German Banking Industry Committee

Die Deutsche Kreditwirtschaft

Comments

On the European Banking Authority's (EBA) Consultation Paper "Draft Guidelines on Disclosure of Encumbered and Unencumbered Assets" EBA/CP/2013/48

Register of Interest Representatives
Identification number in the register: 52646912360-95

Contact:
Frank Bouillon
Telephone: +49 30 2021- 2213
Telefax: +49 30 2021- 192200
E-Mail: f.bouillon@bvr.de

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The **German Banking Industry Committee** is the joint committee operated by the central associations of the German banking industry. These associations are the Bundesverband der Deutschen Volksbanken und Raiffeisenbanken (BVR), for the cooperative banks, the Bundesverband deutscher Banken (BdB), for the private commercial banks, the Bundesverband Öffentlicher Banken Deutschlands (VÖB), for the public-sector banks, the Deutscher Sparkassen- und Giroverband (DSGV), for the savings banks finance group, and the Verband deutscher Pfandbriefbanken (vdp), for the Pfandbrief banks. Collectively, they represent more than 2,000 banks.

Coordinator:
National Association of German Cooperative Banks
Schellingstraße 4 | 10785 Berlin | Germany
Telephone: +49 30 2021-0
Telefax: +49 30 2021-1900
www.die-deutsche-kreditwirtschaft.de

Comments Fehler! Verweisquelle konnte nicht gefunden werden.

Dear Sir or Madam,

we appreciate the opportunity to comment on the Consultation Paper EBA/CP/2013/48: Disclosure of encumbered and unencumbered assets by the European Banking Authority on 20 December 2013 published by the European Banking Authority on 20 December 2013.
First, we would like to point out that the disclosure of encumbered and unencumbered assets constitutes market sensitive information which, in our view - in the absence of any further interpretation guidance - do not lend themselves to an open public consultation. Hence, on principle, we have certain reservations over the requested disclosure of encumbered and unencumbered assets.

General comments

Pursuant to Title I No. 1 of the CP, the scope of application of the disclosure requirements for asset encumbrance shall be defined as follows:

„These guidelines apply to institutions as defined in point (3) of Article 4(1) of Regulation (EU) No 575/2013 (CRR) that are subject to asset encumbrance reporting in accordance with Article 100 or that have to comply with disclosure requirements in Part Eight of the same regulation."

In our view, this would result in disproportionate and unjustified additional costs for banks that are exempt from the regulatory scope of any direct disclosure requirements but which are only subject to disclosure on a consolidated level as part of the group disclosure. Even for significant subsidiaries, an asset encumbrance disclosure pursuant to Art. 13 CRR does not form part of the streamlined disclosure requirements.

Therefore, the asset encumbrance disclosure requirement should exclusively apply to banks, which meet both conditions in a cumulative manner. We object to any such requirement (i.e. also to the requirement in the above paragraph) if and when only one of these conditions is met.

On a more general note, in our understanding, the ESRB's recommendation D as well as the mandate derived from Art. 443 CRR shall exclusively refer to disclosure requirements for encumbered as well as unencumbered assets (i.e. bank assets). Any disclosure of accepted, off-balance sheet collateral (regardless of whether this collateral is encumbered or unencumbered) as well as disclosure of collateralised liabilities is not recommended by the ESRB nor is such a disclosure requested under the provisions of the CRR.

The disclosure requirements envisaged by the ESRB and CRR shall provide uncollateralised debtors and other investors with information concerning the degree of the encumbrance of the balance sheet assets and, potentially, in a further step, shall provide them with information concerning the quality or, moreover, concerning the creditworthiness of the latter. Uncollateralised debtors shall be allowed to assess to which extent the balance sheet assets of a bank shall be available for satisfying their demands in the event of an insolvency. Recommendation D by the ESRB and Art. 443 CRR do not indicate any further objective beyond this. Hence, the scope of the EBA's mandate concerning the asset encumbrance disclosure does not warrant requesting from banks also information on collateral accepted and the sources of the encumbrance.

Apart from this, information on the funding structure or, moreover, on banks' uncollateralised and collateralised funding forms shall henceforth already be collected as part of the present Draft Guidelines "On harmonised definitions and templates for funding plans of credit institutions under ESRB Recommendation 2012/02 A.4".
Hence, in our view, any disclosure of the sources of encumbrance would thus be redundant or, moreover, would not yield any further information on entities' funding structure.

An asset encumbrance disclosure accompanied by information on the accepted collateral would allow readers to establish an encumbrance rate of whichever shape or form. On a stand-alone basis, a ratio thus calculated does not allow any qualitative verdict on a bank's reliability nor does it yield any further relevant information, either.

During the public hearing, the question arose as to which values shall be reported in the templates and whether disclosures may also be made as a percentage. A disclosure as a percentage would be

operationally easier to implement without incurring any significant loss in information. Hence, the format of the expected indicators should be clarified.

We welcome the statement by the EBA during the public hearing that a potential enlargement of the disclosure requirements, particularly where the disclosures exceed the reporting requirements or, moreover, where they can no longer be derived from the data which is collated for reporting purposes, shall be subject to a prior consultation.

Furthermore, a comprehensive glossary should be published allowing the reader to interpret the figures correctly.

Specific comments or, moreover, response to the questions

1. *Should the disclosure information on encumbered and unencumbered assets, in particular on debt securities, be more granular and include information on, for example, sovereigns and covered bonds? Please explain how sensitive the disclosure of this information is.*

In our view, the disclosure of the data required under Template A is appropriate. We object to any further granularity of the disclosures on encumbered / unencumbered assets. Our reservations are owed to the undue advantages that may result from such disclosures in the event of item changes of market participants in the interbanking market. Furthermore, the value added of such information in terms of additional insights is not immediately obvious to us.

2. *Should the disclosure information on encumbered and unencumbered assets also include information on the quality of these assets? What would be a suitable indicator of asset quality? Please explain how sensitive the disclosure of this information is.*

We hold the view that a disclosure of further qualitative data on encumbered and unencumbered assets is inappropriate. Our reservations are owed to the fact that there is no accepted neutral definition for the respective asset quality. The only quality indicator would be their eligibility as collateral accepted by a central bank which is also a criterion used for the purposes of data collection on encumbered and unencumbered assets. The widely used ratings, however, do not provide any valid indication of the quality of encumbered or unencumbered assets meaning that such ratings shall not be deemed fit for purpose as a quality indicator.

Furthermore, in the event of a European-wide consistent application of quality indicators for encumbered and unencumbered assets, the advantages of a more precise specification of quality hallmarks would have to be weighed against the danger of potential procycical effects. Only in the event of consistent definitions could this result in value added information for investors which might outweigh the dangers of procyclicality.

3. *Do you think that the disclosure required in Template A could lead to detection of the level and evolution of assets of an institution encumbered with a central bank, given that the information should be disclosed based on median values (see paragraph 7 of Title II) and the lag for disclosure is 6 months (see paragraph 10 of Title II)?*

Provided the disclosing bank is known to conduct hardly any repo business, A 040, together with the delta between line 010 and 040 in conjunction with C 040 can be used to extrapolate the amount of low grade assets encumbered with a central bank. Hence, we are concerned that disclosure of such information may result in adverse effects for the respective banks.

4. *Should the disclosure of information relating to the 'nominal amount of collateral received or own debt issued not available for encumbrance' on unencumbered collateral be requested? Please explain the relevance of this information for market participants and the sensitivity of the disclosure of this information.*

Comments Fehler! Verweisquelle konnte nicht gefunden werden.

There should be no mandatory disclosure of nominal values of collateral received or own debt issued not available for encumbrance. Whereas the encumbrance is simply not an option due to technical reasons, amongst readers, said disclosure might lead to wrong conclusions, i.e. it might make them assume that such collateral or liabilities are of low quality ("junk").

Furthermore, it is not immediately obvious to us why creditors or other readers of the disclosure report should be interested in information on collateral accepted which cannot be used in the absence of a default on the part of the collateral provider. In the event of a bank's insolvency such collateral cannot be realised. Hence, it is not available for the purposes of liquidity procurement, either. In order to ensure actual comparability of the disclosures, it would furthermore be necessary to set out criteria for a designation as "available for encumbrance". We therefore suggest dropping the differentiation into "available for encumbrance" and "not available for encumbrance" in Template B.

5. *Do you agree with the proposed granularity of Template B given that collateral swaps with central banks will not be disclosed? Please explain how sensitive the disclosure of this information is.*

We subscribe to the proposal of designating the transactions with central banks as "encumbered". In our understanding, the collateral swaps are extremely rare in the context of central banks. Hence, we see no value added in this disclosure. As a consequence, we suggest deleting line 230 in Table B.

Collateral accepted does not constitute any corporate asset and shall not be available to uncollateralised creditors in the event of an insolvency. Whilst the ESRB claims that it seeks to make information available concerning those balance sheet assets that can be realised in the event of an insolvency, it is not immediately obvious to us how this objective can be achieved by means of the aforementioned disclosures.

6. *Do you think that the information on the sources of encumbrance in Template C is too sensitive to be disclosed? Should this information be disclosed in Template D instead (as narrative information)? Please explain the relevance of this information for market participants and the sensitivity of the disclosure of this information.*

We hold the view that the disclosure of the information on the sources of encumbrance is highly sensitive. Furthermore, disclosures on collateralised liabilities are already being disclosed as part of the business report. The disclosure requested by the EBA could give rise to misinterpretations. (e.g.: gross statement of repo liabilities in the absence of netting with reverse repos under the deposits). Hence, we feel that a qualitative presentation of this information in Template D is more appropriate.

(Cf. also our general comments).

7. *Should the information be disclosed as a point in time (e.g. as of 31 December 2014) instead of median values? Please explain why.*

We hold the view that the information should be disclosed as a point in time since this approach is more appropriate. This is due to the fact that a point in time disclosure is consistent both with the disclosure obligations under accounting principles as well as with the reporting requirements under prudential supervision rules. More often than not, the IT systems for compliance with the reporting requirements are geared towards reporting with a view to a specific date. Hence, also in terms of the technical logistics, disclosing the information as a point in time should be the only option. Furthermore, a disclosure on the basis of the respective median of each individual cell of these tables would lead to an inconsistent presentation and hence would hardly be meaningful. Any disclosure shall and must therefore invariably only refer to the data as of a specific deadline.

8. *Do you agree with the proposed list of disclosures under narrative information in Template D? Should the guidelines explicitly state that emergency liquidity assistance by central banks (ELA) should not be disclosed?*

Comments Fehler! Verweisquelle konnte nicht gefunden werden.

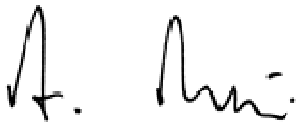
On principle, we have strong reservations over the narrative information on the meaning of encumbrances in Template D. This is due to the fact that, on principle, the disclosure of encumbered and unencumbered assets constitutes highly sensitive business information.

We strongly welcome an explicit clarification that the Emergency Liquidity Assistance (ELA) by central banks shall not be disclosed.

9. *Do you agree that the disclosures should be published no later than six months after the publication of the financial statements? Do you consider a time lag of no more than six months sufficient to ensure that the information disclosed will not adversely impact the financial stability of markets and institutions?*

We hold the view that a publication of the disclosure of the information on encumbered and unencumbered assets no later than six months after the publication date of the financial statement shall be appropriate. In our understanding, under the provisions of Art. 433 CRR, the disclosure shall, on principle, have to take place once a year on the closing date of 31 December.

Yours sincerely,
on behalf of the German Banking Industry Committee
National Association of German Cooperative Banks



Dr. Andreas Martin i. V. Jens Hielscher