From:	prasad.gollakota@ubs.com
To:	Basel Committee, Service
Cc:	DL-Capital-Solutions@ubs.com
Subject:	Consultation response in relation to: Proposal to ensure the loss absorbency of regulatory capital at the point of non-viability (issued 19 August 2010)
Date:	Friday 01, October, 2010 12:43:07
Attachments:	disclaim.txt
Importance:	High

Dear Sir/Madam

Below are my views in relation to the proposals to ensure loss absorbency of regulatory capital at the point of non-viability. These comments relate to proposals outlined in the 19 August Gone Concern consultation, and should not be assumed as comments relating to any so called "Contingent Capital" or "Bail-in debt" consultation / proposals. We would be more than happy to provide comments in relation to such separate consultation.

Please note: the views expressed below are my own and do not necessarily reflect the views of UBS AG or any branch, subsidiary or affiliate thereof. My views are provided without any liability, legal or otherwise.

Kind regards,
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(1) Gone concern proposal application: The proposals should only be applicable to systemically important institutions. The expression systemically important institutions should be explained or defined, so the market and issuers are clear who the proposals apply to.

(2) Trigger definition: The trigger must be clear, transparent, fixed at the time of issuance and easy to detemine when it occurs.

A. The concept "non-viable" needs clear definition. We understand that the concept "non-viable" means that the bank would fail, or is likely to fail, to satisfy the necessary conditions to carry on regulated activities within the relevant jurisdiction, or become insolvent or go into winding up proceedings.

B. The conversion or write-down solely results in the quality of capital improving. It does not increase the quantity of capital (as such instruments would already qualify as total capital), and nor does it improve the liquidity position of the bank. Accordingly, the trigger should only be activated at a point when the quality of capital improvement is necessary for the viability of the bank.

C. Therefore, within the spirit of the proposals, it may be acceptable for the market if the trigger for conversion or writedown relies on:

- an actual capital injection by the state, without which the bank would become non-viable, or
- a discretion applied by the regulator after due process which evidences that the bank has suffered significant losses, and that such losses would result in (i) a severe shortfall in the core capital of the bank, (ii) the bank being unable to raise such capital in the capital markets to avoid such shortfall, and (iii) without replenishment of such core capital the bank may fall below the minimum capital requirements or become a non-viable institution.

(3) Trigger application: We have the following comments in the application of the trigger:

A. Breach of the relevant trigger should not result in automatic conversion or write-down, if the regulator (in consultation with the bank) determines conversion or write-down is not necessary.

B. In the case where a writedown is being used, it should be limited to the extent of the quality of capital improvement required, rather than being the full notional amount.

C. Prior to activation of the trigger, shareholders need to have suffered a loss, either by capital reduction or severe dilution.

(4) Alternative mechanisms: As an alternative to conversion to equity or permanent writedown, the Committee should explore other tools which may be more relevant to aid liquidity or funding relief (vs. capital relief). One such example is coupon or principal servicing holidays for a period of, for example, 2 years. This would stave off liquidity and refinancing pressures on the bank, which might be more valuable to the bank, without causing permenent loss to capital holders.

(5) State support: As a general comment, we wish to reiterate that in order for the relevant institution to become viable and restore market confidence with depositors, the capital markets and other counterparties, there will need to be actual, or a perception of, state support for the relevant bank. The reality is that the market will not simply accept an institution will become viable if its Tier 2 and Tier 1 capital has been restructured as equity.