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May 28, 2021

European Banking Authority
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Japanese Bankers Association

JBA comments on the EBA Consultation Paper: *"Draft Implementing Standards on prudential disclosures on ESG risks in accordance with Article 449a CRR"*

Dear Sirs/Madams:

The Japanese Bankers Association[1] (JBA) appreciates the opportunity to provide our comments to the consultation paper on the European Banking Authority's (EBA) Consultation Paper: *"Draft Implementing Standards on prudential disclosures on ESG risks in accordance with Article 449a CRR"* (hereafter "the consultation paper") on March 1, 2021. It is one of the most prioritized topics to enhance the disclosure about the factors of ESG risks, including climate change. The JBA welcomes the consultation paper stimulates the global discussion about enhancing disclosure framework.

General Comments

We, as non-EU financial institutions operating in the EU, have provided many comments to sustainability-related consultations held in the EU. Our key comments have been as below;

- We appreciate the EU leading the climate-related policy debate, however, we often hear the EU securing the strategic position by through the "first mover advantage", but we urge the EU to take a harmonized approach, by working with other jurisdictions, to achieve the outcome that the "responsible" EU is aiming for. Climate change is a global challenge and requires a global solution. If fragmented framework is to be implemented to address climate change, it would disrupt private sector's initiatives to deal with the challenge. The EU should seek the way to cooperate with other jurisdictions to establish the global framework that works for all actors involved, rather than an "establish first and then export" approach that the EU seems to be taking.
- The EU Taxonomy and EU regulations referring to it, including the consultation paper, are not directly applied to entities established outside the EU. However, given many firms are operating in the EU due to its strategic importance, these firms will be required to follow the EU Taxonomy (for example, if entering into transactions with EU banks). Thus, the alignment with global framework is indispensable, if not, the EU may lose its competitive advantage as a market for international firms. The EU should not rush to the conclusion, but it should take time to secure consistency with the global framework, such as the Basel Committee of Banking Supervision (BCBS), IFRS, and TCFD.
- The European Commission explained the EU Taxonomy, as well as the proposed templates in the consultation paper, being a tool to facilitate "transition" to a sustainable economy. However, the EU Taxonomy Delegated Acts seem to only allow "green" activities that will meet the threshold set forth, and all other activities are categorized as "unsustainable". The fact that "transitional" activities and efforts are not captured in the EU Taxonomy would hamper the private sector to engage in finding the pathway to sustainable future, which will undermine the entire effort to achieve the Paris Agreement.
- An excessive and prescriptive taxonomy framework might impede innovation. In order to create an environment to foster creativity and innovations of private sector, a taxonomy should be flexible and be regularly reviewed to reflect the latest development.

[1] The Japanese Bankers Association is the leading trade association for banks, bank holding companies and bankers associations in Japan. As of May 28, 2021, The JBA has 114 Full Members (banks), 3 Bank Holding Company Members (bank holding companies), 74 Associate Members (banks & bank holding companies), 58 Special Members (regionally-based bankers associations) and one Sub-Associate Member for a total of 250 members. Several of its largest member banks are active participants in the EU financial markets.

- We understand the EU Taxonomy has been developed to avoid “green washing”, however, using the EU Taxonomy is being referred as a tool for risk management and disclosure, which may mislead investors across the regions (especially those outside of the EU). For example, there would be a case when one activity categorized as “non-sustainable” by the EU Taxonomy may be more appropriate to be categorized as “sustainable” in other jurisdictions (e.g. in developing nations). Technical screening criteria should not be “one size fits all” for this very reason. Instead, we believe that activities that align with each country’s NDC should be viewed as “sustainable” or “enabling transition” to reorient capital to these areas (and implement a mechanism to ensure “green wash” is avoided).

Under our comments above, the JBA regrets the EBA has issued the consultation paper before the global discussion is progressed. The fundamental purpose of disclosure is to enhance the transparency of corporates to help investors understand corporates and benefits them. The JBA expects future detailed discussions to make the Implementing Standards effective to achieve the purpose, reflecting the global discussion about sustainability disclosures.

In addition to comments to specific questions, the JBA would like to provide high-level comments as below;

Discussions going forward

Referring to the CRR2, after this consultation, the EBA is tasked to continue working and finalize the report by the end of 2021. The phased-in approach is proposed until June 2024 in the consultation paper. In addition, the EBA will consider how to incorporate the ESG factors in the Pillar 1 requirements, as well as in the Pillar 2 requirements, which the JBA already submitted the response letter to the discussion paper. The JBA requests the EBA to continue engaging with the industry periodically during their work, like the ongoing consultation, as well as before finalizing the report. The JBA believes the EBA should secure transparency and the inputs are reflected in the final output.
International setting bodies like TCFD, BCBS and IFRS are continuing the discussion of ESG disclosure framework establishment, as well as regional regulators. We strongly suggest the EBA to cooperate with them and discussion should be aligned. The EBA should not take the approach to establish too detailed and non-practical requirements only within the EU.

Scope of application or extension to third-country banks of supervision in EU

The JBA understands the scope of direct application is aligned with CRR Article 449a and Article 4 (146), which specify the requirements on prudential disclosures on ESG risks, and apply to large institutions which have issued securities that are admitted to trading on a regulated market of any Member State. The definition of large institutions is also specified in the CRR, in Article 4 (146). As the third-country institutions, the JBA understands that most Japanese banks are generally excluded from the scope of direct application, however, the JBA requests the clarification of scope of application including the possibility of direct application to third-country institutions.
As the consultation paper says, we strongly request the proportionate approach, based on the size of the institutions’ balance sheet/truncations. For example, proportionality should be applied to disclosure scope, granularity or frequency. The JBA also would like to request the proportionate approach will be applied to smaller institutions, which are out of scope of direct application mentioned above, if the implementation standard would be referred to in any cases, such as the supervisory communication.
It is extremely important for the EU policy makers to consider that if and when our home regulator (or other major host regulators in other jurisdictions where Japanese banks operate) sets forth an ESG related disclosure framework, Japanese banks would be required to comply with those expectations/requirements. However, if there are differences and/or inconsistencies between such framework and then those deriving from this consultation paper, the compliance exercise would unavoidably be inefficient and possibly ineffective to comply with multiple requirements. To avoid such inefficiencies and additional inconsistency in requirements, we encourage the EU policy makers to incorporate the framework of equivalency/deference with respect to the third country regulatory requirements, based on the communication and dialogues with regulators in other jurisdictions.

Importance of globally standardized definitions/Securing the flexibility

The JBA understands the implementation standard has been proposed aligning with existing frameworks, such as the EU Taxonomy or TCFD recommendation.
Standardized definitions are useful but need to be flexible enough to foster innovations and facilitate transition. Limiting the flexibility of definitions would impede the future development of risk management framework at each financial institution. Considering banks business model and proportionality, a flexible approach should be allowed.

Establishment of practical framework

The JBA generally supports EBA's basic approach to establish the common template as a useful tool to all stakeholders.
However, the EBA should secure the alignment with the discussion in the other relevant stakeholders such as TCFD, BCBS or IFRS, defining what information should be included in the template. In addition, the EBA should secure the consistency with current banking global business and practice. Requiring too detailed disclosure will not benefit stakeholders/investors.
Disclosure is the tool of enhancing financial institutions' transparency, but not the tool of penalty. For example, to disclose specific firm by name as the "carbon-intensive" firm will be definitely the penalty of that firm. It is also concerning as the confidentiality perspective. We cannot achieve the goal from this treatment.
Also, enhancement of disclosure from corporate sector is mandatory to enhance financial institutions' disclosure. This shows when implementing any kinds of disclosure requirements to financial institutions, the EBA should secure the appropriate transition period after the implementation of revised CSRD, which requires corporates to disclose ESG information. At least, to enhance the disclosure from financial institutions, guidelines to calculate financed emission should be useful, in addition to templates proposed in the consultation paper. Currently the calculation method has not been provided, so this would be the lack of consistency among financial institutions, which would confuse investors.
To elaborate the EBA's understanding in this consultation paper to be practical and usable, we request the EBA to continue discussions and engagement with various stakeholders not only in EU but also globally.

(End)

May 28, 2021

[Specific Comments]

	Question	Answers
1	Are the instructions, tables and templates clear to the respondents?	・ The proposal includes risks that are still not well defined yet (e.g. Social Risk in Table2, Governance Risk in Table3 etc.), so these Templates/Tables do not necessarily enhance the comparability. While the proposal is very granular that it puts a heavy burden on institutions, it does not seem to benefit investors/stakeholders by providing them with improved transparency, thus we must conclude that the effectiveness is rather low despite the load. We would like to ask the EBA to reconsider the “Right-Balance” for institutions. ・ It may not be reader-friendly to contain many abbreviations in the Template. We would suggest that the EBA create List of Abbreviations in the Instruction Paper. ・ There are some obscure descriptions in the Templates that we are not sure whether we are instructed to fill in the Amount or the Narrative. (i.e.Template 3 Column K) Instruction P.14: *Those institutions that are already estimating information on the carbon footprint* and *scope 3 emissions of their collaterals, shall disclose this information in column K, and shall explain in the narrative accompanying the template the methodology and sources of data used.* ・ The purpose of disclosure itself is to enhance the transparency and to fill the information asymmetry between investors/stakeholders and companies. Based on this understanding, the JBA is sure disclosure requirement should be simpler rather than current proposed templates. ・ Third country institutions would be required to follow double/triple standards which create additional burden for compliance exercise.
2	Do the respondents identify any discrepancies between these tables, templates and instructions and	・ There is a discrepancy between Template 1 and Instruction as below. We would like the EBA to clarify it.

	Question	Answers
	the disclosure requirements set out in the underlying regulation?	Template 1 Column f: *Of which* exposures *towards companies exluded from EU Paris-aligned Benchmarks in accordance with* <u>*points (b) to (g) of Article 12.1*</u> *and with Article 12.2 of Climate Benchmark Standards Regulation.* Instruction P.11: *The gross carrying amount of those exposures towards counterparties that are excluded from the EU Paris-aligned Benchmarks as specified in* <u>*Article 12.1, points (d) to (g)*</u> *and Article 12.2 of Commission Delegated Regulation (EU) 2020/18188.*
3	Do the respondents agree that the new draft ITS fits the purpose of the underlying regulation?	-
4	Do the respondents agree that the tables with qualitative information proposed capture properly the information that institutions should provide?	• The Liability Risk/liability transmission channel is a concept to be included in "Transition Risk" in TCFD recommendation. Separating them and deviating from Global Standards might cause fragmentation. • Table 1~3 are free format, so more detailed instruction about what information and to what extent should be included is needed.
5	Regarding template 1 – 'Banking book - Climate change transition risk: Quality of exposures by sector', do the respondents agree with the proposals in terms of sector and subsector classification included in the rows of the template and the indentification of the most exposed sectors in columns f to k and p to u?	• The sectorial management that is aligned with the BAU of institutions is preferable. It will be Double-Standard management, only to meet the disclosure requirements, if the disclosure of sectors based on the internal definition is not accepted. We concern that the management that does not align with the BAU will not contribute to the enhancement of the Risk Management Framework. • While we recognize that the comparability of disclosure is essential, the room for discretion of institutions should be allowed in cases when it is deemed to be aligned with the Global Standard (e.g. GICS, SICS, NAICS etc.). • At the same time, to secure the global comparability, globally consistent definition of "sector" is indispensable. The JBA would like the EBA to consider the two sides, the global consistency and flexibility.

	Question	Answers
6	Do the respondents agree with the proposal included in templates 1 and 3 to disclose information on scope 3 emissions and with the transitional period proposed?	・ To promote smooth and fair disclosure of financed emissions, it is desirable that the EBA provides emission factor with financial institutions. - The EBA sets the transitional period (until June 2024). However, it needs enormous amount of time to gather emission data and measure financed emission in all sectors. - There are a lot of companies not disclosing their GHG emissions, such as SPC or unlisted company. In those cases, financial institutions have to estimate their GHG emissions from various data (e.g. P/L statement, physical activity data, general emission intensity in that area, etc.) - All financial institutions could not avoid these tasks. So, it is desirable that the EBA provides data set (e.g. emission factor) with financial institutions to reduce the burden of financial institutions. - The data set is also preferable for investors because it leads to fair comparison. If each financial institution uses different emission intensity data, their financed emission results are markedly different. ・ We recognize that Carbon footprint is a useful source of information for decision-making as well as communication with stakeholder (e.g. investor), hence we would like to estimate CO2/GHG emissions from our portfolio as soon as possible. ・ On the other hand, there are many companies that do not collect or disclose their carbon footprint. That is the reason why obtaining or estimating GHG emissions is a major issue for institutions. (We recognize that the Global Standards have not yet been established regarding the estimation methodology). ・ The above-mentioned issues could be relieved by (i) standardization of metrics related to carbon footprint measurement and/or (ii) disclosure of carbon footprint reference data of each sector by the government. We would strongly ask the EBA to take part in

	Question	Answers
		standardizing metrics and/or encourage governments to disclose relevant data, as these activities are expected to boost the disclosure of institutions. ・ The infrastructures of legislation should be developed at first when considering implementing EPC (Energy Performance Certificates). Careful consideration is essential for including EPC as a disclosure requirement in the viewpoint of avoiding fragmentation.
7	Do respondents agree that information in terms of maturity buckets by sector proposed in template 2 is relevant to understand the time horizon of when the institution maybe more exposed to climate change transition risk?	-
8	Do respondents agree that information in terms of alignment metrics and relative scope 3 emissions proposed in template 4 is relevant to understand and compare the transition risk phased by institutions? What are the respondents' considerations with regard to the alignment metrics proposed and the sectors that should be covered by this disclosure? Do respondents agree with the transitional period proposed?	・ It is desirable that the EBA provides detailed methods with financial institutions. (e.g. allocation rule for general-purpose business loans given to integrated companies.) - Examples of alignment metrics are described in template 4. (e.g. Power: Average tones of CO_2 per MWh) - In many cases, even if companies are categorized to Electricity or Mining sector in NACE, their businesses range over various sector. (Especially, integrated companies such as Total). - If banks accommodate general-purpose loan to those company, a portion of the loan is used to power or mining business. So, banks have to calculate financed emissions by taking it into account. - This is only one instance among many. Detailed guidelines for alignment metrics should be published if the EBA expects banks to disclose it until June 2024.
9	Regarding the same template 4, what are the respondents' considerations with respect to the	・ Several scenario options as the reference are allowed to choose in the existing scenario analysis program like NGFS scenario analysis, so scenario alternatives other than 2

	Question	Answers
	choice of the 2 degrees reference scenario, would respondents opt for a different scenario?	degrees reference scenario should be allowed as well.
10	Do respondents agree that information proposed in template 5 is relevant to understand the level of climate change transition risk and that information on exposures towards the most polluting companies is a good complement to the sectorial information included in other templates? Specific feedback is sought on possible alternative formats for the presentation of the information required in template 5. In particular, the EBA seeks feedback on whether aggregate information on exposures towards the top 20 polluting companies in the world, at EU level or at member state level, instead of company-by-company information, would be sufficient to understand how climate-change transition risk may exacerbate the exposition of institutions to credit risk. Feedback is also sought on the specific information that a template on aggregate exposures should include to be meaningful, including possible "buckets" of information on exposures (e.g. exposures towards top 5 polluting firms, next top 5 and so on, or other alternative presentations).	・ Because of legal and confidentially concerns, careful consideration is necessary for disclosing borrower-specific information. - TCFD recommendation has already encouraged financial institutions to disclose carbon related asset ratio and a lot of banks follow its recommendation. - However, the EBA template would require institutions to disclose borrower-specific information for up to 20 counterparties. - There are legal and confidentially concerns with this disclosure requirement, so the EBA should reconsider it. ・ "Carbon-Intensity" should be defined. ・ While we agree that the disclosure of Carbon-Intensive companies would be a good complement to the sectorial information, we are strongly concerned about adverse effects on business transactions with disclosed companies. Moreover, we are also concerned about disclosure of customer information from the viewpoint of confidentiality. ・ The purpose of disclosure itself is to enhance the transparency and to fill the information asymmetry between investors/stakeholders and companies. Disclosing specific firms' name is "penalizing" those firms. ・ Supporting companies' transition to low carbon economy is a banks' role and the JBA does not agree disclosing specific firms' name. ・ The phasing approach should be applied, instead of the immediate application. We support the necessity of the "engagement period" (as the phase in period till June 2024 is not accepted in Template 5). ・ From the above perspective, we agree with the proposed alternative formats in the

	Question	Answers
		document; *"aggregate information on exposures towards the top 20 polluting companies in the world, at EU level or at member state level, instead of company-by-company information"*. We consider that disclosure of the aggregated information on exposures towards the top 20 companies would be sufficient, from the viewpoint of monitoring the concentration ratio of the portfolio.
11	What are respondents view on the way template 6 reflects how the trading book of institutions may be impacted by climate change transition risk? Do respondents agree that the threshold proposed to determine which institutions have to disclose this template is the appropriate threshold? Feedback on whether there are alternative ways to present information on the trading book that may allow for a better understanding of how climate change transition risk may impact the trading portfolio.	・ Trading book should not be included into the requirement. Trading book is based on short-term transaction and the purpose of using trading book is to seek benefit from short term market transaction, so it does not fit the nature of transition risk which takes time to be revealed.
12	Do respondents agree that the information included in template 7 is appropriate to understand how and to what extent the institution may be exposed to climate change physical risk and that the differentiation between a simplified and an extended template is necessary in the short/medium term?	-
13	Regarding template 7, specific feedback is asked regarding the methodologies and data sources that institutions may use to identify the relevant geographies. Feedback is also required on the	・ Regional categorization would be useful for global banks as the breakdown. There are regional features in physical event, for example, wildfire occurs mainly in the North America, flood tends to occur in Japan and Asia etc. ・ Categorization of exposure differs bank by bank, so the JBA does not recommend to

	Question	Answers
	content and disclosures proposed in the extended version of the template and on the transitional period proposed.	specify in detail by establishing detailed templates. Rather, flexibility should be acknowledged as long as banks' categorization is aligned to globally agreement.
14	Regarding templates 8 and 9, do respondents consider that this template should be enriched including information not only on assets aligned with the taxonomy but also in the interest income generated by those assets? Do respondents agree with the timeline proposed and transitional period proposed for the disclosure of these templates?	・ The EBA should provide clear definition of "Green Asset". - Even if referring to the EU taxonomy, it is difficult to determine the eligibility for general-purpose business loans. - To encourage disclosure of "Green Asset Ratio", it is desirable that the EBA publishes detailed guidelines. ・ The JBA requests more detailed information before judging whether these templates are acceptable. For example, we request more information about scope of disclosure and timeline for compliance. If the EBA requests calculation and disclosure of the GAR should be based on detailed investigation of "whether the exposure will contribute to climate change mitigation/adaptation" etc. the JBA would not agree with these templates.
15	Specific feedback is required from respondents on the way template 10 is defined, and on whether there is additional information that should be added. Feedback is sought on alternative disclosure formats that may contribute to a more standardised and comparable disclosure.	-
16	Finally, respondents feedback on whether the draft ITS should include a specific template on forward looking information and scenario analysis, beyond the qualitative information currently captured in the tables and templates under consultation and the	-

	Question	Answers
	information required in template 4.	
-	Other comments	• (paragraph38) For our global business model, we will need a consistent international set of data to agreed parameters. - Our view is that the fundamental challenge here is as follows: 1. Definitions are unclear. 2. Source of this information is unclear. - Both of these challenges are further complicated by the need to report this for international portfolios with exposures and clients not purely EU based and therefore subject to different standards and information availability. - It therefore follows that given firms will be dependent on the EBA and other external bodies to resolve these points it is difficult to confirm at this stage if the timeline is viable. • (paragraph69) It is requested to clarify the scope of disclosure qualitative risk management information on ESG risks. - 3.4 Qualitative disclosures states that institutions shall disclose "Processes to identify activities and exposures sensitive to each ESG risk categories". We would like the EBA to clearly define the scope so that market participants can make a fair comparison of disclosure. - Also, we ask the EBA to give us the expectation of disclosure on stress testing and scenario analysis for social and governance risk. • (Coverage of assets included in the quantitative templates and in the GAR) - We would like the EBA to clarify whether this is required at counterparty or facility level. Also, we would like the EBA to explain how this will be assessed where the exposure is not geographically specific. - Green asset ratio: We would like the EBA to clarify what approach would be taken

	Question	Answers
		where the use of funds is unclear or multi-purpose. - Our view is that the fundamental challenge here is as follows: ・ Definitions are unclear. ・ Source of this information is unclear. - Both of these challenges are further complicated by the need to report this for international portfolios with exposures and clients not purely EU based and therefore subject to different standards and information availability. - It therefore follows that given firms will be dependent on the EBA and other external bodies to resolve these points it is difficult to confirm at this stage if the timeline is viable. ・ In order for financial institutions to properly manage and disclosure climate-related financial risks, appropriate disclosure in the corporate sector is a major prerequisite. With regard to the timing of the application, we appreciate it if the EBA takes into account the progress in disclosure by the corporate sector.

(End)