



Mr Johnny Åkerholm
Chairman
Inter-institutional Monitoring Group
IIMG-2005-2007@ec.europa.eu

21ST March, 2007

Subject: Response of the Lamfalussy committees to the second interim IIMG report

Dear Mr Åkerholm

The three Lamfalussy committees – CESR, CEBS and CEIOPS – welcome the opportunity to respond to the IIMG's second interim report.

We are pleased to note that the IIMG recognises the Level 3 committees' efforts to enhance common European supervisory culture and practice. We believe these efforts have been substantial and have driven forward vital work under the FSAP. The three committees have necessarily focussed their efforts on different types of work ranging from Levels 1 and 2 advice to Level 3 guidelines, recommendations and standards. This reflects the very different stages of development of the legislative environment in the three sectors.

For example, CESR has focussed its energy on completing a dense programme of Level 2 advice to the Commission in order to complete the FSAP in securities legislation; CEBS has worked mainly on Level 3 measures to flesh out and make the CRD operational; and CEIOPS has delivered technical advice to the Commission on the development of the new prudential insurance regulatory framework under the Solvency II project. It is a measure of our progress that we believe it would be very hard to contemplate what the regulatory landscape would have been like without the contribution of the Level 3 committees and the momentum they have generated. These efforts have been considerable and generally well received by the industry and other stakeholders.

Level 3

With so many of the key first phases of work now nearing completion we must now turn our focus to making sure that we fully meet the expectations of the next stage. There is room for the Level 3 committees to make a

bigger contribution to EU convergence, especially if they are given the tools and political backing to do so.

As far as the Level 3 committees are concerned, we understand that the second interim IIMG report needed to cover a wide range of issues – mainly those concerning Levels 1 and 2 – and to put aside until later this year much of its discussion on the Level 3 committees. Therefore, we recognise that there is a certain lack of detail and focus on Level 3, especially in the key areas of supervisory cooperation and convergence. We agree with the IIMG proposal that it should devote more attention to assessing the progress that has been made in this area and should make Level 3 issues one of the main elements of the third and final IIMG report. This is why at this stage, we have decided to comment jointly on your second interim report and we will be contributing separately to the Lamfalussy review in the autumn.

Public consultation

We have consistently placed a great deal of emphasis on public consultation. We recognise that regulation cannot live in isolation from market developments and that we need sound technical input from stakeholders, delivered after due consideration and dialogue with the right experts as it is currently the practice in most Member States. But we also recognise that consultation places a heavy burden on the industry and consumers, and should be as focussed as possible. We agree with the IIMG that successive rounds of consultation, by the Level 3 committees and the Commission, should answer new and specific questions and not duplicate previous consultation exercises.

For example, it is recognised that the Level 2 Committees should work in a transparent manner and submit for consultation the draft implementing measures. However, when the Commission decides to reject or amend the expert technical advice it has been offered by the Level 3 committees, it should be under an obligation to explain publicly why it has decided to deviate from the advice, and not simply resort to repeating unnecessarily the whole consultation process again. Moreover, every effort should be made to ensure that sufficient time (usually three months) is allocated to public consultation; in the past there has been insufficient time built in to the timelines set by the Commission to do this properly. More efforts are needed to involve consumers better in the consultation process. Market participants' input is also crucial to identify market developments that may justify new regulation to be enacted according to the fast track procedure offered by the Lamfalussy framework.

Impact assessment

We are fully committed to the better regulation agenda and to this end we have recently agreed to adopt a single set of principles and guidelines on impact assessment. In 2007, we intend to run several pilot projects on specific Level 2 advice to the Commission, to refine the methodology and make sure that our work benefits from sound regulatory and market failure

analysis and cost benefit assessments. Here again, too short deadlines given to the Level 3 Committees has not permitted in depth impact assessments when establishing Level 2 advice for the Commission.

Supervisory cooperation and convergence

All three committees have been working hard to respond to the Financial Services Committee's recommendations on financial supervision (as set out in the 'Francq Report') to improve supervisory cooperation and convergence. In particular we are advancing our work on the delegation of supervisory tasks, peer review, mediation, and EU supervisory culture, training and secondments. We are very pleased to inform you that we have adopted - or will shortly adopt - appropriate mechanisms to deliver concrete progress in all these areas. We have worked very efficiently on these projects reading-across the work, without duplication, from where it is most advanced in one committee to the other committees.

In addition, we would like to bring to your attention the work we are doing on the development of pragmatic mechanisms to transform supervisory practices and approaches. In CEBS the concept of supervisory operational networks is being trialled, and CEIOPS is focusing on improving the operation of co-ordination committees for insurance groups. CESR has for some time had a number of operational groups dealing with day-to-day operational issues. Such networks bring together supervisors to exchange information on day-to-day supervision, share good practice and practical solutions to the common problems they have identified, and improve convergence. In addition, we feel that there is a need, in this Lamfalussy review year, to have a deeper discussion of **home-host issues**. In part this comes under the general heading of cooperation and supervisory convergence, but it is important and central to the future debate on EU supervisory cooperation. We would urge you to consider it separately in your final report, not least because of the current work on the relationship between supervisory arrangements on an on-going situation and in a crisis situation, and also because of the developments on home host issues under the Solvency II project. In this respect, we are also mindful of the underlying need to develop common powers at the regulators' level.

Political support

You have raised the issue of how to generate **active political support** to drive forward the development of the committees. We fully agree that our work needs such support. Naturally we aim to be fully accountable, but in return we need to see our efforts on enhanced cooperation supported at the political level. In our view it is not enough to have the basic financial EU legislation, the national transposition, and the Level 3 measures, in order to achieve integration. All the national authorities and supervisors also need to buy into this process. In this respect we are interested in the IIMG's ideas on developing **EU-level objectives** for the national authorities, although this idea clearly needs to be investigated further. Mentioning EU convergence and cooperation in the mission statements of national authorities may indeed help overcome potential stumbling blocks to

convergence, and the smooth development of new supervisory tools such as delegation.

We in the Level 3 Committees also have a good deal of work ahead of us to ensure that our guidelines, recommendations and standards are implemented in practice at the national level, and properly maintained at the EU level. CESR has previously raised the issue of how to **finance** the key EU projects that the Level 3 committees are asked to develop and which, for example, may help to alleviate reporting burdens for industry. We are encouraged that the IIMG feels that the issue of budgetary constraints needs to be put on the table for discussion, as it is very clearly related to the issues of political support and EU objectives.

Transposition and enforcement

On the issues of **transposition** and **enforcement**, the Level 3 committees are keen to play a part. The existing responsibilities are clear, in so far as national administrations are responsible for the transposition of directives and the Commission is responsible for enforcement. However, the Level 3 committees can assist by helping to make clearer how the national rules are formulated so as to promote the convergent daily application of EU law. And national supervisors should of course be just as transparent on how they intend to work in practice (in so far as they have the power to publish general guidelines on how they intend to apply the rules). We fully agree with the IIMG on the relevance of **supervisory disclosure** (as required by the CRD in Article 144).

The strength of this tool lies in the fact that it should expose national rules and practices to public scrutiny, with complete transparency, by publishing national rules side-by-side. Industry and market pressures should effectively encourage national authorities to converge on common rules (or explain why they have not). In our view this tool could usefully be expanded to other areas, including supervisory practice, as well as to securities and insurance supervision, and should be emphasised in the final IIMG report.

There is much we can do to make progress in all these areas. Cross-sectoral cooperation is starting to work well. We have developed a more structured environment for 3L3 work, with a published Protocol, annual work plans and annual reports, to underpin the joint work between the committees. With respect to the question of conglomerates and whether a new Level 3 committee is needed, we would like to refer to the current progress of the Interim Working Committee on Financial Conglomerates (IWCFC). As you may know, CEBS and CEIOPS have already managed to establish this working structure that is delivering both good advice to the Commission and convergence where it is most needed.

We also believe the IIMG is right in suggesting that the Level 3 Committees may be well placed to draw the attention of the Community institutions to possible new risks and propose solutions, even in the absence of a formal mandate from the Commission.

Next steps

Finally, let us explain how we plan to contribute to the Lamfalussy review process in 2007.

All three committees are running (or are planning to run) public assessment exercises. These involve posting assessment questionnaires on our websites, to be answered by industry, consumers, and the EU authorities. We are expecting candid feedback on our progress as we have asked all our stakeholders to tell us where we are succeeding and where we need to work harder to identify the obstacles to convergence. The results of these polls will be made publicly available in due course.

Under the 3L3 banner we also plan to establish a high level group to consider our ongoing and future strategy. This should help us refine our long term work programme, to make sure it fits with the priorities discussed above; and in part it should look at Level 3 structural issues and processes. Individually, we will also dig deeper into the specific needs of each sector. We will be in a position to offer further ideas to assist the Lamfalussy review after the summer break.

We are copying our letter to Mr David Vegara, chairman of the FSC, and to Mr Xavier Musca, chairman of the EFC.

Eddy Wymeersch
Chairman of CESR

Danièle Nouy
Chair of CEBS

Thomas Steffen
Chairman of CEIOPS