1 PLUS i GmbH Postfach 130211 90114 Nürnberg

Svein Andresen
General Secretary
Financial Stability Board
Bank for International Settlements
Centralbahnplatz 2
CH-4002 Basel
Switzerland

HEADQUARTER
Postfach 130211
90114 Nürnberg
Germany
T +49 (911) - 56 79 94 99
F +49 (911) - 56 79 95 55
info@1plusi.de
www.1plusi.de

1 PLUS i GmbH response to Financial Stability Board consultation on the Internal Total Loss-absorbing Capacity of G-SIBs ('Internal TLAC')

Dear Mr. Andresen,

1 PLUS i welcomes the opportunity to comment on the consultative document regarding the FSB TLAC. Founded in 2003, 1 PLUS i provides advisory services in the key fields regulatory laws, risk management, trade systems, financial products, and financial mathematics.

Particularly in regulatory laws, 1 PLUS i is specialized on all matters concerning the Bank Recovery and Resolution Directive (BRRD). In the last few years, 1 PLUS i has provided a full range of assistance in developing tailor-made solutions for the practical preparation of recovery plans and resolution strategies for both, institutions operating inside as well as outside Germany. On this basis, 1 PLUS i issued several books and articles to share the gained knowledge and expertise in order to widen the fundamental understanding in recovery and resolution issues.

In general, 1 PLUS i strongly agrees with the entire scope and objectives addressed within the drafted standard to ensure the adequacy of Internal Total Loss-absorbing Capacity (internal TLAC) of global systemically important banks (G-SIBs). As briefly summed-up below, we might draw your attention to only a few slightly amendments:

- We assume that the consideration of funding and liquidity possibilities should play a significant role whether internal TLAC will be distributed between material sub-groups.
- In relation to the composition of internal TLAC, we recommend considering debt liabilities accounting for an amount greater than 33% to ensure a sufficient coverage in all circumstances.
- An internal TLAC requirement on consolidated sub-group-level may prevent a feasible and credible mechanisms in terms of issuing internal TLAC instruments.
- In our view, the need to conduct further work for a deduction mechanism for internal TLAC is not required.

We kindly ask you to find more detailed explanations in the attachment of our response.

We would be grateful to discuss with you, in further detail, any questions you may have. Please do not hesitate to contact us.

Kind regards,

Dr. Andreas Igl	Marcel Krüger	Tanja Koehler
- Member of Board -	- Consultant -	- Consultant -

31.01.2017 - 1 PLUS i GmbH

Attachment

- 1 PLUS i responses to consultation questions

Contact details

Dr. Andreas Igl

Mail: andreas.igl@1plusi.de

Mobile: +49 (163) – 317 57 38

Attachment: 1 PLUS i GmbH responses to consultation questions

Q1. What factors should the relevant authorities take into account when determining the composition of material sub-groups and the distribution of internal TLAC between the entities that form the material sub-group (guiding principle 2)?

While determining the composition of material sub-groups, we agree that the scope of regulatory or accounting sub-consolidation has to be taken into consideration. Notwithstanding, the lack of such regulatory or accounting consolidations especially for individual sub-groups results in challenges. In our opinion, a reasonable alternative approach can be found in analysing e.g. existing control and profit and loss transfer agreements between relevant group companies. Moreover, a predefined fact book for all relevant group entities will support resolution measures within financial groups.

In the issue of the determination of the materiality of sub-groups, we may suggest an extension of section 17 of the TLAC involving the relevance of the resolution strategy. Besides, we strongly recommend to include liquidity and funding aspects as well. In terms of liquidity aspects, a linkage between individual group companies with on-balance and/or off-balance sheet instruments might be in place. Furthermore, materiality of a sub-group can be driven by its function as funding vehicle (e.g. Delaware constructs or deposit-taking institutions).

Q2. What are your views on the treatment of regulated or unregulated non-bank entities as set out in guiding principle 4? If such entities were included within a material sub-group, how should the relevant authorities calculate an internal TLAC requirement?

In general, regulated and unregulated non-bank entities should be included within material sub-groups. In our view, the outlined cases "significant contribution on the exercise of critical function" and "highly interconnected" are adequate indicators for this analysis. However, the third case considering the scope of the entire "regulatory or accounting consolidation" might be too extensive. In particular, the CRR legislation addresses for examples Special Purpose Vehicles (SPV), which we not expect to be significant for the internal TLAC mechanism. Possible risks arising from these vehicles should be taken into account on the level of sub-group parent company.

Q3. Do you agree with the roles of home and host authorities in relation to the host authority's determination of the size of the internal TLAC requirement, as set out in guiding principles 5 and 6? What additional factors, if any, should the host authority take into account when setting the internal TLAC requirement?

We appreciate the suggestions stated in the consultation document and do not have any further comments.

Q4. How should TLAC at the resolution entity that is not distributed to material sub-groups ('surplus TLAC') be maintained to ensure that it is

readily available to recapitalise any direct or indirect subsidiary, as required by the TLAC term sheet (guiding principle 7)?

The availability of non-positioned TLAC at the level of the resolution entity is a reasonable approach to assure, that even losses from non-material sub-groups can be absorbed by considering both the Single and Multiple Point of Entry resolution approach. The consultation paper states, that so called surplus TLAC should be held in form of assets which can be promptly and easily valued, and which are likely to retain sufficient value in times of market-wide stress.

In our view, the likeliness to retain sufficient value even in a market wide stress strongly depends on the conditions of the stress. To assure confidence in the liquidity of surplus TLAC assets, the use of haircuts is unavoidable. A corresponding list of haircuts for typical counterparties for the European market has been published by the ECB. Similar mechanisms should be in use in other jurisdictions. We recommend adding the use of haircuts for surplus TLAC assets in the final guidance.

Q5. What are your views on the composition of internal TLAC, as set out in guiding principle 8? In particular, should there be an expectation of the inclusion within internal TLAC of debt liabilities accounting for an amount equal to, or greater than, 33% of the material sub-group's internal TLAC?

The introducing of an expectation of the inclusion within internal TLAC of debt liabilities for an amount of 33% of internal TLAC requirements in accordance with the framework of external TLAC is in general applicable. However, if internal TLAC is pre-positioned in a group entity, which is not fully owned by the resolution entity (or a fully owned subsidiary of the resolution entity), 33% might not be sufficient.

Impediments arise, if the transfer of losses is primarily performed by equity instruments leading to a change of control in the group entity. In order to prevent such a scenario, a requirement of the inclusion of debt liabilities should be greater than 33% or (with regard to Guiding Principle 9) an additional requirement of a minimum amount of collateralised guarantees should be discussed.

Q6. What are your views on the potential benefits or drawbacks of different approaches to the issuance of internal TLAC instruments as set out in guiding principle 10, and what steps could be taken to mitigate the drawbacks that you have identified?

The most important aspect of the internal TLAC mechanism is to develop a credible and feasible approach to pass losses and recapitalisation needs to the resolution entity. In our opinion, both the direct- and daisy-chain approach are able to support the implementation of a resolution strategy. The choice of the approach should be made with regard to the decomposition of internal TLAC requirements as described in Guiding Principle 2 as well as under the individual resolution strategy of the institute.

The direct-chain approach should be preferred in the case that internal TLAC requirements exist for both subsidiaries A and B[1]. Setting requirements for both subsidiaries result in TLAC instruments being available on the level of each subsidiary. As external TLAC instruments are available on the level of the resolution entity, a monitoring of pre-positioned TLAC would be straightforward.

The daisy-chain approach should be preferred, if internal TLAC requirements exist only for subsidiary A and not for both subsidiaries. Losses of Subsidiary B would be transferred to its parent company A via a daisy-chain and then to the resolution entity as described in the consultation paper.

Considering the third approach of the allocation of internal TLAC instruments in sub-group on a consolidated sub-group level, neither the direct-chain nor the daisy-chain approach is adequate. In our opinion, both approaches are not capable to strengthen the credibility and feasibility of the internal TLAC mechanism. In particular, the unknown allocation of TLAC instruments among the material sub-groups may prevent the implementation of the resolution strategy.

Q7. Should the FSB conduct further work on the need for a deduction mechanism for internal TLAC, as proposed in guiding principle 10?

The TLAC Term sheet does not include any deduction mechanism for external TLAC. Setting up a deduction mechanism analogous to regulatory capital or debt liabilities instruments for internal TLAC would therefore contradict external TLAC requirements.

Q8. Do you agree with the obstacles to the implementation of internal TLAC mechanisms set out in guiding principle 12? How should G-SIBs and authorities address those obstacles and what additional obstacles, if any, might arise?

We described another obstacle (change of control events) and a possible measure to overcome this obstacle in our response to question 5. Now, we do not see any further obstacles.

Q9. Do you agree with the key features of contractual trigger language for internal TLAC, as set out in guiding principle 13 and in Annex 2? Should authorities consider the use of contractual triggers for internal TLAC in the form of regulatory capital instruments, including in cases where statutory point of non-viability (PONV) powers exist in relation to such instruments?

We appreciate the considerations and proposals in order to create a uniform trigger language for a contractual framework. Nevertheless, as a business consulting firm, legal texts are not our main expertise and we prefer not to comment on this question.

[1] Subsidiary A and B reference to figure one of the consultation paper.

Q10. Do you agree with the process for triggering internal TLAC in Section V? In particular, what are your views on the timeframe for the home authority to decide whether to consent to the write-down and/or conversion into equity of internal TLAC?

We appreciate the proposals of the consultation documents and do not have any further comments.

Q11. Are there any other actions that should be taken by G-SIBs and authorities to support the implementation of the internal TLAC requirement, consistent with the TLAC term sheet?

Now, we do not see any further actions to support the implementation of the internal TLAC requirement.