

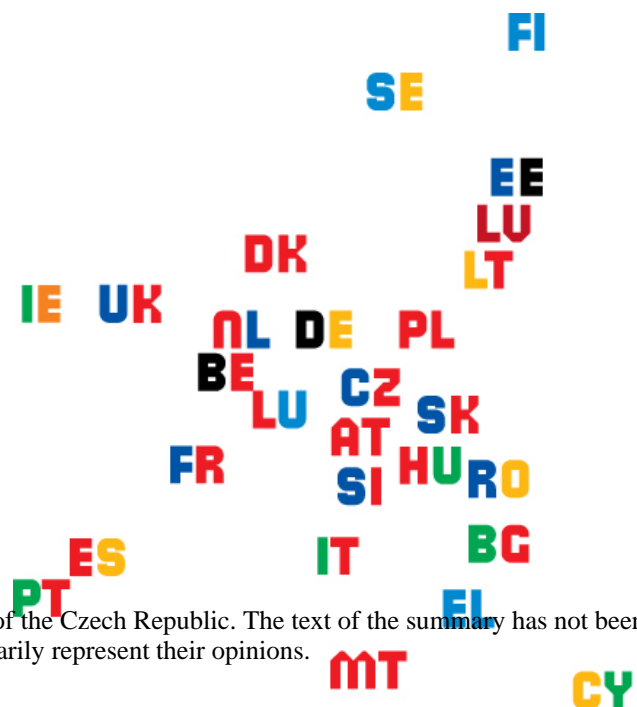
2009 **“TOWARDS A NEW FINANCIAL REGULATORY FRAMEWORK”  
INTERNATIONAL WORKSHOP  
ORGANIZED BY CZECH PRESIDENCY  
PRAGUE, 12. – 13. JUNE 2009**

## **SUMMARY<sup>1</sup>**

On 12 – 13 June an international workshop entitled “Towards a New Financial Regulatory Framework” was held in Prague. The event was organized by the Ministry of Finance within the scope of activities of the Czech Presidency.

The workshop, which was held in the historical premises of Kaiserštejnský and Malostranský Palaces, was attended by representatives of the European Commission and experts from EU Member States, including representatives of supervisory bodies and professional associations as well as from industry. The participants discussed the newly-established architecture for financial market supervision, issues relating to hedge funds, rating agencies, banks and insurance companies.

The workshop was open by introductory remarks of Klára Hájková, Deputy Minister of the Ministry of Finance of the Czech Republic.



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<sup>1</sup> This summary has been prepared by Ministry of Finance of the Czech Republic. The text of the summary has not been approved by all the speakers and therefore, does not necessarily represent their opinions.

## INTRODUCTORY REMARKS

**Klára Hájková** summarized the challenges that the Czech Republic had to face during its Presidency mandate. The Czech Republic took over the presidency of the EU at a time of the transformation of the crisis from a financial market event to a global economic recession. The turbulence seems to have subsided as the number of measures aiming at stabilising the financial markets is gradually taking effects. On the other hand, measures designed to tackle the root causes of the financial crisis are still being developed. Measures trying to address the main problems of the financial markets have been the main focus of Czech presidency agenda, the revised capital adequacy framework for banks and the new regulation on credit rating agencies being the most visible ones.

Klára Hájková noted that we are not near the end of the process. The de Larosière report gave us further direction, identifying a great number of steps to be taken in response to the crisis. The most politically sensitive area is the reform of the EU supervisory framework. It is an area where we have witnessed the most recent and probably most serious breakthrough, confirmed by the agreement found at the June ECOFIN. Klára Hájková expressed her belief that with the strong overall support given to the basic pillars of the supervisory reform, the Commission already has a solid mandate for its future work.

Klára Hájková also highlighted the importance of issues that need to be tackled alongside the institutional and architectural ones in order not to create inconsistencies with potentially serious consequences. In this regard she particularly mentioned that a better system of crisis management and early intervention needs to be created and work on deposit guarantee schemes and burden-sharing must not be delayed.

## PANEL 1: ENHANCING QUALITY AND EFFICIENCY OF MICRO-PRUDENTIAL SUPERVISION IN THE EU

**David Wright** (Deputy Director General, DG MARKT, European Commission) as a moderator launched the session.

**David Veraga Figueras** (Former Chairman of the Financial Services Committee) reminded that the current financial crisis arose in the banking sector, which is regulated and supervised, not in the shadow sector. Regulation and supervision are not guarantees against a financial crisis. But it does not imply that some regulatory and supervisory changes are not needed. Especially due to cross-border implications there is a strong need for better information flows, more convergence and more cooperation. A right balance between powers and responsibilities is a key element.

Differences in regulation and supervision among Member States and high number of supervisory authorities make the cross-border business of financial institution in the EU complicated. From the political perspective it is not possible that a Member State pays the bill for a failure of an institution that was supervised in another Member State or pays outside for a failure of an institution that it supervises and that operates also in another Member State.

There are three possible solutions to the supervisory framework according to Mr. Vegara. First, we can do nothing and preserve the current system. Second, we can transfer all powers and responsibilities to the EU level, but there is no consensus on it now. Finally, we can share powers and responsibilities as it is proposed in the de Larosière report. The latter option should be followed because it is pragmatic, achievable, reasonable and feasible.

With regard to the European Systemic Risk Board (ESRB), Mr Vegara suggested that the ESRB should be composed of representatives from central banks and ministries of finance. He also saw some potential limitations of this body in regard to risks arising from monetary policy. Not all Member States should be represented at the same time; a rotation mechanism should be introduced.

**Gary Roberts** (Head of Financial Services Strategy, HM Treasury, United Kingdom) supported the idea of the small independent ESRB as proposed by Mr Vegara. His personal opinion was that regulation is a crucial element. Therefore, more consistency in regulatory standards needs to be achieved (common rule book) and regulation should be enhanced. Other key issues are ability to enforce the rules and consistent application of rules among Member States.

Regarding supervision, the new European Supervisory Authorities (ESAs) should be involved in regulation, not in supervision. Mr. Roberts did not agree with the binding mediation role proposed for the new ESAs. In case the national supervisors are not able to find a solution to their disagreement, the court should decide. Neither did he support giving ESAs supervisory powers for Credit Rating Agencies (CRAs) and for central counterparty clearing houses. Regarding CRAs, he argued that it is not reasonable to set up an expensive supervision at the EU level just after a cost effective solution in the CRA regulation has been agreed. In the case of central counterparty clearing houses he was of the view that supervision at the EU level is not possible because of fiscal implications. Finally, he expressed doubts about harmonizing supervisory practices.

**Alessandro Rivera** (Director General, Ministry of Economics and Finance, Italy) stressed that the discussion on supervisory and regulatory reform should be kept going. He argued that there is also forth solution to supervisory framework as enumerated by Mr. Vegara, and that is to go back to national rules. This would however imply the same as imposing tax on cross border activities and is therefore not desirable. The current crisis has a number of roots, but the most important ones are global imbalances. There were failures both in regulation, which was often soft, and supervision. National supervisors face the problem of cross-border activities but protectionism is not a solution.

Many factors subsequently contributing to the current crisis have been underestimated: externalities; differences in supervisory practices; regulatory competition; and application of Basel II framework. Therefore, the supervisory system needs to be enhanced and shared solution is necessary. The key issues of the shared solution include rebuilding trust between ministries of finance and supervisors; supervision over CRAs and infrastructure at the EU level; and binding mediation. Regulatory competition is a luxury that we cannot afford. To solve the issue of moral hazard, the way how to internalize costs needs to be found. Mr. Rivera also highlighted the balance of the compromise composition of the European Systemic Risk Board (ESRB) that was agreed by the Member States.

**Kestin af Jochnick** (Chairwoman of CEBS) stressed that regulation forms the basis for supervision. The regulatory convergence (single rule book) represents a top priority for CEBS and a roadmap should be drawn up. At the same time, macro-prudential analysis is to be developed. Because of the global nature of financial markets, there is a need for global regulatory solution. Level three committees have reached the limits under the current framework. It is necessary to improve Capital requirements directive, Basel II framework, liquidity management and supervisory convergence.

With regard to the reform of supervisory architecture, CEBS generally supported the Commission's proposal but had identified areas for further

clarification and suggested how to streamline cooperation between micro- and macro-prudential supervisors. When implementing the new mandate of national supervisors the new supervisory architecture needs to be taken into account. In Ms Jochnick's personal opinion, the binding mediation will not be used by national supervisors very often but will serve as a form of pressure on national supervisors to reach an agreement.

### **Panel discussion:**

Mr. Wright pointed out that the supervision over CRAs and central counterparty clearing houses at the EU level as suggested by the Commission's communication is only an example and their supervision at the EU level is absolutely reasoned. As regards home/host issues, there have to be appropriate safeguards for host supervisors. During emergency situation decision-making process needs to be effective. In his personal opinion, one of the most important causes of the financial crisis was weak and inadequate risk management.

According to Mr. Vegara, Spain is a good example of using dynamic provisioning. He also highlighted that ministries of finance have not dealt with the "too big to fail" issue so far.

As regards factors influencing quality of supervision, Mr. Roberts highlighted the importance of professional skills and trust between the ministry of finance and the supervisor. In this respect, Mr. Rivera pointed out that the traditional prudential approach of the Italian Central Bank helped to avoid negative consequences of the financial crisis for the domestic banking sector.

The discussion underlined the importance of quality of supervision and the need to rebuild confidence. Further, the question was raised how to ensure a proper functioning of colleges of supervisors. As regards composition of the ESRB, a small and independent body was supported. Some participants expressed doubts about setting the limits on the size of banks as a solution to the present problems.

## PANEL 2: NEXT STEPS IN BANKING REGULATION

**Patrick Pearson** (Head of Unit, Banking and Financial Conglomerates, DG MARKT, European Commission) opened the panel by a brief summary. 4 trillion euros have been spent for the stabilization of the banking sector so far, so there is a need to review the regulation. Currently there are two parts of CRD amending proposals being prepared, the June proposal covering trading book, resecuritisation, remuneration rules, the October package covering leverage ratio, dynamic provisioning, options and discretions. In December EC will submit a report to the Council and the European Parliament regarding the possible further legislative changes. Next year we will focus on the quality of capital, capital add-ons. There are discussions about working parallel with G20 and about following Glass Steagall Act in Europe.

**Daniel Trinder** (Executive Director, Goldman Sachs International) mentioned four basic questions we need to think about: How much capital is needed in the system; Once that amount is determined, what is eligible: Once you know what's eligible, where do you source the demand and once the Government has invested, how do you take the bank off the life support machine?. Stress tests have been useful to assessing how much capital is needed. Throughout the crisis many regulators made the choice of increasing the old hybrid buckets. Others, such as the UK FSA, called on issuers to swap these for senior debt equity if the opportunity arose. US as well as EU Member States put public money to banks. Since the start of the crisis 57% of Tier 1 capital raised in the EU has come from the public sector. Although US banks have received public funds, there is a greater desire to repay public funds in the US than the EU..

According to Mr. Trinder issue No. 1 is capitalization. Fragile banks need to be identified and fixed; change accounting standards, reclassify certain assets from trading book to banking book etc has been another mechanism by which banks look more capitalised but this stores up problems for the future and reduces the quality of firms reporting. Furthermore, we need to enhance liquidity risk management and risk management and governance arrangements.

Mr. Trinder pointed out that there is no doubt that capital requirements for trading book activities were too low and that there is no denying that losses occurred in the trading book. However the issue is why were many of these positions booked in the trading book in the first place. Many of them were held without trading intent and without mark to market being applied. It is therefore crucial to better police the boundary between the trading and banking book.

As far as Glass Steagall Act is concerned, no business model has come through the crisis well. Northern Rock was a narrow retail bank, Lehman Brothers was a specialised investment bank. The bank assurance model in the Benelux

countries also fared badly. In his opinion, a debate on conclusions for banking models should take place..

Other question raised by Mr. Trinder concerned stress tests. Should the EU follow the US and publish the results? In US this had positive impact on market confidence and in allowing banks to raise capital from the market. In his view the EU should follow the US example. As regards the leverage ratio – there has not been a discussion on what precisely it will be used for. There are many measures, all with flaws and a “one size fits all” solution wont work.

**Pierre Pontet** (Ministry of the Economy, Industry and Employment, France) stressed that the loss of trust on the interbank market in the financial crisis came as a surprise and it has significant impact. The consolidated supervision should be much more systemic now, macro-context oriented.

Mr. Pontet highlighted that even though the regulation focuses on crisis management and there has been three years debate about mitigating the moral hazard, it is still there. He considered it necessary to assess the consequences of the regulation carefully. Mr. Pontet argued that it is not possible to cover everything in detail. Regarding the leverage ratio - the metric is difficult to build, it can't cover everything. But there are points which need to be addressed: the issue of scope trading book vs. banking book, identifying transactions which should stay in books in terms of securitization. The regulatory toolbox should not be too detailed. Mr. Pontet pointed out Pillar 2 - if it is correctly implemented, it can be very useful.

Global perspective – we have to be careful and watch G20 activities, they are watching us as well. Mr. Pontet however didn't consider this as a dogma; it is only natural in crisis situation to be cautious.

**Robert Priester** (Head of Department, Banking Supervision, Financial Markets and International Affairs, European Banking Federation) stressed that new regulation must be aligned internationally to avoid regulatory arbitrage. He agreed with what Mr. Pontet had already remarked - that we don't want to diverge from the development at G20 level. Further concern in EBF is about cumulative effect of the new rules.

As far as the leverage ratio is concerned, Mr. Priester expressed his reservations as it represents a step back from the risk-based approach in Basel II according to his opinion; however, he understood this tool to be complementary, and not a copy of the US leverage ratio. He pointed out the importance of no discrimination of various banks with their various activities.



The current CRD revisions are important. Colleges of supervisors represent a good platform for cooperation. Reducing the number of options and discretions in CRD will help to achieve consistent rulebook and completing the concept of the de Larosiere report. Issues of DGS and Early Intervention are necessary building blocks for effective supervision and fair burden sharing among Member states. The issue of asset transferability is according to Mr. Priester most complicated because of the national company law rules.

**David Rozumek** (Executive Director, Financial Market Supervision Department, Czech National Bank) briefly described Czech banking sector, which focuses on conservative savings and loans business and therefore has been less vulnerable than elsewhere from beginning of crisis. Czech Republic is host country with subsidiaries systemically important for their parent financial groups; these subsidiaries provide liquidity to their parent banks. Regarding the supervisory activities, Czech National Bank concentrates on credit risk issues.

Mr. Rozumek argued that implementing of a new regulatory framework should only follow after deep analysis of individual states rules which prevented spread of some attributes of financial crisis in these states and supervisory practices following current EU regulatory framework. All new proposals should be clearly linked to causes of current financial crisis as they will have crucial impact on functioning of financial markets in long term.

“Home/host issues” is the area which has to be seen in a new light - with the financial crisis experience. Responsibilities of supervisors and local governments must be in line with roles of supervised entities. Strong, legally enforceable obligations of parent company (home authorities) to subsidiaries (host authorities) and fair burden sharing are essential. Close cooperation and balanced roles and responsibilities of supervisors are crucial according to Mr. Rozumek. Enhancement of responsibilities of home supervisor is not in line with experience from financial crisis.

### **Panel discussion:**

It is essential to encourage cooperation between supervisors, but this will certainly take some time. If we set new rules, then there is the problem of their efficiency – before we apply them it can be already late. It is not enough to just make a new law.

We must be interested in global level and watch US, China. We shall see these issues less politically, e.g. stress tests are a highly practical thing - EU has more difficult situation than US, so we need to exchange experience with our partners at Basel level to see how stress tests are performed. The aim is not to copy US but to avoid major divergences on both sides of Atlantic. The G20 may be a sustainable model for the future. There are three ways of global standard



setting: a/global institution making global standards b/convergence c/mutual recognition. US will never agree with either a/ or c/ so the convergence is the only option.

Patrick Pearson concluded that the situation is very complicated and the restoration of trust poses the major problem. "People won't go back to water before we assure them we have repelled all the sharks." The current CRD revision is necessary: resecuritization and trading book rules should have been changed 5 years ago; regarding leverage ratio we have seen there is no discussion about the fact that there is too much leverage, the only discussion is about the metrics. We have to make progress in home/host issues and crisis management. Basel is neither the beginning nor the end.

## PANEL 3: HEDGE FUNDS UNDER REGULATION?

**Jiří Król** (Director, Finance Ministry of the Czech Republic) introduced panellists and subject of the discussion.

**Uwe Eiteljoerge** (DG MARKT, European Commission) introduced the AIFM directive proposal. He highlighted the leading idea of the G 20 that all financial market actors should be regulated and supervised so that all systemic important risks are covered. The approach of the proposed directive is not to regulate products, but managers. According to EC's opinion the proposal reflects differences in activities of collective investment strategies to some extent – i.e. different thresholds, small size business are excluded to avoid burdens.

Mr. Eiteljoerge presented key features of the directive – depository regime, independent valuation agent appointment, most relevant rules regulating managers and, indirectly, funds themselves. He mentioned disclosure requirements especially in case of leveraged AIF. He pointed out that the proposal would provide both a product and a management passport within EU similar to the UCITS regime. It also comprises rules for 3<sup>rd</sup> country AIF marketed in EU.

Next panellist, **Andrew Baker** (Alternative Investment Management Association), said AIMA would unreservedly support a directive comprising the following elements:

### 1. Registration and authorisation

We support the principle of universal registration and authorisation of hedge fund managers and would support this at an EU level.

### 2. Reporting of systemically relevant data

We support the reporting of systemically relevant information by managers to their national regulators and would support this data being collected at an EU level in aggregate.

### 3. Resolution of cross-border marketing

We believe that an EU passport for marketing issues is a desirable resolution to cross-border marketing issues.

Mr. Baker said that there is confusion over de minimis thresholds: the manager authorisation threshold should be zero (ie, all managers should be authorised); whereas the threshold for systemically-relevant risk data should be higher at €500 million or above to prevent data-overload.

Mr. Baker also suggested that drafting clarification should be done quickly, as foreign managers are considering if establishing a subsidiary in Europe is worthwhile because of the uncertainty over the new proposals.

**Tom Springbett** (HM Treasury, United Kingdom) pointed out that hedge funds had not caused the crisis. In UK hedge funds' managers have sound risk management systems and FSA elaborate a sound supervisory approach towards hedge funds. Sector is not so complicated like insurance or banks and it is much simpler for FSA to supervise it.

UK supports regulation with objective to build internal market and cross-border marketing. But directive proposal was drafted in rush without time enough to assess all consequences. It is important to apply as much MiFID-like rules as possible, for example in case delegation.

Other problematic issue are proposed leverage caps – instead the systemic monitoring of risk management by supervisors should be adopted. Last but not least proposal should better reflect different business models.

**Thomas Deinet** (Hedge Funds Standards Board) also repeated that hedge funds had not caused the crisis therefore the cause for directive is very weak. He briefly introduced the HFSB and their self-regulatory approach he considers to be very modern as hedge fund is very innovative industry. Managers are publicly committing to the high level standards, comply or explain regime is applied. Investors are understands such approach.

On the other hand approach chosen in directive is protectionist. He emphasized that power should lie with local supervisors. There is no case for developing regulatory regime stronger even than regime for retail investors.

**Nagi Kawkabani** (Brevan Howard) spoke from industry perspective and echoed some previously said opinions. He emphasized that regulating leverage in a prescriptive manner is naïve. He worries that such approach will expel certain business strategies from EU. The proposal leaves no choice in such cases. He added that regulating EU based managers doesn't solve problems, as almost all managers are based outside EU and regulation will not lower systemic risk.

He also mentioned other issues such as strict rules on depositories. There is no need appointing only EU based credit institutions.

Mr. Kawkabani concluded that even if other issues are solved, regulation of leverage caps is serious enough to do a heavy damage to the industry and to investors. He added that industry had not been consulted.

### **Panel discussion:**

Following the presentations, a round of questions delivered the following reflections:

Some rules in proposal are stricter than in UCITS world – i.e. depository. EC emphasized, that this is the reaction against Maddoff case.

Certain worries about national regimes for cross-border marketing of non-harmonised funds existing in many EU countries were expressed in discussion. EC pointed out three years transitional period included in proposal.

Concerns that directive is too prescriptive were raised. If directive is reaction against so called light-touch regulatory approach in some countries, then such a reaction is inadequate as light-touch approach should not be confused with principle based regulation.

Also taxation aspects were discussed. Tax avoidance and tax neutrality should not be confused. Hedge funds are going offshore not to avoid taxes but to be taxed neutrally and not to be double taxed.

Leverage caps definitively belong to one of serious concerns of industry. If reducing procyclicality was intention behind this provision, it will raise it in the end.

Impact not only on hedge funds but on whole non-UCITS world

EC emphasized that the work is still ahead in Council and Parliament to set up sensible regime. This should be put in balance; hedge funds sometime can pose a systemic risk. There is a period long enough for national regime for 3rd countries. Tax transparency should be enhanced. World does not end for hedge funds because of this directive. U.S. will move with their own hedge funds regulation soon.

Associations and industry representatives highlighted that they will be constructive during the upcoming months.

## PANEL 4: THE ROLE OF RATING AGENCIES IN THE NEW REGULATORY LANDSCAPE

**Jiří Król** (Director, Finance Ministry of the Czech Republic), chairman of the session, launched the discussion by reminding the amendments to the upcoming Regulation on credit rating agencies (“CRAs”) that were made during CZ Presidency in order to reach a well balanced compromised text and explained that the session should focus on how we do process forward.

The presentation of **Karl Burkhard Caspari** (BaFIN, Chairman of CESR expert group on CRAs) opened the session by introducing the work of CESR expert group on CRAs, which is to assist CESR in ensuring that role and tasks given onto it by the Regulation will be met. The exercise turned out to be more challenging than anticipated. He identified three major challenges:

A diversity and internationality of credit ratings that are used. He underlined importance to converge approaches to CRA regulation and to share regulatory information. In this context, he reminded a close work with a permanent standing IOSCO CRA committee and its role to serves as a forum for regular interaction between regulators and CRAs.

A day-to-day supervision. He used an example of different meaning of “a working day” among Member States’ jurisdiction to argue that he success of the colleges of competent authorities or effective supervision of credit ratings agencies is a matter of tackling the technical issues.

A CRAs that are already active in the market. The monitoring of the fulfilment of conditions for endorsement of credit ratings issued in third countries, certification and registration process in terms of transitional period requires a strong commitment of CESR and national competent authorities.

**Maria Teresa Fabregas Fernandez** (Securities Markets Unit, DG MARKT, European Commission) presented the key areas of Regulation. She commented first on the crucial elements of requirements for conflicts of interest – the independence of the credit rating process from the business interest of the CRA as a company and continued by stressing requirements for rating methodologies: to be rigorous, systematic, continuous and subject to validation. She closed the presentation by pointing to the transparency of the CRAs, and particular to a new obligation to publish key rating assumptions, and expressing her persuasion that the Regulation will help to enhance the quality of credit ratings and will decrease their over reliance.

**Christopher Lake** (Senior European Regulatory Counsel, Standard & Poor’s) drew attention to the fact that CRA industry itself has already issued a lot of effort on a voluntary basis in reflection of market crisis and highlighted that the adoption of Regulation was a substantial step in restoring the confidence in the

market. Vis-à-vis different policy worldwide initiatives, his main message addressed the absolute importance of global consistency of regulatory approaches regarding CRAs oversight. Given the adoption of Regulation, he reminded a huge amount of work to do and underlined that the mission towards an internationally functional system will be a stimulating, but difficult, challenge.

**Bertrand Huet** (Managing Director, Securities Industry and Financial Market Association) talked about the importance of plurality of credit ratings in the market, transparency of credit rating agencies and validation of rating methodologies. A concern was seen as serious on the following issues:

Impact of the new regulatory architecture on the costs and organisation system of the CRAS.

Given discretion of national competent authority to influence the outcome of credit rating activity.

Potential sources of market instability stemming from a credit rating stigma, uncertainty in terms of suspension and withdrawal of the registration and a fragmentation in terms of how the rating is used in a global manner.

The intervention of **Nicolas Peligry** (Head of Banking Studies, French Banking Commission) closed this session by discussing the major challenges of new regulatory landscape in EU CRAs industry in term of banking sector. The main challenges addressed in this presentation can be summarised as follows:

The crisis has highlighted the need for banks to avoid overreliance on external rating provided by CRAs, in particular with respect to structured products.

Internal systems must play a key role in the management of such products, which implies, *inter alia*, a good knowledge of underlying assets. The provisions contained in the CRD on securitization should favour the emergence of good practices in that regard.

A key challenge for banking supervisor is to map structured products external rating with the Basel 2 credit quality step.



## PANEL 5: LEVEL 2 CHALLENGES IN SOLVENCY II

**Karel van Hulle** (Head of Unit, Insurance and Pensions, DG MARKT, European Commission) congratulated the Czech Presidency for having successfully closed the negotiations on Solvency II. He only regrets that the file does not contain any word on group support, which, in turn, does not preclude the Commission from reviewing it in any time in future.

Then he turned the attention towards the future – to the implementing measures – and emphasized the volume of work to come, mainly for CEIOPS. In addition, the de Larosière report outcomes would play a substantive role and its impacts are to be expected soon.

In the end he invited the panel members were to comment on the biggest achievements of Solvency II.

**Michaela Koller** (Director General, CEA): The market considers wide range of Solvency II elements to be very important. The introduction of risk based approach, in general, is the most important one. There are also other important elements of the new regime: the market consistent valuation, risk sensitivity, recognition of risk mitigating techniques, calibration of standard formula, use of internal model, introduction of harmonised reporting and setting up of group supervision.

Michaela Koller, like the Commission, regrets not having the group support regime in the directive. Nevertheless, the regime on group supervision, as a whole, is a twofold step ahead: unified 1) internal model validation and 2) capital add-on imposition. The level 3 measures will grant the supervisors some room for manoeuvre and, thus, the best practice could be spread across EU. However, one threat is present as a result of the current crisis – tendency of supervisors to be conservative.

**Thomas Steffen** (Chairman of CEIOPS) echoed the market views. In addition, Solvency II brings the supervisors together – they understand the new regime better and share information. This is also reflected in CEIOPS, which votes its responses to the Commission by consensus. This concerns all but Consultation Paper N°25 – on group support, only file voted by qualified majority. The supervisors did not like the transfer of competencies. In his view, the new quality – risk orientation – is an achievement for the industry rather than for the supervisors.

The flexibility within the Lamfalussy structure, i.e. between Levels 1 – 3, has to be preserved. Solvency II does not represent the best regime ever. There has to be a possibility for its adaptation in line with the newest developments. In addition, some Level 2 rules may not be ready on time. Level 2 shall not regulate everything nor contain too many details.

**Lorenzo Esteban** (Ministry of the Treasury, Spain): Lorenzo Esteban anticipates the Level 2 measures to be very complex and difficult for elaboration. In his view, the national information reporting databases should be completely harmonized and connected. However, that does not imply an establishment of a European database. He also highlights the Level 1 directive to be a single text for the whole Community that enables the supervisors to speak a common language.

In his view, the emphasis should be put on a greater safety. That concerns mainly the three areas of Level 2: own funds (they should be of high quality for the time of stress, there is no room for too innovative solutions), internal models (their approval should be encouraged but done carefully) and risks inherent to groups (Solvency 2 provides for an appropriate framework of identification and control of the group specific risks).

**Daniel Tošner** (Head of Unit, Insurance and Pensions Legislation, Ministry of Finance, Czech Republic): summarized his experience with the Presidency. He also supported the view of Michaela Koller on the Solvency II achievements. In relation to the Czech Republic, however, the newly adopted regime is a big step for the supervision as a whole rather than for the industry.

Solvency II, i.e. European acquis in insurance, is presented in a single document, which is an improvement as compared to current 14 directives. Another positive step is the harmonised European approach itself that brings all stakeholders applying a single text across EU. The Czech Republic, in the end, was not very much in favour of group support since many questions related to this issue remain unanswered. The final compromise was the best the presidency could have achieved under the given circumstances.

In his view, the Commission intention to adopt Level 2 measures in the form of regulations brings a disadvantage – a greater responsibility for the Commission over the outcome.

**Panel discussion:**

Michaela mentioned the question of flexibility – Level 2 versus Level 3. She prefers greater harmonization on Level 2, whereas Level 3 shall provide for greater flexibility.

The panel talked about the ratio between national origin rules over the EU origin rules. With the Solvency II adoption, this ratio shall change in favour of European origin.

In the meantime, industry expects the change of Solvency II rules between 2012 and 2015 – based on the lessons learned in practice.

The panel pointed out the timing of de Larosière report implementation precedes that of the Solvency II. The interaction between the two remains unresolved. However, the Commission remains positive about the implementation of both.