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Mr Eddy Wymeersch  
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Brussels, 16 January 2008

Dear Mr Wymeersch,

**3L3 Medium Term Work Programme, comments from Febelfin**

Febelfin, i.e. the Federation which regroups four trade associations from the Belgian financial industry<sup>1</sup>, welcomes the opportunity to express its views on the Medium Term Work Programme of CESR, CEBS and CEIOPS for the 2008 - 2010 period<sup>2</sup>.

The remarks annexed to this letter are communicated with reservation to the decision of our Board on these matters on 25<sup>th</sup> January 2008.

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<sup>1</sup> The following trade associations are part of Febelfin: the Belgian Bankers' and Stockbroking Firms' Association (ABB/BVB); the Professional Union of Credit Providers (UPC/BVK); the Belgian Association of Asset Managers (BEAMA); the Belgian Leasing Association (BLA).

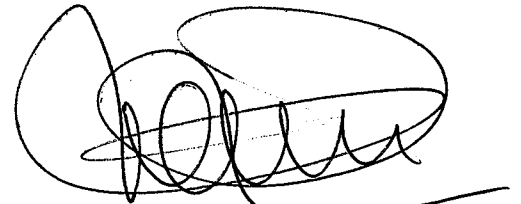
<sup>2</sup> BEAMA wishes to inform readers that the ideas reflected in this note are not the result of a consultation of its members. This statement should not be interpreted as a diverging opinion on the topics concerned, but is the result of an internal prioritisation of files treated.

We hope our comments will contribute in shaping a solid foundation for the execution of the planned work programme.

Yours sincerely,

A handwritten signature in black ink, consisting of several fluid, overlapping strokes.

Michel Vermaerke  
Chief Executive Officer

A handwritten signature in black ink, featuring a large, circular loop at the beginning followed by several smaller, connected loops.

Daniel Mareels  
Head of the Taxation, Accounting Standards  
and Prudential Regulations Department

Enclosure

cc. Mr. J.-P. Servais, Chairman of the Banking, Finance and Insurance Commission

## 3L3 Medium Term Work Programme, comments from Febelfin

### 1. Introduction

Febelfin, i.e. the Federation which regroups four trade associations from the Belgian financial industry<sup>1</sup>, welcomes the opportunity to express its views on the Medium Term Work Programme of CESR, CEBS and CEIOPS for the 2008 - 2010 period<sup>2</sup>. We would like to make the following remarks.

#### **1.A. Need for a clear and common mission statement to be achieved within the working period proposed: what counts are results, not best efforts**

We highly appreciate the continued efforts made in order to achieve convergence in several cross-border and cross-sector issues which are important for the industry. In contrast with the 2006 and 2007 work programmes, we are in favour of building up the work programme around issues where the focus is on the objectives and deliverables.

Sadly, our conclusion from experience is that often there are no 'field results', despite the highly appreciated work done by the 3L3 Secretariats. So, we expect the Work Programme proposed to yield more than what is currently predicted. These expectations do not concern the (number of) topics dealt with as such, but rather the work organisation itself. **We strongly plead for tangible harmonisation results during the 2008-2010 period**, instead of positions which afterwards are goldplated, interpreted differently or changed locally.

**A clear and strong mission statement is needed**, as a basis for achieving European harmonisation and for creating a truly single financial market. Referring to the recent Integration Report of the European Banking Federation, we strongly advocate that the 3L3 Committees **endorse at least the following political aims**:

- a) Allowing institutions to work and act as one institution within a truly single European financial market and to operate at cross-border level without intra-EU barriers;
- b) Aiming at a fully harmonised and consistent implementation of regulation throughout the EU without national options, discretions or goldplating, without national divergence as

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for interpretation or implementation. This also calls for uniform interpretations of EU rules to be laid down, applied and transposed into national law.

c) Introducing a unified supervision based on the lead/consolidated supervisor model<sup>3</sup> and the college of supervisors, including operational guidelines.

**1.B. Full political support is absolutely necessary: the powers and objectives of 3L3 Committees should be underpinned by a clear political mandate.**

We acknowledge that without political support a truly single European financial market cannot be achieved. **Better regulation is not limited to level 3, but starts at level 1.** Here are some examples : the choice as to what kind of legislative instrument (Directive vs Regulation), precise and clear legislation, a clear political agreement on the goals to be achieved without discretions or options eroding these goals.

A positive step should be the recognition of the 3L3 Committees in level 1 regulation with **a clear mandate for harmonising the enforcement of European legislation.**

We also ask for the 3L3 Committees to be given the possibility of **taking decisions with a qualified majority** within the scope of their specific competence. These decisions could be submitted to level 2, where one can decide about making 3L3 decisions binding or not. A dissenting national authority has the right to ask the upper level for mediation.

Furthermore, we think that **3L3 Committees should be given a mandate for specific matters and that within the scope of those matters, the Committees' decisions taken unanimously should be directly binding.**

**1.C. Terms of reference should reflect the European mandate of supervisors**

In our opinion, the terms of reference of the 3L3 Committees **and** the individual national authorities should refer explicitly to the political goal of achieving a truly single financial market:

- **National authorities should have consistent and adequate set of powers, i.e.** national authorities can have additional powers but there should be a core of powers common to all national authorities.
- **National authorities should have a European mandate and accountability on top of their national mandate and accountability.** This will explicitly include supervisory cooperation and convergence, as well as EU-wide financial stability.
- **The 3L3 Committees will apply qualified majority voting, in those cases where no consensus has been reached.**

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<sup>3</sup> Febelfin supports the lead supervisor model. Currently, within the EBF as well as within Febelfin, one is preparing an update of that position as well as a decision about a common view on the organisation of banking supervision within Europe.

- **National authorities will fairly apply the decisions of the 3L3 Committees.** If they dissent, they will explain why and make their decision public. Where appropriate, a mediation process will be initiated. National authorities should comply with the mediation decision.
- It is absolutely necessary to mention that **when developing supervisory practices, one must try to create common best (new) practices** instead of adding up national practices.

#### 1.D. Accountability towards “the market”

We would appreciate **enhanced transparency** of the convergence process thanks to (i) progress reports being published (ii) on a biannual basis. This **accountability towards “the market”** can play an important role in the future development of the European single market, as it will underpin the commitment for further convergence. Besides, in the highly technical environment of supervision, it can be a tool for explaining the European common supervisory policy. Now that the speed at which market changes are taking place, is growing constantly, we think that disclosure on a yearly basis is outdated and should be replaced by a more frequent disclosure, i.e. every six months.

We feel that, with the **supervisory disclosures** (art. 144 Capital Requirements Directive) being taken as an example, **a more widespread use** could be made of this method in order to enhance the comparability of national implementations of EU-regulation.

Although we support the growing consensus for making the 3L3 Committees more visible by making explicit references to their work in the European law texts, we are still convinced that the **key** for a successful implementation of a single market lies in the development of **truly harmonised European rules in combination with the power** of the 3L3 Committees **to take binding decisions**. Hence, as mentioned above, we think that qualified majority voting should be included into article 3a of the Joint Protocol on Cooperation between CESR, CEBS and CEIOPS.

Currently, **the supervision agendas of the different sectors** are still too independent. Indeed, there are numerous topics which are directly related to one sector, but there are also a number of issues which have an importance not only for each sector taken separately, but also on a cross-sector level. Taking into account the fact that the reflection in European (draft) law texts on cross-border cooperation between supervisors has been evolving these last few years, we would appreciate if, in the future, issues such as cooperation between home and host regulators in the Capital Requirements Directive (CRD) and Solvency II, treatment of internal governance measures in the CRD, MiFID and Solvency II, own funds definition between the banking and the insurance sector **will be put more into line from the very beginning**.

#### 2.A. Common 3L3 framework for cooperation between national authorities

We very much welcome the work on **home/host cooperation within colleges** for prudential purposes as well as for conduct of business rules. We suppose that the colleges will be created next to the 3L3 Committees. We wonder how the rules governing those colleges will be laid down? Will they be able to take binding decisions?

In our opinion, the **delegation of tasks, responsibilities and powers** plays a central role in the future organisation between national supervisors. An enhanced and efficient cooperation between supervisors cannot be built on a delegation of tasks alone. **Delegation should go further and must also include responsibilities and powers.** Supervisors entrusted with this kind of delegated supervisory responsibilities could certify their work towards their fellow supervisors, so that there will be no need for double supervision.

Consequently, sufficient financial means should be made available for the cooperation between supervisors in order to ensure efficient cross-border supervision.

This must not be seen as a blank cheque however, since, irrespective of the way of financing, the payment for local supervision raises the question of a **harmonisation of the (unit of) supervision cost (which is not the same as funding) among the Member States.** Of course, there is a business case for reallocating the funds available, but the **potential for synergy** must not be overlooked (see below).

Furthermore, **payments for local supervision** by a home supervisor normally will be originated by the presence of individual institutions in other Member States. If one is dealing with a privately funded home supervisor, it seems only fair to take into account the principle according to which those **costs are charged to the funding share of the institutions which are at the origin of it.** Again, this principle must not be applied blindly, but rather from the angle of a harmonisation of the cost of supervision in Europe.

In contrast with the previous work programmes, there seems to be no attention for **crisis management.** We agree that this is a competence which is shared with central banks and Ministries of Finance. Nevertheless, **we plead for continued engagement** from the 3L3 Committees in this field within the broader framework of the home/host cooperation debate. Other issues in this respect, such as the reform of winding up rules for credit institutions, must not be overlooked either.

We fully support the intention to **improve the reporting framework** applicable to financial institutions and, in our opinion, one should **draw lessons from past experiences** such as COREP and FINREP.

Institutions prefer a **single reporting format** to be applied at the top consolidated level without goldplating. Now that a consensus is growing between the sector and the supervisors about the abolition of national discretions in the Capital Requirements Directive, we strongly advocate simplifying the COREP tables and **abolishing national goldplating.**

When a common format has been decided upon by a 3L3 Committee, it should be the only reporting format to be used. However, we are aware of the fact that a 100% common

format is hard to achieve. So, the current approach for the COREP and FINREP reportings, i.e. **working with a core and a non-core part, can be useful, provided a number of conditions are met, in the first place the abolishment of goldplating.**

Ideally, institutions should be able to rely on the original common reporting format as developed by a 3L3 Committee and to indicate, for each country, the information to be reported or not, but even this pragmatic approach has not been possible until now.

First of all, this pragmatic approach must not be seen as a means to add up all the different reporting requirements in all of the countries. In developing reporting formats, one must try to **look for the best practice instead of making a sum of all practices.**

Secondly, we have noticed **the strong link between the reporting content on the one hand and the IT-framework which supports the reporting on the other hand.** All of the elements of this reporting must be put into line: reporting content, validation rules, XBRL-taxonomy. Changes in one of those elements inevitably will affect the others and this may lead to inefficiency and an administrative burden for institutions as well as for regulators.

Thirdly, **differences** between supervisors as for the **interpretation** of the same content **should be avoided.**

Finally, the 3L3 Committees should look for **interoperability of the different reportings** in order to reduce the overall reporting burden. Information which must be provided in one reporting format, should not be asked again elsewhere.

## **2.C. Developing common 3L3 tools and working procedures within the Committees**

We fully support an improvement of the way in which the Committees work. **An efficient organisation of the essential ‘back office’ tasks is a prerequisite for adequate supervision.** We think there is room for synergy between supervisors, as stated above in the paragraph on cost efficiency. Since most of the regulation is drafted at the European level, and given the need to avoid goldplating, one may wonder whether it is still necessary for each regulator to develop a full training programme for its personnel, or if this could be centralised by one or more regulator(s). Training programmes could also be organised through distance learning in order to reduce travelling costs.

A similar approach may be followed for the impact assessments and other ‘back office’ tasks.

As for **mediation**, we still think that the non-binding character is a barrier for reaping the full benefits of a system for settling disputes between supervisors. One should bear in mind that institutions are looking for a system which allows, as soon as possible, to reach a single and definitive opinion among different supervisors.

A topic which is not mentioned in the programme, is the **development of a common database and IT-structure.** In our opinion, **efficient information sharing between**

**supervisors** is impossible without the individual IT-structures being able to exchange information in an easy way. Sharing the IT-structure and databases does not only offer the advantage of enhanced efficiency but could also help to reach the sector's aim of developing a main point of contact for a group from which all reportings and all of the information required could be forwarded. Such a development should not be hampered by data protection issues, as those can be taken into account when developing the systems and the underlying protocols of cooperation between supervisors.