

15 August 2008

By email: cp18@c-ebs.org

Mr. Arnoud Vossen
Committee of European Banking Supervisors
Floor 18, Tower 42
25 Old Broad Street
London EC2N 1HQ

Dear Mr Enria

Technical advice on options and national discretions

The Investment Management Association (IMA) is grateful for the opportunity to comment on CEBS proposals relating to options and national discretions in the Capital Requirements Directive (CRD).

The IMA represents the asset management industry operating in the UK. Our Members include independent fund managers, the investment arms of retail banks, life insurers and investment banks, and the managers of occupational pension schemes. They are responsible for the management of £3.4 trillion of assets, which are invested on behalf of clients globally. These include authorised investment funds, institutional funds (e.g. pensions and life funds), private client accounts and a wide range of pooled investment vehicles.

We are broadly supportive of the approach which CEBS has taken in the consultation paper, and note that a number of options and discretions will be retained in one form or another. CEBS have undertaken a difficult task in attempting to review the numerous options and national discretions which are available within the CRD, their application in Member States, and formulating proposals to achieve greater harmonisation of the requirements. Given that our membership is primarily firms operating with limited licence, we have provided comments on those areas of direct relevance only.

Recital 5 of the Capital Adequacy Directive (CAD) stipulates that, in accordance with the principle of proportionality, the Directive will not go beyond that which is necessary in order to achieve its objectives. This is a fundamental objective which must be retained when considering any amendments to the CRD framework.

The CRD applies to a variety of firm types who may operate significantly different business models. As such, the implementation of a regime which permitted no

variance in the obligations imposed on firms would be inappropriate. It is therefore imperative that some degree of flexibility is retained within the CRD in order that it may be applied proportionately to those firms subject to it.

We note that no comments have been made in relation to a number of the options and national discretions which are currently available in the area of own funds. Whilst we understand the need for the wider review of own funds to be completed before any recommendations can be made, we would again highlight the need for this area of the Directive to be proportionately applied. Therefore, we request that upon finalisation of the own funds review, there is acceptance that the requirements must be appropriately applied to the different types of firm subject to the CRD.

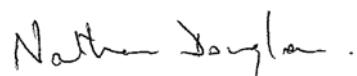
We welcome the proposal for Article 22 of CAD to be implemented as a supervisory discretion at the national level. This will ensure the ability to waive the consolidated requirements is retained, albeit that this would be exercised on a case-by-case basis following the assessment of compliance with a set of quantitative criteria. A group of investment firms operating with only limited licence presents a completely different risk profile to that of a group of credit institutions or other firms capable of dealing on own account. It is therefore imperative that if the CAD is to be proportionately applied, there is recognition of this difference in risk profile, and an ability to alter the requirements imposed on firms where they can demonstrate compliance with the pre-requisite criteria.

We are also supportive of the proposals to implement Articles 24 and 25 of the CAD as an option for the investment firm. This will allow a group of investment firms to determine the most suitable approach to the calculation of its capital resources requirement, having regard to the nature of the risks inherent within the group.

In relation to the discretion available at Article 20(2) of the CAD, we note the proposal to retain the text of the Directive as currently, and allow supervisory authorities to decide on a case-by-case basis. As this discretion has already been applied by 73% of Member States, we are broadly supportive of this proposal. This discretion is key to ensuring that the application of the CRD is appropriately applied to lower risk firms, and its retention is a necessity.

We would welcome the opportunity to meet with you and discuss further.

Yours sincerely

A handwritten signature in black ink that reads "Nathan Douglas". The signature is written in a cursive, slightly slanted style.

Nathan Douglas
Adviser – Prudential Regulation