

Lisbon, 1st October, 2012

Subject: ESAs consultation on the application of the capital calculation methods for financial conglomerates

Dear Sir,

Millennium bcp welcomes your invitation and is pleased to discuss its views regarding the Joint Consultation paper on Draft Regulatory Technical Standards on the uniform conditions of application of the calculation methods under Article 6.2 of the Financial Conglomerates Directive as put forward by the Committee of the European Supervisory Authorities (EBA, EIOPA and ESMA).

We understand this consultation to be part of the Single Rule book process, aiming at reinforcing the level of regulatory harmonization in the European Union. We trust on the merits of bringing greater harmonization to regulatory financial standards in the European Union.

As per the current consultation, in most part we consider the proposed rulings to be in accordance with current market practice. We suggest some minor changes on the timeframe for the transferability and availability of own funds across conglomerate entities (point 1(b) of article 4).

We acknowledge and agree on the terms of the publication of responses on the ESA's websites as described on the consultation paper.

Our comments focus on the proceeds of the article 4: transferability and availability of own funds.

Article 4 sets out that own funds of one conglomerate entity, in excess of sectoral solvency requirements, are only considered as available to absorb losses elsewhere provided no impediments exist for the transference of funds in due course. "Due course" meaning three calendar days in the case of the transfer of funds to conglomerate entities of the banking sector or nine months in the case of transfer of funds to conglomerate entities of the insurance sector. The reason for such difference lays on the diverse nature of the underlying business, being considered that entities associated to the banking sector are more prone to a rapid deterioration of confidence and/or sudden resolution situation.

We do not dispute such understanding, but we disagree on the timeframe as proposed in article 4, based on the following:

- i) It is important to highlight the difference between liquidity and own funds requirements. Sudden market changes may lead to unexpected liquidity shortfalls and imperil payments that are due, raising the prospects of unintended default. But the same is not straightforward when considering own funds. Solvency is of a more long term nature. It is not true that by not having almost immediate access to additional capital some conglomerate entities are insolvent;

- ii) Within this vein, it is important to take into consideration different rulings at non-EU countries. When considering international conglomerates that encompass entities outside the EU, different rulings on this matter at a domestic level may constrain the ability of the conglomerate entities to reallocate the excess own funds within the three day window. But that does not mean necessarily that impediments for the transfer of excess funds exist. The transfer may simply occur at a later stage;
- iii) Furthermore and contrary to liquidity surprises, solvency issues usually take time to develop and so do the operations to reinforce own funds. Rebuilding capital is usually a complex and lengthy process, operational and legally demanding, that goes well beyond the three calendar days as proposed;
- iv) Even if there are impediments to the transfer of excess funds, by definition, they do not eliminate the existing excess funds at the single entity level. Therefore, it is likely that within a reasonable period the excess funds could be realized, in case needed, through the sale, on the whole or part, of the overcapitalized entity;
- v) Finally, as article 4 evaluates the transferability and availability of own funds across all sectors, it may give rise to some inconsistencies between the contribution of each subsector own funds evaluated at the conglomerate level and the own funds available as evaluated at each subsector level.

Taking into consideration the above, we propose the following adjustments to article 4:

- i) Applying the nine month period for the purpose of assessing the transferability of funds to all entities of the conglomerate irrespective of the their subsector;
- ii) That whenever the time frame criteria cannot be fulfilled, the excess own funds, even though not being considered available to absorb losses elsewhere in the financial conglomerate, be considered as a special item/line for reporting purposes. It would be interpreted as the availability of last resort measures to strengthen own funds and thus publicizing it could act as a confidence building factor;
- iii) The transferability and availability of own funds should be evaluated within the relevant sub sector and not across subsectors within the conglomerate in order to mitigate the risk of inconsistencies from arising.

Yours sincerely,

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