Regulatory Blog

By PwC Deutschland | 17. Juli 2025

EBA’s Consultation on Guidelines on the Definition of Default (EBA/CP/2025/09)

Navigating the Shift: Understanding the Key Updates

New Guidelines set to transform debt restructuring

Under the Capital Requirements Regulation (CRR3), the European Banking Authority (EBA) has initiated a public **consultation on its revised Guidelines for the Definition of Default (DoD)** (EBA/CP/2025/09). This is due to the mandate in Article 178, Paragraph 7 of the CRR, which requires the EBA to update the Guidelines.

The EBA proposes upholding the threshold for Net Present Value (NPV) loss in debt restructuring at 1%. Moreover, the proposed Guidelines address the reasons why a shortening of the probation period and the introduction of specific criteria for the recognition of moratoria are not incorporated in the amendments. The proposed amendments include changes regarding factoring arrangements and technical updates resulting from the application of CRR3.

Background

In Article 178 of the CRR, paragraphs 1, 3 and 7 have been amended by Regulation 2024/1623 (CRR3). The discretion granted to competent authorities to replace the 90-day period with 180 days for certain risk positions has been removed in paragraph 1, point (b). Paragraph 3, point (d), has been amended concerning forbearance measures according to Article 47b.

According to Article 178 (7) of the CRR, the EBA has been mandated to update the Guidelines on application of Article 178, Default of an Obligor or Credit Facility. The Guidelines should consider the necessity to motivate institutions to engage in proactive, preventive, and meaningful debt restructuring to support obligors.

In particular, the EBA has been mandated to consider the need to allow sufficient flexibility to institutions when clarifying what constitutes a diminished financial obligation with regards to paragraph 3, point (d).

Key amendments and proposals

The EBA not only addresses the dimension of debt restructuring as mandated by the CRR, but also focuses on the following five areas of action:

1. **Net Present Value (NPV) loss in debt restructuring**: the EBA proposes to uphold the 1% threshold for three reasons. First, the current framework offers risk-sensitive flexibility and alignment with accounting standards, ensuring accurate default identification. Second, raising thresholds would weaken efforts to cut non-performing loans, introduce inconsistencies, and harm essential credit risk model processes. Third, the change in the definition of default framework would lead to operational costs and efforts for a new development and validation cycle for prudential models.
2. **Legislative Moratoria**: the option to introduce specific criteria for recognizing moratoria has been considered but not incorporated in the amended Guidelines for similar reasons as the ones for maintaining the NPV-loss threshold.

3. **Probation period**: the consultation paper considered the possibility of cutting the probation period for defaulted assets under distressed restructuring from one year to three months but has not been incorporated it within the amended Guidelines because it would broaden the gap between the definitions of non-performing exposures and default.

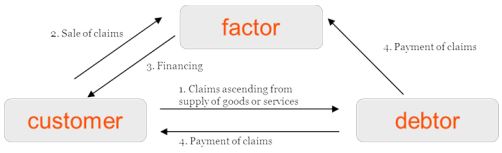
   Background: Article 47a CRR defines non-performing exposures (NPE), while Article 178 CRR provides the Definition of Default. In particular, Article 47a, paragraph 6 lit. (b), stipulates that for non-performing, forborne exposures, at least one year must pass from the date on which a forbearance measure was granted, or the date the position was classified as NPE, before a reclassification to performing exposure can take place. Similarly, the EBA Guideline on the definition of default from 2016 requires a probation period of one year for defaulted exposures under distressed restructuring to return to non-defaulted status.

   Shortening the probation period from one year to three months for the default definition within the revised Guidelines would thus broaden the gap between NPE according to Art. 47a CRR and DoD according to 178 CRR. As a result, these exposures would not be considered defaulted according to the amended GL but could still be considered as NPE according to Art. 47a CRR.

4. **Factoring arrangements**: the proposed amended Guidelines incorporate an increase of the exceptional treatment of days past due at invoice level from 30 to 90 days for factoring arrangements to better reflect the economic conditions of purchased receivables. The reason for the increase is the argumentation from the industry that the current Guidelines do not sufficiently reflect the specificities of factoring products and their natural delays.

   A particular form of purchased receivables is the factoring business, which involves three different parties as outlined in the figure below: the customer delivers goods or services to the debtor and sells the claim against the debtor to an institution (the factor). In this setup, past due payments can occur due to the administrative processes between the three parties taking longer than in a direct relationship between the bank and the debtor. To account for this, exceptional treatment in the Guideline is proposed.

   Figure 1: Factoring business



   Referring to EBA: EBA/CP/2025/09

5. **Other proposed amendments** result from CRR3, such as the deletion of the discretion reference to the previous 180 past due or the reference to distressed restructuring.

Need for action & implications of the changes

Changes to the Guidelines may redefine how factoring arrangements are treated, requiring institutions to re-evaluate their contractual and accounting practices to align with new rules regarding risk transfer and client obligations for purchased receivables.

The amendments can necessitate updates to IT systems to capture new default definitions, and factoring terms guaranteeing robust data collection is in place.

Although the amendment considered on the probation period has not been proposed, we recommend monitoring the discussion on this development, as such an amendment would counteract efforts to align the definition of default and non-performing exposures.

Stakeholders will have the opportunity to provide feedback on this consultation until 15 October 2025.

How PwC can support you

PwC can provide expert guidance on understanding and implementing new regulatory requirements, helping institutions navigate changes to default definitions and factoring arrangements.

You have questions regarding the consultation paper or want to discuss your views?

Please reach out to us. Our team of CRR 3 and credit risk experts are happy to support you!

Get ongoing updates on the topic via regulatory horizon scanning in our research application, PwC Plus. Read more about the opportunities and offerings **here**.

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Schlagwörter

Bankenaufsicht (Europäische und Internationale Organisationen), Capital Requirements Regulation (CRR III), Credit Risk, Factoring