



FEDERATION BANCAIRE DE L'UNION EUROPEENNE  
BANKING FEDERATION OF THE EUROPEAN UNION  
BANKENVEREINIGUNG DER EUROPÄISCHEN UNION  
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EUROPEAN SAVINGS BANKS GROUP  
GROUPEMENT EUROPEEN DES CAISSES D'ÉPARGNE  
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EUROPEAN ASSOCIATION OF COOPERATIVE BANKS  
GROUPEMENT EUROPEEN DES BANQUES COOPERATIVES  
EUROPÄISCHE VEREINIGUNG DER GENOSSENSCHAFTSBANKEN

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David Wright  
Deputy Director General  
European Commission – DG Internal Market  
Rue de Spa, 2  
1049 Brussels

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Dear David,

### **Study on trading and post-trading prices, costs and volumes**

The European Credit Sector Associations (ECSA) have met with Oxera on a number of occasions throughout 2007 to discuss banks' contributions to the study to measure the prices, costs and volumes of trading and post-trading services ("the Study"). The ECSAs have also assisted Oxera in the Study by facilitating contacts in their member associations and banks and met most recently with Luis Correia da Silva and his team to raise a number of issues in relation to the development of the draft questionnaire for, in particular, custodians.

ECSA members and their member banks received the long announced draft questionnaire for custodians and broker dealers only on 20 December 2007. Whilst we appreciate the efforts Oxera has gone to meet with the industry, having now seen the draft questionnaire we have very real concerns about banks' capacity to contribute data *per se* and most certainly within the timing foreseen by the European Commission (and Oxera).

In respect of banks' capacities to contribute, the overriding concern centres on how the data is to be collected from the business and then transformed into a format that would be acceptable to Oxera. Furthermore, there is a good deal of uncertainty about the definitions of terms Oxera has proposed and how these terms will be employed variously by the institutions which will contribute to the Study.

The banks that expect to be asked to complete the questionnaires are currently in the process of estimating what the resource implications would be from doing so. Conservative estimates for a small bank with limited cross-border business start at an

allocation of 40 person days to collect and transform the data into a format in line with Oxera's request. For large banks offering custodian services at the pan-European level completing the questionnaires would imply dedicating personnel plus allocating further costs against project management and the necessary IT support over the foreseen three year period of the Study. In sum, completion of the questionnaires as currently drafted will prove to be a significant burden for the banking business across Europe throughout 2008 and beyond.

The timing of the Study is also of great concern to banks. The difficulties arising to allocate resources to the Study will be compounded by the fact that banks will be working through bedding down internal requirements in relation to MiFID and the CRD, as well as working on the detailed user requirements consultative document for TARGET2-Securities and CCBM2 in the first half of 2008. Oxera has stated that although it aims for 100% data capture, 90% would be an acceptable figure. From initial calculations, the banks that have received the draft questionnaire estimate that in fact only a significantly lower percentage of the required data could realistically be submitted by the 28 March 2008 deadline foreseen by Oxera and this figure assumes that the necessary resources would be in place to work on this project from the outset.

In addition, the many and various issues surrounding confidentiality that banks have flagged with the European Commission and Oxera from the outset have still not been sufficiently addressed. In particular, banks have serious reservations about the adequacy of a simple confidentiality agreement, signed by banks and Oxera, to protect the former from significant legal risk and concerns about the disclosure of highly sensitive information, which could arise from banks disclosing such information about their clients to a third party. From the legal perspective, solutions to these issues remain prerequisites for banks being able to participate in the study.

The concerns we raise are significant and real. The result of proceeding with the Study as it is currently foreseen will be the collection of a partial and inconsistent data set within financial centres, carried out at great expense to an industry which is currently absorbing the significant costs of the recent legislative and industry-led initiatives. Furthermore, it seems unclear under which statutory basis an intervention with such cost implications to the industry would be based on, in particular without an impact assessment or cost-benefit analysis that is usually undertaken in the context of policy actions according to the currently applied Better Regulation Framework. Such an assessment may take into account that the initial tender was issued in April 2006, but only three months later a new policy tool, the Code of Conduct, was announced, changing the original policy context.

However, banks are ready, willing and able to work with the European Commission and Oxera in the coming days and weeks to find alternatives to the draft questionnaire that would deliver Oxera data that could be readily retrievable from the business, consistent within and between financial centres and would ultimately contribute to the goals of the Study being realised.

In addition to this primary proposal of focussing on the simplification of the questionnaire, our secondary proposal would be to explore the possibility of using the “model customer” approach to generate figures for cost, prices and volumes over time. Oxera could call for tens if not hundreds of “model customer” simulations to ensure a broad coverage of business without quickly running into the difficulties that banks will face in replying to the current questionnaire by using actual client information on prices, costs and volumes. This approach could also simplify the issue surrounding the possible non-disclosure of client data due to confidentiality concerns as described above.

Both proposals would require further detailed exploration from experts involved in the post trading business. Therefore, our suggestion would be to hold a tri-partite meeting as soon as possible between the European Commission, Oxera, a number of bankers and their representative associations to discuss possible alternatives to the draft questionnaire that would allow banks to make as full and as useful contribution as possible to the Study.

We look forward to hearing from you in due course and we very much hope that we will be able to meet, along with Oxera, to discuss the alternatives we have proposed. We remain at your entire disposal in the meantime.

Yours sincerely,



Guido RAVOET



Chris de NOOSE



Hervé GUIDER

cc.: Mario Nava – Acting Director, European Commission

Luis Correia da Silva – Managing Director, Oxera