

24 July 2009

Minutes of the Consultative Panel meeting on 19 May 2009 in Stockholm

Opening of the meeting

1. The fifteenth meeting of the Consultative Panel (CPL) was held at Skandinaviska Enskilda Banken (SEB) premises, Stockholm, Sweden.
2. Mrs. Kerstin af Jochnick, CEBS Chair, and Freddy Van den Spiegel, Chair of the Consultative Panel, thanked Mr. Nils-Fredrik Nyblaeus, SEB's representative, for the hospitality and the very well organised meeting.
3. Mrs. Kerstin af Jochnick presented the main issues that CEBS has dealt since the last CPL meeting (17 February 2009, London). In particular, CEBS's Chair informed the panel members about the developments following the publication of the de Larosière report; the 3L3 Committees (CEBS, CESR and CEIOPS) submitted a joint response on the Com's Consultation to improving the supervision of the EU financial markets. This joint response also includes the sectoral positions of the Committees.
4. Moreover, CEBS has published its high-level principles on remuneration. Mrs. Kerstin af Jochnick also informed the Panel members about the work that CEBS performs in the field of banks' transparency. Following the publication of CEBS's report analysing the 2008 fourth quarter and preliminary year-end results, CEBS is currently analysing the 2008 audited annual reports and Pillar 3 disclosures so as to assess whether the gaps identified in the last 3 analyses have been addressed. The Panel members were requested to actively participate in the public hearing to be held on 28 May, at CEBS premises.

Current crisis situation - document prepared by BNP Paribas

5. Mrs. Kristelle Maouad presented the paper that mainly questions the effectiveness of the consultation process that is followed by the European Commission (Com) on possible CRD changes to strengthen capital and disclosure requirements for the trading book and for complex securitisations (re-securitisations). The lack of impact assessment to assess the consequences of these new regulatory measures was strongly criticized by the majority of industry representatives. BNP Paribas also called for CEBS intervention on this issue and invited CEBS to consider how it could actively influence the procedure followed by the Com (i.e. investigate whether there is an intention to establish an industry expert group, question the consistency of the regulatory changes proposed and assess the rationale behind them)

6. Mrs. Kerstin af Jochnick, stated that CEBS is well aware of the accelerated speed at which legislative proposals are presented by the COM and expressed CEBS's regrets for the strict timelines that sometimes are imposed at a higher level.
7. BNP Paribas concerns were strongly supported by some industry representatives. The main concerns expressed are as follows: i) possible competitive destructions between the EU and US markets, ii) CEBS's role in the regulatory process, iii) tight timelines that don't allow market participants to adequately assess and react on the proposals, leading to inappropriate consultation procedures followed, and iv) need to follow the principle of proportionality.
8. However, FIN-USE representatives expressed their strong support on the general approach followed and raised concerns that any attempts to undermine the financial market reforms would simply damage the current attempts to restore market confidence and will simply prolong the crisis. It was also stated by Mick McAteer that in case an impact assessment is conducted, CEBS should be the one to have the control of the methodology followed and not the industry since there is always the risk of an approach biased towards the disadvantages of the proposals.
9. Following the discussions, CEBS's Bureau member, Mr. Thomas Huertas, proposed to communicate the industry concerns to the Com's representatives attending the next EGPR (Expert Group on Prudential Regulation) meeting and to investigate whether an impact assessment could still be conducted.

Current crisis situation – document prepared by FIN-USE

10. Mick McAteer presented the paper and expressed FIN-USE concerns about the representation of consumers' voice to the Consultative Panels of the 3L3 Committees and in the EU for a.
11. Mrs. Kerstin af Jochnick stated that there is a consultation process that should be followed and that CEBS, since the very first years of its inception, has been in favour of the establishment of a consultative panel in which consumer representatives also participate. In addition, it was clarified that the resources available to consumer organisations is not an issue in which CEBS could intervene. The large majority of the industry does not support FIN-USE's request for more resources and believes that they should receive their own funding from their members.

Current crisis situation – Pro-cyclicality

12. The Panel members stressed the importance of the accounting rules and the combined effect they have with the present statistical VaR models that are clearly procyclical. The procyclical effect of Basel II that leads to additional capital requirements during downturns has been also raised, while some members expressed their concerns as regards the additional capital that will be needed till the end of 2009 due to adverse market conditions. Participants drew also attention to the fact that there are currently many different proposals on the table which will eventually impact capital. Thus, the mutual influence of these measures should also be taken into consideration. In addition, the lack of proportionality has been indicated. Finally, some industry representatives criticised CEBS's proposal to deal with pro-cyclicality under Pillar II

13. Mrs. Kerstin af Jochnick concluded the discussions by mentioning that there are many and different work streams on pro-cyclicality, but any work undertaken at the moment will not have an instant effect on helping banks to increase lending to the market participants.

CEBS interim report on liquidity buffers and "survival" periods

14. Mrs. Kerstin af Jochnick presented the paper that was issued in March 2009 and informed the panel members about CEBS's intention to publish its final report for consultation end of June/beginning of July 2009. These draft guidelines are primarily addressed at the industry and are not meant to be a piece of a new regulatory jigsaw.
15. The report and CEBS's work on liquidity risk management were very well commented by the Panel.

Stress testing

16. CEBS's role as regards the stress testing exercise was presented by Mrs. Kerstin af Jochnick. This exercise builds on common scenarios and guidelines developed by CEBS while the national supervisory authorities will conduct the test with banks operating in their jurisdiction. It was also cited that this exercise is different from the work undertaken by the US authorities, since CEBS's objective is to assess the financial stability at EU level. No individual figures, even in a non-name basis, will be communicated by CEBS to the Economic and Financial Committee (EFC). All figures will be presented on an aggregate basis and the information will be treated as strictly confidential.
17. The Panel members expressed their concerns on whether the information communicated from the institutions to the supervisors and then to CEBS Secretariat will remain confidential. Some also mentioned that any comparison of such information with the US wouldn't be desirable.

Supplementary measures

18. CEBS's Chair updated the Panel members about the work that is currently undertaken by a joint working group of European Commission and CEBS on the possible introduction of a new and simple measure to supplement the risk-based framework currently in place. The discussion so far indicated that such a measure should aim at limiting the excessive growth of banks' balance sheet. It is expected that the Commission will end up to a legislative proposal by mid 2009.
19. Mr. Hugo Banziger cited that the Com's proposal should be in line with the Basel provisions. The Panel members also stressed the importance to have industry and consumer representatives involved in the discussions, while an impact assessment should be conducted. Thus, it was agreed that CEBS should consider in as far in this stage of the process the industry could be involved in the joint work undertaken by CEBS and Com, while EBF proposed to submit a paper presenting its views on this issue.

JCFC's proposed consultation on the review of the Financial Conglomerates Directive (FCD)

20. Mr. Thomas Schmitz-Lippert, CEBS's Bureau Member and Vice Chair of JCFC (Joint Committee on Financial Conglomerates), presented the work that is currently undertaken by CEBS and CEIOPS, through the JCFC, on the review of the Financial Conglomerates Directive. Following the Com's call for advice in April 2008 asking the JCFC to review certain aspects of the FCD, JCFC received in February 2009 a progress call for advice asking JCFC to identify policy options to address the issues identified in the stocktake.
21. Mr. Thomas Schmitz-Lippert also informed the participants about JCFC's intention to launch a public consultation on its draft advice at the end of May. The final advice will be published end September/beginning October 2009, so any changes in the FCD are not expected before that date.

Developments at the EU level, especially on the consultation of the financial markets supervision

22. Since no Com's representative was attending the meeting, Mrs. Kerstin af Jochnick updated the participants about the recent developments following the publication of the de Larosière report (see also "opening of the meeting" section).
23. Mr. Mick McAteer questioned CEBS's work on remuneration, especially as regards the non-executive directors. CEBS's Chair stated that CEBS has recently published CEBS's high level principles on remuneration in an effort to further develop the supervisory practices in this area and not to come up with more regulation. Mr. Arnoud Vossen, CEBS Secretary General, expressed CEBS willingness to be actively involved in corporate governance rules; however it is not clear yet whether these rules will be reviewed by the Basel Committee on Banking Supervision. If this is the case, then CEBS will investigate whether there is a need to revise its guidelines in order to take into account the recent developments.

Functioning of colleges of supervisors

24. CEBS's Chair presented the paper and CEBS work as regards the functioning of supervisory colleges that seems to be a priority one issue and to be strongly supported by the provisions of the revised CRD. Following the publication of three documents at the beginning of 2009 ([Template for a Multilateral Cooperation and Coordination Agreement on the Supervision of XY Group](#), the [10 common principles for the functioning of colleges](#), issued together with CEIOPS and the JCFC and [the good practices paper for the functioning of colleges](#)), CEBS is currently working on guidelines for the operational functioning of colleges that intend to set operational standards for the functioning of colleges with respect to all the tasks the colleges should promote. In doing so, CEBS strongly believes that the tasks in which supervisors from third countries would participate should be also taken into account. Mrs. Kerstin af Jochnick also expressed CEBS willingness to have one college (avoiding the distinction between the European and global colleges) that could be structured to core and general college. In addition, CEBS is currently monitoring the establishment of colleges for the 36

largest European cross-border banking groups that should be up and running till the end of 2009.

25. Furthermore, CEBS's Vice Chair, Mr. Giovanni Carosio, presented the Peer Review Exercise that will be conducted on the supervisors involved in the colleges of the 17 European banking groups that are part of CEBS's Subgroup on Operational Networking (SON). The level of compliance with the Common Principles and the Template for written agreement will be assessed, supervisor by supervisor, and college by college. The outcome of the exercise will be published on CEBS's website.
26. According to the discussion followed the presentation of CEBS work on the functioning of colleges, the Panel members recognise that a substantial improvement has been undertaken in this field, however there are some practical concerns related to the operation of colleges for cross border banks that have presence to many countries. Some Panel members also expressed their disappointment regarding the provisions of the revised CRD as regards colleges (not decision-making powers attributed to colleges). The Panel also stressed the importance to communicate the outcomes of the supervisory colleges' meetings to the banking group, to enhance the dialogue between supervisors and industry representatives, to promote convergence towards reporting standards and to have third countries involved in colleges.

CEBS's consultation on amendments to FINREP guidelines

27. A public consultation on CEBS's proposed amendments of the Guidelines on Financial Reporting (FINREP) has started in March 2009 and will last till 15 June 2009. CEBS's Chair invited the Panel members to actively participate in the consultation process and to submit their valuable comments on the proposed amendments. A public hearing is scheduled for the 27th of May.
28. No further discussions on this issue.

Extension of the supervisory disclosure framework

29. Kerstin af Jochnick presented CEBS's work on this field and invited Panel members to express their views on the way forward since CEBS believes that this web-based framework is the right tool to enhance transparency and effectiveness of supervision. CEBS also supports the extension of the framework and has recently established a dedicated Task Force (Task Force on Supervisory Disclosure) that could take on board the Panel suggestions.
30. Further to specific calls for consistency between the information published on national websites and the one published on CEBS's website, most of the views expressed by the Panel members revealed a slight confusion between the disclosures provided by the supervisors and the disclosures addressed to supervisors. Thus, CEBS's Chair invited the members of the panel to further consider how helpful the current framework is to the industry and whether they foresee any immediate need to expand the framework and if yes, in which way. Answers should be addressed to CEBS Secretariat.

AOB- IASB's call for banks to participate in a field test

31. Kerstin af Jochnick informed the CPL members and observers about the IASB intention to perform a field test in the context of the recent [Discussion Paper Preliminary Views on Financial Statement Presentation](#). In their approach the IASB mentioned that an earlier field test, between October 2008 and February 2009, was run without bank participation. CEBS stressed in its [response](#) to the Discussion Paper the need to have actively involved the financial institutions in this second field test. Thus, Mrs. Kerstin af Jochnick invited the Panel members to express their willingness to participate in the test. More detailed information was requested by the Panel so as to decide on their participation.

AOB – Chair of the Consultative Panel

32. Mrs. Kerstin af Jochnick informed the Panel that Freddy van den Spiegel's chairmanship comes to an end in October 2009. Since a new Chair should be elected, CPL members were invited to contact CEBS's Chair or Mr. Freddy van den Spiegel and express their willingness to take over this role.

Participants

33. The following members and observers of the Panel were present: Freddy van den Spiegel, Herbert Pichler, Klaus Willerslev-Olsen, Kristelle Maouad, Michel Bilger, Michael Kemmer, Klaus-Dieter Kremkow, Siegfried Jaschinski, Demetrios Lefakis, Davide Alfonsi, Zygierewicz Mariusz, Joao Salgueiro, Jose M Mendez Alvarez-Cedron, Peter Knutsson, Nils-Frederik Nyblaeus, Hugo Banziger, Richard Desmond, Mick McAteer, Ralph Ricks, Wilfried Wilms, Walburga Hemetsberger, Nicolas Jeanmart