FIA EPTA response to the EBA's Consultation Paper on Draft Guidelines on resubmission of historical data under the EBA reporting framework (EBA/CP/2023/06)

28 July 2023

1. WHAT ARE YOUR GENERAL VIEWS ON THE PROPOSED APPROACH TO THE RESUBMISSION OF HISTORICAL DATA?

The European Principal Traders Association (FIA EPTA) represents Europe's leading Principal Trading Firms. Our members are independent market makers and providers of liquidity and risk transfer for markets and end-investors across Europe, providing liquidity in all centrally cleared asset classes including shares, bonds, listed derivatives and ETFs. FIA EPTA works constructively with policymakers, regulators and other market stakeholders to ensure efficient, resilient and trusted financial markets in Europe. More information about FIA EPTA and independent market makers is available on: www.fia.org/epta and www.wearemarketmakers.com

FIA EPTA is broadly supportive of the laid out draft guidelines on the resubmission of historical data and welcome the clarity it provides. We are however concerned that the numerical materiality thresholds (tolerance limits) outlined in paragraph 18 would result in a large volume of historical data resubmission for the vast majority of entities covered by these guidelines.

The indicated tolerance levels would effectively result in restatement of historical data for calculation inaccuracies a low as EUR 1,000. We would not consider this a proportionate approach in particular against the backdrop of the generally accepted levels of accuracy when preparing financial information. While the level of accuracy applied when preparing the financial information is materially different from the resubmission threshold, a false sense of accuracy may emerge. Despite an increase of resubmissions for discovered inaccuracies, many other inaccuracies below the internal accuracy applied and the external reporting threshold will remain unnoticed and therefore unreported.

A significant increase in resubmissions could also lead to additional burden being placed on the NCAs in processing the updates and engaging further with the firms for errors that are immaterial.

2. HOW DO YOU SEE THE PROPOSED APPROACH IN RELATION TO YOUR EXISTING RESUBMISSION POLICIES SET OUT IN YOUR INSTITUTIONS, AGREED WITH INTERNAL AUDIT AND CONTROL FUNCTIONS?

The currently proposed approach would result in a significant increase of resubmission of historical financial data, with the proposed tolerance thresholds notably lower than those currently used. A tolerance limit should be set as a fixed percentage of a firm's Tier 1 equity, providing a more proportionate threshold for resubmission of historical data and would also be able to be applied equally across all covered institutions. For example a materiality threshold 0.75-1% of Tier 1 equity could be considered as material. This would be in line with well-established practice in an auditing context.[1]

3. HOW DO YOU SEE THE PROPOSED APPROACH IN RELATION TO ACTUAL PRACTICES FOR THE RESUBMISSION OF DATA ALSO CONSIDERING THE LEGAL REQUIREMENTS SET OUT IN EXISTING LEGISLATION (E.G. ARTICLE 3(5) OF COMMISSION IMPLEMENTING REGULATION (EU) 2021/451)?

N/a

4. WOULD THE PROPOSED APPROACH BE FEASIBLE FROM THE TECHNOLOGY PERSPECTIVE CONSIDERING THE CURRENT REPORTING SOLUTIONS?

N/a

Proportionality

5. WHAT ARE YOUR VIEWS ON THE PROPOSED 'ONE-SIZE FITS ALL' APPROACH TO THE RESUBMISSIONS, LEVERAGING ON THE PROPORTIONALITY ALREADY BUILT IN THE SUPERVISORY REPORTING FRAMEWORK, TO ENSURE CONSISTENCY OF DATA AND COMPARABLE DATA QUALITY TO ENABLE USERS TO PERFORM THEIR STATUTORY TASKS? DO YOU CONSIDER IT AS SUITABLE FOR YOUR INSTITUTIONS?

As indicated under questions 1 and 2 we do not believe that the currently outlined materiality threshold would deliver a proportionate outcome as they would result in an overwhelmingly large number of historical data resubmissions because of the low error threshold for monetary values. As currently drafted the tolerance threshold that would trigger resubmission of historical data could be as low as EUR 1,000. Such low amounts are not in line with market practice elsewhere, such as financial statement audits, where materiality is based on balance sheet/profitability levels to ensure a proportionate approach is taken.

A. IF NOT, PLEASE PROVIDE CONCRETE AND REALISTIC PROPOSALS FOR IMPROVING THE PROPORTIONALITY ELEMENT THAT CAN BE EFFICIENTLY IMPLEMENTED IN THE

[1] See e.g.: https://corporatefinanceinstitute.com/resources/accounting/materiality-threshold-in-audits/

REPORTING SYSTEMS WITHOUT UNREASONABLE COSTS OR INCREASING THE OVERALL COMPLEXITY.

To ensure a truly proportionate application a percentage of turnover or of equity should be considered as a materiality threshold. Under the current approach an error threshold of as low as EUR 1,000 may seem proportionate for a firm that has e.g., Tier 1 equity of EUR 100,000, but would be entirely disproportionate for firms with Tier 1 equity of multiple hundreds of millions. If the desire is to apply the same threshold methodology to all firms, then a more suitable metric than a nominal € amount should be determined. For example as indicated above a percentage threshold of a firm's equity, for example above 0.75-1-2%, should trigger resubmission of historical data.

Another alternative, although slightly more complex, would be a percentage of 'excess' capital maintained by an institution; in this regard a firm with low capital buffers should meet a higher level of accuracy than a firm with a substantial capital buffer.

B. IF SUCH ADDITIONAL PROPORTIONALITY PROPOSALS ARE TO BE BASED ON ANY THRESHOLD(S), PLEASE PROVIDE EXAMPLES OF SUCH THRESHOLDS (RELATIVE AND ABSOLUTE) IN RELATION TO THE SIZE AND COMPLEXITY OF YOUR INSTITUTION, AND THE REASONING BEHIND THAT THRESHOLD.

See above.

6. IF SUCH ADDITIONAL PROPORTIONALITY PROPOSALS ARE TO BE BASED ON LESS HISTORICAL REFERENCE DATES TO BE RESUBMITTED (COMPARED TO THOSE SET OUT IN PARAGRAPH 17), THEN WHAT COULD THESE BE FOR DIFFERENT TYPES OF INSTITUTIONS (LARGE, MEDIUM-SIZED, SNCI)?

N/a