

# POSITION PAPER



**ESBG Common Response to the EBA  
Consultation on Draft Guidelines on  
Materiality, Proprietary and  
Confidentiality, and on Disclosure  
Frequency**

September 2014



Dear Sir/Madam,

Thank you for the opportunity to comment on the EBA consultation on *Draft Guidelines on Materiality, Proprietary and Confidentiality, and on Disclosure Frequency*. Below you will find our input to the consultation.

**Q1) Do you agree that the use of the disclosure waivers and the assessment of the need for more frequent disclosures should be framed – for the purpose of Article 431 CRR – within a dedicated process? If not, please state why.**

In our opinion disclosure waivers and the assessment of the need for more frequent disclosures should be framed within a dedicated process. This process should be simple and focused in order to not overload institutions with new obligations. We would for example suggest that the waiver and the frequency policies could be part of the formal policy adopted by institutions to comply with the disclosure requirements laid down in Part Eight of the CRR, instead of an independent one.

**Q2) Do you agree with the features of this process? If not, which one(s) would you exclude/include?**

We have no comments in regards to this question.

**Q3) Should the guidelines be developed more on what is expected from institutions when an item of information is assessed as material?**

We believe that the guidelines are sufficiently developed in this regard.

**Q4) Do you agree with the principles and indicators to be considered in the assessment of materiality? Which additional principles or indicators, if any, would you like to see considered?**

We do not believe that placing the same disclosure requirements on all institutions is consistent with the principle of proportionality. Ignoring size and complexity of the institutions places a big administrative burden on small and medium-sized institutions. In the Austrian Banking Act under section 5(1) item 9a and section 28a(5) 5 only institutions with important relevance (as defined by section 5(4) of the Austrian Banking Act) must provide full disclosures. We would encourage that Article 435(2a) of the CRR only applies to institutions with important relevance and that there is a specific exemption for small- and medium institutions from the disclosure of the number of directorships held by members of the management body.

**Q5) Do you agree with the elements to be considered in the assessment of confidentiality or proprietary? Which additional element, if any, would you like to see considered?**

Yes, we agree. We see no need for more elements to be considered.



**Q6) Do you agree with the indicators in paragraph 18 that should lead institutions to assess their need to disclose information more frequently? If not, which alternative indicators would you suggest?**

We propose to replace the definition in paragraph 18 and consider instead whether the institution qualifies as a systemically important institution (as defined by the Single Supervisory Mechanism of the ECB), instead of the indicators mentioned in the consultation paper. We question strongly the inclusion of point d in paragraph 18 as we fail to see the importance of holding a larger foreign currency position in this context.

**Q7) Do you agree that transparency should be provided on the implementation of the process and on the use of the waivers when this use leads to non-disclosure of information required by Regulation (EU) No 575/2013? If not, why?**

We have no comments in regards to this question.

**Q8) Do you agree that information listed in paragraph 19 should be provided in case disclosures are omitted due to immateriality reasons? If not, why? Do you agree the provision of this information allow for an optimal degree of transparency regarding the use of the materiality waiver? If not, which additional information should be provided?**

Article 432(1) of the CRR does not mention that institutions should provide information in case disclosures are omitted due to immateriality reasons.

Information has to be provided when information is assessed as proprietary or confidential (article 432(3)). We therefore consider that paragraph 19 of the consultation paper should be deleted.

**Q9) What other techniques, if any, would you use to allow for the disclosure of meaningful information despite concerns about confidentiality or proprietary?**

We have no comments in regards to this question.

**Q10) Do you agree with the list of information that institutions should assess whether to disclose more frequently than annually? If not, what type of information would you include in or exclude from this list?**

The need for disclosing the full set of information required by Commission Implementing Regulation (EU) 1423/2013 (ITS on own funds) and the Draft ITS on Disclosure for Leverage Ratio under Article 451 (2) of Regulation (EU) 575/2013 RTS on a semi-annual basis (instead of as before on an annual basis) for institutions meeting the indicator in point d) of paragraph 18, as described in paragraph 26 point a) of the CP on page 24, would cause a disproportionate additional expense on the reporting institution in relation to any perceived additional benefit for investors. Therefore, we ask that these disclosures are required only on an annual basis as has been the case historically.



**Q11) Do you agree with the suggested frequency of disclosure for the different institutions meeting the different indicators specified in paragraph 18? If not, which alternative frequency would you suggest?**

We have no comments in regards to this question.

**Q12) Do you agree with the proposed implementation date? If not, which alternative date would you suggest?**

The proposed implementation date is January 2015. If this means that the disclosure obligation is in regards to information from 2014. If this is the case we would ask for a delay in order to provide sufficient time for institutions to comply with the new obligations (for example regarding the waiver and the frequency policies).

**Q13) Do you agree with our analysis of the impact of the proposals in this Consultation Paper? If not, can you provide any evidence or data that would explain why you disagree or that might further inform our analysis of the likely impacts of the proposals?**

We have no comments in regards to this question.



## About WSBI-ESBG (European Savings and Retail Banking Group)

**ESBG** brings together savings and retail banks of the European Union and European Economic Area that believe in a common identity for European policies. ESBG members support the development of a single market for Europe that adheres to the principle of subsidiarity, whereby the European Union only acts when individual Member States cannot sufficiently do so. They believe that pluralism and diversity in the European banking sector safeguard the market against shocks that arise from time to time, whether caused by internal or external forces. Members seek to defend the European social and economic model that combines economic growth with high living standards and good working conditions. To these ends, ESBG members come together to agree on and promote common positions on relevant matters of a regulatory or supervisory nature.

ESBG members represent one of the largest European retail banking networks, comprising of approximately one-third of the retail banking market in Europe, with total assets of over €7,300 billion, non-bank deposits of €3,480 billion and non-bank loans of €3,950 billion (31 December 2012).



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Published by ESBG, September 2014