



**Unite the Union response to the EC Consultation  
on the future of financial services  
supervision in the EU**

**This response is submitted by Unite the Union. Unite is the UK's largest trade union with 2 million members across the private and public sectors. The union's members work in a range of industries including financial services, manufacturing, print, media, construction, transport, local government, education, health and not for profit sectors.**

**Unite, is also the largest trade union in the finance sector representing some 180,000 workers in all grades and all occupations, not only in the major English and Scottish banks, but also in investment banks, the Bank of England, insurance companies, building societies, finance houses and business services companies.**

**Introduction**

1. Unite commissioned the Financial Inclusion Centre to draw up a report into reforming the financial system. Unite recognised that an urgent regulatory overhaul was necessary in order to rebuild confidence in the sector and provide a financial system that supports a long-term outlook which is sustainable and is consistent with democratic aims of social justice.
2. In an increasingly global financial system, it is right and proper that legitimate regulatory functions exist at the supra-national level. For the UK this would mean EU level, with micro prudential measures taking place at a national level; basically a belts and braces approach to regulation which should prove effective in the long run.

3. Unite would therefore wish it's response to this consultation paper to be based primarily around the proposals outlined in the Financial Inclusion Centres Report 'Reforming the Financial System' which provides a basis for further discussion in order to consider the challenges the sector faces.<sup>1</sup> The proposals outlined are not necessarily Unite policy.

### **Macro-prudential/ systemic regulation International level**

4. International financial institutions will need to play a more effective role in maintaining stability in the global financial system, preventing systemic crises recurring in future and coordinating responses to crises that happen. Greater cooperation on financial stability, crisis prevention, crisis monitoring, and crisis resolution is needed.
5. A new International Financial Stability Agency (IFSA) should be established based on the existing Financial Stability Forum (FSF) with overall objectives to:
  - promote financial stability; and
  - improve the monitoring, prevention, management, and resolution of systemic financial crises.

#### Agency Governance

6. This governing board of the agency should include lead representatives from the major global authorities and agencies such as Bank of International Settlements, IMF, and OECD, ministries of finance, central banks, and public interest representatives. To promote good governance a minimum number of seats on governing board should be reserved for public interest representatives. The board should also reflect the changing nature of the global economy with a minimum number of seats reserved for developing economies. The agency should be funded directly by national governments.

#### Activities

7. The key activities of the IFSA should be to:
  - establish improved systems for monitoring the global financial system;
  - identification of systemic risks;
  - issue risk warnings and guidance to regional and national macro-prudential regulators;
  - coordinate relationships between the relevant regional and national macro-prudential regulators;

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<sup>1</sup> The Financial Inclusion Centre 'Reforming the Financial System' 2009 (Commissioned by Unite the Union) [www.inclusioncentre.org.uk](http://www.inclusioncentre.org.uk)

- coordinate working relationships with macro-prudential and micro-prudential regulators;
  - co-ordinate responses to financial crisis.
8. We do not envisage that this new agency should have executive authority to dictate to national authorities (such as central banks or ministries of finance) which policy interventions should be used to deal with financial crises – for example, quantitative easing, or recapitalisation programmes. The reason for this is that these macro-prudential interventions involve the use of public money. These decisions should be left to sovereign state authorities.

### **EU level**

9. Much of the regulation that is supposed to protect UK citizens emanates from EU institutions. These institutions also need to be reformed so that they play a role in maintaining stability, crisis management, and regulating the behaviour of individual financial institutions in the EU. To do this, we take the view that there will have to be a de facto EU single regulator for the major financial services sectors – banking, insurance and securities and investment.
10. A new European Financial Stability Agency (EFSA) should also be established under the auspices of the European Central Bank (ECB). The overall objectives of EFSA should be to:
- promote financial stability at EU level; and
  - improve the monitoring, prevention, management, and resolution of systemic financial crises at EU level.

### Agency Governance

11. The governing board of the agency should include lead representatives from the major EU authorities and agencies such as ministries of finance, central banks, and European Supervisory Authorities such as CEBS, CEIOPS, and CESR, and public interest representatives. To promote good governance a minimum number of seats on governing board should be reserved for public interest representatives. The board should also reflect the changing nature of the EU economy with a minimum number of seats reserved for emerging EU economies.

### Activities

12. The key activities of the EFSA should be to:
- establish and coordinate improved systems for monitoring the financial system in the EU;
  - identification of systemic risks;

- issue risk warnings and guidance to national macro-prudential regulators;
  - coordinate relationships between the relevant national macro-prudential regulators;
  - coordinate working relationships with macro-prudential and micro-prudential regulators within the EU;
  - co-ordinate responses to financial crisis at EU level.
13. As with the IFSA, we do not envisage that this new agency should have executive authority to dictate to European national authorities (such as central banks or ministries of finance) which policy interventions should be used to deal with financial crises – for example, quantitative easing, or recapitalisation programmes.
14. However, we believe there is a stronger case for separating macro and micro regulatory institutions. This is primarily in the interests of clarity and efficiency. At the risk of being pedantic, it is worth explaining the distinction between regulation and supervision.
15. Regulation is the setting of standards of behaviour and rules. Supervision is the monitoring and enforcement of those rules by regulators. The architecture we propose is based on a system where regulatory standards are set at international/ EU level to promote consistency and prevent regulatory arbitrage, while supervision and enforcement is undertaken by national regulatory authorities.

### **International level**

16. A new International Financial Regulation Agency (IFRA) should be established to set prudential standards for financial institutions and act as coordinator-regulator for global financial institutions that represent systemic risk to the financial system.

#### Agency Governance

17. This governing board of the agency should include lead representatives from the major global authorities and standards settings agencies such as the Basel Committee, IOSCO, IASB and public interest representatives. To promote good governance a minimum number of seats on governing board should be reserved for public interest representatives. This agency should be funded by national governments.

#### Activities

18. The key activities of the IFRA should be to:
- coordinate and establish standards of prudential regulation for financial
  - institutions such as banks and insurance companies;

- develop improved systems for monitoring global financial institutions;
- identification of systemic risks;
- issue risk warnings and guidance to regional and national micro-prudential regulators;
- coordinate relationships between the relevant regional and national micro-prudential regulators;
- coordinate working relationships with macro-prudential and micro-prudential regulators;
- coordinate responses to financial crisis with IFSA.

## **EU level**

19. Much of the regulation that is supposed to protect UK citizens emanates from EU institutions. These institutions also need to be reformed so that they play a role in regulating the behaviour of individual financial institutions in the EU including the UK. To do this, we take the view that there will have to be a de facto EU single regulator for the major financial services sectors – banking, insurance and securities and investment, accounting standards and credit rating agencies.

20. A new European Financial Regulatory Authority (EFRA) should also be established to set prudential standards for EU financial institutions, act as coordinator-supervisor for larger EU wide financial institutions that represent systemic risk to the financial system of the EU, and set standards for valuing financial assets.

21. For practical purposes, EFRA should be comprised of specialised authorities responsible for regulating specific types of financial institutions i.e. a banking, insurance companies and pension funds, asset management firms and securities firms, and credit rating agencies. These specialised authorities should be created from the existing 'level 3' committees – CEBS, CEIOPS, and CESR. In the interim, these level 3 committees should be given more powers and authority to set robust, harmonised, minimum standards for prudential regulation of EU financial institutions.

### Authority Governance

22. The governing board of EFRA should include lead representatives from the major EU supervisory authorities such as CEBS, CEIOPS, and CESR, and public interest representatives. To promote good governance a minimum number of seats on governing board should be reserved for public interest representatives. The board should also reflect the changing nature of the EU economy with a minimum number of seats reserved for emerging EU economies.

## Activities

23. The key activities of EFRA should be to:

- coordinate and establish standards of prudential regulation for all financial institutions such as banks, insurance companies, and hedge funds, and financial instruments such as securitised investment vehicles;
- develop improved systems for monitoring EU financial institutions;
- identification of systemic risks caused by behaviour of financial institutions;
- issue risk warnings and guidance to national micro-prudential supervisors;
- coordinate relationships between the relevant national micro-prudential supervisors;
- coordinate working relationships with macro-prudential and micro-prudential regulators;
- co-ordinate responses to financial crisis with EFSA. EFRA should have executive authority to dictate to EU supervisory authorities the appropriate regulations and standards. The day-to-day monitoring and supervision should be the responsibility of national supervisory authorities.

## **European Union Level**

24. We also looked at the structure and representation of the main regulatory institutions at EU level. We concentrated on the important 'level 3' committees – CEBS<sup>6</sup>, CEIOPS<sup>7</sup>, and CESR<sup>8</sup>. These level 3 committees are so called because of the position these committees occupy within the 'Lamfalussy process'. These level 3 committees are extremely important in the policymaking process at EU level. Moreover, these committees are likely to be transformed into more powerful executive regulatory authorities under proposals announced by the European Commission<sup>2</sup>.

25. Each of the level 3 committees has consultative panels as part of their efforts to fulfil the transparency requirements of the Lamfalussy process. Committees are required to consult extensively and openly with market practitioners, providers, consumers and end-users. These consultative panels are composed of 'independent' high level persons appointed on a personal basis. In theory, they are not supposed to represent national positions or sectoral interests. But our analysis of these consultative panels shows just how underrepresented public interest/ civil societies are at EU level as well.

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<sup>2</sup> See European Commission, Communication for the Spring European Council, Driving European Recovery, COM (2009) 114/Provisional version

- CEBS: The CEBS Consultative Panel has 21 members. According to the current list on its website, only three members have a user/ consumer representative background.
  - CEBS currently has six expert groups. There appear to be public interest/ civil society representatives on these groups.
  - CESR: the CESR Consultative Panel has 17 members. According to the current list on its website, only one member has a user/ consumer representative background (the status of four members is not specified). CEBS has 16 expert and operational groups. There appear to be no public interest/ civil society representatives on these groups.
  - CEIOPS: the CEIOPS Consultative Panel has 17 members. Only one member has a public interest/ civil society background. CEIOPS has 11 working groups. It is not clear who the members of these groups are. However, we are not aware of any consumer/ user representatives being members of these groups.
26. Overall, we have to conclude that industry lobbies are over-represented at EU level. This must give the industry undue influence during the process of formulating, developing and implementing policy and comprehensive, new measures are needed to improve public interest representation at EU level.
27. Conversely, public interest groups are under-represented. Unite however notes with interest the proposals laid out in the paper for representation by 'investor-stakeholders' and would be keen to hear a full definition of those groups likely to be included in this function, which we would hope would include trade unions, as a stakeholder, but also other public interest organisations and consumer groups
28. If indeed this would include public interest representatives, this would require an increase in resources made available to such groups in order to compensate for the over-represented industry lobby, for any necessary training, research and information.
29. Therefore, it is very disappointing that the mistakes of the past have been repeated with the creation of the De Larosiere Group. There has been no direct user representation on the Group. We should make it absolutely clear that we are not criticising the individuals on the Group – they are all eminent, respected members of the financial establishment.

30. However, that is the very point – they are members of the ‘establishment’ and none could be considered dedicated user representatives. All have a background as financial regulators or have held senior positions with financial institutions.
31. We noted that the intention was that the Group would conduct hearings and organise a consultation as appropriate. However, it is clear from the report that user-representation in the policymaking process was not even considered important enough for inclusion in the Group’s considerations. Indeed, not only were public interest representatives excluded from the Group, the Group restricted its evidence taking to ‘personalities and representatives of European financial services associations and international institutions’ including trade associations such as CEA, AMICE, EBF, ESBG, ICMA, EFAMA, FOA, and representatives of large insurance companies (AXA, Munich Re, AEGON, and AVIVA plc) .
32. It is important to correct the damaging impression that representatives from the same type of institutions that share most of the blame for the financial crisis (regulators and financial institutions) are now being given the responsibility for developing policies to prevent a crisis recurring. This does not promote consumer confidence in the policymaking process.
33. It is now imperative that mechanisms are instigated to ensure that interests of users are represented in the future during the implementation of the Group’s recommendations.

## **REMUNERATION STRUCTURES**

34. Finally, the remuneration regime within which the finance sector operates, requires significant attention and overhaul. Unite has had concerns over a long period over a culture which rewards high risk strategies without due consideration of what is sustainable in the long-term.
35. The bonus schemes in many of the UK’s largest banks have richly rewarded executive directors for taking short-term and risky decisions while having a hugely detrimental impact on workers in the industry.
36. It is necessary to tie executive pay and bonus structures to sustainable and long-term performance. Regulation should encourage long term investment and reward long term sustainable performance. Unite has long standing concerns about other corporate governance issues such as short termism. The use of stock options in executive pay should be restricted to avoid excessive focus in short term movements of share price as opposed to long term interest of the company.

37. The Commission must therefore consider a complete review of remuneration regimes which are also a key feature of the UK Government's proposals for reform of the UK finance sector where rewards for failure and remuneration systems have been held partly to blame for the financial crisis faced in this country.

## **Recommendations**

This set of recommendations is intended to improve the functioning and accountability of important EU regulatory institutions – primarily the important level 3 committees (CEBS, CEIOPS, and CESR).

- Each of the level 3 committees should ensure that at least one-third of the consultative panels are dedicated public interest representatives.
- Each of the committees should ensure that the consultative panels have access to additional resources to support the work of consultative panels – including budgets for travel and other expenses to allow members to attend panel meetings.
- Each committee should establish a public interest expert group. The role of the expert group should be to: provide insight to level 3 committees on the impact of consultations and initiatives on citizens; ensure the Lamfalussy process takes the public interest into account; ensure any consultation process factors in the public interest.
- Each committee should appoint a public interest coordinator. The role of the coordinator should be to support the work of the public interest expert group and coordinate relationships with public interest/ civil society organisations.

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## **Glossary of Terms**

CEBS	Committee of European Banking Supervisors
CEIOPS	Committee of European Insurance and Occupational Pension Supervisors
CESR	Committee of European Securities Regulators
IMF	International Monetary Fund
IFSA	International Financial Stability Agency
FSF	Financial Stability Forum
EFSA	European Financial Stability Agency
ECB	European Central Bank
IFRA	International Financial Regulation Agency
IOSCO	International Organization of Securities Commissions
IASB	International Accounting Standards Board
CEA	European Insurance and Reinsurance Federation
AMICE	Association of Mutual Insurers and Insurance Cooperatives in Europe
EBF	European Banking Federation
ESBG	European Savings Banks Group
ICMA	International Capital Market Association
EFAMA	European Fund and Asset Management Association
FOA	The Future and Options Association