



EUROPEAN COMMISSION

Internal Market and Services DG

FINANCIAL INSTITUTIONS

Banking and financial conglomerates

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23 September 2010

**Minutes of the European Banking Committee Meeting
on 23 June 2010 in Brussels**

1. APPROVAL OF MINUTES OF THE EBC MEETING ON 3 MARCH 2010 AND APPROVAL OF THE AGENDA

Draft minutes and draft agenda were approved.

2. REGULATORY DEVELOPMENTS

a) Latest international developments

COM informed EBC members about the ongoing discussions in Basel, FSB and G20 and the planned timing of various initiatives. EBC members were also briefly informed about Commissioner Barnier's visit to the US.

b) CRD IV review

COM presented the key elements of the outcome of the CRD Working Groups in regard to further possible changes to the Capital Requirements Directive (CRD IV) and provided an update on the PDG meeting of 17-18 June as well as the next steps.

EBC members agreed with the need to form a common EU view on the most critical issues so that all relevant European specificities are duly reflected in the final package currently being finalised by the Basel Committee. EBC members underlined the important role that COM plays in this process.

The majority of EBC members broadly endorsed the CRD WG conclusions outlined in the presented document and the suggested way forward on the four outstanding issues: (i) ensuring an appropriate prudential limited deduction of DTAs and insurance participations from capital, (ii) widening definition of the liquidity buffer and the importance of reducing reliance on external credit ratings, (iii) no automatic phasing in of the leverage ratio as a Pillar 1 (subject to a separate review/decision in the future), and (iv) importance of developing and calibrating both layers of the capital buffer – capital conservation and countercyclical buffer – together, while EBC members expressed their preference for the latter.

EBC members stressed the importance of the ongoing impact assessments (both micro- and macro-assessments), which will be key input in finalising the CRD IV proposal.

c) State of play of CRD III in the European Parliament

COM briefly updated EBC members on the continuing 'Trilogue' negotiations between the Presidency, the Parliament and the Commission on CRD III. The principal areas where negotiation was ongoing were:

(i) the date of entry into force of trading book and securitisation provisions to align with the deferred date (end of 2011) recently agreed by the Basel Committee, and the transitional treatment until the end of 2013, also agreed by the Basel Committee, for

securitisation positions in the trading book that are not included in the correlation trading portfolio. The Presidency wanted to implement the Basel agreement on these points, but the EP had some doubts: the trading book was at the heart of crisis, and some members were reluctant to support an amendment that might be seen as softening standards in these areas. Accordingly, some EP members involved in the Trilogue argued for the entry into force of the trading book provisions on 1 July 2011 (six months earlier than the date agreed by Basel, and the expiry of the transitional treatment for securitisation positions at the end of 2012 (rather than the end of 2103)).¹

(ii) the retention of Article 122b on 'highly complex re-securitisations' (omitted by Council, but supported by EP, subject to deferred application on adoption of definition of highly complex resecuritisation);² and

(iii) remuneration, and specifically the ratio of fixed to variable remuneration, the forms in which the deferred and non-deferred portions should be paid (contingent capital or other instruments that achieve a similar effect of aligning employees' interests with the long term prospects of the credit institution), and specific provisions for banks receiving public support. As to the latter, the EP wanted to import FSB principles in this area, including caps on the amounts that can be paid to directors and a ban on the payment of any bonuses while institution reliant on public support.

COM also outlined the timetable – agreement of compromise text by Council in COREPER by 30th June, EP plenary vote on 6 July and adoption in September or October - that was necessary to enable the remuneration provisions of the Directive to come into force and apply from the end of 2010 or beginning of 2011. It was a priority for the EP that the remuneration should apply from 1 January 2011 at the latest, in order to ensure that the principles would apply to all bonuses paid in 2011, even if they were awarded in 2010 for 2010 performance. The provisions extending the Basel 1 transitional floors and any provisions on covered bonds included in CRD3 would also come into force on that earlier date, while the rest of the directive (namely, the provisions on trading book and re-securitisations) would be subject to a later implementation deadline, reflecting the postponement agreed in the Basel Committee.

Covered bonds

EBC members from DK, FR and IT had written a joint letter of 18 May 2010 regarding the specific provisions on covered bonds in Annexes IV and VII of Directive 2006/48/EC. DK introduced the topic and explained the need for action. Those provisions are due to expire at the end of 2010, and prompt action is needed if they are to be extended beyond that date. COM confirmed that amendments to CRD 3 proposed by the ECON report dealt with this matter, provided they are agreed by Council. The alternative approach of comitology measures would not be feasible in

¹ NB: The compromise text that was finally agreed and approved by the EP on 6 July implements the deadlines agreed in Basel, i.e. the trading book and re-securitisation provisions must be applied from 31 December 2011 and the transitional treatment for securitisation positions that are not included in the correlation trading portfolio will run until 31 December 2013.

² The compromise text approved by the EP adopts the Council common position: i.e. Article 122b is removed entirely.

the limited time available. The amendment put forward by the EP proposed a permanent treatment for covered bonds, similar to the current transitional exemption that expires at the end of this year, but with more restrictive conditions on certain elements. COM explained that some MEPs had expressed concerns about a permanent treatment, and a possible compromise under consideration would extend the proposed treatment for further transitional period, pending a review.³ ECB mentioned some concerns over the proposed amendments by DK, FR and IT as regards possible implications of the proposed indefinite prolongation of the waiver for the covered bonds market as well as from the ECB's risk management framework perspective.

d) State of play of the Deposit Guarantee Schemes (DGS) review

COM informed EBC members on the forthcoming legislative proposal and report on the revision of the DGS Directive. COM informed that DGS would form a package with Investor Compensation Schemes (ICS) and Insurance Guarantee Schemes (IGS), and it was planned that all above initiatives would be adopted at the same time (in July).

EBC members asked about the planned process related to the review of the DGS Directive. AT and LU asked whether DGS and ICS/IGS were to be one proposal or they were separate initiatives. CY asked about planned timing of the adoption of the legislative proposal, and AT asked about the planned meetings of the expert group during the Belgian Presidency (whether in July or in September).

Some EBC members raised country-specific issues. First, DK stated that despite of the forthcoming entry into force of the harmonised coverage level of € 100 000, there should be possibility for Member States to provide higher coverage for some specific types of deposits (e.g. pension funds). Next, DE emphasized that the COM proposal is politically sensitive given the structure of the German banking system (private, savings and cooperative banks) and the existing deposit guarantee arrangements (statutory, voluntary and mutual schemes). Finally, UK – which in general expressed its full support for the ambitious COM approach as regards the DGS review – reiterated its concern about setting the coverage level in euro and its consequences for depositors in non-euro area Member States. Moreover, UK stressed its concern about DGS funding, i.e. the mutual borrowing facility and the target level to be achieved within 10 years (according to UK, the latter is not achievable for Member States with indebted DGS, such as e.g. UK).

Several EBC members highlighted the link between DGS and bank resolution. ES stated that there is a clear overlap between bank resolution and current works on

³ The compromise text approved by the EP applies the modified derogation until 2013, and requires the Commission before the end of 2012 to review its appropriateness and the appropriateness of applying a similar derogation to other forms of covered bond and, if appropriate, to adopt delegated acts to extend it, to make it permanent, or to apply it to other instruments.

DGS. ES and FR asked for clarification of the link between both initiatives (including their financing). IT proposed a more coordinated approach to those initiatives, and LU suggested parallel negotiations on DGS and bank resolution in the Council. According to FR, the role of DGS in bank resolution should rather be limited. On the contrary, IT was of the view that DGS should play a broader role in bank resolution. Also, ES stated that DGS should be responsible for resolving banks as well.

Finally, GR asked for clarification as regards the role of the future European Banking Authority (EBA) in the area of DGS – in the context of the draft legislative proposal published by COM.

COM addressed some of the above issues, notably the link between DGS and bank resolution. COM explained that such a link had been foreseen in the draft proposal: DGS funds could be used for bank resolution to the extent that the funds used do not exceed the amount that would have been necessary for payout. In turn, there were no reasons to delay the DGS initiative by waiting for the final results as to bank resolution (expected next year). COM also explained that a broader DGS mandate would have to be supported by additional funds. COM reiterated that DGS and ICS/IGS were separate initiatives. COM confirmed that its Impact Assessment had revealed that DGS in all Member States could achieve the target funding level within a decade. COM confirmed that the future EBA would have many functions under the new proposal.

3. SUPERVISORY ARRANGEMENTS

a) Home/host supervisory arrangements

COM presented the outline of the document. Member States provided the following comments.

NO agreed with the general direction of this document given the premises on which it was based, i.e. host supervisors cannot require branches to become subsidiaries, but would have expected the paper to discuss this premise. It was stressed that the Icelandic crisis raised far less difficulties in DK, where a subsidiary is authorised, than in NL and UK where branches were established. COM emphasised that the free establishment of branches was guaranteed by the Treaty.

IT welcomed the document that was well better balanced than previous paper discussed at the EBC. It was stressed that exchange of information should take place as upstream as possible before a crisis occurs. The involvement of the EBA would be critical to ensure that effective action is taken. IT asked for further clarity on what a freezing of assets consistent with the Treaty is.

NL supported the differentiation between significant and non significant branches, but stressed the following missing elements. First, supervisors of significant branches

should be given far more reaching powers. Secondly, legal obligations to pass on information are needed to make a cooperation framework efficient. COM agreed on this point and emphasised that information passed on to the host supervisor might include the risk assessment performed by the home supervisor.

EL noted that the role of the EBA should only be considered once the Regulation establishing the EBA will be adopted, and cautioned against further changes to the home/host arrangements that might lead to protectionism. With respect to supervisory methodologies, EL emphasised that further convergence would have to be reached in the context of CEBS/EBA, but not by means of legislative principles.

ES welcomed the document, and stressed the importance of fluid exchange of information for the purposes of supervising significant branches. ES considered that further work on supervisory methodology based on the IMF paper is of capital importance to ensure an efficient supervision by the home supervisor.

CZ opposed the suggested shift of responsibilities for liquidity supervision from host to home supervisors and asked why this change was needed. In any case, strong safeguards would be needed. This would include the management of liquidity on a consolidated basis, adequate exchange of information within colleges, a right for host supervisor to ask for early intervention and resolving the burden sharing issue. COM stressed that host responsibilities for liquidity supervision only existed 'pending further coordination' of Community law in accordance with Article 41 of the CRD. This coordination would be achieved by the CRD IV. At the same time, the CRD IV would have to introduce sufficient safeguards as explained in the EBC paper.

IE expressed its general support for the paper, but stressed that the practical working of exchange of information should be further worked out, in particular regarding the type of information. COM mentioned that the EBA would be tasked by the Omnibus Directive to develop technical standards on this issue (i.e. Article 42).

FI thanked COM for its efforts, but asked for more clarity as to the exact scope of home/host powers, in particular regarding the interplay between Article 33 and the Winding-Up Directive. A recital would not be sufficient. It was suggested that the home principle should be stated as a principle, but that the Directive should spelled out exceptional powers: the host may freeze the assets to prevent a bank run if the home has not performed its job properly, and a separate pool of liquid assets should be at the disposal of the branch. From experience gained during the crisis, the distinction between significant branches and non significant branches has not proved operational. COM recognised the need for legal clarity.

SK stressed that 92% of the Slovakian banking system was foreign owned, and was wondering why powers should be shifted to the home supervisor. Information exchange and cooperation obligations were not considered sufficient since a home supervisor may have no incentives to address a situation in a host country which was

not deemed systemically important for the group. It was stressed that a possible involvement of the EBA in terms of crisis management would not be practical in view of the need to come to timely decisions. COM explained that the home/host debate should be centred on the efficient access of prudential information for the supervision of credit institution irrespective of which supervisor has the power to intervene.

UK explained its concerns around the suggested shift of responsibilities for liquidity supervision. Liquidity would not be harmonised to a level that would be satisfactory, including cross-currency, intra-day, off-balance sheet items and derivative business. It was suggested that information sharing should be based upon a uniform liquidity reporting that would cover the entire group to allow host supervisors to come to an independent view on the group risk profile. In addition, host supervisor should be consulted on the risk assessment performed by the home, and banks' restoration plan. It was stressed that Article 33 should not only bite at the time of the crisis, and the UK suggested introducing in the CRD home/host arrangements of MiFiD. Importantly, the UK emphasised that it was the largest host of branches with over 70% of all assets booked in cross-border EEA branches, which represents an important fiscal risk. While information sharing along the lines suggested by the UK is part of the suggested policy, COM stressed that branches do not expose home Member States to fiscal risk, provided that the DGS and the Winding-Up Directive are properly applied by home Member States.

PL shared the reservations expressed by CZ and did not support the shift of responsibility for liquidity supervision. Emergency powers under Article 33 were deemed too late.

HU shared similar doubts about the need to change the home/host arrangements, as the CRD has recently been changed.

RO asked for a deadline to provide written comments. COM would expect written contributions by mid-August since this would be further discussed at the early intervention working group in September.

LU stressed that it should not oppose a transfer of competence, but was quite interested in the UK comments, although the policy explained in the EBC paper made good sense. Regarding the reporting on liquidity as a means to increase information exchange, LU noted that liquidity supervision was not only about calculating ratio.

CEBS explained that CEBS was currently developing a common liquidity reporting framework, and has already developed a 'Liquidity Identity Card' for discussion in colleges.

b) State of play of the supervisory architecture measures in the European Parliament

This item was not discussed during the meeting due to shortage of time with consent of the participants.

4. CRISIS MANAGEMENT

a) Commission Communication on options for bank resolution funds

COM reported on the state of play with respect to the work on crisis management, and presented the main points of the Commission's May Communication on bank resolution funds. COM's ideas would be further developed in the Communication on crisis management, due in October.

Reactions from EBC members to COM's ideas were mixed. NL, AT, UK and FR in particular rejected the idea of establishing dedicated funds, citing problems of moral hazard, high cumulative impact of various measures, need to prioritize work on Basel III and national fiscal competence.

Other EBC members were more favourable to the establishment of national funds (DE, FI, SE, ES, PL, BE and LU). There were different views on what should be an appropriate basis for levying the funds, and also different views as to the appropriateness of combining funds and DGS. BE clarified that it favoured allocating receipts from banks to the general budget, but earmarked in a general fund. Also, ECB welcomed the COM's May communication and mentioned the importance of assessing the overall impact of measures under consideration (capital, liquidity framework, surcharges, levies, etc). It supported the set up of national funds. This, however, should not undermine the need for setting a network (pool) of resolution funds for cross-border banks.

On the moral hazard issue, COM responded that as the objective of the new framework was to fail and not bail out banks, the existence of such funds with clear rules should not generate additional moral hazard. Furthermore, the existence of a large fund managed by the FDIC in the US had generated no such concerns.

With respect to fiscal competence, COM responded that the concept of resolution funds was very similar to DGS. Funds raised from banks would be channelled to a dedicated and specific purpose, and would not therefore raise concerns about fiscal competence.

With respect to prioritisation of reforms, COM responded that progress was needed on a broad front, and that crisis management was a key part of the reform process. Finding solutions to cross-border financing was a critical part of ensuring that the right incentives were in place to ensure that cross-border cooperation really would occur during a crisis.

b) Crisis management framework: issues surrounding creditor haircuts and debt equity conversions

COM briefly outlined the current state of play on haircuts and debt – equity conversions. The idea being explored was that writedown of some or all unsecured debt might help to stabilise a bank's balance sheet and mitigate the need for any additional external funding. Work was at a preliminary stage and many questions were still outstanding.

EBC members were mainly supportive of further work to be carried out on this issue, although some scepticism was also expressed with respect to the potential market implications and the desirability of pushing losses onto creditors.

CZ suggested a need to clarify approval process in the Directive on cross-border mergers and acquisitions, in the event that a debt-equity conversion resulted in a major shareholder obtaining a qualified holding in the institution.

COM concluded that further work to clarify such issues will be undertaken by COM as well as by bodies at international level in the coming months.

c) Oral update on exit strategies

Ms. Irmfried Schwimann (DG COMP) and Mr. Sean Berrigan (DG ECFIN) informed EBC members about the COM policy on exit strategies.

First, COM outlined the background of the global financial and economic crisis had led governments to take unprecedented measures on the monetary policy side, via fiscal stimulus, public support to the financial sector and a challenging regulatory reform agenda. COM emphasized that the coordinated fiscal stimulus and other measures in the European Economic Recovery Plan (EERP), accompanied by a strong monetary policy response and financial market support, had not only prevented a systemic meltdown, but been instrumental in stabilising the economy and bolstering confidence. Overall, gross fiscal stimulus measures taken or planned by Member States amount to a total of 2.9% of GDP for 2009 and 2010 (this is a sizeable increase compared to the 1.2% GDP foreseen in the EERP). In line with EERP, the size of stimulus packages differed across countries reflecting their individual circumstances.

Altogether, COM approved crisis measures put forward by Member States for an overall maximum volume of € 4.1 trillion. Guarantee umbrellas accounted for over 75% of that volume. The overall volume of approved recapitalisation measures, aimed to ensure lending to the real economy, amounted to € 503 billion.

While those measures were clearly needed to support the real economy, COM stressed that the increasing costs of financial support and macro stimuli could have a possibly destabilizing impact and cause competitive distortions. Thus, the economy's eventual return to health has brought up the need to discuss and develop an "exit strategy". The key objectives of such an exit strategy are sustaining the recovery and

ensuring fiscal sustainability. However, current fiscal trends are unsustainable in the medium- to long-term for most countries, notably keeping in mind an ageing population and its strong implications for EU public finances (if policy remains unchanged, debt is on-track to reach 120% of GDP in the EU by 2020) and growth potential (it would be imprudent to assume a return to growth to its pre-crisis potential path). This warns against dismissing the risk of an excessive delay in exit.

COM recalled that on 2 December 2009, the ECOFIN Council agreed on the need to design a strategy for phasing out support measures that should start with the unwinding of the State guarantee schemes. On 18 May 2010, the ECOFIN Council welcomed the preliminary analysis by COM on the use of guarantee schemes and welcomed the COM intention to renew the provision of guarantees after 30 June 2010 with tighter conditions. Also, at the end 2009 and beginning 2010, governments and central banks formulated plans for the different areas of competence (e.g. FR, IT and UK decided not to prolong their guarantee schemes, NL tightened the pricing conditions of its scheme). However, keeping in mind cross-country and cross-area spillovers intensified by the crisis, COM called for enhanced coordination at regional and global level (COM, Basel Committee, Financial Stability Board, etc.).

The sequencing of exit was considered by COM as crucial. A credible strategy should start with the withdrawal of fiscal stimulus and business support measures. Progress with financial repair would also be essential to ensure that the banking system does not act as a drag on the recovery and the price stability objective of monetary policy does not enter into conflict with the financial stability objective. Monetary tightening should take place only when the recovery is well established. However, as a result of the renewed tensions, in particular the risk on the sovereign debt side, the sequence of exit has changed: (1) quick and fast fiscal consolidation, (2) in parallel gradual withdrawal of the public support to the financial sector while ensuring financial stability is maintained, and (3) return to accommodating monetary stance, i.e. the ECB has reverted its exit (started in early 2010) and even extended the range of support measures to include a programme of sovereign debt purchase.

As regards the regulatory agenda, COM confirmed the need to avoid unintended consequences, such as restricting necessary credit supply to the economy. COM also declared to pay attention to the cumulative effects of the various reform measures (e.g. forthcoming proposals on CRD, crisis management and bank resolution, etc). In this context, priorities and trade-offs may have to be identified and the implementation of the various reforms may have to be sequenced.

COM strongly supported full transparency in communicating the results of the CEBS stress test at EU level (including disclosure of the results to the public on a bank-by-bank basis). COM stressed that maximum transparency in the stress test was important to reassure investors about the condition of the EU banking system. On the other hand, COM mentioned that full transparency could have some undesired

consequences (e.g. the stress test might reveal problems with the capital adequacy of some banks and, in turn, the need to provide public support quickly).

Finally, COM warned that keeping support to the financial sector at current levels in place for too long would enable banks with structural problems to unduly postpone the necessary restructuring processes and lead to growing competitive imbalances and distortions. The resulting delay of a return to normal market conditions would constitute an obstacle to the recovery process itself.

After the exhaustive presentation by COM, there were no questions from EBC members as regards the above-mentioned issues.

5. IMPLEMENTATION

This item was not discussed during the meeting due to shortage of time with consent of the participants.

6. ANY OTHER BUSINESS

COM updated EBC members on the recently established Expert Groups on banking issues (GEBI) and insolvency (ILEG). The first GEBI meeting took place on 14 June, while the first ILEG meeting was planned in July. COM informed that members of the above expert groups speak in their personal capacity.

As regards the update of the List of Credit Institutions, COM informed that the last two outstanding contributions of EBC members had been received recently and the list would be finalised for publication.

COM thanked those EBC members which had already provided replies to the informal request on requirements for third-country branches and invited the remaining members to send their contributions by 5 July. Members were informed that their information would be compiled and used in forthcoming negotiations, e.g. those on FTA with Canada on 12-16 July.

COM informed EBC members that Ms. Doris Kolassa joins the EP and her role as the EBC secretary would be temporarily taken over by Mr. Konrad Szelag.

COM informed EBC members about the tentative dates for next EBC meetings:

- Wednesday, 29 September 2010,
- Wednesday, 1 December 2010.