



**Committee of European
Banking Supervisors**

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Consultation Paper (CP 05) on the framework for Supervisory Disclosure

Ladies, Gentlemen

The European Association of Cooperative Banks (EACB)¹ welcomes the CEBS's initiative to consult the industry on its guidelines for implementing a common European framework for supervisory disclosure.

The EACB gladly takes the opportunity to give you its comments. We are ready to continue our discussions with CEBS on these issues.

Yours sincerely

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¹ The European Association of Co-operative Banks represents over 4.500 co-operative credit institutions active in all the EU Member states and serving over 100 Million customers. Its member organisations are decentralised national networks of small-sized Co-operative banks' networks, which have a strong presence on a local or regional level. They account for a large part of the SME and private household credit market (17%) and thus play a crucial role within the Internal Market.



I. INTRODUCTION

The new capital framework of the Basel Committee on Banking Supervision, as well as the implementing “Capital Requirements Directive (CRD)”, is not only more flexible than “Basel I”. They also stand for a new approach to supervision that is much more focused on qualitative aspects and may thereby leave more room for diverging national rules and practices. A high degree of transparency regarding implementation and application in national legislation and practices therefore seems to be a necessary prerequisite for a convergent application of the CRD.

The members of the EACB therefore appreciate the CEBS's guidelines for implementing a common European framework for supervisory disclosure (CEFSP). The association had stressed the importance of supervisory disclosure repeatedly and strongly supported the proposals of the Commission's Expert Group “Banking” in this respect.

As will be explicated below, the CEBS consultation paper 05 has raised high and manifold expectations among the EACB's members regarding disclosure project. Therefore, the association is keen to submit comments and suggestions to contribute to its success. At the same time it will be underlined that there are some important key requirements that have to be fulfilled, if the industries' expectations are to be met.

II. EXPECTATIONS

The members of the EACB welcome the CEBS's framework for supervisory disclosure. The CEBS's disclosure project is very ambitious and should result in a highly valuable multi-purpose tool. In this respect the expectations of the members of the EACB are manifold:

- The new framework should become an important means to achieve convergence and transparency on supervision in the EU.
 - By allowing meaningful comparisons with of national standards it will contribute to the promotion of level playing-field.
 - Furthermore, the easy access of the wide public to the information available will increase transparency considerably and enhance public trust in banking supervision.
 - The disclosures should trigger (scientific) research in the field of supervisory law and supervision standards. In this respect, the availability of different national legal texts on the same subject in one language is an incentive in itself.



- At the same time, the framework and the disclosures should become a useful tool both for international banks and banks operating on a national level:
 - For international banks it provides for information on rules that banks need to comply with or would need to comply with when operating in another country;
 - On the other hand, banks mainly operating on a national level can get information on the rules foreign competitors, which provide their services cross-border, need to comply with and see whether they compete on equal terms.
- Finally, the framework should become an instrument to enhance the good understanding and communication of supervisors, when co-operating on the European level as envisaged by the “consolidating supervisor”-concept of the CRD. A good mutual understanding among supervisors would certainly be helpful for banks.
 - It could be used as a knowledge base for supervisors for training and research purposes (training).
 - A good knowledge, not only of their own system, but also of the major differences of other national laws would certainly ease the dialogue among supervisors.

III. THE OVERALL CONCEPT

The overall concept of the framework seems reasonable, well-targeted and should allow to meet the aims described:

The two-tier architecture, based on a CEBS-website, which mainly stresses comparative aspects and national websites for detailed information, seems to be the right compromise, if a good degree of consistency between all 26 websites can be achieved.

While the framework aims at “allowing the meaningful comparison” of provisions, it should be considered that visitors may not always be interested in undertaking such comparison themselves, but often wish to read completed analyses. It should therefore be considered to establish a page with a collection of “good” and meaningful comparative documents and studies (to the extent that this is allowed by copyright laws) to promote the general perception of important findings and the public discussion of issues.

The members of the EACB are pleased by the declaration that supervisory disclosure should not involve an additional burden for banks, in particular regarding statistical data (Nr. 93, 94).



This approach will definitely contribute to an even more positive approach to disclosure by the industry and facilitate future work in this field.

Although it is intended to avoid direct links to texts on national websites, the interlinking with national websites and the CEBS website will remain a demanding task. Such interlinking, as well as the necessity of frequent updates and the preparation of the documents for disclosure will require an intensive and complex website-management and make the disclosure project a demanding exercise. While the availability of adequate resources for these purposes will be a precondition for its success, the cost-benefit ratio of the project will have to be monitored as well.

IV. THE CEBS WEBSITE

The members of the EACB very much appreciate composition of the CEBS-website as illustrated by the website demo. In fact, the navigation is easy and user-friendly. The presentation of the information by using “comparative” tables or national pages is highly valuable, since it allows an “immediate comparison of specific provisions.

Due to this concept of presentation, it can be expected that the website can be used in many ways, will provide for an enormous amount of details and information and definitely meet the aims of its creators and the industry.

Despite of this sophisticated but also very user-friendly presentation, the importance of a good “search” function needs to be underlined. There are always situations, where the use of such a unsophisticated tool is inevitable.

V. KEY ELEMENTS FOR THE MEETING OF EXPECTATIONS

In order to meet the expectations of the industry and its own ones regarding the facilitation of meaningful comparisons of national laws, the members of the EACB would like to underline three aspects, which they consider to be highly important:

- The provision of disclosures in English on a best-effort basis may not be sufficient (Nr. 13, 25 ii). Without English translation, the expectations could be met only to a very limited degree: the use of disclosures, which are dedicated to be used trans-border, is highly reduced, if they are not provided in a language that is familiar to the users of such information. Therefore efforts should be taken to have English disclosures available without delay.



- To be a reliable basis of information, the disclosures have to be updated on a frequent basis, and at least consider any important changes. Not only is outdated information of limited use, it may also be misleading, when it is not indicated that it is outdated. The members of the EACB therefore suggest reviewing the policy for the updated of national websites (Nr. 103) in order to ensure frequent updates and an immediate indication or withdrawal of outdated information.
- Furthermore, it is suggested to reflect on the appropriateness of a management and/or review processes regarding the aforementioned aspects.

VI. SPECIFIC SUGGESTIONS AND COMMENTS:

- Information on the update of the disclosures should be made available in an appropriate form to users. However, e-mails that inform on every single change would lead to an information overflow.
- The disclosure of national *provisions* may not be sufficient to achieve the aim of transparency and meet the expectations of the industry. Apart from differences of hard law (rules and regulations), relevant disparities are expected due to divergences of *interpretation and application* by national supervisors (supervisory practice). Differing expectations of national supervisors, especially on qualitative requirements and elements, may seriously impact the banks' implementation burden and compliance costs. It is therefore suggested that CEBS should consider to extend its supervisory disclosure requirements to include national supervisors' interpretations and application practices regarding the most important issues (e.g. partial use, use test, conditions for admission of IRB approaches).
- The implementation of Basel II is also an important issue on the global level. While the members of the EACB are aware that the mandate of the CEBS is covering the EU only, it may be desirable, at some stage, to extend the supervisory disclosure initiative to the global level. It should be considered to initiate similar projects with competent authorities of major Basel Committee member countries, such as the USA, Japan and Australia.
- Some members have indicated that they may want to download/copy documents and tables from the website for the purpose of subsequent processing. Accordingly, it is suggested that appropriate and widespread file formats are chosen, like Excel and/or Word and not only Pdf.



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- Where meaningful pre-Basel II statistical data (Basel I data) are available, they should be disclosed as well to facilitate comparison between the Basel I and the Basel II regimes (e.g. to compare the change in aggregated capital ratios under Basel II to Basel I).
 - The approach that “*no supervisory actions or decisions directed at specific institutions are to be disclosed*” is supported (Nr. 25 iii). As regards the national authorities’ “*sole responsibility for determining when information may not be disclosed because of a potential breach of confidentiality*” (Nr. 99), it may be appropriate to introduce some kind of monitoring with the aim to ensure that supervisors develop a convergent policy in this respect and that the overall aim of transparency is not undermined
 - Competent authorities should not make disclosures concerning options or discretions which are exercised by the credit institutions themselves (Nr. 68). Where there is doubt as to whether the authorities or the banks have to exercise an option or discretion, it should be disclosed which national options and discretions can be exercised by their institutions.