

POSITION PAPER



ESBG response to the EBA consultation on Regulatory Technical Standards on equivalent mechanism for unfinished property

ESBG (European Savings and Retail Banking Group)

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Questions

Question 1(a): Are there some practical cases where a central government, regional government or local authority or a public sector entity involved, exposures to which are treated in accordance with Articles 115(2) and 116(4) of the CRR, respectively, has the legal powers and ability to ensure that the property under construction will be finished within a reasonable time frame and is required to or has committed in a legally binding manner to do so where the construction would otherwise not be finished within a reasonable time frame (i.e. existence of cases referred to in Article 124(3)(a)(iii) of the CRR)?

In the context of Q1(a), please describe in detail the sources of the legal powers and the ability of central government, regional government or local authority or a public sector entity as well as the arrangements regarding the requirement or the commitment to finish the construction in a reasonable timeframe.

Question 1(b): Are there some practical cases where legal powers and ability to ensure that the property under construction will be finished within a reasonable time frame is given to an entity that is neither a central government, nor an entity for which exposures are treated in accordance with Articles 115(2) or 116(4) of the CRR (i.e. existence of cases referred to in the current Article 1 of the RTS)?

In the context of Q1(b), please describe in detail the sources of the legal powers and the ability of this entity as well as the arrangements regarding the requirement or the commitment to finish the construction in a reasonable timeframe.

Question 2: With regard to subparagraph (d)(iii)(first indent) above, could you provide insights into how pledging the rights under the completion guarantee functions from both a legal and practical perspective? Specifically, in current market practices, are the rights pledged only upon the default of the obligor? If so, are any measures being considered or implemented to mitigate the legal risks associated with the pledge potentially needing to be upheld by the insolvency administrator under applicable insolvency law, and at last to ensure effective protection of the institution's interests?



Question 3: Could you provide the RW of the entities that are currently protection providers for such completion guarantees, as well as the type of counterparty (i.e. financial institution, other financial sector entity or corporate)?

Question 4: In the case where the requirements on the guarantee would be limited to cover the simple case where the construction works are impeded by financial difficulties faced by the real estate developer, which other mechanisms could ensure the appropriate recognition of the construction risk beyond the creditworthiness of the real estate developer in the own fund requirements?

Question 5: Which specificities of IPRE and non-IPRE exposures could warrant differentiated requirements on the equivalent mechanism?

Question 6: Could you provide empirical evidence of cases where a sovereign outside Europe has intervened to complete an unfinished property?

Question 7: The text of Article 124(3)(a)(iii)(second indent) refers to the completion of the property under construction within a reasonable time frame. What is the average time for the protection provider to step in once the real estate developer fails to meet its obligations? What is the average time for the protection provider to complete the construction of an immovable property, once the completion guarantee is triggered? For the previous responses, please



specify at what stage the construction was and how many housing units it comprised, if such data is available.

If a real estate developer who is not identical to the protection provider fails to meet its obligations, it is not the regular approach that the protection provider steps in. Actually, a new developer will often be needed. Hence, we do not have an answer on the average time and the other requested data.

Question 8: Do you have empirical evidence regarding the historical average loss rates for both real estate developers and entities providing completion guarantees? If available, please provide the pertinent empirical data.

Question 9: In order to conduct a comprehensive assessment of the completion guarantee risk, could you provide data related to the following indicators over the longest possible time horizon on a yearly basis: [for data collection purposes, we assume that there is only one completion guarantee per project, so that a credit institution should not double count the trigger of a completion guarantee for several housing units in the same property]

- a) **Ratio of number of times completion guarantees have been triggered by the total number of projects covered by the guarantees;**
- b) **Ratio of number of times completion guarantees have been triggered and resulted in completion divided by number of times completion guarantees have been triggered;**
- c) **Ratio of number of times completion guarantee have been triggered and were ultimately transformed into repayment guarantee divided by number of times completion guarantees have been triggered;**
- d) **For cases where the Real Estate Developers (REDs) defaulted, ratio of number of times completion guarantees have been triggered but for which the protection provider failed to meet its obligations (e.g. due to deficiency of the protection provider) divided by number of times completion guarantees have been granted.**



About ESBG (European Savings and Retail Banking Group)

ESBG is an association that represents the locally focused European banking sector, helping savings and retail banks in 17 European countries strengthen their unique approach that focuses on providing service to local communities and boosting SMEs. An advocate for a proportionate approach to banking rules, ESBG unites at EU level some 871 banks, which together employ 610,000 people driven to innovate at 41,000 outlets. ESBG members have total assets of €6.38 trillion, provide €3.6 trillion loans to non-banks, and serve 163 million Europeans seeking retail banking services.

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