

### 3L3 MEDIUM TERM WORK PROGRAMME

#### CONSULTATION PAPER. NOVEMBER 2007

We, the Association of Spanish Insurers -representing close to 300 insurance companies (over 94% of the Spanish insurance industry)-, very much welcome the **3L3 Medium Term Work Programme** as this is a crucial tool in order to achieve further supervisory convergence in the financial sector. It is evident that any step forward taken by any of the three Committees will affect the other two and consequently the financial services industry activity as well. Therefore we deem that supervisory convergence should be achieved through common 3L3 work. Nevertheless, in this area, *"sector specifics due to different business models must be taken into account"* as far as possible as it is already said in the above document (par. 48).

We also welcome 3L3 intention to *"attach major importance to transparency, consultation and accountability"* (par. 7).

As regards **transparency and accountability**, recent EU work on financial services (namely CRD and Solvency II) introduces more transparency and objectivity, both in terms of information provided by the undertaking on its financial condition and on the associated risks and in terms of supervisory review processes. At present, supervisory practices still tend to vary between Member States, leaving room for regulatory arbitrage. Both for European policy in these matters and for financial services providers actually wanting to accede a new national market, it seems important that supervisory practices would not only be objective and transparent, but also predictable and well documented. Therefore we urge 3L3 Committees to work in this direction.

Concerning **consultation**, we are willing to contribute to any consultation regarding future 3L3 common works as far as we will be concerned. More precisely, we are very much interested in knowing future developments concerning the identification of *"what is needed at level 1 and 2 in order to achieve the effective and efficient use of delegation in a home host context across both border and sector"* (par.20). As you well know this is a crucial point in the current negotiations concerning Solvency II, especially as regards the lead supervisor regimen.

Other issue in which we deem that we should be involved is the issue of what is meant in the document by *"competing products"*. In this area, in answer to the Commission *Call for Evidence* on *"substitute" retail investment products*, we have already stressed some important questions that in our opinion should be taken into account when analysing this subject:

- We consider that financial product diversity currently being offered in the EU corresponds to different consumer needs and show diverse regulatory features. We fully agree that a *"level playing field"* among equivalent products must be guaranteed. However, this equivalence cannot be determined based on a single phase of the production chain, like the product sale. We consider that not only *"product disclosure"* should be taken into account.
- In our view, besides of the above, it is necessary to bear in mind other existing regulations that establish crucial and different factors in relation to a possible equivalence of products. This for instance is the case of insurance products.

Besides of provisions regarding information to the policyholder included in Directive 2002/83/CE, the following should also be considered:

- a) Provisions contained in Directive 2002/92/CE concerning insurance mediation. Following investment in education and training made by insurance companies (especially Spanish ones) as a consequence of Directive implementation in Member States, insurance consumers benefit from the fact that the insurance intermediary intervening in the insurance policy has the correct education and knows the product. This situation does not take place while selling other financial products.
  - b) Rights and obligations related to insurance proposal and insurance policy mainly included in the insurance contract law that usually exists in the different European markets. This range of provisions that enhance insurance client protection does not exist neither in other financial "*competing*" products.
  - c) Solvency requirements and other provisions and measures related to supervision of insurance companies, which differ of those measures applying in other sectors.
- It is also important to consider that from a client needs point of view, biometric risk and/or unit link and annuities guaranteed interests are other special features of insurance products that must be borne into account when comparing different products under the name "investment products", since they meet different client needs.

As a final statement, we would like to emphasize that we consider that the most important and urgent task that 3L3 Committees should undertake (in common, as far as possible) is improving their tools to foster supervisory convergence. The outcome of the ongoing Lamfalussy review should be put in practice as soon as possible by 3L3. This is the only way for the single financial market to become a reality.