

**Comments Template on
 Consultation Paper on EIOPA's first set of advice to the European
 Commission on specific items in the Solvency II Delegated Regulation**

**Deadline
 31 August 2017
 23:59 CET**

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| Name of Company: | European Association of Public Banks | |
| Disclosure of comments: | Please indicate if your comments should be treated as confidential: | Public |
| <p>Please follow the following instructions for filling in the template:</p> <ul style="list-style-type: none"> ⇒ Do not change the numbering in the column "reference"; if you change numbering, your comment cannot be processed by our IT tool ⇒ Leave the last column <u>empty</u>. ⇒ Please fill in your comment in the relevant row. If you have <u>no comment</u> on a paragraph or a cell, keep the row <u>empty</u>. ⇒ Our IT tool does not allow processing of comments which do not refer to the specific numbers below. <p>Please send the completed template, <u>in Word Format</u>, to CP-17-004@eiopa.europa.eu</p> <p>Our IT tool does not allow processing of any other formats.</p> <p><u>The numbering of the reference refers to the sections</u> of the consultation paper on EIOPA's first set of advice to the European Commission on specific items in the Solvency II Delegated Regulation. Please indicate to which paragraph(s) your comment refers to.</p> | | |
| Reference | Comment | |
| General Comment | EAPB welcomes the publication and consultation of EIOPA's first set of advice to the European Commission on the review of specific items in the Solvency II Delegated Regulation. EAPB gathers over 30 member organisations which include promotional banks such as national or regional public development banks and local funding agencies, public financial institutions, associations of public banks and banks with similar interests from 17 European Member States and countries, representing directly and indirectly the interests of over 90 financial institutions towards the EU and other European stakeholders. | |

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| | <p>As already mentioned in the context of EIOPA's preceding consultation (EIOPA-CP-16-008), EAPB welcomes EIOPA's intention to ease insurance undertakings' investment into local funding agencies and public development banks' issuances, recognizing that they play an essential role in long term financing in Europe.</p> <p>In regard to the present consultation, EAPB generally favors an alignment between the Solvency II framework and the CRR where suitable in order to allow for a level playing field between insurance undertakings and credit institutions. Against this background, EAPB strongly supports EIOPA's proposal which stipulates that exposures which are guaranteed by regional governments and local authorities (RGLA) and which carry the same risk as guarantees from the respective central government shall be treated as guarantees of that central government under the market risk module (para. 221). This would not only tackle previous inconsistencies in the Solvency II framework but also remove unjustified differences between the regulatory framework for credit institutions and insurance undertakings. Another important consequence would be that insurance undertakings would be subject to more accurate own funds requirements when investing into financial instruments issued by promotional banks and local funding agencies (which are often guaranteed by RGLA) in their role as long term investors.</p> <p>Nonetheless, EAPB believes that EIOPA's final advice should also contain certain clarifications concerning specific guarantee mechanisms, which are sometimes used by local authorities across the EU. In the detailed remarks section, EAPB thus wants to highlight the aspects, which it believes would still require further clarification.</p> | |
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| 4.4.3 | <p>Proposed treatment of guarantees issued by RGLA (para. 221 and following)</p> <p>EAPB supports EIOPA's preliminary advice (para. 221) according to which guarantees issued by RGLA listed in Commission Implementing Regulation (EU) 2015/2011 should be treated in the same way as the guarantees issued by Member States' central government of the jurisdiction in which they are established in the market risk module. This is justified, since in the aforementioned cases there is no difference in risk between the exposures to the RGLA and the exposures to the central government. Therefore, EAPB would strongly welcome the introduction of the proposed new provisions in Article 180 para. 2 and Article 187 para. 3 of the Solvency II Delegated Regulation. This way the</p> | |

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same risk would be subject to the same rules.

Further, EAPB believes that the proposed intermediate treatment for RGLA currently not listed in the aforementioned Implementing Regulation (para. 223) would be a suitable addition to the Solvency II framework, since the current treatment of such bonds as corporate bonds in the market risk module does not correspond to the actual risk of such exposures. Moreover, this would lead to more risk-sensitive rules in the Solvency II framework and further align the Solvency II framework with the CRR.

Exposures guaranteed by local authorities through separate legal entities

EAPB would like to highlight that it seems unclear whether EIOPA's proposed treatment of guarantees issued by RGLA (para. 221-223) also applies to specific guarantee mechanisms which are used by some local funding agencies (i.e. a credit institution specialized in financing local authorities being guarantors) in Europe.

Local funding agencies sometimes have up to several hundreds of local authorities as their owners. In order to refinance themselves, local authorities i.a. use joint bond issuances via these local funding agencies. Given the multitude of owners and the potentially high number of issuances per year (sometimes up to several hundred issuances per year) it is practically not feasible for the participating local authorities to provide separate guarantees for each and every new issuance.

Against this background, there are models where local authorities jointly set up a separate legal entity (sometimes also referred to as municipal guarantee board) which is used to bundle the guarantees provided for by the different local authorities. The separate legal entity fully guarantees the bonds' issuances of the named local funding agency. In sum, this means that all bonds which are issued by the local funding agency are fully guaranteed by the separate legal entity. Additionally, the local authorities being members of the separate legal entity are jointly and fully liable for any liabilities of the separate legal entity. This mechanisms used by some local funding agencies could thus be described as

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| | <p>a double guarantee mechanism.</p> <p>EAPB believes, that from a risk perspective, there is no difference between the guarantee of the separate legal entity and the additional guarantee provided for by the local authorities. This also seems to be the underlying rationale of the CRR, according to which such structures are often treated as exposures to public sector entities (Article 116 para. 4) and thus, can receive the same capital treatment as the respective central government.</p> <p>Consequently, EAPB would ask EIOPA to clarify in its final advice to the Commission, that such structures are also captured by its proposals on the treatment of guarantees by RGLA. This would help to avoid legal uncertainty and potentially different interpretations by supervisory authorities.</p> <p><u>Differences between the RGLA list in the Commission Implementing Regulation (EU) 2015/2011 and the RGLA list in the banking framework</u></p> <p>EAPB supports the view, that the existing differences between the list according to Article 115 para. 2 CRR and the list in the Solvency II Implementing Regulation create an unlevel playing field between credit institutions and insurance undertakings. Thus, EAPB supports EIOPA's intention (para. 222) to harmonise the two lists in close cooperation with the EBA.</p> <p>EAPB furthermore supports the view that harmonization across Europe should take place as well in order that investments in RGLA bonds issuances of different countries with same risk should benefit from the same treatment.</p> | |
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