Comments

on Draft Guidelines on the appropriate subsets of sectoral exposures to which competent or designated authorities may apply a systemic risk buffer in accordance with article 133 (5)(f) of Directive 2013/36/EU

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Identification number in the register: 52646912360-95

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Bonn, 13 July 2020

The **German Banking Industry Committee** is the joint committee operated by the central associations of the German banking industry. These associations are the Bundesverband der Deutschen Volksbanken und Raiffeisenbanken (BVR), for the cooperative banks, the Bundesverband deutscher Banken (BdB), for the private commercial banks, the Bundesverband Öffentlicher Banken Deutschlands (VÖB), for the public-sector banks, the Deutscher Sparkassen- und Giroverband (DSGV), for the savings banks finance group, and the Verband deutscher Pfandbriefbanken (vdp), for the Pfandbrief banks. Collectively, they represent approximately 1,700 banks.

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General comments

We principally welcome the EBA's draft paper which aims to create a common framework for competent supervisory authorities in the member states with regard to the implementation of sectoral systemic risk buffers in accordance with Article 133 (5) (f) of CRD V. We are also in favour of the envisaged increase in flexibility and precision of the systemic risk buffer and the objective of a non-overlapping application of capital requirements and buffers by the competent authorities. In our view, the guideline requires amendment in the following respects:

1. Reduction of **complexity**
2. Guarantee of avoidance of **multiple capital backing** for systemic risks
3. **Transparency** of decisions and associated processes

Specific comments

Question 1: *What are the respondents' views on the three pre-determined dimensions and three pre-determined sub-dimensions to which the common framework allows to define a subset of exposures for the application of a sectoral systemic risk buffer?*

We welcome the use of (sub)dimensions that draw on existing data sources. Nevertheless, in our view, the use of (sub)dimensions should be exclusively limited to those which can be derived from the competent supervisory authorities' **existing data sources**. We object to the collection of additional data by the institutions in order to activate the sectoral systemic risk buffer, since this would entail considerable additional work and costs for the institutions. Any additional data collection in the context of the systemic risk buffer should thus be excluded. A focus on data sources which are already available to the competent supervisory authorities also facilitates reciprocity among the member states in the application of the systemic risk buffer. Moreover, the benefit of any additional, extensive data is questionable. Given that the sizing of the systemic risk buffer will be typically based on rough assumptions, a more extensive data pool would merely appear to lead to higher accuracy of the instrument, while acceptance would decline due to higher complexity.

Hence, the establishment of (sub)dimensions should be based on **one single data source**, preferably the COREP Reporting data. We reject any blending of data sources, e.g. the addition of FINREP Reporting or statistical definitions. Recourse to other data sources (e.g. FINREP Reporting, statistical definitions) and any combination of different data sources requires a considerable effort on the part of the institutions and generates additional costs. Data would have to be newly collected and integrated using a complex technical process.

Since COREP Reporting is RWA-based, it is a suitable foundation for the definition of criteria. The dimensions/sub-dimensions should be restricted to the information provided in the COREP Reporting context. The following data, for instance, is not available in COREP Reporting and should therefore not be included:

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1. Risk profile criteria: loan-to-income ratio, debt-to-income ratio, debt service-to-income ratio, total debt-to-EBITDA ratio
2. Instrument type: credit for consumption
3. Geography: region and city

Question 2: *What are the respondents' views on the three criteria for assessing systemic relevance of a subset of exposures?*

We believe that sound **causality analysis** carried out by competent authorities is essential for the identification of the systemic relevance of sectoral exposures. This should include empirical data analysis as well as (forward-looking) scenario analysis with clearly defined cause-effect chains to ensure transparency and acceptance of the measure. We propose that paragraphs 20 and 21 should be extended and refined to this effect.

Under the "Riskiness" criterion, paragraph 22 proposes the use of forward-looking indicators including losses under adverse macroeconomic developments. Again, the avoidance of overlap with the countercyclical capital buffer must be guaranteed and explained. A respective note should be included in the guidelines at this point.

Furthermore, a requirement should be added to the guidelines that, prior to the establishment of a sectoral buffer by the relevant competent authority, a consultation process regarding the envisaged measures, as well as a detailed justification, should be initiated that involves a minimum consultation period of three months.

On top of this, aside from the consideration of the size of the subset ("Size"), we also regard the introduction of a **materiality threshold at the level of the institution** as imperative. We therefore suggest that, as a rule, the application of any sectoral buffer may be waived if the institution's exposure in the respective sector is below 3% of the institution's total assets. The introduction of a materiality threshold serves to reduce complexity in the identification of the institutions affected by the introduction of a sectoral systemic risk buffer. This is our interpretation of the explanation in paragraph 20 regarding the avoidance of an excessively granular application of the buffer. Materiality thresholds are already being applied in the recognition of macroprudential measures of other European countries. The effort involved in collecting, monitoring and identifying buffers for micro-portfolios would be disproportionate to the stated objective of reducing systemic risks.

To ensure that the application of a sectoral systemic risk buffer will not result in the need for additional reporting requirements for institutions, the assessment of the systemic relevance of sectoral exposures should also exclusively rely on data that are available to the competent authorities under the current reporting requirements.

Question 3: *What are the respondents' views on whether the elements in section 6 provide sufficient guidance for readers as to the nature of the sub-dimensions?*

As mentioned above, all (sub)dimensions required to activate the systemic risk buffer should be based on **the information and/or data sources that are already available** to the competent supervisory

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authorities **today**. We reject any additional data collection by the institutions for the purpose of defining the systemic risk buffer and propose that paragraph 23 should be amended accordingly.

Reciprocal application of sectoral systemic risk buffers is not possible unless the respective reporting data is based on directly applicable regulations. Any additional data that may be used to define a sector may not be available in other member states. Hence, the relevance to institutions in the other member states cannot be adequately assessed and reciprocal application becomes impossible. This prevents any harmonised application of sectoral risk buffers by the competent authorities and may lead to a distortion of the level playing field.

Question 4: *What are the respondents' views on the potential challenges in applying this framework to design a systemic risk buffer measure?*

In the context of sectoral systemic risk buffer activation, CRD V stipulates the principle of **non-overlapping application of capital requirements and capital buffers**, both in terms of macroprudential and microprudential measures. The competent supervisory authorities should perform extensive prior causality analysis to verify and corroborate non-overlapping application. We also propose that highly event-driven risks (e.g. climate risks, pandemics) should be excluded from the assessment of systemic risks since they are already included in existing risk types. We propose that Section 7 should be supplemented accordingly.

The establishment of the capital requirement level under **Pillar II (P2R, P2G)** is not entirely transparent. Among other elements, P2G is also set on the basis of a comprehensive macroeconomic stress scenario. Where sectoral systemic risk buffers also cover potential systemic risks, risk coverage may be duplicated. We are also critical of overlaps of sectoral risks and dependencies as evaluated in the **business model analysis** that is used for P2R setting. Hence, we emphasise the need for clear causality analysis based on empirical data analysis and forward-looking scenario analysis incorporating the anticyclical O-SII and G-SII buffer (pursuant to Art. 130 and 131 CRD) in order to clearly differentiate macro- and microprudential measures and avoid duplicate risk coverage. We propose that Section 7 should be supplemented accordingly.

Aside from the avoidance of overlaps, we also suggest that, in the context of the systemic risk buffer definition, greater emphasis be placed on the buffer's **forward-looking character** in order to avoid capital backing of previously realized risks (paragraph 21).

The **adequacy test** and the **disclosure** of the systemic risk buffer's adequacy test should take place on a **quarterly basis**. Sectoral systemic risks may be subject to increased volatility. In addition, the review of the capital requirements under Pillar II is carried out at least once a year. In our view, it should also be clearly stated that the application of the sectoral systemic risk buffer represents an exception, does not overlap with other macro- and microprudential measures and should not involve any duplicate backing of risks that are already covered by other elements in the stacking order. We propose that Section 7 should be supplemented accordingly.

Furthermore, we request the inclusion of an **adequate implementation period** of one year following the definition of a sectoral systemic risk buffer – similar to the procedure defined for the implementation of an anti-cyclical capital buffer. Institutions are required to include any activation of the sectoral

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systemic risk buffer in their capital planning and control. If the case arises, they must implement a number of diverse national sectoral systemic risk buffer requirements on a technical level.

We would like to point out again that the definition of the sectoral systemic risk buffer should draw exclusively on information and data sources that are already available to the competent authorities. In our view, the authorities already have access to a **sufficient data base**. We propose that Section 6 should be clarified accordingly.