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Prepared by Sü/Gk

Comments on ECB Draft AnaCredit Manual

17 August 2016

Dear Sir or Madam,

May we, first of all, thank you for the opportunity to comment on the draft AnaCredit Manual.

In view of the large number of questions raised by implementation of AnaCredit, we believe that a detailed manual is absolutely essential. We therefore greatly welcome the publication of such a manual.

Generally speaking, our impression is that the manual is well-prepared and well-written. The visual information in the form of diagrams and flow charts is particularly helpful, in our view. At the same time, we are unable to say at the present stage whether the manual is likely to address all practical implementation problems satisfactorily. The manual is currently available in English only. To gain a better understanding of AnaCredit, translation of the manual into the main EU languages would thus be helpful.

Parts I and II of the draft manual have only been at our disposal for a few days, which is not enough time for an in-depth analysis.

Enclosure

Comments of the German
Banking Industry Committee on
the ECB Draft AnaCredit Manual

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We are therefore merely submitting our initial comments, reserving the right to provide further feedback later.

Copies of this comments have been sent to the Deutsche Bundesbank (Mr Ingo Techet and Mr Martin Nissen).

Yours sincerely,
on behalf of the German Banking Industry Committee,
Association of German Banks



Dirk Jäger

Member of the Management Board



Silvia Schütte

Director

Comments

on ECB Draft AnaCredit Manual

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Berlin, 17 August 2016

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 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 points

We would greatly appreciate it if each NCB would publish the respective AnaCredit arrangements also in English to better support the assessment of the local requirements especially for international groups.

We would recommend publishing an overview of all national requirements (publications concerning AnaCredit from all NCBs) especially in terms of reporting deadlines and reporting requirements subject to decision by the NCBs.

Reporting processes for reference data/validation

We would greatly appreciate it if the ECB could provide information on validation rules and data quality checks as soon as possible.

How will reference data be validated?

What will be the process if the ECB receives conflicting information from different reporting agents?

By decision of the NCBs, double reporting by foreign branches to the ECB is possible (e.g. requirement for credit institutions to report to their relevant NCB as observed agents and for foreign branches to report to their relevant NCB as reporting agents). How does the ECB plan to deal with data inconsistencies between different reports for the same foreign branch (e.g. due to different NCB reporting deadlines)? Which report is the relevant one for the ECB?

Technical requirements

The technical requirements (dataset structure, dataset file format, validation rules) should be made available as soon as possible. This is particularly important for banks that do not use standard software.

Reduced requirements for existing loans

The ECB provides for reduced requirements for instruments that originated before 1 September 2018. Do prolongations of current account lines also fall under existing loans and thus qualify as "old cases"? We believe that this point needs to be interpreted uniformly by all NCBs.

Servicers

Further detailed examples for servicers would be desirable. For which spun-off, e.g. administrative, functions or parts of functions do servicer roles need to be defined?

Terminology

We take it that "month-end date" means the last calendar day of the month.

Draft Manual Part I: AnaCredit – Reporting Manual

1. Case studies (p. 8):

- Is it possible to also provide in the case studies an example of how to report multi-option facilities? Multi-option facilities can be drawn on by several products such as loans, guarantees, LCs, etc. Thus, the facility can be drawn on by instruments which are partly relevant according to AnaCredit and partly not.

GBIC-Comments on ECB AnaCredit Manual

2. Reporting and observed agents (p. 10 ff):

- Please include in the manual a definition of what the ECB expects as “identifier” for the data attributes “reporting agent” and “observed agent”.
- We would welcome publication of a list of reporting Member States and non-euro area Member States joining AnaCredit on a voluntary basis.
- 2.2.2 Foreign branches of credit institutions
The concept of a “single branch”: how are the reference data for an artificially created single branch to be defined? For example, which address is to be used (cf. 3.3.1 debtor)?

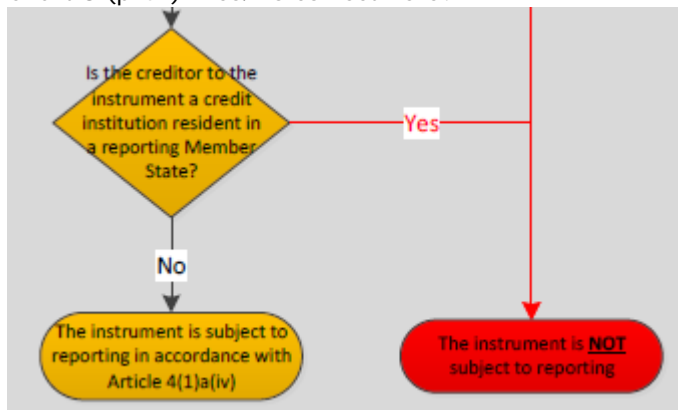
3. Counterparties in AnaCredit (p. 27 ff)

- 3.2. c), numbers 8+10
According to the AnaCredit Regulation, the NCBs are allowed to decide on collection of this information from the protection provider. The Deutsche Bundesbank has decided not to collect this information from the protection provider. There is no basis for requesting this information from the customer.
Could you please confirm that the immediate parent ID and the ultimate parent ID only have to be reported for debtors?
- 3.3. Counterparties directly involved in instruments
Instruments with a plurality of debtors (multi-borrower facility) and plurality of instrument types (multi-option facility):
In case several borrowers can draw on a facility in several tranches with several product types, how do the instrument, counterparty to the instrument and joint liabilities have to be reported?
Example: Customers C1 and C2 can draw on a facility amounting to EUR 50,000. Customer C1 has already drawn EUR 22,000 with instrument type J1 and Customer C2 has already drawn EUR 5,000 with instrument type J2. The off-balance sheet amount is EUR 23,000. Do these instruments have to be reported as one instrument or two instruments? How does the off-balance sheet amount have to be reported? Which debtors have to be reported for each instrument? Which feeding of joint liabilities is expected?
- 3.3.1 Debtor
“In the AnaCredit Regulation, ‘debtor’ is concisely defined as ‘the counterparty which has the unconditional obligation to make repayments arising under the instrument’.
Accordingly, any counterparty who is unconditionally obliged to make payments under the instrument qualifies as a debtor. For example, granting a credit to an institutional unit makes the institutional unit a debtor under the AnaCredit Regulation, because the institutional unit is counterparty to the instrument.”
As an institutional unit is not always a legal entity, we would assume that the counterparty which has the unconditional obligation to make repayments arising under the instrument is the legal entity to which the institutional unit belongs (the “head office”). Moreover, an institutional unit may not even have an address (city, postal code, etc.) because it may be a synthesis of different foreign branches in one country. Therefore, we would always report the legal entity (the “head office”) as a debtor (cf. 2.2.2. single branch).

For the “purchase of receivables with recourse/without recourse” product, we expect the seller of the receivables to be seen as the “servicer” and the borrower to be seen as the “debtor” in AnaCredit, irrespective of the type of recourse.

4. Instruments covered in AnaCredit (p. 37 ff):

- Chart 8 (p.42): Yes/No correct here?



- 4.3 Activities of an observed agent in the context of Article 4(1)a(i)-(iv)
According to section 4.3.2 of the manual, Art. 4(1)a(iii) is considered to be superseded by Art. 4(1)a(ii) and is therefore not analysed separately. We believe it would be helpful if the manual could explain what kind of instrument is addressed by point (iii), especially regarding the second clause reading "gave rise to credit risk in the past". Would this mean, conversely, that the instrument now no longer bears credit risk, but it is still on-balance sheet? What would that be? That should be different from Art. 4(1)a(ii), where there is no condition regarding the aspect of who bears or bore the credit risk now or in the past.
- 4.4.2.1 Intracompany loans held by the observed agent:
The observed agent is the creditor – are "loans" between two foreign branches also to be reported to AnaCredit? Also a "loan" from a New York foreign branch to a Tokyo foreign branch? Which types of instrument do these loans have (these "loans" are typically cash shifting on internal accounts)?
- 4.8.2.5 Irrevocable and revocable instruments
In section 4.8.2.3, the message is that a credit limit is not relevant for AnaCredit reporting as long as the line is not drawn on, irrespective of whether the credit line is irrevocable or revocable. In our view, the contractual arrangement regarding revocability is usually part of the credit limit arrangement. Does the guidance in section 4.8.2.5 mean that from that moment only the instrument (= on-balance sheet) without any off-balance sheet amount has to be reported or does the undrawn (off-balance sheet) part of the facility also have to be reported?
- 4.8.2.6 Instruments with a plurality of creditors
"All creditors in such an instrument are subject to reporting in the counterparty-instrument dataset ..."
We assume that only the lead arranger of a syndicated loan has all the information about involved syndication members and will report the transferred amount that it does not hold (that is held by other syndication members). The other syndication members will therefore report only themselves as creditors and report the transferred amount as 0.0.

GBIC-Comments on ECB AnaCredit Manual

“The transferred amount is not to be understood as the amount that one observed agent has transferred but as the part of the instrument’s outstanding nominal amount that the observed agent does not hold itself but is held by others.”

This interpretation does not appear to be in line with the original meaning of “transferred amount” as defined in the AnaCredit Regulation. We agree with table 2, but in table 3 we would report EUR 30 as the outstanding nominal amount and EUR 0 as the transferred amount.

5. Criteria triggering reporting as of a reporting reference date (p. 63ff):

- 5.3.1. Reporting reference date and reference period:
p.66 (below Example 10): *“As referred to in Article 2(1), 30 September 2018 is the first reporting reference date. However, in case of observed agents whose data are reported for the first time later than 30 September 2019 – for instance, in the case of a newly established credit institution in a reporting Member State, the first reporting reference date for such observed agents is **their** first reporting reference date.”*

We expect that the date referred to should be 30 September 2018. Otherwise could you please explain why this date refers to the year after the first reporting reference date?

- Example 16 (p.74): Calculation of the debtor’s commitment amount:
Is it possible to also provide an example of a facility with more than one instrument? How is the commitment amount (as a result of the off-balance sheet amounts) calculated in this case?
- 5.3.3 Deriving whether an instrument is required to be reported to AnaCredit
Section 5.3.3 describes the reporting of fully written-down instruments. It mentions that rounding up of reporting of instruments to the end of the quarter is needed to capture instruments that change from qualifying to non-qualifying during the quarter. In this context (the ECB always wants to be aware of why instruments are no longer reported), we were wondering how to handle changes in the contract identifier due to prolongation or restructuring measures. IT systems often produce a new internal contract identifier in case of prolongation or restructuring. As long as there is no other information in the manual, we would assume that this new contract identifier could also be used in AnaCredit. We would assume that in that case only the new contract with its new identifier should be reported (to avoid double reporting of one and the same contract). But then there would be no chance of identifying that the new contract with the new contract identifier replaces the preceding contract with the old identifier and it would not be clear why the old contract is suddenly missing. Or is it your understanding that in case of prolongation or restructuring only the attribute “inception date” should change and the contract identifier should remain the same? We believe it would be helpful if this were clarified in the manual.

Concept of credit, data model and reportable datasets (p. 80ff)

Date of default status of the instrument

What date is to be reported after getting fit again (counterparty)?

6.2 Concept of credit in the context of AnaCredit

Section 6.2 (Example 20) describes how one single contract may give rise to ten instruments. The contract stipulates that the creditor makes available two different kinds of instruments up to a specific aggregate amount for each kind of instrument (under each limit several instruments of the same kind may be drawn). The question arises of how to report the “off-balance sheet amount” for one single drawn

GBIC-Comments on ECB AnaCredit Manual

instrument if there are multiple instruments drawn under one and the same limit. Is it for every instrument the total undrawn amount of the instrument-specific limit? That would mean that there would be double (multiple) counting regarding the contract. Or should the total undrawn limit be somehow split? The same question arises for cross limits where there is not even a limit for each kind of instrument that may be drawn under the limit. Should the "off-balance sheet amount" of all instruments drawn under one and the same contract add up to the total undrawn amount of the cross limit under this contract? Perhaps an example could be added under section 4.8.2.3 to clarify what is expected.

- 6.3.4:
As information on the relationship between protection and partner (as the protection provider) cannot be delivered via a relationship table, but the "protection provider identifier" is an attribute of the "instrument-protection received data" table: how is it to be delivered if the condition "provided by [...] more counterparties" applies?
- 6.4.3.1:
Is the attribute numbering here to be adopted in general? The numbering differs from that in the Deutsche Bundesbank's attributes list.

Draft Manual Part II: AnaCredit – Counterparty Reference Data

2.2.3 Special funds:

What are the counterparty roles that may occur in a relationship with a special fund counterparty? Could you please also provide us with an example in the manual?

3.1.2 Servicers

Section 3.1.2 points out several times that the attribute "transferred amount" only applies to loan transfers in accordance with Part 5 of Regulation (EU) No 1071/2013 (ECB/2013/33). In contrast, section 4.8.2.6 (instruments with a plurality of creditors) stipulates that the attribute "transferred amount" also has to be filled in for syndicated loans.

3.2 Counterparty reference data reports - reporting principles

This section specifies that only legal entities qualify as parent undertakings. Perhaps it would be helpful to indicate what is to be done if the parent in fact is a natural person.

We believe that an overview of counterparty connections (cf. chapter on "Reporting Agents and Observed Agents") would be helpful.

3.2. Figure 3.10 – Example 10

Could you please provide an example for foreign branches of banks as well?

3.3.2 Foreign branches and special funds

Are these attribute fields not to be filled in? Or is the same information as for head office/legal entity to be entered? Clarification would be helpful.

GBIC-Comments on ECB AnaCredit Manual

Section 3.4.1 Special reporting requirements based on the type of counterparty

The list (Figure 3.13 – Table 1) should be expanded to include other customer groups (e.g. annual turnover is not a sensible attribute for banks).

3.4.1.3 Special funds (investment funds according to ESA 1230 and 1240) which are not legal entities under corporate law

“Moreover, even though special funds are not incorporated under corporate law and the investment company is not the “head office” of the special fund in a strict legal sense, the attribute “head office identifier” shall be used to identify the respective managing financial corporation.”

There seems to be no legal background under the AnaCredit Regulation for doing so. We would assume that the “head office” of the special fund is not subject to reporting if it is not counterparty to an instrument or protection relevant for reporting.

4. Counterparty Reference data

- 4.3.3.4 National identifier

The final ECB Regulation refers only to the “national identifier”, but not to the “identifier type”. The latter is to be included in the manual in the list of national identifiers. Paragraph 4 says, contrary to paragraph 6, that once the identifier type has been identified by the reporting agent (e.g. tax code number) only this number/code is to be reported.

As we understand it, the data fields in the Regulation are final (i.e. there will no additions to these) and that only, for example, the code has to be reported in the “national identifier” field. What will the dataset for German reporting agents with different national identifiers look like under the ECB manual? In particular, which codes does the identifier type involve?

- 4.3.11 Address: county/administrative division

Please confirm that NUTS 3 is only to be reported for all counterparties resident in the euro area (= reporting Member State)

- 4.3.13.2 Legal form

Which legal forms have to be reported for partners in non-euro area countries? Will these be defined? Will lists of legal forms be published centrally?

- 4.3.15.4 Economic activity

The Deutsche Bundesbank says that the level two NACE code is sufficient.

Could you please confirm that only the level two NACE code has to be reported?

- 4.3.18 Enterprise size

The “enterprise size” field is based on various balance sheet figures which the ECB draft manual says should be taken from the respective individual accounts. For calculating “enterprise size”, Recommendation 2003/361/EC, which only allows figures to be taken from the individual accounts in the case of “autonomous enterprises”, should also be borne in mind. Where non-autonomous enterprises are involved, for example, partner enterprise figures may have to be included in the figures taken from the accounts.

We suggest using a less complex system for filling in the “enterprise size” field and the basic fields than is specified in Recommendation 2003/361/EC. Individual accounts are not available for all counterparties. Balance sheets are usually drawn up for risk reporting purposes and are therefore based in many cases on group accounts. Where group accounts are available, it should therefore be possible to use the figures in the group accounts. This would also be consistent with COREP reporting.

GBIC-Comments on ECB AnaCredit Manual

- 4.3.23 Accounting standard

We assume that IFRS figures may be reported for AnaCredit purposes on an optional basis, irrespective of which accounting standard is used for other supervisory reporting.