The voice of banking
& financial services

Carlo Comporti
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Dear Mr Comporti,

Draft CESR statement on Fair value measurement and related disclosures of financial instruments in illiquid markets

This is the British Bankers' Association's response to the consultation on the above draft statement. The BBA is the leading association for the UK banking and financial services sector, speaking for 223 banking members from 60 countries on the full range of UK or international banking issues and engaging with 37 associated professional firms. Collectively providing the full range of services, our member banks make up the world's largest international banking centre, operating some 150 million accounts and contributing £50 billion annually to the UK economy. We welcome the opportunity to comment.

International, regional and national authorities have responded to recent market conditions by calling for institutions to provide a clear account of the impact of the financial turmoil on their financial position. The BBA welcomes these timely reminders. Indeed, we published a statement on 11 July 2008 profiling the recommendations made by the Financial Stability Forum, CEBS and the draft statement prepared by CESR, and encouraging members to pay due regard to them when preparing their half-year financial reports. We recall however that the International Accounting Standards Board, including its International Financial Reporting Interpretations Committee, is the only body with the mandate to amend and interpret International Financial Reporting Standards. The recognition of this reality in the statement is welcome. We could not support any proposals which sought to interpret IFRS on a local basis.

Notwithstanding this, we accept that CESR has a role to play in reminding the issuers of securities of their obligations under the Transparency and Market Abuse Directives and acknowledge that ECOFIN has directed CESR to conduct work in this area. In our view, the draft statement strikes the right balance between reiterating relevant aspects of issuers' obligations and not seeking to interpret or embellish existing requirements. However, we are concerned that the draft statement makes a number of broad assumptions and that, in places, it quotes elements of IFRS in the wrong context. For example we would highlight Box 1 which includes references to IFRS 7.27b, which requires disclosure of "whether [or not] fair values are determined, in whole or in part, directly by reference to published price quotations in an active market or are estimated using a valuation technique" with IAS 39 AG paragraphs which provide guidance on determining fair value and which are not disclosure requirements. We also note that the IASB's Expert Advisory Group is considering whether changes to or additional guidance on the valuation of financial instruments is necessary within the context of IAS 39. We understand this review is also considering disclosure issues. It is therefore likely that the IASB will revise IAS 39 shortly after this draft CESR statement is published. In our mind, this underlines the difficulty of regional or national bodies seeking to interpret, or highlight specific elements of, IFRS.

Although we believe that the IASB and IFRIC must remain the only bodies with the authority to interpret and amend IFRS, we would urge CESR to engage with the IASB at this time to shape its response to the market turmoil. We have been very critical of the IASB's lack of accountability and remoteness from those authorities which authorise institutions based in their jurisdictions to utilise IFRS.

Below we respond to the specific questions posed in the consultation paper.

Question 1: Do you agree with CESR's views above regarding the distinction between active and non active markets for fair value measurement?

Technically, the reiteration of the sections of IAS 39 relevant to the identification of 'active' and 'non active' markets is correct. The issues highlighted in the statement are all important factors in determining whether or not a market should be considered active. However, we again highlight that this is being considered by the IASB Expert Advisory Group and it is therefore possible that the relevant sections of IAS 39 may change.

Question 2: Do you agree with CESR's views above regarding inputs to valuation techniques for financial instruments in illiquid markets?

Again, the correct portions of IFRS are cited. Our members are fully aware of the need to analyse carefully all available inputs to their valuation models, particularly in illiquid markets. We concur with the statement that it is important to give due consideration to the particular facts and circumstances when using indices to price ABSs and CDOs.

Question 3: Do you agree with CESR's views above regarding disclosures of financial instruments in illiquid markets?

As envisaged by IAS 1 *Presentation of Financial Statements*, our members disclose the information they consider to be important in the circumstances of their particular business. This includes the requirements in IFRS 7 to disclose information that enable users to evaluate the significance of financial instruments and the nature and extent of risks arising from them and how these risks are managed. We continue to believe management is best placed to make a judgement about which disclosures are most appropriate and that it would be inappropriate for standard setters to impose a rigid disclosure framework which would, in our view, lead to the provision of less meaningful information to users as each entity is different.

In our view, the determination of classes is a matter of management judgement taking into account the general accounting requirements for consistency of disclosure between financial statement and between periods.

In summary, to the extent that CESR's views are consistent with IFRS disclosure requirements we concur.

We also note that some may find it difficult to follow CESR's references to IAS 1 since they appear to be the old version of the standard rather than the one issued with amendments up to 17 January 2008.

Question 4: Do you agree that the benefits of the presentation of disclosures regarding financial instruments in illiquid markets in the example in Box 2 outweigh the costs of preparing this information?

We agree that entities may wish to present disclosures regarding financial instruments in a tabular format and acknowledge that the example in Box 2 presents a possible approach. We could not, however, agree to CESR seeking to mandate disclosures in this format as this would be a retrograde step which would undermine the pre-eminence of the IASB and would represent a move away from principles-based standards and the centrality of management's judgment.

On a point of principle, and as noted above, we do not believe that it is helpful for standard setters or regulators to prescribe disclosure formats. In our view, such disclosures result in the provision of lower quality information to users. We believe it is unlikely that prescribed disclosures will ever meet a cost benefit analysis.

We have no further comments. Please do not hesitate to contact us if you need any further information or clarification of any of the points raised in this letter.

Yours sincerely,

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