



Consultative Panel

CPL 2006 35

2 November 2006

## **Minutes of the Consultative Panel meeting on 18 October 2006 in London**

### **Introduction**

1. The Panel held an informal session to discuss internal issues, and agreed that:
  - Observers are welcome to participate and comment, but will not vote or present written submissions.
  - Members in the Panel are appointed in their personal capacities and are therefore expected to contribute personally to the work and participate at meetings. Each member can however be replaced from time to time by an alternate (always the same person), but if a member does not attend meetings three times in a row, procedures for change in membership will be activated.
  - Meeting documents should be distributed earlier: the draft agenda should be circulated for comments five weeks before the CP meetings; background documents should be sent as early as possible, preferably 10 working days before the meetings; 5 working days before the meeting will remain as cut off date.
  - The minutes of the last meeting as well as the agenda were approved by the Panel.
2. The formal meeting of the Panel, with participation of CEBS representatives (for the list of attendees see attached) was started out by the presentation about FIN-USE (Expert Forum of Financial Services Users), by Ricardo De Lisa. The presentation outlined the organisation and tasks of FIN-USE, which is an independent expert forum, set up by the European Commission in April 2004 to improve financial services policy from a user perspective and provide expertise for policymakers. It was highlighted that FIN-USE could add value to CEBS' discussion by responding to specific questions as well as by highlighting some issues directly affecting financial end-users. Two specific issues were highlighted to the attention of the Panel as potentially interesting from the consumers' perspective: the requirement for banks to explain their rating decisions to corporate customers (Art. 145 of the CRD) and the issue of convergence in transparency standards for banking contracts. Following the discussions, it

was also added that written procedures to explain rating decision is not really an advantage for SME's.

### **Progress report of CRD implementation**

3. Patrick Pearson (European Commission) and Daniele Nouy, Chair of CEBS reported on issues such as CRDTG, US implementation and possible implications for EU, and on the initiatives to start a monitoring on minimum capital requirements under the new regulatory framework. The Commission, provided information on the CRD transposition plans in the Members States (MS). Early next year consultants will start preparing an in-depth analysis checking the status of CRD transposition in the 25 MS. The report will published by December 2007. A short summary and update was given on the work of the CRDTG. Some market participants asked information about the appropriate forum for dealing with practical issues emerging in the implementation of the CRD. The Commission advised to use CEBS and CRDTG as a platform.
4. Daniele Nouy, Chair of CEBS informed the Panel about discussions taking place at the Basel Committee level. The exercise for monitoring the development of minimum required capital under the new framework will be conducted with an effort to avoid extra reporting burden on the industry. Some additional data might however be required.

### **Specific elements of the CRD agenda**

5. The issue on possible linkages between concentration risk and the large exposure items of the agenda were brought to the table by the Panel. Andrew Cross drafted a letter explaining the industry concerns related to large exposures and concentration risk rules and proposed a possible way forward how these requirements should interact. The Panel acknowledged that while there is a need to have guidelines on concentration risk under Pillar II in place for smooth implementation of the CRD, these guidelines should at a later stage consider the outcome of the large exposure review currently carried out by the Commission
6. The paper on stress testing was discussed. The Panel acknowledged the improvements in the paper and noted that the consultation was in line with the expectations. CEBS organised two expert meetings, involved industry experts early in the process of developing guidance. CEBS received 9 industry responses, which are also available on the CEBS website:[http://www.c-eps.org/Consultation\\_papers/CP12\\_responses.htm](http://www.c-eps.org/Consultation_papers/CP12_responses.htm). CEBS' Chair emphasised the concept of proportionality and informed that a seminar on proportionality issues was planned 12 January 2007.
7. With regard to the definition of own funds, the Panel indicated that a full review may be premature. However discussions should be going on. CEBS' Chair informed the Panel, that CEBS is presently focusing on the response to the call for advice requesting an empirical analysis of the capital

instruments used by EU credit institutions. The Panel cautioned CEBS not to start any new work on the definition of own funds before implementation of the CRD was finalised and that consistency with the Basel Committee would ensure the level of playing field at international level. Should the work start in advance of Basel, the Panel indicated their preference to start by solving the differences with regard to the treatment of hybrids. In this field there is a clear need for harmonisation and the transparency brought forward by CEBS survey published in June should put pressure to achieve more convergence and consistency between supervisors.

8. The Chair of the Panel emphasised that it is important to have open discussion between the supervisors and the industry, and also have a clear voice within the industry to come with a common definition. The Panel suggested having a broader debate on the issue. The Commission announced that the Financial Ministers will meet in Brussels on the 14<sup>th</sup> of November 2006, and then bilateral discussions will continue with the industry.
9. Andrew Cross raised the awareness of CEBS on the industry's concerns about current work at Basel AIG on modelling the incremental default risk charge approach. While this is a lesser concerns for smaller banks, large players with a substantial trading book view the issue as a major one. It was noted that CEBS is an observer in the AIG working group, and that it could help the AIG find a better way forward. Another pragmatic approach would be to deal with issues arising from the CRD text through the CRDTG working group. CEBS' Operational Network could be another channel. It was agreed that comments and reactions will be sent to Kerstin af Jochnick, Bureau Members and Chair of the Capital Requirements working group. Another issue relates to concerns on the level playing field between the SEC CSE rules and Basel II. It was agreed that, in the context of a new exercise aimed at assessing the "equivalence" of third country – US and Switzerland - banking and conglomerates supervision, the relevant subgroup chair could brief the Panel from time to time on work with the SEC.
10. On the planning of CEBS' activities 2006-2007, CEBS' Chair briefed the Panel on the methodology to prioritise the tasks and activities and requested the assistance of the Panel in the process. Some members noted that the list of possible tasks for 2007 was clearly too long and very ambitious. Participants mentioned that the main focus should be given to CRD-implementation-questions and activities to improve supervisory cooperation and the EU-Council decision about the principle of better regulation should be in the future programme. It was also mentioned that CEBS should discuss the supervisory aspects in the case of payment institutions. The Panel agreed to contribute and to send their comments shortly (deadline: 2 November 2006). The Chairman noted however that an important part of the Panel answers depends on the attitude of CEBS members: namely, if an issue that is not prioritised is going to be anyhow tackled by national supervisors, then it would be probably better to have an REU initiative. In other words, he argued that the agendas of CEBS and its members should be managed in an integrated way, to avoid that CEBS

is perceived as an additional burden. This point will be raised to the attention of CEBS members. However, it was noted that the burden supervisors are experiencing with the implementation of the CRD makes rather unlikely that a large number of national initiatives would be added on top of CEBS ones.

11. Panel members and observers were asked to have a final look at the revised CEBS Assessment and send their comments to the secretariat immediately after the meeting.
12. The Panel was also asked to send their comments and opinions by written procedure on the other agenda items that had been lost due to lack of time during the meeting.
13. Finally the Panel discussed future meetings in 2007. The next meeting of the Panel will be on 24 January 2007 (London). The chairman agreed to suggest dates and locations for the May and October meetings by written procedure. The format of the meetings will change, with a pre-meeting at dinner the day before the official meeting and a full day discussion with CEBS participation the following day.

The following members and observers of the Panel were present:

Freddy Van den Spiegel (Chair)  
Andrew Cross  
Riccardo de Lisa  
Richard Desmond  
Richard Gossage  
Klaus-Dieter Kremkow (on behalf of Siegfried Jaschinski)  
Christian Lajoie  
Herbert Pichler  
Bertrand de Saint Mars  
Dirk Wilhelm Schuh  
Davide Alfonsi  
Andreas Gottschling (on behalf of Hugo Banziger)  
Joao Salgueiro  
Volker Heegemann (observer)  
Olaf Achtelik (observer)  
Wilfred Wilms (observer).