

Consultation response

03/03/2014

Draft RTS, ITS and Guidelines on the methodology and disclosure for the identification of global systemically important institutions (G-SII) under CRD – EBA/CP/2013/44

The Association for Financial Markets in Europe (AFME) welcomes the opportunity to comment on **EBA/CP/2013/44**. 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 set out below our high-level response to the consultation below.

Key comments

Overall we support EBA's efforts to ensure consistency with the BCBS methodology for identifying G-SIBs, as this contributes to a global level playing field. However, we are concerned that progress towards a level playing field is hampered by standard setters refusing to recognise that intra-EU banking activity should not constitute cross-border activity, under the "**cross-border activity**" indicator for indentifying systemic banks (ref Article 131 CRD). Having made huge progress towards EU financial integration and with the Banking Union process underway, there are strong arguments against continuing to treat banking activity between two member states as cross-border. The argument is stronger if it is between two participating member states of the Banking Union. The EBA is at the heart of the integration process and so it should, as should other EU policy makers, promote and defend this position in global fora.

We also have two key concerns around the proposed modalities of **disclosure**. First, we do not support disclosure of the full template, in particular because it is unpredictable how market reaction will be. Comparisons across institutions and jurisdictions could cause significant misinterpretations due to existing differences in accounting and regulatory regimes as well as data definitions and interpretations. Moreover, the template asks for a mixture of accounting and regulatory items causing differences in the consolidation scope and not allowing a "like for like" comparison. To avoid market confusion, we propose that disclosure is limited to the level of the 12 indicators without providing all details of the template.

Our second concern has to do with the timing of the disclosure. Banks are asked to report data, based on the Basel III referential, at the same time as several banks will be publishing financial results, based on the CRR referential. We understand that the EBA does not expect any difference between the BCBS and the EU data, but this double communication could again create confusion in the market. We therefore propose that the Basel III based disclosure be made at the same time as the G-SIIs' list publication (November 2014).

Other specific comments

Indicator of Substitutability: It is not clear why “payment activity” is used as an indicator and what is measured with the size of the payments. In our opinion it is, as part of Substitutability / Financial Institution Infrastructure indicators, a very unreliable parameter for the following reasons:

- Only payments via large payment systems.
- Payments for other parties are included. But other parties can change to another institution for making the payments at any point.
- It is already captured by B) size indicators, C) interconnectedness and E) complexity.
- These data are not usually required for risk or finance reporting hence they are not stored and monitored centrally.

The consolidation perimeter: As regards the consolidation perimeter, we note that the EBA sticks to the Basel's definition which is not precise enough. We agree that it gives more national flexibility however at the risk of creating discrepancies between jurisdictions within the European Union which is probably not what is expected from this exercise.

We would be pleased, of course, to discuss with the EBA the issues covered in this consultation, or to provide further information about any of the matters which our members have raised if that would be helpful.