

London Investment Banking Association
International Swaps and Derivatives Association
Finnish Association of Securities Dealers
Swedish Securities Dealers Association

Response to CEBS CPI3

19 June 2007

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The Committee of European Banking Supervisors

CPI3@c-eps.org

Dear Madame Nouy,

The London Investment Banking Association (LIBA), and the International Swaps and Derivatives Association (ISDA), the Finnish Association of Securities Dealers (FASD) and the Swedish Securities Dealers Association (SSDA) are grateful for the opportunity to comment on CEBS' consultation on its proposed mediation mechanism. We value this consultation as part of CEBS' continuing commitment to interacting as effectively as possible with industry as well as the regulatory community. Our commentary represents the views of both trading firms and banks.

We offer a broad welcome and support for CEBS proposals and offer a limited number of specific comments which we hope will be helpful to CEBS in its final deliberations.

Consistency between CESR and CEBS approaches

The views we present here are consistent with the submission we made on the CESR Mediation Mechanism, but we agree that not all the features of the CESR approach are relevant in the CEBS context and we wish to place particular emphasis on encouraging CEBS to be as open in its processes and outcomes as is consistent with supervisory confidentiality in order to support understanding of the convergence of practices and supervisory culture.

Method of approach

We support the proposals put forward by CEBS which we think have the virtue of building on an active process and choice by supervisors to understand each others' approaches better and to move towards each other in the overall process of converging regulatory philosophies and cultures, which is an major objective for CEBS.

We particularly note the following:

- We support the proposal that the mechanism in seeking mediation should be voluntary.
- We accept that the outcome of the process is not legally binding and this is entirely suitable. Nonetheless, we encourage CEBS strongly to remind all participants and stakeholders that agreements that are reached and fully held are typically more effective than a legally binding text or decision and have a greater capacity to affect future behaviour by a supervisor in a wider sphere.

- We support the consensual approach and use of mediation following strenuous bilateral efforts to resolve issues. However, while we believe that it is likely that the mediation mechanism will be invoked infrequently, we think it essential to encourage CEBS members not to be wary of using the mechanism. Instead the use of the mechanism to stimulate debate (and at a later stage of the process, anonymised, transparency and feedback) will support a wider understanding of issues and the potential for divergence to be addressed and resolved.

Confidentiality/Transparency:

Naturally we support the full respect of confidentiality, but we encourage CEBS to make as much use of anonymised feedback as possible. Not only will such information support enhanced understanding on ways to align different regulatory approaches, it will serve to reassure stakeholders that tangible progress is being made in all aspects of convergence.

Subject Matter:

We support the identification of the types of issues that will be subject to the mediation mechanism and we also think the criteria for making decisions is helpful.

We accept that revoking individual regulatory decisions cannot be the objective of the mediation mechanism. At the same time, though, we encourage the mindset that where mediation suggests that a particular outcome would be very different in future that consideration will be given to the possibility of an individual decision being amended. This will not be possible in all cases, clearly, and the decision has to take account of the legal limits imposed upon the supervisor, but in principle it is worth considering whether current as well as future practice can be amended.

We agree with CEBS' decision not to use "limits" or "thresholds" to identify subjects for mediation and equally support CEBS' analysis of issues that should be excluded for legal or procedural reasons.

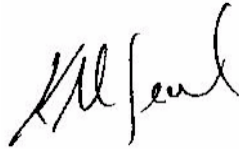
Accessibility of Mediation Mechanism:

We welcome the proposal that the mediation mechanism should be open, on a voluntary basis, to non-CEBS members such as the supervisors of the other financial sectors.

While accepting that CEBS is not trying to institute an industry complaints system, we welcome strongly the statement (paragraph 49) that input from firms will be welcome in identifying potential matters suited to mediation. Although mediation is primarily a process between supervisors, it would be inappropriate to disregard the perspective of the supervised entities.

Finally, we re-iterate our welcome for CEBS initiative in respect of Mediation Mechanisms and look forward to further developments. If you would like to discuss any of these issues with us in greater depth, please contact Katharine Seal (Katharine.seal@liba.org.uk) and Ed Duncan (eduncan@isda.org), who sign also on behalf of FASD and SSSA if you would like to discuss any of the aspects of this letter.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'K Seal', written in a cursive style.

Katharine Seal
Director, LIBA

A handwritten signature in blue ink, appearing to read 'Ed Duncan', written in a cursive style with a large flourish underneath.

Edward Duncan
Director, ISDA