



REALKREDITRÅDET  
ASSOCIATION OF DANISH MORTGAGE BANKS

Committee of European Banking Supervisors

23 September 2009

### **Implementation guidelines on Hybrid Capital Instruments (CP27)**

At the end of June, the CEBS published a consultation document on hybrid capital instruments, CP 27. The Association of Danish Mortgage Banks has the following comments to the questions raised in the document:

#### QUESTIONS 1.1 AND 1.2

No comments.

#### QUESTION 2.1

In general, the term "foreseeable future", e.g. in items 60, 68 and 69, should be omitted from the text and may cover everything from three weeks to three years.

Item 64 concerning information to be submitted to the Financial Supervisory Authority upon application for repayment of hybrid core capital seems to be unreasonably troublesome – for both the financial institution and the supervisory authorities. On the other hand, it is understandable that the Financial Supervisory Authority require detailed information, particularly from institutions that could face solvency problems upon repayment.

Our alternative proposal would be to keep items a) and b), whereas the other information (incl. items c and d) will only have to be submitted along with the application, if the supervisory authorities deem this necessary. That way institutions, which the supervisory authorities are familiar with and of whom they know that the institution in question is sound, may avoid the unreasonably heavy workload of preparing a full application.

Furthermore, we find it problematic that there is no deadline for the handling by the supervisory authorities of an application for repayment.

#### QUESTION 2.2.1

No comments.

#### QUESTION 2.2.2

This could be the case if the capital structure of the institution in question has the effect that the hybrid core capital may no longer be included in the core capital. That way the hybrid core capital loses its business value to the institution, and thus it could be reasonable to repay it.

Furthermore situations can occur where it commercially would be beneficial to allow buy back during the first five years - for example if the movement in prices on Tier 1 is negative.

#### QUESTION 2.2.3

No comments.

#### QUESTION 2.3

No comments.

QUESTION 3

There seems to be a "hole" in item 84 where the institution may choose to stop paying interest and dividend and at the same time build up capital reserves. After that, a large dividend could be paid to shareholders at the same time as interest payments are resumed. This should not be possible.

QUESTION 4.1

We believe that it would be most appropriate if the application of ACSM, cf. item 88, should be limited to situations where the capital base at maturity does not exceed the Pillar II capital requirement.

QUESTION 4.2

No comments.

QUESTION 5.1

We are fundamentally worried that items 110-117 can implicate that hybrid core capital in fact is subordinated the new share capital (over-subordination) which can be destructive of the Tier 1 market. Hence we would like to request that CEBS reconsider the wording of items 110-117.

Furthermore we do not find the guidelines concerning recapitalization, cf. items 112-114, is sufficiently clear.

QUESTION 5.2

Cf. question 5.1

QUESTION 5.3

No comments.

QUESTION 5.4

No comments.

QUESTION 6.1

Yes, we find the guidelines sufficiently clear.

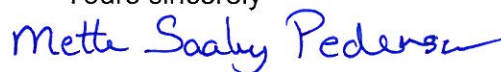
QUESTION 6.2

No comments.

QUESTION 7

No comments.

Yours sincerely



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