



Federation of Finnish Financial Services represents banks, insurers, finance houses, securities dealers, fund management companies and financial employers operating in Finland. Its membership includes also employee pension, motor liability and workers compensation insurers, all three providers of statutory insurance lines that account for much of Finnish social security. The Federation has about 460 members who employ a total of 43,000 people.

To the ESAs (EBA, EIOPA and ESMA)

Reference: JC/CP/2012/02

CONSULTATION PAPER ON DRAFT REGULATORY TECHNICAL STANDARDS ON THE UNIFORM CONDITION OF APPLICATION OF THE CALCULATION METHODS UNDER ARTICLE 6.2 OF THE FINANCIAL CONGLOMERATES DIRECTIVE

The Federation of Finnish Financial Services (FFI) welcomes the opportunity to respond to the ESAs consultation on this topic.

1. General remarks

- FFI believes that including the buffer requirements or capital add-ons into sectorial solvency requirement is not in line with conglomerate solvency principles. This method would result in a drastic drop in the solvency at the conglomerate level and would give a misleading picture of the loss absorption capacity of a conglomerate.

FFI stresses that the combined buffers within the meaning of CRD IV are not part of the minimum capital requirement in a sense that using buffers is possible in certain situation and breach of the buffers do not lead to withdrawal of banking license. On the other hand, solvency requirement at the conglomerate level, as laid down in the financial conglomerate directive is a minimum requirement. To ensure consistency, solvency requirement for the financial conglomerate should not take into account sectorial buffers or other specific requirements.

- Requirements on the transferability of the own fund (three days) items is too strict and should be aligned with sectors. It also remains unclear, what items are transferable.
- FFI point out that specific feature of the groups as referred into article 3 of the current CRD is not adequately addressed in the RTS.
- It is crucial that sufficient time for adoption of the new RTS should be given to financial conglomerates. Against this background, new consultation should be launched when underlying provisions (CRR/ CRDIV, Solvency II, FCD) have been finalised.

2. Specific comments to draft Commission Delegated Regulation

Transferability and availability of own funds (Article 4)

Point 1(b) suggests that banking sector funds should be transferable in three calendar days to meet the transferability criteria. FFI believes that this goes far beyond any requirement in existing or draft Level 1



legislation. The suggested timeframe might be understandable if it referred to liquid assets and their transferability inside a financial conglomerate. However, in case of transferability of own funds it is too strict.

FFI believes that the timeframes between sectors should be aligned by using the 9 month period. If this is not possible, reference to “three days” in banking sector should be replaced by using e.g. the term “prompt transfer” as stated in Article 6(1)(a) of the CRR. It is also important to draw a clear division between transferability of liquidity items and own fund items. For the latter, restrictions on the transferability laid down in the general company law should be taken into account.

Deficit of own funds at the financial conglomerate level (Article 5)

Article 5.2 lays down criteria for cross sector own funds elements. To be eligible at the conglomerate level, Additional Tier 1 and Restricted Basic Own Funds should meet both sets of sectorial rules. The same applies to Tier 2 capital.

FFI draws attention, that requirements on Additional Tier 1 instruments in the CRR, include predefined trigger events for loss absorption mechanisms. In practice, trigger events would be impossible to define according to Solvency 2 to be consistent with CRR requirements. We therefore urge the point 2 subpoints (b) and (c) to be amended as follows:

Article 5

Deficit of own funds at the financial conglomerate level

2. When calculating own funds at the level of the financial conglomerate, cross sector own funds are elements eligible for:

(a) Common Equity Tier 1 in accordance with Regulation .../2012/EC [or Tier 1 Unrestricted Basic Own Funds in accordance with Directive 2009/138/EC], or

(b) elements that meet ~~both sets of rules for Additional Tier 1 in accordance with Regulation .../2012/EC and or Tier 1 [Restricted Basic Own Funds in accordance with Directive 2009/138/EC],~~ or

(c) elements that meet ~~both sets of rules for Tier 2 in accordance with Regulation .../2012/EC and or for Tier 2 in accordance with Directive 2009/138/EC.~~

We also reiterate our comments, already stated under article 4, to need to align the transferability conditions between sectors in point 3.

Consistency (Article 6)

Point 2 leaves discretion to the coordinator to decide, what method will be used. FFI believes that the method used under CRR should have no influence to method used under financial conglomerate directive. Therefore, the point 2 of the Article should be deleted.

Consolidation (Article 7)

FFI regards the article 7 somehow inconsistent. Firstly, article 7 implies that consolidation may be done according to Solvency II calculations for an insurance-led financial conglomerate. Explanatory text however states that according to Solvency II multiple use of own funds and intra-group creation of capital should be eliminated.



FFI underlines that the CRR includes also the similar consolidation principles (multiple use of own funds and intra-group creation of capital should be eliminated). Against this backdrop, the CRR consolidation should also be equivalent to Method 1 of financial conglomerate.

FFI urges the Article 7 to be deleted as it does not give any guidelines to what extent the Solvency II consolidation would be used for when calculating solvency of a financial conglomerate. As an alternative to deletion, consolidation should be further clarified and CRR consolidation should be recognised as an equivalent to method 1 of the financial conglomerate directive.

Solvency requirement (Article 8)

It should be noted that the current financial conglomerate directive (article 6(4)) does not refer to buffer requirements, capital add-ons or any other specific capital requirements when calculating supplementary capital adequacy requirements. Article 8 therefore goes beyond the requirements of the directive. We therefore propose that reference to these other requirements should be deleted from Article 8:

Article 8

1. For the purpose of the calculation of the supplementary capital adequacy requirements of the regulated entities in a financial conglomerate, a solvency requirement shall satisfy either of the points laid down in (a) and (b):

(a) Where the rules for the insurance sector are to be applied, solvency requirement means the Solvency Capital Requirement as defined by Article 100 or 218 of Directive 2009/138/EC as applicable, ~~including any capital add-on applied in accordance with Articles 37, 231(7) or 232 of the same directive as applicable, and any other capital or own funds requirement applicable under Union legislation.~~

(b) Where the rules for the banking or investment services sector are to be applied, solvency requirement means the sum of own funds requirements as defined by Articles 87 to 93 of CRR, ~~combined buffer requirements as defined by Article 122 of CRDIV, and specific own funds requirements as defined by Article 100 of [CRDIV], and any other requirement applicable under European Union law.~~

Treatment of cross sector holdings for the calculation of capital requirements (Article 11)

Article should clarify, that the Expected Loss resulting from relevant entity holding under CRR is also eliminated. This would be consistent with eliminating the capital charge. The clarification on eliminating Expected Loss is necessary as it is not a capital charge but an item subject to own funds deduction.

3. Answers to the questions for consultation

1. By far the largest cost would result from including sectorial buffer requirements into sectorial solvency requirements. This would eliminate possibilities for capital planning between sectors inside the financial conglomerate.
2. -
3. -
4. The relationship between articles 4 and 10 should be further clarified.



5.10.2012

- What could sector specific own funds (other than CET1, AT1 or Tier 2) be under CRR?
- Are AT1 and Tier 2 funds also considered transferable?
- Article 8 refers to CRR own funds requirements and CRD IV combined buffer requirements or capital add-ons. Are the CRD IV combined buffer requirements to be covered with total own funds as defined in CRR Part II since the financial conglomerate directive does not recognise different TIER-levels?
- If CRDIV combined buffers are to be covered only with banking sector's CET1 own funds, further clarification is needed on how to determine transferable own funds from the banking sector.

5. -

6. -

7. In case the consolidated accounts are used as a starting point, operational burden is not substantial. The draft uses both the term "consolidated data" and term "consolidated accounts". It should be clarified, what is the purpose of using different term as they presumably refer to same issue.

8. -

9. -

10. Sufficient timeframe for both sectors' own funds would be the proposed timeframe for insurance sector own funds (9 months) or use e.g. term "prompt transfer" (as defined in CRR, see above) without any explicit reference to time period. It is also important to draw a clear division between transferability of liquidity items and own fund items. For the latter, restrictions on the transferability laid down in the general company law should be taken into account. Three days is absolutely too short taking into account weekends and bank holidays also for liquidity items

FEDERATION OF FINNISH FINANCIAL SERVICES

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