

Public consultation

Draft guidance of the European Central Bank on leveraged transactions

Template for comments

Contact details (will not be published)

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☐ Please tick here if you do not wish your personal data to be published.

Please make sure that each comment only deals with a single issue.

In each comment, please indicate:

- the relevant article/chapter/paragraph, where appropriate
- whether your comment is a proposed amendment, clarification or deletion.

If you require more space for your comments, please copy page 2.

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Template for comments

Name of Institution/Company European Association of Public Banks

Country Belgium

Comments

Guide	Issue	Guidance (Include number)	Comment	Concise statement of why your comment should be taken on board
☐	Title of the publication	all	Clarification	As the proposal also aims to regulate the underwriting and syndication of <u>Non</u> -Leveraged Transactions (as stated under <i>ii. Scope of the Guidance on leveraged transactions</i> on page 3), it should be clarified in the title.
☐	Purpose	all	Clarification	The EAPB believes that existing general risk procedures and monitoring policies are sufficient. The leveraged loans portfolio is already subject to regular stress-testing. The proposed

				guidelines breach the existing level of proportionality.
☐	Applicability	1	Clarification	It is unclear if the guidelines are complementary to the letter received by the ECB-supervised banks on 12 May 2016 concerning leveraged transactions, or if the guidelines replace and annul the letter.
	Scope	2	Clarification	Applicability to only large ECB-supervised institutions distorts the level playing field.
☐	Definition	3	Clarification	The proposed definition is too broad and hence potentially damaging to the supervised banks. Its application would flag classical banking transactions as leveraged ones, unnecessarily raising the costs and potentially limiting the availability of funds to certain businesses. This would dilute the pertinence of the proposed reporting tools, and lead to a misallocation of bank resources, effectively hindering SME financing. This could be averted by raising the threshold amount from EUR 5 mil. to EUR 25 mil.
	Exemption from definition	3	Amendment	(new category of exempted entities) Sovereigns, sub-sovereigns, municipalities, regional governments, public sector entities or promotional loans as laid down in delegated regulation 2015/63 article 3(28), including any related entities owned by such public sector entities or those with a state guarantee or enjoying an effectively equivalent guarantee.

	Proportionality	all	Clarification	Considering the procedural requirements, we suggest exempting the institutions with sub-ordinated exposure to leveraged transactions. This proportionality measure was admitted by the ECB in the Public Hearing of 20 January 2017.
☐	Impact	all	Clarification	The guidelines are too detailed and hence lack proportionality by employing a “one-size-fits-all” approach in the implementation. The single risk-indicator does not consider the differences between different business models and is not applicable e.g. on some public sector banking entities or public sector related customers. The guidelines should consider internal/external ratings, types of business, and particularly the purposes of the transactions (buyouts, acquisitions, capital distributions etc.).
☐	New concepts and definitions	all	Clarification	The ECB guidelines contain a large number of new concepts and definitions which have not been harmonised so far for supervisory purpose and can therefore be understood and interpreted in many ways (Total Debt, EBITDA, “best-effort deals”, bullet facility etc), which implies less legal certainty and possibly higher costs for banks, especially in respect to Business Data Models.
☐	Use of EBIDTA	all	Clarification	A use of historic EBITDA would represent a specific burden for fast growing companies as their EBIDTA value might no longer be a relevant guidance for company’s appropriate financing needs.

☐	Impact of the guidelines	all	Clarification	The proposed guidelines will undermine the competitiveness of the directly ECB-supervised banks vis-à-vis non directly supervised institutions and vis-à-vis institutions in the non-supervised markets (e.g. UK). We suggest the ECB to fine-tune the used definitions and reconsider the thresholds to be implemented.
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