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RÉPUBLIQUE FRANÇAISE

DIRECTION GENERALE DU TRESOR
ET DE LA POLITIQUE ECONOMIQUE
SERVICE DU FINANCEMENT DE L'ECONOMIE
SOUS-DIRECTION BANCFIN

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CRD IV
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Responses to the policy objectives and the questions raised

Question 1: What impact would the changes proposed in each section of this paper have on your activities or activities of firms in your jurisdiction, including costs linked to increase in regulatory capital and any other compliance costs?

It is difficult to assess precisely the impact of these various changes. We think that at least the simplification of the Bank Branch Accounts Directive will have a positive impact on the costs, even if limited. Both this measures and the removal of national discretions will reinforce the harmonization of the European banking sector and therefore reduce costs for banking activities. Regarding through-the-cycle expected loss provisioning and the residential mortgages denominated in a foreign currency, we expect these measures to result in increased level of provisions and capital requirements , which are justified due to the lessons of the crisis.

Question 2: Do you have any views about any aggregate impact of the proposed changes to capital requirements?

It is difficult to assess precisely the aggregate impact of these various changes**.**

Question 3: What is the optimal timing for these measures? Should their application be sequenced?

We strongly support swift proposals by the Commission on all areas covered by the public consultation. We should make sure however that all these measures are consistent with initiatives which could be taken at different international levels. As regard through-the-cycle expected loss provisioning, this measure is closely linked to accounting standards. Considering that IASB is currently reviewing its standards regarding provisioning, we should be prepared to adapt the original proposal of the Commission during the negotiation in Council and Parliament to take into account accounting developments.

SECTION 1: 'DYNAMIC PROVISIONING'

1/ General comments:

We strongly support an effective mechanism of dynamic provisioning, with through-the-cycle expected loss provisions for credit risks during good times and with provisions which are used during a downturn to cover the incurred losses. In terms of process, we are recalling that the issue of pro-cyclicality is dealt with by the IASB which will publish a draft exposure concerning this provisioning issue by October 2009 for adoption in early 2010.

While we fully support the intention of the Commission to propose the introduction of "dynamic provisioning" in the CRD before the end of 2009, we would like to remind of the need to have prudential rules not dissociated from accounting standards. Therefore, it would be prudent to take account of the outcome of this IASB work in progress before making final decisions which could be questionable. Therefore, some adjustments of the original Commission's proposal may be needed during the negotiation in Council and Parliament to take into account the new accounting rules (see question 3).

The IASB is currently working on an expected cash flow approach whose principles are quite different from the approach proposed in the Commission's consultation paper. Both approaches have pro and cons and the final result should be something intermediary between them (ie based on loans portfolios expected losses).

Indeed, we considers that the principles underlying the Expected Cash Flow Approach proposed by the IASB : (i) are conceptually sound ; (ii) could contribute to a significant enhancement of information provided to users on a timely manner on credit risk and related credit losses compared to the current Incurred Loss Approach; (iii) may also create incentive to better assess and price credit risk in lending activities by reflecting in a timely manner the negative impact of an underestimate and miss-pricing of this risk on net revenues. However the method developed by the IASB staff in order to apply this approach (i.e. based on an effective interest rate including the effect of expected losses applied to individual loans) results in very significant implementation problems and excessive application costs.

Therefore, a simplified expected loss approach seems preferable. The main characteristics of a simplified or alternative method would be:

- application based on debt instruments portfolios (loans, securities, …), that share similar credit risk profiles at initiation resulting in an appropriate degree of initial homogeneity of the designed portfolios when credit risk is concerned; this would avoid huge operational costs that an application based on individual loans would generate; entities should be free to determine how to best define these homogeneous portfolios by applying their professional judgment in a principles based approach; for example, banks may use the portfolios' segmentation they have defined under Basel 2;
- expected losses estimated on the outstanding amount of the portfolios (but recognised on an accrual basis) on the basis of the best (statistical, historical, rating or other credit profile analysis…) information available, in particular on the basis of internal credit risk assessment systems developed to fulfil Basel 2 prudential requirements,

2/ Answer to the consultation document:

Question 4: The Commission services suggest that the through-the-cycle value adjustment should not count as regulatory capital (see ANNEX 1, suggested amendment to Article 57). Do you agree?

We do not want through-the-cycle value adjustments to count as regulatory capital.

Question 5: Should off-balance sheet items be captured under the formula for through-the-cycle expected loss provisioning, given that 'provisions' for off-balance sheet items are not recognised in all relevant accounting standards? Should only assets subject to an impairment test be subject to through-the-cycle expected loss provisioning? (See ANNEX 1, suggested Article 74a (2).)

We think that off-balance sheet items should be included in the formula for through-the-cycle expected loss provisioning. Nevertheless, an analysis of each off-balance sheet item is needed before deciding to include it in the formula.

Question 6: At this point, the suggestion is not to include the option for competent authorities to allow internal methods to determine expected losses across an economic cycle. As an alternative to the regulatory approach to calculate counter-cyclical factors, would it be desirable to allow firms' internal methodologies (to be validated by supervisors)?

We believe it would be preferable to propose the option of firms’ internal methodologies, which could be linked to the ones that banking firms are going to develop for accounting purposes. A crude prudential measure could not give firms the incentive to develop accurate accounting models for excepted losses.

Question 7: Should the exposure class of Article 86 (i.e. for credit institutions subject to the IRB approach) be used irrespective of the fact that the credit institution may be under the Standardised approach? It may be noted that a mapping between exposures class under the Standardised approach and under the IRB is already used in the prudential reporting system of some Member States. As an alternative, should countercyclical parameters be defined for the 16 exposures classes under the Standardised approach? (See ANNEX 1, suggested Article 74a (1).)

It may be appropriate to use the exposure classes of Article 86 for credit institutions under the Standardised approach. But, the current situation is characterized by heterogeneous risk categories among banks, which make it difficult to apply these exposure classes.

Question 8: Please give your views on the following approaches:
1) the Spanish model of through-the-cycle expected loss provisioning
2) a 'simplified' Spanish model.

In particular, we would welcome views on the relative merits of both options in terms of the building up of provisions in a graduated manner over time (See ANNEX 1, suggested Annex IXb).

The merits of both options should be assessed in regard of the possible drawbacks of the accounting standard which is currently under review.

Question 9: Should new risk categories (as suggested above) be introduced along the lines of the Spanish system or, alternatively, should the current risk categories of the CRD (e.g. credit quality steps in Annex VI) be used? (See ANNEX 1, suggested Annex IXb.)

The current situation is characterized by heterogeneous risk categories among banks, which make it difficult to apply the Spanish system. Therefore, the new risk categories as suggested above could be introduced along the lines of the Spanish system only if they were homogenous amongst banks.

Question 10: Is the 'location of the borrower' (as opposed to the booking of the exposure) the right approach, with a view to avoiding regulatory arbitrage? (See ANNEX 1, suggested Annex IXb 2.)

The “location of the borrower” might be the right approach for retail and small or medium corporate exposures because the borrower is very often located in the same country in which the booking is made. For cross-border firms, the “location of the borrower” might be less appropriate because the borrower is not often located in the same country in which the booking is made.

Question 11: Will the data to determine counter-cyclical factors be easily available?

The data to determine counter-cyclical factors are not easily available. As written above (question 9), the data should have to be available for different exposure classes and risk categories, which are not homogeneous amongst banks. There is an issue of mismatching of data, which will anyhow not be available in all cases.

Question 12: Please give your views on the methodologies for calculating the through-the-cycle expected loss provisions at consolidated level. (See ANNEX 1, amended Article 73.)

Dynamic provisioning should be calculated at consolidated levels. It seems consistent with the Commission’s standards that the methodology should meet.

Question 13: Please give your views on the scope of disclosure requirements for through-the-cycle expected loss provisioning. (See ANNEX 1, suggested amendment to Annex XII (17).)

We suggest that the disclosures for through-the-cycle expected loss provisioning are introduced in the Pillar 3 after taking account of IFRS 7 and Pillar 3 exceptions.

SECTION 2: RESIDENTIAL MORTGAGES DENOMINATED IN A FOREIGN CURRENCY

Question 14: Do you consider that the risk weights suggested will be effective in discouraging unsafe practices and irresponsible lending in foreign currency denominated housing loans?

We consider that this measure may have some benefits in discouraging credit institutions from granting foreign currency loans to private households where such loans are too high in comparison with the value of the property and where private households do not hedge the foreign exchange risk. Nevertheless, we would like to know the reasons which have guided the Commission services to explore this measure that has not been studied so far. We would like to have more information about the impact of this measure before giving our opinion on this topic.

Question 15: Do you consider a loan to value ratio of 50% or less is sufficient objective evidence that the borrower has sufficient private wealth to withstand currency movements and potentially correlated movements in property prices?

We would like to have more information about the impact of this measure before giving our opinion on this level of 50 %. Moreover, this proposal does not take account of guarantees or collateral which could secure the loans.

SECTION 3: REMOVAL OF NATIONAL OPTIONS AND DISCRETIONS

Question 16: Is this suggested scope of maximum harmonisation in 2006/48/EC and 2006/49/EC appropriate?

We support the initiative that constitutes a significant step toward reinforcement of harmonization within the EU prudential regulation. Nevertheless, we would like to draw your attention on the practical application of this harmonization. First, the scope of application of these measures must be defined precisely: notably it is important to take into consideration that all provisions of Pillar 1 and Pillar 3 are not "fully harmonized" yet. Moreover, it is important to know the criteria which will be used to assess if the rules established by the Member States are stricter than those adopted by the CRD. It is important to define who will be responsible for this assessment as well.

Question 17: Is the suggested prudential treatment for both residential and commercial real estate is sufficiently sound?

This option has already been adopted in French transposition of the directives with requirements lighter than previously. We agree to apply the suggested prudential treatment which consists of stricter requirements in terms of Loan-to-Value (so as the reduction of percentages) and 'hard tests' on losses for both residential and commercial real estate.

Question 18: Is the suggested timeline (2012) for a single definition of default (i.e. 90 days) is appropriate.

The suggested timeline for a single definition of default seems appropriate. Nevertheless, before confirming this timeline, it could be interesting to study the impacts of this measure in order to determine what the volume of impacted exposures is (i.e. defaulted exposures at 180 days) and what the consequences could be.

SECTION 4: SIMPLIFICATION OF THE BANK BRANCH ACCOUNTS DIRECTIVE

Question 19: Do you agree that the Bank Branch accounts Directive 89/117/EEC should be amended so that Member States can no longer require the publication of additional information by branches of credit institutions established in other Member States?

We fully agree to amend the Bank Branch accounts Directive 89/117/EEC in order no longer to require the publication of additional information.