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Mr Giovanni CAROSIO
Chair
Committee of European Banking
Supervisors (CEBS)
Email: giovanni.carosio@c-eps.org

Subject: CRD IV – Single rule book

Dear Giovanni, *Caro Giovanni,*

At the CRD WG meeting on 1st June, we discussed whether further work from CEBS would be needed to support the Commission's project to develop a single EU rule book in banking.

Last summer, the Commission services consulted on a draft legislative proposal which aimed to remove national options and discretions from the CRD and to arrive at full harmonisation in some areas of the CRD (that is, to prohibit 'gold plating' in those areas).

The technical advice of CEBS in that field was appreciated, and helped to contribute to the high degree of support that this initiative has met. The removal of national options and discretions is a significant step towards the establishment of a single rule book within the EU, but still only meets this objective half way. A single rule book would also mean that, as a general rule, 'gold plating' (that is, the application of stricter rules in national law) would no longer be possible.

The Commission services would like to emphasise, however, that a single rule book does not mean uniform rules regardless of specific national circumstances. The technical advice of CEBS provides valuable input on those cases where specific national treatment is justified, and the draft legislative proposal already provides for mutual recognition in appropriate areas.

When it comes to full harmonisation, some degree of discretion may also be needed to allow Member States to apply stricter requirements where that is necessary for reasons of financial stability. In our recent consultation on CRD4, some stakeholders mentioned in particular that supervisors and Member States should retain discretion to impose, for example, stricter loan-to-value requirements or risk-weights to residential real estate.

Nevertheless, the Commission services have not received a fully argued analysis from the supervisory community on this fundamental question, which was raised in paragraph 173 and question 48 of our consultation document (see Annex).

We should be very grateful if CEBS would send us - on an informal basis - an analysis of areas where the right to 'gold plate' EU requirements should be retained. Given the tight deadline, we understand that you might find it convenient to indicate the views of the majority of CEBS members without necessarily seeking consensus. This analysis should cover both Pillar 1 rules that are currently harmonised and those that would be subject to Pillar 1 under the CRD4 package (including, in particular, liquidity and capital).

Unless otherwise specified, the scope of full harmonisation in the Commission's CRD4 proposal would extend to:

- Pillar 1 capital requirements (2006/48 and 2006/49);
- Definition of own funds (CRD IV);
- Other pillar 1 measures of CRD IV;
- Large exposures (CRD II). Existing discretions would not be removed by the CRD IV;
- Qualifying holdings outside the financial sector;
- Pillar 3.

In addition, the Commission services would appreciate CEBS' views on specific areas of the CRD and CRD4 where full harmonisation would be best achieved by means of technical standards.

The Commission services would be grateful if CEBS could provide this analysis by 8 October 2010 at the latest.

Yours sincerely,


Mario NAVA

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Annex – Consultation document on CRD4

Areas where more stringent requirements are necessary

173. In general terms, respondents representing the industry appreciated the fact that Member States and competent authorities will be prevented from 'gold plating' or imposing super-equivalent requirements in 'fully harmonised areas'. On the other hand, some stakeholders mentioned that keeping the ability of applying stricter rules was needed to ensure financial stability. Nevertheless, the Commission services have not received concrete evidence of areas where full harmonisation is not appropriate yet. This consultation seeks to concretely identify the areas where national or other circumstances necessitate a more stringent treatment so that such treatments can be incorporated in the single rule book, alongside the circumstances under which they would apply. The Commission services would also note that where specific circumstances have to be addressed at a (number of) credit institutions, Pillar 2 of the Basel/CRD framework provides national authorities with a powerful tool. Pillar 2 enables addressing specific shortcomings or instances of elevated levels of risk. As part of the supervisory package establishing a European Banking Authority (EBA), the Commission has proposed that the EBA should develop draft technical standards on Pillar 2.

Question 48: In which areas are more stringent *general* requirements needed given national or other circumstances? Is Pillar 2 a sufficient tool to address *specific* negative circumstances at credit institutions and if not, how could it be strengthened?