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European Banking Authority
Floor 46
One Canada Square
London E14 5AA

(submitted via EBA website)

Re: CONSULTATION PAPER (EBA/CP/2014/28)
Draft Guidelines on the minimum list of qualitative and quantitative recovery plan indicators

Introduction

BNY Mellon is a global investments company dedicated to helping its clients manage and service their financial assets throughout the investment lifecycle. As one of the world's largest investment services and investment management firms, BNY Mellon welcomes the opportunity to respond to the EBA Consultation Paper (*EBA/CP/2014/28*) in respect of Draft Guidelines on the minimum list of qualitative and quantitative recovery plan indicators.

BNY Mellon operates in Europe through: (i) branches of The Bank of New York Mellon (a New York incorporated financial institution) and (ii) directly established and duly authorised subsidiaries established in several EU jurisdictions and branches of those entities operating in most of the core EU member states. It provides services to clients and end-users of financial services globally. It is accordingly keenly interested to ensure financial markets operate fairly and consistently globally and that common standards ensure playing fields are kept level.

Executive Summary

BNY Mellon supports the responses of the Association for Financial Markets in Europe (AFME) and the European Banking Federation (EBF).

In particular, BNY Mellon views the indicators in the draft Guidelines Annex I Section C as too prescriptive.

Ultimately, the indicators need to be determined by each institution, tailored to each institution (or group of firms covered by the recovery plan) and agreed with the relevant competent authority. Rather than prescribing indicators which must be included unless they are rebutted, we think the preferable approach is for each institution to have a dialogue with the relevant competent authority about the indicators that should be used for that institution.

The indicators listed in the draft Guidelines are a useful starting point for institutions to consider, but they should not be viewed as mandatory.

In terms of categories, BNY Mellon's view is that the only mandatory categories should be capital indicators and liquidity indicators.

BNY Mellon supports the use of qualitative and quantitative indicators, but would emphasise that these indicators should be tailored to (and proportionate for) each institution rather than prescribed. In other words, "harmonisation" of recovery plans for different institutions should not be viewed as the objective.

BNY Mellon cautions against the use of a large number of indicators. A large number of indicators may result in key trends (that may indicate the need to consider deployment of the recovery plan) being lost in the detail.

The appropriate number of indicators will vary from institution to institution, and should be determined by each institution, with the agreement of the relevant competent authority. Also, a large number of indicators may make calibration more difficult.

There is also a concern that the use of a large number of mandatory (albeit rebuttable) indicators would result in the "recovery plan indicators" being more a day-to-day "business management indicators" or "risk management indicators" tool, rather than focused on recovery planning. This may result in resources that should be focused on recovery planning being diverted to day-to-day management. In particular, this may mean that institutions spend more time on calibration of indicators and rebutting non-tailored indicators that are of no/limited relevance, rather than focusing on the more critical task of development and maintenance of credible options and actions for the recovery plan.

Responses to Specific Questions

BNY Mellon is responding to the EBA using the electronic response form on the EBA website. However, for convenience, our responses are also contained in this document in Annex 1 below.

BNY Mellon looks forward to further engagement with the EBA in regard to this Consultation Paper and other consultation papers relating to BRRD and DGSD.

Veronica Iommi
EMEA Head of Public Policy
Office of Public Policy and Regulatory Affairs
Legal Department
BNY Mellon

ANNEX 1 – Responses to Specific Questions

Q1: Do you agree with the inclusion of both quantitative and qualitative indicators for recovery planning purposes?

BNY Mellon supports the responses of AFME and the EBF.

BNY Mellon supports the use of qualitative and quantitative indicators, but would emphasise that these indicators should be tailored to (and proportionate for) each institution rather than prescribed.

Q2: Do you consider that there are other categories of indicators apart from those reflected in the draft Guidelines which should be included in the minimum list of recovery plan indicators?

BNY Mellon supports the responses of AFME and the EBF.

BNY Mellon does not consider that other categories of indicators should be included in the minimum list. Our view is that the only mandatory categories should be capital indicators and liquidity indicators. All other categories should be optional.

Q3: Do you agree with the list of specific recovery plan indicators included in Annex I, Section C, or would you propose to add other indicators to this Section?

BNY Mellon supports the responses of AFME and the EBF.

BNY Mellon views the indicators in the draft Guidelines Annex I Section C as too prescriptive.

Ultimately, the indicators need to be determined by each institution, tailored to each institution (or group of firms covered by the recovery plan) and agreed with the relevant competent authority. Rather than prescribing indicators which must be included unless they are rebutted, we think the preferable approach is for each institution to have a dialogue with the relevant competent authority about the indicators that should be used for that institution.

The indicators listed in the draft Guidelines are a useful starting point for institutions to consider, but they should not be viewed as mandatory.

BNY Mellon cautions against the use of a large number of indicators. A large number of indicators may result in key trends (that may indicate the need to consider deployment of the recovery plan) being lost in the detail.

The appropriate number of indicators will vary from institution to institution, and should be determined by each institution, with the agreement of the relevant competent authority. Also, a large number of indicators may make calibration more difficult.

Q4: Do you consider that these Guidelines should establish the threshold for each quantitative recovery plan indicator to define the point at which the institution may need to take recovery measures to restore its financial position?

BNY Mellon supports the responses of AFME and the EBF.

We do not consider that the Guidelines should establish any threshold in this regard. We believe that each indicator should be tailored to the institution, including any thresholds that institutions may wish to set in regard to a quantitative indicator.

Q5: Do you agree with our analysis of the impact of the proposals in this Consultation Paper? If not, can you provide any evidence or data that would explain why you disagree or might further inform our analysis of the likely impacts of the proposals?

BNY Mellon supports the response of AFME.

Ultimately, the recovery plan indicators need to be determined by each institution, tailored to each institution (or group of firms covered by the recovery plan) and agreed with the relevant competent authority. Rather than prescribing indicators which must be included unless they are rebutted, we think the preferable approach is for each institution to have a dialogue with the relevant competent authority about the indicators that should be used for that institution.

There is also a concern that the use of a large number of mandatory (albeit rebuttable) indicators would result in the “recovery plan indicators” being more a day-to-day “business management indicators” or “risk management indicators” tool, rather than focused on recovery planning.

This may result in resources that should be focused on recovery planning being diverted to day-to-day management. In particular, this may mean that institutions spend more time on calibration of indicators and rebutting non-tailored indicators that are of no/limited relevance; rather than focusing on the more critical task of development and maintenance of credible options and actions for the recovery plan.

Therefore we think the preferable approach is:

- The only mandatory categories should be “capital indicators” and “liquidity indicators”
- Other categories should be optional
- The listed recovery plan indicators in the Guidelines should be considered by institutions, but their use should not be viewed as mandatory, and they should not have to be “rebutted”
- The recovery plan indicators should be determined by each institution, tailored to each institution (or group of firms covered by the recovery plan) and agreed with the relevant competent authority.
- Rather than prescribing indicators which must be included unless they are rebutted, each institution should have a dialogue with the relevant competent authority about the indicators that should be used for that institution.