



December 2010

**Minutes of the 19th and last Consultative Panel meeting held on
20 October 2010, in London**

1. Opening of the meeting

The 19th and last meeting of the Consultative Panel was chaired by Hugo Banziger (Deutsche Bank Group) and co-chaired by Christian Lajoie (BNP Paribas).

Action(s):

N/A

2. Transition to the EBA

Arnoud Vossen gave first a short presentation on the imminent changeover from CEBS to the European Banking Authority. He illustrated the new European supervisory architecture made up of two independent and complementary pillars, the ESRB (responsible for macro-prudential oversight) and the ESFS (responsible for micro-prudential supervision and which, in turn, consists of three new European Supervisory Authorities: EBA, ESMA and EIOPA). He then focused on the EBA new tasks which fall into three clusters: regulation, oversight, and operations. The EBA will also be entrusted with new activities such as consumer protection, analysis of risks underlying new financial products, payment systems and e-money institutions. Arnoud underlined that among the new regulatory tasks, the EBA's major objective is to establish a common EU rulebook through the development of binding technical standards in the form of directly applicable EU regulations or decisions. The new EBA instruments will call for maximum harmonisation of current legislation. As for the oversight tasks, the EBA will develop and implement a new risk dashboard whose parameters and indicators will be used for both micro and macro-prudential supervision. The EBA will also play a major role in responding to emerging risks and threats. In terms of operational tasks, the EBA will operate a central EU data warehouse based on the current data and, at a later stage (i.e. when the mandatory reporting system is ready in 2014), on the information NSAs will be asked to provide.

Arnoud underlined that the new EBA will be acting as a centralised hub in a MS-driven Authority and gave some details on the staffing needs as well as on the duties and responsibilities of the new EBA's Chair and Executive Director. Arnoud also explained all the phases of the selection process of these two key positions.

In relation to the BTS, the CPL Chair expressed some perplexities and argued that unless the EBA is capable of enforcing harmonised standards, it won't be able to change the current "status quo" where CRD II allows for great national discretions. Some representatives even questioned the existence of a harmonised definition of "supervised entity". And some others insisted on the need to clarify what "maximum" harmonisation means.

Arnoud acknowledged the fact that CEBS has not reached full harmonisation but not because of lack of will but because it has not the means yet to ensure full harmonisation, something that will change with the development of BTS.

Didier Elbaum, with specific reference to common reporting, added that full harmonisation cannot be attained unless there is a strong will from supervisors and the industry alike. Therefore, if supervisors are asked to make progress in this respect, the industry should realise that full harmonisation comes at a price. Especially in reporting, the streamlining motto cannot be valid any longer and the specificities of banks cannot be put forward to the detriment of a common framework.

As for consumer protection, while some representatives were pleased with this new task which poses interesting challenges for the EBA, they were also worried about the significant tensions which are likely to emerge in relation to issues like pricing and access to credits. Since nor CEBS nor the EU Commission have some history in regulating consumer protection, it would be difficult to prioritise risks in this respect. Hugo Banziger also underlined the need to address the cost of consumer protection and to assess the cost-benefit balance.

Arnoud acknowledged the difficulties but pointed out that the EBA has not a specific mandate yet and that for the time being it is more of a political issue.

The focus moved onto the establishment of the Banking Stakeholder Group, as the successor of CEBS Consultative Panel. CEBS' SG underlined that the establishment process is still underway as the 3L3 Committees are jointly studying the inclusion criteria. Although there is not a fixed list of requirements, the new Group's composition also needs to ensure a geographical and gender balance. He added that a call for expression of interest would be published sometime in November.

The CPL Chair questioned the rather opaque establishment process, underlining that unless CEBS knows exactly what role to expect from the Consultative Panel, there is no hope for the new Group to succeed.

Arnoud Vossen explained that the new BSG should be more involved in the development of BTS, Guidelines and Recommendations as the input from the industry is crucial. If necessary, also industry expert groups could be established.

Piers Haben, CEBS' recently appointed Deputy Secretary General, moved onto the last item of the transition to the EBA: stress tests. He presented the July EU-wide stress test underlining the challenges faced and stressed the need, going forward, for clearer definitions and assumptions as well as for more stringent peer reviews. He then invited all industry representatives to express their views and comments in this regard.

Criticism was expressed as to the time and date of publication of the results and to the last minute changes to the methodology which made the whole process murkier.

Action(s):

As for the next round of stress tests, need for more solid links with the ECB in defining the underlying assumptions; need for a clearer timetable and for a common rulebook.

4. Uneven implementation of CRD II

The Chair of the Panel expressed his conviction that at a political level, especially at the EU Commission's level, there is awareness that CRD II is not evenly implemented. Due to CEBS' limited powers in this respect, the efforts made so far have resulted in a "patchwork". Rules are implemented differently when it comes to liquidity requirements in securitisation, qualification criteria for IRB models, retention for securitisation, large exposures.

Action (s):

The priority is a harmonised CRD II

5. CRD III: CEBS draft Guidelines on Remuneration

Ivo Jarofke from CEBS' Secretariat, presented the draft Guidelines on Remuneration underlining that some of the most challenging issues included the incentive structure and the need to adjust risk to performance, the deferral and retention period, the proportionality principle. He then asked for the industry's views in these respects.

Overall, many uncertainties were highlighted and many concerns raised especially in relation to the implementation deadline and to its retroactive effects. Some representatives called for greater flexibility when it comes to the upfront and deferred payment (as this would pose tax problems to some people) and also more flexibility as to the fixed-variable ratio. Some also saw a more political issue related to a level playing field problem because of the imminent entry into force and of the short consultation period. Another concern was raised as to the home-host issue.

As a general remark, CEBS' SG retorted that CEBS had already issued high-level principles on remuneration and conducted an implementation study, thus working on something that already existed.

Action(s):

CEBS is asked to clarify who the risk takers are, how to deal with the payout rules for those banks that have no shares and how to deal with the proportionality issue. A proposal to consult specialised law firms was put forward.

6. CRD IV

CEBS' SG, while underlining the short time for replying to the EU Commission, asked for the industry's feedback especially in relation to the areas where gold plating should be avoided.

7. EBA's role in the CRD IV implementation

The CPL Chair asked all representatives whether BTS should be constraints. General agreement emerged as to the need to have BTS in all the areas raised because for

Europe to become a financial place standards that can be implemented in all jurisdictions are a must and therefore the EBA should get the authority to set BTS, thus excluding interpretation by national Authorities. Nevertheless, good BTS go hand in hand with the industry's consultation since the latter should highlight the benefits of BTS so as to promote a level playing field.

CEBS' SG highlighted that as from 1 January, any interested party could bring a complaint in case of breach of law. He added that BTS will not be within the scope of minimum harmonisation.

Always with reference to the EBA's task of developing BTS, some representatives also raised the issue of the resources needed to effectively perform this and all other additional last minute tasks. If the staff projections remain unchanged, the EBA will not be able to deliver.

8. CEBS' draft guidelines on Article 122a of the CRD and CEBS' draft revised Guidelines on Common Reporting

On securitisation, one representative, while acknowledging that the industry cannot ask the regulation to revitalise the market, said that the industry should put forward proposals in this respect.

As to the common reporting framework, Didier Elbaum pointed to the progress made on the guidelines but also highlighted a number of issues still outstanding, namely the type of data requested and the proportionality principle. As for securitisation, he insisted on the need for more data to be provided and on the balance that should be achieved between meaningful and granular data.

The CPL Chair questioned the unclear definitions of what types of data are needed

Action(s):

It would be helpful if the EBA could issue BTS on the definition of retention.

Need for better dialogue to know what kind of data the industry should be providing and if the industry has those data; templates should not change so frequently

9. AOB - Conclusions

Looking back at the work done by the CPL, the CPL Chair concluded that the Panel has made an impact on CEBS but some more work needs to be done. He added that a good dialogue is crucial to the regulation process as financial stability is ultimately at the heart of the industry.