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French Banking Federation Response to EBA Consultation Paper on the draft Guidelines on materiality, proprietary and confidentiality and on disclosure frequency under articles 432(1), 432(2) and 433 of regulation (EU) 575/2013

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 FBF welcomes the opportunity to comment the Consultation Paper on draft guidelines on materiality, proprietary and confidentiality and on disclosure frequency.

We support an initiative that aims at harmonizing a frame for waiver and frequency policies to ensure transparency and uniformity in application of the policies between credit institutions across Europe.

While a frame of procedure and a list of information to be disclosed more than annually is helpful to serve as a reference, the frequency to be applied should be in adequacy with the level of granularity of data to be provided. Except for extraordinary, material changes, quarterly reporting should not be required where financial statements are provided semi-annually or annually.

We agree that assessment as proprietary and as confidentiality should be exceptional but a right balance should be assessed between the relevance and usefulness of the information for investors and the detrimental impact that revealing such information might have on financial institutions, and consequently on the interest of users and the market.

As time is needed for implementation and as final version of the guidelines will not be available before the end of 2014, we suggest that the implementation date would be linked to the end of the financial year starting in 01/2015 (i.e. 31 December 2015).

You will find in the annexed attached our answers to the questions raised in the Consultation Paper. We hope you find these comments useful and remain at your disposal for any questions or additional information you might have.

ANNEX

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.

We agree that it is important to have a frame for waiver and frequency policies in order to ensure transparency and uniformity in application of the policies and in order to provide consistent and comparable information to stakeholders.

Although banks already have defined process and documentation to assess the policies referred to in the consultation paper, the proposed formal technical guidelines are welcomed as a frame for a constructive dialogue with supervisors.

However we do not believe that a dedicated process should be framed for Pillar 3. Article 431 does not mention such a process. Existing procedures within banks could also include process and criteria for Pillar 3 disclosures.

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

Assessing all potential disclosures for materiality or proprietary or confidentiality would be unduly burdensome. A more pragmatic approach should be retained such as assessing previous years' disclosures and changes occurred in the current year.

We question the weight given to the Internal Audit to review the implementation of the waiver and the frequency policies. Internal Audit should be involved in identification of major material risks rather than gain burden with the detailed review of the ongoing application of the policies.

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

Paragraphs 12 -14 provide sufficient guidance on relevant consideration and criteria to assess information for materiality. A flexible approach is essential to enable institutions to take account of specificities within their organisation.

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 agree with the criteria considered in the assessment of materiality. They are not too prescriptive and we do not believe that other principles or indicators should be added.

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?

We agree that assessment as proprietary should be exceptional, but we find the qualifying criteria of "drastically impact" and "fundamentally negatively affect" too onerous.

Concerning the assessment of confidentiality, we agree the principle that this should be exceptional. However we question the application of the notion of “legal analysis” as it is impracticable and unnecessary. Banks are subject to the duty of confidentiality towards their customers

We believe that, a right cost – benefit balance should be assessed between the relevance and usefulness of the information for investors and the negative impact that revealing such information might have on the financial institution, and consequently, on the interests of users and the market.

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

The indicators in paragraphs 18 are relevant to identifying a global systematically important institution as they are consistent with European rules.

We believe that undue importance is given to the characteristic of size whereas other important factors should be taken into consideration such as a proven demand amongst users for a greater frequency of disclosure, related cost-benefit considerations, the nature and volatility of risks and their mitigation, and the extent of diversification of the organization.

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 the non-disclosure of information required by Regulation (EU) 575/2013? If not, why?

Whereas we agree that an institution should clearly inform of its waiver policy, we do not believe that an institution should provide such details as prescribed in the proposed guidelines.

We appreciate that flexibility is given to institutions regarding location of not material information.

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 that the provision of this information allows for an optimal degree of transparency regarding the use of the materiality waiver? If not, what additional information should be provided?

As far as an institution has clearly informed of its waiver policy due to not material information, we believe that the information listed in paragraph 19 should be provided only when relevant from a stakeholder point of view.

Besides we believe that clearly stating and reasoning which information is not disclosed is part of the internal process disclosing information and would not be meaningful for investors. Investors and users of information need a relevant picture of financial institutions.

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

The use of other techniques highly depends on the nature of the information to be disclosed. Therefore some flexibility should be given to institutions to use appropriate techniques to clarify figures and to accompany disclosures with narrative explanations.

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

A list of information that might be disclosed more than annually is helpful to serve as a reference and a common basis across banks.

However the frequency to be applied should be in adequacy with the level of granularity of data to be provided. Significant changes in information on risk profile between quarters should be also considered when envisaging the frequency of the disclosures. Except for extraordinary, material changes, quarterly reporting should not be required where financial statements are provided semi-annually or annually. Regulatory disclosures published on a quarterly basis should not be disproportionate to the existing financial information published. Disclosures on quantitative information on internal models should remain annually.

In particular, in the case of detailed disclosures that generate limited interest from stakeholders (as measured by the number of queries to our investor relations department, for instance) a statement that the risk position has not changed materially from the year-end position should be sufficient.

Finally we question how the EBA guidelines and the Basel Committee review of Pillar 3 disclosures would interact. EBA's guidelines should not pre-empt the outcome of the Basel Committee consultation.

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 do not believe that frequency should be solely based on the indicators specified in paragraph 18. As described in question 10, other factors should be taken into consideration.

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

We believe time is needed for implementation. Indeed, the final version of the guidelines will not be available before the end of 2014. Moreover, institutions could not start the implementation process as long as competent authorities do not confirm within a delay of 2 months whether or not they intend to comply with the EBA guidelines.

We suggest that the implementation date would be linked to the end of the financial year starting in 01/2015 (i.e. 31 December 2015), meaning that the Guidelines would apply to disclosures published at the beginning of 2016.

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?

When assessing the impact of the proposals, we believe that more focus should be put on the operational issues. Additional investment will be required to generate additional disclosures within a shorter timeline at quarter-end, i.e. IT system developments and development of process of data controls to ensure quality of the data published.

In terms of frequency, the prudential disclosure to be published should be proportional to the existing financial information published on a quarterly basis.