

BNP Paribas Position note
CEBS Consultation Paper 38 on implementation guidelines
on Article 106(2) (c) and (d) of Directive 2006/48/EC recast

Article 106(2) (c) and (d) of CRD II provide exemptions from the revised large exposures regime for certain short-term exposures arising from the provision of money transmission, corresponding banking, clearing and settlement and custody activities.

These categories of exemptions are submitted to eligibility conditions. The CEBS provides further clarification of the eligibility criteria to be met.

The Consultation Paper provides a response to the requirement formulated by the Article 106(2) of the amended Directive that requires CEBS to elaborate guideline in order to certify the convergence of supervisory practices in applying these exemptions. It aims to safeguard a level playing field for institutions providing money transmission of financial instruments clearing, settlement and custody services to clients.

BNP Paribas welcomes the opportunity to respond to this consultation.

BNP Paribas's responses to the consultation questions

Part IV, Article 106(2) (c) CRD II

- 1. Is the definition of exempted exposures in relation to transaction type clear and do they cover all relevant exposures?**

Transaction types are clearly defined, although we would like to add explicitly paying agent services and transfer agent services as those activities are flows activities traditionally linked to clearing, settlement and custody of financial instruments.

We believe overnight funding linked to financial instruments clearing, settlement and custody, i.e. providing credit to limit the impact of technical and external limitations should also be excluded. For example, overnight funding to cover an overdraft resulting from a failed securities transaction should be excluded.

- 2. Is the description of client activity sufficiently clear? Would practical problems related to the identification of client activity arise and, if so, how could they be solved?**

Yes. On the second question we don't have any comments as we did not find practical problems that may arise in relation with the identification of client activity.

Moreover, in our understanding intra-group companies are included within the scope of 'client'. We kindly request CEBS to confirm this issue.

- 3. Are the specifications regarding the available time for the reduction of the exempted exposures sufficiently clear?**

We kindly request CEBS to confirm whether intraday exposures are also included in that section.

Furthermore, in some cases we may need more flexibility and go beyond the following business day if we can demonstrate that actions are taken to reduce the exposure. For instance, we may have to follow infrastructures rules that would require more than one business day to solve.

Part IV, Article 106(2) (d) CRD II

- 4. Are the definitions of exempted exposures in relation to transaction type clear and do they cover all relevant exposures?**

We reiterate that we should add paying agent and transfer agent services as part of the activities from which exposures may arise.

- 5. Is the description of specific service providers sufficiently clear?**

Yes. We seek confirmation that intra-group companies would be included with the scope of specific service providers.

6. **Are the specifications regarding the available time for the reduction of the exempted exposures sufficiently clear?**

Yes.
