



DANISH BANKERS ASSOCIATION

The Committee of European
Banking Supervisors –CEBS

Send by mail to cp33@c-eps.org

12th March 2010

Dear Madam, dear Sir,

Finanssektorens Hus
Amaliegade 7
DK-1256 Copenhagen K

**CP 33: Consultation Paper on Implementation Guidelines regarding
Instruments referred to in Article 57 (a) of Directive 2006/48/EC
recast**

Phone +45 3370 1000
Fax +45 3393 0260

The Danish Bankers Association welcomes the consultation of CEBS' above mentioned consultation paper – CP 33.

mail@finansraadet.dk
www.finansraadet.dk

In general we support the aim of the consultation paper. We would, however, like to comment on criterion 2 and 3 of the consultation paper.

Criterion 2 prescribes a deduction from the issuing bank's original own funds of an amount equivalent to the amount, which the issuing bank has provided to a proprietor/shareholder to finance the subscription of its shares. This applies both to the issuance of capital and to any later purchase of shares by new shareholders from existing shareholders.

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In our view the proposal is not feasible for banks, because how should a bank be able to know whether it actually is financing a purchase of its shares, for instance between two persons the one drawing the purchase price from his overdraft facility. Thus whether the instruments should be considered as eligible own funds or not will depend on this eventuality except for cases where the bank knowingly is financing the subscription or purchase.

In the light of this we would suggest the proposal being replaced by a direct prohibition for banks against the simultaneous offering of loan financing to subscription or purchase of its shares and other eligible own funds instruments.

Criterion 3 prescribes that the instruments shall be directly issued by the institution.

We agree with this principle. However, banks often form part of a financial group with the bank as the consolidating parent company. Criterion 3 seems to have the individual issuing institutions in view but should in our view also

take into consideration the context of capital issued through its consolidating financial subsidiaries, including minority interests.

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Yours Sincerely

Kim Busck-Nielsen
Danish Bankers' Association

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