

BANKING STAKEHOLDER GROUP

CONSULTATION ON EBA/CP/2014/19 ON "PLEASE INSERT CP TITLE HERE"

General Comments and Replies to Questions

BY THE EBA BANKING STAKEHOLDER GROUP

London, October 16th, 2014



Foreword

The EBA Banking Stakeholder Group ("BSG") welcomes the opportunity to comment on the Consultation Paper (EBA/CP/2014/19) on the guidelines on criteria to assess Other Systemically Important Institutions (O-SIIs).

This response has been prepared on the basis of comments circulated and shared among the BSG members and the BSG's Technical Working Group on Recover, Resolution and Systemic Issues.

As in the past, the BSG supports an initiative that aims at harmonizing supervisory rules and practices across Europe, in order to ensure fair conditions of competition between institutions and more efficiency for cross-border groups. The BSG also expects these initiatives to facilitate data sharing between European supervisors and avoid reporting duplications for banks. However, the BSG identifies a number of issues which, unless properly addressed, could lead to unintended results.

This response outlines some general comments by the BSG, as well as our detailed answers to some questions indicated in the Consultation Paper.

General comments

The Banking Stakeholder Group (BSG) welcomes the opportunity to comment on the European Banking Authority's (EBA) proposed guidelines aimed at defining the identification process for banks that will be deemed to be systemically important either at Member State or European Union level, the so called Other Systemically Important Institutions (O-SIIs) or Domestic Systemically Important Banks (D-SIBs) as named by the Basel Committee on Banking Supervision (BCBS).

The BSG welcomes the efforts made by authorities to ensure the coherence between the identification methodologies and the policies for systemically important banks identified from a global perspective on the one hand (G-SIIs in the European framework, G-SIBs as named by the BCBS) and at a domestic level on the other hand. In that vein, we support the non-cumulative features of the G- and O- capital surcharges if they are applied at the same group level. Furthermore, the similarities between the identification methodologies of G- and O-SIIs (adaptation of the concepts used in the G-SII identification in the O-SII methodology) strengthen the credibility of the whole framework and this is to welcomed. However, these elements are not sufficient and various issues related to the design of the domestic framework still need to be addressed in order to avoid inconsistencies with the global framework and to ensure a level playing field among Member States.

Main Concerns

The BSG is aware that the general design of the O-SII framework is not open to discussion in this consultation. However, we believe that authorities must consider the potential inconsistencies between the O- and G-SII frameworks, related to the risk that the O-SII framework dampens the effectiveness of the G-SII policy.



I. The proposed O-SII framework would be superimposed on the G-SII framework which may lose its binding features and its effectiveness in many Member States.

- **Concern:** The present framework may imply that a bank faces a higher capital requirement for being systemic at a domestic level than at the global level. Indeed, European G-SIIs are likely to face the highest level of O-SII capital requirements, i.e. a 2% capital surcharge, in many Member States. As a consequence, there will be a compression of the surcharges faced by European G-SIIs, and the G-SII regulation may lose its virtues in terms of creating the right incentives to mitigate systemic risk at a global level. This is because banks included in the two lowest buckets of global systemic risk would not be penalized if they increase their global systemic importance.
- A way to address this problem might be for the local authority to set the domestic requirements at the level of individual balance sheets instead of consolidated accounts, when the business model of the institution and its resolvability assessment warrant this treatment.

II. Authorities must define a relation between the domestic systemic score and the percentage of required capital surcharge. The guidelines aim at defining the identification process of O-SIIs but do not provide any details on how the capital surcharge is set according to their systemic score. CRDIV does not define the relation between a domestic systemic score and domestic capital surcharge. We understand that this key element will be left to the discretion of national supervisors. As a result, two banks with the same systemic score that operate in two different EU markets may be subject to significantly different capital surcharges. This could conflict with the Single Market objectives and create an uneven playing field in the EU.

III. Finally, authorities must also define the timetable to meet the required domestic capital requirements. Neither the EBA guidelines nor the CRD IV define the implementation timetable which is key to ensuring a the level playing field among the Member States. Since the O- and G-SII policies are complementary, we recommend that the domestic higher loss absorbency requirements are phased in in parallel with the G-SII implementation calendar, i.e. progressively between 2016 and 2018, becoming fully effective on 1 January 2019.

Replies to Questions

Question 1: Can you think of any additional indicators that should be included in Table 1 of Annex 1, or indicators that are better suited to reflect systemic relevance? Please provide evidence supporting your view where possible.

We think that the whole methodology is comprehensive enough and mainly in line with the G-SIB methodology. However, the inclusion of cross-border activities in the metrics raises some issues, as it is already included in the G-SII methodology and its

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inclusion in the domestic framework could imply a certain degree of redundancy. It is also worth noting that both the G- and O-SII frameworks omit the benefits arising from global presence that may improve diversification and provide additional non-negligible sources of resilience especially when banks operate in markets with non-correlated economic cycles.

With regards to the criteria on Complexity/Cross border, the suggested indicators fail to reflect the full complexity. It would be more accurate to follow the BCBS framework on G-SIBs, including the following two indicators:

- o "Value of Trading & AFS Securities less Stock of HQLA"
- o "Level 3 Assets"

With regards to the "Interconnectedness" criteria the suggested indicators focus too much on interconnectedness within the banking sector but do not properly reflect the links with insurance companies or shadow banks. Thus, in compliance with the BCBS proposals regarding G-SIBs, the "Interbank liabilities" and "Interbank assets" indicators should be replaced with "Intra-financial system assets" and "Intra-financial system liabilities"... Furthermore, it would also be good to add the following indicators:

- o "Securitised Debts"
- o "Volume of securities lending transactions"

Question 2: Do you agree that there may be Member States where small institutions are unlikely to pose systemic threats to the domestic economy? Do you think the option to exclude these institutions could reduce the administrative burden for institutions, or do you think there is a risk that the results of the analysis could be distorted by excluding them?

• The suggested threshold constitutes a step in the right direction to lessen the burden that regulatory-administrative requirements entail for smaller credit institutions. Institutions performing such limited business activities do not have a system-destabilising effect. However, we recommend raising this threshold to 0.1% of the overall market.

Question 3: Can you think of any additional optional indicators that should be added to the list in Annex 2?

The list of optional indicators is very wide, providing national supervisors with a high level of discretion. As a consequence, the final criteria used to assess systemic risk from a domestic perspective may vary strongly among Member States. This implies that two similar banks with similar business models, products, structures and resolvability may face different treatments if they operate in more than one Member State. Instead of widening

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the list of optional indicators, and in order to ensure a level playing field, we recommend EBA targeting a limited number of optional indicators or at least setting a maximum weight that the set of optional indicators can represent in the final systemic risk score.

In particular, we suggest reconsidering the suitability of the criteria such as:

- "private sector loans to recipients in a specific regions", since this parameter would not fulfil the objective of dealing with the "domestic and European systemic relevance" in Europe which is the aim of the regulation
- "potential reputational contagion" as it may lead to a specific reputational contagion which could be difficult to quantify and would be inconsistently applied
- the "importance for an IPS of which the entity is a member" as this would place the institutions at a disadvantage to ordinary deposit guarantee schemes since a respective identical criterion is not listed.

In addition to the list of optional indicators, the BSG recommends EBA including in the identification process a qualitative assessment of resolvability. We support this approach: a bank with a credible and coherent recovery and resolution strategy is less likely to pose a threat for domestic financial stability.

Submitted on behalf of the EBA Banking Stakeholder Group

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