

## Comments

EBA consultation on draft ITS regarding COREP and asset encumbrance reporting (EBA/CP/2021/24)

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### **3.3 Asset Encumbrance**

#### **General comments**

In principle it is to be welcomed that, regardless of a threshold calculation, SNCIs will be exempt from extended reporting requirements. In this context, we would assume that SNCIs will no longer be required to calculate the asset encumbrance ratio in the future, as they would not have to comply with the extended scope of reporting (reporting templates F 33.00 to F 36.02) in any case, according to Article 1(1) no. 3 of the ITS. The exemption from calculation of the asset encumbrance ratio for SNCIs should therefore be explicitly included in the standard.

Additionally, facilitation by deleting reporting templates for certain institutions should be granted as early as possible and thus already before the end of 2022. In order to achieve this goal two possibilities are at hand. One is a quick fix of EU Regulation 2021/451. Another one is – in order to create legal certainty – an EBA-statement in coordination with the European Commission on the non-submission of the corresponding reporting templates until EU Regulation 2021/451 is adapted in the ordinary legislative procedure. Parallel and analogous action should be taken with regard to the deletion of specific reporting templates with respect to ALMM as announced by EBA/CP/2021/17.

We also welcome the fact that fiduciary assets are to be excluded from the new calculation of the asset encumbrance ratio, independent of whether they are accounted for in accordance with IFRS or national GAAP. In this context, however, we would like to point out that the EBA held out the prospect of non-inclusion of all kinds of promotional loans (i.e. including those where institutions are subject to partial liability) in its report on the cost of compliance study according to Article 430(8) of the CRR (EBA/Rep/2021/15) (p. 42). As outlined in the consultation paper, these loans represent instruments which support “economic recovery and development and other political objectives”. Based on the argument that fiduciary assets are not to be taken into account due to the lack of credit risk for the institution, we propose that this risk-based approach be applied to all promotional loans. Only the share of liability remaining in the institution should be included, while the share exempted from liability should not be considered. This way, loan portions exposed to risk would still be reported as encumbered assets.

A similar approach is already pursued for the purpose of large exposure reporting, where syndicated loans are included based on the institution's own liability share.

#### Reporting template F 32.01

Furthermore, to prevent additional implementation costs, the proposed separate disclosure of fiduciary assets (line 0015) should also be waived. Institutions that account for such loans in accordance with national GAAP must already disclose trustee loans as encumbered assets in the NSFR. For example, encumbered loans to non-financial clients must be reported in line 830 of reporting template C 80. Hence, there would be no loss of prudential information if repeated disclosure in the asset encumbrance report were to be waived.

In such cases where fiduciary assets are not recognised in the balance sheet, we think that disclosure of these loans would be of no significance for assessing the asset encumbrance of the institution and should therefore not be included in any case. Not only would their inclusion provide no added value for asset encumbrance reporting, but a separate disclosure in the case of non-inclusion should also be waived for reasons of cost avoidance. In particular, a regular quarterly determination of such information (where the items concerned are not carried on the balance sheet) as well as the transmission of such information to

the supervisory authorities should be avoided by all means, for the reasons outlined above. Even at present, in urgent cases, the supervisory authority is able to gain an impression of the extent of the managed trustee loans by means of an ad-hoc request.

## **Answers to the consultation questions**

**Question 1: Are the instructions and templates, as presented in the annexes to this consultation paper, clear to the respondents?**

Yes.

**Question 2: Do the respondents identify any discrepancies between these templates and instructions and the calculation of the requirements set out in the underlying regulation?**

No.

**Question 3: Do the respondents agree that the amended ITS fits the purpose of the underlying regulation?**

Basically, yes.

As already mentioned in our introductory remarks, we do welcome the exemption of fiduciary assets in the calculation of the Asset Encumbrance ratio. However, in the light of the underlying objective to reduce supervisory costs using proportionality measures we do suggest excluding indemnification (*Haftungsfreistellung*) of promotional loans. Especially for smaller institutions the asset encumbrance ratio is mainly driven by loans which are partially free from credit risk. This approach would better fit the purpose of the underlying regulation.