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## **FBF RESPONSE TO EBA'S CONSULTATION ON GUIDELINES FOR COMMON PROCEDURES AND METHODOLOGIES FOR SREP**

### **General comments**

The French Banking Federation (FBF) represents the interests of the banking industry in France. Its membership is composed of all credit institutions authorized as banks and doing business in France, i.e. more than 390 commercial, cooperative and mutual banks. FBF member banks have more than 38,000 permanent branches in France. They employ 370,000 people in France and around the world, and service 48 million customers.

The French Banking Federation welcomes the opportunity to comment on the EBA's consultation on guidelines for common procedures and methodologies for SREP.

We really appreciate all the details given to highlight the differences between the Pillar 2 Requirements (P2R) and the Pillar 2 Guidance (P2G) as well as their key features, enabling thus to target a better harmonisation of the supervisory approaches.

Nevertheless, we would like to take the opportunity of this response to raise some concerns, namely:

- The coverage of the supervisory stress testing and its interaction with the recovery and resolution process should be clarified. Even if there is a need of coherence between SREP and early intervention and resolution, and if SREP can be considered as a necessary trigger towards early intervention measures, it cannot be considered as sufficient on its own and should be part of a holistic analysis.
- Potential inconsistencies between these revised SREP Guidelines and the EBA Guidelines disclosed last September on internal governance and the joint ESMA and EBA Guidelines on the assessment of the suitability of members of the management body have been identified. References to the EBA / ESMA Guidelines should be more explicitly expressed and differences of wording are also confusing. Besides, since then some notions of the Guidelines are not defined in the CRD4, references to the national law shall be clearly mentioned.
- Some clarifications on the P2G (notably frequency and interaction with the CCyB) would be needed, and backed by concrete examples. As regards to calibration, no overlap between the P2R and P2G shall be granted and competent authorities should bear the burden of proof that the risks addressed by P2R are not already enough covered. As regards to disclosure, we welcome the intention of these Guidelines but the principle of confidentiality of the P2G should be more namely stated.

## **Detailed comments**

Please find below the FBF's answers to the six questions raised by the EBA through this consultation:

### **Question 1: What are the respondents' views on the overall amendments and clarifications added to the revised guidelines?**

First of all, we really appreciate the clarifications given about the key features concerning the Pillar 2 Requirements and the Pillar 2 Guidance, especially through the annex 5.

The EBA should wait for the adoption of the CRD before updating the part "6.5. IRRBB" of the SREP Guidelines. Indeed, EBA Guidelines cannot pre-empt the regulatory power to transpose the Basel standard in Europe. EBA should wait for the revision of the Risk Reduction Package before introducing new requirements.

Moreover, the criteria in table 13 relating to the recovery capacity should be adjusted to give more precision on the differences between the medium-low, medium-high and the high level of risk.

Besides, here are some additional general comments on specific paragraphs included in the revised guidelines:

**Paragraph 316:** EBA Guidelines should mention the necessity to assess changes in institutions' modelling under a wide, comprehensive, static and dynamic economic approach.

**Paragraph 318:** Derivatives are the only financial instrument used to hedge interest rate risk. For this purpose, competent authorities should analyse widely and economically the structure of the institution's balance sheet in its EVE and NII evaluation before any requirement on derivative uses.

**Paragraph 327:** Even if we appreciate the update of the EBA Guidelines on common procedures and methodologies for SREP (EBA/GL/2014/13), EBA should not compare to peer the supervisory outlier test as long as it remains under observation.

**Paragraph 328:** The six supervisory shock scenarios and the new 15% threshold on T1 capital can't be used as benchmark as long as the level 1 text defining the EBA mandate remains in discussion at the Parliament and at the Council level.

### **Question 2: What are the respondents' views regarding 'the interaction between SREP and other supervisory processes, in particular assessment of recovery plans' provided in the 'Background and rationale' section?**

We think that some clarifications about what is covered through the supervisory stress testing are necessary. As also outlined in question 6, it should be specified that the section 12 on supervisory stress testing covers both institution stress testing and EBA "wide stress testing".

Moreover, in the subsection "Link between SREP and early intervention and resolution", we would like to recover more details about what the competent authorities' powers are, i.e. if they cover the Single Resolution Board and if so, to what extent the latter could use the SREP results into its recovery and resolution planning.

Concerning the link between SREP and early intervention and resolution, we agree that there must be consistency between these two elements. However, although this may be necessary, it is not sufficient, and SREP alone cannot be the basis of early intervention or 'failing or likely to fail' determinations.

- On the one hand, SREP is not sufficient for such decisions, as they may need to be taken in a time-scale that is not compatible with a full SREP process. Fast-moving events may not be captured within the SREP process sufficiently rapidly for SREP to be a useful tool for decision making.

- On the other hand, SREP alone cannot be the basis for such important decisions as early intervention or resolution. In both cases, an independent decision process is required, taking account of all circumstances at the time, which may not be adequately reflected in a SREP score. We would suggest that this be clarified in the ‘background and rationale’, and that where reference is made to SREP scores in paragraphs 38 and 39, that rather than being described as a trigger for decision, they should be described as ‘contributing to the analyses conducted in deciding whether or not to apply early intervention measures’. Such decisions cannot be based on a scoring process. They may be informed by a scoring process, but should be made as a result of a holistic analysis of the institution and its situation in relation to the market, in prevailing circumstances at that time. Last but not least, the figure 2 ‘Link between on-going supervision, early intervention and resolution’ should be completed with an entity decision to apply recovery plan on a voluntary basis. The red line between recovery and on-going supervision could be better defined, Resolution is linked to the failure of the recovery plan.

**Question 3: What are the respondents’ views on how the assessment of internal governance and institution-wide controls has been aligned with the revised EBA Guidelines on internal governance (Section 5)?**

It is questionable whether the SREP Guidelines require the incorporation of certain – selected – paragraphs/sections of the Guidelines on internal governance or if it would be more convenient to state their general application by direct reference to them. This would avoid institutions and competent authorities a double process of interpretation, seeing as the SREP Guidelines only include certain extracts of the Guidelines on internal governance (without expressly excluding all the rest from the scope of the SREP assessment) and not always with the exact same wording.

The Guidelines on SREP should specify that when the term “management body” is used without reference to the supervisory or the management function, the missions allocated to the “management body” shall be allocated to the appropriate body under applicable national law. The Guidelines on internal governance provide that the national competent authorities should specify, when necessary, to which body or members of the management body those functions should apply.

In addition, here are our comments on the following paragraphs:

- **Paragraph 91:** some provisions in this paragraph refer also to the Guidelines on the assessment of the suitability; as a consequence these Guidelines need to be specified in the beginning of this paragraph.
- **Paragraph 91.b:** it should be specified that the setting up of committees should take into account the proportionality principle.
- **Paragraph 91.e. and 92:** this population is not included in CRD IV and is not covered by the French regulation either. The FBF therefore is asking for an explanation.
- **Paragraph 92.a:** after “on-going basis”, a coma shall be inserted in order to clarify that the application of notification to the relevant competent authority does not apply to the on-going basis in order to be in line with the Guidelines on the assessment of the suitability. In addition to this, and with respect to key function holders: FBF asking for an explanation.
- **Paragraph 92.b:** the diversity policy cannot apply as provided in the Guidelines on the assessment of the suitability to the Management Body in its management function (issue with gender when the Management Body in its management function corresponds to two individuals). The FBF is asking for an explanation. As regards to the “number of members of the body”: it is not provided in these Guidelines on the assessment of the suitability (the quantitative aspect only refers to the underrepresented gender).

- **Paragraph 92.e:** please specifically refer to members of the Management Body as this criterion is only applicable to them (not to Key Function Holders).
- **Paragraph 91.c and 98.a:** in these paragraphs, an application of requirements is provided on a “group-wide basis”. Does it correspond to an application on a consolidated basis? Or is it a new notion as the application at the consolidated basis is provided in the section 5.10 of the draft Guidelines?
- **Paragraph 334.b:** the use of senior management concept in these Guidelines is not in line with the Guidelines on internal governance and with the Guidelines on the assessment of the suitability (the “Key Function Holders” concept is also used in these Guidelines).

**Question 4: What are the respondents’ views on the provisions of the newly introduced Pillar 2 Capital Guidance?**

- **Paragraph 386 and 387** underline that the setting of P2G works both ways: competent authorities set P2G to address supervisory concerns but when the quantitative outcome does not show a potential breach of TSCR under the adverse stress test scenario, it may be decided not to set P2G. We would suggest including that the reasons leading competent authorities to set a P2G when the quantitative outcome of stress tests does not lead to any breach should be detailed. Examples provided by the consultative paper could be helpful for institutions, from a forecast perspective and in order to strengthen its capital management.
- **Paragraph 391** grants a very large flexibility to competent authorities and we would advocate for a restriction of the frequency of P2G level revision (i.e. except in the case of very specific circumstances, the P2G level revision should not occur more often than on a yearly basis).
- **Paragraph 393** should be reworded. “Generally” should be deleted. “P2G may cover certain aspects of the same risks addressed by P2R, to the extent that it covers aspects of those risks that are not already covered”.  
It should be specified that the competent authorities bear the burden of proof that the risks addressed by P2R are not already covered.
- **Paragraph 401 and 402 + example about the communication of SREP decisions to the institutions, title 7:** the EBA adds new articles to frame the articulation of the P2G with different capital ratios (CET1, T1, TSCR). Some specific examples are very welcome.
- By essence, the P2G is calibrated on the basis of stress testing outcomes and is idiosyncratic to each bank.  
On the contrary, the CCyB, once activated at the level of a given country, applies to all banks with exposures in the country.  
EBA considers that there might be some overlapping between the risks covered by P2G and CCyB and allows for exceptional compensations between both buffers.  
EBA provisions in the revised SREP Guidelines are not specific enough to clearly understand in which particular situations the P2G may be compensated with the CCyB and to reach a full harmonization of the practices.

=> EBA should be more specific in defining the rules for compensating the P2G and the CCyB, or allow a full compensation between both buffers (like between P2G and CCB).

**Question 5: What are the respondents' views regarding disclosure of P2G (paragraph 403), having in mind the criteria for insider information?**

**Paragraph 403:** As far as P2G disclosure is concerned, we welcome the reference to the criteria of insider information. Nevertheless, the non-disclosure should be set as a general principle, without the exception "unless they are legally required to do so". We should maintain its position, according to which we consider that we need to ensure the confidentiality between the institution and its competent authority when dealing with the P2G. Otherwise, investors would consider P2G as a binding requirement. It would completely deny the purpose of P2G which is designed to be a communication tool between the institution and its supervisor, to capture the forward-looking scenarios. The side effect would even be counterproductive. In the same line, in annex 5 (key features and differences between P2R and P2G), line public disclosure, it would be preferable to state "institutions are expected to treat all information confidential". As a concrete example, EBA had required in the past to disclose the difference between the Danish Compromise and the Basel prudential treatment regarding the deduction of holdings in insurance undertakings. The disclosure of such information was too sensitive and in the end, it had been decided to disclose only the equity value and no details regarding the calculation method.

**Question 6: What are the respondents' views on the introduction of supervisory stress testing in the revised guidelines (Section 12)?**

The French Banking Federation (FBF) welcomes the introduction of supervisory stress testing in the SREP guidelines.

The process of supervisory stress testing exercises should be standardised. The methodology and the template of supervisory stress testing should be systematically submitted to stakeholders under a consultation paper and the calendar should be the same every year as much as possible. Indeed, to enhance IT and people availability, we suggest defining a fixed period to run the stress testing exercise pursuant current Art 100 of CRD4. This approach prevails in various jurisdictions and articulate with the supervisory agenda (e.g. SREP timeframe); this could be endorsed by the SSM for instance between April and July every year.

**Paragraph 573:** In order to get organised for supervisory stress testing, we ask for more communication about what is expected for small institutions.

We need clarification on the scope of "competent authorities". As such, the supervisory stress test should be used for supervisory purposes only.

**Paragraph 574:** Concerning the link between supervisory stress tests and recovery scenarios, we appreciate that the evaluation methods should be consistent, and that stress tests can form a useful starting point for recovery scenarios. However, it must be borne in mind that they serve totally different purposes.

- Regulatory stress tests serve to test how all banks concerned react to a given stress scenario.

Recovery scenarios are not built with comparison in mind, and are built specifically to each institution to show how a recovery might potentially arrive, and to serve as a back-drop to analyse the impacts of recovery options. They are therefore fundamentally idiosyncratic and of a far greater severity than regulatory stress tests in most instances. The increase in severity required will vary according to the resilience of the institution.