ISDA Safe, Efficient Markets

afme/ Finance for Europe

August 30, 2013

Sent by email to: ***EBA-CP-2013-15@eba.europa.eu***

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

Dear Sir or Madam,

Re: Draft Regulatory Technical Standards on the definition of market under Article 330(3) of the Draft Capital Requirements Regulation (CRR) (EBA/CP/2013/15)

This letter contains the response of the International Swaps and Derivatives Association, Inc. ("ISDA") and the Association for Financial Markets in Europe ("AFME") to the European Banking Authority's ("EBA") Consultation Paper on Draft Regulatory Technical Standards on the definition of market under Article 330(3) of the Draft Capital Requirements Regulation (CRR). The accompanying response is the result of a thorough three month industry consultation process involving a wide range of industry representatives. It is reflective of the industry consensus on this topic and aims at being as constructive as possible in seeking a proportionate outcome.

Since 1985, ISDA has worked to make the global over-the-counter (OTC) derivatives markets safer and more efficient. Today, ISDA has over 800 member institutions from 60 countries. These members include a broad range of OTC derivatives market participants including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure including exchanges, clearinghouses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's web site: www.isda.org.

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 (ASIFMA) through the GFMA (Global Financial Markets Association). AFME is listed on the EU Register of Interest Representatives, registration number 65110063986-76. For more information, visit www.afme.eu.

We look forward to working with the EBA to continue developing an approach that will ensure consistency in the practicality and applicability of the proposed framework across the industry.

Yours faithfully,

Olivier Miart
Assistant Director, Risk & Capital
ISDA

Jouni Aaltonen
Director, Prudential Regulation
AFME

Consultation response

Draft RTS on definition of the market under Article 330(3) of the draft CRR

30 August 2013

AFME[1] and ISDA[2] welcome the opportunity to comment on the European Banking Authority (EBA) consultation paper on the definition of the market under Article 330(3) of the draft CRR.

Industry response

We support EBA's Option 2, whereby the criteria proposed for determining a common market is based on a common currency and regulatory (and to certain extent a legal) framework, such as in the Eurozone, and other markets would be defined using the nationality criterion. This recognises that the introduction of a Single Market with a Single Rulebook and currency has eliminated some important elements of segmentation between equity marketplaces and established clear rules for equivalence.

AFME, ISDA and our members believe that this method would be beneficial as it reduces the amount of sub-consolidations for capital requirements against equities exposures and provides for some hedging/consolidation benefits that cannot be achieved if exposures are consolidated along the national lines. The reduction in capital requirements is expected to be limited and therefore the industry does not believe that introduction of such consolidation of markets will have the risk of lowering the level of capital required against equities exposures in the Eurozone under the standard approach below an optimum level.

[1] 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. For more information please visit the AFME website, www.afme.eu.

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Furthermore, such treatment would make the transition to the (potentially) more complex and risk sensitive standard method that is currently being contemplated in the Fundamental Review of the Trading Book smoother and would reduce the amount of additional burden on firms that have only a limited interest in equities in the Eurozone.

With regards to the implementation costs associated with the single market method, we believe that they are limited even during the transition period as only simple consolidations are required and the amount of capital required will not increase due to the consolidation process, and only limited benefits can be gained through efficient consolidation.