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Secretariat of the Basel Committee on Banking Supervision
Bank for International Settlements
CH-4002
Basel, Switzerland
baselcommittee@bis.org

Dear Sir/Madam,

Re: CBA[1] Comments on the Basel Committee on Banking Supervision's Consultative Document: Supervisory guidance for managing risks associated with the settlement of foreign exchange transactions

Thank you for the opportunity to comment on the Basel Committee on Banking Supervision's (BCBS) Consultative Document: Supervisory guidance for managing risks associated with the settlement of foreign exchange transactions. The CBA is supportive of efforts to reduce the risks associated with the settlement of foreign exchange (FX) transactions and of the guidelines contained in the consultative document.

Our comments on this consultative document are set out in the attached table.

We thank you for taking our comments into consideration and would be pleased to discuss these issues further at your convenience.

Sincerely,

[1] The Canadian Bankers Association works on behalf of 54 domestic banks, foreign bank subsidiaries and foreign bank branches operating in Canada and their 274,000 employees. The CBA advocates for effective public policies that contribute to a sound, successful banking system that benefits Canadians and Canada's economy. The Association also promotes financial literacy to help Canadians make informed financial decisions and works with banks and law enforcement to help protect customers against financial crime and promote fraud awareness. www.cba.ca.

CBA comments on the Basel Committee on Banking Supervision's Consultative Document:

Supervisory guidance for managing risks associated with the settlement of foreign exchange transactions

CBA Comments
Introduction
Section 2.7 (Implementation by supervisors): While the CBA generally supports the guidelines contained in the consultative document, we note that strict compliance with these guidelines in all cases may be unreasonable and unpractical from a cost/benefit perspective. Consequently, we suggest that the document recognize that banking supervisors will also assess compliance with these guidelines from a cost/benefit perspective, and that section 2.7 be revised as follows: *"As part of their on-going supervisory activities, they should assess whether each bank that is engaging in FX trading is meeting the guidelines, taking into consideration the size, nature, complexity and risk profile of its activities, as well as from a cost/benefit perspective."*
Guideline 3: Replacement cost risk
Section 3.3.5 (Netting): The CBA does not believe that "a bank should, at a minimum, use legally enforceable bilateral netting agreements…" as this may not be necessary in cases where the bank is willing to accept the increased risk associated with the absence of netting agreements, for example for simple short-dated transactions. Instead, the CBA suggests that the first sentence of this paragraph be revised as follows: "*A bank should~~, at a minimum, ~~strive to use legally enforceable bilateral netting agreements with all counterparties, and where practicable, master netting agreements with all counterparties*."

CBA Comments
Guideline 6: Legal risk
Section 3.6.5 (Settlement finality): The CBA suggests deleting the first sentence of the paragraph, "*A bank should ensure that the legal opinions it obtains with respect to its agreements and contracts address the timing of when settlement finality occurs to identify when key financial risks are transferred.*", as it is not practical for banks to obtain legal opinions that address when settlement finality occurs. That determination is highly fact dependent and legal opinions on the matter may not be available.
Guideline 7: Capital for FX transactions
The CBA notes that Guideline 7 does not provide prescriptive guidance on how capital for the principal risk component of FX transactions should be measured. In the absence of such guidance, and due to the unique characteristics of this risk, the CBA believes that it is appropriate for the capital requirement for principal risk to be determined through each bank's Internal Capital Adequacy Assessment Process, rather than Pillar 1.