



EUROPEAN COMMISSION
Internal Market and Services DG

FINANCIAL INSTITUTIONS
Banking and financial conglomerates

EBC/14/11

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Summary Report
European Banking Committee
Brussels, 17 June 2011

1. INTRODUCTION BY CHAIRMAN

- Mr Mario Nava, Acting Director in DG MARKT, who chaired the meeting, welcomed the participants.
- Chairman explained that due to the clash between the EBC meeting and the COREPER meeting taking place in parallel (at both meetings FICOD was to be discussed), it was necessary to change the order of agenda item, i.e. to start with FICOD, followed by crisis management (bail in) and CRD/Regulation.
- The amended agenda was approved by EBC Members.

2. FINANCIAL CONGLOMERATES DIRECTIVE (FICOD)

- COM announced a political deal in the final trilogue (confirmed in COREPER later the afternoon) which included the following achievements:
 - Comprehensive supervision at ultimate parent level;
 - Single application of overlapping Pillar 2 provisions (e.g. qualitative parts of Article 248 Solvency 2 & Article 124 CRD);
 - Streamlined colleges;
 - Waiver for very small groups;
 - Transparency of (banking, insurance, financial conglomerates) group structures to facilitate living wills of financial conglomerates;
 - Inclusion of Alternative Investment Fund Managers (AIFM) in FICOD in the same manner as UCITS;
 - Conglomerate-wide stress testing and invitation to the Joint Committee on Financial Conglomerates (JCFC) to develop parameters for cross sector risks;
 - Prioritise BTS for application of FICOD's capital calculation methods over COREP for financial conglomerates.
- One Member State requested to copy paste the adopted amendments carefully into CRR and CRD4. COM confirmed it would.
- COM thanked HU Presidency for its effective steering of the FICOD trilogues. HU thanked for the COM work and the clear mandate and cooperation of Member States in the process.
- COM announced that the second, more fundamental review would follow the timing of the Joint Forum. A Call for Advice had been sent to JCFC to invite them thinking of European specificities in parallel to the Joint Forum process. There were the following key questions to be tackled:
 - Should the parent entity of a group be accountable for group wide compliance? Which entity should be the accountable entity? Should non-operating holding companies (NOHC) be regulated?

- Which group wide risk management and governance requirements should be enforced upon parent entities of groups, and which empowerments do supervisors need to that end?
- How should the monitoring of group risks coming from non-regulated entities (SPEs, wider industrial group entities, etc) be included in the framework?
- Other than those fundamental questions with respect to the supplementary framework, FICOD2 would be an opportunity to assess the consistency between Solvency 2 and CRD4 now that texts will be more stable.
- Member States welcomed this exercise. COM promised to keep the EBC posted at their last meeting this year (scheduled for December 2011 – see A.O.B).

3. CRISIS MANAGEMENT / BAIL IN

- There was a very extensive discussion on bail-in. Member States were very interested in the issue. Those who are not members of the Financial Stability Board (FSB) were especially grateful to be given the opportunity to express their opinion.
- Most Member States were favourable to have both open and close bank bail in. In their opinion it is important to have as much tools as possible to try to avoid the use of taxpayers' money (something that some of them said they do not have). Only one delegation considered that there should be bail in (open bank) in the EU - only if the US and JP have it as well. Some other delegations considered that the EU should have it irrespective of whether the US has it.
- It is very important, and this was mentioned by a majority of those who took the floor, that bail in is a resolution tool, this is that it is triggered at the same point as resolution and that, for legal certainty reasons, the trigger point is close to insolvency and does not give the supervisor too much discretion.
- On the scope the general position was that, whatever the scope we decide, it has to be harmonised (if possible at international level but if not at least at EU level). Most opinions considered the FSB proposed agreement as clearly insufficient. There was also a general consensus that the scope should be as broad as possible (including all type of credits).
- However, several Member States considered that a distinction should be made between open and close bank bail in. The scope should be more limited for the first (excluding derivatives, short term debt, deposits and collateralised debt) whereas for the second it should be as broad as possible. In both cases we should try to respect the hierarchy of claims as much as possible. This means that shareholders should be the first in the rank to cover losses (not necessarily that they are completely wiped out before we can use bail in. As for the minimum requirement for 'bailinable' debt, most Member States considered that it was not useful.
- On the use of bail in at group or subsidiary level, there was also some consensus that the EU should allow for both (there might be cases when a subsidiary might need to be bail in), but in any case this should be coordinated at group level (through the coordination arrangements for resolution that COM will propose in the crisis management framework) and that the parent company should always be given (before any bail in) the possibility to recapitalise the entity.

4. CAPITAL REQUIREMENTS DIRECTIVE (CRD 4) / REGULATION

- COM presented the current state of play, latest timeline and process. Overall, Member States reiterated their appreciation of the progress achieved so far and expressed their desire to see the final proposal soon.
- One member asked about the feasibility to negotiate the package within a timeframe that would allow its implementation in January 2013. This member argued that based on the experience with Basel II negotiation process, this might be challenging.

COM clarified that there are three differences to Basel II: (i) urgency of the proposal as a response to the crisis; (ii) G20 political commitment to implement it in 2013; and (iii) COM's intensive discussions with Member States ahead of the adoption allowing COM to present a proposal, which is sufficiently advanced. COM also emphasised the importance of maintaining the negotiation process focused on Basel III issues. PL and DK delegations underlined the importance they will attach to the CRDIV proposal when leading the negotiations.

- Another member concurred with the COM's suggestion that the negotiations should primarily focus on Basel III issues. In order to streamline the negotiations, this member enquired about the feasibility of preparing a document allowing Member States to see which Basel II issues have been changed and how.

COM mentioned its intentions to prepare a staff working document, in addition to a formal legislative proposal, highlighting what these changes are.

- One Member State asked about COM plans with respect to the countercyclical buffer, against the latest news that the US might not implement it.

COM clarified that it is monitoring the situation very carefully – consistent implementation of the Basel III agreement globally, and in the US in particular. COM also mentioned that no fixed US position has been determined yet.

- One delegation emphasised the importance of the quality of the upcoming legislative proposal, in particular of the Regulation as it will be directly applicable.

COM made it clear that it would not compromise on the quality and confirmed that COM would deliver a high quality piece of legislation.

- One Member State expressed concerns about the number of provisions requiring EBA to produce binding technical standards (BTS). EBA admitted that if the text remained unchanged, it would be very challenging for EBA to deliver all what is currently being requested.

COM acknowledged the issue and confirmed that COM was in the process of reviewing and prioritising the obligations for EBA to produce BTS, in order to make the burden bearable. COM also mentioned its efforts to ensure that EBA has sufficient resources to carry out such work.

- One Member State referred to the fundamental review of the market risk framework in Basel (just started) and enquired about COM's plans how to organise the work.

COM clarified that CRDWG would continue to deal with these issues and that COM would come back to CRDWG members with suggestions how to organise this work in autumn.

5. ANY OTHER BUSINESS

COM recalled the tentative dates of EBC meetings planned for this year:

- 19 September 2011;
- 2 December 2011.