

Madrid, 30 December 2014

## RESPONSE TO EBA CONSULTATION ON PAYMENT COMMITMENTS UNDER DIRECTIVE 2014/49/EU ON DEPOSIT GUARANTEE SCHEMES (CP/2014/27)

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The *Asociación Española de Banca* (AEB) welcomes the opportunity to express the views of its members banks on the EBA consultation paper on draft guidelines on payment commitments under Directive 2014/49/EU on deposit guarantee schemes. AEB, being a member of the European Banking Federation and having contributed to the preparation of EBF's response, fully shares and supports its approach and contents. However, we would like to highlight some issues that are particularly relevant to the Spanish banks we represent:

- Level playing field

We consider that the treatment of all payment commitments, in all jurisdictions and whatever it is used for (Resolution fund or Deposit Guarantee fund), should be consistent in accounting and prudential terms, but different to that of cash payments.

- Prudential and Accounting Treatment of Payment Commitments

The prudential requirements for payment commitments, as for all capital requirements, start with the accounting. The requirement that the commitment must be paid 'upon simple and unconditional request of the DGS' will result, under our reading of IFRS, in the recognition of a liability and an expense to P&L under IFRS. As a result there will be an immediate negative impact on CET1.

While this appears to be consistent with the treatment of cash funded payments and therefore meets the neutrality of choice objective in paragraph 30, it will not serve the purpose of aiding the transition to the new DGSD regime. Moreover, an encumbered asset will also be recorded as payment commitments have to be collateralized. The collateral provided could give rise to additional capital requirements in the case of payment commitments in comparison with cash contributions..

- Potential for Competitive Distortion

The method of payment through "Payment commitments" is allowed, up to certain limits, by both the Directive of the Deposit-Guarantee Schemes as by the Regulation (EU) no 806/2014 (Regulation of the Single Resolution Mechanism). Nevertheless, only the

Directive authorizes the EBA to establish the guidelines for defining these payment commitments.

This would likely evolve into the highly undesirable scenario in which there would co-exist two types of "Payment commitments" in Europe:

- Payment commitments with impact on the profit and loss account: Attending to the definition given by the EBA for the entire EU and only usable for contributions to the Deposit Guarantee Scheme (DGS).
- Payment commitments without impact on the profit and losses account: discreetly defined by each Member State and used for contributions to the Resolution Fund (RF). It can be reasonably expected that the member States will take care to not impact in the profit and losses accounts of their banks.

This situation should be avoided.

While we again reiterate our preference for payment commitments without impact on the profit and loss account, we would like to note the potential distortion of competition that would benefit, very significantly, those countries with predominance of wholesale-market-funded banks and that, therefore, have to pay more contributions to the RF than to the DGS, compared to other countries with predominance of deposit-funded banks and, therefore, with more obligations with the DGS than with the RF.

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