WKO BANK · VERSICHERUNG

Division of Banking and Insurance
Wiedner Hauptstraße 63 | P.O. Box 320
1045 Vienna
T +43 (0)5 90 900-DW | F +43 (0)5 90 900-272
E bsbv@wko.at
W http://wko.at/bsbv

CEBS

Via e-mail
conglomerates@c-ebs.org

Your ref., Your message of	Our ref., person in charge	Extension	Date
	BSBV 115/Dr.Ru/Br	3137	6th of March, 2008

Re: Public Consultation on IWCFC recommendations on capital for financial conglomerates

Referring to the above mentioned issue, the Bank and Insurance Division of the Austrian Federal Economic Chamber welcomes the opportunity to comment on the public consultation as follows:

ad item 1 – Hybrid capital (differences between banking sector/insurance sector)

In principle, we support the idea of establishing a level playing field for hybrids in order to ensure comparability between the insurance sector/banking sector and conglomerates which include insurances and banks and to avoid unequal treatment of the two sectors. **In substance**, there is no reason for any unequal treatment.

A uniform approach requires an attitude to develop a framework that fulfils the requirements of insurance companies as well as banks - which necessarily leads to a very general framework. Aspects like the volatility of capital requirements under Basel 2 require a flexibility of the instruments which may not be needed to that extent with insurance companies. It should therefore rest with the individual EU directives to take into consideration the specific requests of insurance companies and banks when defining types of capital. An additional layer would not be flexible enough towards industry-specific demands and delay implementation of changes in the future (one more layer to address) if changes become necessary or advisable.
As the current discussion shows, there is also a danger of going beyond international regulations. Current suggestions on banking capital exceed the rules of the Sydney Press Release und therefore may negatively impact the European banking industry. An international (globally) level playing field per industry (banks, insurance) as a target should probably have even higher importance than levelling between banks and insurance companies in detail.

As the current proposals still meet quite critical comments from the banking industry it can not be recommended to take them as a guideline in their current form, especially concerning the

write down language required.

Both credit institutions and insurance companies rely on the capital market for refinancing. The same options should be made available to both. It would be expedient to coordinate the current convergence efforts for "own funds" in the banking sector and "Solvency 2" in the insurance sector.

The main features in both sectors could be:

- basic requirements (permanence, loss absorbency, payment flexibility) and
- limits for inclusion of Tier 1 hybrids, incl. grandfathering

A number of details need to be resolved in order to achieve actual harmonisation across Member States and the sectors.

In reply to the CEBS' specific question regarding the time period in which the rules for the banking and insurance sectors are to be adjusted, we would like to point out that this also depends on the corresponding time period set for the harmonisation of rules on Tier 1 hybrids in the European banking sector. It appears certain, however, that the implementation will be carried out in the coming 2 to 3 years).

ad item 2 – Treatment of participations

We share CEBS' view that the impact of the different thresholds for deductions is low because it only affects holdings in banks of between 10 - 20%. We think that it is better to keep the currenct rule and leave it to the supervisory discretion to intervene, if necessary. Neither at solo nor at consolidated level would we experience a significant change based on our current participation structure.

IWCFC has established that there are considerable differences with regard to the deduction of participations in banks and insurances. In our view, however, this is not a major problem when calculating capital adequacy for financial conglomerates. When a credit institution has a holding in a credit institution, Art 57 lit. l, m and n of Directive 2006/48/EG is applicable; when an insurance company has a holding in a credit institution, Art 16 para. 2 of Directive 72/239/EEC as amended by Directive 2002/87/EC applies. It is not clear where the feared regulatory arbitrage comes into play, since the questions of how minority stakes are managed (i.e. participations of <20%) does not depend on the issue of mandatory deduction; if capital adequacy would only function through restructuring (bank participation goes from a credit institution to an insurance company), the supervisory authorities would have be alarmed anyway.

ad 3) Revaluation reserves and unrealised gains

We also think there is no need for a change of the current rules.We plead for keeping the different valuation methods used in the two sectors, also at the level of financial conglomerates

ad 4) Methods of calculation

We agree with CEBS' recommendation that the consolidation method should be the calculation method by default. However, it should equally also be possible to use the deduction and

aggregation method in certain cases, for example in case of lack of integration of companies within the financial conglomerate.

Ultimately, calculation methods 1 and 2 should be equally accepted and exist side by side. The application of method 1 is only suitable in structures where sectoral rules stipulate an accounting consolidation method anyway. Such a calculation only appears to be expedient if a distinction is made between the parent capital, own funds and minority interests just as the Austrian Banking Act stipulates for the calculation of own funds. For the purpose of the Austrian Financial Conglomerates Act, however, a comparison of target own funds and actual own funds suffices – for this, calculation method 2 is just as suitable as method 1. The result of a calculation pursuant to method 1 and the result of a calculation pursuant to method 2 are equally suitable to calculate capital adequacy. It must be pointed out that, ultimately, the supervisory authority determines the method or method combination to be used. In any case, it should therefore be possible – for the sake of flexibility, depending on the situation – for the supervisory authority to stipulate either of the two methods or a method combination. The third method is irrelevant.

Further notes:

The statements in item 17 contradict those made in item 69ff and do not apply in that the matter discussed is the different treatment of bank participations and not insurance company participations (the latter are treated equally). The statement made in footnote 5 is incorrect: insurances are no "financial institutions", which are defined in Art 4 line 5 Directive 2006/48/EC.

What is missing generally, and would be important in case of crisis, is a definition of what "cross-sectoral capital" includes, cf. Annex I No 1/2/ii Directive 2002/87/EC:

"when there is a deficit of own funds at the financial conglomerate level, only own funds elements which are eligible according to each of the sectoral rules (cross-sector capital) shall qualify for verification of compliance with the additional solvency requirements;"

It would therefore by vital to define which capital components actually qualify as "cross-sectoral", i.e. can be used in the case of crisis to fill in for insufficient own funds. These would only be the capital components recognised as such by all sectoral rules. This raises the following questions:

Which capital actually qualifies in both sectors?

Does this depend on the details of the capital characteristics or only on the rough qualification as "supplementary capital", for instance; does it also apply to the inclusion limits and deduction requirements?

Yours sincerely,

Dr. Herbert Pichler
Managing Director
Division Bank & Insurance
Austrian Federal Economic Chamber