



EUROPEAN COMMISSION

Directorate General Financial Stability, Financial Services and Capital Markets Union

Call for advice to the EBA for the purpose of revising the large exposure framework as part of the CRR review

Context

As part of the review of the Capital Requirement Regulation (CRR), the European Commission is considering whether to implement the agreed Basel Committee on Banking Supervision (BCBS) framework detailed in the document “*Supervisory framework for measuring and controlling large exposure*”¹.

In addition, in accordance with Article 507 CRR², the Commission is also reviewing the exemptions to the large exposure rules laid down in Article 400(1)(j) and Article 400(2) CRR. After a first assessment of the existing exemptions, the Commission has identified the following as potentially eligible for being removed from the list in Article 400 (2) CRR:

- Intra-group exposures within cooperative networks (lett. *d*)
- Inter-bank exposures in specific sectors (lett. *e*)
- Interbank exposures in minor trading currency (lett. *f*)
- Guarantees on mortgage loans (lett. *j*)
- Exposures to recognised exchanges (lett. *k*)

The transitional period set out in Article 493(3) CRR could be shortened or the possibility for Member States to exercise their discretion could be eliminated following the decision taken on the exemptions mentioned above.

The European Commission is considering whether to modify the current text of the CRR on large exposures through a legislative proposal to be adopted by the end of 2016.

Prior to putting forward any possible legislative proposal, the European Commission would like to seek technical advice from the EBA to assess the impact that the envisaged modifications would have for EU banks, with a particular emphasis on a quantitative assessment. The Commission would also like to ask the EBA to assess whether possible adjustments to the BCBS framework or the exemption to the large exposure regime might be appropriate according to the proportionality principle.

¹ BCBS, April 2014: (<http://www.bis.org/publ/bcbs283.pdf>)

² Article 507 CRR states that “By 31 December 2015, the Commission shall review and report on the application of Article 400(1)(j) and Article 400(2), including whether the exemptions set out in Article 400(2) is to be discretionary, and shall submit that report to the European Parliament and to the Council, together with a legislative proposal if appropriate. With respect to the potential elimination of the national discretion under Article 400(2)(c) and its potential application at the Union level, the review shall in particular take into account the efficiency of group risk management while ensuring that sufficient safeguards are in place to ensure financial stability in all Member States in which an entity belonging to a group is incorporated”.

Considering the relatively short timeframe given to the EBA for producing the report, the Commission does not expect the EBA to publicly consult on its findings. The EBA is nonetheless encouraged, to the extent possible, to discuss the consequences of the proposals with the EU banking industry.

Scope of EBA work

The EBA is asked to consider the following three elements in its report:

1. Alignment to the BCBS large exposure framework

The impact that the alignment to the BCBS “*Supervisory framework for measuring and controlling large exposure*” may have on EU banks as a whole and, in particular, in relation to the introduction of:

- An enhanced quality of capital which can be taken into account for limiting large exposures (only considering Tier 1 capital, not Tier 2 capital);
- a lower limit for globally important banks' (G-SIBs) exposure to other G-SIBs (15% of banks' Tier 1 capital instead of the 25% of banks' Tier 1 capital required for other banks);
- a look-through approach for shadow banks (to determine the exposure to funds, securitisation structures and collective investment undertakings, banks have to assess possible risks related not only to that structure's underlying assets but also to specific features and links to any third party);
- an exclusion of the use of internal models for exposures to Over The Counter (OTC) derivative transactions (which have to be determined using the recently finalised “*standardized approach for measuring exposure at default for counterparty credit risk*” (SA-CCR), even for banks which have been authorised to use internal models – IMM – to estimate counterparty credit exposures for assessing risk weighted assets – RWA).

The EBA should also assess separately the effect of alignment to the BCBS framework on less complex or small institutions and the impact on the operational burden of compliance.

2. Possible exemptions to the large exposure regime listed in the CRR

The quantitative impact of the removal from the list in Article 400 (2) CRR of the exemptions identified above.

According to the available information, these exemptions are applied as a consequence either of a competent authority (according to Article 400 (2) CRR) or a Member State (according to Article 483 (3) CRR) decision³ in the following countries:

- Intra-group exposures within cooperative networks (Article 400 (2), lett. *d*): AT, DE, EE, ES, FI, FR, HU, LU, NL, PT.
- Inter-bank exposures in specific sectors (Article 400 (2), lett. *e*): AT, BE, BG, DE, EE, ES, FR, HR, IE, LU, PT, RO.
- Interbank exposures in minor trading currency (Article 400 (2), lett. *f*): AT, DE, DK, EE, IE, LV.

³ The analysis of the large exposure exemptions performed by the SSM in the framework of the Options and Discretions (ONDs) exercise could be a useful source of information.

- Guarantees on mortgage loans (Article 400 (2), lett. j): AT, CZ, DE, EE, EL, ES, FR, IE, LU, LV, NO, PT, SE.
- Exposures to recognised exchanges (Article 400 (2), lett. k): BG, DE, DK, EE, EL, FI, FR, HR, IE, IT, LU, LT, LV, RO.

In relation to these exemptions, the EBA is asked to assess:

- a. the number of currently exempt large exposures that would be affected by the removal of each of these exemptions;
- b. the number of institutions in each MS that would be affected by the removal of each of these exemptions;
- c. the aggregate amount of exposure above the limit per MS for each of these exemptions; and
- d. any other impact considered relevant.

Notwithstanding EBA's judgment on how to perform and present the analysis, the results of the assessment should enable the Commission to understand to which of the exemptions listed above the data refer, in relation to which MS, and if the exemption has been granted by competent authorities or by the MS.

3. Additional information

In addition to the information requested, the EBA should provide in the report any additional quantitative analysis that it considers relevant for the Commission to assess whether to modify the CRR along the lines described above. The EBA is also invited to signal any additional changes to the current large exposure framework considered appropriate as a consequence or in relation to the proposed modification (i.e. alignment to the Basel large exposure framework and review of CRR exemptions to the large exposure regime). This should include issues or inconsistencies that competent authorities in the EU may have already identified in the BCBS new framework or the current text of the CRR. Suggestions on how to rectify or clarify the identified issues and inconsistencies would in particular be welcome.

Final considerations

The European Commission is aware that time and resource constraints may restrict the range of analysis methodologies to be used by the EBA in certain aspects of the Call for Advice. Should this be the case, the EBA should highlight these limitations in its final report. In these cases, and in order to perform the analysis needed, the EBA could rely on alternative, simpler methodologies.

The deadlines for this call for advice are the following:

- By June 1 2016 the analysis contained in point 1 and a preliminary analysis of point 2, which could be based on existing analyses carried out by the BCBS and complemented by data already available to the EBA.
- By October 1, the final report, including a more developed analysis of item 2 where appropriate.

It is recalled that the analysis provided should not prejudice the Commission's final decision. Moreover, in accordance with the established practices of the Commission Expert Group on Banking, Payments and Insurance, the Commission will continue, where appropriate, to consult the experts appointed by the Member States in the preparation of its legislative proposal.