European Banking Authority
Via email: CP-2012-04@eba.europa.eu

31 July 2012

**RE: Response to EBA/CP/2012/04**

Dear Sir or Madam,

The Association for Financial Markets in Europe (AFME) welcomes the opportunity to comment on the EBA's consultation paper on disclosure for own funds by institutions implementing technical standards (EBA/CP/2012/04). AFME represents a broad array of European and global participants in the wholesale financial markets. Its members comprise pan-EU and global banks as well as key regional banks, brokers, law firms, investors and other financial market participants. AFME participates in a global alliance with the Securities Industry and Financial Markets Association (SIFMA) in the US, and the Asia Securities Industry and Financial Markets Association (ASIFMA) through the GFMA (Global Financial Markets Association). AFME is listed on the EU Register of Interest Representatives, registration number 65110063986-76.

AFME has a number of reservations about the approach to own funds disclosure. The GFMA expressed these reservations in a response to the Basel Committee's consultation in late 2011 on the same topic. Nevertheless, AFME supports global consistency and is concerned to ensure that own funds disclosure requirements in Europe are not materially different than in other major jurisdictions. We note that the final BCBS Rules published shortly after this ITS set an implementation date of 30 June 2013 – approximately 12 months after the publication of the final rules. Given the uncertainty around the timing of adoption of CRD IV we recommend that the implementation date in the ITS be defined as 1 year following the actual enforcement date of CRD IV.

We note that disclosures under the post-2018 template could affect pricing on strategic transactions as institutions will be disclosing the deductions of holdings of non-significant investments in relevant entities outlined in CRR Articles 43, 57 and 67. As an example, where an institution has exceeded the 10% aggregate limit for non-significant investments and it seeks to sell down investments for capital management purposes the counterparty will be able to negotiate a lower price knowing the capital position of the institution.

AFME has a number of concerns about the transitional template. In particular, we are concerned that the detailed template will imply finely tuned comparability between jurisdictions and institutions. While work continues on harmonising interpretations (for example, clarifying the treatment of options on indices for deduction of exposures from CET1, specifying the meaning of 'foreseeable' charge or dividend) such apparent comparability may be misleading and give users of the

information an erroneous level of comfort, especially given the ongoing review of RWA consistency which is not yet complete.

One particular aspect of the transition that will impede comparability and transparency is the national discretion in CRD IV that allows different transition paths for many aspects of the own funds calculation (see CRR Articles 449 onwards). AFME continues to believe that a harmonised transition path in line with Basel would bring the greatest clarity for markets (and if member states reserve the right to transition more swiftly this be done through the headline capital requirement). Given the compromised comparability due to the probable varied pace of phase-in during transition, we believe that it is appropriate to rely on current Pillar III requirements during the transition.

With regards to the reconciliation between the financial statements and regulatory figures AFME is concerned that the EBA's approach may go beyond the remit of CRR Article 424. Article 424 requires disclosure of information regarding own funds, while the EBA's template may go further and require reconciliation of the entire balance sheet (see Article 3(1)). We note that ITS are not supposed to go further than the CRR. If this wider scope is intended AFME requests clarification about (a) what further reconciliation is required other than for own funds, including whether a reconciliation would be required where there is no material impact on regulatory capital, and (b) the utility of such further disclosure.

More generally, AFME notes a substantial increase in regulatory reporting and disclosure. While improved information will help supervisors and financial markets, reporting and disclosure requirements create substantial burdens on institutions, potentially putting data quality at risk. AFME believes that EBA can play a role in ensuring a holistic approach which will minimise the regulatory burden.

We look forward to working with the EBA in achieving its work programme and the full implementation of CRD IV.

Yours sincerely,

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