

CESR

To Mr Carlo COMPORTI

Secretary General

11-13 avenue de Friedland

F-75008 PARIS

Per e-mail to ccomporti@cesr.eu

Brussels, 25 January 2008

Dear Sir,
Dear Carlo,

Re: The CESR, CEBS and CEIOPS Consultation on a common Medium Term Work Programme on cross-sector supervisory issues (2008-2010)

We welcome the common Medium Term Work Programme on cross-sector supervisory issues (2008-2010). The increasing number of actors operating cross-border and/or cross-sector across Europe requires coherent and effective cross-sector regulation and supervision. However, this is rather difficult to achieve when the regulation and supervision are maintained at national and at sector level.

Accordingly, we believe that although it might be too early to have only (one) centralized regulator(s) and supervisor(s) in the European Union, given the current legislative differences between the Member States, having only national regulators and supervisors is no longer in keeping the economic developments.

We also believe that the current EU supervision model, based on the institutional structure namely banking, securities and insurance, is in need of a thorough revision. We should work on a further integrated model based rather on key issues such as prudential regulation and investor protection.

A centralised supervisory model will have to be put in place when the circumstances will allow doing so. In the meantime we should focus on cross-sector supervisory models. A much higher degree of integration in the field of cross-sector supervision is not only desirable but needed. Therefore, we fully support the 3L3 common Medium Term Work Programme that aims: i) to improve cooperation; ii) to develop convergence (on regulatory and supervisory practices) and iii) to develop common tools and working procedures.

A. COMMON 3L3 FRAMEWORK FOR COOPERATION BETWEEN NATIONAL AUTHORITIES

1. Developing tools for increasing cooperation amongst the national supervisors (Home/Host and Delegation of tasks (Key issue))

We welcome the 3L3 suggestion to work on home/host cooperation within the colleges for prudential purposes and between involved supervisors in the area of conduct of business.

We encourage the initiative to share and jointly address lessons learned and the need to take own initiative recommendations to higher levels whenever inconsistencies arise in L1 or L2 legislation. However, we would like the 3L3 to involve market participants in the detection of inconsistencies in a more formalised manner.

Moreover, we think that inconsistencies arise because of differences between national legislation due to different transposition of EU legislation, despite the detailed regulatory framework at EU level (L1 and L2). Furthermore, substantial inconsistencies arise from different national “secondary” regulation (after the implementation of EU legislation) and, last but not least, by the different concrete decisions of competent authorities.

Therefore, we believe that the first step to reduce inconsistencies is to have a better EU legal framework with: i) reduced possibilities to choose from different options; ii) reduced possibilities of divergent interpretations; and iii) strong monitoring of good transposition.

We agree with the 3L3 proposal to work on the delegation of tasks and/or, where legally possible, responsibilities between supervisors involved in the supervision of an institution or a group of institutions, or in the investigation of market incidents. We also agree with the list of issues, relevant at cross-sector level, that need to be addressed in this context (differences in the availability of resources; payment for local supervision carried out in fulfilment of the tasks of and on behalf of another supervisor; mutual expectations on the acceptance of delegation; accountability; public expectations when the stability of the institution or system is endangered, as well as issues of liability and burden sharing).

We take note that the ECOFIN of 4th December 2007 asked for the revision of financial services directives to include provisions to enable the use of voluntary delegation of tasks and supervisory competences. However, we wonder if a *voluntary* delegation of supervisory competences would be sufficient.

2. Developing tools to improve supervision on a cross-sector basis

(i) Professional secrecy and limits on exchange of information

The ability to share information between the members of the 3L3 is crucial to enable a cross-sector approach to supervision. We support the project to develop proposals in this respect. This project is coherent with the ECOFIN conclusions asking the Commission to review the financial services directives with a view to ensuring that provisions underpinning supervisory cooperation and the exchange of information between competent authorities are satisfactory.

(ii) Powers and enforcement sanctioning

The 3L3 recognise that there are differences between the supervisory authorities at both sector and cross-sector level in terms of the nature of the powers that they have been given, how they have to be used, and to what end.

We believe that the first step to improve the process of convergence and cooperation between national authorities is to provide them with equivalent powers; therefore, our organisation fully supports the cross-sector analysis of these powers that will be carried out by 2010, with a view to identifying possible recommendations to bridge the existing gaps.

This project is coherent with ECOFIN conclusions asking the Commission, with the cooperation of level 3 committees, to study (by end 2008) the differences in supervisory powers and objectives between national supervisors and define (by end 2009), where necessary and appropriate, a coherent set of powers to be added in the relevant financial services directives.

(iii) Inspection practice consistency

We welcome the 3L3 initiative to map inspection practices (by 2008), explore possibilities for increasing convergence and develop any 3L3 conclusions involving EU legislation or national mandates (by 2010).

B. DEVELOPING 3L3 CONVERGENCE OF REGULATORY AND SUPERVISORY PRACTICES IN KEY AREAS

Our organisation agrees with the identified areas of work that aim at delivering a particular outcome for the markets or industry on a cross-sector basis.

As an association representing issuers we are particularly interested in point (vi) “Internal governance”. When a financial institution or insurance company is also a listed company, it might be(come) subject to rules and regulations coming from different sources and areas (securities, banking and insurance regulations) in the field of disclosure, governance etc. Therefore we would like the 3L3 to be particularly alert to possible conflicts or incoherencies in the applicable rules in this area.

C. DEVELOPING COMMON TOOLS AND WORKING PROCEDURES WITHIN THE COMMITTEES

Our association supports the identified areas of work aimed at improving the operation of the Committees. In particular, we appreciate the point (i) “Common training and staff exchanges”, because listed companies operating cross border and cross-sector need to be sure that the EU common rules are applied in a uniform way across Member States in the day to day business.

We stay at your disposal to discuss the above in further detail at your convenience.

Kind regards,



Dorien FRANSENS
Secretary General

*EALIC and UNIQUE, two organisations representing the vast majority of publicly quoted companies across Europe, have agreed to **merge** at a recent Board meeting in Brussels. The merger that has immediate effect is seen as an important reinforcement of the issuers' position in their striving for well functioning and liquid European financial markets. As of March 2008, the renewed body will be known as "**EuropeanIssuers**". The markets covered by "EuropeanIssuers" count some 9,200 public companies with a combined market value of some € 8,500 billion.*

EALIC, the European Association of Listed Companies, promotes the common interests of European issuers on a European level. Its scope of activities includes the legal and regulatory framework specific to listed companies in general and to the issuing and trading of securities on European markets in particular. EALIC was incorporated in December 2002 as an international non-profit association. Its member-base counts six national associations of listed companies, namely VEUE (Netherlands), ANSA and AFEP (France), ABSC-BVBV (Belgium), ASSONIME (Italy) and SEG (Poland). In addition, more than seventy public companies from the countries represented by these associations as well as from Portugal and Spain, are direct members of the association.

UNIQUE, the Union of Issuers Quoted in Europe, founded early 2003 as a network dedicated solely to promoting the interests and concerns of the Quoted Company sector, has three primary goals: to create a distinct identity for the sector, and demonstrate its value to the investment markets and EU economy; to represent the interests and requirements of the sector, to enable it to increase its contribution to the European economy and ensure that its specific needs are addressed; to build a strong and vocal collective body of support from within the sector, among company directors and securities industry leaders. UNIQUE is a coalition of 9 associations from as many different European countries, who together represent the interests of c. 4,000 quoted companies (issuers) with more than 10.7 mill. employees and a capital stock of roughly 1,160 bill. € (Austria: Aktienforum; Bulgaria: Bulgarian Industrial Capital Association; Cyprus: SYDEK; Finland: Finnish Foundation for Share Promotion; France: Middlednext; Germany: Deutsches Aktieninstitut e.V.; Greece: The Union of Listed Companies; Switzerland: SwissHoldings; United Kingdom: The Quoted Companies Alliance).

List of national associations, member of European Issuers

BELGIUM	ABSC-BVBV	Hugo VANDAMME	Chairman	Rue des Sols 8 1000 BRUSSELS	+32 2 515 08 29
BULGARIA	BULGARIAN INDUSTRIAL CAPITAL ASSOCIATION	Rumen RADEV	Vice Chairman of the Governing Board	20 Fr. Joliot Currie, Str. - fl. 8 1113 SOFIA	+359 2 963 37 52
CYPRUS	SYDEK (Cyprus Association of Public Listed Companies)	Pieris THEODOROU	Chairman	c/o Hellenic Bank Public Company Limited Corner Limassol Ave. & 200 Athalassas Ave. 2025 STROVOLOS NICOSIA	+357 22 50 000 4
FINLAND	FINNISH FOUNDATION FOR SHARE PROMOTION	Sirkaa-Liisa ROINE	President	PO Box 20 00131 HELSINKI	+358 9 668 91 60
FRANCE	AFEP	Jean-Martin FOLZ	Chairman	11 Av. Delcassé 75008 PARIS	+33 1 43 59 85 11
	ANSA	Robert BACONNIER	Chairman & Managing Director	39 rue de Prony 75017 PARIS	+33 1 47 63 66 41
	MIDDLNEXT	Caroline WEBER	Director General	Palais de la Bourse - Place de la Bourse 75002 PARIS	+33 1 55 80 75 75
GERMANY	DEUTSCHES AKTIENINSTITUT	Rüdiger VON ROSEN	Managing Director	Niedenau 13-19 60325 FRANKFURT AM MAIN	+49 69 929150
GREECE	UNION OF LISTED COMPANIES	Panayotis DRACOS	President of the Executive Committee	4 Zalogosta Str. 106 71 ATHENS	+30 2 10 36 41 742
ITALY	ASSONIME	Stefano MICOSSI	Director General	Piazza Venezia 11 00187 ROMA	+39 06 69 529 214
POLAND	SEG - Association of Stock Exchange Issuers	Beata STELMACH	Chairwoman	ul. Nowy Świat 35 lok.9 00-029 WARSAW	+48 22 826 26 89
SWITZERLAND	SWISSHOLDINGS	Christian STIEFEL	Member of the Executive Committee	Nägeligasse 13 3000 BERN 7	+41 31 356 68 68
THE NETHERLANDS	VEUO	Rob PIETERSE	Chairman	c/o Tripolis Burgerweeshuispad 301 1076 HR AMSTERDAM	+31 20 577 1433
UNITED KINGDOM	QUOTED COMPANIES ALLIANCE	John PIERCE	Chief Executive	6 Kinghorn Street W Smithfield LONDON EC1A 7HW	+44 20 76 00 37 45