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Danish comments to the CESR report: "Which Supervisory Tools for the EU securities Markets?"

We would like to thank CESR for its consultative report which gives a good basis for an important discussion on how to ensure full and consistent implementation as well as effective enforcement of the FSAP (and the follow-up to the FSAP).

In the Nordic countries we have experienced a major integration in the securities, banking and insurance markets. The consumer's use of cross border financial services are however still quite limited. This might change for securities in the near future mainly due to the easy use of internet based services.

In order to prepare this Danish answer we organised a conference with participants from all interested parties in Denmark. This included not only the securities industry but also the banking and insurance industry as well as consumer organisations and other organisations, which in the long or short run could be affected by the ideas in the report from CESR.

On this background we can fully support those ideas which are necessary to ensure full and consistent implementation and enforcement of EU-regulation and common supervisory practices.

A number of Danish financial companies have experienced how differences in supervisory practices can be very time consuming and costly. Different supervisory practises add to the costs of the companies and at the same time have negative consequences for the consumers and competition. Therefore we think that we are only going to fulfil the goal of the Lisbon Strategy if we find good solutions in these areas. We need to have focused and ambitious EU cooperation and work with areas like this where it is possible to make the financial markets in EU more cost-efficient and to underpin a level playing field in the regulatory and supervisory frameworks.

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The supervisory practices and the interpretation of the regulation in EU should be more common. It is necessary that the same financial products should be treated the same way by the supervisory authorities. At the same time it is important that there is still room for competition between different financial services and that we do not limit the diversity of the financial products or make hindrances for development of new supervisory practices.

We find that the solutions which are decided for CESR due to the discussion of the report should also be applied by CEBS and CEIOPS as well. The timing does however not have to be the same and also resources should be taken into consideration. At this time of the discussion it can of course not be excluded that we end up with models which differ a little but this should only be due to clear differences in working areas for the level 3 committees.

Finally we find it important that the level 3 committees also act as the places where knowledge about best supervisory practices etc. are discussed and developed.

New tasks for CESR

We support that the competences of the level 3 committees are developed within the Lamfalussy- approach and in such a manner that it is possible to achieve the goals of Lisbon Strategy also in the financial field.

CESR should have the competence to supervise the supervisory authorities but should not be granted regulatory powers. Most countries have already experienced being supervised by an extraterritorial organisation in accepting visits from the IMF looking into their supervisory practices.

We have already in the Commission's mandates to CEIOPS seen that the peer reviews play an important role. Other possible tasks like the idea of a mediation mechanism need some further consideration. We are not sure that it can work in practice. For instance how would it be possible to make an appeal and how can it go along with the competences of the Commission and the courts?

Accountability

CESR has to be accountable to the European institutions when it makes recommendations/standards due to the fact that even though such recommendations/standards are not legally binding, they have important consequences for companies and markets.

FSC is going to have a yearly report from the level 3 committees. This is a good idea but it can not stand alone. The directives at level 1 should in the future focus not only at the work which has to be done at level 2 but also at level 3. In order to do that this discussion has to be an integrated part of the negotiations at level 1. At the same time this could secure that the recommendations from level 3 are wanted politically. Finally the advisory bodies at level 3 which have representatives from e.g. the industry could have a more formal role to play in the level 3 committees than today. They might have the possibility to make their own comments in the reports to FSC. Finally it could be considered also to give the Inter Institutional Monitoring Group a clearer role to play towards the level 3 committees.

Equivalent powers

We are glad that the report talks about equivalent powers. This makes it clear that the purpose of the report is not to say that there is only one organisational model for the conduct of supervisory and regulatory work in the member states. Some of the functions mentioned in the financial directives are in Denmark handled by the police. This works very well and we therefore see no purpose in changing our organisation of this work.

Consumers

A major problem for the regulation in the financial field is the almost missing contributions to the discussions from the consumers. It is obvious that when even authorities and big financial organisations sometimes have problems in order to keep up with the development in the financial regulation it is even more difficult for the normally very small consumer organisations in EU. If the trust of the consumers is not enhanced in the same speed as the harmonisation of EU-regulation we risk missing the positive effects of the integration. At the same time we can not expect further integration of the retail-markets in EU without this trust.

The consumers expect rightly that their interests are taken care of in the EU legislation process. We think that it might be necessary to find new and creative ways in order to be able to have contributions from the consumers. At the same time the maximum level of transparency is necessary at all levels of the Lamfallusy-procedure.

Yours sincerely

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