

Consultation response

Draft ITS on appropriately diversified indices under Article 344(1) of the draft CRR

3 September 2013

The Association for Financial Markets in Europe (AFME) welcomes the opportunity to comment on the consultation on *Draft Implementing Technical Standards on appropriately diversified indices under Article 344(1) of the draft Capital Requirements Regulation (CRR)* (EBA/CP/2013/22). 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.

Over-arching comments

We generally support the criteria proposed for determining whether an index is diversified, but have made some comments in relation to Question 2 which we believe will better calibrate the criteria. We have also suggested changes to the list of indices in Annex 1 of the Draft ITS. We set out the indices that we think should be included or updated, together with a rationale for each, in the answer to Question 3.

Although we recognise that the draft ITS and Annex 1 are prepared for the purposes of Article 344(1), we request that the EBA confirm that the criteria and list of indices offer 'safe harbour' for the purposes of CRR Article 76 and the netting of positions in capital instruments. Thus, an index listed in Annex 1 would be considered "an index" under Article 76. We believe that this treatment is appropriate because the list represents a sub-set of possible indices that are considered to be appropriately diversified.

Association for Financial Markets in Europe

www.afme.eu

London Office: St. Michael's House, 1 George Yard, London, EC3V 9DH T: +44 (0)20 7743 9300 F: +44 (0)20 7743 9301

Brussels Office: Square de Meeus 38 – 40, 1000 Brussels, Belgium T: +32 (0)2 401 8724 F: +32(2) 401 6868

Company Registration No: 6996678 Registered Office: St. Michael's House, 1 George Yard London EC3V 9DH

Responses to questions

Question 1

Do you agree with the set of criteria proposed for determining whether an index is diversified? Are there any other criteria that should be considered?

Yes, we agree with the criteria proposed. We do not think that additional criteria are required.

Question 2

Do you believe that the levels and numbers of the proposed criteria are appropriate?

We consider that the criteria proposed are too tightly calibrated, which would have the effect of excluding indices that are generally considered to be well diversified (for example, the S&P ASX 200). We suggest broadening the criteria such that either 1) a higher percent level than 60% is used (perhaps 65% or 70%), and/or 2) the largest 5% of equities is used rather than the largest 10%.

Question 3

Are there any relevant indices not listed in Annex I that meet the criteria? Please provide evidence that such indices meet the criteria defined in this draft ITS.

We recommend the following additions/amendments to the list of indices in Annex 1.

Country	Index	Recommendation
Australia	S&P ASX 200	Should be added as it meets the criteria we propose in answer to Question 2.
Canada	TSE35 S&P/TSX 60	The TSE35 no longer exists, and should be replaced with the S&P/TSX 60.
Canada	S&P/TSX Composite index	Should be added. Represents approximately 75% of the companies listed on the Toronto Stock Exchange.
EU	MSCI Euro index	Should be added.
EU	Dow Jones Eurostoxx Midcap (MCXP)	Should be added.
EU	Dow Jones Eurostoxx 600 (SXXP)	Should be added.
Hong Kong	Hang Seng China Enterprise Hang Seng 50	Please confirm that these are covered by "Hang Seng".
Japan	TOPIX	Should be added.

Country	Index	Recommendation
Japan	Nikkei 300	Should be added.
Korea	Kospi 200	Should be added as it meets the criteria we propose in answer to Question 2.
South Africa	Johannesburg Top 40	Should be added.
Sweden	OMS Stockholm 30	Should be amended as shown.
USA	Russell 2000	Should be added.