

## II

(Acts whose publication is not obligatory)

## COMMISSION

## COMMISSION DECISION

of 5 November 2003

establishing the Committee of European Banking Supervisors

(Text with EEA relevance)

(2004/5/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Whereas:

- (1) In June 2001, the Commission adopted Decisions 2001/527/EC <sup>(1)</sup> and 2001/528/EC <sup>(2)</sup> setting up the Committee of European Securities Regulators and the European Securities Committee respectively.
- (2) In its Resolutions of 5 February and 21 November 2002, the European Parliament endorsed the four-level approach advocated in the Final Report of the Committee of Wise Men on the regulation of European securities markets and called for certain aspects of that approach to be extended to the banking and insurance sectors subject to a clear Council commitment to reform to guarantee a proper institutional balance.
- (3) On 3 December 2002, the Council invited the Commission to implement such arrangements in the fields of banking and insurance and occupational pensions and to establish as soon as possible new committees in an advisory capacity in relation to those fields.
- (4) An independent body for reflection, debate and advice for the Commission in the field of banking regulation and supervision should be established.
- (5) That body, to be called the Committee of European Banking Supervisors, hereinafter referred to as 'the Committee', should also contribute to the consistent and timely application of Community legislation in the Member States and to the convergence of supervisory practices throughout the Community.
- (6) The Committee should promote cooperation in the banking field, such as the exchange of information.
- (7) The establishment of the Committee should be without prejudice to the organisation of banking supervision at either national or Community level.
- (8) The composition of the Committee should reflect the organisation of banking supervision and should also take account of the role of central banks as regards the overall stability of the banking sector at national and Community level. The respective rights of the different categories of participants should be clearly identified. In particular, chairmanship and voting rights should be reserved to the competent supervisory authorities of each Member State; and participation in confidential discussions about individual supervised institutions should, where appropriate, be restricted to the competent supervisory authorities and to the central banks entrusted with specific operational responsibilities for supervision of the individual credit institutions concerned.
- (9) The Committee should organise its own operational arrangements and maintain close operational links with the Commission and the Committee established by Commission Decision 2004/10/EC of 5 November 2003 establishing a European Banking Committee <sup>(3)</sup>.
- (10) The Committee should cooperate with the other committees in the financial sector, in particular with the Committee established by Decision 2004/10/EC, with the Banking Supervision Committee of the European System of Central Banks and with the *Groupe de Contact* of European banking supervisors. In particular, it should be possible for the Committee to invite observers from other committees in the banking and financial sector.

<sup>(1)</sup> OJ L 191, 13.7.2001, p. 43.

<sup>(2)</sup> OJ L 191, 13.7.2001, p. 45.

<sup>(3)</sup> See page 36 of this Official Journal.

- (11) The Committee should, at an early stage, consult extensively and in an open and transparent manner with market participants, consumers and end-users.
- (12) Whenever the Committee provides advice on provisions applicable to both credit institutions and investment firms, it should consult those authorities competent for the supervision of investment firms which are not already represented on the Committee,

HAS DECIDED AS FOLLOWS:

*Article 1*

An independent advisory group on banking supervision in the Community, called 'the Committee of European Banking Supervisors' (hereinafter 'the Committee') is established.

*Article 2*

The role of the Committee shall be to advise the Commission either at the Commission's request, within a time limit which the Commission may lay down according to the urgency of the matter, or on the Committee's own initiative, in particular as regards the preparation of draft implementing measures in the field of banking activities.

The Committee shall contribute to the consistent application of Community directives and to the convergence of Member States' supervisory practices throughout the Community.

It shall enhance supervisory cooperation, including the exchange of information on individual supervised institutions.

*Article 3*

The Committee shall be composed of high level representatives from the following organisations:

- (a) the national public authorities competent for the supervision of credit institutions, hereinafter 'the competent supervisory authorities';
- (b) the national central banks entrusted with specific operational responsibilities for the supervision of individual credit institutions alongside a competent supervisory authority;
- (c) the central banks which are not directly involved in the supervision of individual credit institutions, including the European Central Bank.

Each Member State shall designate high level representatives to participate in the meetings of the Committee. The European Central Bank shall designate a high level representative to participate in the Committee.

The Commission shall be present at the meetings of the Committee and shall designate a high level representative to participate in its debates.

Whenever confidential information concerning an individual supervised institution is exchanged, participation in that discussion may be restricted to the competent supervisory authorities and the national central banks entrusted with specific operational responsibilities for the supervision of the individual credit institutions concerned.

The Committee shall elect a chairperson from among the representatives of the competent supervisory authorities.

The Committee may invite experts and observers to attend its meetings.

*Article 4*

The Committee shall maintain close operational links with the Commission and with the Committee established by Commission Decision 2004/10/EC.

It may set up working groups. The Commission shall be invited to participate in the working groups.

*Article 5*

Before transmitting its opinion to the Commission, the Committee shall, at an early stage, consult extensively and in an open and transparent manner with market participants, consumers and end-users.

When providing advice on provisions applicable to both credit institutions and investment firms, the Committee shall consult all authorities which are competent for the supervision of investment firms and are not already represented on the Committee.

*Article 6*

The Committee shall submit an annual report to the Commission.

*Article 7*

The Committee shall adopt its own rules of procedure and organise its own operational arrangements, including voting rights. Only representatives of the competent supervisory authorities shall receive voting rights.

*Article 8*

The Committee shall take up its duties on 1 January 2004.

Done at Brussels, 5 November 2003.

*For the Commission*

Frederik BOLKESTEIN

*Member of the Commission*