

WMBA reply to FSB/IOSCO (“FSB”) Consultation Paper Assessment Methodologies for Identifying Non-Bank Non Insurance Globally Systemically Important Financial Institutions (“NBNI G-SIFI”)

1. Introduction

The Wholesale Markets Brokers’ Association (WMBA) and the London Energy Brokers’ Association (LEBA) (jointly referred to in this document as the ‘WMBA’) are the European industry associations for the wholesale intermediation of organised venue and Over-the-Counter (OTC) markets in financial, energy, commodity and emissions markets and their traded derivatives. Our members act solely as intermediaries in wholesale financial markets and do not undertake any proprietary trading. As a result they are classified as Limited Activity and Limited Licence under BIPRU¹ in the UK where they carry out the vast majority of their activities regardless of home domicile of the individual holding companies. This functionality places them under either Article 95 (1) of CRR or Article 96 (1) of CRR) firms in respect of the current FCA classifications^{2, 3}.

^{1.} [BIPRU limited licence firm](#)³ has the meaning in [BIPRU 1.1.17 R](#) (Types of BIPRU investment firm), which is in summary a [limited licence firm](#) that meets the following conditions:

- a) it is a *firm*; and
- b) its head office is in the *United Kingdom* and it is not otherwise excluded from the definition of *BIPRU firm* under [BIPRU 1.1.7 R](#) (Exclusion of certain types of *firm* from the definition of *BIPRU firm*).

[BIPRU limited activity firm](#)¹

- a) in the PRA Handbook: has the meaning set out [BIPRU 1.1.11 R](#) (Types of investment firm: Limited activity firms).
- b) In the FCA Handbook: has the meaning in article 96(1) of the [EU CRR](#).

^{2.} **Article 95 Own funds requirements for investment firms with limited authorisation to provide investment services**

For the purposes of Article 92(3), investment firms that are not authorised to provide the investment services and activities listed in points (3) and (6) of Section A of Annex I to Directive 2004/39/EC shall use the calculation of the total risk exposure amount specified in paragraph 2.

^{3.} **Article 96 Own funds requirements for investment firms which hold initial capital as laid down in Article 28(2) of Directive 2013/36/EU**

For the purposes of Article 92(3), the following categories of investment firm which hold initial capital in accordance with Article 28(2) of Directive 2013/36/EU shall use the calculation of the total risk exposure amount specified in paragraph 2 of this Article:

- (a) investment firms that deal on own account only for the purpose of fulfilling or executing a client order or for the purpose of gaining entrance to a clearing and settlement system or a recognised exchange when acting in an agency capacity or executing a client order;
- (b) investment firms that meet all the following conditions:
 - (i) that do not hold client money or securities;
 - (ii) that undertake only dealing on own account;
 - (iii) that have no external customers;
 - (iv) for which the execution and settlement whose transactions take place under the responsibility of a clearing institution and are guaranteed by that clearing institution.

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Our members are not credit institutions and do not take deposits. Their revenues derive mainly from commission earnings from transactions brokered and other services such as data sales. Interdealer brokers have not been subject to regulatory resolution or tax payer intervention.

Throughout this accelerated period of financial reform and reregulation post the financial crisis the WMBA has been particularly active in shaping the methods and outcomes to this process.

In this regard, we understand very closely that the behaviour of financial market participants in their life cannot be adequately supervised until the regime that will determine and organise the events of their death is widely agreed. In this respect we are ‘Darwinist’ and place resolution, especially in a cross border context, as ‘*Prima Inter Pares*’ amongst the solutions lined up over this period.

WMBA welcomes the opportunity to respond to the issues raised in this Consultation Paper on behalf of its members and looks forward to further active engagement in this respect at the Board’s pleasure. Based on our member firms’ business profiles, we have restricted our response to a summary of the key points that need to be taken into consideration prior to implementing these proposals (the points have been cross referenced to the consultation paper where appropriate).

Key Points

- WMBA notes the FSB adoption of a Materiality Threshold of \$100 billion for determining the assessment pool for NBNI G-SIFI which will remove its members from the scope of the NBNI G-SIFI regime.
- WMBA supports the proposal to give national authorities judgement for identifying G-SIFI and the establishment of an International Oversight Group (IOG) in order to maintain international consistent standards.

However, WMBA is concerned that the numbers, diverse nature and risk profiles of firms within the “*Market Intermediaries section*”⁴, in which our members operate, will result in

⁴ “Market intermediaries” generally include NBNI financial entities that are in the business of managing individual portfolios, executing orders and dealing in, or distributing, securities.

They may also include NBNI financial entities that engage in any of the following activities:

- Receiving and transmitting orders;
- Proprietary trading/dealing on own account;
- Providing advice regarding the value of securities or the advisability of investing in, purchasing or selling securities;
- Securities underwriting;
- Providing funding to clients (e.g. margin loans, reverse repos); and
- Placing of financial instruments without a firm commitment basis

⁵ *The role of the Inter Dealer Broker*, <http://www.wmba.org.uk/assets/Role%20of%20the%20Broker.pdf>

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inconsistency in interpretation of these indicators and the IOG’s ability to monitor the results will be severely restricted.

IDBs (i.e. the WMBA members) are classified in the UK under BIPRU as Limited Activity Firms/Limited Licence Firms, as defined under Regulation (EU) No 575/2013-CRR and will be classified as Market Intermediaries in respect of the proposals. However, unlike other firms within the Market Intermediaries Categorisation when arranging transactions between clients via Matched Principal⁵, IDBs do not take proprietary positions and hence have only residual market risk in the event of a client default. IDBs are exposed to Operational Risk which is taken into account in their regulatory capital resource calculation under pillar II. When acting as pure arrangers of transactions (‘name passing brokers’) IDBs do not have any market risk.

In these circumstances the WMBA is of the opinion that IDBs do not pose any risk of systemic contagion within the financial service industry and would respectfully request that the FSB, besides the ‘Threshold Exemption’ already proposed, considers a further blanket exemption from the G-SII regime for these Limited Activity /Limited Licence Firms.

(Q 5-1. In your view, does the proposed definition of market intermediaries provide a practical basis for applying the specific methodology (i.e. indicators) to assess the systemic importance of NBNI financial entities that fall under the definition?)

- The European Banking Authority published a Consultation Paper on 12 December 2013 in respect of “*Draft Technical Standards (RTS) on the methodology for the identification of globally systemically important institutions*” in the European Capital Adequacy Directive which also contained proposals on a high-level framework and specific methodologies. Whilst this paper applies the same impact factors for determining a NBNI G-SIFI, the constituents of these 5 factors for market intermediaries differs slightly from those used by the FSB. WMBA would suggest that to avoid unnecessary administration effort reworking the figures, some consideration is given to standardising these definitions across both papers.

(Q2-1. Does the high level framework for identifying NBNI G-SIFIs (including the five basic impact factors) adequately capture how failure of NBNI financial entities could cause significant disruption in the wider financial system and economic activity? Are there any other impact factors that should be considered in addition to those currently proposed or should any of them be removed? If so why?)

If you would like any further information/clarification in respect of these issues do not hesitate to contact the persons named below. The WMBA are happy for these comments to be disclosed.

Comments should be submitted by 7 April 2014 by email to fsb@bis.org or post (Secretariat of the Financial Stability Board, c/o Bank for International Settlements, CH-4002, Basel, Switzerland). All comments will be shared with IOSCO and will be published on the FSB and IOSCO websites unless a commenter specifically requests confidential treatment.

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