



Regulatory Radar

Regulatory Newsletter, Issue 18, November 2009

Newsletter on banking and financial regulation

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EASY PRINT VERSION

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In November, CEBS, CESR and CEIPOS published their work programme for 2010 alongside with the work programme of the 3L3 Committees.

Priority will be given to the work linked to the expected changes in the institutional supervisory arrangements, including the transformation to EBA, ESMA and EIOPA.

Other projects for 2010 are:

- The organizational aspects and the content of a regulatory and supervisory regime for credit rating agencies;
- Work streams related to OTC markets;
- The upcoming changes in Basel II and the CRD;
- Solvency II;
- Packaged Retail Investment Products (PRIps).

Other interesting publications have been issued regarding Solvency II level 2 implementation measures and on MiFID.

On a Belgian level, the CBFA published circulars on transparency, remuneration and the role of the actuarial function.

We hope you enjoy the reading and wish you a happy and prosperous New Year.

The Editorial Board.



Financial Services Industry

Normative documents

Official Journal of the European Union (OJ)

➔ Regulation EC 1171/2009 of 30/11/2009 amending Regulation EC 1126/2008 adopting certain international

accounting standards in accordance with Regulation EC 1606/2002 as regards IFRIC's Interpretation 9 and IAS 39 – OJ L314 of 01/12/2009

⇒ [Regulation EC 1165/2009 of 27/11/2009](#) amending Regulation EC 1126/2008 adopting certain international accounting standards in accordance with Regulation EC 1606/2002 as regards IFRS 4 and IFRS 7 – OJ L314 of 01/12/2009

⇒ [Regulation EC 1164/2009 of 27/11/2009](#) amending Regulation EC 1126/2008 adopting certain international accounting standards in accordance with Regulation EC 1606/2002 as regards IFRIC's Interpretation 18 – OJ L314 of 01/12/2009

⇒ [Regulation EC 1142/2009 of 26/11/2009](#) amending Regulation EC 1126/2008 adopting certain international accounting standards in accordance with Regulation EC 1606/2002 as regards IFRIC's Interpretation 17 – OJ L312 of 27/11/2009

⇒ [Regulation EC 1136/2009 of 25/11/2009](#) amending Regulation EC 1126/2008 adopting certain international accounting standards in accordance with Regulation EC 1606/2002 as regards International Financial Reporting Standards (IFRS) 1 – OJ L311 of 26/11/2009

⇒ [Regulation EC 1100/2009 of 17/11/2009](#) implementing Article 7(2) of Regulation EC 423/2007 concerning restrictive measures against Iran and repealing Decision 2008/475/EC – OJ L303 of 18/11/2009

⇒ [Regulation EC 1102/2009 of 16/11/2009](#) amending for the 116th time Regulation EC 881/2002 imposing certain specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban – OJ L303 of 18/11/2009

⇒ [Decision 2009/840/CFSP of 17/11/2009](#) implementing Common Position 2007/140/CFSP concerning restrictive measures against Iran – OJ L303 of 18/11/2009

⇒ [Directive 2009/111/EC of 16/09/2009](#) amending Directives 2006/48/EC, 2006/49/EC et 2007/64/EC as regards banks affiliated to central institutions, certain own funds items, large exposures, supervisory arrangements, and crisis management – OJ L302 of 17/11/2009

⇒ [Regulation EC 1060/2009 of 16/09/2009](#) on credit rating agencies – OJ L302 of 17/11/2009

⇒ [Recast of Directive 2009/65/EC of 13/07/2009](#) on the coordination of laws, regulations and administrative provisions relating to UCITS – OJ L302 of 17/11/2009

⇒ [Opinion 2009/C 276/01](#) of the European Data Protection Supervisor on the proposal for a Council Regulation amending Regulation (EC) No 881/2002 imposing certain

specific restrictive measures directed against certain persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban– OJ C276 of 17/11/2009

Banking, Finance and Insurance Commission (CBFA)

Transparency

On November 18th, the CBFA has published a [circular](#) that imposes financial firms that own a number of obligations to occasionally and regularly notify to the CBFA. This circular describes how financial companies have to proceed to fulfil its notification obligations. Additional information is provided in [note CBFA_2009_31 dd. 18 November 2009](#).

Consultative or informative documents

European Commission

Commission takes action to ensure that 10 Member States implement EU rules

In a [press release](#) of November 20th, the EC announced that action has been taken to ensure that agreed Internal Market legislation is implemented in a total of 10 Member States. The Commission has decided to refer Belgium, Ireland, Greece and Luxembourg to the European Court of Justice as they have failed to fully implement into their national laws the latest Directive in the field of accounting within the prescribed deadline. The United Kingdom will also receive a reasoned opinion, which is the second stage of the infringement procedure laid down in Article 226 of the EC Treaty, concerning the lack of transposition of this Directive on the territory of Gibraltar. In addition, the Commission has decided to send reasoned opinions to Greece, Spain, Italy, the Netherlands, Poland, Portugal and the United Kingdom for failure to implement Directive 2007/44/EC, which lays down the procedures and criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector.

Committee of European Banking Supervisors (CEBS)

Improvements to IFRS

The CEBS published, on November 24th, its [comments](#) on the IASB's exposure draft on improvements to IFRS.

Constitution Review Proposals for Enhanced Public Accountability

In a [press release](#) of November 30th, the CEBS announced the publication of its [comments](#) on the IASC

Foundation's consultation of Part 2 of the Constitution Review *Proposals for Enhanced Public Accountability*.

Committee of European Securities Regulators (CESR)

Disclosure requirements related to financial instruments

In a [press release](#) of **November 2th**, **CESR** has published a [statement of the compliance](#) of European financial institutions with disclosure requirements related to financial instruments. For the purposes of the analysis, CESR reviewed the 2008 year-end financial statements of 96 listed banks and/or insurers, including 22 companies from the FTSE Eurotop 100 index.

Work programme 2010

In a [press release](#) of **November 3th**, **CESR** has published its [Work Programme](#) for 2010 alongside with the [Work Programme of the 3L3 Committees](#), CESR, the Committee of European Banking Supervisors (CEBS) and the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS).

Half-Yearly report

In a [press release](#) of **November 18th**, **CESR** has published its Half-Yearly [Report](#) for 2009. The interim report for 2009 complements CESR's Annual Report for 2008, published in August 2008, and provides a half-yearly update on the activities of CESR to the European Commission, Parliament and the European Securities Committee. The report covers the period from January to June 2009.

Comité Européen des Assurances (CEA)

European savings directive

On October 30th, CEA has published [comments](#) on the current state of play of the EUSD Review.

European Central bank (ECB)

Eurosystem oversight report 2009

In a [press release](#) of **November 12th**, **the ECB** has published its first [Eurosystem Oversight Report](#). The report describes the performance of the Eurosystem's oversight function in 2008, as well as the most relevant developments in 2009. The report provides an overview of the Eurosystem's oversight function, focusing on the institutional framework, the main Eurosystem oversight standards and requirements, and the practical arrangements for conducting system oversight and cooperation.

Financial Stability Board (FSB)

Guidance to assess systemic risks

On October 28th, the FSB has published, together with the International Monetary Fund (IMF) and the bank for International settlements (BIS), some [initial considerations](#) and a [background paper](#) on guidance to assess the systemic importance of financial institutions, markets and instruments.

Financial crisis and information gaps

On October 29th, the FSB has published, together with the International Monetary Fund (IMF), a [report](#) on the financial crisis and information gaps.

Progress report and exit from extraordinary financial sector support measures

On November 7th, the FSB has published a progress [report](#) to the G20 Finance Ministers and Governors. The report describes the measures that have been taken and other progress made since the Pittsburgh Summit to implement the recommendations made by the G20 and the FSB for strengthening financial stability. The FSB also published a [note](#) with respect to an exit from extraordinary financial sector support measures.

Banking, Finance and Insurance Commission (CBFA)

Remuneration policy

On November 26th, the CBFA has published a [circular](#) with respect to an appropriate remuneration policy for financial institutions.

Cross-border services

On November 18th, the CBFA has published a [note](#) with respect to information requirements for cross-border services provided by Investment firms and credit institutions.

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Credit institutions and investment firms

Consultative or informative documents

European Banking Federation (EBF)

Report on overcoming the crisis and moving beyond

In a [press release](#) of November 9th, the EBF announced the publication of its report called ["Overcoming the crisis and moving beyond"](#). This report is an update of the EBF report on Integration of European Financial Services Markets, launched in December 2007. It offers an

account of recent developments in the integration of European financial services markets in light of the difficulties faced by the banking industry as a consequence of the global financial crisis. It assesses the relevance of earlier objectives and identifies new challenges to be confronted by the industry and policy-makers.

Committee of European Banking Supervisors (CEBS)

Advice on the effectiveness of a minimum retention requirement for securitizations

In a [press release](#) of November 3rd, the CEBS announced the publication of its [advice](#) on the effectiveness of a minimum retention requirement for securitizations. This advice follows the amendments to the Capital Requirements Directive (CRD).

Work programme 2010

In a [press release](#) of November 3rd the Committee of European Banking Supervisors (CEBS) published its work programme for 2010. CESR, CEBS and CEIOPS also published their 3L3 work programme for 2010.

European Commission (EC)

Common Principles for Bank Account Switching

From 1 November 2009 consumers in the European Union should find it easier to switch their current account from one bank to another within their own Member State. This is thanks to a set of 'Common Principles for Bank Account Switching' which was adopted by the European Banking Industry Committee (EBIC) ([IP/08/1841](#)) last year and have now been implemented in the Member states by the national banking associations. From now on, whenever consumers wish to switch their current account to another bank, the new bank will offer its assistance throughout the switching process

Single Euro Payments Area (SEPA)

From 2 November, banks will start to offer customers the possibility to make regular payments using the new SEPA Direct Debit scheme. This means that, for the first time, consumers and businesses will be able to make direct debit transactions between different countries in the euro area [background](#) [Press release EC](#) and [FAC](#)

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Investment products and asset management

Consultative or informative documents

Committee of European Securities Regulators (CESR)

MiFID complex and non-complex financial instruments

In a [press release](#) of **November 3th**, **CESR** has published a [feedback statement](#) and [Questions and Answers](#) to respond to comments made and points raised in response to its consultation on MiFID complex and non-complex financial instruments for the purposes of the Directive's appropriateness requirements (Ref. CESR/09-295).

Trade repositories

In a [press release](#) of **November 20th**, **CESR** has published the [responses](#) received to its consultation on trade repositories in the European Union.

European Fund and Asset Management Association (EFAMA)

European Investment Fund

On the 17th November 2009 EFAMA published its [September Monthly Industry Fact Sheet](#). Read the related press release entitled [Positive Inflow Trend Continues for European Investment Funds: €149 billion Net Inflows to September](#).

Statement of Objections to Standard & Poors

On the 19th November 2009 EFAMA welcomed European Commission's Statement of Objections to Standard & Poors in a [press release](#).

The International Organization of Securities Commissions (IOSCO)

Private equity conflicts of interest

In a [press release](#) of **November 3th**, **IOSCO** has published a [consultation Report](#) on *Private Equity Conflicts of Interest*. The Report proposes a number of Principles for the effective mitigation of the potential conflicts of interest encountered in private equity firms, and the risks these conflicts pose to fund investors or the efficient functioning of the market.

Principles on point of sale disclosure

In a [press release](#) of **November 16th**, **IOSCO** has published a [consultation report](#) on *Principles on Point of Sale Disclosure*. The Report proposes a set of principles, for the disclosure of key information relating to collective investment schemes, designed to assist markets and market authorities when considering point of sale disclosure requirements in their respective jurisdictions.

Bank for International Settlement (BIS)

OTC derivatives market activity in the first half of 2009

In a [press release](#) of November 12th, the BIS announced the publication of its [report](#) on OTC derivatives market activity in the first half of 2009.

Comité Européen des Assurances (CEA)

Alternative investment fund managers directive

On November 6th, CEA has published a [position paper](#) on the alternative investment fund manager's directive.

Consumer rights

On November 18th, CEA has published a [position paper](#) on the proposal for a Directive on consumer rights.

Packaged Retail Investment Products

On November 20th, CEA has published [preliminary comments](#) on European Commission's issues paper on Packaged Retail Investment Products (PRIP).

European Securities Markets Expert Group (ESME)

Transparency of holdings of cash settled derivatives

On November 18th, The Commission services publish ESME views on the issue of transparency of holdings of cash settled derivatives [memo ESME](#). Transparency Directive (TD) seeks to provide a framework for "the disclosure of accurate, comprehensive and timely information about security issuers in order to build sustained investor confidence and allow for an informed assessment of their business performance and assets. The memo produced by the ESME addresses the part of the TD that deals with the issue of ongoing information and particularly the information about major holdings.

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Insurance, reinsurance and pensions

Normative documents

Comity of European Insurance and Occupational Pensions supervisors (CEIOPS)

Budapest Protocol

In a [press release](#) of November 6th, CEIOPS has published the revised texts of the [Budapest Protocol](#). The revised Protocol came into force as of 30 October 2009, following a two month public consultation.

Banking, Finance and Insurance Commission (CBFA)

Role and mandate of the actuarial function

The circular [↗ CBFA_2009_33](#) dd. 19 November 2009 describes the role and mandate of the actuarial function within the insurance and reinsurance companies and replaces Article 40bis of the Act of July 9, 1975.

Consultative or informative documents

Comité Européen des Assurances (CEA)

Block exemption regulation (BER)

On November 30th, CEA has published a [↗ position paper](#) on the revised draft Block Exemption Regulation (BER). CEA strongly opposes the Commission's proposal not to renew the sections of the BER covering standard policy conditions (SPCs) and cooperation on the establishment, recognition and distribution of technical specifications concerning security devices, as it considers these categories of cooperation to be of high importance and specific to the insurance industry.

Comity of European Insurance and Occupational Pensions supervisors (CEIOPS)

Solvency II level 2 implementing measures

On November 2th, CEIOPS has published for consultation its 3rd set of [↗ Advice](#) on Solvency II - Level 2 Implementing measures. A [↗ cover note](#) to the Consultation Papers offers additional information on the topics consulted upon and the timing of the consultation.

Work programme 2010

On **November 3th**, **CEIOPS** has published its [↗ Work Programme](#) for 2010 alongside with the [↗ Work Programme of the 3L3 Committees](#), CESR, the Committee of European Banking Supervisors (CEBS) and the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS).

2009 market development report

In a [↗ press release](#) of November 6th, CEIOPS has published its 2009 Market Development [↗ Report](#) for Occupational Pensions.

Self-assessment

In a [↗ press release](#) of November 9th, CEIOPS has published today the [↗ summary reports of its first three self-assessment exercises](#) offering pure factual information on the results of the self-assessment by CEIOPS Members and Observers.

Solvency II level 2 implementing measures

In a [↗ press release](#) of November 10th, CEIOPS has published its final [↗ advice](#) on the vast majority of Solvency II Level 2 Implementing Measures together with a [↗ cover letter](#) and a [↗ feedback statement](#).

Risk management for institutions for occupational retirement provision

On November 10th, CEIOPS has published its [Report](#) on Risk Management rules applicable to IORPs in the context of the IORP Directive (2003/41/EC). The report captures general trends and practices among EU Member States, relevant to risk management in IORPs, as well as exploring, as a matter of mutual and general interest, any national legislative provisions that go beyond the requirements of the IORP Directive.

The valuation of technical provision

In a [press release](#) of November 12th, CEIOPS published a [report](#) on the use of insurance market data in the valuation of technical provisions. The market-consistent valuation of technical provisions envisaged under Solvency II will require insurers to consider the full range of possible outcomes of future cash flows arising from their insurance obligations in order to determine their expected present value (the 'best estimate') as well as the corresponding risk margin.

Solvency II level 2 implementing measures

On November 30th, CEIOPS has published a [consultation paper](#) that provides draft advice on the Level 2 implementing measures referred to in Articles 172 (reinsurance supervision - Chapter I), 227 (group solvency calculations - Chapter II) and 260 (group supervision - Chapter III) of the Solvency II Directive.

International Association of Insurance Supervisors (IAIS)

Systemic Risk

On November 10th, the IAIS has published a [note](#) on systemic risk. The purpose the note is to identify challenges which insurance regulators face, by providing further input to the FSB on the issues of systemic risk and the insurance sector. For traditional insurers, the time horizon is a key dimension of potential systemic risk. Recent experience has demonstrated unequivocally that non-regulated entities are a key issue of concern. As insurance has a distinct business model, there is likely to be different solutions for insurers.

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We are always interested in your feedback. Please let us know what you think of this newsletter and send your comments to [Regulatory Radar](#).

Belgium

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