



Minutes of the Consultative Panel meeting on 15 May 2007 in Brussels

1) Introduction

The ninth meeting of the Consultative Panel was held in Brussels and hosted by Mr. Freddy Van Den Spiegel, the Chair of the Panel (Fortis Bank).

- The minutes of the last meeting as well as the agenda were approved by the Panel. Minutes of the January meeting (*CPL 2007 13*, has been published on the CEBS website <http://www.c-eps.org/CPL.pdf>)
- Recent changes in the Panel: The Chair welcomed two new members in the Panel: Stephen Sanders, Royal Bank of Scotland (replacing Richard Gossage, RBS); and Nils-Fredrik Nyblaeus from SEB (replacing Karl Johan Granvik, Nordea).

2) Update on CRD implementation and supervisory disclosure

Patrick Pearson (Commission) provided an update on the implementation of the CRD in the Member States. There are still some Member States, which have not yet transposed the Capital Requirements Directive (CRD) into national legislation. He also spoke about the Basel implementation outside the EU, the Commission's letter commenting on the US NPRs on Basel II and Basel IA and on the EU-US transatlantic initiative. Panel members requested CEBS to tighten the contacts with third countries (in particular US and some Asian countries) on Basel II cross-border issues. CEBS will consider organizing a workshop for supervisors from these countries and share experiences as well as exchange views.

The Chair of CEBS updated the Panel as regards to supervisory disclosure: by the middle of May, 22 member states out of 27 are now connected and are progressively filling in the tables. She also mentioned that the quality and the amount of information disclosed are not entirely satisfactory (e.g. not everything is translated, references to texts are inserted instead of the actual text). CEBS is continuing to put pressure on the members: the Secretariat starts reviewing the framework with a view to identifying the areas where the national disclosure can be improved and to ensuring that the members implement the CEBS guidelines in an adequate way. Once the first phase of implementation is over, the framework should be expanded to the other aspects of the Banking supervision (i.e. to other Directives)

a) Implementation of national discretions

The representative of the Commission informed the Panel a Call for Advice (published on 16 May 2007 / <http://www.c-eps.org/Advice/advice.htm>) was being issued to invite CEBS to examine and to conduct an in-depth analysis with the aim to identify which national discretions could be deleted. It is agreed that CEBS cannot make progress without the strong involvement of market participants. At

the meeting and previously at the European Banking Federation (EBF) Roundtable in April, industry participants and the EBF already committed to provide CEBS with a list of national discretions that EU banks would like to see deleted. Other trade associations should also contribute to this exercise.

CEBS intends to conduct a public consultation on any proposals that it will be able to put forward. The Panel is invited to suggest on how the dialogue with trade associations and industry experts could be better structured. Some members pointed out that the review is not particularly timely, as the costs have already been borne. Others thought that the exercise should be undertaken at a later stage, after having collected evidence on the problems. However, It was also stressed that the issue is so complex that it is better to start as soon as possible. It was also mentioned that a cost benefit analysis might be conducted in some areas.

b) Forthcoming IMF report

The EU Commission informed participants that the IMF is about to publish (June 2007) the results of the Art. IV consultation on the euro area, which contains recommendations to strengthen the EU banking supervision architecture, especially in the arrangements for crisis prevention. The IMF considers that the two-tiers structure adopted in the US, with federal and state charters could provide a useful benchmark. Some participants felt that the IMF proposal might provide an interesting way forward, arguing that the times are ripe for a wider debate. Other stressed that the attention should remain primarily focused on improving the practical working of present arrangements.

It was suggested to put this item on the agenda of the next meeting.

3) Assessment of CEBS' progress for the 2007 Lamfalussy Review, and follow up of the first CEBS Conference

A) Second Interim Report of the Inter-Institutional Monitoring Group (IIMG), and 3L3 letter commenting on the IIMG report

The IIMG report is rather positive on CEBS and the Level 3 Committees, however recommends further efforts to increase supervisory cooperation. The focus of the Panel's exchange of views was on the need to generate active political support for the convergence process. Supervisors welcomed the idea on developing EU-level objectives for the national authorities.

B) Results of the on-line survey on CEBS progress

The Chair of CEBS first of all, thanked the Panel for its contribution to the success of this initiative, which provided a positive assessment of CEBS work, while highlighting areas where there is scope for improvement.

The discussion focused on the rather unsatisfactory feedback on consultation practices. One areas for improvement is by opening up consultation also on the advice to the Commission, which up to now has been very difficult due to the tight timelines. A second area for improvement concerns the early informal dialogue with market participants. The proposal to establish standing groups of technical experts from the industry entering into a regular dialogue with CEBS experts in different areas of work was discussed and supported. It was stressed, though, that CEBS should exploit the structures already in place, for instance at trade associations. It was agreed that at the October meeting of the Panel a

discussion will be held on the groups to be established, building on a mapping of existing groups.

Another topic was the involvement of consumers in CEBS work. Some members suggested that MiFID could provide an interesting area for entering topics of interest for consumers.

C) CEBS preparation of the report to the Financial Services Committee (FSC) on the implementation of the Francq recommendations and progress in supervisory convergence

CEBS initiated work to implement all the recommendations of the Francq report and has been finalising the progress report to the FSC. (*In the meantime, it has been posted on CEBS website: <http://www.c-ebs.org/publications.htm>*). Mme Nouy briefed the Panel on the progress made in the implementation of the Francq recommendations.

Panel members noted that CEBS chose a rather cautious approach on delegation, arguing that more should be done in this area, with some college Charter defining areas in which tasks should be delegated. On reporting, the idea of mutual recognition of the home COREP was floated by industry representatives, arguing that reporting remains a source of deadweight costs. Others were less convinced that further progress is feasible at this stage, arguing that the IT costs have been borne. Some stressed that only full uniformity at EU level would really help.

D) Plans for a 3L3 report on the mid-term agenda

The Panel has been informed that the 3L3 Committees established a joint Strategic Policy Task Force which is expected to select the priorities for cross-sectoral work between CEBS, CESR and CEIOPS for the next three years. Some suggestions have already been received to focus the attention on the issue of internal governance, in relation to the interaction between CRD and MiFID. Panel members listed as priority the following areas: home-host issues; conglomerates issues; CRD and Solvency II.

4) Operational Networking

Helmut Bauer, Vice Chair of CEBS gave an update on the work conducted by SON. As a concrete result of the stock take identifying the different approaches of colleges of supervisors, SON is currently preparing (i) a range of practices statement on the functioning of colleges of supervisors, and (ii) a template for written agreements as required by the CRD. It is envisaged that this template will encompass items such as cooperation and exchange of information, sharing of tasks and delegation, supervisory review process and mechanisms to solve issues and divergences. SON is also examining the different interpretations concerning article 129, paragraph 2 of the CRD.

The Panel representatives stressed that their main interest lay in that colleges of supervisors function well, react quickly and are able to come up with pragmatic approaches. They would prefer SON focusing on short term solutions, i.e. "fixing" urgent problems. Cooperation and streamlining of information exchange amongst supervisors is also important, as well as the transparency towards banks. Participants noted that cooperation and streamlining should not be restricted to the EU, but that all the supervisors concerned should be involved in this process.

The Panel was informed that as a follow up to the meeting with the Industry Operational Network Platform on 16 February 2007 in Brussels, a technical workshop also took place on 26 April 2007. The workshop allowed for a dialogue with the industry on different topics which SON has covered and to take stock of the experience gained so far by both supervisors and banks on the process of joint model validation. The industry representatives presented their rather ambitious "to do list", CEBS representatives asked that these issues were described in a more precise and detailed way.

SON has now started work on Pillar 2 cross-border issues. Industry participants confirmed that this was indeed a priority issue. There will be further seminars, as SON envisages holding a workshop regarding Pillar 2 cross border issues in autumn 2007.

The Panel showed some scepticism on the ability of SON to deliver what CEBS was not able to achieve with its set of guidelines, but reiterated its support to the project.

5) Own Funds

CEBS was requested by the Commission to do further work to identify a possible benchmark for convergence in the definition of own funds. The CEBS report should help the Commission to identify the most appropriate legislative tool to address any outstanding issues. The Commission confirmed that such efforts towards convergence should be made within the current international definition of own funds taking into account the guidance set out in the Sydney agreement issued by the Basel Committee. Some panel members stressed that the debate should devote attention to contingent capita: instruments that could be converted in Tier 1 at the bank's choice should be allowed as regulatory capital, as it is presently the attitude of some EU supervisor.

CEBS is keen to hear the views of the industry on this issue and therefore organising a public hearing on regulatory capital on 11 June, mainly focussed on hybrids and open to all interested parties.

6) Solvency II / CRD

CEBS is starting joint work with CEIOPS aimed at mapping the main policy choices in the CRD with the draft proposals on Solvency II.

Panel members noted that regulatory arbitrage and/or competitive distortions should be avoided; and it should be recognised that the insurance industry made more progress on some issues (e.g. diversification). It was also stressed that a closer analysis shows that the inconsistencies might be less relevant than feared. Some argued that differences might also stem from different nature of liabilities or different stability of correlations, due to the differences in the typical balance-sheet composition.

CEBS and CEIOPS intend to hold a preliminary discussion; Panel members will be asked to provide input on the issue.

7) Work programme for the Consultative Panel: update

Since the January Panel meeting, the timeline for Panel input into CEBS work has been reviewed and updated. The document "Planning of Panel activities in 2007"

was updated accordingly and submitted to the members and observers. The note listed all the issues in the pipeline and provides tentative suggestions as to the type and timing of input the Panel could provide to CEBS and its expert groups. Just a few highlights:

Large exposures: CEBS is finalising a consultation paper on the current rules (scheduled mid June) and will seek market participants' input via a short public consultation (6 weeks) supported by a public hearing, to be scheduled early July 2007. <http://www.c-ebs.org/keydates.htm>

Liquidity: an informal dialogue with the industry (e.g., through an experts meeting) is envisaged for September 2007.

Prudential filters: CEBS intends to finalise an analytical report on the implementation of prudential filters in September 2007.

Common reporting frameworks: a seminar on COREP is going to be held by end of June to discuss and analyse issues raised by the Operational Network Platform.

Assessment of convergence in supervisory reporting: CEBS committed to conduct a study to assess the degree of commonality achieved with the implementation of CEBS reporting frameworks. The study should be completed in September 2007.

Equivalence of third country (US and Switzerland) supervision: The Commission is going to finalize the mandate to CEBS (and IWCFC) to review the 2004 general technical guidance on equivalence of US and Swiss consolidated banking and conglomerates supervision.

Directive on Cross-border consolidation (Mergers & Acquisitions) L3 implementation work: CEBS will lead a 3L3 effort to flesh out at Level 3 some key aspects of the new provisions (e.g. on the home-host cooperation arrangements underpinning the supervisory assessment of an application, on a common approach to and disclosure of the information required by supervisors to make an assessment, and on the fit and proper criteria). There will also be an impact assessment and public consultation on this work by mid-2008.

8) Diversification

The Panel has been informed that the Groupe de Contact has had an internal seminar on this issue, benefiting from presentations from Barclays, Oliver Mercer Wyman, Fortis and ABN Amro. Follow-up work is necessary as both the industry and the supervisors are clearly still on the learning curve. CEBS will look into this, on the basis of a proposal by the GdC, with work probably being started in the second half of this year.

One of the Consultative Panel members, Mr. Christian Lajoie, from BNP Paribas, gave a presentation on ICAAP and diversification effects.

9) AOB

There were discussions about the IIF paper on effective regulation and about principles based supervision. It was suggested to put on the next agenda of the October meeting and discuss it in more details.

- Feedback on meetings with industry experts (diversification seminar, commodities)

The Chair of CEBS welcomed the input received from the industry experts selected by the panel on issues such as diversification, internal governance and commodities.

The Panel has been informed that the Commission has extended the original deadline for the second part of the advice on commodities (risk assessment) from end of April to end of September 2007, also with a view to ensure alignment with CESR work on the issue. This additional time will be used to discuss the draft report in a public hearing before submitting it to the Commission. The hearing is taking place on 9 July and will be open to all interested parties.

- **Next meeting of the Panel:** will take place on the 23rd of October (informal dinner on the 22nd of October) in Lisbon, Portugal. Joao Salgueiro (Associacao Portuguesa de Bancos), invited the Panel and will be hosting the next Panel meeting.
- The election of Consultative Panel Chair will be on the agenda at the next meeting in October. Candidates are invited in order to have the election at the meeting in Lisbon.

The following members and observers of the Panel were present:

Freddy Van den Spiegel (Chair); Richard Desmond; Dr. Siegfried Jaschinski; Dr. Klaus-Dieter Kremkow; Christian Lajoie; Herbert Pichler; Dirk Wilhelm Schuh; Dr. Hugo Banziger; Demetrios Lefakis; Mariusz Zygierewicz; Klaus Willerslev-Olsen; Emmanuel de Founox (on behalf of Bertrand de Saint Mars); Michel Bilger, (replacing Claude Rosenfeld); Nils-Fredrik Nyblaeus, Jose Maria Mendez; Stephen Sanders; Renato Maino (on behalf of Davide Alfonsi); Volker Heegemann (observer); Walburga Hemetsberger (observer); Wilfred Wilms (observer).