



Fédération Bancaire Européenne  
European Banking Federation

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**FBE response on Supervisory Disclosure/ CEBS Consultation Paper CP05**

**The European Banking Federation (FBE) welcome the over-all framework proposed by CEBS.** We believe that it provides a **well-structured and comprehensive tool for a comparison of supervisory models and methods throughout Europe.** We are also pleased to note that CEBS decided to take up many of the suggestions that the FBE made in its original proposal for supervisory disclosure. We see this as another example of increasingly close and constructive co-operation between the Lamfalussy bodies and industry.

We support CEBS' approach of making the disclosures accessible via the internet, linking the CEBS website and national websites to each other. The demonstration website already provides a good example of how this would work in practice. We feel that the demonstration displays a user-friendly structure in that it allows for a good overview of the relevant information, at the same time providing easy access to the more detailed information on the national websites.

However, transparency can only be achieved if comparability of data is ensured. We therefore believe that constant monitoring of the quality of processing and publication is essential. We also believe the frequency of yearly updates to be insufficient and would urge CEBS to publish changes of national or European standards swiftly.

We note that banks' use of the framework will be twofold. On the one hand, it is important especially for internationally active banks to understand how legislation is implemented in the different EU Member States. Banks intend to compare rules relating to model validation, as well as national discretions. Institutions also intend to monitor and analyse, both within and beyond the EU, the take-up of the more advanced credit risk approaches (AIRBA and AMA) and to compare it with the continued use of the Standardised Approach. They will furthermore monitor the use of the different approaches to measure operational risk, as well as the number of model waivers. For smaller banks, it will be useful to examine in general the impact that the more sophisticated credit and operational risk methodologies have on the banking sector's approach to risk taking and risk mitigation.

On the other hand, banks believe that the framework is well suited to make an important contribution to the promotion of a level playing field. To this end, we think that there is considerable scope for the framework to go beyond the mere disclosure of information and to **actively contribute to the promotion of a level playing field**. In order to do this, we believe that the framework should include **concrete mechanisms appropriate to achieving convergence of supervisory practices**.

In this context, we suggest that CEBS complement the framework with a section on **differing interpretations and practice of national regulators** in important areas. These differing expectations, especially on qualitative requirements, **will have a major impact on banks' operational burden and compliance costs**. In our detailed comments below we list a few examples of cases where differing regulatory interpretation leads to significantly uneven application of the CRD requirements.

We also call on CEBS to be disposed to **develop action plans** if significant differences in interpretation and implementation become evident. Based on the analyses of the disclosed information, banks will identify areas of particular concern and inform CEBS of their findings. CEBS should then hold an ad-hoc meeting and decide on a set of measures to be taken.

Furthermore, we would like to recommend that CEBS **conduct a comparison between the regulatory rules and implementation requirements in the EU and those of non-EU countries**. It would be highly desirable to extend this supervisory disclosure initiative to the international arena over time. To start with, CEBS could recommend that projects with competent authorities in the major Basel Committee member countries, such as the USA, Japan and Australia, be initiated. This possibility could be explored within the context of the broader Regulatory Dialogue as proposed in the Commission's Green Paper on Financial Policy (2005-2010).

Finally, we would like to underline that our comments on the framework cannot be final at this stage. Given that supervisory disclosure is a completely new concept our comments rely on preliminary estimations of how such a framework should be constructed. The success of the framework and the problems which may arise will only become apparent in the coming years. We therefore think that it will be necessary to revise the framework as a whole after some time, for example two years. We believe that any review of the framework should take account of industry views. The FBE would be prepared to deliver quality input into any public consultation on this issue.

## Detailed comments

1. The demonstration website allows for easy navigation, and the links between the national pages and the central CEBS site function smoothly. Smooth functionality should be assured in the future, given that the amount of pages to be linked will increase significantly.
2. We feel that the amount of information that CEBS intends to disclose is sufficient in scope. However, we want to stress the **need for the structure to be complete within the areas chosen for disclosures, and especially with regard to national discretions**. In this context, while we believe that all supervisory authorities must be committed to comply with the whole set of disclosure requirements as soon as possible we acknowledge the principle of proportionality. Smaller supervisory authorities might not be able to disclose all required information already from the beginning. In this case they should ensure to disclose at least all information on national discretions and on “rules and guidance” as a priority.
3. The tables on the demonstration website are well suited to providing a quick overview. However, it would be desirable for them to be also available in Excel or a similar format that could easily be used for banks’ internal processing. They should in any way not be published in a PDF format in the final version. Most banks will seek to implement a **selection on a specific range of countries**. This can be easily done using the original Excel sheets which can be password protected to guarantee their integrity.
4. **The framework’s success furthermore depends crucially on the data being carefully and regularly updated**. CEBS should make arrangements for **internal action** to be taken if it emerges that certain supervisors are delaying disclosure or if the published information is incomplete. **The FBE would suggest that supervisors not meeting their obligations be required to disclose any delay with a justification within the disclosure framework**.
5. Competent authorities will be required to update their disclosures at least once a year (paragraphs 103 - 109). **We believe this frequency to be insufficient**. The FBE believes that any (national) changes in supervisory regulation or any new arrangements within CEBS should be disclosed on an ad hoc basis and as soon as possible. All of these disclosures should be flagged in a consolidated document on a quarterly basis.
6. It would furthermore 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.

7. Notwithstanding the time it will take to put the framework in place, the FBE believes that all relevant information available at this point and at any stage before the implementation of the CRD should be made available. This information is crucial in facilitating implementation processes within banks.
8. CEBS endeavours on a best effort basis to ensure that not only the CEBS website, but also the national websites will be accessible in English. However, disclosures in the 21 different languages of the Member States heavily reduce the value of information and transparency. Supervisors should therefore commit to making all texts and documents available in English as soon as possible. This is especially true for the information on national discretions and on Pillar 2.
9. In order to ensure comparability **it is essential that constant monitoring of the quality of processing and publication takes place**. As an example of this, there should be consistency across supervisory authorities in the methods used for collection and collation of data. In this context, CEBS should not only be responsible for the upkeep of the website, but also for ensuring that the interpretation of the Common Reporting Framework is sufficiently consistent to ensure that the information on the SDF is fully comparable across the EU.
10. We believe that Annex II provides a thorough and comprehensive list of policy rules and information. We propose that once the SDF has been running for at least a year, the number of “hits” in the various segments of the site be monitored and the menu of information be then tailored accordingly.
11. Concerning the additional information under “rules and guidance”, there is no need to publish lists of Public Sector Entities that are risk-weighted like central governments. Instead, we consider it more important to have disclosure of the general criteria with which these entities must comply in each Member State to be eligible for the preferential treatment.
12. More detailed information should be given on the respective treatment of ECAI (External Credit Assessment Institutions) ratings in the Rules and Guidance section, especially on the factors that are considered in the recognition decision and on how credit ratings are mapped to credit quality steps.
13. Paragraph 25 iii: We welcome the fact that **“no supervisory actions or decisions directed at specific institutions are to be disclosed”**. The framework will contain a specific waiver that “competent authorities retain sole responsibility for determining when information may not be disclosed because of a potential breach of confidentiality”. While we see the reasoning behind this, we would like to point out that

checks and balances need to be in place so that it can be **determined whether regulators are making excessive use of the confidentiality argument**. To this aim, CEBS should in particular inform the public on a regular basis about the use of the clause by the different national regulators.

14. We would, therefore, urge CEBS to ensure that each supervisory authority publishes guidelines on how it intends to avoid disclosing information which could jeopardise the privacy of individual institutions and when it intends to use this waiver. We accept that such guidelines cannot be developed centrally as they will be specific to the local market.
15. Paragraph 68: Competent authorities are not required to make disclosures concerning options 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 lies with the regulator or the individual institution. Competent authorities should therefore disclose which national discretions can be exercised by their institutions.
16. Paragraph 90: Where comparable pre-Basel II (Basel I) statistical data is available, this should also be disclosed to aid comparisons between Basel I and Basel II figures (e.g. aggregated capital ratios).
17. Annex II, paragraph 50-52: We would like to stress that the **statistical data** disclosed in the section on supervisory actions and measures **must be interpreted in their over-all context**. For example, the number of on-site inspections is closely related to the structure of the respective banking environment. It should not be automatically understood as a sign of “better” or more careful supervision.
18. In the medium term CEBS might consider to foresee the possibility of creating a database of CRD definitions and a (reverse) audit trail.

**19. Examples of different supervisory interpretations of CRD requirements:**

- a. Additional **drawings after default** (cf. Annex VII of Directive 2000/12, paragraph 88) must be calibrated on the EAD and LGD according to some supervisors, whereas other supervisors think they must be calibrated only on the EAD.
- b. **IFRS filters**: non-realised capital gains are included in own capital after application of a haircut. This haircut can vary from one member state to another.
- c. The definition of “**immaterial portfolios**” also gives rise to differences (cf. Art. 89(1)(c) of Directive 2000/12). Whereas, according to some supervisors, an

“immaterial portfolio” may represent only 5% of the risk-weighted assets of the group at consolidated level and all “immaterial portfolios” must not exceed 15% of the risk-weighted assets at consolidated level, others propose (i.e. informally for the time being) percentages of 0.5% (a 1 to 10 ratio!) and 5%.

- d. Expectations of the **operational risk management use test** vary significantly. Although these expectations are anticipated to make a substantial contribution to compliance costs, they would not have to be disclosed as they are not necessarily viewed as rules and guidance.
  - e. There are differences in the interpretation of the **parallel run** in terms of the number of calculations required and deadlines: a calculation is required twice during 2006 both in the Netherlands and in Belgium. However, in the Netherlands the first calculation must be ready by June 30, whereas in Belgium the deadline is set at March 31. This also bears on the internal organisation.
  - f. **Admission requirements for the advanced approaches** vary significantly due to differences in supervisory implementation practices.
20. As an active contribution to the promotion of a level playing field, additional information should be included to **identify EU commonalities**. If the majority of the 25 member states agree on a particular kind of application or interpretation, this should be specified and labelled a “majority standard” both in the tables and in a separate table on the CEBS website. This would allow a quick overview of the degree of convergence in a certain area. Supervisors applying a different standard could easily be identified. Furthermore, it would also be useful in regard to the “*Options and National Discretions*” section for supervisors to explain their decision on each national option.