

CSFI

CENTRE FOR THE STUDY OF FINANCIAL INNOVATION

5 DERBY STREET
LONDON W1J 7AB

TEL: 020 7493 0173
FAX: 020 7493 0190

Brussels for breakfast (40): A breakfast discussion meeting on EU regulatory issues, with Graham Bishop (grahambishop.com), Joanna Perkins (FMLC) and George Zavvos (European Commission, legal service) held on Tuesday, September 30, 2008, at the London Capital Club, 15 Abchurch Lane, EC4N 7BW from 8:30-10:15am.

The roundtable was well timed, coming a day after the nationalisation of Bradford & Bingley in the UK and of Fortis in the Benelux. The worsening credit crunch has triggered a lot of debate within Europe over whether there were serious management failures and whether there is a need for a new regulatory framework. As the discussion developed it became clear this latter issue was one that divided the UK and Brussels.

The first speaker looked first at the political responses to the crisis. French President Nicolas Sarkozy has talked of the need for global not national solutions while Peer Steinbrück of Germany has talked of the US's loss of superpower status. September's informal Ecofin meeting called for a joint response to restore confidence and focused on its medium-term roadmap towards better ways to deal with these crises. The speaker said there was little sign of accelerated progress. However the second speaker said he picked up a sense of urgency to get things done. One member said the way Belgium, Luxembourg and the Netherlands dealt with Fortis showed the roadmap did work. Another member said the test would come when one national regulator of a cross-border bank wanted action taken but another did not.

Speaking to EUROFI, Commissioner Charlie McCreevy said the Commission would propose amendments to the Capital Requirements Directive (CRD) to increase the efficiency of supervision and would publish a financial stability White Paper in early 2009. However in terms of the idea of wider EU-level supervision for the largest financial institutions, he did not believe current conditions made it necessary for "such a fundamental change".

The second speaker said the problem was that when it came to systemic risk the EU did not have the tools to deal with it. There was no alert mechanism, no standard minimum deposit guarantee, and no rules on lender of last resort, no rules on crisis resolution and who would pick up the bill for a cross-border failure. The EU needed tougher powers. McCreevy set out his shopping list in testimony to the ECON committee that included: industry adoption of guidelines on disclosure; upgrading of valuation methods; and changes to the CRD. A co-decision proposal on CRD covering issues including the controversial minimum capital requirement was scheduled for adoption by the Commission in early October 2008. The second speaker pointed out that Brussels needed to fund a new rapporteur for CRD after Alexander Radwan left to take up his seat as a Bavarian MP.

Meanwhile the equally controversial proposals for supervision of credit rating agencies (CRA) will be tabled in late October. The third speaker said the consultation – which took place between 31 July and 5 September – showed the Commission had little idea of how

CRA's worked. The idea of applying national regulation to a global industry is bizarre. It is a mobile market and CRA's can simply quit the EU and issue ratings out of New York. Even worse if this did go through, it raised the possibility that any one of 27 national regulators could order a CRA to withdraw a rating, which in turn would force investors to dump their holdings en masse. The first speaker said the results of the consultation showed near-unanimous rejection of the Commission's proposal.

McCreevy also used his testimony to lay out his roadmap for supervision. He wanted the Level 3 committees – CEBS, CESR and CEIOPS – to be involved in the exchange of information between supervisory authorities, and the oversight of the operation of supervisory colleges. Decisions should be done on qualified majority voting coupled with a “comply or explain” requirement – but not be legally binding. The second speaker insisted the committees should have legal powers – much to the consternation of several members who said an adequate framework already existed.

The second speaker asked a rhetorical question – what lessons had London, the EU's financial centre, learned from the credit crisis? Did it still believe the free markets led to equilibrium or did it now think they tended towards instability? One member said the question was disingenuous as it was based on a hidden assumption that the EU should advance a regulatory agenda. He urged Brussels not to follow that path.

One can never ignore politics in Brussels, especially with Parliamentary elections and the selection of a new Commission coming up. It was clear many MEPs with financial services expertise, particularly UK ones, would not be part of the next Parliament. Meanwhile liberal Commissioners such as McCreevy would not be part of the next commission. On top of that it would be hard to get anything done between April and autumn 2009 when new MEPs and Commissioners got their feet under their desks. However one should not underestimate the determination of the French to gain a legacy their current EU presidency that expires in December.