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## EBF Response to EBA Consultation on draft RTS on valuation under Directive 2014/59/EU (EBA/CP/2014/38)

**General comments**

1. The valuation exercise proposed in the document, in a recovery/resolution context, is an attempt to set objective values which we believe, however, is difficult to apply in practice due to the circumstances (resolution context), the need for a swift decision and to carry out valuations of future values of an uncertain nature.

2. We agree with the concept of a buffer to account for the uncertainties involved in the valuation process. However, such a buffer needs to be assessed against the implications it may have on the affected stakeholders, since valuations, namely valuation 2, will impact on the authorities’ decision regarding the resolution action to be taken - cancellation or dilution of shares, write down and so on. Hence, some caution is warranted when setting the buffer, in order not to induce decisions and actions that may be irreversible and excessive. We also understand further clarification is required regarding the way the buffer will be applied (will the buffer be applied as a loss or as a recapitalization buffer?) and how any remains of the buffer, after all valuation calculations have been finalized, will be treated.

3. Since a recovery/resolution process, in most cases hopefully, results from a closer monitoring of the failing entity by the supervision and resolution authorities, we find it questionable, in the case of valuation 2, to allow "changes to the assumptions made in applying accounting principles and regulatory requirements". In our opinion, it would be wise to have the valuation based, at least, on previous indications given by the supervision authority to the entity as to the need to change accounting and prudential assumptions (historical evidence that there may be deviations). This way, any doubts would be eliminated and there would be a reasoned position for the valuation difference - strengthening of recital (8) of the RTS on valuation for the purposes of resolution.

4. European banks believe that valuations, namely the ex-post valuations aim at safeguarding the “no creditor worse off principle”. To the extent that there are creditors worse off than in liquidation, and after adjustment of conversion rates to transfer value of better off creditors (if applicable) to worse off creditors, any worse off creditors have a claim on the resolution financing arrangements. In case of severe (valuation) errors or other wrong decisions by the resolution authorities and/or the valuers, the compensation process implies that those errors/wrong decisions will be borne by the resolution fund. So, although it seems fair to provide for compensations, if due, to shareholders/creditors affected, how fair is that any “valuation errors/wrong decisions” are borne by third parties such as the Resolution Funds’ contributors?

**Answers to the questionnaire**

**Q1:** The EBF dos not suggest any change to the definition of valuation approaches.

**Q2:** Yes, as previously mentioned, it may encompass: (i) historical evidence based on supervision authorities warnings as to the correct usage of prudential assumptions by the failing entity; (ii) an evidence, like benchmarking, that the reason for the change in the assumptions is based on market practice.

**Q3:** No comments.

**Q4:** See general comments.

**Q5:** If that valuation doesn't exist how can it be ensured/demonstrated that the "no worse off"/"safeguarding of creditor seniority" principle is safeguarded by the proposed resolution strategy? Or is that guarantee only relevant for compensation calculation purposes? And, in that case, is it fair that a possible error in the conversion be transferred/be the responsibility of the Resolution Fund instead of being borne by creditors/shareholders of the entity under resolution?

**Q6:** No comments.

**Q7:** We find it difficult to support the argument "which could reasonably have been known" when all valuations are made based on the identification of quantitative and qualitative factors that may influence the values.

**Q8:** We agree with the principle, which is aimed at re-establishing fairness in the values received by all stakeholders. It raises, however, some questions: i) What is the meaning of "significant change"? We believe there should be, for example, a percentage limit to the change in values; ii) We understand there is a need to set a moment after which there will be no further revisions to the identified values, to avoid introducing an element that may dictate the need to change the decision made; iii) It results in an uncertainty factor to the Resolution Fund in case the Fund is responsible for the reimbursement of differences.

**Q9:** A comprehensive and detailed reasoning of the valuation, as well as of all its supporting elements (which go beyond the information on discount rates), should be an integral part of the exercise.

**Q10:** Calculations, either for equities or debt instruments, should be based on market prices, except in cases where there is proven evidence of market disruptions (may need the endorsement from macro prudential and markets supervision authorities?). We believe it makes sense to link the valuation process under discussion on this paper with the position that is being taken on other EBA's public consultations, namely EBA/CP/2014/39 (CP on the rate of conversion of debt to equity in bail-in).

**Q11**: Yes, as set out in our previous answers.