European Association of Public Banks
– European Association of Public Banks and Funding Agencies AISBL –

**Committee of European Banking Supervisors**
**(CEBS)**
**via e-mail:**
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**EAPB comments on CP 10**

The European Association of Public Banks (EAPB) would like to thank the Committee of European Banking Supervisors (CEBS) for the opportunity to comment on CP 10. The European Association of Public Banks represents the interests of 20 public banks, funding agencies and associations of public banks throughout Europe, which together represent some 100 public financial institutions with a combined balance sheet total of EUR 3 billion and over 180,000 employees, i.e. representing a European market share of approximately 15%.

**General remarks**

[…]

In general the EAPB welcomes CEBS's objective of promoting a common understanding of the minimum requirements for the IRBA and AMA among European supervisory authorities in order to facilitate the cooperation procedures under Article 129 (2) of the CRD and to bring about a consistent application of rules and a convergence of supervisory practices in the EU. However, we are concerned that the proposed guidelines fall short of meeting this goal and that they will substantially increase the regulatory burden for banks, rather than to reduce inconsistencies.

The first thing that should be considered is that the basic principle for the creation of the Single Market consists of achieving a minimum harmonization in important areas. This corresponds to the principle of subsidiarity and must not be foiled by a detailed maximum harmonization through the regulatory guidelines from CEBS, intended for convergence. In addition, a reasonable range for discretion must be granted to the national supervisory authorities in order to be able to take national characteristics into consideration when implementing the EU guidelines. As outlined in the latest green paper of the EU Commission on the financial services policy, in the future the main focus should be the implementation of



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existing European regulations in national law, the evaluation of their effects and their consolidation if necessary. “Regulatory breaks” in the legislative process must not be offset by an increased number of simultaneous administrative regulations.

In our view CEBS adopts too great a level of detail, which in some cases is not sufficiently clear. To establish a level playing field, it is necessary only to set targets that should be met in the approval process, not to take detailed steps that might not be appropriate. Supervisors should allow banks to develop best practice and should therefore only define minimum standards.

Although it is not explicitly mentioned in the guidelines, it seems to be intended that the standards stipulated in the paper should also be applicable for IRBA and AMA applications from nationally-active institutions. This is to be welcomed for level playing field reasons. In this respect, however, it should be considered that, of the 8,000 credit institutions in the EU, only a limited number are active throughout the EU. As a result, it must be ensured that the consistent application of regulations and the convergence of the supervisory practices in the EU that are beneficial, especially for large banks, do not lead to a disproportionately high added cost burden for small institutions.

Another reason for refraining from guidelines that are too detailed is that extensive preparatory work with respect to the design of the application procedure and the interpretation of the minimum requirements has already been completed at the national level. A high level of detail for the guidelines increases the risk to foil adjustments already carried out in order to comply with recommendations of national expert committees. This would be associated with considerable extra expenses for the institutions under certain circumstances.

Above all, it should be ensured that no regulations are included in the guidelines that go beyond the regulations of the CRD. This applies in particular for those areas in which the European legislature has not accepted restrictive regulations from the Basel Framework in order to allow workable solutions for the institutions. We feel that the proposals put forward by CEBS not only partly include excessive conservatism but also requirements that go beyond the scope of the CRD.



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The proposed provisions are particularly burdensome as regards to how a bank must structure its internal governance. If CEBS' guidelines were to be implemented strictly, the shape of banks' businesses would in effect be dictated by legislation and guidance which could stymie an institution's ability to organise itself to carry out its day-to-day business and best serve its customers. We believe that the standards set in the paper are excessively intrusive and too largely interfere with the responsibilities of both the supervisory and management functions.

**Specific remarks**

**Chapter 2: Cooperation procedures, approval and post approval process**

First of all, as far as the requirements for the IRBA application are concerned, it should be made sure that only information that is relevant for the evaluation of the application is demanded from the banks. Furthermore, the requirements should be neutral with respect to the manner of the presentation of the information; i.e. it should be decisive that the information is made available for supervision. Requirements for the manner of the presentation of the information should be omitted to the highest possible extent. In particular, this applies if, in doing so, an presentation would be required other than that which was already made at the national level by the institutions within the context of the IRBA application.

No. 49

It should be set forth in the cover letter that the companies belonging to the group collectively solicit authorisation according to the relevant articles of the EU regulations. Since the authorisation for the use of internal rating procedures takes place on the basis of national legal provisions, in the request reference should also be made to corresponding regulations in the member state for the "consolidating supervisor".

No. 153



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According to CEBS, the assumption should be made, in principle, that a borrower is a SME if it is "separately incorporated". It should be clarified in this context that "separately incorporated" includes no sole proprietors, freelancers, businesspersons or associations of sole proprietors. In addition, those for whom "the majority of his or her income is generated by the self-employed occupation" should not be excluded from requesting treatment as individual persons.

No. 154

Even for temporary and immaterial violations of the 1 million Euro threshold, the majority of the supervisory authorities assert that the risk weight curve for corporate exposures is to be used. In our opinion, it should be allowed to use the risk weight curve for retail exposures in such cases, because the risk of the exposures does not change (materially). Furthermore because of the short period that the threshold is exceed, misuse is excluded.

No. 193

Apart from those listed in the guidelines, the institutions should also consider other indications for unlikeliness to pay. This is to be rejected, because tracking additional indicators would be associated with considerable additional expenses and could be associated with competitive distortions.

No. 369

Among other things, the management body should have a comprehensive understanding of the credit policies, the underwriting standards, lending practices, and the collection and recovery practices, and also understand how these factors affect the estimation of relevant risk parameters. These requirements exceed the guidelines, according to which the management body should merely have a general understanding of the rating systems and a detailed comprehension of the associated management reports (Appendix VII, part 4 number 123). An detailed understanding is required only for the "senior management".



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No. 371

In addition to the members of management body, all persons responsible for the credit process should be recipients of the risk reports. This exceeds the requirements of the guidelines.

No. 396

Rating recommendations that are made by the relationship manager should be reviewed by risk control functions. It should be clarified that these requirements apply only for corporate exposures (not for retail exposures).

No. 422
According to number 422, the use of the ASA should require a prior ex-ante authorisation from the authorities, in addition to the actual authorisation. The purpose of the requirement is unclear and exceeds the requirements of the CRD, and in doing so exceeds the mandate of CEBS (interpretation of the directive). It should be deleted.

No. 425

According to number 425, ASA institutions must have well-documented demonstration-methods in order to prove to the authorities the high interest rate margins and the holding of a risky portfolio. In the CRD, the only proof required is that the ASA provides an improved basis for assessing OpRisk. The form of this proof required should be left to the institution, the specification carried out by CEBS should be deleted.

No. 429

According to Appendix X, part 4, paragraph 2 of the CRD, the authorities should be able to impose additional requirements for Partial Use of an AMA (minimum threshold upon introduction and obligation for complete "roll out") *on a case by case basis*. However, in number 429 CEBS expresses the expectation that the additional requirements are to be imposed *in most cases*. The CRD provides for a permanent Partial Use as the typical case, even for material units. Consequently, the CEBS proposal cancels the guideline purpose, is



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not covered by the CEBS mandate and should be dropped.[1]

*"Regardless of the methods used by competent authorities, all business lines and operations should be captured by one of the operational risk methodologies."* This does not adequately reflect the principle of materiality, in our view. Some non-material areas of the bank would be implicitly covered by the methodology applied to the group. The sentence suggests that, even for these areas, the operational risk methodology has to be explicitly applied. We would therefore suggest the alternative wording: *"..., all material business lines and operations should be captured ..."*.

No. 430

The recommendation to start the roll-out plan with "the riskier of the remaining operations" should be dropped. The sequence of the roll-out plan is based on a number of criteria, not only on the level of risk of operations.

No. 431

If a firm has obtained the approval for an AMA, no further formal authorisation will be required within the context of a group-wide roll-out. It should be clarified that this applies even for a roll-out of the AMA at the level of the individual firm.

No. 438

We suggest deleting the list in no. 438. It confuses rather than clarifies and offers no real additional information.

No. 442
The reconciliation between operational risk loss data and accounting data is an issue which has been discussed in various settings.

The following issues need to be considered:

[1] The following CEBS-proposals are insofar evaluated subject to this demand.



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- operational risk losses are not always booked individually (e.g. salaries will be integrally booked; overtime compensation due to operational risk will not be itemised);
- operational risk losses are not always adequately reflected in the general ledger (e.g. loss of assets which have depreciated);
- operational risk losses can be booked in a number of accounts: it will be difficult to filter all out;
- operational risk losses sometimes need to be based on estimates: these estimates will not be booked.

Therefore we suggest rephrasing as follows*: a review for cross-checking* **material** *operational risk loss data with accounting data…*

No.445

According to number 445, the institutions should develop their own standards for quality assurance for data loss, and constantly improve them. In doing so, the institutions should prove a high level of coverage, completeness and correctness with respect to data input. With respect to the required completeness, it should be clarified that this only targets material losses.

No. 448

We believe it is superfluous to spell out detailed requirements concerning the way data are stored and documented in OpRisk management. Banks have general guidelines on recording and documenting data. These also apply to the area of OpRisk management and should therefore be sufficient.

No. 460

We would like to highlight the well-known challenges associated with using qualitative data and the resulting limitations when it comes to measurement. With this in mind, we consider the proposed requirements as being unclear and unhelpful.

No. 463



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The requirement "*automatic renewal option with terms and conditions similar to the current terms and conditions, and has a cancellation period on the part of the insurer of no less than one year*" cannot be adhered to under current market circumstances:

- conditions cannot be given for a period over one year, this is explicitly true for the premium amount;
- the usage of the term "cancellation period" is not clear. If the notice period is meant, the insurer is not able to grant a notice period of one year.

The wording does not exactly reflect the CRD (*policies with a residual maturity of 90 days*) and, under a pessimistic view, most of the banks will not be able to use the risk mitigating effect in their risk capital calculations.

No. 464

We would like to stress that the requirements set out here go far beyond the wording of the CRD and that we are therefore highly critical as far as a stringent stance is concerned. We would suggest rewording this paragraph completely.



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