

Mr. Giovanni Carosio
Chairman
Committee for European Banking Supervisors
(CEBS)
Tower 42 (level 18)
25 Old Broad Street
London EC2N 1HQ
United Kingdom

By email: cp35@c-eps.org

Ref. FEB114688/P11605

Brussels, 12/04/2010

CP 35, Operational risk in market related activities, Febelfin comment

Dear Sir,

Febelfin, i.e. the Federation which regroups four trade associations from the Belgian financial industry¹, welcomes the opportunity to express its views on the consultation document mentioned above.

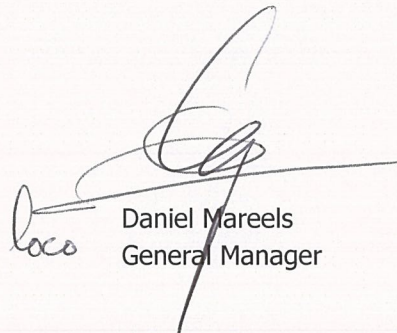
In general we subscribe to the principles put forward, but would appreciate additional guidance on certain issues as mentioned in our detailed comments.

We hope that our remarks will be taken into account. Please do not hesitate to contact our services and our working group, should you want any further information.

Yours sincerely,



Michel Vermaerke
Chief Executive Officer



Daniel Mareels
General Manager

Enclosure

cc. Mr. Jean-Paul Servais, Chairman, Banking, Finance and Insurance Commission.

¹ The following trade associations are constituents of Febelfin: the Belgian Bankers' and Stockbroking Firms' Association (ABB/BVB); the Professional Union of Credit Providers (UPC/BVK); the Belgian Asset Managers Association (BEAMA), the Belgian Leasing Association (BLA). In addition, the following federations have joined Febelfin as associate members : the Belgian Private Banking Association, the Belgian Private Equity and Joint Venture Association. Equally, other financial market infrastructure providers, such as Euroclear, SWIFT and Euronext have taken the status of associate members.

CP 35, Operational risk in market related activities, Febelfin comment, annex

General introductory comment: we only mention those principles which we comment on.

Principle 1: The management body should have full awareness of the operational risks, actual or potential, affecting market-related activities. It should develop and maintain an organizational structure, internal controls and a reporting system suitable for the identification, assessment, control and monitoring of operational risks in market related activities.

While we agree with the principle put forward, we note that it is difficult to demonstrate whether an institution complies with it or not. As a consequence we would like to receive more guidance on what is meant with the word 'necessary' in paragraph 11, first bullet: *'These Committees should have the material and human resources necessary to carry out the required tasks'*.

We also wonder whether all supporting functions (back office, middle office, finance, risk management, compliance and internal audit) need to be represented in the Committees which are created by the management body? Or can this representation issue be solved by the creation of separate working groups by the Committees?

Principle 3: Senior management should ensure that they and the staff in the control functions have the appropriate understanding, skill, authority and incentive to provide effective challenge to traders' activities.

Regarding paragraph 17 : we wonder which training should be foreseen for control functions. Some examples: (i) the segregation of functions forbids that the back office services receive a training about trading activities; we believe that this should nevertheless be possible; (ii) we also believe that senior management should receive appropriate training in operational risk matters.

Principle 4: Operational risk losses should be taken into account in setting objectives for, and assessment of, an individual's or business unit's performance in market-related activities.

We ask for additional guidance in order to determine the maximum operational loss tolerance in relation to the remuneration policy of institutions. Currently, it is possible that eg. near misses are not reported internally, which may lead to a better evaluation and thus higher bonuses than should they have been reported.

Principle 5: The fight against fraudulent behavior in market-related activities should be a pivotal element of internal controls and reporting systems.

Paragraph 23: we ask for more guidance on the use of scenarios in the detection of fraud within the institutions.

Principle 16: The operational risk reporting system for market-related activities should be designed to generate appropriate warnings and should alert management when suspicious operations or material incidents are detected.

We note that an 'operational risk reporting system' is not the only control function in the bank. Other control functions such as compliance and audit uncover suspicious operations and material incidents.