Federation of European Accountants
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Alert

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Country by Country Reporting
FEE receives clarification on article 89 of the Capital Requirements Directive (CRD IV)

From 1 January 2015 on Article 89 of the CRD IV requires credit institutions to report information on a country by country basis. In April 2014, FEE submitted questions on Country-by-Country reporting to the European Banking Authority (EBA**)** via its Single Rule Book Q&A tool**.** Hereby we want to alert you to the answers provided by EBA, as advised by the European Commission (Commission) when needed. FEE's questions and the summarised responses are included below.

For more information please consult FEE's letter to the EBA (February 2014) and to the European Commission (September 2014) on the usefulness of Country by Country reporting under CRD IV and the interaction with IFRS.

Questions from FEE and Answers from EBA/Commission

Question from FEE

Definitions of reportable items[1]

The disclosure requirements use terms which need to be defined to ensure consistency of disclosures provided by institutions and audited by their auditors. In this context we seek clarification concerning tax as referred to in Article 89(1)(d) and (e) of Directive 2013/36/EU (CRD IV). Does it contain only current tax expense or also deferred tax? If deferred tax is included, does it comprise only the profit or loss element, or also changes in deferred tax recognised in other comprehensive income? Alternatively, should it include only the tax cash-flows made in the relevant period?

Response from EBA/Commission

Based on Article 89(1)(d) and (e) and recital 52 the Commission believes that:

- Tax information should be reported separately on a cash basis (taxes paid) and on an accrued basis (taxes accounted for)
- Accrued taxes should include current tax expense and not deferred taxes or provisions for uncertain tax liabilities
- Differences between the financial statements and reporting under CRD4 should be explained
- Entities must continue to comply with national legislation. The answer only provides advice on the best way to achieve this.

Question from FEE

Location of disclosures and audit consequences[2]

Should or could the country-by-country reporting requirements be included in the notes to the financial statements, which represent an inherent part of these statements, or does the requirement ask to design a new separate annex to the financial statements?

[1] Question 2014_1043
[2] Question 2014_1044

Response from EBA/Commission

Where possible the information should be published in an annex to the financial statements.
However, it is possible for institutions to include the disclosures in the notes to the financial statements. In particular, this may be helpful as they will then be included in the statutory audit.
Where disclosure in the notes is not practicable a separate report should be produced and should be audited

Question from FEE

Country of transaction, scope of disclosures and intragroup transactions[3]

It is expected that transactions will be attributed to the country of the unit of the group that is party to the transaction. How should Intragroup crossborder transactions and consolidation adjustments be treated? How should the impact of associates and joint ventures on the reported figures be dealt with?

Response from EBA/Commission

In accordance with recital 52 and article 89, best practice would be to disclose country by country reporting before adjustments for intra-group cross-border transactions and other consolidated adjustments
Information on associates and joint ventures should be included in the disclosure of country-by-country reporting to the extent that they are included in the consolidation.
Further information on the background to this question can be found in Q&A 1248 - Definition of 'establishment'

Question from FEE

Definition of 'establishment' for the purposes of Country-by-Country reporting – scope of consolidation[4]

What would be considered an 'establishment' for the purposes of country-by-country reporting in Article 89(1) of Directive 2013/36/EU (CRD)? For the purposes of consolidation, should the prudential or the accounting scope of consolidation be applied?

Response from EBA/Commission

In line with the principle of enhancing transparency, the term 'establishment' should be read as referring to subsidiaries, branches and other relevant entities through which an institution has a physical presence in a particular country.
Entities must comply with at least the definition of consolidation included in the Directive and also any more detailed national requirements.
The extent of consolidation should be clearly explained including any differences with the financial statements.

Question from FEE

What is 'turnover' for the purposes of Country-by-Country reporting?[5][6]

Could the EBA clarify what would be considered 'turnover' for the purposes of country-by-country reporting in Article 89(1) of Directive 2013/36/EU (CRD)?

Response from EBA/Commission

The definition of turnover should be consistent with the institution's audited financial statements. For example, for credit institutions, total net banking income would seem the most appropriate definition, i.e. total net income

[3] Question 2014_1045
[4] Question 2014_1248
[5] Question 2014_1249
[6] FEE suggested that the definition of turnover should be aligned to Gross income as defined in Article 650 of the Basel II Framework in the basic indicator approach for Operational Risk, which is as follows:

> "650. Gross income is defined as net interest income plus net non-interest income.It is intended that this measure should: (i) be gross of any provisions (e.g. for unpaid interest); (ii) be gross of operating expenses, including fees paid to outsourcing service providers; (iii) exclude realised profits/losses from the sale of securities in the banking book; and (iv) exclude extraordinary or irregular items as well as income derived from insurance"

before impairment and operating expenses, but including net interest income, net fees and commissions income, net trading income, and other operating income.
Institutions should clarify in their disclosure precisely which definition of turnover has been used, and explain any differences with its annual financial statements.

Question from FEE

First time application of country-by-country reporting[7]

How should the provisions of Article 89 of Directive 2013/36/EU (CRD), and in particular paragraphs (1) and (2) be applied. In addition, what are the implications for institutions whose financial year is not aligned with the calendar year? How do the provisions in paragraphs (1) and (2) interact with the requirement in paragraph (4) according to which the published information shall be audited in accordance with Directive 2006/43/EC.

Response from EBA/Commission

It is expected that for initial application institutions with a financial year ending shortly before the first disclosure shall use as reference year the last financial year ending before 1 July 2014.
If this would not ensure a high enough degree of accuracy an early year can be used. It must be ensured that there are no gaps in future reports and the current year is included in future reporting.
Member States should ensure that from 1 January 2015 onwards, institutions make annual and audited disclosures of the information referred to in Article 89(1) (a) to (f).

About FEE

FEE (Fédération des Experts-comptables Européens – Federation of European Accountants) is an international non-profit organisation based in Brussels that represents 47 institutes of professional accountants and auditors from 36 European countries, including all of the 28 EU member states.
FEE has a combined membership of more than 800.000 professional accountants, working in different capacities in public practice, small and large accountancy firms, businesses of all sizes, government and education – all of whom contribute to a more efficient, transparent and sustainable European economy.

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[7] Question 2014_1250