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CEBS  
Committee of European Banking Supervisors

Brussels, 23 July 2004

**Position of the EAPB on the CEBS Consultation Paper on High Level Principles on Outsourcing**

Dear Madam,  
Dear Sir,

The European Association of Public Banks (EAPB) would like to thank you for the possibility to comment on the CEBS consultation paper on High Level Principles on Outsourcing. Also in the future we would like to continue this dialogue between CEBS and the industry. The EAPB represents European public banks and funding agencies from several EU Member States. The direct members of the EAPB are public banks, financial institutions and national associations, which means that the EAPB represents a balance sheet total of more than EUR 3,000 bn. The EAPB is a regular member of the European Banking Industry Committee (EBIC).

Changing market requirements and general economic conditions are making it increasingly necessary for institutions to concentrate more on their own fundamental strengths. As a result, functions that are not part of one's core business or which cannot be performed internally because of unjustifiable business costs may have to be outsourced to specialist service companies. In order to be able to respond autonomously with the necessary degree of flexibility, it is important that only benchmarks are set by way of supervisory stipulations. Mandatory legal stipulations should be geared strictly towards the actual risks. Furthermore, efficient implementation and administration should be guaranteed by supervisory authorities and supervised institutions.

**Coordination with CESR/IOSCO**

The Committee of European Securities Regulators (CESR) is currently working on drawing up recommendations for the implementation of Directive 2004/39/EC (Markets in Financial Instruments Directive). These also contain provisions concerning the outsourcing of operations by investment companies. It is essential that regulations governing the supervision of banks and securities firms are compatible with each other. Coordination

between CESR und CEBS is therefore required with regard to questions concerning the outsourcing of areas of activity and functions to other companies.

The International Organization of Securities Commissions (IOSCO) is also in the process of drafting outsourcing standards. Coordination with the IOSCO is likewise recommended in order to avoid supervisory standards drifting apart or the necessity to adjust them at a later date, which would change the general conditions for the institutions again.

### **Outsourcing to supervised institutions**

In cases where functions and areas of activity are outsourced to companies located in the EU which require their own banking authorisation for such functions and areas of activity and are therefore subject to full supervision by the relevant authorities, we are of the view that less strict formal requirements are needed with regard to the risk aspects. This applies, for example, with regard to the contractual granting of individual auditing rights and the obligation to ensure expressly in a contractual manner that the areas of activity outsourced are subjected to the same standards as in those in force within the outsourcing institution.

### **Regulation of exemption areas**

Certain types of business require the working cooperation of several companies. This can be unavoidable for complete and economical execution, e.g. concerning the structure of a business transaction. In these cases, the formal application of outsourcing principles could lead to considerable complication, increased costs and more bureaucracy without providing any material advantages. The following types of business, in particular, should therefore be exempt from the area of application of the principles: function of the clearing centres in payment transactions and trading of securities, the use of securities trading systems by the institutions, the authorisation centres for electronic cash transactions as well as the central bank function within a finance group, the enlisting of lead managers, arrangers or agents for syndicated loans, and comparable case scenarios.

National supervisory authorities should also be empowered to specify other areas of exemption so as to be able to take account, also with adequate regard to risk, of the diverse business models of institutions in the European Union.

### **Regulations for multi-client service providers**

According to principle X. of the consultation paper, supervisory authorities should be aware of any concentration risk and manage and monitor these risks. This principle appears to be based on the idea of outsourcing to a multi-client service provider which serves a large


number of institutions being associated with a greater risk. In contrast, it should be taken into account that such multi-client service providers generally have greater know-how in the area of the activity undertaken than individual providers. Furthermore, their costs for adapting a service (e. g. through changes in supervisory or technical stipulations) are substantially lower in relation to the individual activity undertaken, with the result that such adaptation can be carried out with a far lesser degree of difficulty. It is not clear what is meant by the “managing of concentration risks by the supervisory authority” and we therefore request clarification.

In the case of service companies providing the same service for several institutions, an individual right to issue instructions and the granting of independent powers for the internal auditing of each outsourcing institution are not feasible in practical terms. Individual rights of this nature would have a hugely detrimental effect on the cost-effective outsourcing of functions to multi-client service providers. In this context, an exemption provision should be included which waives unlimited and inadequate individual auditing and instructing rights for each individual institution.

The EAPB would very much appreciate CEBS considering the comments and arguments set out in this position paper. Should you have any questions, we will be very happy to respond.

With kind regards,

European Association of Public Banks

A handwritten signature in black ink, appearing to read 'Schoppmann', written in a cursive style.

Henning Schoppmann

A handwritten signature in black ink, appearing to read 'G. Klein', written in a cursive style.

Germaine H. Klein