EACB Comments

FSB Guiding Principles on the Internal Total Loss-absorbing Capacity of G-SIBs ('Internal TLAC')

Consultative Document

Brussels, 10th February 2017

EACB AISBL – Secretariat • Rue de l'Industrie 26-38 • B-1040 Brussels
Tel: (+32 2) 230 11 24 • Fax (+32 2) 230 06 49 • Enterprise 0896.081.149 • lobbying register 4172526951-19
www.eacb.coop • e-mail : secretariat@eacb.coop

Contact:

For further information or questions on this paper, please contact:
- Mr. Volker Heegemann, Head of Department (v.heegemann@eacb.coop)
- Mr. Marco Mancino, Senior Adviser, Banking Regulation (m.mancino@eacb.coop)

The **European Association of Co-operative Banks** (EACB) is the voice of the co-operative banks in Europe. It represents, promotes and defends the common interests of its 31 member institutions and of co-operative banks in general. Co-operative banks form decentralised networks which are subject to banking as well as co-operative legislation. Democracy, transparency and proximity are the three key characteristics of the co-operative banks' business model. With 4.050 locally operating banks and 68.000 outlets co-operative banks are widely represented throughout the enlarged European Union, playing a major role in the financial and economic system. They have a long tradition in serving 210 million customers, mainly consumers, retailers and communities. The co-operative banks in Europe represent 79 million members and 860.000 employees and have a total average market share of about 20%.

For further details, please visit www.eacb.coop

Introduction

The members of the EACB welcome the opportunity to comment on the FSB Guiding Principles on the Internal TLAC for G-SIBs.

We support the aim to design a consistent and credible resolution framework, avoiding ring-fencing of assets that could reveal damaging in case of resolution.

However, we would highlight that this should reflect the specific capital structures and support mechanisms of cooperative banking groups and networks, as adequately done in the TLAC term sheet (para. 6(f) and 8(b)).

In particular, the requirement to maintain internal MREL/TLAC between entities belonging to the same Group and in the same jurisdictions negates the very function of cooperative solidarity mechanism and should be reviewed.

Answers to specific questions

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?

With respect to the size of both internal an external TLAC, we are concerned that the ultimate decision would rest with the host authorities. External requirements should not be superseded by the sum of internal requirements which are likely to be inflated by intra-group transactions (especially in co-operative structures), indeed external TLAC is rather based on a systemicity assessment of a group as a whole.

Additionally, the internal allocation to a given entity should not be grossed up by the size of the group but rather be set to a level comparable to the requirements applicable to banks that do not belong to a GSIBs group, in order to safeguard the level playing field,.

We therefore believe that the role of the home authority should be reinforced in relation to the determination of the internal TLAC requirements.

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)?

TLAC surplus should be managed with some flexibility, taking into account the group structure, the funding and capital needs of the various entities. We are concerned that the proposed approach (TLAC surplus retained at the holding company and invested in safe assets) is not the most cost-efficient approach. The surplus may be more efficiently used funding entities which need liquidity.

In addition, the proposed approach does not fit well with decentralized groups such as co-operative banks where TLAC may be raised by different entities.

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 form of internal TLAC should also be addressed with a certain degree of flexibility. The debt format is not appropriate when the investee has a liquidity surplus; on the contrary this extra liquidity may not be efficiently reinvested.

Guarantees are more appropriate to tackle the issue of flexibility. We think that the collateral requirements are in some instances too stringent. The minimum collateralisation should be relaxed when the entities are subject to an integrated supervision.

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?

We appreciate that the FSB outlined two internal issuance approaches in the draft (i.e. directly from a material sub-group to the resolution entity or indirectly to the resolution entity through the ownership chain).

Both approaches should be allowed where they support the resolution strategy. However, internal issuances should not be limited to these two approaches as other internal issuance strategies can credibly support a G-SIB's resolution strategy and the passing of losses to the resolution entity. This could be the case, for instance, of issuances by a material sub-group indirectly to the resolution entity through wholly owned affiliates that are outside of the direct ownership chain.

Principle 10 should be amended to reflect the complexity of large international banks that may fund their material sub-groups efficiently across global structures. Thus, the FSB should recognise different approaches as long as institutions can credibly demonstrate their effectiveness into streaming losses to the resolution entity.

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?

The features of capital structures of cooperative groups and networks were adequately and appropriately reflected in the TLAC term sheet under para. 6(f) and 8(b), regarding the relationship with capital requirements and the issuer of TLAC instruments respectively. The draft proposal for internal TLAC should build on this.

As internal TLAC is the loss-absorbing capacity that resolution entities have committed to material sub-groups, it should be considered that cooperative groups have in place mechanisms such as cross guarantee systems or institutional protection schemes that ensure solvency and/or liquidity support to the affiliated banks in case of need and that are enshrined in the legislation (e.g. Art. 10, 113(6), 113(7) of the EU Regulation 575/2013, i.e. CRR).

In light of this, Principle 1 should be amended to prevent gold plating of capital protection. Entities that are already within the scope of a cooperative mutual solidarity system that protects the solvency and liquidity of the affiliated cooperative banks and institutions should not be targeted by internal TLAC and not be identified as material sub-group for Internal TLAC purposes.

As cooperative mutual solidarity system are already adequately addressed in the TLAC term sheet, consistency should be ensured in terms of impact for the entities within the perimeter of a solidarity system, which provides even enhanced protection than the one of internal TLAC.