



POLISH BANK ASSOCIATION

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European Banking Authority

Subject: Polish Bank Association response to EBA consultation on Draft Regulatory Standards and Draft Guidelines specifying the conditions for group financial support under Article 23 of Directive 2014/59/EU and Draft Implementing Technical Standards on the form and content of disclosure of financial support agreements under Article 26 of Directive 2014/59/EU (EBA/CP/2014/30)

Dear Sirs,

Polish Bank Association welcomes the opportunity to comment the EBA consultation paper related to Draft Regulatory Standards and Draft Guidelines specifying the conditions for group financial support under Article 23 of Directive 2014/59/EU and Draft Implementing Technical Standards on the form and content of disclosure of financial support agreements under Article 26 of Directive 2014/59/EU (EBA/CP/2014/30).

General Comments

These standards and guidelines are of significant importance for effective use of instrument of mutual financial support between members of the same banking group. The growing role of international financial groups nowadays creates big financial capacity to use their capital for process of restructuration/resolution. That is the reason why should analyze carefully this form of solving the solvency problems in banking sector. The system of group financial support may allow to act at early stage of problem, before any other sources are implemented.

We would like to make your attention that some action in this area were taken in past also by representatives of banking industry. During last financial crisis the biggest European banks made the common decision not to withdraw their money invested in Eastern and Central European countries (so called Vienna Initiative). This solution allowed to maintain the stability in countries where the subsidiaries and branches of big international banking groups play important role and have the big share on the local financial market. It was of course not the form of direct financial support but the lack of capital withdrawal had very positive results for stability and solvency of local institutions.

This mechanism of mutual financial support will be very important also in the future, particularly for countries which do not participate in Banking Union and where all interested financial entities are not under the umbrella of Single Resolution Mechanism and Single Supervisory Mechanism. It is one of the reason why we back strongly the idea of applying different forms of mutual support between the members of the same financial group. This solution can be the efficient way to solve the problem of weaker financial institution which without this internal cooperation could require the external financial support. This solution allows not to involve the taxpayers' money, public money in this process.

However, we have to have in mind that proposed mechanism of financial support can not be treated as unconditional. The Article 23 of Directive 2014/59/EU establishes clearly the general conditions which have to be met by the engaged entities before any financial support can be provided. These conditions were set by regulator in order to minimize the risk of potential expanding of the solvency problem on new market or to new Member States where the members of the financial group are active. In our opinion in order to achieve this goal all conditions included in the Directive should be fully met. The analysis of the draft Regulatory Standards and of draft Guidelines bring us to the conclusion that these conditions are on way to be narrowed. We do not acknowledge it to be the best idea.

Answer to specific questions

Question 1: Are there further elements of a credit assessment which would be useful in this context when assessing whether the financial support is expected to redress the financial difficulties of the receiving entity and the further conditions (e.g. the terms of the provision of the support and the prospect of the payment of consideration and repayment)? Please specify.

No comment.

Question 2: How could the interest of the providing entity and the group as a whole be measured and reflected in the terms of the provision of the support? What information could be used to inform the assessment of the terms, also with respect of non-quantifiable costs and benefits?

Our remark concerns the text of proposed guidelines, particularly in the paragraph 5. It is not clear if the analyses prepared under paragraph 3 and 4 should take into consideration the requirements of sound capital and liquidity management on the group level or also on the entity level.

Question 3: What rules do you deem appropriate for capital requirements? Do the criteria reflect an adequate balance between the interest of the group as a whole and safeguards required for the individual entities? Are there additional criteria that should be considered?

In our opinion the conditions expressed in Directive 2014/59/EU are more restrictive than the ones proposed in draft Regulatory Standards and Guidelines. In the Article 23 paragraph 1 (e) of Directive is set up the condition that the provision of the financial support would not jeopardize the liquidity or solvency of the group entity providing the support. The proposal of guidelines is more detailed and goes in our opinion further than the text of Directive. The guidelines in paragraph 9 (a) may allow for conditional financial supporting the member of financial group also in situation when the providing entity does not meet capital requirements, combined buffer requirements. The paragraph 9 (c) goes deeper indicating assessing of plausibility of the capital conservation plan and non-compliance with capital requirements. In our opinion the non-compliance with capital requirements may generate the problem of solvability of providing entity. According to Directive 2013/36/EU the institution has to inform the competent authorities that it does not meet capital requirements any longer and this situation generates the heavy consequences for further activity of this institution. In our opinion the non-compliance with capital requirements may be treated as risk of broadening the solvency problem to new entities. The intragroup financial support should be limited to that extend in order not to generate the lack of compliance with principal banking regulations.

Question 4: How will the rules for capital requirements, in particular regarding upstream support, impact management decisions on the structure the group? If you see a negative impact, how could this be mitigated?

Having in mind the comment expressed in point 3, we have no comment.

Question 5: What rules do you deem appropriate for liquidity requirements? Do the criteria reflect an adequate balance between the interest of the group as a whole and safeguards required for the individual entities? Are there additional criteria that should be considered?

As expressed above in area of capital requirements, these same limitation of financial support should be applied in area of liquidity requirements. The Directive 2013/36/EU and the Regulation 575/2013 implemented the quantitative liquidity requirements for all banking institutions active in European Union. This is completely new approach in banking regulation. Simultaneously, these requirements are treated in more flexible way in draft Guidelines specifying the conditions for group financial support under Directive 2014/59/EU. In our opinion new regulatory approach in liquidity area should have the strong consequences for conditions of intra-group financial support.

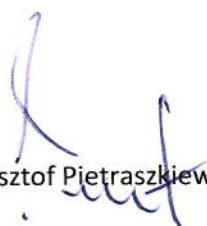
Question 6: How will the rules for liquidity requirements, in particular regarding upstream support, impact management decisions on the structure the group? If you see a negative impact, how could this be mitigated?

Having in mind more general comment expressed in point 5, we have no comment to this point.

Question 7: Should a description of additional terms be disclosed? Are there any elements that in your view should not be disclosed?

If the Guidelines allow for the providing financial support which generate the strong negative financial consequences for providing entity in area of the capital or liquidity requirements, these information should be disclosed by the providing entities. The stakeholders should have the full access to information concerning economic situation of institution of public interest. The disclosures are treated as very important factor for market discipline and they should not only include the result of economic activity of entity but also the economic consequences of decision made by the competent authorities.

Yours faithfully,



Krzysztof Pietraszkiewicz
President