GLOBAL FINANCIAL MARKETS ASSOCIATION

25 February 2011

Basel Committee on Banking Supervision
Bank for International Settlements
Centralbahnplatz 2
CH-4002 Basel
Switzerland

Dear Sir/Madam,

The Global Financial Markets Association ("***GFMA***")[1] welcomes this opportunity to share its views with the Committee on the consultative document outlining Pillar 3 disclosure requirements for remuneration ("***Consultative Document***").[2] We note that the Consultative Document responds to a recommendation made by the Financial Stability Board in its Peer Review Report on Compensation (the "***Peer Review***").[3] The global firms represented on the GFMA share the G-20 view that the compensation structures of financial institutions should be appropriately aligned with proper risk-management practices. Given the significant work already done by legislative and regulatory bodies in this area, we do not believe that the proposals made in the Consultative Document are appropriate or that they would be an effective risk management tool.

European regulators have already determined that disclosure on compensation should play a role in a financial institution's risk management practices. US regulators and legislators have determined that quantitative disclosure regarding compensation should be made to regulators, while qualitative disclosure should be made to the public "to the extent that risks arising from the [public company's] compensation policies and practices for its employees are reasonably likely to have a material adverse effect."[4]

We have previously sought to demonstrate that European regulatory requirements were inconsistent with the G-20 commitments, would not achieve the outcome sought and could, in some cases, produce undesirable results.[5] Nevertheless, to the extent these rules have been implemented in Europe and other jurisdictions, we have moved quickly to comply in a very short period.[6] We have done so against a backdrop of comprehensive global change to the

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1 The Global Financial Markets Association (GFMA) joins together some of the world's largest financial trade associations to develop strategies for global policy issues in the financial markets, and promote coordinated advocacy efforts. The member trade associations count many of the world's largest financial institutions as their members. GFMA currently has three members: the Association for Financial Markets in Europe (AFME), the Asia Securities Industry & Financial Markets Association (ASIFMA), and, in the United States, the Securities Industry and Financial Markets Association (SIFMA).

2 Consultative Document, Pillar 3 disclosure requirements for remuneration (December 2010), available at http://www.bis.org/publ/bcbs191.pdf

3 *See* Recommendation 8:

> The Basel Committee in consultation with the FSB should consider incorporating disclosure requirements for compensation into Pillar 3 of Basel II, to add greater specificity to the current requirements for compensation disclosure under Pillar 2, by the end of 2010.

Thematic Review on Compensation, Peer Review Report (30 March 2010), available at: http://www.financialstabilityboard.org/publications/r_100330a.pdf

4 The quantitative disclosure requirements to regulators are contemplated by Section 956 of the Dodd Frank Wall Street Reform and Consumer Protection Act, enacted in the U.S. in July 2010, and supplement existing public disclosure requirements in the U.S. generally applicable to all public companies regarding the compensation paid to a company's top executive officers. The FDIC approved for public comment an interagency proposed rule to implement this provision on February 7, 2011. The FDIC recognized the confidential nature of the information to be provided and indicated that it would maintain the data in confidence to the extent permitted by law. The other agencies are expected to follow shortly.

5 AFME response paper to FSA's consultation paper implementing CRD III, available at: http://www.afme.eu/document.aspx?id=4632

6 In the UK, two weeks elapsed between the publication of a final Remuneration Code by the FSA and the date on which that code took effect.

capital and liquidity framework to which we are subject and to market regulation and infrastructure.[7]

The cumulative effect of these regulatory changes has yet to be fully understood. We therefore are concerned by the Committee's proposal to layer further disclosure requirements onto an existing framework that has been designed to address these very issues.[8] In particular, we find problematic those proposals that would be unworkable in practice, commercially sensitive, or insufficiently linked to the regulatory objective of appropriately aligning remuneration structures with risk management. These include:

Paragraph 11(b) creates a new global requirement that disclosures relating to the design and structure of remuneration include the "frequency of review, date of last review, [and] significant changes made at last review". In addition to the other highly sensitive disclosure contemplated by this paragraph, the introduction of an historical comparator would result in nearly automatic disclosure of new and potentially sensitive initiatives that might have been undertaken by the disclosing entity.

Paragraph 11(c) requires a much broader, more-detailed, and commercially sensitive description of how an institution manages and takes account of risk than is required in any jurisdiction. In particular:

- The description of "how these measures complement or are linked to the bank's overall risk management framework" contemplates a discussion that goes well beyond remuneration.
- The discussion of "how these measures have changed over the past three years, and reason(s) for change, as well as the impact of changes on remuneration" is particularly unworkable and creates an administrative burden for firms, which will find it difficult to prospectively capture data that might later prove critical to a retrospective like-on-like analysis.

Paragraph 11(d) creates additional disclosure in relation to "how individual remuneration has been tied to bank-wide and individual performance" and "measures that the bank will implement to adjust remuneration in the event that performance metrics are weak." Individual data of this type are readily susceptible to misinterpretation and would tend not to represent fairly an institution's overall approach to performance adjustment.

Even if the proposals in the Consultative Document were adopted (or to the extent they have already been adopted in European jurisdictions), we remain concerned about the detailed supplemental rules that will be required to illustrate how such amounts are to be calculated for purposes of consistent disclosure. The quantitative disclosure requirements contemplate simple situations, but the practical reality is frequently the opposite. For example, how should

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7 In Europe alone, the following legislative proposals are due to be taken up in the first half of 2011:

- The delayed fourth package of proposed amendments to the Capital Requirements Directive, implementing Basel III;
- A first legislative proposal for an EU crisis management framework;
- A legislative proposal to regulate central securities depositories;
- Proposed amendments to the Markets in Financial Instruments Directive;
- Proposed amendments to the Market Abuse Directive;
- A legislative proposal for Undertakings for Collective Investment in Transferable Securities Directives V;
- A legislative proposal for disclosure rules relating to Packaged Retail Investment Products; and
- A legislative proposal for EU responsible lending rules.

8 Items that were not contemplated by the FSB, but that would now be disclosed publicly under the proposal include:

- Quantitative public disclosure regarding aggregate compensation amounts for financial and risk control staff;
- The "numerical values" used to take risk measurement into account in compensation decisions;
- Total annual bank-wide remuneration, broken down into fixed and variable compensation amounts;
- The total number of employees receiving variable remuneration covered by a risk adjustment process;
- The number and total amount of guaranteed bonuses paid during the year;
- A breakdown of deferred compensation based on type of compensation (*e.g.*, cash, equity, etc.); and
- A breakdown of total remuneration expenses for the year showing the period to which each award relates.

an institution report severance paid over 18 months? At what point should an equity or equity-linked instrument that is deferred, restricted or otherwise subject to holdback be disclosed?

We do not believe that the public disclosure of these quantitative data will improve risk management at financial institutions, and may even be detrimental to firms by providing information to competitors on risk profile and business mix. Ensuring that financial institutions employ appropriate risk management is the province of experienced prudential regulators with access to appropriate quantitative data across an entire industry. Risk management policies in the financial services sector should be shaped by experts.

We thank you for the opportunity to provide our views. We would be happy to discuss with you any of the comments described above or any other matters you feel would be helpful.

Sincerely,

T. Timothy Ryan, Jr.
President and CEO
Securities Industry and Financial Markets Association