

CSFI

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Brussels for breakfast (39): A round-table discussion on EU financial regulatory issues, with Graham Bishop (grahambishop.com) and Mike Vercnocke (City office, Brussels) held on Thursday, July 10, 2008, at the City Club, 19 Old Broad Street, London, EC2N 1DS, from 8:30-10:15am.

Brussels may be shutting down for the summer but a combination of the French EU presidency and a newly interventionist Commissioner Charlie McCreevy could make conditions hot and unpleasant for financial services companies. The French have set out their agenda for their presidency, the first speaker said, focusing on ratings agencies, capital requirements directive, financial supervision and a full management company passport under the UCITS directive (Undertakings for Collective Investment in Transferable Securities). The second speaker said this last would be the key issue. The French want the passport, cynically perhaps, in order to use to repatriate business from established UCITS jurisdictions in Luxembourg and Ireland. They do not want it legislated without the passport so will block any moves to do that. He said the French were playing a long game waiting for a new international market commissioner who would be more compliant and less Irish than McCreevy.

On financial supervision the issue is whether colleges of supervisors be given decision-making powers as the French want or for that role to be kept separate, as the industry wants. A second problem is the idea of an 'inner core' of supervisors including countries such as France and an outer core with the smaller countries. One member said the danger was that if it was the outer core that dealt with outside countries such as the US then any attempts of global standards would be wrecked. One member said the idea that the US would buy into that form of decision making was "for the birds". He said the FSF was working to ensure that major areas of risk were dealt on a global basis and it was vital that Brussels did not get in the way. Financial supervision would be at risk if the EU got the structure wrong. Giving major decision powers to colleges could have perverse results depending on which countries were voting, whether decisions were taken on majority vote, whether they affected banks such as HSBC with vast operations outside Europe.

Meanwhile McCreevy has ratcheted up his language on credit rating agencies. In a speech in Paris he said Europe must take a lead and said he would propose a system of an "external oversight regime" by European regulators. This goes further than Christine Lagarde's idea of US-style registration. In a separate speech he said he was breaking his own rule on light regulation in ratings agencies and securitisation because of a failure of others to take action. One member said there had been no impact assessment and that this risked causing a row with the US if it tried to apply different standards from the Americans. That would leave Europe worse off. At the same Paris event Jean-Claude Trichet appeared to indicate the ECB wants to use its statutory role in payment systems as an entrée into wider supervision. The second speaker said it was a power grab. Lastly on this front Michel Prada of the French stock market regulator AMF has said he wants CESR to be the head

of a network of market regulators, have legal autonomy and more resources. The second speaker said the French realised this was a personal view and would concentrate on delivering practical results under its presidency around the consensus – qualified majority voting, comply and explain, no legal status but some reinforcement of their role.

But perhaps the greatest danger comes from a proposal for capital requirements coming out of McCreevy's office that members said could drive securitisation out of Europe. Without any impact assessment and a deadline of consultation of 18 July, the second speaker said Michael Murray, one of McCreevy's cabinet members, has said the Capital Requirements Directive will contain a rule that European investors can only invest in securitisations where the originator has put 10% aside. It means investors will look elsewhere. McCreevy aims to ensure investment banks have "skin in the game" and indeed wants to punish them for their role in the subprime crisis. He has said that he will implement this unless the industry can come up something better. One member said it was vital that the City ensure this was defeated.

On stock exchanges, MiFID continues to create ripple effects. The LSE has created a multilateral trading facility with Lehman Brothers; Chi-X had extended trading to Norway and Denmark; and some Nordic firms are launching an alternative trading facility. One member asked whether anyone was collecting comprehensive data on how the market was changing. Another said the evidence was it was creating additional trades rather than being a zero-sum game for the LSE. On insurance Solvency II has 800 tabled amendments that will go to a committee meeting on 15 July with a plenary vote in October. It will be approved as France is working actively on its implementation. The one troublesome issue is on group supervision. France is looking at how to split group supervision from group support i.e. how money is provided by governments to prevent insolvencies. One member said splitting the two would be detrimental. Some small countries are blocking group supervision for a host of different reasons, making it hard to neutralise the opposition.

Over all these technical issues hangs doubt over what the next commission will look like. Parliamentary elections are in June and new MEPs will approve a new Commission in November. McCreevy is standing down and is certain to be replaced by someone less laissez-faire than him. Offsetting that President Barroso, who has led a liberal agenda, will remain in post unless the socialists win a majority in the Parliament. The feeling is that the next internal market commissioner should be a southern European although were the UK to put forward a stellar candidate and push for the job it might get it. At the same time there will be a reshuffle of DGs that will muddy the water yet further. With just over a year to go, there is all to play for.