



The European Federation of Insurance Intermediaries

La Fédération européenne des intermédiaires d'assurances

*(BIPAR identification number in the Register of Interest Representatives:
58041461167-22)*

POSITION PAPER

European Commission's Communication "European financial supervision"

July 2009

BIPAR, the European Federation of Insurance Intermediaries

is a non-profit European organisation grouping professional associations of insurance intermediaries in Europe. It presently has a membership of 47 national associations, established in 31 countries, and represents some 80,000 insurance agents and brokers, employing in all about 250,000 people.

Founded in Paris in 1937, BIPAR headquarters were moved to Brussels in 1989. It is today the official and recognised voice of insurance intermediaries with the European Institutions.

I. Introduction

Against the background of the current situation in the financial markets, BIPAR welcomes in general the initiative to develop a new supervisory framework for the EU.

As stated in its position on the European Commission's Communication for the Spring European Council "*Driving European recovery*" in April 2009, BIPAR is of the opinion that there is a need to place Europe's internal efforts into the wider context of international initiatives. In a globalised world of financial services, actions in the field of financial regulation and economic recovery should be coordinated at global level.

For initiatives which will have an impact, be it directly or indirectly, on insurance intermediaries, BIPAR, the European Federation of Insurance Intermediaries, remains at the disposal of the policymakers as a single contact point and single voice to provide its contribution to the more detailed debate with the European policymakers on the new supervisory framework for the EU.

With regard to the international aspect, BIPAR will coordinate its positions and opinions with WFII, the World Federation of Insurance Intermediaries (grouping national associations of insurance intermediaries from around the world) who will provide its contribution in the debate with international institutions.

While BIPAR recognises the need for EU initiatives for revising the European supervision of the financial services sector based on the proposals of the de Larosière Group, it strongly requests that the proposed solutions take into consideration the specificities of the insurance sector.

Although we are strong supporters of regulatory level playing fields, solutions designed to solve problems in the banking or investment industry should not automatically apply to insurance as this would not necessarily have the desired effects and could impose restrictive, expensive and unnecessary burdens on our sector. Furthermore, insurance is different from banks and other financial services sectors.

BIPAR believes that the principal task of all insurance supervisory authorities is to establish a means of ensuring the high standards of financial soundness and conduct of all insurers under their supervision. The main objectives of such measures are to provide a high degree of security to the policyholders and to maintain confidence in the industry. The role of supervision by or on behalf of the state is to ensure that insurance companies are able at any moment to fulfil their obligations and that the interests of the policyholders are sufficiently safeguarded. According to BIPAR it is of vital importance to customers that insurers are financially secure and able to meet all valid claims. The supervisors should have at any time a clear view of the obligations and investments of insurers. BIPAR is of the opinion that the supervisors should have adequate powers and financial resources to perform their functions and exercise their powers.

BIPAR welcomes in principle the initiative to set up a European Systemic Risk Council (ESRC) which will monitor and assess potential threats to financial stability that arise from macro-economic developments and from developments within the financial system as a whole ("macro-prudential supervision").

BIPAR also welcomes the initiative to develop a European System of Financial Supervisors (ESFS) consisting of a robust network of national financial supervisors working in tandem with new European Supervisory Authorities to safeguard financial soundness at the level of individual financial firms and protect consumers of financial services ("micro-prudential supervision"). It particularly welcomes the choice of the Commission to maintain a sectoral approach, i.e. separate supervisors for banking, insurance and securities activities.

II. European Systemic Risk Council (ESRC)

We note that one of the objectives of the ESRC would be to provide an early warning of system-wide risks that may be building up. We also note that the creation of the ESRC will address one of the fundamental weaknesses highlighted by the crisis, which is the vulnerability of the financial system to interconnected, complex, sectoral and cross-sectoral systemic risks.

In this respect we believe that in the architecture of the ESRC the setting up of a panel should be considered where industry people would have a role. Indeed, if the objective is to provide early warning systems then the people within the ESRC should have the means to keep in close contact with the daily reality and development of the market. In this respect we note and welcome in the Communication on page 7 the following: *"In performing its duties, it would seem advisable that the ESRC should also seek the advice of private-sector stakeholders (...)."* BIPAR, as the European Federation of Insurance Intermediaries, remains at the disposal of the Commission to further discuss its possible role.

BIPAR is indeed of the opinion that any future system should ensure that the supervisory system does not lose contact with the reality of the market and of the individual operators.

As mentioned above, BIPAR strongly requests that the proposed solutions take into consideration the specificities of the insurance sector. On this issue we believe that the proposed ESRC architecture and in particular the composition of the ESRC, does not reflect the importance of the insurance sector, which is indeed only represented by the chairperson of the EIOPA.

The role of insurance supervisors in the current proposed composition of the ESRC should be reinforced. For instance, one of the options could be that on a rotating basis at every meeting a minimum number (for example, one third) of central bank governors is accompanied by national insurance supervisors. This would not only ensure that the insurance sector specificities are covered but would also lead to a more intensive cooperation and could bring new perspectives into the system.

III. European System of financial supervisors (ESFS)

Role and responsibilities of the ESFS

We welcome the objective of the new ESFS and we welcome that it will be designed to overcome the mentioned deficiencies and provide a system that is in line with the objective of a stable and single EU financial market for financial services – linking national supervisors into a strong Community network.

We note that the Communication says that *"In order for the ESFS to work effectively, flanking measures and changes to the sectoral legislation will be needed to ensure a more harmonised set of financial regulations. The goal will be to bring about more harmonisation in the rules that have to be applied by supervisors as well as greater consistency in the national powers and sanctions available to them."* We welcome this objective if the specificities of insurance continue to be taken into consideration and look forward to studying the Commission's proposals in this respect in the autumn.

It is also proposed that in order to achieve its objectives, the new European Supervisory Authorities be equipped to fulfil its different functions, such as ensuring a single set of harmonised rules.

In this respect, the Authorities will develop **binding technical standards** in specific areas and on the basis of criteria which will be specified in Community legislation and **interpretative guidelines**, will be drawn up, which the competent national authorities would apply in taking individual decisions, notably as regards the licensing and supervision of financial institutions.

Before further commenting on these new powers we would like to have more information on the legal consequences, the legal value of such standards and guidelines. What is the practical way in which they will be developed? Also, where it says *"on the basis of criteria which will be*

specified in Community legislation" we question how far these technical standards can be developed based upon existing Directives and which do not include specific reference to this mechanism.

As the exact implications of this may not yet be clear, BIPAR believes that there should be a mechanism in place which ensures that stakeholders are consulted before such technical standards and guidelines are decided upon. Furthermore, we hope that such standards or guidelines will not lead to goldplating or an extra burden and a constantly changing set of basic regulations which will need to be implemented by the industry. In this respect, legal certainty requires legal/regulatory stability.

One of the other functions of the ESFS will be to ensure consistent application of EU rules. BIPAR agrees that the ESFS should be given the means to do this but would be interested in a description of these possible means.

Regarding the composition and operational structure of the ESFS, we welcome the Commission's decision to maintain the current sectoral approach (i.e. separate supervisors for banking, insurance and securities activities).

We also agree that *"within the proposed structure, cross-sectoral cooperation will however be fundamental so as to reflect the relevant market trends and realities."*

BIPAR believes that priority should be given to measures that anticipate an insurer's insolvency, based on the effectiveness of prudential standards and supervisory requirements and supervisors should take quick action when necessary to minimise harm to the public.

BIPAR remains at the disposal of EU policymakers and looks forward to contributing in more detail to further discussions.

ANNEX



COMMISSION EUROPEENNE

Rue Joseph II 70/2-221
B-1040 BRUSSELS
BELGIQUE

Paris, le 9 juillet 2009

Objet : Observations de la CSCA sur la communication de la Commission Européenne du 27 mai 2009.

La Chambre Syndicale des Courtiers d'Assurances (CSCA), – unique organisation représentative du courtage d'assurances en France- répond à l'invitation de la Commission Européenne de formuler ses observations sur la communication adoptée le 27 mai 2009.

La contribution présentée ci-dessous par la Chambre Syndicale des Courtiers d'Assurances (CSCA) complète celle du BIPAR dont la CSCA est membre.

Par articulation, elle développe plus particulièrement la contribution du BIPAR consacrée, aux paragraphes 4 et 5 de son Point II, à l'amélioration qui pourrait être apportée au projet de composition du Conseil européen du risque systémique (CERC).

Constatant que le dispositif européen actuel de surveillance n'a pu ni anticiper ni résoudre la crise, et que les systèmes nationaux ont été dépassés par l'ampleur des enchaînements systémiques, la Commission Européenne, dans la dynamique des initiatives fortes prises par le G20 et par la nouvelle administration américaine, a décidé d'accélérer résolument le programme législatif de convergence de la supervision financière.

CSCA – Chambre Syndicale des Courtiers d'Assurances
91, rue Saint-Lazare - 75009 Paris - Tel : 01 48 74 19 12 - Fax : 01 42 82 91 10
N° Siret : 489 472 696 00017 - N° Préfecture de Paris : 20259
Internet : <http://www.csca.fr> – E-mail : csca@csca.fr

Jacques de LAROSIERE a formulé en Février 2009, une série de recommandations qui prennent appui sur l'existant du modèle sectoriel de la supervision européenne, ventilé dans son organisation entre un **Comité Européen des Contrôleurs Bancaires** (CECB), un **Comité Européen de contrôle des Assurances et des Pensions Professionnelles** (CECAP) et un **Comité Européen des Régulateurs des Marchés de Valeurs Mobilières** (CERVM).

Suivant en cela les préconisations du Groupe d'Experts de LAROSIÈRE, la Commission Européenne a rendu public le 27 mai dernier son programme législatif de renforcement de la supervision financière européenne au travers de la mise en place de trois agences européennes sectorielles renforcées, dotées du pouvoir de sanction : une **Autorité Bancaire Européenne** (ARB), une **Autorité Européenne des Assurances et des Pensions Professionnelles** (AEAPP) et une **Autorité Européenne des Valeurs Mobilières** (AEVM).

La Commission européenne propose en outre de mieux coordonner l'échange d'information financière via la mise en place d'un **Conseil Européen du Risque Systémique** organisé autour du réseau de la Banque Centrale Européenne et des 27 Banques Centrales nationales.

La double ambition européenne est donc de renforcer la coopération et la coordination des autorités nationales de surveillance grâce à la mise en place de nouvelles agences sectorielles européennes de surveillance, et de créer un organisme européen chargé de la surveillance macro-prudentielle du risque à l'échelon du système financier dans son ensemble.

Proposition de la CSCA :

S'agissant plus particulièrement du *Conseil Européen des Risques Systémiques*, la *Chambre Syndicale des Courtiers d'Assurances* formule une proposition forte de nature à consolider l'objectif recherché par la Commission Européenne de mise en place d'un tableau de bord, basé sur éventail le plus large possible de données macro-économiques pertinentes, permettant d'appréhender, au plus près et au plus vite, les évolutions de tous les marchés financiers et des principales entreprises des trois secteurs de l'assurance, des banques et des valeurs mobilières :

Veiller à ce que les 27 suppléants qui accompagneront les 27 Gouverneurs des Banques Centrales Nationales au sein des réunions du Conseil Européen du Risque Systémique représentent effectivement et opérationnellement, à tiers égaux, les trois secteurs de l'assurance, des banques et du marché des valeurs mobilières.

Equilibrer entre les trois secteurs, les désignations des suppléants-experts de chaque pays permettra d'atteindre l'objectif d'une meilleure anticipation des risques.

En effet, le projet de la Commission européenne prévoit que les réunions du CERS auront lieu une fois par trimestre, et plus souvent en période de tensions dans le système financier, afin de pallier les défaillances du système actuel face à des risques systémiques interconnectés, complexes, sectoriels et transsectoriels.

En outre, le CERS aura notamment la responsabilité d'émettre des alertes rapides en cas d'intensification des risques systémiques et de formuler le cas échéant des recommandations.

De ce point de vue, l'accompagnement des gouverneurs des banques centrales par 27 suppléants dont le profil est susceptible d'évoluer au gré de l'ordre du jour des réunions du Conseil Européen des Risques Systémiques est pertinent en période d'accalmie, mais décalé et inefficace en période de crise et d'accélération des risques systémiques.

L'architecture définitive du CERS, qu'il s'agisse de la composition du comité technique consultatif ou qu'il s'agisse de la liste des 27 suppléants appelés à siéger sans droit de vote au sein du Conseil Européen du Risque Systémique, doit aboutir à la mise en place effective d'un tableau de bord complet des risques, mettant en présence une ressource diversifiée d'expertises immédiatement mobilisables.

A défaut de cette vigilance méthodologique, la novation importante du Conseil Européen des Risques Systémiques serait un coup d'épée dans l'eau, et le CERS d'emblée structurellement en risque de voir sa feuille de route limitée par un recrutement endogamique, privilégiant la monoculture bancaire.

CSCA – Chambre Syndicale des Courtiers d'Assurances
91, rue Saint-Lazare - 75009 Paris - Tel : 01 48 74 19 12 - Fax : 01 42 82 91 10
N° Siret : 489 472 696 00017 - N° Préfecture de Paris : 20259
Internet : <http://www.csca.fr> – E-mail : csca@csca.fr