

6 June 2014

Submitted electronically

European Banking Authority
Tower 42
25 Old Broad Street
London EC2N 1HQ
United Kingdom

Draft Regulatory Technical Standards (RTS) on the conditions according to which competent authorities may grant permission for data waiver (EBA/CP/2014/02)

Dear Sir / Madam,

Please find enclosed AFME's response to the Draft Implementing Technical Standards On permissions for data waivers. Should you have any questions or desire additional information, please do not hesitate to contact us.

Yours faithfully



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AFME

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Consultation response

Consultation on draft Regulatory Technical Standards (RTS) on the conditions according to which competent authorities may grant permission for data waiver (EBA/CP/2014/02)

6 June 2014

The Association for Financial Markets in Europe (AFME) welcomes the opportunity to comment on the European Banking Authority's (EBA) Consultation Paper (CP) on permissions for data waivers.

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. Its pan-European membership allows AFME to draw upon the expertise, diversity of business models, cultures and experiences found within its member firms.¹

AFME views

We welcome the opportunity to comment the draft RTS specifying conditions according to which competent authorities may permit institutions to use relevant data covering shorter time period (data waiver permission) with the reference EBA/CP/2014/02. We appreciate this disposal which encourages the migration of some institutions to the IRB approach. Please find our detailed comments below relating to particular topics that we believe the EBA should consider in its deliberations.

Definition of institution

It should be stressed that the draft RTS is not clear enough regarding the entity concerned by the data waiver permission. Article 2 "Definitions" should include a definition of "institution". In the article 5 the use of the term "institution" is confusing and difficult to interpret. AFME and our members believe that it should be replaced by "parent company".

Article 4: Conditions for eligibility of exposures

According to paragraph 2, exposures to central governments, central banks and institutions

¹ 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.

shall not be eligible. We do not agree with this general exemption as the CRR (e.g. Article 180 (1) (h)) explicitly gives the competent authorities the possibility to grant a data waiver permission.

According to Paragraph 3, portfolios “structurally characterised by few or no observed defaults” are not eligible for data waiver permissions. In order to avoid ambiguity and ensure consistent interpretation by institutions as well as competent authorities (CA) across jurisdictions, a more specific definition of this term would be beneficial. In addition, given the requirement to add an appropriate margin of conservatism, we do not agree that exposures with low defaults are not eligible for the data waiver. It must also be noted that CRR (e.g. Article 180 (1) (d)) specifically invite institutions to use “judgmental considerations” to adjust calibrations if data are scarce (“limitations of techniques and information”).

Additionally, we do not agree with paragraph 4 as it limits granting data waiver permissions to portfolios already existent at the time of the institutions’ initial IRBA approval and within a 5-year time period after the institutions’ initial IRBA approval. We believe that data waiver permissions with respect to newly acquired portfolios are critical in order to allow for a timely integration into institutions’ IRBA rating systems. This would be in line with Article 148 CRR which requires banks to implement the IRBA for all exposures.

The 5-year time limit is also ignoring the evolving nature of institutions’ internal organisation, strategy and IT systems, as well as adaptations to the market’s evolution. It should always be possible for an institution facing disruption in data collection to apply for data waiver authorization (e.g. changes in definition of default; M&A impacting internal processes and organizations of merged entities, etc.).

Article 5: Quantitative Conditions in conjunction with Art. 2 Definitions

Clarification is requested whether the conditions apply only to additionally requested data waiver permissions which would lead to threshold breaches (if granted) or whether the RTS also stipulates repeals of data waiver permissions granted under the RTS in case thresholds are breached e.g. caused by portfolio growth.

In addition, based on the definition of ‘total risk-weighted exposure amount’ in Article 2 (4), it is not clear how the calculation of the threshold in Article 5 (b) must be calculated. According to Article 2 (4), “total risk-weighted exposure amount” means the aggregate risk exposure amount of all types of exposures, risk-weighted for credit and dilution risk in accordance with the approach applied by the institution. It should be clarified whether the sum of the risk-weighted exposure amounts under the Credit Risk Standardised approach and the IRBA should be used as denominator.

Generally, the introduction of quantitative thresholds for data waiver permissions could hamper institutions’ efforts to move towards internal models e.g. with respect to newly acquired portfolios and their timely integration into institutions’ IRBA rating systems and should therefore be set carefully.

Art. 6 Qualitative Conditions

The term “appropriate margin of conservatism” used in number (b) is not well defined in the Regulatory Technical Standards (RTS) but needs interpretation. In order to avoid ambiguity and to ensure consistent interpretation by institutions as well as competent authorities (CA) across jurisdictions, a more specific definition of the term would be beneficial.

Art. 7 Timing Conditions

As already said above, this Article limits granting data waiver permissions to portfolios already existent at the time of the institutions' initial IRBA approval and within a 5-year time period after the institutions' initial approval. We believe that data waiver permissions with respect to newly acquired portfolios are critical to allow for a timely integration into institutions' IRBA rating systems. This would be in line with Article 148 CRR which requires banks to implement the IRBA for all exposures.