



INTERNATIONAL CO-OPERATION: CSSF INVOLVEMENT IN INTERNATIONAL GROUPS

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Article 3 of the law of 23 December 1998 creating a *Commission de Surveillance du Secteur Financier* as amended appoints it, *inter alia*, to deal with and participate in the negotiations concerning problems relating to the financial sector, at both European Union and international level. In accordance therewith, the CSSF participates in the work of the following forums.

1. CO-OPERATION WITHIN EUROPEAN INSTITUTIONS

1.1. Groups attached to the European Commission

1.1.1. The Committee of European Banking Supervisors (CEBS)

The Committee of European Banking Supervisors (CEBS) was established by the Commission Decision 2004/5/EC of 5 November 2003. Its duties encompass reflecting, discussing and giving advice to the European Commission in the fields of banking regulation and supervision. The Committee also co-operates with the other competent committees in banking matters, notably with the European Banking Committee established by Commission Decision 2004/10/EC. CEBS is chaired by Mr José-María Roldan (Banco de España, Spain). The Vice-Chairman is Mrs Danièle Nouy (Commission Bancaire, France). Mr Andrea Enria (Banca d'Italia, Italy) has been appointed General Secretary. The Chair is supported by a "Bureau", comprising Mr Andreas Ittner (Oesterreichische Nationalbank, Austria), Mr Helmut Bauer (Bundesanstalt für Finanzdienstleistungsaufsicht, Germany) and Mrs Kerstin af Jochnick (Finansinspektionen, Sweden). The Committee's Secretariat is based in London.

CEBS took up its duties in January 2004 during its first meeting in Barcelona on 29 January 2004. The CSSF is represented by Mr Arthur Philippe, Director.

CEBS will fulfil the functions of a Level 3 committee for the banking sector in the application of the Lamfalussy process.

The role of CEBS is to:

- advise the European Commission either at the Commission's request, within the time limit which the Commission may lay down according to the urgency of the matter, or on the Committee's own initiative, in particular as regards the preparation of draft implementing measures in the field of banking activities;
- contribute to the consistent application of Community Directives and to the convergence of Member States' supervisory practices throughout the Community;
- enhance supervisory co-operation, including the exchange of information.

During 2004, CEBS mainly focused on the works relating to the future Directive on capital adequacy, which will transpose the New Basel Accord into European law. Moreover, in the field of accounting, CEBS was notably consulted as regards the drawing up of new IFRS rules and their implementation in Europe.

As part of its mission, CEBS set up a consultation process, which was subject to a public consultation in April 2004. The purpose of this consultation on the "Draft public statement on consultation practices" was to obtain feed-back from the interested parties, i.e. the market participants and the consumers of banking services, on the appropriateness of this public consultation process. The aim was indeed to operate in a transparent matter and to benefit from the expertise of the market participants and the consumers of banking services by implementing practical and appropriate solutions. The consultations' aim is to promote the role of these circles in drawing up new guidelines and to build consensus between all affected parties as regards the implementation of the regulations and prudential supervisory processes.

This first consultation was followed by two others: one on outsourcing with the aim of setting down general principles on outsourcing, and the other one on the “Supervisory Review Process”, aimed at providing a practical overview of the Committee’s approach towards the implementation of the New Basel Accord’s Pillar 2 requirements, respectively the relevant provisions of future Directive on capital adequacy.

- **CEBS – *Groupe de contact***

Created in 1972, the *Groupe de Contact* has been used as forum for informal co-operation between banking supervisory authorities on EU level from the outset. Following the enlargement of the European Union, it now also comprises the representatives of the authorities of the ten new Member States. The *Groupe* is chaired by Mr Fernand Naert of the Commission bancaire, financière et des assurances (Belgium) since the end of 2004. Within the new European structure of banking supervision, the *Groupe* henceforth acts as main working group of the Committee of European Banking Supervisors and, in that capacity, assists CEBS with a view to achieve convergence of the prudential supervisory practices in the European Union. The *Groupe* also continues to be a body appreciated for informal co-operation concerning the situation of individual credit institutions, particularly in the event of problems. It follows the development of national regulations, discusses practical aspects of prudential supervision of credit institutions and conducts general comparative studies.

In 2004, the *Groupe* underwent certain structural changes owing to the enlargement of the European Union and to its being formally attached to the Committee of European Banking Supervisors. The *Groupe* thus revisited its working procedures and certain organisational aspects.

The *Groupe* continued to focus on the implementation of the prudential supervisory review process, Pillar 2 of the new capital adequacy framework at Community level.

In this field, the *Groupe* notably worked on the following: questions regarding the relation between the banks’ internal ratings process of capital adequacy and the prudential assessment process of supervisory authorities; drawing up of best practice guidelines for internal governance of credit institutions, as well as the relevant supervision to be carried out by the authorities; the drawing up of approaches to solve issues relating to the distribution of responsibilities and duties between home and host authorities as regards banking groups operating across Europe, as well as the development of common approaches for authorities with respect to the validation of advanced methods that credit institutions plan to adopt to assess their capital requirements.

Furthermore, the *Groupe* continues, following the public consultation that closed in July 2004, to polish up their high-level principles regarding outsourcing of banking functions. It plans to consolidate this work, once approved by CEBS, with the principles on the prudential supervisory process (subject to public consultation at the beginning of 2004) in a compendium on issues relating to Pillar 2 of the new capital adequacy framework.

Another important part of the *Groupe*’s responsibilities concerns the exchange of information on particular problems encountered by one or several authorities and on topical issues. This exchange of information between members, as well as between the *Groupe* and CEBS has been strengthened and significantly formalised during 2004.

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- ***CEBS – Joint EGCRD/Gdc Working group on Validation of the Advanced Approaches***

This joint EGCRD¹ and *Groupe de contact* working group gathers experts of the banking supervisory authorities of CEBS members in the field of validation of advanced credit risk and operational risk approaches. The group's mandate is in line with the efforts of EGCRD to achieve convergence in the technical fields concerning validation of eligible models in the proposed amendment of Directives 2000/12/EC and 93/6/EEC.

- ***CEBS – Working Group on Common Reporting (COREP)***

In order to meet the requirements of the industry and European institutions in order to reduce the administrative burden and harmonise the reporting requirements for credit institutions, CEBS mandated the Working Group on Common Reporting to develop a common reporting framework for the supervision of capital adequacy within the scope of the new regulatory framework, which is being endorsed.

This decision reflects CEBS' conviction that the introduction of this new regulatory framework, as well as the adoption of the accounting standards IAS/IFRS, present unique opportunities to achieve these objectives.

The proposed framework, which was subject to a public consultation launched in January 2005, should be finalised around mid-2005, so that the institutions concerned have enough time to make the necessary changes to their information systems. It should also be stressed in this context that the final "product" will not only comprise a harmonised framework, but also an IT solution to support the framework, based on the XBRL protocol that each country is free to adopt. Further information is available on the CSSF website at http://www.cssf.lu/docs/COREP_Consultation_Communique.pdf.

- ***CEBS – Supervisory Disclosure Task Force (SDTF)***

The task force, established in 2004 by CEBS, is responsible for the definition of elements falling within the scope of the disclosure made by supervisory authorities of the European Union in accordance with article 144 (included in the proposed Directive amending Directive 2000/12/EC). This future transparency obligation requires supervisory authorities to set up a permanent infrastructure allowing the European financial sector and the public to consult and compare the different legislative and regulatory environments of the banking supervisory authorities. These elements include laws, prudential regulations, national options and discretions exercised by national authorities, supervisory methodologies and statistical data relating to banks and investment firms.

The group will work out proposals for the physical aspect of the disclosure and the definition of CEBS' role regarding the implementation of the disclosure policy. These proposals will be submitted to public consultation during 2005. This new homogeneous disclosure framework for all the supervisory authorities of the European Union should normally be adopted in 2006. The first statistical data should be disclosed according to the defined framework during 2008.

- ***CEBS- Expert Group on Accounting and Auditing (EGAA)***

The main activities of the working group established in 2004 are exposed hereinafter according to its sub-working groups.

CEBS – EGAA Sub-Working Group on Prudential and Accounting

Based on recommendations of the Basel Committee on banking supervision, the sub-working group developed adjustments – prudential filters – to adjust the impact of the implementation of certain IAS/IFRS accounting standards on prudential own funds. These works led, on the one hand, to recommendations addressed to the European Commission and, on the other hand, to the publication of guidelines for supervisory authorities of Member States (cf. http://www.c-eps.org/press/prudential_filters.htm).

The sub-working group is currently responsible for the development and carrying out of a quantitative survey to measure the impact of the application of the IAS/IFRS accounting standards on prudential own funds, as well as the assessment of the prudential filters' efficiency.

CEBS – EGAA Sub-Working Group on Standards & Accounting

The sub-working group, responsible for the supervision and follow-up of the implementation of the new accounting standards by IASB, as well as for the drafting of recommendations and guidelines on the interpretation and setting up of standards for supervisory needs, started its works in 2004.

The sub-working group prepared the comments on the standards "IAS 39 – Fair value option" and "ED 7 Financial Instruments: Disclosures", which have been sent to IASB as CEBS comments. Furthermore, it carried out a survey among the members of EGAA with the aim to assess the consequences of the carved-out version of the IAS 39 standard on the provisions as regards macro-hedging.

CEBS – EGAA Sub-Working Group Financial Reporting

The sub-working group, which gathers representatives of fifteen supervisory authorities and European central banks, started its works in April 2004. Its purpose is to develop a consolidated European financial reporting system for prudential supervision which takes account of the introduction of new accounting requirements due to the transposition of the IAS/IFRS accounting standards into European law. The works of EGAA in this field are to be considered jointly with those of COREP as regards the development of a European reporting framework for the supervision of capital adequacy.

While the mandate of the sub-working group had been limited at a first stage to the development of consolidated primary financial statements (balance sheet and profit and loss account) in accordance with the IAS/IFRS standards, the works have been extended to the annexes of the financial statements. This European common financial reporting framework is based on the IAS/IFRS standards as at 31 March 2004. Furthermore, the sub-working group took into account the disclosure requirements as regards financial instruments as referred to in the draft standards ED7 "Financial Instruments: Disclosures", as well as the impact of the IFRIC Draft Interpretation D8 "Members' shares in co-operative entities" on the presentation of IAS/IFRS financial statements.

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1.1.2. The Committee of European Securities Regulators – CESR

Established by the European Commission Decision of 6 June 2001, CESR (Committee of European Securities Regulators) took over from FESCO (Forum of European Securities Commissions) in September 2001. CESR is one of the two committees proposed in the Committee of Wise Men's report, which was endorsed by the Stockholm resolution of 23 March 2001. Composed of representatives of 27 supervisory authorities of securities markets in the European Economic Area (Member States of the European Union, Norway and Iceland), CESR is an independent body, which assists the European Commission in preparing technical measures regarding Community legislation on transferable securities, and is entrusted with ensuring harmonised and continued application of Community legislation in Member States. CESR also works towards strengthening co-operation between the supervisory authorities.

In 2004, CESR welcomed the securities regulators of the new EU Member States.

CESR went on with its works related to the Financial Services Action Plan (FSAP), notably continuing its works on the mandates concerning the drafting of implementing measures within the scope of the Directive concerning financial instruments markets. Save for the works carried out at Level 2 of the Lamfalussy process under the mandates received by the European Commission within the scope of the Directives, CESR started Level 3 works by drawing up recommendations, standards, common interpretations and procedures to implement co-operation within different areas in order to strengthen regulatory convergence within the EU.

Within the scope of the European legislative process, CESR began to reflect on how European regulators can play an active role in the consistent implementation of European Directives and in harmonising the application of these rules within the scope of Level 3 of the Lamfalussy process. After having consulted market participants, CESR presented a document specifying the general principles governing the Level 3 works and describing the current and future organisation of the role to be endorsed by CESR at Level 3 in different areas.

In October 2004, CESR launched an analytical report entitled "Which supervisory tools for the EU securities markets?" The first objective was to take stock of the progress made through the FSAP toward the integration of the EU Single Market for Financial Services in the field of securities. The second objective was to identify and analyse the supervisory tools necessary to implement the FSAP and to anticipate the developments in the next five years so as to allow securities regulators to evolve effectively and by so doing, ensure they can fully play their role in maintaining fair, transparent and secure securities markets in Europe.

Following the extension of the Lamfalussy process in May 2004 and the creation of new Level 3 committees, CESR began a continuous dialogue with CEBS (Committee of European Banking Supervisors) and CEIOPS (Committee of European Insurance and Occupational Pensions Supervisors). The growing interdependence of the European and American markets led to a practical dialogue of CESR with the American regulatory authorities, the SEC (Securities and Exchange Commission) and CFTC (Commodities and Futures Trading Commission).

The Market Participants Consultative Panel, a committee comprised of fifteen market participants appointed in a personal capacity, established in June 2002 following a suggestion of the European Parliament and the Committee of Wise Men, is charged with assisting CESR in carrying out its tasks. The three meetings of this committee in 2004 mainly concerned issues regarding corporate governance, credit risk transfer, equivalence of international accounting standards, rating agencies, hedge funds, evaluation of the functioning of the panel and works and priorities of post FSAP.

The groups established within CESR

- **Review Panel**

Established following the decision of December 2002 of CESR chairmen, the Review Panel is responsible for assisting CESR in its task to ensure consistent and equivalent implementation of EU legislation in the Member States. In March 2004, the Review Panel published its first interim report on the review of the status of implementation of CESR standards for Alternative Trading Systems (ATS) and guidelines, as well as the tables setting out in detail the implementing measures for these standards in all Member States. It also published a synthesis table providing an overview of the status of implementation. Furthermore, the Review Panel conducted a mapping exercise of the powers and competence of CESR members. Since the Review Panel will be tasked to conduct further reviews of the consistent and equivalent implementation of CESR and EU measures, a database containing the data gathered was set up and will be accessible to the public. This database will be made available in the course of 2005.

- **Expert group Credit Rating Agencies**

Following a report presented by the European Parliament following the recent financial scandals, the European Commission was called to analyse by 31 July 2005 whether credit rating agencies should be regulated. The European Commission published a mandate in July 2004, requesting CESR's technical advice that should be submitted by 1 April 2005. The Credit Rating Agencies expert group thus worked on the following issues concerning rating agencies:

- use of registration and regulatory framework, entry barriers;
- conflicts of interest inherent in the activity carried out by rating agencies;
- presentation of ratings, quality and transparency of procedures and methods used;
- relationship with issuers;
- use of ratings in European legislation and in private contracts.

In a consultation paper issued on 30 November 2004, the expert group presented several possible approaches to the issues raised by considering the impact that these approaches could have on the competition within the business sector concerned.

- **Prospectus expert group**

The expert group's technical advice on the implementation measures under the Directive 2003/71/EC, finalised in 2003, resulted in the publication by the European Commission of Regulation (EC) 809/2004 of 29 April 2004 implementing Directive 2003/71/EC (Prospectus Directive) concerning information to be published in prospectuses, the structure of prospectuses, inclusion of information by reference, the publication of prospectuses and the dissemination of promotional information.

The expert group then started works in a Level 3 capacity as defined by the Lamfalussy process to draft recommendations in order to facilitate the understanding of certain provisions of Regulation (EC) 809/2004, without however imposing further obligations, and to ensure consistent implementation across the EU. The expert group closely co-operates with a new consultative group comprised of twelve external experts, including one representative of the *Bourse de Luxembourg* (Luxembourg Stock Exchange).

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Following the consultation process, CESR published recommendations on 10 February 2005, which provide the following information:

- certain provisions regarding financial information, such as the selected financial information, operating and financial review, liquidity and capital, forecasts and estimations, historical financial information, *pro forma* information, capital resources, financial data not extracted from the issuer's audited financial statements, interim financial information, working capital statements and capitalisation and indebtedness;
- certain provisions regarding non financial information, notably adapted information to be included for certain categories of specialist issuers, clarifications relating to information on property companies, compensation, related parties transactions, acquisition rights, option agreements, history of share capital, description of the rights attaching to shares, statements by experts, information on holdings, interests of natural or legal persons involved in the issue, terminology used with respect to UCITS and closed-end UCIs;
- content of documents prepared within the context of certain exemptions from the obligation to publish a prospectus.

The group currently continues its works relating to issues linked to complex historical financial statements.

- ***Transparency expert group***

In June 2004, the expert group was given its first mandates under the Directive on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market (Transparency Directive). CESR has been asked to submit its advice by 30 June 2005. These first mandates concern three areas:

- issues related to notifications of major holdings of voting rights in companies whose shares are admitted to trading on a regulated market;
- standards for the dissemination of regulated information on companies whose shares are admitted to trading on regulated markets and conditions under which periodic financial information must be kept available;
- issues related to half-yearly reports, the equivalence of transparency requirements for third country issuers and procedures whereby an issuer may elect its home Member State.

Furthermore, the European Commission called on CESR to draft regular progress reports concerning a single European electronic storage network. Based on this report, the European Commission will consider until 2006 whether a second mandate should be sent to CESR to set up implementing measures concerning mechanisms for storage and electronic networks at supervisory authorities.

On 27 October 2004, the expert group published a first consultation paper on the standards for dissemination of regulated information and the conditions under which periodic financial reports of issuers must be kept available. This document also includes a progress report on a single European electronic storage network. The group continued its works and published, on 13 December 2004, a second consultation document covering major shareholdings, half-yearly financial statement, equivalence and the home Member State.

- ***Expert groups related to the Directive concerning markets in financial instruments***

Under a **Steering Group** and assisted by a consultative group composed of 23 external experts (including one professional of the Luxembourg financial sector), three CESR expert groups cover the mandates for the Directive on Markets in Financial Instruments (commonly referred to as ISD 2 or MIFID).

The mandates cover three major subjects handled by three working groups within CESR:

- the requirements for financial intermediaries and investor protection – the Group on Intermediaries;
- the rules governing financial markets and market transparency – the Group on Market;
- the requirements for transaction reporting and co-operation – the Group on Co-operation and Enforcement.

CESR received two sets of mandates from the European Commission. The first set, published in January 2004, notably covers organisational issues of the financial intermediaries and investor protection (compliance function, organisation regarding procedures, internal systems and resources, outsourcing, record keeping, safeguarding of clients' assets, management of conflicts of interest, rules of conduct for the provision of investment services, client order handling and best execution), pre- and post-trade transparency, rules governing the admission of securities to regulated markets, reporting requirement regarding financial instruments and co-operation and exchange of information between supervisory authorities. The deadline for CESR's technical advice is 31 January 2005.

The second set of mandates, published in June 2004, notably covers the definition of investment advice, the list of financial instruments, certain conduct rules (requirement to act honestly, fairly and professionally in the best interest of the clients, suitability test, execution only), display of client limit orders, transactions executed with eligible counterparties and systemic internalisation. The deadline to submit technical advice is 30 April 2005.

For reasons of coherence between the different measures designed to ensure a high degree of competition and efficiency in European markets, and, in particular, to strike an appropriate balance between the transparency and best execution provisions of the MIFID, the European Commission, in its second mandate, decided to extend the deadline granted to CESR in the provisional mandate requesting advice on best execution obligation, pre- and post-trade transparency requirements for regulated markets and the rules governing the admission of securities to regulated markets, to 30 April 2005. It has also extended the deadline for submission of CESR's technical advice on client order handling rules to 30 April 2005.

In order to draft the first implementing measures, the three expert groups consulted the professionals on two occasions. The comments received have been considered while finalising the technical advice presented by CESR to the European Commission on 31 January 2005. As far as the subjects covered by the implementing measures to be delivered by 30 April 2005 are concerned, consultation of professionals is still ongoing. The expert groups Intermediaries and Markets will also collect the comments of end-users on the occasion of a day organised to that end in March 2005. CESR also held open hearings in July and November 2004.

Based on the standards set up by CESR as regards investor protection and having taken account of the industry's comments, the **expert group on Intermediaries** presented, on 31 January 2005, technical measures to the European Commission, covering notably the compliance function, management of personal transactions, organisation regarding procedures, internal systems and resources, outsourcing, record keeping, safeguarding of clients' assets, management of conflicts of interest within an entity concerned by MIFID, rules of conduct for the provision of investment

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services relating to information to be provided to clients and the content of the client file to be established, as well as the content of the agreement to be reached with non-professional clients.

Within the scope of the first set of mandates, the expert group continues its work to draft technical measures concerning the best execution rules by defining the criteria to be taken into account for the definition of the importance of different elements of best execution, such as price, cost, swiftness, security and probability of execution and delivery, as well as the rules governing the handling of eligible counterparties. Within the second set of mandates, the group notably deals with the definition of investment advice, the list of financial instruments, certain rules of conduct (requirement to act honestly, fairly and professionally in the best interest of the clients, suitability test, execution only), the conflicts of interest inherent in investment research, the agreement with the professional client and the handling of eligible counterparties.

The **expert group on Co-operation and Enforcement** developed implementing measures concerning the reporting requirement for all on and off stock exchange transactions on financial instruments admitted on a regulated market and the obligation to co-operate between supervisory authorities. The purpose of these measures is more specifically to draw up a general format for the transaction reporting on financial instruments and the exchange of information on transactions reported between relevant authorities, as well as to set up flexible rules regarding the transmission modes of these declarations. More technical aspects notably relating to the IT area will be handled in collaboration with IT experts.

The implementing measures confirm the principle of supervision should be carried out by the home Member State authority and set up rules in order to improve and speed up co-operation between competent authorities. They are covered by a technical advice submitted to the European Commission on 31 January 2005 together with the advice drawn up by the expert group on Intermediaries.

Due to the extension of the above-mentioned deadlines, the **expert group on Market** will submit its technical advice on both major issues to the European Commission on 30 April 2005.

The first issue handled by the expert group relates to the rules governing the admission of financial instruments to regulated markets and the definition of the means to be implemented to ensure control of these rules by regulated markets. By taking account of the existing regulations within the scope of the prospectus, market abuse, transparency and UCITS Directives, the laws governing listed companies and the Directive on listing criteria, the expert group, which has been mandated to set up listing criteria for admission to trading on a regulated market for different instruments under MIFID, proposes to only address the points linked to the different categories without including those related to the issuing companies.

The second issue concerns market transparency with a view to promoting fair pricing. The group will focus on pre-and post-trade transparency requirements for regulated markets and multilateral trading systems, as well as the post-trade transparency requirements for investment firms. Particular attention is focused on requirements concerning systematic internalisation. Substantial differences between financial markets in Member States complicate the task of setting up harmonised measures for the aforementioned issues in order to achieve a single market, a level playing field for all the participants and similar levels of investor protection for all investors. In practice, the group notably endeavours to determine the scope of application of the systematic internalisation by defining what is to be understood as systematic internaliser, normal market size, share classes, large size compared to normal market size and liquid market.

- **Expert Group on Investment Management**

In 2004, the expert group, chaired by the Chairman of the Italian Commissione Nazionale per le Società e la Borsa (Consob), has notably set up three sub-working groups, the first having dealt with the transitional provisions of Directives 2001/107/EC and 2001/108/EC (Directives UCITS III) amending Directive 85/611/EEC (Directive UCITS I). The other two sub-working groups dealt with the clarification of the definitions concerning eligible assets for these UCITS.

The Expert Group on Investment Management is assisted by a consultative group consisting of sixteen industry experts, including one representative of the Luxembourg investment fund sector.

The CSSF participated in the **sub-working group concerning the transitional provisions of Directives 2001/107/EC and 2001/108/EC**, whose works have been coordinated by the German Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin).

The document containing guidelines concerning the transitional provisions of Directives UCITS III has been finalised, adopted and published on 3 February 2005 on CESR's website (www.cesr-eu.org, reference 04-434b). The document aims at putting an end to the uncertainties caused by divergent interpretations of these transitional provisions, also known as "grandfathering clauses", by the prudential authorities of the EU Member States. It deals with the transitional provisions concerning UCITS and those concerning management companies, multiple compartment UCITS and simplified prospectuses, as well as the extent of the passport for management companies and UCITS.

Since the document fixes new deadlines as compared to those contained in the amended UCITS Directive, the following points can be stressed:

- A grandfathered management company can launch UCITS III funds until 30 April 2006 if it applies the adapted risk management process. After this date, the management company must comply with the requirements of Directive UCITS III. Management companies that have launched UCITS III funds before 30 April 2006 must have received before 30 April 2006 at the latest the authorisation of the competent authority as management company complying with the requirements of the Directive UCITS III, which shall be confirmed by a special attestation delivered by the competent authority.
- A grandfathered UCITS I umbrella fund can launch UCITS I compartments until 31 December 2005. Grandfathered UCITS I umbrella funds which have launched a compartment since 13 February 2002 must comply with the requirements of Directive UCITS III by 31 December 2005 at the latest.
- All UCITS (UCITS I and UCITS III funds) should have a simplified prospectus available no later than 30 September 2005.

The CSSF has also participated in the **two sub-working groups on the clarification of definitions of the eligible assets of UCITS**, whose works have been coordinated by the British Financial Services Authority (FSA) and the French Autorité des Marchés Financiers (AMF) respectively.

The issues discussed within these sub-groups notably concerned the concepts of transferable securities and structured financial instruments, closed-end UCIs, credit derivatives, money market instruments, UCITS tracking an index as well as derivative instruments on financial indices and in particular whether indices based on non-eligible assets should be considered as financial indices.

On 21 March 2005, CESR published a consultation paper on the clarification of definitions of the eligible assets for UCITS, which is available on the CESR website (reference 05-064b). The consultation period ends on 10 June 2005.

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Permanent CESR groups

• *CESR-Fin*

CESR-Fin is a permanent operational group with the role of coordinating the work of CESR Members in the area of endorsement and enforcement of financial reporting standards in Europe. Following the introduction of a new accounting framework in the European Union, the enforcement of the international accounting standards IAS/IFRS will become mandatory for listed companies as from 2005.

To meet its objectives, CESR-Fin has established three sub-committees, whose works are coordinated by CESR and in which the CSSF participates as a member:

- SISE, the Sub-committee on Endorsement of International Financial Reporting Standards;
- SCE, the Sub-committee on Enforcement for enforcement of international accounting standards in Europe;
- ATF, the Audit Task Force, in the area of audit of financial statements.

The European Commission participates in the meetings of CESR-Fin and of its sub-committees as observer.

The following issues dominated the agenda of CESR-Fin and its sub-committees in 2004:

- the follow-up of the endorsement of IAS/IFRS standards in the EU, including in particular the IAS 39 standard on financial instruments;
- the establishment of co-operation mechanisms allowing consistent enforcement of the accounting standards in Europe;
- the set-up of the ATF sub-committee, created in 2004, and the definition of its key objectives;
- the works relating to the mandate of the European Commission on the equivalence of accounting standards in third countries.

As regards the works on the adoption of IAS/IFRS standards, CESR-Fin has focused notably on the standards IFRS 2 – Share Based Payments (a standard backed by the committee for reasons of investor protection), IFRS 3 – Business Combination, IFRS 4 – Insurance Contracts and IAS 39 – Financial Instruments. Since the standard IAS 39 has been the subject of intense debate in Europe, the publication of an improved version of the standard, including the possibility to apply hedge accounting on a portfolio basis, has not been sufficient to appease the concerns of the banking industry, the European Central Bank and prudential supervisors. The current version of the IAS 39 standard has been endorsed at EU level in July 2004, except for the following two unresolved issues:

- the hedge accounting provisions;
- the option to apply fair value to all assets and liabilities without restrictions.

Following the endorsement in March 2004 of Standard N° 2² relating to the consistent enforcement of the financial reporting framework within Europe, the sub-committee SCE focused its activities on the implementation of this standard. The sub-committee thus prepared guidance for implementation and Terms of Reference of the EECS (European Enforcers Coordination Sessions). The EECS is an extended formalised structure of the SCE sub-committee, within which national supervisors of the European Union, members of CESR or not, entrusted with national responsibilities in enforcement of financial reporting, can discuss the enforcement decisions of the accounting standards and share their experience in this area. The implementation of Standard N° 2 also provides for the development of a database as a practical reference tool which sets out decisions taken by national enforcers.

² The principles of Standard N° 2 are described in the CSSF's Annual Report 2003.

The implementation of the necessary tools for EECs and the development of the database should be achieved in the beginning of 2005, thereby allowing the SCE sub-committee to focus on the discussions concerning the implementation of international accounting standards.

In March 2004, CESR decided to set up an *ad hoc* Audit Task Force (ATF) entrusted with monitoring developments in the area of audit of financial statements of listed companies in the European Union, from the perspective of securities regulators. The works for this purpose are directly related to the transposition of Directives on Prospectus and on Transparency. The group actively monitors the modernisation of the 8th Company Law Directive and focuses on issues related to the quality of the audit. Its approach will not include undertaking detailed reviews of all technical aspects of the auditing standards, as this work is performed at international level through IOSCO³. The group will rather concentrate on the application of common auditing standards in Europe, the independence of auditors and the oversight of the profession.

Within the scope of the comitology process, the European Commission issued a mandate to CESR on the assessment of equivalence between third country GAAP, specifically the US, Japan and Canada, and the accounting standards IAS/IFRS. Indeed, provisions of the Prospectus and Transparency Directives require issuers whose securities are admitted to trading on a European regulated market to prepare their accounts according to the IAS/IFRS accounting standards or according to the national accounting standards of non EU countries, on the condition that these standards are considered equivalent to the IAS/IFRS standards. In a first stage, CESR-Fin has developed principles and guidelines for the assessment of the standards concerned in order to decide on a possible equivalence. CESR-Fin is of the view that equivalent does not mean identical. Therefore, it should be assessed whether the investors' decisions could be affected or not by the presentation of financial statements according to a specific accounting standard. The methodology used by CESR-Fin will serve as objective reference for any assessment processes of accounting standards. The second stage in the decision process of a possible equivalence will consist in the technical analysis of the differences between the three GAAP and the IAS/IFRS standards, as well as the analysis of supervisory mechanisms in the countries concerned. The technical advice on this matter must be submitted to the European Commission by 30 June 2005 at the latest.

The working group is assisted by a consultative group gathering seventeen external experts (including a representative of a Luxembourg auditor).

³ Also refer to the description of the activities of Standing Committee No 1 under Chapter X, point 2.2.2. "IOSCO groups".

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• *CESR-Pol*

CESR-Pol's purpose is to enhance sharing of information, co-operation and coordination of supervision and enforcement activities between CESR members.

A major priority of CESR-Pol is to ensure the effective and harmonious day-to-day operation of the Market Abuse Directive at Level 3 of the Lamfalussy process. Under the mandate it received from the Chairmen of CESR at its meeting on 11 and 12 December 2003, CESR-Pol developed detailed measures on the following topics:

- accepted market practices (procedure to abide by, format and accepted practices proposed by certain members);
- a description of certain types of price manipulation;
- indication of insider dealing and price manipulation;
- format for reporting suspicious transactions to the relevant authority.

Detailed measures are being drafted as regards the exchange of information and cross-border investigations involving several competent authorities, the procedure applying in urgent cases, as well as the set up of a central database for CESR-Pol members for cases of market abuse.

Furthermore, CESR-Pol endeavoured to effectively integrate the new EU Member States by ensuring that all the competent authorities of the States concerned sign the Memorandum of Understanding (MoU). CESR-Pol also organised a training seminar on international co-operation in February 2004. Moreover, CESR-Pol continued its works on the supervision of Internet activities in order to detect illegal financial activities, on the issues with non co-operative jurisdictions and the exchange of information between members on non-authorized provision of financial services.

Joint CESR-ECB working group on compensation and securities settlement systems

On 27 September 2001, the European Central Bank (ECB) and CESR drafted the framework for co-operation between the European System of Central Banks (ESCB) and CESR as regards compensation and securities settlement systems in order to study issues of common interest.

In October 2004, CESR and the Governing Council of the ECB approved the report established by the working group entitled "Standards for clearing and settlement systems in the European Union". This report is available on the CESR website (www.cesr-eu.org).

The working group currently focuses on a methodology designed to assess compliance with these standards. Moreover, it works on the pending issues listed under paragraph 27 of its abovementioned report. To this end, the group was sub-divided into several smaller sub-groups. The development of the methodology in question and the analysis of the pending issues should be finished in autumn 2005. These works are carried out in co-operation with participants in securities markets. The standards will enter into force after the finalisation of these works.

1.1.3. The Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS)

The Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS) is comprised of high level representatives from the insurance and occupational pensions supervisory authorities from EU Member States. The Committee's objectives are to advise the European Commission, either at the European Commission's request or on the Committee's own initiative, as regards the preparation of implementing measures in the fields of insurance, reinsurance and occupational pensions, to contribute to the consistent implementation of EU Directives and to the convergence of Member States' supervisory practices and to constitute a forum for supervisory co-operation, including the exchange of information on supervised institutions.

In 2004, the CSSF participated in the works of CEIOPS concerning occupational pensions in its capacity as member.

CEIOPS decided to create several working groups among which the Occupational pensions committee. This permanent working group deals with all the aspects relating to Directive 2003/41/EC concerning the activities and supervision of institutions for occupational retirement provision (IORP Directive). Its tasks include:

- developing a common understanding of the IORP Directive;
- facilitating the supervisory co-operation, coordination and exchange of information between supervisory authorities on cross-border membership and related issues;
- carrying out the preparatory work for dealing with issues related to pension funds.

These functions notably comprise the following tasks:

- preparation of a protocol organising the co-operation, coordination and regular information exchange between occupational pensions supervisors in view of the implementation of the IORP Directive;
- analyses of the current status of the pension savings institutions from the EU legislation point of view;
- monitoring of the practices adopted by the Member States to calculate technical provisions;
- monitoring of the progress achieved in the adaptation of investment rules and the use of depositaries in the national supervisory systems.

On 28 February 2005, CEIOPS released for public consultation the protocol relating to the collaboration of the relevant supervisory authorities in the application of the IORP Directive, which is available on the CEIOPS website (www.ceiops.org).

1.1.4. The Contact committee on money laundering

The Contact committee on money laundering, established by Directive 91/308/EEC on prevention of the use of the financial system for the purpose of money laundering, is entrusted with facilitating the harmonised implementation of the Directive through regular consultation on concrete issues regarding implementation. Within the scope of its works, the committee also deals with questions discussed within the Financial Action Task Force on money laundering (FATF). Luxembourg is represented within this committee by representatives of the Ministry of Justice, the Ministry of Finance and the CSSF respectively.

In 2004, the committee met on three occasions. Its works mainly focused on the proposed third anti-money laundering Directive.

INTERNATIONAL CO-OPERATION

1.1.5. The Expert group on payment systems

The *ad hoc* group, which met five times in 2004, analysed the responses received from the different professional and consumer representatives following a public consultation on a new legal framework for payments within the internal market. The group having discussed the responses received, the European Commission drew up a draft Directive. This future proposal for a Directive will probably be submitted for discussion to the EU Council in 2005.

1.1.6. The Contact committee on accounting directives

The Contact committee on accounting directives, instituted under Article 52 of the fourth Company Law Directive (Directive 78/660/EEC), met once at the beginning of 2004. Discussions mainly concerned the problem relating to the delay in the transposition of Directive 2001/65/EC of 27 September 2001 amending Directives 78/660/EEC, 83/349/EEC and 86/635/EEC as regards the assessment rules applicable to annual accounts and consolidated accounts of certain forms of companies, as well as to those of banks and other financial institutions (Directive Fair Value). The Contact committee on accounting Directives will meet jointly with the Accounting regulatory committee in 2005.

1.1.7. The Accounting Regulatory Committee

The Accounting Regulatory Committee, established by the European Commission in accordance with Article 6 of the IAS Regulation, met eight times in 2004. The meetings mainly concerned the adoption of the remaining standards of the International Accounting Standards Board (IASB), constituting the stable platform for the implementation in 2005 and the discussion of the current IASB draft standards.

During the meeting of 1 October 2004, the committee endorsed the international standard IAS 39 "Financial instruments: recognition and measurement" by carving out certain provisions concerning, on the one hand, the possibility to allow full fair valuation of all liabilities ("full fair value option") and, on the other hand, hedge accounting.

The carve-out of the full fair value option is based on observations from the European Central Bank and prudential supervisors represented in the Basel Committee on banking supervision. Insofar as Article 42a of the fourth Company Law Directive (Directive 78/660/EEC) does not allow full fair valuation of all liabilities, European companies are not allowed either to use voluntarily the full fair value option for all their liabilities. Neither can Member States require mandatory use of the carved out fair value provisions.

The carve-out of certain hedge accounting provisions reflects criticism by the majority of European banks, which argued that IAS 39 in its current form would force them into disproportionate and costly changes both to their asset/liability management and to their accounting systems, and would produce unwarranted volatility. However, because there is no existing EU law on this issue, individual companies may apply the carved-out hedge accounting provisions. A Member State may also make these provisions mandatory under its national rules, which is not planned for Luxembourg however.

Following the meeting of the committee, the European Commission has published a political declaration appealing to all parties concerned, namely the IASB, the European Central Bank, the Basel committee regulators and European banks, to work intensely to find appropriate, balanced solutions as quickly as possible on the outstanding issues in IAS 39, so that the carve-outs can be eliminated by the end of 2005.

On 1 January 2005, the European Commission has published the current status of the endorsement process of the international accounting standards within the European Union, namely the international accounting standards adopted by the European Commission for the European Union, following the formal opinion of the Accounting Regulatory Committee, applicable as of 1 January 2005.

The works of the Accounting Regulatory Committee can be consulted on the website of the European Commission at http://europa.eu.int/comm/internal_market/accounting/ias_en.htm.

1.2. The groups operating at European Union Council level

The CSSF is a member of the groups working on proposals for Directives concerning financial services. The groups of government experts meeting at Council level play an important role in the Community legislative process, since they format the consensus texts, referring only political difficulties to the Permanent Representatives Committee and the Council of Finance Ministers. The groups are chaired by a representative of the Member State, which presides over the Council. Ireland chaired in the first half of 2004 followed by the Netherlands in the second half. The list of Directives under negotiation at Council level and a brief description thereof is available in chapter XI.

1.3. The Banking Supervision Committee of the European Central Bank

The Banking Supervision Committee of the European Central Bank is a committee made up of high level representatives of the banking supervisory authorities and the central banks of Member States. It is chaired by Mr Meister, a member of the Board of Directors of Deutsche Bundesbank. The missions concerning prudential supervision conferred by the Treaty and the statutes of the European Central Bank on the ESCB (European System of Central Banks) are carried out by the Banking Supervision Committee on behalf of the ESCB. The Committee is a forum for the exchange of opinions on the supervisory policies and practices in Member States. It should also be consulted on proposals for Directives and bills tabled by Member States on matters within its competence.

Two working groups comprising members of the central banks and national supervisory authorities, i.e. the Working group on macro-prudential analysis and the Working group on developments in banking, assisted the Banking Supervision Committee in carrying out its mandate in 2004.

In order to systematise the analysis of macro-economic data with a view to identifying, as far as possible in time, the factors likely to weaken the financial institutions as a whole and therefore the financial system, the Working group on macro-prudential analysis monitors the macro-economic environment and reports to the Committee on trends and facts likely to be relevant to the prudential supervision of the financial sector.

Every year, the working group draws up a report on the stability of the financial sector. This report is also discussed by the Executive board of the European Central Bank. It has also been prepared under the aegis of the Banking Supervision Committee for three years now. In 2004, the group analysed more specifically the stability of the banking sector in the new EU Member States. A separate study has been devoted to the level of indebtedness of the EU households and its impact on the stability of the financial system. Finally, the group looked into the profitability and solvency risk for banks resulting from a possible increase in interest rates.

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As in the previous years, the Working group on developments in banking focused on the drawing up of its structural report during the first half of 2004. This annual report aims to identify and monitor the structural trends marking the European banking sector as a whole. The 2004 report focuses in particular on the development strategies of European credit institutions, as well as on the outsourcing phenomenon. The extent of the report has been widened to include the ten countries that joined the European Union on 1 May 2005. During the second half of 2004, the group continued to analyse the structure of the large European banking groups and launched a study on the mortgage credit activity in Europe.

Finally, it has to be noted that at year-end 2004, a joint working group on crisis management has been established together with CEBS. The future works of this joint working group revolve around several themes. Thus, it aims to develop guidelines for prudential supervisory authorities and central banks to manage financial crises that could have an impact on individual banks, banking groups, or even on financial markets. Another part concerns the development of guidelines to establish an efficient cross-border co-operation network between supervisory authorities and central banks, taking account of the competence and responsibilities on all sides.

2. MULTILATERAL CO-OPERATION

2.1. The Basel Committee on banking supervision

2.1.1. The new capital adequacy framework

On 26 April 2004, the Basel Committee has published the document "International Convergence of Capital Measurements and Capital Standards: A Revised Framework", which is the new capital adequacy framework, commonly known as "New Basel Accord" or "Basel II".

Pillar 1 of the new framework advocates the adoption of methods to calculate the minimum capital requirements that are more risk-sensitive than the former rules. These calculation methods mainly concern credit risk and operational risk (the methods for market risk do not change); for each of these risks, three methods at three different complexity levels are proposed.

Pillar 1 is strengthened by a second Pillar, the supervisory review process, which consists for supervisory authorities to ensure that each bank has an adequate internal process to assess economic capital, based on a thorough assessment of the risks incurred.

Finally, the Pillar 3 of the new framework aims to promote market discipline by requiring that the banks' financial communication be improved.

The Basel Committee expects the new framework to be implemented as of 31 December 2006, except for the more advanced methods, i.e. the Advanced IRB Approach for credit risk and the Advanced Measurement Approach for operational risk, which can only be implemented as of 31 December 2007, in order to allow banks and supervisory authorities to benefit from an additional year to carry out impact analyses or parallel calculations.

- **Works concerning the trading book**

On 15 January 2004, the Basel Committee has set up a joint sub-group, together with IOSCO, in order to review the treatment of certain counterparty credit risk and trading book-related items in the light of the capital adequacy framework. A newsletter entitled “New work on counterparty credit risk and trading book-related issues” was published in June 2004. The sub-group’s works are still in progress and notably cover:

- treatment of counterparty credit risk for OTC derivatives;
- treatment of double-default effects for hedged transactions;
- capital treatment for less liquid instruments held in the trading book;
- hedging of settlement/delivery risk inherent in unsettled transactions.

- **Accord Implementation Group**

In January 2004, the Accord Implementation Group published a document entitled “Principles for the home-host recognition of AMA operational risk capital” under the aegis of the Basel Committee. The document concerned intends to respond to the expectations of the banking industry on which conditions the most advanced approaches to calculate capital requirements for operational risk will apply for banking groups operating on a cross-border basis and stresses four principles.

The first principle provides that the calculation of operational risk requirements according to the most advanced approaches should be consistent notably with the principles set out in the 2003 paper on “High-level principles for the cross-border implementation of the New Accord”. The second principle obliges the board of directors and senior management of every banking organisation to understand the operational risk profile of their bank. Thirdly, since experience has shown that capital is generally not freely transferable within a banking group, especially during times of stress, each banking subsidiary within the group must be adequately capitalised on a stand-alone basis. Finally, the paper sets out a fourth principle according to which supervisors should balance the three principles above with the goal of minimising the burden and cost - for both banking organisations and supervisors concerned.

- **Joint CTF/AIG Working Group on LGD**

Established in 2004, the working group was charged with studying the technical and practical possibilities to evaluate or assess loss-given default (LGD) in an economic downturn, as laid down in paragraph 469 of the New Accord⁴. The group has been mandated, *inter alia*, to identify the products for which losses vary materially in the course of an economic cycle, through the consultation of banks, as well as by assessing academic or other studies in order to propose more indications as to the interpretation of the paragraph.

⁴ See “International Convergence of Capital Measurement and Capital Standards – A Revised Framework”, June 2004. Interested parties can also refer to the Press release of the Basel Committee on banking supervision of 11 May 2004 published on the website www.bis.org.

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- ***Accord Implementation Group related to Validation under the Basel II Framework***

The group is a sub-group of the Accord Implementation Group and is in charge of sharing information and experience between the banking supervisory authorities as regards validation of the banks' internal ratings system. The group, which started its activities in June 2004, identified five work areas, namely the internal rating system design (rating dimensions, segmentation, etc.), risk quantification (definition of default, robustness of the PD, LGD and EAD estimation, etc.), criteria related to technical support of the internal rating systems (IT support, data integrity, etc.), organisational and governance aspects, the use of internal ratings (limit policies, pricing, credit risk modelling, etc.), as well as specific portfolio issues (low-default portfolios, specialised lending, etc.)⁵.

- ***Working Group on Overall Capital/QIS***

In 2004, the working group continued its efforts to update the Excel workbooks in order to incorporate the latest changes made to the text of the New Accord and to allow to carry out isolated impact studies in Member States of the Basel Committee. The workbooks, which are available for download on the website of the Bank for International Settlements (www.bis.org), have already been used in several countries (QIS4/Field tests). The group has also started the necessary works for the fifth coordinated impact study (QIS5) planned for the second half of 2005. The Luxembourg credit institutions are invited to participate in this study.

2.1.2. The other subgroups of the Basel Committee

- ***Transparency Group***

Following the finalisation of the provisions of Pillar 3 – market discipline – with a view to publishing the New Basel Accord in June 2004, the Transparency Group has been dissolved and its remaining responsibilities transferred to the Accounting Task Force.

These responsibilities include the IASB's works as regards the recasting of the IAS 30 standard on disclosures by banks and the development of regular surveys on disclosure practices.

- ***Accounting Task Force***

The Accounting Task Force is responsible for monitoring the developments in accounting and audit. Its mandate covers two aspects:

- following-up on the work of accounting and auditing standard setters that are of particular interest to the financial and banking sector, in particular the works of the International Accounting Standards Board (IASB) and of the various committees operating under the aegis of the International Federation of Accountants (IFAC), including the International Auditing and Assurance Standards Board (IAASB);
- developing principles and guidelines in the areas of accounting, auditing and, more recently, compliance.

As regards the follow-up on the works of the accounting standard setters, the Task Force continued to focus on the issues relating to the accounting rules applying to financial instruments, IAS 32 and IAS 39.

⁵ Interested parties can also refer to the relating Press release of the Basel Committee on banking supervision published in January 2004 on the website www.bis.org.

Provisioning and issues relating to the fair value option give the most cause for concern from a prudential point of view. While for the first, the problem consists in addressing an incompatibility between the rules laid down by IASB and the prudential principles, the difficulty raised by the fair value option is to avoid potential abuses owing to the lack of restrictive application criteria.

The group has also invested a lot of resources into the issues relating to the impact of the international accounting standards IAS/IFRS on prudential own funds. These works led to the publication of three press releases recommending the supervisory authorities to apply certain prudential filters in order to adapt, i.e. correct the impact of the accounting rules on prudential own funds. Based on these recommendations, the Committee of European Banking Supervisors developed guidelines.

As far as audit is concerned, the group participated in the reorganisation process of IFAC and the creation of the Public Interest Oversight Board that should be operational in 2005.

According to the mandate given by the Basel Committee for the development of best practice principles concerning compliance within institutions, the group continued to work on the finalisation of the relating document. This document has thus been revisited in order to take account of the comments received upon the public consultation that had closed in January 2004. The final version of the document should be made available in the course of 2005.

- ***Working Group on Cross-Border Banking***

In October 2004, the Working Group on Cross-Border Banking, a joint working group of the Basel Committee and the Offshore Group of Banking Supervisors, published, under the aegis of the Basel Committee, a document entitled "Consolidated KYC Risk Management". This document, which had been submitted to public consultation in August 2003, stresses the importance for banks to apply certain principles governing a sound KYC programme to all the entities of the banking group.

Group-wide KYC risk management means establishing a centralised process for coordinating and promulgating these policies on a group-wide basis, as well as arrangements for the sharing of information within the group. These policies, as well as the procedures established to this end, should be designed not merely to comply strictly with all relevant laws and regulations, but more broadly to identify, monitor and mitigate reputational, legal, operational and concentration risks. Effective control of consolidated KYC risk requires banks to coordinate their risk management activities on a group-wide basis across all branches and subsidiaries.

The Basel Committee recognises that effective implementing policies on a group-wide basis comes up against customer privacy considerations in various jurisdictions, in particular concerning transmission of names as regards customer liabilities. Nevertheless, the Committee considers that it is essential, in conducting effective monitoring on a group-wide basis, that subsidiaries be free to pass information about their liabilities or assets under management, subject to adequate legal protection, back to their parent bank. The Committee considers that legal restrictions that impede effective consolidated KYC risk management processes should be removed.

INTERNATIONAL CO-OPERATION

- **Working Group on corporate governance**

The Working Group on corporate governance was created in September 2004 on the initiative of the Basel Committee on banking supervision. The group, which met for the first time in December 2004 in Basel, has been mandated to update the improvement proposals for corporate governance designed for banking organisations as published in 1999 in a document entitled “Enhancing Corporate Governance for Banking Organisations”.

The group is notably in charge of assessing how the corporate governance principles reviewed in 2004 by the Organisation for Economic Co-operation and Development (OECD) apply to the banking sector. Furthermore, it is charged with specifying the prudential lessons that can be learned from recent concrete cases of failures in the field of corporate governance. Finally, and more specifically, it should provide best practice principles as regards the use and implementation, for own account or on behalf of third parties, of legal means, as well as complex financing structures. The latter topic is considered from a “Know Your Structure” point of view.

The final report of the working group is to be submitted to the Basel Committee at year-end 2005.

2.1.3. Other publications

The documents “Modifications to the capital treatment for expected and unexpected credit losses” and “Modifications to the securitisation framework” were published in January 2004. They are now redundant, however, as the modifications explained therein have been integrated into the New Basel Accord.

The document “Implementation of Basel II: Practical considerations”, published in July 2004, addresses authorities of non-G10 countries that are not ready yet to implement the new framework at the deadlines and aims at providing practical advice concerning implementation.

Published in July 2004, the document “Principles for the management and supervision of interest rate risk” is a revisited version of the principles for the management and supervision of interest rate risk published in 1997. The new version was subject to two consultations in 2001 and 2003. The principles concerned are intended to support the interest rate risk in the bank portfolio, provided under Pillar 2 of the new capital adequacy regime.

2.2. The International Organisation of Securities Commissions (IOSCO) and IOSCO task forces

2.2.1. The XXIXth Annual Conference of IOSCO

The securities and futures regulators and other members of the international financial community met in Amman, Jordan, from 17 to 20 May 2004, on the occasion of the XXIXth Annual Conference of IOSCO.

The Presidents Committee launched an electronic, interactive version of the IOSCO “Methodology for assessing implementation of the objectives and principles of financial regulation”, key instrument to promote the implementation of IOSCO principles in the member jurisdictions. Indeed, IOSCO is increasingly focusing on promoting the implementation of its principles by its members. The variety in the structure of securities markets around the world, the varying degree of development of those markets and the varying institutional arrangements to regulate those markets present great challenges to IOSCO and its membership in achieving full implementation. To assist its members in this task, IOSCO launched a pilot program to assist its members in the completion of a self-assessment of their level of implementation of the IOSCO principles and in the development of an action plan to correct identified deficiencies.

Within the scope of the strengthening of international co-operation, works on the assessment of applicants to the Multilateral Memorandum concerning Consultation and Co-operation and the Exchange of Information (MMOU), have been carried on. Applicants to the MMOU are subject to a rigorous screening process undertaken to assess their ability to co-operate according to the standards set by the MMOU. By joining this process, they commit themselves to take part in an efficient system of information exchange in order to combat stock market infringements and breaches and any other form of international financial crime. Twenty-seven candidates have signed this MMOU and two candidates have committed themselves to undertake the necessary reforms to become a full signatory.

The Presidents Committee took stock of the works on the strengthening of the securities markets against financial fraud, as well as on the work of the task group responsible for developing a code of conduct for rating agencies.

Moreover, the IOSCO Presidents Committee endorsed the “Principles on Client Identification and Beneficial Ownership for the Securities Industries”. The endorsement of these principles represents the commitment of the global community of securities regulators to robust standards of client identification for the securities sector.

At the beginning of 2004, IOSCO published certain consultative reports, notably that on the recommendations for central counterparties, that on stock repurchase programmes, as well as certain reports in the field of investment funds.

2.2.2. IOSCO groups

The CSSF is a member of two IOSCO groups, i.e. the Standing Committee n° 1, dealing with subjects concerning accounting, and Standing Committee n° 5 concerning UCIs and collective management.

- ***Standing Committee n° 1***

As a member of the Permanent Committee and its Subcommittee on Disclosure, the CSSF participated in the project to develop international standards in the field of information to be published for multinational offers and listings of bond issues, a project that should result in the publication of general guidelines and explain the underlying reasons for diverging approaches concerning certain standards in certain countries.

Continuing the works started in the previous years, the Committee closely examined the development of IAS/IFRS standards and draft standards and actively intervened by addressing comments to the IASB (International Accounting Standards Board). In 2004, it also focused on discussions concerning the development process of International Audit Standards (IAS) and the creation of the Public Interest Oversight Board (PIOB), an international supervisory authority of auditors.

Finally, a project on the implementation and interpretation of international accounting standards has been launched in order to promote a coherent implementation of IFRS among IOSCO members. This project should also result in the creation of a database, which centralises the decisions taken by regulators as regards the implementation of standards. The works on this subject will be in line with a comparable project undertaken by CESR-Fin.

INTERNATIONAL CO-OPERATION

- ***Standing Committee n°5***

In 2004, the Committee worked on the following topics: “Examination of governance for CIS”, “Best practice standards on anti market timing and associated issues” and “Anti-money laundering guidance for CIS”. The documents, dated February 2005, have in the meantime been submitted by the IOSCO secretariat to public consultation. The consultation period will close on 11 May and 18 May 2005 respectively.

Furthermore, the IOSCO’s Technical committee has given the Committee a mandate to analyse hedge funds. Finally, the Committee has started works on the distribution costs and the cost structure, as well as on “soft commissions”.

2.3. The informal groups

- ***The extended contact group “Undertakings for collective investment”***

The extended contact group “Undertakings for collective investment” is entrusted with establishing multinational dialogue on issues that arise within the scope of regulation and supervision of UCIs.

The CSSF participated in the annual meeting of the group, which was held from 27 to 29 October 2004 in Rome. The members have presented their latest assessments with respect to legislation and regulations concerning UCIs, as well as statistics on the UCI sector.

2.4. Institut Francophone de la Régulation Financière (IFREFI)

The *Institut Francophone de la Régulation Financière* (IFREFI, Francophone institute for financial regulation), gathering the financial markets regulatory authorities of fourteen French-speaking countries (Algeria, Belgium, France, Guinea, Luxembourg, Quebec, Morocco, Switzerland, the West African Monetary Union, Monaco, Tunisia, the Economic and Monetary Community of Central Africa, Cameroon and Rumania) was created in 2002 by a charter. IFREFI is a flexible structure of co-operation and dialogue and aims at furthering the exchange of knowledge and experience, drawing up studies and exchanging essential information relating to the financial markets between the Member States of the Institute. According to the charter, IFREFI also aims at promoting professional training by organising training seminars on specific topics.

During the annual meeting of the presidents which was held in Vevey (Switzerland) in May 2004, five new members (Monaco, Tunisia, the Economic and Monetary Community of Central Africa, Cameroon and Rumania) have been welcomed and signed the charter. The presidents discussed the international standards applicable to financial regulation and stressed the importance of taking into account the IOSCO standards in drafting the regulatory framework, as well as within the scope of financial regulation of its members.

In 2004, IFREFI organised three training seminars. The first one, which had taken place in Switzerland in May 2004, dealt with the regulation of management companies and collective savings products. The two other seminars were held in Morocco in June 2004 and December 2004 respectively. One concerned financial information while the other one was about the explanation, application and assessment method of the transposition of IOSCO principles, as well as the need for the signature and requirements prior to signature of the IOSCO MOU.



| Department General Supervision

First row, left to right:

Diane SEIL | Karin WEIRICH | Danièle KAMPHAUS-GOEDERT | Jean-Marc GOY | Joëlle MARTINY

Second row, left to right:

Ronald KIRSCH | Nadia MANZARI | Romain STROCK | Claude SIMON | Claudine WANDERSCHIED |
Marguy MEHLING

Third row, left to right:

Guy HAAS | Edouard REIMEN | Claude WAMPACH | Didier BERGAMO | Davy REINARD |
Alain HOSCHIED

Absent:

Ngoc Dinh LUU | Patrick MAAR | Manuel NEU | Martine WAGNER