

14. Review of the Financial Conglomerates Directive

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Issue: Following the work of the European Financial Conglomerates Committee (EFCC), the European Commission launched a targeted consultation on the review of the Financial Conglomerates Directive (FCD). This is to support the Commission in identifying whether the existing directive is working or whether changes are required.

Status: The Commission's consultation was launched on 6th November (deadline of 15th January) and asks very specific quantitative and qualitative questions on company structures and sizes, and for views on the existing Directive.

One of the issues being considered is the inclusion of asset management in the identification of FCD. Other issues include: group structures and how these can affect the application of the FCD and the sectoral requirements; definition of financial sector (which seems to be about what should be included in deciding whether a firm is caught by FCD); and treatment of 'participations'.

The Financial Conglomerates Directive has been included in the first omnibus package where changes are being made to existing legislation in light of the proposals on supervisory architecture.

ABI Action: Following input from members, the ABI worked in conjunction with the CEA to respond collectively to both the EFCC and the CEIOPS questionnaires of 2008. We also separately submitted our responses. ABI members have not encountered any problems regarding the specific questions, but there is a general consensus that the threshold of €6bn stipulated in Article 3 is questionable given the size of groups today and may capture medium sized companies. The smallest financial sector on Section 3 of Article 3 seems to be a low threshold and we would propose that this was raised.

We have been working with the CEA which presented a joint industry view to the EFCC on 22nd January.

The ABI did not submit a response to the JCFC following consultation with members.

Background: The Financial Conglomerates Directive entered into force in January 2005. Article 31 of the Directive stipulates that "the Commission shall submit to the Financial Conglomerates Committee... a report on Member State's practices, and if necessary on the need for further harmonisation".

Although the date stipulated is 11th August 2007, the EFCC decided to wait until 2008 so the directive had longer to bed down.

At the EFCC's meeting in January 2009, it was deemed that four key issues are outstanding: supervision at the level of the holding company; identification of a financial conglomerate; the definitions of "participation", "close links" and "groups"; and risk management of minority participations. The Commission had asked the IWCFC to consider these issues in its advice.

Considerable work was conducted by the EFCC to identify whether the FCD was achieving the objectives of supplementary supervision.

In July 2008 the EFCC called for industry advice on three issues of the FCD – language, scope, internal control measures. The aim of the review was to identify how the FCD is achieving its objectives. The call for evidence was deliberately specific at this first stage as it intended to wait until Solvency II and the CRD Review were complete before launching the second part of the FCD review.

However, the European Commission later announced that it intended to advance the timetable with a legislative review of the FCD later this year. It called upon the Interim Working Committee on Financial Conglomerates (IWCFC), the expert working group that feeds in to the EFCC, to come forward with its draft advice by 30th May 2009. This draft advice was released on 28th May 2009, as part of its **public** consultation by the Joint Committee on Financial Conglomerates (the permanent cooperation arrangement between CEBS and CEIOPS, with CESR as an observer). In order to avoid duplication of work, the IWCFC has been brought into the JCFC.

Useful documents:

[JCFC Consultation on FCD review](#)

[EFCC newsletter](#)

[Commission letter on FCD](#)

[Commission consultation on FCD](#)