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Your ref., Your message of Our ref., person in charge Extension Date

 BSBV 115/Dr. Egger/We 3137 31 October 2013

**EBA CP “Draft regulatory technical standards on the method for the identification of the geographical location of the relevant credit exposure under Article 140 (7) of the Capital Requirements Directive (CRD)” [EBA/CP/2013/35]**

The Division Bank and Insurance of the Austrian Federal Economic Chamber, as representative of the entire Austrian banking industry, appreciates the possibility to comment on the “EBA Consultation Paper on the method for the identification of the geographical location of the relevant credit exposure” and would like to submit the following position:

**General Comments**

Article 140 CRD mentions that the institution-specific countercyclical capital buffer rate shall consist of the weighted average of the countercyclical buffer rates that apply in the jurisdictions where the **relevant credit exposures** of the institution are **located** or are applied for the purposes of this Article by virtue of Article 139(2) or (3).

On page 6 it is written as follows:

*“For the purpose of these RTS, the EBA considers that the ultimate risk basis may be applied in different ways: first, as the residence of the obligor as opposed to the booking of these exposure (the obligor principal); Second, as the residence of the obligor, or if collateral or guarantee exist, the country where the collateral or guarantor resides (the guarantor principle); finally, as a mix of the two depending on the structure of the credit transaction, such as basing it on the source of income.”*

On page 7 it is written as follows:

*“For a particular type of projects, namely specialised lending exposures, which typically include project financing, the geographical location will be based on where the income is generated, i.e the source of income. The EBA believes that the source of income would be more appropriate for specialised lending exposures and has consequently chosen to deviate from the obligor principal in this case.”*

In our view, it is not understandable why the option of using the country of risk (ie country where a customer generates his income) is not even considered, and respectively why only the “source of income” is used as the relevant criteria for specialised lending. That using the country of booking is not meaningful is obvious. But why to only consider the country of residence as an alternative?

Is there any examination from EBA available why the “source of income” (meaning the country of risk) is not a possible solution for all other cases (except specialised lending)?

This is even more surprising as the EBA used the country of risk (meaning where a customer generates his income) in almost all its data requirements over the last 3 years (stress test, recapitalization, RWA compatibility study) and as it is also mentioned on page 11, point (2) that the geographical exposure shall follow from the risk of the exposure.

For the purpose of Article 140 CRD, the country of residence will naturally increase again complexity (as we believe that regulators will continue to use the country of risk where the customer generates his income for most of their analyses also in the near future) but will also create distortions:

* For private clients in the case of commuters (f.i. employees with country of residence in Slovakia but a credit card in Austria and with income in Austria)
* For companies the “place of actual centre of administration” leaves a lot of room for interpretation

**Comments on specific articles**

**Article 2 number 4 EBA RTS**:

*“Notwithstanding paragraphs 2 and 3 of this Article, if the aggregate amount of an institution’s foreign credit exposure does not exceed 2% of their aggregate of credit, trading book and securization risk weighted exposures, these credit exposure shall be deemed to be located at the place of the institution.”*

In the fourth paragraph on page 4 it is mentioned that “the relevant credit exposures under Article 140 CRD include credit risk exposures in all exposure classes (other than exposures to governments and credit institutions) that are subject for …”.

We read the above mentioned terms as follows:

While Article 140 CRD defines clear that some exposures (namely exposures to governments and credit institutions) are not covered for the calculation they have to be taken into account for the calculation of the 2% threshold under Article 2 of the Draft RTS.

**Article 3 number 4 EBA RTS**:

Taking into account the explanation on page 8 fourth paragraph it seems that in this case (meaning the threshold of 2%) the specific risk of the trading book have to be compared with the credit exposures identified under Article 140 (4) (a) to (c) CRD.

In our view, the question is if the threshold under Article 2 and Article 3 the same benchmark (meaning which exposures should be taken) is relevant or not.

**Page 8 – threshold (fifth paragraph):**

From our point of view the threshold of 2% seems to be all right, but should not be lower than this.

**Questions for consultation**

**Q1. Do you agree with using the obligor principle for the practical implementation of the CCB? If not, could you provide specific examples where this principle would not work in practice and explain why an alternative option would work better?**

As already mentioned in the general statement, we do not understand why the EBA does not even consider the option of using the country of risk (ie country where a customer generates his income) respectively why only using the “source of income” as the relevant criteria for specialised lending. This is even more surprising for us as the EBA used the country of risk in almost all its data requirements over the last 3 years.

**Q2. Do you agree with using the guarantor principle for specialised lending?**

**Compared with what is mentioned in the RTS especially on page 14, our understanding is that it should be “place of income” instead of “guarantor principal” therefore our answer refers to the “place of income”.**

Yes. From our point of view it makes sense that for specialised lending projects the “source of income” is the relevant attribute.

**Q3. Should other exposures, such as residential or commercial mortgages, also use the guarantor principle? If yes, please justify the answer.**

Yes, mainly to be consistent as the EBA used the country of risk in almost all its data requirements over the last 3 years). We believe that also in this case – like it is for specialised lending - the relevant fact is where the customer/client generates its income.

**Q4. Do you agree with the inclusion of a threshold for credit risk exposures? Would this threshold lead to any substantial reduction in the burden for institutions?**

Yes.

**Q5. Do you agree with approach chosen and is the approach sufficiently clear? If not, please describe the best method for allocating the total specific and IRC capital charges and describe its rationale and practical implementation.**

Yes.

**Q6. Do you agree with the inclusion of a proportionality threshold for trading book exposures?**

Yes. From our perspective it should be discussed if a threshold from up to 5% is also possible as also in this case the trading book exposure compared to the total risk-weighted exposures can be neglected.

In addition, we would appreciate if EBA gave some estimation on how to access the threshold and what happens if the bank is one quarter above the threshold and the next quarter below. From our point of view, it would be helpful to have some kind of mechanism that an institute can monitor if the trading book exposure is (e.g. for two quarters in the row) above the threshold before starting with the identification of the geographical location. If not, it would be quite burdensome to identify and calculate only for one quarter and then to stop it with the next quarter and so on.

Kindly give our remarks due consideration.

Yours sincerely,

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