

CEBS First Conference in London on 9 May 2007

- I wish to express my gratitude for the invitation. The very fact that this conference is being held is a clear expression of at least a partial success of the Lamfalussy process; in that it has contributed to increased consultation and transparency.
- This is also the strong impression that we have perceived in our work in the Inter-Institutional Monitoring Group; stakeholders do appreciate that they are both informed and consulted, even if this takes place to the extent that one can hear complaints about rapidly increasing workloads.
- The Group started its work in 2005 under the mandate to
 - assess the progress on implementing the Lamfalussy process to secure a more effective regulatory system for financial services; and
 - identify any possible bottlenecks.
- In the spirit of the Lamfalussy-process, we have consulted on a wide range of issues, both bilaterally and by inviting comments to our two progress reports. These have mainly focused on the experiences at the legislative Levels 1 and 2. We will prepare our final conclusions in the next few months and plan to publish them in October. The main new elements will be related to Levels 3 and 4, from which there is so far not much experience. The comments on these Levels will therefore inevitably be somewhat different in nature. But our views are not worked out at this stage, and against this background, I await with interest the outcome of this conference.
- The Group's general view is that the Lamfalussy process has made a big positive contribution to the development of financial regulation in Europe, but that there is still room for improvement.
- The process clearly has the potential to make the legislative process both faster and more efficient. But the separation of Level 1 (framework principles) and Level 2 (technical measures) has not been easy to implement in practice. In order to ensure that all national and other interests are being taken care of, a high level of detail tends to creep into Level 1 legislation. Moreover, excessive detail is an issue at all levels of the Lamfalussy process. If this is not kept in check, the global competitiveness of European financial markets is endangered. With too many details at Level 1, one will not be able to live up to one of the core principles of the Lamfalussy process, that is to make it possible to quickly adjust technical regulations as markets evolve. Moreover, excessive detail in general will threaten the much-hailed European "principles-based approach".
- How can one remedy this? The Group believes that efforts should be made to reduce "the insurance premium" which increases the amount of detail at Level 1. That could be possible by sequencing the work at Level 1 and Level 2 in the form

of parallel working. By "sketching" Level 2 rules while some components of the Level 1 measure are still under debate, one could hope to give a clearer picture of the true nature of rules which are to be implemented and to make away with any scepticism. But these rules could be finalised and formally adopted only after the Level 1 legislation has been finally agreed. And, of course, it must be ensured that Level 2 decisions do not pre-empt Level 1 decisions.

- One of the most prominent achievements of the process is improved consultation and transparency. This has been much praised in our discussions with stakeholders, but, as I said, we have also heard complaints of double work. We, therefore, do believe that consultations should be resorted to when there are new elements brought into the process, and not as a matter of routine.
- There are also problems of timing within the Lamfalussy architecture. This is true with regard to consultation processes, implementation of European rules by Member States and their application by industry. Transposition deadlines are generally perceived to be too short and Member States are often delayed in implementation of European Directives. The Group considers that transposition deadlines should be appropriate and realistic. To this end they should be decided on a case by case basis.
- Another related issue is the gold-plating, *i.e.* "regulatory additions made while implementing rules which were adopted at European level under a maximum harmonization regime into national law".
- The Group believes that increased transparency with regard to cases of incorrect transposition could help improve proper implementation by Member States. We are looking for practical mechanisms to enforce transparency and welcome the CRD supervisory disclosure framework. CEBS should extend its work to disclose information relating to prudential supervision that is not part of the CRD, and the other Level 3 Committees should develop similar tools for other financial services Directives.
- Member States should also get more involved. The Group encourages them to provide transposition tables in one of the Commission's working languages and in common format.
- But the work so far has mainly focused on developing and unifying legislation. If one uses a metaphor, the work has strived to get everybody on board the same bus. While the bus will have to be refurbished from time to time in order to live up to new standards and to adopt the newest technological advances, we expect that the bulk of this process is behind us, provided that everybody remains on board.
- The next challenge will, therefore, be to ensure that the driver's seat is properly manned and that the bus stays on the road, also if and when this becomes slippery. The Lamfalussy process places much of this responsibility with the Level 3 work. The main challenge is how well the national supervisors will cooperate to promote the convergence of day-to-day supervisory practises. We note that steps have been taken and welcome the Level 3 initiatives to enhance common European culture and practice (for example the common EU training programme) and the progress in achieving supervisory convergence. Let me also in this context say that I greatly

appreciate the efforts that CEBS has undertaken to better understand how the stakeholders perceive their work and to identify measures to further improve the performance.

- More is indeed needed, and one should not overlook the fact that this requires some fundamental changes in the work of national supervisors. These are appointed by national authorities, paid from national sources and mandated to achieve nationally established goals. While it is not, in theory at least, impossible that they can also at the same time pursue supranational targets, this will not come about automatically and by itself. In particular, the national goals might from time to time be perceived to deviate from, and even be in conflict with, the supranational needs. In assessing the need for transformation that the supervisors are confronted with, one comes to think about the old story about Mr. Smith and Mr. Jones. Mr. Smith stumbled into an old friend after many years, and could not but express a big surprise: "Oh Mr. Jones, you have changed a lot". Not only have you lost your hair and gained weight, but you also look a lot shorter", said Mr Smith. "I am not Mr. Jones", said the man. "Oh, you have also changed your name!" said Mr Smith. Something similar might be awaiting our national supervisors, and I am therefore most interested in learning how you assess the situation.
- The Group will look at these issues in the next few months, and I do not have any strong or clear views or opinions as of today. I am in a receiving rather than in a delivering mode when it comes to this particular issue. We will start to work on these questions the day after tomorrow, and we plan to issue our final conclusions in October.
- But at a general level, one can identify different requirements that need to be fulfilled for this constellation to work
 - It must be politically accepted that supervisors have in this respect different roles to play, and strong political support must be lent to the work at European level.
 - The supervisors must be provided with a mandate and an incentive structure which supports thinking and action at the European level.
 - The necessary resources for work at the European level must be provided.
- Add to this the need for intensified cross-sector cooperation, and one can see that the challenge will be large indeed. Given the number of parties involved, there might be a big crowd attempting to reach the drivers seat once the bus is in motion with everybody on board!