

3 February 2009

Dr José Manuel Barroso
President of the European Commission
1049 Brussels, Belgium

Sir

Subject: De Larosière Group - user representation

FIN-USE is the Forum of experts representing European financial users which the European Commission set up in 2004.

FIN-USE is writing to you to register our concerns about the De Larosière Group¹. We should point out that we strongly support the establishment of the Group as it is critical that policymakers understand the underlying causes of the financial crisis so that the regulatory system is reformed to maximise protection for depositors, policyholders and investors. Our concerns relate to the structure of the group and what, so far, appear to be the absence of formal and effective mechanisms for representing the interests of users during the development of the Group's recommendations.

It is now painfully clear that the ongoing crisis in the financial system is more serious than was first appreciated and that the effects have not been contained within the financial markets. The financial crisis is now having a very real impact on consumers and industry (especially small and medium-size enterprises) in the form of reduced credit availability, and risks to savings, investments and pension funds.

The underlying causes of the current financial crisis are complex and manifold. We may never fully understand how and why the financial system was allowed to operate with such inherent structural flaws. To be fair, some flaws only became evident with hindsight. However, public interest representatives have been warning for some time that the approach to financial regulation followed by regulators was not sufficiently robust, consistent or comprehensive to cope with the challenges presented by modern, international financial markets. Therefore, as we set out in our Opinion on reforming mortgage credit markets², the regulatory regime governing financial markets needs to be fundamentally reformed to protect users, restore market confidence, enable the markets to function properly, and to minimise the risk of a catastrophic crisis recurring.

¹ The group was established by Commission President José Manuel Barroso and held its first meeting on 12th November 2008. It will make recommendations to the Commission on strengthening European supervisory arrangements covering all financial sectors, with the objective of establishing a more efficient, integrated and sustainable European system of supervision and also of reinforcing cooperation between European supervisors and their international counterparts. The Group's role is to bring forward concrete proposals which will contribute to greater financial stability and help maximise protection for depositors, policy-holders and investors.

² REFORMING MORTGAGE AND CREDIT MARKETS – AN OPINION, December 2008, http://ec.europa.eu/internal_market/fin-use_forum/docs/reform_mortgage-credit_markets-2008_12_en.pdf



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A new regulatory architecture is needed to restructure the regulatory system (at international, EU and national levels). Regulators need new statutory objectives and powers, and a much more robust approach to prudential and market regulation and enforcement to maintain stability of the system and individual firms, and promote fair and efficient markets³.

However, the institutions that comprise the regulatory system must also be reformed if they are to be effective at regulating powerful financial markets. The effectiveness and accountability of the regulatory system has been undermined by the lack of direct public interest representation at policy making and decision making level. There are far too few independent, well-resourced representatives at the heart of the regulatory system. For example, the clear majority of the members of the UK Financial Services Authority's previous and current boards are from the financial services industry. Similarly, the French financial regulators' "colleges" do not include any representatives of financial users⁴.

We do accept that the Commission has attempted to ensure users have a voice through panels such as FIN-USE, and the CEBS, CESR, and CEIOPS consultative panels. However, these panels are only advisory and do not have direct influence over the decision making process. Moreover, user representatives do not have anywhere near sufficient resources or the same level of access to compete with powerful industry lobbies⁵. As a result the interests of users are not being properly represented and their influence is diluted. There is therefore a high risk of conflicts of interests at the Regulators' boards, where public executives are only discussing with people coming from the financial industry.

As a matter of principle, there is simply no justification for financial regulators and policy makers not having meaningful user representation embedded at the highest decision making level given the importance of financial markets to society. Moreover, the quality of decision making by regulators and policymakers would improve if it was subject to direct scrutiny by user representatives who would have the independence and objectivity to challenge market and regulatory orthodoxy. Furthermore, a commitment to user representation promotes confidence in the system and allows policymakers and regulators to avoid the perceived and real risk of regulatory capture by powerful industry lobbies.

Therefore, it is very disappointing that the mistakes of the past have been repeated with the creation of the De Larosière Group as there is 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. However, that is the very point – they are

³ We are currently developing further positions on financial market regulation which we will publish in forthcoming opinions.

⁴ There is one small exception: the AMF (the French Financial markets regulator) "college" does count one representative of "employee shareholders", a very specific and minor kind of individual investors.

⁵ For example, on the CEBS Consultative panel only three out of the 21 members are consumer representatives.

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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.

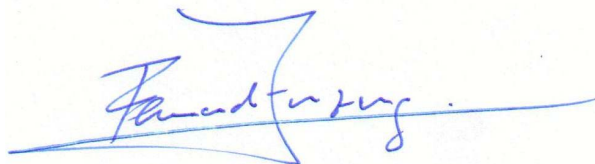
With this in mind, we ask you to inform FIN-USE of the measures you will take to redress this serious lack of user representation on the De Larosière Group. We note that the intention was that the Group would conduct hearings and organise a consultation as appropriate. However, this is too vague and does not provide us with the reassurance that user representatives will have direct influence during the Group's deliberations. Unfortunately, it is too late for user representatives to be directly represented on the Group. Therefore, we would ask that you provide details of the mechanisms you will instigate to ensure that interests of users are represented in the future.

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.

We share the same goal of reforming the financial system so that it meets the needs of those who matter – the citizens of the European Union, not its financial institutions. We are confident that the policymaking process will be improved by direct user representation.

We write this letter in the spirit of cooperation and look forward to a constructive dialogue.

Yours faithfully



Dr Fernando Zunzunegui
Chairman of FIN-USE
February 2009

cc. Mr Jacques De Larosière
Mr Charlie McCreevy
Mr Jörgen Holmquist



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