



European Central Bank
e-mail: SSMPublicConsulation@ecb.europa.eu

Our reference

2015-00058042/RFENT

Your reference

The Hague

16 december 2015

Subject

Public consultation on options and discretions

Dear madam, sir,

The Dutch Association of Insurers welcomes the opportunity to respond to the public consultation on a draft regulation and guide of the European Central Bank on the exercise of options and discretions available in Union law. Although our member companies (insurance companies in the Netherlands) do not fall under direct ECB supervision, some of our member companies have banks and investment firms in their groups, of which some of qualify as financial conglomerate under the EU Financial Conglomerates Directive (FCD) and are headed by a mixed financial holding company. As a consequence, the supervision of CRD IV/CRR consolidated supervision, and the exercise of options and discretions under this framework, is also relevant to these groups.

Our focus in the ECB consultation is, as a consequence, on the supervision of mixed financial holding companies and the treatment of insurance holdings (holdings in insurance companies) under the CRD IV framework.

Equivalent supervision

As rightly stated in the consultation document (paragraph 9 of the ECB Guide options and discretions available in Union law, we agree that it is appropriate to exclude mixed financial holding companies from the application of CRD IV, under the condition that they are subject to equivalent supervision under the FCD, in particular in terms of risk based supervision. The ECB furthermore states that it would consider it appropriate (conversely) to include mixed financial holding companies in the application of those parts of CRD IV relating to the banking sector, provided that this is the most significant sector in which these companies operate. The choice between the two approaches will be decided after a case-by-case assessment, taking into account the delegated acts.

Information: mr. N. Obolonsky



We believe a third approach would be appropriate as well, in particular in case of insurance-led conglomerates, of which several exist in the Netherlands. For such groups, the application of Solvency II group supervision would be appropriate, because in this case, insurance is the most significant sector in which these conglomerates operate.

Deduction of insurance holdings

In Chapter 2, paragraph 4 (ii), the ECB proposes that, within the context of article 49(1) of the CRR, significant credit institutions may expect that the ECB will grant permission not to deduct insurance holdings, provided that the CRR criteria and appropriate disclosure requirements are met.

In the explanatory memorandum to the consultation document (page 10), the ECB recognises that a full deduction of insurance holdings would have a significant impact on major bank-led conglomerates. We would like to point that this issue not only arises for significant bank-led conglomerates, but also for insurance-led conglomerates, which would have to deduct, as a general rule, their significant holdings in insurance undertakings, which obviously has a significant impact on such conglomerates. The most significant part of their own funds would, in these circumstances, be ignored.

Our analysis is that this effect is a result from the use of the concept of “mixed financial holding company” in the context of the CRR, without taking into account differences between various types of conglomerates (bank-led, insurance led, equally divided between banking and insurance). To solve this issue in a more fundamental way, we believe that amendments to the FCD and/or CRR may be required. The issue relates primarily to the general CRR rule (full deduction of insurance holdings), not to the exception to the rule which, to some extent, address this issue. While this is out of scope of this ECB consultation, we would like to point out that we intend to raise this issue in the context of the European Commission’s call for evidence on the Capital Markets Union.

The ECB indicates that it is exploring an intermediate approach, according to which only the Solvency II requirements of the insurance component would be deducted from the capital bank. While we may support this approach as an intermediate way to address this issue, we would like to engage with the ECB in order to come to a workable, intermediate approach. However, we would like to stress that we see this issue as a more fundamental issue in the interaction between the FCD, CRR and Solvency II framework.

Yours sincerely,



H.L. De Boer