



*European Association of Co-operative Banks
Groupement Européen des Banques Coopératives
Europäische Vereinigung der Genossenschaftsbanken*

EACB Comments on the 3L3 Medium Term Work Programme

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The **European Association of Co-operative Banks** (EACB) is the voice of co-operative banks in Europe. It represents, promotes and defends the common interests of its 28 members and co-operative banks in general. With 60,000 outlets and 4,500 banks, co-operative banks – which are privately owned entities- are widely represented throughout the enlarged European Union and play a major role in the financial and economic system. In Europe, one out of two banks is a co-operative. Co-operative banks have a long tradition in serving 140 million customers, mainly consumers, retailers and SMEs. Quantitatively, co-operative banks in Europe represent 47 millions members, 730,000 employees with a total average market share of about 20%.

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AN ASSOCIATION ON THE MOVE

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Introduction

The EACB welcomes the opportunity to comment on the joint medium term work programme of the three Level 3 Lamfalussy Committees (CEBS, CESR and CEIOPS).

Before discussing the work programme and the six priorities it identifies more in detail, the EACB would like to make two general remarks:

■ **Mandate**

First of all, the EACB supports a reinforcement of the Level 3 Committees in the framework of the Lamfalussy process in order to reach supervisory convergence at EU level. Nonetheless, the EACB believes that the 3L3 Committees should only develop initiatives on the subjects on which they are competent based on a mandate from the EU institutions.

■ **Communication**

Second, the work carried out under the medium term programme should be included in the reports of the Committees to the EU institutions and it should be public so that market participants can have visibility on the progress made.

A. Common framework for cooperation

As far as the cooperation tools are concerned:

1) Home/Host and Delegations of tasks

On the issue of the delegation of tasks between home and host supervisors, the EACB believes that Level 3 recommendations should not be developed without a clear mandate from the EU institutions (cf. our introduction).

Furthermore, the EACB would like to remark, that at least in some Member States, competent authorities are not currently allowed to transfer responsibilities.

2) Professional Secrecy and limits on exchange of information

No comments.

3) Powers and enforcement sanctioning

No comments.

4) Inspection rules (consistency in national practices)

The EACB understands that the 3L3 Committees intend to map inspection practices in 2008. The EACB takes note of the need for more convergence in this area and believes that this exercise could bring some interesting insight into the state of inspection practices across the EU. However, the EACB does not consider this issue to be a priority. Should any need for EU legislation be identified in this area, it would be up to the European Commission, rather than the 3L3 Committees, to make proposals.



B. Convergence of regulatory and supervisory practices

1) Competing products

Point B(i) of the draft Work Programme refers to the work of the European Commission on the subject of competing products. The EACB would like to refer to its answer to the Commission Call for evidence¹ on this issue, in which the need to add transparency and distribution requirements to the existing legislation on retail investment products is questioned. In our opinion, it is primarily up to Commission to decide whether there is an unlevel playing field between comparable products and which measures should be taken in case of existing deficits of regulation. Any activity of the 3L3 Committees in this field should therefore be the result of a mandate from the European Commission. The EACB stands ready to discuss the issues with the EU legislator.

2) Credit rating agencies

No comments.

3) Anti-Money Laundering and counter-terrorism financing

The EACB remarks that the Lamfalussy process does not apply to the Third Anti-Money Laundering Directive and its implementing measures. Furthermore, practical issues facing supervisors in relation to money laundering and the financing of terrorism are usually well handled at the level of each national authority. If co-ordination work at the level of the three Committees is to be undertaken than it should follow a mandate to do so from the European Commission.

4) Commodity derivatives

No comments.

5) Cross-border consolidation

The EACB understands that the three Committees intend to publish, by the end of 2008, guidelines aimed at assisting implementation of the Cross-border Consolidation Directive 2007/44/EC. In this context, the EACB would like to point out that the directive is not applicable to holdings in co-operative societies. The co-operative form of enterprise is explicitly mentioned in article 48 of the treaty and its specificities were enshrined into EU law by Council Regulation (EC) No 1435/2003 of 22 July 2003 on the Statute for a European Cooperative Society (SCE). Any guidelines published should not aim at revising, directly or indirectly, the non-applicability of directive 2007/44/EC to co-operatives.

6) Internal governance

The EACB believes, like many other market participants, that the implementation phase of the CRD is not an opportune time to change internal governance requirements. As a result, the guidance which the 3L3 Committees plan to issue should merely aim at clarifying the interaction between existing requirements (e.g. in relation to the MiFID and the CRD) without changing the current rules.

¹ See http://ec.europa.eu/internal_market/finances/cross-sector/index_en.htm#product



7) Financial conglomerates

Numerous cooperative banks are part of financial conglomerates and are therefore directly impacted by Financial Conglomerates Directive. The review of this directive by the 3L3 Committees (as regards coordination arrangements, intragroup exposures, concentration risk and capital requirements) is seen as a priority for the EACB.

8) CRD and Solvency II

The work of the Level 3 Committees should primarily aim at avoiding divergent requirements or loopholes which could be detrimental to cross-sector financial groups. However, the EACB wishes to stress that the efforts towards more convergence have their limits and that the specificities of each sector must be taken into consideration. For instance, the new Solvency II rules for insurance companies can by no means be used as a reference to envisage possible adjustments to banking legislation/the CRD requirements.

9) Own funds definition

The EACB believes that any changes to the current own funds definition for credit institutions shall comply with the Basel Accord. Convergence work shall aim at a common interpretation of the Basel Committee's 1998 Sydney Press Release defining the features of original own funds: permanence, flexibility of payments, loss-absorption, voting-rights, etc. The process should lead to a removal of comparative disadvantages of European banks.

10) Valuation of financial instruments

No comments.

C. Developing common tools and working procedures

Overall, the EACB supports the five areas of work mentioned by the 3L3 committees in point 54 of the Consultation Paper.

We agree, for example, that cross-sector trainings for regulators could be very useful. On the other hand, the EACB believes that it is necessary to assess the existing EU mediation mechanisms in place before a cross-sector mediation mechanism at EU level can be considered.

As far as impact assessments (IAs) are concerned, the EACB has welcomed the introduction of joint Guidelines for the Level 3 Committees in May 2007. IAs represent a useful tool for better decision-making and make it possible for market participants to anticipate the likely consequences of draft legislation. Market players and stakeholders more generally should be closely involved at every step of the Impact Assessment process so that they can provide relevant information and opinions. Such an involvement is necessary to ensure the accuracy and comprehensiveness of the analysis.



Conclusion

In Conclusion, the EACB would like to encourage the 3L3 Committees to systematically consult market participants on future priorities in order to ensure that supervisory work is focusing on the actual needs of the market.

The EACB trusts that its comments will be taken into account by the Committees when finalising their work programme for 2008-2010.

For further information or questions on this paper, please contact Hervé Guider, General Manager of the EACB, at secretariat@eurocoopbanks.coop.