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Mr José Maria Roldán
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10178 Berlin, den 27. Juni 2005
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CEBS consultation paper on a common European framework for supervisory disclosure

Dear Mr Roldán,

The Zentraler Kreditausschuss¹ (ZKA) is grateful for the opportunity to comment on CEBS's common European framework for supervisory disclosure.

We welcome CEBS's guidelines for implementing a common European supervisory disclosure regime as an important step forward for effective transposition of Basel II in the EU.

In particular, the principle underlying the supervisory disclosure regime of not requiring institutions to collect additional data creates an important source of information for both supervisors and supervised institutions, without imposing any further costs on the latter.

This principle should be pursued also to strengthen the acceptance of further work on supervisory disclosure.

The directives transposing Basel II (Capital Requirements Directive (CRD)) mark a major shift in supervisory practice, away from simple, rules-based supervision towards more complex, qualitative supervision that gives regulators many more options and national discretions.

¹ The ZKA is the joint committee operated by the central associations of the German banking industry. These associations are the *Bundesverband der Deutschen Volksbanken und Raiffeisenbanken (BVR)*, for the cooperative banks, the *Bundesverband deutscher Banken (BdB)*, for the private commercial banks, the *Bundesverband Öffentlicher Banken Deutschlands (VÖB)*, for the public-sector banks, the *Deutscher Sparkassen- und Giroverband (DSGV)*, for the savings banks financial group, and the *Verband deutscher Hypothekenbanken (VdH)*, for the mortgage banks. Collectively, they represent more than 2,300 banks.

It is therefore important that the disclosure regime is set up in a way that will actually promote the declared aims of supervisory transparency and accountability. We agree with CEBS that supervisory disclosure is a powerful tool enabling meaningful analyses and comparisons of supervisory rules and practices. The information disclosed gives CEBS a basis for achieving a suitable level of convergence of European supervisory standards and for promoting the internal market.

However, disclosure of national provisions is not enough to fully achieve the aim of transparency of national supervisory standards. Besides the differences in rules and regulations, major disparities in their interpretation and application by individual supervisors are to be expected. Differing expectations of national supervisors, especially on qualitative requirements, have a major impact on the banks' operational implementation burden and compliance costs. We therefore suggest that CEBS extend its supervisory disclosure requirements to include national supervisors' interpretation and application practices at least in important areas (e.g. partial use, use test, conditions for admission of IRB approaches).

Furthermore, the goals of transparency and accountability pursued by CEBS can only be reached if all supervisors meet their disclosure obligations swiftly and conscientiously.

CEBS must take concrete internal action if it emerges that certain supervisors are delaying disclosure or if the published information is incomplete. It is also essential for CEBS to monitor continuously the quality of processing and publication of the information (e.g. ensuring that consistent collation is used so as to make the information comparable). The requirement under the framework for competent authorities to update their disclosures at least once a year is insufficient. Any significant change in national or European standards should be published promptly, with the information already disclosed being modified accordingly. In addition, responsibilities must be clearly allocated within CEBS for permanently monitoring the quality of, and regularly updating, the data.

In this context, the ZKA rejects the principle whereby CEBS members would merely disclose information in English on a best-efforts basis. Disclosures in the 21 languages of the EU member states greatly diminish the information value of the entire disclosure regime and prevent the desired transparency. Staff of foreign banks would normally obtain no additional knowledge whatsoever from disclosure solely in the respective national language. To allow the addressees of the disclosure regime to actually benefit from its aims and advantages in practice, we are in favour of a requirement for member states to make available all texts and documents in English. If

professional (external) translation services are used, this is feasible by the entry into force of the disclosure requirements at the start of 2007.

Finally, we recommend that CEBS conduct a comparison between the supervisory rules and implementation requirements in the EU and those of non-EU countries. Though we are aware that the current terms of reference of CEBS cover only the EU, it would be highly desirable to extend this supervisory disclosure initiative to the international arena. To start with, CEBS could initiate projects with competent authorities in the major Basel Committee member countries, such as the USA, Japan and Australia.

Detailed comments

1. The success of this web-based disclosure regime, with the CEBS site's close links to the pages of the national supervisory authorities, will depend on the data being carefully and regularly updated. It must also be ensured that all cross-references and links between national pages and the central CEBS site function smoothly. Responsibility for maintaining this Internet presence must be clearly allocated within CEBS.
2. Competent authorities will be required to update their disclosures at least once a year (paragraphs 103 - 109). This frequency is not acceptable. The industry needs to be aware of any changes in supervisory standards as soon as possible so that it can respond accordingly. If new CEBS agreements are reached or any national developments take place, the website should therefore be updated immediately. It would be very useful to be alerted of any updates by e-mail. In order to limit the number of e-mails, it should be possible when subscribing to the alert service to specify on which disclosure elements notifications should be sent.
3. It would be desirable to make the tables on the website easier to process. Banks need to be able not only to view the information in the tables but also to feed the data into their internal systems. We therefore suggest making available all data in Excel or a similar format.
4. Paragraphs 25 iii and 99: We expressly welcome the fact that for confidentiality reasons "no supervisory actions or decisions directed at specific institutions are to be disclosed". The framework will, however, also contain a provision whereby "competent authorities retain sole responsibility for determining when information may not be disclosed because of a potential breach of confidentiality". While we understand the thinking behind this, i.e. that national supervisors must be able to override the disclosure requirements in justified cases by referring to this passage, we are in favour of a requirement for CEBS members to report every case of use of this waiver to CEBS. CEBS should then publish a regular overview of its use in member

states. This ensures that the waiver is used responsibly and creates transparency for the addressees concerning the cases in which a national supervisor decides not to disclose information on breach of confidentiality grounds.

5. Paragraph 68: We believe it is right that competent authorities are not required to make disclosures concerning options or discretions which are exercised by the institutions themselves. In some cases, however, it is not clear in the CRD whether the authority for exercising an option or discretion lies with the supervisor or the individual institution. In order to establish clarity in this area, supervisors should therefore disclose which national options and discretions can be exercised by their institutions.
6. Paragraph 90: Where comparable pre-Basel II statistical data (Basel I data) is available, this should also be disclosed to aid comparisons between Basel I and Basel II figures (e.g. change in aggregated capital ratios under Basel II compared with Basel I).

Yours sincerely,

for the Zentralen Kreditausschuss

Bundesverband deutscher Banken


von Kenne


Rieder