ASSOCIAZIONE INTERMEDIARI
MERCATI FINANZIARI - ASSOSIM

Milan, 2 February 2017

Prot. 12/17
MFE/mbi/gc

EBA
One Canada Square
Canary Wharf
London E14 5AA
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Re: ASSOSIM contribution to EBA Discussion Paper "*Designing a new prudential regime for investment firms*"

Assosim[1] welcomes the opportunity to comment on the EBA discussion paper in subject and is pleased to provide the following observations.

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General comments

We are in favor of a revision of the current prudential regime applicable to investment firms (**IFs**), according to the proportionality principle and taking into account the specificities of the activities carried out by the IFs.

[1] *Associazione Intermediari Mercati Finanziari* - ASSOSIM is the Italian Association of Financial Markets Intermediaries, which represents the majority of financial intermediaries acting in the Italian Markets. Assosim has nearly 80 members represented by banks, investment firms, branches of foreign brokerage houses, active in the investment services industry, mostly in primary and secondary markets of equities, bonds and derivatives, for some 82% of the Italian total trading volume.

Nevertheless, we note that the proposal contained in the DP does not properly calibrate the model as the parameters "a_i" are neither qualified nor quantified. This entails that our IFs are not in the position to assess the impacts of the proposed model, thus leading to our inability to express a conclusive position on the matter.

Therefore, please note that the answers provided below in relation to the new prudential regime are inevitably approximate and subject to be reconsidered in light of the final prudential model.

In this respect we would like to suggest EBA to consider the planning of a second consultation process once the aforementioned parameters are defined.

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Q1

We believe that in the new framework Class 1 (with full application of CRR) should include systemic IFs only in order to have an easier classification method.

Q2

As regards the set of overarching principles set out in par. 12 of the DP, we note the following:

- Sub-par. a): we agree with the need of providing different levels of assurance for systemic IFs and non-systemic ones;

- Sub-par. b) and e): our members have some concerns about the proposal of calibrating the prudential regime predominantly on the negative effects for clients and/or markets of IFs' misconducts. Potential violations of the applicable rules of conduct are dealt with within the legal risk category (belonging to operational risks) that represents a part of the broader risk exposure of an IF. The proposal would lead to an overestimation of the legal risks giving rise to methodological issues (coherence between exposure and capital), also considering the above-mentioned uncertainty of its relative impact on capital requirements.

- Sub-par. c): please, note that the Italian IFs (i.e. Sim) cannot hold clients' money as it must be mandatorily deposited with a bank within 1 business day since the same money is received from the client. To this regard, according to Italian insolvency laws and BRRD implementing discipline, it is worthy considering that clients' money deposited with a bank by an IF is protected in case *i)* the IF is subject to a bankruptcy or resolution procedure; and *ii)* the bank is subject to a bankruptcy or resolution procedure. Therefore, in our framework, there is not a risk of potential harm associated with "holding" clients' money by IFs.
  As regard securities, once again we see no risk in our system as they are *(i)* subject to a severe discipline which demands the application of strict segregation criteria between

clients' securities and IF's own securities, and *(ii)* expressly protected in case the IF is subject to a bankruptcy/resolution procedure or in case the custodian bank is subject to a bankruptcy/resolution procedure.

- Sub-par. f): we agree with the principle expressed therein.

Q4

Regarding items f) and g), we would like to focus the attention on the distinction between IFs operating a MTF and the ones operating an OTF, since only the latter can carry out transactions on own account to facilitate trading.

Q5

Please, see above our answers under Q2, second and third items. Moreover, we do not fully agree with the potential effects on own funds of a temporary dislocation in market access or market liquidity, as (save for market abuse cases) such effects occur (or not), depending on the contractual provisions in force between the relevant trading venue and the market participants. In addition, we deem that the liquidity contribution cannot be merely measured by the number of trades as only a part of the orders entered provides liquidity to the market. Finally, it is not specified whether only IFs acting as brokers would be subject to RtM exposure.

Q6

About the proposal for a separate k-factor for client money and financial instruments, please see our answer under Q2, third item. In line with our view expressed therein, we would propose to insert a reference to national disciplines in the new legislative framework, excluding a capital requirement where clients' money/securities are protected under the relevant domestic laws (as in Italy).

Q15

With reference to the deductions from capital, we agree with the issue raised by the EBA Report (as defined in the DP) regarding the calculation of the net long positions in order to determine the level of investment in a financial sector entity. Such calculation creates the difficulties described therein, particularly for market makers. Please consider that, in the Italian framework, such issue is particularly relevant because of the importance of the banking sector within the listed securities.

Q16

We think that it is preferable to use the CRR own funds definition and quality in order to ensure a general consistency across prudential regimes.

Q20

Considering the various types of activities (and relevant features) performed by IFs across the UE, we do not see the possibility to provide a common stress scenario for liquidity.

Q21

We don't agree with the proposal of holding an amount of liquid assets equal to a percentage of the regulatory capital requirement because, given the activities carried out by IFs (which do not entail financial liabilities to be met on demand, as for banks), it would be disproportionate to ask the IFs to "freeze" liquidity without a sound rationale (considering also the current interest rates scenario).

Q22

As regards the definition of liquid assets, without any prejudice to our answer to Q 21 above, we do not understand the reasons why the list provided in Annex 4 does not clearly include deposits with banks that are a fundamental liquid asset for IFs.

Q34

As set out in the General Comments above, Assosim is not in the position to express a conclusive opinion on the proposed model because of its incompleteness (i.e. lack of parameters).

That said, our current view is in favor of having a simplified CRR regime modeled on the proportionality principle. This solution would have the positive effect to maintain the same general prudential framework for banks, systemic IFs and, with the necessary adjustments, for different IFs, with the further advantage of preserving the level playing field between IFs belonging to banking groups and different IFs.

Finally, in respect of a simplified application of the CRR to IFs, please consider that we are strongly in favor of *i)* a full disapplication of both the LCR and the NSFR requirements; *ii)* a reduction of the percentage applied according to the BIA methodology.

Q35

Please, see our answer to Q34 above.

Furthermore, we are in favor of a CVA simplification.

Finally, should a simplified CRR regime be adopted, we would propose that such regime takes into account the need of excluding capital requirements in relation to IFs clients' money and securities, where national laws provide protection for such assets.

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We remain at your disposal for any further information or clarification.

Yours faithfully,

Gianluigi Gugliotta
Secretary General