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24 June 2016

EBF Response to DG FISMA Consultation Paper on further considerations for the implementation of the NSFR in the EU

Key Messages

- EBF supports a Net Stable Funding Ratio (NSFR) as a structural liquidity risk metric based on sustainable business-as-usual assumptions in the long term, to complement the short term stressed Liquidity Coverage Ratio (LCR).
- The Basel NSFR however would be highly detrimental to CMU as the Basel assumptions that apply on capital market activities are overly penalising.
 - The asymmetrical treatment of repos (0% ASF) and reverse repos (10-15% RSF) risks reducing market liquidity. It will also disincentivise banks which are long on liquidity from lending into the market.
 - The high RSF applied to some of the securities held on balance sheets, e.g. 50-85% RSF, is extremely penalising when, in a large number of cases, the assets are held for client facilitation as market-risk hedges.
 - Unsecured loans and loans secured by non-Level 1 assets between institutions receive 15% RSF while deposits from institutions are not recognised as a funding source (0% ASF) when shorter than 6 months maturity.
 - With respect to reverse repos with level 1 collateral e.g. government bonds (10% RSF) there appears to be an inconsistency with the LCR, which assumes that a firm will always be able to repo a Level 1 asset, even in a stressed market.
- The application of the NSFR derivatives rules as envisaged within the BCBS standard would be extremely detrimental for the functioning of the European derivatives markets, and ultimately, for the European end users such as SMEs, larger corporates, pension funds and other client serving entities who require the ability to hedge away risk:
 - The linkage between Leverage Ratio and NSFR introduces restrictions on netting between derivative assets and liabilities, as well as on collateral recognition, which both are inappropriate for liquidity purposes, and in particular for the one year NSFR time horizon.
 - The NSFR denies netting of HQLA assets against derivatives exposure (permitted in the LCR even in a stress scenario). Liquid securities received as variation margin should be fully eligible for netting within the NSFR.
 - The BCBS's 20% RSF add-on for future potential derivatives exposure using gross derivative liabilities, is an inadequate and highly inaccurate measure of the potential change in the funding requirements generated by the derivative portfolios. The EBF proposes that this requirement is removed entirely. Should an alternative be considered, we suggest the Commission considers the use of a Delegated Act to develop the most appropriate treatment of derivatives in the NSFR.
 - The re-hypothecable initial margin received should be allowed to offset IM posted before the 85% RSF factor is applied.

- Secured funding is an important component of strengthening the disintermediation of financing in Europe, even more so as Europe does not have agencies that exist in other jurisdiction (e.g. the US). The NSFR treatment of encumbered loans act as a deterrent to secured funding and would act as a brake on the financing capacity.
 - Mortgage loans funded via covered bonds are categorised as encumbered and receive a higher RSF weighting compared to mortgage loans funded via unsecured bonds. This approach provides inappropriate incentives for mortgage credit Institutions to replace covered bonds by shorter term senior bonds.
 - Mortgage loans should have the same RSF when used as collateral. Further, the compulsory overcollateralisation should also be considered as encumbered, but the voluntary overcollateralisation should be treated as unencumbered.
- For short term loans activities, such as Trade and Export Finance (lending under officially supported export credit insurances/ECAs) or Factoring, which are and will most probably remain bank-intermediated, the BCBS NSFR would make those activities more expensive for customers. This could in turn lead to banks abandoning this business.
 - An RSF of 65% should apply to export credits covered by ECAs of the EU Member States and trade finance loans should receive a 0% RSF when their residual maturity is lower than 6 month, 25% below 1 year, and 85% otherwise.
- The NSFR should generally be fulfilled on either a consolidated or individual basis, accordingly with each banking group liquidity structure and existing derogations/waivers. Should the NSFR be required on an individual sub group basis for banks which manage their liquidity centrally we consider that there is room to make the NSFR requirements more fit for purpose through the application of intragroup preferential treatments.

General Comments

The EBF supports a Net Stable Funding Ratio (NSFR) as a structural liquidity risk metric based on sustainable business-as-usual assumptions in the long term, to complement the Liquidity Coverage Ratio (LCR) that is based on an extremely severe short term liquidity stress scenario.

Thus, the EBF strongly advocates that the Available Stable Funding (ASF) and Required Stable Funding (RSF) factors in the NSFR should reflect a sustainable business-as-usual approach that is consistent with the role of the banking industry in liquidity maturity transformation. Liquidity maturity transformation is vital for the economy since there is a structural discrepancy between liquidity providers and liquidity takers. Hence, the NSFR should be appropriately calibrated to support an acceptable and prudent level of sustainable liquidity maturity transformation, whilst at the same time not inhibiting the transactions that support maturity transformation with real-economy users.

This is all the more important in Europe as the economy is primarily financed through bank intermediation. The development of the Capital Market Union (CMU) would complement bank-intermediated financing with market-disintermediated financing. However, as suggested by the Basel Committee on Banking Supervision (BCBS), the NSFR would be highly detrimental to CMU as the NSFR assumptions that apply on capital market activities are overly penalizing.

Secured funding is an important component of strengthening the disintermediation of financing in Europe, even more so as Europe does not have agencies that exist in other jurisdiction (e.g. the US). The NSFR treatment of encumbered loans act as a deterrent to secured funding and would act as a brake on the financing capacity.

For short term loans activities, such as Trade and Export Finance, or Factoring, which are and will most probably remain bank-intermediated, the BCBS NSFR would make those activities more expensive for customers.



The responses to the questions provide more details on those issues and proposal potential amendments to NSFR so that it is adequate to Europe.

Answers to Questions - potential adjustments resulting from complying with the NSFR

1. In light of previous consultations, could you describe more specifically, if appropriate, the specific activities, transactions and business models where you have evidence that the implementation of the NSFR could have an excessive impact or important unintended consequences?

Capital Markets Activity

The EBF reiterates that the NSFR will have significant negative impacts on bank lending, financial assets markets or trading book positions, as detailed below.

The current NSFR guidelines risk severely impeding the healthy functioning of capital markets, and more specifically, the aims and objective of the capital markets union (CMU) within Europe. The asymmetrical treatment of repos (0% ASF) and reverse repos (10-15% RSF) risks reducing market liquidity. It will also disincentivise banks which are long on liquidity from lending into the market, thereby increasing deposit balances at the European Central Bank (ECB). Furthermore, the high RSF applied to some of the securities held on balance sheet, e.g. 50-85% RSF, is extremely penalising when, in a large number of cases, the assets are held for client facilitation as market-risk hedges (see further detail in our response to questions 6 and 7).

The CRD IV/CRR/BASEL III Monitoring Exercise's results based on data as of 30 June 2015, which EBA published on 2 March 2016, noted that banks in the sample are in need of an additional stable funding of EUR 341 billion as of June 2015. The NSFR shortfall is generated by G-SIBs and large banks as they run capital market activities which are very severely penalised. Due to the current calibration of capital market activities, NSFR massively overstates the actual structural liquidity needs: As a consequence, providing derivatives or market making services will become extremely expensive, particularly for government bonds and equities the NSFR compliance will cost well above profitability of these activities. Banks will have then only 2 solutions (i) either to increase the price to be charged to customers, or (ii) to stop the activity. Against a background where Europe's investment banks are losing ground¹ and where there is clear evidence of reduced market making², it is highly unlikely that a retreat by large European investment banks will be compensated by other actors (for instance European retail banks), as capital market activities have huge entry costs, in terms on investments, skilled staff, inventories size and critical mass.

Derivatives

The application of the NSFR derivatives rules as envisaged within the BCBS standard would be extremely detrimental for the functioning of the European derivatives markets, and ultimately, for the European end users such as SMEs, larger corporates, pension funds and other client serving entities who require the ability to hedge away risk (see further detail in our response to questions three and four).

Liquidity management

In order to comply with LCR and with sound management of liquidity risk banks have to build a liquidity buffer composed of very liquid assets that could be used to compensate unexpected outflows in times of crisis. A common way to get liquidity in those times is the use of repo funding instead of selling the assets. In the current version of NSFR, giving cash in reverse repo is penalised by 10% - 15% additional RSF. In times of crisis where liquidity ratios (LCR & NSFR) are under pressure, banks could become

¹ Bruegel Report: The United States dominates global investment banking: does it matter for Europe?

<http://bruegel.org/2016/03/the-united-states-dominates-global-investment-banking-does-it-matter-for-europe/>

Financial Times, March 9th: Analysis of banks' 2015 financial statements shows Top 5 European Investment Banks suffered an 8 per cent fall in total revenues last year, far worse than the 0.8 per cent revenue fall for Top 5 US Investment Banks.

² IMF – October 2015 - Global Financial Stability Report - Evidence of reduced market making (pages 60-63)

AMAFI / 15-48 26 octobre 2015 – L'enjeu de la liquidité de marché - P.11: Evidence of reduced market making with a decrease in the inventories rotation speed - P.12: Evidence of reduced market making with a decrease in the average amount of the transactions.



reluctant to grant liquidity to other banks using their liquidity buffer with the consequence that liquidity buffers of banks could become less liquid and increase the difficulties of banks already in trouble.

Primary dealing

The NSFR rules could imply negative consequences on primary dealing – specifically in sovereign securities. Level 1 sovereign securities receive an undue 5% RSF. Primary dealers activity has already a low-margin, hence banks might consider reducing their commitment in acting as market makers. Also, such 5% RSF is in contradiction with the Liquidity Coverage Ratio (LCR) treatment, based on which a 0% haircut applies for Level 1 assets even under circumstances of severe stress. Hence, we strongly recommend a 0% RSF for Level 1 sovereign securities.

Money market funding

Issuing Certificates of Deposits (CDs) is one of the most popular ways for banks to attract funding in the short term (up to 12 months). The advantage of this product for the liquidity provider is that the CDs are liquid (usable as repo collateral, or sellable). Interbank funding/deposits are usually on shorter maturities (usually shorter than 1 month). In the NSFR banks providing cash to other banks get a 15% RSF for interbank loans lower than 6 months (usually shorter than 1 month) but get a very penalising 50% RSF for investments in CDs, while both products have quite the same objective, i.e. providing liquidity to another bank. The consequences will be:

- an increased cost of funding and increased funding difficulties for banks willing to issue CDs for maturities >1M (lower than 1M attracted through deposits).
- banks will then lend cash to other banks under the form of loan instead of buying CDs. This will reduce the liquidity of banks' assets (a CD is more liquid than a loan).

To make sense globally, the RSF should be made symmetrical to ASF for similar products (i.e. the treatment on the asset side for the funding-giving bank should be the same as the treatment for funding-receiving bank). More generally, this principle of deriving the RSF from ASF should apply to all transactions with regulated financial institutions.

Trade and export finance

The EBF reiterates that certain products will be penalised by the NSFR such as trade and export finance (see EBF response to the European Banking Authority (EBA) Report on NSFR from 11 February 2016). A new stable funding requirement could, as the EBA outlines in its report, increase the costs of the trade finance provided by banks, including lending under official export credit insurance schemes and more acutely short-term, uncommitted, trade-related self-liquidating exposures. This could in turn lead to banks abandoning this business.

Unfortunately, the EBA concludes that such negative effect could be offset by Export Credit Agencies (ECAs) providing credit directly to exporters and importers (instead of providing cover as most of them do today), in other words by crowding out the private sector and increasing the public involvement and funding. From our perspective, this is not a viable solution and ignores the European system.

In Europe, there has been a long-standing division of labour between ECAs and commercial banks. The banks normally supply financing for the sale and associated local costs, alongside advice and local knowledge. They are also fully responsible for credit administration and monitoring, implying less work and cost for the ECA. The ECA would come into play only in case of default. Therefore, commercial banks play a crucial role in facilitating the financing of viable export transactions in a market-driven economy. Where ECAs also offer direct loans on their own account, they must, in addition to the credit itself, support the cost of creating and maintaining a fully functioning banking infrastructure. The objective of banking regulation should be to enable banks to fulfil their role as intermediary in a responsible way and not to set incentives for more state intervention and public dependency.

Regarding the calibration of the NSFR, we reiterate the EBF position and ask for confirmation that a RSF of 65% applies to export credits covered by ECAs of the EU Member States. We also recommend that



trade finance loans should receive a 0% RSF when their residual maturity is lower than 6 month, 25% below 1 year, and 85% otherwise and that no off-balance sheet commitment should be allocated a higher than 5 % RSF.

Finally, we would like to point out the debate on performance guarantees and letters of credit. The EBF disagrees with the EBA report's recommendation that these items should be subject to an RFS. In the case of performance guarantees, its execution is subject to a performance event under a commercial contract. ICC studies show that the execution level of these guarantees is very low (8%). In fact, the LCR already takes into consideration this feature by allowing national supervisor to decide whether a liquidity buffer for that guarantee is needed. The approach is similar to the letters of credit.

Factoring Market

The factoring market is highly concentrated in Europe. Data collated by the EU Federation for the Factoring and Commercial Finance Industry (EUF) indicates that factoring and commercial finance volumes in the EU overall grew about 5% to €1.26 trillion in 2013, showing a GDP penetration equal to 9.6%. This growth, slightly higher than that seen in 2012, as well as the GDP penetration shows how the Industry continues to become an increasingly important mechanism for the funding of the real economy, supporting growth and recovery, particularly in SMEs and employment. As already stated in the EUF position paper of December 2012, the factoring industry provided 170 billion of working capital to 160,000 business, mostly SMEs.

Graph1: Turnover Volumes by country (million euro)

31 December 2013	Notes	Total Turnover	pct var. on the previous year (Total)	GDP Penetration	EU Market Share
Austria*		14.110	28,64%	4,51%	1,12%
Belgium*		47.684	12,59%	12,50%	3,79%
Bulgaria	(1)	1.700	13,33%	4,26%	0,13%
Croatia	(1)	3.146	39,89%	7,26%	0,25%
Cyprus		2.823	-13,14%	17,10%	0,22%
Czech Republic*	(1)	5.302	11,31%	3,55%	0,42%
Denmark*	(1)	8.932	2,05%	3,58%	0,71%
Estonia		1.899	1,17%	10,30%	0,15%
Finland		17.699	4,11%	9,15%	1,41%
France*		200.459	7,49%	9,73%	15,92%
Germany*		171.290	8,81%	6,26%	13,60%
Greece*		12.095	-5,22%	6,64%	0,96%
Hungary	(1)	2.661	1,05%	2,71%	0,21%
Ireland*		21.206	6,26%	12,93%	1,68%
Italy*		178.002	-2,13%	11,41%	14,13%
Latvia	(1)	592	10,02%	2,53%	0,05%
Lithuania	(1)	2.763	11,05%	7,99%	0,22%
Luxemburg		407	36,12%	0,89%	0,03%
Malta		178	-25,83%	2,48%	0,01%
Netherlands*		52.902	3,35%	8,78%	4,20%
Poland*	(1)	31.588	30,74%	8,13%	2,51%
Portugal*		22.302	-2,82%	13,45%	1,77%
Romania	(1)	2.713	-6,54%	1,90%	0,22%
Slovakia		1.068	4,30%	1,48%	0,08%
Slovenia		626	-3,69%	1,77%	0,05%
Spain*		116.546	-6,04%	11,39%	9,25%
Sweden*	(1)	30.554	-4,85%	7,27%	2,43%
United Kingdom*	(1) / (2)	308.096	10,43%	16,14%	24,46%
EU Total Turnover	(1)	1.259.343	5,35%	9,63%	100,00%
EUF Members (*)	(1) / (2)	1.221.069	5,37%	9,92%	96,96%

Same as the trade and export finance market, the factoring market is crucial for the real economy, in particular for small business and medium corporates. Therefore, regarding the calibration of the NSFR we ask for confirmation that a preferential RSF applies.



Specific structured finance activities

The current NSFR approach for specific structured finance activities - e.g. leverage by out, leverage and acquisition, project financing, real estate- that assumes the roll-over of these transactions is negatively affecting the aforementioned corporate loans which are not used to be rolled over time.

Other lending of a short term nature

Similar to trade finance, banks provide loans to customers on an uncommitted basis which are short term (< 1 year) and self-liquidating by nature, i.e. once the loan is repaid there is no requirement for a continued relationship. These kind of loans are now penalised in the NSFR by requiring a 50% RSF. This will disincentivise banks from continue providing such loans, which can be at a detriment of economic growth in the EU. For short term lending on an uncommitted basis no or limited RSF should be applied.

Covered Bonds

Under the Basel definition of NSFR, mortgage loans which are funded via covered bonds are categorised as encumbered and hence receive a higher RSF weighting (typically 100% for greater than one year), compared to, for example, to mortgage loans funded via unsecured bonds. This approach provides inappropriate incentives for mortgage credit Institutions which currently fund themselves via covered bonds but will find it more advantageous under the NSFR to replace covered bonds by shorter term senior bonds. This would create financial instability which is quite the opposite of the intention of the Basel NSFR. If banks do not replace covered bonds with shorter term senior bonds to fund mortgage loans, they may need to increase the longer term senior bonds to meet the Basel NSFR “shortfall”. The consequence is an increase in the funding cost which will lead to less credit growth. In a number of EU countries, covered bonds are an important funding source which showed strong resilience during the financial crisis and has made it possible for households to buy houses at a lower cost. Hence, it is necessary for the EU to modify the BCBS/EBA rules to avoid this effect.

We believe that the European NSFR should reflect the importance of covered bond funding in Europe as an EU specificity and avoid any disincentive. The “evidence” for this conclusion is that the RSF on unencumbered mortgage loans funded by senior unsecured bonds is 65% whilst the RSF on encumbered mortgage loans funded as covered bonds is 100%. Mortgage loans are deemed encumbered when they are used in a cover pool as collateral in covered bond issuance; up to the amount of outstanding covered bonds and any overcollateralisation (OC). So, to raise the NSFR a bank can, and will, replace covered bonds by unsecured bonds and therefore decrease the overall RSF requirement. Because banks have higher funding costs if they use unsecured funding, the easiest way to compensate this is to shorten the funding maturity. It could be the case that an issuance of ten year covered bonds would have to be replaced by a three year unsecured bond – at the same spread.

The most efficient means to avoid such inappropriate incentives for credit institutions issuing covered bonds, is for mortgage loans to have a RSF that is unchanged when used as collateral (i.e. 65% in most circumstances). If a bank is using mortgage loans in a cover pool, it strengthens the bank’s funding and would be in line with the intention of the NSFR. A solution where mortgage loans have a RSF higher when used as collateral would neglect the liquidity strength of these assets. This would be detrimental to the covered bond markets though they have over and over again proven to be very resilient and a reliable funding tool also for banks in times of severe stress.

In addition it could also be considered that not all of the mortgages collateralising the covered bonds should be treated as encumbered. Instead, the NSFR should consider the level of overcollateralisation and composition: i.e. the compulsory overcollateralisation (e.g. legal/committed amount) should be considered as encumbered, but the voluntary component of the overcollateralisation should clearly be treated as unencumbered. The purpose of over collateral is to support different requirements for credit enhancement - typically regulatory minimum requirements or specific requirements from rating agencies in order to support a specific rating of the covered bonds. Typically the covered bonds issuer operates with assets in excess of those requirements. However, since the requirements are parallel it is



not simple to distinguish between mandatory/committed or voluntary over collateral. The purpose of those assets are exactly to be used to generate liquidity either through out-right sale or for instance through repo transactions when needed. This view is further underlined due to the fact that rating agencies and CRD IV/CRR both acknowledge assets held for rating requirements and capital requirements in the cover pools as assets available for liquidation (which is also in line with the fact that neither rating agencies nor CRD IV/CRR differentiates with respect to the funding side). Therefore, at least over collateral explicitly should be recognised as unencumbered assets in the NSFR.

Furthermore, covered bond issuers are often required to be set up as separate legal entities and they are not allowed to take deposits from clients. Therefore, in addition, those institutions usually do not have other funding sources than covered bonds and may hence have difficulties to meet the NSFR requirement at a solo level. In this context we strongly suggest to apply the NSFR at the consolidated level, as should generally be the case, or to apply the framework of interdependent assets and liabilities on institutions with a pass-through business model where any funding risk is effectively eliminated.

Example - Covered bonds

Using mortgage loans as collateral for covered bonds do not have the same effects as other types of collateralization.

First of all, if the covered bond company at a maturity date would not be able to refinance the amount being due with a new covered bond, all the assets that have been pledged would suddenly be unencumbered, and then receive a new and lower RSF. Including any overcollateralization (which is required either by market participants / rating agencies or regulation) this effect could be significant. If for example the amount being due is refinanced by an ordinary senior bond with a maturity of more than one year the NSFR would be much better than if it is refinanced with a long term covered bond. This does not seem to reflect the real refinancing risk in an appropriate manner. Either would it be an intended development as it would raise the refinancing and liquidity risks in such business models.

We can illustrate this issue with the following case:

- For the case of simplicity, we do not include any overcollateralization in this example
- The outstanding amount is 100
- The value of the encumbered assets is 100
- The due date of the bond is 1 year at the date T0
- The dates T1, T2 and T3 are 6, 9 and 12 months after T0 and T4 is the refinancing date
- At T3 the bond is due and refinanced by a senior bond

The NSFR would then show this pattern:

	T0	T1	T2	T3	T4
		6 months	9 months	12 months	
ASF	100	50	0	0	100
RSF	100	65	65	65	65
NSFR	100 %	77 %	0 %	0 %	154 %

If, instead, the amount being due is refinanced by a covered bond at T4, the NSFR would develop as such:



	T0	T1	T2	T3	T4
		6 months	9 months	12 months	
ASF	100	50	0	0	100
RSF	100	65	65	65	100
NSFR	100 %	77 %	0 %	0 %	100 %

Another related issue for covered bond companies, which is also illustrated by the example above, is the lack of harmonization between the ASF of the covered bond and the RSF of the encumbered assets as soon as the residual maturity for the covered bond is shorter than 1 year. The ASF for the covered bond would be just 50% for the period 12 to 6 months before maturity and 0% for the rest of the period until maturity. The RSF of the encumbered mortgages would be 65% during the whole period from 12 months before maturity and until the maturity date (subject to the condition that the mortgages are long term mortgages). This would really require such companies to prefund any amounts 6 – 12 months ahead in order to keep the NSFR stable and above 100%. Of course, one could argue that a business model using ordinary senior bonds also would need to prefund in advance. But by using senior bonds the company do not need to use collateral. The covered bond company would need to “double up” the collateral pool to be able to prefund the necessary amount. However, that would not be enough due to the lack of harmonization between ASF and RSF for such positions. In reality, the covered bond company would need to always be funded by own funds capital or ordinary senior bonds covering up the necessary differences in order to keep the NSFR above 100%. As illustrated above, during the last 12 months before the covered bond’s maturity date this would require significant amounts of such additional funding. The proceeds from such additional funding would be required to be invested outside the collateral pool in order to be unencumbered.

The mechanisms illustrated and described above would be a potentially huge cost driver and probably contribute to an increase in the customers borrowing costs. Together with the normally lower refunding and liquidity risks in covered bond companies compared to ordinary banks, it would be reasonable to keep covered bond companies outside the scope of the NSFR requirement.

Corporate deposits

Corporate deposits from non-SMEs receive a Basel ASF-factor of 50%. This does not reflect the stability of corporate deposits and is less favourable than in the LCR. In addition the NSFR does not recognise additional stability for operational deposits. EBF recommends applying higher ASF factors.

A possible consequence is that there will be incentives among banks to decline corporate deposits, which up until now have been considered and used as a stable funding source. Banks will also be forced to increase their market wholesale funding as a direct result of the treatment of corporate deposits under the NSFR which could increase banks’ wholesale funding dependence and expose banks to more market-driven volatility, which in itself may threaten financial stability on an aggregated level.

Corporate deposits are furthermore an important service for the corporate sector and the real economy. If banks impair their service to corporate customers it will have a negative effect on the liquidity in the real economy.

Promotional loans

Promotional lending should be reflected in the EU NSFR as an EU specificity and be subject to a preferential treatment in order to reflect the pass-through nature of promotional lending and the corresponding lack of associated structural liquidity risk. Such preferential treatment should be applicable to on- and off-balance sheet items as well as to promotional banks (PBs) and commercial banks (CBs) acting as pass-through intermediaries. We remind that promotional lending is explicitly



addressed in LCR (both in CRR and DA LCR) as an EU specificity, with Art. 31(9) and Art. 32(3a) DA LCR (Art. 424(6) and 425(2a) CRR) containing symmetric rules for promotional lending exposures.

We make reference to a recent paper of the European Commission from July 2015, where the Commission explicitly acknowledges the key role of PBs in the implementation of the Commission's *Investment Plan for Europe for Jobs and Growth*³. Given this prominent macroeconomic function in an environment of sluggish growth and high unemployment in Europe, any disincentive for this kind of business by new regulatory requirements (such as NSFR) should be avoided. This is especially true given that PBs are in many cases dependent on CBs as intermediaries in order to be able to effectively fulfil their function (see also respective discussion above in chapter "trade and export finance" for ECAs). For more details on the role of commercial banks in this business and the lack of (structural) liquidity risk associated with this kind of business we refer to the EBF paper "Treatment of Promotional Loans in LCR" (EBF_020487, dated 11 April), submitted to EC on 15 April.

Central bank deposits

Banks are not supposed to rely on central bank monetary operations for their funding. Hence, any funding obtained for banks' related central banks are defined as 0% ASF sources. But central banks sometimes require replacing their foreign liquidity reserves within a third bank. Within the Basel NSFR scheme, banks are not incentivised anymore to accept central bank excess deposits, which may be costly to maintain within a negative rates context. Some central banks are actually sending first alerts as NSFR will have an impact on their FX cash out placement. Central banks excess cash deposits in foreign currencies (i.e. not in the currency of the concerned central bank monetary policy) which constitute generally change reserves should see their ASF modified, from 0% ASF (similar to interbank) to corporate ASF rates (50%). This would bring back consistency with the LCR text that clearly recognises that central banks have a corporate behaviour, even under a stress scenario, a criteria that the Basel NSFR overlooks.

2. If a respondent is a bank, could you please quantify the level of your expected shortfall of stable funding, the changes to the composition of your balance sheet that may result from meeting the NSFR and what the impact of these changes may be on the European economy?

Not applicable.

Derivatives transactions

3. In light of previous consultations, could you provide substantiated evidence about possible issues caused by the application of the BCBS NSFR standard to derivative transactions at European level and which have not been taken into account at Basel level? If yes, what alternative treatment would you propose for NSFR calculation purposes to deal with the funding needs arising from derivatives transactions? If possible, please provide the impact on your institution of the alternative treatment you propose (as compared to the BCBS standards).

The calibration of the derivatives funding requirement, as envisaged within the BCBS rules, is fundamentally flawed and we urge the Commission to consider the material detrimental impact this could have to real-economy end-users, for example corporates and pension-funds, within Europe.

In particular, the BCBS/EBA rules are overly penalising due to the following:

- The linkage between Leverage Ratio and NSFR introduces restrictions on netting between derivative assets and liabilities, as well as on collateral recognition, which both are inappropriate for liquidity

³ Communication from the Commission to the European Parliament and the Council from 22 July 2015: Working together for jobs and growth: The role of National Promotional Banks (NPBs) in supporting the Investment Plan for Europe. Download: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52015DC0361&from=EN>.



purpose, and in particular for the one year NSFR time horizon (e.g. daily vs weekly, currency mismatch, security exclusion...).

- Where the LCR recognises cash and Level 1 securities as eligible for netting against derivatives exposure, even in an extreme stress scenario, and other securities are recognised with an appropriate haircut value, the NSFR ignores their value entirely. Liquid securities received as variation margin should be fully eligible for netting within the NSFR; particularly considering this is a business as usual metric.
- The re-hypothecable initial margin received should be allowed to offset IM posted before the 85% RSF factor is applied.
- Paragraph 43(d), also known as the 20% add-on, requires extensive review. The proposal put forward by the Commission in the consultation paper (to use SA-CCR as an alternative measure) would be much more penalising in most banks than the BCBS standard and appropriate time should be given to consider alternative measures. We suggest the Commission considers the use of a Delegated Act on the treatment of derivatives in the NSFR to allow more time.

The current calculation of RSF and ASF with respect to the treatment of derivatives contracts does not meet the objective of being risk sensitive, as it does not measure the future mismatch between assets and liabilities.

BCBS NSFR paragraph 43(b) states that net derivative assets are subject to 100% RSF irrespective the maturity of the underlying contract; such net derivative asset would inter alia include a collateralised derivative asset where non-cash variation margin is received. This treatment is unduly penalising and lacks rationale especially when compared with the objective of NSFR (e.g. to capture maturity mismatch over a one year time horizon). From an NSFR perspective, the exclusion of high quality security variation margin means that a derivative under a CSA agreement with securities collateral is treated equally as derivatives without CSA's, while as a matter of fact, it is actually comparable, if not identical, to a derivative collateralised with cash. The same problem occurs for netting sets collateralised with non-standard features (non-daily margining, currency mismatch).

These treatments are significantly unfair because they fail to appreciate any liquidity contribution provided by the re-use of securities or the swap of currencies. These features should be properly addressed by applying different RSF factors instead of using a binary approach.

Example - Currency forward transaction that matures within 3 months

A bank buys USD from an institutional investor (for example, a pension fund) on a 3 month forward contract. If the USD strengthens, the pension fund, which is "securities rich" and "cash poor" will prefer to deliver securities to the bank. The bank's "net derivative asset" in this example, equals the "gross derivative asset", despite the fact that: 1) The bank has full re-hypothecation right over the securities collateral received and can (and will) generate cash with it, and 2) the derivative assets and liabilities will be "squared out" (e.g. settled) within three months. To avoid these effects we recommend that the NSFR standard is tailored in Europe in the following manner: High Quality Liquid Assets (as defined in the LCR) received as variation margin should offset derivative assets in full, where the bank has re-hypothecation rights over the securities received.

If the NSFR derivatives calculation as envisaged within the BCBS standard, is implemented within Europe, it will severely impede banks ability to act as a counterparty for real-economy clients. A prerequisite for these investors to be able to hedge their risk is the existence of a liquid market for derivative contracts.

This absence of the ability to access currency hedges will be penalising for non-major currencies; especially in combination with a national requirement from the local competent authorities to fulfil the LCR requirement in all significant currencies. Ignoring securities variation margin received within the



standard will, in the future, prompt increased margin from banks and reduce banks willingness to provide liquidity to the market.

Similarly, paragraphs 19 and 34 of the BCBS proposal prohibits netting between derivative assets and derivative liabilities within a netting set if the conditions of the leverage ratio are not met. As a consequence, derivative assets and liabilities within a netting set would be grossed up, and the derivative liabilities subject to paragraph 43(d) are artificially overstated, leading to punitive requirements which will impair provision of derivative market making by European banks. Such conditions are not relevant for liquidity purposes and should be replaced by the conditions imposed for solvency purposes.

4. More specifically, regarding the 20% RSF factor applicable to gross derivatives liabilities, do you think it would be possible and appropriate to develop a more risk-sensitive approach that would take better account of the funding risk arising from banks' derivative activities over a one-year horizon? In that case, what could be this approach? Do you think that the use of the SA-CRR could provide an appropriate measure? If possible, please provide the impact on your institution of the alternative treatment you propose (as compared to the BCBS standards).

Given the asymmetric treatment of derivatives assets/liabilities mismatch (100% RSF if >0, no ASF if <0), any RSF factor applied to derivatives liabilities means a double penalty for this business with unintended consequences for the real economy: the actual NSFR rules on derivatives are already very conservative and do not have to include any additional stable funding requirement.

The 20% RSF add-on for future potential derivatives exposure, measured within the BCBS standard using gross derivative liabilities, is an inadequate and highly inaccurate measure of the potential change in the funding requirements generated by the derivative portfolios.

Indeed, the gross negative exposure of a bank does not indicate anything about the potential for future changes in the market values of the bank's portfolio, or the potential for additional collateral outflows. It could in fact be quite the opposite: the larger the negative value, the smaller the likelihood of a further reduction in market value. Changes in funding requirements are actually based on the total net position across all counterparties, after taking variation margin received and posted into account.

For the purpose of calculating the 20% add on, Gross Derivative Liabilities are defined in paragraph 19 and 43d of the BCBS standard, which states that variation margin posted is not taken into account. As a consequence of this approach, fully hedged derivatives based on identical CSA agreements will result in a high RSF requirement. When prevailing market levels change over time, this position remains without any funding risk because it is fully matched, but requires 20% long term funding under the standard.

For cleared transactions, variation in the mark-to-market position is daily margined and recorded in the institution cash account. It is important to stress that this is not a collateral account but a cash account; hence profit and loss is exchanged and recorded in the accounting at the books closing, as opposed to a margin call covering potential counterparty risk exposure. Any short term loss is already captured within the LCR framework, and loss accumulation is backstopped through the capital framework. We therefore conclude that this risk is not relevant in a structural funding ratio.

For non-cleared collateralized transactions, variation in the mark-to-market position is paid and recorded in a collateral account. In this example, the valuation margin which has been transferred must be returned to the counterparty which is posting margin, once the derivatives positions terminates and is fully settled. These positions are actively monitored and hedged for market risk and counterparty risk purposes, collateralised under the variation margin regime. Any funding need arising from these transactions would arise from the difference between net derivatives liabilities (after variation margin posted) and net derivatives assets (after variation margin received).



To summarise, the weaknesses of 20% RSF add-on as envisaged within the BCBS framework are the following:

- It is an extremely crude measure which does not represent the true risk of potential future collateral outflows against derivatives contracts.
- It is calculated using the gross derivatives liability position, without taking into account variation margin posted, which leads to an overestimation of funding risk.
- It penalises longer dated contracts with general and accounting exposures, compared to new, or shorter-dated contracts that typically have a value of zero.

The EBF has continually challenged how this add-on relates to the objectives of the NSFR and proposes that this requirement is removed entirely from the standard. It seems unwarranted and will create an unnecessary drag on derivatives/gross balances. We discuss below the merits of the following alternative approaches:

Floor based-approach

If the 20% add on is not removed, a floor based-approach would be more suitable than the proposed additive requirement.

Indeed, the full asymmetry which applies to the net derivative (100% RSF if an asset, 0% ASF if a liability) is already the most conservative assessment possible. Indeed, in most cases, where a collateralised derivative asset is hedged with a collateralised derivative liability, actual liquidity risk is zero: in most instances, the proposed treatment will lead to requirements well above the actual liquidity risk. Similarly, applying a 85% RSF to initial margin is a conservative assessment of the horizon of this asset; in addition, IM is also here to protect market participants against future movements in the value of derivatives, and hence movement of collateral.

For these reasons, we believe that the add-on should be a floor applied against the net derivative asset (pursuant to paragraph 43(b) plus the initial margin (pursuant to paragraph 42(a)). The 20% add-on would lead to an additional RSF requirement only in instances where these two components would be limited.

However, in such a case the RSF factor, could be more fit-for-purpose than the 20% RSF. The main strengths of such an approach would be: (i) it is very simple to calculate and (ii) it will not be too penalising for the derivative business (subject to the condition that the RSF is appropriately calibrated). It should though be taken into consideration that such a floor based approach lacks risk sensitivity. For example it would not be sensitive to the volatility of the underlying exposures and neither would it be sensitive to the remaining durations of the positions (which very well might be less than one year). Anyway, the RSF factor used to calculate the floor needs to be appropriately calibrated, and we question the reasons and background for the choice of the 20% level for this RSF

Historical Look Back Approach

If the Commission were to maintain some add-on for potential derivative market movements, a less damaging alternative would be to develop an Historical Look Back Approach (HLBA of LCR stress), similar to the one used in the LCR framework . In that respect the EBF is open to discuss further with the Commission how to develop such an approach.

The Historical-Look-Back-Approach (HLBA) used in the LCR framework has the advantage of taking into account the individual risk sensitivity on the bank's portfolio. However, the LCR HLBA outflow is a stressed outflow for a one month horizon, defined as the largest absolute collateral flow observed on 30 consecutive days.

This would have the following benefits:

1. The HLBA precisely measures the collateral funding risk that the bank may incur in case of market movements



2. It is grounded in empirical evidence and would capture the derivatives portfolio historical volatility and sensitivity
3. It is an existing metric requiring no additional developments for banks

Admittedly the HLBA is a stressed metric while the NSFR is a structural, business as usual, ratio. Therefore, it should not be weighed at 100%, and we propose to keep the 20% weight. With this, each bank would maintain at all times the following resources to cover an increase in collateral funding requirements:

- 100% of its stressed 30-day requirement in liquid assets
- 20% of additional stable funding based on the same amount

We reckon that other manners of relying on historical movements of collateral could be envisaged (e.g. average absolute 1 year net collateral flow observed to be consistent with the 1 year time horizon of NSFR), and we would be happy to discuss them.

SA-CCR Approach

SA-CCR is a measure of potential market value changes for individual counterparties and thus is only based upon a single netting set between the bank and that counterparty. Thus, an SA-CCR approach will not take into account the important netting diversification effect of funding requirement across all counterparties. In this context, the current SA CCR is viewed to significantly overestimate the risk of changes in funding requirements and it will not act as a good measure of the risk of changes in the funding requirements for the reasons we outline below.

We understand that the 20% charge on gross derivative liabilities with modified SA-CCR based metric is considered since, as SA-CCR is based on market risk sensitivity and it has the correct view towards capturing the mark-to-market movements of the portfolio.

However, the use and refocus of the SA-CRR from credit to funding requirements demands a careful consideration regarding netting: when applying SA-CCR to counterparty credit risk, there is naturally no netting across counterparties, but when applied to funding netting should be allowed across counterparties. For instance, a balanced portfolio of long positions towards clients with cash CSA and short positions towards other clients with cash CSA would result in a SA-CCR capital charge, but should not result in a NSFR funding requirement⁴. The SA-CCR would therefore have to be modified to consider all netting agreements as one single netting agreement, and would have to take into account the netting effect of posted/received collateral.

Moreover, it is based on an extreme scenario (it measures an unexpected scenario at a high quantile), whereas NSFR is to be computed on an on-going basis (an expected scenario).

It should be however noted that this proposal would not reduce the computational burden and inconsistency. As a consequence, we do not consider that the use of the SA-CCR would be a good alternative solution to the current BCBS 20% RSF factor applicable to gross derivative liabilities.

More generally, we suggest the Commission considers the use of a Delegated Act to develop the most appropriate treatment of derivatives in the NSFR to allow more time to assess the most appropriate solution.

5. If you propose special treatment for specific activities (e.g. hedging instruments, clients clearing...), how would you define these activities?

Short-term hedges of derivatives

Activities where a financial institution in its trading book buys listed cash equities as a hedge for market risk exposure via derivatives and where the maturity of the derivative is short term should attract an

⁴ For instance, where the bank enters into an interest rate swap with an insurers and perfectly hedges it with another counterparty, each trade will require PFE under the SA-CCR, while in any circumstance, collateral variations on one trade will be perfectly offset by the collateral variations of the other trade: such a position should lead to no additional requirement at all.



NSFR treatment commensurate with the holding horizon of the security. Indeed, settlement of the derivative will take place simultaneously with the sale of the cash equity position. Currently, the RSF would be 85% for a financial equity held in this hedge despite no need for term funding. More precisely, we suggest that provided the bank can demonstrate the hedging relationship between the equities and the derivative, the RSF weights of 50% and 85% be multiplied by respectively 100%, 50% or 10% or 15% if the maturity is above one year, between six months and one year, or below six months.

Adequately hedged back-to-back derivatives

Derivatives that are adequately secured back-to-back should be exempted from the NSFR calculations. We recommend that in the specific case of certain activities where derivatives transactions and the related collateral agreements are perfectly symmetrical, and hence the risk sensitivity is zero, the RSF should be 0% and the security held on balance sheet for the purpose of hedging the transaction should be exempted from the 20% RSF on derivative liabilities.

All derivatives held for hedging purposes should not be subject to additional RSF. These activities can be easily identified where the bank has adopted a micro hedging framework.

Clearing

Conditions regarding individual and maturity criteria should be released on a case by case basis to take into account operational practices. For instance, such businesses encompass clearing, transactions with asset segregation accounted in the institution's balance sheet, derivatives with initial margin funding physical security hedge, sponsored deposit with legal mandatory cash pooling within a given state owned financial institution. As far as the institutions do not benefit of any additional funding capacity, matched asset and liabilities should be eligible for special treatment providing it fulfills counterparty and pass-through conditions.

Exceptional Central Bank Liquidity Operations

The actual Basel III NSFR gives a 100% RSF factor to all types of collateral pledged in a transaction with a maturity longer than one year, but gives the possibility to supervisors to agree a lower RSF factor with the relevant central bank for assets that are encumbered for exceptional CB liquidity operations. Regarding the assets encumbered for central bank liquidity operations, we propose to include a preferential treatment in order to avoid the NSFR declining as a result of encumbering assets in long-term operations (TLTROs), as this could deter banks from participating in these operations, especially, when using HQLA as collateral. As preferential treatment is intended the same RSF factor should apply as for a similar asset that is unencumbered.

Call options and loans with early maturity

Current Regulatory liquidity framework, in paragraph 18 states that "when determining the maturity of an equity or liability instrument, investors are assumed to redeem a call option at the earliest possible date. [...]". We observe that this treatment does not distinguish the specificities of the so-called "auto-callable" instruments, for which the exercise dates of call/put options is not related to the behavioural choices of issuers/underwriters, but rather to changes in market parameters to which the performance of the option's underlying is bound. When determining the maturity of these instruments we deem appropriate to consider (even subject to the National Central Authority approval) the expected maturity expressed by market valuations, given that neither the investor nor the issuer have the possibility to influence the life of the product.

Furthermore, in order to apply a symmetrical treatment as provided for the liabilities, in the case the bank most likely is going to exercise an option of early maturity on own loans, we propose to allocate these loans to the appropriate RSF based on the first option date instead of the final contractual maturity.



Short term transactions with financial institutions

6. In light of previous consultations, could you provide substantiated evidence about possible issues caused by the application of the BCBS NSFR standard to short term transactions with financial institutions at European level and which have not been taken into account at Basel level? If yes, what alternative treatment would you propose for NSFR calculation purposes to deal with the funding needs arising from short-term transactions with financial institutions? If possible, please provide the impact on your institution of the alternative treatment you propose (as compared to the BCBS standards).

The asymmetric NSFR treatment of short term transactions between financial institutions (repo, loans, deposit) will impede market liquidity for high quality securities. In particular, we wish to flag the following inconsistencies:

- Unsecured loans and loans secured by non Level 1 assets between institutions receive 15% RSF while deposits from institutions are not recognised as a funding source (0% ASF) when shorter than 6 months maturity.
- Treatment of repos/loans is asymmetric, e.g. a short term (<6 months) securities finance transaction would receive 0% ASF, on the received cash (from financial Institutions), while at the same time a related reversed securities finance transaction would be subject to a 10-15% RSF (to financial Institutions).
- With respect to reverse repos with level 1 collateral (10% RSF) there appears to be an inconsistency with the LCR, which assumes that a firm will always be able to repo a Level 1 asset, even in a stressed market. Consequently it is not clear why stable funding should therefore be held against a reverse repo of a Level 1 security (or at least, why an onwards repo of that security to another financial institution is not treated equivalently).

With respect to the last point, we are highly concerned that the application of the asymmetrical treatment for repo and reverse repo will impede market liquidity; in direct contradiction with the requirement of the LCR which states that high quality liquid assets must have an active and sizable repo market.

In addition, the asymmetry will be detrimental for the market making of government bonds. Indeed they represent roughly 80% of the underlying assets for repos and reverse repos: reduced liquidity through repo markets will lead to reduced liquidity in the cash bond market. In turn, primary issuances, and primarily government bond primary dealership will be in the same time more challenging (reduced liquidity and attractiveness for investors) and less straightforward for banks (impossible to sustain primary dealership with active and efficient repo market making).

Concerning interbank operations, in general, if a bank receives funding from another bank with a maturity of less than 6 months, the ASF factor is 0%; which makes sense as this type of funding should not be considered as stable. However, if a bank provides funding to another bank, with a maturity of less than 6 months, the RSF factor is 10-15%, which does not make sense as it does not reflect a symmetrical treatment. If we consider these examples with maturities of 1 or 7 days, this treatment is even more irrational, as it represents a requirement of 10-15% stable funding for a bank's treasury management operations, which discourages the intermediary liquidity function between market participants with excess and deficits of liquidity which in turn, supports market liquidity. This asymmetrical treatment will lead to the application of excess funds in the ECB, which, in our opinion, is not desirable for anyone.

The current prudential treatment is in our opinion severe and extreme and could inhibit the normal functioning of the short-term market and will turn the treasury management of banks into a very expensive function, leading to the concentration of funds at the ECB.

Our preferred solution is therefore that all short term assets, be they secured or not, have 0% RSF and are thus treated perfectly symmetrically to similar liabilities. The main justification is that not rolling



such an asset with a financial entity does not entail the same consequences as not rolling a loan to a non-financial entity. First, for secured transactions, upon unwind of the trade, the counterparty recovers the underlying security, and can easily refinance it; the situation is totally different from an unsecured loan, where flows at maturity are one-way, from the client to the bank. Second, in most instances, financial counterparties are active market participants in the concerned secured or unsecured markets, and would easily withstand one bank not rolling an asset.

Should policy makers be reluctant to ensure full symmetry, we would suggest that both repo / reverse repo and unsecured loans / borrowings with regulated financial counterparties (as defined within the LCR) should be exempted from the 10-15% RSF requirement. In such a case, only transactions with entities which are not regulated from a solvency or liquidity perspective, such as hedge funds or SPVs, would be subject to the 10% or 15% asymmetry.

We highly recommend the introduction of the ability to net the short-term repo matched book (i.e. reverse repo < 6 months offset by a repo < 6 months) which otherwise would require long term funding for no reason.

Money Market funding

Concerning the difference of treatment of Interbank loans <6M vs certificates of deposits (CDs or commercial papers), a solution can be to align the RSF of CP/CD issued by financial institutions to the RSF of loans to financial institutions = 0% for maturities <6M.

Securities lending versus payment of fee

A special focus is kindly requested for securities lending by which you get securities versus a payment of fee. Since the securities lending produces securities availability only off-balance sheet, unlike repos, it has to be clarified whether a combination of ON or open securities lending with repos longer than 6M produces ASF or not. In this case repo generates a theoretical encumbrance that does not find any asset on-balance sheet, because bonds received by securities lending are recorded off-balance sheet.

CCP clearing

More specifically, it would be advisable to reduce the RSF factors applied on reverse repos cleared through CCPs even if they are funded on a shorter bucket (6M-12M vs 0-6M). In this case the roll-over risk is lowered by the IM required by the CCP, which is likely to guarantee enough liquidity to the market under stressed conditions. Within the current framework only corporates and the shadow banking, e.g. non-regulated entities, will be able to provide funding over longer maturities: the irony of NSFR is that it will make banks less reliant on the relatively stable and predictable funding provided by financial institutions through reverse repos, and more dependent on more volatile non-financial funding flows on longer maturities.

7. If you propose special treatment for specific activities (e.g. client's short facilitations activities, prime brokerage businesses...), how would you define these activities?

Client short facilitation

The treatment of client short facilitation, which is an important function contributing to market liquidity should be reviewed. In line with our response to question six, when a client holds a short position, the funding the bank receives from the client receives a 0% ASF. However, when the bank reverses in the security sold short, to cover the client's short position, the bank must hold 10-15% RSF against this. This is extremely penalising for these transactions and does not take into account the short dated nature of client short coverage. In line with our suggestion above, we believe that reverse repo with regulated financial entities should be exempt from the RSF requirement.



Application of the proportionality principle

8. What do you believe the appropriate level of application of the NSFR to be? Is there scope to make the NSFR requirements more proportionate and, if so, on the basis of what criteria?

Scope of application

European standard setters should be mindful that the BCBS designed and calibrated the NSFR to be applied at the consolidated level of large cross border banking groups. We make reference to the EBF paper on the EBA NSFR report which discusses why NSFR should be on a consolidated level only.

While the application of the NSFR at the consolidated level is generally preferred as the default the NSFR should also be able to reflect the way each group manages its liquidity. As such, the NSFR should be fulfilled on a consolidated or individual basis, accordingly with each banking group liquidity structure and existing derogations/waivers. What should not be prescribed is a “double” requirement on both individual and consolidated perimeters. Should the NSFR be required on an individual sub group basis, we consider that there is room to make the NSFR requirements more fit for purpose through the application of intragroup preferential treatments. These adjustments should be automatically granted by law, and should not be subject to any competent authority’s authorisation. Indeed, the process and requirements to obtain cross-border waivers under Article 8 of CRR, or exemption of the cap of intragroup inflows under Article 33 of LCR Delegated act is very burdensome. At least for intragroup transactions within Banking Union area, a symmetrical treatment should be introduced in the level 1 text, whereby ASF for the borrowing entity would be equal to the RSF for the providing entity.

Proportionality

With regard to proportionality, policy makers should carefully balance this objective with the need for a level playing field within the EU. It needs to be ensured that banks adequately measure and manage their funding liquidity risk in a similar manner while maintaining a sustainable level of compliance that does not overburden banks. The EBF recommends that the Commission explores ways to calibrate operational requirements such as the frequency of calculations and disclosure relative to the size, complexity and risk of banks (i.e. annually, quarterly etc.).

9. In particular, what criteria could be used to define institutions with a “low liquidity risk profile”? What simplified metrics (e.g. core funding ratio close to loans to deposits + capital) could be used to identify these institutions? Should certain institutions be completely exempted from the NSFR and on what basis?

See comment above.

