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## Consultation Response

# Draft Regulatory Technical Standards on Classes of Instruments that Adequately Reflect the Credit Quality of the Investment Firm as a Going Concern and Possible Alternative Arrangements that are Appropriate to be Used for the Purposes of Variable Remuneration

4 September 2020

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The Association for Financial Markets in Europe (AFME) welcomes the opportunity to comment on **DRAFT REGULATORY TECHNICAL STANDARDS ON CLASSES OF INSTRUMENTS THAT ADEQUATELY REFLECT THE CREDIT QUALITY OF THE INVESTMENT FIRM AS A GOING CONCERN AND POSSIBLE ALTERNATIVE ARRANGEMENTS THAT ARE APPROPRIATE TO BE USED FOR THE PURPOSES OF VARIABLE REMUNERATION**. 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 registered on the EU Transparency Register, registration number 65110063986-76.

We summarise below our high-level response to the consultation, which is followed by answers to the individual questions raised.

### Executive Summary

AFME is broadly supportive of the draft RTS, but requests an additional reference to proportional application, in line with the wording contained in the Investment Firms Directive..

We also request confirmation of our understanding that the draft RTS will apply to the identification of 2021 Material Risk Takers and to the variable remuneration granted in 2022 in reference to performance year 2021 (provided national transpositions are made by June 2021).

### Questions

Question 1: Are the provisions within Article 1-5 sufficiently clear?

AFME would like to raise the following:

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Paragraph 41 of the Investment Firms Directive (IFD) 2019/2034 introductory text provides that “*the EBA should ensure that those regulatory technical standards can be applied by all investment firms concerned in a manner that is proportionate to the nature, scale and complexity of those investment firms and their activities*” (emphasis added). We would support the inclusion of a paragraph in the Regulatory Technical Standard in relation to this point in one of the Articles.

We also request clarification that, per the reference to shares in IFD Article 32(1)(j)(ii), in case of investment firm with unquoted shares, the quoted share of the parent company can be used as instruments in variable remuneration.

Question 2: Is it appropriate to continue to require the same conditions for the use of AT1, Tier 2 and Other Instruments as under the current legislative framework?

AFME has no comments in response to this question.

Question 3: Are the provisions in Article 6 appropriate and sufficiently clear? Where respondents are of the view that the draft RTS should define a set of specific arrangements rather than providing conditions that such arrangements should meet, comments are most helpful, when they clearly describe the alternative arrangements that investment firms desire to use to ensure that variable remuneration is aligned with the long-term interest of the investment firm and its risk profile.

AFME has no comments in response to this question.

Question 4: Do respondents agree with the findings of the impact assessment? Where respondents have identified additional costs or burdens created by the draft RTS, it would be most helpful if respondents could specify and, where possible, quantify separately the costs for the implementation of the provision and the costs for the ongoing application of the provisions.

AFME has no comments in response to this question.

## **Next steps**

AFME welcomes the opportunity to submit comments, and would be pleased to engage further as the regulatory process continues.

## **AFME Governance**

We confirm that AFME has put in place internal arrangements to manage our work in compliance with the conditions set by the EBA on Adam Farkas' appointment as CEO of AFME. As part of these arrangements, Adam Farkas has not been involved in the preparation of this consultation response.

## **AFME contacts**

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