

Launched in 1960, the European Banking Federation is the voice of the European banking sector from the European Union and European Free Trade Association countries. The EBF represents the interests of some 4,500 banks, large and small, wholesale and retail, local and cross-border financial institutions. Together, these banks account for over 80% of the total assets and deposits and some 80% of all bank loans in the EU alone.

EBF Response to Consultation paper on Draft Guidelines concerning the interrelationship between the BRRD sequence of writedown and conversion and CRR/CRD IV (EBA/CP/2014/29)

General Comments

The EBF finds Guiding rule 1, which clarifies that the resolution authority should treat capital instruments which rank *pari passu* in insolvency equally within a bail-in, write down or conversion power under Article 60, very helpful.

Also the EBF welcomes Guiding rule 2 that when determining the order and amount of write down or conversion the resolution authority should apply the same treatment to all instruments, whether or not they are fully or partially included in the calculation of an institution's own funds.

Nevertheless, we believe that the GL could be broader and clarify that, as the bail-in waterfall described in BRRD according to the Basel/CRR classification of instruments (which creates uncertainty, for example in art 48/1/d), the overarching rule is that the ranking in liquidation must be respected. In particular, subordinated debt that are neither a grandfathered nor a Basel 3 capital instrument should be treated *pari-passu* with instruments that have the same rank.

Answer to specific questions

Question: Should the Guidelines also provide further clarification on the treatment of instruments which contain different contractual triggers for conversion to shares or other instruments of ownership, or does the BRRD (in particular Article 47 (2)) provide sufficient clarity?

The provisions of Article 47(2) are clear and very welcome. Further specification of the circumstances where Guiding rule 1 applies would be helpful, explicitly saying that instruments which are not CRR-eligible but which rank *pari passu* with capital instruments in insolvency should be written down at the same time as those capital instruments according to the insolvency hierarchy. In addition, the guidelines should specify that where there is a spillover from grandfathered AT1 instruments to T2, due to the portfolio cap under the CRR, those spillover instruments are considered fully as AT1 and not T2 for the purposes of bail-in or write-down under article 60.