

22 August 2006

Questionnaire on Commodity firms and commodities business

1. In August 2006 CEBS received a call for advice from the European Commission that will form part of the Commission's review of commodities business under Article 48 of Directive 2006/49/EC. This Article requires the Commission to consider the question of an appropriate prudential regime for certain firms carrying out business in relation to commodities derivatives and certain other derivatives contracts.
2. Moreover, the MiFiD¹ includes a number of exemptions for firms carrying out commodities business from the rules in that Directive and, as a consequence, from the application to those firms of the rules in the Capital Requirements Directive². These exemptions are to be reviewed under Article 65 of the MiFiD and the issue of an appropriate prudential regime for such firms is also relevant to that work.
3. The second part of the Commission's call for advice asks CEBS to undertake a fundamental analysis of the prudential risks that arise from the conduct of commodities business (irrespective of whether or not this business is conducted by a commodity firm or, e.g., a credit institution where the commodity business represents only a part of the overall business). As part of this analysis and to ensure an appropriate understanding of the firms carrying out this business, CEBS is consulting with industry. As particular outputs of consultation with the industry the following is envisaged:
 - a. A survey of current industry practices on risk measurement and management; and
 - b. other mitigants to prudential risks that exist in the markets (e.g., role of exchanges).
4. CEBS is conducting in parallel a stock take on the current supervisory practices concerning the prudential supervision of commodity firms and commodities business, which is the first part of the Commission's call for advice.
5. In the call for advice, the Commission states that CEBS will need to ensure that it consults with a sufficiently broad spectrum of firms, of all sizes. CEBS thinks that a public consultation by posting the following

¹ [Directive 2004/39/EC on Markets in Financial Instruments.](#)

² Directive recasting Directives 2000/12/EC and 93/6/EEC, which become Directive 2006/48/EC and 2006/49/EC respectively. See http://ec.europa.eu/internal_market/bank/regcapital/index_en.htm#capitalrequireproposals.

questionnaire on its website is the appropriate way to address this requirement, although CEBS understands that issues of confidentiality may arise from responses from individual institutions. The responses will therefore be made publicly available only if not otherwise requested by the respondents.

6. The questionnaire is posted on the CEBS website for a two month consultation. Responses should be sent to cfcb@c-eps.org by **20 October 2006**.

Guidance for completion

7. The questionnaire is designed to point respondents towards a range of areas where CEBS is particularly interested in industry practices. It is not designed to elicit 'yes'/'no' type answers but rather seeks to provide the opportunity for respondents to provide full and detailed descriptions and explanations of their practices in relation to these different aspects.
8. In answering these questions, respondents are invited to provide as comprehensive and thorough answers as possible. It will be particularly helpful if respondents can fully combine in their answers their conceptual analysis together with comprehensive description of how such analysis is given effect in practical terms. The tables provided in the questionnaire are meant as a tool helping to structure these answers.
9. The main focus of the questionnaire is on the measurement and management of commodities business risk for internal purposes. Questions are also asked about industry's experience of the current regulatory framework and how a potential future regulatory regime would affect commodity firms and commodities business. CEBS also welcomes any other comments market participants may have on this issue.
10. It is likely that some institutions will have rather sophisticated approaches to the measurement and management of these risks, and that some will have a simpler approach. CEBS is equally interested in learning about both.
11. Moreover, CEBS is equally interested in getting feedback from larger and smaller institutions, and both from institutions that are part of a financial group and that are not part of such a group at all. The aim is to gain a full and deep understanding of industry analysis, policies, practices and procedures.
12. The respondent is invited to answer the questions and comment from the perspective of an individual institution, but where there are differences at a group level these should also be highlighted.



Industry questionnaire on commodities business

1. What types of products (oil, electricity, etc.) are covered by your business and how are the risks of these products managed internally? Please differentiate for the most important underlying products covered by your activities and describe the type of commodity derivatives trading you undertake (e.g.: main underlying products traded (oil, gas, etc.), OTC versus exchange traded, linear versus complex products, physically settled versus cash settled, for hedging purposes as opposed to own account, as ancillary service to clients, back to back, etc). Please also describe the market segments where you are most active (main participants, size, liquidity, exchanges – see table below – turnover refers to the volume of business per year).

Type of underlying product	a) Risks taken into account (market risk, credit risk, etc.) What is the most significant risk for you?	b) Risk measurement methodology used (e.g. VaR) for each type of risk (e.g. market risk, credit risk)– please specify if this is related to the degree of standardization of the instrument (e.g. forwards, futures, options, etc.)	c) In which markets do you conduct business in this product? (e.g. exchanges, MTF markets, OTC, others) What is your market share respectively? (please specify how the share is computed)	d) Which risk mitigants do you use in which markets (e.g. role of exchanges, collateral, etc.)
A				
B				
C				
J				

Type of underlying product	e) Is this product one of the main contributors to your overall risk? (Please specify which kind of risk, e.g. market risk, credit risk)	f) Turnover in the respective markets (please indicate for each market the share of turnover which is cleared through a clearinghouse)	g) What is the share of your turnover in the respective markets 1) outside your country and 2) outside the European Economic Area, related to your total turnover (please indicate for each market the share of turnover which is cleared through a clearinghouse)	h) What are the most important instruments (futures, options, etc.) for your business?
A				
B				
C				
J				

Type of underlying product	i) With which counterparties do you conduct business (please specify for each market), e.g. specialist firms, large financial/non-financial groups.	j) If trading is not your main/only business in this product, are the assets from this trading activity ring-fenced from the rest of your business? If so, why?	k) Do you currently deal with unregulated counterparties? If not, would you be willing to trade with firms that are not subject to regulatory capital requirements?	l) Do you deal with any retail clients?
A				
B				
C				
J				

- 2. Which underlying products (e.g. oil, gas) are treated identically or similarly under a risk measurement and management perspective because of similar risk characteristics (e.g. volatility)? Please specify these risk characteristics**
- 3. In general, from your point of view, which underlying products or instruments bear the highest risks in the market and why?**
- 4. In the event of a failure of a counterparty, how easy would it be for your firm to unwind its position?**
- 5. What sort of capital regime do you comply with? Do you also voluntarily hold capital over and above what you are required to? Do you consider the regulatory capital requirements to be proportionate to the risks you are exposed to?**
- 6. How much importance would you attach to the credit rating of prospective counterparties?**
- 7. Would you face significant costs if the Market in Financial Instruments Directive (MiFid – 2004/39/EC) and the Capital Requirements Directive (CRD – 2006/48/EC and 2006/49/EC) were applied to your firm? Would this affect your firm's competitiveness?**
- 8. Do you believe that market liquidity would suffer if the CRD was applied to all specialist commodity derivatives dealers? If so, why? Would the smaller players likely exit the market? Would firms consider booking their activities in unregulated jurisdictions?**
- 9. Do you believe that there are some market participants the default of which could cause the financial or the commodity(ies) markets to collapse? If so, why?**
- 10. Are you aware of any recent crisis (past 5 years) in the markets you operate in? If yes, what was the cause of this crisis? Have you been affected by this crisis? How?**

11. Please indicate which type of firm you are (columns 1 to 3, e.g. credit institution), whether or not you are currently or in the future subject to prudential supervision (please tick the respective box(es)), in which underlying products you are conducting business and which type of activity you are conducting by filling in the table below:

		Credit institution	Investment firm	Other firm (please specify)	Underlying products (e.g. Oil, electricity, weather) listed in Annex I, Section C points 5 to 7, 9 and 10 of the MiFiD	Type of activity according to Annex I Section A of the MiFiD (2004/39/EC)
	Under current regulation					
a)	subject to the ISD (Directive 93/22/EEC)					
b)	subject to the CAD (93/6/EEC) or to the Banking Directive (2000/12/EC)					
c)	subject to national legislation in addition to or instead of the ISD or to the CAD/Banking Directive					
d)	Currently not regulated under any of a) to c)					
	Under future regulation					
e)	subject to the MiFiD (Directive 2004/39/EC)					
f)	subject to the CRD (Directive 2006/48/EC/Directive 2006/49/EC)					
g)	firms covered by the MiFiD but not by the ISD					
h)	firms included under g) who					

	cannot make use of any exemption within MiFiD					
i)	firms exempted from MiFiD under					
	Article 2(1)(b)					
	Article 2(1)(d)					
	Article 2(1)(i)					
	Article 2(1)(k)					
j)	firms exempted under Article 48 of Directive 2006/49/EC					
k)	other firms e.g. physical traders (please specify)					