

28 July 2008

**Minutes of the Consultative Panel meeting on  
14 May 2008 in London**

**Introduction**

The twelfth meeting of the Panel was held at the Financial Services Authority (UK FSA) premises.

- The minutes of the February meeting as well as the agenda were approved by the Panel.
- Mr. Freddy Van Den Spiegel, Chair of the Consultative Panel welcomed the new members Mr. Michael Kemmer (Bayern LB) nominated by EBIC and Peter Knutsson (Swedish Shareholders Association) nominated by FIN-USE.
- Mr. Thomas Huertas (UK FSA) and Rudi Bonte (CBFA), as members of the CEBS Bureau attended the meeting.

**Credit and liquidity market turmoil**

The "Lessons learnt from the Financial Markets Crisis" document was been presented by Mr. Klaus Dieter Kremkow (one of the members of the drafting team). Panel members discussed in great details the main messages of the report and shared/stressed their views on the possible follow up work. A supplementary paper by Mr. Kremkow was also considered.

The Panel took the view that the drafting team's document served as good input to the work that CEBS has been doing and also helps prioritising future CEBS activities. The report has several recommendations by the industry (Panel members) to CEBS, on which it should carry on and follow up. CEBS will make available the final document to its' members and its' expert groups to have in depth discussions and consider the recommendations by the Panel. It was however agreed that the document should not be published.

Panel members also shared their views on the recent market developments of credit conditions and had brainstorming on possible policy measures, also in light of international initiatives.

Kerstin af Jochnick, Chair of CEBS updated the Panel on the work of CEBS allocated by the ECOFIN roadmaps of 9 October 2007 on financial stability and financial turmoil. CEBS focuses on (i) liquidity risk, (ii) transparency, (iii)

valuation of illiquid assets, and (iv) establishing framework at CEBS for assessing and ranking risks in a forward looking manner.

CEBS has engaged in significant work in the area of banks' transparency on activities and products affected by the market turmoil. Following an internal review of some banks' third quarter results in late 2007, CEBS was mandated by the EFC-FST and the ECOFIN to carry out work in this area. CEBS carried out the analysis of the disclosures made by a sample of 20 large banks in the context of their last quarter and preliminary full year results. The report will be endorsed to CEBS members and published on CEBS website.

### **CRD implementation**

Mr. Patrick Pearson presented the Commission's proposals for changes to the CRD and that the industry inquired about possible legislative changes on liquidity issues and on the respective role and relevance of the papers being prepared by CEBS and the Basel Committee. CEBS representatives reassured that CEBS and the BCBS were working in close liaison. Mr. Pearson made clear that the specific limits in the draft CRD revisions text were placeholders and that the Commission welcomed discussion with the industry on appropriate figures for example securitisations on balance sheet.

### **Debate on the Lamfalussy review**

Mr. Arnoud Vossen, Deputy Secretary General of CEBS, presented CEBS stance / proposals (Qualified Majority Voting (QMV) and peer review, comply or explain, morally binding ...) and opened the discussion on the possible role of the consultative panel. Panel members expressed their views on each of the elements and agreed that it is an evolution of CEBS work.

### **Operational Networking**

In December 2007 CEBS decided to prolong the mandate of Subgroup of Operational Networking (SON), to expand the scope of work of SON to go beyond the CRD, and to enlarge the banking groups to be involved in this work from 10 to 17 banks. Following the publication in December 2007 of the Range of practices on supervisory cooperation, and Template for written agreements, the work on operational networking is currently focusing its efforts on: (i) field-testing of the Template for written agreements, (ii) producing a paper identifying good college practices, (iii) working on issues raised by the Industry Platform, and (iv) completing a template with the purpose to monitor the functioning of colleges. With respect to the field-testing of the Template for written agreements, a meeting at technical level with the Industry Platform was held on 30 April 2008. A high level meeting between the Industry Platform and the CEBS Bureau, also extended to cover the supervisors of the banks on which the project focuses will be held in June 2008.

Mr. Wilfred Wilms (EBF) observer of the Consultative Panel has referred to the positive results of the meeting between SON and the Industry Platform highlighting some areas where further progress is perceived as necessary by industry representatives.

Colleges of supervisors is an important tool, therefore the group should find the obstacles in a coordinated way. The summary note should be prepared on colleges and published to fill the gaps.

## **Liquidity**

The Chair of CEBS has informed the Panel about the 3 very constructive meetings between the Groupe de Contact (GdC) - Liquidity Task Force and the industry expert group on liquidity (IEGL). The 2<sup>nd</sup> part of the advice currently conveys not only lessons from recent market developments but also recommendations towards credit institutions (19) and investment firms on the one hand, and towards supervisors (11) on the other hand. Proportionality is an overarching principle that should enable supervisors to account for the great diversity of funding profiles and liquidity risk appetites of institutions in the EEA. On the 2<sup>nd</sup> part of the advice on liquidity risk management, due to political pressure and Parliament calendar, the consultative period will have to be reduced so as to have a "comitology directive" ready by end September-beginning October. CEBS is organising a public hearing due on 4 July 2008 at its premises in London.

## **Mergers and Acquisitions**

As Directive 2007/44/EC ("Mergers & Acquisitions") amends different sectoral directives by introducing almost identical provisions for the three sectors, the 3L3 Committees (CEIOPS/CESR and CEBS) agreed in Autumn 2007 to cooperate closely, under the leadership of CEBS, in order to ensure a common understanding and consistent implementation of the five assessment criteria. As the second criterion (fitness and propriety of persons who effectively conduct the business) echoes pre-existing requirements in the sectoral directives, harmonization in this field will also be ensured and a cross reference made in both sets of guidelines developed.

The Guidelines elaborate on each assessment criterion, so as to ensure a common understanding both within the supervisory community but also for the industry, but without going into interpretation of the directive. When difficulties in practical implementation have arisen (e.g. on "acting in concert"), questions have been put to the Level 2 workshops. Cooperation between supervisors of the 3 sectors has also been specified, in line with the M&A Directive. Both sets of guidelines are currently being fine-tuned and will be submitted to the 3 Committees through written procedures in June 2008, after which a normal consultation period will follow. A public hearing will be held in September (date still to be determined). The final sets of Guidelines will be published by Year-end 2008.

## **Peer review**

The Review Panel held 3 meetings so far, during which the members discussed the possible involvement of the industry on the self-assessments and they have come to consensus, that input from members should be kept minimal, as some fear that CEBS run a reputation risk by publishing far too positive answers received to the self-assessment questionnaire. On supervisory powers and objectives, CEBS will provide a sectoral analysis before November 2008.

CEBS will focus its analysis of the actual use of powers on sanctioning powers only, in line with the ECOFIN December 2007 Council Roadmap, rather than the wider scope envisaged in the Commission's March 2008 request.

## **Work Programme**

Panel members were informed about the new timeline of preparing the work programme for 2009, therefore in late August CEBS is coming back via written procedure to the Panel, asking for their input regarding priorities of CEBS work streams, in order to run the usual prioritisation and re-prioritisation exercise.

## **Industry Expert Groups**

Three out of the five industry expert groups (IEG) have already met several times, namely the IEG on liquidity risk management; the national discretions and the reporting groups. The IEG on valuation and recognition of illiquid assets and the one on pillar 3 are meeting in May.

The Chair of CEBS thanked the active participation and commitment of the industry representatives, these meetings and discussions are believed to be very useful for both ends. The input of the industry experts were timely and assisted the work of CEBS with specific issues in order to prepare consultation paper and advice for the Commission.

The Panel commented and requested that the papers for the meetings must be sent well in advance! And also should be more detailed on what will be discussed. Regarding the nominations into the IEGs, it was requested to revise the procedures, because the channels were duplicated! First the Panel members, second the industry associations and third the CEBS members should be asked for industry expert nominations.

AOB:

The EC's Financial Conglomerates Directive (FCD) Roadmap highlights that the involvement of industry will be an explicit element of the FCD review, and proposes establishing a technical mirror working group from the industry side, nominated in principle by CEBS and CEIOPS consultative panel members/observers, and having meetings or round tables twice in (September and December) 2008. Accordingly the Secretariats have alerted the CEBS and CEIOPS consultative panels that they will shortly be asked for its assistance in nominations to such an industry group.

Freddy Van Den Spiegel, Chair of the Panel has asked the members and observers for more input already on deciding on the agenda!

The Chair of the Panel announced that the October meeting will take place in **Paris (20-21 October 2008)** and hosted by BNP Paribas.

*The following members and observers of the Panel were present:*

Freddy Van den Spiegel (Chair); Andrew Cross; Richard Desmond; Klaus-Dieter Kremkow; Siegfried Jaschinski; Christian Lajoie; Herbert Pichler; Hugo Banziger; Joao Salgueiro; Demetrios Lefakis; Mariusz Zygierewicz; Klaus Willerslev-Olsen; Tullio Lucca; Jose Mendez Alvarez-Cedron; Peter Knutsson; Nils Frederik Nyblaeus; Stephen Sanders; Emmanuel de Founox; Volker Heegemann (observer); Walburga Hemetsberger (observer); Wilfred Wilms (observer); Anders Karlsson (observer).