential segmentation criteria contained in Annex 2, it should be made clear that the segmentation criteria should be at the discretion of banks. The list in Annex 2 creates the impression of a kind of maximum requirement, particularly given that retail business is involved ("*number of promises kept/not kept – number of unsuccessful call attempts – date of last successful contact*"). The same goes for the comprehensive list of early warning indicators in Annex 4.

3.3.3 Human resources

The requirements set in this section should, as a whole, be largely at the discretion of each bank. The performance management parameters mentioned appear to be too far-reaching, e.g. regarding the degree of staff commitment, and must not contravene local labour laws. Moreover, this section (particularly pages 23/24) does not deliver any added value for the NPL workout process in practice and effectively constitutes interference in a bank's staffing policy.

3.3.4 Technical resources

As regards obtaining and assessing information, clear links to risk data aggregation under BCBS239 are recognisable. For redundancy reasons, double regulation should be avoided and points of contact to other existing rules taken into account on a harmonised manner.

3.4 Control framework

3.4.1 to 3.4.3 Line of defence controls

The three lines of defence requirements are, generally speaking, very comprehensive. Highly detailed documentation requirements are set for the first line in Annex 5.

The second line is entrusted with functions that it is not able to perform properly, e.g. judging the performance of NPL unit management and staff and assuring quality with regard to provisioning and collateral valuation.

The second line of defence functions should have a "*strong degree of independence from functions performing business activities*", yet they are to have a "*veto right when required on the implementation of individual workout solutions (including forbearance) or provisions*". We would like to highlight that the necessity to incorporate a further internal function into a standing operational environment is strongly driven by already existing overlaps and segregation of powers. Where two departments – neither of which is the loan origination department – already decide on measures relating to NPL exposures, the exercise of a veto right by another department not originally part of the transaction does not add further quality to decisions. As stipulated ("*to adequately perform their control tasks*"), the second line of defence should control and not decide on measures to be taken. This should, in the first instance, be done by WUs, because controlling departments would need to exercise their veto rights based on available transaction-based KPIs, as mainly in large-scale business with complex structures these KPIs may help to understand the current risk situation, while measures to be taken may have different goals or effects based on the detailed current situation.

3.5 Monitoring of NPLs and NPL workout activities

3.5.1 High-level NPL metrics

The migration matrices (e.g. for NPL classes) mentioned in section 3.5.1 may impose an unnecessary additional burden; this is because of the month-by-month analysis called for here. The standard frequency for much of banks' credit risk reporting is, as a rule, quarterly. What is more, stipulating the frequency of analysis for banks is inappropriate. Instead, banks should be allowed to choose a frequency themselves, geared to the varying complexity and size of their business and to their risk profile.

3.5.3 Forbearance activities

Throughout the guidance, there should be a clear distinction between a write-off that includes a modification of the contract and the internal decision by the bank to write off the book value of the loan since parts are unrecoverable. In case of a provisioned loan (designated as unrecoverable), there should be no present value effect from the write-off, as the loss should be covered by a provision. It should be made clearer what is intended by the comparison presented.

4 Forbearance

4.1 Purpose and overview

Forbearance is dealt with exhaustively in the relevant EBA regulatory standard ("*Final draft Implementing Technical Standards on supervisory reporting on forbearance and non-performing exposures under Article 99(4) of Regulation (EU) No 575/2013*" (EBA/ITS/2013/03/rev1) of 24 July 2014). To avoid any inconsistencies or misunderstandings, it should not be addressed again. If European supervisors are of the opinion that the current supervisory policy on forbearance is not adequate, the required corrections would have to be made to the EBA's ITS.

4.2 Forbearance options and their viability

This section differentiates between short-term and long-term forbearance measures. The requirement to make such a distinction does not, however, follow from the EBA's ITS on forbearance and non-performing loans. In addition, differentiation between short and long-term measures calls for adjustments to IT infrastructures and processes, which puts a question mark over the added value it delivers. With this in mind, and given that the guidance should not set any requirements going any further (than the EBA's ITS), the differentiation in question should not be a necessary requirement.

In our view, the forbearance approach does not do justice to the position of banks, where these are secured. For secured creditors, waiting too long for enforcement of claims or realisation of collateral may entail serious disadvantages. Whether forbearance is actively offered by banks ("*short-term forbearance measures should be considered and offered*") should be decided on a case-by-case basis at the discretion of banks, but not be a standard approach. The list of "*common forbearance measures*" should not be understood as a 'standard' but as subject to the provision that the measure concerned (capitalisation, reduction in interest, waiver, etc.) is sound from both a legal and tax perspective in the respective jurisdiction and is not, for example, deemed to be a restructuring loan, does not lead to challenges should the borrower subsequently become insolvent, or does not have a negative tax effect.

In general, according to the guidance, a forbearance solution will only be considered viable where "*no other short-term forbearance measures have been applied in the past to the same exposure*" (see page 40 of the guidance). However, it is not unusual to repeatedly apply a short-term forbearance measure to the same transaction, e.g. due to seasonality. This should not automatically be seen as not viable. Moreover, we believe that ruling out any other measures in the past is overly restrictive (see bullet point beginning "*No other short-term forbearance …"*). It should be made clear here that, following a certain cure period after the last short-term measure, short-term measures may again be applied to an exposure. A strict interpretation, i.e. only allowing customers short-term measures once, clashes, in our view, with local and EU consumer protection regulations where retail portfolios are involved.

As short-term forbearance also includes the option to grant stand-stills, this is often used in practice to enable the sale of the underlying asset. Limiting the forbearance option to cases where income is expected to be recovered, would in theory require borrowers to file for insolvency, which would reduce recovery expectations. We also question the need for additional layers of approval – the credit approval framework implemented requires adequate senior management involvement (including approval of additional loan loss provisions); thus any additional approval layer (NPL committee) is unnecessary, in our view.

We assume that the terms "*demonstrate*" and "*attest*" (page 40) are identical in meaning and thus refer to internal calculations by banks.

4.3 Sound forbearance processes

The definition given differs from the EBA definition of forbearance (cf. particularly the assumption of financial difficulties in connection with a forbearance measure on page 52 of the guidance). Moreover, standardising restructuring measures means restricting analysts' room for manoeuvre in customised non-retail business. The guidance provides for an additional credit assessment under restructuring arrangements that fails to deliver any added value (since it is already clear that the customer is in financial difficulties) and merely hampers and delays repayment/wind-down of exposures (through the request for documents).

Because expectations reaching far into the future are called for, and in view of the requirement to demonstrate that forbearance measures are likely to restore the borrower's debt servicing ability, a comparison of NPLs at the usually early point in time at which forbearance measures are taken in a borrower's crisis cycle would appear to be unduly burdensome. That goes particularly for retail business. As already mentioned, such measures serve in part (e.g. short-term deferral of secured exposures) merely to allow quick collateral realisation and not to restore debt servicing ability as such. No documentation burden that contradicts the purpose of the measures should therefore be imposed.

We believe that a risk-based approach that puts procedures and processes in the context of the significance of exposures for banks is required here too. We suggest the following wording: "*Banks should use suitable methodical approaches to comprehensibly determine a suitable/sustainable workout option*."

For standardised retail business, with its bulk transactions and short processing intervals, the requirement to fully assess and document the borrower's financial situation would impose an unacceptable additional burden in regard to forbearance measures compared with the anticipated added value (avoidance of calling in loans). In contrast to processing in the case of wholesale customers where information is much more easily available due to clearly defined reporting requirements, the resulting manpower and IT burden for retail customers with large numbers of transactions requiring processing is thus not justified. This would then mean that forbearance measures in the retail sector would be difficult to justify economically at all. For this reason too, we call for a clear differentiation between retail and non-retail portfolios.

5 NPL recognition

5.1 Purpose and overview

The guidance aims at harmonising NPL definitions. The definition of "*unlikely to pay*" triggers is especially important in this context. We are critical of the fact that external data sources are to be used to identify indicators of unlikeliness to pay. For smaller banks, in particular – especially those using a pool approach to measuring risk – this process will be highly time-consuming and will tie up substantial resources. It may also prove difficult to verify the credibility of these data sources, which will tie up yet more resources.

The following wording on page 46 should be deleted: "*Nevertheless, institutions are strongly encouraged to use the NPE definition also in their internal risk management and public financial reporting. Furthermore, the NPE definition is used in several relevant supervisory exercises (e.g. SSM asset quality review (AQR), EBA stress test and transparency exercises)*." The CRR requires banks using the IRB approach, in particular, to base their internal risk management, including their reporting system, on definitions of default, rating systems and the like so that IRB approach methods are not used exclusively for the purpose of calculating capital requirements. It is not clear in which areas of internal risk management the NPE definition should be used. Would it be necessary in future to determine and evaluate a "*probability of non-performing*" in addition to the PD? Would a deterioration in rating still be a suitable early-warning indicator or would the risk of entering NPL status have to be taken into account? The ECB's argument of achieving harmonisation seems inconsistent since the same objective is currently being used to justify changes in the CRR definition of default.

The impression is given on page 60 f. that some banks have already aligned the CRR definition of default with the NPL definition and that this alignment is relatively straightforward. Owing to the model change policy, however, changes in the definition of default always have to be approved by supervisors ("material change"), not to mention the subsequent need to amend and/or supplement time series and make adjustments to models (score cards/rating methods and internal LGDs). All in all, the line of argument in this section is neither clear nor convincing, in our view.

The ability to reconcile internal and prudential definitions is an issue which is already being addressed in BCBS 239. A duplication of requirements should be avoided and/or overlaps with other regimes should be receive harmonised treatment.

5.2 Implementation of the NPE definition

5.2.2 Remarks on the "unlikely-to-pay" criterion

It is not clear from the guidance what the UTP criterion is intended to directly trigger (NPL/impairment status/default/specific loan loss allowance analysis, …). Is a case-by-case assessment of the "market availability of refinancing" needed as an individual UTP criterion? This is virtually impossible to assess objectively.

We would have serious reservations about using a general assessment of the refinancing market as a UTP criterion for a single exposure. Such an assessment can only play a role against the backdrop of the ratios/figures of the transaction in question. As long as there is sufficient capacity to repay the loan and robust collateral is in place, the lack of a refinancing market should not have to be considered a UTP criterion if the bank is prepared to continue monitoring the exposure (possibly as a forborne asset if the criteria are met).

5.3 Link between NPEs and forbearance

5.3.1 General definition of forbearance

The definition of forbearance used here differs from that used in Delegated Regulation (EU) No 680/2014. This applies particularly to the identification of financial difficulties in connection with a forbearance measure (cf. section 5.3.2 on page 54 of the draft guidance and paragraph 174 of Commission Delegated Regulation (EU) No 680/2014). To avoid inconsistency, there should be no differing definition of financial difficulties in connection with a forbearance measure. Otherwise the forbearance data to be reported in the templates in Annex 7 would diverge from those required by Delegated Regulation (EU) No 680/2014. In addition, we do not agree that any increase in the probability of default should be seen as a trigger of financial difficulties. This is only the case if the probability of default rises sharply, in our view.

5.3.3 Cure/exit from non-performing status

The draft guidance on reclassification as performing includes the following statement:
"*To dispel concerns regarding financial difficulties, all of the following criteria should be satisfied: (…) 3. The borrower should have settled, by means of regular payments, an amount equivalent to all the amounts past due on the date the forbearance measures were granted (…), or to the amount written-off as part of these forbearance measures; (…)*"

The borrower's capacity to repay the loan may have been restored in full as a result of a partial write-off. This will normally have been the purpose of the partial write-off. Our understanding of the above statement, however, is that the borrower must have made payments in an amount equivalent to the partial write-off before the exposure can exit non-performing status. This means that if, for example, more than 50% of the outstanding loan had been written off, the remaining exposure could no longer exit non-performing status. A recovery requirement which differs from the requirements concerning recovery from default is difficult to understand and makes little sense, in our view.

5.3.4 Identification as performing forborne

The draft guidance says that an exposure can be removed from forborne status after a probation period if the borrower has made regular payments of more than an insignificant amount of the principal or interest. The FAQs on this issue, on the other hand, specify that an exposure can only be reclassified as no longer forborne if the borrower has repaid a not insignificant amount of the principal. It is stressed that interest payments will not suffice. As mentioned before, no diverging definitions should be introduced (in this case diverging from that of the EBA). In addition, this requirement would mean that a bullet loan could not be removed from forborne status until its maturity date, which does not seem logical.

5.4 Further aspects of the non-performing definition

5.4.1 Consistent definition at the banking group level/5.4.2 Groups of connected clients

We see a need to clarify the level of consideration (transaction, client, borrower, group of connected clients, group level). Otherwise, considerable adjustments would be necessary which could not be justified from a cost-benefit perspective.

5.6 Supervisory reporting and public disclosures

The draft guidance refers to Annex 7 for requirements concerning Pillar 3 disclosure reports. These requirements go beyond those set out in the EBA's consultation paper *Guidelines on disclosure requirements under Part eight of Regulation (EU) 575/2013 (EBA/CP/2016/07)*. This applies particularly to templates CR1-A to CR1-E and CR2-A and CR2-B. Supervisory should avoid placing a double burden on banks in the form of different disclosure requirements which are not coordinated with one another. On top of that, we do not understand why disclosures should also be made in the financial statements.

We would like to make the general point that existing disclosure requirements (Basel, IFRS, EBA) are already very extensive and should not be extended further by the ECB. This view is also in line with the tenor of the European Commission's call for evidence of September 2015 on the EU regulatory framework for financial services. We therefore call for disclosures to be limited to those required by the EBA guidelines and other existing standards.

Furthermore, the completion of the templates by low NPL banks will deliver no added value for either investors or supervisors, yet will necessitate substantial IT adjustments. Low NPL banks should therefore be able to dispense with such disclosures.

6 NPL impairment measurement and write-offs

The guidance sets a number of criteria for impairment assessment. We do not believe a requirement to back-test impairment assessment would serve a useful purpose. Accounting standards clearly specify when loan loss provisions have to be made. Back-testing would have to consider accounting criteria, changes in the market environment and any other unforeseen events. This would surely go too far and be virtually impossible with the future IFRS 9 in mind.

There is no justification in many cases for ensuring the consistency of LGD, cure rates and re-default rates with current market data. Market prices sometimes fluctuate widely and markets can tend towards excess in both directions. On top of that, credit risk components in credit spreads, for instance, are very difficult to separate out (credit spreads may, for example, be high because the market for the instrument lacks liquidity, not because there is a high level of credit risk). Owing to a bank's borrowers and their characteristics, moreover, market data seldom provide a sound basis of comparison for the individual bank and its portfolio. For this reason, LGD, cure rates and re-default rates should reflect the bank's portfolio composition. Even if considerable resources were invested, therefore, no additional benefit could be generated. In our view, the resulting implementation burden should consequently be kept to a minimum, especially for low NPL banks. It should not cause problems, moreover, if actually realised losses are significantly lower than the loss loan provisions made for prudent considerations.

6.2 Individual estimation of provisions

6.2.4 Estimating future cash flows

The guidance should clarify that the bullet points merely describe potential scenarios. Nevertheless, high collateralisation is not a reason per se to use the gone concern approach. To enter "gone concern" status, the available collateral needs to be legally realised. It should also be made clear that gone concern status does not necessarily impose fire sale prices. If, for example, the client is in the process of developing a real estate project and suffers financial difficulties, the bank may decide to help by stretching payments but will nevertheless have to recognise a loss provision. No collateral will be exercised in this case and gone concern status will not apply. With the current wording, the definition of gone and going concern is mainly geared to normal corporate and retail business and would lead to incorrect classifications in the case of real estate and ship financing, for example.

The application of worst case scenarios called for in this section is at odds with IFRS 9 (cf. IFRS 9 B5.5.41).

The ECB proposes that, "*When planning future cash flows, the bank should also consider the future default or re-default risk based on appropriate expected credit standing (e.g. by applying empirically derived cumulative default tables)*". For banks with only a low number of defaults, it would be difficult to comply with this requirement in a way that made sense. When planning cash flows in some cases, moreover, this requirement seems inconsistent with the previously mentioned criteria, which explicitly and sensibly require cash flow planning to be based on a conservative business restructuring plan or on the borrower's financial statements.

Although the two-step cash-flow approach mentions ship and real estate financing, corporate finance is not mentioned. If sufficient plausible information about future cash flows is available, however (e.g. from restructuring reports, independent business reviews), this approach is more precise and appropriate than the steady state approach, which does not, in itself, provide any clear indication about the borrower's capacity to repay the loan. Corporate finance should therefore be expressly mentioned as an example of when the two-step cash-flow approach should be applied.

6.3 Collective estimation of provisions

6.3.1 General principles related with internal methodologies

Though the ECB mentions that banks will be expected to back-test their allowance estimations, it is unclear how comprehensive back-testing is to be carried out. How, for example, are banks to determine whether a discrepancy between expected and actual losses was due to forward-looking components failing to materialise. This needs to be clarified. The requirement to analyse the sensitivity to changes in the methods, assumptions, factors and parameters used for the collective estimation of provisions is excessive, in our view.

6.3.2 Methodology for collective estimation of allowances

The following wording should be inserted in the final paragraph on page 75 in the interests of consistency with IFRS 9:

"*the assessment of financial/economic conditions should take into account all relevant and **supportable factors that are available without undue cost or effort and** that have a bearing on loss rates,…*"

We would like to stress that IFRS 9 requires provisions to be booked based on unbiased "expected credit losses". In the view of the Global Public Policy Committee, moreover, banks should not incorporate floors of conservative regulatory measures into their accounting for credit losses. The ECB's views on conservatism (also in section 6.6, for instance) are at odds with those in IFRS. The current debate on "prudence" in the context of the Conceptual Framework should not be misunderstood as a call for conservative/especially cautious valuation. It should be ensured, as a general principle, that the guidance sets no requirements which conflict with IFRS 9.

The proposed requirement that cure rates should be calculated in line with section 5.3 of the guidance means that calculations would no longer take default status as their starting point but would have to be based on the non-performing status and its reclassification as performing. We are firmly opposed to such an approach. The calculation of cure rates for the purpose of estimating LGD is based under the IRB approach on the reclassification from default status to recovery. Banks using the standardised approach also use this as a basis for calculating their economic capital requirements under Pillar 2. The use of the non-performing status as the starting point for calculating recovery rates would result in inconsistency and distortions when estimating EL because the probability of default would continue to have to be calculated on the basis of default as defined by Article 178 of the CRR. We would therefore recommend first awaiting the implementation of the Guidelines on the application of the definition of default under Article 178 of Regulation (EU) No 575/2013, which the EBA issued at the end of September this year. It must continue to be ensured that the same basis is used for calculating both PD and LGD.

To prevent discrepancies between regulatory treatment and accounting, loss estimation should be based solely on internal data and loss history available on quite a granular basis.

6.4 Other aspects related to NPL impairment measurement

6.4.1 Impairment allowances for financial guarantee contracts and loan commitments given

The reference to IFRS 9 in this section contains statements going beyond what the standard actually requires. Both the definition of credit-impaired (Appendix A of IFRS 9) and the description of how to calculate specific loan loss allowances (IFRS 9 B5.5.33) refer exclusively to financial assets, not to loan commitments or financial guarantees. A clear distinction is also made in the requirements for disclosure in the notes pursuant to IFRS 7.35M(b)(i) and (ii) and IFRS IG20B (provisioning breakdown). These differentiate explicitly between financial instruments (including financial guarantees and loan commitments) and financial assets (excluding financial guarantees and loan commitments). IFRS 9 does not, in consequence, contain any requirement to assign financial guarantees and loan commitments to Stage 3 or classify them as credit impaired. The ECB guidance cannot, therefore, make explicit reference to financial guarantees and loan commitments in Stage 3. Since conflicts between the ECB guidance and IFRS 9 should be avoided, we would recommend deleting the references to IFRS 9 in section 6.4.1.

6.6 Timeliness of provisioning and write-off

We agree that provisioning and write-off need to be done in a timely manner. But we do not consider it possible or useful, at least where write-offs are concerned, to set maximum periods within which an exposure for which provisions have already been established must be written off. While provisions can be established very rapidly, the question of whether the relevant exposure can ultimately be written off depends on whether or not revenue can still be expected. In the event of restructuring, loans are often treated as non-performing during the restructuring phase, which may last several years, left in default status and assigned corresponding provisions on the basis of a loss-free valuation. Requiring loans to be written off within a certain period would mean that the loans of this borrower would need to be written off during the restructuring phase, which may well last longer than originally envisaged in the restructuring report. This would make the bank liable in damages to the borrower. We are therefore opposed to at least the proposed obligation to determine maximum periods for write-off. It should be sufficient, in our view, to draw up internal guidelines on achieving timely provisioning and write-off. These guidelines could include the three points mentioned on page 80, possibly supplemented by further points.

6.7 Provisioning and write-off procedures

6.7.1 Policies

The term "*non-performing loans*" in the second paragraph should be replaced by "defaulted loans" since principle 2 of the BCBS Guidance on credit risk and accounting for expected losses, which the ECB refers to in footnote 47, also talks of "default", and not "non-performing":

"*A bank's allowance methodologies should clearly document the definitions of key terms related to the assessment and measurement of ECL (such as loss and migration rates, loss events and default).*"

Otherwise, there is a danger that provisioning and the calculation of expected losses could no longer be carried out on the basis of the PD and LGD parameters in accordance with the CRR and the Basel Committee's standards, but would have to use the non-performing concept set out in Commission Delegated Regulation (EU) No 680/2014. This would mean that, owing to the ECB's guidance, parameter estimates for the purpose of calculating capital requirements and allowances would have to be based on different reference values: default on the one hand for the purpose of determining capital requirements and non-performing status in accordance with Commission Delegated Regulation (EU) No 680/2014 on the other. We do not consider this appropriate. In the future, too, both the calculation of capital requirements pursuant to the CRR and the calculation of allowances and allowance offset provided for under the IRB approach of the CRR should be based on the definition of default set out in Article 178.

The following wording should be added to the reference to IFRS 9 on page 81 in the interests of consistency with the text of IFRS 9:
"*all relevant and supportable information* ***that is available without undue cost or effort****…*"

As regards the expectation that banks will, as a matter of best practice, back-test their loss rates on a regular basis (i.e. at least every six months), we would ask the ECB to clarify whether this refers to the validation of the loss rate parameter or the application to provisioning. Parameters used for regulatory purposes like the loss rate (LGD) have to be validated annually, not every six months. The application for determining appropriate provisioning is usually done monthly (for collective assessment) taking into account up-to-date exposure information.

6.7.2 Internal documentation

We consider it excessive and are therefore opposed to the additional requirement of analyses of sensitivity to the changes in the methods, assumptions, factors and parameters used.

6.8 Supervisory reporting an public disclosures

This section refers to table 4 in Annex 7. There is no table 4 in this annex, however. We assume table 7 is meant. The legal basis for the collection of these data by supervisors is also unclear.

7 Collateral valuation for immovable property

Given the very detailed and extensive nature of these requirements, it should be clarified that they only apply in full to banks where the valuation of property held as collateral is of material importance. For reasons of proportionality, we would not consider it justified to require the full application of these requirements by banks where property finance and collateral in the form of property play only a minor role. We would therefore appreciate clarification that banks may apply these requirements in a proportionate manner depending on the importance of real estate collateral in their lending business.

As mentioned in our introductory remarks, chapter 7 sets out an option of extending the scope of its requirements beyond the area of NPLs. We do not understand why optional "may" requirements have been included in guidance expressly prepared for the purpose of handling non-performing loans and would urge the ECB to remove references to options of this kind.

It is explicitly mentioned in the section on the scope of this chapter that Articles 208 and 229 of the CRR apply. Unfortunately, all the following proposed requirements concerning valuation and monitoring/review of property values are clearly stricter than those in the CRR, so the application of Articles 208 and 229 is not possible. It is very important to us that the requirements in the draft guidance on annual valuations should be consistent with those of the CRR. We have serious reservations, in particular, about the requirement for regular property-specific appraisals of collateral for NPLs of over 300,000 euros since it is inconsistent with the CRR. Annual monitoring on the basis of the so-called prudential market fluctuation concept ("*Marktschwankungskonzept*") already ensures a close analysis of the market for commercial and residential property. The value of collateral is also reviewed and, if necessary, adjusted if there is a specific reason to do so. Furthermore, the introduction of a fixed de minimis threshold of 300,000 euros for a simplified valuation procedure would sometimes conflict with national market practices, placing an additional operational burden on banks despite the high-quality monitoring, review and revaluation processes already in place. We are therefore opposed to the introduction of a fixed de minimis threshold and would instead recommend aligning the valuation and monitoring/review requirements in the draft guidance with those in Articles 208 and 229 of the CRR.

7.2 Governance, procedures an controls

7.2.1 General policies and procedures

We do not believe it would serve a useful purpose to require management to approve property valuation policies. Approval by the head of risk control should be sufficient. This applies particularly if property collateral is of comparatively minor importance to a bank.

7.2.2 Monitoring and controls

The valuation of property collateral is normally monitored when the exposure is transferred to the WU. Under Article 208 of the CRR, the valuation of commercial property already has to be monitored on an annual basis. For residential property, the CRR prescribes frequent monitoring, but at least every three years. If an exposure is in a WU, the value of the collateral may be subject to more frequent monitoring. This is sufficient to adequately ensure that collateral is valued correctly.

With this in mind, we do not see any additional benefit in the controls set out in this section, such as a comparison of sample valuations with market observations. The CRR requires reviews to be carried out solely by qualified independent valuers and valuations to be clearly documented. It is not clear who would be equipped to "*challenge*" the internal or external reviews of qualified and experienced valuers. It would not be possible to do more than a basic plausibility check of the underlying assumptions. Nor is it clear how a "*sample*" of valuations should be compiled or on the basis of what data back-testing should be carried out.

We do not see how a rotation requirement (last paragraph of section 7.2.2 on page 87) would improve the quality of appraisals as long as (other) adequate provisions and processes are in place to ensure accurate valuation results. This paragraph should be reworded along the following lines:
"[…] The accuracy and appropriateness of appraisals should be checked and verified using suitable quality assurance and monitoring processes."

7.2.3 Individual versus indexed valuations

The requirements set out in this section would make the whole process of monitoring and reviewing properties as described in Article 208(3) of the CRR obsolete for non-performing loans of more than 300,000 euros in gross value. We understand that there may be a need for stricter requirements regarding the review of valuations for NPLs. These monitoring processes should be geared to the different risk profiles of properties and might also vary according to the concrete business model of a bank. A European-wide threshold of 300,000 euros does not reflect the different price levels across regional property markets, however, and is therefore not a suitable basis for assessment in our view. We would like to stress that our member banks have established high-quality, CRR-compliant processes for monitoring, reviewing and, if necessary, revaluing the market for commercial and residential property in a way which reflects the risk inherent in their underlying business models.

We would like to point out that indexation is only one of many ways of establishing a monitoring process. The guidance should therefore treat indexation as one option, not as a catch-all for all monitoring processes based on statistical models. The indexation of immovable property is not an assessment method prescribed by the CRR.

7.2.4 Appraisers/7.3 Frequency of valuations

The combination of sections 7.2.3 and 7.3 would mean that for every NPL of a gross value of more than 300,000 euros, an individual valuation by an independent and qualified appraiser would be necessary, every year for commercial properties and every three years for residential properties. There might be reasons, especially for NPLs, to justify a new valuation but as already mentioned in our comments on section 7.2.3, this should focus much more on the concrete property portfolio of the bank in question and consider the different price levels in European national and regional property markets.

We assume that "*to update the valuation*" means

- a review by a member of the non-originating back office department as described in the first bullet point of section 7.2.3, "*individual valuations*" in conjunction with Article 208(3)(b) of the CRR, including the criteria of independence specified in section 7.2.4 of the guidelines;
- a new valuation/revaluation after a check by an appraiser as described in the second bullet point of section 7.2.3, "*individual valuations*" in conjunction with Article 208(3)(b) and Article 229(1) of the CRR.

It is not clear on page 89 whether all property collateral is meant or only collateral for NPLs. The value of commercial property has to be updated annually, but no materiality threshold is mentioned and the term "*commercial*" is not defined.

Given the option mentioned in section 7.1 of also applying the guidance in chapter 7 to loan processing, monitoring and underwriting process, this guidance is unacceptable as it completely ignores the requirements of Article 208(3) of the CRR.

- 7.2.4 (paragraph 1): Independence of appraisers should not be understood to mean that staff performing appraisals for a bank have to be completely separate from those in the loan-decision process. As long as policies such as authorisation procedures, the separation of functions or the "four-eyes" principle effectively ensure protection from conflicts of interests, any more far-reaching separation would badly hamper loan-decision processes and block the use of resources in institutions.

- 7.2.4 (paragraph 3; indemnity): A mandatory review of an appropriate level of indemnity insurance should not be required on an annual basis. Instead, reviews on a regular basis depending on the regular contracts with the appraisers should be sufficient.

- 7.2.4 (7^{th} bullet point): Currently the fee for external appraisers is linked to the market value of the property. This is the standard practice in the appraising industry as it reflects the effort invested and risks taken by the appraiser. We would welcome clarification that normal market-practice fees which are a percentage of the market value do not per se risk incentivising the external appraiser since the appraiser is assuming liability for correctly calculating a fair market value in accordance with applicable regulations.

- 7.3 (paragraphs 1 and 2): We wonder what exactly is meant by "*update*"? Frequent revaluations without a reason are inefficient and unnecessarily costly. There is generally no need to increase a valuation frequency for NPLs which are already under close supervision anyway.

- 7.3 (paragraph3): Due to the individual checks of all collateral for loans which become non-performing and the subsequent close supervision we see no necessity or advantage in ongoing individual valuations which are at odds with the statistical methods for property valuation monitoring under the CRR (use of the "market fluctuation concept") and where triggers are already defined differently from the limit for indexed valuations referenced in section 7.2.3. Triggers – if needed at all – should be aligned with CRR requirements, which are also confirmed in the new MaRisk.

- 7.3 (paragraph 5): Due to the existing requirements on haircut validation and LGD recalibration, additional rules on quantitative thresholds are not necessary and could weaken the methods in place. The frequency of valuations needs be clarified – it is unclear whether this applies to all individual collateral valuations. When a bank adheres to Article 208(3) of the CRR, which requires regular monitoring (at least annually), no formal update of individual property specific appraisal takes place on an annual basis. The guidance should not go beyond the requirements of the CRR.

7.4 Valuation methodology

7.4.1 General approach

The guidance says collateral should be valued on the basis of market value. Article 229 of the CRR permits valuation on the basis of either the market or the mortgage lending value. The ECB guidance is therefore not consistent with the CRR. We do not understand the reason for a blanket ban on the discounted replacement cost method. In Germany's national standards for calculating both market and mortgage lending values, the discounted replacement cost method has a key, tried and tested status, especially for valuing detached and semi-detached property. Though it is theoretically possible to use other methods (in this case the market comparable approach), this would require an analysis of corresponding data availability at regional level and, for this reason, may conflict with even national valuation standards if data availability requirements are not met. In our view, European guidance should take adequate account of the specificities of regional property markets by permitting the use of the locally applicable valuation methods which best reflect the market. A ban on tried and tested national valuation methods flies in the face of this approach.

7.4.2 Expected future cash flows

The specific type of finance has had no influence up to now on the method of valuing the property (going vs. gone concern). A clear distinction should continue to be made between the valuation of the property and the risk assessment/valuation of the exposure. Fees for legal advice, for instance, are not part of the property valuation.

7.4.3 Gone concern approach

It should be clarified that liquidation/selling costs can be determined on the basis of the bank's own experience. This will ensure that the realisation costs estimated by the bank are based on the bank's statistics. A blanket figure would bear no relation to the methods and costs of realising collateral at the individual bank and open the door to inaccuracies.

Back-testing of valuation history is called for on page 94. We would like to point out that model-based approaches of this kind are not at all usual when valuing individual properties. The question also arises as to how this back-testing would interact with the hugely onerous requirements for regular reviews of the valuation of individual properties (see sections 7.2 and 7.3). As mentioned in our comments on section 7.4.2, the valuation of the property is a process kept consciously separate from the financing process. This is reflected not least in the stringent requirements in place to ensure valuers are independent of the loan-decision process. The calculation of discounts on the basis of LGDs would undermine this principle, in our view. We would recommend deleting this entire paragraph on back-testing.

7.5 Valuation of foreclosed assets

The illiquidity discounts mentioned on page 95 have to form part of the risk assessment but should not be incorporated into calculating the market value of the financed asset.

In our view, for foreclosed real estate assets to be classified as held for sale in accordance with IFRS 5, the sale of the asset must be highly probable and the asset must be available for immediate sale in its present condition (IFRS 5 paragraphs 6 - 8).

"*Highly probable*" implies all of the following:

- the responsible senior management is committed to a plan to sell the asset,
- an active programme to locate a buyer and execute the plan has been initiated,
- the asset is being actively marketed for sale at a price which is reasonable in relation to its current fair value,
- there is an expectation that the sale will be completed within one year from the date when the asset is classified as held for sale, and
- action required to complete the plan indicates that it is unlikely that significant changes to the plan will be made or that the plan will be withdrawn.

In consequence, there may be situations where the foreclosed asset requires refurbishment or development prior to being marketed for sale. If the foreclosed asset is not considered available for immediate sale in its present condition and if refurbishment or development work could take in excess of one year, the held for sale requirements in accordance with IFRS 5 will therefore not be met. In respect of measurement, only if the asset meets the criteria for classification as held for sale will the asset be measured at the lower of its carrying amount or fair value less selling costs in accordance with IFRS 5.15.

Annex 5 - Common NPL-related policies – Forbearance policy

According to the draft guidance, sector-specific criteria and metrics should be defined and complied with when carrying out forbearance or restructuring measures. Such a policy would be highly complex, would need to be continually revised and does not take account of the very small number of restructuring cases which a bank may have per individual sector. We would therefore recommend dropping this requirement.

Annex 7 – Summary of supervisory reporting and disclosure items related to NPLs

With respect to the requirements concerning the Pillar 3 disclosure report, please see our comments on section 5.6. Disclosure requirements are already in the process of being significantly modified and extended in the context of the EBA's consultation paper *Guidelines on disclosure requirements under Part eight of Regulation (EU) 575/2013 (EBA/CP/2016/07)*. To avoid redundancy and the imposition of a double burden on banks, additional requirements should not be introduced.

Chapter 4: Forbearance

The disclosure requirements should be included in a future guideline on disclosure to minimise the number of legal sources for this reporting format.

Chapter 5, 6, 7: NPEs, impairment and write-off; collateral valuation

The proposed disclosures of definitions and methods impose a task on banks which is actually the responsibility of supervisors.

Even among banks which apply the same methods, the disclosed information is likely to differ. There is a danger that, for users, this will translate into less rather than more transparency. We consider the sensitivity analyses proposed on page 123 excessive and are opposed to the idea of their introduction.