

**CEBS'S CONSULTATION PAPER ON CEBS'S TECHNICAL ADVICE TO
THE EUROPEAN COMMISSION ON OPTIONS AND NATIONAL DISCRETIONS**

ASF Response

The ASF (Association Française des Sociétés Financières) is, according to the banking act of 24 January 1984, the representative body of all specialized financial institutions in France.

ASF currently has nearly 380 members. One half are subsidiaries of major deposit banks and the other half from other sectors (insurers, financial organizations, manufacturers, major retailers...) with outstandings of funding to the economy approaching € 260 billion. Nearly 20% of total outstanding credits to the economy in France. The activity of the members of the Association may be divided in four major areas (credit to private individuals, credit to companies and professionals and among them leasing transactions, other financial services -including financial guarantees -and investment services) covering some 20 different financial products for companies and private individuals.

ASF welcomes the opportunity to comment on your « Consultation paper on CEBS's technical advice to the European Commission on options and national discretions » (22 may 2008).

By mail of October 2007 16th, we sent to you our observations on certain issues of your questionnaire on option and national discretions for the main issues concerning directly our members' activities.

We are happy to see that your present consultation paper, on many problems we raised, especially for real estate leasing transactions, proposes to keep national discretions in their current form, with in certain cases the introduction of mutual recognition clauses.

If it was adopted by the European Commission, such a treatment could contribute to harmonization between member States and also allow to adopt the most adapted provisions taking account of markets situation and national specificities, as well as the development of financing techniques.

We wish answer to your consultation paper on the following issues:

- **About question 68** on possibility, until December 31, 2012, for competent authorities of member States to allow leasing exposures on offices or commercial premises, in their territory and subject to certain conditions, to be rated 50%, CEBS proposes to keep the provision till the end of the transition period subjecting to binding mutual recognition for the benefit of all institutions subject to the directive, irrespective of their location.

We quite agree with the introduction of this binding mutual recognition clause.

We also think, as for others option, it could be proposed before the end of the period the option shall be reviewed.

Indeed, this option which had been proposed by France who has adopted it, as other member States, corresponds to a treatment provided by previous European directives. As we already said, such options, by themselves, don't create competitive distortions. Actually they correspond to the situation of « mature » markets. If it's not immediately the case for all European countries, it will be the case for a growing number of them in the next years.

It would be unfortunate to delete this option without a new review, when it can become useful to countries where leasing is growing , as they already are to countries where leasing has reached « maturity » stage.

Besides, the introduction of the binding mutual recognition clause contributes to the addressed harmonization.

So we suggest to add after the first sentence of article 153 , par 1, - before the sentence proposed by CEBS on mutual recognition clause – the following sentence : « Before the end of the period, this discretion shall be reviewed ».

- **About question 70** (article 154 , par 1, first sentence, directive 2006/48), on the possibility for member states, until December 31, 2011, to set the number of days past due up to 180 days for administrative bodies and non commercial undertakings, corporate and retail exposures situated in their territories, in standardized approach, CEBS proposes to keep the provision in its present form till the end of transition period, and notices the provision should be deleted at the end of its validity.

In several countries, and among them France, terms of payment are quarterly for real estate operations (credit to retail, to corporates, commercial real estate leasing transactions). To have a good estimation of the true situation of the debtors, it's necessary that two quarterly instalments or rents remain unpaid, i.e 180 days. The option is especially necessary since the member states may differ the specific number of days across product lines (which allows to take into account local conditions of dates of payment or delays of payment of public sector entities, as it is the case in France. We therefore wish it becomes a permanent option and its end mentioned by December,

31,2011, be deleted.

In addition, if option was deleted when 180 days are necessary to have a good estimation of the true situation of debtors, then the past due notion would have no more meaning.

- **About question 71** (article 154.2, directive n°2006/48) on the possibility for institutions applying for the use of IRB approach before 2010, to benefit from a test of use of rating systems, for the IRB exposure classes, shorter than 3 years, but above 1, we suggest the date of expiration of the provision will be deleted or postponed. Indeed, we are still in the beginning of the implementation of the new directive, and competitive distortions must not result from a too premature expiration of this national discretion. Besides, the fixation of its expiration to a later date, and of course its mere abolition, could encourage institutions to adopt IRB approach (for instance in case of recent merger or takeover ...).

- **About questions 113 et 151**, we wish to give a common response.

-**Question 113** (annex VII, part 4, point 48, 1st and 2nd sentences, directive 2006/48) concerns the possibility for competent authorities of each member State to set out the number of days past due at a figure that shall fall within 90-180 days, for the definition of defaults of retail exposures and exposures to public sector entities in IRB approach.

CEBS proposes to keep the discretion as it is, possibly with the introduction of a review clause (review before 2014). CEBS seeks respondents' view on the actual need of this national discretion.

-**Question 151** (article 154-7, first two sentences, directive 2006/48) concerns the possibility for member States, until 31 December 2011, to set up to 180 days the number of days past due for the default definition of corporate exposures in IRB approach.

CEBS proposes to keep this provision in the present form, and notices it should be deleted at the end of its validity.

On these two issues, we wish remind that in certain states, and among them France, terms of payment are quarterly for real estate operations (credit to retail, to corporates, commercial real estate leasing transactions). To have a good estimation of the true situation of the debtors, it is necessary that two quarterly instalments or rents remain unpaid, i.e 180 days. The option is especially necessary since the member states may differ the specific number of days across product lines (which allows to take into account local conditions of dates of payment or delays of payment of public sector entities, as it is the case in France). We therefore wish these two national discretions become permanent options, as it is presently the case for option of point 48, part 4, annex VII of directive 2006/48.

In addition, if the options were deleted when 180 days are necessary to have a good estimation of the true situation of debtors, then default notion would have no more meaning (cf. position on question 70).

-Besides, we also fully agree with CEBS's response proposals about several questions concerning specifically our members' activities:

- **Question 19** (article 80 and Annex VI, part 1, point 24, directive 2006/48) : possibility for the member States, in standardised approach, for risk-weighting exposures to credit institutions, to adopt a method on the basis of the risk weight of the corresponding central government.

CEBS proposes to keep the national discretion in its present form.

- **Question 48** (annex VIII, part 1, point 20 directive 2006/48) : possibility for the competent authorities to recognise as eligible collateral amounts receivable linked to a commercial transaction or transactions with an original maturity of less or equal to one year.

CEBS proposes the deletion of the discretionary part of the provision.

- **Questions 55** (annex VIII, part 3, point 72 directive 2006 /48) : possibility for the competent authorities, until December 2012, to allow credit institutions, in IRB foundation approach, to assign lower levels of LGD for senior exposures in the form of commercial real estate leasing, of equipment leasing, and for senior exposures secured by residential or commercial real estate.

CEBS proposes to keep the option including a review clause before the end of the period. At such time – if the discretion is extended – it should be considered whether the introduction of a mutual recognition clause might help to minimise level playing field distortions.

- **Points 102 et 104** (annex VIII, part 1, points 16 and 17 directive 2006/48) : possibility for competent authorities of each member State to waive, subject to certain conditions, the application of criterion point 13, b, part 1, annex VIII – risk of the borrower does not materially depend of the underlying property – to recognise as real estate collaterals residential real estate property and commercial real estate property situated within their territory.

CEBS proposes to keep these discretions but adding binding mutual recognition clauses.

- **Point 110** (annex VIII, part 3, point 73 directive 2006/48) : possibility for a member State, in IRB foundation approach, to authorise credit institutions to apply, subject to certain conditions, a 50% risk weighting to the part of the exposure fully collateralised by residential real property or commercial real property situated within the territory.

CEBS proposes to keep this provision in the present form but with a binding mutual recognition clause.

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