

February 25, 2011

Basel Committee on Banking Supervision
Bank for International Settlements
Centralbahnplatz 2
CH-4002 Basel
Switzerland
Email: baselcommittee@bis.org

Re: Consultative Document on Pillar 3 Disclosure Requirements for Remuneration

Dear Sirs and Mesdames:

The Canadian Bankers Association ("**CBA**") works on behalf of 51 domestic chartered banks, foreign bank subsidiaries and foreign bank branches operating in Canada and their 260,000 employees to advocate for efficient and effective public policies governing banks and to promote an understanding of the banking industry and its importance to Canadians and the Canadian economy.

The CBA appreciates the opportunity to provide the Basel Committee on Banking Supervision (the "**Committee**") with our comments on the proposed Pillar 3 disclosure requirements for remuneration as outlined in the consultative document issued on December 27, 2010 (the "**Document**"). In addition to the general comments set out below, we have provided comments on specific concerns we have with respect to the Committee's proposals for your consideration.

General Comments

We share the Committee's goal of supporting an effective market discipline and allowing market participants to assess the quality of the banks' remuneration practices. We also fully endorse the Committee's position that thresholds of materiality and proportionality should apply based on those already applicable to Pillar 3 disclosures.

However, we have certain concerns regarding the proposals, in particular: the scope of disclosure; the apparent assumption that banks use a formulaic approach to compensation philosophy and design; the potential for competitive harm due to the specificity of certain quantitative information; and the uncertainty as to whether compensation or accounting values should form the basis of disclosure. We encourage the Committee to adopt broad principles that will enable each jurisdiction to implement such principles as appropriate.

Scope of Disclosure Required

We understand that the proposed Pillar 3 disclosure requirements for remuneration are intended to take full account of the Financial Stability Board's ("FSB") Principles for Sound Compensation Practices and Implementation Standards (the "**FSB Standards**"). We believe that the scope of disclosure established by the FSB Standards is adequate and that the Committee should maintain the same scope of disclosure in its requirements. To ensure that the scope of disclosure is maintained, we recommend that the use of the terms within the Document is consistent, and we also request clarity as to the meaning of certain terms.

For example, pursuant to FSB Standard 15, disclosure of aggregate quantitative information on remuneration is required in respect of (a) senior executive officers and (b) employees whose actions have a material impact on the risk exposure of the firm. The proposed Pillar 3 disclosure requirements for remuneration mandate quantitative disclosure for (a) senior management, (b) other material risk takers and (c) financial and risk control staff. We would be grateful for confirmation that the term "senior management" as used in the Document is intended to cover the same population as the term "senior executive officer" as used in the FSB Standards and that it is not meant to capture a different or wider group.

We are also concerned about the potential breadth of the term "financial and risk control staff". Unlike the terms "senior management" or "material risk takers", this term does not appear to include limitations with respect to materiality or seniority. We believe that both of those concepts should inform the definition of "financial and risk control staff" as the potential populations would otherwise be large and the disclosure unlikely to be meaningful beyond the senior leaders and material risk takers in this area. We also note that in one of the proposed qualitative disclosures there is reference to "risk and compliance employees" (see paragraph (b) of Section 11 on page 4 of the Document). We seek clarification as to the precise meaning of that term and we query what difference, if any, there is between such term and the term "financial and risk control staff." We also note the reference to "different staff categories" in paragraph (f) of Section 11 on page 4 of the Document and we seek confirmation that this means the three specified categories and not a different or broader group.

As well, given the statement in footnote 3 on page 4 of the Document that the quantitative disclosures should be broken down between (a) senior management, (b) other material risk takers and (c) financial and risk control staff, we suggest that all of the proposed quantitative disclosures, including those listed in paragraphs (i), (j) and (k) of Section 11 on page 5 of the Document, should be limited to the three specified categories of employees, despite the use of terms such as "total bankwide" in paragraph (i) and "total" in the other paragraphs referenced. In addition, we suggest that similar limitations should apply to the qualitative disclosures set out in paragraphs (b) through (f) of Section 11 on page 4 of the Document such that the proposed disclosures should relate to processes and plans that cover only employees in the three specified categories and not all employees bankwide.

Finally, we are concerned about the scope of the proposed disclosures which seems to go beyond the requirements of the FSB Standards. Many of our members are currently preparing or have recently prepared their annual management proxy circulars as required under applicable Canadian securities laws. Contained within each proxy circular is certain mandated disclosure regarding compensation. This year, many of our members considered and adopted the disclosure prescribed by the FSB Standards and, as such, spent significant time analyzing the requirements of the FSB Standards and identifying the populations covered. Given the unique populations and different organizational structures of each bank, it is unlikely that direct comparisons between members will be possible. We highlight this point because we understand that one goal of the Pillar 3 disclosure requirements for remuneration is to achieve comparability of disclosure. We believe that it is even less likely to be achieved by widening the scope of

disclosure in the proposed manner given the wide variety of factors that are taken into consideration when determining the populations covered by the disclosure requirements.

Approach to Compensation Philosophy and Design

We are concerned by the apparent assumption that our members' overall approach to compensation philosophy and design and the risk adjustment process is solely or largely numeric or formulaic. This is not the case. Our members use a wide variety of approaches to create sophisticated and multi-faceted compensation frameworks which address the unique business objectives of each organization, while taking into account applicable regulatory requirements. We therefore think that any move to narrow the range of potential tools or to prescribe a particular methodology for compensation philosophy and design would not be helpful.

In addition, we believe that the disclosure requested in paragraph (h) of Section 11 on page 4 of the Document is likely to be proprietary to each member and that disclosure of the specific numerical values used in the risk adjustment process has the potential to cause serious competitive harm. For example, disclosure of internal charges for economic capital (as suggested in the footnote to this paragraph) could inadvertently provide transparency as to product pricing. We believe that the disclosure requirements should explicitly provide a bank with the ability to exclude from public disclosure the information it reasonably determines to be confidential or sensitive.

Compensation vs. Accounting Values

We are uncertain as to whether the expectation is that the quantitative disclosures set out in paragraphs (i) through (k) of Section 11 on page 5 of the Document will be made using compensation values or accounting values. For example, in paragraph (k), the first bullet point requests a "Breakdown of total *value* of remuneration awards for the financial year", suggesting the use of compensation values, whereas the second bullet point requests a "Breakdown of total remuneration *expenses* for the financial year", suggesting the use of accounting values. We are of the view that the disclosures should focus on compensation values rather than accounting values for several reasons. First, current disclosures made pursuant to applicable Canadian securities laws are made on a compensation values basis. As such, data is currently collected and presented on that basis. Second, accounting values for items such as remuneration expenses can be found in each bank's financial statements. Not only would it be duplicative to require such disclosures in this context, but also, they would not be comparable to corresponding information prepared on a compensation values basis and, therefore, could be misleading.

Foreign Subsidiaries and Branches

One of the proposed disclosure requirements concerns the applicability of a bank's remuneration policy to "foreign subsidiaries and branches" (see paragraph (a) on page 3 of the Document). We request clarification as to the meaning of the phrase "foreign subsidiaries and branches" (e.g., What would be the ownership thresholds? Would joint ventures and other contractual arrangements be included, and if so, on what basis?).

Design and Structure of Remuneration Processes

One of the proposed requirements is to provide disclosure of the key features and objectives of remuneration policy (see paragraph (b) of Section 11 on page 4 of the Document). It is not clear to us whether this disclosure is meant to focus on the overall compensation philosophy that informs the design of the compensation framework (as would be suggested by the introductory language to paragraph (b), and as is the basis upon which our members currently disclose) or whether the focus should be on specific plan design. In addition it is unclear, as noted in our comment regarding "Scope of Disclosure Required" above, whether this is intended to cover only

plans in which members of the three specified categories participate or whether it covers all plans. We believe that the approach should be to focus on overall compensation philosophy and description of the material plans in which members of the three specified groups participate.

Disclosure of Historical Information

It is suggested in the Document that disclosure of historical quantitative information should be required to be provided if such disclosure would aid interpretation of the disclosed information. We agree that this may be appropriate and we fully support the Committee's position that this requirement should be waived during the first year of application of these requirements. We believe, however, that there should be a limit of up to three previous years in respect of which historical data could be required to be disclosed, and that, in the second and third year of application of these requirements, disclosure of historical data could only be required to be provided for up to one or two previous years, respectively, to eliminate the possibility of a retroactive application of these principles. We are of the view that the same principle should apply to the proposed disclosure of the historical qualitative information (see reference to "the past three years" in the fourth bullet point in paragraph (c) of Section 11 on page 4 of the Document).

Linking Performance with Levels of Remuneration

One of the proposed disclosure requirements is to describe the ways in which the bank seeks to link performance during a performance measurement period with levels of remuneration (see paragraph (d) of Section 11 on page 4 of the Document). Such proposed disclosure should include main performance metrics for bank and top-level business lines, main performance metrics for individuals, a discussion of how individual remuneration has been tied to bankwide and individual performance, and what measures the bank will implement to adjust remuneration in the event that performance metrics are weak. We would be grateful for an explanation of the precise scope and objective of such proposed disclosure, including the amount of detail that would be required to be disclosed in each particular case.

Adjustment of Remuneration to Take Account of Longer-Term Performance

The proposed requirement in paragraph (e) of Section 11 on page 4 of the Document is to describe the ways in which the bank seeks to adjust remuneration to take account of longer-term performance, which disclosure should include a bank's policy on deferral and vesting of variable remuneration and such bank's policy and criteria for adjusting deferred remuneration before vesting and (if permitted by national law) after vesting through clawback arrangements. We seek clarification as to which employees are proposed to be encompassed by this proposed disclosure requirement.

Performance Metrics

One of the proposed requirements is to disclose the number and total amount of remuneration's adjustments performed during the financial year to reflect weak performance metrics (see sixth bullet point in paragraph (i) of Section 11 on page 5 of the Document). There is a similar requirement to disclose total reductions in deferred compensation due to performance adjustment measures other than variation in share price (see third bullet point in paragraph (j) of Section 11 on page 5 of the Document). We question whether the expectation is that disclosure will relate to adjustments to funding allocations for compensation at the overall bank level (or perhaps by business unit or key lines of business) or whether it is intended to drill down to individual performance. We would advocate for the former approach for reasons both of simplicity of disclosure as well as the potential for competitive harm to the institution and breach of privacy legislation.

A further technical point which also arose in the context of the FSB Standards is whether these requirements are meant to apply to instruments such as performance share units (PSUs) which by design have a range of potential payout values linked to performance. We believe these requirements should not apply to instruments, such as PSUs, where the adjustment occurs by automatic operation of the terms of the instrument but, rather, only to situations where a deliberate decision has been made to adjust compensation.

Outstanding Deferred Compensation

Paragraph (j) of Section 11 on page 5 of the Document would require disclosure of the total amount of outstanding deferred compensation, split into vested and unvested (which is consistent with the disclosure required by the FSB Standards) and cash, equity and other forms of compensation (which is not consistent with the disclosure required by the FSB Standards). We would be grateful for an explanation as to precise objective of this latter disclosure requirement.

Deferred Remuneration Paid

One of the proposed requirements in paragraph (j) of Section 11 on page 5 of the Document is to disclose the total amount of deferred remuneration paid out in the financial year, broken down by year of the original award. We assume this proposed disclosure would not include stock option exercises given the personal rather than compensation nature of the investment decision involved and we would appreciate confirmation on this point.

Form of Disclosure

While we welcome the Committee's commentary in Section 9 of the Document about the method of disclosure, we are uncertain as to where the required disclosures are to be made by our members as there appears to be an inconsistency between Sections 5 and 9 of the Document in the context of applicable Canadian securities laws. Canadian banks that are reporting issuers provide their primary compensation disclosure in the annual management circular and proxy statement as described above. However, their Basel Pillar 3 disclosure is made in their annual reports. We would be grateful for confirmation that banks will have flexibility to include the disclosure in the document or location it determines is most appropriate given its other disclosure obligations.

In closing, we appreciate the opportunity to comment on the Document. We would be pleased to answer any questions you may have regarding our comments.

Yours truly,

A handwritten signature in dark ink, appearing to read "Nathalie Dale", is written over a light blue circular stamp. The signature is fluid and cursive.