

2 January 2015

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

Submitted via the EBA website

Consultation paper on Draft Guidelines on payment commitments under Directive 2014/49/EU on deposit guarantee schemes (EBA/CP/2014/27)

Dear Sir / Madam

Please find enclosed AFME's response to the EBA consultation paper Draft Guidelines on payment commitments under Directive 2014/49/EU on deposit guarantee schemes (EBA/CP/2014/27).

Please do not hesitate to contact us if you have any questions.

Yours faithfully

/s/ Gilbey Strub

Gilbey Strub

Managing Director, Resolution and Crisis Management

AFME

Association for Financial Markets in Europe

London Office: St. Michael's House, 1 George Yard, London EC3V 9DH T: +44 (0)20 7743 9300 F: +44 (0)20 7743 9301

Brussels Office: Rue de la Loi 82, 1040 Brussels, Belgium T: +32 (0)2 788 3971

Company Registration No: 6996678 Registered Office: St. Michael's House, 1 George Yard, London EC3V 9DH

www.afme.eu

Consultation response

EBA consultation paper on payment commitments under Directive 2014/49/EU on deposit guarantee schemes (EBA/CP/2014/27)

2 January 2015

The Association for Financial Markets in Europe (“AFME”) welcomes the opportunity to comment on the European Banking Authority (“EBA”) Consultation Paper (the “CP”) on payment commitments under Directive 2014/49/EU on deposit guarantee schemes (EBA/CP/2014/27).

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.¹

We set out below our general comments in response to the CP and we respond to question 5 on custodians.

General comments

The Deposit Guarantee Scheme Directive (“DGSD”) aims at harmonising the methods of financing deposit guarantee schemes (DGS) via a mix of ex ante and ex post contributions. In order to ensure that the available financial means of DGSs reach the target level of 0.8% of covered deposits within 10 years, credit institutions may fund up to 33% of their DGS obligations with payment commitments backed by collateral consisting of low risk assets. The guidelines use the same definition of low risk assets as that used in in the DGSD which in turn refers to items in Table 1 of Article 336 of Regulation (EU) No 575/2013.

We recommend that low risk assets also includes items included in the definition of high quality liquid assets (HQLA) developed – and thoroughly considered – for purposes of the liquidity coverage ratio (LCR). The items in the HQLA definition are much more harmonised than those in Article 336 so it would promote consistent interpretation for purposes of ratings, risk weights, and supervisory convergence.

We believe the legal authority for the EBA to include the HQLA definition could be found in the DGSD definition of low risk assets where it provides “or any assets which are considered to be similarly safe and liquid by the competent or designated authority.” Presumably, assets qualifying as high quality for the LCR are likely to viewed as “safe and liquid” by a competent authority.

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.

We also recommend the EBA instruct Member States to avoid implementing overly restrictive collateral requirements (e.g. limits on concentration, currency etc) which would increase complexity when set against existing collateral management requirements.

With regard to when collateral can be liquidated or is required to be returned to the credit institution, we welcome guideline 12 which specifies the circumstances that would trigger a call on a payment commitment or collateral and the return of collateral if the credit institution was no longer required to contribute to the DGS. This is important to ensure payment commitments have the intended mitigating impact under accounting rules.

Question 5

Do you think other requirements about the choice of the custodians should be provided under these guidelines?

The custodian's role in safekeeping assets needs to be purely operational and should exclude any fiduciary duty. We also recommend that the provision of information by custodians on credit institution should be limited to contact details and not include credit-worthiness or other analysis relating to the credit institution.

If the low risk assets are maintained in jurisdictions outside of Europe (which the guidelines certainly don't seem to prevent) then custodian protection will need to be aligned with local regulations on asset protection and segregation.