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The Committee of European Banking Supervisors
CP05@c-eps.org

29 June 2005

Dear Sirs

CEBS Consultation on the framework for Supervisory Disclosure (CP05)

The London Investment Banking Association (LIBA), the British Bankers' Association (BBA) and the International Swaps and Derivatives Association (ISDA) welcome the opportunity to comment on the proposed supervisory disclosure framework (SDF), as outlined in CP05 and to working with CEBS on its development. As a joint response this represents the views of both trading firms and commercial banks.

Our Members consider greater transparency in the Member States' implementation and transposition of EU-wide rules to be a key element of the implementation and as such have requested supervisory disclosure throughout the Basel/Capital Requirements Directive (CRD) process. They commend CEBS for embracing such calls and overall our Members consider that this CP has successfully delivered, in framework terms, what they were seeking.

Key points

Our Members believe that the Supervisory Disclosure Framework (SDF) is a very helpful first step toward delivering a common basis for disclosure. However, they think global implementation of this initiative across all countries implementing Basel II is desirable. While they appreciate that this goes beyond the EU remit, and would involve additional resources, they would urge CEBS to work with other regulators on this issue. A possible alternative solution would be to allow other regulators to post disclosures on CEBS website on a voluntary basis.

Firms consider that the greatest benefit to them of the SDF will be in providing clarity on key issues in the CRD implementation and enabling them to engage with regulators on areas where different approaches are taken. With that in mind, they would encourage CEBS to implement the framework as soon as national regulators make available their rules and

guidance rather than wait for finalisation in all Member States. Regulators too might find this approach helpful in benchmarking the development of their national policies to ensure that they are convergent with other CEBS members. Additionally firms would find it extremely useful if national authorities posted links to their proposed implementation frameworks prior to that point. Firms would particularly like early sight of regulators' approaches to national discretions and are keen to see the Trading Book Review incorporated within the framework as soon as possible. Firms would also like to see statistical data input as this becomes available rather than waiting until all Member States have completed their work.

Our Members consider that CEBS has struck the right balance in terms of the level detail of disclosures required. One area where Members would like to see additional information is the specific disclosure of where national authorities have implemented something different to the requirements of the Directive. Our Members acknowledge that if proper disclosures are made it should be possible to determine this information from the tables, but they think it is important to understand where the differences of implementation lie. This will aid the understanding of how the CRD has been transposed across the EU (a key aim in the Commission's Green Paper on Financial Services Policy (2005 – 2010)), the cost implications of implementing in different Member States, and the basis on which the statistical data produced. Our Members regard this as a factual disclosure that would need to be prepared by national authorities. An example of such a disclosure in the UK implementation proposals would be the decision to require firms to hold 75% rather than 50% of the voting rights for a subsidiary to be eligible for solo consolidation¹.

Our Members fully support the internet based system proposed because of its flexibility in accommodating changes to the framework and the ease with which it can be updated. In general firms found the system clear and easy to follow and think that it provides a sound structure for successful implementation.

It is not possible to determine at this stage of development how successful the implementation of the SDF will be, as it has yet to be populated with information. Our Members will be looking to four key elements in determining whether success has been achieved:

- ? **The SDF is maintained in a timely fashion.** It is important that the framework is updated by Member States' authorities in a prompt fashion and to that end it would be useful to introduce a date field into the tables to enable users to determine the point at which it was last updated. Updates should be made as soon as there is any material change to the information disclosed
- ? **All guidance relating to CRD implementation is disclosed** to all firms operating in its jurisdiction and through CEBS to the international population. If there is information asymmetry, this will disadvantage other competing EU firms.
- ? **Information input is clearly and consistently disclosed.** While we recognise that it might not be within CEBS remit to judge poor disclosure and that doing so might not provide the right incentives to full and frank disclosure, we do think that CEBS could provide a useful role in collating feedback from users and passing this on to supervisors. We appreciate that this is likely to require additional resources at least

¹ BCD Article 70

in the short run as the framework becomes established, but think that such a feedback role could improve the quality of information made available.

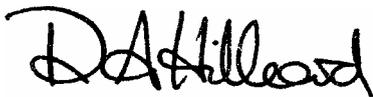
- ? **The SDF results in greater convergence of implementation across the EU.** Our Members hope that information provided in the SDF will be a major driver in delivering greater convergence by encouraging the debate between firms and individual regulators, and between regulators themselves, on areas of difference; and providing a significant input into CEBS future work plans in this area.

As a significant user group, our Members would, therefore, like to be able to contribute to the annual review process proposed and input in relation to the factors identified above.

We set out the answers to the specific questions raised in the CP in Annex 1 and include some additional comments in Annex 2.

Finally our Members look forward to working with CEBS in finalising the proposals and developing them further to take account of the issues that are still subject to the CRD negotiation process. Please contact Diane Hilleard (diane.hilleard@liba.org.uk), Ed Duncan (eduncan@isda.org) and Simon Hills (simon.hills@bba.org.uk) if you would like to discuss any of the aspects of this letter or regarding future proposals.

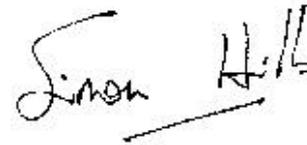
Yours faithfully,



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Annex 1 - Questions

1 Does the framework allow for a meaningful comparison across EU of the approaches to implementation of the Basel II – related provisions of the CRD?

Our Members consider that the SDF is comprehensive and covers all the significant capital adequacy rules. However, as mentioned above our Members would like to see additional disclosure of areas where national authorities are implementing policies that are different to the requirements of the Directive.

Our Members support the use of a common language for disclosure as facilitating comparison.

Our Members also consider that there are three elements that need to be considered in determining whether SDF will provide meaningful comparison in practice:

- ? **The effectiveness of the transposition of national authorities' rules and guidance into a standard format** - Supervisors currently take different approaches to the dissemination of information on Directive implementation; these may not be easy to standardise. We, therefore think that the content of these disclosures is as important as the format. However, we note that the Commission is proposing make working with Member States to improve transposition and ensure consistent implementation a priority in its Green Paper of Financial Services Policy (2005 – 2010). We support this initiative wholeheartedly.
- ? **Full disclosure** - Firms would encourage CEBS to require national authorities to disclose all guidance, including informal, so that all entities operating in a given jurisdiction can compete on equal terms.
- ? **Timely update of the SDF**. Meaningful comparison will only be possible if firms can be sure that they are working with the most current information.

2 What additional disclosures, if any, would you like supervisors to make, in addition to those listed in Annex II? Why?

Our Members consider that Annex II provides a very thorough and comprehensive list of statistical information. However, at their current stage of implementation, firms are more interested in the policy and implementation guidance of each national authority. One area of additional information that our Members would recommend including is the number/percentage of firms that have applied for the advanced approaches for credit risk and operational risk. Our Members consider that this, combined with other disclosures, will provide a useful indication of the approach taken by regulators to the advanced approaches.

In relation to the inclusion of investment firm data, our Members consider that the presumption should be to disclose, as the CRD applies equally to investment firms. The proportionality principle embodied in paragraph 26 should protect confidentiality.

3 How do you envisage using the disclosure framework?

The SDF will be of particular interest to those firms with presences in a number of EU Member States. Firms will find it particularly useful to compare rules relating to model validation, as well as national discretions. Provided that information becomes available early,

our Members consider that the SDF will be an essential tool in their implementation plans and in explaining to senior management the reasons for the differences in implementation across the group.

Additionally firms consider that the SDF will be primary tool in achieving greater convergence of approaches across the EU, i.e. the level playing field. Where convergence is not possible firms will be seeking mutual recognition of approaches taken, in order that returns need not be re-stated on a consolidation. Our Members would urge CEBS to use the information provided to identify not only commonalities in approaches across Member States, but also to drive the future work plan for convergence in the EU.

One important spin-off will be in monitoring, and analysing, both nationally and across the EU, the take-up of the various approaches within the framework for both credit and operational risk.

4 Do you have any comments on the mechanics of the website architecture, e.g. suggestions for making it more user-friendly?

Our Members found the website generally user friendly and easy to navigate. Firms found the links to national authorities' sites worked well. Our Members also thought that tables were a good way of presenting the information and liked the links to the specific Directive requirements. However, they would like to revisit the effectiveness of the tables once the volume of disclosure becomes clearer.

Our Members had the following recommendations for improvement to the website architecture:

- ? Links to national websites to take users straight to the CRD implementation information rather than the home page.
- ? Presentation of the tables in a format that is easy to download, manipulate and print for their internal reporting purposes (egg using Excel or Word).
- ? Clear indication on the website when there has been an update to information provided.
- ? Inclusion of date fields in the tables so that it is possible to determine when the last update occurred for a particular national authority.
- ? Inclusion of a user-comment facility so that users can provide feedback on how well the framework is working both in terms of timeliness of update and clarity of disclosure.

Annex 2 – Other comments

I Introduction

Paragraph 10 – Our Members support the extension of the SDF to elements of the CRD that have not been part of the Basel Review, such as capital.

Paragraph 11 – Our Members are pleased to note that CEBS is encouraging co-operation and co-ordination of supervisory bodies within Member States.

II Transparency of Supervision

Paragraph 12 – Our Members support the principles outlined, although they consider that CEBS could play a useful role in co-ordinating feedback from users.

Paragraph 17 – Our Members support the objectives set out.

III Basic principles

Para 25 – Our Members support the basic principles outlined. However, they seek confirmation regarding item (iii) that where data is not disclosed by the firm under Pillar 3 for reasons of commercial confidentiality and/or materiality, it would not be necessary to provide such data for inclusion in supervisory disclosure.

IV Main features

Paragraph 44 – Our Members support the inclusion of contact information for national authorities and CEBS. This will provide a useful tool for firms seeking further clarification on implementation.

Templates

General comment – Members recommend that the language used in the item descriptions in the tables should match, as far as possible, that used in the Directive.

ECAIs

- Depending on the results of CEBS discussions in relation to recognition and mapping, our Members recommend inclusion of mapping tables by asset class.

Statistical data

- It appears that some of the fields require total amounts rather than percentages. On that basis, firms recommend inclusion of a currency field.