



European Banking Industry Committee

European Banking Federation (EBF) • European Savings Banks Group (ESBG) • European Association of Cooperative Banks (EACB)
European Mortgage Federation (EMF) • European Federation of Building Societies (EFBS)
European Federation of Finance House Associations (Eurofinas)/European Federation of Leasing Company Associations (Leaseurope)
European Association of Public Banks (EAPB)

EBIC RESPONSE TO THE EUROPEAN COMMISSION'S WORKING DOCUMENT ON THE REVIEW OF THE CAPITAL REQUIREMENTS DIRECTIVE

The European Banking Industry Committee brings together European banking associations with a mandate to provide advice, assure a comprehensive consultation of market participants and ensure a representative industry view throughout the process of drafting, adopting, implementing and enforcing EU-financial legislation and thereby provide input for the European institutions and their relevant sectoral committees. It is amongst the declared aims of EBIC to advise the Commission on relevant legislative banking and cross-sectoral initiatives and any developments at Community level affecting the banking and financial services activities associated with the establishment of a European Single Market for financial services.

EBIC has been established by the main banking industry federations: the European Banking Federation (FBE), the European Savings Banks Group (ESBG), the European Association of Cooperative banks (EACB), the European Mortgage Federation (EMF), the European Federation of Building Societies (EFBS), the European Federation of Finance House Associations (Eurofinas) / the European Federation of Leasing Company Associations (Leaseurope), and the European Association of Public Banks (EAPB).

1. General remarks

EBIC very much welcomes the opportunity to comment on the European Commission's working document containing its preliminary proposals for the review of the Capital Requirements Directive (CRD). EBIC regards an intensive dialogue between rule-makers and industry representatives as the cornerstone for good banking regulation. In this sense it greets the Commission's commitment to apply the better regulation agenda and encourages its consistent use for every future proposal. Quality regulation can be insured only by involving the recipients of regulation in the law making process from an early stage. This is apparent also in the current consultation document, where a number of proposals which have been put forward after an extensive dialogue with industry can be regarded as balanced compromises. Consequently, EBIC supports an extensive use of the consultation procedures by both, the European Commission and the Committee of European Banking Supervisors (CEBS).

EBIC would like to reiterate, on this occasion, its support for ensuring alignment between European legislation and the work of the Basel Committee. In this sense, it invites the Commission to be cautious and not anticipate the issues that are currently being discussed in Basel. The CRD would risk otherwise putting European entities at a competitive disadvantage vis-à-vis other players in the global market.

Overall, the proposal put forward by the European Commission represents from EBIC's point of view a good compromise solution. However a number of proposals raise severe concerns. This is particularly true for various aspects of the proposed review of the Large Exposures (LE) regime. We will discuss them below, in the order in which they appear in the Commission's working document. EBIC trusts that the Commission will duly consider the following observations when drafting its final proposal.

2. Large Exposures

EBIC welcomes the choice of the Commission to maintain the backstop regime, which has worked well in the past.

As regards the concrete content of the regime we understand that there is an intention to update the current regime to take account of new market developments and of the evolution of risk management practices. However, it is very important to make sure that the proposed changes are, first of all, responding to perceived weaknesses of the current regime and, secondly, that they constitute an improvement. EBIC has identified some aspects of the proposal for which these two objectives are in our view not met.

2.1. The definition of connected clients in Article 4, paragraph 45

EBIC would like to express its content as regards the choice of the Commission to maintain a principle-based definition of "connected clients". However, the addition brought to Article 4, paragraph 45 results in a wording that could be interpreted as capturing issues that, in our view, cannot be possibly covered under the definition of "interconnectedness".

EBIC assumes that the proposed wording is designed to prevent future cases of risk concentration, in which dependence on a single source of funding leads, in crisis situations, to a liquidity squeeze on the part of the debtor and may thus also push the funding bank into trouble (see example of IKB Bank). We support the intention to avert such potential risk concentrations by setting regulatory rules. At the same time, we regard the form chosen for doing so as inappropriate. The case outlined must be prevented within the scope of banks' concentration risk management or liquidity management. The problem should therefore be duly addressed prudentially in Annex V. We wish to point out that we regard the proposal for Annex V, point 14, for example, as a suitable basis.

The LE regime, on the other hand, is designed to control single-name risk. Risks arising from the funding of clients can scarcely be separated from sectoral or regional risks. The interpretation of the proposed wording would inevitably lead to the necessity to group together two clients who are funded substantially by one and the same bank. Here, too, the bank's collapse would put both clients in a very difficult situation. We assume, however, that the proposals are not intended to set a requirement to treat such clients as a single unit. For this reason, misleading words should be avoided and the exact regulatory purpose would have to be defined with more clarity, eventually in the recitals.

In the light of the above arguments EBIC strongly argues in favour of deleting the additions proposed to Article 4 paragraph 45. The Commission is invited to clarify its intentions in the recitals and leave any liquidity concerns to be treated under Annex V.

2.2. The look-through approach in Article 106 paragraph 3

The proposed mandatory look-through to determine the existence of a group of connected clients in the case of investment units, securitisations, shareholdings, etc. would have serious negative implications for the banking sector. The recommended rules would create considerable technical difficulties for banks. Particularly in the case of both multi-tier indirect shareholdings and investment units, the exact size of each participation is either not available in the first place or can only be determined with an unreasonable amount of difficulty.

Such negative consequences were avoided in the CEBS proposal, according to which supervisors determine jointly with the bank concerned whether the risk of default results from the possibility of default of the underlying assets or of the fund as such, or both. Appropriate implementation would allow banks to choose whether the fund as a whole or its individual parts should be counted for the purpose of large exposure limits. There should be a requirement to explain this choice to supervisors so as to take account of reservations about any shifting of cluster risk in fund structures.

EBIC urges the Commission to renounce imposing the look-through approach on a mandatory basis for all exposures referred to in Article 79 paragraph 1, letters (m), (o) and (p). EBIC invites the Commission to adopt the optional approach, as proposed by CEBS.

2.3. Interbank exposures in Article 111, paragraph 1 (i) and (ii), in conjunction with the deletion of Article 113, paragraph 3 letter (i)

General negative effects of the proposed treatment

The Commission proposes to limit all interbank exposures to 25 % of own funds and to give up the current regime containing maturity-based exemptions for interbank exposures. A limited waiver is foreseen only for smaller banks.

The introduction of the proposed LE limit on interbank lending would, in our opinion, have serious unwelcomed consequences that would thwart any potential positive prudential effect. In particular, EBIC believes that the proposed measures would substantially damage the interbank market and limit funding possibilities between banks.

It should be reminded here that the privileged treatment of interbank exposures was introduced in the LE regime in order to ensure the smooth functioning of the interbank market. In light of the fact that the Commission's proposal is also presented as a reaction to the financial market turmoil it is particularly surprising that, without any proper justification, the Commission puts forward a proposal, which would render interbank funding more complicated and more expensive. Specifically, the elimination of the privileged treatment foreseen for interbank exposures would be counterproductive in the context of a financial and liquidity crisis, as it will squeeze liquidity and thereby generate and deepen market distortions.

In this context it is also important to underline that, as a result of strict solvency and liquidity requirements applicable to them, banks have a lower probability of default in comparison to other risk takers. This is particularly true for what CEBS calls "unforeseen event risk".

We anticipate that the proposed measures on interbank exposures would have the following negative consequences:

- Significant competitive disadvantages for European banks compared with their international competitors because there are no equivalent rules in other jurisdictions such as the US.
- Substantial restrictions on banks' liquidity management, as verification of compliance with the LE limits would markedly slow down the speed of response in liquidity management.
- Discrimination of those banking systems that are based more on traditional money market financing as compared to those relying on capital market financing, as banks would be restricted in their choice of counterparties by the possible limitation of liquidity.
- The diversification of counterparties imposed by the rules would also entail that poorer credit quality would have to be addressed.
- A competitive disadvantage for smaller, regionally operating banks compared with large internationally operating banks. The proposed quantitative threshold could not set aside all negative consequences for smaller banks, such as additional regulatory burden and operational costs related to the diversification of counterparties and substantial limitation of traditional funding sources.
- A competitive disadvantage for banks whose business model includes large-scale derivatives business, since on application of the mark-to-market method the prudential add-on would have to be largely included in the calculation of the large exposure limit. This add-on cannot be covered

in the customary market collateralisation of derivative transactions and is only allowed to be partially taken into account in prudentially recognised netting.

Better regulation principles

EBIC strongly perceives that the design of the proposals on interbank exposures has not properly followed the Better Regulation approach to which the Commission is committed, and which has indeed been duly followed for other aspects of the review of the CRD.

It is important to stress once more that the treatment of interbank exposures is probably the most important aspect of the proposed amendments to the CRD, with potentially far-reaching impacts. Yet, the Commission's proposals on interbank exposures were submitted without a thorough impact assessment and a detailed explanation of the pursued objectives and of the appropriateness of the proposed ways to reach them.

Furthermore, the current regime has worked properly so far and there are no obvious failures that would suggest immediate regulatory action. Any amendments to it should therefore be based on a proper and complete justification. Especially in troubled financial periods such as the current one, regulators and the industry cannot afford wrong measures.

EBIC position

For the reasons described above, EBIC urges the Commission to maintain the current regime containing maturity based exemptions of up to one year.

EBIC welcomes the Commission's proposal on the introduction of a quantitative threshold that establishes a waiver from the application of the LE regime regarding interbank exposures for smaller credit institutions, which should, in any case, be protected through such a quantitative threshold, irrespective of the maturity-based exemptions. This is mainly justified by the fact that such institutions do not present systemic risks. Consequently, it is only by combining the current maturity-based exemptions with a quantitative threshold that the interests of all banks would be protected.

EBIC is of the opinion that the proposals on interbank exposures should be substantially revised, as the proposed approach would make the banking industry worse-off, without actually improving the current regime. In EBIC's view, in order to ensure the smooth functioning of the interbank money market, the current system containing maturity-based exemptions up to one year should become the common rule. EBIC fully supports the introduction of a quantitative threshold that would establish a waiver from the application of the LE regime regarding interbank exposures for smaller credit institutions.

EBIC urges the Commission not to adopt rushed measures in this area and to carefully assess all possible consequences of any envisaged provision.

2.4. Exemption for cash-clearing/liquidity systems in Article 113 paragraph 1 letter (n)

In many countries' decentralized banking networks have established cash-clearing/liquidity systems, around their sectoral central bank. While in most cases these liquidity systems are based on

agreements, there are also cases where those systems are established by law. Such arrangements imply that the local bank is obliged to hold its liquid assets entirely or mostly with the central institution in the form of interbank deposits or to hold a certain amount of its deposits with the central bank. In exchange, the central banks of the cooperative network provide liquidity by establishing credit lines to every member bank in order to manage the daily cash settlement. There are clear and binding arrangements. The agreements and credit lines are especially designed to serve in times of crisis (e.g. short-term liquidity squeeze, etc.). Thus, especially in times of a liquidity crisis, local banks and central banks are obliged to observe their concluded arrangements.

The liquidity management of the sectoral central bank has to respect high standards, to fulfil its tasks. While certainly not identical, these liquidity systems dispose of important elements that characterize treasury/liquidity arrangements in consolidating groups. Such liquidity schemes have (through their liquidity support commitment) internalized the risk of a liquidity squeeze of the adhering banks and therefore established a barrier also against potential losses of the debtor entity to the group level. The internalization of liquidity risk is a stabilizing factor for the whole banking sector and therefore deserves promotion.

While the LE limits are generally not relevant for the sectoral central bank in its dealings with the local bank, the exposures of the latter to the central bank very often go beyond the 25% limit. Accordingly, the current Article 113 paragraph 3 letter (n) gives a derogation for the local banks only and not for the network's central bank.

Due to the “inverse pyramid structure” of banking groups with liquidity systems, where the local banks are the owners of the central institutions, the effects of a deletion of Article 113 paragraph 3 letter (n) would even multiply. On the other hand, the fact that the central bank is normally owned by the local banks is a constituting factor for the systems and also the reason why these systems have worked so well in the past. We therefore suggest to apply it to holdings and other exposures as well.

The deletion of Article 113 paragraph 3 letter (n) would seriously hamper these schemes without contributing to increased stability of the European/national banking systems. Furthermore, the liquidity systems described would not be exempted under other provisions of the Commission's proposal, as they do not all comply with Article 80 paragraph 8 since that requires also meeting other prudential criteria on the level of the institutional protection scheme. -

We therefore strongly advocate to keep the exemption for cash-clearing/liquidity systems in a modified form that also considers participations. Finally, we feel that the value of the systems has not been assessed sufficiently.

EBIC urges the European Commission to maintain a modified version of Article 113 paragraph 3 letter (n). It proposes the following drafting:

“Article 113

~~13. Member States may fully or partially exempt~~ The following exposures shall be exempted from the application of Article 111(1): ...

(n) asset items constituting exposures on or participations or other kind of holdings in regional or central credit institutions with which the lending credit institution is associated in a network in accordance with legal or statutory provisions and which are responsible, under those provisions, for cash-clearing operations.”

2.5. Credit risk mitigation under Article 115

Recognition of physical collateral

The Commission's suggestion to recognize physical collateral for the purpose of mitigating the exposure value is in line with CEBS's conclusions on real estate collateral in its advice on LE. The industry believes that this solution is the most appropriate when it comes to reaching middle ground in terms of the costs/benefits relating to the various options considered by CEBS.

Furthermore, we welcome this proposal as it corresponds to the treatment adopted by some Member States under the current regime, with the advantage of no longer being a matter of national discretion. Consequently, we believe that the Commission has achieved at least two of its objectives in the drafting of this proposal, namely (i) amending the current regime only when necessary and (ii) removing as far as possible areas of current national discretion from the new regime.

Although we are disappointed that other physical collateral recognition is not on today's agenda, we accept this situation and will be happy to contribute to the debate at a more appropriate time.

In addition, we would like to emphasise an issue which in daily practice leads to a high and unjustified administrative burden. Regarding the collateral provider for residential mortgage loans, the rules of pillar I and those of the LE regime slightly differ. The recognition of real estate collateral within the LE regime (Art. 115 paragraph 1, sentence 4) refers to the 'borrower', whereas Annex VI Part 1, point 45 refers to the 'owner'. We strongly recommend a consistent regulation on the basis of the solvency rules.

<p>EBIC strongly supports the Commission's proposal to recognize real estate collateral for credit risk mitigation purposes in the new large exposure framework. EBIC also suggests using the same terminology in the solvency and large exposures regimes.</p>
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Level of the haircut applicable to real estate

The current large exposures framework already allows Member States to recognize up to 50% of the value of the collateral in residential and commercial real estate exposures (with some conditions applying), with leases on these types of property being treated in the same way. Moreover, today's Article 113 paragraph 3 letter (q) goes so far as to provide the possibility for Member States to allow recognition of the full value of the property in a real estate lease exposure. Consequently, the Commission's suggested haircut of 50% is in line with current practice and in some cases (i.e. for property leasing transactions where the discretion is applied) it is even more conservative.

While we fully appreciate that the objectives of minimum capital requirements for credit risk and the large exposure framework are different, the idea of a 50% haircut for real estate exposures for LE is similar to the principle of applying a 50% risk weight to 50% of the exposure for solvency purposes. This is in line with CEBS's recommendation and the Commission's objective to deviate as little as possible from credit risk mitigation treatment for minimum capital requirements.

Under a back-stop LE regime, where liquidity issues are crucial, the introduction of a haircut serves to ensure that all concerns relating to the timely realization and certainty of the recoverable amount are more than sufficiently addressed. However, the haircut should not be so low as to fail to recognize the track record of European real estate markets. In this context, many stakeholders in this debate believe that 50% is too conservative. Nevertheless we understand that there may be reasons

for not going beyond this limit at this point in time and therefore are of the opinion that 50% is an adequate compromise.

In the particular case of leasing, with lessors remaining the owners of the leased property throughout the contract term, the protection that institutions benefit from is even greater than in other cases. If realization of the collateral is necessary, it will be timely as there is no need to execute a mortgage or other type of lien due to the ownership feature.

As a result we are of the opinion that the Commission's initial suggestion of 50% is more than sufficiently conservative and meets the objectives of prudential supervision in a single name concentration risk context. The industry would consequently fervently oppose any lowering of the haircut.

EBiC holds the unwavering view that in no case should the haircut applicable to the value of the real estate collateral be less than 50%.

Commercial property

According to Article 115 paragraph 2, commercial property shall be fully constructed in order to benefit from a reduced exposure value. We clearly oppose this requirement. The construction phase of a commercial property is already fully reflected through a reduced market / mortgage lending value which is constantly adapted in line with the progress of the construction, thus producing a smaller reduction of the exposure value. Such rules apply to the solvency regime. This approach appropriately reflects the risk of the property being sold during the construction period.

EBiC recommends the deletion of Article 115 paragraph 2 subparagraph 2 imposing the condition that commercial property shall be fully constructed.

2.6. Treatment of development banks under the LE regime (Article 116 CRD)

Under the current large exposures rules, laid down in Article 116 CRD, Member States may decide to grant exposures to other institutions a 20 % risk-weighting. In Germany, e.g., this rule has been applied to "development banks". Development banks fulfil a promotional mission authorized by government and law. There is political consensus that the privileged treatment of interbank exposures is essential for fulfilling this promotional mission.

In contrast to commercial banks, development banks' customer base primarily comprises other banks to which development funds in form of credits are directed (so-called "house bank principle"). These "house banks", in turn, provide credits to those companies (mainly small and medium sized enterprises - SMEs) to which the funds are targeted. It is therefore in the nature of the business, that development banks have huge exposures to a limited number of other banks. Moreover, development banks have, as a rule, no possibility to intervene or steer this credit granting process, as the final borrowers taking out loans at a specific house bank determine the size of the exposure granted by the development bank to this house bank.

With the proposed 100 % weighting, those exposures will have to be cut considerably. In many cases the portions of exposures exceeding the large exposures limit (excess exposures), which have to be deducted from own funds would even exceed the prudential capital held by those banks. Therefore, by eliminating the current possibility of a 20 % risk weighting for interbank exposures under Article 116 CRD, those banks would be forced out of business. Their promotional mission could not be fulfilled any more. Thus, the promotion of SMEs could not be provided any more, having consequently a significant impact on the economy as a whole. This is an unacceptable consequence, especially in view of the fact that the risks involved in transferring promotional funds to house banks, which pass these financial means on to final borrowers through loans, are very low.

EBiC takes the view that a complete exemption of development banks from interbank exposure rules is justifiable and also sensible. As an alternative, we would suggest keeping the wording of Article 116 CRD, at least for development banks.

3. Hybrid capital instruments

EBiC welcomes the significant progress made in this area, which in our opinion is to a large extent the result of a fruitful and extensive dialogue between CEBS / the Commission and the industry.

As far as the proposed approach is concerned, EBiC very much supports the Commission's decision to opt for a principles-based framework.

EBiC welcomes the progress made and the principle-based approach followed by the Commission in this field.

4. Article 3 – waiver for cooperative banks

EBiC supports the amendment of Article 3 as suggested. With regard to a convergent application throughout the EU and the avoidance of a distortion of competition, EBiC suggests mandating CEBS with the development of guidelines for the application of this provision.

5. Treatment of securitization transactions – Article 95 paragraph 2

The draft proposal for CRD amendments contains a number of suggestions which aim at an increase of capital requirements for securitization positions.

The financial market turbulences of the previous months show that capital requirements for securitization positions have to be reviewed. It is of utmost importance however that any necessary amendment is undertaken in a consistent manner on an international level in order to ensure a global level-playing field. It should be made sure that the Basel requirements are applied by all countries participating in the Basel Committee at the same time. Furthermore, before defining new capital

requirements, the consequences of the new CRD / Basel II provisions on the capital requirements of institutions should be thoroughly analyzed.

The Basel Committee has announced its intention to publish an amendment proposal with regard to risk weights for certain complex structured credit products, such as CDOs referring to ABS as well as the strengthening of capital requirements for liquidity facilities for ABCP-conduits. In our view, the European Commission should not anticipate any upcoming proposal of the Basel Committee.

According to the proposed changes to Article 95 paragraph 2 CRD banks as originators will have to hold capital against 15% of the risk weighted assets (RWA) of the exposures if these have not been securitized - regardless of the amount of securitization positions it holds. We emphatically reject this proposal. Special capital requirements for exposures already securitized are economically not sound, discriminate securitizations (especially true sale) vis-à-vis other instruments for the transfer of credit risk and would constitute severe competitive disadvantages vis-à-vis banks in non-EU countries. Last but not least it would contradict one of the basic aims of Basel II namely to gear regulatory capital closer to economic capital.

We understand that the Commission's intention is to reinforce the incentives for the management of risks from exposures that are designated for securitization. This aim however can be achieved by the proposed regulation only to a very limited amount. The Commission should therefore aim at improving credit granting standards for exposures designated for securitization by tightening the respective qualitative requirements under the supervisory review process (Pillar II). The proposals for an extension of the qualitative requirements for risk management of securitization exposures in Annex V point in the right direction here. The introduction of minimum capital requirements for securitized exposures however is, in our view, not an adequate instrument to improve credit granting standards for originating banks.

EBIC firmly argues for the deletion of the proposed phrase in Article 95 paragraph 2.
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6. Treatment of exposures in the form of collective investment undertakings

We still emphatically support the EBIC proposal on the treatment of collective investment undertakings (CIUs) under the IRBA (see EBIC letter of 14 February 2008). In our view this approach would, on the whole, better capture the risks that result from CIUs. At the same time it would lead to substantial procedural release for the institutions.

The changes proposed by the Commission do not represent, in our view, substantial improvements compared to the status quo. This is basically due to the fact that it does not offer any solution for the procedural problems associated with the look through approach. Furthermore it must be criticized that it does not entail a risk sensitive approach for equity exposures as these positions are still to be treated according to the simple risk weight approach for equity exposures. Overall the proposal does not increase the incentives for banks to move to the IRB approach.

Due to the severe reservations against our proposal and because of strict time constraints under which all parties are working, we understand the necessity to work on the Commission's proposed approach. In this context we would like to point out that the proposal represents a moderate improvement for non-equity exposures treated under the "simplified look through approach" (Article 87 paragraph 11 subparagraph 2 letter b). The use of the multiplicative factors 1.1 and 2 would have the effect that better risks have to be covered with less capital, whereas there would be an increase for riskier exposures. We understand the Commission's fear that a multiplicative factor of 1.1 for

unrated or badly rated exposures would harbour the danger that CIUs could be used as a “dumping ground” for risky exposures. To impede this it is however not necessary to use a multiplicative factor of 2 in all proposed cases. For unrated exposures or exposures that are subject to the second highest credit quality step a factor of 2 would overstate the risks entailed with these exposures. We would therefore ask the Commission to lower the factor to 1.5. A multiplicative factor of 2 should only be applied to exposures that are subject to the highest credit quality step.

Consequently, we call for the deletion of the parts in the brackets („[two]“ and „[s]“) of the proposed amendments to Article 87 paragraph 11 subparagraph 2 letter (b) i). These exposures should be subject to a factor of 1,5. The factor of 2 should hence apply merely to exposures in the highest credit quality step. Such a factor would be excessively conservative also in the case of unrated exposures. If we consider for the unrated quality step an average solvency (in-between the investment and non-investment grade) and a higher degree of „unknown“ about the actual solvency of the respective financial instruments, then we would perceive as adequate a risk-weight of 150%. With these modifications the risk weights for the exposures mentioned above would still be higher than under the current regime.

EBIC strongly recommends that the Commission uses a 1.5 multiplying factor for unrated exposures and those in the second highest quality step, while leaving a multiplicative factor 2 for exposures in the highest credit quality step. Our concrete proposal is contained in the table below.

Sovereigns			
credit quality step	currently	Commission's proposal	our proposal
second highest	150%	200%	110%
highest	200%	300%	300%
unrated	100%	200%	150%
Institutions			
credit quality step	currently	Commission's proposal	our proposal
second highest	150%	200%	110%
highest	200%	300%	300%
unrated	100%	200%	150%
Corporates			
credit quality step	currently	Commission's proposal	our proposal
second highest	150%	300%	165%
highest	200%	300%	300%
unrated	100%	200%	150%

7. National discretions

EBIC would like to underline the importance of reviewing options and national discretions in the CRD. It recalls that following the Commission's call for advice to CEBS on options and national discretions in the CRD, a substantial dialogue has been initiated between CEBS and industry representatives on this topic. Indeed, a group of industry experts has been nominated to work with CEBS on the technical advice to be given to the Commission. This dialogue has already resulted in an agreement on the future treatment of a number of national discretions and options.

CEBS has launched its consultation paper on the proposed technical advice on options and national discretions at the end of May. Hence it can be expected that it will publish its final advice during the fall. It thus appears to be too late to include amendments on options and national discretions under the current review of the CRD. We hereby would like to acknowledge the importance we attribute to due process, implying proper consultation procedures. Therefore we fully understand and accept the reasons why the issues related to options and national discretions cannot be addressed under the current CRD review.

We welcome the Commission's announcement, at its meeting with the EBIC Working Group on Supervisory Practices of 28.May 2008 that a new round of comitology amendments addressing these national discretions and options, when appropriate, will start towards the end of the year, after CEBS releases its final technical advice.

However some options and national discretions are part of the core text of the CRD or of Annex III, which is not subject to the comitology procedure. Against this background EBIC would suggest that the Commission introduces already under the current amendments to the CRD an additional review clause that would permit options and national discretions to be reviewed prior to the general review planned in 2012.

Furthermore, we wish to add that Annex III itself should be subject to the comitology procedure. We see no justification to differentiate, in terms of legislative procedure, between this annex and the rest of the CRD annexes.

<p>EBIC recommends that the Commission introduces a review clause that would allow options and national discretions that are not subject to the comitology procedure to be revised prior to the 2012 deadline foreseen for the general review of the CRD. Furthermore, EBIC calls for Annex III to be made subject to the comitology procedure.</p>
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8. Life insurance

EBIC is generally satisfied with the proposed treatment of life insurance as collateral. However the LGD assigned by the Commission to exposures subject to Articles 84 to 89 – but not subject to the credit institution's own estimates is too high. We do not find adequate the planned LGD of 40% especially as compared to the 45% applied to senior unsecured exposures. A 35% LGD would be more appropriate and would better reflect the more reduced risk due to the collateral. EBIC accordingly recommends to the Commission to lower the 40% weighting to 35%.

Although life insurance policies may be covered by a wider range of assets than covered bonds which are already known in the CRD, we find the risk weighting of life insurance policies under the standardized approach quite conservative (Annex VIII, Part 3, Point 1.7.2.80, p. 43). This is especially true for the proposed subparagraph (c): ‘if the senior unsecured exposure to the company providing the life insurance is assigned a risk weight of 100 %, a risk weight of 70 % shall apply’. This relation will especially affect the retail business and does not reflect the high supervisory standards in the insurance industry. Instead of 70 % we believe that a risk weight of 50 % would be more appropriate. Otherwise the ‘risk weight spread’ between a life insurance company with a credit quality step 1 and 3 would be 50 %. This would neglect that life insurance policies are safe as such.

EBiC recommends the lowering of risk weights for LGD from 40% to 35% and of the risk weight for life insurance policies under the standardized approach from 70% to 50%.