

## Reduzierung der Regulierungslast auf europäischer Ebene

### Hier: Grenzüberschreitende Eigenkapital- und Liquiditätswaiver

Problem:

Es ist immer noch nicht möglich, dass Kapital und Liquidität in Europa innerhalb einer Bankengruppe frei bewegbar sind. Die vorhandenen Waiver in der CRR sind nur auf inländische Institute anwendbar. Dies erschwert das zentrale Management von Kapital und Liquidität sowie grenzüberschreitende Fusionen. Konkret würde das in der Praxis etwa bedeuten, dass Bankengruppen Kennzahlen auf Gruppenebene steuern können und keine Steuerung und Meldung auf Einzelinstitutsebene mehr erforderlich ist.

Forderung:

Der einfachste Weg wäre, Artikel 6 Absatz 1 CRR dahingehend zu ändern, dass Institute nur noch verpflichtet wären, Kapital- und Liquiditätsanforderungen auf der höchsten konsolidierten Ebene anzuwenden. Dies würde im Einklang mit den Basler Standards sein. Andernfalls sollten die Artikel 7 und 8 CRR wie folgt angepasst werden:

#### Capital waiver

CRR	BdB-Amendment
Article 7	Article 7
Derogation from the application of prudential requirements on an individual basis	Derogation from the application of prudential requirements on an individual basis
1. Competent authorities may waive the application of Article 6(1) to any subsidiary of an institution, where both the subsidiary and the institution are subject to authorisation and supervision by the Member State concerned, and the subsidiary is included in the supervision on a consolidated basis of the institution which is the parent undertaking, and all of the following conditions are satisfied, in order to ensure that own funds are distributed adequately	1. Competent authorities <del>may</del> <b>should</b> waive the application of Article 6(1) to any subsidiary <del>of an institution, where both the subsidiary and the institution are subject to authorisation and supervision by the Member State concerned, and the subsidiary is included in the supervision on a consolidated basis of the institution which is the parent undertaking,</del> <b>where both the subsidiary and the parent undertaking have their head office situated in the same Member</b>

<p>between the parent undertaking and the subsidiary:</p> <p>(a) there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities by its parent undertaking;</p> <p>(b) either the parent undertaking satisfies the competent authority regarding the prudent management of the subsidiary and has declared, with the permission of the competent authority, that it guarantees the commitments entered into by the subsidiary, or the risks in the subsidiary are of negligible interest;</p> <p>(c) the risk evaluation, measurement and control procedures of the parent undertaking cover the subsidiary;</p> <p>(d) the parent undertaking holds more than 50 % of the voting rights attached to shares in the capital of the subsidiary or has the right to appoint or remove a majority of the members of the management body of the subsidiary.</p>	<p><b>State and the subsidiary is included in the supervision on a consolidated basis of the parent undertaking, which is an institution, a financial holding company or a mixed financial holding company,</b> and all of the following conditions are satisfied, in order to ensure that own funds are distributed adequately between the parent undertaking and the subsidiary:</p> <p>(a) there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities by <del>its</del> <b>the parent undertaking to the subsidiary;</b></p> <p>(b) either the parent undertaking satisfies the competent authority regarding the prudent management of the subsidiary and has declared, with the permission of the competent authority, that it guarantees the commitments entered into by the subsidiary, or the risks in the subsidiary are of negligible interest;</p> <p>(c) the risk evaluation, measurement and control procedures of the parent undertaking cover the subsidiary;</p> <p>(d) the parent undertaking holds more than 50 % of the voting rights attached to shares in the capital of the subsidiary or has the right to appoint or remove a majority of the members of the management body of the subsidiary.</p>
<p>2. Competent authorities may exercise the option provided for in paragraph 1 where the parent undertaking is a financial holding company or a mixed financial holding company set up in the same Member State as the institution, provided that it is subject</p>	<p><b>2. After having consulted the consolidating supervisor, the competent authority should waive the application of Article 6(1) to a subsidiary having the head office situated in a different Member State than the head office of its</b></p>

<p>to the same supervision as that exercised over institutions, and in particular to the standards laid down in Article 11(1).</p>	<p><b>parent undertaking and included in the supervision on a consolidated basis of that parent undertaking, which is an institution, a financial holding company or a mixed financial holding company, provided that all the conditions laid down in points (a) to (d) of paragraph 1 are satisfied.</b></p> <p><del>Competent authorities may exercise the option provided for in paragraph 1 where the parent undertaking is a financial holding company or a mixed financial holding company set up in the same Member State as the institution, provided that it is subject to the same supervision as that exercised over institutions, and in particular to the standards laid down in Article 11(1).</del></p>
<p>3. Competent authorities may waive the application of Article 6(1) to a parent institution in a Member State where that institution is subject to authorisation and supervision by the Member State concerned, and it is included in the supervision on a consolidated basis, and all the following conditions are satisfied, in order to ensure that own funds are distributed adequately among the parent undertaking and the subsidiaries:</p> <p>(a) there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities to the parent institution in a Member State;</p> <p>(b) the risk evaluation, measurement and control procedures relevant for consolidated supervision cover the parent institution in a Member State.</p>	<p>3. Competent authorities may waive the application of Article 6(1) to a parent institution in a Member State where that institution is subject to authorisation and supervision by the Member State concerned, and it is included in the supervision on a consolidated basis, and all the following conditions are satisfied, in order to ensure that own funds are distributed adequately among the parent undertaking and the subsidiaries:</p> <p>(a) there is no current or foreseen material practical or legal impediment to the prompt transfer of own funds or repayment of liabilities to the parent institution in a Member State;</p> <p>(b) the risk evaluation, measurement and control procedures relevant for consolidated supervision cover the parent institution in a Member State.</p>

The competent authority which makes use of this paragraph shall inform the competent authorities of all other Member States.	The competent authority which makes use of this paragraph shall inform the competent authorities of all other Member States.
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**Liquidity waiver**

CRR II	BdB-Amendment
Article 8	Article 8
Derogation from the application of liquidity requirements on an individual basis	Derogation from the application of liquidity requirements on an individual basis
<p>1. The competent authorities may waive in full or in part the application of Part Six to an institution and to all or some of its subsidiaries in the Union and supervise them as a single liquidity sub-group so long as they fulfil all of the following conditions:</p> <p>(a) the parent institution on a consolidated basis or a subsidiary institution on a sub-consolidated basis complies with the obligations laid down in Part Six;</p> <p>(b) the parent institution on a consolidated basis or the subsidiary institution on a sub-consolidated basis monitors and has oversight at all times over the liquidity positions, and the funding positions where the NSFR set out in title IV of part Six is waived, of all institutions within the group or sub-group, that are subject to the waiver and ensures a sufficient level of liquidity, and of stable funding where the NSFR set out in title IV of part Six is waived, for all of these institutions;</p> <p>(c) the institutions have entered into contracts that, to the satisfaction of the</p>	<p>1. The competent authorities <del>may</del> <b>should</b> waive in full or in part the application of Part Six to an institution and to all or some of its subsidiaries <del>in the Union</del> <b>having their head offices situated in the same Member State as the institution's head office</b> and supervise them as a single liquidity sub-group, <b>where</b> <del>so long as they fulfil</del> all of the following conditions <b>are satisfied</b>:</p> <p>(a) the parent institution on a consolidated basis or a subsidiary <del>institution</del> on a sub-consolidated basis complies with <del>the obligations laid down in</del> Part Six;</p> <p>(b) the parent institution on a consolidated basis or the subsidiary institution on a sub-consolidated basis monitors <del>and has oversight</del> at all times <del>over</del> the liquidity positions, and the funding positions where the NSFR set out in title IV of part Six is waived, of all institutions within the group or sub-group, that are subject to the waiver and ensures a sufficient level of liquidity, and of stable funding where the NSFR set out in title IV of part Six is waived, for all of these institutions;</p> <p>(c) the institutions have entered into contracts that, to the satisfaction of the</p>

<p>competent authorities, provide for the free movement of funds between them to enable them to meet their individual and joint obligations as they become due;</p> <p>(d) there is no current or foreseen material practical or legal impediment to the fulfilment of the contracts referred to in (c).</p> <p>By 1 January 2014, the Commission shall report to the European Parliament and the Council on any legal obstacles which are capable of rendering impossible the application of point (c) of the first subparagraph and is invited to make a legislative proposal, if appropriate, by 31 December 2015, on which of those obstacles should be removed.</p>	<p>competent authorities, provide for the free movement of funds between them to enable them to meet their individual and joint obligations as they become due;</p> <p>(d) there is no current or foreseen material practical or legal impediment to the fulfilment of the contracts referred to in (c).</p> <p><del>By 1 January 2014, the Commission shall report to the European Parliament and the Council on any legal obstacles which are capable of rendering impossible the application of point (c) of the first subparagraph and is invited to make a legislative proposal, if appropriate, by 31 December 2015, on which of those obstacles should be removed.</del></p>
<p>2. The competent authorities may waive in full or in part the application of Part Six to an institution and to all or some of its subsidiaries where all institutions of the single liquidity sub-group are authorised in the same Member State and provided that the conditions in paragraph 1 are fulfilled.</p>	<p>2. The competent authorities <del>may</del> <b>should</b> waive in full or in part the application of Part Six to an institution and to all or some of its subsidiaries <b>having their head offices situated in different Member States than the institution's head office and supervise them as a single liquidity sub-group, after following the procedure laid down in Article 21 and only to the institutions whose competent authorities agree about the following elements:</b> <del>where all institutions of the single liquidity sub-group are authorised in the same Member State and provided that the conditions in paragraph 1 are fulfilled.</del></p> <p><b>(a) their assessment of the compliance with the conditions referred to in paragraph 1;</b></p> <p><b>(b) their assessment of the compliance of the organisation and treatment of liquidity risk with the criteria set out in Article 86 of Directive 2013/36/EU across the single liquidity sub-group;</b></p>

	<p><b>(c) the distribution of amounts, location and ownership of the required liquid assets to be held within the single liquidity sub-group;</b></p> <p><b>(d) the determination of minimum amounts of liquid assets to be held by institutions for which the application of Part Six will be waived;</b></p> <p><b>(e) the need for stricter parameters than those set out in Part Six;</b></p> <p><b>(f) unrestricted sharing of complete information between competent authorities;</b></p> <p><b>(g) a full understanding of the implications of such a waiver.</b></p>
<p>3.</p> <p>Where institutions of the single liquidity sub-group are authorised in several Member States, paragraph 1 shall only be applied after following the procedure laid down in Article 21 and only to the institutions whose competent authorities agree about the following elements:</p>	<p><b>3. An authority that is competent for supervising on an individual basis an institution and all or some of its subsidiaries having their head offices situated in different Member States than the institution's head office should waive in full or in part the application of Part Six to that institution and to all or some of its subsidiaries and supervise them as a single liquidity sub-group, provided that all of the following conditions referred to in paragraph 1 and in point (b) of paragraph 2 are satisfied.</b></p> <p><del>Where institutions of the single liquidity sub-group are authorised in several Member States, paragraph 1 shall only be applied after following the procedure laid down in Article 21 and only to the institutions whose competent authorities agree about the following elements:</del></p>

<p>(a) their assessment of the compliance of the organisation and of the treatment of liquidity risk with the conditions set out in Article 86 of Directive 2013/36/EU across the single liquidity sub-group;</p> <p>(b) the distribution of amounts, location and ownership of the required liquid assets to be held within the single liquidity sub-group where the LCR as defined in delegated regulation (EU) No 2015/61 is waived and the distribution of amounts and location of available stable funding within the single liquidity sub-group where the NSFR set out in title IV of part Six of this regulation is waived</p> <p>(c) the determination of minimum amounts of liquid assets to be held by institutions for which the application of the LCR as defined in delegated regulation (EU) No 2015/61 is waived and the determination of minimum amounts of available stable funding to be held by institutions for which the application of the NSFR set out in title IV of part Six of this regulation is waived;</p> <p>(d) the need for stricter parameters than those set out in Part Six;</p> <p>(e) unrestricted sharing of complete information between the competent authorities;</p> <p>(f) a full understanding of the implications of such a waiver.</p>	<p><del>(a) their assessment of the compliance of the organisation and of the treatment of liquidity risk with the conditions set out in Article 86 of Directive 2013/36/EU across the single liquidity sub-group;</del></p> <p><del>(b) the distribution of amounts, location and ownership of the required liquid assets to be held within the single liquidity sub-group where the LCR as defined in delegated regulation (EU) No 2015/61 is waived and the distribution of amounts and location of available stable funding within the single liquidity sub-group where the NSFR set out in title IV of part Six of this regulation is waived</del></p> <p><del>(c) the determination of minimum amounts of liquid assets to be held by institutions for which the application of the LCR as defined in delegated regulation (EU) No 2015/61 is waived and the determination of minimum amounts of available stable funding to be held by institutions for which the application of the NSFR set out in title IV of part Six of this regulation is waived;</del></p> <p><del>(d) the need for stricter parameters than those set out in Part Six;</del></p> <p><del>(e) unrestricted sharing of complete information between the competent authorities;</del></p> <p><del>(f) a full understanding of the implications of such a waiver.</del></p>
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	<p><b>4. Competent authorities should also apply paragraphs 1, 2 and 3 to one or some of the subsidiaries of a financial holding company or mixed financial holding company and supervise as a single liquidity sub-group the financial holding company or mixed financial holding company and the subsidiaries that are subject to a waiver or the subsidiaries that are subject to a waiver only. References in paragraphs 1, 2 and 3 to the parent institution shall be understood as covering the financial holding company or the mixed financial holding company.</b></p>
<p>4. Competent authorities may also apply paragraphs 1, 2 and 3 to institutions which are members of the same institutional protection scheme as referred to in Article 113(7) provided that they meet all the conditions laid down therein, and to other institutions linked by a relationship referred to in Article 113(6) provided that they meet all the conditions laid down therein. Competent authorities shall in that case determine one of the institutions subject to the waiver to meet Part Six on the basis of the consolidated situation of all institutions of the single liquidity sub-group.</p>	<p><b>4a.</b> Competent authorities may also apply paragraphs 1, 2 and 3 to institutions which are members of the same institutional protection scheme as referred to in Article 113(7) provided that they meet all the conditions laid down therein, and to other institutions linked by a relationship referred to in Article 113(6) provided that they meet all the conditions laid down therein. Competent authorities shall in that case determine one of the institutions subject to the waiver to meet Part Six on the basis of the consolidated situation of all institutions of the single liquidity sub-group.</p>
<p>5. Where a waiver has been granted under paragraph 1 or paragraph 2, the competent authorities may also apply Article 86 of Directive 2013/36/EU, or parts thereof, at the level of the single liquidity sub-group and waive the application of Article 86 of Directive 2013/36/EU, or parts thereof, on an individual basis.</p>	<p>5. Where a waiver has been granted under paragraph 1 <b>to 4a</b> <del>or paragraph 2</del>, the competent authorities may also apply Article 86 of Directive 2013/36/EU, or parts thereof, at the level of the single liquidity sub-group and waive the application of Article 86 of Directive 2013/36/EU, or parts thereof, on an individual basis.</p>