

CEBS/05/17

March 2005

FEEDBACK ON THE REQUESTED ADAPTATIONS OF THE PUBLIC STATEMENT ON CONSULTATION PRACTICES:

Introduction

1. CEBS published its first consultation paper in April 2004, on consultation practices. The consultation paper further details the consultation obligations and measures described in the Commission Decision establishing CEBS and in the CEBS Charter. The consultation period ended on July 31, 2004. Nine responses were received, all of which were published on the website of CEBS, as well as some informal supportive comments. Most could be taken on board by the Committee, some could not. This feedback statement will describe the main reaction to the more important issues raised in the reactions, and will
2. The outline of the envisaged consultation practices was broadly supported. Several important comments were, however, made, which needed to be considered. Below, the most important issues are discussed. The table describes in more detail which comments pertained to which article of the draft statement, and give an analysis of why CEBS feels it could or could not take on board changes in the text. The changes in the text have been incorporated in the Public Statement on Consultation Practices, as also published today.
3. Several comments were made which not so much relate to the consultation practices, but to the working methods in general, e.g. the suggestions to coordinate with CESR, to take account of legislation in relevant third countries, and to take into account different sizes and shapes of small, large, co-operative, local and international banks and (for prudential regulations) investment firms. These comments do not concern the consultation practices, but they are listed separately in the table. They could not be taken into account in the statement relating to consultation procedures.

Main issues upon which comments were received

4. The main issues on which comments were received include the timeline of the consultation process, discretionary phrases used to give CEBS leeway in consultation processes, consultation on supervisory cooperation, relative weighting of responses, translations of consultation papers, and the work program. Below, the comments are described, including the subsequent reasoning of CEBS.
5. Timeline of the consultation process. Several respondents proposed to have a specific timeline for the working process following a mandate from the Commission. They also proposed to apply it mutatis mutandis to other work of CEBS which involved consultation. According to the various proposals for the timeline (partly borrowed from CESR's practices), this would entail 3 or 4 months for CEBS to draft a consultation paper (including early talks with experts and industry), a minimum of 3 (or even 6) months for consultation, 2 months for CEBS to analyse those observations, and an additional 2 months for CEBS to prepare an opinion and submit it to the Commission (before or after which a second consultation should take place according to several respondents). Also, it was emphasized that the month of August should be excluded from any reckoning of timelines, as well as other vacation periods. Lastly, several comments regard the starting point of this timeline. They remark either on the fact that the timeline for advice on level 2 should not start until level 1 has been finalized, or on the fact that the provisional mandates, during level 1 work, should also be published and included in the planning timeline.
6. It should be clear that especially timelines are not fully within CEBS' hands. CEBS nevertheless decided to include 'standard' timelines which should be followed as a rule. However, a disclaimer will be put in for short timelines set by third parties for advice by CEBS. The standard timeline is similar to the practices at other Committees. CEBS feels it could not set the standard periods fully up to the length requested, as in that case deviations from the standard as a result of external circumstances would be unavoidable. Formal consultation should generally only be undertaken if a formal mandate is available, but also in this respect it should be clear that this timing issue is not fully within CEBS' hands.
7. As to the more minor timeline comments, it is agreed that August as a rule is not counted in setting out a timeline. This is good advice both for deadlines set within the CEBS' structure and for consultation periods. Additionally, it will be clarified that this formal consultation process is in addition to informal talks or discussion meetings between experts in the early stages of work on e.g. mandates. Lastly, consultation periods should not normally exceed three months, as time is normally of the essence. The consultation periods will, however, be announced well in advance, so market participants, including end users, can prepare for it. All in all, CEBS feels that this will provide market participants, including end users, with certainty in their planning and will assure them that their views are given serious attention, while it would also allow for the necessary flexibility.
8. Discretion of CEBS. Several parties argued against the qualifying remarks in the consultation document, indicating that certain elements of the consultation

practices would only be applied e.g. where appropriate, where possible or where relevant. They suggested that the consultation process should be as transparent and inclusive as possible. Similar comments were made about the composition of experts-sounding boards and about specifically targeted consultations, as well as on ambiguous wording of certain criteria in the consultative paper.

9. CEBS decided to clarify and to better explain the circumstances under which discretions are intended to be used by CEBS to adjust the consultation procedure. In a respective disclaimer reference could be made to the importance and impact of a specific proposal, the circle of addressees, external factors and confidentiality concerns. In this way, both the necessary flexibility in the process, as well as the certainty for market participants, including end users, could be given. With regard to the experts-sounding boards, we refer to the Consultative Panel, which will help establishing the composition thereof.
10. Consultation on supervisory cooperation. The response on the paper's statement that work in the area of enhancing supervisory cooperation will not be consulted is varied. Several parties argue that supervisory cooperation is indeed a matter between supervisors; others point out that only/at least the cooperation issues related to specific institutions should be excluded from the consultation process, whereas others quite emphatically stated that supervisory convergence is of special importance to institutions which operate in several Member States, and should therefore be included in the list of matters for which consultation is standard.
11. CEBS decided to include supervisory cooperation in as far as it concerns general guidelines, recommendations or standards set by CEBS on it, and explicitly exclude supervisory cooperation with regard to specific institutions, as those arrangements fall within professional secrecy. Since that is normally not the domain of CEBS, but of the supervisors concerned, this should not ordinarily be an issue, other than as examples discussed during preparations for the abovementioned general guidelines, recommendations or standards (e.g. in the context of best practices and level playing field on financial conglomerates or home host cooperation under the CRD).
12. Relative weighting of responses. Several respondents, mainly banking associations, pointed out that relatively more weight should be attached to certain consultation responses. Factors mentioned were European versus national parties, associations versus individual organisations, banks versus non-banks, large versus small member states, as well as the level of professionalism and the level of representation.
13. CEBS decided not to apply any weighting of comments. Of course it is relevant who gives a certain advice. But at no time CEBS should be obliged to take responses to consultative papers as votes in an election, as a result of which weighting is not relevant. The responses will all be taken into account, based on merit. Merit can of course depend on expertise. The suggestions in the responses

as to relative weighting do not take into account the position of parties who do not react to a Consultative Paper (e.g. because they agree), nor the own responsibility of CEBS and of its members. Also, the proposals could lead to overlooking the interests of e.g. small and medium sized banks and investment firms, as well as of end users.

14. Translation. Some organizations asked for full translation of Consultative Papers from English into other languages, in order to avoid misunderstandings and problems arising at a later stage when e.g. it becomes clear that certain concepts do not exist in various jurisdictions and languages. One response suggested that, if this is denied, at least those concepts on which specific translation is requested by the industry during the Consultation, should be translated by legal/linguistic experts.
15. CEBS decided not to comply with this request, given that translation would require a lot of resources and does not seem to be justified from a cost/benefit analysis. However, members and respondents are of course free to make translations for their own purposes, if this will facilitate national discussions. The working language for the papers and for the responses will, however, remain English.
16. Work program. It is suggested to publish the annual Work Program in a certain month, as well as to include a schedule. Also, it is noted by a respondent that CEBS should not propose measures in a particular area if it is not possible to provide an assessment of their impact.
17. CEBS decided to slightly adapt the paragraph on the work programme¹ in order to take into account the format in which it will be published. The work programme will include schedules.

¹ See also item 5b, CEBS/04/68.

Detailed feedback

Draft Text	Received Comments	Analysis	New Text [proposal]
Who is consulted:			
<p>1. The Committee will generally:</p> <p>i) Target the full range of interested parties, including market participants, consumers and end-users;</p>	<p>1. Clarification requested that CEBS will additionally consult with relevant sectoral trade associations;</p> <p>2. Investment firms and their representatives should be actively involved</p> <p>3. Request to encourage a consultation culture (incl. face-to-face meetings, establishing of consultative groups composed of professionals in order to evaluate proposals where appropriate)</p>	<p>Ad 1. and 2. CEBS' intention is to address the whole range of interested parties. The listing is only declarative, not enumerative. However, in order to avoid any misunderstandings, the wording will be further clarified and expanded.</p> <p>As a standard, a full public consultation is envisaged. There might be amendments, as set out in the new article 11 (see the drafting suggestion on article 3), if it e.g. only affects certain market</p>	<p>1. The Committee will generally:</p> <p>i) Target the full range of interested parties, including market participants (<u>e.g. banks, investments firms, etc</u>), consumers, <u>other end-users as well as their representative associations</u>;</p>

		participants.	
<p>2. Reflecting the need for flexibility, when technical aspects of prudential supervision are addressed, the Committee may choose to target its consultation to market participants only. Such targeted consultations will always be followed by the publication of the Committee's final decision on the same topic.</p>	<p>Extension of the consultation process to all interested parties, including relevant sectoral trade associations (not only market participants).</p>	<p>The flexibility issue will be dealt with in a new article 11 (see the drafting suggestions under article 3) Given that market participants' representative association are clearly in a position to provide useful input in technical prudential supervisory issues, a respective reference will be included.</p>	<p><u>See the drafting suggestion under article 3, and:</u></p> <p>2. <u>When the Committee chooses to target its consultation to market participants and their representative associations only, in accordance with article 11,</u> such targeted consultations will always be <u>announced and will be followed by the publication of the Committee's final decision on the same topic.</u></p>
<p>3. The Committee will publish an annual work programme indicating which parties it intends to consult on each area of anticipated work. If a request to be consulted on a particular area is subsequently received from any other party, this request will be granted if it fits in with the time schedule foreseen in the work programme.</p>	<p>1. Drawing up of the work programme should be done in collaboration with all interested parties;</p> <p>2. Request for clarification what "an annual work programme indicating which parties it intends to consult on each area of anticipated work" means in terms of consulted parties.</p> <p>3. Considered as helpful if CEBS were to set out a typical consultation cycle in</p>	<p>Ad 1. The Draft Work Programme will be submitted to the CEBS Consultative Panel for their views, before being adopted by CEBS. Due to the comprehensive composition of the Panel, the Panel members' response can be considered as representative for this purpose. No changes.</p>	<p>3. The Committee will publish an annual work programme, including a schedule of work streams, indicating <u>whether a full or a targeted consultation is intended</u> on each area of anticipated work. If a request to be consulted on a particular area is subsequently received from any other party, this request will be granted if it fits in with the time schedule foreseen in the work programme.</p> <p><u>The schedule of workstreams, indicating consultation periods,</u></p>

	<p>relation to Lamfalussy level 2..</p> <p>4. Request for indication of the month in which the annual work programme will be published.</p> <p>5. Would be helpful to set out a typical consultation cycle in relation to Lamfalussy level 2 (e.g. the IIMG and CESR recommend a 12 month cycle), with more scope for variation as regards level 3</p> <p>Would like CEBS to have at least nine months, and possibly twelve, in which to complete its work (3-4 months drafting, 3 months consultation, 2 months analysis, 2 months to prepare an opinion and submit it to the Commission (the need may then arise for a second round of consultation, which would require a further 2-4 months))</p> <p>6. <i>CEBS must define its future consultation process</i></p>	<p>Ad 2. The cited phrase refers to the possibility to have either full consultations or targeted consultations. This will be clarified.</p> <p>Ad 3, 5 and 6. CEBS considers the insertion of a typical (optimal) consultation cycle as useful means to further explain the consultation process. In addition, given that CEBS will also consult on level 3 work, there will also be inserted a typical level 3 consultation cycle.</p> <p>A disclaimer, however, will be put in the new article 11 for short timelines set by third parties for advice by CEBS. The standard timelines, in combination with the disclaimer, will ensure that necessary due diligence would be undertaken for non urgent complicated</p>	<p><u>will be updated quarterly.</u></p> <p><u>As new articles 9 and 11, the following articles will be inserted:</u></p> <p><u>9. CEBS will, unless article 11 is applicable, follow the following standard timelines:</u></p> <p><u>Standard Timeline for advice on level 2:</u></p> <ul style="list-style-type: none"> <u>. 4 months as of receipt of the mandate for CEBS to draft a consultation paper, with possible informal meetings with technical experts recommended by the Panel</u> <u>. 3 months public consultation</u> <u>. 3 months for CEBS to analyze the received comments</u> <u>. 1 month for CEBS to prepare a final opinion and to submit it to the Commission</u> <p><u>If work is based on a provisional mandate or if it concerns a</u></p>
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	<p><i>more precisely as regards timeframes (...).</i></p>	<p>matters, but that when less time is available, or it concerns a non controversial matter, CEBS is not committed to a lengthy procedure (which might theoretically lead to a long wait before desired changes in legislature are implemented.</p> <p>Ad 4. Though it is intended to publish the Work Program in the last quarter of the preceding year, there might be circumstances where the Work Program can only be finally agreed and published in the first months of the year it concerns. The schedule for envisaged workstreams, in which public consultation periods are highlighted, will, however, be updated at least quarterly, and will give the required information on timelines.</p>	<p><u>controversial matter, and it is possible within the existing timelines, part 4 of this timeline will be replaced by a 1 month-period for preparation of a new consultation document and:</u></p> <ul style="list-style-type: none"> . <u>1 month for a second round of consultation if required</u> . <u>3 months for CEBS to prepare a final opinion and to submit it to the Commission</u> <p><u>Standard Timeline for work on level 3 issues:</u></p> <ul style="list-style-type: none"> . <u>Publication of the timeline for work on a level 3 issue.</u> . <u>preparation of a consultation paper, with possible informal meetings with technical experts recommended by the Panel</u> . <u>3 months public consultation</u> . <u>2 months for CEBS to analyze the received comments</u> . <u>1 month for CEBS to prepare a feedback document and final opinion and to publish them</u> <p><u>If it concerns a controversial</u></p>
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			<p><u>matter, and it is possible within the existing timelines, part 5 of this timeline will be replaced by a 1 month-period for preparation of a new consultation document and:</u></p> <ul style="list-style-type: none"><u>. 1 month for a second round of consultation and</u><u>. 3 months for CEBS to analyze the received comments and to prepare the final document</u> <p><u>Amendments to standard consultation procedures</u></p> <p><u>11. The Committee will as a rule apply the standard consultation procedure. Amendments may be made to the standard consultation procedure in the following circumstances:</u></p> <p><u>if the months of July and/or August are included in any stated standard term (either for technical work, for consultation or for feedback) the set standard term is lengthened by one month;</u></p> <p><u>if shorter timelines are set by</u></p>
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			<p><u>third parties for work by CEBS;</u> <u>if there is no time constraint;</u> <u>if it concerns technical advice or technical level 3 instruments with an impact only on a specific set of market participants or for textual improvements only;</u> <u>if the documents include information protected by e.g. secrecy regulations.</u></p>
Areas of Consultation:			
<p>5. where relevant, the committee will consult on its work in the areas of</p> <p>i) the consistent application of Community directives;</p> <p>ii) the convergence of Member States' supervisory practices.</p>	<p>1. Specification in the Statement of the circumstances under which CEBS would not consult on its work ("where relevant" potentially leaves a lot of discretion with CEBS)</p> <p>2. To have a formal supervisory disclosure regime</p>	<p>Ad 1. The proposed term "where relevant" avoids that CEBS has to consult on minor issues where the costs (e.g. due to delays), of a consultation exceed its benefits. However, it is useful to further specify in which instances the consultation procedure will be amended. This will be done through a new general article 11.</p> <p>Ad 2. This request relates to supervisory disclosure, which does not directly affect this paper and which will be</p>	<p><u>See the drafting suggestions under article 3, and:</u></p> <p>5. The Committee will consult on its work in <u>providing guidelines, recommendations, standards and general advice</u> in the area of</p> <p>i the consistent application of Community directives</p> <p>ii the convergence of Member States' supervisory practices. <u>The actual supervisory practice itself is ongoing work, which will not be consulted.</u></p>

		addressed separately.	
<p>6. In principle, the Committee will not consult on its work in the area of enhancing supervisory cooperation, including the exchange of information on individual supervised institutions.</p>	<p>Partly view that supervisory co-operation should not be excluded from consultation, partly agreement with current provision, with one respondent asking for periodical updates of all interested parties on the state of progress of the work on this issue and another one expecting that CEBS would wish to be notified by the industry "if coordination is not felt by the firms to be working well" (request for a clear statement in this respect).</p>	<p>As reflected by the various comments on this provision, some flexibility seems to be required in this area. This can be addressed by the new article 11 (see the drafting suggestion under article 3) The comments show, however, some misunderstanding about the meaning of this article. It is proposed to clarify its intent. Supervisory cooperation in as far as it concerns general guidelines, recommendations or standards set by CEBS on it, will be consulted as a rule. Supervisory cooperation with regard to specific institutions will not, due to confidentiality requirements. As that is normally not the domain of CEBS, but of the supervisors concerned, this should not ordinarily</p>	<p>6. The Committee <u>will consult</u> on its work in <u>providing guidelines, recommendations, standards and general advice</u> in the area of enhancing supervisory cooperation <u>and on the structure of information exchange arrangements.</u> The <u>actual exchange of information itself is ongoing work, which will not be consulted, amongst others due to the issue of confidentiality.</u></p>

		be an issue.	
Modes of consultation:			
7. The Committee will iii) Include in proposals preliminary information on their impact whenever possible;	Questions whether CEBS should be proposing measures in a particular area in the first place if it is not possible to provide an assessment of their impact (questions qualifier "wherever possible)	Impact analysis tools have not yet been developed at the EU level, nor in several of its member states. This makes it often impossible to make a sound analysis of the impact. When indications can be given, they will of course be included. It will be clarified that this is not a discretion of CEBS, but concerns the availability of the information.	7. The Committee will iii) Include in proposals preliminary information on their impact whenever <u>available</u> ;
7. The Committee will: ... iv) When necessary, release its thinking at various stages, including via releases of draft papers;	Wording not entirely clear in point iv ("when necessary, release its thinking at various stages, including via releases of draft papers"): Will CEBS documents simply explain the Committee's position or will they also contain proposals? Are they merely explanatory, or can readers comment on them? Will the documents be	The discretionary wording will be replaced by the new general amendment article 11 (see the drafting suggestions under article 3), in which all flexibility arrangements are included, as well as in a slight rewording of this article, making clear that this release will be	The Committee will: ... iv) When necessary, release its thinking at various stages, including via releases of draft papers <u>with initial questions or requests for comments, prior to a formal consultation period</u> ;

	<p>published before or after the first consultation round? However, they should not go over the same grounds as the feedback documents published after a consultation, and they are not considered as being high on the agenda (might tie up resources which could be better used for other purposes)</p> <p>Encourage CEBS to consider as much "early release" of thinking as possible; not only formal "pre-consultation", but CEBS should commit to a sharing of ideas as early as possible</p>	<p>followed by a formal consultation period</p>	
<p>7. The Committee will: ...</p> <p>v) Establish consultative groups of experts where appropriate;</p>	<p>Stresses that expert groups can not under any circumstances replace industry professionals and their representative organizations</p>	<p>Additionally, it should be clarified that this formal consultation process is in addition to informal talks or discussion meetings between experts in the early stages of work on</p>	<p>The Committee will: ...</p> <p>v) <u>Establish consultative groups of technical experts if prior to the formal consultation discussions are planned (experts will be selected by the</u></p>

	<p>The criteria for the selection of the consultative expert groups should be indicated</p> <p>To supplement regular consultation practices with ad hoc meetings to address special concerns of particular horizontal market segments</p> <p>To initiate, to the extent possible, preliminary informal consultation (organize informal discussions at an early stage with a cross section of experts and those most likely to be affected, and produce a representative analysis of the replies received in a feedback statement; formally publish initial tentative proposals in a preliminary form)</p>	<p>e.g. mandates. The Consultative Panel will have a role in selecting candidates for the informal meetings, as well as members of CEBS.</p> <p>Furthermore, CEBS is of the opinion that seminars might be held on specific topics, but this is not part of the consultations process on specific work. No changes.</p>	<p><u>Committee and by the Consultative Panel);</u></p>
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Timing of consultation:			
<p>8. The Committee will</p> <p>i) publish any mandate received from the European Commission as soon as practical after receipt;</p>	<p>Regret that CEBS does not make explicit reference to the system of provisional mandates.</p> <p>CEBS must define its future consultation process more precisely as regards (...) the provisional mandates issued by the Commission (...).</p>	<p>Draft mandates should be included in the timeline, but mainly as buying preparatory time and for informal consultations. Formal consultation should only be undertaken if a formal mandate is available. This does, however, not depend on finalization of level 1 work. On the contrary, early work on level 2 regulations can have beneficial effects on level 1 laws.</p>	<p>The Committee will:</p> <p>publish any <u>provisional or formal</u> mandate received from the European Commission as soon as practical after receipt;</p>
<p>8. The Committee will ...</p> <p>ii) Organise upon request informal discussions at an early stage with those most likely to be directly affected;</p>	<p>Criticism that the exercise of this paragraph is solely left to CEBS' discretion.</p> <p>Would appreciate more clarity on how the process "upon request informal discussions at an early stage with those most affected" would be initiated.</p>	<p>Every concerned party in an identified work stream can ask for discussions on it. If this is useful for the work being done, this will be added to the informal consultations preparatory to the formal consultation documents. If timing issues intervene, or an informal discussion</p>	<p>The Committee will ...</p> <p>ii) organize upon request or of its own volition informal discussions at an early stage.</p>

		would not add information necessary to prepare the consultation document, the parties who asked for a discussion will be referred to the general consultation period. Also see article 7 (v).	
8. The Committee will ... iii) Consult at a sufficiently early stage to enable the Committee to take the responses into account;	The work schedule is too vague	In order to be more precise, a reference to the inserted typical consultation cycles will be inserted. Also, see above under article 3.	<u>See the drafting suggestions under article 3 and:</u> 8. The Committee will ... iii) <u>Consult in line with the cycles defined under Article 9</u> , to enable the Committee to take the responses into account;
8. The Committee will.... iv) allow those consulted adequate time to respond , given that the complexity of the issue and the time available. For significant issues, the Committee will aim to allow a three-month consultation period.	3 months should be the minimum consultation period for significant issues; for complex issues longer consultation period than 3 months might be required To set a minimum three-month consultation period for all issues;	Consultation periods should not normally exceed three months, as time is normally of the essence. The consultation periods can, however, be announced well in advance, so market participants, including end users, can prepare for it. See the proposals under article 3	<u>See the drafting suggestions under article 3, and:</u> The Committee will.... iv) <u>provide the consulted parties three months to respond for each formal</u> consultation period;

	<p>3 months consultation reasonable in general, pre-consultations should be considered with associations and other who have shown themselves to be consistently interested in the issues on which CEBS consults;</p> <p>The consultation period should always be three months as a minimum (not only for significant issues);</p> <p>It could be specified that, if a consultation period is scheduled during the holiday season, the month of August would not be included</p> <p>To clarify that an "adequate" period of time cannot be shorter than 45 days</p> <p>For significant issues the time limit should be six months instead of three</p>	<p>on the time schedule. The timing demands of consulted parties and of the issue which needs to be addressed can be balanced in this way.</p> <p>Either the month of August or of July will not be counted in setting out any timeline. If one of these is included, an additional month is added to the consultation period or any other period as a rule. See the drafting suggestions under article 3.</p>	
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Follow-up consultation:			
9. The Committee will: Give due consideration to the responses received;	Request that the representativeness of the person(s) commenting on responses should be taken into account.	The responses will be analyzed by the CEBS Secretariat, which will liaise with other experts where required. No change.	
9. The Committee will: ... Make public all responses to any of its consultations, unless the respondent requests otherwise, or make public a summary of the responses received;	The phrase "reasoned explanation addressing all major points" is considered to be ambiguous (full endorsement of the proposal if this means the publication of a proper feedback). <i>CEBS must define its future consultation process more precisely as regards (...) feedback mechanisms (dealt with in ambiguous terms) (...).</i>	Feedback will be published in a table like the present. A format of this (see * below) will be added to the Public Statement	The Committee will: ... Make public all responses to any of its consultations, unless the respondent requests otherwise, <u>and make public a summary of the responses received and its feedback in the attached format*</u> ;

<p>9. The Committee will: ...</p> <p>Consult for a second time if the response to the first consultation reveals significant problems, or if revised proposals are radically different from the original proposals on which consultation was based;</p>	<p>Second round of consultation should usually occur;</p> <p>Support to have in general a second round of consultation; under certain circumstances also pre-consultations with associations and market participants useful;</p> <p>All consultations should consist of two rounds (even though substantial costs involved)</p> <p>A second round of consultation should always take place following final approval of the primary legislation (if work is based on a provisional mandate)</p>	<p>This article will be replaced by a new article 10 on standard timelines, as well as by the new article on amendments of timelines, article 11. A second round of consultation is not part of the standard time line. However, if the existing timeline permits, and the issue is controversial, CEBS will endeavor to consult for a second time. See the drafting suggestions with regard to article 3.</p>	<p><u>See the drafting suggestions with regard to article 3.</u></p>

Final Provisions:			
10. If it is not possible for the Committee to follow the principles described above, the Committee will publicly explain its reasons.	CEBS should make it a rule to avoid departing from the principle that it follows the consultation process as set out	See the new article 11, as set out in the drafting suggestions for article 3.	<u>See the drafting suggestions with regard to article 3.</u>
Other comments:			
	Could be useful to add guidance on preferred form of response (to follow structure of the CP, or separate key issues from minor drafting changes, etc)	The format of responses can best be set by the respondents. If a specific format is desirable with regard to a certain subject, this will be clarified in the consultation paper. No changes.	
	Suggests that CEBS should put a relative weight on the particular submissions (e.g. views of the associations representing the economies with the most significant banking sectors should carry more weight than those	These comments are not supported by CEBS. Of course it is relevant who gives a certain advice. But at no time CEBS will be obliged to take responses to consultative papers as	

	<p>representing smaller economies)</p>	<p>votes in an election, as a result of which weighting is not relevant. The responses will all be taken into account, based on merit. Merit can of course depend on expertise. The suggestions in the responses as to relative weighting do not take into account the position of parties who do not react to a Consultative Paper (e.g. because they agree), nor the own responsibility of CEBS and of its members. Also, the proposals could lead to overlooking the interests of e.g. small and medium sized banks and investment firms, as well as of end users.</p>	
	<p>Advocates that CEBS should publish a similar Public Statement of Consultation Practices as CESR, with deviations only if it considered that any amendments were an improvement or because of particular differences in the</p>	<p>No changes.</p>	

	banking sector		
	CEBS and CESR must coordinate their activities	This is already being done, and does not impact on the consultation methods itself. No changes.	
	Asks for translation and suggests that CEBS should work in collaboration with legal/linguistic experts. <i>CEBS must define its future consultation process more precisely as regards (...) the translation of documents (particularly legal concepts)</i>	Translation would require a lot of resources, and does not seem to be justified from a cost/benefit analysis. However, members and respondents are of course free to make translations for their own purposes, if this will facilitate national discussions. The working language for the papers and for the responses will, however, remain English.	
	Would like CEBS to be permitted to draft level 2 measures in a legally	This is not in the mandate for CEBS. No	

	binding form	changes.	
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Summary of responses to the Consultation Papers - thematic or by specific issue	CEBS Analysis	Input from Panel (if and when consulted)	CEBS accepts or rejects industry proposals - Detailed explanation	Rewrite the standards, guidelines.	Publish the final set of standards, guidelines etc.
1. Issue	Detailed analysis	Including majority minority views	Accept/reject and reasoning	Set out re-draft of specific text(s) if appropriate	Date and title of publication
2. Theme .					