EUROPEAN CENTRAL BANK

BANKING SUPERVISION

Template for comments

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

Institution/Company

Divsion Bank and Insurance, Austrian Federal Economic Chamber

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General comments

Template for comments

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

Please enter all your feedback in this list.
When entering feedback, please make sure that:
- **each comment deals with a single issue only;**
- **you indicate the relevant article/chapter/paragraph, where appropriate;**
- **you indicate whether your comment is a proposed amendment, clarification or deletion.**

Deadline: 8 December 2017

ID	Chapter	Paragraph	Page	Type of comment	Detailed comment	Concise statement as to why your comment should be taken on board	Name of commenter	Personal data
1	1 - Background				While we appreciate the concretion of the competent authorities' intentions with respect to addressing the issue of Non-Performing Loans ("NPLs") in Europe, we have to criticize the approach of introducing non-binding yet enforceable quantitative prudential measures for all banks in Europe before even issuing comprehensive guidelines on NPL management applicable to all banks in Europe. From previous publications and communication by the competent authorities, we understand that any guidance given by the competent authorities should enable the bank to take full ownership of any problems with their NPL portfolios themselves, thus we are surprised by an intervention as innermost as enforcing standardized provisioning levels.	the measure seems to be a one-fits-all approach, banks should rather be enabled to take full ownership of any problems with their NPL portfolios themselves	[redacted]	Publish

2	2 - General Concept	2.3.	5	Amendment	The Addendum is in our view not in line with the Pillar 2 framework. It appears to be a Pillar 1 tool disguised as pillar 2, as the Addendum seems to introduce general rules that all banks have to apply – “If the applicable accounting treatment does not fulfil the prudential provisioning backstop, banks should adjust their Common Equity Tier 1 capital on their own initiative, applying Article 3 of the CRR on the application of stricter requirements”. This passage does not seem to be in line with a pillar 2 tool, as there is no voluntariness, but rather the introduction of an additional requirement. The proposed “comply-or-explain” mechanism does also not seem to be in line with a pillar 2 tool, as the burden of proof to comply is on the bank. The proposed measure has some characteristics that make it seem to be more of a pillar 1 tool than a pillar 2 tool.	if the meaure is introduced: the concept should be designed in line with the legal framework and be clearly constructed as a pillar 2 tool (and not have characteristics of a pillar 1 tool, which leaves room for interpretation)	[redacted]	Publish
3	2 - General Concept	2.3.			The introduction of prudential backstops could induce clients of the banks to explicitly exploit this regime in form of moral hazard, i.e. lower willingness to (re)pay by knowing that banks eventually need to write off NPLs.	The measure could lead to moral hazard (exploitation of system).	[redacted]	Publish

4	2 - General Concept				We see the competent authorities’ intervention as a risk to banks in the public opinion by putting them under the guardianship of the competent authorities again raising doubts on their profitability, viability and solvency rather than empowering them and enacting them with the relevant tools to deal with high levels of NPLs both now as well as in the future.	The current approach raises doubts about banks' profitability, viability and solvency.	[redacted]	Publish
5	2 - General Concept				We also question the consistency of the competent authorities’ intentions with other suggested measures such as fostering a secondary market for NPLs encouraging sales and minimizing bid-ask gaps or the setup of National AMCs for the purpose of relieving banks from constraints caused by high NPL levels. Mandatory provision levels could significantly impair the value of NPLs artificially without any relation to true economic for banks intending to sell NPLs and encourage investors to just sit and wait in order to pocket additional returns on their investments. This would ultimately lead to and therefore contradict to the competent authorities’ intentions of an unbiased, liquid secondary market for NPLs. Also, mandatory provision levels could enable National AMCs to take on NPLs at low prices thus shifting potential intrinsic value in NPLs to National AMCs rather than keeping them with the banks that needed to immediate initial hits to their capital base – contradicting the intentions of the competent authorities to capitalize banks more strongly again.	The proposed measure should be see in context with other suggested measures - their reciprocity should be assessed clearly before introducing the measure	[redacted]	Publish

6	2 - General Concept				We understand the intention of the competent authorities' intervention as a tool for minimizing or even limiting the build-up of non-performing loans in the future and speeding up loss recognition, however, we would rather prefer additional momentum and drive in ongoing macro-prudential efforts, e.g. improving the efficiency of the judicial system, ensuring timely out-of-court collateral enforcement processes, to address NPL resolution faster and more efficient and to avoid diminishing of value of the underlying NPLs due to process constraints not influenceable by the banks.	Instead of the current approach we would rather prefer additional momentum and drive in ongoing macro-prudential efforts	[redacted]	Publish
7	2 - General Concept				In contrast to the aforementioned intentions of the competent authorities, mandatory provisioning levels in a one-fits-all approach might even discourage banks to support clients with viable long term repayment capacities and/or business models but short term bridge financing needs. Such cases might not only lead to higher net loss levels in the banks portfolios due to implicit deceptive incentives but also affect the real economy – especially small and medium sized enterprises and private individuals.	The proposed one-fits-all approach might discourage banks to support clients with viable long term repayment capacities and/or business models.	[redacted]	Publish
8	2 - General Concept	2.3.			An adjustment of value can be dissolved and gained again - therefore we would l ke clarification how such a treatment would be treated in line with the proposed Addendum.	We would appreciate clarification on a dissolved adjustment of value.	[redacted]	Publish

9	2 - General Concept	2.3.			We note that compliance with the addendum (2 years coverage, 7 years full value adjustment) might not be in line with IFRS9, where it is stated that the adjustment of value results after the quantification of three scenarios and not "automatically" after 2 or 7 years.	We would appreciate clarification on the IFRS9 issue.	[redacted]	Publish
10	4 - Prudential provisioning backstop				We believe that a general predefinition of years (e.g. the mentioned 2 and 7 years) for the need of prudential provisioning is not suitable to cover the huge amount of different tenors. Especially in situations where the tenor amounts to more than 10 years this setting of time standards is not appropriate. Additionally, experience shows that within the first 2 years of an ongoing restructuring of an exposure (retail and commercial as well) an expected amount to be repaid can be estimated. Further, the proposed provision does not take into account the agreed repayment schedule, which can differ dramatically. It must also be taken into account that during a restructuring process normally no efforts are made to realise security, Therefore it cannot be assumed that the realisation of security was unsuccessfully attempted from the beginning. Therefore, we believe that after the period of two years of vintage it should be assessed whether the customer is still unl kely to pay or has already become likely to pay. In the event that the customer is unl kely to pay the unsecured part of the exposure could be subject to prudential provisioning. Any provision forcing institutions to an automated prudential provisioning is considered as being too excessive and therefore should be avoided.		[redacted]	Publish