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I. Financial Markets

1. Markets in Financial Instruments Directive

Discussions are currently underway to review the Markets in Financial Instruments Directive (MiFID), despite the fact that it had just been implemented in November 2007. While banks' experience with MiFID continued to be overall positive, the European Commission and consumer representatives questioned its functioning in some aspects of the retail markets. In addition, rapid technical developments raised questions around some aspects of MiFID in the area of market infrastructure.

The European Banking Federation has responded to several consultations conducted by the Committee of European Securities Regulators on these aspects, including, amongst others, a consultation on transparency in the non-equities markets; a consultation on non-complex instruments under MiFID, a consultation on how to handle Over-The-Counter derivatives in the Transaction Reporting Exchange Mechanism, a consultation on the definition of advice, and a consultation on bad and poor practices with respect to inducement. The EBF also drew up an internal discussion paper on the much-debated issue of dark pools and broker-dealers’ crossing networks.

2. Packaged Retail Investment Products (PRIPs)

Building on discussions started in 2008; the European Commission published in April 2009 a Communication on ‘Packaged Retail Investment Products’ (PRIPs). These are understood to include all types of instruments directed to retail clients that include an element of packaging to change the risk profile, as compared to the underlying financing instruments; for example investment funds, retail certificates and unit-linked life insurance products. The Commission announced that it intended to ensure a horizontal approach, instead of a silo-approach, in the regulation of these instruments. On the one hand, MiFID’s selling practices should be extended to all of these instruments. On the other hand, the Key Investor Disclosure (KID) standards
that are currently being designed under the Directive on Undertakings for Collective Investments in Transferable Securities (UCITS) should be applied in an equivalent way to these products.

The EBF welcomed the fact that MiFID was considered as the benchmark for selling practices. At the same time, it questioned the extent to which the UCITS-KID standards could be applied to other products and it underlined that the differences between different types of products had to be taken into account. It also highlighted other important questions, such as the distribution of responsibilities between issuers and distributors.

Throughout 2009, the EBF stayed in contact with the European Commission in order to monitor the Commission’s further work and to reiterate these considerations.

3. **Post Trading**

The creation of an integrated securities market in the EU is one of the main goals of European legislators, given the increased investor demand for foreign securities within the European Union since the introduction of the Euro and the gradual integration of the European capital markets. Post-trading activities which thereby constitute the point of convergence of all aspects of the life of securities and inefficiencies in this area can have serious consequences. The cost of clearing and settlement is an important component of the overall cost of a securities transaction. Due to a very fragmented post-trading infrastructure, cross-border investments are considerably more expansive than investments in the home country of an EU citizen.

Against this background, numerous initiatives have been launched at European level that lead to tremendous progress in terms of securities markets integration in general and more specifically a clearing and settlement harmonization. The Markets in Financial Instruments Directive (MiFID) implemented in 2007 provides – with respect to post-trading – three basic rights: the remote access to central clearing counterparties (CCPs) and central securities depositaries (CSDs) for banks and investment firms, the
choice of CCP and CSD for trading venues and the (conditional) choice of settlement venues for banks and investment firms.

The Pan-European Code of Conduct on Clearing and Settlement adopted in 2006 provides guidelines for establishing links between market infrastructures (both at horizontal and vertical level) and contains also measures targeting price transparency as well as services unbundling and account separation. Whilst noting good progress in certain areas of the Code’s implementation, such as publishing prices for services offered, users were generally disappointed by the lack of progress that was made with respect to access and interoperability between infrastructures. One of the reasons for this is also that most requests for access and interoperability have been stalled during the final months of 2009 due to a regulatory review of the CCP link agreements by the regulators.

With regard the Target2-Securities (T2S) project of the European Central Bank, aimed at creating a single platform for the settlement of securities in central bank money, 28 CSDs located in 26 countries signed in 2009 the Memorandum of Understanding with the Eurosystem. In November, the General Functional Specifications (GFS) was approved by the Programme Board. The GFS explain in general terms how the T2S software application will meet user requirements as currently described in the User Requirements Document. The question of the external governance of the project was still unclear. The EBF has advocated the appropriate user (intermediary) involvement in the governance of the project and has raised concerns that the new entity (T2S Steering Group) which is being created in parallel to the Advisory Group might result in a lack of transparency and in the exclusion of market users. Discussion on the T2S governance in operation has led to similar concerns from the users' side.

Post trading activities in 2009 have also been characterized by major achievements regarding the elimination of Giovannini Barrier III, which covers differences between EU Member States in the rules governing corporate actions comprising a broad range of topics, with an impact beyond pure settlement problems. In this regard, significant progress has been made in the implementation of the market standards for Corporate
Actions processing. As part of their commitment to coordinate and monitor private sector actions to improve efficiency in domestic and cross-border corporate actions in Europe, the EBF, the European Association of Cooperative Banks and the European Savings Banks Group – together forming the European Credit Sector Associations (ECSAs) – have delivered to the European Commission a status report in October 2009 which showed that 60% of the standards were already implemented. As for the market standards on General Meetings, the intermediaries could not yet endorse them due to a severe lack of clarity that could lead to misunderstanding and different interpretation of the standards.

4. OTC Derivatives

Following the September G20 Pittsburg Summit, the European Commission announced its future policy actions in the area of Over the Counter (OTC) derivatives in October 2009. These actions foresee, among others, legislation; mandating central counterparty (CCP) clearing for eligible derivatives contracts, mandating reporting of OTC derivatives transactions to trade repositories and establishing the requirements CCPs and trade repositories need to comply with in order to ensure their safety, soundness and efficiency.

In September 2009, the OTC Derivatives Regulators’ Forum was established, thus putting on a more formal basis the arrangements already underway for cooperation and information sharing on OTC derivatives central counterparties and trade repositories.

Prior to these developments, the EBF and other industry associations had already supported the establishment of CCPs in Europe to facilitate the clearing of eligible credit default swaps contracts and the back loading of the relevant outstanding contracts. Further, the EBF has supported the maintenance of ‘non-capital penalised’, bilateral clearing of OTC derivatives and has rejected the view that standardised derivatives contracts trading should be forced onto exchanges.
The Commission has started an informal consultation process with Member States on a draft European Market Infrastructure Legislation (EMIL). The legislative proposal is expected by mid 2010. Further amendments to the Markets in Financial Instruments Directive (MiFID), the Market Abuse Directive (MAD) and the Capital Requirements Directive (CRD) are expected to complete the regulation of OTC instruments.

5. **Investment Funds and Depositary regulation**

During 2009, the Committee of European Securities Regulators carried out a number of consultations on its advice to the European Commission on the implementing measures for the Directive on Undertakings for Collective Investments in Transferable Securities (UCITS), which had been revised in 2008. The EBF responded to these consultations, focusing primarily on the Key Investor Disclosure document (KID) and on depositary aspects.

The EBF furthermore conducted, in preparation of and following the European Commission’s regulatory proposal, in April 2009, on a Directive on Alternative Investment Fund Managers (AIFMD). This Directive would cover all managers of non-UCITS funds, meaning not only hedge funds and private equity funds, but also open-ended real estate funds and others.

The EBF agreed on an extensive position on the proposal, amongst other things, underlining the need for international consistency and pointing out a range of areas where the Directive proposal needed important technical modifications to be workable. In the course of the discussions, the EBF decided, however, to focus primarily on depositary aspects, as its main priority, and also taking into account the vast contribution to the discussions from other parts of the industry.

This went along with a consideration of depositary aspects under the UCITS Directive, on which the European Commission launched a consultation shortly after the summer break.
In its manifold contacts with the European Commission, the European Parliament and other policy-makers and stakeholders, the European Banking Federation underlined in particular the distinction that had to be made between depositaries’ supervisory functions and custody activities. It also underlined that there were situations beyond depositary’s control, for which they should not be held liable.

6. **Short Selling**

Over 2009, questions were raised regarding the role that short selling had played in the financial crisis; more specifically, whether it had aggravated market instability by leading to share price falls beyond levels that could have been expected without short selling.

The EBF contributed to these discussions, considering in general, short selling as a legitimate trading strategy and underlining that short selling should not be perceived as a form of market abuse.

At the same time, the EBF deplored the uncoordinated action taken by various supervisors in the EU to restrict short selling, which had been mal-coordinated both at national level and at EU level, and had given rise to harmful legal uncertainty. The EBF encouraged the Committee of European Securities Regulators (CESR) and the European Commission to work on the harmonisation of short selling rules at least across the EU, and to the extent possible in coordination with other important jurisdictions.

As a first step, CESR consulted on a proposal for a common short selling disclosure regime, which would introduce a two-step approach: one for reporting to regulatory authorities, and one for public disclosure. The EBF supported the former, but opposed the latter, arguing that the objective of such a regime should be that of financial stability and helping to detect market abuse; but not to discourage short selling as such.
7. **Prospectus Directive**

The European Commission made a proposal to review the Prospectus Directive in a number of targeted areas. The EBF welcomed many of the proposals, but regretted that a number of other important areas had been left out. More importantly, the proposal included some reference to the Key Investor Disclosure document (KID) which the Commission was working on as part of its initiative on Packaged Retail Investment Products. The EBF considered, however, that it was premature, and possibly ill-conceived, to introduce at this stage the KID under the Prospectus Directive.

It focused its efforts in trying to highlight the background of the discussions and the remaining questions at the European Parliament.

8. **Credit Rating Agencies**

Primarily in the first half of 2009, the EBF had a range of contacts with the European Parliament and other interested parties to highlight its concerns and preferences for the Regulation on Credit Rating Agencies (CRAs) that had been proposed by the European Commission in late 2008. These contacts were mainly intended to ensure legal certainty for banks and investment firms in their use of ratings. In addition, the EBF supported efforts to ensure that more information was available on the assumptions underlying the ratings and on the information used by the CRAs to arrive at a rating; as well as efforts to improve the comparability of ratings and rating agencies’ performance.
9. **Global Convergence**

Having invested considerable resources in 2008 to create a system that would permit mutual recognition for specific areas of the wholesale markets, principally between the United States and Europe, progress in this area unfortunately stalled in 2009. In an attempt to revitalise the process, the Committee of European Securities Regulators (CESR) launched a call for evidence on mutual recognition with non-EU jurisdictions. In its response, the European Banking Federation recalled that the ongoing financial and economic crisis has shifted the order of priorities with regard to financial markets regulation. The objective of increasing integration - to which mutual recognition can be seen as instrumental – has given way to issues such as reinforcing transparency, strengthening investor protection and fortifying market integrity.

Furthermore, the EBF noted that financial markets regulatory reform cannot be approached from a silo, national mentality. The financial crisis has demonstrated the interconnectedness of financial markets and the need, therefore, to regulate and supervise the latter on an increasingly coordinated cross-border basis.

Further to its call for evidence, CESR is expected to issue a consultation paper by mid 2010.
II. Banking Supervision

A. EUROPEAN COMMISSION INITIATIVES

1. Reform of the European Financial Supervisory Architecture

In February 2009, the European Banking Federation welcomed the de Larosière Report (mandated by the Commission) for setting out a pro-stability, pro-integration framework and having the potential to position Europe to recover strongly from the present crisis.

Building on the de Larosière recommendations, the European Commission proposed in September 2009 four Regulations setting up a European System of Financial Supervisors (ESFS) comprising three new European Supervisory Authorities (ESAs) - for the banking, securities and insurance sector respectively, operating in a network with the national supervisory authorities, whilst the latter would remain solely and legally responsible for the supervision of individual financial institutions. For macro-prudential supervision, a European Systemic Risk Board (ESRB) was proposed.

The EBF has long been calling for more coherence, more convergence and less duplication of supervisory requirements and practices across the European Union. The EBF has further, long insisted on the need to remove the national options and discretions in EU financial legislation in a bid to reduce inconsistencies and regulatory arbitrage. The proposed reform represents a great opportunity to address these issues.

The creation of the European Systemic Risk Board would be an intuitively positive development. The ESRB would collect and analyse information from national supervisory authorities and the three micro-supervisory ESAs, and issue early warnings as well as recommendations for remedial action where relevant. As the ESRB will not have the legal personality, the EBF considers that the efficiency of the ESRB will be linked to its interaction with the ESAs and how the ESRB warnings would be used and acted upon. Its effectiveness could, furthermore, benefit from being supported by a senior level industry advisory panel.
The EBF strongly supports the proposal to strengthen the existing Level 3 Committee architecture to create a European System of Financial Supervisors (ESFS). The ESAs would have binding powers to ensure truly harmonised approaches, rules and supervisory practices across the EU, including the power to settle disagreements between national supervisors. The ESAs would also develop technical standards for the application of the financial services legislation, which, once endorsed by the European Commission, would constitute a single rulebook binding on supervisors and institutions. It is nonetheless also vital that EU regulation and international standards are kept aligned.

At this stage, the EBF considers that European Securities and Markets Authority should have exclusive supervisory powers only on credit rating agencies.

A safeguard clause is proposed, whereby the European Supervisory Authorities could, however, not issue decisions, in emergency situations or settlement of disagreements, which would impinge on Member States’ fiscal responsibilities. The EBF calls for a clear definition of ‘fiscal responsibilities’ and how the safeguard clause could be invoked, to avoid that this clause be abused.

In emergency situations, the EBF believes that the ESAs should be responsible for facilitating and fostering efficient cooperation and coordination of national actions. Where necessary, the ESAs should moreover have the power to require national authorities to take action but should not impose decisions directly on individual financial institutions (the Italian Banking Association requested a footnote on that last point).

The recommendation to establish supervisory colleges for all cross-border banking groups is welcomed. The respective roles of the home and host supervisors and the three authorities in the college would, however, need to be clarified. Furthermore, market participants should be able to appeal against any specific decisions and to request mediation themselves.
For the EBF, the longer term objective should be to have an integrated supervisory framework at EU level; reform should nonetheless follow an evolutionary path, and include regular reviews to assess efficiency and following steps. The indispensable first step towards achieving this objective should be to establish a framework for consolidated supervision of cross-border banking groups.

The EBF believes that the enhancements regarding colleges and home-host issues provided by the revised Capital Requirements Directive (CRD II), together with the tasks and powers of the European Supervisory Authorities (ESAs) as envisaged in the Commission’s proposals, contain fundamental ingredients to achieve consolidated supervision.

NEW: Cross-Border Crisis Management in the Banking Sector

The European Banking Federation has expressed its support to the European Commission’s idea to create an EU banking resolution framework (October 2009 Commission Communication). The EBF insisted that realistic solutions to crisis handling at EU level should first concentrate on ensuring that an efficient prudential supervisory framework is established to allow avoid reaching a stress situation. (in the first instance.)

The tools and powers available to supervisory authorities to intervene promptly in an institution and address difficulties should be harmonised across the European Union. Effectively applying those tools across borders requires that supervisors can jointly assess a problem and jointly decide to act. Such decisions should be made within colleges of supervisors, under the coordination of the consolidating supervisor and with the support of the future European Supervisory Authorities (see above) to coordinate national actions.
The idea of creating a resolution fund at EU level which would be privately funded in advance may have some merits, such as reducing uncertainty for crisis resolution, being a tool for burden-sharing between the private sector and the public sector and helping to preserve the single market integration. Nevertheless, it is premature for the EBF to support the establishment of an EU resolution fund. The purpose and use of such a fund should first be clarified.

An ex-ante burden sharing framework for each cross-border banking group should be established and made binding. It would help clarifying who would take the lead in a crisis and speeding up the decision-making process amongst the relevant national authorities; this would in turn enhance the effectiveness of the resolution tools. It should be sufficiently flexible to adopt case-by-case approaches and solutions. This ‘preparatory’ burden-sharing should contain the elements of the formula on which ex-post burden-sharing would then be determined.

Revision of the Capital Requirements Directive (CRD II, CRD III and CRD IV)

CRD II

The EBF supported the first revision of the Capital Requirements Directive as a means of addressing a number of supervisory and regulatory issues – partly in response to the financial crisis – and to increase harmonisation of the rules.

The EBF agreed that the subsequently adopted ‘CRD II’ introduce harmonised rules on the treatment of hybrid instruments for supervisory purposes; this is a first step towards an alignment of the own funds’ definition across the European Union. It also agreed with the establishment of colleges of supervisors for all cross-border banking groups to facilitate supervisory cooperation in their oversight of such groups. CRD II however falls short of setting up a more integrated EU supervisory system; the European Commission was therefore requested to put forward, by 31 December 2009, a legislative proposal to achieve further supervisory integration (which it did, see under point 1 above).
The EBF recognized that during the crisis, financial institutions suffered losses due to impairments on their illiquid securitisations in their trading book. The EBF therefore agreed with the need to revisit capital requirements for those cases as well as generally due diligence requirements. According to CRD II, banks will have to keep a five percent stake of the total value of their securitised exposures.

Capital Requirements Directive II contains a number of elements that will restrict banks’ credit capacity, such as in the area of short-term interbank lending and intra-group exposures, by limiting a bank’s lending capacity to 25% of its own funds.

Many national discretions remain in the application of the rules on large exposures, which it was agreed to review by the end of 2011 to seek further harmonisation of national provisions.

CRD II has to be implemented by 31 December 2010.

CRD IV

The main messages conveyed by the European Banking Industry Committee (EBIC) in its response to the CRD ‘October Package’ which the European Commission’s services published at the end of July 2009 were as follows1:

Proposals on residential mortgages denominated in a foreign currency: the concern that substantial foreign currency lending to households may expose the borrower to foreign exchange risk is not a prudential issue but rather a consumer protection issue which, therefore, should not be addressed by imposing higher capital requirements. Institutions which are established in non-euro Member States will in particular be hit by the proposed measure.

Proposals to remove national options and discretions: these are welcomed; however, where a different treatment may be justified by national specificities, mutual recognition should apply.

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1 Secretariat message n° 1418C of 15 September 2009
Proposal to tighten loan-to-value conditions: EBIC strongly opposes the proposal for introducing a hard test when applying the 35% risk weight to exposures secured by mortgages on residential property and the introduction of limits to the part of the exposure to which the 35% can apply.

Concerning the Section on Dynamic Provisioning, the EBF commented separately in highlighting the following high-level principles that it believed to be key for the European Commission when elaborating on its preliminary proposals:

- Regulatory requirements in this area need to be set at a global level.
- The regulatory community should await the outcome of the work of accounting standard setters before addressing the regulatory dimension of the issue.
- Any proposal to be made should be based on approaches that draw from relevant information in banks’ internally deployed risk models.

CRD III

The EBF strongly opposed the suggestion made by the European Commission Services Staff Working Document that exposures to re-securitisation would need to be deducted from capital. Furthermore, the EBF (in alliance with EACB, EMF & EAPB) has highlighted that the proposed changes will put EU banks at a competitive disadvantage with regard to their non-EU peers. Finally, the EBF also joined forces with (LIBA), (ISDA) and the (ESF)..... to express its views.

An EBIC letter which was sent to the European Parliament on 11 December 2009 conveyed the following basic messages concerning the Commission’s proposal for a Directive amending the Capital Requirements Directive (CRD III):

- An alignment of the European rules to what has been decided by the Basel Committee is welcomed;
- An overall Impact Assessment would need to be undertaken before moving forward;
- Support for the proposals made in the area of Remuneration Policies and Practices;
- Strong disagreement with the proposed transposition of the Basel Committee’s decision to extend Basel I floors into EU legislation.

3. Deposit Guarantee Schemes

The EBF responded to the Commission consultation on the further revision of the Deposit Guarantee Schemes (DGS) Directive. The EBF recommended keeping the system simple and efficient. The systems of deposit guarantee had become, certainly when the cross-border factor is included, rather complex. Changes to DGS should only be made towards simpler and more comprehensive systems.

The EBF also explained that DGS were only one element of the safety net for financial stability. Governments and supervisory authorities also had a role to play. Key issues needed to be addressed before contemplating setting up a European DGS, namely national differences in legal structures (i.e. insolvency law), European financial supervision, cross-border early intervention and burden-sharing. Nevertheless, the EBF supported the harmonisation of certain features of DGS such as the coverage level in order to provide consumers with the same level of protection regardless of where (banks and Member State) they deposited their money, thereby ensuring consumer confidence and thus contributing to financial stability.

Going forward, the EBF insisted that it was essential that the Commission followed the better regulation principles and assessed the impact of each intended proposal, including on the related adjustment costs in the current financial context.

Financial Conglomerates

In its response to the European Commission Consultation Paper on the FCD Review, the EBF reiterated the view that, without any due justification, the current regulatory environment puts banks which have participations in insurance companies, at a disadvantage compared to insurance companies investing in banks. The CRD needs to
be amended so that Member States are no longer allowed to require that banks which are included in the supplementary supervision deduct participations.

CEBS INITIATIVES

Liquidity Risk management: Liquidity Buffers

The EBF has welcomed the Consultation Paper of the Committee of European Banking Supervisors (CEBS) for having proposed a flexible approach to the principles and accepts the principle of proportionality as overarching.

The paper takes the view that the short-end of the liquidity buffer should only consist of cash and assets that are both central bank eligible and highly liquid in private markets. What? should be reconsidered as the real issue is not so much what does and does not count as core liquidity but rather the definition of what criteria allows an asset to be included in the mismatch ladder at an earlier date than its final maturity and what haircut should then be applied to that asset.

CEBS’ Disclosure Guidelines

The EBF commented on the CEBS Consultation paper entitled ‘Disclosure guidelines: Lesson learnt from the financial crisis’ as follows:

The final version of the paper should provide transparency on the precise objective and scope of each of the guidelines;

Only a very limited number of stakeholders appear to have gone through the effort of consulting Pillar III disclosures. The supervisory community should enter into a dialogue with the investor community to try and find out how this can be explained;

It would not be appropriate for CEBS to issue guidelines with a view to achieving more consistency across institutions as such an initiative, if any, should come from the Basel Committee.
CEBS Implementation Guidelines regarding Hybrids

The European Banking Federation has supported the clear set of implementation guidelines which CEBS produced.

The proposed guidance concerning the buy-back of hybrid instruments is the most critical part of the Consultation Paper. Furthermore, the EBF was also critical regarding the process which the Consultation Paper proposes concerning applications for calling or redeeming a hybrid instrument.

CEBS’ Proposed Principles for Risk Management

The high-level principles proposed by the Committee of European Banking Supervisors are in accordance with what the industry considers as best practice. The reference which the Consultation Paper makes to the principle of proportionality as an overarching principle is particularly welcomed.

However, it cannot be expected that all members of the management body will have a full understanding of the nature of the business and its associated risks. Moreover, CEBS should only require every relevant member of the organisation to be constantly aware of their responsibilities relating to the identification and reporting of risks.

Operational Risk: Supplementary Guidelines

The EBF welcomed the initiative taken by the Committee of European Banking Supervisors to clarify issues surrounding the implementation of the operational risk framework with a view to increasing convergence of supervisory practices. The key messages which it conveyed were the following:

Maintaining the flexibility provided by the CRD is important in order not to hinder future developments in that area;

The clearer line between different types of risks is an improvement;
Guidance on how to treat ‘pipeline’ events within the scope of operational risk loss would be useful;

CEBS should consider fostering consistent operational risk definitions and terminology by drawing inspiration from Reporting Standards issued by European Consortiums.

COREP

The European Banking Federation reminded CEBS that remittance dates for data to be delivered at solo and consolidated level need to be aligned and that, more particularly, cross-border banks should not be required to deliver data at a solo level before those which need to be delivered at a consolidated level. It invited CEBS to revise its guidelines which require solo reports to be delivered within 20 working days and consolidated reports within 40 days.

BASEL COMMITTEE’S INITIATIVES

Liquidity Risk management

The International Banking Federation (IBFed) has published a Discussion Paper entitled ‘Harmonising Liquidity Risk Reporting through Colleges of Supervisors’, which highlights that one of the biggest hurdles for global liquidity risk management is the inconsistent nature of national liquidity standards and, in particular, that cross-border banks will have to hold buffers for each of their branches operating in different jurisdictions. Against this backdrop, the paper calls for adopting an aggregated bank view when developing an international framework for the management of cross-border liquidity risk and supervision.

The main message conveyed by the paper is that colleges of supervisors should be used as a practical means of coordinating and harmonising the supervision of large, internationally-operating financial institutions. Greater harmonisation of liquidity reporting standards and improved exchanges of liquidity information between key supervisors should be the first practical step to a more harmonised approach.
Proposed Enhancements to the Basel II Framework

The key messages of the comment letter on the ‘Proposed enhancements to the Basel II framework’, which IBfed prepared jointly with ISDA, LIBA and the ESF were as follows:

Pillar I: the proposed definition of resecuritisation is inadequate. Furthermore, the implications of increasing capital for re-securitisation could be significant, particularly as they come on top of down-grading which are been undertaken by rating agencies.

Pillar II: regulatory focus should be on the group-wide Internal Capital Adequacy Assessment (ICAAP). Colleges should plan the scope of the Pillar II exercise in order to optimise the time taken and resources utilised by both the firm and the regulator and to avoid duplication of effort, for instance in the preparation of multiple levels of ICAAP report.

Pillar III: the Committee should permit grandfathering of existing transactions where no risk has been retained by the sponsor. Pipeline and warehousing risks would be more appropriately handled in the discussions on liquidity regulation.

Basel Committee’s Consultation on Enhancements to the Trading Book

The main messages which the International Banking Federation conveyed together with other industry on the Basel Committee’s Consultative papers entitled ‘Revisions to the Basel II market risk framework’ and ‘Guidelines for computing capital for incremental risk in the trading book’ can be summarised as follows:

The Basel II capital requirements should remain commensurate with the risks identified at each individual firm.

The revised incremental risk charge (IRC) proposal is now more clearly defined and likely to be easier to implement. However, there could still be room in the proposals to accommodate firms seeking to adopt full scope IRC modelling.

2 Secretariat message n° 0467C of 17 March 2009
It is odd to revert to prescribing an approach for structured products entirely based on external ratings. Firms should have the flexibility to model such assets as they think appropriate.

The introduction of ‘stressed’ VaR in the computation of market risk capital is welcomed. However, where a firm can eventually demonstrate that its VaR measure is sufficiently conservative that it passes a back test including stressed periods, a separate ‘stressed’ VaR component should no longer be required.

Simply adding ‘stressed’ VaR to the current VaR will in many instances double count risk.

The objectives of the ‘stressed’ VaR component should be set out more clearly. Is this new element of the trading book charge intended to address pro-cyclicality or deficiencies in a firm’s VaR model, or both?

In the section on the treatment for illiquid positions, the Basel Committee is potentially widening further the gap between financial reporting based on accounting standards and reporting for regulatory capital purposes. The Basel Committee should accept and recognise fair value measurement as a ‘prudent valuation’ framework.

The forthcoming Quantitative Impact Study, aimed at measuring the impact of the proposals, is welcomed.

Non-risk based measure to contain leverage (‘leverage ratio’)

The main messages conveyed in an EBF position paper on the possible introduction of a non-risk-based measure to contain leverage, are as follows:

It would be essential that more clarity be provided as a matter of priority on what such a measure would be trying to achieve.

An area of particular concern is how the measure will tie in with the risk-based Basel II framework. One of the main challenges will be to avoid reducing or eliminating incentives which have been embedded into the Basel Capital Framework and which should not be lost.
The measure should not be conceived as a (hard) fixed number that would need to be observed by every institution under any circumstance; as such an approach would not be neutral with respect to the differing business models used by banks.

It is essential that applicable accounting rules as well as the definition of ‘Own Funds’ be harmonised at global level before developing any measure aimed at capturing leverage in a sensible and meaningful manner. Moreover, any leverage measure should not serve as substitute to the risk-based approach of Basel II.

Basel Committee’s Consultation on Stress Testing Practices and Supervision

The European Banking Federation agreed that the current financial crisis demonstrated the need to strengthen stress testing practices and their assessment by supervisors. The proposed principles can be a useful tool in this regard.

The Federation supported the assertion that the recommendations should be applied on a proportionate basis and that stress testing should remain firm-driven and flexible in order to accommodate innovation.

As the Committee has taken quite a comprehensive approach in developing its principles and, considering the complexity of stress testing methodologies, the recommendations should be implemented gradually, through substantial on-going dialogues between the colleges of supervisors and the banks in the Pillar II supervisory review and evaluation process.

Banks should be allowed to perform stress tests at group level.

Last but not least, the real value of stress testing is to allow senior management and board to manage risk pro-actively by providing them with an alternative perspective on a bank’s exposures and behaviour under certain very specific circumstances. Stress tests are not performed to determine levels of capital buffers.
OTHER INITIATIVES

Review of the Industry Pillar III Disclosure Guidelines for Securitisation

The Industry Good Practice Guidelines on Pillar III Disclosure Requirements for Securitisation have been updated taking into account the feedback received from The Committee of European Banking Supervisors and firms, on the basis of their first experiences with Pillar III securitisation disclosures. The updated version of the Guidelines should be applied for disclosures relating to year-end 2009 onwards.
III. FISCAL AFFAIRS

1. VAT on Financial Services – EBF impact assessment on the option to tax

End May, the EBF appointed Ernst & Young (E&Y) to conduct an impact study on the option to tax in the framework of Value Added Tax (VAT).

Satya Poddar, the inventor of the so-called cash flow method, has taken the lead, given his expertise in methods for computing the tax base. The EBF has, however, made it clear to E&Y that the Federation objects to a ‘Poddar-like’ full taxation of financial services.

A two-step approach has been adopted for this study. The two phases run in parallel.

- First, E&Y drafted a conceptual report in order to provide an economic and legal analysis of the ‘option to tax’ certain financial services.

- The second phase will consist of an empirical exercise, which should end up with the presentation of a final report.

The EBF has held several meetings with the French Presidency.

2. European Savings Tax Directive


The EBF concerns are the following:

- The lack of any commitment to addressing the level playing field issue

- Incompatibility of the Commission’s proposals for ‘looking through’ entities/arrangements with the stated desire to prevent these requirements from being ‘dis-proportionately burdensome’

- The need to avoid having to reclassify existing payees
- The reliance of third party paying agents on information from issuers and data providers with regard to the proposed extension of the Directive to innovative financial instruments, non-UCITS, certain non-EU collective investments and certain life insurance products.


3. **Common Consolidated Corporate Tax Base**

Beginning of August 2008, the EBF sent to the European Commission Task Force, its preliminary comments on the unofficial draft proposal for a Directive on Common Consolidated Corporate Tax Base (CCCTB). On 31 August, EU Commissioner for Taxation and Customs Union, Laszlo Kovacs, made a speech at the Annual Congress of the International Fiscal Association, during which he confirmed the commitments of his services to this project. He announced that the presentation of a proposal, which had been tabled for the autumn, was postponed until a later date, because some of the very detailed technical areas still needed further work, in particular, those related to the Financial Sector.

4. **Taxation of Investment Income and Withholding Tax Relief/Collection Procedures**

On 3 September 2009, an EBF delegation met with a delegation of the Organisation of Economic Cooperation and Development (OECD), to discuss the work carried on by the OECD, in parallel with the work conducted by the European Commission towards an improvement of withholding tax relief/collection procedures. The latter were identified some years ago as barriers to post-trading in the Giovannini Report. During the discussion, emphasis was placed on the need for the adoption of a global solution.
The OECD delegation also stated that they encountered difficulties in financing the project and had called for the industry to fill the gap.

5. **US Qualified Intermediary Agreements**

An EBF delegation met on 15 October 2008 with the Qualified Intermediary Team of the Internal Revenue Service. The United States government has stepped up efforts to curb perceived abuses and shore up certain loopholes in the cross-border US withholding tax arena, principally involving international banks that act as Qualified Intermediaries (QIs).

6. **OECD Project on Enhanced Relationships between banks and tax authorities**

The EBF has set up a Working Group with a view to preparing the industry input to the work of the OECD on enhanced cooperation with tax intermediaries. A meeting with representatives of the Organisation of Economic Corporation and Development is due to take place beginning in March 2009.
IV. Accounting issues

1. Accounting for financial instruments convergence

The G20 agreed at the London summit of April 2009 to 'strengthen the financial system and mitigate the pro-cyclical impact of accounting standards'. In this respect, the International Accounting Standards Board (IASB) has undertaken a revision of severe accounting standards, including on de-recognition and consolidation, financial statements presentation and most important for the banking industry - accounting standards for financial instruments. In November 2009, the final standard on categorization and measurement – IFRS 9 was issued, retaining the application of the mixed measurement model, much supported by the industry worldwide. In November, the IASB has also issued an Exposure Draft on impairment model, moving away from the current concept of incurred loss model to the expected cash flow model.

While the IASB has retained the mixed measurement model for financial instruments in International Financial Reporting Standards (IFRS 9), the United States standards setter is putting forward a model introducing measurement of almost all financial instruments at fair value through profit and loss, clearly ignoring the G20 recommendations and comments of the industry. This is particularly worrying in light of the convergence programme of the IASB and Financial Accounting Standards Board (FASB). While convergence is broadly supported, the converged standards must be of high quality, workable and reflecting the business model of the industry. The European Banking Federation urges the standard-setters to provide the industry with workable standards in order to foster a sound and sustainable convergence in line with the recommendations of prudential supervisors. Considering impairment, the FASB has decided not to follow the path of the IASB either, leading to further broadening the gap between both standards. While reaching their tentative decisions on how entities should recognize and measure credit impairments and interest income under their proposed model for accounting for financial instruments, the final FASB
comprehensive proposal on financial instruments is expected in the first quarter of (Q1) 2010.

Despite the differences in timelines and approaches, Boards have decided to jointly consider the comment letters with the objective of converging their approaches and to establishing an Expert Advisory Panel to advise them on the operational issues related to the application of their impairment approaches.

2. **IFRS 9**

In November 2009, in response to the recommendation of G20 and other stakeholders to reduce the complexity of accounting for financial instruments, the IASB completed the first part of its three phased project to replace IAS 39 and adopted IFRS 9—principles for classification and measurement of financial assets. While IFRS 9 was already issued for mandatory application from 2012, its endorsement into EU legislation is pending. In November 2009, the EU decided to drop the accelerated endorsement of IFRS 9, preventing an early application of IFRS 9 for 2009 year-end financial statements. However, the decision does not preclude the final decision of the European Union on the endorsement of IFRS 9. The European Commission remains fully committed to IFRS as the single set of globally accepted accounting standards. Instead of an accelerated endorsement of the document, the Commission will be carrying out a thorough assessment of this new standard as well as taking into account the IASB’s ongoing work on other aspects of accounting for financial instruments (Phase II and III).

While the industry unanimously supports the general approach based on a mixed measurement model adopted by the IASB in IFRS 9, the abolishment of the fast track endorsement process was supported mainly due to the lack of time in assessing the implications of the final version of IFRS 9 and lack of clarity on subsequent phases of IAS 39 revision and possible impact of convergence with the US standard setter (FASB). Furthermore, the IASB Board decision to remove the liabilities from the scope of IFRS 9 resulted in additional uncertainty as the rules surrounding liabilities will
only be exposed for comments in Q1 2010. The endorsement postponement gave the industry time to analyse and understand the extent to which the IFRS 9 interacts with the remaining phases of the project concerning impairment and hedging and whether the decision on endorsement could be taken independently on the first phase of IFRS 9 or should the standard be endorsed in its entirety, waiting for completion of phases II and III. As the project will not be finalised before June 2011 (issuance of last part on hedging), the EBF will need to evaluate the consequences of an endorsement at a later stage, mainly the removal of the possibility of an early adoption of the standard for European companies as well as the transitional provisions of IFRS 9.

3. Impairment

In November 2009 the IASB issued an Exposure Draft on impairment of financial instruments as part of their wider project on IAS 39 replacement. The Impairment proposal applies to financial assets measured at amortized costs. The IASB’s expected cash flow approach based on an effective interest rate adjustment methodology would pose significant operational challenges due to its complexity and would require significant time and costs to implement. The EBF believes that it should be possible to meet the G20 objectives to strengthen accounting recognition of loss provisions by incorporating a broader range of credit information using in a model both simpler and easier to implement than the Expected Cash Flow Model. In March 2010 the EBF adopted a proposal which is easier to understand by users of financial information, and for preparers to implement at a reasonable cost but at the same time to capture the business and risk management practices of the financial institutions. During March/April 2010 EBF will meet with IASB, FEE, CEBS, and the European Commission among others counterparties to discuss the main industry concerns on the IASB Exposure Draft on Impairment and to present the counter-proposal of the EBF. The following are the main differences with the IASB model:
– The definition of amortised cost remains as in current IAS 39 and impairment is an independent estimate separate from the effective interest rate (EIR) calculation.

– The EBF model follows the business model of an entity. The approach allows application on a loan by loan basis, closed portfolios or open portfolios depending on the business and risk management.

– Changes in expectations are spread over the life of the portfolio consistently with the treatment of initial expectations, subject to a condition that total impairment allowances are always equal to or higher than the incurred loss impairment allowances under the current IAS 39.

– The model is easier for users of financial information to understand and for preparers to implement at a reasonable cost.

4. **Hedge accounting**

As part of the revision of severe accounting standard the IASB is undertaking, in June 2009 the IASB divided the project to reconsider the IAS 39 into three components with Hedge Accounting being considered as the third phase of replacement.

By the end of 2009 the Board tentatively decided to replace fair value hedge accounting as well as to further simplify the existing cash flow hedge accounting model to reduce complexity. The replacement of fair value hedge accounting therefore would be done by permitting recognition outside profit or loss of gains and losses on financial instruments designated as hedging instruments (an approach similar to cash flow hedge accounting).

In light of the FASB’s goal to publish a comprehensive Exposure Draft on financial instruments in March 2010 and the IASB’s goal to publish a Draft on the remaining main phases of the project to replace IAS 39 in the first quarter of 2010, the boards will first jointly consider hedge accounting issues relating to financial hedged items, and issues that are more directly related to the boards’ respective decisions to date on the classification and measurement models for financial instruments. The boards will
subsequently discuss other hedge accounting issues, including hedge accounting for non-financial hedged items and portfolio hedge accounting.

5. **Leases**

As part of the work of the 2006 Memorandum of Understanding (updated in 2008) between the FASB and the IASB to work towards convergence, in March 2009 the IASB and FASB published a Discussion Paper proposing a possible new model for lease accounting which would eliminate the operating lease classification for lessees. This is the most significant change proposed for the existing lessee accounting model; aimed at ensuring consistent accounting for arrangements throughout industries. Therefore, if the proposal is to be adopted in a final standard (subject to possible scope exceptions), operating leases would no longer be ‘off-balance sheet’ and rental expense would no longer be straight-lined over the lease term. Rather, an asset and a liability would be recognised in the statement of financial position, and amortisation and interest expense would be recognised in profit or loss. Although the discussion paper describes some of the issues the Boards will need to resolve in developing a future new standard on less or accounting, the Boards decided to limit the scope of the leasing project to lessee accounting. The European Banking Federation has expressed to the IASB its concerns that standards setters have considered an excessively burdensome approach for accounting for leases as the proposed one-size-fits-all model accounts all leased essentially in the same way as current capital leases; instead the EBF noted the focus for lease accounting should be on improvement and avoidance of complexity. The EBF position also reflected the concern of the vast majority of respondents who also disagree on the decision to defer consideration of lessor accounting. The EBF believes that in order to provide an appropriate and valid comment, the model approach regarding lessor accounting must be evaluated in parallel with lessee accounting.
6. De-recognition

In March 2009, the IASB initiated its public consultation on a revised de-recognition model for financial instruments with the publication of an Exposure Draft. These proposals seek to improve the assessment of when a financial asset should be derecognized and are also aimed at providing users of financial statements with more and better information about an entity’s risk exposure.

The proposed two model for derecognition of financial assets focusing on the existence of control which differs from the current guidance in IAS 39 which is primarily concerned with ‘risks and rewards’ (control being a secondary test). On the disclosure side, the Exposure Draft proposed to enhance disclosure requirements, especially in situations where an entity continues to have an ongoing involvement in a financial asset that would be derecognized under the proposals. In regards to these proposals, the EBF is not convinced that a deep and fundamental revision of IAS 39 derecognition approach as proposed in the Exposure Draft is required in the short term to address crisis-related issues.

The EBF has expressed to IASB serious concerns about the proposal that the existing risks and rewards test should be replaced by a continuing involvement test as this new approach will lead to inappropriate information about the risks and rewards of the reporting entity being presented. As removing risks and rewards from the de-recognition decision tree will lead to unintended consequences, which could be difficult to understand by preparers and users, we noted that prior to changing the definition of control, more work is required at a conceptual level regarding the role of risks and rewards and more generally, the purpose of the financial statements.

We also consider that the overly detailed disclosures give the impression that the Board is willing to provide enough information to enable users to restate the financial statements of the entity. Such a burden of information will drown out key information.
7. **Credit Risk in Liability Measurement**

On 18 June 2009, the IASB published a Discussion Paper on the role of an entity's own credit risk in liability measurement accompanied by a staff paper describing the most common arguments for and against including credit risk in measuring liabilities. As the Discussion Paper recognizes that the treatment of credit risk in liability measurement varies within the IASB's existing literature, the Paper addresses whether these inconsistencies are justifiable and, more broadly, the principal issue under consideration is whether current measurements of liabilities (including fair value) should incorporate the probability that the entity will fail to perform as required. The European Banking Federation states that own credit spread should only be measured at fair value when an entity is actively trading in its own issued debt instruments. In all other circumstances, the EBF considers that the change in credit spread should not be measured or in any other way be disclosed as an item in the income statement, as changes in the credit spread during the life of a liability have no relevance to it.

In October 2009 the IASB Board decided to stop working on this project as a separate project and, instead, to consider the issues in the Conceptual Framework–Measurement project.

8. **Fair Value Measurement**

As part of the project, included in the Memorandum of Understanding between the IASB and the US FASB, the IASB published an Exposure Draft in May 2009. At present, IFRS require some assets and liabilities to be measured at fair value. However, guidance on measuring fair value has been added to IFRS piecemeal over many years, therefore the standard resulting from this project does not propose to extend the use of fair value measurements in any way. It will define fair value, provide single source guidance on how to measure fair value and will set the disclosure requirements relating to fair value measurements. If adopted, the proposed standard would apply only when an existing IFRS already requires an asset or liability to be measured at fair value.

In the opinion of the industry, the Exposure Draft fails to fulfil the objective of clarifying the definitions of measurement bases to be used for financial reporting purposes. The EBF feels a single rule cannot apply to every circumstance where IFRS requires the use of fair value. Nevertheless, the banking industry believes that the Exposure Draft has improved compared to the Discussion Paper that was based on the draft FAS 157. However, it is believed that there is still room for improvements.

In March 2009 The Committee of European Banking Supervisors (CEBS) published a consultation on amendment to the Guidelines on Financial Reporting (FINREP). This consultation paper proposed amendments to the existing FINREP Guidelines which will streamline financial reporting and achieve a higher degree of harmonization. The EBF acknowledges that FINREP has the potential to contribute to the standardization of reporting across the European Union. However, for reporting to be useful, a balance must be found between the needs of institutions operating cross-border and those operating solely at national level and the users of their reported data. In its reply, the EBF also noted that various projects at EU level such as the work of Joint Expert Group on Reconciliation (JEGR) which aims at convergence of reporting processes for statistical and prudential/financial reporting as well as the impact of the changes resulting from various initiatives in the field of reporting should be duly considered in order to avoid overlaps, ensure consistent and relevant information requests, timely setting of requirements and realistic implementation time frame. The EBF also noted CEBS the work of IASB and their projects related to financial statements presentation and financial instruments reporting (IAS 39) must also be taken into account to avoid costly changes to the reporting framework which will be redundant shortly after, due to the changes to IFRS.

In addition, EBF noted CEBS achieved a reduction, compared to the current EU FINREP, in the total number of quantitative data. However, the current FINREP proposal also reflects an increase in data requirements via new tables and new cells. This increase of data requirements will inevitably result in a significant implementation effort whilst the benefit is not always clear. The banking industry would therefore like to urge CEBS to reassess the proposed new data requirements in order to ensure that the requested information is essential to fulfil their responsibilities. Furthermore, there should be a clear business case for any proposed new data requirements in FINREP.

10. **Financial Statements Presentation**

As a first step towards the creation of a standard that would require entities to organize financial statements in a manner that clearly communicates and integrated financial picture of the entity, an Exposure Draft was published by IASB in October 2008. As Preparers need a format that allows them to tailor financial statements to communicate the unique aspects of their businesses, the project is about finding the
right packaging of information rather than about how profits and losses are recognized or measured.

A future standard on financial statement presentation would replace existing guidance in both US Generally Accepted Accounting Principles (GAAP) and IFRS, which would apply to all business entities. The boards also proposed that the future standard should ensure that financial statements show information about an entity's ability to meet its financial commitments.

While in general the European Banking Federation agreed on the overall objectives as set out in the paper, it is sceptical about whether the information requirements proposed in the Exposure Draft are of benefit to users in respect of the financial statements of banks. As many of the requirements are not particularly relevant for banks, but nonetheless must be presented in the Primary Financial Statements (PFS), it is questionable whether it can be said that users will be placed in a position of better understanding. The EBF response also noted that IFRS should not be limited to an investor-oriented approach but serve multi-tier purposes in the framework of an integrated reporting system. In the case of a bank, users will be interested in other forms of reported information, including risk and liquidity figures. The EBF agreed that trying to achieve a certain amount of cohesion within the principal statements, will improve the usefulness of the information provided. In this respect, it was recognized that imposing a rigid classification of the various line items into categories may improve the comparability. However, the EBF is concerned that it may not improve the users' understanding and may not reflect the way business is managed in certain industries.

The EBF expressed its disappointment that the discussion paper has failed to provide a model suitable for use within the banking industry. The Federation remains convinced, however, that such a model can be developed within the parameters of a single standard on presentation.
V. International Affairs

1. Liberalisation of Financial Services

There were repeated efforts over 2009 to revive the Doha Development Round negotiations, which had broken down in July 2008. The European Banking Federation supported these efforts, which remained, however, without success.

The European Commission pursued and extended its bilateral Free Trade Agreement (FTA) negotiations with third countries. The EBF monitored and encouraged these efforts, focusing in particular on the negotiations with South Korea which could successfully be concluded. However, the agreement could not be ratified in 2009, due to the Lisbon Treaty which eventually entered into force on 1 December 2009. In anticipation of the fact that this Treaty would grant the European Parliament equal rights as the Council to sign Free-Trade Agreements, the ratification was deferred until there was clarity on the legal procedure for the FTA’s endorsement.

The EBF also conducted its own extensive study on barriers to trade and investment, in ten selected jurisdictions, which it used as a tool to encourage the Commission’s contacts with these jurisdictions.

2. Financial Sanctions

The European Banking Federation and the European Credit Sector Associations had expressed concerns with the Commission (DG RELEX) about the functioning and the updating of the electronic consolidated list of persons, groups and entities subject to EU financial sanctions, maintained and updated by the European Commission services of DG RELEX.

Contacts are still taken with the European Commission in order to ensure that as a matter of general principle, the quality of the data introduced in the electronic list are as precise as possible, published on the day of the publication of Regulations in the
Official Journal and that European credit institutions benefit from an exemption of liability when applying the electronic list in good faith.

The EBF also expressed concerns to DG RELEX, MARKT and TRADE about the new US regime against Iran.

3. Regulatory Dialogues

The European Banking Federation monitored and supported the European Commission’s increasing number of regulatory dialogues with third countries, underlining that regulatory barriers are often just as discouraging for investment in third countries as ‘hard’ legal barriers. The focus of the EBF was on the regulatory dialogue with the United States, particularly in view of the extensive financial reform process under consideration in Washington.

As part of this work, the EBF developed a position for the Transatlantic Economic Council (TEC) which took place late October in Washington. The EBF encouraged both sides to consider the risk of regulatory fragmentation and possibilities of ensuring consistency of reform.

4. Cooperation with the Institute of International Bankers

Cooperation with the International Institute of Bankers (IIB) has continued throughout 2009. The EBF organised a large delegation visit to Washington in December 2009, which was joined by the IIB. As part of this delegation visit, the EBF met with the US Treasury, several supervisory agencies, interlocutors in Congress, and the International Monetary Fund.
VI. Economic and Monetary Affairs Committee

The Economic and Monetary Affairs Committee (EMAC) is composed of chief economists from banks and banking associations in the European Union and countries of the European Free Trade Area countries. The EMAC advises EBF members on the economic aspects of different EU financial policy areas, and provides a forum for discussion of economic and financial themes of interest to the banking sector and the public. It also offers a counterpart to the EU institutions in the discussion of economic and monetary matters.

1. The outlook for the economy of the euro area

Twice a year, EMAC conducts a poll among its members to obtain a range of euro area economic forecasts in the banking community. The results are published at the middle and towards the end of the year. Additionally, in 2009 the EBF cooperated with the researchers of the European Central Bank on creating histograms of the expected euro area GDP growth for the forecast period. The histograms were presented at the end of each outlook publication.

The mid-year 2009 Outlook was published in June, under the title, ‘Glimmers of hope’. In that issue, the EMAC economists noted the gloomy state of the euro area economy, not least, owing to continuously contracting GDP, deflation and surging unemployment. However, they pointed to a number of important factors favouring recovery: lower interest rates, the picking up of external demand, notably from the Asian countries, and the positive effects of the unprecedented government support aimed at helping the economies to remain afloat in these turbulent times. At international level, the G-20 countries give a further push to recovery plans, with an agreement announced on 2 April 2009 to provide an additional $1.1 trillion of support for the economy.

The end-year 2009 Outlook ‘On a bumpy road to recovery’, remarked that the euro area economy slowly started to gain momentum, gradually picking up the pace
towards recovery. The massive monetary and fiscal policy impulse provided by the European Central Bank and national governments in 2009 was expected to prevent the EU from experiencing a more prolonged recession. However, the process of recovery was viewed as a turbulent one, with the exit strategies of the ECB and government support playing a key role. A prominent role in this recovery is also played by the high level of trade linkages as they enable the euro area to react more quickly than expected, to the revival in activity elsewhere. The EMAC economists stress that banks will have to adjust to the cumulative effect on their business of new capital requirements, which are being introduced as part of the policy response to the crisis. They will also need to adapt balance sheets and business strategies to their own institution’s experience of the crisis.

2. Statistics

The EBF Working Group on Statistics (SWG) monitors developments in EU statistical requirements, in particular, the requirements of the European Central Bank for Monetary Financial Institutions (MFIs). It also coordinates the EBF’s work on statistics of the national banking sectors of EBF Members and Associates.

The SWG continued its dialogue with the ECB’s Directorate General for Statistics, Steven Keuning, on the update of the MFI Regulations.

During 2009, the SWG engaged in a dialogue with the Joint Expert Group (JEGR) on credit institutions’ statistical and supervisory reporting requirements (MFI, COREP and FINREP). The JEGR draws experts from European Central Bank (ECB) and Committee of European Banking Supervisors (CEBS). The SWG formulated an EBF position on reconciliation of statistical reporting requirements, and otherwise contributed to the ECB dialogue with the industry.

The outcome of JEGR work was a classification system aimed at reducing, over time, the reporting burden placed on entities that are required to deliver data to the Eurosyste as well as to supervisory authorities. The classification system is composed of two elements:
(i) a bridging manual linking the ECB’s monetary and financial statistics requirements with the supervisory reporting templates (FINREP and COREP) developed by CEBS; and

(ii) a relational database that will help users identify the similarities and differences between data for ECB statistical purposes and data for financial supervisors in the context of the CEBS framework.

3. Small and Medium Sized Enterprises

In the wake of the financial crisis, the EBF’s SME Working Group gave high priority to the monitoring and interpretation of bank lending trends. During 2009, its members saw no evidence of a ‘credit crunch’ in their respective countries, contrary to public perception. The European Commission (DG Enterprise) continued to regularly invite the banking industry, SME representatives and other interested parties, to meet on an informal basis to discuss developments in SME finance.

Looking beyond conditions at the time, the EBF joined a BUSINESSEUROPE Advisory Taskforce on Companies’ Access to Finance, which published a report with wide-ranging recommendations on ways to promote access to finance during the crisis. The report, ‘Companies’ access to finance: a European Action Plan’, was published on 27 March 2009.

Also with a forward perspective, in September 2009, the EBF co-sponsored a working breakfast with the SME Union at the European Parliament on: ‘How to avoid a credit squeeze: banks and SMEs during financial crisis’.

Microfinance was an important theme of work in 2009. The SME Working Group spent a good part of the year collecting information on its members’ involvement in this market and preparing a paper (which was published in February 2010) entitled ‘Microfinance within the EU banking industry: policy and practice’ (available on the EBF website). In this paper, the EBF demonstrated the importance within the EU banking industry of microfinance provided to domestic borrowers. EBF members reported on the diversity of approaches, and made recommendations for EU policy and practice. The EBF also worked
on this issue on behalf of the EU institutions. It attended technical workshops on microcredit organized by the European Commission (the latest of which was held in March 2009), to assess the conditions likely to foster sustainable microcredit. It also participated in discussion of the Commission proposal for a EUR100 million ‘European initiative for the development of micro-credit in support of growth and employment’. The facility, scheduled to be implemented in early 2010, focuses on the ‘non-bankable’ sector of the market.

4. Export Credit Insurance

The EBF’s Working Group on Export Credit, alongside the OECD’s Business and Industry Advisory Council (BIAC), is among the stakeholders regularly consulted by the OECD’s Working Party on Export Credits and Credit Guarantees and of the Participants to the Arrangement on Officially Supported Export Credits. The main subjects of discussion are the OECD Arrangement – a ‘gentleman’s agreement’ which sets guidelines for official support for export credits – and other OECD accords affecting export credits.

In late 2008, the EBF delegation had lobbied at the stakeholder consultation held by the Organisation of Economic Cooperation and Development (OECD) on the difficulties then being faced by banks in financing business on the export credit market. The EBF delegation suggested that the Participants of the Arrangement give consideration to allowing temporary flexibility in some elements of the Arrangement, in a bid to facilitate trade in this difficult period. Later that month, the OECD made an official announcement confirming governments’ commitment to providing ongoing credit support. It referred to the role of this support in “helping to fill the gap where market capacities are temporarily limited”.

In January 2009 this political commitment led to a decision by the Participants to the Arrangement to amend the OECD Arrangement to take account of the crisis. The changes enabled an extension in repayment periods for lending to some countries, and provided
greater flexibility for project finance transactions and lending to the renewable energies and water sectors.

Since then, EBF members have monitored and reported on their experience of market conditions. At the annual stakeholder consultation in November 2009, an EBF delegation updated participants again on the markets, reporting that conditions had improved since the previous year.

The Working Group continues to offer advice, and lobby if necessary, on any aspect of officially-supported export credit regimes – at global, OECD or EU level – which may have an impact on the banking business.

VII. Legal Affairs

A. EU Competition law

1. Merger Regulation 139/2004

The European Commission launched a public consultation on the review of the Council Merger Regulation 139/2004, which entered into force on 1 May 2004. The Regulation sets out the rules for merger control in the European Economic Area (EEA), aiming to evaluate the functioning of the rules on jurisdictional thresholds and referral mechanisms during the four years that the Regulation has been in force.

The Commission aims to employ the outcome of this public consultation along with its own experience of applying the Regulation and feedback from national competition authorities and other sources, as support for the report envisaged to be presented to the European Parliament and Council on the functioning of regulation on 1 July 2009. The European Banking Federation responded to the consultation in December 2008.

2. **Antitrust regulation 1/2003**


The Commission aims to employ the outcome of this public consultation as support for the report to be presented to the Parliament and the Council on the functioning of regulation 1/2003 scheduled for 1 May 2009. The EBF sent its response to the Commission’s consultation in October 2008.

At the beginning of 2010, DG Competition conducted a consultation on three documents setting out best practices in the field of anti-trust:

- Best Practices in proceedings concerning articles 101 and 102 TFEU on which the EBF commented in a letter sent on 3 March 2010;
- Best Practices on submission of economic evidence;
- Hearing Officers' Guidance Paper.

3. **Damages Action for Breach of Commission Antitrust Rules**

The European Commission prepared a White Paper on damages actions for breach of the its antitrust rules in April 2008 which contains proposals for policy choices and concrete measures with the aim of ensuring that all victims of EU competition law infringements have access to effective redress mechanisms in order to be fully compensated for the harm they suffer. Some important issues are addressed in the document, such as Collective redress, *Inter partes* disclosure of evidence and binding effect of National Competition Authorities’ decisions. The EBF sent its comments on the White Paper to the Commission in July 2008.

On 27 March 2009, the European Parliament adopted an own-initiative Resolution on the Commission’s White Paper, thereby calling upon the European Commission to
take a more coordinated approach to the matter of collective redress that is taken up in the White Paper as a possible mechanism of enforcement. The European Parliament’s Resolution positively addressed the concerns raised by the European Banking Federation.

Following on from these papers and additional studies, the DG COMP services drafted a proposal for a Directive on damages actions for breach of EU anti-trust rules, which has not yet been adopted by the College of Commissioners. This text aims at enforcing an effective compensation for private persons and undertakings who are victims of breaches of EU competition rules (Articles 101 and 102 of the Treaty on the Functioning of the EU, ex-81 and 82 of the EC Treaty). It foresees that Member States should provide a combination of a group action and a representative action, including an opt-out system in cases of breach of anti-trust rules. It also provides for a binding effect for National Competition Authorities’ decisions, as well as a specific regime regarding the burden of proof and the disclosure of evidence.

The former Commissioner for Competition Neelie Kroes put forward a draft Directive which was not adopted as a proposal by the college of commissioners. The draft was also criticised by the European Parliament because its views expressed in its 26 March 2009 Resolution on the White Paper had not been taken into account.

Joaquin Alumnia, the new Commissioner for Competition, will decide on the follow-up on the policy to be adopted in the field of breaches of anti-trust rules.

4. **DG Competition interpretation of State Aid rules**

Following the adoption of rescue plans and support measures since the beginning of the financial and economic crisis, the European Commission’s DG Competition has delivered several Communications in which it provides its interpretation of State Aid rules against the background of the current crisis.

In these Communications, the Commission continues to apply EU state aid rules during the economic crisis while taking a more flexible approach than before the crisis. The Commission gives guidance to Member States handling relief measures to
companies, to avoid discrimination and undue distortions of competition. Three of these Communications are of direct concern for the financial sector.

On 13 October 2008, the European Commission published a Communication providing Guidance on the application of state aid rules, to measures taken in relation to financial institutions in the context of the global financial crisis to clarify the type of measures that would be considered compatible with state aid rules.

In addition, the Commission complemented and refined its previous and broader guidance document of October, by issuing a Communication giving guidance on the recapitalisation of financial institutions to boost credit flows to the real economy.

Finally, on 25 February 2009, the Commission issued another Communication on the treatment of impaired assets in the Community Banking Sector.

Since the beginning of the financial crisis the Commission has approved about 100 State support measures to individual banks.

B. **Civil and Procedural Law**

1. **Transparency of debtors’ assets**

The Commission published a Green Paper on the issue of transparency of debtor’s assets, on which the EBF sent its comments on 30 September 2008. The European Banking Federation welcomed the initiative and the fact that the scope of the Green Paper is limited to public enforcement of judgments, considering the duty of banks to comply with data protection and banking secrecy rules. The EBF also called for the application of the principle of subsidiarity and proportionality, given the low volume of cross-border debt recovery.

It appears, however, that the Commission will not take any legislative initiative in the field of the transparency of debtors’ assets. The findings of the consultation could, however, be used in other initiatives (e.g. Attachment of Bank Accounts, see below).

**2. Green Paper on the Attachment of Bank Accounts**

Following the publication by the European Commission of a Green Paper on improving the efficiency of the enforcement of judgments in the European Union (October 2006), envisaging the creation of an EU procedure for bank attachment, the European Parliament adopted a Resolution on that Green Paper on 25 October 2007.

The Resolution recognised that many points (e.g. jurisdiction, details of the enforcement procedure, payment of fees to banks) need to be examined more closely before taking further steps on that issue and that no firm decision can be taken at this stage. It also suggests that the real extent of debtors’ evasion of justice should be further assessed. It finally considers it ‘appropriate to examine the question of reimbursing the costs incurred by banks in processing account seizure’, in line with the EBF position.

The European Commission should conduct an impact assessment on the attachment of bank accounts which should start in the course of 2010. It should also organise a hearing on this issue in June 2010.

**C. EU Contract Law**

**1. Common Frame of Reference**

The Common Frame of Reference (CFR) expert group is still drafting a report and circulated a Second Draft report (DCFR) on 23 December 2008. The Draft is presented as an academic work, which could serve as a basis for a ‘political Common Framework of Reference’ for the Commission and contains:

- Principles and definitions which are meant to be used as a basis for the development of a European Legal Terminology
- Model rules which constitute the most important part of the Draft. These are soft law rules but they could be used as models for hard law rules.

The current consensus at Council level is that the CFR should be a source of inspiration for legislators and not a European civil code.

The European Commission is expected to set up an Expert Group and to publish a Communication on the CFR before the summer 2010.

2. **The Brussels I Regulation**

The Council Regulation (EC) No 44/2001 -known as the Brussels I Regulation, which lays down rules governing the jurisdiction of courts in civil and commercial matters, is currently under scrutiny.

In 2009 the Commission conducted a consultation of the Regulation to which the European Banking Federation responded. Amongst other matters, the abolition of the exequatur procedure is envisaged. The European Parliament’s JURI Committee is currently preparing its second working document with the view of adopting a Resolution on this matter (time table to be announced).

**D. Company Law and Corporate Governance**

**1. Shareholders’ Rights**

Following the adoption of the Directive on Shareholders’ Rights, the European Commission carried out a consultation followed by an impact assessment on the possibility of adopting recommendations on issues that are not covered by the Directive (language of meeting documents, depositary receipts, stock-lending and chain of intermediaries and management companies of investment schemes).

It appears that the European Commission has had difficulties in gathering evidence of the need to adopt such recommendations. The EBF itself had expressed significant reservations about the need for the EU to intervene in the envisaged fields. Recommendations will therefore probably not be adopted.
2. Remuneration Policies

Several national, European and International bodies have issued recommendations, principles or guidelines regarding remuneration policies. Most principles apply to significant financial institutions and aim to achieve: a) effective governance of compensation; b) effective alignment of compensation with prudent risk taking; and c) effective supervisory oversight and engagement by stakeholders.

In its position regarding remuneration initiatives, the EBF stressed that it believes that remuneration guidelines and legislation have to remain principle-based. A ‘one size fits all’ approach is not appropriate, since substantial differences in business practices have to be taken into account. This also means that a general cap on remuneration is not desirable; the decision should be left to individual institutions.

The EBF supports greater transparency concerning remuneration processes. However, confidential information should be protected to secure the competitive edge of individual banks and the banking industry as a whole.

A comparative table detailing the measures that have been taken by international and European and national institutions is being prepared. The table has been written from a legal perspective, thus describing the legal aspects of the various principles and guidelines. In practice, however, measures can have a different impact and the interaction of various measures might lead to different outcomes.

E. Legal Framework for Securities:

1. Future Securities Law Directive

Building on the Legal Certainty Group’s Second Advice of August 2008, the European Commission conducted a consultation of stakeholders in spring 2009 with the view of fleshing out a legislative instrument on the holding and intermediation of book-entry securities. The EBF responded to that consultation.
The European Commission is consulting a Group of Member States’ Experts on a draft Directive on securities law. The draft Securities Law Directive should then be amended and be submitted to a final consultation of stakeholders in April/May 2010.

2. The Geneva Securities Convention

The International Institute for the Unification of private Law (UNIDROIT) Convention on Substantive Rules for Intermediated Securities was adopted in Geneva, Switzerland on 9 October 2009 by the diplomatic Conference. At this stage the Convention has not been formally signed or adopted by the EU Member States. Only the State party of Bangladesh has signed the Convention.

3. European Master Agreement

A new annex on deposit and loans was adopted in June 2009 and has been published on the EBF website.

The European Master Agreement (EMA) legal opinions have only been updated by some members in 2009.

F. Legal Framework for Securities:

1. Data Protection Law

The new Commissioner for Justice and Fundamental Rights Viviane Reding declared that Data Protection would be “top of the line” on the agenda.

The Commission conducted a consultation on the review of the Data Protection Directive (DPD) 95/46/EC in 2009 to which the EBF responded. The Commissioner would be determined to revise the Directive.

The Commissioner, Viviane Reding, would be willing to propose a revision of the Data Protection Directive (DPD). For that purpose the Commission will conduct an evidence-based evaluation of the Directive. A Communication, on which the stakeholders will be invited to send their comments, should be published in autumn 2010.
For the time being, the European Commission’s services are not considering radical changes but mostly adjustments of the Directive.

2. EU-US ‘Terrorist Finance Tracking Programme’ Agreement

The European Parliament has rejected the EU-US ‘Terrorist Finance Tracking Programme’ (TFTP) agreement (also known as the Swift agreement) on 11 February 2010. The European Commission has presented a mandate to negotiate a new EU-US TFTP agreement. It seems that the new mandate takes better account of the European Parliament’s concerns regarding the protection of data of EU citizens and of the principle of proportionality.

In parallel to that, the commission’s Directorate General for Justice has conducted a stakeholders’ consultation with the view of negotiating an EU-US agreement on data protection to which the EBF responded.
VIII. Consumer Affairs

1. Bank accounts and Customer mobility

Following the publication of the European Banking Industry Committee (EBIC) self-regulation initiative – the *Common Principles on bank account switching* – on 1 December 2008, the banking industry has been working towards the implementation date of 1 November 2009 in order to allow for a smooth transposition into the national systems.

The Common Principles ensure that bank account switching is not onerous to consumers and that their mobility is not constrained by any unnecessary delay or cost, or by a lack of support from banks. They also increase the consumer’s awareness of the switching related services they can expect, aimed at reducing consumer apprehension with respect to bank account switching.

The EBIC Working Group, which developed the Common Principles, has been monitoring the progress made in the Member States and has adopted a coordinating role in the implementation process. By January 2010, the Common Principles were implemented in most Member States and are also complied with in Norway.

For monitoring purposes, progress reports were produced in January, July and October 2009. Information on the progress made on the selection of relevant bodies, as well as overall compliance with and promotion of the Common Principles was gathered in that context.

Since 2 March 2010, an overview of the results of implementation has been available on the EBIC and EBF websites, to publicise the specificities at national level and provide a link to the national adaptations of the text.
2. **Directive on Credit to Consumers**

Following the publication in the Official Journal in May 2008, the Consumer Credit Directive has entered into the implementation phase that is due to be completed by 11 June 2010.

The European Commission has been coordinating the implementation process of the Consumer Credit Directive with the aim of supporting Member States in clarifying the meaning of unclear provisions and avoiding too divergent interpretations. However, the risk that Member States are tempted to ‘gold plate’ the provisions of the Directive when transposing it into national law still remains. Furthermore, in various Member States the legislation has been or will be extending the scope of part of these provisions (notably, rules on pre-contractual information) in order to cover also mortgage credits.

Due to some difficulties in the interpretation and adaptation of the Directive’s provisions at national level, the majority of the Member States may conclude the implementation process quite close to or even after the deadline, which leaves the lending industry a very short timeframe within which to comply with the new rules. Some Member States have already announced a delay of six months or more.

On the other hand, apart from very few exceptions, no extension of the implementation period has been allowed by national authorities to the lending industry, which may cause a problem of legal uncertainty of consumer credit contracts over the period of time running after the due date until the conclusion of the IT and contractual adaptations to the new set of rules.

The European Banking Federation, together with EBIC, has been in contact with the European Commission on this issue and on problems of interpretations arising from the national debate.
3. **Mortgage Credit**

During the course of 2009 the stream of work continued to flow from the 2007 White Paper on Mortgage credit in the EU published by the European Commission, although the most substantial part of the information gathering exercises announced in that document have recently been incorporated into the more horizontal debate on Responsible Lending & Borrowing (see below).

- The Study on testing the European Standard Information Sheet on Home Loans (ESIS) was released in January 2010. The project encompassed two phases, namely Phase I aimed at better understanding the behaviour of consumers vis-à-vis the current ESIS; and Phase II assessing the merits of three variants of the ESIS in conveying information in a useful and well-understood way by consumers. The results of the survey confirmed the appreciation of the ESIS by consumers that have remarked about it: (i) the complete and transparent nature of the information; (ii) its educational function; (iii) its usefulness in better equipping consumers to conduct their search process and make informed choices; (iv) combined with an increased propensity to compare various offers. Another important factor highlighted by the study was the mismatch between the desire for receiving comprehensive information and the difficulty in appreciating the content thereof, thereby highlighting the close link with the issue of financial education.

- The Study on costs and benefits of a future directive on mortgage credit, regulating four areas (pre-contractual information, APRC, responsible lending and borrowing, early repayment) was concluded at the end of 2009 but its publication is still pending, while its content is expected to feed the debate on Responsible Lending & Borrowing. After a first assessment of the regulatory changes occurred/envisaged at national level in the area of mortgage lending due to the implementation of the Consumer Credit Directive, the study was due to monitor the costs and benefits of a possible future directive, based on the evaluation given by a sample of lenders in 10 selected EU
countries. The EBF has been involved in the preparation of the survey and is now concentrating on the possible issues under Responsible Lending.

- The Expert Group on Credit History (EGCH) set up by the European Commission in autumn 2008, has released a report in June 2009 containing recommendations concerning the cross-border access to credit data. The EBF, via its dedicated working group, has followed the debate of the EGCH and highlighted at the occasion of the consultation on the final report that, on one hand, a pan-European credit register is not an efficient or effective solution to the problem of access and, on the other hand, each existing pattern for access (direct v indirect access to foreign credit registers) should be made more easily available to lenders which would choose according to their business model and strategy. Little room for improvement was found in the area of content of the credit record (positive and negative v negative-only data) and in the debate with consumers over such matters, since the consumer experts of the EGCH finally decided not to endorse the whole report.

- The Study on tying and other commercial practices was launched in autumn 2008 and concluded by the publication of a study in January 2010. A public consultation has been opened until 14 April 2010. The EBF, as well as the EBIC, have been seeking involvement at a very early stage of the process, but the input from the industry has been largely disregarded by the consultant. The EBF and EBIC have been preparing contributions to the consultation.

While defining a series of practices, wider than tying and bundling, as potentially anti-competitive and unfair towards consumers, the study appears affected by a very negative approach to the retail financial services industry and the related business practices that are presented as a symptom of generalised misleading and abusive behaviour. Also, the methodology applied suffers from a lack of sufficient empirical basis (only 66 responses have constructed the database used, upon almost 1000 questionnaires sent) to draw credible conclusions. The banking industry wants to
emphasise in this debate the need to avoid any general ban of commercial practices that do not bear a detrimental effect *per se*, but to adopt a case-by-case approach more in line with the EU law *acquis* and the reality of the market.

- A study on Interest variations and regulation including the provisions on usury was launched at the end of 2009 and is currently ongoing. The provisions of caps or limitations to variations of interest rates for credits, as well as the rationale behind the sanction of usury and its possible impact on the internal market are at the core of this survey. The EBF is closely following the progress of the data-gathering phase.

**4. Responsible Lending & Borrowing**

In its Communication to the Spring European Council *Driving European Recovery* of 4 March 2009 the European Commission undertook to come forward with measures at EU level on responsible lending and borrowing, including a reliable framework on credit intermediation, in the context of delivering responsible and reliable markets for the future and restoring consumer confidence.

Responsible lending means that credit products are appropriate for consumers’ needs and are tailored to their ability to repay. This may be obtained through having an appropriate framework in place to ensure that all lenders and intermediaries act in a fair, honest and professional manner, before, during and after the lending transaction. Responsible borrowing implies that – in order to obtain a credit – consumers should provide relevant, complete and accurate information on their financial conditions, and are encouraged to make informed and sustainable borrowing decisions.

Building on the results of the consultation held between June and August 2009 and a public hearing held in September 2009, the European Commission is being evaluating the appropriate follow-up that could take various forms, going from a no-action approach to a legislative intervention at EU level. The areas concerned by this policy consideration are, notably, the regulation of credit intermediaries and non-credit institutions, advertising and marketing, pre-contractual information, suitability and
creditworthiness, cross-border access to credit data, advice and remuneration of credit intermediaries in particular at the point of sale. Although the latter are relevant matters for a number of retail products, it is likely that any new initiative would limit its scope to mortgage credit.

The EBF participated in the 2009 consultation where it pointed out that lending practices in the EU markets differ substantially from those applied in the United States and have presented, to date, no evidence of mis-selling. Accordingly, the European Commission should refrain from proposing an element of prescription that would risk forcing the supply to adapt to the regulatory framework more than to the actual needs of the customers. Costs development is also feared should a regulatory intervention occur at EU level and the consequent withdrawal of some players from the market, the restriction in the availability of products and a stifled innovation.

The debate in the EBF has also been exploring possible market-driven initiatives that might contribute to improving the situation in combination with, and/or instead of legislation.

5. **Collective redress**

In spring 2009 the Commission (DG SANCO) released a document summarising the input received from stakeholders that commented on the 2008 Green Paper on consumer collective redress. A consultation was organised from May to July 2009 on the first analysis of the impact of the policy options outlined in the 2008 Green Paper. Stakeholders were invited to provide further information on the concrete impact of the policy options, in particular on each national redress systems.

The EBF responded to the consultation in July 2009, stressing the need for a horizontal approach to this matter within the EU Institutions and expressing favour for the option that values self-regulation initiatives as well as non-binding solutions supporting Alternative Dispute Resolution schemes? (ADRs), whereby confirming its
criticism already expressed in 2008 towards the proposal to have an EU collective redress judiciary procedure introduced in all Member States.

On its side, following the publication in 2008 of a White paper, the Commission’s DG Competition has also worked, during the course of 2009, on drafting a proposal for a directive on damages actions for breaches of anti-trust law that focuses on means of allowing consumers who have suffered damages from the anti-competitive behaviour of a business, to claim compensation also via collective actions (see above under Chapter Legal Affairs).

The EBF actively participated into the debate held by the European Parliament and voiced its concerns related to the possibility that a collective redress system modelled upon the US system be introduced in the European Union. The proposed directive, though, has not yet been adopted by the College of Commissioners, in particular after the negative appraisal made by the European Parliament that complained about the Commission not having taken its opinion of March 2009 into account.

The newly appointed Commissioner for Competition, Johaquin Almunia, has been evaluating the option of considering the proposed directive in the context of a more horizontal initiative encompassing also the development in the area of general consumer protection and civil procedural law.

6. Directive on Distance Marketing of Financial Services

An economic and legal impact assessment was produced by the Commission on the implementation of Directive 2002/65/EC in February 2009. At the end of 2009 the Commission issued a communication stating that, for the time being and in the light of the results of the survey that looked into the effects of minimum harmonisation on the development of cross-border activity, an amendment of the Directive seems not justified. Indeed, and as illustrated by the EBF and EBIC - the European Banking Industry Committee during the undertaking of the survey, the contribution of the Directive to the development of cross-border marketing of financial services has been
very limited, since the incentives and obstacles to such a pattern for distribution depend mostly on the demand level. Retail financial services are product for which the demand is mainly local and the competition on a cross-border level occurs by means of establishment rather than marketing by distance.

The European Banking Industry Committee contributed substantially to the preparation of the assessment and agreed with the policy analysis adopted by the Commission.

7. **Consumer Contractual Rights Directive**

As part of the Review of the Consumer *Acquis*, the European Commission has proposed a new directive for consumer rights in October 2008, to replace Directives 99/44/EC (Sale of consumer goods and guarantees), 93/13/EC (Unfair contract terms), 97/7/EC (Distance selling) and 85/577/EC (Doorstep selling).

The Commission proposal has been subject of much debate, due to its wide scope and complexity. In that context, the Commission has published two non-papers on the ‘level of national consumer protection (comparative table)’ and ‘its relationship with national general contract law as well as with other Community legislation’ in September 2009. Under the Swedish Council Presidency, a revised text was produced at Council level in December 2009.

In the European Parliament, the proposal has been subject to discussion based on each Chapter individually. Further, a public hearing was held by the Committee for the Internal Market and Consumer Protection on 29 September 2009, as well as a hearing with national parliaments on 23 February 2010.

The most prominent issues for debate have been the scope of the proposal, in particular the extent to which financial services will be covered by the individual chapters. Further, the proposed full harmonization approach has proven controversial, as those countries
which have seen the most developments in the area of consumer protection have introduced more far-reaching provisions than those foreseen in the Commission proposal.

Following the publication of a Working Document by the rapporteur, MEP Andreas Schwab, on 3 March 2010, substantial changes to the Commission proposal may be expected. In particular, the full harmonization approach, which has been supported by the EBF in its preliminary considerations and a position paper, issued to the European Parliament and Council Presidency in August 2009 and March 2010 respectively, appears to have been discarded in favour of a targeted full harmonization approach.

8. **Anti-Discrimination Directive**

A proposal for Directive was published in 2008 to ensure the non-discriminatory treatment of citizens with regard to age, disability, gender and other factors in sectors other than the work environment. The European Parliament voted a report in April 2009 in the plenary session. According to the Treaty, the subject matter of the proposed directive is not dealt with via co-decision but rather via consultation procedure, so that the Parliament is not acting as co-legislator but only provides an opinion and the Council will need to adopt the text unanimously. No decision has been yet taken by the Council and the issue would still be discussed in 2010.

The EBIC met with the European Commission (DG EMPL) in a preparatory meeting to the dialogue to be pursued on the new Article 13 of the proposal (age and disability) and on the implementation of Article 5 of the existing Directive 2004/113/EC (anti-discrimination based on gender in the access to supply of goods and services). A study on the use of age, disability, sex, race/ethnic origin, religion/belief and sexual orientation in financial services will be conducted and the results are expected for spring 2010. Two other meetings took place in 2009 where stakeholders discussed issues of concern among themselves and with the consultant.
In the forum, opened in March 2009, on the implementation of Directive 2004/113/EC it was noted that insurance products are more concerned, while almost no problems were mentioned regarding banking products.

9. Financial education

The expert group set up by the European Commission in 2008 gathered several times in 2009 to identify best practices at national level in the area of financial education, possible obstacles that could be tackled at EU level and possible solutions in this respect. The expert group will work until 2011 and will cover financial education in schools, for adult recipients, for specific financial services customers (pensions and long term savings) and will discuss the role of the various players (EU, national authorities, private stakeholders).

Financial education and literacy occupies a big part in the debate on the appropriate level of consumer information and protection and the capability of the latter to take informed choices when shopping for financial services inland or cross-border.

The EBF has been looking very closely at this problem, also within the wider context of guidelines for Corporate Social Responsibility (CSR) for the banking sector. A report was released in May 2009, presenting the wide range of projects undertaken by EBF members at national level, with the aim of providing a best practice sharing tool to national associations while making them known and available sources of inspiration to the entire EBF membership and beyond.

While taking stock of existing best practices of EBF members, the report points out that tackling financial education should not relieve banks of their obligation to provide clear and complete information to their customers. Under EU rules, banks have to properly inform their clients when selling financial products, warning of any risks involved. Consumers should also be able to compare different products easily, even if they lack a deep financial understanding.
The official launch of the report took place in June 2009 in Brussels at the occasion of a workshop organised by the EBF and attended by a relevant group of stakeholders. The panel of discussion involved Commission officials, consumer representatives and the banking industry.

10. **Consumer Market Scoreboard**

In the context of empowering European consumers and putting consumer welfare at the heart of functioning markets, the European Commission established, at the beginning of 2008, the annual consumer markets scoreboard to monitor the performance of markets in terms of social and economic outcome for consumers.

The second edition of the Consumer Markets Scoreboard, which was published in 2009, identified the supply of services, in particular public transport, energy and financial services, as more problematic than goods. In this framework, the Commission tasked CEPS (Centre for European Policy Studies) and Van Dijk Management Consulting to undertake a study on data collection for prices of current accounts provided to consumers across Europe with a focus on pricing, transparency and comparability.

The results of the study, accompanied by a staff working document on the follow-up in retail financial services to the consumer markets scoreboard, were published on 22 September 2009 and were communicated strongly by former Commissioner for Health and Consumer Protection Meglena Kuneva. Both at EBF and EBIC level, comments on the methodology used were communicated to the European Commission, which also included an invitation to enhance the existing dialogue with industry stakeholders to improve the results of future studies.

At the Consumer Summit 2010, a Workshop will be dedicated to the transparency of bank account fees, where an exchange of views on the current situation in Europe will take place.
11. **Financial Inclusion**

The European Commission has, over the past few years, increasingly considered the issue of financial inclusion, or financial exclusion. In this context, DG Internal Market and Services (MARKT) and DG Employment, Social Affairs and Equal Opportunities (EMPL) had jointly organised a high-level conference *'Financial Inclusion: Improving access to basic financial services'* in May 2008 to present the main findings of a study on *'Financial Services Provision and Prevention of Financial Exclusion'* commissioned by DG EMPL.

Following the study, a consultation on the access to a basic bank account was launched by the Commission in February 2009. Based on the responses to the consultation document, the Commission entrusted a consultant, the Centre for Strategy and Evaluation Services (CSES), to undertake a study on the Costs and Benefits of Policy Actions in this field. The aim of the study is to identify the costs and benefits for all stakeholders, i.e. banks, consumers and other parties (which use mass transactions). It examines what measures, or combination of measures, would be most effective and appropriate to address the issue of access to a basic bank account.

The study was submitted to the Commission services on 12 February 2010. The publication of the document and a policy decision on the follow up in this field is expected for the first half of 2010.
**IX. Physical security**


The general conclusion reached in the Report is that there were many improvements to be seen among EBF Members for 2008. Those improvements can certainly be attributed to the fact that European banks have increased and improved security measures, and reorganised themselves in order to better counter criminals.

However, some tendencies are still worrying: the violence of certain *modus operandi* and the means used by the perpetrators such as the threatening of personnel and subcontractors, kidnapping, gas attacks, and use of explosives.
**X. Fight against Money Laundering & Terrorist Financing**

1. **EBF Anti-Money Laundering Report**

The EBF published in April 2009, a report drafted by the Anti-Money Laundering and Anti-Fraud Committee and based on contributions submitted by national banking associations. This extensive document offers an inventory of national regulations on money laundering in more than 25 countries in Europe with a focus on the implementation of Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the Prevention of the use of the Financial System (‘the Third EU Anti-Money Laundering Directive’). National legislation are detailed and listed with identical headings (type of legislation, business covered, reporting procedures, identification requirements, etc.) which introduce some valuable elements of comparison among countries. The Report is based on information collected from August 2008 to March 2009. It should be updated in the coming months.

2. **EU Implementation of FATF Special Recommendation VII on Wire Transfers**

Regulation (EC) No 1781/2006 on the information on the payer accompanying transfers of funds (EU transposition of FATF Special Recommendation VII on wire transfers) was directly applicable as of 1 January 2007 (Sanctions for non compliance applied as of 15 December 2007) after its publication in December 2006.

The EBF has been involved in the discussion of the banking industry with the Wolfsberg Group and reacted to the guidance paper of the Basel Committee on Banking Supervision to take note of the recommendations to make the process of cover payments more transparent and at the same time to stress that recommendations may be difficult to apply for some banks since the responsibility of banks should finally be limited to the scope of adopted international financial sanctions. Having
been involved in an awareness exercise of the banking industry with the Wolfsberg Group, the EBF Secretariat (through the feedback of the experts of the Payments Systems Committee and the Anti-Money Laundering and Anti-Fraud Committee) will monitor the use of the new SWIFT format within EU financial institutions.

3. **Proliferation Financing**

The Financial Action Task Force (FATF) issued for consultation on 20 October 2009, a preliminary report of an FATF Project Team entitled ‘Combating Proliferation Financing: Policy Options for the FATF’. The European Banking Federation together with the members of the European Banking Industry Committee (EBIC) has, since the beginning of the process, expressed its concerns with the control requirements included in the first FATF report for credit institutions in relation to expert transactions for which they provide financing. It urged the FATF and its members to closely coordinate the follow-up of the report with the banking industry.

The concerns of banking industry were reiterated at a meeting of the FATF consultative forum on 30 September 2009, where the EBF stressed the very restricted insight that its member credit institutions have into the underlying business transactions and the nature of the goods and end-users. It was also stressed that preventive export controls are already in place and that credit institutions therefore need a clearer understanding of what they are expected to do in this area. Access to smart and focused information would therefore be welcome.

The EBF answered the consultation launched on the preliminary report of the FATF project team (October-November 2009) and stressed its position.

4. **IT Fraud**

The IT Fraud Group held four meetings in 2009 and discussed several issues of concern such as skimming (cards and Pos), awareness campaigns, risks of malware and spyware and ATM fraud.
XI. Social Affairs

1. Sectoral Social Dialogue

After ten years of experience since its Decision (COM (98)322) on the EU Sectoral Social Dialogue of 20 May 1998, the European Commission is carrying out a review, started in 2009, which will take stock of the implementation of its Decision. With this in mind the Commission consulted the stakeholders and launched an open consultation in October 2008. A draft outline was circulated beginning of 2010 for which the EBF Banking Committee for European Social Affairs (EBF-BCESA) sent its comments. The EBF-BCESA pointed out that it indeed supports the Commission’s commitment to Social Dialogue and recognizes the importance of providing the social partners with the opportunity to get to know each other, an added value in itself. It also took the opportunity to reiterate that it was important that the social partners’ voluntary and autonomous choice to engage in the social dialogue should not be subjected to obligations, and the necessity to leave the final decision on any possible outcome to them must be reflected in the forthcoming Commission Document.

The review will lead indeed to a Commission staff working document expected by summer 2010 and no longer to a Communication as initially scheduled, since no political modification from the 1998 decision has been proposed.

2. Social Dialogue: Enlargement project

The EBF Banking Committee for European Social Affairs (EBF-BCESA) initiated a new enlargement project in 2008. The objective of this enlargement project was to promote the European Social Dialogue to the new Member States (Hungary, Slovakia, and Czech Republic). The project was aimed at exchanging views and information between ‘old’ and ‘new’ Member States regarding their experiences in the Social Dialogue, and encouraged them to participate in the Social Dialogue at EU level.

This project allowed the different parties to understand the different platforms of negotiation. The regularity of the exchanges between social partners has been
appreciated and has even facilitated the exchange of experiences between trade unions and employers at company level. The importance of this project as a source of information and experience has been pointed out by the participants. Informal exchanges, initiated during the events, have created open windows of discussion and have been judged as useful and important.

Following the phase of dissemination of information which took place throughout 2009, the EU Social Partners agreed to organise a working group meeting dedicated to the follow-up of the project. On this occasion the added value of such a project and the possible way forward was discussed. At this stage a project could be envisaged focusing on the state of play after 10 years on the type of experience undergone.

However, exchange of views on this issue is at a preliminary stage and further discussions and reflection are necessary.


The EU social partners agreed as a work programme, to discuss the follow-up at national level of the joint Declaration on Life Long Learning (LLL), signed in 2002. This item was first discussed at the Sectoral Social Dialogue Plenary Session in November 2009. A dedicated working group meeting was subsequently organised where the employers’ associations took the opportunity to present the result of the survey conducted at national level which is still ongoing. It was noted that as far as the input received until now the employers’ associations could conclude that there was either a direct or indirect follow-up of the LLL Declaration and for some members the LLL joint-Declaration was merely a re-confirmation as it has been already implemented.

Following a constructive exchange of views where the amount of material for discussion was remarked upon and appreciated, the social partners agreed to continue to collect data in order to have a more complete overview of the situation at national level.

Given there was no agreement during the last legislature, the current Directive remains in force. However, the review of the Working Time Directive has been clearly identified as a priority for the new Commission. A first stage consultation has been launched on 24 March 2010, and Social partners are requested to answer whether they are willing to start negotiations or not on this issue. According to their respective answer, the Commission will decide whether or not to draft a proposal.

Owing to the importance of the issue and the potential impact on the banking sector the EBF-BCESA set up a dedicated working group in order to prepare a position on this issue and coordinate with other stakeholders like BusinessEurope and other employers’ associations which have UNI Europa as a counterpart.

As far as the EBF-BCESA is concerned it would prefer a narrow revision rather than a comprehensive complete revision, a position which is also shared by BusinessEurope. The EBF-BCESA is currently finalizing its answer to the first stage of consultation, launched by the Commission.

5. Financial Crisis:

At the request of UNI Finance, the EBF, European Savings Banks Groups and the BCESBA responded positively and held a joint extra-ordinary meeting on the impact of the financial crisis in January 2009 in Brussels. During this meeting, the participants stressed the importance – particularly in the current context of the crisis – of an appropriate exchange of views between the different organisations. It was noted that the image of the banking sector was an issue for both parties, employers and employees, and it was therefore important to address it in an appropriate manner. It was agreed that an exchange of information on data and figures could be addressed together. The EBF-BCESA Chair pointed out at that time, however, that it was too early to assess exactly the impact of the crisis on employment.
XII. Payments

1. Adoption of the Directive 2007/64/EC on payment services in the internal market (PSD) – Launch of the industry guidance for implementation

In response to the final publication of the Payment Services Directive (PSD) in 2007, a dedicated working group has been set up - the PSD Expert Group (PSD EG) - with the aim of contributing to a consistent and efficient PSD implementation across the EU/EEA and ensuring that the PSD is implemented in line with its objectives.

As foreseen, the PSD EG published its first industry guidance for implementation in August 2009. An addendum to the aforementioned document is expected by end-May 2010. The Expert Group which has noted that to date not all countries have implemented the EU regulation, continues its work of monitoring closely the transposition and preparation of a table with the different national derogations used by the Member States. This is expected to be published together with the PSD EG Industry Guidance Addendum.

2. Revision of Regulation 2560/2001 on Cross-Border Payments

The EBF scrutinized the legislative process and the developments of the Revision of Regulation 2560/2001 on cross-border payments. The new Regulation 924/2009 was published on 9 October 2009 in the EU Official Journal. It extends the principle of equal charges to direct debit forms of payment and sets out clear rules for charging multilateral interchange fees (MIF) for an interim period (until November 2012) and establishes the mandatory availability of payment accounts for direct debit payments across the European Union. For Member States which have not yet adopted the euro, the rules on mandatory availability will apply a year after their entry into the euro area, but no later than 2014. The EBF was generally supportive of the alignment of the Regulation on cross-border payments in the Community with Directive 2007/64/EC
3. E-invoicing

The EBF followed closely the work of the expert group of the European Commission on e-invoicing in 2009: It stressed in its answer to the mid-report of the European Commission expert group on e-invoicing (February 2009) and the consultation of the European Commission on the final report of the expert group (February 2010) that it considers that e-invoicing could potentially be the essential part of an efficient financial supply chain and that this initiative together with the ongoing creation of the Single Euro Payment Area (SEPA) combined, offers a good foundation for that. The EBF therefore views the progress made by the expert group and its efforts to help the market move decisively into e-invoicing in a positive light. The EBF also welcomes the proposed Electronic e-invoicing framework and Electronic e-invoicing ecosystem suggested by the expert group.

European Interbank Compensation Guidelines and European Liquidity Management Guidelines

Following the industry consultation through the Target2 National Users' Groups, the Target Working Group (TWG) and the Eurosystem Working Group on TARGET2 on the above-mentioned Guidelines, the 2009 revision was published on the EBF website in October 2009.

The original Guidelines have been in existence for nearly 10 years and inevitably have become slightly out-dated. However, as they stood the test of time with a wide usage the TWG has sought to avoid any fundamental changes and focused on:

- Aligning the Guidelines with the Payment Services Directive
- Bringing the Guidelines into line with the current environment
- Clarification of queries which have arisen
- Drafting amendments

The Guidelines are of a voluntary nature and do not have any legal force. They are designed to promote good and consistent market practices in the interest of the euro payments community as a whole.

The Guidelines will be further reviewed and updated on a regular basis.

Internet based access to TARGET2

Following the consultation of the T2 user community, the TWG questioned the business need for the introduction of internet-based access to T2 for other purposes than to convey data and information between a bank and its central bank. The TWG has no objections as long as the usage of internet-based access is limited to bilateral operations between an internet-based participant and its central bank including, but not limited to, refinancing operations.

Despite the fact that only a small number of payments to third parties are likely to be made directly by internet-based participants, the Eurosystem envisages the use of internet based access for processing of payments in T2. While opposing in principle, the TWG believes that should this be the case, all such participants should be obliged to have ‘unpublished BICs’ (Bank Identifier Codes) stated clearly in T2 Guidelines.

Using internet based access for payment processing would require system changes at the level of other participants. The extent of any such changes will depend on individual participants’ system configurations but such changes are likely to involve regression-testing, possibly substantial, in addition to writing code.

Interaction between T2 and T2S

The European Banking Federation is a strong supporter of the Target 2 Securities (T2S) project and fully recognises the major commitment being made by
the Eurosystem to streamline the settlement of securities transactions in the European Union.

However, the EBF is concerned with the interaction of the T2S system with cash business at both bank and payment system levels. While the intention to create an integrated framework based on TARGET2 Cash, T2S and CCBM2 (Collateral Central Bank Management), is very much supported by the industry, it is important to facilitate similar integration in all parts of the value chain.

The industry’s concern focuses on four main areas:

1. The need for compatibility of messaging standards

TARGET2 is an established system, successful in its operation for more than two years. The T2 user community acknowledges that adaptations might be needed but these should primarily be made on the side of CCBM2 and T2S projects, rather than on the side of an established market solution as T2. For that reason, the members of the Target WG, the counterparty of the Eurosystem in the user consultation on T2, expect that T2S adapts its formats so that they do not affect T2 formats when communicating with T2. This would mean using ISO standards in a way that makes them compatible with Swift FIN (Financial Messaging) data and character set. This is the model followed by all other European market infrastructures exchanging cash information data with T2.

2. A requirement for banks to have maximum flexibility to manage the totality of their euro liquidity in support of their business as a whole

The monetary policy may change over the lifetime of the Euro-system IT infrastructure, possibly leading to pressure on time critical liquidity for some institutions.
CCBM 2 is expected to exert a positive influence but conversely general trend towards increasing collateralisation of obligations, potentially leading to a reduction in the quantity of eligible assets available for financing with central banks is noted.

It is important that banks retain full control over their liquidity. Banks should be the only one to decide and to instruct on how their liquidity should be used and shifted between T2 and T2S.

3. Co-ordination of process flows which may have an impact outside the Euro-system infrastructure

A typical example of this is end of day cut-off times. The EBF believes it is important to address these issues at an early stage of the T2S project.

4. Use of the network

Participants in T2 expect to have the choice of network for exchanging information with T2S and would not accept the imposition of a specific network. In this context, the same network in use today in T2 is expected to be used in the future for all high value payments and euro liquidity management.
XIII. EBF PR & Communications

1. Events

The global crisis naturally generated numerous events and conferences, aimed at identifying causes and remedies, as well as analyzing the proposed legislative measures at all levels. The EBF supported and sponsored several conferences throughout the EU on key issues which were directly part of this agenda: conferences on banking supervision, on the new legislative framework, etc. The EBF lends its name and image to events of interest, such as for instance, the meeting in Brussels of the International Chamber of Commerce Financial Services Committee. In several cases, EBF speakers participated in the conferences and presented the EBF position on these issues. In other cases, a delegate was present to attend key conferences. EBF delegates also attended events organised by other financial services leaders, often as an exchange of good practices.

The Secretary General of the EBF himself is often invited to speak at events throughout Europe and further afield, in order to present the views of the sector on key topical issues. He delivered some 20 speeches throughout 2009, prepared generally by the Communications Unit.

The EBF renewed its agreement with the Maleki Group, organiser of the Frankfurt Euro Finance Week. Several conferences on the general economic circumstances following the financial crisis and a Roundtable with CEOs of major European banks were organised jointly with the Maleki Group last November.

The Federation sponsored a one day event at the European Parliament, with the European Voice, in order to enhance its visibility and prove its commitment to the transparency initiative of the Commission (Register of lobbyists in Brussels).

In addition, the Federation was actively involved in the work of the European Parliamentary Forum on Financial Services (EPFSF). This Forum aims to establish
regular dialogues between Members of the European Parliament and the financial services industry. Monthly events are organised, which the EBF attends and for which it participates in the writing of briefing notes for MEPs. The Secretary General of the EBF is the Chair of the Industry Advisory group of the EPFSF.

Several EBF landmark events were organized, such as an information meeting for Financial Attachés of Permanent Representations on financial markets. The EBF Annual Cocktail, which brings together all contacts, colleagues, members and stakeholders, was attended by some 300 participants.

2. Publications

Various reports prepared by the EBF were published and circulated through the usual channels, mostly in electronic format, in order to facilitate further circulation to members of members, i.e. individual banks in all Member Associations.

These regular reports include the report on Anti Money Laundering measures throughout the European Union, the yearly report on Bank robberies.

Specific reports were produced, in order to inform the new Members of the European Parliament in particular, who needed to get an overview of financial services matters at a quick and comprehensive glance.

An update of the so called ‘Integration Report’ was printed, which highlights ways of overcoming the crisis and moving forward. This report was broadly distributed both in printed and electronic format to MEPs, and various institutions’ representatives in Brussels and abroad.

The Consumer Affairs Committee and the Communications Committee of the EBF cooperated on the publication of a special report on Financial Education throughout the EU, showing the importance of the issues for the sector.
Finally, two issues of the Federation newsletter, EBF News, were printed and distributed as always, after the mailing list was revised with the help of members of the Communications Committee.

3. **Press relations**

Throughout the year, the EBF issued a number of targeted press releases, mostly to answer key initiatives of the policy-makers, with the aim of providing ‘best face the crisis’ coverage new specific press contacts were established and others further developed, particularly with pan-European publications or Brussels – based press. A core number of journalists have regular contacts with the EBF and several of them refer to the EBF for background information on key issues as well as for quotes on burning topics. A press review was distributed to Executive Committee members in June and December, showing broad press coverage in various countries and languages on most of the key issues dealt with at European level. The break out of the financial crisis also led to a large demand for interviews, in print media as well as television and radio from several countries.

4. **Contributions**

The EBF regularly contributed to various business-to-business publications by preparing background articles on key issues, often related to the crisis (Supervision, the new regulatory framework, etc). These articles are prepared by the Secretariat and published in specialised magazines with which EBF has specific agreements.
XIV. EBF Associates

1. EBF Associates

The Associates of the European Banking Federation is a group of banking associations of the non-EU European countries that meets twice a year to follow up on important developments on the issues affecting the banking industry and examine the latest changes in EU legislation. Together with the representatives of National Banking Associations from the existing EU Member States, it creates a forum for exchange of views and experience as part of the progress towards a more efficient, transparent and safe financial system in Europe.

In 2009, the EBF welcomed Banks Association of Bosnia and Herzegovina as a new Associate member. By the end of 2009, there were 13 EBF Associates: banking associations of Albania, Andorra, Armenia, Azerbaijan, Bosnia & Herzegovina, Moldova, Monaco, Russia, Serbia, Turkey, and Ukraine.

At the 28th EBF Associates’ meeting in Monaco, on 18 June 2009, the Associates discussed inter alia the following issues:

- Monaco’s economy and banking system;
- Economic and banking sector situation in the Eastern European Countries;
- The future EU supervisory architecture;
- State aid in the EU countries; and
- EU initiatives aimed at supporting the EU neighbouring countries.

In turn, at the 29th meeting of the EBF Associates in Brussels on 3 December 2009, the Associates discussed such issues as:

- Economy & Banking Sector of Bosnia and Herzegovina;
• Financial sector related conclusions of the G-20 leaders after their meeting in Pittsburgh, and the assessment of the possible consequences for European banks;

• Design and Impact on the ‘Option to Tax’ System for Application of VAT to Financial Services; and

• Formal transfer of the World Bank’s SPI Platform Toolkit to the European Banking Federation.

2. **EU Call for Proposals under the Civil Society Facility**

Throughout 2009, the EBF Secretariat held a dialogue with DG Enlargement, supported by the World Bank’s convergence Program, on identifying ways to cooperate on financial sector modernisation in the EBF Associate countries. As a consequence, the European Commission widened the concept behind the Civil Society Facility to the national banking associations in the Western Balkan countries. This gave banking associations of the Western Balkan countries a chance to apply for co-funding of the financial modernisation projects in their countries. Consequently, the European Commission published a call for proposals under the Socio-Economic Partnership Programme (EuropAid/129637/C/ACT/Multi), with the deadline of 6 May 2010 for submission of applications. The EBF is working closely with the banking associations of Western Balkans on preparing the project proposals.