



PARLAMENTO EUROPEO EVROPSKÝ PARLAMENT EUROPA-PARLAMENTET
EUROPÄISCHES PARLAMENT EUROOPA PARLAMENT EΥΡΩΠΑΪΚΟ ΚΟΙΝΟΒΟΥΛΙΟ EUROPEAN PARLIAMENT
PARLEMENT EUROPÉEN PARLAMENTO EUROPEO EIROPAS PARLaments
EUROPOS PARLAMENTAS EURÓPAI PARLAMENT IL-PARLAMENT EWROPEW EUROPEES PARLEMENT
PARLAMENT EUROPEJSKI PARLAMENTO EUROPEU EURÓPSKY PARLAMENT
EVROPSKI PARLAMENT EUROOPAN PARLAMENTTI EUROPAPARLAMENTET

**DIRECTORATE-GENERAL INTERNAL POLICIES OF THE UNION
- DIRECTORATE A -
ECONOMIC AND SCIENTIFIC POLICIES**

Workshop

A critical analysis of the workings of the Lamfalussy procedure

Session 1: Community Lawmaking Process

Session 2: Challenges of Recent Experience

**30 January 2008
09.00-12.30hrs
ASP 5 G 3**

Only published in English.

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The opinions expressed in this document do not necessarily represent the official position of the European Parliament.

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**DIRECTORATE-GENERAL INTERNAL POLICIES OF THE UNION
- DIRECTORATE A -
ECONOMIC AND SCIENTIFIC POLICIES**

Workshop: Bilan critique de la mise en œuvre de la procédure Lamfalussy

30 January 2008

European Parliament, Brussels, Room: ASP5G3, 9h00-12h30
(English language only)

09.00-09.05 Introduction by Pervenche Berès, ECON Chair

09.05-10.45 Session I

Community Lawmaking Process: Practical experience using the Lamfalussy Procedure.

- Interaction between Level 1 and Level 2 of the Lamfalussy framework (i.e. drawing a line between basic political principles and technical details)
- Level 1 and Level 2: Are there any issues with drafting simultaneous legislation on two levels (e.g. Solvency II)
- Transposition: Is there a difference between the transposition of non-Lamfalussy directives and Lamfalussy directives? What is the margin of manoeuvre for national legislators? Are deadlines realistic?
- Transposition of Conglomerate, Prospectus, Transparency and Market Abuse directives; review of the prospectus directive
- Efficiency: Is the Lamfalussy Procedure efficient in avoiding gold plating?
- Cost of Compliance (accountability)

Guest speakers:

1. Ms. Sonja Lohse, Head of Group Compliance, Nordea Bank AB, Helsinki
2. Ms. Alejandra Kindelán, Grupo Santander, Madrid
3. Mr. Jean Luc Perron, Crédit Agricole, Paris
4. Mr. Thierry Francq, Chef du Service du financement de l'économie à la Direction générale du Trésor et de la politique économique, Paris
5. Mr. David Wright, Deputy Director General, DG Markt, European Commission

10.45-12.30 Session II
Challenges of recent experience and proposals to improve regulatory convergence.

- Interaction between Level 2 and the Level 3 of the Lamfalussy process
- How to further progress towards regulatory convergence and cooperation between supervisors
- Conclusions on the review of the Lamfalussy process, with special focus on the following issues:
 - political accountability of the Level 3 Committees and their independence
 - requirement to cooperate among EU national supervisors
 - legal status of the Level 3 Committees and their decision making processes
 - resources and budget of the Level 3 Committees
 - strengthening application of the national guidelines of Level 3 Committees

Guest speakers:

1. Prof. Eddy Wymeersch, Chairman of CESR, Paris and Chairman of the Banking and Finance Commission (Belgium), Professor of Commercial Law, University of Ghent
2. Dr. Thomas Steffen, Chairman of, Frankfurt, CEIOPS and Chief Executive Director of Insurance Supervision Mandates, BaFin, Bonn
3. Ms. Kerstin af Jochnick, Chairwoman of CEBS, London, Director at the Swedish Financial Supervisory Authority (Finansinspektionen), Stockholm
4. Insurance Supervisor Poland
5. Mr. Fernando Vargas, Associate Director General of Banking Supervision, Banco de España, Madrid

Curricula Vitae

Sonja Lohse

Sonja is presently Head of Group Compliance in Nordea Bank.

After finishing her law studies at the university of Helsinki in 1980 she started her banking career.

She has held numerous positions within Nordea Group and was 2000 appointed Head of Group Compliance with the assignment to build up the compliance function in Nordea. Since 2003 Nordea's Corporate Social Responsibility issues have as well has been part of her responsibilities. Since 1999 she has been involved in many European working and expert groups appointed by the EU Commission or European FSAs and she is currently a member of CESR's MiFID Level 3 Expert Group and chairman of the EBF Financial Markets Committee. Sonja is married and has two sons and a daughter.

Alejandra Kindelán

Since 2001, Alejandra Kindelán has been Director of Economic Research and Public Policy at Santander.

Her responsibilities include:

- Coordinating the Group's position in regulatory and non-regulatory issues (public policy).
- Drafting top management speeches (chairman and vice-chairmen), articles and presentations on the Group's strategy and economic and financial issues.
- Providing macroeconomic analysis, interest rate and exchange rate forecasts for Spain, Eurozone and Latin American countries to the Group's Financial Division and all other support and business areas.
- Representing the Bank in national and international forums such as the European Banking Federation, the IIF or CEPR, as well as Spanish economic research institutes.
- Interviews (TV, radio, print media) and press articles about economic issues.
- Currently she is also in charge of supervising the internal communications function at Group level.

Since 2005 she is chair of the European Banking Federation's Economic and Monetary Affairs Committee.

Ms Kindelán joined the Santander's Research Department in 1994 where she was in charge of the international economy.

Prior to that Ms. Kindelán worked at the World Bank in drafting the Policy Research Department's Report on Pensions Reform.

She has a double degree in Economics and Political Science (*summa cum laude*) from Wellesley College (Wellesley, Massachusetts) and has completed post graduate programmes in IESE Madrid and Insead Fontainebleau.

Thierry Francq

Chef du Service du financement de l'économie à la Direction générale du Trésor et de la politique économique (ministère de l'Économie, des Finances et de l'Industrie) depuis mai 2004, en charge de la régulation du secteur financier, Thierry FRANCQ exerce au sein de la Direction du Trésor depuis 1992. Il a été sous-directeur du Service des participations de juin 2002 à mai 2004, sous-directeur en charge de la régulation des entreprises, des produits et des marchés d'assurances de mars 2000 à mai 2002, chef du Bureau en charge de la politique de la France vis-à-vis du Fond monétaire international (FMI) et du système financier international et de la préparation des sommets G7 de mars 1995 à mars 2000, et adjoint au chef du Bureau financement du logement de 1992 à 1995. Diplômé de l'École polytechnique et de l'École nationale de statistiques et d'administration économique (ENSAE), nommé en 1988 administrateur de l'INSEE, Thierry FRANCQ a débuté sa carrière au sein de la Direction de la Prévision (ministère de l'Économie, des Finances et de l'Industrie) comme adjoint au chef du Bureau extérieur puis opérations financières de 1988 à 1992.

David Wright

David Wright was born in England in 1951. After studying PPE at Oxford, he has been employed by the European Commission since 1977. His career within the Commission has included working in the Statistical Office (1977-1982), the Directorate General For Energy (1982-1987), the Directorate General for Industry and Internal Market Affairs (1987-1989), as Adviser in President Delors' Forward Studies Unit (1989-1992), as a Member of the Cabinet of Sir Leon Brittan Q.C., Commissioner responsible for External and Economic Affairs (1993-1995), as Adviser to Jacques Santer, President of the European Commission (1995-1999), as Director of Financial Services Policy and Financial Markets, and currently as Deputy Director General of DG Internal Market and Services.

Professor Eddy Wymeersch

Eddy Wymeersch is CESR's Chairman and Chairman of the Belgian Commission Bancaire, Financière et des Assurances (CBFA). He has been the Chairman of the Belgian Banking, Finance and Insurance Commission (CBFA) since 2001. Before joining the CBFA, Mr Wymeersch was a regent of the national bank of Belgium from 1992, and also a member of the legislative branch of the Council of State. Between 1990 and 2001, he was a member of the board of several Belgian companies, and from 1998 the Chairman of the Brussels airport. Mr Wymeersch has been an academic at the Ghent Law School, and has participated in several committees advising the Belgian government. In addition, he has acted as an adviser to the European Commission, a consultant to the World Bank and IFC and an advisor to several European Financial institutions and stock exchanges. He studied law at Ghent University and Harvard Law School.

Dr. Thomas Steffen

Thomas Steffen was appointed BaFin's (Germany's Federal Financial Supervisory Authority) Chief Executive Director of insurance and pension funds supervision in October 2002. At the same time he joined the Conference of European Insurance and Occupational Pensions Supervisors (CEIOPS) becoming vice chair in 2004 and chairman of CEIOPS in 2007. Since 2003 he is also chair of the IAIS Budget Committee and member of the IAIS Executive Committee.

Until 2002 Thomas was head of section in the Federal Ministry of Finance in Berlin where he was responsible for the Government's Export Credit Insurance and state guarantees in the federal budget.

From 1995 on he had been working in various financial policies related areas of the Federal Ministry of Finance also including a two year secondment to the German Federal Parliament. Thomas Steffen started his professional career in 1990 when he joined the Federal Ministry of Economics where he worked in the industrial policy and the European department including a one year secondment to the Federal Trust Agency for the privatisation of holdings and assets in Eastern Germany after Germany's reunification and a one year stage in a regional Ministry of Finance as head of section in the assets department.

Thomas Steffen has a degree in law and political science. From 1989 to 1991 he did his doctorate in comparative law at the University of Mainz followed by studies at the London School of Economics and Political Science in London.

Kerstin AF Jochnick

Kerstin af Jochnick, Director of Prudential Supervision at the Swedish Financial Supervisory Authority (Finansinspektionen) has been elected Chair of the Committee of European Banking Supervisors (CEBS) as of January 2008. Mrs. af Jochnick has held the senior position as Director of Prudential Supervision at Finansinspektionen since 1995. Mrs. af Jochnick has broad international experience in banking supervision. She is currently a member of the Basel Committee on Banking Supervision. She served as CEBS Bureau member and also as Chair of the Expert Group of Capital Requirements (EGCR).

Artur Krzysztof Kluczny

(Born 1964), graduated from German Philology at Jagiellonian University in Krakow (1993), as well as Economy and Finance at *National Graduate Institute for Policy Studies* in Tokyo (2003). He also accomplished two-year postgraduate studies in law, economics and administration at National School of Public Administration in Warsaw (KSAP, 1998), postgraduate studies in banking at Warsaw School of Economics (SGH, 1999) and PhD studies in economic science at Warsaw School of Economics, College of Finance and Management (2006).

In the years of 1998-2000 he worked in the Ministry of Treasure, where he dealt with corporate governance issues, managed privatization projects and performed transactions on capital market. Afterwards, he was employed in the Prime Minister's Chancellery at the post of Department's Deputy Director (2000-2002) and in the Warsaw's City Hall at the post of Head of Privatization Unit (2004-2005).

Mr. Kluczny also worked as the Director of Prime Minister's Secretariat. He was a member of supervisory boards of capital companies with State-owned shares. He is a member of the Council for Financial Market Development, established by the Minister of Finance. Mr. Kluczny's main areas of professional interests are the development of financial markets and corporate governance. He is also interested in political and economic transformation. Presently he works on his PhD thesis at Warsaw School of Economics (SGH), devoted to corporate governance. Since 1 October 2007 Mr. Kluczny holds the post of Deputy Chairman of the Polish Financial Supervision Authority (Komisja Nadzoru Finansowego, KNF). Within the Authority, he oversees the works of Capital Market Supervision and Financial Market Development and Cross-Sector Policy (two of seven main pillars of the Authority).

Artur Krzysztof Kluczny

(Born 1964), graduated from German Philology at Jagiellonian University in Krakow (1993), as well as Economy and Finance at *National Graduate Institute for Policy Studies* in Tokyo (2003). He also accomplished two-year postgraduate studies in law, economics and administration at National School of Public Administration in Warsaw (KSAP, 1998), postgraduate studies in banking at Warsaw School of Economics (SGH, 1999) and PhD studies in economic science at Warsaw School of Economics, College of Finance and Management (2006). In the years of 1998-2000 he worked in the Ministry of Treasure, where he dealt with corporate governance issues, managed privatization projects and performed transactions on capital market. Afterwards, he was employed in the Prime Minister's Chancellery at the post of Department's Deputy Director (2000-2002) and in the Warsaw's City Hall at the post of Head of Privatization Unit (2004-2005). Mr. Kluczny also worked as the Director of Prime Minister's Secretariat. He was a member of supervisory boards of capital companies with State-owned shares. He is a member of the Council for Financial Market Development, established by the Minister of Finance. Mr. Kluczny's main areas of professional interests are the development of financial markets and corporate governance. He is also interested in political and economic transformation. Presently he works on his PhD thesis at Warsaw School of Economics (SGH), devoted to corporate governance. Since 1 October 2007 Mr. Kluczny holds the post of Deputy Chairman of the Polish Financial Supervision Authority (Komisja Nadzoru Finansowego, KNF). Within the Authority, he oversees the works of Capital Market Supervision and Financial Market Development and Cross-Sector Policy (two of seven main pillars of the Authority).

Fernando Vargas

He graduated in economics from the Complutense University of Madrid in 1978. He joined the Banco de España in 1980. From 1995 to 2006 he was Director of the Financial Institutions Department of the Banco de España. Since 2006 he is Associate Director General of Banking Supervision. Among other duties, he is in charge of the assessment and support of the supervisory policy design, both in the national and international spheres, and of the co-ordination of Banco de España's international activity related to supervision and regulation.

He has participated in numerous international working groups and Committees of the European Commission, the Council of the European Union, the European Central Bank, the Basel Committee on Banking Supervision, the OECD and other international fora. He chaired the working group on the internal control of banks of the Banking Supervision Subcommittee of the European Monetary institute, and the Groupe de Contact of European Union banking supervisors from 2000 to 2002. He currently represents the Banco de España in the CEBS, the Basel Committee on Banking Supervision (BCBS) and the Accord Implementation Group (AIG).

Slides
Session I - Community Lawmaking
Process

**Presentation by
Sonja Lohse
Head of Group Compliance, Nordea Bank AB, Helsinki**



Is the Lamfalussy process working?

30th January 2008
ECON meeting in Brussels
Sonja Lohse
Head of Group Compliance
Nordea Bank AB (publ)



Objectives, for a global market player

- ✓ A common supervisory culture
- ✓ Global competitiveness
- ✓ Evidence based - not too detailed, legislation
- ✓ Swift and coherent implementation and enforcement
- ✓ Well aligned directives to avoid overlapping

Comments on current situation

- The process has given stakeholders greater opportunities to negotiate at Levels 1 - 3
- The distinction between the four Levels needs, however, to be improved and the mandates for Level 2 more precise and lean
- The cooperation between and within the Level 3 committees needs to improve
- The deadlines for implementation need to be more realistic and appropriate and the enforcement much more effective
- A "comply or explain" mechanism needs to be introduced to avoid gold plating
- A "fast-track" solution needs to be considered to remedy bad legislation

3 January, 2008

Is the Lamfalussy process working?

Compliance costs?

- The consultation process is good, but costly
- New control and monitoring requirements, add on operating costs
- The level of details add on complexity and indicates sometimes that quantity is put ahead of quality
- Overlapping directives add on compliance costs
- Compliance costs in the future depend on whether Europe is over-regulating e.g. a further integration of retail financial markets through more legislation needs to balance cost/benefit wise

4 January, 2008

Is the Lamfalussy process working?

Nordea today in brief

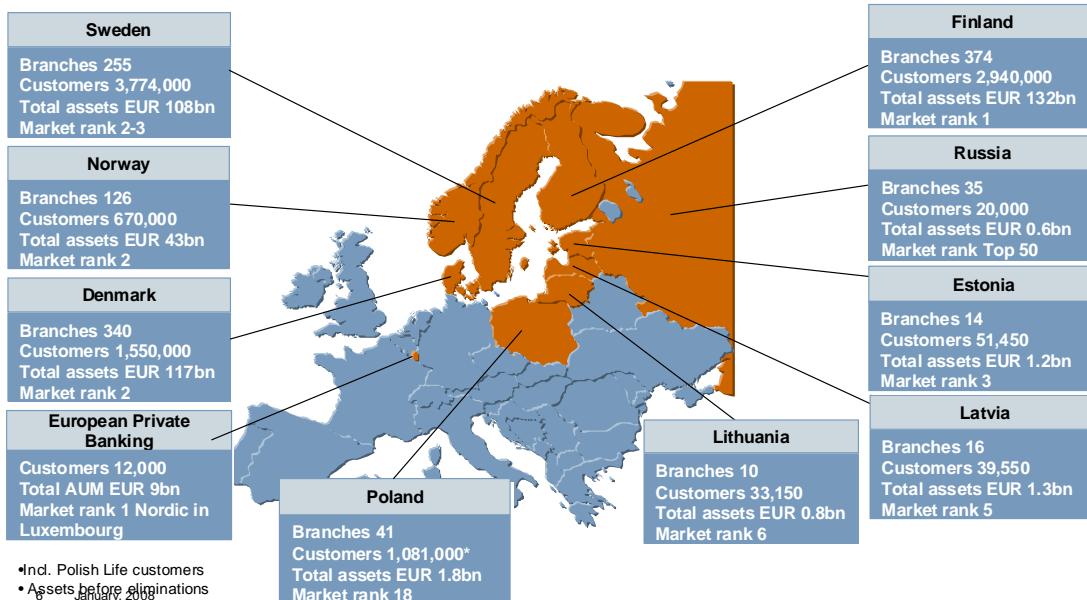
- Nordea is the leading financial services group in the Nordic and Baltic Sea region
- Almost 10 millions customers whereof 4.8 million are also e-customers
- Operating through two customer areas: Nordic Banking and Institutional and International Banking
- Number one or number two position in most Nordic markets
- 1,200 bank branches and sales points – 31,300 employees (FTEs)
- EUR 387bn assets, EUR 165bn AuM and approx. EUR 31bn market cap
- Share listed in Stockholm, Helsinki and Copenhagen



5 January, 2008

Is the Lamfalussy process working?

Nordea - the Leading Bank in the Baltic Sea region

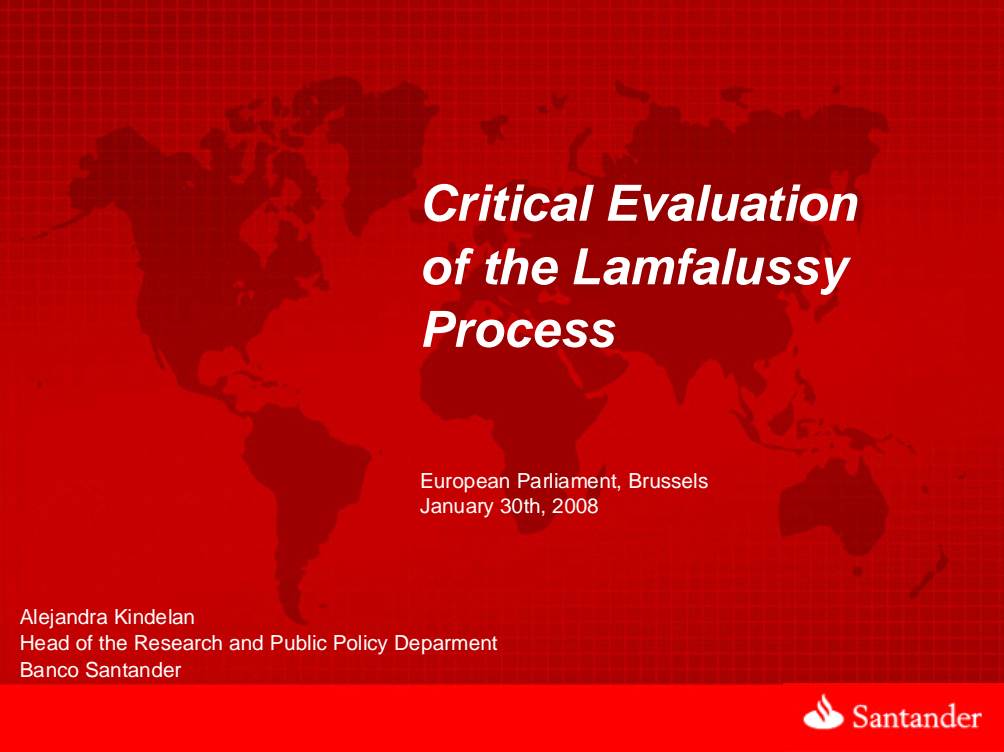


***For more information, please
don't hesitate to be in contact.***

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**Presentation by
Alejandra Kindelàn
Grupo Santander, Madrid**



**Critical Evaluation
of the Lamfalussy
Process**

European Parliament, Brussels
January 30th, 2008

Alejandra Kindelan
Head of the Research and Public Policy Department
Banco Santander



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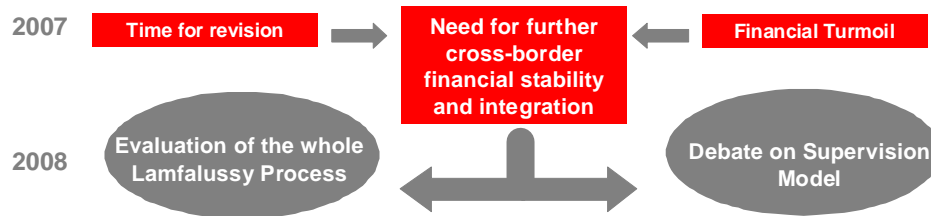


- 01. The Lamfalussy Process Today
- 02. Santander's experience
- 03. Conclusion



01. THE LAMFALUSSY PROCESS TODAY (1)

3



Fear of "Balcanization of regulation"
Malcolm Knight, chief executive BIS



02. SANTANDER'S EXPERIENCE (1)

4

"Four level system to adopt and implement, in a fast, efficient and flexible manner, regulation for European Financial Markets"

PROS

- ✓ Time-effective
- ✓ Industry participation
- ✓ Facilitates agreements in complex issues
- ✓ Standardization process and method

CONS

- ✗ Complexity
- ✗ Sometimes limited by political will
- ✗ Lack of experience (young)

Auto-regulation



02. SANTANDER'S EXPERIENCE (1)

5

Level 1



Codecision Procedure (art. 251 EC Treaty)

European Commission - European Parliament - Council of EU

Strengths:

- ✓ Principles' approach facilitates political agreements
- ✓ Simultaneous drafting of L1 & L2 (e.g. Solvency II)

1. MiFID
2. Market Abuse Directive
3. Prospectuses Directive
4. Transparency Directive

Points for improvement:

- ✗ Definition of its purpose: Full vs. partial harmonization
- ✗ Realistic timing



02. SANTANDER'S EXPERIENCE (3)

6

Level 2



Good "on paper"

Room for improvement:

- ✗ Level of detail: too much left to 3L3 Committees
- ✗ Not enough industry input
- ✗ Unrealistic timing



02. SANTANDER'S EXPERIENCE (5)

7

Level 4



State of play of
Lamfalussy



Room for improvement:

- X Volume of legislation: National & EU (Lamfalussy and non-Lamfalussy)?
 - Lack of coordination between initiatives
 - Not all countries have the infrastructure: Tight deadlines
- X No enforcement for timely and right transposition
- X Incorrect or late transpositions creates uncertainty
- X Gold-plating reduces convergence



8

Lamfalussy League Table as at 09.01.2008

Lamfalussy League Table			Transposition of Lamfalussy Directives - State of play as at 09/01/2008																										
CP: partially notified to the Commission		NC: no notification received by the Commission		EX: notification received and under examination by the Commission													OK: notification received and checked by the Commission												
Directive	Number	Transposition deadline	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HU	IT	LT	LU	LV	MT	NL	PL	PT	RO	SE	SI	SK	UK	
Directive on market abuse (MAD)	Directive 2003/6/EC	12/10/04	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK
MAD implementing Directive 2003/124	Directive 2003/124/EC	12/10/04	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK
MAD implementing Directive 2003/125	Directive 2003/125/EC	12/10/04	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK
MAD implementing Directive 2004/72	Directive 2004/72/EC	12/10/04	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK
Directive on prospectuses	Directive 2003/71/EC	1/07/05	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK
Directive on Markets in Financial Instruments (MiFID)	Directive 2004/39/EC	31/01/07	OK	OK	OK	OK	NC	OK	OK	EX	OK	EX	OK	OK	EX	OK	OK	OK	OK	EX	OK	EX	NC	OK	OK	OK	EX	OK	OK
MiFID implementing Directive 2006/73	Directive 2006/73/EC	31/01/07	OK	EX	OK	EX	NC	EX	EX	OK	EX	EX	CP	EX	EX	EX	EX	EX	EX	EX	OK	EX	NC	OK	OK	OK	NC	OK	OK
Transparency Directive (TD)	Directive 2004/109/EC	20/01/07	OK	CP	OK	NC	NC	OK	OK	OK	OK	OK	OK	OK	NC	OK	OK	NC	OK	OK	NC	NC	OK	OK	OK	OK	OK	OK	OK
TD implementing Directive 2007/14	Directive 2007/14/EC	8/03/08	NC	CP	NC	NC	NC	NC	EX	CP	NC	EX	OK	EX	NC	NC	NC	NC	NC	NC	NC	NC	EX	NC	EX	NC	CP	EX	EX

*1) The Commission can always initiate infringement proceedings under Article 226 of the Treaty on the basis of non-compliance of national implementing measures or incorrect application of Directives



02. SANTANDER'S EXPERIENCE (5)

9

Level 4



Room for improvement:

- X Volume of legislation: National & EU (Lamfalussy and non-Lamfalussy)?
 - Lack of coordination between initiatives
 - Not all countries have the infrastructure: Tight deadlines
- X No enforcement for timely and right transposition
- X Incorrect or late transpositions creates uncertainty
- X Gold-plating reduces convergence



03. CONCLUSION

10

The overall experience has been POSITIVE →

More time to the Lamfalussy Process & Measures to improve it

Package of recommendations
(ECOFIN, 4th
December 2007)



- More involvement of industry in L2
- Enforcement of adequate transposition
- Creation of follow-up groups to assure transposition and implementation
- Elimination of gold-plating

Santander supports a further development of the current model while applying measures to overcome the weaknesses detected





Dow Jones
Sustainability Indexes



Session II - Challenges of Recent Experience


**Presentation by
Prof. Eddy Wymeersch
Chairman of CESR, Paris and Chairman of the Banking and Finance
Commission (Belgium), Professor of Commercial Law, University of Ghent**

 **Committee of European Securities Regulators**

**European Parliament
The review of the Lamfalussy
Process**

**Eddy Wymeersch
CESR
Brussels 30 January 2008**

1

 **Selected Topics**

- QMV
- EU Mandate
- Independence and Accountability
- Equivalence of Powers
- Financing
- Common Supervisory Culture

2



QMV

- Charter allows for QMV in specific cases
 - Advice to Commission on L. 2 measures
- **Consensus** is all members agreeing except one or two
 - ⇒ Charter amendment is being investigated

3



Legal standing and EU Mandate

- Legal Status - or Legal standing?
 - Committees established by Commission decision
 - Few if any references in directives
 - Legal existence in national law: Fr. association
 - Recognise Committees' work in Directives
- Commission invited to clarify the role of the L3 committees
 - Explicit reference in directives is minimum

4




EU Mandate

- At present: committees composed of members rooted in national law
- Accountability to national authorities
- Potential conflicts with national mandate

5



EU Mandate: Proposal

- Adopt the national law so as to make explicit reference to European tasks and duties
- Existing cooperation duty in the directives = to be extended to the obligation to converge
- Mentioned in the Financial Stability work
-  Is being investigated

6



Independence and Accountability

- Independence v.a.v whom?
 - From national political interest
 - From the supervised entities
 - Generally accepted but can be strengthened
 - International standards require it
 - Commission consultation under way

7



Accountability

Consequence of independence

- National accountability: to be strengthened - made explicit
- European Accountability:
 - to EP and FSC/EFC;
 - Commission is partner in Committee's work

8



European Accountability

- To be organised and formalised
 - Transparency of Committee's work
 - Synchronised work programme:
 - 2-yearly draft programme proposed by Committees to the three institutions for comments and views on priorities

9



Equivalence of Powers

- Finding: wide variety and some lacunae
- May prevent efficient cooperation
- Some directives have minimum list: MAD
- To be harmonised horizontally and vertically
- Sanctioning: some supervisors can, others not
- Judicial enforcement is slow and inefficient
- Enforcement will become increasingly important esp. in market supervision

10



Financing

- Common projects increasingly voluminous
 - Transaction Reporting Mechanism: hub and spoke
 - Databases as information tool for markets
 - Financed out of CESR's reserves
 - To be financed out of EU Budget

- No general financing: threat to Independence

11



Financing

- Willingness of the Commission
- Technical-budgetary questions
- Examples: TREM, Training, IT, etc.
- Wide Support from the institutions
- Subject to cost-benefit analysis

12




Common 3 L 3 supervisory culture

- Increasing number of integrated supervisors
- Common philosophy and Psychology to be developed
- Supervisory community with common values, objectives, concepts, methods and numerous personal contacts

13



Common supervisory culture

- Increasing number of contacts within committee working groups
- Better understanding of laws and regulations of colleagues
-  Training on common subjects:
 - Initiative is under way
 - Financing by the Commission

14



Common supervisory culture

- Staff exchanges
 - Desirable
 - Technical questions to be solved:
 - Eg. Taxes, social security
 - Remuneration
 - Etc.

15



Conclusion

- Evolution, no revolution
- Significant improvements will and can be achieved
-
- Large community of views
 - Among the European Institutions
 - With IIMG
 - Among the Committees

16

**Presentation by
Dr. Thomas Steffen
Chairman of, Frankfurt, CEIOPS and Chief Executive Director of Insurance
Supervision Mandates, BaFin, Bonn**



**ECON Workshop
Evaluation of the Lamfalussy process
by the 3 Level 3 Committees and national supervisors**

CEIOPS comments to the Lamfalussy Review

*Thomas Steffen
Brussels, January 30 2008*

Contents

1. Progress to date and efforts under way
2. Building blocks for the Lamfalussy debate
3. CEIOPS as part of 3L3 developments
4. Conclusions

1.1. Work which has been done

Level 1: In its advice to the Commission on Solvency II:

- Particular attention for a consistent implementation of the future regime
- Fostering convergence in supervision through close working between supervisory authorities
- Paving the way for the successful deployment of Level 3 measures

The Occupational Pension Funds Directive is new and the level of harmonization is relatively limited

- ❑ Most of the work which has been done for Solvency II concerns the advice requested by the Commission and given on its own authority.
- ❑ In its Advice to the European Commission on Solvency II, CEIOPS has paid **particular attention**:

- to the objectives of consistent implementation of the future regime; and- fostering convergence in supervisory practices.

- ❑ Convergence was furthered also through the **intense and close working** between supervisory authorities in the context of preparing CEIOPS' advice. This has facilitated the exchange of ideas between members and has led to increasing levels of understanding of each other's regulatory approaches, frameworks and concerns.
- ❑ To summarise, the work leading to the adoption of the new prudential regime is itself already fostering a **joint understanding of the objectives**, concepts and tools. That will form the bedrock of supervision under the new regime, paving the way for the successful deployment of eventual level 3 measures.
- ❑ The legislative and supervisory position with **Occupational Pension Funds** is at a different stage from other EU financial services sectors. The Directive's level of harmonization is relatively limited. Future work has been indicated by the Commission and is planned by CEIOPS.

1.1. Work which has been done

- New supervisory networks in the revision of existing protocols on supervisory cooperation
- Training programme and exchange of staff
- EU crisis management initiatives

- ❑ Principally, CEIOPS has developed **new supervisory networks** in the revision of existing protocols on supervisory cooperation such as:
 - the supervision of occupational pension funds;
 - insurance intermediation; and
 - the exchange of information
- ❑ Managed by the Convergence Committee an ambitious CEIOPS **programme of training** for supervisors is under way, as is a joint 3L3 Training Programme.
- ❑ An ongoing area in which CEIOPS actively participates is **EU crisis management** initiatives. Recent events in financial markets have raised their profile. CEIOPS is pleased to have recently contributed to drafting for the extension of the EU MoU on Crisis Management to its sectors, to join leading crisis management exercises to help evolve a coordinated supervisory approach, and to analyse and report to EU political bodies on the effects of crises on both the insurance and occupational pensions sectors.

2. Building blocks of the Lamfalussy debate

CEIOPS

- National options and discretion on level 1
- Possible Level 4 measures
- Annual work programmes by 3L3
- National objectives and a possible European mandate

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Under a number of items frequently discussed, the position of CEIOPS is as follows:

- ❑ CEIOPS welcomes political initiatives aimed at helping the L3 Committees and encourages **renewed commitment** to the principle of cooperation at EU level and support for the EU convergence process.
- ❑ Related to this issue, CEIOPS believes that the incorporation of a **European political mandate** in the mission statements of national regulatory and supervisory authorities and/or the production of an annual Level 3 Committee work plan, would not solve pending problems without a corresponding **analysis of the obstacles** to the creation of the European mandate. It is important to discuss what the **main objectives** and mandates for supervisors on the European level should be.
- ❑ Clear attention should be given to **natural tensions** which might arise between national objectives and a possible European mandate, and to how those tensions could be settled to achieve clear priorities for European supervisors.

2. Building blocks of the Lamfalussy debate

CEIOPS

- No support for a European agency
- Need to clarify (and alleviate) legal and taxation implications
- Safeguard status and independence of the Committees
- Improved accountability of the 3L3 Committees
- Extension of the qualified majority voting
- Supplemented with “comply or explain”
- Use of impact analysis for all major EU projects
- External feedback from stakeholders

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- ❑ The L3 Committees are legal entities internationally recognised having specific tasks and responsibilities. In this context CEIOPS would **not support the concept of a traditional European “Agency”**. This would only further increase the complexity of the supervisory structure.
- ❑ There exists a need to clarify the **implications of certain legal and taxation requirements** with which the Level 3 Committees must comply within their home jurisdictions. In this regard, CEIOPS also recognises the need for strong links both with and between national authorities.
- ❑ Whilst consideration must be given to the funding of the Level 3 Committees, CEIOPS acknowledges that any proposals in this respect, must serve to safeguard the **status and operational independence** of the Committees.
- ❑ **Accountability** might be improved with more regular and formalized reporting of the activities of the 3L3 Committees to the European Parliament and Council.
- ❑ Whilst striving to reach consensus between the Members, CEIOPS supports proposals for extending **Qualified Majority Voting** to certain aspects of its future decision making mechanisms.
- ❑ Where it is obvious that consensus cannot be achieved, and / or is followed by non-compliance, then a clear **‘comply or explain’** approach should apply.
- ❑ As the imposition of legislation comes at a cost (and is not an end in itself), all major European projects should be accompanied by a sound **impact assessment**, to illustrate the macroeconomic and microeconomic effects and outcomes.

- ❑ **External feedback** from all the stakeholders is still very much welcome.

2. Building blocks of the Lamfalussy debate

CEIOPS

Convergence based on future group supervision

CEIOPS welcomes any clear legal basis on:

- harmonized European supervisory processes
- cooperation between supervisors
- responsibilities between home and host states

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- ❑ CEIOPS sees the future structure of group supervision for insurance as a separate building block, bearing in mind the extremely high expectations of pan European groups on a **lead supervisor concept**.
- ❑ Current proposals under the Solvency II draft Framework Directive will certainly have a **major impact** on financial sectors and the supervisory landscape in Europe.
- ❑ Given the political nature of the current Solvency II proposals, CEIOPS welcomes any **clear legal basis in the future Directive** on:
 - harmonized European supervisory processes;
 - cooperation between supervisors; and
 - responsibilities between home and host states.

3. CEIOPS as part of 3L3 developments

- Publication of the Draft 3L3 Medium Term Work Programme based on the Francq Report objectives:
 - Further development of supervisory co-operation and convergence
 - Enhancing the cost-efficiency of the EU system
 - Establishing a coordinated approach to cross-border supervision
- Impact of other aspects of the Lamfalussy process

- ❑ Considering the increasingly ambitious expectations from stakeholders, CEIOPS welcomed the publication for consultation last November of a **Draft 3L3 medium term work programme** with the other Level 3 Committees that will also further strengthen convergence and cooperation across financial sectors.
- ❑ These took into account **the Francq Report's objectives**, namely that the current challenges to improve supervisory arrangements in the EU include:
 - the further development of supervisory co-operation and convergence;
 - enhancing the cost-efficiency of the EU system; and
 - establishing a coordinated approach to cross-border supervision.
- The draft medium term work programme is being jointly finalised to reflect public comments, and particularly **EU political developments and Conclusions**, made during the consultation period
- It is important to stress that, while CEIOPS' comments are mainly concerned with its actions as a Level 3 Committee, other aspects of the Lamfalussy process influence the Committees' ability to perform satisfactorily, such as:
 - the current distance to a higher **level of harmonization of the EU regulatory framework**
 - the nature and **separation of legislative powers and technical expertise between level 2 and 3**
 - the lack of **prompt and penal enforcement actions** against breaches of Directives

4. Conclusions

- Belief in the Lamfalussy model
- Some modifications to the existing model are preferred
- Continuation of the debate

- ❑ CEIOPS has **belief** in the Lamfalussy model. The model's successes are generally considered by CEIOPS to have been close to the maximum realistically possible so far. The model's full potential has yet to be realized.
- ❑ CEIOPS is keenly aware of certain **areas open to improvement**. Together with the other L3 Committees it has debated the issue and offered certain conclusions. It therefore supports some modifications to the model, in preference to others and to a different model altogether.
- ❑ CEIOPS welcomes the continuation of **a wider debate** indicated by the EU political level, including by the Commission announced at CEIOPS' last Conference. CEIOPS is ready to try alternative approaches to its own procedures, both on its own initiative and where adopted at the political level.

Thank you.
Thomas Steffen

Presentation by

Kerstin af Jochnick

Chairwoman of CEBS, London, Director at the Swedish Financial Supervisory Authority (Finansinspektionen), Stockholm



**Assessment of
the Lamfalussy
architecture**

*Workshop on the Evaluation
of the Lamfalussy Procedure*

Kerstin af Jochnick | 30 January 2008

CEBS Committee of European
Banking Supervisors

What has CEBS already in place?

Regulatory field:

- ✓ Extensive consultation process and impact assessments
- ✓ Common guidelines, standards and recommendations
- ✓ Regulatory transparency through supervisory disclosure
- ✓ Query systems for common EU answers to operational questions

Brussels, 30 January 2008 | Kerstin af Jochnick

2

What has CEBS already in place?

Supervisory practices:

- ✓ Functioning of colleges
- ✓ Operational networking mechanisms
- ✓ Mediation, peer review and comply or explain
- ✓ Delegation of tasks
- ✓ Common training and staff exchanges

Brussels, 30 January 2008 | Kerstin af Jochnick

3

Pressure points

- Gap between policies and day-to-day practices
 - Complexities for cross-border groups
 - Different national traditions
 - Options, discretions and gold-plating on the national level
- *The Lamfalussy approach needs to be implemented nationally too!*
- *the banking directives need to be really Lamfalussy-compatible!*

Brussels, 30 January 2008 | Kerstin af Jochnick

4

The way forward

CEBS as a virtual organisation

- Better ex-ante definition of convergence targets
- Strengthening the colleges and operational networks
- New tools:
 - ❖ *Joint EU assessment teams in selected areas*
 - ❖ *Common EU expert teams to support line-side supervisors*
 - ❖ *Web-based Q&A systems to improve common approaches*
- Proposals for phasing out national discretions and options
- Own initiative advises
- Part of the decentralised but integrated L3 system

Brussels, 30 January 2008 | Kerstin af Jochnick

5

What comes in the future?

- **The Lamfalussy process is evolutionary**
 - ❖ *No specific end point*
 - ❖ *Ability to give EU responses when needed...*
 - ❖ *...and leave scope for national specificities*
- **A decentralized system of supervision is already there**
 - ❖ *Regulatory harmonisation*
 - ❖ *Common supervisory standards in the make*
 - ❖ *A common culture is evolving*
 - ❖ *Increased networking and interconnectivity*
- **Optimal balance through time**
- **Continuation of the dialogue and debate**

Brussels, 30 January 2008 | Kerstin af Jochnick

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CEBS Committee of European
Banking Supervisors

Position Paper of Komisja Nadzoru Finansowego

(Polish Financial Supervision Authority)

In the Polish Financial Supervision Authority's opinion the proper way to achieve supervisory convergence in Europe is to continue and deepen close cooperation and exchange of crucial information among supervisors (data sharing, common reporting formats and so on). Such an approach is consistent with *Council conclusions on the 2007 Lamfalussy review*. Therefore we support the Council's position accepted at the ECOFIN meeting on 4th December 2007. This document was a balanced compromise between European Commission's proposal and the Member States' doubts.

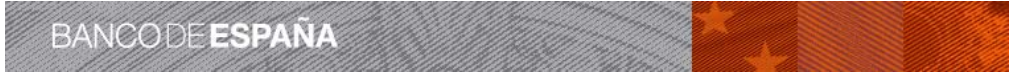
European Commission suggested (*Review of the Lamfalussy process. Strengthening supervisory convergence*) to extend the qualified majority voting to a number of situations in which presently decision-making by consensus takes place. It also suggested introducing legally binding character of such decisions. The PFSA is concerned that this would threaten the accountability of national supervisors.

The Council in its position underlines that enhancement of supervisory cooperation should be carried out "without unbalancing the current institutional structure or reducing the accountability of supervisors". Moreover the Council notices that "exploring the possibilities to strengthen the national application of the 3L3 Committees' guidelines, recommendations and standards" should be performed "without changing their legally non-binding nature".

The PFSA points to the necessity of providing consistency of supervisory procedures across borders, however the best measure to achieve it is the development of tools minimizing differences in supervisory cultures as well as the establishment of a set of common operational guidelines for the operation of colleges of supervisors.

It seems, however, that the proposals of the European Commission go in the other direction. This can be seen in the Draft Framework Insurance Directive (Solvency II). According to the Draft Directive, the final decision on appointing the group supervisor can be taken by CEIOPS and such a decision will be legally binding. One can ask whether, in principle, a solution that provides Level 3 Committees with legally binding powers is optimal. It could oblige the local supervisors to implement regulations that could affect significantly the markets under their supervision.

**Presentation by
Fernando Vargas
Associate Director General of Banking Supervision, Banco de España, Madrid**



**EUROPEAN PARLIAMENT WORKSHOP
ON THE LAMFALUSSY PROCEDURE**

Fernando Vargas

Brussels, 30 January 2008

DIRECCIÓN GENERAL ADJUNTA DE SUPERVISIÓN

**THE ROLE OF CEBS IN THE LAMFALUSSY
APPROACH**

▪ **CEBS: 4 years of experience**



-Need to look at the road ahead and the road behind

▪ **The main focus up to now: regulatory issues**

– Why? It was created in the midst of a regulatory spree

▪ **The main focus for next period: supervisory issues**

– Supervisory convergence

– Cooperation in the supervision of international groups

OUR EXPERIENCE



The work of CEBS has been very useful for us as a national regulator/supervisor

- Common work, not reinventing the wheel, sharing with and learning from others.
- **Almost unthinkable that a European supervisor these days would embark on major policy review without having considered what its colleagues are doing, or proposing a common initiative.**
 - We really do think from a European perspective in this respect.
- **CEBS' guidelines have been useful for our day-to-day work with supervised institutions.**

THE ROLE OF CEBS WITHIN THE CURRENT MODEL OF SUPERVISION



- **Serious worries about considering CEBS just as a Regulatory Committee.**
- **Industry concerns are focused on the supervision of cross-border groups.**
- **The decentralized model has not only flaws...but also advantages...**
- **So we, as supervisors, have to work within the model...but we should explore improvements.**
- **CEBS's response to them:**
 - SON - Colleges of supervisors
 - Economic Capital Models Project
 - Other networks

NEXT STEPS



- **We support the ECOFIN road map**
 - as we support CEBS' input which reflects most of our own views
- **Focus on results**
 - Not just implementation of guidelines (strong peer review, comply or explain, etc)
 - But also their impact on convergence – are they having the desired results?
 - And their design. Greater political input from the European institutions
- **Strengthen CEBS as an institution**
- **Improving the supervision of cross-border groups: colleges of supervisors, joint inspections, delegation.**

NEXT STEPS: Taking into account



- **CEBS (as an institution) and the supervisory authorities need time and support to reach its objectives:**
 - Convergence
 - Supervision of groups
- **We need to manage expectations**
- **We need to make sure that responsibilities are clear:**
 - Level 3 versus Level 1 and Level 2
 - Home supervisor versus host supervisor responsibilities



THANKS FOR YOUR ATTENTION

BANCODE **ESPAÑA**