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Your ref., Your message of Our ref., person in charge Extension Date

 BSBV 53/Horvath 3141 26th August 2016

**EBA – Consultation Paper**

**Report on the appropriate target level basis of resultion financing arrangements under BRRD**

The Division Bank and Insurance of the Austrian Federal Economic Chamber, as legal representative of the entire Austrian banking industry, appreciates the possibility to comment on the above cited consultation document and would like to submit the following position:

1. **General Comments**

We would like to emphasize that for the time being a report on the appropriate target level ‎cannot be drafted in a fully convincing and sound manner, as EBA describes in the report itself. Only two years after entering into force of the BRRD and without detailed experience with the calculation of contributions it is hard for market participants to choose a new target level basis. In general we argue for avoiding higher contributions to the resolution fund.

1. **Answers to EBA specific questions**

***1. Do you think the report is missing any crucial criteria or arguments in favour or against a particular option?***

Among the criteria for the comparative assessment of the options for the basis for the target level, EBA correctly includes “Consistency with the contributions methodology”. The advantages or disadvantages listed for this criterion are determined primarily on the basis of logical consistency and do not really capture the economic implications and the related incentives.

Banking groups operating in SRM countries as well as non-participating Member States, are faced with practical implications of the current difference between the basis of the Resolution Fund (“RF”) target level - i.e. covered deposits - and the basic annual contribution – i.e. total liabilities (excluding own funds) less covered deposits (leaving aside the special treatment of derivatives).

Resolution fund target level is derived as a % of covered deposits (1% resp 1,05% for SRF), the annual contribution is a fraction thereof (1/8, 1/10 or 1/9 depending on the country). The relevant base for the basic annual contribution of an institution includes everything but covered deposits and own funds. Consequently, the higher the share of covered deposits on the liabilities side of the respective banking system, the higher the marginal contribution impact on the other liabilities included in the relevant base. A factor of 3 (from 5 to more than 15 basis points) can be observed for the range of the basic annual contribution in relation to the relevant base.

This considerable range clearly puts into question the level playing field principle. Furthermore, since individual resolution fund contributions are calculated based on year-end figures, the differences in the marginal contribution rate accentuate distortions in the markets towards year-end and create incentives for arbitrage such as directing overnight deposits from those countries where the effects are most pronounced to countries with a low “marginal resolution fund contribution rate”.

The assessment of the options should include these economic implications and the effects on incentives. In turn, this should also be supported by a quantitative impact study as to the effects of the options on nationals RFs and the SRF and their contributions. The data required to quantify these effects should be obtainable via NRAs and the SRB.

***2. Do you have a preference for one of the following recommended options?
(a) total liabilities (including own funds),***

***(b) total liabilities excluding own funds,***

***(c) total liabilities excluding own funds less covered deposits.***

We are in favour of option 2 (c).

This calculation would be largely consistent with the basis of the contributions methodology.‎ Furthermore the potential call on the Resolution financing arrangement is in our view rather shown by this basis.

However‎ one has to bear in mind that with such a change in the target level basis the scope of contributors would be broadened and that also more transactions would be in enshrined when calculating the target level.

As a consequence it would be inevitable to first offer to all market participants serious calculations about how the percentage would have to be changed if the target level basis was changed (as described on page 9 of the report). If more market participants and more transactions are included in the target level basis the percentage would definitely has to decline.

However for practical reasons we would also ask EBA to consider if maintaining covered deposits for the next years would not be an option (simple, transparent and consistent with the DGS target level).

Supplementary to the arguments put forward in the assessment by EBA, we see the economic benefits of aligning to the greatest extent possible the calculation base for the target level for resolution financing arrangements and the individual basic annual contribution. It would eliminate currently existing distortions described above affecting the functioning of the single market, specifically through the impact of the greatly varying marginal resolution fund contribution rate on money markets.

In addition the definition of covered deposits should include covered bonds like mortgage and municipal bonds.

***3. Is there any other option which would be preferable to those in the recommendation? Please provide the rationale supporting your view.***

No.

1. **Further Comments to the EBA Interim Report not specifically raised**

***1. Necessary alignment BRRD and SRF***

As noted in paragraph 8, EBA does not seem to have a mandate regarding the target level basis of the Single Resolution Fund (SRF), according to Regulation No 806/2014 (SRM Regulation). However, any changes to the target level basis in the BRRD should be implemented in the SRM Regulation simultaneously so as

* not to complicate the annual contributions in participating Member States during the transitional period where the annual contributions are computed as the sum of weighted BRRD and SRM contributions and
* not to create permanent differences between SRM and BRRD which again would lead to distortions.

We ask you to give our remarks due consideration.

Yours sincerely,

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