Committee of European Banking Supervisors

September 2009

Feedback to the consultation on the Compendium of Supplementary Guidelines on implementation issues of operational risk (CP21)

1. On 19 December 2008, CEBS submitted for public consultation the Compendium of Supplementary Guidelines on implementation issues of operational risk. The consultation period ended on 31 March 2009. Ten responses were received[1].

2. In addition to soliciting written comments, CEBS provided an opportunity for the industry to provide further input at a public hearing with CEBS experts on operational risk arranged on 10 March 2009.

3. This paper presents a summary of the key points arising from the consultation and the changes made to address them.

4. Most respondents supported the Compendium's objective of achieving greater convergence of supervisory practices and consistency within and across banks in operational risk, in particular in those areas such as the scope of operational risk, which are barely covered by the CRD and in previous CEBS documents, such as the GL10, Guidelines on the implementation, validation and assessment of AMA and IRB Approaches of April 2006 (hereafter "GL10").

5. However, respondents also provided suggestions for further improvements and adjustments to the proposal, in particular on the Guidelines on the scope of operational risk and operational risk loss (the "Scope" Guidelines). While supporting the idea of setting clearer dividing lines between different types of risks, most of the respondents asked for clarifications of the criteria and examples set out to distinguish operational risk from market risk or strategic risk and regretted that the guidelines had not addressed the distinction between operational risk and credit risk or reputational risk.

6. The section of the "Scope" Guidelines addressing the concept of operational risk loss was also widely commented on. In particular respondents asked for more precise guidance on the concept of operational risk loss and the application of the proportionality principle for the capture of those items which are not

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[1] The public responses to CP21 are published on the CEBS public website under: http://www.c-ebs.org/getdoc/78545d51-5d05-4be6-a9fe-41bd88b22224/Responses-to-CP20.aspx

immediately linkable to direct losses (pending losses, near-miss events, operational risk gain events, opportunity costs/lost revenues) and of timing losses.

7. Few comments were provided on the Guidelines on the use test for AMA institutions and on the Guidelines on the allocation of the AMA capital. Most of those received asked for additional clarifications of the terminology and concepts adopted in the documents.

8. The Compendium has been revised on the basis of the comments received and the inputs from the public hearing. The final guidelines have adopted a significant number of suggestions put forward for the topics under consultation, having regard to the objective of finding the right balance between the need to increase the level of consistency in their interpretation and treatment and the pragmatism necessary for their implementation.

9. While a few suggestions were not addressed because they are outside the scope of the documents included in the Compendium, they may be covered in future work by the CEBS.

10. The most relevant aspects raised by the industry and addressed by the CEBS are provided below. In the Annex a feedback table is provided which gives a detailed description of the comments received and CEBS´s responses to them.

11. The industry's comments and CEBS's responses are grouped for into different topics, namely the Introduction to the Compendium, the Guidelines on the scope of operational risk and operational risk loss, the Guidelines on the use test for AMA institutions and the Guidelines on the allocation of the AMA capital.

Introduction of the Compendium

12. Clarification was requested regarding whether guidelines in the Compendium were ever interpreted in a way which would soften the requirements laid down by the regulation (CRD provisions or CRDTG interpretative statements). Respondents also deemed it important that all stakeholders be consulted on each guidance paper before it is added to the Compendium.

13. While the latter comment has been accommodated by the CEBS, the role of the CEBS guidelines with respect to regulations and interpretative statements is clear in the CEBS mandate and hence it does not need further clarification.

Guidelines on the scope of operational risk and operational risk loss

14. Some respondents asked for guidance on how to distinguish operational risk events from credit risk or reputational risk events, on how to treat them for the purpose of calculating regulatory capital and on the interaction between operational risk and environmental risk. They also asked for more clarity on the applicability of the "Scope" Guidelines to BIA institutions, which are only encouraged to adopt such practices.

15. CEBS did not accommodate these comments as the raised topics have already been addressed in the CRD's provisions or by the CRDTG's answers; if not addressed, they fall out the scope of the current guidelines (though they may be an area of future work for CEBS). As to the applicability to BIA institutions, it is stated that the guidelines are directed to supervisors which are supposed to apply them according to the principle of proportionality.

16. On the division between operational risk and market risk, many respondents have asked for clarification of the meaning of the criteria for including or excluding cases from the scope of operational risk and for clarification/modification of the examples. CEBS has accommodated most of these comments and has amended the corresponding paragraphs and examples.

17. Also on operational risk versus strategic risk many respondents have asked for more precision in the terminology, criteria and examples for the inclusion or exclusion of cases from the scope of operational risk. In particular, they would welcome a less precise definition of voluntary payments related to legal settlements or some examples explaining in which cases it would be possible to exclude such events from operational risk.

18. Most of the comments raised in this part have been accommodated in the revised version. It has been clarified that voluntary payments should be included within the operational risk perimeter only if they are caused by operational risk events which breach regulations, internal rules or ethical conduct. Where these payments are not due to such events, they should be excluded from operational risk. Further examples have been added to clarify this point.

19. A number of respondents have put forward many suggestions on the part of the scope on operational risk loss.

20. A general request was to give clearer guidance for distinguishing between the data set for the calculation of the minimum capital requirement for operational risk and the database for operational risk management purposes. Respondents also recommended that the guidelines introduce a principle that states that losses are not to be included in capital calculations more than once.

21. Regarding the first comment, CEBS has clarified what recipients should be involved in their collection and for which use (management, measurement or both). On the other hand, CEBS has not agreed to the second request as this is already addressed by the part of the CRD that deals with the boundaries between operational risk and credit risk (see Annex X, Part 3, Paragraph 14).

22. On pending losses, timing impacts, near misses, operational risk profits/gains and opportunity costs/lost revenues, respondents asked for clarification on the terminology, definition, recipients and use. In particular they stated that as long as more precise criteria have not been established to clearly identify pending losses, these should not be included in the operational risk loss database. Moreover, timing impacts should be excluded from the capital calculation because they reverse accounting entries made in previous periods and are not proper operational risk losses.

23. CEBS has accommodated most of the comments raised. For pending losses and timing impacts (the latter renamed 'timing losses') the meaning and terminology has been clarified and their use has been restricted to AMA institutions for management and measurement purposes. As to timing losses, these can be excluded from the scope of operational risk loss, unless they are due to operational risk events, span two or more accounting periods and give raise to legal risks, in which case they are to be placed under the operational risk "hat".

24. For near misses (renamed 'near-miss events'), operational risk profits/gains (renamed 'operational risk gain events') and opportunity costs/lost revenues, definitions have been included, in some cases pointing to those already set out in the GL10. In addition CEBS has introduced a proportionality principle and clarified that these items are mainly useful for management purposes.

Guidelines on the use test for AMA applications

25. Some respondents asked for simpler solutions for smaller credit institutions applying operational risk management practices based on the identification of key risk areas instead of a daily business process. CEBS reiterates that supervisors will apply the principle of proportionality in the adoption of the Compendium. However even smaller and less complex institutions that have chosen to apply for the use of the AMA for regulatory purposes have, by doing so, made the choice of complying with the minimum requirements and guidelines envisaged for the AMA.

26. Other respondents asked for explicit inclusion of insurance management as a key use test in the operational risk framework and this has been accommodated by CEBS. Following the suggestion of other respondents, the term "risk appetite" has been deleted and replaced with the term "risk tolerance", which is considered more appropriate for operational risk. CEBS has also rewritten the paragraph referring to senior management, envisaging that this body will be "regularly updated" on the operational risk framework instead of "constantly updated".

Guidelines on the allocation of the AMA capital

27. Contrary to the suggestion to describe in more detail the different methodologies of allocation, CEBS considers they are well known in the context of risk quantification. Some respondents expressed concerns because the capital figures allocated to some subsidiaries may not reflect their actual operational risk in an appropriate way. CEBS restates that supplementary requirements on subsidiaries have no impact on the consolidated capital figure; however if such requirements are Pillar 1 or Pillar 2 measures they are out of the scope of these guidelines.

28. Some respondents asked CEBS to clarify the procedure for approval of a new allocation method under the college of supervisors. CEBS points out that the role of colleges of supervisors is outside the scope of these guidelines, though the exact procedure may be an area for future work.

Annex

Feedback table on CP21: analysis of the public responses and suggested amendments

The first column of the feedback table makes reference to the terminology and paragraph numbering used in the original CP21. The last column refers to the terminology and paragraph numbering in the final guidelines; where the paragraphs have been re-numbered or newly numbered, this has been made clear.

CP21	Summary of comments received	CEBS's response	Amendments to the proposals set out in CP21
COMPENDIUM OF SUPPLEMENTARY GUIDELINES ON IMPLEMENTATION ISSUES OF OPERATIONAL RISK			
Section A. INTRODUCTION			
Paragraph 4	Respondents asked that every CEBS document contain a statement in the introductory section that in no case does any interpretative opinion in the document imply a change of Community law or interpretative standpoints (questions answered by the CRD Transposition Group in this particular case), nor does it encourage any such interpretative opinion that would lead to the softening of, or the non-compliance with, any requirements laid down by Community law, nor does it encourage any expedient interpretation.	This is implicit in the CEBS's mandate and, in particular, in the "Guidelines", which elaborate on the CRD Articles and Annexes and CRDTG interpretations.	No change.
Paragraph 5	Respondents asked for a sentence stating that each update of the Operational Risk Compendium will first be published for consultation with all stakeholders.	CEBS has accommodated this comment.	Paragraph 5 amended.
Paragraph 7	Respondents asked for recognition in the Compendium that Limited License Firms are not subject to an operational risk requirement under Pillar 1.	Paragraph 7 of the Compendium says that the scope of application of the Compendium	Paragraph 7 amended.

		is the same as of the GL10. In turn Paragraph 24 of the GL10 states that "… for operational risk, there are significant modifications to take account of the specific features of the investment firm sector, with an option to continue the 'Expenditure Based Requirement' for investment firms falling into the low, medium, and medium/high risk categories". However, CEBS has further clarified this aspect in paragraph 7.	

Section C. PUBLISHED GUIDANCE PAPERS			
LEVEL OF APPLICATION: ALL INSTITUTIONS			
Guidelines on the scope of operational risk and operational risk loss			
1. Introduction and 2. Objectives and content			
Paragraph 1	Respondents suggested removing the whole paragraph from the paper because of the lack of connection between this paragraph and the rest of the text and because operational risk is equally caused by internal and external drivers.	CEBS has accommodated this comment.	Paragraph 1 deleted.
Paragraphs 4 and 12 **Reputational risk and credit risk**	Respondents stated that firms find difficulty in distinguishing completely between operational risk and reputational risk as these risks may be intertwined. Guidance from CEBS on what is excluded as reputational risk (and credit risk) from the scope of operational risk events would be welcome.	As stated in the re-numbered paragraph 11, the interplay of operational risk with reputational risk and credit risks is not covered by these guidelines. This may be an area of future work for CEBS.	No change.
Paragraph 5 **Environmental risk**	Respondents state that environmental risk should be more clearly defined.	The interplay between environmental risk and operational risk has been addressed by the CRDTG in its answer to question n. 18, published on April, $12^{th,}$ 2006. CEBS has clarified this aspect in a footnote.	Footnote n. 5 added.
Paragraph 6 **Boundary with credit risk/ market risk for**	Respondents asked for clarification on how to treat boundary events between operational risk and market risk or credit risk for the purpose of calculating minimum regulatory capital.	The CRD explains how the boundaries of operational risk and credit and market risks have to be treated for the capital calculation. The CRD	No change.

capital calculation		criteria are recalled in the re-numbered paragraph 5.	
Paragraph 7	Respondents stated that it is not appropriate to say that the scope of operational risk loss is not addressed in the CRD. It is addressed partially in Annex X, Part 3, 1.2.2 Internal Data, paragraphs 15 and 16. Respondents stated that additional guidance would be useful on the stage at which certain pipeline events should fall within the scope of operational risk and how potential losses are to be evaluated for each stage. The IFRS could provide useful guidance on how to address them. Likewise minimum requirements for estimating potential losses in each stage would be appreciated.	Annex X, Part 3, Paragraphs 15 and 16 of the CRD provide indications on the places where the loss should be captured (e.g. sub-systems, geographic location) and the elements surrounding the loss itself (e.g. date, recovery, description). However these paragraphs (and the CRD in general) do not specify what elements/items constitute an operational risk loss. This is exactly the objective pursued by the "Scope" guidelines (see for instance the re-numbered paragraphs 20 A, 21, 25 and 26).	No change. No change.
Paragraph 10	Respondents stated that the wording is ambiguous. In particular they wonder how regulators evaluate the establishment of an operational risk loss profile in relation to industry practices.	The identification of the loss profile is for the institution. These guidelines are not intended to give supervisors tools to evaluate the loss profile of an institution and compare it with the industry. The main objective of the guidelines is to give supervisors criteria and examples to assess the quality of the institution's operational risk framework.	No change.

Paragraph 11 **Applicability to BIA institutions**	Respondents asked for more clarity on the applicability of these guidelines to BIA institutions, which are only encouraged to adopt such practices.	The Guidelines are directed to supervisors which are supposed to apply these guidelines to BIA institutions according to a proportionality principle.	No change.
Paragraph 15	Respondents stated that the distinction between "normal" and "other than normal" circumstances does not seem to have been substantiated. They suggest omitting paragraph 15 ,or if there is a reason for emphasising that the recommended categorisation should be applied under normal circumstances to give the reason for that.	CEBS has accommodated this comment by deleting the reference to "normal" circumstances.	Re-numbered Paragraph 14 amended.
3.1. Operational risk versus Market risk			
Paragraph 16 C	Respondents recommended rephrasing the sentence to clarify that it refers to a risk taking process. Respondents stated that losses caused by a wrong selection of the model should be considered as business risk.	CEBS has accommodated this comment. The reason for considering these losses as operational risk is that, the wrong selection of the model is due to a failure of the institution's internal processes. On the contrary, in those cases where the internal processes are followed, the pertinent losses are to be excluded from the scope of operational risk (see paragraph 18 A).	Paragraph 16 C amended. No change.
Paragraph 17 **Criteria for the inclusion of cases in the scope of operational risk**	Respondents asked for clarification of the meaning of "the whole amount of the loss incurred". It should be stated that the amount of loss is fair and only related to the event which has occurred. If the position could be closed and there was a decision to keep the position open, then losses incurred after the date of occurrence of the operational risk event should not be part of operational risk. Instead, these risks should be attributed	CEBS has accommodated these comments.	Paragraph 17 amended.

	to market risk. Respondents also asked that “Loss due to adverse market conditions” be removed, or more concrete guidance given, because at the moment is not practicable to single out the adverse market condition part of the loss for the four types of events listed in paragraph 17. It should be clarified that the amount of loss needs to be proportionate and related to the event which has occurred.		
Paragraph 17 **Examples to be included in the scope of operational risk: Due to operational errors**	Respondents asked for a better definition of what kind of losses are included as “technical unavailability of access to market”, for instance including losses resulting from the impossibility of closing contracts, and not including events referred to mere intentions to operate during a ‘system down’ period.	CEBS has accommodated this comment.	Re-numbered example **v.** of Table 1 amended
Paragraph 17 **Examples to be included in the scope of operational risk: Due to failures in internal controls**	Respondents asked for clarification of the example of “market positions taken in excess of limits”, for instance adding that it happened by accident or was unauthorised and was not intended.	CEBS has accommodated this comment.	Re-numbered example **vii.** of Table 1 amended.
Paragraph 17 **Examples to be included in the scope of operational risk: Due to model**	Respondents asked whether the “erroneous evaluation of a position due to a failure in updating prices or to wrong attribution of its parameters” includes mismarking due to wrong parameters in the pricing model.	CEBS has accommodated this comment.	Re-numbered example **x.** of Table 1 amended

risk			
Paragraph 17 **Criteria (and examples) for the exclusion of cases from the scope of operational risk**	Respondents asked for clearer definition of the meaning of "selection of a model" in the losses due to wrong selection of a model made through a formalized corporate process where the pros and cons of the model itself are carefully weighed up. It is also not clear whether the determination of 'wrong' was made by reference to a predetermined business process or a comparison between ex ante and ex post prices. Respondents asked for clarification of the example of losses caused by a pricing model where the potential exposure to the model risk had been previously assessed including by considering potential adjustments to mark to market transactions. And if potential adjustments to mark to market transactions were not included, would it be considered operational risk?	The example is sufficiently self-explanatory. This type of problem falls under the back testing activity of the model. CEBS has clarified this point by adding a footnote.	No change No change. Re-numbered footnote 6 added.
3.2. Operational risk versus Strategic risk			
Paragraph 18 A **Criteria for the inclusion of cases in the scope of operational risk**	Respondents stated that the criteria need to be more precise. Sometimes voluntary payments by a firm which have a legal background do not necessarily have to be operational risk as stated in this paragraph, but might be strategic risk, even in some cases ex-gratia payments. They would welcome a less precise definition of such voluntary payments related to legal settlements or some examples explaining in which cases it would be possible to exclude such events from operational risk. Respondents stated that the definition of losses related to operational risk events triggered by legal settlements is very	Voluntary payments should be included in the operational risk perimeter only if caused by operational risk events such as breaching of regulations, internal rules or ethical conduct. Where these payments are not due to such events, they should be excluded from the operational risk perimeter. This has been clarified in the re-numbered paragraph 20 A. These examples are provided in the newly numbered Table 3: in	Re-numbered paragraph 20 A amended.

	unclear and a specific example would be useful to clarify it.	particular example **ii.** represents a case of losses related to operational risk events triggered by legal settlements; example **iii.** provides a case of voluntary payments considered to be operational risk.	No change.
Paragraph 18 **Examples to be included in the scope of operational risk**	Respondents proposed replacing the word “corporate” with “industry” in the second example: ”Expenses stemming from law cases or from interpretations of the regulations which proved to go against corporate practice”. This is because corporate practices are neither governed nor supported by internal corporate documents. Respondents asked to amend the third example “Compensation paid to employees and refunds to customers before they can lodge a complaint but, for example, after the firm has already been required to refund other customers for the same event” by “Refunds to customers but for example, after the firm has already been required to refund other customers for the same event”. The reasons behind these changes are firstly, that a refund made to a customer could be done by the firm’s autonomous decision making and not necessarily be an operational risk. Secondly, compensation paid to employers is covered by social legislation in Europe (including early retirement incentives and additional compensation in the case of a employee’s resignation) and differs across Member States. There does not seem to be a consistent industry view to classify it as a business/strategic or operational risk. One respondent recommended defining an operational risk event as a starting point. Other respondents agreed that compensation paid to employees should be included in the scope of operational risk, although they asked how to treat it because of differences between countries where resignation amounts are established via a	CEBS has accommodated this comment. CEBS has accommodated this comment for the part related to compensation paid to employees. As to refunds to customers, the guidelines state that only those caused by operational risk events should be included in the scope of operational risk (see also the reformulated example **iv.** in Table 4).	Re-numbered example **ii.** of Table 3 amended. Re-numbered example **iii.** of Table 3 amended.

	specific formula, are freely negotiable or are legally fixed). One respondent recommended that the industry devises it own guidelines or policies on allocating such elements between business/strategic and operational risk.	 The objective of the Guidelines is to increase convergence in practices where this convergence has not been observed on specific aspects.	
Paragraph 18 **Criteria for the inclusion of cases in the scope of strategic risk**	Respondents asked for clarification of what represents strategic risk particularly in conducting top down risk assessments with senior management. They suggested splitting strategic risk into two categories: business (or commercial) risk and pure strategic risk. Respondents sought confirmation that events included in the scope of strategic risk are distinct from operational risk and not to be included in operational risk. Respondents suggested clarifying how to handle customer complaints without breaching any rules, regulations or ethical conduct. They proposed the following modification: "Losses incurred by the firm as a result of inappropriate strategic/senior management decisions or business choices which do not breach any rules, regulations, or ethical conduct, and which are not triggered by legal risk." Strategic risk would include customer refunds but only when related events are not connected to any breach of rules, regulations or ethical conduct.	The guidelines do not aim to provide indications on strategic risk. They address strategic risk only for those aspects that intertwine with operational risk. To make clearer this aspect, the newly numbered paragraph 22 has been rephrased. CEBS has accommodated these comments.	No change. Newly numbered paragraph 22 amended. Newly numbered paragraph 22 A amended and example **iv.** of Table 4 reformulated
Paragraph 18 **Examples to be included in the scope of strategic risk**	Respondents asked for clarification of the first example "Losses relating to flawed investment choices in merger/acquisitions, organisational/ managements restructuring". Respondents stated that more guidance should be provided on the second example. In particular it should be a strategic risk to the extent the decision is made by a competent decision-maker	This example is sufficiently self-explanatory. CEBS has accommodated this comment.	No change. Newly numbered example **v.** of

	and it is made intentionally, but in cases where the loss is related to a breach of a formalised procedure it should be considered as operational risk and excluded from strategic risk. Respondents asked if the fourth example "Sums of money paid back to customers as a result of a firm's own decision(no breach of rules, regulations, or ethical conduct occurred" includes the following items: 1) when an client pays too much due to his error and the money is returned to him; 2) when a client is overcharged for a transaction (transaction error inside the bank) and a refund is given before a complaint is logged; 3) when a client is overcharged for a transaction (transaction error inside the bank) and a refund is given when he has submitted a verbal complaint; 4) when a number of clients are overcharged for a transaction (IT error inside the bank) and refunds are given to all clients before a complaint is logged; and 5) when a client is overcharged for a transaction and a refund is given after he has submitted a written complaint.	 As indicated above, this example has been reformulated. It is useful to remember that the refunds to customers should be included in the scope of operational risk only if caused by operational risk events.	Table 3 added and re-numbered example **ii.** of Table 4 reformulated. Re-numbered example **iv.** of table 4 reformulated.
4. The scope of "operational risk loss"			
Paragraph 19	Respondents recommended detailed regulatory guidance in the field of operational loss definition practices. In addition they asked that a line be drawn between operational risk events and operational risk losses. Respondents also underline the need to establish minimum	This is exactly the objective of the "Scope" Guidelines. In particular the re-numbered paragraphs 23 and 24 clearly distinguish between operational risk events and their possible consequences.	No change.

	requirements concerning collection of incidents, scenario-analysis and risk and control self-assessment.	This may be an area for future work by CEBS.	
Paragraphs 21, 22 and 23 **Scope of the loss for management and/or measurement purposes**	Respondents stated that it would be useful to distinguish between the data set for the minimum capital requirement calculation for operational risk and the database for operational risk management purposes. Respondents recommended that the guidelines introduce a principle that states that losses are not represented in capital calculations more than once.	CEBS has accommodated this comment, by clarifying - for the items/elements that can result from an operational risk event - the use (management, measurement or both) and the recipients. This topic is specifically addressed in Annex X, Part 3, Paragraph 14 of the CRD (see in particular the sentence concerning the boundaries between operational risk and credit risk, which states: "*Such losses will not be subject to the operational risk charge, as long as they continue to be treated as credit risk for the purposes of calculating minimum capital requirement*").	Re-numbered paragraphs 25 to 28 amended No change.
Paragraph 20 **Direct charges to P&L and write downs**	Respondents proposed to add to direct charges to P&L and write-downs those taken through equity. One respondent asked whether the loss database could also contain extraordinary gains	As stated in the last sentence of the re-numbered paragraph 24, the list of items included in the table should not be considered exhaustive. However CEBS has clarified the terminology for this item in a footnote. CEBS considers this question is already addressed in paragraph 525 of the GL10	Re-numbered footnote 9 added. No change.

Paragraphs 20, 21 and 22 and footnote 8 **Pending losses**	Respondents stated that the definition of pending losses is vague and not sustainable. Clarification should be provided on the criteria used to define pending losses and to determine at what stage they should be included in the scope of operational risk loss, because as long as those criteria have not been clarified, pending losses should not be included in the operational risk loss database and should only be monitored and tracked.	CEBS has accommodated these comments by: - clarifying the meaning of pending losses in the re-numbered footnote 11; - delimiting the perimeter of pending losses to those recognised to have a relevant impact; and - asking AMA institutions only to collect such losses for management and measurement purposes.	Re-numbered paragraphs 25 and 26 and footnote 11 reformulated.
	Respondents also stated that, in the context of pending losses, the exact meaning of "expected to have a high impact" is not clear. More guidance is needed on the scenario analysis needed to include pending losses in the scope of operational risk losses.	The concept of "high impact" ("relevant impact" in the reformulated version) strictly depends on the size and complexity of the institution. Therefore it is not feasible to define it in the guidelines. Moreover, as the ways scenario analysis are built and executed vary across institutions, it is not appropriate to provide guidance on how to include pending losses through scenarios.	No change.
Paragraph 23, first bullet point **Near misses, operational risk profits/gains,**	Respondents asked for clarification of the definition of near misses, operational risk profits/gains and opportunity costs/lost revenues. There are concerns in relation to their identification and in relation to the clarity and description of each treatment of reporting charges to the P&L.	Although the terms "near-miss event" and "operational risk gain event" have been defined in the GL10 (see paragraphs 524 and 525) CEBS has clarified this aspect by aligning the	Newly numbered footnotes 13, 14 and 15 added.

opportunity costs/lost revenues	Respondents asked for amendment of the first bullet because near misses, operational risk profits/gains and opportunity cost/lost revenues should be recognised in the scope of operational risk loss for management purposes only. They recommended adopting a flexible approach and mentioning the proportionality principle	terminology of the items with the GL10 and by adding footnotes 13, 14 and 15. CEBS has accommodated these comments by introducing a proportionality principle and clarifying that these items are mainly useful for management purposes.	Re-numbered paragraph 28 amended.
Paragraph 23, second bullet point and footnote 9 **Timing impacts**	Respondents ask for clarifications of the part where the timing impact is divided into temporary and permanent distortions and whether timing impacts are explicitly excluded from regulatory capital calculation. They stated that all the timing impacts should be excluded from the capital calculation because they reverse accounting positions from previous periods and they are not proper operational risk losses.	CEBS has accommodated most of these comments: - clarifying the meaning of the timing impacts (renamed timing losses) in the re-numbered footnote 12; - allowing the exclusion of timing losses from the scope of operational risk loss, unless these losses are due to operational risk events, span two or more accounting periods and give raise to legal risks; and - asking AMA institutions only to collect such losses for management and measurement purposes.	Re-numbered paragraph 27 and footnote 12 reformulated.

Section C. PUBLISHED GUIDANCE PAPERS			
LEVEL OF APPLICATION: AMA INSTITUTIONS			
Guidelines on the use test for AMA institutions			
All the Document	Respondents stated that some of the paragraphs are only a reminder of what has already been stated either in the CRD or in previously issued guidelines. From this point of view, these paragraphs do not offer much new guidance and are not beneficial. Consequently, they suggest omitting or shortening unnecessary paragraphs in general or, at a minimum, their rearrangement.	While some paragraphs have been rearranged or shortened, most of them have been maintained as they serve to link new concepts/criteria with principles or guidelines stated in the CRD or GL10.	Document partially amended.
1. Introduction			
Paragraph 2	Respondents asked for simpler solutions for smaller credit institutions operating in a local, domestic environment. Operational risk management in such banks could be based on identification of key risk areas instead of on day to day observations of business process.	As stated in the answer provided to comments on Paragraph 7 of Section A (INTRODUCTION), the scope of application of the Compendium is the same as of the GL10. Paragraph 25 of the GL10 states that supervisors should use the principle of proportionality in the sense that they would expect institutions to have risk measurement and management systems whose complexity is commensurate with the complexity of their operations/business. However even smaller and	Paragraph 8 of Section A (INTRODUCTIO N) of the Compendium amended.

		less complex institutions that have chosen to apply for the use of the AMA for regulatory purposes have, by doing so, made the choice of complying with the minimum requirements and guidelines envisaged for the AMA. CEBS has clarified this aspect in paragraph 8 of Section A of the Compendium.	
2. Use Test Assessment			
Paragraph 10, second bullet point	Respondents asked to delete the term "operational risk exposure" or the term "exposure".	CEBS has accommodated this comment.	Paragraph 10 amended.
Paragraph 11	Respondents said that the bank's insurance program is a key use test of the operational risk framework. Explicit inclusion of insurance management in the supervisory guidelines on use test requirements and operational risk management best practices would be a strong sign in this direction.	CEBS has accommodated this comment.	Paragraph 11, third 3 bullet point amended.
Paragraph 11, fourth bullet point	Respondents asked to delete the point "The definition of an appropriate operational risk appetite", because there is no marginal business measure for operational risk.	"Risk appetite" has been replaced by "risk tolerance".	Paragraph 11, fourth bullet point amended.
Paragraph 13	One respondent ask for amendment of the wording in order to ensure a certain degree of realism "It is therefore imperative that senior management be ~~constantly~~ regularly (or periodically) updated on the operational risk framework, including……."	CEBS has accommodated this comment.	Paragraph 13 amended.

Paragraph 16	Respondents stated that, because all the elements of risk management systems are expected to improve over time, it is crucial to insist on establishing a certain minimum required standard which all the individual elements should meet at the outset of the implementation	CEBS has accommodated this comment.	Paragraph 16 amended.
Paragraph 17	Respondents recommended that the initial leniency to the elements of an operational risk management system shown by competent authorities should be not regarded as sound practice	CEBS has accommodated this comment.	Paragraph 17 amended.
3. Final remarks			
Paragraph 24	Respondents asked for the guidelines to be updated when more experience is gathered on the implementation of TSA/ASA requirements.	This is exactly the message that the paragraph aims to give. However CEBS has clarified this sentence.	Paragraph 24 amended.

Section C. PUBLISHED GUIDANCE PAPERS			
LEVEL OF APPLICATION: AMA INSTITUTIONS			
Guidelines on the allocation of AMA capital			
All the Document	Respondents stated that some of the paragraphs are only a reminder of what has already been stated either in the CRD or in previously issued guidelines. From this point of view, these paragraphs do not offer much new guidance and are not beneficial. Consequently, they suggested omitting or shortening unnecessary paragraphs in general or, at a minimum, their rearrangement.	While some paragraphs have been rearranged or shortened, most of them have been maintained as they serve to link new concepts/criteria with principles or guidelines stated in the CRD or GL10.	Document partially amended.
1. Introduction			
Paragraph 5, first bullet point	Respondents asked to include footnotes to explain the methodologies referred to - Expected Shortfall, Shapley method, etc.	These are well-known methodologies in the context of risk quantification and measurement.	No change.
3. Assessments of allocation mechanisms			
Paragraph 10	Respondents said that CEBS should devise more explicit rules because capital figures allocated to some subsidiaries may not reflect in an appropriate way their actual operational risk. Additional requirements on subsidiaries should be assessed via the Pillar 2 process without affecting the group wide model.	CEBS has partially accommodated this comment, by clarifying that the supplementary requirements on subsidiaries have no impact on the consolidated capital figure.	Paragraph 10 amended.
4. Home-host issues regarding allocation mechanisms			
Paragraph 13	Respondents commented that “the allocation mechanism is subject to the approval of both the home supervisor and host supervisors and has to be addressed within the joint decision on	The role of the colleges of supervisors is outside the scope	No change.

	the AMA application" requires more coordination between EU supervisors or a common set of rules or a single validation process. The role played by colleges of supervisors should be enlarged to facilitate the approval process and to ensure consistency.	of these guidelines.	
Paragraph 15	Respondents suggested leaving out the word "significant" relating to a change in the capital allocation mechanism unless there is a particular reason for the use of the word. Respondents asked CEBS to clarify the exact procedure to obtain approval for a new allocation mechanism, especially the procedure to reach a joint decision by home and host supervisors.	CEBS has accommodated this comment. This may be an area of future work for CEBS.	Paragraph 15 amended.