AFME - BBA Joint Response
HM Treasury Consultation on Implementing Amendments to the Capital Requirements Directive

AFME and the BBA welcome the opportunity to comment on HM Treasury’s Consultation on 'Implementing the Amendments to the Capital Requirements Directive', covering two specific areas of CRD 2:

- supervisory arrangements
- External Credit Assessment Institutions eligibility criteria

AFME (Association for Financial Markets in Europe) was formed on November 1st 2009 following the merger of LIBA (the London Investment Banking Association) and the European operation of SIFMA (the Securities Industry and Financial Markets Association). AFME represents a broad array of European and global participants in the wholesale financial markets, and its 197 members comprise all pan-EU and global banks as well as key regional banks, brokers, law firms, investors and other financial market participants. AFME participates in a global alliance with SIFMA in the US, and the Asian Securities Industry and Financial Markets Association through the GFMA (Global Financial Markets Association), and provides members with an effective and influential voice through which to communicate the industry standpoint on issues affecting the international, European, and UK capital markets.

The BBA is the leading association for the UK banking and financial services sector, speaking for over 200 banking members from 60 countries on the full range of UK or international banking issues and engaging with 35 associated professional firms. Collectively providing the full range of services, our member banks make up the world’s largest international banking centre, operating some 150 million accounts and contributing £50 billion annually to the UK economy.

We support the copy out approach being taken and have not identified any particular issues regarding the proposed implementation. However, we would like to take this opportunity to highlight some overarching issues regarding supervisory architecture and co-operation, given the Committee of European Banking Supervisors current consultation, CP 34, on Guidelines for
the operational functioning of colleges, which we are responding to, the discussions in the European Parliament and the recently issued Basel Committee consultation paper on ‘Good Practice Principles on Supervisory Colleges’, which we are also responding to in due course.

Since its inception, CEBS has done a considerable amount to enhance supervisory cooperation, convergence and information sharing and we agree that it is appropriate to foster such arrangements further. Efficient, non-duplicative supervisory arrangements are in the interest of both supervisors and the industry.

In particular we believe Colleges need to operate in a way that optimises cooperation and streamlining of supervisory tasks. That optimisation needs to take account of the global, third country dimension, as well as working well within the EU/EEA. College arrangements need to be adaptable enough to enable global colleges in which EEA supervisors participate to work seamlessly with the EU college and its members, so that there is well-balanced and well-informed supervision of the group as a whole. This is extremely important for firms operating internationally.

We note that the European Commission’s Omnibus Proposal foresees the possibility of technical standards on the operation of colleges, developed by the proposed European Banking Authority, to be adopted by the European Commission, possibly as Regulations with binding effect. We consider that the detailed operation of colleges is a matter which involves a great deal of judgement and diplomacy, in particular where third countries are concerned. The level of detail of any technical standards in this area, and the extent to which they continue to allow flexibility for supervisory judgement will therefore be crucial. There is likely to continue to be a need for Level 3 Guidelines to guide judgemental aspects. The dividing line will need to be drawn in a way that carefully balances the need for consistent operation of colleges with the ability of the consolidating supervisor to exercise judgement.

A particular area of concern is the confidentiality of both market sensitive and commercially sensitive information. Particular care is needed for this aspect in relation to CEBS/EBA participation in colleges, in the context, for example, of model validation, to ensure that the confidentiality of information is properly protected. This confidentiality must be clearly understood by all parties to the college across the domestic, regional and international arena. Thought should be given to college members entering a confidentiality agreement. We note that Annex 3 of the recently issued Basel Committee consultation paper on ‘Good Practice Principles on Supervisory Colleges’ discusses this issue and we will be commenting on this, and other aspects of the paper, in due course.
If you would like to discuss any of the above issues, please do not hesitate to contact us.

Yours sincerely

Diane Hilleard
Managing Director
AFME

Simon Hills
Executive Director
BBA

30 March 2010

Sent via e-mail to
alex.szmigin@hmtreasury.gsi.gov.uk