ESBG

ESBG RESPONSE TO THE EUROPEAN COMMISSION CONSULTATION ON THE BANKING PACKAGE PROPOSAL

Position paper – Executive summary

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On February 22, ESBG responded to the European Commission "have your say" consultation on the Banking Package proposal, which transposes the final elements of the Basel III reforms in the EU regulatory framework and pursues other prudential and supervisory objectives.

BASEL IV

The European Savings and Retail Banking Group (ESBG) positively assesses the banking package proposal issued by the European Commission. It transposes the final elements of the Basel III reforms in the EU regulatory framework and pursues other prudential and supervisory objectives. Whilst the Commission has sought to take into consideration many issues raised so far by policymakers and the financial sector in order to find a well-balanced and realistic starting point for the co-legislators, we believe that the proposal still requires further adjustments.

We support the proposal to apply the output floor as prescribed in the Basel text, i.e. at the highest level of consolidation. The envisaged single-stack approach, alternative to using the floor as a backstop by applying it to internationally agreed capital requirements only, requires however that supervisory powers are more clearly framed and that the arrangements mitigating its impact are of a longer-term nature or permanent.

The transitional arrangements for residential real estate, unrated corporates and SA-CCR do not address underlying structural factors that prevail in the European banking sector. These flexibilizations should be made permanent or at least phased out based on the actual observation of structural changes, such as the share of mortgages securitised and out of the bank's prudential scope, or the share of corporates rated by eligible rating agencies in the case of unrated corporates. Moreover, the flexibilizations should be extended also to institutions using the standardised approach in order to ensure a level playing field.

In the area of operational risk, we recognise the proposal to disregard historical operational losses for all institutions within the calculation of capital requirements, meaning that the Internal Loss Multiplier (ILM) is effectively being set equal to one. This is a discretion provided in the Basel framework.

As regard equity exposures, we propose to implement a new category with a lower 100% risk weight (RW) for long term strategic equity investments.

Regarding specialised lending, the proposal to increase the risk sensitivity for unrated object finance exposures is positive. We welcome the introduction of a "high-quality" principle in the standardised approach and the phase-in application of input floors under the IRB approach.

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With respect to real estate exposures, we do not see the need for the newly introduced non-income producing real estate requirements to go beyond the Basel standards. Moreover, we support the increased risk sensitivity for ADC lending.

The Basel Committee had originally envisaged a threshold of EUR 100 billion measured in total notional amount of non-centrally cleared derivatives for the application of the simplified credit valuation adjustments (CVA) method. We suggest sticking to that provision.

As regards the application of the credit conversion factor (CCF) to exposures for which an institution has received permission to estimate an LGD under the IRB approach in Article 166 Para 8 CRR3, it should be clarified that the CCF for defaulted exposures shall be set to zero to avoid double counting. A CCF of 20% should apply to trade finance instruments as the proposed changes are not in line with the Basel text and would have a negative impact on such crucial instruments for commerce.

The proposed centralization of the disclosures for small and non-complex institutions is welcomed. Small and non-complex institutions should be exempted from reporting and disclosure requirements in the area of Environmental, Social and Governance (ESG) risks. Further proportionality elements in the area of disclosures could be envisaged.

Finally, the decision to maintain important EU features such as the SME and the infrastructure supporting factors is appreciated. The same applies to the CVA exemptions.

OTHER TOPICS BEYOND BASEL IV (FIT & PROPER, ESG RISKS, SUPERVISORY POWERS)

The European Savings and Retail Banking Group (ESBG) welcomes the opportunity to comment on the European Commission's CRD VI proposal as regards supervisory powers, sanctions, third-country branches, and ESG risks. We would like to share the following considerations which we trust the Commission will take into account.

Regarding Fit & Proper, CRD VI introduces a harmonised approach of notifications and suitability assessments for members of management bodies (Articles 91a and 91b CRD) and heads of internal control functions (Articles 91c and 91d CRD), consisting of a mandatory ex-ante notification and suitability assessment regime across the EU. ESBG is against this proposal because of the different nomination/selection process and particularities of the corporate law systems in the EU Member States. Although ex-ante assessment is already the norm in some Member States where it runs smoothly, there are some others (such as Germany, France, Austria and Italy) where the ex-ante assessment proposed by the Commission is not possible for some credit institutions, as they have little to no influence on the recruitment process of members of the supervisory board. In some Member States, any internal assessment of supervisory board members by the institution would even contravene national laws. For these reasons , ESBG advocates to keep the Fit and Proper legislation as it is found in the CRD V text, and not make

any changes in CRD VI. While in many areas the harmonisation of legal requirements across the EU is reasonable, in this case regarding fit & proper the ex-ante / ex-post assessment process should remain a choice at national level, in order to reduce the high administrative burden that banks, and in some cases national governments, would face in the event of a change to just one assessment type: ex-ante. Both types of assessment must continue to be allowed for a smooth nomination/selection process across the EU, to have a diverse banking sector allowing for different business models and maintain national discretions.

Regarding Key Function Holders, ESBG believes that it is unnecessary to introduce an assessment framework into the CRD. The current requirements stipulated by the Joint ESMA-EBA guidelines on the assessment of the suitability members of the management body and key function holders are adequate and should be therefore maintained.

In the area of ESG, institutions have a direct interest in supporting the transition to a sustainable economy. However, the tasks of banking supervisors may not be extended to urging institutions to adapt their business models to the respective Union's policy objectives or to "broader transition trends". Since there are no methodologies or industry standards for the quantification of the exposure at a more granular ESG risk level (i.e. social risk or governance risk), we propose to disregard this. Furthermore, we propose to skip specification of the time horizons for the ICAAP as Art. 76 (1) already contains a requirement to consider also medium and long-term impacts of ESG factors within the strategies.

Concerning supervisory powers, we doubt that the proposed notification/approval requirements and additional supervisory powers will effectively improve the current supervisory framework and avoid undue administrative burden. The Commission (and the supervisory authorities) should rather perform an assessment of simplifying and reducing complexity in the current acquisitions framework in the financial sector.

With regard to the components of Internal Capital (ICAAP), it has to be clarified in Article 73 CRD that the internal capital for ICAAP can consist of all eligible own funds according to the CRR as well as of economically comparable components or - alternatively - of the institution's net present value assets.
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