



COUNCIL OF  
THE EUROPEAN UNION



## **Council Conclusions on the EU supervisory framework and financial stability arrangements**

*2866th ECONOMIC and FINANCIAL AFFAIRS Council meeting  
Brussels, 14 May 2008*

The Council adopted the following conclusions:

"In line with the Council conclusions of 9 October 2007 and 4 December 2007, the conclusions of the European Council of 14 March 2008; and taking into account the discussion at the informal ECOFIN meeting of 4-5 April 2008 in Ljubljana, the ECOFIN Council AGREED further steps to develop the supervisory and financial stability arrangements in the EU, based on the work by the Economic and Financial Committee, Financial Services Committee and the Commission. The ECOFIN reached the following conclusions.

### **The EU Supervisory Framework**

The Council STRESSES the need for full and timely implementation of the roadmap agreed in December 2007 on the Lamfalussy review, including financial supervision, to achieve further concrete results by the end of 2008. The Council ENDORSES the following steps to this end: *Introduction of a European Dimension into the Mandates of National Supervisory Authorities*. The Council AGREES that the EU dimension should be taken into account in an appropriate way by national supervisors as follows:

- In the exercise of their responsibilities, the financial supervisors in the EU Member States should intensify work towards enhanced European supervisory convergence and their task should include cooperation at the EU level and among Member States within and across financial sectors.

# **P R E S S**

- The enhanced EU dimension would in particular allow financial supervisory authorities to consider financial stability concerns in other Member States in exercising their duties and to apply guidelines and recommendations adopted by the EU Committees of Supervisors (level 3 committees) in line with the 'comply or explain' procedure. While guidelines and recommendations adopted by these committees are non-legally binding, those supervisors who do not comply should explain their decisions publicly.

The Council INVITES Member States to ensure, at the latest by mid-2009, that the mandates of national supervisors allow them to take the EU dimension into account in exercising their duties; NOTES the intention of the Commission to introduce these objectives, where practical and appropriate, into EU legislation; and INVITES the EU Committees of Supervisors to report regularly to the FSC on progress made, and the FSC to present a report assessing the application of the EU dimension in the national mandates by the end of 2009.

### *Improving the Functioning of the EU Committees of Supervisors*

The Council NOTES the examination by the Commission of options available for improving and strengthening the functioning of the EU Committees of Supervisors; as well as the guidance provided by the FSC and EFC. The Council STRESSES the need to make progress in this area, without unbalancing the current institutional structure or reducing the accountability of supervisors, and without changing the legal status of the Committees. The Council AGREES on the following:

- First, the Commission is INVITED to revise, by the end of 2008, the Commission Decisions on the establishment of the EU Committees of Supervisors - the Committee of European Securities Regulators (CESR), the Committee of European Banking Supervisors (CEBS) and the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS) – so as to ensure coherence and consistency in their mandates and tasks as well as to strengthen their contribution to supervisory cooperation and convergence;
- Second, specific tasks should be explicitly given to the EU Committees of Supervisors to foster supervisory cooperation and convergence, and their role in assessing risks to financial stability. This could include tasks such as: (i) mediation between supervisory authorities to help in solving possible disagreements, in particular within colleges; (ii) facilitating adequate information exchange between supervisors; (iii) providing non-legally binding guidelines and recommendations as well as guidance for national supervisory authorities in order to ensure convergence of practices, supervisory approaches and financial reporting among the EU supervisors; (iv) the development of a common European supervisory culture through training and staff exchange; (v) ensuring efficient cooperation across financial sectors between the EU Committees of Supervisors; and (vi) monitoring of financial stability and reporting on risks to the EFC.
- Third, the Council INVITES the Commission and the FSC to further examine, by September 2008, which tasks should be given to the EU Committees of Supervisors and which legal instrument should be used to ensure that the Committees are adequately equipped to perform their tasks, without changing the current institutional framework. The FSC is INVITED to provide guidance on this issue, as appropriate.

The Council (i) RECALLS its request for the introduction, by mid-2008, of the possibility of qualified majority voting, coupled with ‘comply or explain’ procedures, into the charters of the EU Committees of Supervisors; and (ii) LOOKS FORWARD to receiving, by mid-June 2008, the outcome of the examination by the Committees of Supervisors of the possibilities to strengthen the national application of their guidelines, recommendations and standards without changing their legally non-binding nature.

The Council RECALLS its invitation to the EU Committees of Supervisors to introduce EU-wide common reporting formats with a view to reducing the cost of reporting for the industry where possible, and LOOKS FORWARD to the Commission and the EU Committees of Supervisors suggesting a timetable by mid-2008, for achieving a single set of data requirements and reporting dates. The Council INVITES the Financial Services Committee and the Commission in autumn 2008 to consider the next steps for convergence of regulatory and financial reporting within the EU, including the possibility for the EU Committees of Supervisors to gather aggregated data.

The Council STRESSES that the following important aspects must be taken into account in developing the roles of the EU Committees of Supervisors, and in the assessment of risks to financial stability at the EU level:

- In line with its conclusions of 7 December 2004, 4 December 2007 and the ECOFIN Council report to the European Council of 4 March 2008 (doc. 7290/08), the Council UNDERLINES the importance of receiving regular and concise assessments of key developments, risks and vulnerabilities, which could affect the stability of the EU financial system, based on the reporting by the *EFC's Financial Stability Table*. The Council STRESSES that the EU Committees of Supervisors should be able to gather aggregate information in order to assess these features within and across financial sectors and to alert the EFC on potential or imminent problems in the financial system; INVITES the Committees to continue to report to the EFC Financial Stability Table on semi-annual basis, and whenever necessary in light of the financial market situation; and INVITES the EFC, in its reporting to the ECOFIN Council, to provide advice on the need to take common policy actions by the authorities;
- The Banking Supervision Committee of the European System of Central Banks (BSC) that brings together the Central Banks and Banking Supervisory Authorities, is INVITED to enhance its contribution to the regular assessment of financial stability by the EFC Financial Stability Table by providing an overview on risks in the EU banking sector, taking into account their broad impacts on the financial system; the CEBS and the BSC are INVITED to ensure an efficient and appropriate division of labour among these two bodies;

The Council STRESSES the importance of the EFC Financial Stability Table to maintain EU influence in the policy issues related to financial stability at a global level.

The Council STRESSES that sufficient funding and staffing must be ensured to provide the basis for effective supervision. To this end,

- Each Member State is INVITED to ensure that adequate resources are in place at the national level for Financial Supervisory Authorities to perform their tasks, taking account of the EU dimension and their contribution to the work of the EU Committees of Supervisors;

- the EU Committees of Supervisors are INVITED to endow themselves with adequately staffed Secretariats and, as part of their annual work plans, provide an assessment of their resources to carry out their tasks; and
- The Council LOOKS FORWARD to the Commission assessment and proposal concerning financial support under the EU Budget for specific EU-wide projects that are requested from the EU Committees of Supervisors and for developing supervisory tools and for building a common supervisory culture;

### *The Supervision of EU-wide Financial Groups*

The Council STRESSES that work should be stepped-up towards enhancing consistency and effectiveness of the supervision of financial groups operating in more than one Member State, regardless of legal form, sector or location. The Council WELCOMES the work carried out by the Commission and the EU Committees of Supervisors on further developing colleges of supervisors; and NOTES that colleges provide for a more effective supervision of cross-border financial groups by facilitating the sharing of information, including, when appropriate, with the authorities from countries that are not participating in colleges but in which financial stability may also be affected; by facilitating delegation of tasks between the home and host supervisory authorities; by providing a platform for a decision-making process where appropriate; and by striving to reach common views on the key supervisory decisions. The Council in particular:

- AGREES that the role of the colleges of supervisors should be strengthened; and that colleges should be extended to all cross-border financial groups in the EU so as to organise co-operation and the sharing of information between home and host supervisory authorities of Member States in which financial groups have significant activities, and to enhance the efficiency of supervision by developing common approaches to key supervisory decisions;
- STRESSES that in order to ensure consistency among colleges and so avoid fragmentation, the colleges should operate along the same principles and objectives across financial groups (banking, insurance, conglomerates and investment services) and countries, taking into account, in particular: (i) the different legal structures (including purely branch or subsidiary -based), (ii) the need for involvement and participation of host authorities having financial stability interests and responsibilities; and (iii) the risk profiles of the sectors as well as differences in the legislative framework across financial sectors; and STRESSES that the EU Committees of Supervisors should play a role in giving operational guidelines to provide consistency in the working procedures of the different colleges and effectiveness of the decision making process and provide reassurance to supervisors involved in the colleges, as well as monitoring the coherence of the practices of the different colleges of supervisors and sharing best practices, and LOOKS FORWARD to proposals in this regard from the EU Committees of Supervisors by mid-2008;
- UNDERLINES the need for efficient functioning of colleges, while ensuring an appropriate balance between home/host supervisors, appropriately reflecting their competences and responsibilities and inherent accountability. To this end, appropriate coordination tasks should be given to the home country supervisory authorities, while at the same time ensuring that all information that is relevant for the assessment of a financial group and its components, is made available to the host country authorities;

- STRESSES the importance of strengthening the legal underpinning of colleges of supervisors in the relevant directives in the context of the ongoing work by the Commission, Council and European Parliament.

## **Enhancements to the EU arrangements for financial stability and Crisis Management**

### *Memorandum of Understanding (MoU) on Cross-border Financial Stability*

In line with the EFC Recommendations of October 2007 on developing EU arrangements for financial stability, the ECOFIN Council CONFIRMS that the Memorandum of Understanding (MoU) between Central Banks, Financial Supervisory Authorities, and Finance Ministries has been agreed and is in the process of being signed and will enter into force as soon as signed by all parties.

The Council REITERATES that, in the context of implementation of the MoU on Cross-Border Financial Stability, close co-operation should be pursued between Member States and all relevant authorities, including through possible Cross-Border Stability Groups. In a financial crisis situation, in line with the Common Principles, primacy will always be given to private sector solutions. If public resources must be involved, direct budgetary net costs will be shared among affected Member States on the basis of equitable and balanced criteria, which take into account the economic impact of the crisis in the countries affected and the framework of home and host countries' supervisory powers. This issue, namely principles and procedures of burden sharing, needs to be further addressed, inter alia in the implementation of the MoU on Cross-Border Financial Stability.

### *Crisis Simulation Exercise*

The Council INVITES the EFC to initiate preparations for an EU-wide crisis simulation exercise with the objective to organising it in spring 2009. The EFC is INVITED to present a report to the ECOFIN in September 2009 on the main results and make further policy recommendations in order to address the key challenges that have been identified.

### *Deposit Guarantee Schemes*

The Council RECALLS the conclusions of 9 October 2007 and CONSIDERS that Deposit Guarantee Schemes are a key part of the framework for ensuring financial stability; and that the developments in financial markets since August 2007 have proven the important role of DGSs in maintaining confidence in the banking system.

The Council RECALLS, in line with the ECOFIN Report to the European Council of 4 March 2008, the need to perform further work on improving the functioning of the deposit guarantee schemes in the EU; and INVITES the EFC to prepare an orientation discussion for the June 2008 ECOFIN meeting; and, by early September 2008, the Commission to present the outcome of its examination, the FSC and the EFC to provide policy guidance to the Council on the way forward - in view of preparing a strategic discussion by the ECOFIN in autumn 2008. These considerations should include an assessment of policy options available, including on whether there is a case for regulatory action; and take into account level playing field aspects and inter-linkages of the DGS with crisis prevention and management, including the possible link to early intervention and reorganisation of a financial group, as well as issues related to the sharing of a financial burden.

The Council WELCOMES the Commission's intention to carry out further work in the area of insurance guarantee schemes while recognising that the nature of these schemes is different in terms of preserving financial stability.

## **Next Steps**

After having reviewed the progress made with the implementation of the roadmaps of 9 October 2007 (on developing the EU arrangements for financial stability) and 4 December 2007 (on financial supervision), the Council STRESSES that, as a matter of priority, reinforced efforts are needed to finalise all actions by end-2008 and mid-2009, to ensure that benefits of the current institutional arrangements, strengthened as appropriate, are fully reaped. Updated versions of the 3 roadmaps are specified in a separate document attached to these conclusions, with an indication of progress made in their implementation and further steps to be undertaken by autumn 2008.

The ECOFIN Council shall review progress made in implementing the roadmaps on supervision and crisis management regularly, next time before the end of 2008. Overall progress and the need for further policy priorities shall be assessed by the end of 2009, based on an examination by the Commission, the FSC and the EFC on the achievements made on financial supervision and on the testing of the MoU on Cross-Border Financial Stability in the crisis simulation exercise. "

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