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Subject: Progress Call for Advice no. 3

I am grateful for the progress on the review of the Financial Conglomerates Directive (FCD) by the IWCFC, as requested in our letter and Call for Advice no. 3 of 28 April 2008.

I would like to inform you that, in the meantime, the Commission has considered its work programme for 2009. The review of the FCD will now directly take the form of a legislative revision. The Commission expects a legislative simplification to result from that revision.

As the Call for Advice no. 3 was limited to a stocktaking exercise only, we would now appreciate the IWCFC's additional advice on which articles in the FCD (as listed in CfA no.3): (i) do not need any change, (ii) need extra guidance, but no legislative change, and (iii) should be improved, and if so, in which manner. The ongoing work for the Advice may already provide some answers to these questions. Following the discussion at the meeting of the European Financial Conglomerates Committee meeting on 22 January 2009, four key issues remain to be resolved:

- Supervision at the level of the holding company, where the combination of the current provisions of FCD, CRD and insurance directives (referring to 'mixed financial holding companies', 'financial holding companies' and 'insurance holding companies') affect the supervisory tools that can be applied at the top level, hamper the use of those tools at top level, or lead to an insufficiency of tools to effectively supervise the top level of a conglomerate.
- Identifying a financial conglomerate following the definition of 'financial sector' and FCD article 3, which do not necessarily include the groups which are by their nature, scale and complexity, exposed to group risks and whose complexity hampers the monitoring of potential multiple use of capital. On the other hand the current FCD

provisions include smaller groups where supplementary supervision may be hard to justify.

- The definitions of 'participation', 'close links' and 'group' and their consequences for the scope of the supplementary supervision. This would also need to address participations in non-regulated entities in the scope of supplementary supervision, and consider the possible interpretations of the 'durable link' concept as introduced in the definition of 'participating interest' in the Fourth Council Directive 78/660/EEC.
- The treatment of participations for the supervision of risk concentrations, intra group transactions, and internal control mechanisms, considering that groups may not always be able to control the risk management of minority participations, or cannot obtain adequate information for their own group wide risk management.

The expertise gathered from the supervisors in the IWCFC would be indispensable for the subsequent legislative considerations. I would therefore kindly like to ask you to consider and provide advice in regard to these four issues in your Advice.

We understand that the IWCFC may need more time to finalize its advice. We would appreciate to receive the draft advice, available for public consultation, by 30 May 2009. The final advice could then be delivered in September 2009.

You may also be aware that the Commission has published its updated decisions on the level 3 Committees on 23 January 2009. Among other things, the decisions state that, in order to avoid duplication of work, to prevent any inconsistencies, to keep CEBS and CEIOPS abreast of progress, and to give the opportunity to exchange information, CEBS and CEIOPS shall cooperate in the area of supervision of financial conglomerates in the Joint Committee on Financial Conglomerates (JCFC). This means that the interim stage of the IWCFC has effectively come to an end and that a structural arrangement to formulate joint advice, providing a single view reflecting the group wide perspective that conglomerate supervision requires, is now available. Henceforth, the Commission Services will therefore refer to the IWCFC as the JCFC.

I would like to reiterate the appreciation about the achievements of the IWCFC which has provided the group-wide view that conglomerate supervision requires. I look forward to continuing this approach for the revision of the Financial Conglomerates Directive.

Yours sincerely,



Elemer TERTAK

c.c.: Mme Af Jocknik (CEBS), Messrs Steffen (CEIOPS), Pearson, Van Hulle