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Our ref: WJID/JP/RG/SJJ

Dear Sir

Capital Requirements Directive 4: consultation on country-by-country reporting

We write in connection with a matter which has come to our attention since the close of your consultation into the transposition of CRD4 into UK law. It concerns the definition of "consolidated" within CRD IV Article 89.

CRD4 states at Article 89: "From 1 January 2015 Member States shall require **each institution** to disclose annually, specifying, **by Member State and by third country in which it has an establishment**, the following information on a **consolidated basis** for the financial year…" [our emphasis].

The consultation document proposes, at paragraphs 3.5 and 3.6: "This approach [IFRS accounting consolidation] would require disclosure to be made at the holding company level based on the IFRS accounting definition of a 'group'". This would imply that CBCR on an accounting consolidated basis could apply to groups which contain "institutions", but yet are not banking or investment firm groups. As written, CBCR consolidated groups would include both financial groups, which would incorporate banking groups even if part of that group's activities are not banking (e.g. the life assurance entities within a consolidated banking group) and non-financial groups that contain an institution.

Article 89 places the disclosure obligation on institutions (holding companies are not considered institutions), but requires CBCR information to be disclosed on a consolidated basis.

Including holding companies would allow institutions to use their existing systems to disclose on a consolidated basis as well as being more conducive to the aims of the policy. Furthermore, as mentioned above, if the top parent company (e.g. a holding company) in the EU is publishing information "on a

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consolidated basis" for its UK establishments, those UK establishments would only need to explain where the information published by the parent company can be found and would not be required to make their own duplicate disclosure. This approach would also be consistent with the information being disclosed in the consolidated financial statements as these show the parent and subsidiary as one reporting entity.

We welcome the intent of this proposal from HM Treasury – to avoid unnecessary duplication of country-by-country-reporting (CBCR) at the level of each entity. We also note that our discussions with banking groups did not highlight any significant concerns with the HMT proposal, perhaps because banking groups expect that many of their legal entities are covered, and therefore the HMT proposal is expected to give rise to administrative simplification for them.

However, concerns have been expressed by groups whose regulated activities make up just a small proportion of their overall activities. We consider that if, say, a supermarket group also offers banking services (such that it has a very small number of 'CRD4 institutions' within its group, and perhaps just one), users of CBCR would expect that only the activities of the supermarket CRD IV institution(s) and regulated group(s) would be disclosed on a consolidated basis at the parent company level. However, we have not identified anything in the consultation document that proposes to limit the disclosures to CRD4 institutions. As proposed, it seems to us that ***all*** of the supermarket group's activities would need to be included within its consolidated CBCR – which seems to be beyond the scope of CDR4 and its aims, at risk of significant additional administration and indeed confusion.

That said, we can also see that for groups whose activities are predominantly financial it may make more sense to CBCR all of their activities on a consolidated basis.

One solution might be look to the definition of a "financial group" within the Financial Conglomerates Directive (FCD). The FCD group is considered to be financial only if at least 40% of its business is "financial sector". The definition of financial sector includes credit institutions, investment firms subject to CRD IV, insurance undertakings, re-insurance undertakings and holding companies and "financial institutions" as defined (unregulated firms carrying on defined financial activities).

Following this definition, it may be possible to restrict the application of CBCR for groups below the 40% threshold to report CBCR only in respect of their financial subsidiaries and financial "participations" (i.e. for a wider class of entities than just CRD4 'institutions', but all within what might be expected of a financial group). Groups above the 40% threshold would report in respect of the entire (accounting consolidation) group.

We should be grateful if you would bear this point in mind at the next stages of the consultation.

Yours faithfully

Bill Dodwell
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