

## Comments

on the EBA Consultation Paper  
Draft Guidelines on disclosure of non-performing and for-  
borne exposures (EBA/CP/2018/06)

Register of Interest Representatives  
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The **German Banking Industry Committee** is the joint committee operated by the central associations of the German banking industry. These associations are the Bundesverband der Deutschen Volksbanken und Raiffeisenbanken (BVR), for the cooperative banks, the Bundesverband deutscher Banken (BdB), for the private commercial banks, the Bundesverband Öffentlicher Banken Deutschlands (VÖB), for the public-sector banks, the Deutscher Sparkassen- und Giroverband (DSGV), for the savings banks finance group, and the Verband deutscher Pfandbriefbanken (vdp), for the Pfandbrief banks. Collectively, they represent more than 1,700 banks.

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The European Banking Authority (EBA) published its “Draft Guidelines on disclosure of non-performing and forborne exposures” for consultation on 27 April 2018. We appreciate the opportunity to submit our comments.

## **1. General comments**

We understand the EBA Guidelines on disclosure of NPEs issued for consultation to mean that they were developed as part of the European Commission’s NPL Action Plan and represent, in part, a visualisation of the descriptive requirements of the ECB Guidance. The tables contained in the Guidelines are based in part on the information already required in EBA Guidelines (EBA/GL/2016/11). In the present draft issued for consultation, however, they are much more extensive, more detailed, more itemised and allow little room for institution-specific information due to their fixed format requirements.

Overall, we take a critical view of this approach. Firstly, in our view there is no legal basis that requires the disclosure of NPEs. The legal basis for disclosure is Part 8 of the CRR, but this does not set out any powers/delegation to the EBA on the basis of which the EBA can require extensive disclosure of NPEs in this respect. It is our understanding that new disclosure requirements can only be introduced by amending the CRR within the framework of the EU legislative procedure. In our opinion, the EBA’s current approach with regard to formulating new disclosure requirements for NPEs is therefore not covered by the EBA’s area of responsibility.

In addition, we believe that the principle of proportionality is disregarded in the context of disclosure. As part of the CRR 2 revision, the European Commission, together with the European Parliament and the European Council, recognised the need for relief for medium-sized and smaller institutions, in particular in the area of reporting and disclosure, and addressed this point accordingly. It therefore seems peculiar that, on the one hand, there is expected to be a significant reduction in disclosures for smaller/medium-sized institutions, but at the same time extensive new disclosure requirements are to be introduced. These would also lead to the issue of non-performing loans (NPLs) dominating the Pillar 3 report in the context of disclosures by smaller institutions, even if this is not materially an issue for the individual bank. We are therefore generally urging for disclosure (beyond the requirements of EBA/GL/2016/11) only to be required if the institution’s NPL ratio exceeds 5%.

In general, the benefits of disclosing NPL information in the context of Pillar 3 reports seem extremely questionable. For example, the Pillar 3 reports are very rarely downloaded from the institutions’ websites. There are also hardly any inquiries about the content of reports, which indicates a general lack of interest – this applies to both small and large capital publicly traded institutions. Rather, the relevant stakeholders are likely to make use of other sources (e.g. annual financial statements, regulatory reports). There are no potential users whatsoever for disclosures by institutions that are not active on the capital markets. However, disclosure requirements represent an excessive burden particularly for those institutions that individually are of no significance for financial stability. It is therefore questionable what the new disclosure requirements are supposed to achieve. Are expanded disclosures supposed to help companies that purchase NPLs? If this is the case, those companies will approach the bank directly and do not need any Pillar 3 disclosures. Other market participants do not need this sort of information. However, since Pillar 3 reports are intended for market participants in order to achieve greater transparency, the disclosure requirements should also be oriented on their needs. If the supervisors need this information, they already have the ability today to obtain the desired information.

The proposed disclosure contents in the individual templates are very comprehensive. Article 442 of the CRR requires institutions to disclose information on credit risk adjustments. This also includes information

on impaired and past due loans (Article 442(g) and (h) of the CRR). In addition, EBA Guidelines EBA/GL/2016/11 require information to be disclosed on non-performing and forborne exposures. The GBIC believes that redundancies with regard to the disclosure of non-performing exposures should be avoided. In addition, some templates (e.g. Template 10) are used to collect sensitive data.

Moreover, there is a general discrepancy in that more must now be disclosed than reported. This contradicts the fundamental principle that Pillar 3 follows Pillar 1. As a result, we advocate limiting the EBA Guidelines in their entirety (10 templates) to institutions with an NPL ratio greater than 5%. For institutions with a lower NPL ratio, compliance with existing requirements from EBA/GL/2016/11 should be sufficient (i.e. no additional requirements).

In case EBA's proposal in its draft guideline will not be changed, we advocate introducing a transition phase for implementing the requirements, if both thresholds are exceeded simultaneously for the first time (5 % NPL ratio and total assets with regard to reclassification as an SI). In addition the GBIC is seeking clarification as to how the requirements of the EBA Guidelines relate to and interact with the disclosure requirements of the ECB Guidance (see chapters 4.5, 5.6, 6.8, 7.6 and Annex 7). The ECB Guidance is already in force, so that especially institutions that are directly supervised by the ECB (have to) deal with the requirements at extremely short notice. In our opinion, the desired clarification should document that disclosure of the four templates that are relevant to all institutions is sufficient for compliance with the ECB Guidance if the institution does not exceed the 5% NPL ratio.

Overall, we wish to emphasise that, in our view, even the tremendously detailed and complex prudential requirements for disclosing NPLs are not the right instrument for achieving the actual goal of reducing the still excessive levels of NPLs in some EU Member States and of avoiding further risk accumulation.

## 2. Specific comments

**Q1. Could you provide your views on whether adding an “of which” column to column ‘f’ of template 1 - “Credit quality of forborne exposures”, including the information on non-performing forborne exposures that are impaired (i.e. “of which impaired”) would be useful?**

We consider that such an addition would overload the already granular template. The additional benefits for market participants would have to be justified.

**Q2. Could you provide your views on whether adding the columns with the breakdown of provisions for non-performing exposures by buckets of the number of days that the exposure has been past due to template 3 - “Credit quality of performing and non-performing exposures by aging of past due days” would be useful?**

We already consider the level of granularity to be too high for a Pillar 3 report, so a further breakdown would not make sense in this respect. Rather, we advocate reducing the number of past due buckets or at least aligning them with the reporting requirements.

**Q3. Could you provide your views on whether the breakdown between “on balance sheet exposures” and “off balance sheet exposures” included in template 5 – “Quality of Non-performing exposures by geography” is useful?**

n/a

**Q4. Could you provide your views on whether the information on loans and advances secured with immovable property with a loan-to-value higher than 60% and lower than 80% included in row 3 of template 7 – “Collateral valuation - Loans and advances at cost or amortised cost” is useful?**

n/a

**Q5. Do you agree with the overall content of these guidelines and with the templates proposed? In case of disagreement, please outline alternatives that would help to achieve the purpose of the guidelines.**

We urge limiting the EBA Guidelines in their entirety to institutions with an NPL ratio greater than 5%, because, in our view, even tremendously detailed and complex prudential requirements for disclosing NPLs will not achieve the actual goal of reducing the still excessive levels of NPLs in some EU Member States and of avoiding further risk accumulation.