



# BRITISH BANKERS' ASSOCIATION

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15<sup>th</sup> June 04

Dear Sirs,

## **BBA response to CEBS Draft Public Statement of Consultation Practices**

The British Bankers' Association represents more than 250 banks from around the world doing business in the United Kingdom including all the major European banks conducting wholesale banking business in London. The BBA and the European Banking Federation of which it is a member have been major interlocutors with the Basel Committee and with European banking supervisors with regard to the Basel Accord and its EU implementation over many years.

We welcome the opportunity to respond to the first Consultation Paper by CEBS, on the subject of the Consultation Practices of CEBS. In the past we have also responded to a similar consultation by CESR on its consultation practices and remain in dialogue with them regarding their consultation practices.

### *Consultation in General*

We strongly support the general approach of CEBS – to ensure that there is wide-ranging consultation with the banking industry and users of banking services. We consider that industry participation will significantly enhance the content of proposals emanating from CEBS and we have experienced similar results from consultation with CESR and with the European Commission.

We strongly support consultation at national level as well as at European level. Some member states are less used to consultation at national level and, in our view, should be encouraged to consult their industry and market participants. We would suggest that the CEBS secretariat should review all responses – whether nationally submitted or submitted on a pan-European basis to ensure that a genuinely pan-European picture is built up. Inevitably if CEBS relies upon a summary from national regulators there is a risk that a sense of the scale of interest in a particular description and the flavour of individual contributions may be lost. Moreover, in our experience, some European associations tend to submit their responses to national regulators and it is important that their contribution is properly appreciated and given due weight. CEBS will also need to develop a sense of the relative weight of a particular submission. We would suggest that the views of pan-European associations and of national associations should, for example, carry more weight than the views of individual banks. The views of banking associations should, generally, carry more weight than the views of non-banks. The views of the associations representing the economies with the most significant banking sectors should carry more weight than those representing smaller economies.

### *A CEBS Charter*

CESR promulgated a Public Statement of Consultation Practices (available from [www.cesr-eu.org](http://www.cesr-eu.org) under Standards, Recommendations and Guidelines) which sets out how it planned to consult with market participants. We would advocate CEBS publishing a similar Public Statement. This need not necessarily be identical to the CESR Public Statement but we would propose that the CESR Public Statement should be a starting point for any similar statement from CEBS and that CEBS should only deviate from it if it considered that any amendments were an improvement on the CESR Public Statement in the light of CESR's own experience or because of particular differences in the banking sector which need to be taken into account.

### *A Work Programme*

We strongly support the publication of a CEBS work programme. CESR has already begun doing this and it is a very helpful indication of proposed consultation and work which greatly assists associations and other participants in developing their own resource allocation.

### *Areas of Consultation*

We agree that CEBS should consult on all of its work advising the Commission on draft implementing measures in the field of banking supervision. We would expect that it would almost always be appropriate for CEBS to consult the industry with regard to consistent application of Directives or other EU legislation and with regard to the convergence of Member States' supervisory practices. We would strongly support consultation in these areas and the development of an ongoing dialogue with associations such as the European Banking Federation and the BBA which have a continuing ongoing interest in the work of CEBS.

### *Modes of Consultation*

We agree that all of the modes of consultation proposed are appropriate. The overall objective should be to develop a continuous dialogue with market participants and, in particular, the banking industry which ensures that supervisory conclusions have been fully discussed and, in general, bought into or at least understood, before they are implemented.

It would be helpful to set out clearly a typical consultation cycle in relation to Lamfalussy Level 2. In general both the IIMG and CESR recommend a 12 month cycle operating broadly as follows:

- Mandate published by Commission
- Prompt publication of call for evidence for response within around 6 weeks.
- Publication of Consultation Paper around 3 or 4 months after publication of mandate.
- 3 months for industry to respond to CP. Open hearing during this period.
- Consideration of responses and second consultation by around month 8.
- Around 2 months for second response by end month 10.
- Finalisation of advice and delivery by end month 12.

We consider that this is usually an appropriate timescale and format – subject to the fact that in some cases either the simplicity of the issue or urgent public policy considerations may dictate a

faster timetable. It would be useful if this approach could be built into the Public Statement of Consultation Practices which we advocate.

In relation to Level 3 the timetabling constraints which the Commission impose will not exist and there would be scope for more variation in the consultation approach. In general, however, we would have thought that the proposed Level 2 approach would form a useful template for Level 3 consultation as well – but there should be more flexibility to adapt it depending upon the particular subject matter of the consultation.

#### *Timing of Consultation*

Please see our comments above. In general we agree with CEBS that a 3 month consultation is usually a reasonable period. CEBS should also consider “pre-consultation” with associations and others who have shown themselves to be consistently interested in the issues on which CEBS consults.

#### *Follow Up to Consultations*

We agree that all responses to CEBS consultations should be made public unless the respondent requests otherwise.

We strongly support the publication of a feedback statement or reasoned explanation addressing all major points raised in the consultation process. This should explain how CEBS has addressed these points and why they have accepted, or rejected, them.

We consider that a second round of consultation should usually occur unless there is a high degree of support for the original proposals or the issue is very simple. The reason for this is that in our experience a second round of consultation frequently results in significant improvement of the more detailed aspects of regulatory proposals. We consider that the first round of consultation should be used to set the main policy parameters and the second round should be used to hone the practical detail of any proposals.

We agree that all formal proposals and all advice given to the European Commission should be published.

#### *Other Issues*

We agree that CEBS should publicly explain if it departs from its principles of consultation. We also consider that it should do its utmost to adhere to its principles of consultation except in extreme cases. We also agree that the statement should be reviewed from time to time.

#### *Contact Details*

If you wish to discuss this response further please contact Michael McKee on 00 44 207 216 8858 or [Michael.mckee@bba.org.uk](mailto:Michael.mckee@bba.org.uk)

Yours Sincerely

**Michael McKee**

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