



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

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**EACB Answer
to the European Commission Public Consultation on
Amendments to Commission Decisions
establishing CESR, CEBS & CEIOPS**

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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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General Remarks

The EACB welcomes the opportunity to comment on the Commission Public Consultation Paper on Amendments to Commission Decisions establishing CESR, CEBS & CEIOPS. Before answering to the individual questions of the document, we would like to make a number of general remarks:

1- More clarity is needed as regards the Committees' mandates

First of all, cooperative banks welcome the ECOFIN conclusions of 14 May 2008 and recognise the need for more clarity and coherence as regards the responsibilities of the three Level 3 Committees. In general, we believe that the activities of CEBS, CESR and CEIOPS should be based on a clear mandate. While we do not support a radical overhaul of the existing Commission decisions, we favour targeted changes aimed at 'putting on paper' the actual list of activities the Level 3 Committees have a mandate to perform, with a view to avoid any ambiguity and legal uncertainty in the future.

2- Sector-specific provisions must be maintained

Although supervisory convergence across the three sectors (banking, securities and insurance) is crucial, the mandates of the Level 3 Committees should not be harmonised to such an extent that the specificities of each sector are neglected. Furthermore, within each sector representing different businesses, said convergence should not lead to neglect particularities of the different national markets.

3- Close coordination on financial stability monitoring and reporting

Although the Level 3 Committees clearly have a role to play in the monitoring of financial stability at European level, the ECB can also be consulted by the Council, Commission and competent authorities of the Member States on the scope and implementation regarding prudential supervision¹. Therefore, it is very important to have a clear cut differentiation between the competences of the 3L3 Committees and of the European System of Central Banks and the ECB regarding the stability of the financial system.

1. Supervisory Cooperation and Convergence

Question 1: Do you agree that voluntary and/or obligatory mediation can be a useful tool to enhance the effectiveness of supervision?

The EACB welcomes the introduction of a "standardised" mediation mechanism in order to solve conflicts or disputes amongst supervisors arising from day-to-day supervision as such disputes may also have a major impact on the market participants.

¹ Protocol on the Statute of the European System of Central Banks and of the ECB, Article 25.1: "The ECB may offer advice to and be consulted by the Council, the Commission and the competent authorities of the Member States on the scope and implementation of Community legislation relating to the prudential supervision of credit institutions and to the stability of the financial system".

Article 25.2: "In accordance with any decision of the Council under Article 105(6) of this Treaty, the ECB may perform specific tasks concerning policies relating to the prudential supervision of credit institutions and other financial institutions with the exception of insurance undertakings".



In fact, member States supervisors need to recognise the inefficiency to act in an isolated way for a cross-border integrated banking groups in an EU integrated market. The mechanism will certainly provide a tool of perception in this respect.

In order to be able to achieve said "standardization", the participation in the mediation mechanism should be binding. Nevertheless, as in the case of CEBS, the advice should be non-binding for all involved parties.

Question 2: Do you agree that this task should be conferred to the Committees of Supervisors in the Decisions establishing them?

The EACB believes that it would make sense to refer to the mediation role of the Level 3 Committees in the respective Commission decisions.

If the Decisions establishing the Committees includes the mediation role, there would be a legal basis for a binding or non binding mechanism that would certainly increase the commitment of CEBS members regarding their participation in the system and the outcome of the procedure. In any case, the Decision should include the same guiding principles and specific formal aspects for all three Committees.

Question 3: Do you agree that the Committees of Supervisors should have an explicit consultative role with respect to certain decisions to be taken by supervisory authorities?

This explicit consultative role would only be justified in very specific cases that should be defined in an enumerative catalogue. One example could be the cases in which it is necessary to take decision in respect to third countries. In said cases it is essential that the EU reacts in a unified manner.

Question 4: Do you agree with the proposed role of the three Committees of Supervisors with regard to information exchange?

The EACB supports a reference to information exchange in the mandate of the Level 3 Committees.

In this respect it is very important that the content and scope of said information exchange is set up in advance and respect of the EU data protection provisions. By no means should this tool be used to attack decisions of other supervisors.

Question 5: Do you agree that the Committees of Supervisors should as a priority have a role to foster delegation of tasks between national supervisors?

Regarding the delegation of tasks between supervisors, the EACB prefers a voluntary approach that considers the existing legal obstacles to such a delegation and the need for a clear distinction between the responsibilities of the home and host supervisors. Accordingly, we favour a careful amendment of the Committee's Decisions in this respect.

It is necessary to make a differentiation between "delegation of tasks" and "delegation of responsibilities". We do not see any concerns about a delegation of tasks in case it



increases efficiencies. Nevertheless, we do not support a delegation of responsibilities that can raise delicate issues as the Commission itself states in the position paper:

“The delegation of supervisory responsibilities raises delicate legal issues, in particular because it may interfere with the allocation of responsibilities to home and host supervisors in the directives. Some therefore take the view that it would be premature to implement this principle, without appropriate changes being made to the directives²”.

Question 6: Do you consider that delegation of responsibilities should also be regarded as a priority? If so, what could be the role of the Committees of Supervisors in this respect?

The EACB does not think that the delegation of responsibilities between supervisors should be considered as a priority by the Level 3 Committees.

Question 7: Do you agree with the proposed role of the three Committees of Supervisors with regard to streamlining of reporting requirements?

It is a key issue to reduce the regulatory burden of cross border supervision of banks but at the same time, banks operating on a national level only do not have any advantage by such harmonization, but only added costs. This should be taken into consideration.

Question 8: Do you agree with the proposed role of the three Committees of Supervisors with regard to colleges or similar arrangements?

The EACB agrees that colleges of supervisors are essential for supervising cross-border banking groups in Europe and supports the exchange of best practices between supervisors for ensuring a smooth cooperation within the college.

Question 9: Do you agree with the proposed role of the three Committees of Supervisors to develop a common European culture? If yes, what are the most important tools to meet this objective?

The EACB believes that efforts to progressively develop a common European supervisory culture are important and welcome initiatives such as cross-sector trainings and personnel exchanges between national supervisors. Eventually, efforts at promoting a common supervisory culture should lead the Committees to agree on common procedures.

Question 10: Do you agree with the need to provide a general framework for joint 3L3 work in the Commission Decisions establishing the Committees of Supervisors?

Should the Commission Decisions be amended to reflect the need for cross-sectoral cooperation, the EACB agrees that the wording should “remain fairly general as to allow the Committees of supervisors to organise efficient cooperation in an independent way.”

² Page 6, last paragraph of point 3.4 of the Consultation Paper.



Question 11: Should the obligation and responsibility for 3L3 cooperation and coordination be spelled out in a more detailed way? If so, what are the specific obligations and responsibilities the Committees of Supervisors should be assigned in this respect?

No.

Question 12: Do you agree with the approach suggested for the supervision of financial conglomerates?

No comments.

Question 13: Do you consider that the Committees of Supervisors should be requested in the Decisions to take decisions by qualified majority, with a "comply and explain" procedure?

No comments.

Question 14: Do you consider that the request to the Committees of Supervisors to submit their annual work-programmes to the ECOFIN Council, the European Parliament and the Commission should be included in the Decisions?

The practice for Level 3 Committees to submit their annual work programmes to the EU institutions is now established since 2008. The EACB therefore sees no reason not to include this provision in the Commission Decisions. This way, the accountability of the Committees will be reinforced.

2. Financial Stability

Question 15: Do you agree with the proposed role of the three Committees of Supervisors?

The EACB recognises that the 3L3 Committees benefit from a unique perspective and should play a strong role in monitoring financial stability at EU level. We would however like to stress the importance of avoiding overlaps between the work of the various existing European committees in the area of financial stability (CEBS, the Banking Supervision Committee of the ESCB, the EFC Financial Stability Table...). In any case, there needs to be a clear division of roles between these bodies.

Question 16: Are additional efforts needed to strengthening risk analysis and responsiveness at the EU level? If so, please specify these efforts.

No comments.

Contact:

The EACB trusts that its comments will be taken into account. For further information or questions on this paper, please contact Mr Volker Heegemann, Head of the EACB Legal Department (v.heegemann@eurocoopbanks.coop).