

Response of Abbey National plc (“Abbey”) to the Consultation Paper of the Committee of European Banking Supervisors (“CEBS”) on High Level Principles on Outsourcing.

Abbey welcomes this initiative, which will assist in the convergence of supervisory approaches and practices in relation to outsourcing by financial service institutions. The notion of an recognised definition of what constitutes “material outsourcing” and the consequent pre-notification is also welcomed.

Abbey has certain views on the Consultation Paper, which can be summarised as follows:

The three-tier classification of activities

CEBS propose a three-tier classification and at HLP I state that strategic and core management responsibility and functions cannot be outsourced. Abbey’s banking supervisor, the FSA, are clear in that the management of Abbey will be held responsible for the outsourced arrangement at all times. This overarching view is consistent with HLP I and HLP II and must therefore negate the need for a separate classification.

Abbey also feels that the test in determining what could be regarded as strategic or non-strategic could be subjectively applied by financial institutions and lead to confusion over activities which may, or may not be outsourced. In terms of regulated activities it is, of course, recognised that these cannot be outsourced other than to an authorised person or an exempt person.

In view of the above, it is felt that outsourced activities can be classified in two tiers, i.e. material and non-material activities.

Material and Non-Material Activities

It is Abbey’s view that HLP II is consistent with the approach adopted by the FSA, both in terms of what constitutes a material activity and generally, in terms of the measures that need to be put in place to ensure that risks are appropriately managed by the financial institution outsourcing any material activity.

Abbey agrees with HLP IV in that there should not be restrictions on the outsourcing of non-material activities although feels that as a matter of best practice, where a proposal may not necessarily be regarded as material, it may still be appropriate to pre-notify so that the FSA (or other banking supervisor) is accurately apprised of the plans of that financial institution.

Other aspects of Outsourcing

It is agreed that outsourcing financial institutions should have a policy in place to cover all aspects of outsourcing, both intra-group and externally, and this is something that Abbey does have. The policy itself should set out the requirements of the outsourcing financial institution and in particular, the contractual basis for the outsourced arrangement with the provider of the outsourced services, to include definitive service levels and this again, is consistent with the approach adopted by the FSA.

Whilst it is accepted that the principles put forward by the CEBS are high level, Abbey feels that certain principles should be more prescriptive. For example, those principles in relation to rights of access and audit, which may vary from different legal/regulatory jurisdictions but are essential in order that the outsourcing financial institution may comply with the rules of its own banking supervisor.

Conclusion

Abbey feels that the high level principles proposed by the CEBS are broadly aligned to those of the FSA and that by continuing to meet the FSA rules and following its guidance on outsourcing, adherence to the high level principles should not prove problematic for Abbey.

The work of CEBS in developing high level principles should be seen as an opportunity to assist convergence of supervisory approaches and practices in relation to outsourcing and, where possible, reduce inconsistency between regulatory definitions of what may, and may not be regarded as material outsourcing and the principles that should apply.

[29th July 2004]