



EFBS Transparency Register No: 33192023937-30

Brussels, 22 August 2016

EFBS position paper on the report on Implementation and Design of the MREL Framework (EBA/Op/2016/12)

The European Federation of Building Societies (EFBS) welcomes the opportunity to participate in the consultation procedure organised by the European Banking Authority (EBA) on the Interim Report on MREL.

The EFBS is an association of credit institutions and organisations that assist in and support the financing of home ownership. Its purpose is to encourage the idea of acquiring home ownership in a Europe that is converging, both politically and economically. Bausparkassen grant loans secured by residential property to finance home ownership as a bulk business. In addition to this, Bausparkassen are also allowed to make investments, but only in particularly safe investment vehicles. In times of crisis, Bausparkassen, as specialised credit institutions, have proved to be particularly resistant. Their low-risk business model is determined by the strict legal provisions for the Bauspar business and for the reduced possibilities of financial investment.

The EFBS would like to submit the following comments on **provisional Recommendation No 4** on MREL – Adequacy and calibration. We refer in particular to **Section 7 of the Interim Report on Calibration of the MREL requirement**.

7.1. – MREL floors and interaction with firm-specific requirements

So far, the MREL ratio has had to be established exclusively on the basis of institution-specific factors. The EBA now terms this as Option 1 and compares it with an Option 2, according to which an unspecific requirement is added to the institution-specific requirements. The institutions then have to comply in addition with an MREL floor, which includes a recapitalisation part. The EBA proposes pros and cons of Option 2 in case studies for both a less systemic bank, which would be partly resolved or sold with the residual part to be liquidated, and a systematically important bank that is not a G-SIB.

The EBA considers it to be difficult to define a floor which will suit all banks and situations, i.e. all restructuring and resolution scenarios. In our opinion, this cannot succeed.

The EBA refers to the risk of a floor leading to an excessively high MREL requirement for institutions, which is not justified by their recapitalisation needs. This demand would therefore impose an unnecessary burden on institutions and weaken their profitability. We consider this to be an inevitable consequence for many of the institutions concerned of a generally valid floor.

In our view, Option 2 cannot therefore lead to an acceptable solution. It seems more promising rather to strengthen the resolution authorities so that in each case they can set adequate MREL ratios specific to the institution. In this way, when drawing up resolution plans, the question of whether and to what extent the institution holds critical infrastructure which must be maintained should also be examined in detail and the possibility of contagion to other institutions carefully evaluated.

7.2. – Calibration of MREL for banks by business model

- *MREL for small and medium-sized institutions which are predominantly funded through deposits*

The EBA is of the opinion that a high degree of deposit funding, at least for institutions of a certain size, is a factor in determining systemic importance. This is justified by the fact that the protection of covered deposits is a prime concern in resolution and restructuring. Furthermore, it is argued that the resolution and restructuring of an institution with a high proportion of covered deposits would result in an increased public interest.

In principle, we agree with the EBA recommendation that specific business models are to be considered when calibrating MREL to the extent that they translate into differences in resolution strategies. Also, in our view, an increased public interest exists in the case of institutions with a high volume of covered deposits. This results primarily from the large number of small investors concerned. As a result of deposit guarantee, small investors are protected against losses and a bank run is avoided. As a rule, the volume of uncovered deposits at deposits-based institutions is small – as also shown in footnote 74 of the report. Consequently, a risk of contagion as a rule would not arise for other institutions.

Systemic importance in our view cannot in any case be assumed on the basis of a high proportion of covered deposits.

Higher MREL requirements based on a high proportion of covered deposits are also, as is well known, in contradiction with EBA Standards RTS/2015/05 (or Commission Delegated Regulation (EU) C/2016/2976 final). Article 6(1) of these Standards provides that the resolution authority may reduce the MREL to take account of the contribution of the deposit guarantee scheme to the financing of the preferred resolution strategy.

We still consider this regulation to be essential but agree with the EBA that the role of deposit guarantee in resolution and restructuring should be examined in more detail.

– *Phase-in of MREL requirements*

The EBA has acknowledged that small and medium-sized deposits-based institutions often experience greater difficulties in fulfilling special MREL requirements extending beyond the minimum capital requirements. These institutions would have only a few bail-in-able instruments and would also have less good access to the capital market (domestic and cross-border). Moreover, the national market for MREL instruments as a rule is relatively small.

Bausparkassen could in the short term only then have a minimum volume of eligible liabilities if corresponding instruments are generated and issued. Bausparkassen could therefore be forced to take out additional loans, even though, on the basis of their business model, these are not necessary for refinancing.

We therefore welcome the EBA's thoughts on allowing deposits-based institutions a longer transitional period for the phased introduction of the MREL requirements.

Yours sincerely,



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