

Consultation response

Consultation on draft Regulatory Technical Standards on the disclosure of encumbered and unencumbered assets

13 July 2016

The Association for Financial Markets in Europe (AFME) welcomes the opportunity to comment on the European Banking Authority's (EBA's) consultation on draft Regulatory Technical Standards (RTS) on the disclosure of encumbered and unencumbered assets. 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.

Overview/Executive Summary

AFME and its members welcome the balance that is achieved with the disclosure requirements to avoid the potential identification of extraordinary central bank liquidity assistance, and we consider the use of median values for exposures appropriate. We would, however, propose the use of central bank eligibility as an indicator of asset quality over the medium term to align with supervisory reporting. We welcome also the inclusion of a qualitative box to allow meaningful commentary where relevant but we recommend that it should be made clear that firms have sufficient flexibility when populating this template so that the level of qualitative disclosure reflects the extent to which firms rely on asset encumbrance as a source of funding.

Questions

Question 1:

Given the balance between transparency and the need to avoid detection of central bank liquidity assistance, do you agree with the disclosure requirements proposed in this RTS? Do you agree with the fields in the Templates that are required to be disclosed? Please provide reasons for your answer.

The proposed approach is welcomed. The disclosure of extraordinary central bank liquidity assistance (ELA) is clearly extremely sensitive and such assistance should not be able to be inferred or undermined through disclosure requirements. Separately, we support the alignment of the levels of granularity relating to both regulatory reporting and disclosure arrangements.

Question 2:

Based on your experience with providing information according to the 2014 Guidelines or with using information disclosed as per these Guidelines, do you believe that the use of median values for disclosures offers sufficient relevant information while also addressing potential financial stability concerns or would you prefer disclosure using end of period values? Is there another appropriate value for disclosure? Please provide reasons for your answer.

AFME and its members consider that the use of median values for exposures is appropriate. We would note, however, that when calculating the median values for a 12 month timeframe using quarterly data, it would be preferable to use data for five quarter ends to allow the inclusion of data from the first quarter. By way of background, if a period of five consecutive quarters is selected (from 31/12/N-1 to 31/12/N) then the median will relate to a ‘real’ observed value which has been reported through a regulatory return, rather than resulting in the theoretical value that would arise from using four quarters.

The following numerical example is intended to clarify how the use of data from five quarter ends would apply in practice.

	31/12/14	31/3/15	30/6/15	30/9/15	31/12/15	Median Values Disclosed
Loans (end of period value)	50	100	70	25	30	50
Securities (end of period value)	0	50	200	100	400	100
Other assets (end of period value)	3	5	20	15	10	10
Total Median of the sums	53	155	290	140	440	155

We would note, however, that the use of the median may introduce distortions when multiple institutions in the same banking group make disclosures as the median of the given subsidiaries may not align with the overall median value for the group.

In addition, clarification is needed concerning the basis of calculation, in particular that the values for each cell are calculated on an individual basis.

We would mention also that we would interpret the reference to the use of rolling quarterly medians over the previous 12 months on page 33 of the draft RTS to mean that a median of monthly data points is not applicable.

Question 3:

Do you agree that the 'median of the sums' method is the most relevant to be used in calculating a 'Total' or 'Sub-total' row in case the median values are used for disclosure? Please provide reasons for your answer.

The 'median of the sums' method appears the most relevant to be used in calculating a 'Total' or 'Sub-total' row and we would agree that the 'sum of the medians' is already implicitly disclosed through the other rows.

Question 4:

Do you agree with the disclosure of assets of extremely high liquidity and credit quality (EHQLA) and assets of high liquidity and credit quality (HQLA) in accordance with Commission Delegated Regulation (EU) 2015/61 as the most relevant information possible in terms of asset quality of encumbered and unencumbered assets? Please provide reasons for your answer. In case you disagree with the disclosure of EHQLA and HQLA metrics, please indicate the most appropriate alternative metrics according to you (central bank eligibility, traditional asset quality indicator, risk-weights, internal rating/asset quality step, external rating, or another indicator) for providing relevant information on the asset quality of encumbered and unencumbered assets.

We would note that indicators of asset quality in supervisory returns are based around central bank eligibility and that the proposed disclosure whereby assets with extremely high liquidity and credit quality ('EHQLA') and assets of high liquidity and credit quality ('HQLA') are disclosed in accordance with Commission Delegated Regulation (EU) 2015/61 is not consistent therefore with existing practice. We would propose therefore the use of central bank eligibility to align with supervisory reporting over the near to medium term. This is we consider the most realistic indicator at the moment and we would mention also that this information is now also readily available owing to its in current use in reporting.

One option to facilitate consistency would be over time to align the definitions of asset quality across all forms of reporting and disclosure with the LCR Level 1 and Level 2 definitions in accordance with the LCR Delegated Act. We note that the Additional Liquidity Monitoring Metrics currently require alignments with the LCR definitions.

In the meantime, we understand that the EBA recommends that the definition of HQLA includes operational requirements. This would not seem necessary and would not be consistent, for example, with the arrangements under the NSFR, whereby encumbered and unencumbered assets share the same definition as LCR liquid assets but where operational requirements are deemed not relevant.

Question 5:

Do you agree with the qualitative disclosure requirements in Template D? In case of disagreement, please identify any requirement you disagree with or state any disclosure requirement you would like to see enhanced or included in Template D.

AFME and its members welcome the inclusion of a qualitative box to allow meaningful commentary where relevant and applicable on the more prescriptive quantitative data firms would need to provide. We would not, however, wish this to contain more detailed guidance or requirements, particularly as firms often have waivers from national regulators from the reporting of some data items, e.g. a significant number of firms in the UK are not required to complete template B on the grounds of materiality. In the case where a firm has received a waiver from their competent authority, or in the case of disclosure on a group wide consolidated basis, we do not see either the need or rationale for including detailed information on intragroup encumbrance between entities. This information would not further investors' understanding of the overall encumbrance of the group and may in fact confuse the situation. Furthermore, intragroup encumbrance does not represent an additional impediment for investors. On this basis, we believe this requirement should be removed from template D.

In order to support the principle that disclosure requirements should not inadvertently allow ELA to be inferred or detected, it would be helpful if the EBA could make it explicit in the instructions in Template D that the provision by firms of qualitative information is always subject to the need to avoid ELA being inferred or detected. If the provision of the qualitative information described could reasonably be likely to lead to such an outcome, firms should not be required to provide it.

It should also be made explicitly clear that firms have sufficient flexibility when populating Template D that the amount/degree of qualitative disclosure will reflect the extent to which firms rely on asset encumbrance as a source of funding. Where firms do not utilise asset encumbrance extensively there should be no requirement/expectation that they provide a voluminous qualitative disclosure.

Question 6:

Does the proposed annual disclosure frequency meet the needs of users for transparency? Please provide reasons for your answer.

The proposed annual disclosure frequency appears suitable. We would note that any significant change in asset encumbrance relating to change in business model and funding strategy would have needed to have been explained to the market and regulators prior to any material adjustment.

It is not clear, however, from when the RTS will take effect and the EBA might consider alignment with the BCBS Pillar 3 timings. It will be important that firms are given sufficient notice and time for the preparation of disclosure.

Further Observations

In addition to our thoughts on the specific questions raised, we would note also our concern that there should be a consistency of application of disclosure standards and templates within Europe and that there should be sufficient coordination between the EBA and national regulators to ensure that divergences do not arise.

We would mention also that the EBA might consider the exemption of firms from reporting particular templates if their activities in these areas fall below appropriate thresholds.

In addition, we have further technical observations on the templates as follows:

- Reporting Instruction – Template D, a(1) – Clarification is needed on the qualitative scope of the application of the disclosure standards.
- Reporting Instruction – Template D, b(4) – It is not clear how this requirement can be met if disclosure by currency is not being undertaken.

AFME contacts

Mark Bearman, mark.bearman@afme.eu

+44 (0)20 3828 2675