

**From:** A.Koch@bvr.de on behalf of Dr.Mielk@BVR.de

**Sent:** 22 July 2008 11:19

**To:** Commodities

**Subject:** Consultation paper on CESR`s /CEBC`s technical advice to the European commission on review of commodities business

Dear Ladies and Gentlemen,

we would like to refer to the Consultation Paper on CESR`s/CEBC`s technical advice to the European Commission on a review of commodities business published on 15 May 2008 and we would like to submit the following comment on the sections affecting us, i.e. E I.2. b (indents 269 ff.) as well as the corresponding questions 27 and 28:

The issues highlighted in the foregoing sections affect a rather significant number of our member banks because particularly in the rural regions said banks traditionally have a strong track record of commodity trading as an ancillary business. This tradition which – in some cases – dates back even more than 100 years offers an important interface between agricultural producers on the one hand and buyers of agricultural products on the other hand. To this end, the respective banks conduct the transactions described in the consultation paper. In terms of its risk exposure, this business is extremely manageable. We feel that the banking regulations for commodity risks were not conceived of with a view to such transactions. Whilst physical fulfillment tends to be at the heart of most transactions conducted by our banks, regulators appear to have clearly geared their provisions towards classical derivative transactions. Yet, precisely classical derivative transactions do not seek to achieve physical fulfillment of contracts but rather more revolve around balancing a difference.

Based on the foregoing, we explicitly welcome the fact that CESR and CEBS jointly ponder ways in which mitigations can be created for those banks that are engaged in the agricultural industry transactions described in the consultation paper. In our understanding, in an attempt to provide relief for these banks, CESR and CEBS seek to exempt said banks from the scope of mandatory inventories for the respective commodities. However, whilst this goal is commendable, the tools chosen by CESR and CEBS fail to deliver this objective. The mere waiver of the mandatory disclosure of the corresponding inventories does not resolve the banks' problem. This is due to the fact that for the purposes of calculating regulatory capital, banks would still remain obliged to create the inventories; Hence, this waiver would change nothing about the current situation. This means that a waiver of the disclosure obligation would merely provide marginal respite which does not lead to a genuine and sustainable relief for banks. In order to arrive at its proposed goal, CESR and CEBS would have to introduce a de-minimis regime which regulates that banks featuring a manageable exposure within reasonable bounds shall be entirely exempt from compliance with the provisions on commodity risks. In view of the changing markets,

we propose e.g. EUR500,000 as a threshold for the exposure value in the meaning of the simplified method of No. 19 Annex IV of the directive 2006/49/EC. In essence, we feel that such a threshold makes perfect sense and would also relieve a large number of banks from the present proliferation of red tape.

yours sincerely

Dr. Holger Mielk

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