International Banking Federation

Pinners Hall
105-108 Old Broad Street
London EC2N 1EX

tel: + 44 (0)20 7216 8947
fax: + 44 (2)20 7216 8928
web: www.ibfed.org

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<u>IBFed timelines</u>:

7 February – final draft to Board for approval by 9 February (cob)
10 February – submission to Basel Committee

Email

To the Basel Committee
baselcommittee@bis.org

Brussels, 10 February 2011

Subject: ***Consultative Document on "Capitalisation of bank exposures to central counterparties"***

Dear Sir/Madam,

The International Banking Federation ('IBFed') is the representative body for national and international banking federations from leading financial nations around the world. Its membership includes the American Bankers Association, the Australian Bankers' Association, the Canadian Bankers Association, the European Banking Federation, the Japanese Bankers' Association, the China Banking Association, Indian Banks' Association, Korean Federation of Banks, the Banking Association South Africa and the Assocation of Russian Banks. This worldwide reach enables the Federation to function as the key international forum for considering legislative, regulatory and other issues of interest to the banking industry and to our customers. We welcome the opportunity to comment.

The IBFed is convinced that market infrastructures in general and CCPs in particular are central to the stability of the financial system. Users have an interest in ensuring that market operations are underpinned by robust market infrastructures. To that effect, international standards envisage that all members of a CCP shall contribute margins and to the CCP´s mutualised default fund to protect the CCP from the default of one or more of its members. Such standards are currently being implemented in a number of jurisdictions.

It is against the background of ongoing discussions on how standards for CCPs and the obligations that will be imposed on CCP members to ensure their resilience should be turned into binding rules that the Federation wishes to express two major concerns as regards the consultation currently carried out by the Basel Committee on Banking Supervision. This does not mean that the Federation agrees with the detailed reforms that are proposed in the consultation but we leave it to our individual IBFed members and their member banks to provide the Committee with comprehensive and more technical comments on specific aspects tackled by the consultation.

The first concern relates to the regulatory treatment suggested by the Committee to incentivise the use of CCPs by banks. The Committee recommends establishing a 2% risk weight to trade exposures to a "qualifying CCP". Taking into account the fact that the capital framework currently contemplates no capital charges for such exposures, the recommended approach in fact reduces the existing capital relief available for central clearing and creates burdens that outweigh whatever supervisory benefits that might result from the capital charge. Furthermore, the Committee introduces a distinction between "qualifying CCPs" (those subject to CPSS/IOSCO standards) and others. According to the Committee, exposures to non-qualifying CCPs should be capitalised as is the case with any other bilateral exposure. The Federation is unsure as to whether such a distinction would eventually be enshrined in relevant legislation and, consequently, of the eventual practical consequences of the Committee´s proposals.

Furthermore, the Federation questions the rationale and efficiency of addressing any CCPs' macro-systemic risk through the micro-prudential supervision of banks. CCPs systemic risk would be better addressed through appropriate regulation of CCPs, high risk management standards including robust margining, risk controls and transparency, strong membership's standards, robust CCP capital standards and emergency access to central banks liquidity.

The above links up to our second concern and that is the fact that the consultation does not seem to sufficiently take into account the major regulatory developments in the field of CCPs that are taking place in most IBFed jurisdictions. This lack of coordination may impair the result of the consultation as the locally implemented legislations are likely to have a significant impact on the rules governing CCPs. The Federation considers that any capitalisation of bank exposures to CCPs must therefore fully take into account the likely more stringent requirements on the side of CCPs, thus increasing their robustness and making their use much safer. As way of example, it is for instance envisaged that both the European Union's Regulation on OTC derivatives, central counterparties and trade repositories (also known as the European Market Infrastructure Regulation, or EMIR) and the United States' Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) will set higher standards in certain areas than the minimal CPSS-IOSCO requirements.

The Federation would, therefore, recommend the Committee to consider the well advanced initiatives in the EU, the US and beyond when qualifying CCPs in terms of risk and consequently assessing the need for capitalisation of bank exposures to these central clearing infrastructures.

We thank you for your consideration of our remarks and remain at your disposal for any questions or additional information you might have.

Yours sincerely,