



FEDERATION BANCAIRE DE L'UNION EUROPEENNE

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22nd MEETING OF THE ASSOCIATES
- Istanbul, 19 May 2006 -

ITEM 2 OF THE AGENDA: MINUTES OF THE PREVIOUS MEETING

Please find enclosed the minutes of the 21st Meeting of the Associates, held on 8th of December 2005 in Brussels.

Draft minutes of the said meeting were circulated by Secretariat letter nr. C0155 of 6th of February 2006.

Following the comments received, the final minutes of the said meeting were circulated by Secretariat letter nr. C0301 of 2nd of March 2006.

All changes made in the final minutes have been track changed and highlighted for your convenience. They mainly refer to Item 5.

In case you have any further suggestions or amendments to the enclosed minutes, please let the Secretariat know in writing before the meeting.

Enclosures: 1 – Minutes of the previous meeting
2 – List of the participants (enclosure to the Minutes)



FEDERATION BANCAIRE DE L'UNION EUROPEENNE

21st MEETING OF THE ASSOCIATES

- Brussels, Belgium, 8 December 2005 -

MINUTES

ITEM 1 – OPENING AND WELCOME

Mr Hein BLOCKS, chairman of the FBE Executive Committee, chaired the meeting.

Mr. Guido RAVOET, Secretary General of the FBE welcomed the participants of the meeting to the home of the Federation and opened the meeting.

A list of participants is attached (enclosure 1).

ITEM 2 – MINUTES OF THE PREVIOUS MEETING

The members approved the minutes of the 20th Meeting of the Associates, which was held in Budapest, Hungary, on 12 May 2005.

ITEM 3 - EVOLUTION OF THE SUPERVISORY FRAMEWORK IN THE EU BANKING SECTOR

Mr. Elemer TERTAK, Director of Financial Institutions Directorate, DG Internal Market, European Commission presented his views on the evolution of the supervisory framework in the EU banking sector.

Nowadays the financial sector is one of the best regulated industries in the EU. Supervisory issues are important for banks. Two things are necessary:

- 1) rules must be harmonised as much as possible,
- 2) supervisors have to coordinate their actions and cooperate.

An historically important step was the setting up of a Committee of Supervisors which eventually resulted in Basel I. Rules continued to develop and more and more countries have introduced Basel principles in their national legislation. Over time, many lessons were learned. One of them – supervision of all kinds of financial sector activities would have to be integrated. Therefore there is a strong trend to move towards integrated supervision. Strong interdependences between different parts of the financial sector exist nowadays. An increasing number of conglomerates have been established, more integration is happening in domestic markets and the activities of banks themselves are becoming more international.

For supervisors the very important question is how they will cooperate in case the supervised bank has outlets also abroad. Possible ways of enhancing cooperation: by signing memorandums of understanding, by the exchange of data which very often has a confidential character.

Another lesson learned in recent years is that the supervision has to be independent as much as possible from governments. No government intervention should be able to stop a supervisor from carrying out his duty. Supervision also has to be legally independent. However, even that is no longer sufficient.

In the work on Basel II the development of internationalisation was acknowledged. There should be a clear division of labour in the case of cross-border banks. How to organize it in practice is a difficult challenge for EU supervisors. The Committee of European Banks Supervisors (CEBS) is working hard on procedures, cooperation models and on validation. Once a home supervisor has validated a model, it will have to be accepted by the host supervisor. Possible problems in such a scenario: the unequal distribution of tasks between host and home supervisors.

In the 10 new EU Member States only 1 institution has operations outside the country, while in the EU 15, most of the countries have banks actively working cross-border.

Different reporting requirements in different EU Member States can create additional problems. In practice this imposes additional costs to banks operating in more than one Member State. A large portion of bank non-interest costs arise on the regulatory reporting account. For the moment it is also difficult to find a common platform. The approach of adding all reporting requirements together does not stand up to criticism as that would increase the reporting burden and costs of EU banks even more. CEBS is renewing its efforts to agree on a common, more efficient platform. Substantial progress can be expected in this area.

In general there are three basic functions of supervision:

- 1) Maintaining the financial stability of the system. This is currently the duty of each Member State as foreseen by the Treaty.
- 2) Prudential supervision (monitoring individual institutions);
- 3) Consumer protection in the form of Deposit Guarantee Schemes. This function is not a direct task of the supervisor; however, most of them still have to deal with consumer complaints.

1) Financial Stability

There is no possibility to create an EU Financial Supervision Authority while maintaining a structure under which financial stability is a sole responsibility of Member States.

2) Prudential supervision

It may and must be possible to establish an EU wide scheme for prudential supervision. An increasing amount of tasks should be delegated to home supervisors. However, also national supervisors have to be involved in the process. Collegiality has to be put into practice. Important developments are in progress; nevertheless, some problems arise in this area from time to time.

Mutual access to data is crucial for the success of the whole process. The problem of covering the supervision costs has to be solved. In theory supervisory fees have to cover the cost of the supervision. In practice many questions arise: does the supervisory fee follow the cross-border delegation of tasks? This becomes an issue where agreement has to be reached. In some countries supervised entities do not have to cover supervision fees. Does this create a distortion of competition? Also the question of ownership of banking sectors in new EU Member States arises as local supervisors would not have much influence, because a big majority of their banks belong to foreign investors.

Crisis management exercises are organized on an ongoing basis by the ECB. A crisis in the financial system cannot be solved only at national level nowadays.

3) Consumer protection

National supervisors have to play a substantial role in this issue. The language issue is one of the reasons for this. The Rome Treaty puts consumer protection high on the list.

Cross-border activity (measured by its proportion of total assets) is constantly increasing and has already reached 1/3.

Many practical issues arise once you start to tackle current problems. For example:

- European company status

Challenge here is in a theoretical situation (so far) if a large conglomerate is transformed to EU Company, their subsidiaries may be easily and quickly transformed into branches. This would immediately mean a switch of work for supervisors: some would lose large chunks of work, others would gain. Question of number of staff for supervisors.

- Change of headquarters of banks

Can a new home supervisor manage the task from the beginning?

- "Nordea" case

Three different countries with three different currencies are involved. Which Central Bank would be the lender of last resort? The taxpayers of which country(-ies) would pay a bill in case of a systemic problem?

There is an urgent need to find a working solution for such situations. There is also a necessity to strike a balance between needs of the industry and national interests of the Member States. Finding a balance with other legislation also may not be an easy task.

International dimension

Switzerland is not a part of the European Economic Area (EEA). Swiss banks have a large part of operations outside the country. The EU had to recognize Switzerland's regulation as equivalent (it works also vice-versa). Also supervisors had to agree to this conclusion.

The situation with the US is more complicated. The US supervisory structure is more different from the EU one. As a result speed of change in supervisory practices and rules may not be equal. This may considerably disturb competition. The US have postponed the originally planned implementation of Basel II. This may create a situation where some banks (from EU in particular) will have to operate under two different regimes – Basel II and Basel I.

It is also important that other countries, especially other European countries implement the Basel II framework in a timely fashion.

Discussion followed the speech of Mr. Tertak.

During the discussion questions on practical aspects of integrated supervision, the role of self-regulation in the banking industry, crisis management exercise and the sustainability and stability of the lead supervisor structure were raised. The importance of further harmonisation of reporting requirements and the need to strike a balance between different interests was emphasized.

ITEM 4 - IMPLEMENTATION OF THE BASEL II AND CAPITAL ADEQUACY DIRECTIVE

Mrs. Caitriona O'KELLY, adviser at the FBE made an introductory presentation on the subject.

The main points were as follows.

In the area of implementation of the Capital Requirements Directive (CRD) the focus has moved to the interpretation of the CRD and its consistent implementation. The main concern at this point is that the interpretation issues could lead to more details introduced in the framework.

FBE intends to do significant work on implementation issues. Three significant projects are expected to be launched in 2006:

- document on different national discretions should be compiled in 2006;
- questions on interpretation and transposition should be addressed and a common interpretation found;
- document on differences between Member States is going to be compiled and regularly updated.

The US approach

In the area of implementation of the BASEL II framework in the US one should mention that the US is currently extremely cautious towards BASEL II.

In late 2004 and early 2005 the US agencies conducted a Quantitative Impact Study (QIS4) on firms intending to move to Basel II in the US. The results of that study which became available in mid-2005 raised concerns about the potential changes in capital levels in the US following full implementation of Basel II.

As a result, on 30 September 2005 the regulatory agencies in the US announced a new timetable for the adoption of Basel II in reaction to the results of QIS4. The Notice of Proposed Rulemaking (NPR) on Basel II will now be released in the first

or second quarter of 2006. It is widely expected that this timetable will slip partly due to pressure from Congress.

- The NPR will include more prudential safeguards to ensure that an appropriate level of capital will remain in the system.
- Banks will not be approved to begin their parallel run until 1 January 2008 and then only on a case by case basis.
- Subsequent to beginning the parallel run there will be a three year transitional period with conservative floors in place. The agencies have not yet clarified the basis for the calculation of these floors but they are intended to be “simpler and more conservative” than those set out in Basel II. The following is a comparison of the timetables and floors for both Basel and the US:

Year	Transitional Arrangements
2006	Parallel Run (Basel – FIRB and AIRB)
2007	Parallel Run (Basel – AIRB), 95% Floor (Basel – FIRB)
2008	Parallel Run (US), 90% Floor (Basel)
2009	95% Floor (US), 80% Floor (Basel)
2010	90% Floor, No Floor (Basel)
2011	85% Floor, No Floor (Basel)
2012	No Floors (TBD case by case in US)

- Termination of the floors will be decided on an institution by institution basis in 2011.
- It is envisaged that the transitional period will be used to identify necessary changes to Basel II in the US. These changes, which will have to be addressed in the Basel Committee, could result in significant competitive issues on a global basis.
- Both the Prompt Corrective Action Requirements and the Leverage Ratio will remain in place to supplement the Basel II requirements. Annex 1 sets out the Prompt Corrective Action and Leverage Ratio rules.

ANPR on Basel 1A

On 20 October 2005 the US agencies issued a joint release detailing the proposed modifications (Basel 1A) to Basel 1 intended to address the competitive implications of a small number of complex national banks moving to Basel II. The changes will apply to banks, bank holding companies and savings banks on a compulsory basis. The following is a broad outline of the changes which are proposed:

- increase the number of risk-weight categories (5 more than Basel 1 and 2 more than B2 STA)

- permit greater use of external ratings for externally-rated exposures (stricter assignment rules than B2 STA)
- expand the types of guarantees and collateral that may be recognized (similar but simpler than B2 STA – substitution of the security issues or guarantor risk weight for the debtor’s one for the collateralized portion)
- modify the risk weights associated with residential mortgages and other retail and commercial exposures (similar to B2 STA)
- change the credit conversion factors for certain types of commitments (10% instead of 0% for maturity below 1 year. It is 20% for B2 STA)
- assign a risk-based capital charge to securitizations with early amortization provisions
- assign a higher risk weight to loans that are 90 days or more past due or in nonaccrual status and to certain commercial real estate exposures (B2 STA rw is 150% or 100% according to reserve charge)
- The credit risk charges are deemed to cover both operational risk and banking book interest rate risk.

On 10 November the agencies (OCC, Federal Reserve, FDIC and OTS) were called before the Senate Committee on Banking, Housing and Urban Affairs to set out their proposals both on the timetable for Basel II and for the modifications to Basel I.

Quantitative Impact Study (QIS) 4

QIS4 was not a final analysis but was based on a crude approximation of Basel II. The banks’ inputs into QIS4 fall short of the necessary reliability because the models are not yet complete, are at widely different stages of development and there is a lack of definitive rules.

QIS4 did raise concerns about cyclicity as the results are clearly indicative of the prevailing economic cycle.

Capital requirements for mortgages were 90% of current capital held and there was a 60% increase for credit cards. These results are not acceptable and do not reflect the real risks in the system.

The agencies have agreed to move forward but to put substantial prudential safeguards in place.

Further study of the QIS4 results will not alleviate the problems. It is essential to see the live systems in operation to identify what needs to change. Therefore the agencies have proposed a meaningful transitional period with conservative floors.

Any necessary modifications will be made before the end of the transition period.

5th QIS is taking place now and will be due in spring 2006.

Prompt Corrective Action requirements and the Leverage Ratio

Prompt Corrective Action and the Leverage ratio – US institutions have thrived while these provisions have been in place and have remained well-capitalised. PCA requirements will play a crucial role in the floors:

2009 – Basel II – 95% floor – Total risk-based capital ratio of 10% under non-Basel II rules but with a 5% reduction in risk weighted assets.

The 10% rule will also have to be met under the Basel II results.

Similar dual requirements will apply to the 6% well-capitalised threshold for the Tier I risk-based capital ratio. PCA thresholds for the leverage ratio will remain in place as they currently stand.

According to the FDIC, moderate capital reductions under Basel II will only be available to banks where they exceed the leverage ratio. The leverage ratio is necessary because:

- Interest rate risk, liquidity risk and the potential for large accounting adjustments are not specifically addressed in Basel II.
- The Basel II models are determined subjectively.
- For operational risk it is not possible to predict events which have never taken place.
- The low levels of capital allowed under Basel II would erode the safety nets.

If the leverage ratio was removed, using QIS4 data the majority of banks would be under-capitalised, significantly under-capitalised or critically under-capitalised.

Concerns for FBE

Changes during the transition period could lead to substantial competitive issues on a global basis. They will raise technical problems for banks operating across jurisdictions.

Allocation of AMA capital for operational risk – it is technically impossible to build stand-alone systems that are operable due to lack of data and cost. European banks should be able to allocate AMA capital to US subsidiaries which could then be multiplied by a scaling factor to compensate for the diversification effects.

There is a need for quicker treatment of validation issues for the non-mandatory banks in the US. There is concern that they will not be validated in time to go live

because of the focus on the mandatory banks. This could exacerbate the effects of the gap year. There is also concern that the US agencies will be stricter on EU banks because of a perceived competitive advantage.

European banks need European regulators to agree to flexibility in the interpretation of the CRD allowing US subsidiaries to stay on Basel I during the gap year. It is in the interests of the US agencies to also promote that solution so that they won't have Basel 2 banks operating in the US before the US banks have changed over. This would have political implications.

There is confusion over whether the new floors will be based on Basel II or Basel IA data. It is also not entirely clear how will they interact with the leverage ratio and PCA provisions.

ITEM 5 - INTRODUCTION OF THE NEW FBE ASSOCIATES

Mr. Jean-Claude EUDE, Managing Director of the Monaco Banks' Association gave a short presentation on the Monaco banking sector and association.

The Monaco Banks' Association had a working relationship with the FBE even before becoming a FBE Associate. Representatives from the Association were participating in the FBE's Working Group on the Savings Directive, for example.

Monaco is a constitutional monarchy with a history of around 700 years. There is no intention to become a member of the EU, ~~at least not so far~~. The country has strong relations with its neighbour - France. There is an agreement with the ECB to use the currency, EURO as legal tender in Monaco. In 2005 Monaco entered a 'new era' – Prince Albert II was inaugurated and a new government was installed.

Internationally Monaco is ~~famous-renowned~~ as a business and financial centre with a favourable tax system and regime. The country has a population of around 40,000 inhabitants of which around 7,000 are Monegasques. In day to day operations Monaco provides work for around 50,000 ~~different employees~~, many turnover of which are commuting from the neighbouring regions of France and Italy.

The financial industry of Monaco contributes 40over 20% to the total GDP-turnover of the country. It has 70 billion euros in assets under management. Altogether 45 banks and around 20 asset management companies are based and operating in Monaco with 3,000 employees working for them. The Monaco ~~financial system's legal and regulatory framework~~ monetary and financial system is co-supervised by its Finance ministry and the relevant French authorities.

Investors are also reassured by the Monegasque government's firm approach to the fight against fraud and money laundering and by the industry's ~~solid-strong~~ commitment to protecting the confidentiality of banking information.

Monaco Banks' Association was established ~~already in 1944~~ some fifty years ago. Nowadays the Association has around 70 members: banks, financial companies and portfolio managers. The Association is engaged in a permanent dialogue with

the social partners, main economic actors of the country and has established itself as a main counterpart in dialogue with the relevant Monaco authorities in all questions concerning the financial industry. The Association is also committed to the necessary reforms in order to develop further Monaco's banking and financial industries.

ITEM 6 - LATEST DEVELOPMENTS IN EU LEGISLATION CONCERNING THE FINANCIAL SERVICES AREA

Mr Elmars KRONBERGS, adviser at the European Banking Federation, started with the presentation of a tenth report on the latest developments in the EU legislation concerning the financial sector.

Altogether 18 pieces of legislation and other community action are included in the presentation.

He outlined four recently adopted legislative actions - Regulation adopting IAS 39 "Fair Value Option", the Capital Requirements Directive, 8th Company Law Directive on Statutory Audit and the Anti-Money Laundering Directive.

Mr. Kronbergs continued his report on the European Commission's proposals covering the White Paper on Financial Services Policy for the next 5 years, the Directive on New Legal Framework for the payments market, the Regulation on information on the payer accompanying transfers of funds and the Directive extending the Markets in Financial Instruments Directive's adoption.

Among the most important European Commission consultations, highlighted in the presentation, were those regarding:

- evaluation of the Financial Services Action Plan, Part I;
- possible implementing measures to the Transparency Directive;
- review of the Regulation on cross-border payments in euros;
- the Anti-Money Laundering obligations in non-face to face transactions;
- working document in relation to the Anti-Money Laundering Directive;
- the Green Paper on Mortgage Credit in the EU;
- the Green Paper on the enhancement of the EU framework for investment funds;
- review of the Deposit Guarantee Schemes Directive;
- review of the E-Money Directive;
- the Green Paper on EU Financial Services policy for the next 5 years.

ITEM 7 - PERCEPTION OF BANKS: REPUTATION MANAGEMENT

Mr. Zoran BOHACEK, Managing Director of the Croatian Banking Association introduced a round table discussion on reputation management in the banking industry.

During the introductory presentation there was a question on how the banks are perceived by different categories of public opinion makers like bank customers (corporate and private individuals), other professional associations (such as chambers, employers, unions, NGOs, etc.), state institutions, politicians and media. Which areas would represent the main problems for the overall perception of banks – products banks are offering, fees they are charging or security issues such as bank robberies?

Participants in the meeting were also invited to share their opinions and experiences in how to improve the perception of banks by the general public in the most efficient ways by Associations, banks themselves and in other suitable ways. The overall conclusion from the discussion is that as a rule despite the high confidence in local banking systems, the general perception of banks by the public is moderately negative. A common “paradox” can be observed in most of the national banking systems: although an individual customer is satisfied with his/her bank and services it provides and has a high confidence in it, a negative opinion on the banking system as a whole exists.

Some banks are liked more than others. As a rule, the smaller the bank is the more sympathy it gets, but the less confidence people have in such an institution and the less competent they think it is.

In general, it is very difficult to understand the reasons for the existence of such a paradox and what exactly creates a negative perception of banks in public. One of the possible reasons may be the behaviour of some politicians who use and spread negative perception of banks for their own benefit in political games. Another could be the perception of the general public that banks are often not considered as business enterprises, but more as socially oriented enterprises. As a result the perception may exist that banks do not need to make big profits and if they do they must have been charging too much for their services. Another potential source of the problem sometimes may be the lack of expertise in the mass media as journalists writing about different financial sector issues may not always understand the subject properly. That may cause mistakes which could be easily absorbed by public where there is also an educational gap and those mistakes, especially negative aspects of them may be very difficult to correct later.

The existing situation was characterized as one which is difficult to win for the banks. Although different associations and banks have taken very different measures to try to improve the overall public perception of banks and their business, results have varied substantially.

Some associations and banks have spent a lot of money on advertising in mass media (in addition to product-oriented advertisements), organizing different public events. In general it was concluded that the advertising campaigns in press did not offer satisfying results in improving overall public perception of banks, despite the huge costs such campaigns usually involve.

Some are organizing different panel discussions or specific subject oriented, very often educational events for journalists writing about the financial sector and sometimes also for politicians. Other associations are trying to step into the media regularly to defend the sector on then topical issues. Several associations have been regularly involved in writing special articles in the press on different banking related issues, explaining what banks do and what they try to improve.

Some associations are considering the promotion of codes of best practice (self-regulation) as a relatively effective way to show the banks goodwill, which eventually improves also the overall perception of the sector in the eyes of population. The development of out-of-court dispute settlement schemes (ombudsman) and answering consumer complaints is another way of continuing work with the general public to improve banks' reputation.

ITEM 8 - STUDY ON REGULATORY BURDEN

Mr. Zoran BOHACEK, Managing Director of the Croatian Banking Association presented the Croatian Banking Association - commissioned study on the regulatory burden in Croatia and six central-eastern European countries.

The main objective of the study was to compare the regulatory burden in Croatia and the Czech Republic, Hungary, Slovenia, Poland, Austria and Italy in order to use the results of the study as an additional tangible "negotiating tool" in dialogue with regulators.

In this study an attempt was made to quantify regulatory costs versus benefits. In an ideal world the banking industry must expect that any regulatory expense is "paired" with the benefit, while the regulator must expect that any regulatory benefit is "paired" with a certain cost.

The scope of the study includes prudential regulation (such as capital regulation and deposit insurance), monetary regulation (like reserve requirements) and foreign exchange regulation (such as regulation on minimum required foreign exchange liquidity and foreign exchange marginal reserve requirements). Operational regulatory costs connected with the operational segment of banks business and reflected in their operating expenses such as costs of payment system regulation, costs related to reporting, labour and tax laws have been left outside the scope of the study.

In general, in countries where the influence of classic types of regulation on the financial part of bank operations has been reduced to a reasonably low level, the operational costs of regulation take the forefront.

As far as the results of the study are concerned the main conclusion was that the net regulation cost is highest in Croatia and growing. There has been conflict between the cost of regulation and mobility of capital for a long time.

The main regulation components are reserve requirements, deposit insurance and marginal foreign exchange reserve requirements. Prudential regulation and the regulation of minimum foreign exchange liquidity is not included in the calculation of net cost – justified due to the need to preserve foreign exchange liquidity of the system as a whole.

Future steps planned by the Croatian Banking Association regarding the results of this study include using this tool to monitor changes over time, work on improving the analytical tools and performing sensitivity analyses; opening a dialogue with the regulator to communicate clearly the understanding of the need for regulation and to offer tool to perform cost versus benefit analysis for particular regulatory

measures and cost measurement as a whole. Expansion of the analysis to other South-Eastern European countries was not excluded.

During the discussion following the presentation it was mentioned that a similar project on the EU scale would be more than welcome. The cost of reporting and prudential costs would certainly have to be added to the scope of study for the EU wide project.

The Austrian member informed other participants that a similar study was made in Austria in 2004. One of the conclusions of that study was that 2.7% of all operating expenses of banks were on account of implementing different legislation.

ITEM 9 - PAYMENT SYSTEMS

Mr. Patrick PONCELET, head of the FBE payments department made an introductory presentation on the subject.

The proposal for a Directive on the new Legal Framework for integrated payments markets was published by the European Commission in early December 2005. This Directive once adopted will become a fundamental document for payments for many years on.

This proposal once adopted should bring down existing legal barriers to enable the creation of a "Single Payments Area" in the EU that could save the EU economy 50-100 billion euros per year. This Directive applies to all Member States and all EU currencies, while providing the necessary legal platform for the Single Euro Payments Area (SEPA). The aim is to make the Single Payments Area a reality by 2010 at the latest.

The European Commission is looking forward to adopt the new Legal Framework already by 2007 and implement it by 2008. One big reason for such haste is the planned start of the SEPA in 2008. In 2006-2007 several pilot projects are expected to be launched, in 2008 the launch of the pan-European payments instruments is expected with a two year transitional period (until 2010) for dual functioning of national and pan-European payment instruments.

Apart from the need to meet tough schedules, a couple of other specific potential problems have been identified in this area so far:

- Balance of payments reporting threshold increase from 12,500 to 50,000 euros as of 1st of January 2006;
- Possible collision of New Legal Framework and SEPA in the requirement of a settlement time for payments. SEPA currently has a requirement of settlement time of 3 days with a remark that operators are allowed to do better. The new Legal Framework has a requirement of settlement time of 1 day, with the remark that operators are allowed to do worse...

Besides the recently issued proposal for a Directive on New Legal Framework for payments systems, a short report on progress in achieving the EPC Roadmap,

SEPA objective and a progress report on TARGET2 was given during the introductory presentation.

ITEM 10 - MONEY LAUNDERING

Mrs. Severine ANCIBERRO, adviser at the FBE made an introductory presentation on the subject.

Less than 3 years after the adoption of a second Directive on the fight against money laundering¹, the European Commission presented in June 2004 a proposal for a *Directive on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing* (hereafter the Third Directive) due to replace the two existing Directives².

The Third Directive is meant to ensure a coherent application in all Member States of the revised 40 Recommendations adopted by the OECD's Financial Action Task Force on Money Laundering (FATF) in June 2003.

On 20 September 2005, the Council of Ministers for Finance and Economic Affairs of the European Union (ECOFIN) adopted an agreement³ and approved the text of the Third Directive by endorsing the amendments tabled by the European Parliament two weeks earlier.

Though the text of the Third Directive as adopted by the ECOFIN Council generally takes the European banks' concerns into account, some specific issues still remain problematic for the industry.

The risk-based approach

Following the FATF 40 Recommendations, the European Commission proposal introduced a risk-based approach. Accordingly, banks are obliged to implement customer due diligence requirements proportionally to the concrete risks involved. Risks may differ depending on *inter alia* the types of customers, countries and transactions.

The European banking industry welcomed this measure, as it feels that a risk-based approach is the only valid method to guarantee a focused and efficient fight against money laundering and terrorist financing.

¹ Directive 2001/97/EC of the European Parliament and of the Council of 4 December 2001 amending Council Directive 91/308/EEC on prevention of the use of the financial system for the purpose of money laundering, (*Official Journal L 344*, 28/12/2001 P. 0076 - 0082)

² Directive 2001/97/EC (c.f. supra) and Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering (*Official Journal L 166*, 28/06/1991 P. 0077 – 0083)

³ The text approved by the EU Council of Ministers is available at the following address:
<http://register.consilium.eu.int/pdf/en/05/st03/st03631.en05.pdf>

Beneficial ownership

- Definition of beneficial owner
The Third Directive defines a beneficial owner as the natural person who ultimately, directly or indirectly, owns or controls 25 % or more of the shares or of the voting rights of a legal person.
- Treatment of the beneficial owners
Banks still have serious concerns about the approach taken on beneficial owners since the Third Directive includes an obligation to identify and verify the identity of the beneficial owners. The main problem is that banks often do not have access to reliable information enabling them to carry out such identification.

Politically Exposed Persons (PEPs)

- Definition
The Directive defines the Politically Exposed Persons as “*natural persons who are or have been entrusted with prominent public functions and immediate family members or persons known to be close associates of such persons*”.

European banks were concerned that the treatment of the family members and associates may not be easily carried out (How to identify the family members and the associates apart from relying on what the customers declare?). The definition has been limited to “*immediate*” family members and the “*persons known*” to be associates and should therefore enable a proper implementation of the text.

- Treatment of PEPs
Enhanced due diligence procedures have to be applied for PEPs. National/ domestic PEPs are in the end excluded from the obligations to apply enhanced due diligence. The European banking industry would have preferred, however, that the European Union be considered as a single jurisdiction and that PEPs from EU Member States be excluded from the definition, especially since credit institutions in the Member States already apply appropriate due diligence procedures which cover PEPs.

Feedback from Financial Intelligence Units

Banks’ long-standing plea to receive concrete feedback from financial intelligence units (FIUs) on reports of suspicious transactions has finally been taken into account. Feedback from FIUs to banks has always been deemed essential for banks, in particular as motivation and training of their staff is concerned. It is therefore to be particularly welcomed that a case-by-case feedback was introduced in the Third Directive.

Comitology

A “Committee on the prevention of money laundering and terrorist financing” will be set up in order to assist the European Commission in the adoption of the relevant implementing measures (e.g. Definition of the criteria for identifying low and high risk situations leading to simplified due diligence or enhanced due diligence).

The Third Directive also recalls the necessity for the European Commission to consult with industry when preparing implementing measures. Similarly, the European Parliament and the Council of Ministers shall be consulted as well.

It is important for the banking industry to note that the Commission shall adopt the first implementing measures within 6 months after the Third Directive’s entry into force (this provision was added by the European Parliament’s amendments).

On 12 September 2005, the Commission already published a working document related to the possible implementing measures concerning the third anti-money laundering directive. The document covers part of the possible implementing measures that the Commission is entitled to adopt: simplified customer due diligence, politically exposed persons, information on conditions in third countries and the non-application of the directive to certain legal and natural persons. The European Banking Industry Committee (EBIC), which comprises the European Banking Federation (FBE), in cooperation with the other representatives of the European banking sector, prepared a position.

Entry into force and Implementation

The Third Directive enters into force 20 days after its publication in the Official Journal. The text of the Third Directive was published at the end of 2005.

Member States will have to implement the Third Directive within two years after its publication in the Official Journal, i.e. by the end of 2007.

ITEM 11 - ANY OTHER BUSINESS

Nothing was raised under this item during the meeting.

ITEM 12 - DATE OF THE NEXT MEETING

It was announced that the next “Brussels” meeting of the Associates will be held in Brussels on Thursday, 7th December 2006, a day before the FBE Executive Committee meeting.

There is a strong commitment to organize an “outside” meeting of the FBE Associates in late spring or early summer 2006. The exact place and date will be confirmed by the FBE Secretariat by a separate note.

Mr. Ekrem KESKIN, Secretary General of the Turkish Banking Association has proposed to host this meeting in Turkey. The 19th of May 2006 was indicated as a possible date for the meeting in Istanbul.

FBE Executive Committee members will be invited to participate in all meetings of the FBE Associates.

In between these two events, the International Banking Federation's Forum will be organized by the FBE. The Forum is scheduled to take place on 27th of June 2006 in Brussels. All FBE Associates will be invited to participate in this event alongside Executive Committee members.

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Enclosure: 1



FEDERATION BANCAIRE DE L'UNION EUROPEENNE

21st MEETING OF THE ASSOCIATES

- Brussels, Belgium, 8th December 2005

LIST OF PARTICIPANTS

<u>Chairman:</u>	Mr	Hein G. M. BLOCKS
<u>FBE Secretariat:</u>	Mr	Guido RAVOET
	Mr	Elmars KRONBERGS
Associates:		
<u>Bulgaria</u>	Mrs	Irina MARTSEVA
<u>Croatia</u>	Mr	Zoran BOHACEK
<u>Liechtenstein</u>	Mr	Michael LAUBER
<u>Monaco</u>	Mr	Jean-Claude EUDE
<u>Romania</u>	Mr	Radu NEGREA
<u>Russia</u>	Mr	Oleg PREKSIN
	Mr	Konstantin MOZEL
<u>Turkey</u>	Mr	Ekrem KESKIN
Executive Committee:		
<u>Austria</u>	Mrs	Maria GEYER
<u>Cyprus</u>	Mr	Michael KAMMAS
<u>Czech Republic</u>	Mr	Petr SPACEK
<u>Estonia</u>	Mrs	Katrin TALIHARM
<u>Germany</u>	Mr	Bernd BRABAENDER
<u>Hungary</u>	Mr	Rezso NYERS
<u>Italy</u>	Mr	Enrico GRANATA
<u>Netherlands</u>	Mr	Hein G. M. BLOCKS
<u>Poland</u>	Mr	Andrzej WOLSKI
<u>Spain</u>	Mr	Manuel TORRES ROJAS
<u>Sweden</u>	Mrs	Ulla LUNDQUIST
<u>Switzerland</u>	Mr	Urs ROTH

Guest speakers:

Director,
Financial Institutions Directorate,
DG Internal Market,
European Commission:

Mr

Elemer TERTAK

Head of payments department, FBE Mr
Adviser, FBE Mrs
Adviser, FBE Mrs

Patrick PONCELET
Caitriona O'KELLY
Severine ANCIBERRO

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