



## **Minutes of the Consultative Panel meeting on 24 January 2007 in London**

### **Introduction**

1. The eighth meeting of the Panel was held according to the newly agreed meeting structure, which envisages the participation of CEBS representatives.
  - The minutes of the last meeting as well as the agenda were approved by the Panel.
  - The Chair welcomed the new members (Mr. Claude Rosenfeld, Credit Agricole S.A, Mr. Demetrios Lefakis, National Bank of Greece and Mr. Mariusz Zygirerewicz, Polish Bank Association) and Mr. Rudi Bonte, CBFA, as one of the new members of the CEBS Bureau (for the list of attendees see attached).
  - Dr. A. Bruggink, Chief Financial Officer of Rabobank, (EBIC) and Mr. Granvik (Nordea) have resigned from the CEBS Consultative Panel.

### **CRD implementation**

2. Tobias Mackie (European Commission) provided an update on the implementation of the CRD in Member States, and the latest version of the transposition table was distributed.
3. CEBS Chair, Daniele Nouy informed the Panel, that the Member States (MS) are currently implementing the Supervisory Disclosure framework. As of the 18th of January 10 members have put the web-based framework in place and publishing draft of final rules as they become available. CEBS Chair noted that there are delays, which can be attributed to the delays in the national transposition of the Capital Requirements Directive. CEBS will monitor the Supervisory Disclosure framework, however in order to accelerate the process, it was also suggested that the Panel could also assist. It was agreed that the Supervisory Disclosure should be transparent and frequently updated.
4. Some members of the Panel expressed concerns on the preliminary information emerging on the choices made on options and national discretions. The Panel asked CEBS to conduct a full overview of options and national discretion and make it available by the end of 2007. The

Secretariat will start conducting work on this issue. CEBS Chair confirmed that a letter from the Consultative Panel to the Committee could be useful and would definitely speed up the process.

### **Impact assessment on L2 and L3 measures**

5. CEBS explained that it is developing principles and guidelines for conducting impact assessment (IA) on L2 advice and some L3 measures, jointly with CESR and CEIOPS. CEBS asked the Panel for high level comments on the principles and the general idea of adopting IA in the Lamfalussy committees. CEBS also noted that it hopes to use the Call for Advice on Large Exposures as a pilot study.
6. The Panel offered a number of comments. In particular, it noted that IA should always precede the launch of a proposal and public consultation, before the options are narrowed down, to allow an informed debate on the possible options. It also noted that IA needs to consider all costs in so far as possible, to avoid the trap of regulation leading automatically to higher costs for industry. Panel members also recommended that IA should always consider the 'do nothing' option, and that it should not necessarily lead to regulation/legislation. Several members also argued that IA should be treated with a good deal of realism as it is not a panacea in policy making and many issues are largely predetermined by other considerations; IA should be seen as a tool to help/complement policy making. And finally they noted that IA needs to be neutral and independent, using external, neutral experts where possible. It should not be done by the parties with the greatest interest in the outcome.

### **Mediation and review panel**

7. The Panel was informed that CEBS is developing a mediation mechanism, in line with the recommendations of the Francq Report; a consultation paper is expected to be issued in March 2007. CEBS has also started a discussion about the establishment of a review panel, based on the experience at CESR. Some members of the Panel suggested that a Panel input could be helpful when listing possible issues for mediation and referred for instance to Pillar 2 requirements and allocation of Operational Risk capital within a group. CEBS representatives stressed that operational networking should provide some answers and address any differences in requirements of home and host authorities.

### **Prudential treatment of commodities business and firms**

8. The Panel was updated on the progress made in response of the Call for Advice (CfA) on commodities. The first part of the advice was submitted to the Commission in December 2006. CEBS continues working on the risk assessment requested in the second part of the CfA. The dialogue with industry experts (designated by Panel members) is proving fruitful and the second expert meeting will take place on 12 March.
9. CEBS intends to conduct some follow up work with regard to the prudential regime in the US by way of visiting the relevant US authorities.

The Panel will be informed and updated on the outcomes of this further work. Some Panel members observed that commodities business is just a part of a bank's trading business and should be looked at as a risk management issue. Others noted that there is a specific issue concerning the treatment of commodities firms as opposed to banks.

### **Liquidity supervision**

10. Liquidity management has been coming into the focus of international supervisory discussion: the Basel Committee started working in this area and the Institute of International Finance is close to finalising a paper with concrete proposals. CEBS has decided to update a stock take of supervisory approaches and is considering steps for convergence through high level principles for the regulation and supervision of liquidity risk management, also allowing for the use of internal approaches. The Panel shared the suggested course of action. Some members stressed the need to adopt principles based approaches, respectful of the different market practices. It was also stressed that small banks should not be facing demanding requirements; some Panel members expressed concerns with reference to bifurcated approaches for small and large banks. Some members also noted the link between supervisory approaches and central banking practices. It was stressed that the initiative should focus on funding risk, without entering into the discussion of the more complex issue of market liquidity (although the difficulty to disentangle the two concepts was also stressed).

### **3L3 Cooperation**

11. The Panel was informed about the 3L3 Conference of 1 February 2007 in Brussels.
12. CEBS is jointly working with CEIOPS on conglomerates. The Panel reviewed the progress report on the work of the IWCFC. The Panel debated on the interaction between Solvency II and the CRD. Some differences were highlighted, also noting the rather different objectives of the two approaches. It was agreed that 3L3 work comparing the two frameworks would be useful.

### **Third country issues**

13. A short update was given about the recent discussions with US agencies and the ongoing work at CEBS on the treatment of Third Country establishments under Basel II. The discussions with the US agencies mainly focused on Basel II implementation, including gap year issues, treatment of branches and subsidiaries, process for model approvals, leverage ratio and prompt corrective action, liquidity supervision and definition of capital.
14. CEBS Chair talked about the survey on treatment of third country branches by national authorities at the request of the Commission and the European Banking Committee. The issue will be further discussed and the input of the Panel would be welcomed.

15. Luc van Cauter Chair of the Third Country Supervision Working Group (TCSWG) presented to the Panel the work on the "equivalence" of US and Swiss supervision. The Panel raised the issue of treatment of other third countries, mentioning cases of countries that intend to extend capital requirements to foreign branches when implementing Basel 2. CEBS will further investigate the issue.

### **Proportionality**

16. The Panel was briefed on the joint workshop on proportionality, which took place on 11 January in London. CEBS hosted the workshop and participants were coming from banking associations: European Association of Co-operative Banks; European Banking Federation and European Savings Banks Group. The workshop explored different views and understandings of the application of the principle of proportionality. The Panel very much supported such work and dialogue between CEBS and the industry. The importance of the principle of the proportionality was stressed. The principle should have a European foundation, but needs flexibility in its implementation at the national level.

### **Updating CEBS guidelines, standards and recommendations**

17. The Panel discussed a proposed procedure for updating CEBS guidelines, and stressed that material changes should be discussed with the Panel. The proposal was broadly endorsed, although concerns were raised about the future frequency of updates of the guidelines. It was agreed that there will be updates, if any, only once a year.

### **Update of the Charter of the Consultative Panel**

18. The Chair of the Panel introduced the amendments / updates to the Charter of the Panel, reflecting the practices developed in the first years of work. Some members proposed a longer mandate for the CEBS chair and for Consultative Panel members, in order to achieve more stability and continuity in the work and develop as an effective forum for discussion. The Panel approved the update of the Charter, which will be submitted to CEBS and then published. The Panel appreciated the format of a single joint session with CEBS and saw it as a workable format for the future, making it no more necessary to have a separate *Panel only* meeting before.

### **Planning of Panel's activities in 2007**

19. The Panel planned its contributions to the work of CEBS, as defined in the work programme for 2007. In particular, the following calendar was agreed:
- *Own Funds*: Experts meeting on 14 May 2007
  - *Conglomerates*: (capital) An experts meeting will be organised in May 2007.

- Large Exposure: Due to the tight timeline, CEBS will carry out a shorter consultation period, coupled with an open hearing or a workshop.
- Francq Report recommendations: consultation paper on mediation in March; open hearing for market participants in May; Other issues, such as delegation of tasks, joint inspections, impact assessment, common training and staff exchanges will be submitted to the May and October meeting of the Panel.
- Commodities: one more experts meeting is scheduled for March.
- Liquidity: no formal consultation planned, however CEBS would like to have informal dialogue with the industry. There is a workshop and an experts meeting scheduled for early June.
- Prudential filters: there will be a consultation via written procedure in September 2007.
- Internal Governance: written procedure on the internal governance aspects of the issue of non-cooperative jurisdictions (off shore centres)
- Common reporting: the intention of CEBS is to limit the amendments in the Guidelines on Reporting to a maximum of one per year.
- Assessment of convergence in supervisory reporting: to be submitted to CEBS for approval in September. The issue will be further discussed at the October meeting of the Panel.
- Solvency II / CRD: the issue will be discussed at the next (May) meeting of the Panel. An additional experts meeting (jointly with CEIOPS) will be organised in June.
- Equivalence of third country (US and Switzerland) supervision: the IWCFI interim report will be submitted to the Panel in May 2007 for comments on the draft.
- Mergers and Acquisitions (Art 19) L3 implementation work: the Panel will be updated at the October meeting.
- Operational Networks: intermediate products of the work will be presented to the Panel both at the May and the October meeting.

### **Groupe de Contact (GdC) Diversification seminar on 5 February at CEBS premises**

20. The Panel was informed about the forthcoming seminar. The agenda consists of technical presentations on diversification by FORTIS, BARCLAYS, MERCER OLIVER WYMAN and ABN AMRO) to CEBS experts.

### **Operational Networking Seminar on 16 February in Brussels**

21. The Chair of the Panel presented the initiative to establish a platform with the 10 cross border banks in order to work as an interface to supervisors in the project on operational networking. A first meeting of the platform, with participation of CEBS representatives, is organized for 16 February to exchange information on the project and to create an opportunity to discuss about the planning, expectations and progress. The Panel will be kept informed.

### **CEBS assessment questionnaire**

22. Panel members and observers have been updated on the status of the CEBS Assessment. The deadline for filling out the questionnaire is the end of January 2007.

### **CEBS Conference on the 9<sup>th</sup> of May, in London**

The Panel Members and Observers have been informed that CEBS is organising its first conference on 9 May 2007, in London and have been invited to attend the event.

### **Next meetings of the Consultative Panel**

The next meeting has been scheduled for the 15<sup>th</sup> of May 2007 (starting with an informal discussion and dinner the evening before). The Chair of the Panel announced that the Fortis Bank will host the next meeting of the Panel on the 15<sup>th</sup> of May 2007 in Brussels. Mr. Joao Salgueiro (Portuguese Banking Association) invited the Panel to Lisbon for the October meeting (23 October 2007).

The following members and observers of the Panel were present:

- 1) Freddy Van den Spiegel (Chair)
- 2) Andrew Cross
- 3) Riccardo de Lisa
- 4) Richard Desmond
- 5) Richard Gossage
- 6) Klaus-Dieter Kremkow (on behalf of Siegfried Jaschinski)
- 7) Christian Lajoie
- 8) Herbert Pichler
- 9) Bertrand de Saint Mars
- 10) Dirk Wilhelm Schuh
- 11) Davide Alfonsi
- 12) Hugo Banziger
- 13) Joao Salgueiro
- 14) Claude Rosenfeld
- 15) Demetrios Lefakis
- 16) Mariusz Zygierewicz

- 17) Carl-Johan Granvik
- 18) Klaus Willerslev-Olsen
- 19) Volker Heegemann (observer)
- 20) Walburga Hemetsberger (observer)
- 21) Wilfred Wilms (observer)
- 22) Anders Karlsson (observer).