



Brussels, 15<sup>th</sup> October 2020

**EACB comments on**

**Draft Regulatory Technical Standards on specifying the methodology to be used by resolution authorities to estimate the requirement referred to in Article 104a of CRD and the combined buffer requirement for resolution entities at the resolution group consolidated level for the purpose of setting MREL under BRRD Art. 45c(4)**

EBA/CP/2020/16

**General comments**

The EACB welcomes the opportunity to comment on the EBA Consultation Paper on Draft Regulatory Technical Standards on specifying the methodology to be used by resolution authorities to estimate the requirement referred to in Article 104a of CRD V and the combined buffer requirement for resolution entities at the resolution group consolidated level for the purpose of setting MREL under BRRD Art. 45c(4).

Indeed, we see that the MREL calibration needs to take due account of the fact that going-concern capital requirement may be set at group level with a perimeter that differs from the resolution group's perimeter: if not appropriately catered for this could lead to inappropriate estimation of risks and consequent requirements within the resolution group. At the same time, we believe that certain elements of the calculation method laid out in the draft RTS appear to be conflicting with such aim and require clarification.

**Answers to specific questions**

1. *Do you agree with the proposed 5% threshold?*

N/A

2. *Do you agree with the proposed approach to estimating pillar 2?*

The EACB would welcome clarification on the perimeter of entities included in the formula of paragraph 5 point (b).

Indeed, the RTS indicates in para. 6 of Article 1: *"For the purposes of paragraph 5, point (b), where no waiver has been granted in accordance with Part One, Title II, Chapter 2, Sections 2 and 3 of Regulation (EU) No 575/2013, and no additional own funds requirement has been imposed on an entity on an individual basis, the additional own funds requirement of that entity shall be zero."*

Our members see an ambiguity within the initial formulation, whereby it appears that some entities could be completely excluded of the formula defined in paragraph 5(b) of the same Article. Indeed, on the basis of the current drafting, one could wonder whether an entity benefiting from a solvency waiver (as defined in Articles 7 - 10 CRR) could be completely taken out of the formula, both on the numerator and denominator.



## EUROPEAN ASSOCIATION OF CO-OPERATIVE BANKS

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Paragraph 6 should make it clear that the RWAs of all entities within the resolution group remain accounted in the denominator in the formula of paragraph 5(b), including both entities benefiting from a solvency waiver, and entities for which no additional own funds requirement was set, i.e. with a level of additional own funds requirement equal to zero.

Proposed drafting:

"6.

"For the purposes of paragraph 5, point (b), where ~~no waiver has been granted in accordance with Part One, Title II, Chapter 2, Sections 2 and 3 of Regulation (EU) No 575/2013,~~ and no additional own funds requirement has been imposed on an entity on an individual basis, the additional own funds requirement of that entity shall be zero."

Besides, we would also note that solvency waivers are not defined in Part One, Title II, Chapter 2, Sections 2 and 3 of CRR but in Part One, Title II, Chapter 1.

3. *Do you agree with the proposed methodology for estimating the combined buffer requirement?*

N/A

**Contact:**

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