

31 March 2009

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By e-mail to: [cp21@c-eps.org](mailto:cp21@c-eps.org)

Dear Sirs

**CEBS Consultation on the Compendium of Supplementary Guidelines on implementation issues of operational risk**

The Investment Management Association (IMA) represents the asset management industry operating in the UK. Our Members include independent fund managers, the investment arms of retail banks, life insurers and investment banks, and the managers of occupational pension schemes.

They are responsible for the management of £3.4 trillion of assets, which are invested on behalf of clients globally. These include authorised investment funds, institutional funds (e.g. pensions and life funds), private client accounts and a wide range of pooled investment vehicles. In particular, our Members represent 99% of funds under management in UK-authorized investment funds (i.e. unit trusts and open-ended investment companies).

Our response focuses on the implications of the Compendium for asset and fund managers, who are, predominantly, Limited Licence Firms. As a result they are exempt from operational risk capital requirements, whether the BIA, TSA or AMA. Some, however, will be voluntarily adopting elements of the approaches outlined, for their own reasons, in their calculation of Pillar II, albeit not subject to the rigid calculation methodologies of Pillar I.

IMA generally welcomes CEBS' intentions to develop these guidelines, with the objective of harmonising the implementation and supervision of operational risk. We

agree with the structure of semi-independent documents to be enlarged and updated as necessary.

Please find our detailed comments to the proposed Guidelines in the attached Paper. We would like to highlight the following key point:

- Limited Licence Firms are not subject to an operational risk requirement under Pillar I. There is no recognition of this in the Compendium. It is important, for the avoidance of any misunderstanding, that this is made clear, both in the introduction, and in the 'Level of Application' headers. If this is not done then it will only exacerbate the trend within national regulators to apply rules and standards where they are neither merited nor required.

I look forward to hearing from you if there is any clarification that you would find useful on the points we have raised, either above or in the attached paper.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Adrian Hood', written in a cursive style.

Adrian Hood  
Regulatory Adviser

## **CEBS Consultation on the Compendium of Supplementary Guidelines on implementation issues of operational risk**

### **Specific Comments**

The IMA agrees with the need for the guidelines and the objective of harmonising the implementation and supervision of operational risk for capital requirement purposes.

We also agree with the structure of semi-independent documents to be enlarged and updated as necessary.

### **Section A.**

#### **Introduction - Paragraph 7**

We recognise the importance of elements of the guidelines that are intended only for those CRD firms that adopt a specific approach (e.g. AMA) being clearly identifiable as such. As we stated above, Limited Licence Firms are not subject to an operational risk requirement at all. We note that there is a temptation for national regulators to apply the highest identified standards to all CRD firms.

We suggest that the guidelines recognise this danger and state that such an approach would be inappropriate.

### **Section C.**

It should be made clear that this section is not, strictly, applicable to Limited Licence Firms, as they are not subject to a operational risk requirement.

### **Guidelines on the scope of operational risk and operational risk loss**

These guidelines are stated to be helpful tools for national supervisors in reviewing AMA, TSA or ASA firms (paragraph 10): BIA firms are only to be 'encouraged to adopt such practices'. Reading paragraphs 10 and 11 it is possible to come away with the impression that the scopes are optional for all firms, but even more so for BIA firms. A little more clarity on applicability would lead to the stated objective of a level playing field across the national regulators of the EU.

We would be particularly concerned if, following these guidelines, national regulators were to apply these scopes as a blanket expectation of 'best practice'.