

EBA Consultation Paper
on
Draft Implementing Technical Standards
on
Supervisory reporting requirements for large exposures
(CP 51)

London, 13 February 2012

Contents

- I. Responding to this Consultation..... 3**
- II. Executive Summary 4**
- III. Background and rationale 6**
- IV. Draft Implementing Technical Standards on Supervisory reporting requirements for institutions..... 8**
- V. Accompanying documents 10**
 - a. Validation rules 11*
 - b. Draft Impact Assessment..... 11*
 - c. Overview of questions for Consultation 14*

I. Responding to this Consultation

EBA invites comments on all matters in this paper and in particular on the specific questions summarised in Section V/c.

Comments are most helpful if they:

- respond to the question stated;
- indicate the specific question to which the comment relates;
- contain a clear rationale;
- provide evidence to support the views expressed/ rationale proposed; and
- describe any alternative regulatory choices EBA should consider.

Please send your comments to the EBA by e-mail to CP51@eba.europa.eu by 26.03.2012, indicating the reference 'EBA CP 51' on the subject field. Please note that comments submitted after the deadline, or sent to another e-mail address will not be processed.

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please indicate clearly and prominently in your submission any part you do not wish to be publically disclosed. A standard confidentiality statement in an e-mail message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with the EBA's rules on public access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the EBA's Board of Appeal and the European Ombudsman.

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II. Executive Summary

The CRD IV proposals¹ (and more in particular, the so-called Capital Requirements Regulation - henceforth 'CRR') set out prudential requirements for institutions which are expected to be applicable as of 1.1.2013.

The CRR contains in a number of Articles specific mandates for the EBA to develop draft Implementing Technical Standards (henceforth 'ITS') related to supervisory reporting requirements.

These ITS will be part of the single rulebook enhancing regulatory harmonisation in Europe with the particular aim of specifying uniform formats, frequencies and dates of prudential reporting as well as IT solutions to be applied by credit institutions and investment firms in Europe.

This consultation paper puts forward reporting requirements related to Article 383 of the CRR and represents an addendum to the ITS proposal published on EBA's website on 20 December 2011.

Please note that EBA has developed this draft ITS based on the proposed legislative texts for the CRR, for reasons of efficiency and speediness (as explained further in section III below). To the extent that the text potentially changes as a result of ongoing negotiations among EU institutions, EBA will adapt its draft ITS accordingly to reflect any developments.

Main features of this ITS

The scope and level of application of this ITS follows the scope and level of application of the CRR.

Uniform reporting requirements are necessary to ensure fair conditions of competition between comparable groups of credit institutions and investment firms and will lead to more efficiency for institutions and more convergence of supervisory practices.

A unique coding system regarding the identification of the counterparty is necessary in order to reduce costs to institutions and to analyse exposures across jurisdictions. A solution will have to be found in the medium to long-term.

The ITS has been developed on the basis of the guidelines on the implementation of the revised large exposures regime as well as the guidelines on common reporting of large exposures, given that these have been implemented already in various Members States and have been proved in practice to improve convergence in the field of supervisory reporting.

Timing of ITS development and application date

According to the European Commission (henceforth 'EC') proposals, institutions are envisaged to be required to comply with CRR requirements as of 1.1.2013. Therefore, the first regular reporting period thereafter is expected to be Q1 2013 with the first reporting reference date being 31.3.2013.

¹ Proposal for a Regulation of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms', published on 20th July 2011

In order to provide for a sufficiently long implementation period the EBA intends to finalise the draft ITS and submit it to the Commission by 30.06.2012 – 9 months ahead of the first reporting reference date. The proposed submission date assumes that a final CRR will be available beforehand.

Institutions will have to submit a first set of data related to the reference date of 31.3.2013 to national authorities by 13 May 2013.

It is important to keep in mind that dates of the CRR might change which will impact the above dates related to the ITS timeline. In any case, EBA will adapt its draft ITS according to the final version of the CRR text before submitting it to the EC for adoption.

III. Background and rationale

Draft ITS on supervisory reporting and the CRR proposals

On July 20th 2011, the European Commission (EC) issued its legislative proposals on a revision of the CRD which seeks to apply the Basel III framework in the EU. These proposals have recast the contents of the CRD into a revised CRD and a new CRR - which are colloquially referred to as the CRR proposals. These are currently being debated by the EU legislators (Council and European Parliament) in the framework of the co-decision procedure.

In anticipation of the finalisation of the legislative texts for the CRR, the EBA has developed the draft ITS in accordance with the mandate contained in Article 383 (3) of the EC's draft CRR.

The nature of ITS under EU law

These draft ITS are produced in accordance with Article 15 of EBA regulation². According to Article 15(4) of EBA regulation, they shall be adopted by means of regulations or decisions.

According to EU law, EU regulations are binding in their entirety and directly applicable in all Member States. This means that, on the date of their entry into force, they become part of the national law of the Member States and that their implementation into national law is not only unnecessary but also prohibited by EU law, except in so far as this is expressly required by them.

Shaping these rules in the form of a Regulation would ensure a level-playing field by preventing diverging national requirements and would ease the cross-border provision of services since each time an institution wishes to take up operations in another Member State it currently has to assess a different set of rules.

Background and regulatory approach followed in the draft ITS

Originally there were different supervisory reporting frameworks in the various Member States. As this led to inefficient outcomes and increased costs for cross-border firms, national supervisory authorities, in the context of their co-operation within CEBS, the predecessor of EBA developed guidelines regarding the reporting of large exposures.

In December 2009, the CEBS issued Guidelines on the revised large exposure regime and Guidelines on common reporting of large exposures to be used by institutions when they periodically report their large exposures to supervisory authorities under Directives 2006/48/EC and 2006/49/EC.

In the context of the single European rulebook the harmonisation of supervisory reporting requirements is taking the next step and the CRR proposal requests EBA to develop ITS on supervisory reporting to cover large exposures. With that in mind, the present ITS has been developed on the basis of the guidelines on the implementation of the revised large exposures regime as well as

² Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC.

the guidelines on common reporting of large exposures, given that these have been implemented already in various Members States and have been proved in practice to improve convergence in the field of supervisory reporting.

The above mentioned guidelines were developed with the aim to cover information requirements needed to check institutions' compliance with the large exposure regime as set out in Articles 376 – 392 of CRR. The draft ITS has been developed in order to cover not only compliance-related information but also information needed to analyse concentration risk which competent authorities need to analyse as defined in Article 79 of CRD.

This additional information is also useful for the EBA and the ESRB in performing its tasks related to the assessment of trends and risk in the European financial system. During the consultation period, EBA will analyse potential impacts on their analytical abilities which might arise due to double counting of exposures. Double counting might occur when a client belongs to several groups of connected clients financed by the reporting institution.

IV. Draft Implementing Technical Standards on Supervisory reporting requirements for large exposures

In between the text of the draft ITS that follows, further explanations on specific aspects of the proposed text are occasionally provided, which either offer examples or provide the rationale behind a provision, and/or set out specific questions for the consultation process. Where this is the case, this explanatory text appears in a framed text box.

Structure of the draft ITS
CHAPTER 5 Format and frequency of reporting on large exposures

Annex VIII templates for reporting large exposures
Annex IX instructions for reporting large exposures

Draft

**Commission Implementing Regulation (EU) No XX/2012
of XX Month 2012**

laying down implementing technical standards with regard to supervisory reporting of institutions according to the (proposal for a) European Parliament and Council Regulation (EU) No [xx] of [date] on prudential requirements for credit institutions and investment firms

Explanatory text for consultation purposes

All ITS related to reporting requirements (Articles 95, 96 and 383 of CRR) are intended to be put forward as one integrated ITS. The below Chapter 5 is an addendum to the ITS on reporting and needs to be read in conjunction with the ITS on reporting published on EBA's website for consultation on 20 December 2011.

CHAPTER 5

Format and frequency of reporting on large exposures

Article 11

1. Reporting of large exposures shall be done with a quarterly frequency according to Annex VIII and Annex IX.
2. Exposures to be reported are the following:

- a) Every large exposure defined in Article 381 of CRR, including large exposures exempted from the application of Article 384 (1) of CRR and
- b) Every exposure not considered large exposure according to Article 381 CRR with an original exposure value larger than or equal to 150 million EUR.

Explanatory text for consultation purposes

The reporting reference dates and remittance dates as set out in Chapter 2 apply.

- 3. Where an institution uses the IRB Approach according to Part Three, Title II, Chapter 3 CRR at least its 20 largest exposures to clients or groups of connected clients on a consolidated basis, excluding those exempted from the application of Article 384 (1) CRR shall be reported.
- 4. Subject to prior decision by the competent authority, the absolute amount of Paragraph 2 b) can be lowered. As regards the decision, the competent authority shall take into account the criteria set out in Article 5(3).

Explanatory text for consultation purposes

Regarding reporting on large exposures some institutions in Europe have already been subject to reporting requirements based on the guidelines on common reporting for large exposures developed by EBA predecessor CEBS.

- 1. What would be the minimum implementation period to adjust IT and reporting systems to meet the new ITS reporting requirements? Please elaborate on the challenges which could arise.
- 2. What would be the minimum implementation period required for institutions NOT subject to large exposures guidelines reporting at the moment to implement the large exposures reporting described in this consultation paper?
- 3. Would the required implementation period be the same for reporting requirements on an individual basis and on a consolidated basis?

For Annexes of the draft ITS see the following, separate documentation:

Annex VIII templates for reporting large exposures (*CP51 ITS on reporting Annex VIII*)

Annex IX instructions for reporting large exposures (*CP51 ITS on reporting Annex IX*)

V. Accompanying documents

a. Validation rules

1. To facilitate uniform implementation and avoid implementation problems, the ITS will include detailed implementation instructions, in particular:
 - a. legal references as included in the templates of Annex VIII;
 - b. additional data definitions as included in the instructions set out in Annex IX;
 - c. validation rules (quantitative relations between rows and columns of each template, and among templates);
 - d. data point model containing all the relevant technical specifications necessary for developing an IT reporting format; and
 - e. XBRL taxonomies to ensure unambiguous IT interpretation of the data included in the ITS.
2. Validation rules will ultimately be included in the data point model and the XBRL taxonomies which will be put forward for public consultation in the second quarter of 2012. However, in order to get feedback on technical details, a first set of validation rules is put forward as an addendum to Annex VIII of the ITS for consultation purposes.

b. Draft Impact Assessment

Introduction

1. The CRD requires the EBA to develop draft Implementing Technical Standards (ITS) related to prudential reporting requirements on large exposures.
2. As per Article 15 (1) second subparagraph of the EBA regulation, any draft technical standards developed by the EBA – when submitted to the EU Commission for adoption - will have to be accompanied by a separate note on Impact Assessment (IA) which analyses ‘the potential related costs and benefits’ (unless such analyses are disproportionate in relation to the scope and impact of the draft ITS concerned or in relation to the particular urgency of the matter). The IA note aims to provide the reader with an overview of findings as regards the problem identification, the options identified to remove the problem and their potential impacts.
3. The present note deals with cost-benefit analysis and impact assessment regarding the ITS on reporting of requirements as mentioned in Article 383 of the proposed Regulation on prudential requirements for credit institutions and investment firms as published by the EU Commission on 20 July 2011. For these purposes, the baseline scenario is the situation described in Article 383 of the Regulation, hence a situation where uniform reporting standards are in place.

Procedural issues and stakeholder consultation

4. During 2009 CEBS – EBA’s predecessor - carried out public consultations regarding implementation guidelines on the revised large exposures regime including guidelines on the reporting of large exposures. CEBS also held meetings with experts aimed at improving the reporting of large exposures.
5. Further, EBA has closely worked with the European Systemic Risk Board (ESRB) in developing a set of risk indicators and in identifying data needs with the aim of amending reporting requirements and thereby enhancing availability and comparability of supervisory data.

Problem definition

Extent of information

6. The regulatory aim of collecting data for large exposures is to monitor the institutions' compliance with large exposure limits specified in the CRR and to monitor concentration and contagion risks. In order to fulfil this requirement, the extent of information about the relevant exposures has to fit the analytical needs which have not been taken into account in the development of CEBS' guidelines on the reporting of large exposures.

Large exposures limit

7. According to the CRR definition an institution's exposure to a client or group of connected clients shall be considered a large exposure where its value is equal to or exceeds 10 % of its eligible capital. The above threshold is considered too high in order for competent authorities to effectively assess and monitor concentration risk. From a macro-prudential point of view, the use of a 10% threshold leads to problems with analysing exposures across institutions and countries.

Analysis of policy options

Extent of information

8. Based on the template included in CEBS' guidelines on large exposures data gaps were identified regarding the assessment of concentration risk, in particular related to the distribution of large exposures by countries and by economical sectors as well as relating to a breakdown of the original exposure by type of instrument.
9. Regarding the distribution of large exposures by economic sectors (NACE codes), this data gap will be less challenging to fill as institutions allocate exposures already to economic sectors for credit register and statistical purposes. This allocation by economic sectors already exists in the draft ITS on reporting as published by EBA on 20 December 2011. Furthermore, the template 1 of CEBS' large exposures guidelines already includes a column to identify credit institutions from non-credit institutions. On the identification by country, the information should be readily available in institutions' databases. In addition, the use of existing definitions for type of instruments/sector breakdowns should keep the efforts for banks to a minimum.
10. Basically there are two options for competent authorities to receive data in order to (i) monitor the institutions' compliance with large exposure limits specified in the CRR and to (ii) monitor concentration and contagion risks.
 - a. ITS to cover both (i) and (ii)
 - b. ITS to cover only (i) and create separate framework for (ii)
11. Option (a) would ensure reliable and harmonised data for the EBA and the ESRB and will enhance the EBA's ability to assess risks and vulnerabilities, competent authorities' and supervisory colleges' peer group analyses and the ESRB's top-down simulations. Using bilateral interbank exposures facilitates the analysis of contagion effects within the financial system and therefore plays an important role in any kind of network analysis and crisis simulation exercise.
12. As ITS would lead to harmonised reporting requirements via direct application, institutions would benefit from more cost-efficient reporting processes, in particular where institutions are active in two or more countries.

Large exposures limit

13. Following options were considered in addressing the problem of large exposure limits which are set too high in order to use the related data for an effective assessment of concentration risk:

- a. Lower relative threshold (e.g. 2 % of eligible own funds)
 - b. Absolute limit complementing the existing 10 % threshold
14. From a macro-prudential point of view, the use of any relative threshold regarding the determination of large exposures leads to the fact that the size of the reported risks is relative to the level of capital and thus depends on the concentration of each banking system. Introducing an absolute threshold will help to better capture the relevant counterparties in a network and facilitate macro-prudential analysis across institutions and countries.
 15. As banking systems across Europe differ in terms of size and concentration, the possibility for competent authorities to set a lower absolute threshold could ensure that the right level is set.
 16. In calibrating the threshold care has been taken in order (i) not to increase the reporting burden for small institutions and to (ii) ensure its appropriateness for macro prudential purposes. The threshold of EUR 150 million was found to be a suitable proposal taking into account both criteria set out above.

c. Overview of questions for Consultation

1. What would be the minimum implementation period to adjust IT and reporting systems to meet the new ITS reporting requirements? Please elaborate on the challenges which could arise.
2. What would be the minimum implementation period required for institutions NOT subject to large exposures reporting³ at the moment to implement the large exposures reporting described in this consultation paper?
3. Would the required implementation period be the same for reporting requirements on an individual basis and on a consolidated basis?

Annex VIII and Annex IX

4. Compared to previous versions of the large exposures templates are there additional reporting requirements which, cause disproportionate costs?
5. Are the templates, related instructions and validation rules included in Annex VIII and Annex IX sufficiently clear? Please provide concrete examples where the implementation instructions are not clear to you.
6. What are the cost implications of introducing a breakdown by residence of the counterparties?
7. What are the cost implications of introducing a breakdown by sector of the counterparties?
8. What are the cost implications of introducing a breakdown by economic sector by using NACE codes?
9. Would other classifications be more suitable or cost efficient?

³ Guidelines regarding the reporting of large exposures were published by CEBS in December 2009