

## CEBS

### CONSULTATION PAPER ON CEBS'S TECHNICAL ADVICE TO THE EUROPEAN COMMISSION ON OPTION AND NATIONAL DISCRETIONS

#### Response by AMAFI

1. *Association française des marchés financiers* (AMAFI) is the new name adopted on 19 June 2008 by the French Association of Investment Firms (AFEI). The purpose of the change – the new name means "financial markets association" – is to reflect the fact that our remit now extends well beyond the concerns of investment firms alone and addresses issues relevant to financial market participants as a whole, i.e. investment firms, credit institutions and market infrastructures.

AMAFI has more than 120 members representing over 10,000 professionals who operate in the cash and derivatives markets for equities, fixed-income products and commodities. Nearly one-third of the members are subsidiaries or branches of non-French institutions.

2. AMAFI would like to thank CEBS for the huge work that has been done on national discretion. To answer to this consultation, AMAFI only focused on the main national provisions related to investment firms.

3. AMAFI would like to **point it out the following point** : initially the Basel II and CRD framework was developed for the banking industry in order to better align the capital requirements within banks to the particular risk structure that they carry. After discussion with the European authorities, investment firms obtained, in certain areas, specific provisions in order to take into account the specificity of their activities. These provisions were not due to local specifications but to specification of their activities. To remove these national discretions could destabilize the current framework at the expense of investment firms. AMAFI is pleased to see that CEBS does not intend to change these options and national discretions.

4. AMAFI's answer to the relevant national discretions for investment firms.

**1. Own Funds, Article 57 (Directive 2006/48/EC): AMAFI agrees with CEBS's proposal.**

**6. Own Funds, Article 13.2 (Directive 2006/49/EC): AMAFI agrees with CEBS's proposal.**

**7. Own Funds, Article 13.5 (Directive 2006/49/EC): AMAFI agrees with CEBS's proposal.**

**8. Own Funds, Article 14 (Directive 2006/49/EC); 14(1) for investment firms, 14 (2) for credit institutions:** AMAFI agrees with CEBS's proposal until the revision of the own funds rules takes place.

**9. Scope of application, Article 69.1 (Directive 2006/48/EC):** AMAFI agrees with CEBS's proposal. Banking supervision should mirror firms' internal structures. Where the criteria set out in Article 69 are met, the CRD rules should be applied at the highest level of the group.

**11. Scope of application, Article 70 (Directive 2006/48/EC):** AMAFI agrees with CEBS's proposal.

**12. Scope of application Article 72.3 (Directive 2006/48/EC):** AMAFI agrees with CEBS's proposal.

**13. Scope of application, Article 73.1 (Directive 2006/48/EC):** AMAFI agrees with CEBS's proposal.

**14. Scope of application, Articles 22, 24 & 25 (Directive 2006/49/EC):** AMAFI agrees with CEBS's proposal.

**15. Counterparty Risk in Derivatives, Annex III, Part 3 (Directive 2006/48/EC):** AMAFI agrees with CEBS's proposal.

**60. Op Risk, Article 102.4 & Annex X, Part 4, Points 1 and 2 (Directive 2006/48/EC):** AMAFI agrees with CEBS's proposal.

**61. Op Risk, Article 104.3 (Directive 2006/48/EC):** AMAFI agrees with CEBS's proposal.

**62. Op Risk, Article 105.4 (Directive 2006/48/EC):** AMAFI agrees with CEBS's proposal.

**63. Op Risk, Annex X, Part 2, Point 3 and 5 (Directive 2006/48/EC):** AMAFI agrees with CEBS's proposal.

**64. Op Risk, Article 20.2 (Directive 2006/49/EC):** AMAFI agrees with CEBS's proposal.

**65. Op Risk, Article 20.3 (Directive 2006/49/EC):** AMAFI agrees with CEBS's proposal.

**78. Transitional, Article 44 (Directive 2006/49/EC):** AMAFI agrees with CEBS's proposal but would like the Directive to be amended in order to transform this option into a **general rule**.

**79. Transitional, Article 46 (Directive 2006/49/EC):** AMAFI agrees with CEBS's proposal but would like the Directive to be amended in order to transform this option into a **general rule**.