

Please find below the comments from Erste Bank and Bank Austria. We are grateful to be involved in the consultation round which we believe brought a very interesting and useful discussion of the upcoming paper.

CEBS 21 paper sets detailed guidelines on the scope of operational risk, use test and allocation of the AMA capital.

Erste Bank and Bank Austria welcomed the initiative of more detailed guidelines and welcomed the opportunity to discuss and share some details with CEBS and other participants from the banking industry. Erste Bank (EBG) and Bank Austria (BA) highlighted that their opinion is already reflected in the ORX respond to the CEBS in a very detail which was well discussed within the association and detailed discussion is supplied to CEBS.

EBG commented on 3.2 para. 18. that the examples need to be more precise and that sometimes voluntarily payment of the firm which might have legal background does not necessarily have to be operational risk as stated in this paragraph, but might be strategic risk, even in some cases ex-gratia payment.

We would welcome less pointed definition of such voluntarily payments related to legal settlements or some examples explaining in which cases it would be possible to exclude such events from operational risk.

Example:

In Austria there was event lying back in the very past and Austrian businesses were asked to support the initiative of recovering families of the Jewish victims of the Second World War. All big Austrian companies participated in order to support the initiative proposed by Austrian Government, although the EBG did not even existed back than in this structure as at present. Our opinion was triggered by discussions with our legal department; which would see this issue as pure strategic decision and actually ex-gratia payment. Current definition in para. 18. of CEBS 21 would track it as operational risk.

BA commented on Paragraph 3.2 Examples in "Scope of strategic risk" Example number 4:

Question: Does this example include the following items?

- 1) When an client pays to much due to his error and the money is returned to him
- 2) When a client is overcharged for a transaction (transaction error inside the bank) and refund is given before a complaint is logged
- 3) When a client is overcharged for a transaction (transaction error inside the bank) and refund is given when he has submitted a verbal complaint
- 4) When a number of client are overcharged for a transaction (IT error inside the bank) and refund is given to all clients a complaint is logged
- 5) When a client is overcharged for a transaction and refund is given after he has submitted a written complaint

In our understanding it would be possible to interpret examples 1 to 4 and possible event 5 into the "scope of strategic risk".

It is thus proposed to detail the example to the items listed above.

BA also commented on the definition of Near Miss:

Is it correct that a near miss is different from a rapidly recovered loss where P&L booking have been made (i.e. recovery of wrong foreign payment") whereas in a "near miss" a business transaction has been accounted for in the P&L and (due to IT error etc.) a loss could have occurred but did not materialize. This no P&L booking on a oprisk loss accounts was booked.