

11 February 2009

## **Minutes of the Consultative Panel meeting on 21 October 2008 in Paris**

### **Opening of the meeting**

1. The thirteenth meeting of the Consultative Panel was held at the premises of BNP Paribas, Paris, France.
2. Mrs. Kerstin af Jochnick, Chair of CEBS, thanked Christian Lajoie for having organised the meeting and the Banque de France for the nice dinner. Furthermore, Kerstin af Jochnick welcomed Mr. Nicholas Jeanmart (ESBG) and Mr. Mick McAteer (FIN-USE) as permanent members of the Consultative Panel as well as Mr. Emmanuel de Fournoux who replaced Mr. Bertrand de Saint-Mars (AMAFI) and Mr. Helmut Bauer who replaced Mr. Hugo Banziger (Deutsche Bank) for this meeting.
3. Mrs. Kerstin af Jochnick debriefed the members of the Consultative Panel on the work of CEBS regarding the current crisis situation (i.e. enhancing cooperation between CEBS members, collecting data on Lehman Brothers and AIG, press statement on common stance on current crisis, debriefing informal ECOFIN on transparency, Task Force on US rescue plans that was requested from French Presidency and report presented to ECOFIN meeting) and the work performed by the Interim Working Committee on Financial Conglomerates on the review of the Financial Conglomerates Directive Review.

### **Update by the European Commission**

4. The representative of the European Commission (EC) provided an update of the work of the EC. The EC has been called to do things in timeframes which were unthinkable before. In this respect, the most important issues the EC is dealing with now are: (i) the approval of the technical changes via comitology, (ii) adoption of co-decision text, (iii) deposit guarantee schemes (new minimum amount proposed), (iv) issues dealing with valuation, and (v) early intervention.
5. Following the debriefing of the EC representative, an extensive dialogue was held regarding the future of deposit guarantee schemes. The EC representative mentioned that a high level group will look into the possibilities of having a European fund in the future. Some members of the Consultative Panel stressed the need for having an upper cap

regarding the level of deposit guarantee schemes and the need to reach a harmonised coverage level in order to avoid the potential transfer of funds that could lead to economic distortions. Reference was also made on the payout period that was reduced from three months to three days, while questions were raised on how realistic is this new payout period.

6. Concerning the work to be performed on early intervention mechanisms, the notion of early intervention tools will need to be defined, as well as the different stages, i.e. pre-intervention stage, intervention stage, and insolvency. It was stressed that a qualitative approach is the preferred route.

## **Market turmoil**

### **a. Banks transparency**

7. Mrs. Kerstin af Jochnick provided a short overview of the follow-up work that CEBS has carried out in the area of banks' transparency, mentioning the main findings and messages conveyed. In the next phase CEBS will: (i) consider how the good practices should be applied in the longer run, as both disclosure practices and 'high risk' areas requiring specific attention develop over time, (ii) review (in 2009) banks' 2008 year-end annual reports and Pillar 3 disclosures, which will help assessing the need for further measures, and in that context, (iii) focus on the quality of disclosures.
8. Following the introduction, a discussion was held concluding that more disclosure is not the answer, but having a better focused disclosure is. It was suggested to add Pillar 2 to CEBS' review of disclosures. Furthermore, the link between the adequate disclosure and the market confidence was also stressed out. The information disclosed should be investors' related, available at entities public websites and following a standardised reporting format based on the final users (i.e. management or public).
9. In addition it was suggested that CEBS should provide feedback to the banks participating in the review sample.

### **b. Valuation**

10. Mrs. Kerstin af Jochnick provided the members of the Consultative Panel with a short update on the latest developments in the area of valuation. CEBS has published a report on issues relating to valuation of complex and illiquid assets on 18 June 2008. CEBS has hosted a workshop on 23 September on valuation issues. In general participants welcomed the report and largely agreed with the findings. Furthermore, CEBS has also been directly approached by a number of parties that expressed interest in the report, including ISDA and MarkIT.
11. Mrs. Kerstin af Jochnick subsequently debriefed the Consultative Panel regarding the contacts CEBS' has had with the IASB. Finally, Mrs. Kerstin af Jochnick stressed that CEBS will continue to contribute to the discussions in these areas and, if need be, contribute to the work on the issues that have been identified in the recent Commission Declaration.

These include the fair value option, embedded derivatives, insurance questions, and any other issues in IAS 39 and IFRS 7 of concern. The members of the Consultative panel mentioned the importance of reflecting on the fair value issue. Mrs. Kerstin af Jochnick noted that CEBS will be a member of the EFC group looking into this issue.

#### **c. Credit rating agencies**

12. This issue was briefly touched upon. Mrs. Kerstin af Jochnick mentioned that CEBS has transmitted its preliminary views on the Commission's proposal to regulate CRAs.

#### **d. IIF Recommendations**

13. Mr. Christian Lajoie gave a debriefing of the main focus of the report, mentioning that the report is in line with the FSF recommendation. Some of the key issues addressed in the report are the following: i) the Board of Directors should be more involved in risk management issues, ii) the risk function established should cover all risk elements of the bank (credit, market etc), iii) risk management discipline, with no exceptions and iv) transparency.
14. Currently a self assessment is being conducted. The self assessment assesses the behaviour, policies and procedures of banks against the recommendations mentioned in the IIF report. The expected result is that probably banks will be compliant with most of the recommendations, and wherever this is not the case, banks will have to explain. The outcome of the self assessment will be of great interest for CEBS.
15. The IIF is also looking into performing work on remuneration so that the compensation policy becomes more transparent. It was suggested that CEBS also looks into this, taking into account the work performed on this issues by other committees.
16. A member of the Consultative Panel suggested that CEBS reviews the IIF report and compare its recommendations with those of CEBS so as to assess if there are in line (the industry would like to receive feedback on the paper). Mrs. Kerstin af Jochnick mentioned that involving CEBS at this stage is a bit late, but that CEBS would be happy to discuss the paper in its expert groups.

#### **e. Risk assessment**

17. Mrs. Kerstin af Jochnick mentioned that the ECOFIN in May has decided to ask L3 Committees to provide regular and concise assessments of key developments, risks and vulnerabilities, which could affect the stability of the EU financial system, based on the reporting by the EFC's Financial Stability Table. The Council also stressed that the EU Committees of Supervisors should be able to gather aggregate information in order to assess these features within and across financial sectors and to alert the EFC on potential or imminent problems in the financial system.

18. The risk assessment CEBS is preparing will be performed bottom-up, building upon existing knowledge. The report will be qualitative in nature, geared at informing the EFC. The Consultative Panel was requested to provide input. A member of the Consultative Panel suggested incorporating the issues to be looked into through the risk assessment into the CEBS work program, and only perform one risk assessment per year, since attention should be paid on the quality of the report and not on its frequency. This way the Consultative Panel could provide assistance in identifying the issues to be addressed in the risk assessment. Communication of the outcome of the risk assessment was also mentioned as an important issue.

#### **f. Review of CRD**

19. Mr. Stephen Saunders elaborated on the paper he prepared for the meeting regarding the review of the CRD, particularly concerning securitisation. Mr. Freddy Van den Spiegel mentioned that if possible the suggestions provided by the industry should be taken on board by the EC. The EC representative indicated that they are well aware of the concerns raised by the industry.
20. CEBS indicated that it has not yet had the opportunity for an in-depth analysis and discussion of the final proposals. In particular, the retention requirement as revised over the summer has not been discussed at CEBS level.

#### **g. Pro-cyclicality**

21. Mrs. Kerstin af Jochnick mentioned that CEBS set up a Working Group on Pro-cyclicality which is looking into supervisory responses to cyclical effects and more specifically on declining capital levels.
22. The aim is to provide practical results and supervisory guidance on how to address these effects taking into account approaches already in place across the EU, with a first report planned in December 2008.
23. The focus of the work initially will be on cyclical effects on credit risk in the banking book of IRB institutions. In due course the work will also be discussed with the industry. On a question from the Panel whether the leverage ratio would also be part of the discussion, the chair of CEBS answered that this wasn't part of the mandate of the group.

#### **Regulatory developments on national discretions and options**

24. CEBS delivered its advice to the Commission on the reduction of options and national discretions. In the process of developing its advice, CEBS has had extensive contacts with the industry.
25. Mrs Kerstin af Jochnick stressed CEBS' achievement in reducing the current national discretions with 80% and trusts that the EU Commission will follow CEBS' advice.

## **Progress on Pillar 2 cross border cooperation**

26. Members of the Consultative Panel argued that at present there are not very convergent approaches to Pillar 2 implementation in Europe. CEBS argued that as far as the supervisory review and evaluation process is concerned which is a supervisory responsibility; supervisors have a number of workstreams active within CEBS to increase convergent approaches.
27. CEBS has been working on the practical issues stemming from the implementation of Pillar 2 for quite some time now. On diversification CEBS has developed a paper and topics like colleges and cross-border cooperation, will also in future be high on CEBS agenda, not the least because of the anticipated changes in the CRD in this area. The consultative panel confirmed that its Industry Platform on Operational Networks stands ready to provide input on these topics, where appropriate.

## **Work program 2009**

28. Mrs. Kerstin af Jochnick presented the work program for 2009. She gave an overview of the deliverables CEBS will be working on, based upon a strict prioritisation scheme. Key will be the deliverables linked to the current crisis. In addition, a number of priority 2 issues have been identified that should also be accomplished by end 2009.
29. The Panel very much appreciated the focus of the work program, as well as the concept of adequate prioritisation. As an extra issue, Mr Desmond raised the assessment of new financial products. In his view it could be worthwhile for CEBS to develop guidance for doing risk assessment on new financial products, which could very well fit into the work that is planned for ICAAP and SREP. In addition Mr Pichler mentioned the importance of the impact of procyclicality on the capital charge. Also the importance was stressed of linking the work on PII risk assessments with procyclicality and with colleges. On training the Panel would be willing to organise resources from the industry-side towards the programs. In addition it was mentioned that more focus could be given to customers; the Panel will provide a note on this issue for discussion at a future meeting. Last but not least the importance was stressed to add to the work program an analysis of the EU and US rescue plans. Arnoud Vossen responded that CEBS set up a task force in this field, already started work in this area and will have a first product ready by the end of 2008. Mrs Kerstin af Jochnick thanked the Panel for their valuable input for the finalisation of the work program 2009.
30. The following members and observers of the Panel were present: Freddy Van den Spiegel (Chair), Davide Alfonsi, Helmut Bauer, Michel Bilger, Andrew Cross, Richard Desmond, Klaus-Dieter Kremkow, Herbert Pichler, Tobias Mackie, Nils-Fredrik Nyblaeus, Klaus Willerslev-Olsen, Mariusz Zygierewicz, Peter Knutsson, Stephen Sanders, Mick McAteer, Emmanuel

de Fournoux, Christian Lajoie, Dimitrios Lefakis, Walburga Hemetsberger  
(observer), Nocilas Jeanmart (observer), Volker Heegemann (observer)