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## EBF response to EBA CP/2015/01 on draft ITS on procedures, forms and templates for the provision of information for resolution plans

### EBF response

#### General comments:

As a general comment the EBF acknowledges that the resolution authority will have flexibility to adapt and focus the scope (which entities must fill in the spreadsheet, consolidated, solo basis, etc.) and the level of detail required. However, it is worth emphasising the need to clarify the scope of subsidiaries outside the EU required to report information. In particular, information from the subsidiaries of a multiple point of entry group located in third countries (which are themselves a resolution subgroup) should not be required to be included in the templates.

Moreover, while Article 11 of the BRRD empowers the resolution authority to request all the necessary information from institutions, greater cooperation and information-sharing between the resolution authority and the competent authority would be welcomed. This will avoid the duplication of information requests for institutions and therefore reduce their workload regarding information reporting.

The proportionality principle should be taken into account as the amount of information required is exhaustive and inappropriate for smaller and less interconnected institutions. Particularly, the granularity of the information required is a concern in several templates. On the one hand, European banks, especially global ones, may comprise a very large number of legal entities, many of them neither material nor connected with critical functions. Requiring information for those entities within the group could be an excessive burden and does not provide any value for resolution purposes. In order to avoid reporting burden and ensure that



the information requested is really necessary for resolution planning purposes, the EBA should define quantitative thresholds and materiality criteria to define the scope more precisely.

The EBF is also concerned that banks will have to build and maintain the data according to EBA templates “just in case” even though most of the data could be derived from supervisory sources. We understand that the EBA is trying to avoid duplication by inviting competent authorities to cooperate with resolution authorities, however the draft templates contain requests for information already available from supervisors. Instead of proposing the current set of templates EBA should come up with a set of templates “not available from any other source”.

The amount of information currently proposed will require significant IT support in order to ensure that the data is accurately updated and reflects the actual organisational structure. The maintenance of this information, both at the authorities as well as in the institutions will lead to substantial work both in terms of IT development, IT resources and administrative resources.

### Regarding the Annexes:

It should be possible for banks to merge pages. If Annex I and II are required they could be on the same page to avoid repeating information (namely LEI).

Requesting specific information about managers or persons responsible (name, telephone, email) entails a risk of obsolescence, as these charges could change constantly. We propose to provide information about the Area Responsible of this activity.

#### [Annex II: Governance and management](#)

The EBF does not see the purpose of “location” (jurisdiction is enough).

It would be helpful to know which key managers of the entity are required?

Concerning the item: Member of management body in columns 070-090 – is it a specific role or anyone in the Board of Directors for that legal entity and/or subgroup?

Some of the information requested in annex I and II is already provided to competent authorities.

#### [Annex III: Critical functions and core business lines](#)

Annex III col 060/070: we do not understand the meaning of a “material asset/liabilities of a critical function”: why not report the whole portion of the balance sheet concerned? The term “material” is not defined (material compared to what?).



A Critical Function (CF)/Core Business Line (CBL) may be located in one country, and run by another/or same legal entity in the same or another country. This is not accounted for in the template. Nor does the template reflect that bookings of the business may be done in a third legal entity, and that an agreement or a system may be in a fourth legal entity.

It is not clear why a critical function and core business line shall be reported side by side in the same template. In practise it might be so that a CF is reported by every CBL and will occur several times. Such as CF “lending” by CBLs HR, IT etc.

The Consultation Paper refers to “Core Business Lines” in column 020 while the template refers to “Core Business Line” in the same column.

Critical functions and core business lines are already available in the Group Recovery Plan.

With ‘legal entity’, it is unclear whether the templates refer to all legal entities or Significant Legal Entities (SLEs) only. We recommend focusing on SLEs in order for the reporting to be efficient.

The EBA should clarify what ‘material assets’ constitute for the purposes of these templates by providing clearer guidance to financial institutions providing the information.

#### [Annex IV: Critical counterparties](#)

As drafted, the templates and instructions do not provide enough guidance on what constitutes a ‘critical counterparty’. We recommend defining the scope more precisely. In our view, critical counterparties could be identified by looking at Risk Weighted Assets (RWA) capital consumption and total exposure.

#### Section 1:

Critical Counterparties – it is not clear how a critical counterparty shall be identified. Depending on reporting we include counterparty types and exclude others such as “governments”. In some reporting the term connected counterparty is used referring to a broadened view of counterparty than the strict legal entity hierarchy. It is not clear what type of legal entity structure the counterparty shall be identified by.

The template requires impact on CET1 ratio. Does this mean that the term critical counterparties refer to the definitions in CRR/CRDIV reporting in order to reflect the CET1 impact?

The Legal Entity seems to refer to the LEI-codes – what to report in the column if the counterparty lacks LEI-code?

What is the definition of gross exposure in column 050. What exposures are to be included?

Guarantee: in the example B it is a guarantee in cash that reduces the nominal exposure. Are other guarantees or collateral to be reported?



A materiality threshold is necessary in order to efficiently fulfil this template. For example TOP 10 to be consistent with the COREP Annex IX, Reporting in Large Exposures (C.28).

## Section 2:

- What is the definition of “funding” compared to liability?
- Are central banks/sovereigns/non-financial corporates to be included?
- The LEI code could not be available or would not be appropriate for all corporates.<sup>1</sup>
- Should foreign currency funding be expressed in euro?
- Critical Counterparties – it is not clear how a critical counterparty shall be identified. The terminology in other context is often referred to Large Exposures including/excluding certain counterparties depending on the reporting.
- As the Legal Entity seems to refer to the LEI-codes – what to report in the column if the counterparty lack LEI-code?

Moreover, the EBF believes that a materiality threshold is necessary in order to efficiently fulfil this template. For example TOP 10 to be consistent with the Reporting Metrics C67 Concentration of funding by counterparty.

## Annex V Bail-inable debts

While banks are able to provide counterparty breakdown for issued bank debt based on primary market issuance data, it would be more difficult for debt that is traded on a secondary market.

It would be helpful for the EBA to determine whether counterparties should be identified at individual entity level or at the counterparty parent level.

Cell 030: Governing law: confirm that if an entity issues debts in 5 laws, there must be 5 sheets.

We do not understand why debts <1 month are requested.

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<sup>1</sup> The Swedish regulation FFFS2014:11 concerning the internal governance and risk control functions includes a section on recovery plans. However, FFFS 2014:1 is applicable to groups and subgroups. The EBA requirements focus on even more granular information such as the specific legal entity in the group. A bank is normally run according to a business operating model that is organised according to business lines and not jurisdictions. Thus the detailed legal entity approach is not fully reflecting an institution.

To facilitate the process, it is crucial to align the definitions and terminology with already existing regulations. As an example COREP/FINREP refers to large exposures and not critical counterparties. A second example is “Legal identifier” – if the term is supposed to be Legal Entity Identifier (LEI) it should refer to that rather than “legal identifier” that might be a local identification number of a legal entity.

The same information is requested on several templates and thus spread out. As a large bank changes regarding organisational setup, systems (decommissioned, new, and changed), and move staff from one unit to another and so on, it would be very beneficial to have as few entries as possible. The legal entity name and ID is a common denominator in almost all templates. To avoid information not being correctly updated, it would be better to merge some of the templates to avoid inconsistency over time



There is no information requested on maturity for deposits:

- term deposits >1y exist

- we would rather report interbank deposits in this category rather than in column 170 (excluded) for consistency reasons

Where should we report derivatives? The net liability (after netting) in senior unsecured debts?

We understand the purpose for reporting counterparties for deposits, since deposits from different counterparties have different preferences in bail-in. Retail deposits (natural persons + SMEs) < EUR100 000 are preferred than Retail deposits > EUR100 000. Retail deposits > EUR100 000 are preferred than corporate deposits. The resolution authorities thus need information for counterparties to distinguish these deposits. However, for capital instruments and senior unsecured debt, we do not understand why counterparty information needs to be reported to the resolution authority. It is other features (maturity, 3rd country law, etc.) rather than counterparties that are relevant for the determination of MREL and bail-in.

We believe that CDs/CPs should be included in the liabilities structure. BRRD does not prevent CDs/CPs from being included in MREL if they meet the criteria and eligible.

On row 080, we believe that “credit institutions” is a more adequate term than “banks”. Deposits from other credit institutions than banks are treated the same as deposits from banks under DGS.

In column 140, every line with “of which eligible liabilities” (55, 65, 75,...) should be in grey, the information would be the same as in the previous line.

Additionally, unsecured Deposits should be broken down into "Corporates" and "SMEs and Individuals deposits" since they represent a different position within the liability hierarchy according to the Article 108 of the BRRD regarding “Ranking of deposits in insolvency hierarchy.”

#### Annex VI: Funding sources

Annex VI requires data at a very deep level of granularity; we believe the reporting should cover only Significant Legal Entities.

Furthermore, clarification is needed around what the EBA means by ‘assets pledged’.

A materiality threshold is necessary in order to efficiently fulfil this template. Moreover, further clarification regarding the scope is needed (e.g. deposits, repurchase agreements, etc.)

We find the title “Funding” of this annex confusing as the information to be completed is *an identification of the processes needed to determine to whom the institution has pledged collateral, the person that holds the collateral and the jurisdiction in which the collateral is located.*

#### Annex VII: Off balance sheet



This request seems reasonable, however the EBA needs to highlight that the resolution authority will not ask data for all counterparties but focus on Significant Legal Entities.

The scope and the level of granularity of this template must be clarified. For example, if off balance sheet positions with retail counterparties must be included, these positions should be reported in aggregated terms.

Further guidance from the EBA is necessary on whether it is requiring a detailed breakdown of every off-balance sheet account which would seem excessively burdensome and irrelevant for resolution planning purposes. To our understanding the provision of the total per account and the connection to critical operations and core business lines, if any, should be sufficient to satisfy the information required.

Moreover, are supranationals included?

Could a threshold be considered to avoid reporting insignificant items?

### Annex VIII: Payments systems

The EBA should provide clear definitions of payment systems in order for the data to be meaningful. To define 'financial market infrastructures' the EBA could use the definition adopted by the Committee on Payments and Settlement Systems (CPSS) and the Technical Committee of the International Organization of Securities Commissions (IOSCO). Similarly, the EBA needs to clarify what 'substitutability' means in this context.

It would also be helpful for the EBA to refer to the definition of 'critical functions' and 'core business lines' that will be provided in the future European Commission's delegated acts. At this stage, there is no harmonised definition of critical functions and core business lines at EU level.

Regarding item 11 of Annex A what is the information required by item 11? We understand that information systems must be reported but a clarification is needed.

### Sheet Section 1

The title is not consistent with the content (payment, clearing, or settlement).

What is to be filled in column 110 (membership requirement).

What is to be filled in column 120 – (impact of resolution) guideline is needed.

### Sheet Section 2



This sheet will be challenging to fill in as a bank may have several Nostro accounts in many banks, in various currencies for each legal entity. Thus, the list will be very long and include a lot of information on a rather detailed level.

It is not clear what is to be filled in in column 060 (payment system) as there is not a specific system in the Nordics. The “system” relies on a bilateral agreement between the two parties.

It is not clear what is meant with currency here – does it refer to the Nostro account and currency or something else?

Column 080 (users with authorisation) is unclear and needs further clarification and guidance. It is unclear if it refers to the person/unit who can move money from the account from a funding perspective or something else. These accounts are not operated as such.

Column 090 (resolution) is unclear and needs further guidance.

The commenting in Column 100 can be very detailed. What is the level of expectation on the content?

### Annex IX: Information systems

Given the wide spectrum of information that can be covered by this Annex, we would welcome a clearer scope and specific definitions, especially on the notion of ‘criticality’.

The requests should apply to key information systems based on criteria developed by the firm. A materiality threshold needs to be defined in order for the reporting to be meaningful.

Same as for subsidiaries: the three sheets could be merged in one to have the information for one system on the same page, whereas on Section 1 you have the owner, on Section 2 the provider, on Section 3 the user of the MIS. A short description of the MIS seems necessary.

A certain significance threshold should be applicable, to avoid having to report on a high number of minor systems. But the term system itself is not clear. A bank uses several systems where several applications are included to ensure reporting etc. In addition, in some areas end-user computing is used. A rather large bank may have 5000 applications (or more) for various purposes. As an example a net-banking solution may have 50 applications connected to it. Is the system referred to the net-banking solution or is it every application under the solution.

Moreover, in many banks data warehouses are used in order to gather data from local systems/sources in a central repository. Would a data warehouse represent a system in this reporting or each local system/source?

Also, it is not clear how the templates shall be maintained as this is an area that is moving day by day when contracts are re-negotiated, supplier’s changes, and the business is reorganised to serve the business as well as comply with regulations.



## Section 1

It is not clear if all systems and applications are expected to be listed.

What does the term 'operational responsible' in column 080-100 refer to?

It is not clear if the business related systems are to be included in the Section 1 template.

## Section 2

This template seems not to limit the amount of information requested. Is the expectation to list all 3-5000 applications in a bank/group?

## Section 3

It is not clear what the thinking is behind the mapping to CF and CBL as the information systems referred to in Section 1 is risk management, accounting financial reporting or regulatory reporting. The CF and CBL would in this case be business related systems and not those mentioned (risk management, accounting etc.).

The filling in of the CF and CBL and system user would benefit from being in the same template to ensure consistency. The Annex III refers to CF and CBL and legal entity as well, and the missing information compared with the Annex IX Section 3 is only the System information column 010.

It is not clear if all systems and applications are expected to be listed or if it is limited to CF and CBLs.

## Annex X: Interconnectedness

Row 050: the type of interconnectedness should be consistent with EBA's list in the guidelines art 65 (5) BRRD. In the current state, it is not clear why a system in column 050 shall be mapped in this context when the user of a system is already mapped in the Annex IX, Section 3. Is the expectation to map all connections between all legal entities in a group without any limitation such as focusing on CF and CBL?

Guidance should also be given as to the materiality of the interconnections. Financial interconnections with marginal amounts involved or operational interconnections and Service Level Agreements that do not involve Critical Economical Functions and/or Core Business Lines, should not be included. Otherwise, for example, a banking group would have to report a significant number (perhaps hundreds) of rows for all subsidiaries having a minor current account/deposit with another subsidiary of the same group (credit exposure).



It would be helpful to know what resolution authorities seek to understand to ensure that banks provide information that is adapted and useful in this context. We could suggest breaking the Annex X into two subcategories: Financial (x-guarantees, intra-group funding, set-offs, etc.) and Non-Financial (people, property, systems, etc.).

Several notions need to be clarified by the EBA to ensure that institutions understand the information request, especially 'risk transfers', 'back-to-back trading arrangements', and 'cross guarantee agreements'. Also, it is unclear at the moment what the difference is between 'credit exposure' in Section X and 'intra-group liabilities' in Section V is.

Annex XI should be directly provided by competent authorities who have this information already.

### [Annex XII: Legal impacts of resolution](#)

Probably parts of these legal impacts are already indicated in previous templates (IT, payment / settlement systems, etc.) Can these be excluded in Annex XII?

Also some kind of threshold for materiality should be applicable here and the impact will very much depend on the type of resolution tool that would be applied.

### **Olivier THOMAS**

**Public Affairs & Banking Supervision - Policy Adviser**

[o.thomas@ebf-fbe.eu](mailto:o.thomas@ebf-fbe.eu)

Tel: +32 (0)2 508 37 12

#### **European Banking Federation**

Avenue des Arts 56 – 1000 Brussels

*The Voice of Europe's Banks*

[www.ebf-fbe.eu](http://www.ebf-fbe.eu) [Follow us on Twitter](#)

