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WORKING PAPER

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From:	Presidency
To:	Delegations
Subject:	Article 99 and Part Eight of the CRR 'Amendments to the Reporting and Disclosure Framework', respectively

Delegations will find attached Presidency non-paper for the 15/16 February 2017 meeting.

Article 99 and Part Eight of the CRR 'Amendments to the Reporting and Disclosure Framework', respectively

Background

Reporting

Article 99 CRR has been amended to reduce reporting for 'small institutions' as defined in Article 430a CRR. Small institutions will only be required to submit reports on an annual basis. (Article 99(4) CRR). Amendments to Article 99 have also been made to include a mandate for EBA to deliver a report to the Commission on the compliance cost of regulatory reporting as well as examine whether reporting requirements have been applied in a sufficiently proportionate manner by 31 December 2019. (Article 99(7) CRR)

Disclosure

The amendments to the existing Part Eight reflect the drive for a more proportionate disclosure regime, which takes into consideration the relative size and complexity of the institution. Article 430a introduces the proposed definitions of 'large institution', 'large subsidiary', 'non-listed institution' and 'small institution'. Disclosure requirements have been set out according to whether an institution is significant (Article 433a), small (Article 433b) or other (Article 433c), with a further distinction between listed and non-listed institution for each category. A sliding scale basis will apply, with large listed institutions being at the upper end of the sliding scale while small non-listed institutions will be at the lower end of the scale.

Feedback provided by Member States

Reporting

Most of the Member States did not agree with the reduced reporting frequency for small institutions. On the contrary, some Member States preferred to maintain the current frequency of reporting while reducing its scope. A Member State suggested the use of the EBA's '*Risk indicators and detailed risk analysis tools*' to delineate scope. Other Member States preferred that the reduction in frequency of reporting rests at the discretion of the Competent Authority. Another Member State suggested an integrated reporting system for on-going supervision, resolution and deposit guarantee purposes as well as the potential merger of ANACREDIT.

Member States had mixed views on the Commission's proposal to mandate to the EBA the delivery of a report on the cost of regulatory reporting. Those Member States who had reservations sought to include in the EBA assessment, the impact on the quality/effectiveness of supervision. Other Member States also commented that the quantification of the cost of compliance is a subjective exercise and that the proposed definition of 'cost of compliance' does not ease the subjectivity surrounding this exercise.

Disclosure

A number of Member States disagree with the definitions listed in Article 430a CRR. A majority of Member States have reservations with the absolute threshold of EUR1.5 billion in the definition of small institutions. A number of Member States suggest that the applicable threshold for small institutions should be a relative amount, e.g. according to the size of the Member State's banking sector or the institution's balance sheet size or market share. Other Member States considered the absolute threshold laid out in the proposal as being too restrictive and suggested a higher threshold with one Member State suggesting even an amount up to 10 or 20 times higher than that proposed by the Commission. Other Member States recommended a mix of both absolute and relative thresholds.

With respect to the proposed amendments to the counterparty credit risk disclosure requirements, a Member State suggested adding the disclosure on the size of derivative business to Articles 433b(1)(a)(iv) and 433c(2)(a) CRR. With respect to the proposed amendments to the exposures to interest rate risk on positions not held in the trading book, a Member State disagrees with the requirement on institutions to disclose the modelling and parametric assumptions and to explain the rationale for deviating from the common modelling and parametric assumptions which could be defined by the EBA (Article 448 (1)(e) CRR). In this respect, a number of Member States proposed that the EBA is not mandated to draft an RTS on common modelling and parametric assumptions used to calculate changes in net interest income. On the new prudential requirements on leverage ratio and NSFR, a Member State stated that this disclosure should be proportionate and be focused on capital market oriented institutions. Moreover, this same Member State suggested requiring institutions to disclose the most important exposures which are subject to exemptions. With respect to the disclosures concerning the use of derogations from the remuneration rules under the CRD, a Member State recommended that the disclosure on the remuneration policy for smaller banks should be more proportionate. Regarding supplementary own funds requirement for financial conglomerates, a Member State opposed this requirement in relation to non-deducted insurance participation for financial conglomerates (Article 438(f) CRR). With respect to the disclosure of 'key metrics', a Member State did not support the proposed disclosure on eligible liabilities while another Member State considers that Pillar 2 disclosures should not apply to all institutions, such as small and non-listed institutions.

Main Issues:

- Lack of support for annual reporting by small institutions.
- Lack of consensus on the mandate given to EBA to prepare a report on the cost of reporting of institutions (Article 99(7) CRR).
- Disagreement on the definition of large institutions.
- Contention on the definition of non-listed institutions.
- Disagreement on the calibration of the threshold applicable to small institutions.
- Disagreement over the scope of certain disclosure requirements.
- Lack of support for the EBA mandate to develop regulatory technical standards to specify the common modeling and parametric assumptions (Article 448 (3) CRR).

Questions:

Reporting

Q1: Given that there is no support for the proposed yearly frequency of reporting for small institutions, which frequency would Member States prefer (e.g. quarterly, semi-annual)?

Q2: Do Member States consider that the frequency of reporting for small institutions should depend on the type of information to be reported?

Q3: Could Member States provide more detail on the type of information that should be reported annually, semi-annually and/or quarterly? For example, should reporting of own funds and large exposures be reported more frequently? Please explain.

Q4: Given Member States' openness to discuss the reduction of reporting obligations, could Member States indicate which information small institutions could be relieved from reporting?

Q5: Do Member States have any views on what other Level 1 provisions should be added with a view to ensuring the proportionality of the reporting framework?

Disclosure

Q6: Do Member States agree with the conditions that need to be met for an institution to be considered a 'large institution'? If not, what conditions would be deemed appropriate?

Q7: Do you agree with the proposed threshold (EUR1.5 billion) to be considered a 'small institution'? If not, what absolute threshold do you deem appropriate? How many more/fewer institutions would be captured compared to the current proposal?

Q8: Regarding the definition of 'small institutions', would you agree with the introduction of an additional relative threshold such as a percentage of market share? What other alternative thresholds would you consider, if any, for defining small institutions? How would this affect the number of institutions captured compared to the current proposal?

Q9: Do you foresee additional disclosure arrangements applicable to any type of institution?

Q10: A number of Member States do not support the disclosure of Pillar 2 requirements for small and non-listed institutions. Do you agree with this suggestion? How frequent should this be reported? Are there other disclosure requirements which the Member State is not in agreement with? If yes, indicate and state your reason.

Q13: Do you agree that the EBA should be mandated to develop draft regulatory technical standards to specify the common modeling and parametric assumptions used to calculate changes in the net interest income?

ANNEX I

Commission's amendments to Article 99

Reporting on own funds requirements and financial information

~~1. Institutions shall report Reporting by institutions to their competent authorities on the obligations laid down in Article 92 in accordance with this Article shall be carried out at least on a semi-annual basis.~~

~~Resolution entities shall report to their competent authorities on the obligation laid down in Article 92a and 92b at least on a semi-annual basis.~~

~~2. Institutions subject to Article 4 of Regulation (EC) No 1606/2002 and credit institutions other than those referred to in Article 4 of that Regulation that prepare their consolidated accounts in conformity with the international accounting standards adopted in accordance with the procedure laid down in Article 6(2) of that Regulation, shall also report financial information.~~

~~3. Competent authorities may require those credit institutions applying international accounting standards as applicable under Regulation (EC) No 1606/2002 for the reporting of own funds on a consolidated basis pursuant to Article 24(2) of this Regulation to also report financial information as laid down in paragraph 2 of this Article.~~

2. In addition to the own funds reporting referred to in paragraph 1, institutions shall report financial information to their competent authorities where they are one of the following:

(a) an institution subject to Article 4 of Regulation (EC) No 1606/2002;

(b) a credit institution that prepares its consolidated accounts in accordance with the international accounting standards pursuant to Article 5(b) of Regulation (EC) No 1606/2002.

3. Competent authorities may require from credit institutions that determine their own funds on a consolidated basis in accordance with international accounting standards pursuant to Article 24(2) of this Regulation, to report financial information in accordance with this Article.

4. The reports required in accordance with paragraphs 1 to 3 shall be submitted on an annual basis by small institutions as defined in Article 430a and, subject to paragraph 6, semi-annually or more frequently by all other institutions.

~~45. The reporting on financial information referred to in paragraph 2 and in the first subparagraph of paragraph 3 shall be reported to the extent this is necessary to obtain a only comprise information that is needed to provide a comprehensive view of the institution's risk profile of an institution's activities and a view on the systemic risks posed by institutions to the financial sector or the real economy in accordance with as set out in Regulation (EU) No 1093/2010.~~

56. EBA shall develop draft implementing technical standards to specify the uniform formats, frequencies, dates of reporting, definitions and the IT solutions to be applied in the Union for the reporting referred to in paragraphs 1 to 34 and in Article 100.

~~The reporting requirements laid down in this Article shall be applied to institutions in a proportionate manner, having regard to their size, complexity and the nature, scale and complexity of the and level of risk of their activities of the institutions.~~

~~EBA shall submit those draft implementing technical standards to the Commission by 1 February 2015.~~

Power is conferred on the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with Article 15 of Regulation (EU) No 1093/2010.

~~6. Where a competent authority considers that the financial information required by paragraph 2 is necessary to obtain a comprehensive view of the risk profile of the activities of, and a view of the systemic risks to the financial sector or the real economy posed by, institutions other than those referred to in paragraphs 2 and 3 that are subject to an accounting framework based on Directive 86/635/EEC, the competent authority shall consult EBA on the extension of the reporting requirements of financial information on a consolidated basis to those institutions, provided that they are not already reporting on such a basis.~~

7. EBA shall assess the financial impact on institutions of Commission Implementing Regulation (EU) No 680/2014²⁹ in terms of compliance costs and report its findings to the Commission by no later than [31 December 2019]. That report shall in particular examine whether reporting requirements have been applied in a sufficiently proportionate manner. For those purposes, the report shall:

(a) classify institutions into categories based on their size, complexity and the nature and level of risk of their activities. The report shall in particular include a category of small institutions as defined in Article 430a;

(b) measure the reporting burden incurred by each category of institutions during the relevant period to meet the reporting requirements set out in Implementing Regulation (EU) No 680/2014, taking into account the following principles:

(i) the reporting burden shall be measured as the ratio of compliance costs relative to institutions' net income during the relevant period;

(ii) the compliance costs shall comprise all expenditure directly or indirectly related to the implementation and operation on an on-going basis of the reporting systems, including expenditure on staff, IT systems, legal, accounting, auditing and consultancy services;

(iii) the relevant period shall refer to each annual period during which institutions have incurred compliance costs to prepare for the implementation of the reporting requirements laid down in Implementing Regulation (EU) No 680/2014 and to continue operating the reporting systems on an on-going basis;

(c) assess whether and to what extent compliance costs substantially prevented newly incorporated institutions from entering the market;

(d) assess the impact of compliance costs, as referred to in point (b)(ii), on each category of institutions in terms of opportunity costs; and

(e) recommend amendments of Implementing Regulation (EU) No 680/2014 to reduce the reporting burden on institutions or specified categories of institutions where appropriate having regard to the objectives of this Regulation and Directive 2013/36/EU. The report shall, at a minimum, make recommendations on how to reduce the level of granularity of reporting requirements for small institutions as defined in Article 430a.

8. For the purposes of point (d) of paragraph 7, 'opportunity costs' shall mean the value lost to institutions for services not provided to customers due to compliance costs.

9. Competent authorities shall consult EBA on whether institutions, other than those referred to in paragraphs 2 and 3, should report on financial information on a consolidated basis in accordance with paragraph 2, provided that all of the following conditions are met:

(a) the relevant institutions are not already reporting on a consolidated basis;

(b) the relevant institutions are subject to an accounting framework in accordance with Directive 86/635/EEC;

(c) financial reporting is considered necessary to provide a comprehensive view of the risk profile of those institutions' activities and of the systemic risks they pose to the financial sector or the real economy as set out in Regulation (EU) No 1093/2010.

EBA shall develop draft implementing technical standards to specify the formats to be used by institutions ~~to which the competent authorities may extend the reporting requirements in accordance with~~ referred to in the first subparagraph shall use for the purposes set out therein.

~~EBA shall submit those draft implementing technical standards to the Commission by 1 February 2015.~~

Power is conferred on the Commission to adopt the implementing technical standards referred to in the second subparagraph in accordance with Article 15 of Regulation (EU) No 1093/2010.

~~710.~~ Where a competent authority considers information not covered by the implementing technical standards referred to in paragraph ~~56 to be as~~ necessary for the purposes set out in paragraph ~~45~~, it shall notify EBA and the ESRB ~~about~~ of the additional information it deems necessary to include in the implementing technical standards referred to in ~~paragraph~~ that 5.

11. Competent authorities may waive the requirements to report data items specified in the implementing technical standards referred to in this Article and Articles 100, 101, 394, 415 and 430 where those data items are already available to the competent authorities by means other than those specified under the above mentioned implementing technical standards, including where that information is available to the competent authorities in different formats or levels of granularity."

Commission's amendments to Article 430a

Definitions

For the purposes of this Part and Articles 13, 99, 100, 394 and 430 the following definitions shall apply:

(1) "large institution" means an institution that meets any of the following conditions:

(a) the institution has been identified as a global Systemically important institution ('G-SII') in accordance with Article 131(1) and (2) of Directive 2013/36/EU;

(b) the institution has been identified as other systemically important institution ('O-SII') in accordance with Article 131(1) and (3) of Directive 2013/36/EU;

(c) the institution is, in the Member State where it is established, one of the three largest institutions by total value of assets;

(d) the total value of the institution's assets on the basis of its consolidation situation is equal to or larger than EUR 30 billion;

(e) the total value of the institution's assets is equal to or larger than EUR 5 billion and the ratio of its total assets relative to the GDP of the Member State where it is established is on average equal to or larger than 20 % over the four-year period immediately preceding the current annual disclosure period.

(2) "large subsidiary" means a subsidiary that qualifies as a large institution as defined in paragraph 1.

(3) "non-listed institution" means an institution that has not issued securities that are admitted to trading on a regulated market of any Member State, as defined in point (21) of article 4 (1) of Directive 2014/65/EU.

(4) "small institution" means an institution the value of the assets of which is on average equal to or less than EUR 1.5 billion over the four-year period immediately preceding the current annual disclosure period.

Commission's amendments to Article 433b

Disclosures by small institutions

1. Small institutions shall disclose the information outlined below and, at least, with the following frequency:

(a) on an annual basis:

(i) the information referred to in points (a), (e) and (f) of Article 435(1);

(ii) the information referred to in points (a), (b) and (c) of Article 435(2);

(iii) the information referred to in Article 450;

(iv) the information referred to in point (a) of Article 437 (a), point (c) of Article 438, points (e) and (f) of Article 439, point (c) and points (1) and (3) of point (e) of Article 442, point (e) of Article 444, points (a) and (b) of Article 448, points (k) to (m) of

Article 449, points (a) and (b) of Article 451, Article 451a(2) and (3), point (f) of Article 452, point (f) of Article 453 and point (a) of Article 455(2), where applicable.

(b) the key metrics referred to in Article 447 on a semi-annual basis;

2. By way of derogation from paragraph 1, small institutions that are non-listed institutions shall disclose the following information at least on an annual basis:

(a) the information referred to in points (a), (e) and (f) of Article 435(1);

(b) the information referred to in points (a), (b) and (c) of Article 435(2);

(c) the information referred to in Article 450;

(d) the key metrics referred to in Article 447.

Commission's amendments to Article 448

Disclosure of ~~Exposures~~ to interest rate risk on positions not ~~included~~ held in the trading book

~~Institutions shall disclose the following information on their exposure to interest rate risk on positions not included in the trading book:~~

~~(a) the nature of the interest rate risk and the key assumptions (including assumptions regarding loan prepayments and behaviour of non-maturity deposits), and frequency of measurement of the interest rate risk;~~

~~(b) the variation in earnings, economic value or other relevant measure used by the management for upward and downward rate shocks according to management's method for measuring the interest rate risk, broken down by currency.~~

1. As from [two years after the entry into force of the CRR Amending Regulation], institutions shall disclose the following quantitative and qualitative information on the risks arising from potential changes in interest rates that affect both the economic value of equity and the net interest income of their non-trading activities referred to in Article 84 and Article 98(5) of Directive 2013/36/EU:

(a) the changes in the economic value of equity calculated under the six supervisory shock scenarios referred to in Article 98(5) of Directive 2013/36/EU for the current and previous disclosure periods

(b) the changes in the net interest income calculated under the six supervisory shock scenarios referred to in Article 98(5) of Directive 2013/36/EU for the current and previous disclosure periods;

(c) a description of key modelling and parametric assumptions, other than those referred to in paragraph 2 of this Article and in Article 98(5a)(b) of Directive 2013/36/EU used to calculate changes in the economic value of equity and in the net interest income required under points (a) and (b) of this paragraph;

(d) an explanation of the significance of the risk measures disclosed under point (a) and (b) of this paragraph and of any significant variations of those risk measures since the previous reporting date;

(e) the description of how institutions define, measure, mitigate and control the interest rate risks of their non-trading book activities for the purposes of the competent authorities' review in accordance with Article 84 of Directive 2013/36/EU, including:

(i) a description of the specific risk measures that the institutions use to evaluate changes in their economic value of equity and in their net interest income;

(ii) a description of the key modelling and parametric assumptions used in the institutions' internal measurement systems that would differ from the common modelling and parametric assumptions referred to in Article 98(5a) of Directive 2013/36/EU and paragraph 2 of this Article for the purpose of calculating changes to the economic value of equity and to the net interest income under the six supervisory scenarios, including the rationale for those differences;

(iii) a description of the interest rate shock scenarios that institutions use to estimate those interest rate risks;

(iv) the recognition of the effect of hedges against those interest rate risks, including internal hedges that meet the requirements laid down in Article 106(3) of this Regulation;

(v) an outline of how often the evaluation of those interest rate risks occurs;

(f) the description of the overall risk management and mitigation strategies for these risks.

2. By way of derogation from paragraph 1, the requirements set out in points (c) and (e)(i) to (e)(iv) of paragraph 1 shall not apply to institutions that use the standardised methodology referred to in Article 84(1) of Directive 2013/36/EU.

3. EBA shall develop draft regulatory technical standards to specify the common modelling and parametric assumptions that institutions shall reflect in their calculation of the net interest income referred to in point (b) of paragraph 1.

EBA shall submit those draft regulatory technical standards to the Commission by [two years after entry into force of amending Regulation].

Power is delegated to the Commission to adopt the regulatory technical standards referred to the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Commission's amendments to Article 438 (g)

~~Capital requirements~~ Disclosure of capital own funds requirements and risk weighted exposure amounts

~~Institutions shall disclose the following information regarding their compliance by the institution with the requirements laid down in Article 92 of this Regulation and in Article 73 of Directive 2013/36/EU:~~

...

(g) the supplementary own fund requirement and the capital adequacy ratio of the financial conglomerate calculated in accordance with Article 6 of the Directive 2002/87/EC and Annex I to that Directive where methods 1 or 2 set out in that Annex are applied;

Commission's amendments to Article 447

~~Exposures in equities not included in the trading book~~ Disclosure of key metrics

[Note: Complete amendment of existing Article 447]

Institutions shall disclose the following key metrics in a tabular format:

- (a) the composition of their own funds and their own fund requirements as calculated in accordance with Article 92;
- (b) the total risk exposure amount as calculated in accordance with Article 92(3);
- (c) where applicable, the amount of common equity Tier 1 which the institutions are required to hold in accordance with Article 104(1)(a) of Directive 2013/36/EU;**
- (d) their combined buffer requirement which the institutions are required to hold in accordance with Chapter 4 of Title VII of Directive 2013/36/EU;
- (e) their leverage ratio as calculated in accordance with Article 429;
- (f) the average or averages, as applicable, for each quarter of the relevant disclosure period of their liquidity coverage ratio as calculated in accordance with Delegated Regulation (EU) 2015/61, based on monthly figures;
- (g) their net stable funding requirement as calculated in accordance with Article 428b;
- (h) their own funds and eligible liabilities requirement as calculated in accordance with Articles 92a and 92b and broken down at the level of each resolution group where applicable.