The voice of banking
& financial services

Basel Committee on Banking Supervision
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Financial Services Authority

25 February 2011

Dear Sirs,

Basel Committee consultation: Pillar 3 disclosure requirements for remuneration

This is the British Bankers' Association's response to the request for views on the above proposals. We welcome the opportunity to comment.

We note that the development of the recommendations follows the thematic review of compensation practices published in March 2010. We welcome the fact that this recognised the 'material changes [which] have taken place in the compensation practices of financial institutions' and would add that this reflects our view, not least in the UK where the FSA has implemented a Remuneration Code implementing both the FSB principles and the new requirements encapsulated in CRD 3. BBA members are firmly committed to providing the highest possible level of transparency and disclosure to their stakeholders.

Given the volume of change in this area, however, it is not surprising that national 'practices remain diverse'. We see the proposed guidelines as an important means of standardising practice but would argue that disclosure must be first and foremost based on meeting the information needs of investors. For this reason we see Pillar 3 guidelines as the most appropriate mechanism through which to specify disclosure requirements, given that the original intention of the Basel Committee was to promote market discipline by requiring institutions to disclose information to enable market participants to understand their business model and risks.

The general principles and rules governing Pillar 3 are also suited to accommodating the current fragmentation of national and regional regulatory requirements whilst promoting consistency. In particular, we welcome the decision to permit institutions to meet the proposed requirements by referring to equivalent disclosures which have already been made under an accounting or listing requirement. Over time, we would hope to see market pressure leading to the development of good practice which facilitates comparisons to be made across institutions and jurisdictions.

As a general point, we would caution the Committee against seeking the mandatory disclosure of detailed information about commercially sensitive payments or those which could lead to a 'bidding up' of remuneration levels. It would be interesting to understand what discussions have taken place with the investor community on this point during the development of these guidelines and what disclosures they would find it useful for the Committee to mandate and which they would rather leave to the remuneration committee to decide.

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We comment on the specifics of the proposed guidelines below. For reference, we have enclosed a comparison of the proposed guidelines with the FSA Code and CRD 3 in the annex to this letter.

Coverage of disclosures

The areas to be covered are fine. The mix of qualitative and quantitative is appropriate, allowing firms flexibility.

Scope of application

We welcome the regard to the nature, scale and complexity of firms. In addition, the college of supervisors should have an input so that firms avoid duplication and can reconcile different regulatory objectives.

We believe it is important for the existing caveats relating to the disclosure of information which is considered to be immaterial, proprietary or confidential to cover disclosures in this area.

Method and frequency of disclosure

We agree that disclosures should be made on an annual basis and as soon as is practicable after the year-end. On this latter point, we would highlight the progress made over the past three years to reduce the production time for disclosures.

As mentioned above, there are a great many national requirements being developed in this area and whilst the Basel Committee should play a role in promoting consistent disclosure, it is important that the Pillar 3 regime fits with the existing legal requirements. As such, we place considerable importance on the ability of regulators to recognise existing requirements as being equivalent and for institutions to choose the most appropriate location for their disclosures. For some this may mean locating disclosures alongside existing reports on directors' remuneration in the Annual Report, for others it will be a standalone Pillar 3 document or website. What is most important, however, is that the disclosures are clearly signposted for investors.

Key disclosures

As an overarching comment we would observe that the majority of the disclosures required appear appropriate as long as they are applied in a proportionate manner.

<u>Qualitative disclosures</u>

We support the disclosures covered under (a) and (b). We are concerned, however, that the disclosures required in (c) would require the disclosure of detailed information of a potentially commercially sensitive nature about how institutions manage and take account of risks. In a similar vein, we have concerns about the proposal that banks should be required to disclose additional information about their performance metrics and profit targets under (d). This is not to say that a high-level description is inappropriate; a balance needs to be struck.

We would observe that there is a risk that the detailed disclosure of information relating to deferral and clawback in (e) and (f) could result in potential recruits gaming the system to identify the institution with the least rigorous approach. Again, we would support high-level discussion (as is required by the FSA Code) but not detailed description.

<u>Quantitative disclosures</u>

The quantitative disclosures proposed largely mirror those required by CRD 3 and the FSA's Code and on the whole appear acceptable if applied in a proportionate manner. Indeed much of the

information proposed is already to be found in Annual Reports. However, we are concerned by the proposal in (j) to require the publication of disclosures showing total reductions in deferred compensation due to performance adjustment measures other than variation in share price. As argued above, we believe that this will require the disclosure of proprietary information which is liable to misinterpretation by the market.

We are also concerned by the feasibility of providing the data broken down into the three categories proposed: senior management, other material risk takers and financial and risk control staff. Whilst we concede there is flexibility over how these categories are defined, the population of the latter two groups will change materially from one reporting period to the next calling into question the decision-usefulness of comparators. It will also be operationally challenging to produce the data, not least as the proposed categories are not fully aligned with those in the FSA Code. We would suggest that the management committee of the institution is a more readily identifiable and stable population for which to provide this data. It also has the benefit of being recognisable to shareholders and accountable to them.

We have no further comments.

We hope that you will find our comments useful. Please do not hesitate to get in touch either by e-mail (adam.cull@bba.org.uk and irving.henry@bba.org.uk) or telephone on 020 7216 8867 / 8862.

Yours faithfully,

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Annex - Comparison of disclosure requirements around the world

Issue	Basel and FSB	EU	FSA
Items of information to be disclosed	Qualitative and quantitative information about pay practices and policies, including Governance/committee structures The link between performance to remuneration through the disclosure of the main performance indicators for individuals, and how pay is tied to bank-wide and individual performance Long-term performance measures such as deferral and clawbacks Descriptions of measures taken by a bank to assess risks in implementing pay policies The amounts and number of bonuses, severance payments and sign-on awards	Amounts of remuneration for the financial year, split into fixed and variable remuneration, and number of beneficiaries Amounts and form of variable remuneration, split into cash, shares, share-linked instruments and others Amounts of outstanding deferred remuneration, split into vested and unvested portions Amounts of deferred remuneration awarded during the financial year, paid out and reduced through performance adjustments New sign-on and severance payments made during the financial year, and the number of beneficiaries of these payments The amounts of severance payments awarded during the financial year and the number of beneficiaries of these payments The amounts of severance payments	Information on the remuneration decision making process The link between pay and performance The most important design characteristics of the remuneration system Performance criteria for assessment of remuneration Main parameters and rationale for variable compensation Aggregate quantitative information on total remuneration (detailed in the EU CRD 3 column)

		awarded during the financial year, the number of beneficiaries and the highest award to a single person	
Form and frequency of disclosure	At least annually, as soon as practicable, an equivalent disclosure under accounting or listing requirements may suffice	At least annually, either in annual reports and accounts, or separate Pillar 3 disclosures, as soon as practicable	The FSA has implemented CRD 3 rules governing how and when firms will need to disclose details of their remuneration.
Institutions and staff to whom the requirements will apply, and how the supervisor intends to take account of proportionality	Applies to significant financial institutions (SFI), leaving it up to national supervisors to determine what qualifies as an SFI Applies to senior executives and other employees whose actions have a material impact on the firm's risk exposure	Credit institutions and investment firms Senior management, control functions and members of staff whose actions have a material impact on the risk profile of the institution, and any employee whose total remuneration takes him/her into the same remuneration bracket as those categories of staff	All regulated firms The FSA has adopted a proportionate approach in applying the rules reflecting the CRD 3 which states that "credit institutions shall comply with the requirements…. in a way that is appropriate to their size, internal organisation and the nature, the scope and the complexity of their activities." Applies to persons who perform a significant influence function and employees whose activities have a material impact on the firm's risk profile NB The FSA has invited feedback on extending the disclosure requirements to non-EEA firms operating as branches in the UK.

The CRD 3 pay rules scope in about 2500 firms in the UK. The FSA has divided firms into the following four groups, each group being subject to a different level of disclosure requirements as described below:

• Tier 1 firms − Full disclosure of all items under CRD 3:

Firms with capital resources in excess of £1bn, and firms with capital resources in excess of £750m

The FSA expects this category to include around 26 very significant groups. They believe firms of this size and complexity should observe the highest standards of disclosure.

• Tier 2 firms – Disclosure of most qualitative items (including design characteristics of remuneration) and selected quantitative items:

Firms with capital resources between £50m and £1bn, and firms with capital resources between £100m and £750m

The FSA expects this category to include some 200 firms. They believe firms of this size and complexity should provide a high degree of disclosure, although some finer details need not be disclosed.

• Tier 3 firms − Disclosure of most qualitative items (excluding design characteristics of remuneration systems) and selected quantitative items:

Firms with capital resources of less than £50m, and firms with capital resources less than £100m

The FSA expects this category to include around 300 firms. They believe firms of this size and complexity should also provide a high degree of disclosure, although details such as the design characteristics of remuneration need not be disclosed.

• Tier 4 firms – Disclosure of basic qualitative and quantitative items only:

All limited licence firms

The FSA expects this category to comprise over 2,000 firms. They believe firms with limited licences and permissions need disclose only basic qualitative and quantitative information on remuneration.

This means that Tier 4 Firms must disclose as follows:

Information re the decision making process used in determining the remuneration policy including, if applicable, the composition and mandate of any remuneration committee and any information about the use of external consultants and the role of relevant stakeholders.

Information on the link between pay and performance

Aggregate quantitative information on remuneration, broken down by business area

Aggregate quantitative information on remuneration, broken down by senior management and members of staff who have a material impact on the risk profile of the credit institution

Tier 3 firms would require all of the above plus "amounts of remuneration for the financial year, split into fixed and variable remuneration, and number of beneficiaries".