



## Assessing CEBS' progress so far

### Introduction

2007 is an important year for CEBS. We have completed the first stage of our work, helping to bring in a new and highly significant capital regime for EU credit institutions and investment firms. After three years of focussing mainly on the design of this new regime, we are now moving to its day-to-day delivery, as European banking supervisors take up the challenge of working under the Capital Requirements Directive (CRD).

This is a good moment to take stock and ask ourselves whether CEBS is performing as expected. There will be a public opportunity to discuss these issues at CEBS' first major conference, which takes place in May 2007. We also intend to feed in our views to the review of the 'Lamfalussy' process towards the end of 2007. This review will assess how well the EU's Lamfalussy process has met its aim of a more effective regulatory system for financial services (by improving and speeding up financial market legislation, and improving the way supervisory cooperation is structured). It is likely to be wide ranging. It may come up with recommendations on whether the Lamfalussy process is working as expected or, if not, what can be done to reinforce it.

For our part in CEBS, we intend to make a significant contribution to the review process. The first step is to check whether we are on track and are meeting the expectations and objectives we were set three years ago. Between November 2006 and January 2007 we asked industry, consumers, the EU authorities, and our own members, to tell us how they regard our committee. We are keen to know how we are perceived by all our stakeholders, so that we can better meet their expectations. The international polling and survey firm *Ipsos MORI* was contracted to assist us and prepare a report.<sup>1</sup> Respondents were asked to give candid comments on CEBS' work and tell us how and where we could make improvements.

Following on from this important exercise we are now offering our response and adding our own comments. Our report is intended to highlight and evaluate the key messages emerging from the assessment exercise, pointing out where we agree with the responses. We will also set out how we intend to address the criticisms and use them to improve CEBS' performance.

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<sup>1</sup> *Ipsos MORI* was asked to prepare an independent report based on a quantitative analysis of the survey results. The survey was addressed to industry (banks, investment firms, trade associations etc.), to the EU authorities (in the European Parliament, European Commission, and Council), to

This report covers the following issues:

- **Key messages: a summary of the main feedback we received in the assessment survey and CEBS' commentary**
- **Part I: How well does CEBS work?**
- **Part II: CEBS' three main objectives**
- **Part III: Consumer issues**
- **Annex 1: CEBS' technical advice to the European Commission**
- **Annex 2: CEBS' (Level 3) guidelines**

We would also encourage readers to study the *Ipsos MORI* survey alongside this report, particularly to understand the detailed and varied views held by industry, consumers and EU authorities on each area of CEBS' work.

The responses show that a very substantial majority of the responses from the financial services industry came from banks with cross-border business; only a small number of national or EU trade associations/banking associations, smaller banks, consultants and other institutions participated in the survey. The number of respondents in some categories is quite low. The results should be read with these '*health warnings*' in mind.

## Assessing CEBS' progress so far

### **Key messages: a summary of the main feedback we received in the assessment survey and CEBS' commentary**

The overall results of the *Ipsos MORI* poll on CEBS' performance suggest that most respondents are either happy, or fairly satisfied, with what they see coming out of CEBS and how we work. We are of course pleased with this general assessment as it acknowledges the huge effort that has been made by the banking supervisory community, in the first three years of the committee's life. Three years ago the committee was charged with ensuring that the EU's new capital regime would be successfully and fully implemented on time. In response we have worked hard to flesh out the basic concepts of the CRD and turn them into supervisory practices that can be followed clearly, consistently and transparently by all supervisors, credit institutions and investment firms.

But digging behind this headline assessment there are a number of nuanced observations that warrant our deep consideration:

- While most respondents agree that CEBS seems to be performing well, the message is also that there is generally scope for improvement. We agree with this assessment. This report will set out some of the ways in which we will aim to do better.
- Many stakeholders also feel that CEBS' contribution to EU-wide good practice, and our potential impact on EU convergence, has been somewhat lacking. We accept this criticism. But we want to flag that it is still relatively early days in the life of the committee. We have spent most of our time on the development of guidelines. These need time to bed down and be implemented at the national level before convergence can truly take place. Our future work programme is being designed – via greater reliance on supervisory disclosure, operational networks, implementation seminars, peer review etc. – to test whether the committee is indeed having a bigger impact on the convergence of national supervisory practices. But in doing this we must remain conscious that convergence is both a process and an end point, and whether it is both feasible and desirable. Convergence needs to take account of the nature, size and complexity of institutions and their needs, and the differences embedded in the CRD.
- A significant number of respondents, in particular market participants, consider that CEBS has not excelled in conducting its public consultations and should do better (although it is widely agreed that CEBS has been fairly responsive to feedback received in the consultations). This is a point CEBS will have to address. We are currently reviewing our consultation practices and are asking for input from industry and others on how we can improve this process.
- There is a good deal of agreement that CEBS has tried hard - and fairly successfully - to address the key principle of 'proportionality', i.e. that a risk-based supervisory environment needs to have some degree of flexibility, to take account of the different size, scale, and complexity of credit institutions and investments firms, in deciding how best to apply the rules.

- But in contrast, many in the industry take a fairly critical view of the level of detail in CEBS' products. These stakeholders seem to believe that we have not always followed a principles-based approach in our guidelines. We are conscious of this criticism and see that there is some truth in it, at least with reference to some sets of guidelines. At the same time, we notice that - in some cases - there might be some trade-off between the adoption of lighter touch, principles-based approaches, and the ability to achieve convergence across 27 Member States. For instance, some cases (e.g. in the guidelines on model validation) are focussed on new supervisory processes where clarity and precision was deemed to be necessary to achieve some convergence. We will now carefully reconsider our approach and assess how CEBS can better adhere to the principles-based approach, taking into account the characteristics of individual guidelines, and the needs of smaller institutions.

### **Part I: How well does CEBS work?**

In 2005 we published a key statement on our role and tasks.<sup>2</sup> In it we explained our overall approach to meeting our aims and objectives, as well as the tools at our disposal to fulfil these, taking stock of the experience gained over the first year (then) of our existence, and looking ahead at how we intended to address near-term challenges. We continue to operate in a market environment characterised by a wide diversity of firms, with a large majority of the EU's 8,000 credit institutions operating on a predominantly national, or even local, scale. But the main drivers for structural change are internationalisation, consolidation and the centralisation of key business functions. These market trends are creating a misalignment between legal and operational structures of cross-border groups and this presents several challenges to the smooth functioning of a supervisory system organised along national lines, and to the operational implementation of the concepts contained within the banking directives. The existing diversity in markets may suggest that the EU does not have an overarching need to strive for full regulatory convergence in the banking field, although local rules should not disrupt progress towards convergence of supervisory practices or unbalance the EU-wide level playing field.

CEBS' main objectives, in carrying out our tasks, are to promote cross-border supervisory co-operation and the safety and soundness of the European financial system in an effective and efficient way, through:

- contributing to effective legislation, through sound technical advice, open consultations and convergence in practices;
- encouraging good supervisory practices, to be implemented in a convergent and consistent manner;
- promoting an efficient approach to supervision, which avoids unnecessary duplication of tasks; and
- working towards a level playing field across the EU, by adopting approaches that are proportionate to the nature, scale and complexity

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<sup>2</sup> The Role and Tasks of CEBS (CP08): [http://www.c-eps.org/Consultation\\_papers/CP08.htm](http://www.c-eps.org/Consultation_papers/CP08.htm)

of the business of supervised entities and paying attention to the regulatory burden.

*Overall performance – the pros...*

So how are we doing in meeting expectations? The overwhelming majority of respondents to the 2007 assessment survey take a positive view of CEBS. The financial services industry largely gave us its full support three years ago when CEBS was established and thought we would be well placed to have a positive effect on the necessary and desirable integration of the EU's financial markets and on the convergence of supervisory practices. These credit institutions and investment firms are broadly still of that view.

For our part we are keen to stress that we believe CEBS has done a great deal of positive work in a very short space of time and with quite limited resources. This also applies to national supervisors – our members – on whom we depend for a significant amount of work and whose resources were already under pressure, implementing the new framework while carrying out their day to day responsibilities.

In their comments on the assessment survey many stress that our initiatives have helped promote supervisory cooperation, operational networking, convergence and a shared supervisory culture. They also see our work as having a real impact on cooperation and in helping to solve important and difficult regulatory issues. The other positive areas are in convergence of reporting through common frameworks, guidance on CRD implementation, through clear guidelines and updated information. And while there has been some criticism of our consultation processes many do also give us credit for being responsive to concerns that are raised. Many also appreciate the timely and sound advice that we have been to give the European Commission and finance ministries in response to specific requests for work and our transparency in preparing this work.

*... and the cons*

On the down side some industry respondents point out that despite banking supervisors' best efforts, supervisory convergence as a concept may have a limited impact while national rules can, and continue to be, adapted slightly differently by each Member State. They also suggest that this could be exacerbated by CEBS' decision making process, as this is largely based on consensus, which means that just one member could potentially block a decision. We also received similar negative feedback from the EU authorities, again focussing on the perceived lack of an institutional solution to sort out divergent views among supervisors. Here again there is a perception that consensus may not be the best way to deliver an optimal outcome from an EU perspective, as it could also be the lowest common denominator for what is realistically achievable, if not a compilation of national approaches.

*Response:* We should point out that all CEBS' products to date have been completed with complete unanimity within the committee and that we have never resorted to a vote. But in theory it is true to say that the knowledge that an effective veto exists, may - indirectly at least - constrain the choice of options at the policy development stage. We also acknowledge that in some key products (see annex 2 for a discussion of the FINREP and COREP frameworks) the amalgamation of

very different national approaches may have failed to deliver a truly European benchmark, and that there is still some way to go in getting other issues fully resolved (e.g. in the areas of national discretions and mutual recognition). As the guidelines must interact with national legal constraints, we have tried to make sure that they provide for convergence and can work as smoothly as possible for CEBS' members in the national context. Supervisors are also responsible for adopting them and using them in their daily work. Considering the difference in national supervisory and banking traditions and approaches, as well as market characteristics when CEBS was established, we have to be aware that convergence cannot be achieved – and may not even be desirable – in a single shot. Convergence is a process as well as an end point. This is particularly so because our guidance aims to be principles-based, which could in theory lead to different interpretations unless we monitor it closely and establish effective mechanisms to ensure that convergence is actually achieved in day-to-day practices. There might, on the one hand, be a trade-off between effective decision making and the establishment of truly European benchmarks, and on the other hand, the stronger buy-in that the consensus of CEBS' membership ensures. CEBS will have to consider how to best address this trade-off. We must make sure that we achieve convergence in day-to-day practice and can fine-tune the guidelines to reflect improvements.

Another industry criticism is that, in general, we have tried to tackle too many subjects and may have wasted scarce resources on low impact activities. This may also have led to too many guidelines, and to overly detailed ones being issued in a short period of time. CEBS is also accused of being too slow in bringing out the guidelines, missing the boat and important milestones in the development of the CRD.

*Response:* We acknowledge that we have produced a large package of guidelines in a very short space of time, and that there is some truth in the suggestion that our final products are sometimes complex and detailed. On the other hand, we were given a very small window of opportunity to do our work and nearly all of our products were designed to tackle a specific and important aspect of the CRD. As the guidelines had to be consistent with the CRD, they could not be finalised until the final version of the legislation was available. Without these guidelines it would be impossible to promote convergence of supervisory practice. We do not believe CEBS could have worked faster than it has, although we recognize that this rather tumultuous first phase of work could have benefited from more thorough planning. A new process for the prioritisation of tasks has been tested for the elaboration of the Work Programme for 2007 and will be further refined in the future.

### *Setting priorities*

The survey asked respondents what areas, if any, should have been added or omitted from CEBS' work programme. On the whole the current work programme has gathered a fair amount of support, in so far as many think that the published choice of priorities is appropriate and reflects CEBS' general mandate. However, no clear picture emerges from either industry or the EU authorities on what additional issues they think CEBS should do next.

Some respondents feel that more work is needed on strategic issues (such as crisis management, work on systemic risk, economic and finance sector analysis on risk modelling). Others feel that CEBS should start to take a more operational approach and work to solve practical questions raised by industry on the CRD; some suggest that we should take on board some sort of mediation responsibilities, in order to resolve divergent views and practices between supervisory authorities; and some want us to do more work on training and secondments between supervisors and to financial institutions to learn more about supervision at the more practical level. Other respondents feel that CEBS should start to look outwards and enhance cooperation with non-EU supervisors.

But many more think that there is no need, at the moment, to add new areas of work. In fact more are worried about the danger of over regulation and would like CEBS to take steps to reduce bureaucracy and to rationalize the volume and complexity of EU regulation. So, far from adding to CEBS' work, there are many more concerns that the work programme and timelines may be too ambitious and do not take into account of the limited resources available. This may be especially true for the tasks set by third parties, such as the European Commission and finance ministries, since some criticism arises regarding the tight timelines from the European Commission which can affect the quality of the output from CEBS and put pressure on national resources.

*Response:* Although there is no clear consensus on what we need to do next, we detect a risk that CEBS may start to be regarded as the default solution to the many different problems identified by different stakeholders. In order to ensure an efficient use of scarce resources, we consider it important that priorities are identified through a bottom-up process, with the involvement of those practicing supervisors involved in the fieldwork, applying Community legislation, and market practitioners and consumers of financial services that are directly affected by our work. CEBS' Consultative Panel, and the supervisory and industry groups dealing with CEBS' project on operational networking, could play a key role in this process. At the same time, it is essential that our priorities at the EU level are defined in a coordinated fashion with national priorities, so as to avoid divergent approaches being developed in the first place. The recommendation of the Inter-Institutional Monitoring Group, to insert a reference to EU supervisory convergence and cooperation in the mission statement of national authorities, merits some study as it could be instrumental to such an objective.

#### *Communication, consultation and transparency*

In CEBS we have worked hard to ensure that we communicate effectively. This is intended as a two-way process, providing stakeholders with timely information and also providing clear channels to receive input and feedback. These efforts seem to be fairly successful in so far as respondents to the survey largely agree that they do get the information they need, and agree that our email alerts and the CEBS' website are very useful tools. However in order to raise the quality of our work, many suggested that more could be done, such as more direct contact with the industry and trade associations.

There is less satisfaction with the public consultation process. Here the comments suggest that we have not yet reached the right degree of participation by stakeholders in our work and that there is a lack of transparency of structures and processes. At the very least many respondents suggested that there should be more consultation on current subjects, more public hearings, and more opportunities to allow the industry to raise issues or ask questions.

Another common theme in the responses lies in the area of transparency. Many feel that while we have been moderately successful there is still a long way to go before we can claim to be thoroughly transparent, and there is some dissatisfaction with our decision-making processes in terms of outcomes. For example, some respondents noted that the rules for the nomination of industry experts to working groups is unclear, that CEBS seems to have focused on the interests of a few internationally active banking groups, and that there is little obvious dialogue with non-banking institutions. We received many ideas on how this could be improved, including calls to publish the minutes of our main meetings, producing a quarterly newsletter, creating e-forums on specific issues, and making sure that the minutes of expert meetings and statements of the Consultative Panel are published in a timely way on the CEBS website. Others suggested that CEBS should aim to be more accountable and have more direct and frequent contact with MEPs, and perhaps even appoint a parliamentary liaison officer to work with the European Parliament's ECON committee. We also received calls to hold regional conferences to increase the visibility of CEBS work and to increase direct feedback from supervised institutions.

*Response:* We take some comfort in the fact that we have not disappointed our stakeholders in terms of communication. But the messages on consultation and transparency do not make very comfortable reading. We will aim to improve our efforts in these areas by ensuring that we schedule more and earlier meetings with the industry during the drafting process, if and when new or revised guidelines are needed. In practice this would mean that we would need to hold more seminars and open hearings to increase the opportunities to engage with the wider industry. We also agree that we should make greater use of input from industry experts, in specially convened workshops. The mechanisms for selection of the participants to these meetings will also need to be reviewed. The industry should also take into account that an increase in consultation will demand more resources on both sides, and we would urge those institutions that have been less involved in the past not to delegate this work to a more active minority. We will also give some thought on how to improve our dialogue with consumers and try to test new tools to help us focus more on the needs of this constituency. We also agree that our members should individually and jointly make more efforts to communicate publicly at both the national and EU level to promote CEBS activities and products to the industry. We could aim to make more use of our website, as an interactive tool, to gather views and issues from the industry, engage in a dialogue, and communicate our views. In purely practical terms we will also endeavour to produce more concise, shorter and strictly focused papers, using simpler language and making better use of executive summaries. CEBS also considers that the tight



timelines for the production of technical advice might have impacted on the rather mixed assessment of our performance in this area, as CEBS has seldom been in a position to conduct full public consultations.

#### *Principles-based regulation v. detailed rules*

CEBS has generally aimed to deliver the guidelines as high level principles. We are pleased that the survey confirms that most respondents think we have made a good effort here, especially with the principle of proportionality. On the whole there seems to be agreement that while we have largely succeeded in our aim to avoid packing the guidelines with too much detail which would undermine the principles-based approach, we still need to work on this. When respondents were asked to think about the level of detail in our products, the EU authorities seem fairly content, but the industry is more divided with just under half thinking there is too much detail in our work (but one-fifth thinks CEBS' products are too high-level). Nonetheless, most agree that the level of detail is fairly consistent with the objective of fostering convergence and a level playing field. Almost all respondents think CEBS' products have contributed at least a little towards the goal of building a fully integrated EU financial market.

*Response:* In many ways we have regarded this as a key issue that needs to be handled in a balanced and sensitive way. We are now working on ways to assess and measure the implementation of the guidelines. We have given considerable thought to how we can achieve enough balance between keeping enough detail to ensure that our convergence process has sufficient 'traction' to help us build the level playing field, and making sure we preserve the principles-based approach. This meant deciding which guidelines needed more detail than others to facilitate convergence. Essentially CEBS' members must be able to implement high level principles in a convergent manner. We must ensure that our key operational tools - Level 3 guidelines - are appropriate to fulfil our main tasks of convergence. To help do this we are now working on a peer review mechanism to allow national supervisors to assess how they have implemented the guidelines, and then to allow their peers to agree that this assessment is reasonable. CEBS' project on operational networking should also contribute to the identification of practical issues emerging in the day-to-day application of our guidelines, with a view to agree on common pragmatic approaches to address them.

#### *Cross-sectoral cooperation*

Our activities to promote stability and sound risk management practices are also expected to bring benefits for consumers and end-users of financial services. We aim to work in a way that ensures we meet our obligations on consultation, accountability and transparency. As the boundaries between financial sectors are becoming less marked, we agree that greater attention must be paid to cross-sectoral aspects, intensifying the dialogue and the co-operation with the other Level 3 committees, CESR and CEIOPS (together called the '3L3'). This is being done, under the auspices of a joint Protocol.<sup>3</sup>

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<sup>3</sup> [http://www.c-eps.org/Press/3L3\\_protocol.pdf](http://www.c-eps.org/Press/3L3_protocol.pdf) (signed in November 2005)

We are now setting priorities in a published annual 3L3 work programme, coordinating work and regular meetings between the committee chairs and secretariats, organising joint working groups, and we have shown a willingness to express our views jointly and publicly. We have also agreed hold an annual conference of the three committees. We have high expectations of useful results from this work.

## **Part II: CEBS' three main objectives**

This section deals with CEBS' specific objectives, as set down by the European Commission when it established CEBS.<sup>4</sup>

### ***Objective 1: Contributing to effective EU legislation: advice to the Commission***

CEBS has formally been asked to provide technical advice to the European Commission on a number of occasions. But unlike our sister committees (CESR and CEIOPS) CEBS has not been asked to work *mainly* in this area. Moreover, while the number of calls for advice has started to increase over time, they have tended to focus more on background work and stocktakes rather than to provide detailed input for legislative texts.

Overall, the EU authorities have a good impression of the quality of CEBS' specific advices to the European Commission; although the issue of CEBS' consensus-led process raises concerns that the final output may not always result in optimal solutions in the EU interest. According to these respondents we can improve our role in forming EU legislation by considering how to widen our views to take account of the broader EU interest and move away from considerations based on national viewpoints. We also can improve by doing better impact assessments, enhance our communications, and have more contact with market participants.

Overall, the responses from the industry are also positive (although views are much more mixed depending on which area of work is being discussed). Many respondents suggest that we could improve in our role by further enhancing direct communication with market participants and by coordinating and cooperating with representatives of the authorities of non-EU countries. Others suggest that some advice (at Level 2) was not well coordinated with the subsequent guidelines that emerged at Level 3 (e.g. the call for advice on large exposures regime and the guidelines on concentration risks (CP11) did not appear well coordinated within CEBS). There is a frequent complaint that the timelines for the preparation and submission is too tight. Generally, to improve CEBS' contribution to the development of EU legislation, many respondents suggest that we should take into account the best of national and international legislation; consider the advice of supervised institutions; respect the principle of proportionality; not go beyond the Level 1 and 2 decisions; and should not ignore the task of the national regulators.

For a more detailed discussion of specific pieces of Advice to the European Commission (Level 2 products) see **annex 1**.

*Response:* We have put a considerable amount of effort into developing a common European supervisory culture and to lowering the

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<sup>4</sup> <http://www.c-eps.org/documents/CommissionDecision.pdf>

supervisory burden for institutions with cross-border business. We are also conscious that most institutions operate locally in markets with distinctive national characteristics and their needs should not be ignored. We believe that the conduct of CEBS advisory tasks would benefit from a clearer application of the Lamfalussy process in banking, although Community legislation in this area is not currently framed according to the Lamfalussy framework. A restructuring of banking legislation to better distinguish between framework principles and technical implementation measures would contribute to a better conduct of advisory tasks. But even in the absence of such a restructuring, it is essential that we maintain and promote good working practices in this area, for example, ensuring that there is a full three month public consultation period whenever possible. As partners with the European Commission in this area we would underline that it too should be expected to support these working practices and allow CEBS a reasonable period to do its work, and engage in an active dialogue with us to ensure that high quality input can be provided.

***Objective 2: A consistent approach to EU banking supervision: level 3 Guidelines***

Respondents generally agree that CEBS' guidelines have contributed, at least to some extent, to the building of a fully integrated EU financial market. Around half of industry respondents feel that CEBS' convergence initiatives will have a positive impact on their area of activity. Nevertheless many feel that there is still a long way ahead – for CEBS and others – to accomplish this goal. However, when we dig deeper into these responses we see that these comments divide quite sharply between EU authorities and the industry.

The EU authorities generally have a positive view about CEBS' contribution to the development of a fully integrated EU financial market. They tend to highlight our achievements, such as our role in promoting a supervisory common culture and developing a positive spirit of cooperation and permanent exchanges of views among supervisors and the development of common standards, guidelines and reporting frameworks.

The views from industry respondents are much more mixed in this area. Some feel that CEBS is succeeding, and is delivering appropriate and credible discussion papers and guidelines for the industry. Others think that CEBS' products are helping to develop common supervisory policy by determining good practices and by disclosing similarities and differences between Member States. Instead of more detailed regulation, some think CEBS should further promote exchanges of views among supervisors on practical issues to enhance the development of common supervisory culture and objectives.

But a significant number of respondents have concerns over the national implementation of CEBS' guidelines. Many feel their expectations are not very well met, or not at all met. The reasons for these negative opinions are varied, for example: industry and the trade organizations' high expectations regarding the output of CEBS for more convergence in European supervision have not been met up to now, largely because CEBS' members still operate within their national jurisdictions and have national powers of discretion. This suggests that CEBS' influence over its members is not yet well established as

many comments suggest that our initiatives and guidance came too late (as national regulation was already in force). Others complain that they do not yet have enough comparative information on the supervisory approaches in many member states; but where this does exist some are starting to observe divergences in the degree and methods of implementation at the national level and suggest that the application of CEBS' guidelines at a national level lacks transparency.

In particular there is criticism over the guidelines on COREP, with some suggesting that this framework is an accumulation of national supervisors' different requirements and has not delivered regulatory convergence.

For a more detailed discussion of specific guidelines (Level 3 products) see **annex 2**.

*Response:* This has been CEBS' most important area of work and we want to underline the basic message that most respondents feel that our work has been of high quality. Our guidelines continue - and build upon - a long tradition: banking supervisors have been trying to identify and make use of good practices even before the advent of the CRD. What is clear however is that there is a good deal of scepticism over our ability to turn this work into practical convergence at the national level. In CEBS we are now turning to implementation issues and reviewing how these can be tracked and encouraged. CEBS' members are committed to adjusting their supervisory procedures in response to CEBS' initiatives. We believe that CEBS work should lead to an alignment of national supervisory procedures and practices. We have now started work to build a peer review mechanism that should help us assess whether our members are in fact delivering convergence on the ground.

### **Objective 3: Enhancing cooperation**

In some ways this is the least visible aspect of CEBS' work, in so far as it is largely internal and tends not to result in published products. This also implies that it is so far the least well known aspect of CEBS' work, outside the circle of supervisory authorities and central banks, and the banks that are subject to 'home' and 'host' supervisory interaction.

In the survey we aimed to concentrate thinking about home-host issues and the role of supervisory inspections/visits. The respondents give us a fairly mixed picture of what is happening on the ground: the number of joint home-host supervisory inspections is clearly at an early stage and there is not yet a clear view on whether the intensity and involvement of either the home or host supervisor is at the right level.

The survey also shows that there is good support for further work on the establishment of supervisory colleges to oversee cross-border institutions, and some support for us to work more on the process of delegating supervisory tasks from one national authority to another.

*Response:* We fully acknowledge that it is very early days and that the CRD provisions on supervisory cooperation have yet to be fully tested. Encouragingly, there does seem to be a great deal of support for our guidelines on home-host cooperation and high expectations that they

will make a real difference when they are fully adopted by all the national supervisory authorities. We are now also working hard to bring the concept of the operational network to life. This should energise the work of the supervisory colleges and ensure that they are able to operate effectively and consistently when dealing with the larger cross-border banking groups. We did not include more inward looking issues in the assessment survey about how supervisors share information and good practice, as these issues are - by definition - of less interest in a public debate on the work of the Lamfalussy committees. But of course this is a key area for us. And because it involves a burden on the industry, in terms of information gathering, we are keeping a very close eye on how and why we share information.

### **Part III: Consumer issues**

When CEBS was established finance ministries argued that financial regulation must be able to adapt quickly to new market developments and practices; and that it must also facilitate the integration of the EU's markets, to bring benefits to consumers and enterprises alike, and to enhance the competitiveness of the EU's providers of financial services. Stated this way it is clear that CEBS' mission to promote stability and sound risk management practices in financial institutions should also be to the benefit consumers and end-users, through safe and prudent management, and lower probabilities of solvency problems.

However, we agree that it is true that these somewhat high level principles mean that there are less tangible products that relate directly to the everyday concerns of consumers. This may, in part, explain why many consumer respondents to the assessment survey noted that they did not understand or find CEBS' guidelines relevant to them and why we have scored much lower in this area than in other parts of the survey.

We did however receive a number of specific comments from consumers. These comments fall into two main categories: on organisation and process, and on the effects of CEBS work.

Some suggested that more should be done to involve national consumer organizations in CEBS' consultative panel, and to make sure that our public consultations are widely diffused through the websites of national supervisors.

Others suggested that CEBS' work on comprehensive EU rules is not strictly necessary for small, national or regional banks; these institutions are less capable of adapting to these rules and may come under pressure. A reduced role for local banks is perceived as a major loss to national consumers. In a similar vein, others are very critical of CEBS' EU-level work, suggesting that we may - indirectly - be helping to concentrate the position of a few big banks in the banking system of some countries, and that we are not responsive to the reality and needs of smaller and medium-sized institutions.

*Response:* We recognise the organisational criticisms that we have to improve our ability to perceive the direct consumer interest in our work now that the CRD is moving beyond the design stage. We will reflect on the suggestions to improve website access and involvement on the Consultative Panel. However, we are less convinced by the arguments that the effect of our work - which mainly responds to the changes

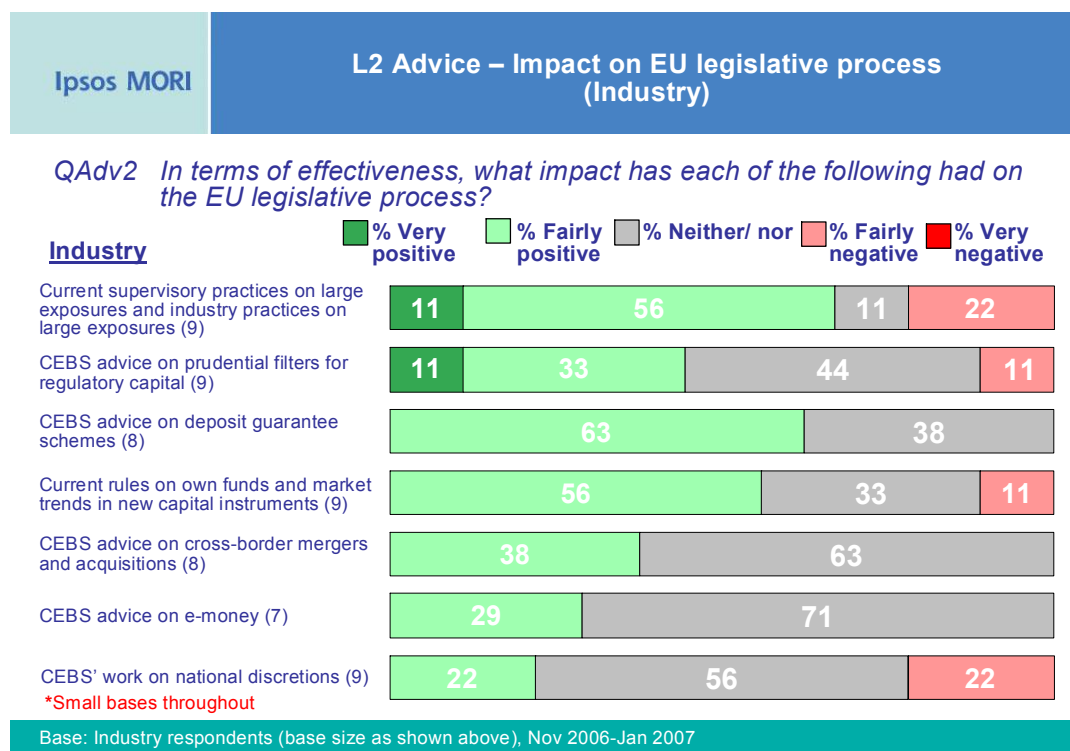
required by the CRD – poses a danger for smaller local credit institutions and for investment firms. It is probably true that convergence of supervisory practice, as required by the new legislation, may mean that some national processes are more likely to affect those institutions that are subject to different cross-border regimes, and that institutions that are only nationally focussed may see only new costs and few benefits. But the consumer should be a net beneficiary as competition increases and costs fall. Moreover, our work on taking a proportionate approach to supervision and our advice to national supervisory authorities to use our guidelines in a flexible way, is meant to address such concerns head-on, and to mitigate the harshest effects of change.

## **Conclusion**

As we said in 2005, the Lamfalussy framework provides CEBS with a flexible and adaptable framework within which to deliver our objectives. This framework does not dictate a single solution to cover every eventuality, but rather provides for a range of possible approaches without prescribing the route to be taken. In our first three years we have been trying, as carefully as possible, to achieve a good balance in a complex environment. We are fully conscious that the interests of our stakeholders are often quite divergent, in so far as large and small institutions have different interests, and where there are different markets, jurisdictions, and home-host dynamics. While we believe we are making good progress in our areas of competence, we fully agree with the overall judgment of the public survey, i.e. that more needs to be done, and can be done, to make sure that all of the possibilities offered by the Lamfalussy approach are being fully exploited for credit institutions and investment firms.

## CEBS' technical advice to the European Commission

**In this section we discuss in more detail a selected number of CEBS' submissions of technical advice to the European Commission, and how we intend to tackle the comments we received in the assessment survey.**



The views of industry are fairly mixed, depending on which area of work is being discussed. We have broken down our assessment and responses to look at the key pieces of Advice.

### Large exposures

The European Commission asked CEBS to carry out a survey of member states competent authorities' implementation of the large exposures rules, and to provide a review of the different regulatory approaches. CEBS was able to provide some insights into the proposed manner of implementation of the new and old options in the CRD and to point out where there are 'synergies and conflicts' of practice between national supervisory authorities. We also looked at industry practices with regard to the management and measurement of large exposures, and gave feedback on industry's views on the current regulatory environment.

The feedback on this work is very or fairly positive (67%) on the impact of the Advice on the Commission's review of the large exposures rules laid down in the Directive. In part this may be because, on the basis of the CEBS' Advice, the Commission decided to launch a broad and wide-range review of the

current regime (as opposed to a limited amendment of the regime to take into considerations technical consequences of Basel II), going beyond the 2007 deadline fixed by the CRD. However, we did receive criticism (some 22% of respondents had a very negative attitude) and some comments were less positive on the evaluation of the process that we carried out. This is was probably predictable, in so far as we faced criticism by launching simultaneously an on-line questionnaire to identify the range of market practices of measurement and management of concentration risk, and a consultation on technical guidance with regard to the treatment of this risk in Pillar 2. But we made clear then and now that such an overlap could not be avoided, as CEBS had to meet the Commission's timelines. However, we took full consideration of the outcome of the survey of market practices to fine-tune CEBS' guidelines on Pillar 2.

### **Prudential filters**

Since the start of 2005 European listed companies have, at the minimum, had to publish consolidated financial statements based on the new International Financial Reporting Standards (IFRS) rules. The IFRS accounting developments may affect the magnitude, the quality and volatility of banks' available regulatory capital. As accounting numbers remain the basis for the computation of prudential ratios, this change will have a significant impact on the solvency ratios and, primarily, on the content of own funds. CEBS has developed prudential filters for regulatory capital to maintain the current definition - and quality - of regulatory capital.

In the assessment survey both the evaluation of CEBS' processes and the impact of CEBS' work the reaction is very or fairly positive (44%). To some extent we are surprised by the neutral (44%) and negative views (11%) with regard to the impact on the legislative process, as some of the points that CEBS recommended in October 2004 to the European Commission were taken into account in the subsequent Directive. It may be that this reaction is linked to that regarding the Level 3 guidelines on prudential filters (see annex 2). We believe this reaction is somewhat harsh as some part of the advice was taken up by the European Commission, and secondly the guidelines issued subsequently were not intended to have an impact on the legislative process but instead on supervisory practices. We do not necessarily agree with the view of these respondents, but in any case CEBS is further investigating the implementation of the guidelines on the prudential filters, in accordance with the priorities set in the 2007 work programme, with the results due by September 2007. At the same time further analysis is being carried out with respect to the need to update the existing guidelines.

### **Deposit guarantee schemes**

The Commission asked CEBS to provide technical advice on several issues covering the deposit guarantee systems as part of a wide-ranging review of the Directive on Deposit Guarantee Schemes.

Respondents are fairly positive on the impact of CEBS' work on the EU legislative process (63%) or neutral (38%). This muted reaction from the industry does not come as a surprise, in so far as CEBS was only given four



months to provide the Commission with our Advice. Consequently we did not have time to hold a normal public consultation. We sent a letter to the Commission in which we raised the issue of giving CEBS sufficient time to react, mentioning that the Advice we provided should not be regarded as a formal advice, but as a technical supervisory input.

### **Own funds**

CEBS has received several Calls for Advice from the European Commission on the review of the definition of own funds. In these Calls for Advice CEBS was mandated to carry out an analysis of the capital instruments recently launched by the industry and to set out its views on the lessons to be learned about trends in the quality of regulatory capital.

We are pleased with the feedback from the assessment survey, which suggests that the industry is fairly positive (56%) or neutral (33%) with regard to the impact of the advice. Although the timeline set out by the Commission was very tight and did not allow CEBS to consult market participants and other interested parties properly, CEBS was keen to have industry views as early as possible in the process by organising informal contacts between experts and launching on-line questionnaires. As CEBS progresses in its analysis, we intend to ensure that market participants will participate even more actively, via open hearings.

### **Cross-border consolidation (the review of Article 19)**

CEBS was asked to provide technical advice to the Commission in order to indicate possible regulatory obstacles to cross-border mergers and acquisitions in the EU banking sector.

The assessment survey suggests that both the industry and EU authorities are fairly positive (38%) about CEBS' work but many more (63%) are just neutral. However, as CEBS was allowed very little public input to the process, apart from a (rather disregarded) technical Advice at the start of the review and a public letter of concern at the end of the review process, it would be fair to say that CEBS has not really been publicly associated with this work. CEBS' efforts have mainly centred on mitigating some proposals that circulated in the negotiation process and on keeping the prudential issues central to the discussions. CEBS' efforts appear to have had some impact in the final stages of the negotiations and prevented some adverse outcomes from becoming embedded in the final directive text.

### **E-Money**

The Commission asked CEBS to provide technical advice on the question of the application of the E-Money Directive (Directive 2000/46) to mobile phone operators and other "hybrid" e-money issuers. The Call for Advice focused on the regulatory treatment of these institutions.

The reactions in the assessment survey are rather muted. Only 29% of the industry takes a fairly positive view, while the large majority are neutral (71%). The reaction from the industry does not come as a surprise, as – with the Advice on Deposit Guarantee Schemes - CEBS was only given four months

to provide the Commission with our Advice, and consequently we did not have time to hold a normal public consultation. In a letter to the Commission we raised the issue of giving CEBS sufficient time to react, and also mentioned that the Advice we provided should not be regarded as a formal advice, but as a technical supervisory input.

### **National discretions**

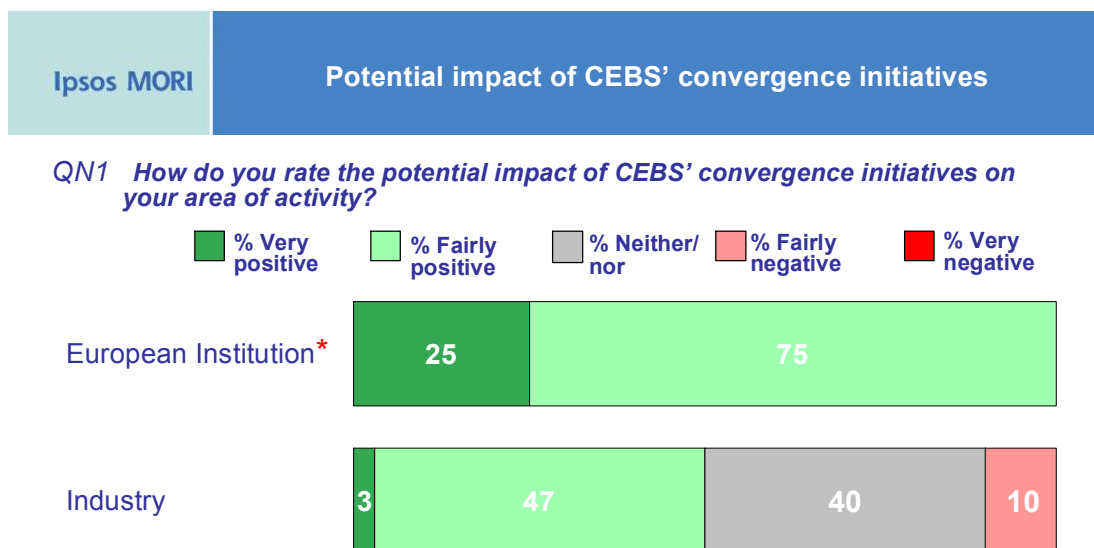
The CRD contains a large number of regulatory options left open to member States to choose nationally. CEBS was able to identify more than 140 options and conducted an intense analysis of how the remaining options are likely to be exercised in Member States and how the number could be reduced.

The feedback in the assessment survey is ambivalent. On the one hand 22% take a fairly positive view, but the majority are neutral (56%), and a sizeable minority (22%) are fairly negative. The positive comments salute our efforts in this matter, as CEBS' Advice to delete a small set of national discretions before the finalisation of the CRD was taken on board by the legislative authorities. But on the other hand there is clearly some disappointment over the final deliverables, in so far as there are still a considerable number of national discretions in the CRD.

CEBS has not given up on this work and is relying on the supervisory disclosure framework to highlight the differences in the choice and the exercise of national discretions. We are also examining how mutual recognition can be used to alleviate the impact of these different choices for cross-border institutions. We are engaged in a dialogue with our Consultative Panel on this issue.

## CEBS' guidelines

In this section we discuss in more detail a selected number of CEBS' guidelines and how we intend to tackle the comments we received in the assessment survey.



\*Small base

Base: European Institution (4), Industry (30) respondents , Nov 2006-Jan 2007

Overall, half of industry respondents feel that CEBS' convergence initiatives will have a positive impact on their area of activity. Only 10% have a fairly negative view.

### Guidelines on Common Reporting

CEBS' guidelines on Common Reporting (COREP) are intended to be used by credit institutions and investment firms when preparing prudential reports to be sent to any EU supervisory authority according to the new capital framework established in the new capital regulation.

We are not surprised that the industry's reactions to this set of guidelines are broadly negative. So while the industry is evenly split between those that think the approach is very or fairly effective and those that think that it is not very or not at all effective, 40% think we are not succeeding on convergence, (compared to 27% that think there is very or fairly good convergence). On the contribution of our work to streamline the reporting process for cross-border groups 54% take the view that we have been fair or very poor. These criticisms have been surfacing since the start of the project.

In contrast CEBS' members have a positive assessment of the effectiveness of the approach followed. While supervisors' views differ from industry ones on this issue, there are also areas in which CEBS acknowledges the criticisms raised.

*Degree of detail in the guidelines:* we agree that the level of detail is very high. But we have always argued that this is necessary and related to the level of complexity of the CRD. And in any case not all data will be used by each and every competent authority, so that the actual package a cross-border groups will have to comply with could well be less detailed than the full COREP package. However, we acknowledge the call for further streamlining and commit to reconsider the package once supervisors better understand which aspects are really essential for their analysis.

*Degree of commonality:* we also believe that COREP has helped achieve good progress in the degree of convergence of reporting requirements throughout the EU, by developing common definitions and taxonomies and recommending a common IT platform. We also realise that there is a gap with the more ambitious expectations of market participants, as large cross-border groups were aiming at a single and completely harmonised reporting framework to be used to fulfil the requirements of all EU supervisors. Given the different national approaches to the use of data in the supervisory process, we could not achieve at this stage a greater degree of commonality: supervisory reporting is linked to the internal organization of supervision, including the relative reliance on on-site or off-site surveillance, the use of early warning systems, and the recourse to peer group analysis. Some achievements in these areas have already been accomplished but more work is necessary in order to realistically make possible a major shift towards convergent cross-border reporting requirements.

As part of our future work on these issues we plan to work on the following issues:

- Assessment study on convergence: to analyze the convergence effectively achieved, identifying possible areas with a low level of commonality across national requirements.
- Operational networks of CEBS reporting experts: to provide support to the national implementation and help creating a common understanding about the templates.
- Seminars and workshops: to learn from CEBS' members about the aspects related to national circumstances, conditions and practices, as well as to discuss with industry representatives the way forward.

### **Guidelines on Financial Reporting**

The guidelines on Financial Reporting (FINREP) are intended to be used by credit institutions when preparing prudential reports to be sent to any EU supervisory authority according to the IAS/IFRS endorsed by the European Commission.

Compared to the industry's reactions to COREP, the reactions to FINREP are a little better, with 60% saying that the guidelines are fairly effective. However, 53% think there is fairly or very poor convergence and 38% think there has been fairly or very poor streamlining as a result.

As was the case for COREP, CEBS members' own assessment of FINREP, are more positive. CEBS members' and industry's answers tend to be more aligned only on the effectiveness of the approach: as the core information is considered minimum requirement for those authorities applying FINREP, the assessment of effectiveness is always fairly of very positive.

Also in this case the industry response highlights a very high degree of detail in the information requested. However, more emphasis is put on the low degree of convergence achieved, considered less satisfactory than for COREP. This depends to a large extent on the fact that supervisory approaches to financial reporting are well established in national practices and are moving from very different starting points.

In general, CEBS members are convinced that the progress achieved with FINREP should not be downplayed, especially in light of the embedded differences in national approaches, which are difficult to overcome in the very short term.

As part of our future work on these issues we plan to work on the following issues:

- Assessment study on convergence: to analyze the convergence effectively achieved, identifying possible areas with a low level of commonality across national requirements.
- Stock-take on additional reporting requirements at the national level.
- Operational networks of CEBS reporting experts: to provide support to the national implementation and help creating a common understanding about the templates.
- Seminars and workshops: to learn from CEBS' members about the aspects related to national circumstances, conditions and practices, as well as to discuss with industry representatives the way forward

### **Guidelines on Supervisory Disclosure**

CEBS' guidelines for supervisory authorities on increased transparency and public disclosure are intended to allow easy access to qualitative information on the laws and rules adopted at the national level and on the ways in which Member States have exercised the options and national discretions, as well as to statistical data on the implementation of the Directive. The CEBS guidelines are required by the CRD - the EU legislation for a new capital adequacy framework for credit institutions and investment firms

These guidelines have received the highest scores of satisfaction from both market participants and EU institutions: 64% think the approach will be very or fairly effective, and 78% think there will be very or fairly good access to

information. The framework is up and running on the CEBS' website and our members are doing their utmost to disclose their rules as early as possible (although some of the delays are due to the delays in the national transposition of the CRD, which sometimes needs to be passed in national Parliaments).

### **Guidelines on the Recognition of External Credit Assessments Institutions**

CEBS' guidelines provide for a common approach to the recognition of External Credit Assessment Institutions (ECAIs) under the CRD.

The overall assessment is largely neutral (50%). This is something of a surprise for us, but may be explained by the fact that credit institutions and investment firms may not yet have benefited from the guidelines and the process recommended in them. The informal joint assessment process of three rating agencies was finalised in August 2006, the fourth one in April 2007. Such informal joint assessment processes have now to go through formal national processes, before the institutions can use the credit assessment for the purpose of the CRD. From CEBS' perspective the guidelines have been consistently applied in the context of 'informal' joint assessment process of 4 international rating agencies that have applied in more than one member state. No major problem has been raised by CEBS members and the informal feedback from the rating agencies has been fairly positive.

### **Guidelines on the Supervisory Review Process (Pillar 2) including its technical annex on the interest rate risk in the banking book**

CEBS' guidelines on the application of the Supervisory Review Process (the SRP under the so-called Pillar 2 of Basel) are designed to enhance the link between the risks taken on by credit institutions and investment firms, their management of those risks, and the capital they hold. This is a central component of the CRD.

The SRP guidelines have not yet, in many cases, been implemented domestically, so the assessment is on the basis of test-projects and draft domestic regulations and supervisory guidance. Overall the assessment seems positive: 34% take a fairly positive view of the guidelines' impact on national rules, and 60% think they will have a very or fairly positive impact on building common EU supervisory practices. At this stage, we in CEBS are fairly satisfied, but we cannot be complacent. The feedback indicates a strong need to monitor implementation, to ensure the convergence of the work at the domestic level. Those responses which were negative are probably consistent with the criticism received earlier on in the consultation process (for example, on the lack of diversification benefits that supervisors are willing to accept at this early stage of operating under the CRD, or the relation of SRP assessments for the group and the subsidiary).

CEBS' members are happy with the work done so far. As indicated in the 2007 annual CEBS work programme, we are planning follow-up work to monitor the implementation and the learning process at the domestic level. Although the

view of the industry is generally positive, the proof of the pudding will be in the eating. So while we are proud of this work, we will only count it as a success story if the domestic application in 2007 and 2008 backs up the theory. We are committed to keep monitoring and learning in this area, both from a technical point of view, and also to ensure that supervisory colleges follow the guidelines. We hope this will deliver true convergence.

### **Guidelines on Validation**

CEBS' guidelines validation set out how the implementation, validation and assessment of the risk management and risk measurement systems used by credit institutions and investment firms for the calculation of their capital requirements should be arranged.

The industry reaction to these guidelines is somewhat mixed: 31% take a very or fairly positive view, but 46% take a fairly or very negative view of their impact. On the other hand 50% believe they will have a very or fairly good effect on building common EU supervisory practices. On the whole scepticism seems to prevail, especially with regard to the impact the guideline has on the way national authorities will undertake banking supervision. There is also some criticism of the level of detail in the guidelines.

We are not entirely surprised by the industry concerns, as the validation guidelines are the result of an intense and long discussion. However, we believe that the judgement on the value added provided by these guidelines should be suspended for now, as it will finally depend on the actual contribution to effective and consistent approval processes. Validation of IRB and AMA models is a new and complex area for both institutions and supervisors and we consider that the guidelines required a certain degree of detail to be meaningful and useful.

That said, we would stress that the guidelines are not meant to be a static piece of work. Follow-up work is already being conducted, for example in CEBS' operational networks dealing either with the cross-border cooperation of authorities in the validation process or with technical validation questions. One major objective of these networks is the exchange of information and experiences on validation-related topics. The networks are also identifying practical issues emerging in the operational application of the guidelines with a view to address them in a common fashion and, if necessary, trigger further work at the technical level. The work of the networks is complemented by seminars and workshops, both internal and with industry participants. The experiences gained and the information gathered in the networks and in the discussions with the industry will be the basis of a future review of the validation guidelines.

### **Guidelines on Prudential Filters**

Since the start of 2005 European listed companies have, at the minimum, had to publish consolidated financial statements based on the new International Financial Reporting Standards (IFRS) rules. CEBS has developed prudential filters for regulatory capital. The objective of the guidelines is to maintain the current definition - and quality - of regulatory capital.

The assessment survey shows that reactions to the guidelines on prudential filters for regulatory capital are - overall - fairly balanced and positive: 38% think they will have a fairly positive impact (as opposed to 16% who take a fairly or very negative view). And 57% think they will help build common EU supervisory practices. But there is less encouraging industry feedback on the guidelines' impact on the way national authorities undertake banking supervision. This is somewhat surprising, as CEBS had internal exchanges of information on national implementation showing that the guidelines are widely and even to a large part consistently applied. This point might require further investigation. At least partly, the explanation may lie in the fact that some of the recommendations had already been in place in a number of countries, which would explain why there has not been a tangible impact for those Member States. In any case CEBS is about to conduct a more formal study on the implementation of these guidelines. As mentioned above, for the Level 2 Advice on Prudential Filters, further analysis is at the same time being carried out with respect to the need to update the existing guidelines.