

# Comments:

## TLAC Holdings

Register of Interest Representatives

Identification number in the register: 52646912360-95

Contact: Jessica Glaser

Phone: +49 30 20225-5332

Fax: +49 30 20225-5325

E-mail: [Jessica.Glaser@dsgv.de](mailto:Jessica.Glaser@dsgv.de)

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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.

Coordinator:

German Savings Banks Association  
Charlottenstrasse 47 | 10117 Berlin |  
Germany

Phone: +49 30 20225-0

Fax: +49 30 20225-250

[www.die-deutsche-kreditwirtschaft.de](http://www.die-deutsche-kreditwirtschaft.de)

## Comments on TLAC Holdings

We understand principle the intention of the Basel Committee on Banking Supervision (BCBS) to limit investments in other banks' total loss-absorbing capacity (TLAC) where this does not represent regulatory capital.

However, because TLAC holdings do not represent capital of the issuer on the basis of which the investing bank could enter into risks that are comparable with an investment in capital, we believe that applying the same deduction requirement that is already in place to prevent the double counting of Tier 2 capital goes too far.

In light of the BCBS's objective of establishing rules that are consistently applicable to all internationally active banks – both G-SIBs and non-G-SIBs – we believe that the large exposure rules are best suited to limiting investments in TLAC instruments.

Although the German Banking Industry Committee is convinced that treatment under the large exposure regime is the most appropriate solution, the other approaches are also assessed in the following. We believe that applying the corresponding deduction approach would be the second-best alternative, as this can be applied to MREL exposures without any problems, especially in Europe. However, we are of the opinion that the existing thresholds for equity investments would have to be increased so as not to endanger market making.

### **Re: Large exposures - 2./3.3/3.4**

Contrary to the Tier 2 deduction approach preferred by the Basel Committee, we believe that regulating and limiting TLAC holdings using large exposure limits is appropriate and a suitable tool in particular for non-G-SIBs (see section 3.4 of the consultative document). This would effectively reduce the risk of contagion that is feared if a TLAC issuer were to fail. We do not share the concerns, expressed in section 3.4 of the consultative document, about the complexity involved in applying different rules to G-SIBs and non-G-SIBs, and regard this alternative as an appropriate, simple solution that adequately meets the objective of preventing the double counting of TLAC resources.

As an additional comment on the fourth approach presented in section 3.3 of the consultative document, we would like to note that various counterparties are already or will be combined and limited under the large exposure limits, for example "unknown clients" and, in Europe, shadow banks (see EBA/GL/2015/20). This means that we cannot corroborate the significant departure from the existing approach mentioned in this context.

### **Re: 2. Proposed Tier 2 deduction approach**

#### Corresponding deduction approach

The blanket Tier 2 deduction is not appropriate and runs counter to the fundamental approach of Basel III, under which own funds instruments held must be deducted from the corresponding own capital. The corresponding deduction approach established in Basel III must be retained.

In particular in countries that have implemented rules comparable with TLAC to ensure a sufficient volume of bail-in instruments (for example in Europe with the Minimum Requirement for Own Funds and Eligible Liabilities – MREL), the corresponding deduction approach can be applied consistently – contrary to the statements in the consultative document. In Europe, there is no lack of TLAC resources at

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non-G-SIBs, as claimed by the Basel Committee. Please refer in this context to our remarks on the QIS under 5 below.

### Thresholds

We are not in favour of including the TLAC holdings in the existing Basel III thresholds, as proposed in section 2 of the consultative document. The existing thresholds were calibrated exclusively for investments in own funds instruments and should also be only used for them. Instead, a separate threshold should be defined for TLAC holdings. This will ensure that these investments are treated and included separately.

If the Basel Committee sticks to the integrated calculation described in section 2 of the consultative document, it is vital for the thresholds to be modified (both for the comprehensive corresponding deduction approach and for pure Tier 2 deduction). The reason for this is that the exposures relevant for the threshold will be significantly increased by the TLAC holdings. The threshold of 10% of CET1 up to which the exposures are simply risk-weighted is therefore no longer sufficient. It was calibrated exclusively for investments in own funds instruments. We believe that increasing the threshold to at least 25 % of the CET1 of the investing bank would be appropriate.

Increasing the threshold is particularly necessary in order to preserve the function of the banks as intermediaries who ensure market liquidity for senior unsecured funding. Please refer additionally to our remarks on 4.1 and 5.1.

We also believe that it is critically important to adapt the relevant product types that have to be deducted. A requirement to continuously monitor indirect and synthetic investments in TLAC holdings, as stipulated for own funds instruments, would not be justified from a systemic perspective and, we believe, would result in escalating complexity. We therefore suggest limiting the deduction to direct investments in TLAC holdings or establishing an exemption for exposures in the regulatory trading book that arise, for example, in the course of new issues.

### **Re: 4 What constitutes a TLAC holding?**

As regards the definition of TLAC holdings, please refer to our remarks on 2., where we argue that there is no justification for deducting indirect and synthetic investments in TLAC holdings in addition to direct investments.

### **Re 4.1 Instruments subordinated to Excluded Liabilities**

We reject an asymmetrical treatment, i.e. the extension of the definition of TLAC holdings to instruments that are not or are no longer recognised as TLAC by the issuer. As a matter of principle, the definition should match the criteria for TLAC eligibility, i.e. in particular all instruments that do not or no longer meet the criteria in no. 9 of the Financial Stability Board (FSB) TLAC term sheet (e.g. a residual maturity of at least 1 year) should not be counted as TLAC holdings. All exposures that are not TLAC-eligible should be included consistently in the risk weighting for the Institutions exposure class.

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### 4.2 Instruments ranking pari passu to Excluded Liabilities

We believe that the proposed arrangements for instruments that rank pari passu to the TLAC holdings in the event of insolvency, but are exempted from bail-in, are excessively complex and difficult to justify. In particular, we regard the different calculation of the recognition basis as not particularly appropriate. In order to make this rule less complex, we recommend not subjecting these instruments to the deduction requirement, but rather to also include them as part of the normal risk weighting for the Institutions exposure class.

#### Re: 5 Evidence from the QIS

We believe that the results of the QIS need to be interpreted with great caution. The study itself indicates in a number of places that not all the data provided could be used, and that certain information was missing (see penultimate paragraph in the executive summary or footnote 49). The fundamental question that also arises for us is whether the QIS was populated in all cases with a consistent data universe (e.g. did all the banks really include their TLAC holdings with a residual maturity of less than one year?).

In addition, the pari passu rule proposed in 4.2 was excluded in the QIS. From our perspective, there is a need for a further study based on the final FSB recommendations in order to avoid incorrect assessments.

For example, it is the case in Europe that many non-G-SIBs have issued TLAC-eligible senior unsecured bonds that are held in turn by other banks. As a result, it can be assumed that a large part of the instruments classed as TLAC-eligible do not in fact comply with the TLAC requirements. There is thus a risk that the deduction approach would result in too many senior (TLAC-eligible) debt instruments being deducted. This would go considerably beyond the intended limit on the double counting of TLAC.