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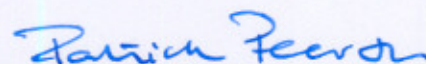
*Dear Danièle,*

**Call for Technical Advice No. 4(b) to CEBS on the review of the definition of own funds**

1. I am writing further to my letter of 3 August, to provide further clarification on Call for Technical Advice 4(b), which asked CEBS to carry out a quantitative analysis of own funds.
2. Following discussions between the Commission services and CEBS and its members, both formally in CEBS and EGCR meetings, and informally outside those meetings, it has become clear that CEBS will have considerable difficulty delivering all the information requested in the Call for Technical Advice within the timescales suggested. We understand that this is largely due to the following factors:
  - a) the fact that national supervisors do not necessarily collect, on an ongoing basis, all the data items in the taxonomy drawn up by CEBS;
  - b) difficulties in obtaining data for a date in the past (i.e., data as at end-June 2006);
  - c) the difficulty that would arise in trying to provide complete coverage of firms in a jurisdiction; and
  - d) the burden that the proposed exercise would place on supervisors and on firms at a time when much effort is being put into the implementation of the Capital Requirements Directive.
3. Taking these points into account, the Commission services have decided to revise Call for Technical Advice 4(b) as follows:

- a) part (i) of the Call for Technical Advice (the taxonomy) remains unchanged, except that the deadline for submission of this information should be 30 November 2006; and
  - b) part (ii) of the Call for Technical Advice (the data) is amended so that only data as at 31 December 2006 is required, to be delivered by the deadline originally specified (31 May 2007).
4. In relation to the data, we would expect that CEBS members will use the additional time available, and the possibility to forewarn firms of the need to provide data, to provide a more comprehensive coverage in their jurisdictions than would have been possible for June 2006 data. While we recognise that complete coverage may not always be possible, we would emphasise the importance of having solid, comprehensive data to use in the policy work ahead.
  5. In addition, we would like to reiterate the importance of having high quality, comprehensive data relating to recently-developed capital instruments (more commonly known as 'hybrids'), building on the technical advice CEBS has already provided under Part B of Call for Technical Advice No. 4, of 26 September 2005. With this in mind, we would ask CEBS members to provide the data set out in the Annex to this letter in relation to hybrid instruments. Again, we recognise that this information may not be readily available to all national supervisors. Nonetheless, we think that requesting this additional information in this limited area is a reasonable compromise, and will enable the Commission services to take work forward in this area in the short to medium term with a proper understanding of the importance of these instruments in the EU for banks and investment firms. We would welcome receipt of the data on hybrids, together with any qualitative commentary from CEBS, by 28 February 2007.
  6. As ever, we greatly value the input of CEBS to the own funds review and we look forward to continuing the productive work in this area.

Yours sincerely,



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Head of Unit

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## Annex – Additional data on hybrids

The following data analysis has been prepared by drawing on the characteristics identified in the CEBS submission of Part B of the Call for Technical Advice No. 4, of 26 September 2005. For each of the sections ((a) to (o)), CEBS members are asked to provide quantitative splits for the characteristics indicated as at 31 December 2006.

Under each subsection the total should be the same. So, for example, the total of (a) innovative and non-innovative capital should equal the same as the total of (f) step-ups. Where 'other' is selected, as much detail as can reasonably be provided is requested.

- a) Innovative; non-innovative.<sup>1</sup>
- b) Non cumulative trust preferred securities; equity contributed through silent partnership interests; undated deeply subordinated non cumulative notes; perpetual bonds with a stock settlement mechanism; other.
- c) Senior to ordinary share capital only; senior to other instruments in addition to ordinary share capital.
- d) Undated; dated.
- e) Issuer has full flexibility on call features (except within first 5 years); holder has some flexibility on call features.
- f) Step-up < 100bps; step-up >100bps; no step-up.
- g) Contractual flexibility in bankruptcy not to be redeemed; no contractual flexibility in bankruptcy not to be redeemed.
- h) Cumulative; non-cumulative.
- i) Issuer may not suspend payments; Issuer may suspend interest payments in case of: breach of limits; dividends not paid on other share class; solvency difficulties; bankruptcy; other.
- j) Alternative coupon satisfaction feature; no alternative coupon satisfaction feature.
- k) Payment in kind feature; no payment in kind feature.
- l) Principal Stock settlement feature; (if yes subject to limit; not subject to limit); no principal stock settlement feature.
- m) Hybrid issued directly by credit institution; hybrid issued through an SPE.

Hybrid denominated in Euro; GBP; US Dollar; in Japanese yen

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<sup>1</sup> Based on the definitions in Para 9 of the first part of CEBS technical advice to the European Commission on own funds - 'Analysis of the capital instruments recently created by the industry'.