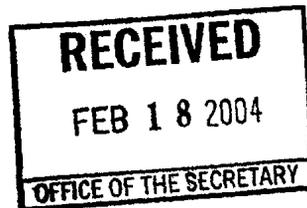


Bundesverband  
Öffentlicher Banken  
Deutschlands



The Honourable Jonathan G. Katz  
Securities and Exchange Commission  
450 5<sup>th</sup> Street, NW

Washington DC 20549  
USA

**Name:** Indranil Ganguli  
**Telefon:** (0 30) 81 92 - 213  
**Telefax:** (0 30) 81 92 - 219  
**E-Mail:** Indranil.ganguli@voeb.de

10 February 2004

**Proposed Rule: Alternative Net Capital Requirements for Broker-Dealers That  
are Part of Consolidated Supervised Entities (File No. S7-21-03)**

Dear Mr. Katz,

The Bundesverband Öffentlicher Banken Deutschlands (VÖB - Association of German Public Sector Banks) as the apex association of public sector banks accounting for nearly 30 % of the banking market in Germany would like to address an important issue related to the captioned subject. The proposed rule mentioned above is a matter of considerable importance for those of our member banks which have substantial broker dealer business in the United States as part of their international banking activities.

The Proposed Rule of the Securities and Exchange Commission (SEC) indicates an intention to provide a basis for U.S. securities firms not affiliated with a banking organization to fulfill European Union (EU) requirements to demonstrate that they have [equivalent] consolidated supervision at the holding company level and thereby minimize duplicative regulatory burdens on

these securities firms that are active in the EU.<sup>1</sup> Similarly, we understand that the Proposed Rule is intended to provide deference to the equivalent consolidated supervision of international banks provided by their home country supervisors globally and the umbrella oversight of such organizations provided by the Federal Reserve Board (US Fed) in the United States.

However, according to the Washington D.C. based International Institute of Bankers (IIB) the Proposed Rule for a number of reasons should be revised as follows in order to provide appropriate deference and otherwise achieve its objectives:

- The Commission should accord the same deference to home country supervisors that provide comprehensive consolidated supervision (CCS) as the EU plans to accord to U.S. global consolidated supervision.
- Broker-dealer affiliates of international banks that are subject to CCS should be eligible for the alternative capital treatment under the Proposed Rule without being subject to additional holding company level capital and risk supervision by the Commission.
- Home country Basel capital methodologies ought to be accepted in the alternative capital standard for the broker-dealer.

As a banking association representing international banks headquartered in the EU with substantial business interests in the USA we therefore fully support the demands of the IIB which - we believe - have discussed with your esteemed institution on various occasions.

Moreover, it would be - in our opinion - inconsistent with the SEC's objective of seeking deference to its supervision of U.S. institutions under the Proposed Rule if your esteemed institution would simultaneously try to impose additional requirements on international banks as a condition for qualification to utilize the alternative test under the Proposed Rule. There are two important considerations in this regard.

- First, international banks would be denied equivalent access to the favorable alternative capital methodology provided by the Proposed Rule if they would be subject to the duplicative burdens of an additional set of umbrella supervisory rules beyond those already applied by home country supervisors and the US Fed.<sup>2</sup> As a result, the Proposed Rule may fail to as-

---

<sup>1</sup> See Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 (the Financial Conglomerate Directive), in which the EU would defer to equivalent consolidated supervision of the parent in a home country outside the EU.

<sup>2</sup> In this context we consider it to be inappropriate to limit the applicability of the proposed substantial reduction in the net capital required of a broker-dealer only to a few broker-dealers of the largest size in the US. Many international banks with US broker-dealer affiliates have consolidated capital far in excess of the US\$ 1 billion tentative net capital requirement, although the tentative net capital of their US broker-dealer may be less than US\$ 1 billion.

sure competitive equity and to achieve its objective of wide application and acceptance.

- Second, the EU has indicated that it plans to defer to non-EU home country consolidated supervision that is equivalent to home country supervision in the EU without composing any added holding company level requirements. The Commission has already indicated that its proposal is designed to be equivalent to EU consolidated supervision.

If the Commission nevertheless were to impose duplicative reporting, record-keeping, notification or other regulatory burdens on international banks, supervisors in the EU and elsewhere would be encouraged to take similar action to add additional requirements on U.S. non-bank-affiliated securities firms operating in their countries.

With a view to promote globalized competition and a conducive business environment between the EU and the USA on the basis of a level playing field we believe that the modifications proposed by the IIB should be seriously considered and promptly implemented in order to avoid duplicative burdens and competitive inequalities.

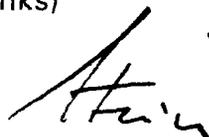
Should you have any further queries please do not hesitate to contact the undersigned - Karl-Heinz Boos: (+49 30) 81 92 - 2 00 or Björn Christian Stein: (+49 30) 81 92 - 2 10 - at your convenience.

Yours sincerely,

Bundesverband Öffentlicher Banken Deutschlands  
(Association of German Public Sector Banks)



(Karl-Heinz Boos)  
Executive Managing Director



(Björn Christian Stein)  
Director Banking Supervision/Deposit Insurance

cc: The Honourable Randal K. Quarles  
Department of the Treasury