

↓ 2009

ANNUAL REPORT



Committee
of European
Banking
Supervisors

Contents

ANNUAL REPORT 2009 OF THE COMMITTEE OF EUROPEAN BANKING SUPERVISORS

This Annual Report has been submitted to the European Commission, the Council, and the European Parliament, in accordance with Article 13 of the Commission Decision C(2009)177 of 23 January 2009 establishing the Committee of European Banking Supervisors and Article 6.1 of the Charter of the Committee of European Banking Supervisors.

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Foreword by the Chair

Giovanni Carosio

Dear reader

It is with great pleasure that I present the annual report for 2009 of the Committee of European Banking Supervisors, CEBS.

In 2009, as during the previous year, the continuing challenges raised by the financial crisis contributed to increasing further the expectations on CEBS.

Since its inception, CEBS'S activities have very much been focused on regulatory developments, notably on the implementation of Basel II in the EU. In this respect, we developed quite a number of guidelines on various issues which were intended to put flesh on the bones of the Capital Requirements Directive (CRD), the EU implementation of Basel II. In 2009, CEBS was still very active in the regulatory field and provided numerous contributions to the on-going work that aims to improve the regulatory framework in response to the crisis: a proposal for countercyclical capital buffers, guidelines on remuneration and internal governance and guidelines on banks' disclosures to name but a few. We have been also actively involved in the Commission's work on an EU framework for cross-border crisis management in the banking sector, defining a common minimum toolbox available to the competent authorities in each Member State in order to identify problems in a bank at an early stage and to be able to take appropriate action. We are currently active in assessing the impact in the European Union of the regulatory proposals formulated by the Basel Committee in December 2009, the so-called quantitative impact study.

However, the crisis has also led to a very significant refocusing of CEBS's work towards the analysis of the risks and vulnerabilities facing the main EU cross-border banking groups. The co-ordination of supervisory activities has been given growing importance, leading CEBS to act as a hub and a platform in the network of EU supervisors, facilitating timely and efficient exchange of information among national supervisors. We have also very closely co-ordinated our activities and monitoring with our sister committees, CESR and CEIOPS.



Our commitment to the functioning of supervisory colleges has been profound since the very first years of CEBS. In 2009 we delivered further progress in this area by enhancing the role of colleges in co-ordinating supervisory activities and decisions. At the end of 2009 33 supervisory colleges had been established, and our goal is to further increase the number of EEA headquartered banking groups for which there is a college in place, and to enhance the operations of the existing colleges. In line with the CRD II provisions, we have recently issued for consultation guidelines for the convergence of supervisory practices with regard to the operations of colleges and to the joint decisions on the application of the Pillar 2 provisions related to the Internal Capital Adequacy Assessment Process (ICAAP) and to the Supervisory Review and Evaluation Process (SREP). Furthermore, representatives of the CEBS Secretariat are now invited on a regular basis as observers to the college meetings.

2009 was also an important year for CEBS in its task of providing regular assessments of the EU banking system, since we have been mandated by the ECOFIN to co-ordinate the first EU-wide forward-looking stress test of the banking system. The objective of the exercise was to increase the level of aggregate information available to policy makers for assessing the resilience of the European financial system. This exercise was a very positive development and a step towards further convergence of supervisory practices in terms of conducting stress testing. CEBS is currently performing a second exercise.

After the very first months of the financial crisis, EU Institutions have focused their attention on the reform of the European financial architecture aiming both to restore market confidence and to guard the financial markets against future crises. CEBS, together with

its sister Committees, CESR and CEIOPS, has been actively involved in the consultations launched by the European Commission, submitting joint responses and maintaining an open and continuous dialogue with the Commission.

Currently, CEBS is preparing its smooth transition into the future European Banking Authority (EBA) following an evolutionary approach: 'uninterrupted continuation' is imperative. Concrete steps to ensure a smooth transition are being taken and specific priority areas are identified. CEBS is working closely with the other 3L3 Committees to ensure that cross-sectoral transition issues are dealt with on a 3L3 basis. This is the challenge ahead and we are all working to have the EBA up and running in 2011.

I would also like to take this opportunity to express my thanks to the chairs and members of the working groups and to the CEBS Secretariat who have enabled CEBS to pursue its activities in the most efficient and successful way. Finally, I would like to make a specific reference to the former Chairs of CEBS, José María Roldán, Daniele Nouy and Kerstin af Jochnick who have shown great leadership in steering the Committee during the very first years since its inception and in a time of global financial crisis. In that respect, the planned transformation of CEBS into the EBA is the best evidence of success.

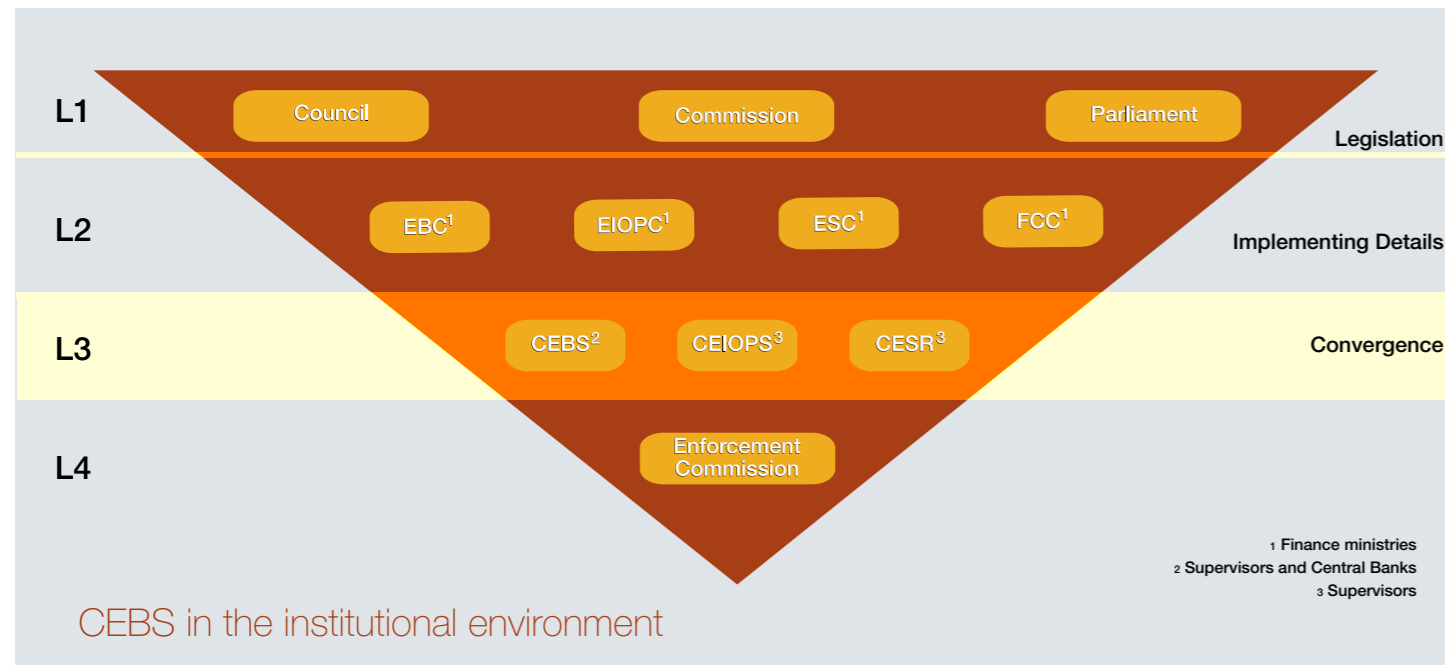


2.

CEBS's organisation

As part of the so-called Lamfalussy process, CEBS was established as a Level-3 Committee by an EU Commission decision adopted on 5 November 2003 and updated in January 2009 (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:025:0023:0027:EN:PDF>). CEBS took up its duties on 1 January 2004, serving as an independent body for reflection, debate and advice to the Commission and contributing to the common and uniform day-to-day implementation of Community legislation and its consistent application by the supervisory authorities in the field of banking regulation and supervision. CEBS was also tasked with providing regular assessments of the EU banking sector to the EU Commission, the Council and the European Parliament.

CEBS operates through the promotion of best practices, non-binding guidelines, recommendations and standards and peer reviews in order to increase convergence across the Community.



CEBS acts by its plenary composed of high level representatives from the banking supervisory authorities and central banks of the European Union. Plenary function is supported by the CEBS's Bureau consisting of CEBS's Chairman and Vice Chair, as well as four other CEBS's members.

In September 2009 Mr. Giovanni Carosio was appointed as Chairman of CEBS, succeeding Mrs. Kerstin af Jochnick who held the position since January 2008. Mr. Carosio had served as CEBS's Vice Chair since January 2008. He retains his position as Deputy Director General of the Bank of Italy. Also in September 2009, Mr. Thomas Huertas (Banking Sector Director of the UK FSA) was elected as the new Vice Chair of CEBS, and also as Chair of the CEBS's Review Panel.

The other members of the CEBS Bureau are Mr. Thomas Schmitz-Lippert from the German Federal Financial Supervisory Authority (Bafin), Mr. Fernando Vargas from the Bank of Spain, Mr. Henk Brouwer from the Central Bank of the Netherlands and Mr. Pavel Ferienc from the National Bank of Slovakia.

The role of the Bureau is to prepare and discuss matters of strategic importance and agenda topics for the CEBS meetings. It also provides advice and assists the Chair and the Committee in budgetary and administrative matters.



CEBS Extended Bureau (from left to right): Fernando Vargas, Thomas Schmitz-Lippert, Henk Brouwer, Giovanni Carosio (Chair), Arnoud Vossen, Didier Elbaum; Jukka Vesala, Pavel Ferienc, Thomas Huertas (Vice Chair), Patrick Amis.

2. (Continued)

Operational and administrative support for CEBS's work is provided by a London-based Secretariat, whose staff come from member and/or observer authorities. The Secretariat is organised as 'CEBS Secretariat Limited', a company limited by guarantee under English law. The Secretariat's main tasks include preparation and maintenance of minutes of meetings, working documents and consultation papers, coordinating the work streams initiated in CEBS's sub-groups and supporting the CEBS's Chair in his public relations activities and representational functions. The Secretariat also co-ordinates co-operation with the Commission and the other Level-3 Committees. Mr. Arnoud Vossen, from the Central Bank of the Netherlands and Mr. Patrick Amis from the Bank of France have been appointed as Secretary General and Deputy Secretary General of CEBS respectively.

The work of CEBS in 2009 was mainly performed by its three expert groups, the Groupe de Contact (GdC), the Expert Group on Prudential Regulation (EGPR) and the Expert Group on Financial Information (EGFI), and their sub-groups/task forces, while joint groups/task forces have also been established by CEBS and its sister Committees, CESR and CEIOPS (See Annex 5.1.1).



CEBS Secretariat (from left to right- first row): Nicola Antoniou, Aimee Staude, Panagiotis Droukas; Corinne Kaufman, Michelle Humphries, Ines Rivas Garcia, Delphine Reymondon, Arnoud Vossen (Secretary General), Meri Rimmanen, Vera Luz, Efi Bouli, Despina Chatzimanoli, Joseph Mifsud, Carlos Corcostegui, Oleg Shmeljov, Alison Smith, (from left to right - second row) Patrick Amis (Deputy Secretary General), Guy Haas, Wolfgang Strohbach, Alex Tas, Bernd Rummel, Rodolphe Ruggeri

3.

Overview of work undertaken in 2009 and progress made

This section provides an overview of CEBS's achievements in 2009. More details can be found in section 4.

3.1

Progress in the institutional setting of supervision in Europe

As part of the EU's response to the unfolding of the financial crisis, which highlighted the need for further convergence in regulatory and supervisory practices in Europe, a High level Group on Financial Supervision in the EU (known as the de Larosière Group, after the name of its Chairman) was set up by European Commission President Barroso in October 2008. Following the publication of its report on 25 February 2009¹, which was supported by the ECOFIN and the European Council during the Spring of 2009², the European Commission followed up with the publication of two Communications³ on financial supervision reform, and ultimately introduced formal legislative proposals on 23 September 2009⁴. These proposals comprised, *inter alia*, three draft regulations proposing the transformation of the 3L3 Committees into three European Supervisory Authorities (ESAs).

CEBS, in collaboration with the other Level-3 Committees provided its views on these proposals to the EU institutions as they developed, emphasizing in particular the following points:

- welcoming the Commission's proposals to enhance the financial architecture in the EU in an ambitious way;
- underlining the importance of having the new European System of Financial Supervisors (ESFS) and the European Systemic Risk Board (ESRB) as two key and interdependent pillars of the enhanced architecture of financial supervision in Europe;

- welcoming the evolutionary approach of building the new ESAs upon the existing 3 Level-3 Committees in order to ensure continuity; and
- stressing the need to ensure the independence of the ESAs, not simply in operational matters, but by ensuring that binding technical standards that the new authorities will issue can only be endorsed or rejected by the Commission, and not amended by it

According to the requirements of the co-decision procedure, the Commission proposals were subsequently discussed by the Council's Working Party on Financial Services, culminating in a Council Compromise text which was adopted on 2 December 2009⁵. Deliberations in the European Parliament on the draft ESA regulations are expected to take place in the course of Spring of 2010 on the basis of preliminary draft reports prepared by the ECON Rapporteurs.

The Commission's legislative proposals package was completed on 26 October 2009 with the publication of the so-called draft Omnibus Directive⁶. This updates the sectoral Directives in order to take into account the creation of the ESAs; it also specifies areas in the sectoral Directives which will fall within the ambit of some of the tasks and competences of the future ESAs (such as areas on which the ESAs will be able to develop binding technical standards). Deliberations on the Omnibus Directive in the Council and the European Parliament are expected to take place over the course of 2010. CEBS will, as necessary, communicate its views to the EU institutions in relation to the proposals in the Omnibus Directive falling within the competence of CEBS/EBA, and jointly with the other Level-3 Committees in relation to Directives of cross-sectoral interest.

NEXT STEPS

When established, the EBA will take over, *inter alia*, CEBS tasks and responsibilities. CEBS Secretariat Limited will be wound up and its residual assets transferred to the EBA. CEBS is actively preparing for the changeover.

¹ http://ec.europa.eu/internal_market/finances/docs/de_larosiere_report_en.pdf

² ECOFIN 9 June 2009 conclusions on strengthening financial supervision (http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ecofin/108389.pdf), European Council 18-19 June 2009 (http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/ec/108622.pdf)

³ Commission Communication COM(2009) 114 final of 4 March 2009 'Driving European Recovery' (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0114:FIN:EN:PDF>) and Commission Communication COM(2009) 252 final 'European financial supervision' (http://ec.europa.eu/internal_market/finances/docs/committees/supervision/communication_may2009/C-2009_715_en.pdf)

⁴ The proposal for the establishment of a European Banking Authority can be found at: http://ec.europa.eu/internal_market/finances/docs/committees/supervision/20090923/com2009_501_en.pdf while the full package of proposals can be found at http://ec.europa.eu/internal_market/finances/committees/index_en.htm

⁵ The compromise text and its corrigendum can be found at http://register.consilium.europa.eu/servlet/driver?page=Result&lang=EN&type=Advanced&cmsid=639&ft_COTE_DOCUMENT=16748%2F1%2F09&ft_COTE_DOSSIER_INST=&ft_TITRE=&ft_FT_TEXT=&ft_SOUS_COTE_MATIERE=&dd_DATE_DOCUMENT=&dd_DATE_REUNION=&dd_FT_DATE=&fc=REGAISEN&srn=25&md=100&ssf

⁶ http://ec.europa.eu/internal_market/finances/docs/committees/supervision/20091026_576_en.pdf

3.2

CEBS's Response to the Crisis

3.2.1

EU-Wide Stress Testing and Assessment of Risks and Vulnerabilities of the EU Banking Sector

The financial crisis has prompted more attention to the assessment of the risks and vulnerabilities of the EU banking sector and in 2009 CEBS has continued conducting its regular assessments of a sample of the largest EU cross-border banking groups, focusing on risks and vulnerabilities, banks' management actions and supervisory responses.

These micro-prudential risk assessments were conducted in a bottom-up fashion and from a forward-looking perspective, based on the assessments of a sample of European cross-border banking groups carried out by the respective colleges of supervisors. These were then aggregated and submitted to the EFC-FST meetings in March and September 2009.

In addition to the regular risk assessments, 2009 was marked by the conduct of the first pan-European bottom-up stress testing exercise coordinated by CEBS. In May 2009, the ECOFIN mandated CEBS to coordinate, in co-operation with the European Commission and the ECB, an EU-wide forward-looking stress test of the banking system, building on common guidelines and scenarios, for a sample of 22 major European cross-border banking groups. The objective of the exercise was to increase the level of aggregate information available to policy makers in assessing the resilience of the European financial system.

The exercise was conducted in a bottom-up fashion, where participating supervisors and banks ran the commonly agreed scenarios, taking into account the specificities and risk profiles of the participating institutions. The results were reported to the October 2009 meeting of the ECOFIN. Aggregate high level information on the results was published on the CEBS's website⁷.

NEXT STEPS

In 2010 CEBS will continue its work on the micro-prudential analysis of the risks and vulnerabilities of the EU banking sector, further enhancing the scope and methodologies used and ensuring better integration of this work into the joint assessments of institutions done by the colleges of supervisors. CEBS will also look into the transition of this work into the new EU supervisory framework, where the EBA will have further responsibilities for the micro-prudential assessment of the EU banking sector.

At the request of the ECOFIN, in 2010 CEBS will coordinate another EU-wide stress test aimed at assessing the overall level of resilience of the banking system and also providing information on the dependence of EU banks on public support and on the amount of capital available for further lending in the context of exit strategies.



3.2.2

CEBS's Contribution to the Global Regulatory Debate

Throughout 2009, CEBS actively participated in the debate at the international level that is aimed at enhancing the regulatory framework. To that end, CEBS also contributed on a wide range of issues, providing guidance to supervisors and the markets, as well as advice to the EU Institutions. Notably, CEBS made concrete contributions in the following areas:

- A direct contribution to the global regulatory debate, with a position paper on countercyclical buffers, which was incorporated into the consultation paper published by the Basel Committee on Banking Supervision (BCBS) in December 2009.
- The convergence towards best practices in the implementation of the CRD, in particular in the field of operational risk, where CEBS issued several guidelines.
- A harmonised framework for the definition of regulatory capital, where CEBS issued guidelines on both the definition of core Tier 1 and hybrids instruments.
- An enhanced framework for corporate governance and crisis management, where CEBS published high level principles on remuneration and risk management, enhanced guidelines on internal governance and draft guidelines on stress testing.
- An enhanced regulatory framework, with guidelines on large exposures and on liquidity buffers, draft guidelines on concentration risk, and advice to the EU Commission on minimum retention requirements for securitisation exposures.
- A continuous monitoring of accounting developments and reporting and disclosures, focusing in particular on impairment rules, on the valuation of illiquid instruments, and on the monitoring of progress made towards transparency in disclosures, where CEBS issued draft disclosure guidelines and surveyed the progress towards good Pillar 3 disclosures.

NEXT STEPS

In December 2009, the BCBS published its consultative proposals to strengthen the resilience of the financial sector, followed in February 2010 by a Consultation paper from the EU Commission on further possible changes to the Capital Requirement Directive (CRD IV). The impact of the proposed standards is being assessed by a comprehensive quantitative impact study. CEBS is conducting, in parallel, a EU QIS, relying on the same methodology, but extending the sample to include a number of other institutions to which the CRD applies, such as small and domestic institutions and investment firms, and institutions from countries which are not represented in the BCBS.

This will allow consideration of the differential impacts of alternative definitions of the rules and will include questions addressing EU specificities (real estate, provisioning). The QIS will provide the information to help get the overall calibration right, providing positive incentives to business models that ensure sound financing of the real economy and discouraging complex and risky activities. The analysis will also help with defining transitional periods for the phasing in of the new rules – i.e. through grandfathering clauses.

3.2.3

CEBS's Input on Enhancing Crisis Prevention and Crisis Management in Europe

CEBS's Analysis of the Supervisory Implications of National Stabilisation Plans

In February 2009, as part of its monitoring of the crisis, CEBS published its analysis of the supervisory implications of the national plans for the stabilization of markets⁸ that had been announced by the European Member States up to the end of December 2008. The report focused on three main areas: (i) an overview of the national plans, including their tools, conditions and supervisory involvement, (ii) an assessment of the general measures for the stabilization of the markets, and (iii) potential areas for further work by CEBS.

This analysis confirmed the need for CEBS to do further work on:

- enhancing the convergence of supervisory practices for cross-border banks, as well as exchanges of information, through colleges, in combination with the ongoing regulatory review to improve the framework for financial supervision;
- coordinating supervisory policies, while being mindful of the temporary nature of public support, in key areas such as the quality of capital –so that it incorporates only instruments that have the highest quality in terms of loss absorbency and flexibility of payments- and the definition of adequate capital buffers to withstand shocks.

Report mapping supervisory objectives and powers across EU Member States

In March 2009, CEBS published its Mapping of supervisory objectives and powers⁹, including early intervention measures and sanctioning powers, in response to two separate but complementary calls for assistance issued by the European Commission. This report builds on the answers to a questionnaire which was filled out by all CEBS members. The report shows a high degree of convergence with regard to the objectives of prudential supervisors across the EU, as well as the powers available to supervisors relating to licensing, information-gathering, inspections and rule-making. The tools available to supervisors for undertaking corrective measures, early intervention and crisis management, appear to be more fragmented, particularly measures directed towards those persons who effectively direct the business and shareholders. The report concludes that these discrepancies are likely to increase the problems of coordination of supervisory action in cases of ailing cross-border institutions. With regard to sanctioning powers, the report notes that the absence of a common legal definition of "sanction" constitutes a major impediment to any comparative analysis.

CEBS's response to the European Commission's consultation on Deposit Guarantee Schemes

In July 2009, CEBS replied to the consultation launched by the Commission on the review of the Deposit Guarantee Schemes (DGS) Directive. CEBS agreed in principle with the Commission's views regarding a further harmonisation of the scope of the Directive and the coverage level as well as the role of and co-operation among DGS, and their funding mechanisms. CEBS participates as an observer in the Commission's working group on deposit guarantee schemes.

NEXT STEPS

CEBS will continue to follow actively, and contribute as appropriate to, the ongoing work on the review of the DGS Directive.

⁸ Analysis of the national plans for the stabilisation of the markets: http://www.c-eps.org/getdoc/bebea662-d145-49d1-8b2c-c71ee88a6c1e/CEBS-2008-202-rev-2_-_Analysis-of-measures-under-na.aspx

⁹ Mapping of supervisory objectives and powers, including early intervention measures and sanctioning powers: <http://www.c-eps.org/getdoc/77a4d0f8-5147-4aa4-bb5b-28b0e56c1910/CEBS-2009-47-Final-%28Report-on-Supervisory-Powers%29-.aspx>

3.2.3 (continued)

CEBS's response to the European Commission's consultation on crisis management

On 19 January 2010, CEBS provided its answer to the EU Commission's communication on an EU Framework for Cross-Border Crisis Management in the Banking Sector. The views expressed in this contribution cover the different areas contained in the communication issued by the Commission on 20 October 2009. CEBS has especially focused on the definition of the common minimum toolbox available to competent authorities in each Member State in order to identify problems in a bank at an early stage and to be able to take appropriate action, as well as on the conditions for the use of these tools. CEBS considers that a common set of tools should be coupled with an enhanced co-operation framework between competent authorities.

CEBS participates as an observer in the Commission's working group on early intervention.

NEXT STEPS

The EU Commission has invited CEBS to undertake further work to develop the list of tools, the conditions for their use, and recovery and resolution plans. This work has started in 2010.



3.3

The Convergence of Supervisory Practices

Since its inception, CEBS has been working to promote convergence of banking supervisory practices and supervisory co-operation in Europe. In 2009, CEBS has been active in delivering greater convergence in the following five specific areas.

Colleges of Supervisors

2009 has been an important year as regards the supervision of cross-border banking groups, as the global financial crisis called for specific amendments to the regulatory framework in order to address some perceived shortcomings and inefficiencies relating to co-operation and exchange of information between national supervisors.

In this context, amendments to the CRD Directive (the so-called CRD II), applicable as of 31 December 2010, require the establishment of supervisory colleges, thus setting as legal requirements the practices that EU supervisors have been implementing for some time on a voluntary basis. In particular, the Directive calls for the establishment of colleges of supervisors for all banking groups that operate in multiple EU countries. The colleges provide a framework for reaching agreement on key supervisory tasks (such as the agreement on Pillar 2 requirements for a banking group and its components), facilitating the handling of ongoing supervision and playing a role in preparations for, and during, emergency situations.

In an effort to have more colleges up and running by the end of 2009, CEBS launched an action plan for establishing colleges of supervisors for the largest cross-border banks in Europe. At the end of 2009, 33 supervisory colleges had been established.

CEBS also provided draft guidance on the functioning of colleges, as well as advice on the nature and content of information exchanges between supervisors within a college.

In December 2009, CEBS members agreed on a 2010 Action plan, committing themselves to enlarging the number of banking groups for which colleges are operational, under the monitoring of CEBS. For those

colleges that are already in place, the target in the action plan is to build their operational capabilities (See next steps box in section 4.1.1).

Options and National Discretions

In June 2009, CEBS delivered further advice on the reduction of options and national discretions in the CRD. This piece of work complemented the CEBS's advice of October 2008, by focusing on eight particular national discretions and on an additional group of national discretions relating to real estate, where further advice was sought by the Commission (See point 4.2.2.1 in section 4).

Supervisory Reporting Framework

To achieve a high level of harmonization and strong convergence in regular supervisory reporting requirements, and in order to address the changes stemming from amendments to both the accounting standards and the regulatory framework, CEBS decided to further revise its current guidelines on COREP (consolidated, sub-consolidated and solo reporting of the Pillar 1 capital requirements and own funds based on Directives 2006/48/EC and 2006/49/EC) and FINREP (consolidated and sub-consolidated financial reporting for supervisory purposes based on IAS/IFRS as endorsed by the European Union) with the aim of developing a supervisory reporting model with common data definitions.

Though the use of XBRL for reporting purposes is not mandatory for the national authorities, CEBS will continue to recommend it, as the adoption of XBRL taxonomies will lead to greater harmonization of IT formats.

Common supervisory culture

2009 was the first year during which CEBS received EU funding both for its sectoral training programmes and the ones jointly organised with CESR and CEIOPS. In addition, CEBS developed a Curriculum for European Banking Supervisors that could be regarded as the basis for the development of sectoral training programmes.



3.3 (continued)

Enhanced monitoring of the implementation of CEBS products

In 2009, CEBS Members have agreed on measures to enhance over time the actual implementation of CEBS standards and guidelines by defining more precisely common implementation dates and precise implementation plans – including tools such as implementation studies -, and linking the CEBS training programme more closely to CEBS deliverables. CEBS is confident that these measures will contribute to meeting the objective of a single rule book in Europe.

3.4

Co-operation with third countries

In addition to interacting with other Committees and European Institutions, CEBS actively follows the work of global standard-setters and co-operative organisations such as the BCBS, the International Accounting Standards Board (IASB), and the Joint Forum. CEBS is an observer at the BCBS and attends the meetings of the BCBS and some of its sub-groups. CEBS members and observers are regularly updated on recent developments at the BCBS.

Contacts and exchanges of information with supervisors from a number of third-country jurisdictions have also taken place at CEBS level. In this context, CEBS organised a two day policy-level conference as an opening event to the Eurosystem programme “Strengthening macro and micro-prudential supervision in EU candidate countries and potential candidate countries” with the objective of introducing senior supervisors from these countries to CEBS’s activities and addressing relevant issues in the European financial supervision.

Moreover, CEBS, in co-operation with the other two Level-3 Committees, plans to open its 2010 sectoral and cross-sectoral courses to the staff of third countries’ supervisors in an effort to further support the process of regulatory and supervisory convergence at the global level.

4.

CEBS’s achievements in 2009

4.1

Convergence of supervisory practices

4.1.1

Functioning of Supervisory Colleges

Co-operation between home and host supervisory authorities has been high on the CEBS’s agenda since its establishment and remained one of its top priorities for 2009 and beyond. During 2009, CEBS actively worked to enhance the role of colleges in co-ordinating supervisory activities and decisions, as well as enhancing the exchange of information between relevant authorities. CEBS is now invited to attend college meetings as an observer.

4.1.1.1

2009 Action Plan for the Establishment and Monitoring of Supervisory Colleges

With the objective of promoting the setting up of colleges, whose existence will be mandatory when CRD II comes into force, CEBS launched an action plan for the setting up of colleges for some of the largest cross-border banks in Europe. According to the plan, the supervisors of the chosen banking groups were expected to establish a supervisory college and sign a written co-operation and coordination agreement, where one was not already in place, by the end of 2009. At the end of 2009, 33 supervisory colleges had been established and written agreements for 30 of them had been concluded or were in the final phase of the signature process.

Within those colleges, the CEBS Template for Written Co-operation and Coordination Agreements¹⁰ has been used as the basis for constituting colleges, thus streamlining the negotiation and signature of the Agreements. The template was published in January 2009 with the aim of providing operational guidance for supervisors when drafting written agreements for co-operation and achieving consistency across the colleges. At the same time, the template is intended to be flexible enough to be adapted to the specific organisation of each college.

4.1.1.2

Liquidity ID Card

In June 2009, CEBS published its liquidity identity card¹¹ (“liquidity ID”) aiming at providing supervisors of European cross-border banking groups with a single prudential language to enable meaningful exchange of information, in particular within colleges of supervisors.

The liquidity ID is designed as a supervisory tool and defines a core of essential qualitative and quantitative information for authorities involved in the supervision of cross-border banking groups. In addition, non-exhaustive “à la carte” information could be used to enable each college of supervisors to select other proposed metrics if they decide to complement the core set of information.

4.1.1.3

Advice on the information that may be exchanged between home and host supervisors of branches under Article 42 of the CRD

Following a Commission request for advice, CEBS published in June 2009 its advice¹² on the information that may be exchanged between home supervisors and host supervisors of branches under Article 42 of the CRD. Following the Commission's request to compile an indicative list of information that is likely to facilitate the monitoring, by home and host authorities, of credit institutions that operate in other Member States through branches, and taking into account that the information to be exchanged under Article 42 may be more extensive in the case of significant branches, CEBS has elaborated four sets of items that can be exchanged under Article 42 CRD:

- Information that home supervisors may need to provide to the host supervisor of significant branches.
- Information that home supervisors may need to provide to the host supervisor of non-significant branches.
- Information that host supervisors of significant branches may need to provide to the home supervisors.
- Information that host supervisors of non-significant branches may need to provide to the home supervisors.

In its advice, CEBS also advocates the use of supervisory colleges as the primary fora for information sharing between the competent authorities involved in the supervision of significant branches.

4.1.1.4

Draft guidelines for the operational functioning of colleges

The CRD II requires the establishment of supervisory colleges as the means for achieving stronger coordination and co-operation through which competent authorities reach agreement on key supervisory tasks, both in normal circumstances and in the preparation for and handling of emergency situations.

The CRD II also mandates CEBS to develop guidelines for the operational functioning of colleges. Accordingly, the draft guidelines¹³, which were published in December 2009 for a 3 month public consultation period, aim to complement the CRD provisions, where additional guidance appears necessary, in order to avoid inconsistencies and the regulatory arbitrage which could result from differences between the approaches and rules applied by the various colleges and the application of discretion by Member States.

The draft guidelines aim to provide guidance for the different tasks to be performed by the supervisors involved in college work, starting with the process of setting up a college. Guidance is also provided in relation to the organisation of the exchange of information among college members, as well as in relation to communication with management of the supervised institutions, the voluntary sharing and delegation of tasks and the adoption of joint decisions on the permission for the usage of internal models and on the adequacy of own funds held by the group and its entities provided for in the CRD. Supervisors within colleges are also provided with guidance for taking due account of macro-prudential risks and for the planning and coordination of activities in both going-concern and emergency situations.

In its work on the college guidelines, CEBS paid special attention to ensuring consistency in relation to the ongoing initiatives regarding colleges at the global level and will continue to do so when finalising the guidelines.

CEBS expects its members to fully implement these guidelines by 31 December 2010, at the latest, at the same time as the CRD II comes into force.

COLLEGE OF SUPERVISORS

Formats	Main Activities	Members	Meeting Frequency
Chair & administrative support provided by the consolidating supervisor			
GENERAL	Framework where essential and relevant information is disseminated. Discussions on findings of high-level risk assessments, overall risk assessment plans, identification of the group's priority risks.	EEA supervisors of subsidiaries. EEA supervisors of significant branches. Non-EEA supervisors of relevant entities subject to the equivalence of confidentiality requirements.	At least annually
JOINT DECISIONS	Joint decisions on model validation and on the level of own funds under Pillar 2, including allocation and sharing of tasks and coordination of supervisory programmes.	EEA supervisors of involved subsidiaries. Possible participation of other members of the core college, where appropriate.	At least annually
CORE	Decide specific allocation and sharing of tasks among core members, coordinate overall and specific risk assessments, prepare coordinated supervisory programmes, joint actions or measures including in emergency situations.	EEA supervisors of relevant subsidiaries, or a limited number of EEA supervisors of subsidiaries conditional on the topics to be discussed. EEA supervisors of significant branches where appropriate. Non-EEA supervisors of relevant entities subject to the equivalence of confidentiality requirements.	As frequently as needed (more often than the general college).

Basic organisation of a college with multiple settings

NEXT STEPS

Enhancing the functioning of colleges of supervisors will remain a key priority for 2010. CEBS will actively work on promoting the efficient and consistent functioning of colleges of supervisors, focusing on improving the operation of colleges, through the implementation of the Guidelines for colleges and through the CEBS 2010 Action Plan for Colleges. The latter aims at enlarging the number of EEA headquartered banking groups for which there is a supervisory college in place, supported by a written co-operation and coordination agreement among the relevant authorities. For colleges already in place, the 2010 Action Plan aims to improve their operation by requesting the authorities involved in such colleges to produce a coordinated plan of activities for the year. In preparation for the joint decision on the risk-based capital adequacy envisaged by the CRD II, this plan should include, where applicable, the production by

the consolidating supervisor of a report containing the risk assessment of the group. The report shall be elaborated taking into account the individual contributions of the supervisors involved in the college.

In April 2010 CEBS issued for consultation guidelines¹⁴ for the convergence of supervisory practices with regard to the joint decision on the application of the Pillar 2 provisions related to the Internal Capital Adequacy Assessment Process (ICAAP) and to the Supervisory Review and Evaluation Process (SREP). The joint decision should cover the adequacy at the consolidated level of own funds held by the group with respect to its financial situation and risk profile, as well as the required level of own funds above the regulatory minimum applied to each entity within the group. These guidelines set out a common approach to the joint assessment and decision process among home and host supervisors regarding the capital adequacy of cross-border groups.

¹² CEBS' Advice on the Information to Be Exchanged under Article 42 CRD, June 2009: <http://www.c-eps.org/getdoc/87845371-7564-4f94-9151-fab152268689/CEBS-s-advice-on-article-42-of-CRD.aspx>
¹³ CP34: <http://www.c-eps.org/documents/Publications/Consultation-papers/2009/CP34/CP34.aspx>

¹⁴ CP39: <http://www.c-eps.org/Publications/Consultation-Papers/All-consultations/CP31-CP40/CP39.aspx>

Colleges of supervisors for large cross-border banking groups in the EU

Banking Group	Coordinated planning of activities for 2010	College to be set up in 2010
ABN/ Fortis Bank Nederland (Holding) N.V.		X
Allied Irish Banks Plc (AIB Group)	X	
Alpha Bank AE	X	
Banco Comercial Portugues SA	X	
Bank of Cyprus Group	X	
Banco Popolare - Societa Cooperativa		X
Banco Santander SA	X	
Barclays Group	X	
Bayern LB (Bayerische Landesbank)	X	
BNP Paribas	X	
BPCE		X
Commerzbank AG	X	
Credit Agricole Group	X	
Credit Mutuel		X
Danske Bank A/S	X	
Deutsche Bank AG	X	
Dexia	X	
DnB NOR		X
DZ Bank AG		X
EFG Eurobank Ergasias SA		X
Erste Group Bank	X	
HSBC Holdings Plc	X	
ING Groep NV	X	
Intesa Sao Paolo	X	
KBC Group	X	
Landesbank Berlin AG		X
Lloyds Banking Group		X
Marfin Popular Bank Group Public Co Ltd		X
National Bank of Greece SA	X	
Nordea Bank AB	X	
OP-Pohjola Group		X
OTP Bank Plc	X	
Piraeus Bank		X
Rabobank Group	X	
Raiffeisen Zentralbank Oesterreich AG (RZB)	X	
SEB (Skandinaviska Enskilda Banken AB)	X	
Societe Generale	X	
Svenska Handelsbanken	X	
Swedbank AB	X	
The Governor and Company of the Bank of Ireland (Bank of Ireland)	X	
The Royal Bank of Scotland Group (RBS)	X	
Unicredit SpA	X	
Volksbank AG (VBAG)	X	
WGZ Banking Group		X

4.1.2

Implementation of the CRD

4.1.2.1

Operational Risk

CEBS published in 2009 further guidelines and a consultation paper in the area of operational risk management. With its new guidelines, CEBS expanded the coverage and detail of its operational risk guidelines beyond the Guideline on the Validation and assessment of Advanced Measurement and Internal Rating Based Approaches (GL10¹⁵) published in April 2006, by adding specific guidelines on the *scope of operational risk and operational risk losses, the use test for AMA firms, the allocation of AMA capital and operational risk mitigation techniques*. In addition a consultation paper on operational risk management in market related activities was published in December 2009.

4.1.2.1.1

Compendium of Supplementary Guidelines on Implementation Issues of Operational Risk¹⁶

The guidelines on *The scope of operational risk and operational risk loss* identify industry practices for the definition and categorisation of both concepts and aim to achieve high standards for capturing and representing the operational risk profile by firms and supervisors.

Advanced Measurement Approach (AMA) firms must not use their operational risk measurement system solely for calculating regulatory capital. The measurement system must be integrated into the day-to-day risk management processes which are used within the various entities of the group on an ongoing basis. The guidelines on *The use test for AMA firms* lay out supervisory expectations in terms of performing the use test and integrating the operational risk measurement system into day-to-day risk management.

The guidelines on *The allocation of AMA capital* describe the range of allocation mechanisms which are currently used by major EU banking groups and outline a range of sound practices in terms of assessments of allocation mechanisms and home/host related issues regarding the joint decision on AMA applications and changes to allocation mechanisms.

4.1.2.1.2

Guidelines on Operational Risk Mitigation Techniques

Institutions can employ a variety of risk transfer instruments to manage and mitigate their operational risk. These instruments take the form of insurance contracts and *Other Risk Transfer Mechanisms* (ORTM). The Capital Requirements Directive allows institutions that use the AMA to recognise the mitigating effect of these instruments in their AMA capital calculations, subject to certain conditions. The guidelines on *Operational risk mitigation techniques*¹⁷ provide more complete guidance on the recognition of insurance within the AMA capital calculation and give appropriate guidance on ORTM taking into account institutions need for legal security and sufficient flexibility to allow the development of new products.

¹⁵ GL10: <http://www.c-eps.org/getdoc/5b3ff026-4232-4644-b593-d652fa6ed1ec/GL10.aspx>

¹⁶ Compendium of supplementary guidelines on implementation issues of operational risk: http://www.c-eps.org/getdoc/0448297d-3f85-477d-9fa6-c6ba5f80895a/CEBS-2009_161_rev1_Compendium.aspx

¹⁷ Guidelines on operational risk mitigation techniques: <http://www.c-eps.org/documents/Publications/Standards---Guidelines/2009/Operational-risk-mitigation-techniques/Guidelines.aspx>

4.1.2.1.3

Draft guidelines on Operational Risk Management in Market Related Activities

The consultation paper, published in December 2009, on *Operational risk management in market related activities*¹⁸ sought to highlight supervisory expectations concerning specific arrangements, procedures, mechanisms, and systems in market-related activities that could prevent or mitigate operational risk events by providing more specific principles and implementation measures for governance mechanisms, internal controls and reporting systems.

NEXT STEPS

In 2010, CEBS will finalise the Guidelines on operational risk in market related activities. In the context of the EU Quantitative Impact Study (See point 3.2.2 in section 3), CEBS will analyse the performance and relevance of the current regulatory indicator (gross income) and factors (the alpha and beta factors) for the calculation of the operational risk capital charge. CEBS will also work on guidelines promoting a harmonised supervisory procedure for the treatment of changes to AMA models. A harmonised treatment of model changes has gained importance as firms have started to update their models and allocation mechanisms.

4.1.3

Other Regulations – Guidelines on Passport Notifications

With the implementation of Directive 2004/39/EC on Markets in Financial Instruments (MiFID), questions arose with respect to the incorporation of investment services activities in notifications based on Directive 2006/48/EC relating to the Taking up and Pursuit of the Business of Credit Institutions (recast), as well as to the possible need to adapt existing passport notification forms under Arts. 25 and 28 of the latter Directive, and the possible need to define certain terms used in the notification forms.

In order to clarify those questions, in 2009 CEBS published guidelines for passport notifications¹⁹ which provide principles and modalities for co-operation between EEA supervisory authorities with respect to the new notifications of services and activities provided by credit institutions. The guidelines provide uniform forms for the notifications of cross-border services and the establishment of branches, a list of supervisory authorities to be notified in cases of the establishment of a branch or provision of cross-border services, a list of public registers of credit institutions in various Member States, a list of competent bodies for the receipt of complaints and out-of-court settlement of complaints, a list of compensation schemes, and a template for a joint agreement.

These Guidelines address co-operation and exchange of information between the competent supervisory authorities and call for the harmonisation of documents exchanged. The Guidelines also facilitate the efficient and ongoing supervision of credit institutions that provide their services or perform their activities throughout the Community, either through the establishment of a branch or the free provision of services.

4.2

Convergence of Supervisory Policies

4.2.1

A Harmonised Framework for Regulatory Capital

4.2.1.1.

Guidelines on Hybrid Capital Instruments

CRD II introduces explicit rules for the inclusion of hybrid capital instruments into institutions' original own funds. The new provisions build largely on CEBS's advice to the European Commission regarding a common EU definition of Tier 1 hybrids²⁰, which was published in April 2008.

In December 2009, CEBS published its final guidelines on hybrid capital instruments²¹. This work responds to the request in Article 63(a) of the current revised Capital Requirements Directive (CRD) for CEBS to elaborate guidelines for the convergence of supervisory practices with regard to hybrid instruments in order to further enhance the quality of own funds.

The guidelines, which are focused on areas where CEBS sees the need for further guidance, are structured into five main parts covering permanence, flexibility of payments, loss absorbency, limits and the use of Special Purpose Vehicles (SPVs).

NEXT STEPS

Due to forthcoming developments in the global regulatory framework with regard to the definition of capital instruments, both at international (Basel Committee on Banking Supervision's final proposals) and EU (legislative proposal for CRD IV) levels, CEBS is prepared to revisit its guidelines on hybrid capital instruments in the light of the possible new requirements under CRD IV.

4.2.1.2.

Draft Guidelines on Instruments Referred to in Article 57(a)

CRD II revises the rules for the treatment of instruments eligible as capital and, in particular, requirements for their inclusion in institutions' original own funds without limits.

In December 2009, CEBS published its Consultation Paper (CP33²²) on capital instruments (instruments referred to in Article 57(a) of CRD II). This consultation paper responds to the request in Article 63a (6) of CRD II that CEBS shall elaborate guidelines for the convergence of supervisory practices with regard to instruments referred to in point (a) of Article 57. The consultation period ended on 31 March 2010, a public hearing took place on 23 February 2010 to allow all interested parties to put forward their views on the Consultation Paper.

On the basis of the CRD II provisions, a set of 10 criteria has been developed which form the basis of CEBS's draft guidelines. The criteria cover the main features of capital instruments (definition of capital, permanence, flexibility of payments, loss absorbency) that may be included in original own funds without limits. The objective of the guidelines is to enhance the quality of core capital instruments but not to define the appropriate level of core capital.

In developing its draft guidelines, CEBS has taken into account the specificities of non-joint stock companies such as cooperatives and mutuals.

NEXT STEPS

Due to forthcoming developments in the regulatory framework with regard to the definition of capital instruments, both at international (Basel Committee on Banking Supervision's final proposals) and EU (legislative proposal for CRD IV) levels, CEBS is prepared to revisit its guidelines on instruments referred to in Article 57(a) of CRD II in light of the possible new requirements under CRD IV.

¹⁸ CP35: <http://www.c-eps.org/Publications/Consultation-Papers/All-consultations/CP31-CP40/CP35.aspx>
¹⁹ Guidelines for passports notifications: <http://www.c-eps.org/getdoc/364b9c1a-c8c4-4e84-8b20-1195707c089/CEBS-Passporting-Guidelines.aspx>

²⁰ Proposal for a common EU definition of Tier 1 hybrids: <http://www.c-eps.org/getdoc/06e25083-2f37-4146-90f3-9e9a40365117/hybrids.aspx>
²¹ Implementation guidelines for hybrid capital instruments: <http://www.c-eps.org/documents/Publications/Standards---Guidelines/2009/Hybrids/Guidelines.aspx>
²² CP33: <http://www.c-eps.org/Publications/Consultation-Papers/All-consultations/CP31-CP40/CP33.aspx>

4.2.2

Reducing Optionality in the Regulatory Framework

4.2.2.1

Options and National Discretions

In June 2009, CEBS delivered further advice on the reduction of options and national discretions in the CRD²³. This piece of work complemented CEBS's advice of October 2008²⁴ by focusing on eight particular national discretions and on an additional group of national discretions relating to real estate, where further advice was sought by the Commission.

In its advice CEBS presented an analysis on each of the national discretions and proposed in particular:

- To include additional criteria in the respective provisions in the CRD on the national discretions on the treatment of high-risk items and on the recognition of other physical collateral.
- To keep the national discretions on the recognition of other unfunded credit protection for dilution risk and on the recognition of receivables as collateral.
- To conduct further work on the remaining discretions (i.e. on the adequate percentages to calculate potential future credit exposures, on guidance to harmonise the treatment of entities as 'public sector entities', on the appropriate treatment of covered bonds, on prudence with the treatment of real estate as collateral and on guidance to harmonise the treatment of eligible 'short-term exposures').

CEBS carried out this additional work to a very tight schedule, which did not allow for public consultation or an impact assessment. However, the industry experts nominated by CEBS's members and the Consultative Panel were invited to provide input on the national discretions on the recognition of other unfunded credit protection for dilution risk as these discretions were highlighted as being of special interest to some parts of the industry in CEBS's first advice.

NEXT STEPS

CEBS will continue in 2010 its close monitoring of developments in the reduction of options and national discretions in the CRD.

²³ CEBS's further advice on Options and National Discretions: <http://www.c-eps.org/Publications/Advice/2009/CEBS-publishes-its-second-advice-on-options-and-na.aspx>
²⁴ CEBS's technical advice on Options and National Discretions: <http://www.c-eps.org/Publications/Advice/2008/CEBS-technical-advice-to-the-European-Commission.aspx>

4.2.3

Improving the Regulatory and Supervisory Framework

4.2.3.1

Large Exposures Regime

In December 2009, CEBS published guidelines in relation to two specific aspects of the revised large exposures regime²⁵ that had been included in the CRD II review²⁶.

The CEBS guidelines, which build on CEBS's advice to the Commission of April 2008²⁷, cover two areas where further guidance was deemed necessary to ensure a harmonised application of the revised regime:

- In relation to the definition of "connected clients", in particular with reference to the concepts of "control" and "economic interconnection" CEBS sees the identification of connected clients as an integral part of an institution's credit granting and surveillance process and accordingly calls for a robust process to be in place in order that this identification can be conducted. As CEBS recognises that this could be difficult in practice, a proportionate approach is proposed which is that the intensive process should be applied only to those exposures that exceed 2% of an institution's own funds on a solo or consolidated basis.
- In relation to the treatment for large exposure purposes of schemes with exposures to underlying assets CEBS considers a look-through approach, as the most risk sensitive, would be ideal. However, CEBS recognises that such an approach is not always feasible or, indeed, possible and proposes more conservative approaches as alternatives, leaving the decision on the most appropriate to the institution itself. Taking into account feedback from market participants, CEBS proposes that until 31 December 2015, institutions may treat schemes acquired before 31 January 2010 according to the treatment that was required prior to the implementation of the guidelines.

NEXT STEPS

CEBS recommended that its members apply the guidelines by 31 December 2010, at the same time as the revised large exposures regime will enter into force. To ensure harmonisation of practices across Member States, CEBS is considering starting an implementation study before 31 December 2011.

In addition, CEBS will conduct further work on the treatment of tranching products as regards recognition of the mitigation effect of subordinated tranches.

²⁵ CEBS's guidelines on the revised large exposures regime: <http://www.c-eps.org/News--Communications/Archive/2009/CEBS-today-publishes-its-guidelines-on-the-revised.aspx>
²⁶ The amendments to the CRD will have to be transposed into Member States' national law by 31 October 2010 and will be applied from 31 December 2010.
²⁷ CEBS's advice on the review of the large exposures regime: <http://www.c-eps.org/Publications/Advice/2008/CEBS-PUBLISHES-ADVICE-ON-THE-REVIEW-OF-THE-LARGE-E.aspx>

4.2.3.2

Liquidity Risk Management and Liquidity Buffers

In December 2009, CEBS published guidelines on liquidity buffers, building on CEBS's Recommendations on Liquidity Risk Management²⁸. These guidelines elaborate upon the appropriate size and composition of liquidity buffers to enable banks to withstand a liquidity stress for a period of at least one month without changing their business models. The guidelines prescribe that liquidity buffers should be built so as to ensure the generation of liquidity within a short period at a predictable value. Thus, for the very short term (at least one week), only assets that are both highly liquid in private markets and eligible for central bank standard facilities should count towards the liquidity buffers. For the longer end of the buffer (at least one month), other highly liquid assets may be appropriate as well. Guidance on determining/assessing assets' liquidity is provided in the paper.

NEXT STEPS

Due to the progress expected on international liquidity standards in the coming years, CEBS is prepared to revisit its guidelines on liquidity risk management and liquidity buffers as far as necessary.

The BCBS proposed liquidity standards in December 2009, followed by a Consultation paper from the EU Commission on further possible changes to the Capital Requirement Directive (CRD IV). The proposed standards (Liquidity Coverage Ratio and Net Stable Funding Ratio) are included in the EU Quantitative Impact Study that is being undertaken during the first half of 2010 (See point 3.2.2 in section 3). The data gathered from the EU institutions participating in the QIS will be analysed by CEBS.

²⁸ CEBS's recommendation on liquidity risk management: http://www.c-eps.org/getdoc/bcadd664-d06b-42bb-b6d5-67c8ff48d11d/20081809CEBS_2008_147_%28Advice-on-liquidity_2nd-par.aspx

²⁹ As custodians were excluded from the scope of the ESCB-CESR draft recommendations for Securities Settlement Systems and for Central Counterparties, the ECOFIN Council invited CEBS to further review, in co-operation with CESR, the coverage of risks borne by custodians so as to ensure a level playing field while avoiding inconsistencies in the treatment of custodians and double regulation. The resulting report on custodian banks: <http://www.c-eps.org/News--Communications/Archive/2008/CEBS-PUBLISHES-ITS-REPORT-TO-THE-ECOFIN-ON-CUSTODI.aspx>

³⁰ Call for evidence for custodian banks: <http://www.c-eps.org/News--Communications/Archive/2009/CEBS-publishes-a-call-for-evidence-for-custodian-b.aspx>

³¹ Report on custodian banks' settlement internalisation and CCP-like activities: <http://www.c-eps.org/News--Communications/Archive/2009/CEBS-publishes-a-report-on-custodian-banks-settle.aspx>

4.2.3.3

Market Infrastructures

In its report of December 2008 to the ECOFIN Council²⁹, CEBS concluded that the ESCB-CESR draft recommendations for Securities Settlement Systems (RSSS) and for Central Counterparties (RCCP) relevant to custodian banks participating in the system were covered in the CRD and/or other relevant banking regulations. On the other hand with the RSSS/RCCP relevant to custodian banks internalising such activities, CEBS found that the recommendations related to the design of the clearing and settlement system were either not met or only partially/indirectly met by the CRD and/or other relevant banking regulations.

In order to gather evidence about the extent to which such activities were performed, CEBS published a call for evidence in February 2009³⁰. The responses, summarised in the report that CEBS published in April 2009³¹, led CEBS to conclude that there is little evidence to suggest that action at a European level is needed to address the issue of settlement internalisation.

NEXT STEPS

Given the new developments in the market infrastructures area - with a new legislative proposal currently being developed by the Commission - CEBS has shifted the focus of its work to reflect in particular on the role of banking supervisors in the context of the new legislation. To achieve this, CEBS set up in February 2010 a dedicated Task Force composed of representatives from Member States whose jurisdictions host a major European Central Counterparty (CCP). The main objective of the Task Force is to make proposals on the positioning and role of banking supervisors in the supervision of CCPs and on the possible future involvement of CEBS/EBA in this field. The aim of the Task Force is to provide direct input to the Commission's current work on the legislative proposal on market infrastructures.

In addition, and following up on its earlier work on custodian banks, CEBS will investigate in the medium term further risk management aspects relevant to banks that take on the role of general clearing member.

4.2.3.4

High Level Principles on Risk Management

In their declaration of 15 November 2008, the G20 leaders stated that regulators should "develop enhanced guidance to strengthen institutions' risk management practices, in line with international best practices, and encourage financial firms to re-examine their internal controls and implement strengthened policies for sound risk management"³². The EU Economic and Financial Committee (EFC) has transposed the G20 recommendations into its "EU Work Plan Following G20 Declaration and Action Plan", which repeats the call for CEBS to develop enhanced guidance to strengthen banks' risk management practices.

In response to this request, CEBS has conducted an analysis of existing risk management guidelines with the objective of identifying possible gaps in coverage and other areas where updates to the guidelines would be desirable. According to the results of the CEBS's analysis, EU and international supervisory bodies have produced a comprehensive set of guidelines covering all major aspects of risk management. However, a few gaps have been identified in the areas of governance and risk culture, risk appetite and risk tolerance, the role of the Chief Risk Officer and risk management functions, risk models and integration of risk management areas and new product approval policy and process.

CEBS has addressed the identified weaknesses and developed a set of overarching high level principles on risk management. The High level principles on risk management were submitted for public consultation in April 2009. The final document was published in February 2010³³.

³² G20 declaration of 15 November 2008, http://www.g20.org/Documents/g20_summit_declaration.pdf

³³ CEBS high level principles on risk management: <http://www.c-eps.org/documents/Publications/Standards--Guidelines/2010/Risk-management/HighLevelprinciplesonriskmanagement.aspx>



4.2.3.5

Enhanced guidelines on internal governance

In October 2009 CEBS undertook a survey on the implementation of the CEBS Guidelines on Internal Governance³⁴ and weaknesses identified during the financial crisis. CEBS Members and Observers provided information on the basis of an extensive questionnaire. The questionnaire covered four themes: corporate structure and organisation, the management body, internal control functions and transparency and disclosure. The conclusions were discussed subsequently at a workshop with the banking industry and a summary of the conclusions was published³⁵. The results of the survey and the workshop have been sent to the European Commission as an input for its initiatives on corporate governance³⁶.

Overall the regulatory and supervisory national frameworks with regard to internal governance can be considered to be broadly complete. Major shortcomings in the existing internal governance guidelines have not been identified and consequently, they do not need to be changed fundamentally. However, in some areas the guidelines could be reviewed and if necessary spelt out in more detail to reflect weaknesses identified.

Weak internal governance issues were not identified as a direct trigger for the financial crisis but rather as a crucial underlying factor. Where weaknesses were identified they were often a result of institutions' weak or superficial internal governance practices and internal governance guidelines. The main weakness identified with regard to corporate structure and organisation was that complex structures were often not balanced by appropriate countermeasures. The "Know-your-structure" principle was not always complied with. In respect of the management body inadequate oversight by the supervisory function was considered to be the most important weakness. On internal controls, the main concerns raised by supervisors were whether the risk management framework was sufficiently integrated within a firm or group, whether the framework covered all the risks the business faced and whether it had the appropriate standing in terms of resources, status or expertise.

³⁴ The CEBS Guidelines on Internal Governance are included in the "CEBS Guidelines on the Application of the Supervisory Review Process under Pillar 2" (GL 03, as originally published in January 2006).

³⁵ Summary of the survey on the implementation of CEBS principles for internal governance: http://www.c-ebc.org/documents/About-us/Key-dates/Summary-of-survey-results_Workshop-on-Internal-Gov.aspx

³⁶ Communication of 4 March 2009, Driving European Recovery

NEXT STEPS

CEBS will review its internal governance guidelines based on the weaknesses and the room for improvement identified in its survey on internal governance. CEBS will also take into account the European Commission's work on corporate governance and the update to the BCBS guidance - *Enhancing corporate governance for banking organisations*. Besides a review of the guidelines on internal governance, CEBS aims to develop a comprehensive guidebook of internal governance principles by taking into account the *High level principles on risk management* and the *High level principles on remuneration policies* and including references to internal governance guidelines contained in other CEBS guidelines (e.g. Guidelines on Validation).

4.2.3.6

High Level Principles on Remuneration

In April 2009, CEBS published its High-level principles on remuneration policies³⁷. The principles address key aspects of well functioning remuneration policies and thus support the sound operation of banking institutions. The scope of the principles covers remuneration policies applying throughout an organisation rather than focusing exclusively on executive pay or severance pay. It focuses on key aspects of the remuneration policy, in particular alignment with business strategy, risk tolerance and the long term interest of the institution, transparency towards stakeholders, governance with respect to oversight and decision-making, performance measurement and forms of remuneration.

In drafting these principles, CEBS coordinated its work with other relevant international fora working on the topic of remuneration, in particular the FSB and the BCBS.

The implementation date for the principles was set at the end of Q3 2009, with a transition period for institutions, e.g. in order to take necessary steps to renegotiate existing contracts. The first part of an implementation study was carried out by CEBS in the fourth quarter of 2009. This part of the study focused on the national regulatory and supervisory actions taken in the field of remuneration in the financial sector and on understanding the key challenges regarding the implementation of the High-level Principles.

The second part of the implementation study, carried out in the first quarter of 2010, focused on implementation by the industry and on national supervisory actions and practices regarding the assessment of remuneration policies and practices in the institutions.

NEXT STEPS

A report is being written to present the main findings of the implementation study that will be used as input for CEBS further follow-up on the Remuneration High Level Principles.

Proposed amendments to the CRD (CRD III) require CEBS to develop further guidelines on remuneration policies and practices. Though CRD III is not endorsed yet, preparation for this work has started and will be carried out during 2010. The information gathered from the implementation study will be used in the development of the guidelines. CEBS will co-operate closely with CESR in this work.

³⁷ High level principles for remuneration policies: <http://www.c-ebc.org/getdoc/34beb2e0-bdff-4b8e-979a-5115a482a7ba/High-level-principles-for-remuneration-policies.aspx>

4.2.3.7

Draft Guidelines on Concentration Risk

In 2009 CEBS started work on the revision of its existing set of Pillar 2 related guidelines, starting with the update and revision of technical annexes to the Guidelines on the Application of the Supervisory Review Process under Pillar 2 (GL03)³⁸.

On 11 December 2009 CEBS published for public consultation the draft revised Guidelines on aspects of the management of concentration risk under the supervisory review process³⁹, which update the 2006 version of the text. The draft revised guidelines reflect the experience obtained by supervisors in the implementation of Pillar 2 and lessons learnt from the financial crisis which explicitly highlighted that concentration risk was not sufficiently understood/addressed, and some concentrations of risk emerged that had not been anticipated.

The draft revised guidelines are aimed at reinforcing institutions' risk management practices and promoting a holistic approach to enterprise-wide concentration risk management, meaning that institutions are expected to identify and assess all aspects of concentration risk, moving further away from the traditional analysis related only to credit risk which was the focus of the 2006 document. In particular, the draft revised guidelines suggest that it is not sufficient to analyse concentration risks only within a risk type (intra-risk analysis) but that the analysis of concentration risks across risk types (inter-risk analysis) is also necessary, including credit, market, operational and liquidity risks.

NEXT STEPS

In 2010 CEBS will finalise the Guidelines on aspects of the management of concentration risk under the supervisory review process after the public consultation. CEBS will also develop supplementary materials for supervisors only (e.g. standard questions and examples of practical supervisory tools in the field of concentration risk), in order to support appropriate implementation of the guidelines.

In 2010 CEBS will also continue the review of the technical annexes of its Pillar 2 related guidelines and will focus next on the update and revision of the 2006 Guidelines on the Technical aspects of the management of interest rate risk arising from non-trading activities under the supervisory review process.

4.2.3.8

Draft Guidelines on Stress Testing

The experience from the financial crisis increased the importance of stress testing as a risk management and supervisory tool when assessing institutions' resilience to shocks. This has prompted the revision of the 2006 CEBS Guidelines on technical aspects of stress testing under the supervisory review process.

The revision of the guidelines was based on the experience that supervisors have obtained by reviewing institutions' stress tests in recent years, took account of the revised Principles for sound stress testing practices and supervision⁴⁰ published by the BCBS in May 2009, and addressed some of the main lessons learnt from the financial crisis.

The draft revised Guidelines on stress testing⁴¹, which were published on 14 December 2009 for a three month public consultation, aim to assist institutions in designing and implementing stress testing programmes with a robust governance structure, meaningful senior management engagement and an effective infrastructure, including information technology, data handling and skilled human resources. The draft revised guidelines are designed to be as practical as possible and aim to

identify the relevant "building blocks" in an effective stress testing programme.

The draft revised guidelines introduce the requirement for institutions to implement a range of stress scenarios with different severities, including scenarios which reflect a severe but plausible economic downturn, and promote reverse stress testing as a way of complementing the range of stress tests and helping to challenge the severity of scenarios used for stress testing.

NEXT STEPS

In 2010 CEBS will finalise the Guideline on stress testing after the public consultation and will continue to work on supporting the implementation of the guidelines. Given the fact that stress testing is becoming more widely used not only as risk management but also as supervisory tool, later in 2010, CEBS will investigate the approaches to supervisory stress testing in order to identify good practices.

4.2.3.9

Position Paper on a Countercyclical Capital Buffer

Against the background of the ongoing discussions regarding pro-cyclicality in other international fora, CEBS has provided a preliminary contribution to the debate by outlining possible practical tools for supervisors to assess the capital buffers that banks have to maintain under Pillar 2. The outcome of this work is set out in a Position Paper on a countercyclical capital buffer, which was published in July 2009⁴².

The position paper focused on the cyclicality of credit risk in the banking book of IRB banks as these banks cover a substantial share of banking assets and as the use of internal models could make them more prone to pro-cyclical effects.

In elaborating its concept, CEBS has benefited from input provided by industry experts nominated by CEBS's Consultative Panel and by bilateral meetings held with a sample of major European banks.

In practice, the methodology is based on the application of an adjustment, which reflects the gap between current PDs and PDs in recessions. By construction, the size of the adjustment decreases in a recession and increases in expansionary phases. Based on the same underlying philosophy, CEBS sees two options for the calculation of the adjustment: 1) a portfolio level option, and 2) a rating-grade level (i.e., more granular) option, together with variants of each option.

The methodology is intended as a way for contributing to a more convergent approach which will help supervisory authorities to deal in practice with the cyclicality of banks' capital levels. The purpose is therefore to provide supervisors with practical tools that can be used as part of the SREP for assessing the robustness and reliability of stress tests results. Banks would be expected to comply or explain should their internal stress tests deliver results that appear excessively mild with respect to the supervisors' beliefs. The adoption of simplified mechanisms should facilitate the dialogue between banks and supervisors during the SREP.

The focus on Pillar 2 ensures that buffers are: i) sufficiently flexible, ii) determined as the result of the dialogue between institutions and competent authorities and iii) not seen as simply permanently raising the existing minimum capital requirements. Moreover, Pillar 2 allows for flexibility in testing approaches that, with some refinements, might also be translated into Pillar 1 tools.

NEXT STEPS

The CEBS proposal was incorporated in the BCBS proposal published in December 2009 and is subject to the QIS. CEBS will continue in 2010 its close monitoring of the international work on the development of tools to address the pro-cyclicality of the regulatory framework.

³⁸ GL03: <http://www.c-eps.org/getdoc/00ec6db3-bb41-467c-acb9-8e271f617675/GL03.aspx>
³⁹ CP31: <http://www.c-eps.org/documents/Publications/Consultation-papers/2009/CP31/CP31.aspx>
⁴⁰ BCBS principles for sound stress testing practices and supervision: <http://www.bis.org/publ/bcbs155.pdf?noframes=1>
⁴¹ CP32: <http://www.c-eps.org/documents/Publications/Consultation-papers/2009/CP32/CP32.aspx>

⁴² Position Paper on a countercyclical capital buffer: <http://www.c-eps.org/News--Communications/Archive/2009/CEBS-today-publishes-a-Position-Paper-on-a-counter.aspx>

4.2.3.10

Advice on the Effectiveness of a Minimum Retention Requirement for Securitizations

CEBS published at the beginning of November 2009, its advice on the effectiveness of a minimum retention requirement for securitisations⁴³. Following the amendments to the CRD, the European Commission submitted two Calls for Advice requesting technical guidance on the effectiveness of the minimum retention requirement for securitisations in Article 122a, the introduction of which aims to remove the misalignment of incentives between the interests of investors and those of originators in the securitisation market.

The Directive amendments provided four methods to meet the 5% retention requirement:

- retention of each tranche sold or transferred to investors;
- retention of an originator's interest in securitisations of revolving exposures;
- retention of equivalent exposures on balance sheet; or
- retention of a first loss tranche.

Due to the very short time available to develop its advice, CEBS could only examine some of the impact and market failure aspects of the retention policy. The main conclusions and proposals reached by CEBS in its analysis were:

- The retention number of 5% should be kept for all four options, since a significant increase in this, or changes according to the option available, could have the unwanted consequence of undermining the ability of firms to achieve significant risk transfer. Furthermore, a higher retention requirement can be factored into the economics of a transaction by originators by increasing the pricing of such assets to compensate for it. On this basis, resetting the 5% number to a higher level does not automatically increase the alignment of interests.

- There is a need for clarification of the scope of the prohibition to hedge an originator's exposures.
- All four retention options proposed by the Commission should be kept, as each has advantages and disadvantages relative to the others.
- An additional method (so-called "L-shaped" retention) was identified, which would require further work should the Commission wish to consider it.

NEXT STEPS

CEBS is currently in the process of preparing guidelines for the convergence of supervisory practices with regard to Art. 122a of the revised CRD, including the measures taken in cases of breaches of the due diligence and risk management obligations. The draft guidelines will be published in the Summer for a three month consultation period.

4.3

Financial Information

4.3.1

Monitoring Accounting and Auditing Developments

CEBS has since its establishment been active in monitoring developments in the areas of accounting and auditing as these frameworks provide the basis for the soundness of banks and the stability of the financial system. In 2009 these topics continued to be at the forefront of discussions.

4.3.1.1

Work on Procyclicality and Accounting

During 2009 CEBS has embarked on work in the area of procyclicality and accounting. As part of this work, CEBS assessed i) the countercyclical nature of a number of accounting impairment approaches that were being - or have in the past been - discussed by the IASB and ii) dynamic provisioning and reserving approaches being considered or already in use by prudential supervisors.

This assessment was carried out prior to the publication in November 2009 of the IASB's Impairment ED, although CEBS actively followed the discussions at the IASB meetings. It was generally felt that an approach based on expected losses better reflects the economic reality of banks' lending activities than the incurred loss approach as that requires an earlier recognition of expected credit losses.

At the same time, CEBS also highlighted concerns about a number of aspects of the approach that was developed, including the effect on the economic cycle (which depends very much on loss estimates), reliability and verifiability, complexity, and the scope for judgment.

CEBS concluded that it is crucial to undertake a thorough analysis of the IASB's proposed expected cash flow model and its effect on the economic cycle.

CEBS is also of the view that it is essential to await the outcome of the IASB's standard setting process before deciding on the question of the need for additional measures in this area. In that context it is equally important to follow developments in third countries, in particular in the US where the impairment framework is currently also being reviewed by the FASB.

NEXT STEPS

CEBS is in the process of carrying out a detailed analysis of the IASB's ED. As part of its analysis CEBS will assess the effect of accounting on cyclicity in order to determine the needs for any supplementary measures – be they guidance or complementary buffers.

4.3.1.2

Valuation of Complex and Illiquid Financial Instruments

Since early 2008 CEBS has been working to encourage standard setters, banks and supervisors to improve the valuation of complex and illiquid financial instruments with the aim enhancing the quality and comparability of banks' financial statements.

In June 2008 this led to the publication of the *Report on issues relating to the valuation of complex and illiquid financial instruments*⁴⁴. The report put forward a set of issues that should be addressed by institutions and accounting and auditing standard setters in order to improve the reliability of the values ascribed to these instruments.

In that report CEBS committed to carry out a review in early 2009 of the progress made regarding those issues and take stock of the measures taken by standard setters - in most cases the IASB - and by banks.

Overall the *Assessment of measures taken with respect to the issues raised in the CEBS June 2008 Valuation report*⁴⁵ concluded that more improvements have to be made. More specifically the report observed that:

- the IASB should:
 - as a priority, aim to address wider valuation-related issues such as impairment measurement of available-for-sale assets, treatment of Day 1 profits and losses and the determination of the effect of own credit risk and related disclosures;
 - further clarify particular aspects of fair value measurement guidance; and
 - provide clarifications regarding all aspects of the reclassification of instruments containing embedded derivatives; whereas
- for institutions
 - further efforts are encouraged with respect to valuation methodologies and processes and regarding wider valuation-related aspects such as impairment measurement and the application of the fair value option; and

- progress and improvements have been observed in the classification of complex and illiquid financial instruments and, more generally, for issues relating to the process of making investment and business decisions as well as risk management.

As part of a further follow-up CEBS continues to monitor banks' transparency and disclosures (as described in 4.3.2) and the work of the IASB in developing further guidance for auditing fair values.



⁴⁴ Report on issues relating to the valuation of complex and illiquid financial instruments: http://www.c-eps.org/getdoc/2ba0267b-bff2-406d-ba69-0ca47279ec1f/20080618b_valuation.aspx
⁴⁵ Assessment of measures taken with respect to the issues raised in the CEBS June 2008 Valuation report: http://www.c-eps.org/getdoc/500aa873-8b64-4d01-9469-852b86a02144/CEBS-2009-25-rev2_-_Assessment-of-follow-up-measure.aspx

4.3.1.3

Monitoring of Accounting and Auditing Developments

The global financial crisis and the various G20 recommendations led to a series of initiatives to review the accounting framework, and most significantly the accounting for financial instruments. In 2009, CEBS continued to devote significant resources to the monitoring of developments in that area and provided numerous contributions to the standard-setting process.

In particular CEBS has analysed and commented on a significant number of discussion papers, exposure drafts and other due process documents issued by the IASB – all of which can be accessed on CEBS's website⁴⁶.

The following table provides an overview of the IASB due process documents CEBS commented on in the course of 2009:

November	IASCF Constitution Review Part 2 Proposals for Enhanced Public Accountability
November	Exposure Draft ED/2009/11 Improvements to IFRSs
September	Exposure Draft ED/2009/5 Fair Value Measurement
September	Exposure Draft ED/2009/7 Financial Instruments: Classification and Measurement
September	Discussion Paper DP/2009/2 Credit Risk in Liability Measurement
September	Request for information: Expected Cash Flow Model
July	Exposure Draft ED/2009/3 Derecognition
June	Discussion Paper Preliminary Views on Revenue Recognition in Contracts with Customers
April	CEBS views on FASB Staff Positions issued on 9 April 2009
April	Discussion Paper Preliminary Views on Financial Statement Presentation
April	CEBS input on the questions of the Financial Crisis Advisory Group (FCAG)
March	Exposure Draft ED 10 Consolidated Financial Statements
January	Exposure Draft Investments in Debt Instruments (Proposed Amendments to IFRS 7)

Particular emphasis should be put on the work on financial instruments (which includes the ED on Investments in Debt instruments, ED/2009/3 on Derecognition, DP/2009/2 on Credit Risk in Liability measurement, and the request for information from the Financial Crisis Advisory Group), on fair value measurement and on consolidation issues.

Following the finalisation of the IASB's Clarity project, the workload in the area of auditing decreased significantly. The only contribution made in the area of auditing was a comment letter⁴⁷ on the European Commission's Consultation on the Adoption of International Standards on Auditing (ISAs) provided in October 2009.

⁴⁶ <http://www.c-eps.org/getdoc/c0fa3f2c-0710-4c07-b5e5-eeaa54f1d1d/Accounting.aspx>
⁴⁷ Comment letter on the Commission's Consultation on the Adoption of ISAs: <http://www.c-eps.org/getdoc/06b481f7-5c8e-4ca1-b1f5-10c0db4b2b7d/2009-10-05-%28CEBS-CL-EC-Consultation-on-the-Adoptio.aspx>

4.3.2

Increasing Transparency

4.3.2.1

Follow-up Reviews of Banks' Transparency

As a follow-up to the 2008 Report on banks' transparency on activities and products affected by the recent market turmoil⁴⁸ and the October 2008 report assessing 2008 interim results⁴⁹, CEBS continued to monitor banks' disclosures in 2009.

In March 2009 CEBS published the Follow-up review of banks' transparency in their 2008 4th quarter and preliminary year-end results⁵⁰. This third assessment reviewed the disclosures made by 19 banks and concluded that these did not show significant improvements compared to the 2008 interim results.

More specifically, as regards quantitative disclosures - on impacts and exposure levels - banks continued to provide satisfactory information, whereas for qualitative disclosures - on business models and risk management - there was still room for improvement.

As part of that report CEBS also committed to carefully analyse the 2008 audited annual reports (and Pillar 3 reports - as discussed in 4.3.2.3) to assess whether the gaps that had been identified in the previous and present analyses had been addressed.

The findings of the analysis of the 2008 annual report disclosures (performed for 23 large banks with cross-border activities) - published in June 2009 in the *Follow-up review of banks' transparency in their 2008 audited annual reports*⁵¹ - showed that the CEBS good practices published in June 2008 had been followed quite extensively by many banks. The report also noted a significant increase in disclosures compared to the previous analyses CEBS carried out with regard to both the 2008 last quarter and preliminary year-end and the interim results.

At the same time CEBS identified a number of areas within the CEBS good practices - mostly in the context of accounting-related disclosures - where disclosures could be further improved, including disclosures on fair value measurement and related methodologies.

The crisis led CEBS to look beyond its June 2008 good practices. This expanded view allowed CEBS to identify aspects that institutions should pay particular attention to in order to ensure that their disclosures reflect the most recent developments. These aspects included impairment of financial instruments and goodwill and 'new' areas or exposures affected by the crisis.

In the wake of this analysis, CEBS decided to develop a set of high-level disclosure guidance to help banks prepare disclosures covering areas or activities that warrant particular attention or that are under stress (See under 4.3.2.2).

NEXT STEPS

CEBS will repeat the analysis of the banks' disclosures in their 2009 annual reports. This work is currently in preparation.

4.3.2.2

Disclosure Guidelines: Lessons Learnt From The Financial Crisis

As mentioned above, the various disclosure assessments led CEBS to develop a set of disclosure guidelines intended to help institutions improve their risk disclosures in the wake of the financial crisis. *Consultation Paper 30 - Disclosure guidelines : Lessons learnt from the financial crisis*⁵² - published for a three month consultation in October 2009 - aimed to improve the form and the content of disclosures, irrespective of their context or framework, but was not intended to amend, duplicate or add to existing disclosure requirements.

Having reviewed the comments received, CEBS published the final Guidelines in April 2010⁵³. The 16 principles reflect the disclosure-related lessons learnt from the financial crisis, although CEBS feels that the guidelines can also be useful when related to activities that warrant particular attention, irrespective of the economic environment.

The guidelines are divided into three parts, discussing respectively:

- general principles to be applied to high quality disclosures;
- principles dealing with the content of disclosures on areas or activities under stress, in particular for business models, impacts on results and risk exposures, impacts on financial positions, risk management and sensitive accounting issues; and
- guidance on presentational aspects of disclosures.

NEXT STEPS

CEBS will continue to closely monitor banks' disclosures in order to ensure that they are in line with its recommendations.

⁵² CP30: <http://www.c-eps.org/documents/Publications/Consultation-papers/2009/CP30/CP30-CEBS-Disclosure-guidelines.aspx>
⁵³ <http://www.c-eps.org/documents/Publications/Standards---Guidelines/2010/Disclosure-guidelines/Disclosure-principles.aspx>

⁴⁸ Report on banks' transparency on activities and products affected by the recent market turmoil: http://www.c-eps.org/getdoc/f01aab21-c2ce-4b4a-83d8-406c79e32d36/20080618a_transparency.aspx

⁴⁹ October 2008 report assessing 2008 interim results: <http://www.c-eps.org/getdoc/58433006-fcca-4697-a9e1-b72f87dad22a/CEBS-2008-162-Final-Follow-up-report-Transparency.aspx>

⁵⁰ Follow-up review of banks' transparency in their 2008 4th quarter and preliminary year-end results: [http://www.c-eps.org/getdoc/7686ecb8-57ff-4cd1-bd48-7cbc022ad78e/24-March-2009-\(Transparency-assessment-prelim-YE-2.aspx](http://www.c-eps.org/getdoc/7686ecb8-57ff-4cd1-bd48-7cbc022ad78e/24-March-2009-(Transparency-assessment-prelim-YE-2.aspx)

⁵¹ Follow-up review of banks' transparency in their 2008 audited annual reports: [http://www.c-eps.org/getdoc/cf732fd-e9fc-4e4d-bf3f-fc1bc8eb559/CEBS-2009-133-Final-published-\(Transparency-assess.aspx](http://www.c-eps.org/getdoc/cf732fd-e9fc-4e4d-bf3f-fc1bc8eb559/CEBS-2009-133-Final-published-(Transparency-assess.aspx)



4.3.2.3

Report on Pillar 3 Disclosures

On June 2009, CEBS published a report assessing the quality and compliance with the requirements of the CRD⁵⁴ of the first Pillar 3 disclosures provided by a sample of European financial institutions. The Pillar 3 disclosure requirements include new information related to capital structure, capital adequacy, risk management and risk measurement.

The report highlighted that Pillar 3 disclosures have efficiently contributed to providing market participants with information allowing a better assessment of banks' risk profiles and capital adequacy. However, CEBS identified several areas where disclosures could be enhanced:

- The composition and characteristics of own funds.
- Back testing information for credit risk and market risk could be further developed.
- Disclosures on credit risk mitigation techniques appear too synthetic. In particular, the CEBS noted insufficiencies with regard to quantitative information and to the information on the quality of guarantors.
- In the area of counterparty credit risk, banks need to elaborate further on value adjustment policies and provide more granular quantitative information.
- Finally disclosure on securitisation transactions could have been more granular though those banks which have followed the "Industry good practice guidelines" have on the whole provided more comprehensive and understandable information.

It was also observed that Pillar 3 disclosures are somewhat heterogeneous notably as regards their presentation, timeframe and format, and the nature of the data disclosed. Some of those differences may relate to the non-prescriptive approach retained by the CRD and the Member States, which may raise comparability issues for users.

It is expected that market discipline will help to reduce the heterogeneity observed during this first year of the implementation of Pillar 3.

NEXT STEPS

In 2010 CEBS will renew its assessment exercise on Pillar 3 disclosures putting greater emphasis on the main weaknesses identified in the first exercise. The potential need for supervisory guidance will be considered on the basis of this new assessment. CEBS will also consider promoting convergence by highlighting best practices.

⁵⁴ As reflected in Chapter 5 ("Disclosures by credit institutions") of Title V of Directive 2006/48/EC and in Annex XII ("Technical criteria on Disclosure")

4.3.3

Towards a Single Reporting Framework

In 2007, CEBS published a study assessing the level of convergence in the application of the CEBS Guidelines on Reporting (COREP and FINREP)⁵⁵. The results of the study demonstrated that more work was needed in the medium term to achieve greater convergence in supervisory reporting, at least for institutions that operate cross-border within the EU. To that end, a road-map pointing towards more standardised supervisory reporting was developed. Several projects on streamlining and harmonising reporting formats have been launched that will allow CEBS to deliver EU-wide reporting formats for FINREP and COREP, consistent with the request of the EU Institutions.

The scope of the deliverables is as follows:

- Consolidated and sub-consolidated financial reporting for supervisory purposes based on IAS/IFRS as endorsed by the European Union. These reports are covered by the Guidelines on Financial Reporting.
- Consolidated, sub-consolidated and solo reporting of the capital requirements and own funds based on Directives 2006/48/EC and 2006/49/EC. These reports are based on the Guidelines on Common Reporting.

To achieve a high level of harmonization and strong convergence in regular supervisory reporting requirements, CEBS decided to revise its current guidelines on COREP and FINREP with the aim of developing a supervisory reporting model with common data definitions.

Though the use of XBRL for reporting purposes is not mandatory for the national authorities, CEBS will continue to recommend it, as the adoption of XBRL taxonomies will lead to greater harmonization of IT formats.

⁵⁵ Assessment of convergence in supervisory reporting: <http://www.c-eps.org/getdoc/97aced1d-0c74-4692-bbff-30efa5bbc1f2/20071008Assessmentofconvergenceinsupervisoryreport.aspx>



4.3.3.1

Revised FINREP

In 2009 CEBS continued its work to standardise supervisory reporting. CEBS guidelines on financial reporting and the FINREP framework were streamlined and revised. The revised guidelines on financial reporting (FINREPrev2) were published in December 2009⁵⁶. The application date for the revised FINREP will be 1 January 2012.

The revised guidelines provide for a maximum data model that will ensure a greater degree of harmonisation of regulatory reporting requirements in Europe. Although FINREP guidelines are not compulsory, Member States using FINREP agreed to rely exclusively on financial information defined in the new FINREP framework, and may neither amend the information templates based on national need, nor require additional information that exceeds the fixed maximum. A strong “comply or explain” clause was introduced in the guidelines in order to enhance their implementation and give transparent reasoning for their non-application. Agreed changes in IFRS were incorporated into the revised FINREP.

The XBRL taxonomy for the revised FINREP framework was finalised in December 2009.

NEXT STEPS

In 2010, further major changes to the accounting standards are expected which will impact FINREP. CEBS will review the revised FINREP in due course to take account of the changes in accounting standards and has already started working to that effect.

4.3.3.2

Revised COREP

CEBS also revised its framework on Common Reporting (COREP)⁵⁷. The COREP templates have been amended to incorporate changes to the CRD (directives 2009/27/EC and 2009/83/EC) as well as CRD II amendments (directive 2009/111/EC) and will be applicable by 31 December 2010.

The XBRL taxonomy for the revised COREP is being updated and will be released in due course.

NEXT STEPS

CEBS is also engaged in a wider project regarding COREP, dealing with the definition of uniform COREP guidelines according to Art. 74 of the amended CRD which states that “competent authorities shall apply, by 31 December 2012, uniform formats, frequencies and dates of reporting. To facilitate this, the Committee of European Banking Supervisors shall elaborate guidelines to introduce, within the Community, a uniform reporting format at the latest by 1 January 2012. The reporting formats shall be proportionate to the nature, scale and complexity of the credit institutions’ activities”.

The deliverables of this project are scheduled for 2010 and will be subject to public consultation. A first consultation phase regarding uniform COREP formats is expected to start in June 2010.

In 2010 further changes to the CRD (CRD III amendments, CRD IV amendments) are expected to be endorsed which together with the assessment of the responses received from public consultation will lead to a further revision of COREP.

4.3.3.3

Guidelines on Common Reporting of Large Exposures

In December 2009, CEBS published its guidelines in relation to the common reporting of large exposures⁵⁸. These common reporting templates and guidelines will be included in the COREP framework so as to ensure a unified European reporting system. Thereafter, large exposures reporting will be based on the same standards (i.e. frequency, remittance dates, formats and platform) as the other COREP data. The development of the templates was undertaken on the same basis as the COREP framework, i.e. to identify the items to be reported on a “need-to-know”-basis.

The revised large exposures regime is included in the CRD II and will be applied by the Member States from 31 December 2010. As the uniform and binding COREP will only have to be applied from 31 December 2012, there will be a two-year period during which common large exposures reporting will not be available under the harmonised COREP framework. CEBS recommended that throughout this period national supervisors incorporate the large exposures reporting set out in its guidelines into their national reporting systems.

The guidelines and the reporting templates build on CEBS's advice to the Commission of April 2008.⁵⁹

NEXT STEPS

Although CEBS does not expect any changes to the content of the guidelines or the reporting templates on large exposures, changes may be necessary at a later stage to ensure that the templates and guidelines meet the uniform COREP reporting format, terminology and other technical requirements being developed for the COREP framework.



⁵⁶ Revised guidelines on financial reporting: <http://www.c-eps.org/Publications/Standards-Guidelines/CEBS-Revised-Guidelines-on-Financial-Reporting.aspx>
⁵⁷ Revised guidelines on common reporting: <http://www.c-eps.org/Publications/Standards-Guidelines/CEBS-publishes-revised-guidelines-on-common-report.aspx>

⁵⁸ Guidelines on common reporting of large exposures: <http://www.c-eps.org/News--Communications/Archive/2009/CEBS-today-publishes-its-guidelines-on-common-repo.aspx>
⁵⁹ Advice on the review of the large exposures regime: <http://www.c-eps.org/Publications/Advice/2008/CEBS-PUBLISHES-ADVICE-ON-THE-REVIEW-OF-THE-LARGE-E.aspx>



4.4

Cross-sector work

The joint work of the three Level 3 (3L3) Committees, CESR, CEBS and CEIOPS, is generally focused on achieving convergence between the financial sectors of securities markets, credit institutions (banks), and the insurance and pensions markets. The inter-linkages between these sectors call for co-operation among the 3L3 Committees of regulators in order to ensure a European level playing field, consistency in legislative implementation, cost effectiveness and proper assessment of cross-sector risks. To that effect, CESR, CEBS and CEIOPS have been co-operating closely since their establishments, and continuous steps have been taken to further enhance this co-operation. In 2005, the 3L3 Committees formalised this co-operation by signing a joint protocol on co-operation. In December 2008, this protocol was updated to reflect the 3L3 experience of joint work completed, and to take into account the latest developments, such as the Lamfalussy review and the deepening financial crisis. The Commission in 2009 proposed draft regulations reinforcing 3L3 co-operation even further and suggested transforming the 3L3 Committees into new European Supervisory Authorities, called ESMA, EBA and EIOPA respectively. The three new Authorities are expected to be operative by 2011.

4.4.1

3L3 Committee meetings during 2009

In the course of 2009, the Chairs of the 3L3 Committees met on a regular basis in order to prepare for the meetings held at the Economic and Financial Committee (EFC) and the Financial Services Committee (FSC); other meetings and contacts also took place. In 2009, the 3L3 Chairs and Secretariats dealt with all activities described in the 3L3 work programme but were kept occupied, to a large extent, by discussions on their transformation into European Supervisory Authorities and by compiling the 3L3 Committees' views on the appropriate regulatory responses to the financial crisis. The Committees have, for these purposes, participated in the discussions on these topics in the FSC and the EFC and ensured the communication of 3L3 positions.

4.4.2

3L3 Contributions to the Commission and Council on Improving Financial Supervision in the EU

On 10 April 2009, the 3L3 Committees provided their joint contribution to the Commission's consultation on the improvement of supervision for the financial services sector launched on 10 March 2009. This was based on the proposals of the High Level Group chaired by Jacques de Larosière of 25 February 2009 and the Commission Communication of 4 March 2009 entitled "Driving European Recovery". In the paper, the 3L3 Committees expressed their strong support for the conclusions of the de Larosière report to transform the 3L3 Committees into independent supervisory Authorities. The 3L3 Committees further emphasised that, in their view, the statutory provisions should:

- accommodate the requirements of self-governance/ independence and accountability needed for delivering advice within the Lamfalussy framework;
- present the most appropriate and effective sound legal solution for implementing and empowering the new independent EU Supervisory Authorities; and
- achieve a balance between the macro- and micro-prudential tiers of the future EU supervisory architecture and the future EU Authorities and national supervisors.

Further, the 3L3 Committees highlighted the need for adequate tools in order to fulfil the new tasks under the contemplated re-organised structure and in particular, the following key aspects of the new structure:

- a harmonised set of core rules (rule book) in the EU;
- the establishment of the colleges of supervisors as core structures for cross-border supervision in Europe;
- the need for a coherent framework for crisis resolution in Europe;
- increased and further formalised co-ordination among the sector regulators and supervisors; and
- the need for increased and adequate resources.



On 15 July 2009, the 3L3 Committees also responded to the Commission's Communication of 27 May 2009 on European Financial Supervision. They expressed support for the objectives laid down in the Commission's Communication and, in particular, the proposals to realise a single European regulatory rulebook and to develop a European System of Financial Supervisors (ESFS), comprising the three European Supervisory Authorities (the ESAs), and a European Systemic Risk Board (ESRB).

The Committees commented, in particular, on the "role and responsibilities" of the ESAs in that they should be:

- contributing to the development of a single set of harmonised rules;
- improving the supervision of European Financial Institutions, including cross-border, by developing common and high quality supervisory requirements/ approaches;
- helping to settle possible disputes between national supervisors; and
- contributing to the efficient enforcement which will take place in cases of manifest breaches of community law. In these cases, the ESAs should be able to investigate issues on their own initiative and if necessary adopt a recommendation for action addressed to the national supervisors. Although enforcement of agreed legislation would remain part of level 4 of the Lamfalussy framework, the ESAs could support the Commission in this task, for example by following up the implementation of community legislation.

Further, the 3L3 Committees provided their sector-specific contributions to the Commission on the same issues during the course of 2009, leading to the draft Regulations on the ESAs published by the Commission on 23 September 2009.

Subsequently, the 3L3 Committees' views on improving financial regulation in the EU were also communicated on several occasions during October and November 2009 to the Swedish Presidency's Working Group on Financial Services, although the 3L3 Committees did not participate in the work of this group. In these submissions, the 3L3 Committees reiterated their views on the nature, functions and independence of the future ESAs and included drafting suggestions for parts of

the texts of the ESA regulations. An ECOFIN common position text was issued on 2 December 2009.

NEXT STEPS

The 3L3 Committees will continue to foster co-operation with the European Commission, Council and Parliament during the course of 2010 as they prepare for their transformation into the new ESAs.



4.4.3

3L3 Task Force on Cross-Sectoral Risks

Identifying cross-sectoral risks will help the 3L3 Committees, their members and the EU institutions with their efforts to ensure the stability of European financial markets. Following the 14 May 2008 conclusions of the ECOFIN Council, the Commission's decisions of 23 January 2009 establishing each of the 3L3 Committees, and the request to the 3L3 Committees to respond to financial stability concerns of a cross-sectoral nature, the 3L3 Committees set up a 3L3 Task Force on cross-sectoral risks. The task force's mandate was to enhance the 3L3 Committees' sectoral risk assessments by capturing cross-sector issues and identifying contagion channels. The task force delivered the first of its two pilot reports to the Economic and Financial Committee's Financial Stability Table (EFC-FST)⁶⁰ in September 2009. The provision of a cross-sectoral perspective had previously been assigned to those earlier sectoral working groups established for assessing sectoral risks.

The recent developments in the financial markets showed the importance for the 3L3 Committees to capture cross-sectoral risks relevant to the risk assessments of the Committees at an early stage, such as:

- common risks across sectors;
- risks which are contagious from one sector to another; and
- endogenous risks where regulatory action in one sector may have significant risk implications for another sector.

The task force contributes to the 3L3's response to the additional requirements that followed from the review of the Commission's decisions establishing the 3L3 Committees.

Following the first pilot report submitted to EFC-FST in September 2009, the 3L3 risk task force on cross-sectoral risks started its work on the second pilot in October 2009. This exercise aimed to capture contagion risks between individual institutions and sectors from a supervisory cross-sectoral viewpoint.

The first pilot report highlighted:

- a) the risks in relation to the economic conditions deriving from a more severe than expected downturn in financial markets, such as:
 - further deterioration in European property markets;
 - exposures to emerging markets;
 - period of persistent low interest rates; and
- b) risks deriving from the deterioration in financial conditions in the context of exit strategies, and bearing in mind the potential cost stemming from the regulatory overhaul.

The 3L3 Task Force on cross-sectoral delivered its second pilot report to the EFC-FST April 2010 meeting.

NEXT STEPS

The 3L3 Committees will also, in 2010, evaluate the arrangements used for the preparation of the two pilot reports and agree on a structure and process for the future, based on the task force's recommendations.

⁶⁰ The Economic and Financial Committee (EFC) reviews financial stability issues semi-annually in its Financial Stability Table (FST) format, which convenes high-ranked representatives from the Ministries of Finance, national central banks, the ECB, the Commission, and the Chairs of the Banking Supervision Committee (BSC) of the ESCB and of the EU Lamfalussy committees of supervisors. The EFC-FST is responsible for preparing the ECOFIN Council's discussions on financial stability matters.



4.4.4

3L3 Anti-Money Laundering Task Force (AMLTF)

The 3L3 Committees' Anti-Money Laundering Task Force (AMLTF) was established in the second half of 2006 by CESR, CEBS and CEIOPS, with the aim of achieving convergence in national implementation of the Third Money Laundering Directive across the different sectors of European financial markets and with a view to providing input into anti-money laundering issues, with a specific focus on that Directive.

In October 2009, the 3L3 Committees published a "compendium paper" on the supervisory practices in the Member States. This document provided an overview of Member States' practices in relation to the application of customer due diligence and customer identification and verification requirements of the Third Money Laundering Directive 2005/60/EC. Furthermore, it identified divergences of supervisory practices across Member States and also provided a compendium of the legal frameworks within the Member States.

The data for the document was obtained directly from the individual members of CEBS, CESR and CEIOPS. The data is comprised of responses received from all 27 Member States to two surveys that were commissioned in 2008 and analysed by the AMLTF. The first survey dealt with the assessment of supervisory practices in relation to customer due diligence and cross-border issues at group level, while the second survey focused specifically upon customer identification requirements in face-to-face situations.

NEXT STEPS

The AMLTF will continue its work in relation to the practical aspects of the Third Money Laundering Directive. The AMLTF will, in 2010, work, in particular, on issues relating to the Payment Services Directive and the topic of Ultimate Beneficial Owners (UBO). In the second half of 2010, the AMLTF will start to work on Simplified Due Diligence and High Risk Jurisdictions, and thereafter in late 2010 /2011 work on Wire Transfers/ Cover Payments and Politically Exposed Persons (PEPs).





4.4.5

3L3 work on Financial Conglomerates

The work on financial conglomerates is led by CEBS and CEIOPS, with CESR participating as an observer. Much of the work in 2009 of the Joint Committee on Financial Conglomerates (the renamed IWCF⁶¹), was related to measures following the financial crisis and to responding to the request for advice received from the Commission and the EFCC (European Financial Conglomerates Committee).

In January 2009, CEBS and CEIOPS jointly published ten principles regarding the functioning of colleges of supervisors, based on their existing work and supervisory experience.

Following the call for advice from the Commission in April 2008, the JCFC undertook a stock-take of Member States' practices in implementing the Financial Conglomerates Directive (FCD), focusing on:

- use of definitions;
- scope; and
- internal Control Requirements (including risk concentration and intra-group transactions).

In February 2009, the Commission made an additional call for advice to identify policy options to address the issues that the JCFC had identified and to recommend solutions to the issues. Accordingly, the JCFC conducted an impact analysis exercise by developing and incorporating suggested solutions into a paper that was released for consultation at the end of May 2009. A public hearing was held in July 2009, where the JCFC's proposals were well received by supervisors and the industry. As a result the advice⁶² was finalised and submitted to the Commission on 30th October 2009.

In the advice, the JCFC recommends legislative amendments to the FCD to address specific areas where the FCD does not meet its objectives in the current framework. These include a change to the definition of "holding companies" to ensure that the application of the sectoral group Directives is supplemented by the FCD irrespective of the structure of a group, and a change to enable supervisors to waive the application of the FCD for small and heterogeneous groups if their risk profile justifies exemption. The JCFC recommends the development of guidance to address the other issues identified in the advice.

Throughout 2009, the JCFC conducted further work on the assessment of the crisis and its consequences for the regulation and supervision of financial conglomerates, and hosted a training seminar for supervisors on understanding complexity, contagion and concentration risks in complex groups, and contributed to the 3L3 proposals on the EU supervisory architecture.

NEXT STEPS

The JCFC will assist the EC in its review of the scope of the FCD, and, following advice submitted to the European Commission in 2009, it has started developing guidance in 2010 for the supervision of financial conglomerates in the area of participations, including reporting of intra-group transactions and risk concentration.



4.4.6

3L3 Task Force on Internal Governance (TFIG)

In July 2008, the 3L3 Committees set up a common Task Force on Internal Governance (TFIG) intended to address cross-sectoral issues related to internal governance. The purpose of the work was to develop, within the current legal framework, cross-sectoral guidance on internal governance for institutions and conglomerates operating in different financial sectors. To this end, the task force would identify the consequences of differences in Level 1 and 2 measures regulating internal governance which might have a significant practical impact on institutions in terms of, for example, difficulties in application. The 3L3 Task Force would also make recommendations, for Level 3 measures, to enhance convergence in the EU. To this end the 3L3 Task force would be looking at Level 1 and 2 measures on internal governance for the different financial sectors, namely MiFID, the CRD, Solvency II and the Financial Conglomerates Directive.

In autumn 2009 the TFIG finalised its report on the main findings of the 3L3 internal governance issues following a cross-sectoral stock-take and analysis of internal governance requirements contained in MiFID, CRD and Solvency II. The report presents some preliminary findings on internal governance where the 3L3 could see merit in further work on convergence, such as conflicts of interest and outsourcing. Before undertaking further work, however, the 3L3 Committees sought the views of market participants and, on 18 December 2009, launched a call for evidence (running until 9 April 2010) to get input from interested parties on whether cross-sectoral convergence is needed in the area of internal governance. The Task Force's report was included as an Annex.

The industry's comments were sought on the findings of the Task Force's stocktaking, and in particular on areas where conflicting rules for the different financial sectors might cause additional implementation burdens and where efforts of further harmonisation could be undertaken, specifically including:

- management of conflicts of interest;
- policies, processes and procedures related to the risks covered by the risk management systems;

- how the risk management, compliance and internal audit functions might be "independent" in light of their different sectoral requirements; and
- the supervisory review process.

NEXT STEPS

Taking into account the industry's comments in response to their call for evidence, the 3L3 Committees will decide on further steps and possible 3L3 work with a view to further convergence.

⁶¹ Revised following the publication in the OJ of the Commission decisions of 23 January 2009 establishing CESR, CEBS and CEIOPS.

⁶² The advice was published on CEBS's and CEIOPS's websites: <http://www.c-eps.org/documents/Publications/Advice/2009/FCD-advice/JCFC-advice-on-FCD-Review-FINAL.aspx>



4.4.7

Non-Cooperative Jurisdictions

Following the request from the EFC-FST, dating back to 2004, the 3L3 Committees have been preparing annual written updates on the level of progress that the Committees' members have made in relation to non-cooperative jurisdictions. "Non-cooperative jurisdictions" is used to refer to those jurisdictions that do not, for different reasons, co-operate on supervisory matters, either in the sense of being un-willing and/or unable to co-operate.

The Committees have been asked by the EFC to make progress firstly in the area of establishing common databases on the existing problems in relation to non-cooperative jurisdictions and, secondly in developing a common approach for the supervision of business operations in these jurisdictions, focused especially on internal governance issues in the context of the CRD and MiFID.

NEXT STEPS

The 3L3 Committees took note of the ECOFIN roadmap following G20, including action requested in relation to "Implementation of national and international measures that protect the global financial system from uncooperative and non-transparent jurisdictions that pose risks of illicit financial activity, as well as the G20 agreement "that the FATF should revise and reinvigorate the review process for assessing compliance by jurisdictions with AML/CFT standards, using agreed evaluation reports where available". For 2010, the 3L3 Committees therefore stand ready to continue to assist the EU Institutions in their work on non-cooperative jurisdictions, within their members' regulatory/supervisory competencies, including by continuing to undertake their annual stocktaking.

The 3L3 will continue the establishment of common databases, including work related to the degree of detail and timeliness of the information, the confidentiality of information and the storage of the data.

4.4.8

3L3 work on delegation

In 2009 the 3L3 Committees finalised their work on delegation of responsibilities and tasks following a request from the Commission in June 2008. Consistent and predictable application of EU legislation across financial sectors leads to greater convergence across different jurisdictions and helps supervisors rely on each other's work.

The work of the 3L3 Committees was intended to feed into the Commission's review of the Financial Services Directives, with a view to including provisions on the voluntary delegation of tasks and the analysis of options on voluntary delegation of supervisory competences. The request related to delegation of tasks and to the delegation of supervisory responsibilities including legal and practical obstacles to delegation. A 3L3 task force was set up for the purpose of reporting on these two aspects.

In April 2009 the 3L3 delegation task force finalised its work on delegation as requested by the Commission with the production of a paper on obstacles to delegation of supervisory responsibilities. The task force had previously delivered a report to the Commission in 2008 on the first part of the work, the delegation of tasks (as referred to in each of the 3L3 Committees' annual reports for 2008). The 2009 report analysed the concept of delegation covering aspects of it and examining it from different angles; identified delegation as opposed to other techniques, notably mutual recognition; dealt with the usefulness of delegation of responsibilities; looked at the legal aspects of delegation; and examined three different forms of delegation.

The 3L3 task force report concluded that the delegation of responsibilities could be useful. Further, it identified a number of important legal and practical issues which needed to be addressed in order to make delegation of responsibilities operational and which to date have impeded the use of the delegation. Some of those issues should be addressed at EU level and be introduced in all Member States.



4.4.9

Packaged Retail Investment Products (PRIIPs)

The Commission provided its preliminary thinking on Packaged Retail Investment Products (PRIIPs) in its Communication of 29 April 2009. The Communication referred to four "families" or product groupings of PRIIPs:

- investment (or mutual) funds (both UCITS and non-UCITS);
- investments packaged as life insurance policies;
- retail structured securities; and
- structured term deposits.

The Communication outlines the Commission's view that the current EU regulatory framework needs to be updated and suggests that legislative measures would be required in two main areas – product disclosure and selling practices. The aim is to create consistency in approach in relation to these two areas for all PRIIPs in order to enable consumers to receive the right information and treatment.

The Commission held a technical workshop on 22 October 2009 with industry experts and consumer representatives from around Europe who were invited to present their views. The workshop was also attended by representatives from each of the 3L3 Committees.

The 3L3 Committees submitted jointly in November 2009 to the Commission their sectoral views in relation to the Commission's Communication following internal work carried out by all three of CESR, CEBS and CEIOPS. As a follow up, the 3L3 Chairs decided to set up a 3L3 Task Force.

The Commission Services published an update on 16 December 2009 on their on-going work on PRIIPs and further detail on how the commitments made in the Communication on PRIIPs will be taken forward.

NEXT STEPS

The Task Force is expected to take up its work in 2010 with a view to formulating a common 3L3 position on the key topics for submission to the Commission in good time ahead of the adoption of a draft legislative proposal.





4.4.10

Consistency of EU terminology

The EU Commission services are finalising their work on a cross-sectoral consistency check of terminology used in EU financial services legislation. In that context, and in response to a request from the EU Commission Services with a short deadline, in November 2009 the 3L3 Secretariats delivered a non-exhaustive review on a "best efforts" basis of the Commission Services' preliminary report.

4.4.11

3L3 training

3L3 sets up task force on cross-sector training

In 2009, the 3L3 task force on training fostered convergence by achieving a higher level of co-operation on cross-sector trainings. The cross-sector trainings were organised in addition to the sectoral trainings each of the Committees organised.

The three major areas of co-operation during 2009 were:

- preparation of applications for 2009 Commission action grants for co-financing, inter alia, cross-sector training seminars;
- the yearly 3L3 training program and subsequent organisation of cross-sector training seminars; and
- development of a 3L3 manual on training processes.

Commission agreed on grants to the 3L3

The grants which were agreed by the Commission and each of the 3L3 were by far the most important area of co-operation. This is the first time the Committees have received EU funding and therefore developing the applications for EC action grants has been an important priority this year. The task force and the Committees' Secretariats co-operated not only on the development of their grant requests, but also in the development of the operational procedures required by the grant agreements to ensure that reporting on the use of the funds meets the strict EU requirements.

Along with other projects of the 3L3, cross-sector training seminars have therefore also benefited from EU funding support from June 2009 to end 2009.

3L3 develop manual on training process

Due to the large number of training seminars to be developed, the Members of the 3L3 Committees have been used as an effective means of developing and delivering the training and they have therefore been heavily involved in the organisation of programmes and hosting seminars. To ensure consistency and convergence in practices, the 3L3 task force thought it important to develop a single manual on training procedures that would set out the process for delivering training in a step by step format. The manual on training consists of guidelines for organising a seminar, forms for registration/evaluation and budgeting information to help and ensure high quality seminars, regardless of the experience of the organising authority. In addition, the manual plays a key role in ensuring that the 3L3 Committees can meet their reporting requirements to the European Commission on the funds received by establishing clear procedures.

Following consultation with the Members, the final Manual on Training was approved in December 2009 and has been published on the Members' only section of each of the L3 Committees' websites.

3L3 held more cross-sector training seminars in 2009

The three sister Committees developed consistent sector training programmes for 2009. In addition, the 3L3 Task force on Training has developed a cross-sector training programme to ensure convergence across the sectors.

The effort devoted to training staff of EU supervisory and regulatory authorities on a cross-sector basis during 2009 has resulted in increases in the number of seminars – 10 more in comparison with 2008, and in the number of participants – 90 supervisors more than the previous year. This has resulted in further strengthening of the common supervisory culture.

NEXT STEPS

The Task Force will develop and deliver the training program for 2010 in line with the grant request made for 2010, as well as continuing to strengthen co-operation on education.

4.5

Common Supervisory Culture

CEBS regards the establishment of a common supervisory culture as an essential tool for enhancing the convergence of regulatory and supervisory practices over time. A common supervisory culture is achieved through established peer pressure and supervisory disclosure mechanisms, as well as through the development of common training programmes and staff exchanges.

4.5.1

Review Panel and Peer Pressure

In the context of the first peer review report on its members' compliance with CEBS's Guidelines on the validation of the Advanced Measurement (AMA) and Internal Ratings Based (IRB) approaches used by banks to calculate capital requirements, the self-assessments prepared by CEBS members were published in June 2008 along with a factual summary report⁶³. These assessments were then challenged by their peers, which resulted in a peer review report⁶⁴ published in April 2009.

During the first quarter of the year 2009, CEBS's Review Panel was also engaged in finishing the detailed mapping of supervisory objectives and powers as well as the actual use of sanctioning powers across EU banking authorities. The report⁶⁵ on supervisory powers was published in March 2009.

CEBS decided next to conduct a peer review on colleges, on which special emphasis has been put by supervisors over the last couple of years. The Review Panel started its review on the functioning of supervisory colleges for a selection of large cross-border banks in Europe, focusing on the substance of their functioning and drilling down into the "day-to-day" practices of the colleges to draw out the lessons to be learnt. An online Self-Assessment questionnaire was developed which members were asked to complete. In order to get a precise picture of the functioning of the colleges of supervisors, a college by college approach was chosen.

The colleges under review were those for the 17 banking groups represented in the Sub-group on Operational Networks (SON). It is important to stress that the scope of this exercise was restricted to those entities within groups which are subject to the CRD requirements and therefore fall within the consolidated prudential statements of the banking group. Both subsidiary and branch presences were covered, including (banking) branches of the parent's direct or indirect subsidiaries.

CEBS also revised its 2007 Review Panel Methodology, in line with the provisions of its paragraph 5, which provided for a revision within 2 years from publication. Most of the changes reflected the lessons learnt during the first peer review exercise, as summarised in paragraphs 55-64 of the Peer Review Report on Model Validation. In addition, minor edits were suggested for clarification purposes. This paper also served as the basis for organising the first phase of the second peer review as the major changes related to the second phase (the review by peers).

NEXT STEPS

The self-assessments on colleges provided by the 27 EU supervisory authorities are in the process of being challenged by the Review Panel. The peer review will be completed in the course of 2010.

⁶³ CEBS's summary report and CEBS members self-assessments: <http://www.c-eps.org/Review-Panel/Peer-Reviews/Model-Validation.aspx>

⁶⁴ CEBS's peer review report on model validation: <http://www.c-eps.org/documents/Review-Panel/ReportonGL10PeerReview.aspx>

⁶⁵ CEBS's report on supervisory objectives and powers: <http://www.c-eps.org/getdoc/17a4d0f8-5147-4aa4-bb5b-28b0e56c1910/CEBS-2009-47-Final-Report-on-Supervisory-Powers-.aspx>

4.5.2

Mediation mechanism

Mediation is a procedure in which a neutral intermediary – the mediator – endeavours at the request of the parties to a dispute to assist them in reaching a mutually satisfactory, legally non-binding settlement. In the context of CEBS, mediation is a peer mechanism to be used specifically to help resolve supervisory disputes that arise in a cross-border context. The objective is to support the application of existing co-operation tools among supervisors, such as CEBS's Guidelines on validation and on home/host co-operation.

CEBS's mediation mechanism draws on the mediation mechanism developed by CESR, in order to ensure as much cross-sector consistency as possible; CEIOPS is also following the same approach. CEBS's mechanism has been tailored to take account of banking and prudential supervision concerns. The basic principles and key features of the mechanism have been publicly consulted on, and the formalised Mediation Protocol⁶⁶ was published in the second half of 2007.

4.5.3

Supervisory disclosures

The common supervisory disclosure framework has been implemented since 2007 and is accessible on the Internet, both on CEBS's website⁶⁷ and on national websites.⁶⁸

As set out in CEBS's work programme for 2009, the framework should be extended to other areas of Community legislation. Early feedback from the industry (in the context of the consultation on the Guidelines on supervisory disclosure in 2005) indicated that the framework should be extended to the entirety Directives 2006/48/EC and 2006/49/EC. CEBS identified possible areas for extension of the current framework and consulted the industry on them in September 2009.

With respect to previous recommendations from CEBS members and the industry, and taking into consideration current regulatory and supervisory developments, CEBS extended the supervisory disclosure framework to the areas of Mergers & Acquisitions; Securitisation; Credit Risk Mitigation; National discretions in the whole of Directives 2006/48/EC and 2006/49/EC and national discretions relating to large exposures in the CRD II⁶⁹; and Pillar 2 (Supervisory Review Process) and the application of Pillar 3. These areas of extension were included in a Consultation Paper (CP29⁷⁰).

The CEBS's Guidelines on supervisory disclosure were amended to include the new and revised areas of supervisory disclosures. New templates were developed to ensure a more harmonised presentation of the relevant supervisory disclosure data. These templates are now populated in accordance with the implementation plan in the Guidelines, with the exception of the disclosures of guidelines and methodologies relating to securitisation exposures to review compliance with paragraphs 1 to 7 of Article 122a of the CRD II which need to be implemented at the latest by 31 December 2010. The national discretions on large exposures will be included in the national discretions template, however their exercise in Member States will be disclosed as of end January 2011.

NEXT STEPS

The common framework contributes significantly to the consistent implementation of Community legislation across the EU in line with the Council's conclusions on this matter. During 2010, CEBS will continue to monitor the implementation of the extended common supervisory disclosure framework and will be exploring possible ways to extend it further.

4.5.4

Training and staff exchanges

One of the major objectives of the Lamfalussy process is to develop a common supervisory culture in the EU which would ensure a true level playing field for financial institutions and progressively eliminate differences in the approaches of national supervisory authorities. This can only be achieved if supervisors share a common understanding of the rules and related working procedures. Thus, the European Commission requires the Level-3 Committees to encourage and facilitate this process.

Since its inception, CEBS has actively worked towards meeting these objectives. CEBS has promoted many sectoral seminars as part of its general training programme and it encourages its members to participate actively in staff exchanges. In 2009 there were more than 450 people from CEBS members and observers attending the highly recommended seminars, which are substantially more than in 2008. This work is also carried out at a cross-sectoral level (See 4.4.11).

The grants which were agreed by the European Commission and each of the 3L3 Committees were by far the most important area of co-operation. This is the first time CEBS has received EU funding and developing the applications for EC action grants has been an important priority this year. The CEBS Secretariat co-operated not only on the development of CEBS's grant requests, but also in the development of the operational procedures required by the grant agreements to ensure reporting on the use of the funds meets the strict EU requirements. Along with other projects, sectoral training seminars (as well as those, organised at cross-sector level) have benefited from EU funding support from June to December 2009.

As regards staff exchanges, CEBS has been looking into the obstacles (tax issues, social security issues, restrictions of language and adequacy of staff) which impede the competent authorities from developing them further. CEBS has developed a common framework for staff exchanges, setting out the conditions and processes, in an effort to facilitate the administrative procedures and alleviate the burden.

As regards further harmonisation and development of training programmes of sectoral seminars, CEBS has developed a Curriculum for European Banking Supervisors upon which it could build up a framework of training programmes for banking supervisors in national authorities.

To enhance its co-operation with third countries, CEBS organised a two day policy-level conference as an opening event to the Eurosystem programme 'Strengthening macro and micro-prudential supervision in EU candidate countries and potential candidate countries with the objective of introducing senior management supervisors from Albania, Bosnia and Herzegovina, Croatia, Former Yugoslav Republic of Macedonia, Kosovo, Montenegro, Serbia and Turkey to its activities and addressing relevant issues in the European financial supervision context. This conference was a good occasion for policy makers from the eight EU candidates and potential candidates to have an open dialogue with CEBS's representatives, share experience from lessons learnt and get acquainted with CEBS's work, its structure, mandate and role in the EU financial supervision architecture.

NEXT STEPS

In 2010, building on the experience and results of previous years, CEBS will further enhance its training programmes, both sectoral and cross-sectoral. The training courses are already being used as mechanisms for facilitating the exchange of knowledge and building skills that are necessary to achieve a more integrated supervisory approach amongst Members. CEBS will also enhance the link between its products (guidelines, advice and best practice papers) and the training programmes offered to its members, allowing for swifter implementation of CEBS's tools in the day-to-day supervision of European institutions.

⁶⁶ Mediation Protocol between Banking Supervisors: <http://www.c-ebis.org/getdoc/ef0fad4-44de-4161-b20e-ab229a1bd0d9/ProtocolonMediation20070925.aspx>

⁶⁷ <http://www.c-ebis.org/Supervisory-Disclosure.aspx>

⁶⁸ Article 144 of the CRD requires competent authorities to provide information on their supervisory and regulatory systems and states that the disclosures shall be published in a common format and made accessible in a single electronic location.

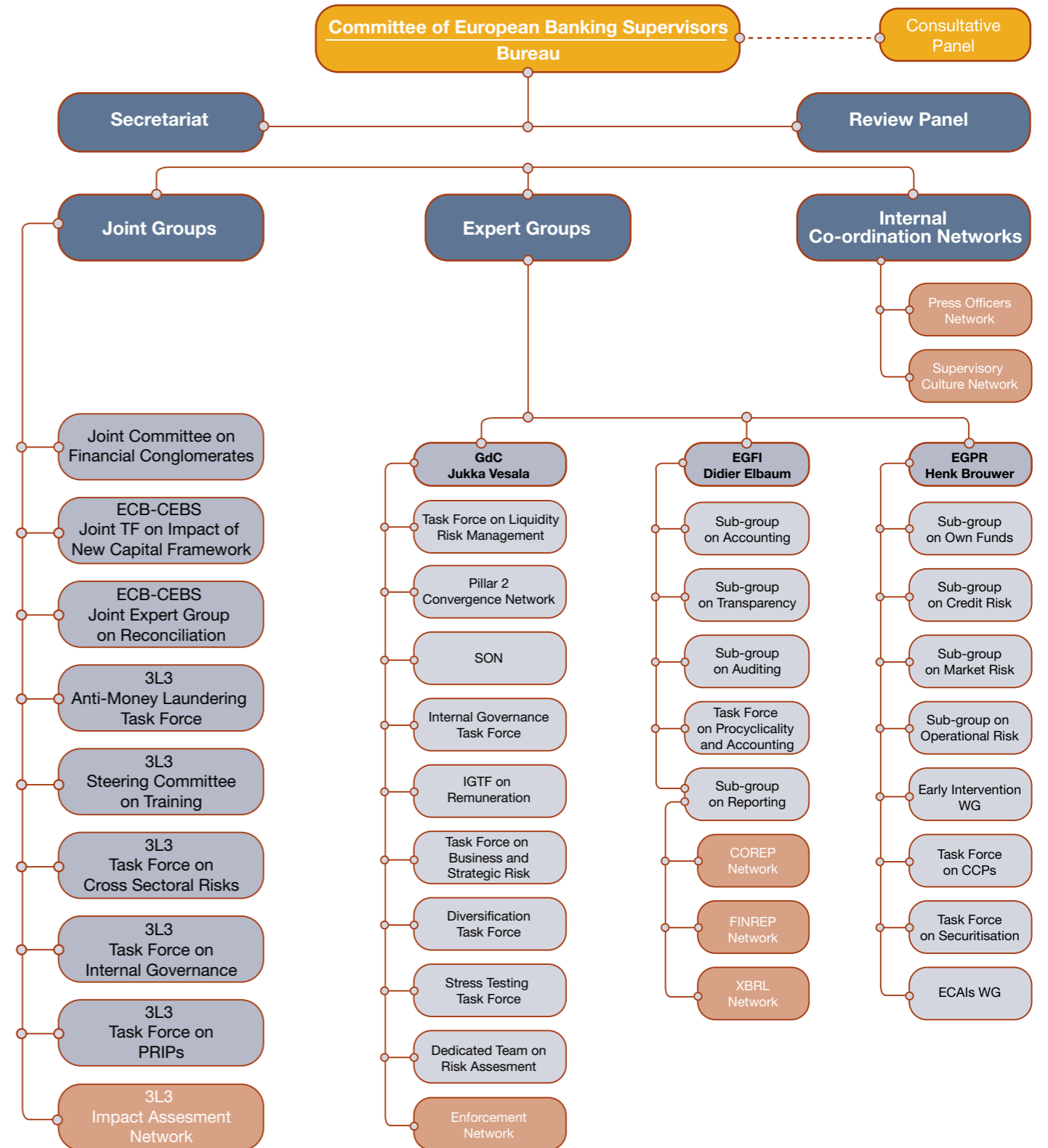
⁶⁹ It was noted that the national discretions currently disclosed in the disclosure framework refer only to the ones introduced by Basel II text in Directives 2006/48/EC and 2006/49/EC.

⁷⁰ <http://www.c-ebis.org/getdoc/4778dd1-4b93-443e-b83c-fe83410cb547/CP29.aspx>



5.1.1

Organisation Chart



5.1.2

CEBS Members And Observers

Members

Country	Institution	Representative
Austria	Finanzmarktaufsicht (Financial Market Authority)	Helmut Ettl
	Oesterreichische Nationalbank (Central Bank of the Republic of Austria)	Andreas Ittner
Belgium	Commission Bancaire, Financiere et des Assurances (Banking, Finance & Insurance Commission)	Rudi Bonte
	Banque Nationale de Belgique (National Bank of Belgium)	Jo Swyngedouw
Bulgaria	Българска народна банка (Bulgarian National Bank)	Rumen Simeonov
Cyprus	Κεντρική Τράπεζα της Κύπρου (Central Bank of Cyprus)	Costas S. Poullis
Czech Republic	Ceska Narodni Banka (Czech National Bank)	David Rozumek
Denmark	Finanstilsynet (Danish Financial Supervisory Authority)	Flemming Nytoft Rasmussen
	Danmarks Nationalbank (National Bank of Denmark)	Birgitte Soegaard Holm
Estonia	Finantsinspeksioon (Financial Supervision Authority)	Andres Kurgpold
	Eesti Pank (Estonian Bank)	Jaak Tors
Finland	Finanssivalvonta (Finnish Financial Supervisory Authority)	Jukka Vesala
	Suomen Pankki (Bank of Finland)	Kimmo Virolainen
France	Banque de France (Bank of France)	Daniele Nouy, Didier Elbaum
Germany	Bundesanstalt für Finanzdienstleistungsaufsicht (Federal Financial Supervisory Authority)	Thomas Schmitz-Lippert
	Deutsche Bundesbank (Central Bank of the Federal Republic of Germany)	Erich Loeper
Greece	Τράπεζα της Ελλάδος (Bank of Greece)	Ioannis Gousios
Hungary	Pénzügyi Szervezetek Állami Felügyelete (Hungarian Financial Supervisory Authority)	Adam Farkas
	Magyar Nemzeti Bank (Central Bank of Hungary)	Julia Kiraly
Ireland	Financial Regulator	Mary Burke
	Central Bank and Financial Services Authority of Ireland	Mark Cassidy
Italy	Banca d'Italia (Bank of Italy)	Giovanni Carosio
Latvia	Finansu un Kapitāla Tirgus Komisija (Financial and Capital Market Commission)	Janis Placis
	Latvijas Banka (Bank of Latvia)	Vita Pilsuma

Country	Institution	Representative
Lithuania	Lietuvos Bankas (Bank of Lithuania)	Filomena Jaseviciene
Luxembourg	Commission de Surveillance du Secteur Financier (Commission for the Supervision of Financial Sector)	Claude Simon
	Banque Centrale du Luxembourg (Central Bank of Luxembourg)	Norbert Goffinet
Malta	Malta Financial Services Authority	Karol Gabarretta
	Central Bank of Malta	Anthony Cortis
Netherlands	De Nederlandsche Bank (National Bank of the Netherlands)	Henk Brouwer, Thijs van Woerden
Poland	Komisja Nadzoru Finansowego (Polish Financial Supervision Authority)	Stanislaw Kluza
	Narodowy Bank Polski (National Bank of Poland)	Andrzej Reich
Portugal	Banco de Portugal (Bank of Portugal)	Pedro Duarte Neves, Adelaide Cavaleiro
Romania	Banca Nationala României (National Bank of Romania)	Adrian Cosmescu
Slovakia	Narodna Banka Slovenska (National Bank of Slovakia)	Pavel Ferienc
Slovenia	Banka Slovenije (Bank of Slovenia)	Matej Krumberger
Spain	Banco de España (Bank of Spain)	Jose Maria Roldan, Fernando Vargas
Sweden	Finansinspektionen (Swedish Financial Supervisory Authority)	Uldis Cerps
	Sveriges Riksbank (Central Bank of Sweden)	Goran Lind
United Kingdom	Financial Services Authority	Thomas Huertas
	Bank of England	Mark Walsh
EU	European Central Bank	Mauro Grande

Observers

Country	Institution	Name
Iceland	Fjármálaeftirlitið (Financial Supervisory Authority)	Gunnar T. Andersen
	Seðlabanki Íslands (Central Bank of Iceland)	Jonas Thordarson
Liechtenstein	Finanzmarktaufsicht Liechtenstein (Financial Market Authority)	Rene Melliger
Norway	Finanstilsynet (Financial Supervisory Authority of Norway)	Bjorn Skogstad Aamo
	Norges Bank (Central Bank of Norway)	Sindre Weme
EU	European Commission	Mario Nava
EU	Banking Supervision Committee	Peter Praet

5.2

Our process

5.2.1

Consultative Panel and Industry Expert Groups

CEBS Consultative Panel ("the Panel") is an external advisory body that acts as a sounding board on strategic issues, assisting CEBS in the performance of its functions and helping CEBS to ensure that the consultation process functions effectively. The Panel is composed of 21 members and 4 observers⁷¹, all of who have significant experience in the field of banking, share the objectives of the European Union and are in a position to speak independently and authoritatively.

In 2009, CEBS applied the rotation terms covering the composition of the Panel, leading to the appointment of five new members from the banking industry. In addition, the Charter of the Panel was slightly amended to allow for the election of a Vice Chair who would assist the Panel's Chair, and who may replace and represent him in case of absence or impediment.

In an effort to cover the different areas of CEBS's work programme and its longer term priorities to assist with technical issues and provide a structured and streamlined approach, CEBS has established eight industry expert groups (IEG); the areas covered are the large exposures regime, securitisation, liquidity risk management, reporting, valuation and recognition of illiquid assets, Pillar 3, crisis management, and interest rate risk arising from non-trading activities⁷².

NEXT STEPS

The Commission's legislative proposals call for the establishment of a Banking Stakeholder Group that will succeed CEBS's Panel from 1st January 2011. CEBS is currently working on issues concerning the setting up and composition of the Group and on the development of rules covering its functions.

Members and Observers of the Panel

Hugo Banziger	Chair , Deutsche Bank
Christian Lajoie	Vice Chair , BNP Paribas
Andrew Cross	Credit Suisse
Davide Alfonsi	Intesa SanPaolo
Demetrios Lefakis	National Bank of Greece
Gerhard Hofmann	Association of German Co-operative Banks
Herbert Pichler	Austrian Federal Economic Chamber
João Salgueiro	Portuguese Banking Association
John Hollows	KBC Group
José Maria Méndez	Spanish Federation of Savings Banks
Manfred Westphal	European Consumers' Organisation (BEUC)
Marcin Kawinski	Forum of Users of Financial Services (FIN-USE)
Mariusz Zygierewicz	Polish Banking Association
Mark Harding	Barclays
Michael Kemmer	European Banking Industry Committee EBIC (Bayerische Landesbank)
Michel Bilger	European Banking Industry Committee EBIC (Credit Agricole S.A.)
Mick McAteer	Forum of Users of Financial Services (FIN-USE)
Richard Desmond	Zurich Bank International Limited (BUSINESSEUROPE)
Tamar Joulia-Paris	ING Group
Tonny Thierry Andersen	Danske Bank
Ulf Riese	Handelsbanken Group
Observers	
Nicolas Jeanmart	European Savings Banks Group
Volker Heegemann	European Association of Cooperative Banks
Sandra Hafner	European Association of Public Banks
Wilfried Wilms	European Banking Federation



⁷¹ Additional information on CEBS's Consultative Panel Members and Observers can be traced under the following links: <http://www.c-eps.org/Aboutus/Organisation/Consultative-Panel/The-Charter.aspx> and <http://www.c-eps.org/Aboutus/Organisation/Consultative-Panel/Members.aspx>

⁷² The IEGs on crisis management and on IRR arising from non trading activities have been set beginning of 2010.

5.2.2

Impact assessment guidelines and due process

Decisions about regulatory policy and practice should be based on sound analysis. Impact assessment ("IA") is a key tool in this regard. IA draws on economics and other social sciences to provide an analytical framework that ensures that policy proposals are justified in terms of a proper understanding of the nature of perceived problems. As a disciplined approach it helps to identify past or likely future effects of regulation and supervision on markets, ensures engagement with all affected parties, and helps policy makers and stakeholders alike develop an appreciation of the respective (dis)advantages of previous policy responses and proposed policy options. In these ways, it provides new information that can help policy makers to describe and explain the decision-making process and thereby improve the way in which the most effective policies are identified, chosen and implemented. Moreover, through its formal and informal consultation procedures, IA makes regulatory policy more transparent and thus can help to make the EU's Lamfalussy Level-3 Committees more accountable. It is also a means of communication between the Committees, the different national regulators involved, the regulated firms and other affected or interested parties.

There is increasing recognition of the value of IA at EU level. For example, in an inter-institutional agreement of December 2003, the European institutions adopted the principle of better regulation for their legislative practice. In addition, the White Paper on financial services published at the beginning of 2006 mentions explicitly that IA will accompany any new Commission proposal.

Therefore, preparing an IA corresponds to good EU policy practice and is in line with the wider efforts made to develop better regulation. It is against this background that the L3 Committees adopted their Principles on Impact Assessment in late 2006. It was decided to develop more guidance for policymakers from this base. The 3L3 IA Guidelines published in April 2008 are the outcome of this project. They involved co-ordination amongst the EU Level-3 Committees and are designed for application to all financial regulatory and supervisory policy and practice.

Limits of IA

Within the EU policy making process, the main advantage of IA to the work which falls within the remit of the L3 Committees is the submission of policymaking to a systematic and structured approach, providing a credible evidential basis for the advice and proposals of these committees and thereby giving this work much more weight. The outcome of an IA is, however, not a substitute for decision making; it is merely a tool to assist decision makers. Therefore, the L3 Committees will give the results of IA exercises due consideration, but they will not be bound in their decisions by the outcome of an IA. In other words, IA - as a disciplined approach to policy making - will help inform the policymaking process, but not become a substitute for it. Nevertheless, there is an understanding that any decision that deviates markedly from the findings of an IA exercise would require explanation.

Use of IA by L3 Committees

Future work by the L3 Committees will mainly concern Level-3 and IA will have an important role to play in helping to clarify policy positions relating to supervisory convergence. However, IA will also be used at Level-2 in at least two cases: when there is a review of Level-2 policies - this would correspond to an ex-post IA - and when the EU Commission seeks further or additional Level-2 advice from a L3 Committee - the volume of this type of work would increase again should the Commission introduce another FSAP, for example. IA could also be used at Level 1 or for high level policy mandates given by the Commission to one of the Committees.

Proportionality and flexibility: Screening IAs and Full IAs

An IA needs to be proportionate to the significance, complexity and uncertainties of the problem or problems to be solved otherwise it risks consuming scarce resources inefficiently or being insufficiently robust. Both would be counter-productive. The principle of proportionality will allow the L3 Committees to keep the detail of IAs within reasonable limits. The principle of proportionality is also central to the European Commission's guidelines on IA. For example, the measures analysed through an IA at Level-3 are likely to have significant structural and cost implications for consumers/investors and/or market participants.

This can be considered a precondition for the need to carry out an IA. But when there is a reasonable presumption that the impact will be insignificant there is no need for an IA. The time available for policy work by L3 Committees is usually very tight both for Level-2 and Level-3 work. Given these time constraints, the L3 Committees are committed to the use of Screening IAs, i.e. "light versions" of IA. These primarily qualitative exercises could be carried out before a mandate for a particular problem is formulated by the Committee Chairs in order to help ascertain the appropriate scale of the analysis to be pursued after the mandate is issued. In any event, the use of Screening IAs is intended to simplify matters and avoid procedural over-complication so their role and use must be clearly circumscribed.

In August 2008, CEBS published amendments to its Public Statement of Consultation Practices which specifies the procedures to be followed in cases of limited or drafting amendments to CEBS's Guidelines, Standards and Recommendations. The revised Public Statement of Consultation Practices emphasizes the use of the impact assessment methodology in the amendments to the CEBS's Guidelines, Standards and Recommendations. This amendment to the consultation practices limits the number of sets of changes to each Guideline, Standard and Recommendation to a maximum of one per year. This decision was taken in order to promote the stability of CEBS's products for credit institutions and investment firms.



5.3

Consultation and Transparency on Guidelines

Number	Title	End of Public Consultation	Consultation Period	Date of current document
CP01 (and CP01 revised)	Public statement of consultation practices	31 July, 2004	3 months	29 April, 2008
		19 June, 2007	3 months	
CP02 (and CP02 revised)	Guidelines on outsourcing	31 July, 2004	3 months	14 December, 2006
		06 July, 2006	3 months	
CP03 (and CP03 revised)	Guidelines in Application of the Supervisory Review Process under Pillar 2	31 August, 2004	3 months	25 January, 2006
		21 October, 2005	4 months	
CP04 (and CP04 revised)	Guidelines on Common reporting (COREP)	30 April, 2005	3 months	06 January, 2010
		19 December, 2007	4 months	
CP05	Supervisory Disclosure Framework	24 June, 2005	3 months	01 November, 2005
CP06 (and CP06 revised and revised2)	Financial Reporting Framework (FINREP)	08 July, 2005	3 months	15 December, 2009
		20 May, 2007	1 month	
		10 June, 2009	3 months	
CP07	External Credit Assessment Institutions (ECAI) Recognition	30 September, 2005	3 months	20 January, 2006
CP08	The role and tasks of CEBS	28 October, 2005	3 months	28 October, 2005
CP09	Cooperation between consolidation and host supervisors	08 November, 2005	4 months	25 January, 2006
CP10 (and CP10 revised)	Model Validation and Approval	30 October, 2005	3.5 months	04 April, 2006
		16 February, 2006	1 month	
CP11 (a and b)	a) Concentration Risk b) Interest Rate Risk in the Banking Book (IRRBB) under Supervisory Review Process	23 June, 2006	3 months	14 December, 2006
				3 October 2006
CP12	Stress testing under the Supervisory Review Process	30 September, 2006	3 months	14 December, 2006
CP13	Establishment of a mediation mechanism	19 June, 2007	3 months	25 September, 2007
CP14	CEBS advice to the European Commission on large exposures - first part	15 August, 2007	2 months	06 November, 2007
CP15	Risks arising from commodity business and from firms carrying out commodities activities	27 July, 2007	6 weeks	10 October, 2007
CP16	CEBS technical advice to the European Commission on large exposures - second part	15 January, 2008	11 weeks	03 April, 2008
CP17	Common EU definition of Tier 1 hybrids	22 February, 2008	10 weeks	03 April, 2008
CP18	CEBS technical advice to the European Commission on options and national discretions	15 August, 2008	3 months	17 October, 2008

Number	Title	End of Public Consultation	Consultation Period	Date of current document
CP19	CEBS technical advice to the European Commission on liquidity risk management (second part)	01 August, 2008	6 weeks	18 September, 2008
CP20	Technical aspects of diversification under Pillar 2	31 October, 2008	4 months	TBA
CP21	Compendium of Supplementary Guidelines on implementation issues of operational risk	31 March, 2009	3 months	08 September, 2009
CP22	Passport Notifications	11 May, 2009	3 months	27 August, 2009
CP23	High-level principles for Remuneration Policies	03 April, 2009	1 month	20 April, 2009
CP24	High-level principles for risk management	10 July, 2009	3 months	16 February, 2010
CP25	Guidelines on operational risk mitigation techniques	09, July, 2009	3 months	22 December, 2009
CP26	Implementation guidelines on the revised large exposures regime	11 September, 2009	3 months	11 December, 2009
	Guidelines on common reporting of large exposures regime			
CP27	Implementation guidelines on hybrid capital instruments	23 September, 2009	3 months	10 December, 2009
CP28	Guidelines on liquidity buffers	31 October, 2009	4 months	09 December, 2009
CP29	Extension of CEBS supervisory disclosure framework	16 October, 2009	1 month	28 January, 2010
CP30	Disclosure guidelines reflecting the lessons learnt from the financial crisis	15 January, 2010	3 months	26 April, 2010
CP31	Guidelines on concentration risk	31 March, 2010	3 months	TBA
CP32	Revised Guidelines on stress testing	31 March, 2010	3 months	TBA
CP33	Implementation guidelines on instruments referred to in Article 57(a) of the CRD	31 March, 2010	3 months	TBA
CP34	Guidelines for the operational functioning of colleges	31 March, 2010	3 months	TBA
CP35	Guidelines on the management of operational risk in market-related activities	31 March, 2010	3 months	TBA
CP36	Guidelines on liquidity cost benefit allocation	10 June, 2010	3 months	TBA
CP37	Revised guidelines on the recognition of ECAs	09 April, 2010	1 month	TBA
CP38	Implementation guidelines on Article 106(2) (c) and (d) of Directive 2006/48/EC recast	06 May, 2010	2 months	TBA
CP39	Guidelines on joint assessment and joint decision regarding the capital adequacy of cross border groups	09 July, 2010	3 months	TBA

5.4

Work Programme 2010

The activities undertaken by CEBS in 2009 were very much focused on contributing to an effective supervisory and regulatory response to the crisis situation on the financial markets, linked to the EU roadmaps and the preparation of the EU contributions to the G20 summits. In addition, CEBS has worked on a number of new guidelines in key areas, as identified in the CRD revisions that will take effect as of end 2010.

More specifically, CEBS focused on the following deliverables:

- Based upon a methodology agreed upon in 2008, CEBS provided risk assessments to the EFC-FST and started a pilot study on a cross-sectoral risk assessment, together with CEIOPS and CESR. CEBS also performed an EU wide stress testing exercise on request of the ECOFIN;
- CEBS has executed in 2009 an action plan for the setting up of colleges of supervisors for all major cross border banking groups in the EU. In addition, we worked on guidelines for the operational functioning of these colleges and for the joint assessments by home and host supervisors in a college setting
- CEBS assessed the transparency and disclosures of banks, by providing assessment reports on the end 2008 disclosures of banks as well as the Pillar 3 disclosures presented to the market and by developing guidelines for banks on disclosures for activities under stress;
- Other important guidelines on which CEBS worked in 2009, are the guidelines on hybrids and on large exposures. In addition, we worked together with the EU Commission on proposals for a supplementary measure, developed a proposal for a countercyclical capital buffer under Pillar 2 and are analysing pro-cyclicality in relation to accounting.
- As a result of the lessons learned from the crisis, CEBS developed guidelines for liquidity risk management as well as a liquidity identity card and identified high level principles for risk management and remuneration.

- We further developed parts of the harmonised supervisory reporting framework that should be ready in 2012, as provided for in a plan of 2008 that has been endorsed by the ECOFIN. For 2009, CEBS focused on guidelines in the area of FINREP.
- CEBS' efforts in providing training programs have been stepped up in 2009; as of this year, EU funding has been available. In addition CEBS has been working on amendments to its supervisory disclosure framework.
- Together with CEIOPS and CESR, we have commented on the proposals to strengthen the institutional arrangements in the EU for supervision, amongst others by pro-actively providing 3L3 contributions to the EU Commission.
- And last but not least, CEBS addressed a number of calls for advice from the EU Commission, for instance on the application of art 42 CRD between home and host supervisors.

Projects for 2010

Prioritisation

In order to be able to react swiftly to the changing situation on the financial markets, CEBS has started in 2009 to use a strict prioritisation scheme in planning and executing its activities. To this end, a distinction is made between the following priorities:

- Priority 1: these activities are key and need to be delivered within the agreed upon time schedule. Resources will firstly be allocated to these priority 1 activities.
- Priority 2: these activities are important for CEBS to deliver but could to some extent be postponed, if necessary.
- Priority 3: these activities will only be undertaken in as far they do not conflict with the resources needed for priority 1 and 2 activities.

Given the changing developments in the financial markets, priorities can change in the course of the year. Both the Extended Bureau and the Consultative Panel will be instrumental in this re-prioritisation exercise and changed priorities will be formally agreed upon at CEBS main committee meetings.

Key activities for 2010

For 2010, the highest priority has been given to CEBS' activities in relation to the regulatory and supervisory consequences of the crisis, to CEBS' deliverables connected to the upcoming changes in Basel II and the CRD and to the work, linked to the expected changes in the institutional supervisory arrangements which anticipate a changeover from CEBS to the EBA by the end of 2010.

More specifically, CEBS has identified the following projects as being high priority projects for delivery in 2010:

- Institutional arrangements: the EU Commission just recently made public an EU legislative package. CEBS, together with the other

2 level 3 committees will analyse these proposals and provide comments on the package. It is planned that by the end of 2010, CEBS will be transformed into a European Banking Authority. Quite some preparatory work needs to be undertaken in this regard, which varies from setting up and executing a migration plan to ensure day-to-day operations, to developing an IT infrastructure for the future organisation. CEBS has decided to pro-actively work on various subjects, which will be done throughout 2010.

- Periodic risk assessments: an increased attention to macro-economic and bank sector analyses is felt important to assess the resilience of the EU banking sector and receive early warnings for supervisory purposes. CEBS contributions focus on regular risk assessments and stress testing. In 2008, CEBS developed a mechanism for performing such focused risk assessments on a periodic basis, building upon macro-economic analyses and using a bottom-up approach. In 2010, CEBS will continue to deliver these risk assessments, identifying important risk areas, their relevance to banks, the measures banks have taken to mitigate these risks and possible policy responses needed. CEBS will also undertake, together with CEIOPS and CESR, a second pilot study for delivering on a periodic basis a cross-sectoral EU wide risk assessment. In addition, it is foreseen that in 2010 CEBS will do a new stress testing exercise, as a follow-up of the exercise performed in 2009.

- Colleges of supervisors and other network mechanisms: one of the lessons learned from the crisis is that supervisory cooperation, coordination and information exchange are of the utmost importance. Promoting supervisory cooperation and coordination through colleges of supervisors has been high on the agenda of CEBS since its inception, by fostering the functioning of colleges of supervisors and tackling issues raised by members or the Industry Platform on Operational Networks. CEBS will continue in 2010 with its actions to monitor the setting-up of colleges of supervisors and having targets for their operations. In addition, guidelines on the operational functioning of colleges and on joint assessments by home and host supervisors within such colleges will be finalised, in anticipation of the upcoming CRD changes in 2010.
- Early intervention mechanisms: By the end of 2009, the EU Commission will consult on its proposals for early intervention tools and bank resolution. It will also address asset transferability. There is a genuine interest to EU supervisory authorities to comment on this EU initiative and if felt appropriate, to develop policy recommendations, especially with a view to having a sufficiently streamlined approach for these tools for cross-border operating banking groups and to contribute to the policy debate in this area and on the further development of EU deposit guarantee schemes.
- Pillar 2: Pillar 2 is an area in which at the moment there is still need for further convergence of practices amongst member states. Following the crisis and with a view to the requests received in the CRD revisions, CEBS will develop guidelines in a number of important areas. We already mentioned the developments of guidelines for joint assessments and decision, which will contribute to more consistent and effective application of the principles to be applied to cross-border banks for assessment of capital adequacy under the Supervisory Review and Evaluation Process and for the Risk Assessment of cross-border banks in general. Also the current guidelines on concentration risk will be updated in 2010 in the light of the lessons learnt from the crisis and CEBS will undertake an implementation study and develop further guidance on the topic of remuneration.

- Amendments to the CRD: CEBS will actively follow the BCBS developments, notably in the area of the quality and quantity of capital, supplementary measures and securitisation. CEBS' involvement in future changes to the CRD would be on performing impact assessments of these proposals at the EU level and where appropriate, providing further inputs to the policy debate.
- Transparency and disclosure: CEBS will finalise in 2010 its guidelines on disclosures by banks, developed as lessons learnt from the crisis. We also intend to undertake a second assessment study on the compliance of the major EU cross-border operating banks with Pillar 3 requirements as of end 2009, including, if necessary, possible policy recommendations to increase the quality of these disclosures.
- Liquidity risk management: as a follow-up to the guidelines developed on liquidity risk management in 2009, CEBS will develop more detailed guidelines in 2010, especially on liquidity cost allocation mechanisms. In addition, CEBS expects to work on (the EU implementation of) a minimum standard for funding liquidity, provided these developments gain momentum globally.
- Supervisory reporting: CEBS and CEIOPS are steadily working on the execution of their plan to introduce a harmonised supervisory reporting by 2012, as endorsed by the ECOFIN. For 2010, CEBS intends to revise its guidelines on risk reporting (COREP), including with a view to implementing changes in the CRD, and will update its proposals for financial reporting (FINREP) due to upcoming changes in accounting standards.
- Internal governance: In 2009, CEBS has introduced high level principles on risk management. For 2010, CEBS intends to restructure the CEBS' guidelines on risk management, linked to these high level principles. In addition, CEBS will review its current level 3 products in this area and align them with the developments that have taken place in the BCBS.

Priority 2 activities for 2010

Besides ongoing topics like training programmes, the monitoring of accounting & auditing standards, the development of guidance on the implementation of the 3rd EU anti money-laundering directive, the handling of Q&A's on the implementation of the CRD and COREP & FINREP and the yearly Peer Review exercises, CEBS plans also to address, amongst others, the following topics as priority 2 activities in 2010:

- In addition to Pillar 2 topics for which a priority 1 was attributed, it is planned to undertake efforts in the following Pillar 2 areas for the development or enhancement of supervisory tools:
 - i. Business, strategic and reputational risk
 - ii. Interest rate risk in the banking book
 - iii. Stress testing
- Implementation of the CRD: Also here, CEBS has planned to further develop some level 3 products, especially with respect to some proposed refinements in the large exposure regime, a revision of the guidelines on ECAs and some enhanced guidelines on operational risk.
- Financial conglomerates: In 2010, the JCFC will focus its work on commenting on the upcoming revisions of the Financial Conglomerates Directive (FCD), providing an annual notification of conglomerates in the EU and monitoring the conglomerates dimension in the CEBS' and CEIOPS' work on colleges, to ensure consistency with the FCD.
- PRIPs: CEBS started its work on Packaged Retail Investment Products in the second half of 2009. In 2010, CEBS is expected to continue its orientation towards this topic. Amongst others, CEBS, together with CEIOPS and CESR, could comment on an expected outline of legislative proposals, to be received from EU Commission end 2009 and more definitive proposals by mid 2010.

Priority 3 activities

A number of activities have been earmarked as priority 3 activities. These activities will only be undertaken in 2010, if CEBS has sufficient resources available. Given the current situation, it is uncertain whether that will be the case. Topics that have a low priority include:

- Development of fit and proper requirements together with the other level 3 committees
- Analysis of the risk management aspects relevant to banks operating as a general clearing member
- Updating and maintaining databases and lists on non-cooperative jurisdictions



5.5

Financial Statements of CEBS Secretariat Ltd

Revenue and Expenses	Year to 31 December 2009 £'000	Year to 31 December 2008 £'000
Revenues		
Contributions from members	2,754	2,514
Other income	154	200
Action Grant	89	–
Interest	17	97
Total Revenue	3,014	2,811
Expenses		
Secondment fees	1,360	1,135
Project expenses	89	–
Premises	545	400
Professional fees	69	51
Communication costs	66	54
Depreciation	174	174
Computer and IT development	78	77
Travel	152	106
Salaries and employee benefits	145	100
Meetings	49	44
Office supplies	27	29
Miscellaneous	34	14
Total expenses	2,788	2,184
Excess of revenues over expenses before taxes	226	627
Members contributions were used during the period to fund the expenses above and to pay for the following fixed assets:		
Improvements to premises	38	–

The above are not the company's statutory accounts. The statutory accounts for the year ended 31 December 2009 have been delivered to the Registrar of Companies

and received an audit report which was unqualified and did not contain statements under s498(2) and (3) of the Companies Act 2006.

5.6

List of Abbreviations and Terms Used

3L3 or Level-3	Three "Level-3 Committees" or "Lamfalussy Committees" (CESR, CEBS and CEIOPS)	CRD IV	Proposal for a Directive of the European Parliament and of the Council amending Directives 2006/48/EC and 2006/49/EC as regards liquidity standards, definition of capital, leverage ratio, counterparty credit risk, counter-cyclical measures including through-the-cycle provisioning for expected credit losses, systemically important financial institutions and single rule book in banking
AMA	Advanced Measurement Approach	DGS	Deposit Guarantee Schemes
AMLTF	Anti Money Laundering Task Force	EBA	European Banking Authority
BCBS	Basel Committee on Banking Supervision	EC	European Commission
BIA	Basic Indicator Approach	or Commission	
BSC	Banking Supervision Committee	ECOFIN	Economic and Financial Council
CCP	Central Counterparty	EEA	European Economic Area
CEBS	Committee of European Banking Supervisors	EFC	Economic and Financial Committee
CEIOPS	Committee of European Insurance and Occupational Pensions Supervisors	EFC-FST	Economic and Financial Committee - Financial Stability Table
CESR	Committee of European Securities Regulators	EGFI	Expert Group on Financial Information
COREP	Guidelines on Common Reporting based on Directives 2006/48/EC and 2006/49/EC	EGPR	Expert Group on Prudential Regulation
CRD	Capital Requirements Directive (refers collectively to both 2006/48/EC and 2006/49/EC)	EIOPA	European Insurance and Occupational Pensions Authority
CRD II	Commission Directive 2009/111/EC of the European Parliament and of the Council of 16 September 2009 amending Directives 2006/48/EC, 2006/49/EC and 2007/64/EC as regards banks affiliated to central institutions, certain own funds items, large exposures, supervisory arrangements and crisis management	EIOPC	European Insurance and Occupational Pensions Committee
CRD III	Proposal for a Directive of the European Parliament and of the Council amending Directives 2006/48/EC and 2006/49/EC as regards capital requirements for the trading book and for resecuritisations, and the supervisory review of remuneration policies	ESAs	European Supervisory Authorities
		ESCB	European System of Central Banks
		ESFS	European System of Financial Supervisors
		ESMA	European Securities and Markets Authority
		ESRB	European Systemic Risk Board
		EU	European Union
		FASB	Financial Accounting Standards Board
		FCAG	Financial Crisis Advisory Group
		FCD	Financial Conglomerates Directive (Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a

	financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council, OJ L 35 of 11.2.2003)	Liquidity ID	Liquidity Identity Card
FINREP	Guidelines on Financial Reporting based on IAS/IFRS as endorsed by the European Union	MiFID	Markets in Financial Instruments Directive (Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC, OJ No. L 145 of 30 April 2004
FSB	Financial Stability Board	ORTM	Other Risk Transfer Mechanisms
FSC	Financial Services Committee	Panel	CEBS Consultative Panel
GdC	Groupe de Contact	PEPs	Politically Exposed Persons
GL03	CEBS guidelines on the Application of the Supervisory Review Process under Pillar 2	PRIPs	Packaged Retail Investment Products
GL10	CEBS Guidelines on the implementation, validation and assessment of Advanced Measurement (AMA) and Internal Ratings Based (IRB) Approaches	RCCP	Recommendations for Central Counterparties
IA	Impact Assessment	RP	Review Panel
IAIS	International Association of Insurance Supervisors	RSSS	Recommendations for Securities Settlement Systems
IASB	International Accounting Standards Board	SON	Sub-group on Operational Networking
IASCF	International Accounting Standards Committee Foundation	SREP	Supervisory Review and Evaluation Process
IASs	International Accounting Standards	TFIC	Task Force on Internal Governance
ICAAP	Internal Capital Adequacy Assessment Process	TSA	Standardised Approach
IEG	Industry Expert Group	UBO	Ultimate Beneficial Owners
IESBA	International Ethics Standards Board for Accountants	UCITS	Undertakings for Collective Investment in Transferable Securities
IFRS	International Financial Reporting Standards	XBRL	Extensible Business Reporting Language
IRB	Internal Ratings Based Approach		
IWCFC	Interim Working Committee on Financial Conglomerates		
JCFC	Joint Committee on Financial Conglomerates		



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