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FRENCH BANKING FEDERATION RESPONSE TO THE BCBS CONSULTATIVE DOCUMENT RELATIVE TO REVISIONS TO THE BASEL III LEVERAGE RATIO

The French Banking Federation (FBF) represents the interests of the banking industry in France. Its membership is composed of all credit institutions authorized as banks and doing business in France, i.e. more than 390 commercial, cooperative and mutual banks. FBF member banks have more than 38,000 permanent branches in France. They employ 370,000 people in France and around the world, and service 48 million customers.

I. General comments

The French Banking Federation welcomes the opportunity to comment on the Basel Committee consultative document relative to revisions to the Basel III leverage ratio framework.

As a reminder, French banks have always considered that the most relevant capital adequacy ratio should remain the risk based capital ratio, which is the only one to describe the risk profile of the institution. As a result, it is of utmost importance that the leverage ratio requirement remains a back-stop, including for the G-SIBS.

The EBA report ¹ concludes that the 3% leverage ratio is a binding regulatory constraint for a significant proportion of European institutions in the sample, and 44% of European G-SIBs, showing that even at 3%, the LR has ceased to be a complementary “backstop” measure and instead will over-ride the risk-based measures.

Combined with the impact of liquidity ratios, the leverage ratio will create additional pressures to reduce balance sheets, especially high balance sheet intensive, low yielding assets such as inter-bank money markets, bond inventories and repos. Indeed, banks must hold assets that generate adequate Return on Equity (RoE). As banks need to allocate a higher portion of their constrained balance sheet to liquid assets with low RoE, they can only compensate the RoE shortfall with higher margin riskier assets.

This polarization will create a pressure to reduce investment grade lending and may thus be harmful to the economy.

While we fully understand and endorse the objective of having a size-based backstop ratio in the prudential framework, the “one-size-fits-all” rationale of the leverage ratio makes it a poor driver of capital allocation

In conclusion, French banks recommend that the BCBS should only set the minimum leverage ratio requirement at 3% and leaves to local regulators the authority to set the potential additional

¹ March 2016 EBA CRD4-CRR/Basel III monitoring exercise

requirements as a function of the banking business mix, the structure of the financial markets concerned, the level of intermediation and the existence of actors absorbing part of banks' balance sheets (eg. US GSEs).

Banking assets account for 70% of GDP in the US vs 300% in Europe². As a result, each 0.1% increase in the LR requirement corresponds to additional amount of unproductive capital of 0.07% GDP in the US vs 0.3% GDP in Europe, hence 4 times more penalizing for the European economy.

II. General Issues raised by the BCBS consultative document

1. Additional requirements for G-SIBs

The regulatory purpose of the leverage ratio is to address the risk of excessive leverage and to act as a safeguard against the risk-based capital requirements.

We believe that a 3% leverage ratio is already a binding and efficient backstop.

The analysis contained in the March 2016 EBA CRD4-CRR/Basel III monitoring exercise report indicates that the **leverage ratio is a binding regulatory constraint** for a **significant proportion** of institutions in the sample.

In June 2015, all Group 1 banks are compliant with the 3% minimum Tier 1 LR requirement. Overall, however, the analysis indicates that, for the majority of banks, the leverage ratio is a strict constraint, beyond the risk-based capital requirements.

The leverage ratio effectively is **a binding constraint vs Tier 1 risk-based minimum requirements** for:

- 78% of Group 1 banks (of which G-SIBs: 89%) and
- 56% of Group 2 banks.

When taking into account the conservation buffer and the G-SIB buffer, where applicable, LR is binding for:

- 39% of Group 1 banks (o/w G-SIBs: 44%) and
- 32.7% of the Group 2 banks.

On average, the largest banks are more constrained by the leverage ratio requirement than the smallest ones. With higher capital requirements, the LR will over-ride the risk-based measures which would incentivise bound banks to increase their risk-taking, and eventually would lead to inappropriate risk-pricing for loans and other financial products.

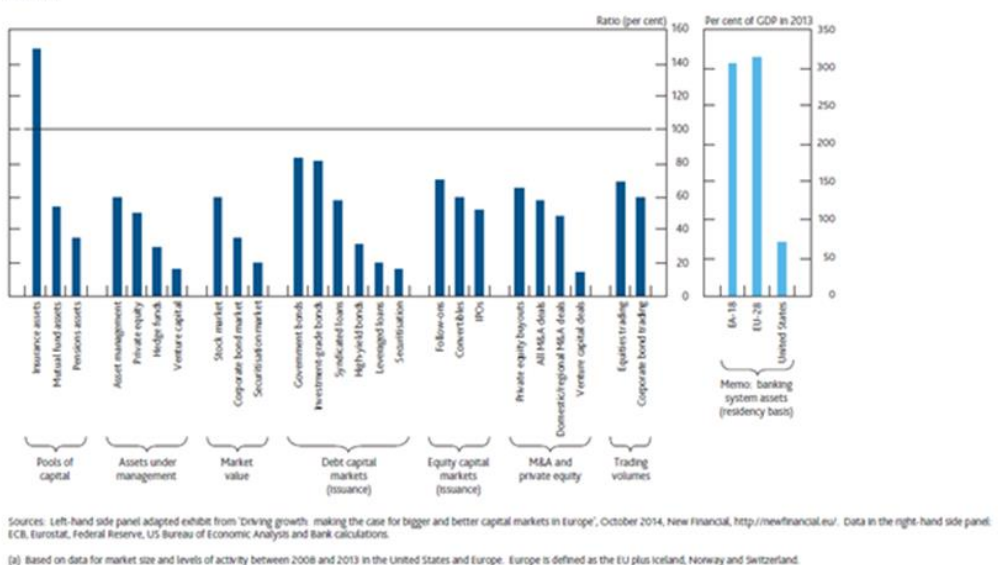
In addition, the Committee needs to take into account the “market buffer” or more precisely the market expectation for an additional margin of manoeuvre compared to the minimum prudential constraint: this “market buffer” is currently estimated at 0.5% for the French biggest banks.

French banks recommend that the BCBS should only set the minimum leverage ratio requirement at 3% and let the local regulators set the potential additional requirements as a function of the banking business mix, of the financial markets structure, of the level of intermediation and of the existence of actors absorbing part of banks' balance sheets (eg. US GSEs).

² BOE-Financial Stability Paper No 33 – February 2015. A European Capital Markets Union: implications for growth and stability

Banking assets account for 70% of GDP in the US vs 300% in Europe³. As a result, each 0.1% increase in the LR requirement corresponds to additional amount of unproductive capital of 0.07% GDP in the US vs 0.3% GDP in Europe, hence 4 times more penalizing for the European economy.

Chart 1 European capital markets size and activity as a proportion of US counterparts, when both are expressed as a percentage of GDP^(a)



If any G- Sifis additional requirement was really necessary at international level, **we would favour one which varies based on a scaling factor of the G-SIB's higher loss absorbency capacity requirement under the risk-based framework. This additional requirement could be simply calculated with a scaling factor of the G-SIB buffer.**

Regarding the instrument that could be used to satisfy such an additional requirement, the FBF recommends AT1 should be allowed without specific limits, subject to sufficient quality to convert AT1 to CET1 on a going concern basis.

As 3% LR is already a binding requirement for 44% of G-SIBS, allowing only CET1 instruments to meet the additional capital requirements would make the LR even more binding.

Besides, we believe that there should be no automatic consequences, such as the application of mandatory distributable amounts (MDAs) or the conversion of AT1 instruments to CET1, for breaching G-SIB additional requirement.

Frequency of calculation

Paragraph 5 of the Annex provides that banks may, subject to supervisory approval, use more frequent calculations (e.g. daily or monthly averaging) as long as they do so consistently.

This provision raises particular concerns on implementation and will create level playing field issues, especially if a more frequent than quarterly calculation is established.

As a matter of fact European regulations on capital requires that losses are recognized immediately in P&L when profits can only be recognized after accountant audit (external auditing certification).

3 BOE-Financial Stability Paper No 33 – February 2015. A European Capital Markets Union: implications for growth and stability

Conversely the US regulation allows taking account of profits when they occur (even on a daily basis) without external validation.

III. Detailed comments on the proposed revisions

Preliminary, The FBF would like to point out some key issues which are not addressed by the Basel Committee in its consultative document:

- The Liquidity Coverage Ratio constraints banks to hold a huge quantity of High Quality Liquid Assets (€ 2,860 bn in December 2015 for a sample 22 European Banks representing € 17.5 trillion of banking assets). These liquidity buffers represent an average of 16% of their balance sheet. We believe it is counterproductive to apply them the Leverage Ratio as this is a “double penalty”, given their very low, if not negative return. **These HQLA buffers (including Central Banks deposits⁴) should be excluded from the Leverage exposure**, taking into account the fact that they are required precisely to allow banks to swiftly reduce balance sheet size in case of needs.
- For jurisdictions that will apply the LR on a solo basis, we ask the Committee to introduce a possibility for the institution to **be allowed to deduct from the exposure measure the intra-group exposures with other entities belonging to a same banking group supervised on a consolidated basis.**
- **As far as new international accounting framework, the FBF does not believe that capital ratios should be negatively impacted by accounting changes while there is absolutely no change in risk**

IASB and FASB have issued their final accounting standards for leases. The most significant effect of the new requirements in IFRS 16 will be an increase in lease assets and financial liabilities (Balance sheet gross-up) as acknowledged by IASB's impact assessment [1]. IFRS 16.47 explains that Right of use (ROU) assets can be presented with the same underlying assets: If the underlying asset is tangible, then the portion recorded by the entity should also be tangible; Since the ROU asset follows the nature of the underlying asset, if the leased asset is a tangible asset (eg. retail branch real estate), then the asset comes back on balance sheet as a tangible asset and is risk weighted accordingly (e.g. 100%).

Despite the fact that there has been no change in risk, the gross-up of the balance sheet could have a significant impact on capital ratios and especially the leverage ratio. When leased assets come on balance sheet, they will be factored into the leverage exposure measure. The gross-up of the balance sheet will significantly increase the leverage exposure measure and therefore decrease the leverage ratio. In addition to existing leases, future lease commitments will be included in full and at present value in the leverage ratio calibration as an on-balance sheet exposure.

⁴ Confer Bank Of England's response to Call for Evidence on the EU Regulatory Framework for Financial Services, January 2016 – High Level Overview # 11), in favor of exclusion of central bank reserves from Leverage exposure, as a possible impact of inclusion in Leverage Ratio would be to deter banks from accepting overnight / short time deposits (to be recycled in reserves)

Also, FBF does not believe that capital ratios should be negatively impacted by accounting changes while there is absolutely no change in risk. **We therefore believe that these assets should be risk-weighted at zero and should be carved out of the leverage measure.**

2. Revisions to the treatment of derivative exposures

➤ Introduction of a modified version of the SA-CCR

The FBF is supportive of the adoption by the Basel Committee of a new non-internal model method for measuring counterparty credit risk exposures, which aim at replacing the Current Exposure Method. The Committee's intention was to rely on a standard model method to measure RWA exposure, method that may also be used with respect to the large exposures and exposures to central counterparties (CCPs). So SA-CCR was proposed. The main interest of the new SA-CCR was specifically to benefit from a better recognition of collateral that reflects more legal netting arrangements. The Committee Leverage proposal relies on extending this exposure measure to Leverage, with specific factors. Please find below our comments on this Proposal:

⇒ Key point: Leverage ratio is dedicated to be a non-risk based Ratio, set on accounting levels. As a result, we think that all exposures should be measured without any risk-weight factor. Derivatives exposures (such as done for other assets within Balance Sheet, which are expected within leverage on their accounting non risky exposure) would be logically expected up to their current end of month accountable MtM, with strictly no "What-if" add-on on this exposure. This is not the case, as Basel Committee relies successively on two risky measures: CEM, then SA-CCR. This is the first bias to be considered.

All derivatives perimeters (Cleared derivatives, OTC cleared derivatives and pure OTC derivatives) will mechanically suffer from this anomaly.

To correct this bias, these risky derivatives exposures should be mitigate effectively thanks to Initial Margin received, as they could be considered as a "prepayment of the PFE component" (by analogy with MtM and Variation Margins, which are netting each other thanks to Leverage derivative netting, as recognized as a received "pre-payment" of a MtM asset).

Consequently, the FBF does not understand the Committee's rationale of distorting Leverage Derivatives exposure by replacing CEM method with another risky exposure method SA-CCR, and especially by:

- **limiting the recognition of Initial Margins Received for the leverage ratio (induced by a multiplier fixed a 1)**
- **by applying a 1.4 coefficient to the total risky exposure (Replacement Cost (RC) +Potential Future Exposure (PFE)), for which we do have no rational for a non-risk based exposure context (Leverage context).**

The Committee proposes to recognize derivative exposures as an EAD, including both replacement cost (RC) and the potential future exposure (PFE), calculated based on a modified version of SA-CCR.

Participants have strong concerns that the Basel Leverage Ratio's failure to recognize the exposure-reducing effect of initial margin in cleared/OTC-cleared/OTC derivatives transactions.

The figures from QIS will show that the proposed reduced MPOR is not relevant/sufficient to mitigate even part of this bias.

Against this backdrop, the FBF recommends:

- **the removal of the 1.4 alpha to be applied to the RC ;**
- **the downsizing of PFE add-on, thanks to a lower multiplier which should not be floored at 1.** It should rather be aligned with the SA-CCR multiplier, which ranges from [0.05; 1].
- **the recognition of all type of collateral received in the RC,** not only eligible Cash Variation Margin (CVM), but also all non-cash collateral received, including at least HQLA securities.

As detailed below:

- a. The Alpha multiplier of 1.4 would not be applied to the RC. Reasoning for this:
 - Consistent approach to on-balance components with other exposure types :
There is no inherent reason to believe that the valuation of derivative assets is less reliable than the valuation of other assets on the balance sheet. In addition, any increase in derivative assets would lead to higher retained earnings and as such capital, which would not be reflected in the leverage ratio.
 - Application of alpha multiplier inconsistent with a non-risk balance sheet driven exposure amount :
The industry understands that the alpha factor was initially introduced to produce loan-equivalent EAD for the purpose of calculating credit risk RWAs for derivative transactions. It was meant to take into account model risk, potentially high correlations of exposures across counterparties as well as the potential lack of granularity across counterparties (as the capital parameters are calibrated assuming an infinitely diversified portfolio). A reflection of these considerations would be inconsistent with the basic underlying principle of determining exposures in the leverage ratio based on the actual on-balance sheet exposure amounts unadjusted for risk.
- b. We would also like to express our concerns over the proposal to fix the PFE add-on multiplier at 1, as this would ignore the benefit of over-collateralization and negative mark-to-market. We believe the PFE multiplier under the leverage ratio should be permitted to be lower than 1, which would allow - at minima- Leverage exposure not to be even more detrimental than SA-CCR RWA risky/"what if" exposure...
- c. Finally, the FBF stresses the importance to take into account the non-cash collateral, at least of HQLA securities, as more and more counterparties will now have to post collateral and some of them can only rely on non-cash collateral (e.g. pension funds that don't have cash).

➤ **Client Clearing Activities perimeter: Initial Margins treatments**

1. **Possible deduction from PFE of initial margins received (SA-CCR adhoc calibration):**

Regarding the clarifications for client clearing business models **the FBF welcomes the Committee's opening of deducting from the PFE initial margins (IM) received from the clients.**

Proposed reduced MPOR (5 days) will allow a less detrimental treatment for cleared derivatives within Leverage. However, it will not be sufficient, as shown by figures, for an efficient offset.

2. **Possible exclusion of initial margins posted (under segregation):**

➤ **Double impact of SA-CCR PFE and segregated Cash IM paid within leverage**

Previous comments on IM received mis-treatment are also combined with a detrimental treatment of Initial Margins posted under segregation regime.

- Posted IM under segregation regime are generally maintained on Balance sheet assets, even if they cannot be handled any more by the bank/Clearing member. Hence the current application of text will result in a double-counting between the SA-CCR PFE and the cash Initial Margin paid. **FBF recommends the removal of segregated posted IM from leverage ratio, as strictly no leverage can be done on these segregated assets.**
- Within US-GAAP, these segregated IM posted are even sometimes derecognized (recently, 2 institution obtained their derecognition) and hence excluded from Leverage Ratio. **To avoid any level playing field impact, we suggest that prudential treatment aligns with a thorough prudential derecognition, thanks to a prudential adhoc treatment.**

➤ **Balance Sheet and Off-Balance sheet IM double exposure**

Last point, IM posted in segregated accounts should not induce a second double-exposure between Balance Sheet and related Off-Balance Sheet commitment:

Depending on the way it is booked we could have another double counting in the leverage ratio exposure:

- The cash corresponding to the IM paid won't be removed from the balance sheet: it will be posted to a repository counterpart, but it is still the property of the bank.
- In IFRS GAAPs the accounting norms recommend to book a guarantee commitment to materialize the fact that the bank could lose the property of this cash (in case of own default).
- As a consequence, the same cash amount will create a double Leverage ratio exposure. We consider that this double-counting should be neutralized (neutralization of the off-balance sheet exposure, which can be analyzed as an own risk exposure).

3. **Global Impacts on Client clearing activities**

Proposed derivatives Leverage treatments would significantly impact the ability of clearing members to provide client clearing services.

As shown by data, if uncorrected, the Proposal's treatment of initial margin:

- a. would increase costs and reduce access to cleared derivatives for end users;

- b. would/ is likely to reduce the number of clearing members in the market;
- c. is likely to impair the liquidity , as reducing portability of clearing members' derivatives portfolios, particularly in times of crisis,
- d. would increase any access to derivatives for corporate and others end-users,

EMIR already requires generalisation of central clearing via QCCPs.

To be consistent with European Market Infrastructure Regulation (EMIR), these points should be considered by regulators, otherwise there will be (and we are already observing it) a massive exodus of client clearing actors even though, in the EU. Therefore this proposal would globally increase systemic risk, and would not be consistent with regulator aims to develop Derivatives clearing or EMIR principles.

Nb: We request that the BCBS allow the collateral received in relation to client clearing activity to be taken into consideration, as considered within NSFR Footnote18.

4. Impacts to be soon extended to Non Cleared derivatives perimeter:

For the sake of consistency with EMIR principles, financial counterparties will soon have to exchange segregated Initial Margin even for non-centrally cleared derivatives in order to reduce credit risk and mitigate potential systemic risk. Theses posted/received IM will be segregated so will be protected from the default of counterparties and cannot be re-used by counterparties to perform leverage

These Initial Margins exchanged aim at reducing the PFE. However at the same time they are accounted in balance sheet assets (when posted in the form of cash only) and so are captured in the leverage exposure.

Both IM posted and IM received, as suggested by EMIR for non-centrally cleared derivatives, would impair institutions Leverage ratio.

➤ As a reminder:

In conclusion, FBF recommended that cash Initial Margins exchanged for both centrally cleared and non-centrally cleared derivatives should be considered in a supportive way within leverage exposure, with:

- A reduced PFE calculation thanks to IM received, for centrally-cleared derivatives and future EMIR non centrally cleared derivatives
- The removal of segregated cash IM posted from the Leverage Exposure.

Such as EMIR do not finally impair Leverage ratio levels

3. Treatment of off-balance sheet exposures

Revisions to the CCF for off-balance sheet items

The FBF have already transmitted its comments on the proposed revisions with respect to the consultation on the revision of the standardised approach for credit risk. Nevertheless the FBF does not understand why the Basel Committee puts forward a proposal which is still under discussions and could potentially be amended in a way to reflect more the real usage of unconditionally cancellable commitments. **Without significant changes to this proposal, the impact could be massive in the level of LR (currently OBS exposures accounts for about 9% in the total exposure measure for French banks).**

The requirement that a Credit Conversion Factor (CCF) must be greater than 0% regardless of the exposure type is overly conservative. We also believe this does not achieve the goal of correctly quantifying the risk associated with the lending product.

For retail unconditionally cancellable commitments (UCC), the increase in CCF from 10% to 20% contemplated in the second draft of the BCBS's proposal does not reflect the significantly lower underlying default risk and unduly provides increased risk weighting on those individuals who utilise little or none of their credit limit.

We also believe that the range of 50 – 75% for non-retail UCC is overly conservative as it does not reflect the actual usage ratios of these credit lines and would adversely affect lending and economic growth. Furthermore, the introduction of this approach would mean that there is little to no difference in capital requirements between the cancellable and non-cancellable commitments and the banks will receive very little capital relief from making a commitment cancellable. We would argue that there are good reasons why a commitment is judged to be unconditionally cancellable as it puts the bank in a better position to manage its risks, which should be recognised in reduced capital requirements.

As a reminder, FBF proposed the following recommendations in its answer to the BCBS consultation on the standard approach for the credit risk:

The UCC subject to conditions or not (consumer protection law, cancellable in case of credit deterioration) should attract a 0% CCF as far as the client cannot draw the commitment without an action from the bank. As a matter of facts, “commitments” that can be cancelled by the bank at any time without prior notice, without conditions should be subject to a 0% CCF (or excluded from the prudential perimeter) since these are not commitments by definition.

Finally, we re-iterate our proposal in the FBF answer to the BCBS consultation on IRB on the following definition: **“commitment means any contractual arrangement that has been offered by the bank and formally accepted by the client to extend credit, purchase assets or issue credit substitutes and that is reported in the financial reporting” as such accounting and prudential treatments are fully aligned.**

4. Treatment of traditional securitisations

The FBF welcomes that the Committee is working on further clarification regarding the treatment of traditional securitisations in the leverage ratio. The Committee rightly points out that currently some originating banks can meet operational requirements for the recognition of Significant Risk Transfer

(SRT) but does not meet the criteria for accounting de-recognition of securitised assets or has to include the SPV within its accounting scope of consolidation.

FBF supports the option (i) proposed by the BCBS in the consultation paper. Indeed, the securitised assets, having been recognised as transferred as per Significant Risk Transfer recognition, are excluded from the regulatory scope of consolidation and therefore should also be excluded from the Basel III leverage ratio exposure measure.

Option 1 is aligned with the European Regulation (CRR) which states that non-financial institutions are excluded from the prudential scope. Under European regulation, securitisation vehicles (which bought the assets sold by banks) are not financial institutions and are excluded from the prudential scope; hence, they should be excluded from the Leverage Ratio Exposure, whatever the accounting treatment (consolidation or deconsolidation).

However, we want to underline that, contrary to BCBS opinion, **SRT should not be the only condition for allowing an exclusion of assets of the leverage ratio calculus**, because it is not the only measure of real shift of exposures. **For example, when securitisations sold to third party investors are eligible to the STC Securitisation treatment, any tranche of STC securitisations sold to third party should be excluded from the leverage ratio exposure measure** (see FBF's response to the BCBS consultation on capital treatment for STC securitisations), **as the bank's debt to finance the pool of asset has been passed to other investors by a true sale and in a simple and transparent manner (STC criteria), thereby reducing leverage.**

More generally, Indeed, where a bank securitizes assets in a traditional securitization by placing tranches of that securitization with unaffiliated third party investors, without recourse to or where there is a no repurchase obligation by the bank, the bank should be permitted to not consolidate the SPV in the regulatory consolidation perimeter, and for the purpose of calculating its Leverage Ratio the bank would include only those tranches which it retains. We believe this treatment is justified (i) even if the criteria for accounting de-recognition of securitised assets are not met, or even if the bank must include the related SPV for accounting purposes within the bank's consolidated group; and (ii) whether or not the requirements for SRT are met.

If the SRT criteria are retained, (indeed, SRT criteria are more appropriate than accounting de-recognition of securitised assets criteria for the exclusion of the calculation of the leverage ratio, due to its alignment with risk measures), it is important that the calculation **excludes from the denominator the amount of the nominal of the tranches sold.**

The exclusion from the leverage ratio calculation should not be restricted to traditional securitisation having performed an SRT or sold as STC securitisation but should also include **synthetic securitisation** having performed an SRT or having being sold as STC securitisation;

And finally, **the same exposure should be taken into account only once** in the case where some overlaps exist in the balance-sheet and off balance-sheet (e.g. bank holding CPs issued by a non-consolidated securitisation conduit and granting a liquidity line to the same conduit).

As a reminder, European banks and US banks have not the same stakes:

The possibility to exclude the nominal of the tranches sold to a third party from the denominator is of the most importance for European banks, and thus in the CMU context. US banking balance sheets are significantly reduced via the role of US Government Sponsored Agencies (GSEs such as Ginnie Mae/Fannie Mae/Freddie Mac/Sallie Mae), Federal Home Loan Banks (FHLB) and customer loans securitisations (thanks to strong capital market activities). EU banks don't benefit from such mechanisms, which can be in part considered as de facto subsidies, which weigh on their LR. Since the 2000s, only 30% of US household mortgage loans outstanding remain on US banks' balance sheets. Indeed, 70% of US loans outstanding are sold to issuers of mortgage-backed securities (US government sponsored entities or private issuers) or, to a smaller extent, originated and kept by mortgage companies. In the US, the outstanding of securitisations amounts to USD 10 000 billions, which is six times higher than the European one (USD 1 730 billions).

Outstanding (09 2015) and one year issuance (from 09 2014 to 09 2015)

USD billions			Outstanding	Issuance
USA	MBS	Agency	7 230	1 500
		Private	1 520	210
	ABS	Private	1 390	205
EU	MBS + ABS	Private	1 730	230

In order to fund their mortgage loans, EEA banks need to use the Covered Bond instrument (as GSEs do not exist in Europe); in that case, assets remain in the banking balance sheets and are fully included in the Leverage Ratio Exposure (contrary to assets transferred to GSEs in the US).

At end of 2014, in Europe, Mortgage –Backed Covered Bonds outstanding amounts roughly to €1,810 bn versus the Mortgage –Backed Securitisations (RMBS) outstanding which is €850 bn.

At end of 2015, in Europe, the total Covered Bonds outstanding in Europe (not only Mortgage –Backed Covered Bonds) amounts to € 2,323bn and, for the rest of the world, to € 177 bn (Australia, Canada, New Zealand, Singapore, South Korea, US...).

Mortgage –Backed Covered Bonds represent roughly 85% of the total Covered Bonds,

5. Others issues highlighted in the consultative document

Treatment of cash pooling transactions

The proposed treatment of cash pooling transactions clarified by the Basel Committee will have harmful consequences on the ability of treasurers to combine the credit and debit positions of various accounts into one account.

Regarding notional or virtual cash pooling, this activity is requested by our clients and matches their funding management between different entities of a same group. The fact that contrary to physical settlement it is not necessary to close balances at the day allows client to have a higher agility and

flexibility to manage their treasury. The internal accounting and reporting, that lead to separate positive and negative accounts in the bank are not taken into account by our client and even not known. In addition, notional pooling decreases operational risk.

The implementation of Leverage ratio on gross amount rather than net on such activity will lead to increase this ratio and then costs for bank that would therefore have to either restrict such cash management activity or charge the client on this basis and hence impact their servicing to the economy.

We propose that net cash pooling notional should be allowed to some extent. Some limitations to net accounts could be put in place so as to be able to match both client management and bank protection such as

- same booking entity,
- same currency,
- same cash pooling contract over individual accounts,
- contractual incapacity of the client to pay more than the net cash available on this cash pools accounts (including overdrafts capacity)
- Regular physical cash netting between accounts (at least once a year).

Such a netting approach, under constraints, will not be new in the leverage ratio as this is already authorized for derivatives as far as European regulation is concerned (429a delegated act).

Regarding physical cash pooling, we have not much comments except some clarifications on the wording “and the bank cannot be held liable in case of non-performance of one or multiple participants in the cash pool”. Note that a vast majority (by default) of our physical cash pooling contracts are in daily settlement. Few are on other basis and represent a small exposure.

The FBF believes that as far as there is a Master Netting Agreement with daily cut off between two counterparties, virtual cash pooling and physical cash pooling should be recognized equivalent.

Treatment of regular-way purchases and sales of financial assets

Option B is the preferred option for French banks:

To ensure a level playing field among jurisdictions (notably to cancel the accounting differences between those that apply IFRS and those under US GAAPs), **it is essential to retain option B, i.e. trade dates with cash netting permission.**

However, FBF considers that under Option B, the conditions in order to obtain an offsetting treatment are uselessly too prescriptive and should be removed, except condition (iii):

- (i) the trades are conducted by an entity that meets the definition of a market-maker (eg as defined in CGFS Paper no 529);
- (ii) the financial assets bought and sold that are associated with the cash payables and cash receivables are fair valued through income and included in the bank’s regulatory trading book as defined in paragraphs 8 to 20 of the market risk framework;

- (iii) the transactions are settled on a delivery-versus-payment (DVP) basis;
- (iv) other conditions

Treatment of SFTs

The FBF is particularly concerned with Committee's position that open repos cannot be eligible for netting because they do not meet the condition of featuring an explicit settlement date.

It is not acceptable to reconsider **the treatment of open repos that was accepted by European regulators in the 2014 EU delegated act relative to the leverage ratio** (open repos are a European specificity) though this considerably reduces operational risk and some jurisdictions intend of using such instruments.