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Public consultation on options and discretions

Dear Mr. Vesala,

While the BVR is actively involved in the drafting of comments to the above consultation by Deutsche Kreditwirtschaft (DK) and the European Association of Cooperative Banks (EACB) and fully supports their views, I nevertheless would like to further elaborate on some aspects.

The BVR appreciates that the ECB-SSM works on national options and discretions in order to further enhancing the resilience of the European banking sector, while ensuring a level playing-field at the same time. In this respect, the "draft ECB Guide on options and discretions (page 19; Section II, chapter 2, Nr. 6) also elaborates on the deduction of holdings in the presence of institutional protection schemes (IPS) (Art. 49(3) CRR) and tries to find a proportionate solution for the consolidation/aggregation exercise under that provision.

We understand that SSM supervision, aiming at the highest supervisory standards, tries to develop supervisory approaches and guidance for the consolidation/aggregation exercise in order to make it more prudent and risk-sensitive than any current approach. While we show sympathy for this intention, we nevertheless doubt that the additional requirements suggested will provide sufficient added value from the perspective of a risk-oriented supervision that justify the considerable increase of resources which would become necessary. Some requirements even seem very hard to fulfill.

Please allow me to recall that according to article 49(3) CRR the first and primary purpose of the consolidation/aggregation exercise is to exclude "the multiple use of elements eligible for the calculation of own funds as well as any inappropriate creation of own funds between the members of the institutional protection scheme. Thus, the major focus is on the avoidance of double gearing and capital cascades. We hereby wish to underline that already by now we fulfill this requirement according to the provisions of the CRR. All equity holdings within the IPS member base are eliminated.

To fulfill this requirement, we apply one of the stipulated approaches, i.e. the extended aggregated calculation. Art. 49(3), 113(7) CRR do not take an approach that reflects a "classic" group structure, but rather one which is proportionate to the situation of a network of independent local banks. We are strongly convinced that complete consolidated accounts would not provide an added value with regard to the exclusion of a multiple use of own funds.

- The structures of the network/IPS of German cooperative banks are transparent. Due to its decentralised organisation- and decision- structure the member banks remain economically independent and self-reliant entities. Intra-IPS transactions are always concluded at arm's length, due to this principle of self-reliance of every director, which can easily be proven by comparisons with third-party transactions.
- There are more than 1000 local banks applying national GAAP, which have no capital ties and hardly any (if at all) exposures among each other. The (next to) only institution in the group to which they have exposures is the central institution (including subsidiaries). The local banks own this central institution by more than 90%, which is the only institution applying IFRS and under direct supervision of the ECB. Thus, there are very clear lines between IFRS application, capital lines and exposures, which should be reflected in any reporting context in order to ensure that supervision is actually oriented towards potential risks.

Therefore we suggest to amend the Guide as follows:

- A quarterly reporting as suggested under 6(2)(i) seems not necessary from a risk perspective. In fact, due to the business model, the current earnings position and the applicable accounting rules the own funds of the local banks only change when approving the annual accounts in the second quarter. Value adjustments of those equity holdings, which we have to eliminate, are executed only on a yearly basis. A semi-annual reporting therefore seems to be sufficient. A quarterly reporting would provide no added value.

- We consider it fully inappropriate that Article 6(3)(ii) requires that the data provided by the IPS member institutions must be based on the same accounting standards;
  - First of all, it has to be underlined that there is no choice of accounting standards, but that they are imposed by law. The provision in question could therefore be understood as imposing certain accounting standards, which, according to recital 19 of Regulation (EU)1024/2013 lies beyond the powers of the SSM.
  - A migration of our more than 1.000 local banks to IFRS would require an enormous and fully disproportionate amount of resources, which would be completely disproportionate to the additional information and knowledge it might provide.

  - In our opinion the capital requirements in question are already calculated on the basis of the uniform CRR-standards, i.e. on the basis of the COREP system, so that adequate comparability is established. Moreover, it is the explicit purpose of the Regulatory Consistency Assessment Program (RCAP) promoted by regulators to ensure such uniformity. Finally, the principle-based capital categorisation of the different own funds positions is made according to uniform criteria.
  - Performance-related components may be influenced by accounting-related valuation measures. However, we believe that especially with regard to own funds IFRS and German HGB accounting are equivalent from the supervisory perspective of the CRR. While the CRR prudential filters ensure that IFRS accounting does not lead to an inflation of own funds, the principle of prudence in HGB accounting provides for a very narrow definition of own funds.
  - For this reason, we also do not believe that complicated transformation calculations would be required. Our experts would be glad to further discuss this matter with the ECB specialists.
- 6(2)(ii) should be further clarified in the sense that this guidance does not oblige local banks to apply the full FinRep or simplified FinRep. In fact, next to 1.000 of our local banks apply the data point approach. The average total assets of our local banks is around 750 million €. Forcing them under FinRep would be very burdensome and not provide more meaningful results from a prudential perspective.
- With regard to our IPS-structure, Nr. 6(3)(i) should put emphasis on the relevant aspects: as mentioned earlier, the focus of the exercise should be on the exclusion of double gearing and capital cascades. Trying to capture all possible exposures between 1.000 local banks and their central institution which in fact do not result in an appropriate creation of own funds would divert the attention from the aspects that are crucial. We therefore believe that the focus should be adjusted.

I would appreciate if you could consider these aspects in the drafting of the final guide. Moreover, in order to further explain and discuss the particularities of our network, the IPS and our consolidation method, especially for the finalization of your Guide, I would like to suggest to hold a technical meeting among experts in order to improve the mutual understanding and come to satisfying solutions.

Kind regards and best wishes for the festive season