

Dear CEBS

The G20 has repeatedly stated that for the financial regulatory reforms to achieve their aims there must be a consistent global approach. This must mean that regulatory arbitrage is the least desired outcome, and that an initiative pursued, for example at the European level through a Directive, must be transposed consistently into the national law of those countries affected, in a consistent time frame.

We have concerns that current proposals in certain jurisdictions are materially different and inconsistent to other jurisdictions, and that this is creating an unlevel and unfair inconsistent approach that will promote regulatory arbitrage.

Implementation Timetable

Northern Trust operates globally; within the EU we have a presence in the United Kingdom, Ireland, Sweden, the Netherlands and Luxembourg. In tracking regulatory development around remuneration, there are significant inconsistencies in the application and preparation for the Capital Requirements Directive III.

Some countries plan to introduce rules with effect from 1 January 2011 while others do not appear to be in a position to do so. We believe that it is vital to have a consistent approach implemented at the same time across Europe and believe that more time is required to do this. We believe that the 1 January 2011 timeframe for implementation to be unrealistic.

Retroactive legislation

We also feel that it would be more appropriate to implement any changes to the way that compensation is paid to reflect the time period that the decision to award that remuneration was made. Under the current proposals, remuneration decisions made in 2010 which become payable in 2011 will have to take account of the new rules for remuneration, regardless of any transitional period available. This retroactive approach to the legislative process may have unintended consequences and will certainly penalise those firms that decide against paying awards before 1 January 2011, whereas those firms that do make awards in 2010 avoid the remuneration provisions until the end of the following year.

Interaction between Different Codes

We note that certain draft codes (e.g. the UK FSA Remuneration Code) can apply to staff employed outside the jurisdiction who may be subject to remuneration standards by their local regulator. One clear unintended consequence of this is that a situation could arise where compliance with the local Remuneration Code in one jurisdiction could constitute non compliance in another jurisdiction with a different Remuneration Code. We would request that CEBS issues guidance to clarify that staff should be subject to their local Remuneration Code rather than potentially several different Remuneration Codes.

Best regards

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