Federation of German Industries · 11053 Berlin, Germany

Bank for International Settlements
Basel Committee on Banking Supervision
Centralbahnplatz 2
4051 Basel
Switzerland

Department of
Research, Industrial
and Economic Policy

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Consultative Document of the Basel Committee on Banking Supervision on Operational Risk

Dear Sir or Madam,

We appreciate the opportunity to comment on the Basel Committee's consultative document on the revision of the operational risk capital framework.

Non-financial companies certainly are interested in a financial market regulation that addresses systemic risks appropriately, and thus ensures that companies are provided with financial services in a reliable manner. We have therefore been generally supportive to the strengthening of the capital requirements for banks in particular. This said, we are deeply concerned that the envisaged revision of the existing capital requirements framework, in particular the design of the new Business Indicator will negatively affect corporate abilities to finance in an appropriate and cost-efficient way.

We restrict our following remarks on the revision of the capital adequacy of operational risk for the leasing business which becomes increasingly important in the financing mix of firms. Leasing contributes almost a share of one quarter to finance investment activities in Germany.

Implications for the financing of German industry

The investment plan recently submitted by the European Commission fails to achieve its positive effects if the overall investment environment is not to be consistently improved. A critical review of the complex financial market regulation agenda which turns out to be increasingly a severe barrier to investment in Europe is urgently needed. We are concerned that the new framework for calculating capital requirements of operational risk will significantly increase the cost of lease financing of firms thus counteracting political efforts to improve the conditions for long-term financing of business.

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Basis for calculating capital requirements of operational risk is the new Business Indicator. The indicator for credit activities is calculated by the difference of interest income and interest expenses, whereas in the case of leasing the respective income and expenses components are summed up. As a general rule, application of the new principles for proxy operational risk in the leasing business implies a multiplication of the respective contributions for calculating the Business Indicator thus leading to significantly higher capital requirements of leasing and a considerable cost push for companies. Given comparable operational risk structures, lease contracts will be discriminated against credit contracts by considerably higher capital requirements of the former. We regard this as unjustifiable.

Operational risk in the leasing business is not proven to be higher than in the credit business. In view of the fact that lease is of particular and increasing importance as a financing tool of companies, an unjustified unequal regulatory treatment between these two financing forms must be avoided in any case. We generally understand the Committee's efforts to address weaknesses identified in the existing approaches. However, the new unitary standardized approach implies serious drawbacks for companies that we consider not as justified.

Proposal for a re-calculation of the „services component“ and the „interest component“

We regard the new approach for calculating operational risk for leasing business not commensurate with the real risks involved. Rather, the refined proxy indicator for operational risk exposure would entail serious unintended consequences on the provision of leasing financing of companies. We would therefore like to propose the following:

- Leasing income and leasing expenses should be netted analogous to the interest component in the case of credit, where the difference between interest income and interest expenses is taken as basis for calculating the Business Indicator. For that reason, income and expenses from the leasing business should be extracted from the calculation of the „services component“ of the Business Indicator and assigned to the „interest component“ that comprises net interest, i.e. interest income minus interest expenses from the credit business. To explicitly indicate the inclusion of the net operating results of the leasing business in the „interest component“ the notation of the latter should be reworded by adding the term „economically similar income“. Our proposal aims at having one unique component that comprises „interest and economically similar income“, which is formed by adding income and expenses from the credit and leasing business. The net result of the two components then enters into the calculation of the Business Indicator.

- Regarding the „services component“ that comprises besides fee and commission income/expenses other operating income/expenses, the higher value of the respective components should be taken as a basis for calculation. Currently, the net fee and commission, i.e. income minus expenses, are considered in the calculation of the relevant indicator. According to the Committee's proposal, future fee and commission income and expenses will be added. We do not regard this as justified. Instead, we advocate taking the respective higher value of the fee and commission income/expenses and the other operating income/expenses as a basis. By this means, the massive increase of capital requirements would be moderated. At the same time, the weaknesses of the current concept for calculating the capital coverage of operational risk in the leasing business are sufficiently addressed.

We would kindly request you to give full consideration to make an appropriate adjustment of the capital requirement of operational risk that ensures a proper working of the leasing business for the benefit of European corporates. We ask you to consider our suggestions in the further discussions of this issue.

Yours sincerely

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