Comments

EBA consultation on Draft Implementing Technical Standards amending the Implementing Regulation (EU) No 637/2021 on disclosure of information on exposures to interest rate risk on positions not held in the trading book in accordance with Article 448 of Regulation (EU) No 575/2013

Our ref

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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 almost all German banks.

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General comments

We would like to note, first, that we can understand EBA's wish to implement the strengthening of supervisory convergence in Europe for interest rate risk exposures in the banking book (IRRBB) through its disclosure standards and the new IRRBB requirements still expected. However, regulatory requirements developed on this basis cannot be allowed to result in a process in which the individual situation of the banks and the resulting necessary individual adjustments to the regulatory risk measurement approaches can no longer be reflected. In particular – and this will be discussed further in the following – any such standardisation may not lead to the situation that internal bank-specific analyses and considerations losing so much of their relevance that banks start ignoring them. A corresponding loss of expertise at the banks will have long-term, negative impacts that will also have to be considered by the supervisory authorities.

We take a critical view of the current chronological sequence of the published EBA standards. It is not acceptable for us that EBA is going to impose requirements on disclosing metrics that has not yet defined (see Section 3).

Over and above these points, we consider the current rules, under which – as set out via Articles 433a and 433c of the CRR – the disclosure requirements only apply to large institutions and other listed institutions, to be reasonable. Under Articles 433b and 433c (2) of the CRR, small and non-complex institutions and other non-listed institutions are exempt from the disclosure requirements of Article 448 of the CRR. We therefore presume that the relevant requirements of the CRR will also apply to this ITS. This would also be appropriate, because such a highly specific disclosure would not be expedient for small and non-complex institutions considering the significant additional effort. Application of these disclosure requirements to those institutions should therefore be avoided in the future as well.

1. Quantitative disclosure requirements

We welcome the fact that the disclosure of changes in the economic value of equity and net interest income relating to the interest rate shocks to be applied refers to the supervisory shock scenarios already known. This will reduce the additional effort.

However, we wish to note that the metrics to be published in the context of standard shocks can only reflect the individual situation of the bank to a limited extent, as a large number of methodological restrictions must be applied. For example, the constraints on average maturities for modelling variable products may lead to a deviation from internal interest rate risk measurement. This leads to the appearance that the interest rate risk exposures of different banks in the context of the disclosure are comparable, although this does not actually hold in practice. We recommend that banks be allowed more flexibility here.

The disclosure of NII risk may lead to another challenge, depending on the expected RTS on NII standard shocks. Possible future methodological limitations, such as a constant balance sheet simulation, will result in metrics that convey a false picture for many business models. In our view, excessively rigid requirements for disclosing NII risks in standard shock scenarios are therefore not helpful. On the other hand, we support a future definition of 12 months for the time horizon for the NII simulation to enable comparability.

2. Qualitative disclosure requirements

According to template EU IRRBB, row (b), the "institution's overall IRRBB management and mitigation strategies" should be explained. In addition, the following requirements are set out: "In particular, institutions shall describe the monitoring of economic value of equity (EVE) and net interest income (NII) in relation to established limits, hedging practices, conduct of stress testing, outcome analysis, the role of independent audit, the role and practices of the asset and liability management committee, the institution's practices to ensure appropriate model validation, and timely updates in response to changing market conditions." This imposes very far-reaching requirements, a number of which exceed the requirements for other risk categories. Equally, we do not believe that such a far-reaching interpretation of the CRR requirements in point (f) of Article 448(1) (e.g. on the audit or ALM committee function) is necessary.

In our opinion, the qualitative information regime is structured too extensively overall. The planned disclosures are already published regularly by German institutions in their annual report, which also contains disclosures on risk management.

For the reasons set out above, the qualitative requirements should be structured as recommendations rather than binding instructions.

3. Timing of ITS on disclosure before RTS on NII standard shock

The current chronological sequence of the published standards exhibits considerable potential for conflict. We understand the EBA's aspiration to accomplish as much clarity as possible for disclosure in the near term. However, the timing of the ITS is inappropriate because the EBA has not yet defined the requirements under Article 98 (5a) of the CRD that have to be applied to the metrics to be disclosed. We support EBA's decision to give a higher weighting to a technically sound approach over sticking to the timetable when it comes to developing significant new metrics. The ITS on disclosure must follow this new timetable and must be postponed.

The requirements in Article 448 CRR on the disclosure of exposures to interest rate risk in the banking book have generally applied since 28 June 2021. For large listed institutions that are required by Article 433a in conjunction with point (146) of Article 4 CRR to disclose certain information on a semi-annual basis, disclosure requirements as of 30 June 2021 in connection with interest rate risk exposures in the banking book under point (b) (viii) of Article 433a (1) of the CRR will only apply to the information required by point (a) and (b) of Article 448 (1).

Point (b) of Article 448(1) expects the disclosure of the quantitative results of the two NII interest rate shocks. Since EBA has not yet legally defined either what should be understood by NII in this context (lack of any definition of NII) or the two NII shock scenarios in the announced RTS and GL, we assume that disclosure under point (b) of Article 448 (1) CRR is not possible and does not therefore have to be made. Basel requirements do not constitute any legally valid requirements for European institutions, and not only in this context. We also wish to refer to the last sentence of Article 3 (3) of CRR 2 on entry into force, according to which a disclosure is effective from the date the requirement to which the disclosure relates comes into force; in this case it is the NII definition and other relevant underlying requirements.

Under point (a) of Article 433a(1) and point (a) of subparagraph (2) of the CRR, all of the disclosures under Article 448 of the CRR must be made for large listed institutions as of 31 December 2021. It should also be noted in this case that, due to the lack of legally valid EBA requirements in the announced RTS

and GL at that date, the following disclosure requirements cannot be satisfied and hence, in our legal opinion, do not have to be made: Article 448 for all disclosures in connection with NII.

There are no further disclosure requirements before the amendments to the disclosure requirements through the present draft consultation paper come into force and until the announced RTS and GL come into force. In this respect, we are firmly opposed to the EBA's expectations that institutions will apply the present CP before it enters into force. Institutions cannot be allowed to suffer any disadvantages as a result of late submission of the Level 2 requirements.

This outcome of the legal examination also makes sense in terms of economic substance. For example, it avoids a situation where institutions (have to) make disclosures in line with internal NII definitions or internal definitions of NII interest rate shocks that could no longer be applied after the supervisory requirements come into force and would therefore not represent any consistent disclosures over time, which in turn would prevent any meaningful interpretation of changes in the risk exposure over time by external addressees of the disclosures.

This means that it would ultimately be necessary and appropriate to suspend the disclosure requirements until the EBA has defined what exactly has to be disclosed on the basis of Pillar 2 requirements and at a harmonised point in time. In particular, we take the view that there should be no compulsion to disclose NII risk in a situation where significant aspects such as the time horizon or the NII itself have not yet been defined.

4. Further clarifications of the relationship between disclosure and standardised approaches as well as outlook for future regulatory requirements

As already explained at the start, we are critical of the requirement for internal departures from the supervisory standard shock scenarios to be comprehensively explained (Art. 448 (e) (ii)). Supervisory shock results are not a meaningful benchmark for internal risk measurement systems (IMS). We believe it is counterproductive to penalise internal analyses and risk measurement approaches tailored to the bank and to impose additional effort and a need for justification in the context of disclosure. Especially when it comes to interest rate risk exposures in the banking book, where core risk drivers such as redemption rights, products with undefined interest rate fixation (e. g. demand deposits) and new business assumptions have significant impact the interest rate risk profile, only good internal risk measurement approaches can enable appropriate consideration and hence ensure sustainable management. In light of this, any additional effort for the institutions should therefore be kept to a minimum.

Section 3.3, paragraph 11 of the CP provides an outlook on future regulatory developments in this area. The planned uniform updated methodology for the supervisory shock scenarios and the set of common key modelling assumptions must not lead to a situation where internal models can no longer be used.

Answers to the consultation questions

Question 1: Are the instructions, table and template clear to the respondents? If not, please provide concrete suggestions to improve them.

Application guidance, tables and templates are generally understandable.

Since the information required here is being disclosed for the first time, we assume that prior-period disclosures need only be made starting with the second disclosure and are requesting corresponding clarification.

Question 2: Do the respondents consider the development of these draft ITS based on the current underlying regulation as a sensible and practical approach, given the timing mismatch between the applicability of the disclosure requirements in accordance with Article 448 CRR and the finalization of the new regulatory framework for IRRBB?

No, we consider the chosen approach, with the details currently specified by the EBA in the draft ITS, to be highly problematic. As we have already stressed, the disclosed NII metrics might not be comparable as long as the EBA has not defined what it understands under these NII metrics. Moreover, it is very probable that future disclosed NII metrics will be based on other approaches. The methodological requirements for the calculations should first be clarified by the EBA, with the banks then being required to disclose the calculated results.

As already stated under the "General comments", we also consider the requirements referred to here as an "interim solution" to be neither legally possible nor substantively appropriate.

Question 3: Regarding template EU IRRBB1, do the respondents agree on disclosing the changes in the net interest income under the two supervisory shock scenarios of parallel up and down, in line with the Basel disclosure template, and on the interim solution proposed in the instructions to columns c, d of this template until the underlying regulatory framework on IRRBB is not yet finalized?

No, as described above, it does not help banks, supervisory authorities or the public to develop disclosure processes around a risk metric that has not yet been defined. We are proposing to further postpone the disclosure of NII risk metrics until the EBA requirements for those NII risk metrics have been specified.

As already stated under the "General comments", we do not agree with early disclosure in accordance with the Basel requirements. As explained there, Basel rules do not constitute any legally valid requirements for European institutions, and not only in this context.

In particular, we also reject the requirements set out in the instructions for template EU IRRBB1, columns c, d. To the extent that institutions make use of their legal option and do not disclose the information required here ("in case they leave these columns blank"), they cannot be forced to explain their reasons for doing so (above and beyond the legal considerations explained above).