

July 15, 2016

Secretariat of the Basel Committee  
on Banking Supervision (BCBS)  
Bank for International Settlements  
CH-4002 Basel, Switzerland

Dear Sir/Madam:

**Re: CBA<sup>1</sup> Comments on the BCBS consultative document: *Prudential treatment of problem assets – definitions of non-performing exposures and forbearance***

We thank you for the opportunity to provide comments on the BCBS's consultative document, *Prudential treatment of problem assets – definitions of non-performing exposures and forbearance* ("consultative document"). In this letter, we provide overall comments on the proposal with more detailed additional comments included in the attached appendix.

In general, we are concerned that the proposal will create confusion by introducing definitions for non-performing exposures and forbearance which are inconsistent in various places with existing guidance under the accounting and regulatory frameworks. While the Committee suggests that its guidelines are intended to complement the existing accounting and regulatory frameworks and promote a better understanding of these terms, we are concerned that the proposal will instead have the opposite effect. Due to the current lack of alignment between the proposed definitions and the accounting and regulatory frameworks, we are very concerned that a third framework for categorizing loans would result.

We are also concerned that the proposal will fail banks' internal use tests as we do not view non-performing exposures and forbearance in the manner contemplated in the consultative document.

We are also uncertain as to how the proposal will be applied and enforced for regulatory reporting purposes. In situations where differences exist, it is unclear how an entity should apply the concepts to ensure compliance with both financial and regulatory reporting, and we are concerned that a separate book of record would need to be maintained. The introduction of new definitions may also increase disclosure requirements regarding credit quality and hinder users' understanding of the issues as a result of other existing and related disclosure. We are

---

<sup>1</sup> The Canadian Bankers Association works on behalf of 59 domestic banks, foreign bank subsidiaries and foreign bank branches operating in Canada and their 280,000 employees. The CBA advocates for effective public policies that contribute to a sound, successful banking system that benefits Canadians and Canada's economy. The Association also promotes financial literacy to help Canadians make informed financial decisions and works with banks and law enforcement to help protect customers against financial crime and promote fraud awareness. [www.cba.ca](http://www.cba.ca).

concerned that if any new disclosure is being contemplated, this will be additive and further contribute to disclosure overload for users. We note that IFRS 7 – *Financial Instruments: Disclosure* requirements are already in place, and the Enhanced Disclosure Task Force (EDTF) has also recommended further disclosure related to IFRS 9 implementation<sup>2</sup>.

With the above concerns in mind and given the ongoing complexity of IFRS 9 implementation, we suggest that the Committee defer its proposal. In the interim, we recommend that the BCBS engage with the accounting standard setters to assess the implications of the proposal in relation to existing accounting standards classification requirements. We encourage a simple approach that works across all jurisdictions, is easy to implement, and which does not cause confusion in relation to the regulatory capital classification.

We offer further comments below on the proposed definitions for non-performing exposures and forbearance, and also highlight implementation concerns with the current proposal.

## **Definition of non-performing exposures**

### Inconsistency with accounting and regulatory frameworks

We have identified the following concerns with the proposed definition of non-performing exposures in relation to IFRS 9 and current regulatory capital rules:

- Paragraph 24(iii)(a) in the consultative document indicates that “all other exposures that are not defaulted or impaired but nevertheless are: a) material exposures that are more than 90 days past due” are considered non-performing. This is inconsistent with the Basel definition of default and the IFRS 9 definition of credit-impaired. IFRS 9 provides for an exception to rebut the 90 days past due presumption of default while the capital rules permit a single exception for the Qualifying Revolving Retail Exposures (QRRE) Retail asset subclass. For example, the Basel definition allows 180 days past due to be used for certain products. This proposal potentially creates a “sub-category” of loans that are non-performing yet not credit-impaired or in default.
- Under IFRS 9, exposures categorized in stage 3 for impairment calculations and disclosures are defined as all exposures that are credit impaired. However, in paragraph 24(iii), the Committee defines non-performing exposures as all credit impaired exposures as well as “all other exposures that are not defaulted or impaired but nevertheless are: a) material exposures that are more than 90 days past due”. This creates a misalignment with IFRS 9, with the potential for loans that are 90 days past due to be categorized as non-performing under this draft guidance but not be credit impaired (Stage 3) under IFRS 9 if the 90-day presumption is rebutted for certain loan portfolios.
- Under paragraph 24(ii) in the consultative document, the inclusion of the terminology ‘deterioration of their creditworthiness’ may be inconsistent with IFRS 9 where a significant increase in credit risk since origination would be considered a Stage 2 exposure and not an indication of default.
- Under paragraph 19 and the section on “Level of application” in the consultative document, we note that “In the case of exposures to a non-retail counterparty where the bank has more than one exposure to that counterparty, the bank must consider all exposures to that counterparty as non-performing when any one of the exposures is non-performing”. This may represent another inconsistency with the accounting framework as discussions are still taking place in this area with respect to IFRS 9 implementation.

---

<sup>2</sup> Please refer to the EDTF report entitled *Impact of Expected Credit Loss Approaches On Bank Risk Disclosures* (November 30, 2015). <http://www.fsb.org/wp-content/uploads/Impact-of-expected-credit-loss-approaches-on-bank-risk-disclosures.pdf>

In our view, the definition of non-performing exposures should simply be aligned with the credit-impaired definition under IFRS 9. We believe that paragraph 24 (iii) should be removed in its entirety. This will avoid confusion and eliminate the need for users to reconcile between figures prepared under different measurement approaches. Institutions will also be able to leverage the extensive disclosure on credit impairment that exists in the financial statements and MD&A.

#### Level of application for non-retail exposures

The requirement to have all exposures to a non-retail counterparty be classified as non-performing if just one exposure is non-performing, is similar to the assessment of default under Basel II. We therefore question the need to have a separate non-performing category. If a “non-performing” terminology is to be used, given its close association with accounting, it should be aligned with IFRS 9 to avoid confusion.

#### Role of collateralization

We are also concerned that paragraph 19 indicates that “collateralization plays no role in the categorization of non-performing exposures”. Since this approach is similar to the assessment of default under Basel II, we question the necessity of having a non-performing category. Together with the proposal that “non-performing status should be applied at the level of the counterparty” for non-retail counterparties, and that “when a material exposure to a counterparty is considered non-performing, all exposures to that counterparty should be considered as non-performing” under paragraph 27, we have identified the following concerns:

- Would this preclude lenders from advancing new funds via Debtor in Possession super-priority facilities on a “performing” basis? If so, this will have a material adverse impact on loan restructurings. Currently, as the loans generate interest revenue and are clearly not impaired because of overcollateralization, we classify them as performing.
- Would this preclude cash secured facilities from being maintained as performing? For example, we may have cash secured letters of credit in place where a counterparty may be deemed to be non-performing. As the loans are clearly not impaired, we classify them as performing. In any event, such loans are usually settled quickly. Reporting them for regulatory purposes as non-performing may not communicate the risk level very well. In addition, the default and low loss severity would already be included in the banks’ capital assessment and credit risk reporting.

### **Definition of forbearance**

#### Inconsistency with accounting and regulatory frameworks

We have identified the following concerns with the proposed definition of forbearance in relation to IFRS 9 and current regulatory capital rules:

- We note that the definition of forbearance is inconsistent with IFRS 9 loan modification guidance which also applies to modifications for non-credit related reasons. In particular, the forbearance guidance does not address the key accounting concept of whether the modification results in a continuation of the existing exposure or whether the modification results in de-recognition and the recognition of a new exposure.
- If forbearance results in a non-performing exposure being derecognized and a new exposure being recognized, the proposal would require this new exposure to be classified as non-performing. Under IFRS 9, this would require it to be classified as 'originated credit-impaired'. The Committee should consider if this was the intention and whether the definition of originated credit-impaired should also be aligned with the non-performing definition, including the concept that this new exposure would never 'cure' under IFRS 9.
- Under paragraph 41(i), the requirement of a 'cure period' of minimum payments may also not be consistent with the IFRS 9 credit-impaired definition, would be operationally difficult to implement, and may not be applicable if scheduled minimum payments do not exist (e.g.

revolver). It is also important to consider how this guidance would apply for US GAAP issuers who apply 'troubled debt restructuring' guidance which limits how forbore exposures can cure to performing status. This is also relevant for some of our Canadian banks that are dual listed.

- In relation to the 'cure period', the proposal also requires that repayments as per the revised terms have been made in a timely manner over a continuous repayment period of not less than one year. Under OCC Bulletin 2012-10 on Troubled Debt Restructurings, we note that a sustained period of repayment performance generally would be a minimum of six months and would involve payments of cash or cash equivalents. Under the European Banking Authority (EBA) guidance, we also note that a minimum 2 year probation period must have passed from the date the forbore exposure was considered as performing<sup>3</sup>.

Aside from inconsistency with accounting and regulatory capital rules, we also note that the term forbearance has a specific legal meaning that is narrower than that which is described in the consultative document.

In our view, we believe that sufficient guidance exists under IFRS 9 in relation to loan modification which would address the concept of forbearance. If the Committee proceeds with its proposal, however, in order to avoid confusion, we suggest that a different term other than "forbearance" be used.

### **Implementation**

We are concerned that the definitions and underlying criteria put forward in the proposal lack the granularity and definitional specificity necessary to fully assess any technological, operational, and cost implications. Given our members' current risk rating systems, some form of additional classification of the prudential non-performing status and the forbore status according to this proposed standard would be required. This would require updates to our risk rating systems and other related IT systems in order to accommodate the additional collection of data.

Paragraph 34 of the consultative document alludes to reporting and we would need to investigate any net new processes, and the related implications including cost. Additional disclosure often requires IT solutions and considerable investment in time and money. Any given institution may have a number of credit facility management systems that will need to be amended to accommodate these specific requirements.

We believe that the complexity of implementing the proposal (and the associated data and operational risk) will likely far outweigh any comparability benefits under Pillar III. The resources required could also impact the banks' timely implementation of RDARR, IFRS 9, and other regulatory and accounting initiatives.

We would also highlight that there would likely be differences in application of the proposal across internationally active banks.

Given all of our foregoing concerns, we would re-iterate our recommendation that the Committee defer this proposal until discussions have taken place with the accounting standard setters and a determination has been jointly made as to whether further updates to the accounting and/or regulatory frameworks are necessary.

---

<sup>3</sup> Please refer to EBA FINAL draft Implementing Technical Standards On Supervisory reporting on forbearance and non-performing exposures under article 99(4) of Regulation (EU) No 575/2013. <https://www.eba.europa.eu/documents/10180/449824/EBA-ITS-2013-03+Final+draft+ITS+on+Forbearance+and+Non-performing+exposures.pdf>

We thank you in advance for your consideration of our comments, and we would be pleased to discuss our submission at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Dave Handel". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

cc: Brad Shinn, Managing Director, Bank Capital, OSFI

**CBA Comments on BCBS's Consultative Document  
'Prudential treatment of problem assets – definitions of non-performing exposures and forbearance'**

---

**CBA Members' Comments and Requests for Clarification**

**Overall Comments and Key Issues**

The detailed comments included in this template are in addition to the comments included in the attached letter.

- Under section 3.3 of the consultative document and the conditions that are required to switch a loan from non-performing to performing, we would like the proposal to note that it does not apply to companies that have been restructured and are emerging from bankruptcy as recapitalized entities. We are assuming that these cases do not require seasoning.
- We request clarification on when this proposal would come into effect. As noted in our cover letter, we suggest deferral of the proposal until after the implementation of IFRS 9 and discussions between the BCBS and the accounting standard setters have taken place to determine the extent to which additional guidance is needed. We would also note that the objective of the accounting standard was to align credit risk management with what is intended for the financial statements. We are concerned that the proposal will create inconsistency.
- The extent of the change for banks in terms of how they categorize, report, and disclose impairments could be significant. The disclosed/adjusted size of the impaired book will likely also increase substantially. Risk rating models may have to be investigated to determine if any recalibration might be required relative to this definition of impairment. A transition period will likely be required during which time policy, process, technology, and potential risk rating system changes will have to be assessed and implemented, with applicable training rolled-out to affected parties. The process/training requirement could be considerable.
- It is difficult to determine what (if anything) this standard implies for processes around when to designate a loan as impaired and/or create a provision against it. It would appear that the standard is intended strictly to take reported/accounting gross impaired loan balances and augment these with additional disclosures that would provide for comparable metrics across banks. More clarity is needed on this point.
- Revised programming and processes may require additional data and banks would have to ensure that data is available for disclosure purposes.
- If these prudential standards are not treated as separate from regulatory/accounting standards, the classification of certain accounts as non-performing or impaired when they are not treated as such by the business could risk liquidity in the debtor-in-possession financing market.
- Appropriate governance for these additional disclosures would also need to be determined.

**Executive Summary (p. 1-2)**

No comments.

**CBA Comments on BCBS's Consultative Document**  
**'Prudential treatment of problem assets – definitions of non-performing exposures and forbearance'**

| <b>CBA Members' Comments and Requests for Clarification</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <b>1. Purpose and use of the common definitions (p. 3)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |  |
| <b>1.1 Mandate (p. 3)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |  |
| No comments.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |  |
| <b>1.2 Purpose and use of the common definitions (p. 3-5)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |  |
| <ul style="list-style-type: none"> <li>• We would like to clarify whether the scope of the proposal is strictly disclosure or would institutions be expected to manage their loans differently. We recommend that the intent be clarified as noted in our cover letter.</li> <li>• The consultative document refers to counterparties whereas the Basel Accord refers to obligors. In the spirit of standardization and clarity, we suggest maintaining the same language as the Basel Accord and using the term obligors. The term counterparties is often used in a particular context, whereas obligor is used in a larger one.</li> <li>• In paragraph 15, please elaborate on the following benefits in relation to benchmarks in the following contexts: <ul style="list-style-type: none"> <li>○ Management internal credit categorization systems for credit risk management purposes</li> <li>○ Dissemination of data for asset quality indicators</li> </ul> </li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                 |  |
| <b>2. Main harmonisation features of the definitions of non-performing exposures and forbearance (p. 6)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |  |
| <b>2.1 Main harmonisation features of the definition of non-performing exposures (p. 6-7)</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |  |
| <ul style="list-style-type: none"> <li>• We are concerned that the proposal may be trying to change the BCBS's definition of default. There is also inconsistency with the accounting framework. Paragraph 19: 90 days past due criterion – (i) Retail credit cards not currently considered in default, nor impaired by some banks, would appear to fall within the "non-performing exposures" definition; (ii) Canadian government insured mortgages not defaulted (PD = 1) nor impaired until 365 days may also face similar treatment. These mortgages are fully secured by the government but a designation of non-performing would give the impression there is risk. We believe that the definition of non-performing exposures is too strict and will mislead users of the financial statements as they will associate this concept with impairment.</li> <li>• The criteria of 90 days past due for non-performing loans (NPL) does not provide time for clients having 1 time events that will be corrected to avoid NPL and ultimately write-offs. We would request some flexibility to determine NPL.</li> <li>• Under Paragraph 100, it is noted that there is wide divergence in the current application of the 90 days past due threshold, but we note that a more specific proposal was not put forth e.g. payment cycles past due, actual days, months, balances to which applied etc.</li> </ul> |  |

## **CBA Members' Comments and Requests for Clarification**

### **2.2 Main harmonisation features of the definition of forbearance (p. 7)**

We believe that the proposed definition of forbearance is unwieldy and subjective and will be very costly to implement for retail loans. We suggest that the definition should provide a common denominator that is clear, easy to implement, and lacking in subjectivity. To this end, we believe that appropriate guidance already exists with respect to loan modification under IFRS 9.

If the Committee proceeds with its proposal, we highlight some other areas for consideration below.

- There is a need for clarity on the probation period and the definition around the solvency criterion for return of forborne loans to performing status.
- We suggest discussing differential credit bureau impacts, if any, where concessions/modifications are granted, both on currently performing and non-performing exposures.
- It is also important to consider the process, technology, and reporting implications of a "separate categorization" for forborne exposures.

### **3. Definition of non-performing exposures (p. 8)**

#### **3.1 Identification of non-performing exposures (p. 8-10)**

1. In paragraph 21, we request that the Committee consider if an off-balance sheet exposure would ever be classified as non-performing or if additional detail on application of these requirements to off-balance sheet exposures is required.
2. In paragraph 23, the word "exposure" should be clearly defined. Depending on how "exposure" is defined, we may disagree with the recommendation to make the whole outstanding value non-performing. For example, in the US, a common loan structure is the "Series Limited Liability Company". This form of LLC may own multiple commercial real estate properties each with its separate operations and cash flow. An apartment building could be financed by Series/facility/note #1 and another apartment building could be financed with Series/facility/note #2. If one of the two Series/facilities/notes is current and operates independently of the other, the one that has no defaults and cash flows should be classified as performing.
3. In paragraph 24(iii)(a), we request clarity and further details on what is defined as a 'material exposure'. We also note that the proposed definition changes when certain products are recognized as impaired/NPL. In today's environment, credit cards may be recognized as NPL at 180 days and insured mortgages at 180/365 days depending on insurer.
4. In paragraph 24(iii)(b), should the word "interest" be removed or defined? According to the Wall Street Journal, dated Monday May 16, 2016 in the article titled "Negative-Rate Fight Brews", "banks in Denmark are paying thousands of borrowers interest on their home loans ..." With negative rates, interest is not always due to the bank. In Denmark, the bank owes the customer.

**CBA Members' Comments and Requests for Clarification**

5. In paragraph 24(iii), we suggest that a new bullet (c) be added. The bullet should reference expenses related to the collateral that left unpaid will become a superior lien to that of the bank if left unpaid for the statutory period. Real estate taxes are one example of an expense left unpaid that can prime the bank's mortgage lien. If the real estate redemption period is two years and the debt service payments are current, at what point should a bank classify the taxes as delinquent and classify the loan as non-performing?
6. In paragraph 27, we disagree with the concept of having all exposures classified if only one is non-performing.
7. In paragraph 28, under the definition of **"Past due"**, we have the following requests for clarification:
  - We request clarity that the Past Due definition refers to 1 day or more.
  - In the normal course, commercial fees are often in negotiation and may go for a prolonged period without payment as negotiations proceed, while both principal and interest are received in a timely fashion. It is not a reliable indicator of non-performance that fees are past due and the language that includes such fees in determining past-due, independent of materiality, should be removed.
  - Paragraph 28 states an exposure is past due even when the past due amount is not considered material; however, in the following bullet an inconsistent concept of materiality is introduced. Please clarify if materiality should be a consideration, especially for exposures that are largely current with an immaterial past due amount (e.g. current revolving facility with an insignificant overdue fee).
  - The concept of materiality is introduced and indicates that absolute and relative thresholds should be considered; however, no guidance on how this should be applied or discussion on what is meant by these thresholds is provided. In general, we are concerned that the proposal raises too many unanswered questions. Further consultation and/or QIS are recommended should the Committee move forward with this work.
8. In paragraph 28, the **Financial analysis** bullet should include a discussion on what type of financial statements are acceptable (company prepared, audited, consolidated, consolidating, trailing twelve months, cash basis) and how recent they would need to be when used for decision making.

**CBA Members' Comments and Requests for Clarification**

**3.2 Interaction of non-performing exposures with forbearance (p. 10)**

- Paragraph 29 is inconsistent with other concepts that forborne exposures can return to performing status, and that forbearance can be applied to performing exposures and these exposures could remain performing.

**3.3 Reclassification of non-performing exposures as performing (p. 11)**

Paragraph 32(i)

Does this apply to retail? Paragraph 19 indicates that for retail, the non-performing classification can be done at an exposure level with consideration of the status of other exposures that the client has with the bank.

Paragraph 32(ii)

- The application of a continuous repayment criteria to cure may be operationally burdensome. We do not currently have a requirement for demonstrating a continuous repayment period in Canada. This is likely to have capital implications.
- What time period is being considered? It would be beneficial if banks had some flexibility to tailor this to specific client scenarios. If the objective of the document is to standardize the classification of problem assets across jurisdictions, why is the continuous repayment period left to individual national supervisors?
- We also request clarity on the difference between para 32 (ii) "*repayments have been made when due over a continuous repayment period specified by the supervisor*", and para 41 (i) on exit from forborne status "*...over a continuous repayment period of not less than one year...*". We believe that the former is for exit from non-performing and the latter is for exit from forborne status. Is this correct?
- From a Commercial/Corporate perspective, does this mean in the case of a restructure of sub debt into capital etc. that no upgrade could be permitted?

Paragraph 33

- With respect to the reclassification of a non-performing loan, paragraph 33 provides 3 examples of situations that "*will not lead to the reclassification of a non-performing exposure as performing*". The text could be interpreted as meaning either that:
  - a) The situations, such as partial write-offs, will never lead to the reclassification of the remainder of the non-performing exposure; or
  - b) The situations do not lead immediately to the reclassification of the non-performing exposure since the conditions of paragraph 32 would need to be met first.

Ideally, the proposal should specify option b). It should also provide that the terms of any remaining (not written-off), restructured exposure should be in line with the financial institution's normal credit standards and with market pricing. We note that the U.S.' FDIC

### **CBA Members' Comments and Requests for Clarification**

regulations for Troubled Debt Restructuring have the additional requirements. We also note that the reporting of the exposure is not exactly the same as provided by the non-performing category. As noted in our cover letter, we find that the proposal creates inconsistencies with a variety of regulatory and accounting requirements.

- Under para 33(i), we request clarity on if, how, and when a single note can be restructured to a performing A note and a non-performing B note.

#### **3.4 Additional consideration (p. 11)**

- Can you define exposure between gross and net of value adjustment and provision? Would this be at the account level? [para 34].
- As IFRS 9 already requires that interest income be recognized on a credit-adjusted basis, please consider if further reporting related to the amount of interest income recognized on non-performing exposures is relevant [para 35].
- Please consider how meaningful the reporting of interest income on non-performing loans would be given differences between accounting and regulatory requirements and divergence in practice and if a qualitative policy disclosure would be more meaningful [para 35].

### **4. Definition of forbearance (p. 12)**

#### **4.1 Identification of forbearance (p. 12-13)**

Under paragraph 40, if forbearance is identified only at the exposure level, please clarify how debt consolidation arrangements should be treated.

We also request further clarification of the terms financial difficulty and concession under paragraph 40 as noted below.

#### Financial difficulty

- Please elaborate on the nature and duration of financial difficulties where forbearance would apply (i.e. one-time events expected to resolve in < 60 days; crisis supports provided to manage catastrophes).
- Paragraph 40(g) in the list of indicators of "financial difficulty" indicates that if a lender cannot obtain funds from sources other than the existing banks at market rates for a "non-troubled counterparty", then the counterparty is in financial difficulty. While this test currently forms part of our assessment of "concession", it is not factored into our assessment of "financial difficulty". We suggest that this indicator be removed as it can be difficult to measure and the testing would need to be addressed more broadly for accounts not managed by Special Loans.

**CBA Members' Comments and Requests for Clarification**

Concession

- Please elaborate on the length of concession that would be deemed as forbearance.
- The listed common concessions include “reducing the interest rate, resulting in an effective interest rate below the current interest rate that counterparties with similar risk could obtain from the same or other institutions in the market”. If, as part of the forbearance/restructuring, the rate remains unchanged or is increased, does this mean that a concession has not been granted? Or do we have to also determine that the interest rate is at “market” for counterparties with similar risk? Our interpretation of how this section is written is that a concession only results from a rate reduction. If so, this would certainly be easier to administer in that it is an objective test. We would request clarification on this point. If the intention is to confirm at “market” pricing even when rates/fees are unchanged or increased, we would request further guidance around this concept (i.e. what is considered acceptable benchmark information for establishing “market” pricing).
- Within paragraph 40 on the definition of concession, a clause states that “*Refinancing an existing exposure with a new contract due to the financial difficulties of a counterparty could qualify as a concession even though the new contract has no more favourable terms for the counterparty than the existing transaction*”.  
This statement which uses the conditional “*could*” lacks clarity. It should clearly state under what circumstances a refinancing would qualify as a concession. Moreover, given that the refinancing may not actually provide more favorable terms, it appears to contradict the main characteristic of a concession, that is, a change in the contract “*giving considerably more favourable terms for the counterparty*” under which a lender “*would not extend loans, grant commitments or purchase debt securities ... in normal market circumstances*”. This contradiction will be a source of confusion. A lender may well refinance a borrower within normal credit terms in order to provide a repayment schedule better adapted to the obligor's current reality. For example, the lender might refinance an equipment loan by taking a mortgage on a property and amortizing it over a longer period than the original loan contract. The result would be an improved debt service coverage or at least no worse than the debt service coverage when the original loan was granted. In brief, the paragraph should be clarified so that the focus remains on problem assets.
- Paragraph 40 also indicates that the exercise of clauses within the contract should also be treated as concessions if the counterparty is in financial difficulty; however, this may be inconsistent with the definition of 'granting a concession' and would not be practicable to monitor.

In general, we believe that some clarifying examples would be helpful. For instance, in Canadian retail, mortgage insurers will agree to capitalise interest and reset payments at market rates of interest. If the exposure is performing at the time of the concession, and the customer qualifies according to normal lending criteria, could this exposure remain as performing? (though the customer would likely have requested the concession due to some financial circumstance).

| <b>CBA Members' Comments and Requests for Clarification</b>                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>4.2 Criteria for exit from the forborne exposures category (p. 14)</b>                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <u>Paragraph 41(i):</u>                                                                                                                   | We question whether there should be a defined period (minimum one year) of regular payments after forbearance before a loan is reclassified from Non-Performing to Performing or whether banks should be able to define the period that they want to use as part of their Credit Policy. The one year period in the proposal appears arbitrary.                                                                                                                                                           |
| <u>Paragraph 41(ii):</u>                                                                                                                  | The exit solvency criterion, " <i>The counterparty has solved its financial difficulties</i> " may be subject to interpretation by individual institutions. We suggest that the BCBS provide more specific guidance similar to that provided for the objective criterion [ <i>"When repayments as per the revised terms have been made in a timely manner (principal and interest payments) over a continuous repayment period of not less than one year (minimum probation period for reporting)"</i> ]. |
| <b>4.3 Interaction of forborne exposures with other credit risk categorisations (p. 14)</b>                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| We believe that there is no benefit to separately disclosing performing forborne exposures from other performing exposures [para 43 (i)]. |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Annex: Stock-take of key terms and practices on credit risk categorization for loans (p. 15-17)</b>                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| No comments.                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Part I – System issues (p. 18-25)</b>                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| No comments.                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Part II – Thematic review of key terms (p. 26-37)</b>                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| No comments.                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

**CBA Members' Comments and Requests for Clarification**

**Case studies (p. 38-41)**

We provide the following comments below on two of the case studies included in the consultative document.

Case 3 (Retail mortgage):

Scenario A: The account would have entered Collections repeatedly and would have been called out in a CLD campaign. We also never would have advanced 100 on 110AV. Is this a refinancing at market interest rate?

Scenario B: Skip a pay is within contractual right subject to eligibility criteria.

Scenario C: 1) Subject to local legislation, we could pursue the residual balance. The loan would have been written off and the loss booked. (2) The loan is written off and the residual is treated as a recovery. We could still pursue collection if we are of the opinion that there is a likelihood that in time the balance will be repaid.

Case 4 (Credit card loan):

Scenario A: The loan remains current. All obligations have been met. Whether this meets the "unlikely able to pay" criterion is not clear, and in any case, we would not re-classify the loan until it is actually delinquent.

Scenario B: The loan is classified Non-Accrual at 90 days and the card is cancelled.

Scenario C: The loan is classified & cancelled. Payments will bring the account balance current from a Credit Rating perspective but it is still cancelled. No additional availability.

Scenario D: The card is cancelled and closed. It remains delinquent until written off in full at 180 days.

Scenario E: The borrower appears to be on a hardship program. The account remains in delinquency status.

Scenario F: The account is written off in full.