

Consultation response

Draft ITS on appropriately diversified indices under Article 344(1) of the draft CRR

3 September 2013

The Association for Financial Markets in Europe (AFME) welcomes the opportunity to comment on the consultation on *Draft Implementing Technical Standards on appropriately diversified indices under Article 344(1) of the draft Capital Requirements Regulation (CRR)* (EBA/CP/2013/22). 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. We advocate stable, competitive, sustainable European financial markets that support economic growth and benefit society.

AFME is the European member of the Global Financial Markets Association (GFMA) 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) in Asia.

AFME is listed on the EU Register of Interest Representatives, registration number 65110063986-76.

We summarise below our high-level response to the consultation, which is followed by answers to the individual questions raised.

Over-arching comments

We generally support the criteria proposed for determining whether an index is diversified, but have made some comments in relation to Question 2 which we believe will better calibrate the criteria. We have also suggested changes to the list of indices in Annex 1 of the Draft ITS. We set out the indices that we think should be included or updated, together with a rationale for each, in the answer to Question 3.

Although we recognise that the draft ITS and Annex 1 are prepared for the purposes of Article 344(1), we request that the EBA confirm that the criteria and list of indices offer 'safe harbour' for the purposes of CRR Article 76 and the netting of positions in capital instruments. Thus, an index listed in Annex 1 would be considered "an index" under Article 76. We believe that this treatment is appropriate because the list represents a sub-set of possible indices that are considered to be appropriately diversified.

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Responses to questions

Question 1

Do you agree with the set of criteria proposed for determining whether an index is diversified? Are there any other criteria that should be considered?

Yes, we agree with the criteria proposed. We do not think that additional criteria are required.

Question 2

Do you believe that the levels and numbers of the proposed criteria are appropriate?

We consider that the criteria proposed are too tightly calibrated, which would have the effect of excluding indices that are generally considered to be well diversified (for example, the S&P ASX 200). We suggest broadening the criteria such that either 1) a higher percent level than 60% is used (perhaps 65% or 70%), and/or 2) the largest 5% of equities is used rather than the largest 10%.

Question 3

Are there any relevant indices not listed in Annex I that meet the criteria? Please provide evidence that such indices meet the criteria defined in this draft ITS.

We recommend the following additions/amendments to the list of indices in Annex 1.

| Country | Index | Recommendation |
|-----------|--|--|
| Australia | S&P ASX 200 | Should be added as it meets the criteria we propose in answer to Question 2. |
| Canada | TSE35 S&P/TSX 60 | The TSE35 no longer exists, and should be replaced with the S&P/TSX 60. |
| Canada | S&P/TSX Composite index | Should be added. Represents approximately 75% of the companies listed on the Toronto Stock Exchange. |
| EU | MSCI Euro index | Should be added. |
| EU | Dow Jones Eurostoxx Midcap (MCXP) | Should be added. |
| EU | Dow Jones Eurostoxx 600 (SXXP) | Should be added. |
| Hong Kong | Hang Seng China Enterprise Hang Seng 50 | Please confirm that these are covered by "Hang Seng". |
| Japan | TOPIX | Should be added. |

| Country | Index | Recommendation |
|----------------|---------------------|--|
| Japan | Nikkei 300 | Should be added. |
| Korea | Kospi 200 | Should be added as it meets the criteria we propose in answer to Question 2. |
| South Africa | Johannesburg Top 40 | Should be added. |
| Sweden | OMS Stockholm 30 | Should be amended as shown. |
| USA | Russell 2000 | Should be added. |