

Association for Financial Markets in Europe
St. Michael's House
1 George Yard
London EC3V 9DH

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Submitted via E-mail to CP-2012-5@eba.europa.eu

European Banking Authority
Tower 42, Level 18
25 Old Broad Street
London EC2N 1HQ

Dear Sir or Madam,

**Consultation Paper on Draft Implementing Technical Standards on
Supervisory Reporting Requirements for Liquidity Coverage and Stable
Funding – EBA/CP/2012/05**

The Association for Financial Markets in Europe ("AFME")¹ is pleased to submit the attached comments regarding the above Consultation Paper issued by the European Banking Authority (EBA) on 7th June 2012.

Thank you for soliciting our comments as part of your Consultation. We would be pleased to assist the EBA further if required. In particular, if you have any questions or desire additional information regarding any of the comments set out in our attached response please do not hesitate to contact the undersigned on + 44 207 743 9504 or by email at christine.brentani@afme.eu.

Yours sincerely,



Christine Brentani
Managing Director
Prudential Regulation Division, AFME
Tel: +44 (0)20 7743 9504

¹ <http://www.afme.eu/>

EBA's Consultation paper on Draft Implementing Technical Standards on supervisory reporting requirements for liquidity coverage and stable funding (EBA/CP/2012/05)

The Association for Financial Markets in Europe (AFME) welcomes the opportunity to comment on the European Banking Authority (EBA's) Consultation paper on Draft Implementing Technical Standards on supervisory reporting requirements for liquidity coverage and stable funding (EBA/CP/2012/05). 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 through the GFMA (Global Financial Markets Association). AFME is listed on the EU Register of Interest Representatives, registration number 65110063986-76.

We summarise below our high-level recommendations and questions regarding the consultation, followed by answers to the individual questions raised.

Priority Issues for Consideration

Recommendations:

- **Delay Implementation Timeline for LCR Reporting:** AFME proposes delaying the mandatory LCR reporting requirements until at least 1 January 2014, with a phased implementation occurring thereafter. Given the delay in CRD IV trialogue negotiations, and the uncertainty that therefore remains with regard to new reporting requirements, it will be extremely difficult for institutions to comply with these requirements from 1 January 2013. In addition, the Basel Committee have not yet finalised their proposed reporting templates which is likely to result in additional changes being incorporated into the EBA's reporting templates early in 2013. In the absence of greater certainty, the short timeframe currently proposed will likely compromise data quality as well as lead institutions to apply inconsistent interpretations of the rules. Consequently, AFME recommends that implementation occur on a phased basis to allow for (1) institutions already subject to significant EU and non-EU reporting requirements sufficient time to develop systems and controls, and (2) regulators to achieve a manageable level of harmonisation.

We note the recent EBA's update on the finalisation of the standards on supervisory reporting and we recognise that the EBA has already delayed the reporting of FINREP templates. We believe similar arguments for delaying the reporting of the liquidity ratio reports apply. In the meantime, we realise that the EBA needs to collect data and we feel that the QIS could be used for this purpose.

- **Delay Reporting of the Net Stable Funding Ratio (NSFR):** Given that the NSFR is still in a development phase and banks already face significant systems and resource burdens in implementing LCR reporting, AFME recommends postponing any NSFR reporting until a period beyond 2014. AFME and its members are also concerned about the aims of NSFR reporting, given that data will not be comparable across jurisdictions until clear guidance is given around acceptable accounting methods.
- **Change and Expand the Remittance Periods:** AFME recommends that the EBA consider phasing in the liquidity reporting requirements by allowing a longer remittance period when the reporting requirements first become effective, such as 90 days, then falling to 45 days and finally 20 working days (rather than calendar days). AFME further notes that a remittance period based on calendar days creates a risk that reports may contain poor data quality, given that the submissions will be due before month-end positions have been fully finalised.
- **Refine Currency Reporting Requirements:** AFME recommends setting the threshold for significant currencies as the greater of EUR 5 Billion or 20% of liabilities. AFME also recommends that reporting requirements only apply to the top three currencies at the consolidated level, based on consolidated annual accounts and the GAAP standards followed by the parent entity. It remains unclear in the current proposals whether currency calculations should be made at the consolidated or legal entity level. AFME notes that if reporting is required at the legal entity level, larger firms will have to report across a significant number of currencies which, at the consolidated level, represent only a small portion of the total balance sheet liabilities and which may be immaterial. The approach proposed here would be consistent with the approach required for those institutions already complying with reporting standards set by certain jurisdictions.

Key Questions:

In addition to the recommendations noted above, AFME and its members would appreciate clarification on a number of items, including the following:

- **Waivers:** What assumptions can be made in relation to liquidity waivers being granted by regulators for the formation of liquidity sub-groups? For instance, what timeframe is currently envisaged for the submission and consideration of waiver applications? Certainty around the timing and scope of waivers within Europe will provide banks with greater clarity about the range of entities for which reporting will be required and will permit banks, in some instances, to

rationalise and manage the number of reports required without impairing the quality of data to be provided.

- **Reporting on non-EU entities:** Should the contribution of a non-EU entity consolidated to an EU parent entity (i.e. US branch or US subsidiary) be based on CRD/CRR IV application of Basel III or on its jurisdiction's application of Basel III proposals? This particularly applies to any limitations on the transferability of excess liquidity coverage, depending on how this aspect is interpreted by different national regulators.
- **Impact of intra-group transactions on reporting:** As the reporting requirements apply at a sub-group consolidated level, the treatment of intra-group transactions (i.e. runoff, rollover, drawdown assumptions) should be clarified. This issue has not been addressed by either the BCBS or in any of the published texts relating to CRD/CRR IV.
- **Consolidated LCR reporting, if excess liquidity in some subsidiaries is non-transferable:** When the reporting requirement applies at a consolidated level, we would welcome instructions on how to fill in the consolidated LCR template when there is a limitation to transferring an entity's liquidity coverage excess to other entities in the same group. It should be noted that until LCR assumptions are finalised, the effect of transferability will not be measurable.
- **Consolidated reporting CRR Article 10(3) - Holding companies:** We would welcome clarification as to whether CRR Article 10(3) requires an EU parent/holding company to comply with all CRR Part Six requirements, i.e. comply with and report all thresholds, e.g. the 5% significant currency trigger and hold appropriate liquid assets, etc. at the consolidated EU parent/holding company level. This would appear contra to the logic and requirements of CRR Article 6 (the creation of liquidity sub-groups) as no such conditions are required. Is CRR Article 10(3) intended to capture holding company flows as well as regulated entities or just the regulated entities within an EU holding company structure?
- **Use of reporting data during the pre-2015 observation period:** AFME would appreciate greater transparency over how any reporting data will be used during the observation period. For example, is the EBA likely to perform peer analyses and reviews and use this as a basis for challenging individual firms' reports?
- **Flexibility in COREP reporting given potential changes at the Basel and EBA levels:** AFME and its members would like to know how flexibility can be built into COREP, the envisioned reporting environment for these new requirements. As Basel continues to articulate the reporting requirements around LCR, there is a significant risk of the EBA prematurely crafting a rigid reporting template. Industry should be given ample time and a flexible, non-onerous process for updating reporting requirements as developments at the Basel level evolve and become available.
- **Relationship to COREP Data Point Model:** It has not been clarified as to whether the Liquidity templates should feed the same Data Point Model (DPM) as COREP, or if a separate distinct DPM

will be created for Liquidity reporting. This uncertainty presents another layer of complexity to the planning required by firms in an already highly complex planning environment.

- **Mapping between Basel QIS templates and the EBA templates:** Whilst we recognise that different regulators may have different needs, we would welcome as much consistency as possible with the Basel Committee liquidity reporting templates that will be used on a broad international basis. This is particularly relevant for the many firms that operate on a cross border basis who will need to develop systems to report both within the EU and also to other international regulators.
- A summary of how the mapping between Basel QIS templates and the proposed EBA format would be valuable in assisting industry IT development requirements. This would ensure that any comparison to historic data is maintained when analysis is undertaken by the EBA. AFME and its members also query whether it will be necessary to have the half-yearly Basel QIS templates once the EBA templates are implemented.

Other Issues to Consider: EBA Engagement and Support

The EBA will need to consider how it intends to support the many questions institutions are likely to have during the initial implementation phase of the templates. Frequent Q&A sessions across jurisdictions would be helpful in order to reach uniform implementation and interpretation of the text. We would welcome detailed instructions for the definitions used in the templates, e.g. definition of credit facilities, commitments received, non-renewable loans, treatments of private banking trusts, special purpose asset-financing vehicles, etc. At a minimum, it would also be useful for the EBA to have a 'help desk' approach during the initial implementation phase.

Across all of these dimensions, AFME and its members welcome a close and continuous dialogue with the EBA as the development and analysis of the liquidity coverage and stable funding templates progress.

Responses to Questions

Q1: Are the proposed dates for first remittance of data, i.e. end of January and end of March 2013, feasible?

As delays in the overall CRD IV negotiations continue, AFME and its members believe it is becoming increasingly unreasonable to expect banks to meet the end of January and end of March 2013 proposed first remittance dates. The remittance dates should be linked to when the Capital Requirements Regulation is finalised. There should be a grace period after the final version is published in the Official Journal followed by a phased approach for remittance of data. If institutions do not have enough time to establish reliable systems and approaches to gathering and verifying the required data, the quality of submissions will undoubtedly suffer. This may render any subsequent

analysis of submitted data of less use than originally planned. At the minimum, AFME proposes a delay by one year for the mandatory use of the new reporting requirements until 1 January 2014.

Q2: Do respondents agree with this proposal for defining significant currency?

As set out previously, under 'Priority Issues for Consideration,' AFME recommends setting the threshold for significant currencies at the greater of EUR 5 Billion or 20% of liabilities. AFME also recommends that reporting requirements only apply to the top three currencies at the consolidated level, based on consolidated annual accounts and the GAAP standards followed by the parent entity. It remains unclear in the current proposals whether currency calculations should be made at the consolidated or legal entity level. If at the legal entity level, larger firms – particularly those functioning as significant foreign exchange dealers – will have to report across a significant number of currencies which, at the consolidated level and possibly in absolute terms, are immaterial.

Q3: Is the proposed remittance period of 15 days feasible?

This topic is of major concern to AFME and its members.

Firstly, AFME and its members wanted to address the concept of number of 'days.' We strongly feel that the remittance period should be 20 business days according to the target calendar. The target calendar should be the European-wide calendar. For the first remittance periods, however, we would support a start time as set out in the answer to Question 1 above. We also would support a phased approach of allowing more time at the outset of reporting, such as 90 days, then falling to 45 days and finally to 20 working days. Otherwise, if data is provided before institutions are able to finalise their systems and controls, the data may not be of the desired quality.

Additionally, national regulations and mandatory liquidity reporting requirements should be the first priority during the EBA LCR observation period as firms are governed by the existing national liquidity regulations. One of the reasons is because the task of providing all the different liquidity reports will fall on the same limited pool of individuals at the institutions and this issue must be taken into account. At the end of the LCR observation period, national regulatory returns should be phased out and the EBA regulatory reporting requirements can then take first priority.

Effectively, institutions need sufficient time to adjust their systems – usually more than six months is required for systems changes in relation to reporting requirements. Additionally, if institutions will be required to periodically report certain data on a daily basis as per CRR Article 402, this will impose extra systems functionality that institutions will have to plan for and build.

With regards to whether institutions should provide audited or unaudited figures we understand that regulators will want the most accurate data possible; however, externally-audited figures are only available once or twice a year and will provide backward-looking information rather than forward-looking data.

Also, we seek confirmation that the LCR can be calculated with calendar month instead of 30 days cashflows. In our opinion, one calendar month makes sense because it is already the norm used for ALM and accounting purposes in most institutions. It is also the norm used for similar one-month ratios currently applied in some European jurisdictions (for example the French ones). Moreover, it is consistent with market practices. Changing this norm could be costly for institutions without any value-added for the regulator.

Q4: Are there additional sub-categories of inflows and outflows that are consistent with the specification of the liquidity coverage requirement in the CRR and would inform policy options that should be reported?

Members point to other supplementary templates that they have worked with for the Basel-level QIS exercise. These templates might also be of use for the EBA data gathering exercise. For example, the EBA should be mindful of the data on operational deposits that is already being considered at the Basel level. The buckets in which data will be gathered should be as wide as possible; the narrower the buckets, the fewer the assets that will be considered and this will reduce the number of potential eligible assets and limit the calibration of inflow and outflow factors for the LCR.

Overall, some flexibility will have to be built into the proposed EBA templates standards as work on the LCR is evolving at the Basel and EBA levels and any new information will need to be captured in the EBA data gathering work. Due to this flexibility we would suggest that “material accuracy” of the figures be postponed until the final form of the LCR is agreed – perhaps until 1 January 2015 when the LCR will become mandatory.

Additionally, members have some technical questions on the templates that require clarification. For example, what constitutes a derivative in respect of derivative receivables and payables (LCR inflows template line 1.1.7 and outflows line 1.2.6)? Also we need explicit instructions as to whether these line items require disclosure of cash flows relating to exchange traded derivatives (ETDs). Furthermore, we need a clear definition of ‘retail.’

Q5: For the purposes of providing guidance as to transferrable securities of high and extremely high credit and liquidity quality, what additional assets, if any, should the ITS collect?

AFME and its members advise collecting as broad an array of data as possible. Currently, it is not clear how the EBA will be assessing high and extremely high credit and liquidity quality.

In the meantime, AFME and its members would strongly advise that assets which can provide liquidity such as equities, high quality securitisations and commodities, and assets of sufficient credit quality to be eligible collateral for the use of Central Bank facilities or to qualify for use in the implementation of monetary policy should be reported on with a view to their inclusion in the liquid assets buffer.

Q6: Do respondents agree that the template captures the requirement of the draft CRR on reporting of stable funding?

As the timing for the implementation of the net stable funding requirement (NSFR) is not for several years (2018), AFME and its members feel that it may be premature to start a statutory reporting process. Instead, a data-gathering exercise should be established to assist the EBA's need to develop an appropriate structural liquidity measure. There are a number of other data reporting requirements with implementation dates well before the NSFR which will require extra cost and resource for institutions. The primary focus should therefore be on the earlier requirements.

Additionally, the guidance note provided in the consultation paper is not consistent with the template provided on NSFR.

For these reasons, AFME recommends postponing any implementation of NSFR reporting until a later phase and only following the implementation of LCR reporting.

Conclusion

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

AFME

24 August 2012