

Annual Report 2007

Pursuant to Article 48, § 1, 4°, of the Law of 2 August 2002, the annual report of the Banking, Finance and Insurance Commission is drawn up by the Management Committee and approved by the Supervisory Board. In accordance with this provision of law, the Board ensures general supervision of the CBFA's operations. In respect of this task, the Supervisory Board does not take cognizance of the individual supervision dossiers. Unless otherwise stated, the period under review extends from 1 January to 31 December 2007.

The present annual report may be referred to as: "CBFA Annual Report 2007".

In addition to the present annual report, the Management Committee has drawn up a report ("CBFA MC Report 2007") which sets out the legal and regulatory changes as well as the activities of the Committee and the decisions it has made in individual cases during the period under review. The report of the Management Committee - which a number of footnotes refer to - is available in Dutch and French; it is not available in English.

Disclaimer

This text is an unofficial translation and may not be used as a basis for solving any dispute.



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FOREWORD

Dear readers,

The events that marked the year 2007 were, on the one hand, the American subprime crisis and its impact on European credit institutions, and on the other hand the participation of the Fortis group in the largest bank acquisition in history.

These events put to the test the solidity and adequacy of the reforms which the CBFA had progressively undertaken since its creation in 2002.

In managing these two important dossiers, it is undeniable that the recent reforms, including notably the integration of insurance supervision with that of other financial institutions, have enhanced the efficiency of the CBFA.

The benefits of these reforms extend to numerous other areas of the CBFA's activities, in particular its prudential supervision, which is now carried out at the level of financial groups, and its international activities, the volume of which continues to grow steadily.

Moreover, changes to the structure of the CBFA's governing bodies accelerated the operational implementation, in the first quarter of 2007, of an integrated supervisory authority with the definition of a number of new short-term priorities.

It is not inappropriate to point out in this regard that the Management Committee has implemented in a timely manner the various facets of this ambitious plan.

The CBFA set as its objectives the strengthening of its operational tasks (in particular, by reorganising its prudential supervisory departments), ensuring that it is represented in international negotiations, reinforcing the predictability of the CBFA's actions and fulfilling as best it can its obligation to explain its policies and actions.

These various priorities are reviewed in this foreword and situated in the context of recent market conditions.



Jean-Paul Servais, Chairman

The priority of the operational tasks

A practical expression of the priority given to operational tasks was, in 2007, the cross-sectoral reorganization of supervision, with the formation of supervisory teams for mixed "bancassurance" and "assurfinance" groups within multidisciplinary teams, each reporting operationally to a single member of the Management Committee. Various poles were thus established, with one pole responsible for overall supervision of large predominantly banking groups, another pole responsible for overall supervision of large predominantly insurance groups, while domestic institutions and foreign institutions are divided among two further poles. This arrangement, moreover, permits a better adaptation of the risk-based approach to the sociological realities of the industry, while avoiding the dangers of a "silo" approach.

The definition of the various facets of prudential supervision is, moreover, coordinated within an interdepartmental working group led by the Chairman. This is the case as well with regard to the different aspects of the conduct of business rules. At the same time, centres of expertise have been set up that handle the various subjects in question in a cross-departmental manner; the function of these centres is to provide direct support to the operational supervisory teams. This is the case in particular with the ongoing work on quantitative methods (especially within the context of the analysis of the so-called Basel II and Solvency II models), IT audit and asset management techniques.

The resulting changes to the organization chart have affected more than a quarter of the CBFA staff. These changes have also had an impact on the structure of the annual report. For the first time, in fact, the activities of the CBFA are presented by area of specialty and no longer by department.

The CBFA's monitoring of the subprime crisis

Right from the onset of the turbulence, the CBFA worked closely with the National Bank of Belgium (NBB) in carefully monitoring developments regarding subprime risks and liquidity. This cooperation and the exchange of relevant information have made it possible simultaneously to address prudential supervisory concerns and to safeguard financial stability. Joint discussions were held regularly (and where necessary, daily) with the leaders of the large bancassurance groups, and internal policy information was analysed as regards the composition and development of the assets in question, the assessment and management of their risks, and the value adjustments applied. There was also close tracking of the so-called Asset-Backed Commercial Paper Conduits (investment vehicles) and of their financing.

There was likewise joint daily or weekly monitoring of the liquidity position of the major Belgian banks, and continuous follow-up of the liquidity position of certain institutions of foreign origin. Institutions were quizzed on the management of their liquidity risk, the use of stress tests, the adequacy of their liquidity buffers and emergency plans, and on the management of liquidity flows and the pledging of securities within groups themselves.

The repercussions of the crisis on banks' results and solvency also occupied the attention of the CBFA's services. Discussions were conducted with the accredited auditors of banks concerning accounting valuation aspects. There was also monitoring of whether, in their external communication, listed bancassurance groups provided appropriate and relevant information to the markets about their risks on structured products and on the valuation of those products. In the process, attention was given both to the communication of price-sensitive information and to the periodic reporting.

This multidisciplinary approach on the part of the CBFA undeniably served as a test of the credibility of its actions as an integrated financial supervisor that combines prudential supervision and the supervision of financial information of deposit-taking financial institutions.

Sectoral consultations and the predictability of the CBFA's actions

A further priority of the new Management Committee concerns the **systematic organization of sectoral consultations**, that is, regular and effective consultations with market players and other parties involved in the development of financial regulation.

The CBFA is aware of the rapid changes taking place in the various sectors it supervises, and therefore of the need to be attentive at all times to developments in the market in order to parameter its actions accordingly. A number of different consultations were thus held in the course of the year 2007.

Informal consultations with other supervisory authorities within the European Economic Area are also a daily feature of the work of the CBFA staff, and the information thus gained enables the CBFA to make informed decisions regarding market standards and the appropriate actions to be taken. This does not mean, however, a reduction to a lowest common denominator, but rather the ability to make conscious choices taking into account the impact of international and European regulations on the market.

Such consultations also contribute to the increased **predictability of the CBFA's actions**. Thus special attention has been paid to providing training for the sector, in collaboration with professional associations, in the new challenges presented by the entry into force of the Markets in Financial Instruments Directive and the Takeover Directive. The aim is that every market player, regardless of size, should be duly informed and able to prepare in sufficient time for the introduction of the new regulations.

The CBFA's contribution to international cooperation

A third priority has to do with the role of the CBFA at the international level.

Decisions regarding the development of the regulatory framework for the financial sector are, in fact, increasingly taken at an international level.

The active participation of the CBFA – whether this be via the members of the Management Committee or its staff – in the work of the three so-called Lamfalussy committees (CESR, CEBS and CEIOPS) is a reflection of the increasingly European dimension of supervision.

Cooperation within these Level 3 committees and among the various committees is working effectively and constitutes a catalyst for collaboration between regulators, whether by means of bilateral contacts or as members of a college of regulators tasked with the prudential supervision of a cross-border group or called upon to intervene in individual market cases.

In 2007, the three Level 3 committees took part in the scheduled evaluation of the Lamfalussy structure within the European Union. This evaluation coincided with the period of turmoil experienced by the financial markets, which in turn fed into the discussions on the regulatory and supervisory architecture within the European Union.

Reinforcing the role of the regulatory colleges meets the concerns of both home country and host country supervisory authorities. These colleges constitute a flexible instrument that makes it possible to limit the burden and costs of supervision, while addressing the requirements and growing complexity of the supervision of internationally active financial groups.

For several years now, an exchange of experiences has taken place within CEBS with regard to the concrete functioning of regulatory colleges. Initially, these exchanges were organized within the context of the implementation of Basel II.

In this area, the CBFA brings significant expertise to the table, acquired over several years in its capacity as home supervisor of Fortis, Dexia and KBC and as host supervisor of ING. The colleges of regulators for groups of which the CBFA is the consolidated supervisor are often cited in the European Union as examples of efficient and well integrated colleges, characterized by close and in-depth collaboration among home and host authorities.

The development of the supervisory model for the Fortis group can be cited in this regard as an example of the approach taken by an integrated supervisor to a multidisciplinary group engaged in numerous cross-border activities.

In 2007, the CBFA was substantially involved in developments surrounding the acquisition of ABN Amro by a consortium consisting of The Royal Bank of Scotland, Banco Santander and Fortis. The acquisition was exceptional in nature not only because of the magnitude of the operation but also due to the fact that the three acquiring banks had formed a consortium for the purpose and had made arrangements to divide the activities of ABN Amro among themselves, with Fortis acquiring the portfolio management, private banking and retail activities in the Netherlands. Given the considerable implications of the acquisition for Fortis, the CBFA – as the lead supervisor for the Fortis group – closely followed the various aspects of the acquisition. The CBFA has carefully monitored the progress of the transition and integration process, in cooperation with the Dutch, UK and Spanish banking supervisors which act as a regulatory college during the transition phase.

In an entirely different context but also in 2007, the College of Euronext Regulators, made up of the UK, French, Dutch, Portuguese and Belgian supervisory authorities, was able to finalize in good time the “non-objection procedure” necessary for the combination of Euronext with the NYSE.

Experience shows that reinforcing the use of such colleges can be useful in order to keep a close link between, on the one hand, the needs and efficiency of operational supervision of such groups (often systemic in nature) and on the other hand, the effectiveness of the decision-making process and the responsibility and accountability of the various participants.

The challenges facing the CBFA in light of other major developments

The Royal Decree of 27 April 2007 transposing into Belgian law the European Markets in Financial Instruments Directive (MiFID) came into force on 1 November 2007. MiFID imposes specific conduct of business rules and organisational requirements on financial institutions, with a view to providing greater protection for investors. Information sessions offered to the sector were attended by numerous participants. Implementation of the MiFID rules has also entailed the abolition of three of the five existing legal statuses for investment firms.

It should be noted that the entry into force of MiFID came about in an orderly manner, far removed from the sort of chaos that had been predicted only a few months earlier. It is undoubtedly thanks to the preparatory work done by the financial sector that the transition was such a smooth one, within a clearly affirmed legal continuity.

Since 2007, the CBFA has carried out thematic inspections (where appropriate, on site) of the implementation of the new provisions. These inspections focused on the organisation and the quality of the banking services tasked with handling complaints. The CBFA also examined information provided to clients by a certain number of institutions. In addition to these thematic inspections, the CBFA is currently conducting more focused inspections with the aim of ensuring that the MiFID provisions are being implemented.

This type of supervision is an example of the multidisciplinary approach taken by an integrated supervisory authority such as the CBFA.

On 1 January 2007, the **Basel II framework** for calculating and reporting on own funds requirements came into force. The provisions of Basel II had been given effect within the European Union by the European Capital Requirements Directives of 14 June 2006. All banks, investment firms and management companies of undertakings for collective investment were required to implement the framework by 1 January 2008 at the latest: calculation of minimum capital requirements (the first pillar of the new framework) is henceforth to be on the basis of a new standardized approach (whereby the creditworthiness of borrowers is based on ratings by an external credit assessment institution) or, with CBFA approval, a simplified or an advanced internal ratings-based approach.

In March 2007, after an extensive consultation process, the CBFA set out its new policy on the **sound governance of financial institutions**. This brought in the requirement for financial institutions to review their own policy in light of the new principles and to document it in a "governance memorandum" to be submitted to the CBFA no later than the end of March 2008. A financial institution's documentation of its management structure is an important test for self-assessment and for the way in which the choices it has made are justified in the governance memorandum.

Another key development in the area of securities followed from the entry into force of the new legal and regulatory provisions regarding **takeover bids**. This new legislation radically changes the circumstances under which an obligation arises to launch a takeover bid. The double condition system involving both a transfer of control and the payment of a premium has now been replaced by the obligation, based on EU legislation, to initiate a takeover bid as soon as a shareholder crosses the threshold of 30%. The Law of 1 April 2007 modifying the system also makes provision for transitional measures, intended to address existing situations and avoid an automatic obligation to launch a takeover bid that could have undesirable consequences for the economy. Since the entry into force of this legislation, the CBFA has received 205 notifications of shareholdings, relating to 98 listed companies. This is a good indication a posteriori of the usefulness of the provision that was put in place.

In 2007 as well, the CBFA made significant efforts in view of completing a modern regulatory framework for **Institutions for Occupational Retirement Provision (IORP)**, with an emphasis on prudent management and on the responsibility of the participants concerned, while creating a favourable environment in Belgium for the establishment of cross-border IORPs.

Over the course of the year, the CBFA also devoted considerable attention to the **financial education of the public**. Both the OECD and the European Commission have emphasized the significant benefits of improving public awareness of financial matters.

The CBFA listened to a large number of individuals and associations representing a variety of target groups. It was thus able to determine that there is widespread demand for a serious commitment to promoting financial education of the public and for creating an appropriate framework for this purpose. This would help lend support to the

significant reforms made in recent years in various sectoral regulations, for instance as regards the supervision by the CBFA of advertisements relating to the different types of financial products offered to consumers.

At the time of writing, the CBFA was putting the finishing touches on a report that among other things inventories the achievements already made in Belgium in the area of financial education, a report that will be submitted to the federal government in order to set out potential pathways for increasing the visibility of these initiatives as well as to foster and coordinate further efforts in this regard.

The CBFA's duty to explain

As Chairman, I attach great importance to external communication. The CBFA is an autonomous public institution, entrusted with the supervision of nearly the entire Belgian financial sector. The corollary of this autonomy is the duty of the CBFA to explain its policies and actions.

The CBFA is therefore holding an increasing number of press conferences in order to explain its policies and actions. A few years ago already, the CBFA also decided that the press officer would be the single contact person for the media. Yet it is important not to raise undue expectations: the CBFA is subject to the obligation of professional secrecy, and a failure to respect this can give rise to penal sanctions. Therefore, the CBFA rightly shows the greatest possible discretion with regard to numerous dossiers.

Along the same lines, the CBFA published a new series of information brochures, aimed at providing consumers with more information on financial services. The first such brochure, aimed at a wide audience, gives a brief introduction to the CBFA, outlining its mandates and describing its organization. The second, entitled "How to make a complaint", is intended to inform consumers of financial services of the various bodies to which they can make a complaint in case of a dispute concerning a financial service. The third consists of Dutch and French translations of *A Consumer's Guide to MiFID* published by CESR.

Human resources management at the CBFA

Despite a labour market that is under great pressure, the CBFA considers it essential to uphold high qualitative standards when selecting its staff members. The CBFA is also committed to optimizing its management of human resources, with a view to allocating resources based on an ongoing assessment of the risks to be managed.

The commitment of the CBFA staff to serving the public interest unquestionably contributes to the development and attractiveness of the Belgian financial world.

June 2008



EXTERNAL ACCOUNTABILITY AND COMMUNICATION POLICY

The independence of supervisors referred to in the applicable international supervisory standards, such as those of the Basel Committee, the International Association of Insurance Supervisors (IAIS) or the International Organization of Securities Commissions (IOSCO), is enshrined in Belgian legislation; the reverse side of this independence is the obligation of accountability.

Traditionally, the Annual Report and the report of the Management Committee are the most important vehicles for external accountability. Increasingly, the CBFA also makes extensive use of its website in order to provide information and publish its decisions. Statistics show that the website is consulted frequently¹. Furthermore, as is the case with similar provisions in other countries, Article 65 of the Law of 2 August 2002 states that the chairman of the CBFA may be questioned before the competent committees of the Chamber of Representatives or of the Senate.

Finally, the CBFA conducts exhaustive consultation with the undertakings subject to supervision and with their professional associations, in order – given the proportionality rule – to guarantee that the proposed regulatory obligations are optimally geared to the size of those to whom they are addressed.

1 An average of 9132 visitors per week.



2007 AT A GLANCE

1 January 2007	The Basel II framework for calculating and reporting solvency requirements enters into force. All banks, investment firms and management companies of undertakings for collective investment must implement the framework by 1 January 2008 at the latest. Solvency is henceforth to be calculated on the basis of a new standardized approach or, with CBFA approval, a simplified or an advanced calculation model.
23 March 2007	A circular is issued addressing in particular the cross-border activities of institutions for occupational retirement provision (IORPs) governed by Belgian law conducted in a country outside the European Economic Area. In the course of 2007, a large number of IORPs modified their legal status to that of a pension financing organization.
30 March 2007	After an extensive consultation process, the CBFA sets out its new policy on the sound governance of financial institutions. This brought in the requirement for financial institutions to review their own policy in light of the new principles and to document it in a "governance memorandum" to be submitted to the CBFA no later than the end of March 2008. Once the CBFA has accepted that document, the traditional agreement on autonomy concluded by institutions in the banking and insurance sector with the CBFA will lapse.
31 March 2007	Eddy Wymeersch's term of office as Chairman of the CBFA comes to an end. Eddy Wymeersch served as Chairman of the CBFA since 1 April 2001.
20 April 2007	Jean-Paul Servais takes office as Chairman of the CBFA.
27 April 2007	Given the rise in the number of dossiers and based on previous experience, parliament in its Programme Law of 27 April 2007 confers on a new Sanctions Committee of the CBFA's Supervisory Board the competence to impose administrative fines and penalties. The Programme Law also introduces the possibility in certain cases to reach a voluntary settlement.
2 May 2007	Eddy Wymeersch takes office as Chairman of the Supervisory Board.
2 May 2007	The Law of 2 May 2007 transposes the Transparency Directive into Belgian law. The Royal Decree of 14 November 2007 on the obligations of issuers enters into force on 1 January 2008.
7 May 2007	The organization chart of the CBFA undergoes a number of changes. The supervisory competences of the respective departments are set out in the new organizational regulation approved by the Royal Decree of 7 May 2007.
June 2007	The CBFA publishes the first biennial report on sectoral pension schemes. As well, the CBFA publishes its first report on the voluntary supplementary pensions of the self-employed, a report that it is required to draw up every two years.
July 2007	From the onset of the turmoil on the financial markets, the CBFA, in close collaboration with the NBB, tracks developments regarding liquidity. Joint discussions are held regularly with the leaders of the large bancassurance groups. The liquidity position of the major banks is also monitored jointly on a daily or weekly basis. Attention is paid as well to the repercussions on the banks' results and solvency.
23 July 2007	The CBFA approves the documentation regarding the takeover of ABN Amro. The CBFA was closely involved throughout 2007 in the developments concerning the takeover of ABN Amro by a consortium made up of the Royal Bank of Scotland, Banco Santander and Fortis. This acquisition was highly exceptional on account of the magnitude of the transaction and because the three acquiring banks formed a consortium prior to the takeover and made arrangements on how to divide the activities of ABN Amro among themselves. Given the considerable implications of this takeover for Fortis, the CBFA – as the supervisor responsible for consolidated supervision of the Fortis group – closely followed the various aspects of the takeover. The CBFA closely monitored the progress of the transition and integration process, together with the Dutch, British and Spanish bank supervisors which serve as a supervisory college during the transitional phase.
1 September 2007	The Law of 1 April 2007 on takeover bids enters into force. It comprises a thorough revamping of the takeover legislation. The most noteworthy provision is the 30% rule. A person who, alone or in concert, acquires more than 30% of the voting securities of a Belgian listed company is obligated to launch a bid. An optional exemption, provided for in the Law, allows shareholders to make a notification to the CBFA by 21 February 2008 at the latest. As at 21 February the CBFA had received notifications with regard to 98 issuers.
1 November 2007	The European Markets in Financial Instruments Directive (MiFID) enters into force. It is transposed into Belgian law by the Royal Decree of 27 April 2007. MiFID imposes certain rules of conduct and organizational provisions on financial institutions, with a view to better investor protection. Information sessions held for the sector in June were attended by numerous participants. Implementation of the MiFID rules has also entailed the abolition of three of the five existing legal statuses for investment firms. Henceforth there are only two statuses for investment firms: stockbroking companies on the one hand, and portfolio management and investment advice companies on the other.
4 December 2007	The European Finance Ministers, meeting in the so-called Ecofin council, approve a plan for decision-making in 2008 concerning, among other things, the role of the three Lamfalussy committees (CEBS, CEIOPS and CESR), better operation of colleges of supervisors and the strengthening of procedures for crisis management.
13 December 2007	The CBFA publishes two new brochures. The first is a general information brochure, aimed at a wide audience. It gives a brief introduction to the CBFA, outlining its various tasks and describing its organization. The second brochure, entitled <i>How to make a complaint</i> , is intended to inform consumers of financial services of the various bodies to which they can make a complaint in case of a dispute concerning a financial service.



CHAPTER 1

ORGANIZATIONAL STRUCTURE

A. ORGANIC CHANGES IN 2007

The Programme Law of 27 April 2007² introduced a number of changes to the organizational structure of the CBFA.

First, in response to, among other things, the recommendations of the International Monetary Fund³, the functions of Chairman of the Management Committee and of Chairman of the Supervisory Board were separated⁴.

The Management Committee can for a limited period entrust the Chairman of the Supervisory Board with the task of representing the CBFA or with other tasks at the international level⁵. Thus the Chairman of the Supervisory Board has assumed the chairmanship of the *Committee of European Securities Regulators* (CESR). He was elected to this position by the members of CESR for a renewable term of two years. The Chairman of the Supervisory Board has also been elected Chair of the European Regional Committee of IOSCO⁶.

Secondly, the competence to hand down administrative fines and penalties no longer rests with the Management Committee but will henceforth lie with a Sanctions Committee. The Sanctions Committee was established by Article 48, § 6, of the Law of 2 August 2002, inserted by the aforementioned Programme Law.

2 Programme Law of 27 April 2007, Belgian Official Gazette 8 May 2007, p. 25153.

3 See CBFA Annual Report 2005, p. 18.

4 Articles 162-191 of the Programme Law of 27 April 2007, Belgian Official Gazette 8 May 2007.

5 Article 49, § 9, of the Law of 2 August 2002, inserted by Article 164, 6°, of the Programme Law of 27 April 2007.

6 See the present report, p. 97.

MANAGEMENT COMMITTEE



1 2 3 4 5
 6 7 8

Management Committee

- 8 Jean-Paul **Servais**, Chairman
- 2 Henk **Becquaert**
- 3 Rudi **Bonte**
- 6 Marcia **De Wachter**⁷
- 1 Michel **Flamée**, Deputy Chairman
- 7 Françoise **Masai**⁷
- 4 Peter **Praet**⁷

Secretary General

- 5 Albert **Niesten**

⁷ Also member of the Board of Directors of the National Bank of Belgium.

B. MANAGEMENT COMMITTEE

Eddy Wymeersch's six-year term of office as Chairman, which began on 1 April 2001, reached its end on 31 March 2007. By the Royal Decree of 25 April 2007, Jean-Paul Servais was appointed Chairman of the CBFA with effect from 20 April 2007.

The Programme Law of 27 April 2007 gives the King the possibility, in the event of a separation of the functions of chairman of the CBFA's Management Committee and chairman of the CBFA's Supervisory Board, of issuing a decree, upon consultation with the Council of Ministers, renewing the mandates of the members of the Management Committee and of the Secretary General for a renewable term of six years. This was done by means of the Royal Decree of 27 April 2007⁸.

The mandates of the Chairman and the members of the Management Committee and of the Secretary General expire when they complete their 65th year.

In 2007 the Management Committee met 93 times, of which 44 were by means of a written procedure⁹.

⁸ See the Belgian Official Gazette of 31 May 2007, p. 29414.

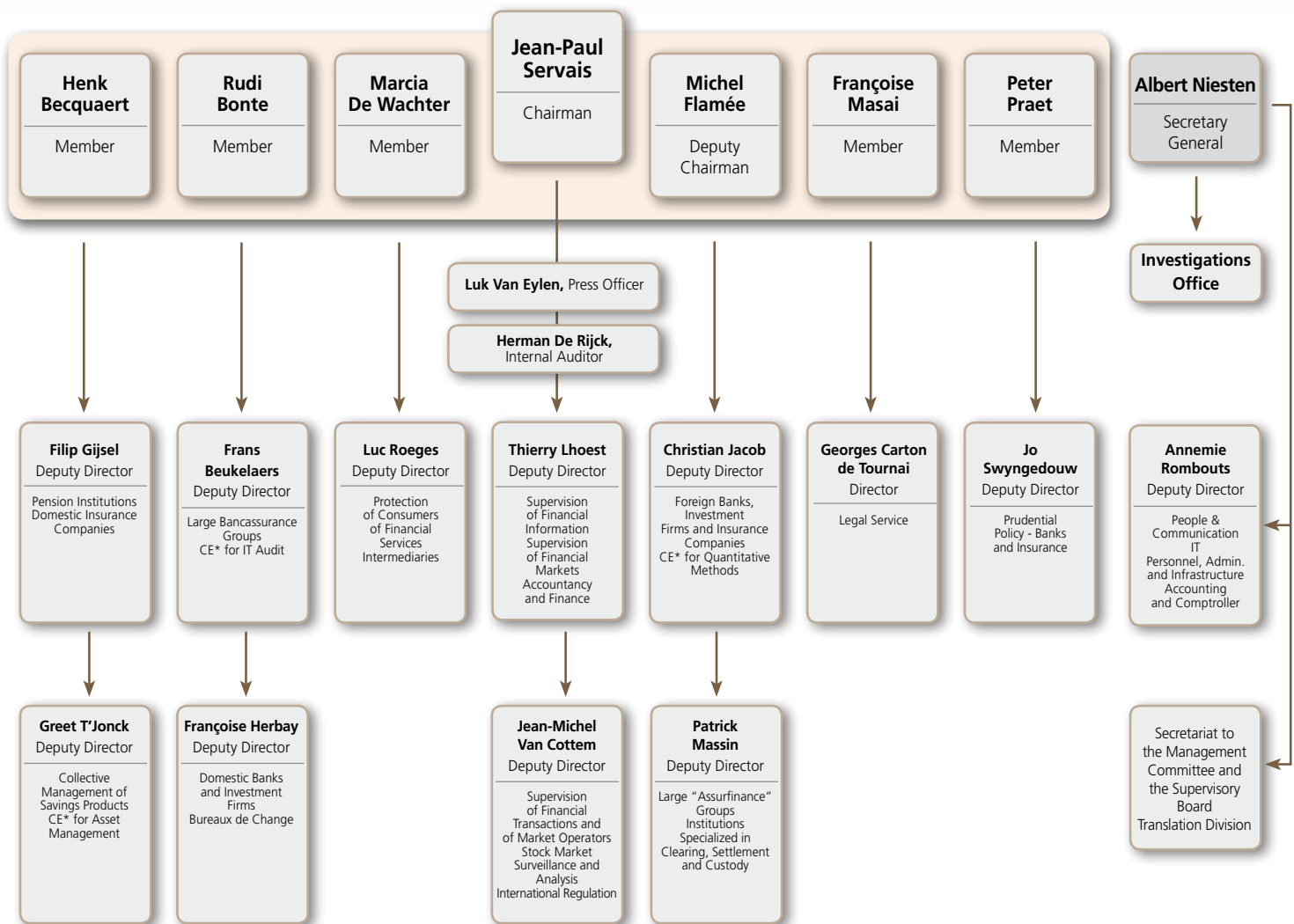
⁹ The Management Committee also took part in 9 meetings of the Financial Stability Committee, together with the Board of Directors of the National Bank of Belgium.

C. ORGANIZATION CHART OF THE DEPARTMENTS AND SERVICES¹⁰

Organization chart

In accordance with Article 54 of the Law of 2 August 2002, the organization chart of the CBFA was approved by the Supervisory Board upon recommendation of the

Management Committee. At its meeting of 31 May 2007, the Supervisory Board approved the following new organization chart:



* Centre of Expertise

10 Situation as at 1 January 2008.

Note on the organization chart

Towards an intersectoral approach to prudential supervision

A thorough reorganization was carried out in 2007.

Previously, responsibility for prudential supervision was divided among departments and services on the basis of the supervisory status of the institutions and undertakings in question. Thus, responsibility for supervising credit institutions lay with one department, while that for supervising insurance companies lay with another. However, this method of organization was becoming difficult to reconcile with the changing shape of the financial institutions, their despecialization, and in particular the emergence of so-called "bancassurance" and "assurfinance" groups, consisting of both credit institutions and insurance companies as well as investment firms.

The need to define in more detail and centralize responsibilities with regard to groups and the companies within them and the need to ensure convergence of supervision in all group components have been the driving force behind an internal reallocation of responsibilities. From now on, bancassurance or assurfinance groups will have just one supervisory department to deal with, regardless of the activities – whether banking or insurance services – of the different companies in the group.

Likewise, out of a concern to ensure the coherence of the supervisory approach, the supervision of foreign credit institutions and insurance companies has been centralized.

In addition to this reallocation of responsibilities and dossiers, three specific centres of expertise have been created whose field of action covers all the supervisory domains: asset management, IT audit and quantitative methods.

Finally, the supervision of intermediaries, formerly an activity of the department responsible for the prudential supervision of insurance companies, has been transferred to the department which was in charge of consumer protection.

In total, the reorganization has affected 106 employees (full-time equivalent), or more than one-third of the workforce in the operational departments.

It has enabled old gaps to be bridged, introducing multidisciplinary teams and hence maximizing the benefits of the integration of the banking supervisory body (CBF) and the insurance supervisory body (OCA).

It has also helped define more closely the operational responsibilities of the members of the Management Committee, and so increased the efficiency of the decision-making process.

Centres of Expertise

Centre of Expertise for IT audit¹¹

The Centre of Expertise for IT audit is responsible for assessing IT risks on a transversal basis at financial undertakings under supervision. For this purpose, it has a team of IT inspectors who carry out on-site checks to assess the management, continuity, security, development and, where applicable, outsourcing of IT systems. In the assessment of these aspects, the appropriateness of the organizational structure and internal control is examined in the light of the nature and scope of the activities. Among other things, this is done by means of IT scans, which identify the IT risks through short, targeted on-site investigations. Specific inspections are also performed with respect to IT support for the Basel II models, IT reorganization projects or IT incidents.

The Centre of Expertise also contributes to the development of policy and terms of reference for appropriate IT structure and controls, and to the operational crisis management initiatives of the Financial Stability Committee. In addition, it deliberates with its counterparts in other countries about IT risks and technical and methodological supervision aspects.

11 See the present report, p. 50 and 53.

Centre of Expertise for quantitative methods¹²

The Centre of Expertise for quantitative methods (ECM) is responsible for validating the risk models of banks, investment firms, management companies of undertakings for collective investment (UCIs), insurance companies and institutions for occupational retirement provision. In general terms, members of the Centre of Expertise are involved in work on the quantitative aspects of risk management.

The Centre's members are specialists who have previously worked on the supervision of either banks or insurance companies.

The purpose of setting up this expertise centre is, in line with the overall approach behind the CBFA's internal reorganization, to ensure the integration, harmonization and consistency of supervision, and in particular of the methodological approach and the risk models for all institutions which use such models. Bringing together the specific resources which are essential for the performance of these tasks means that their deployment can be optimized in the light of risk-based priorities, evaluated transversally. It means that account can more effectively be taken of structural changes in prudential supervision entailed by the growing importance and complexity of risk management models.

The role of the Centre's members is to evaluate risk models and test them against the qualitative and quantitative criteria used by the CBFA for their approval. As these activities have to take account of the specific characteristics of the institution's activities and structure, and cannot be considered separately from the general assessment of risk management, the members of the ECM work closely with the relevant supervisory department. This means that, for the performance of their tasks of validation, they are functionally integrated into the operational supervision team in question. They are expected to cooperate with the Prudential Policy Department on the development of the general policy and criteria for risk model validation, and with the joint consultation units on the risk models of the Prudential Policy Department and the operational supervision departments. These consultation units support the preparation of policy and the development of good practices, and have an interpretive and advisory function with regard to model validation.

Centre of Expertise for collective asset management

The Centre of Expertise for collective asset management (ECAM) aims to promote cross-departmental cooperation and knowledge dissemination with regard to the various aspects of collective asset management.

ECAM ultimately intends to develop its activities in the following three domains.

First, ECAM will focus on the multidepartmental coordination of the domains in which the supervision of collective asset management products and the prudential or behavioural supervision of collective asset managers or financial intermediaries come together or overlap.

Product supervision of UCIs and supervision of occupational retirement provision funds are closely related to the supervision of the collective asset management activity of the financial intermediaries to whom UCIs or occupational retirement provision funds delegate management tasks (credit institutions, investment firms and UCI management companies). A similar link also exists between insurance products and the management of an insurance company's technical reserves.

In the exercise of this coordinating task ECAM intends, within the limits of the existing regulations, to pay particular attention to creating a level playing field with regard to distribution rules for economically substitutable products (structured products, UCIs, class 23 products, etc.).

Secondly, ECAM plays a coordinating role with regard to international consultation within the CESR Expert Group on Investment Management, as well as with regard to national consultation with the asset management sector, represented by the Belgian Asset Managers Association (BEAMA).

Finally, ECAM works to disseminate knowledge internally about trends in asset management and related product developments.

¹² See also this report, p. 54.

Consultation committees

In addition to the development of the three expertise centres mentioned earlier, committees have been set up which bring together the various departments responsible for the supervision of financial institutions, and where important topics and decisions are prepared. This ensures an efficient and transparent decision-making process within the Management Committee and the transversal streamlining of the supervision of these institutions.

Committee P

In Committee P (the P stands for “prudential”), all important themes are dealt with which relate to prudential supervision and for which consultation among departments is deemed appropriate. The committee meets every month, and if necessary several times a month, and is chaired by the Chairman of the CBFA. The committee is composed of those members of the Management Committee who are responsible for prudential policy and prudential supervision.

The Rules of Conduct Committee

This committee is chaired by the Chairman of the CBFA and is composed of those members of the Management Committee of the CBFA who are operationally concerned with policy on what are known as the “rules of conduct”.

The Clearing & Settlement Committee

This committee is chaired by the Chairman of the CBFA and the Governor of the NBB. It organises coordination and synergy between the CBFA and NBB on policy relating to and supervision of clearing and settlement institutions.

Tasks of the legal service and agreement on the areas of competence of the member of the Management Committee responsible for the legal service

The overall task of the legal service is to monitor the legal quality of the CBFA's activities as regards both individual cases and general topics, as well as of the legislative and regulatory texts prepared by the CBFA.

In carrying out its tasks, the legal service covers all legal matters pertaining to the CBFA's areas of competence. These matters are of considerable variety, extending as they do (to mention only the principal ones in broad terms) to the following areas of supervisory law: banking and financial services, secondary markets, securities, insurance, undertakings for collective investment and supplementary pensions. The exercise of its powers also brings the CBFA into contact with other important branches of the law: in addition to the ever-present company law and public and administrative law, branches such as general criminal law, human rights law, social law, consumer law and protection of privacy law play an increasing role in the work of the legal service.

More particularly, the legal service has the following four main tasks:

- ◆ First and foremost to provide, as appropriate, legal advice or assistance in individual dossiers to the Management Committee and to the other departments of the CBFA, and thereby to contribute to the quality of the institution's decision-making process.
- ◆ To prepare numerous legislative or regulatory texts whose preparation is entrusted by the government to the CBFA within the scope of the latter's competences, especially the texts transposing European directives. The legal service carries out this task within the CBFA in cooperation with the supervisory departments concerned.
- ◆ To contribute its expertise to the development of supervisory policies with an important legal dimension, as well as in providing solutions to questions of a general legal nature or exploring general legal topics.
- ◆ To play a part in representing the CBFA in international activities where these have a pronounced legal character or where a member of the legal service has special expertise in the matter in question.

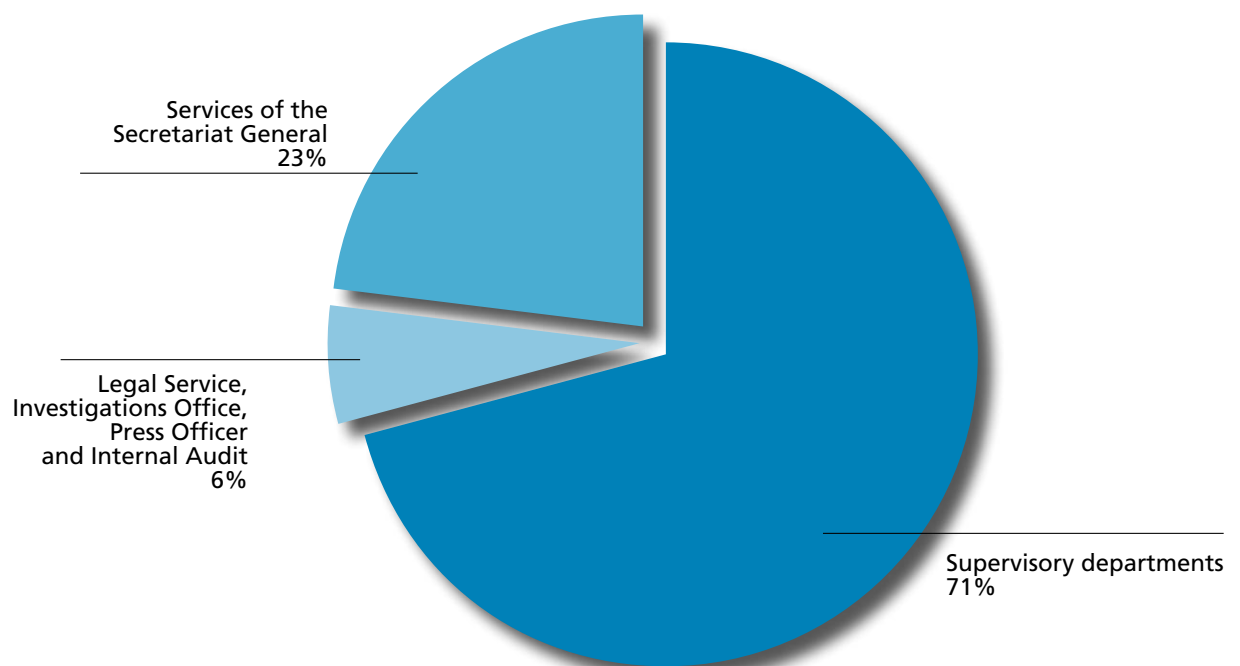
The legal service is also charged with coordinating the drafting of the Management Committee's annual report and with ensuring its legal coherence.

Finally, the legal service handles any lawsuits in which the CBFA is involved.

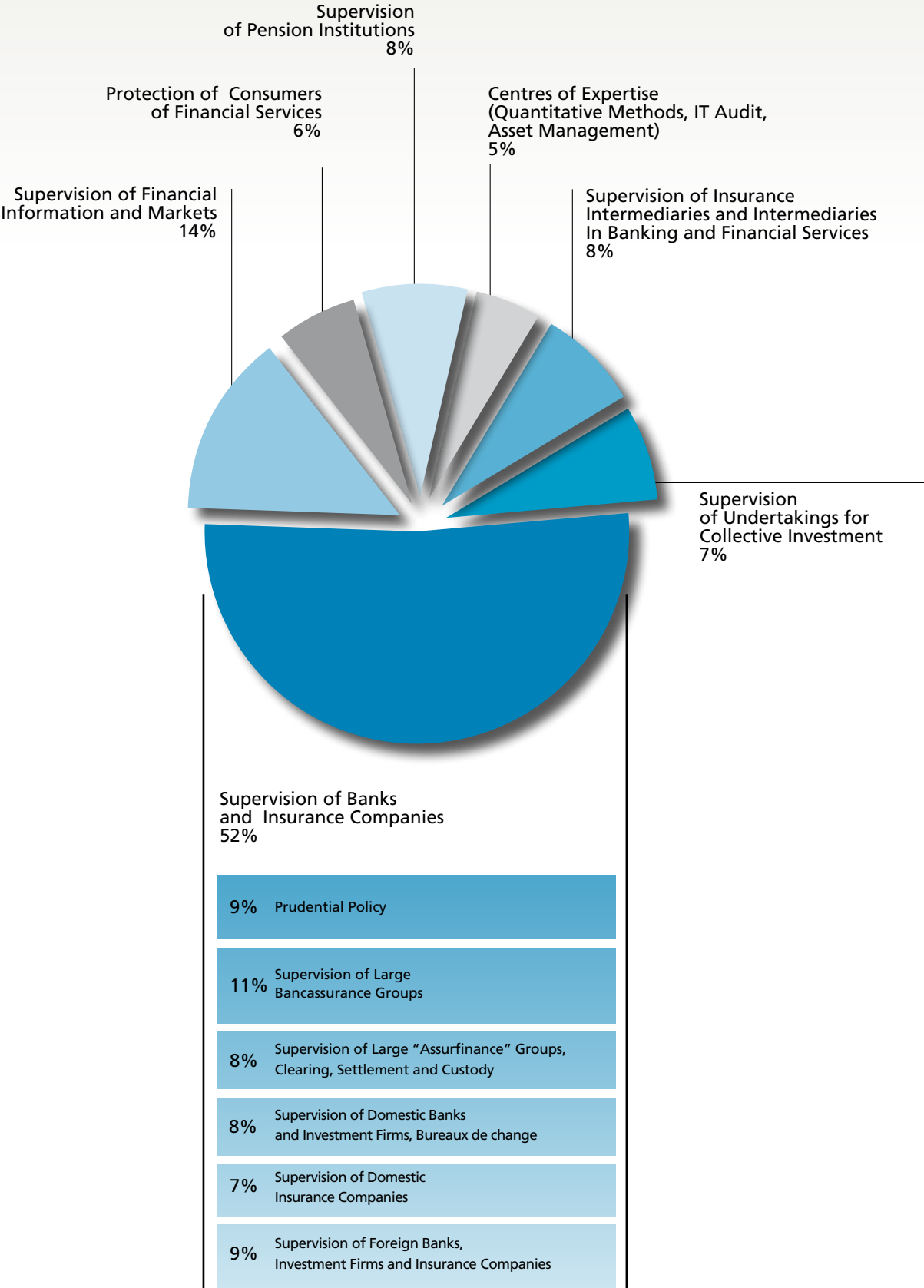
The allocation of responsibility for the legal service to a member of the Management Committee who is also a member of the National Bank of Belgium has been defined by an agreement between the member concerned and the Chairman of the Management Committee. Under the terms of this agreement, the director of the legal service reports to the Chairman in all matters where a conflict of interest could arise on the part of the member concerned. This would include, for instance, questions relating to the management and status of the CBFA and its personnel, to cooperation with the NBB with a view to synergies and in the context of supervision of settlement systems, as well as to the NBB which, as a listed undertaking, is subject to the supervision of the CBFA.

Breakdown of the staff across the various departments and services

Breakdown of the entire staff complement



**Breakdown of the supervisory departments
according to supervisory tasks**



SUPERVISORY BOARD¹³



1 2 3 5 7 8 9 10 11
4 6
12 13 14 15

14 Eddy **Wymeersch**, **Chairman**

2 Jean-François **Cats**

11 Herman **Cousy**

8 Eric **De Keuleneer**

10 Christian **Dumolin**

13 Martine **Durez**¹⁴

3 Jean **Eylenbosch**

9 Guy **Keutgen**

15 Hilde **Laga**

6 Didier **Matray**¹⁴

5 Jean-Paul **Pruvot**

4 Michel **Rozie**

12 Marnix **Van Damme**

1 Dirk **Van Gerven**

7 Pierre **Wunsch**¹⁴

Auditor

André **Killesse**¹⁵

¹³ Status as at 31 December 2007.

¹⁴ Appointed in their capacity as members of the Council of Regency of the National Bank of Belgium.

¹⁵ Appointed in accordance with Article 57, second paragraph, of the Law of 2 August 2002 on the supervision of the financial sector and on financial services.

D. SUPERVISORY BOARD

Pursuant to the organic changes introduced by the Programme Law of 27 April 2007, two members of the Supervisory Board were appointed by Royal Decree of 27 April 2007. The same Decree also replaced one member. The mandates of the members and of the Chairman of the Supervisory Board end when they have completed their 67th year.

In application of Article 48, § 1, 4°, of the Law of 2 August 2002 and within the scope of its competences, as set out in the said Law, the Supervisory Board of the Banking, Finance and Insurance Commission (CBFA), on the proposal of the Management Committee, approved the present annual report at its meeting of 16 April 2008.

Report on the exercise by the Supervisory Board of its legal powers

During 2007 the Supervisory Board, besides the particular topics mentioned below, deliberated on a wide range of subjects relating to the objectives underlying financial supervision, such as the stability of financial institutions and the protection of investors, depositor and insurance policyholders. In all its activities, the Board benefited from an open and constructive dialogue with the members of the Management Committee and from the availability of the latter during Board meetings.

General supervision of the operations of the CBFA

Appointment of the Chairman (of the Management Committee)

In the absence of its Chairman, the Supervisory Board decided on the procedure to be followed for the appointment of the Chairman of the Management Committee. In response to the request from the relevant ministers, the Board issued a favourable opinion on the proposal to appoint Jean-Paul Servais as Chairman of the CBFA. In the light of the dossier that was presented, the Board likewise issued a favourable opinion with regard to the new member, Henk Becquaert, after the latter's hearing before the Board.

Reappointment of members of the Management Committee and of the Secretary General

The Programme Law of 27 April 2007 separates the functions of Chairman of the Management Committee from those of the Chairman of the Supervisory Board. The Law also authorizes the King to reappoint the members of the committee and the Secretary General upon the separation of the functions of Board Chairman and Committee Chairman. Accordingly the Board, pursuant to Article 48, § 1, 6°, of the Law of 2 August 2002, issued a favourable opinion on the proposal to reappoint the members of the committee and the Secretary General.

The workings of the Board

Given the separation of the chairmanship of the Supervisory Board and of the Management Committee, the Board paid particular attention to the way it would work in the future. In this connection, it specified the key elements of the way in which it plans to exercise its supervisory powers.

Approval of internal regulations and organization chart

In view of the changes to the composition of the Management Committee, and on the latter's unanimous proposal, on 31 May 2007 the Board approved the new organization chart and drew up new internal regulations. It placed the emphasis on prioritizing operational supervision, on simplifying procedures and on working to provide a single access point for companies falling within the scope of multiple supervisory regimes. The internal regulations drawn up by the Board were approved by Royal Decree on 7 June 2007.

Code of ethics

As it does every year, the Board took cognizance of a number of cases in which the code of ethics came into play. Among other things, these included a case of options being allocated to a person who was associated with a person subject to the code and who required prior permission from the Board.

Approval of the financial statements, annual report and budget

On 21 March 2007, on the proposal of the Management Committee, the Board approved the financial statements for 2006.

On 19 April 2007 the annual report for 2006 was approved.

On 13 December 2007 the budget for 2008 was approved. The Board expressed the wish that in future the budget be placed in a long-term perspective, taking account of the policy developed by the Management Committee. On the income side, the Board agreed to the adjustment of certain contributions as a way of helping ensure the equilibrium among the contributory sectors.

New sanction procedures

Article 48, § 6, of the Law of 2 August 2002, inserted by the Law of 27 April 2007, stipulates the setting up of a Sanctions Committee to decide on the imposition of administrative fines or penalties. In accordance with the requirements of Article 48, the Supervisory Board appointed the Sanctions Committee's members, who are the Chairman of the Board and six of its members. The Sanctions Committee functions as an autonomous body within the CBFA.

The Board also deliberated on the workings of the Sanctions Committee, the procedure to be followed, the Committee's legal status and its relationship to other bodies within the CBFA, including the Board and the Management Committee.

Internal auditor's reports

The Management Committee reported to the Board on the activities of the internal audit service. In accordance with the internal audit charter, the Committee reports to the Board on important findings from the investigations of the internal audit service and on the implementation of the measures devised by the Committee in response to those findings. The Committee also passed on to the Board the full reports on the financial audits. Two financial audits and three operational audits were performed by the internal audit function. The operational audits relate to processes used in virtually all departments.

The internal audit schedule for the next operating year was submitted to the Board, which welcomed the fact that the schedule was more focused on specific themes, covering a number of operational risks involved in the activities of the CBFA.

Discussions of topics of general interest

Opinion on draft legislation and regulations

The Board deliberated on various draft laws, decrees and regulations, making numerous suggestions for their adaptation and improvement. It expressed the wish to be shown draft texts at an early stage, so that its input can have an appropriate impact on the development of the submitted texts.

Thus the Board considered the policy options in the preliminary draft law on takeover bids and in the draft decrees on takeover bids and on public buyout bids. It also deliberated on the transposition of the transparency directive, with regard to both security issuers' information obligations and the disclosure of major shareholdings.

The Board additionally obtained explanations regarding the draft decrees transposing the Markets in Financial Instruments Directive. In this connection, it drafted an opinion to the CBFA Management Committee on the draft regulations regarding the organizational requirements for institutions offering investment services. Here, the Board regards it as useful for the principles behind the regulations to be explained in detail via circulars or memos by the CBFA. In the light of the general rules on investor protection contained in the directive, the Board asked the Management Committee to pay special attention to the need to reinforce the investor protection provisions, and in particular the provision of accurate information to the financial consumer and the duty of care.

Subprime crisis

The Board devoted a number of sessions to analyzing and studying the difficulties arising due to developments on the subprime market. The Board compared the awarding of mortgage loans in the United States with the norms applied in Belgium. However, Belgian institutions are not fully protected as buyers against these risks. The issue of rating agencies was discussed, partly in the light of the international work in which various members of the CBFA are involved. Attention was also devoted to the effects on money market funds. The Board expressed the wish to be kept informed about these developments, pointing out the need for a robust risk policy at all institutions.

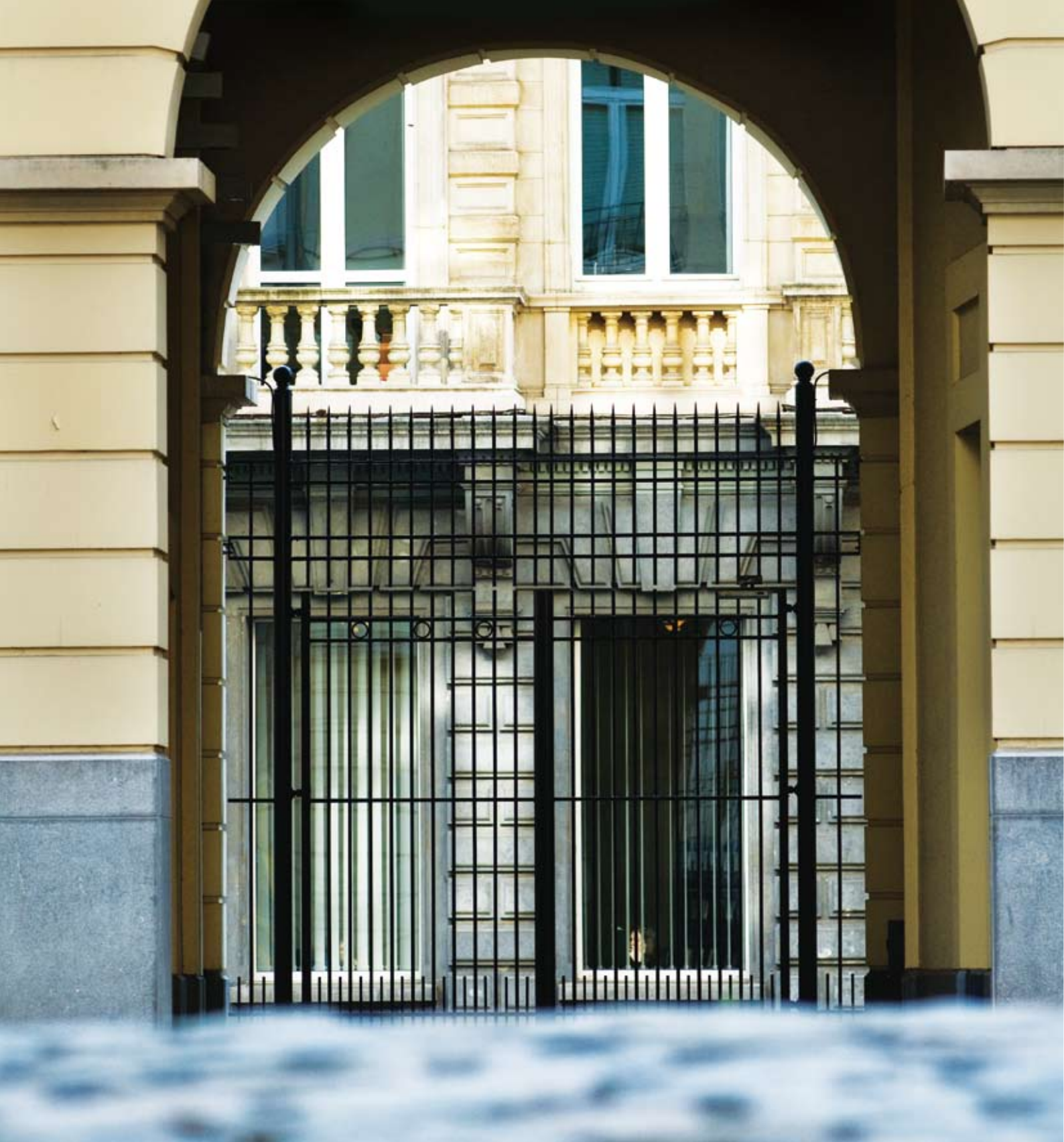
Principles-based regulation

At the request of a number of members, there was also deliberation about principles-based regulation, an approach which is receiving considerable attention in the United Kingdom in particular. Although the Supervisory Board recognizes the advantages of such an approach – such as the imparting of responsibility to bank boards, flexibility, more limited possibilities for evasion – it believes that a combination of this approach with more precise rules will remain necessary, partly in view of obligations under European legislation.



The Supervisory Board met eight times and used the written procedure three times. Under the Programme Law of 27 April 2007, the number of members of the Board was increased by two. On the occasion of the appointment of the two new members and the replacement of one member, an induction session was organized in which information was provided for the Board members about the institutional structure of the CBFA, and explanation was given about a number of relevant aspects of the workings of the institution.

16 Voir le présent rapport, p.25.



CHAPTER 2

REPORT ON THE FULFILMENT BY THE CBFA OF ITS STATUTORY SUPERVISORY TASKS

A. Supervision

Overview of the institutions subject to supervision

Number of institutions and undertakings subject to supervision by the CBFA * ** ***

	governed by Belgian law	branches governed by the law of a non-EEA country	branches governed by the law of an EEA country	Free provision of services	
				EEA	non-EEA
<i>Institutions subject to supervision of a "prudential" type</i>					
Credit institutions	52	9	49	522	0
Investment firms	49		17	1 560	72
Insurance companies	106		50	791	
Management companies of undertakings for collective investment (UCI)	7	2		18	
Institutions for occupational retirement provision	277			3	
Specialised firms (clearing, settlement & custody)	2				
Financial holding companies	10				
Electronic money institutions	4				
<i>Institutions subject to a type of supervision other than "prudential"</i>					
UCI (number of UCI subfunds included)	179 (1 844)			15 (108)	216 (2 258)
Listed companies	146				
Market operators	2				
Regulated markets and MTFs	11				
Derivatives specialists governed by Belgian law	2				
Bureaux de change	20				
Investment advice companies	2				
Mortgage companies	194		6	14	
Insurance intermediaries	22 884			5 460	
Intermediaries in banking and financial services	4 387				
Intermediaries in reinsurance	7				
Supplementary pensions (IORPs + Insurance)	308				

* Situation as at 31/12/2007.

** In addition to the institutions and companies in the financial sector that are subject to ongoing supervision by the CBFA, the latter also supervises procedures and/or information provision with regard to transactions on the financial markets.

*** A single institution subject to several types of supervisory status is counted more than once in this table.

1. Prudential supervision

1.1. Institutions subject to prudential supervision

Given below are details of the financial institutions subject to prudential supervision and active in Belgium.

Credit institutions

	Number as at 31.12.2000	Number as at 31.12.2006	Number as at 31.12.2007
A. Banks authorized in Belgium	85	59	61
1. Banks governed by Belgian law	72	51	52
Banks <i>(among which the Federation of Credit Institutions)</i>	43 (1)	33 (1)	34 (1)
Savings banks <i>(among which credit associations that form part of the professional credit network)</i>	25 (10)	15 (9)	15 (9)
Securities banks	3	2	2
Municipal savings banks	1	1	1
2. Branches in Belgium of banks of a State that is not a member of the European Economic Area	13	8	9
B. Branches established in Belgium of credit institutions of another Member State of the EEA	34	46	49
Total number of banks established in Belgium	119	105	110
Financial holding companies governed by Belgian law	10	7	7
Credit institutions of another Member State of the EEA that are engaged in the free provision of services	342 (235)*	506 (332)*	522 (342)*

In 2007, a new authorization as credit institution was granted to an enterprise previously with the legal status of stockbroking firm. In addition, a new branch was opened by a bank from outside the European Economic Area (EEA).

Cross-border activity continued to expand, notably through the establishment of a new branch and the further increase in the free provision of banking services from another Member State.

* Numbers between brackets indicate the credit institutions that accept cash deposits and other repayable monies from the public.

Investment firms

	Number as at 31.12.2000	Number as at 31.12.2006	Number as at 31.12.2007
A. Investment firms with an authorization in Belgium	83	53	49
1. Stockbroking firms	44	27	26
2. Portfolio management companies*	32	22	-
3. Financial instrument broking firms*	4	1	-
4. Financial instrument placing firms*	3	3	-
5. Portfolio management and investment advice companies	-	-	23
6. Branches established in Belgium of investment firms of a State that is not a member of the European Economic Area	0	0	0
B. Branches established in Belgium of investment firms of another Member State of the EEA	9	17	17
C. Investment firms of another Member State of the EEA that are engaged in the free provision of services	843**	1 241	1 560
D. Investment firms governed by the law of States that are not members of the EEA, and proposing to engage in the free provision of investment services in Belgium	52	69	72
E. Investment advice firms of Belgian law with a temporary licence until 31 March 2008	4	3	2
F. Derivate specialists governed by Belgian law	-	1	2

Implementation of MiFID¹⁷ has led to the amendment of the Law of 6 April 1995 on the legal status and supervision of investment firms and to the adaptation of the various

legal statuses of investment firms. Three legal statuses have been abolished: those of investment advice firm, of financial instrument placing firm and of financial instrument

* These legal statuses have been abolished in consequence of the amendments to the Law of 6 April 1995 made as a result of the transposition of MiFID.

** Data as at 30 June 2000.

17 Directive 2004/39/EC of 21 April 2004 on markets in financial instruments.

broking firm. Just two legal statuses of investment firm remain under Belgian law, those of stockbroking firm licensed to engage in the entirety of investment services and ancillary activities, and of portfolio management and investment advice company licensed to offer only a restricted number of investment services.

These changes have had an impact on the number of investment firms, which fell to just 49 as at the end of 2007.

A notable feature was the sharp rise in the number of investment firms from the EEA that are engaged in the free provision of services, a tendency that the introduction of MiFID will probably reinforce in the course of the years ahead.

UCI management companies

	Number as at 31.12.2005	Number as at 31.12.2006	Number as at 31.12.2007
A. UCI management companies with an authorization in Belgium	5	6	7
1. UCI management companies governed by Belgian law	5	6	7
2. Branches established in Belgium of UCI management companies of a State that is not a member of the European Economic Area	0	0	0
B. Branches established in Belgium of UCI management companies of another Member State of the EEA	0	2	2
Total number of UCI management companies established in Belgium	5	8	9
UCI management companies of another Member State of the EEA that are engaged in the free provision of services	4	10	18

The legal status of UCI management company was introduced by the Law of 20 July 2004 on certain forms of collective management of investment portfolios. In 2005, companies that, within the big banking groups, were responsible for collective management and that previously enjoyed the legal status of portfolio management company had their legal status changed to UCI management

company. The number of management companies increased by one in both 2006 and 2007. It is notable that in this sector, too, cross-border activity rose in 2007, though mostly only in respect of individual portfolio management or investment advice services offered in Belgium by the enterprises concerned.

Clearing institutions and institutions assimilated to clearing institutions

	Number as at 31.12.2000	Number as at 31.12.2006	Number as at 31.12.2007
A. Clearing institutions governed by Belgian law	1	1	1
B. Institutions assimilated to clearing institutions	0	1	1
1. Institutions assimilated to clearing institutions and governed by Belgian law	0	1	1
2. Institutions assimilated to clearing institutions and in the form of branches in Belgium of foreign institutions	0	0	0

2007 saw no changes in the list of clearing institutions governed by Belgian law (CIK SA/NV) and of institutions

assimilated to clearing institutions (Euroclear SA/NV).

Insurance companies

	Number as at 31.12.2000	Number as at 31.12.2006	Number as at 31.12.2007
A. Insurance companies with an authorization in Belgium	136	107	106
1. Insurance companies governed by Belgian law	130	107	106
Limited companies (<i>sociétés anonymes/naamloze vennootschappen</i>)	98	77	75
Cooperative companies	7	6	7
Mutual insurance associations	21	18	18
Various	4	6	6
2. Branches established in Belgium of insurance companies of a State that is not a member of the EEA	6	0	0
B. Branches established in Belgium of insurance companies of another Member State of the EEA	73	54	50
Total number of insurance companies established in Belgium	209	161	156
Insurance companies of another Member State of the EEA that are engaged in the free provision of services	598	762	791

The situation as at the end of 2007 proved to be confirmation of the general trend observed over several years of a reduction in the number of companies.

Overall, the total number of companies established under Belgian law fell by just one.

2007 likewise saw the number of foreign branches further decline, by 4, to a total of 50.

The number of companies authorized in Belgium to engage in the free provision of services again increased and now stands at 791.

In 2007, as regards companies established under the form of *société anonyme/naamloze vennootschap* (limited company), three new were authorized, two renounced their authorization and three were dissolved.

Additionally, a new cooperative company was authorized in 2007.

Institutions for occupational retirement provision

	Number as at 31.12.2006	Number as at 31.12.2007
A. Authorized and registered institutions for occupational retirement provision governed by Belgian law	281	277
Authorized institutions for occupational retirement provision	244	251
1. Institutions for occupational retirement provision with solely Belgian activities	244	247
2. Institutions for occupational retirement provision with Belgian and/or cross-border activities	0	4
Registered institutions for occupational retirement provision**	37 (20)*	26 (20)*
B. Institutions for occupational retirement provision engaged in cross-border activities in Belgium	0	3

* Amounts between brackets refer to the number of internal funds.

** Article 19 of the Royal Decree of 14 May 1995 on the application to welfare institutions of the Law of 9 July 1975 on the supervision of insurance companies, in conjunction with Article 156 of the Law of 27 October 2006 on the supervision of institutions for occupational retirement provision.

As at 31 December 2007, there were 251 authorized institutions for occupational retirement provision (of which 6 in the process of liquidation) and 26 registered (among which 20 internal funds). During the year under review, 16 institutions were authorized (of which 12 registered for several years and two new ones of the “pension fund”¹⁸ type), 6 were in the process of liquidation (one more than in 2006) and 9 were fully liquidated.

With effect from 2007, Belgian legislation authorized institutions for occupational retirement provision (IORPs) to engage in cross-border activities. In this respect, four institutions that were already authorized notified the CBFA of their intention to pursue an activity in another Member State of the EEA, at this juncture in the Grand Duchy of Luxembourg. Moreover, three institutions authorized in respectively the Grand Duchy of Luxembourg, Ireland and the United Kingdom notified the CBFA of their intention to manage occupational retirement provision schemes in Belgium.

1.2. Prudential policy

1.2.1. Introduction

The changes implemented in the CBFA's organization chart during 2007 have led¹⁹ to a more coherent application of regulations and to the equal treatment of all institutions subject to prudential supervision, irrespective of the sector to which they belong. This cross-sector harmonization of the prudential approach and regulation was boosted by the integration of the insurance aspect into the activities of the Prudential Policy Department.

It is of crucial importance for a supervisory authority to have a risk analysis instrument to hand in order to be able to determine each institution's risk profile and to set out prudential action and priorities. If that goes without saying within the financial sector, it may be expected that an integrated supervisor also display a cross-sector coherence regarding risk analysis and supervisory approach. Moreover, given the structure of the Belgian financial market, characterized by a high concentration of financial activities among financial services groups, a coherent cross-sector prudential approach is inescapable in respect of efficient supervision at consolidated or group level.

2007 was characterized by an outbreak of turbulence on the financial markets during the summer, which dominated the rest of the year and, at national level, required a series of measures and initiatives to be taken with a view to monitoring and managing the situation²⁰. At international level, the financial turmoil dominated the agenda of international forums to a significant degree. The expectation is that the period ahead will continue to see supervisory authorities giving a great deal of attention to the analysis of the possible causes of that turmoil and to drawing lessons from it. Furthermore, there are a number of themes that are regarded as particularly relevant in gaining an insight into the mechanisms that have threatened the stability of the financial sector in general and individual institutions in particular. The aim is to discover whether specific market practices reinforce instability and whether adjustments are desirable or necessary to promote stability. The following are among the main points of attention:

- ◆ analysis of the risks linked to financial institutions whose economic model consists in granting credit with a view to reselling these assets (the so-called “originate and distribute” model);
- ◆ attention to liquidity management and supervision, and particularly to the necessity for appropriate “stress testing and contingency funding liquidity” plans;
- ◆ analysis of the quantitative and qualitative development of the market for credit risk transfer (CRT);
- ◆ analysis of the robustness of advanced risk management systems in times of tension on the markets;
- ◆ analysis of the prudential treatment (under Basel II) of securitization transactions, with particular attention to the treatment of liquidity lines granted;
- ◆ the problems surrounding the “valuation” of complex financial instruments, particularly in tense market circumstances; linked to this is the concern for the provision of appropriate information about the financial risks that an institution runs.

18 Activities contemplated by Article 55, first paragraph, 2°, of the Law of 26 October 2006 on the supervision of institutions for occupational retirement provision.

19 See the present report, p. 18-19.

20 See the present report, p. 48-49.

During the coming period, continued attention will be paid in various international forums (including the Basel Committee and the Financial Stability Forum (FSF)²¹) to analysing the causes of the financial instability that has characterized the markets since the summer of 2007. A programme has also been prepared by the European Commission to draw the necessary lessons from this period of turbulence. Initial conclusions will be made known during 2008, which may lead to recommendations for appropriate liquidity management (see below). However, no broad range of recommendations of regulations is expected to be promulgated in the short term, as these will require a deeper insight into and thorough analysis of the mechanisms that might have prompted events. Furthermore, caution is enjoined in the drawing of conclusions and it would appear at least premature to state that the components of the Basel II framework – for example, the treatment of securitization transactions – ought not to be adjusted for periods of uncertainty on the financial markets. Indeed, at the time tensions arose, the Basel II framework was not yet in place for banks that were applying the so-called advanced methods for calculating the own funds requirements for credit and operational risk.



At an institutional level, 2007 was characterized by preparation by the three so-called Lamfalussy Committees (CEBS, CEIOPS and CESR²²) of the evaluation of the Lamfalussy structure within the EU. The contribution of the three committees to the debate has been, on the one hand, to expand further the arsenal of instruments geared to a further convergence of the prudential practices of European supervisory authorities (in particular, as regards mediation, impact assessment, peer review and the development of joint training and instruction initiatives, etc.) and, on the other, to participate through their views in the further development of the supervisory framework within the EU. In this respect, the committees are convinced that, even within the existing institutional framework, further steps can be taken regarding convergence with a concrete impact on supervision – for example, concerning the approach for the supervision of cross-border financial groups.

The European institutions have not yet arrived at any definite conclusions and, in this respect, more controversial issues on the table are the (legal) status of the Lamfalussy

committees, the (general) call for decision-making on the basis of a qualified majority and the reinforcement of accountability. In December 2007, Ecofin approved a plan for decision-making in 2008 on:

- ◆ the role of the three Lamfalussy committees;
- ◆ the introduction of the European dimension into the mandates of national governments;
- ◆ concrete timing for EU-harmonized reporting formats;
- ◆ the better operation of colleges of supervisors;
- ◆ a broad scope for the delegation of supervisory tasks (on a voluntary basis);
- ◆ the strengthening of procedures for crisis management.

1.2.2. Priorities and points for attention

In 2007, there was a relative pause at the prudential level as regards new international regulatory initiatives. The CBFA's attention shifted to a consistent implementation of various projects in prudential practice. As already indicated, the turmoil on the financial markets from the summer of 2007 on has demanded a great deal of attention.

At national level, the emphasis was on:

- ◆ the process of transposing MiFID and its implementing measures and the preparation for their implementation;
- ◆ the completion of the process of transposing the Capital Requirements Directives (CRD), which will result in significant amendments to the laws on supervision;
- ◆ the process of validation of the models used by banks and intended for calculation of the own funds requirements under Basel II.

Below, the major developments per theme are commented on, with both the national and international dimensions being sketched out.

21 An international forum consisting of the supervisory authorities and government representatives of the G7 and other countries. Also represented there are such international forums and standard-setters as the Basel Committee and the IAIS. The FSF concerns itself with developments in respect of supervision and financial stability.

22 Abbreviations of the English names, referred to further as the 3L3 committees.
CEBS: Committee of European Banking Supervisors.
CEIOPS: Committee of European Insurance and Occupational Pensions Supervisors.
CESR: Committee of European Securities Regulators.

Risk-based capital/Risk management

Banks and investment firms

Within the Basel Committee and more particularly the Policy Development Group (PDG), preparations were made for the discussion on the impact of the financial turmoil. Besides an analysis of the mechanisms that led to the liquidity tensions, attention was paid chiefly to developments on the credit markets. The outcome was that the Basel Committee would undertake closer examination of the robustness of the securitization framework of Basel II, including the treatment of credit lines and the assessment of such concepts as “significant risk transfer” and “implicit support” for securitization transactions.

Regarding the further preparation for implementation of Basel II, the Accord Implementation Group, in dialogue with the sector, pushed forward with its activities, with much attention being given to “home-host” cooperation between supervisors. In that respect, a document was published aimed at reinforcing that cooperation in the application of the Advanced Measurement Approach²³ (AMA). Increasing attention, too, was given to problems relating to the implementation of pillars 2 and 3.

In October 2007, likewise in respect of the further interpretation of the concepts introduced by Basel II, the Basel Committee published a consultation document on computing capital for the so-called “incremental default risk capital charge” for the calculation of the specific risk in market risks. Parallel with that consultation, a study was conducted of the impact of the proposals.

Other points of attention of the Basel Committee are:

- ◆ the regulatory definition of own funds, whereby attention in 2007 was given mainly to an inventory of the own funds elements in the various Member States and to discussing it with market participants;
- ◆ the work – begun already before the increased turmoil on the financial markets from the summer of 2007 on – of the Basel Committee on the diversity of liquidity regimes of various national supervisory authorities and into the advantages and disadvantages linked to that diversity. The working group investigating the

subject published its conclusions in February 2008 and will begin to revise the internationally aligned qualitative requirements regarding liquidity risk (by revising the *Sound Practices for Managing Liquidity in Banking Organizations*²⁴), activities that have been materially influenced by the events on the financial markets. Towards the end of the financial year, the Banking Supervision Committee of the European Central Bank commenced work on an inventory of institutions’ stress testing in respect of liquidity and liquidity emergency plans. The majority of these activities will continue during 2008.



At the end of 2007, work was begun within the EU on revision of the CRD, with CEBS making a substantial contribution as regards content to the European Commission’s work. The amendments to the CRD will concern:

- ◆ defining and reinforcing the role of home supervisors and of colleges of supervisors within the context of the continuing supervision of groups active internationally;
- ◆ arrangements with a view to appropriate crisis management; definition of the role in a crisis situation of:
 - the home supervisor;
 - the college of supervisors;
 - the host supervisor of significant branches;the definition of roles and tasks in crisis management includes the exchange of information between supervisors and with third parties (central banks, government ministries, etc.);
- ◆ harmonization of the conditions for recognition of hybrid capital instruments;
- ◆ adjustment of risk concentration standards (the “large items” rule);
- ◆ technical adjustments and improvements (including the incremental default charge in the trading book, defining of the concept of “significant risk transfer” in securitization, liquidity risk, etc.).

23 *Principles for Home-host Supervisory Cooperation and Allocation Mechanisms in the Context of Advanced Measurement Approaches (AMA)*, November 2007. See the Basel Committee web site: www.bis.org.

24 Basel Committee on Banking Supervision, *Sound Practices for Managing Liquidity in Banking Organizations*, February 2000 (www.bis.org).

Within CEBS, attention shifted in 2007 from the provision of guidance and level 3 regulation to guiding the process of implementing Basel II. The Subgroup on Operational Networks (SON), which comprises the authorities supervising ten financial groups active across Europe, is tasked with exchanging experience, listing problems in the implementation of Basel II and formulating proposals with good prudential practices, including the operation of colleges of supervisors. In 2008, a programme will commence whereby, within the SON, the Internal Capital Adequacy Assessment Process (ICAAP) or economic capital model of the ten groups will be assessed according to the same methodology and approach. The purpose of this is to arrive at a benchmarking of the ICAAP assessment among the various groups within the EU. The CBFA is home supervisor for two of the ten European banking groups represented within the SON, and a significant host supervisor for a third group. Within CEBS, moreover, networks have been established on various technical aspects of the Basel II process (validation of models, operational risks, COREP reporting, etc.), in order to arrive at common answers to the questions raised.

Within the CEBS Expert Group on Capital Requirements, the most important points of attention were:

- ◆ documenting the way in which Member States have fleshed out the national discretions in the CRD, the purpose of this being to reduce, over time, the number of such discretions;
- ◆ the prudential treatment of large risks. With a view to the preparation of an amended CRD, the European Commission made a second call for advice to CEBS, including a request for advice regarding the various components of the regime in respect of risk concentration. Building upon an earlier listing of market and supervisor practices, the CEBS published a consultation document at the end of 2007 with recommendations and a specification of the aims of the regime; the consultation document is designed to be incorporated during the first half of 2008 into an opinion to the European Commission;
- ◆ the regulatory definition of "own funds". Throughout the period under review, the business of defining regulatory own funds has been a major focus of CEBS. In this respect, 2007 saw the publication of, on the

one hand, surveys of the characteristics of hybrid capital instruments and, on the other, a quantitative review of own funds components. However, the most important document was the consultation document published in December 2007 and aimed at harmonizing the conditions for recognition of hybrid instruments. This document, too, is set to lead in 2008 to an opinion to the European Commission regarding amendment of the CRD. Since the beginning of 2008, the working group preparing the opinion has been chaired by a member of the CBFA staff. Within the IWCFC²⁵, lastly, two reports were published in 2007 containing a description of the differences in regulation between the banking and insurance sectors in respect of recognition of own funds components and the impact of this on calculating the own funds of financial conglomerates; the reports led at the beginning of 2008 to a consultation document containing a number of proposals for the treatment of the identified differences in sectoral regulation.

In 2007, the *Groupe de Contact* (GdC), another CEBS working group, gave a great deal of attention to the implementation of Pillar 2. A new structure was put in place with an ambitious programme for convergence of the Pillar 2 approach. In this regard, particular attention will be paid to, among other things, the Supervisory Review and Evaluation Process (SREP), the question of diversification, the Internal Capital Adequacy Assessment Process (ICAAP) and the treatment of specific types of risk, including interest rate risk and concentration risk, etc.

In respect of liquidity management, too, a start was made in 2007 within the CEBS and the GdC regarding the work of advising the European Commission on the prudential treatment of liquidity risks by the European supervisors and on a number of related subjects, such as the state of affairs in respect of the internal models used by credit institutions to manage liquidity risks and the impact of payment and settlement systems on liquidity management.

25 Interim Working Committee on Financial Conglomerates, a forum set up by CEBS and CEIOPS, and aimed at the implementation of the Financial Conglomerates Directive.

At national level, for the second year running, the CBFA in tandem with the NBB and with the involvement of the big banking groups organized a stress-testing exercise for the liquidity position of institutions. The initial exercise in 2006 was linked to the IMF's Financial Sector Assessment Program (FSAP) and attempted to encourage the major Belgian financial groups to participate in the exercise's simulations. The groups that did were requested in the first place to simulate the impact of a significant worsening of their creditworthiness on their liquidity position. In a second scenario, the worsening of creditworthiness was combined with a simulation of a general market crisis that substantially restricted the financial scope of institutions²⁶. The results of the simulations were discussed by the NBB and the CBFA with the management of those banking groups, and a workshop was set up within which experience gained could be exchanged among the participants. The events of 2007 on the financial markets in fact allowed the participants and authorities to test the reality of certain hypotheses addressed in the simulations.

Additionally, attention at national level during the period under review continued to be focused chiefly on implementation of Basel II. Following promulgation of the own funds regulations of 17 October 2006, the transposition of the CRD was completed with the Law of 15 May 2007²⁷ that amended the banking law²⁸, the Law of 6 April 1995²⁹ and the Law of 20 July 2004³⁰ (see below) and with the promulgation of the Royal Decree of 29 October 2007 on supervision on a consolidated basis³¹. These measures served to introduce the legal instruments to enforce, for example, Pillar 2 and Pillar 3 requirements or obligations on a consolidated basis.

The main points in the implementation were:

- ◆ the provision of support to the process of validating internal models designed to calculate the requirements for credit and operational risks. It is important to mention here that, as regards the validation process for acceptance of a model for the calculation of the requirements for operational risk, agreement was reached with a foreign supervisor on the preconditions within which supervisors were prepared to accept diversification effects in a cross-border context;

- ◆ the integration of international developments into the national process;
- ◆ the implementation of the own funds regulations of 17 October 2006 and the attendant reporting requirements (COmmon REPorting or COREP).

Besides the legal anchoring of the Pillar 2 requirements and in addition to the own funds regulations and the elucidation given with them, the CBFA issued a circular³² on the prudential expectations regarding the Internal Capital Adequacy Assessment Process (ICAAP). The key points of the circular are:

- ◆ the requirement that each institution have a documented policy in respect of the management, measurement and follow-up of the risks it is confronted with;
- ◆ annual reporting on the outcome of the risk assessment process (ICAAP) in the light of the institution's solvency position.

A particular focus of the circular is the way in which the ICAAP is applied within each banking group.

Much attention was given in 2007 to the development of a methodology and an instrument permitting the supervisor to construct an overall risk profile for each institution, the aim being to define prudential action within the context of a risk-based supervision policy. Such an instrument is in line with the so-called "Supervisory Review and Evaluation Process" of Pillar 2 of the Basel II framework. In that development, great importance was attached to the comprehensive character of the instrument and to appropriate documentation of the assessment of the general governance and contextual factors of each institution, and to the assessment of the various types of risk. Additionally, a link (automated) was established with existing supervisory instruments, such as the Bank Performance Report (BPR)³³, which ensure the input for the quantitative assessment of the types of risk.

26 For further discussion of this exercise, see also the article "Liquidity Risk in the Banking Sector: the Belgian perspective" in NBB, Financial Stability Review 2007.

27 See the Belgian Official Gazette of 18 June 2007.

28 Law of 22 March 1993 on the legal status and supervision of credit institutions.

29 Law of 6 April 1995 on the legal status and supervision of investment firms.

30 Law of 20 July 2004 on certain forms of collective management of investment portfolios.

31 See the Belgian Official Gazette of 8 November 2007.

32 See the 2007 report of the Management Committee, p. 21.

33 The BPR is an instrument that, on the basis of prudential reporting, enables a standardized analysis to be conducted of the financial position and the risks.

Insurance companies

The CBFA's involvement in the activities of the International Association of Insurance Supervisors (IAIS) was developed further in 2007.

The goal of the IAIS is to promote cooperation between supervisors worldwide and to devise standards regarding insurance supervision and regulation, besides ensuring their coherent implementation. The IAIS also maintains close contact with supervisors of other financial sectors and with international financial institutions.

In 2007, the IAIS began an adjustment of its organization, and the composition of its committees is currently being rejigged in the interest of efficient operation and to take account of the present situation within and the geographical spread among the insurance sectors. The aim in this is to achieve greater representativeness, more active participation and more efficient decision-making.

In addition to the possibility for those concerned to supply – as observers in the IAIS – input for the IAIS's standards and guidelines via rounds of public consultation, a successful start was made with hearings at which those concerned with specific themes can air their views, experience and reflections. Themes constantly reappearing in 2007 were in the sphere of internal governance, financial reporting for prudential purposes and the principle of mutual recognition in respect of group supervision and reinsurance.

The IAIS was set up as an international supervisory forum, in order to promote convergence of supervisory practices and to create an environment for efficient and coherent supervision of multinational insurance groups and cross-border activities. Witness to these priorities was the publication in 2007 of various documents and recommendations in respect of solvency, risk management, accounting questions, reinsurance, governance and micro-insurance.

In 2007, the IAIS was active in the development of an overall solvency framework, the basis of which was laid down in the reference document *IAIS Common Structure for the Assessment of Insurer Solvency*. Building on this, a set of guidelines was published with principles for the assessment of solvency – both in respect of the calculation of own funds requirements and in respect of the items covering them³⁴,

the introduction and use of a risk management system by an insurer³⁵ and the question of the use of internal models for risk evaluation³⁶. The IAIS also prepared a review of its current standpoints regarding the valuation of technical provisions³⁷. All these documents were brought to the notice of the Belgian sector.

Concerned for a systematic and coherent implementation of its standards in the various jurisdictions, the IAIS attaches great importance to the training and instruction of supervisors. Besides the translation of IAIS documents and the assistance provided to insurance supervisors in developing countries, among other things, development was begun in 2007 of internet-based training modules, which build further on the Core Curriculum for Insurance Supervisors and complement the IAIS workshops that are regularly organized.

The Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS) has, since its foundation, focused chiefly on preparation of the Solvency II framework. Solvency II will create an entirely new prudential framework for the supervision of insurance companies³⁸.

The European Commission incorporated the opinions of CEIOPS into its draft Solvency II Directive, published on 10 July 2007.

This did not mark the end of the contribution by CEIOPS to the Directive's preparation. The body's opinions on the group dimension and on the principle of proportionality were awaited for February 2008 and have been used to update proposals for the directive on these points.

The draft Directive has meanwhile been discussed at the European Council and the European Parliament, and approval of the Directive is planned for, in principle, the second half of 2008.

2007 also saw the rounding-off of the technical QIS 4 (Quantitative Impact Study 4). Building on the results of QIS 3 and making use of the market participant input, the QIS 4 specification was worked out, with the draft Directive as the point of departure.

34 *Guidance Paper on the Structure of Regulatory Capital Requirements*.

35 *Guidance Paper on Enterprise Risk Management for Capital Adequacy and Solvency Purposes*.

36 *Guidance Paper on the Use of Internal Models for Risk and Capital Management Purposes by Insurers*.

37 *Summary of IAIS Positions on the Valuation of Technical Provisions*.

38 See the 2005 report of the CBFA Management Committee, p. 27-30.

QIS 4 brings a number of innovations, including simplifications and proxies. Simplifications of standard methodology may be employed under certain conditions and should be of a nature to enhance the accessibility of the regime. Proxies are approximate approaches that may be used where the institution is faced with a lack of relevant data or actuarial expertise. Another aspect of the specification is the additional interpretation given concerning the quantifying of the own funds requirement placed on insurance groups. Furthermore, QIS 4 contains a detailed questionnaire for enterprises concerning the use of internal models.

Substantial attention was given in 2007 to QIS 3. QIS 3 was directed at further refinement of the standard formula and calibration of the parameters employed. As a result of QIS 3, the architecture of the standard formula was subject to only limited adjustment. Within the scope of QIS 3, the group dimension was also incorporated and the standard formula tested at group level.

The QIS 3 findings for Belgium were as follows:

- ◆ participating institutions formed a representative sample of the Belgian insurance sector: more than half of the market measured in terms of premium income (non-life) or technical provisions (life) took part in the exercise;
- ◆ for life assurance, the technical provisions required under QIS 3 are slightly below the present level of provisions; for non-life, the difference is more pronounced;
- ◆ QIS 3 confirmed the increased own funds requirement already noted in QIS 2 (in comparison with the present standard). On average, however, solvency ratios narrowed only slightly, as available capital comes out substantially higher than what currently qualifies in this respect;
- ◆ for life assurance, of overriding importance for calculation of the own funds requirement is the market risk, followed by the equity risk; for non-life insurance, it is the acceptance risk, followed closely by the market risk;
- ◆ in response to QIS 3, the industry made a number of important recommendations regarding the desired architecture of Solvency II, with a clear indication of what has been found to be less opportune; Those concerns have already been partially addressed in QIS 4;
- ◆ in QIS 3, testing of the group dimension threw up no significant results at either Belgian or European level.

CEIOPS has submitted opinions to the European Commission on matters other than Solvency II as well. Those opinions concerned input on the question of substitution products in the retail financial sector and a report on how the provisions on own fund items contained in existing directives have been implemented in the Member States.

There was also publication of the protocol on cooperation between the insurance supervisors of the Member States of the EEA (the updated Siena Protocol); more particularly, this protocol regulates the exchange of data between supervisors in respect of cross-border activities. The existing protocol was completely restructured and the aspects of consumer protection and cross-border complaints handling were worked out, taking account of the differences among Member States regarding the competences of supervisors in these matters.

In respect of pension funds, a number of workstreams were completed in 2007 that concerned the way in which key elements of the Pensions Directive (the IORP Directive) are implemented in the various Member States. In this respect, attention was focused on, among other things, the calculation of technical provisions and on investment rules, the intention being to arrive at a common interpretation of the directive's provisions and to identify problems requiring the directive to be amended. The final report was published at the beginning of 2008.

The turmoil on the financial markets also required increasing attention to be given to the analysis of the impact of trends in the insurance and pension fund sector on financial stability. Among those preparing the analyses was the Financial Stability Committee (FSC) of CEIOPS, chaired by a member of the CBFA staff.

Besides the processing of the QIS 3 results, particular attention was paid in 2007 at national level to supporting the department engaged in handling the "exemption from supplementary provisions" dossiers. In order to guarantee the uniform treatment of the various parameters and assessment criteria across the services and departments, their scoring was improved further³⁹. The CBFA's approach towards requests for exemption from the supplementary provisions has prepared the sector for the implementation of Solvency II.

39 See the present report, p. 54.

At the beginning of 2008, a circular was published setting out the CBFA's policy regarding acceptance of the items – enumerated in Article 15*bis* of the supervision law of 9 July 1975⁴⁰ – that qualify as elements of the solvency margin, special attention being given to the terms and conditions for acceptance of the deferred net gains arising from asset valuation. The CBFA's policy in this regard reflects the desire to develop an instrument appropriate to the aims of prudential supervision and that takes account of the underlying economic reality⁴¹.

In the same spirit, the CBFA worked on amending the regulations on profit distributions, starting no longer from a purely accounting approach to determine the level of profit distribution, but rather from a valuation linked to the institution's asset and liability management. The precise details of this are currently being discussed with the sector.

The CBFA also prepared a policy guideline on how the provisions regarding securities used as covering assets are to be applied and interpreted (Article 10 of the General Regulations Governing Supervision of Insurance Companies⁴²) in respect of securities lending and repurchase and reverse repurchase transactions.

MiFID and internal governance

During the period under review, by far the greatest focus of prudential policy was on the transposition of MiFID and its implementing measures⁴³.

An exhaustive process of consultation was conducted with the professional associations over this transposition and, together with the Federal Public Service Finances, public consultation was held on the code of conduct applying to credit institutions and investment firms within the context of this European regulation.

All legislative and regulatory texts were approved and published by the beginning of June 2007. In addition, the CBFA published a policy guideline on the conditions under which institutions may outsource portfolio management to countries that are not members of the EEA.

Changes in the regulations concerned both organizational requirements and the code of conduct⁴⁴. As regards the former, there was an amendment to sectoral legislation⁴⁵ and CBFA regulations were approved⁴⁶ that further developed the most important organizational principles, more particularly the requirements regarding internal audit, risk management, compliance and outsourcing. The regulations serve largely to ratify the principles already treated by the CBFA in circulars and in respect of which the majority of organizational requirements introduced by MiFID were not new for the enterprises concerned. What is new, however, is that there are now formal regulatory texts the observance of which is compulsory. Additionally, a number of organizational requirements were set out for the first time, i.e. the rules for handling complaints and for the settlement of conflicts of interest within the organization and, lastly, the organizational rules for the personal transactions of staff involved in the provision of investment services.

However, the most important changes for the enterprises concerned had to do with the code of conduct, which in some places is very detailed and whose observance sets important requirements as regards documentation and follow-up. In particular are the obligation to categorize customers, the obligation to provide information to retail customers, the duty of care and the obligation of best execution, the regulations for which are linked to the abolition of the monopoly of the regulated markets.

Belgium was the fourth country in the EEA to transpose MiFID and its implementing measures into national legislation. With the new regulations coming into force on 1 November 2007, the CBFA used the summer months to provide information to both the sector and the public. A two-day seminar was organized in cooperation with Febelfin to make the financial institutions concerned aware of the legislation and inform them about it. In tandem with this, a circular was directed at them in which their attention was drawn to the new regulations and in which they were requested to draw up a plan of action to ready themselves by 1 November for the necessary organizational adjustments. Lastly, support and guidance was provided to the Febelfin initiative to produce a brochure for the public.

40 Law of 9 July 1975 on the supervision of insurance companies.

41 See the 2007 report of the Management Committee, p. 20.

42 Royal Decree of 22 February 1991.

43 Directive 2004/39/EC of the European Parliament and the Council of 21 April 2004 on markets in financial instruments, as well as Implementing Directive 2006/73/EC and Implementing Regulation no. 1287/2006 of the European Commission, both of 10 August 2006.

44 See the 2007 report of the Management Committee, p. 13.

45 Amendment of Articles 20 and 20*bis* of the Law of 22 March 1993 on the legal status and supervision of credit institutions, Articles 62 and 62 of the Law of 6 April 1995 on the legal status and supervision of investment firms, on intermediaries and investment advisers, and Article 153 of the Law of 20 July 2004 on certain forms of collective management of investment portfolios.

46 The Royal Decree of 19 June 2007 approving the CBFA regulations on organizational provisions for institutions offering investment services.

At European level, the CBFA was active in the Intermediaries Working Group of CESR⁴⁷ on a number of recommendations and protocols designed to help the various supervisors apply European regulations coherently and uniformly, and to ensure that financial institutions offer their investment services in other Member States as efficiently as possible.

These recommendations⁴⁸, which were placed before the public in the spring of 2007 for discussion, concerned particularly the following areas:

- ◆ data maintenance;
- ◆ the conditions under which investment firms and credit institutions may accept inducements from third parties in the provision of investment services;
- ◆ the obligation of best execution of orders;
- ◆ cooperation between supervisors in respect of the European passport for the provision of investment services.

These last recommendations formed the basis of two protocols concluded by the European supervisors, the first⁴⁹ having to do with integrating the notification procedure between supervisors. Further to this protocol, a standard letter was sent to Belgian investment firms and credit institutions, setting out the new procedures regarding the cross-border provision of services.

The second protocol was specifically about cooperation between supervisors in respect of supervision of branches in the matter of securities transactions. In implementation of this protocol, the CBFA decided – for all branches opened by Belgian credit institutions and investment firms in another Member State of the EEA – to address a general request to the host-country supervisors concerned that they not limit their supervision of the code of conduct solely to the investment services provided in the territory where a branch is established, but extend it to all investment services provided by that branch. One thing and another have led to the credit institutions and investment firms involved having to take account of just a single supervisor as regards application of the code of conduct in their branches. Conversely, the CBFA received a similar request at the end of 2007 from the UK

supervisory authorities in respect of branches established in Belgium by UK credit institutions and investment firms.

With a view to the provision of better information to and the protection of European consumers, CESR's MiFID Expert Group published a brochure in which the Directive and its protective measures were clearly set out. The brochure was published on the CESR web site⁵⁰ and has in the meantime been translated and published by most European securities supervisors. For its part, the CBFA, which made an active contribution to the brochure's preparation, has produced translations of the brochure in the two national languages of Belgium and published them on its web site. Lastly, the brochure has been made available in printed form to the public.

Besides the attention given to implementation of MiFID, much attention was also paid to the amendment of sectoral laws⁵¹, with a view to transposing the CRD (see above) and to the introduction of a number of specific and crucial provisions on governance. Article 20 of the banking law⁵², for example, incorporates a more extensive legal description of what is required in respect of appropriate organization and internal control, and of independent transversal functions. The senior management of institutions is required to report annually on how the legal requirements have been observed and on the appropriate measures taken to satisfy those requirements. In addition, the sectoral laws referred to also incorporate a provision requiring senior management to confirm that the periodic reporting is accurate and complete.

The provisions of the new law have served substantially to increase the responsibility of senior management to have the appropriate organization in place and to ensure the accuracy and completeness of prudential reporting.

47 See the CESR web site (www.cesr.eu).

48 See the CESR web site (www.cesr.eu/index.php).

49 Protocol on MiFID Passport Notifications.

50 See the CESR web site (www.cesr.eu).

51 Law of 15 May 2007 amending the Law of 22 March 1993 on the legal status and supervision of credit institutions, the Law of 6 April 1995 on the legal status and supervision of investment firms, on intermediaries and investment advisers, and the Law of 20 July 2004 on certain forms of collective management of investment portfolios.

52 Law of 22 March 1993 on the legal status and supervision of credit institutions. Likewise for Article 62 of the Law of 6 April 1995 and Article 153 of the Law of 20 July 2004.

At the end of the period under review, the CBFA submitted a draft circular to the sector for consultation, detailing its prudential expectations regarding the implementation of the above-mentioned legal provisions.

There was also refinement of the legal provision setting out the mandate of the accredited auditor in respect of his task of cooperating in prudential supervision. This provision cannot be regarded in isolation from those that set out the responsibility of senior management. In the light of this new legal provision, the CBFA conducted discussions with accredited auditors in order to determine the concrete expectations and details of this task of cooperation.

It is the CBFA's opinion that the new legal provisions, the circular in respect of sound governance⁵³ and the ICAAP circular⁵⁴ form an appropriate range of instruments to conduct supervision of internal governance, including enterprises' risk management.

With regard to its policy concerning cross-sectoral convergence, the CBFA is looking to introduce the above-mentioned legal provisions into the insurance sector and will consequently propose that the government incorporate comparable provisions into the insurance supervision law.



It was deemed necessary specifically for the insurance sector to prepare a circular on the role and organization of the risk management function within insurance companies. The draft of the circular was still at the discussion stage at the end of the period under review.

Given the continuing internationalization of the Belgian financial world, the CBFA has pushed forward with its policy of concluding Memoranda of Understanding (MoUs) with non-members of the EEA. One such memorandum was concluded with the Canadian authorities during the period under review⁵⁵. Discussions with a view to concluding further MoUs were begun with a series of other countries, including Turkey, China and the United States.

Lastly, the CBFA cooperated on preparations for transposing the Third Money-laundering Directive into Belgian law. In this regard, the CBFA worked in close consultation with the Financial Intelligence Processing Unit (CTIF-CFI, or money-laundering unit), which led to joint proposals being submitted to the government concerning transposition of that Directive.

Financial information

Both the Basel Committee and CEBS closely follow developments in accounting and auditing. Published and certified financial statements enhance transparency, promote market discipline and facilitate access to the capital markets. Directly or indirectly, the correct and transparent valuation of assets has an effect on regulatory own funds. Supervisors rely on such valuations and the fact that they are certified by an independent accredited auditor. Certified financial statements are also used to gain better insight into an institution's financial situation and as a basis for discussion with senior management.

In this regard, there was follow-up of the activities of the International Accounting Standards Board (IASB) and submission of letters of commentary. The activities were subject to special focus, with the aim of improving international accounting standards. Furthermore, intense discussions were conducted with the IASB concerning the drafting of guidelines on how the actual value of assets and liabilities are to be assessed. Consultation between the IASB and the Financial Accounting Standards Board (FASB) was urged, in order to achieve consistent guidelines, a matter of particular importance for banks active internationally.

There was also reaction to the IASB proposals on the accounting treatment of insurance contracts, with attention being paid especially to the relationship between the proposed rules for the treatment of insurance contracts and the rules in force for financial instruments.

53 See CBFA Annual Report 2006, pp. 28-29, and the 2006 report of the CBFA Management Committee, p. 17-21.

54 See the 2007 report of the Management Committee, p. 21.

55 See the 2007 report of the Management Committee, p. 11.

The Basel Committee asked its working groups charged with the follow-up of, on the one hand, the policy areas of accounting and auditing (the Accounting Task Force and sub-groups) and, on the other, developments in risk management and modelling (the Risk Management and Modelling Group) to conduct a survey among banks in the autumn of 2007 on the valuation of complex and/or illiquid financial instruments and the implications of this for risk management. The initial findings indicate that there are a number of challenges, including the question of the valuation of complex financial instruments – for example, the lack of a consensus within the sector on valuation methods, the availability of market data in rigid financial markets, the way in which uncertainty is to be recognized in valuation models, and valuation adjustment for various risks, such as liquidity risk and counterparty risk; also included were the questions of the translation of accounting standards into clear procedures within banks, clear explanatory notes to published financial statements and the role of auditors. The working groups will further examine the findings of the survey.

Regarding auditing, both committees followed up the activities of the International Auditing and Assurance Standards Board (IAASB).

Coming in for particular attention was auditing standard ISA 540 – “Auditing accounting estimates including fair value accounting estimates, and related disclosures”. Supervisors noted that the proposed standard did not sufficiently address actual values for which no clearly observable data are available and for which models are used. The final, approved text of the standard takes account of numerous suggestions made by the Audit Subgroup of the Accounting Task Force, which is headed by a member of the CBFA staff. Moreover, the Basel Committee has proposed that a working group be set up within the IAASB to examine further the question of the auditing of actual values and to propose additional guidelines for the audit. The IAASB has agreed to this and the working group will commence activities in 2008.

In 2007, CEBS amended the consolidated IAS/IFRS-compliant financial reporting package (FINREP). The most important change concerned the incorporation of amendments to IAS 19 – “Staff remuneration”. The same changes were made in Belgium to the Belgian reporting layout.

CEBS paid great attention to the concern of internationally active banks about the lack of uniform implementation in Member States of the FINREP (IAS/IFRS-compliant financial reporting) and COREP (CRD-compliant own funds reporting) reporting formats. In October 2007, CEBS published *Assessment of convergence in supervisory reporting*, a study on convergence within the EEA of prudential reporting by institutions to supervisors. Taking as its point of departure the publication of the harmonized FINREP and COREP reporting formats, the study provides an initial review of the progress made and identifies areas where further convergence is possible. In December 2007, moreover, a process of consultation began, aimed at harmonization within the European Economic Area of COREP reporting deadlines and frequencies for banks active in various countries of the EEA. It is nevertheless becoming urgent for further steps to be taken regarding reporting requirements.



Within the IAIS, the Insurance Contracts Subcommittee (ICS) specializes in accounting matters concerning the valuation of insurance contracts, the booking of financial instruments and the accounting difference between ‘Equity’ and ‘Liability’. During the period under review, it was engaged chiefly in the preparation of letters on two IASB consultation documents of great importance to insurance supervisors. The first (*Fair Value*) addresses the measurement of fair value and the second (*Insurance Contracts, Phase II*) the valuation and recognition of insurance contracts.

The follow-up of these two projects and the action undertaken by the IAIS vis-à-vis the IASB are important for the IAIS. Indeed, this organization is looking to promote as wide as possible use of the IFSR standards in drawing up the financial statements that insurers are required to submit to supervisors in respect of prudential supervision. This implies that the valuation principles employed at accounting and prudential levels match each other as closely as possible and that filters between accounting and prudential reporting should remain limited.

The Accounting Sub-committee (ASC) is tasked with the follow-up of projects concerning IFRS accounting standards and interpretations not addressed by the ICS. It is also active in audit matters, where it concentrates on the follow-up and the writing of commentaries to IAASB publications on standards. As regards audit matters, it conducted a thorough-going review of the question of the triangular relationship among insurance company, external auditor and prudential supervisor.

The ASC is also responsible for follow-up of the three IAIS disclosure standards that determine which rules insurance companies are required to follow for the annual publication of information about their solvency. During the period under review, the CBFA notified insurance companies of the three standards and recommended that they use them.

As regards CEIOPS, the Pillar III Expert Group first completed the CEIOPS draft opinion to the European Commission on the third pillar of Solvency II (obligations of insurance companies regarding public disclosures and disclosures to prudential supervisors), after having conducted a consultation on the subject. The European Commission followed the main lines of the finalized opinion in the draft of the Solvency II Directive.

The Group also actively followed up the development of the international accounting standards (IFRS) relevant to the insurance sector. In particular, it focused on preparing draft letters of commentary from CEIOPS to the IASB and to the European Financial Reporting Advisory Group (EFRAG) concerning the two IASB consultation documents: *Fair Value*, dealing with the measurement of fair value and *Insurance Contracts, Phase II*, on the valuation and recognition of insurance contracts. In prudential terms, these two projects are of immense importance for the

insurance sector. As regards Solvency II, it is indeed clearly the intention that – for the valuation of prudential quantitative requirements (technical provisions, calculation of own funds, asset and liability testing, etc.) – use be made of an asset and liability valuation system that matches IFRS standards as closely as possible. For insurance companies that draw up their financial statements according to IFRS standards, the two documents are also relevant in terms of market discipline. International developments in respect of the valuation and application of actual values are closely followed by prudential supervisors, particularly with regard to the reliability of accounting valuations that the application of real value gives rise to where actual value concerns assets and liabilities for which there is no market price or where the market involved is insufficiently liquid.

Since September 2007, this Group has also been tasked with matters falling under the second pillar of Solvency II. In time, this will lead to the preparation of draft CEIOPS opinions on the internal governance of insurance companies and the supervisory process of supervisory authorities. The opinions will be submitted to the European Commission, which will base itself on them in the preparation of the implementation measures for the Solvency II Directive (Level 2 of the so-called Lamfalussy procedure).



At national level, as indicated, the Belgian consolidated reporting layouts (FINREP) were adjusted to European developments. With a view to the achievement of European harmonization on reporting requirements, the CBFA determined as a guideline that, strictly and in principle without any deviation, it would adopt all amendments to the European reporting systems (FINREP and COREP).

During the period under review, after lengthy consultation with the sector concerned, agreement was reached to declare banking accounting law⁵⁶ applicable to investment firms, with the necessary adjustments and an appropriate transition period. The CBFA has proposed that application should take effect on 1 January 2010, in order to give the institutions concerned the time necessary to prepare for the legislation's introduction.

56 The Royal Decree of 23 September 1992 on the annual accounts of credit institutions.

After consultation with the sector, the CBFA also refined its proposal whereby, with effect from 1 January 2010, all insurance companies required to prepare consolidated financial statements would be required to draw them up in accordance with IFRS standards. In the meantime, the CBFA's policy will be to encourage institutions to make the switch earlier. As in the case of credit institutions, the CBFA issued a circular for insurance companies⁵⁷ concerning the so-called "prudential filters". Determination of (consolidated) regulatory own funds is based on elements such as those arising from the (consolidated) financial statements, and the purpose of filters is to correct prudentially undesirable effects from the use of IFRS-compliant accounting data. However, the number of filters has been restricted as much as possible, in order to maintain coherence between the accounting and prudential approaches.

Management of financial and operational crises

Recent international developments have highlighted the importance of sound internal procedures and agreements on the management of problem situations by financial institutions and prudential supervisors. For years now, the CBFA has been working with other supervisors, central banks and treasuries to develop internal guidelines and reciprocal arrangements at both national and international level, and comprehensive coverage of this has been given in the past⁵⁸.

At national level during the period under review, the CBFA cooperated on the organization of a simulation exercise for the management of financial crisis situations, an exercise developed together with the NBB and the Federal Public Service Finances, and conducted within the context of the follow-up of internationally formulated recommendations in this respect. The purpose of the exercise was to test the internal procedures of the Belgian authorities regarding crisis management: more particularly, communication and the exchange of information between the authorities, the adequacy and rapidity of decision processes, the availability of information from authorities and external communication vis-à-vis third parties. The exercise also served to enhance the awareness of the staff of the various authorities regarding those procedures and the respective roles of those authorities in financial crisis management. The simulation

conducted was of major financial problems at a fictitious, big Belgian financial group that have a significant impact on the rest of the sector and the financial markets. The national character of the testing meant that the focus was chiefly on the local aspects of this problem.

The year also saw testing of the national procedure for the management of operational crises with a cross-institutional impact, organized on the basis of the simulation of an operational problem with consequences for the critical processes of a number of Belgian institutions. The purposes of this exercise were substantially in line with those of the financial-crisis simulation mentioned above. Staff of both the NBB and the CBFA participated in this exercise.

The growing internationalization of the financial system means that a financial or operational problem at a major Belgian financial institution is likely to have consequences for foreign institutions, and vice versa. The CBFA is therefore engaged in international activities in this respect, including within CEBS and the Banking Supervisory Committee (BSC).

At European level as well, there are specific expectations that authorities will conduct cross-border simulation exercises, in which Belgian governmental authorities will participate in 2008.

1.3. Supervision of banks and investment firms

1.3.1. Points for attention and developments in 2007

In 2007, developments in the banking sector were dominated by the turmoil on the financial markets and the repercussions of this on the quality of portfolios and banks' liquidity⁵⁹. Attention was also focused on developments concerning the takeover of ABN Amro, given the important role played by Fortis in the takeover and the unweaving of that bank. At operational level, precedence was given to implementation of the Basel II framework, introduction of MiFID, and development of the CBFA's new policy regarding the internal governance of financial institutions. Close attention was also given to the security threats posed by e-banking channels.

57 See the 2007 report of the Management Committee, p. 20.

58 See the CBF Annual Report 2002-2003, p. 223; the following reports of the CBFA Management Committee: 2004, p. 29; 2005, pp. 33-34 and 40-41; 2006, pp. 14 and 21-22.

59 See the present report, p. 37.

The developments focused on during the period under review are illustrative of the increasing challenges confronting supervision of the big bancassurance groups: concerned are not only the systemic impact of such groups, but also the scope of their activities and the attendant, intensive coordination with foreign supervisors, as well as the complexity of the financial instruments being deployed and the financial services being offered.

Turmoil on the financial markets

Directly or indirectly, several financial institutions have felt the repercussions of the turmoil on the financial markets since last summer, when the increased incidence of default among less creditworthy (subprime) borrowers on the American mortgage market led to a rise in credit losses. Because the attendant credit risk was passed on in the form securitization to third parties, which in turn farmed it out further in the market, the consequences were felt worldwide in the financial sector, as financial institutions throughout the world had invested in subprime financial products of this sort.

Given the complexity of such products and the continuous “repackaging” of the credit risk, the markets were dogged by uncertainty about the extent of the risk financial institutions had thereby taken into portfolio. That uncertainty rapidly evolved into a crisis of confidence, causing interbank lending to dry up and requiring central banks to intervene massively and once again pump liquidity into the market. Meanwhile, the financial products concerned were becoming less and less negotiable and banks were being required to make ever greater corrections to the valuation of those products in their balance sheets: IFRS accounting rules demand that, depending on the case, they enter a write-down for those financial instruments as a result of the reduced credit quality and/or a revaluation on the basis of the market value. The consequent valuation differences were then processed via the income statement or via accounting own funds. Because the absence of transactions made it very difficult to determine a realistic market value (a so-called “marked to market” value), banks proceeded to determine value on the basis of internal modelling, using their own parameters (so-called “marked to model” valuation), which served to cloud comparison between institutions.

Right from the onset of the turmoil, the CBFA worked closely with the NBB in carefully tracking developments regarding subprime risks and liquidity. That cooperation and the exchange of relevant information made it possible simultaneously to address prudential supervisory concerns and to safeguard financial stability. Joint discussions were held regularly with the leaders of the big banking and insurance groups, and internal management information was analysed as regards the composition and development of the amounts in question, the assessment and management of their risks, and the value adjustments applied. There was also close tracking of the Asset-Backed Commercial Paper conduits (investment vehicles) and their financing.

There was likewise joint daily or weekly follow-up of the liquidity position of the major Belgian banks, and continuous monitoring of the liquidity position of certain institutions of foreign origin. Institutions were quizzed on the management of their liquidity risk, the use of stress testing, the adequacy of their liquidity buffers and emergency plans, and on the management of liquidity flows and the pledging of securities within groups themselves.

In this regard, attention was focused on the impact of the crisis on banks’ results and solvency. Discussions were conducted with the accredited auditors of banks concerned about accounting valuation aspects. In consultation with the department tasked with supervision of financial information, there was also monitoring of whether, in their external communication, listed bancassurance groups provided appropriate and relevant information to the markets about their risks on structured products and the valuation of those products⁶⁰. In the process, attention was given both to the communication of price-sensitive information and to the periodic reporting (financial statements, quarterly and six-monthly reporting on results).

An especial aspect of the crisis concerned the credit protection that banks enjoy on their risk positions, in consequence of the financial guarantees extended by specialized insurance companies (so-called “credit enhancers” or “monoliners”). The increasing uncertainty surrounding the reliability of the guarantees given and about the creditworthiness of the monoliners concerned led to new questions about the appropriate value adjustments for the purpose by the banks and about the

60 See the present report, p. 72.

possible danger of cross-contagion between banking and insurance activities. The credit risk on the monoliners and its accounting valuation by banks were also addressed in the above-mentioned analyses and discussions.

Lastly, bilateral or multilateral exchange of information on the various aspects of risk took place with the relevant foreign supervisors of cross-border financial groups. Underlying market developments and their repercussions on European financial institutions were the subject of a number of conference calls between all European financial authorities within CEBS and CEIOPS, with attention being likewise given to the impact of the financial crisis on the economy, the likelihood of a credit crunch and the possible contagion of other segments of the business of credit.

Banks governed by Belgian law that are owned by a foreign group, as well as foreign branches of non-EU credit institutions with a significant exposure vis-à-vis their financial capacity, were subject to regular monitoring in respect of portfolio development, value adjustments and results, realized or not.

The turmoil on the financial markets affected the solvency and profitability of a number of groups active internationally. In some cases, this prompted groups to attract fresh capital, to undertake restructuring or to adopt other measures, and the CBFA consequently evaluated the possible impact of such actions on those groups' Belgian activities.

Fortis' acquisition of certain ABN Amro activities

In 2007, the CBFA was substantially involved in developments surrounding the acquisition of ABN Amro by a consortium consisting of the Royal Bank of Scotland, Banco Santander and Fortis. The acquisition was exceptional not only because of the magnitude of the operation but also due to the fact that the three acquiring banks had formed a consortium for the purpose and had made arrangements to divide the activities of ABN Amro among themselves, with Fortis acquiring the portfolio management, private banking and retail activities in the Netherlands. Given the considerable implication of the acquisition for Fortis, the CBFA – as the lead supervisor for the Fortis group, i.e. the authority charged with its supervision on a consolidated basis – closely monitored the various aspects

of the acquisition. Details of the CBFA's involvement in this dossier are given elsewhere⁶¹.

Out of concern for sound and prudent banking policy and for adequate risk management and supervision, the CBFA closely monitored events in the process of transition and integration, regularly discussing the points of prudential attention with the management of Fortis. Particular attention in this respect was paid to the implementation of the financing plan for the acquisition and to the development of the financial structure, given the continuing tension on the financial markets, among other things. Furthermore, the aspects of the unweaving of the activities of ABN Amro were discussed in consultation and cooperation with the Dutch, UK and Spanish banking supervisors, which serve as a college during the transition phase. Lastly, the CBFA followed up implementation of Fortis' plan for integrating the business segments acquired from ABN Amro, and monitored the adequate management of the attendant financial, legal, operational and IT risks.

Implementation of the Basel II framework

1 January 2007, the **Basel II framework** for calculating and reporting on own funds requirements came into force. The provisions of Basel II had been given effect within the European Union by the European Capital Requirements Directives of 14 June 2006. All banks, investment firms and management companies of undertakings for collective investment were required to implement the framework by 1 January 2008 at the latest: calculation of solvency (the first pillar of the new framework) is henceforth to be on the basis of a new standardized approach (whereby the creditworthiness of borrowers is based on ratings by an external credit assessment institution) or, with CBFA approval, a simplified or an advanced internal assessment model.

Additionally, on the basis of the second pillar, institutions are required to assess their own capital adequacy vis-à-vis the risks incurred and, in their public reporting, to provide information on their capital structure, risk profile, risk management and solvency position (Pillar 3). The Basel II process has been an important operational priority for bank supervision and during the past year nineteen Basel II-linked inspections have been carried out, about half of

61 See the 2007 report of the Management Committee, p. 29.

the total number of inspections at Belgian banks; some of those inspections were in cooperation with foreign supervisors.

The framework for approval of Basel II models was commented on in detail in the previous annual report⁶². Of the four big Belgian banks, three have opted for an advanced model and one for a simplified model for calculation of the credit risk. For calculation of the operational risk, two have opted for a simplified method and two for an advanced.

Because banks rely on their own credit assessment systems in the use of internal models, the CBFA verifies whether these are adequate for the profile of the underlying portfolios and whether they meet the set quantitative and qualitative criteria. Verification is largely carried out on site by the department's auditors, together with the risk-model inspectors of the expertise centre concerned⁶³. Over and above this, attention is given to the soundness of underlying structures and processes, the rating methodology applied, the level of cover of the models, the roll-out plan in respect of other portfolios and entities of the bank, the control environment (internal control and risk management), the process of internal validation and approval, the involvement of senior management and internal audit, the soundness of data management and the IT systems employed, and the bank's self-assessment and its own impact study. Important factors for approval are the integration of the internal system of risk measurement and assessment in the day-to-day risk management process for credit (use testing), back-testing the model's results against reality and stress testing in extreme situations. These verifications concern both the credit risk models and those for operational risk.

Given that each of the four big banks is required to take account of the way in which models are developed within the group and foreign subsidiaries (centrally versus locally developed models), appropriate operating arrangements regarding cooperation and task distribution in evaluation activities were made with the most relevant foreign

supervisors of the groups concerned. At three of the four big banks, this occurred within the competence of the CBFA as home consolidating supervisor; in one instance, the CBFA was a relevant host supervisor. In each of the four cases, cooperation was very satisfactory and joint cross-border inspections were even conducted.

As at the end of February 2008, the CBFA had granted approval to each of the four big banks to use internal models for credit or operational risk. Depending on the case, approval was linked to conditions and time limits, and/or prudential margins, in order to take account of any deficiencies in meeting quantitative and qualitative requirements. These aspects are being followed up further as the models in question develop.

A second major activity during the past year concerned the application of the second pillar of the Basel II framework, which requires banks themselves to verify whether their capital buffers are adequate in relation to their risk profile⁶⁴, and to develop a strategy to maintain the level of their solvency. That internal process is then required to be examined and assessed by the supervisor. The CBFA has set out its prudential expectations in this respect in a circular⁶⁵. The procedure is to be tested at a number of pilot institutions during a trial period in the first half of 2008. Additionally, there was verification of how institutions document their relevant policy and methodology, as well as of how the results of their own risk measurement relate to their capital base and of how they take corrective measures on that basis.

The lessons of this pilot project will be used to check whether the circular needs to be amended. The intention is for institutions to complete the process of internal documentation in 2008, in order that they may, with effect from the beginning of 2009, commence annual reporting on the quantitative results of their own risk assessment and the allocated equity. In on-site monitoring of the implementation of the Pillar 2 process, the CBFA had an eye to proportional implementation, in accordance with the nature, size and complexity of each institution.

62 See the CBFA 2005 Annual Report, pp. 50-51. See also the CBFA communications of 24 October 2005 on the application files to use such models.

63 See the present report, p. 19.

64 The so-called ICAAP.

65 Circular of 18 December 2007; see the 2007 report of the Management Committee, p. 20.

In respect of the provisions (changed under Basel II) for own funds requirements applicable to Belgian branches of institutions of States that are not members of the EEA, a number of those institutions applied to the CBFA for exemption from the own funds requirements referred to in Article XIII.2 of the Regulation. The applications are at present under review to determine whether the conditions for exemption are met.

Implementation of MiFID

1 November 2007 saw MiFID come into force⁶⁶, which subjects financial institutions to a specific code of conduct and organizational provisions for the better protection of investors. In preparation for its implementation, a number of points were addressed in circulars to the sector, and banks and investment firms were additionally requested to draw up a plan of action listing the measures and means necessary to comply with the MiFID provisions⁶⁷. In the report that they were required to submit to the CBFA, those institutions had also to mention the difficulties and bottlenecks encountered in the necessary adjustment of their organization, procedures and operational and IT processes.

The CBFA's services evaluated the plans of action and, using them as a basis, drew up a supervisory plan, adopting a two-phase approach. First, there was priority action at those institutions where steps needed to be taken in order to comply with the MiFID provisions in due time, or where there were relevant problems of implementation or interpretation. Thereafter, a three-year plan was prepared in order to evaluate – on site or on the basis of the documents concerned – the implementation of MiFID and to identify any risk factors. The supervisory plan differed from institution to institution, depending on the type of investment service provided, the business model used and the situation of the existing organization and internal control, and also took account of the particular tasks of the compliance and internal audit departments in the assessment of MiFID-related internal control measures.

The points focused on in the supervisory plan concern three main areas of supervision: the general organizational requirements, the specific organizational requirements regarding investment services and activities, and the code of conduct. In the first, supervision has to do with the role of compliance and with the handling of complaints, this last being investigated in cooperation with the department tasked with the protection of consumers of financial services. In the second, supervision is concerned with the segregation and protection of customer deposits, the classification of customers into investment categories, the drawing-up of investment profiles and the management of conflicts of interest. Finally, in the third category, supervision has to do with the provision of appropriate information to existing and potential customers, the assessment of the aptness of investment transactions and services in the light of the investment profiles determined, and the application of the principle of best execution. The tasks for each of the three areas of supervision were set out, together with the role of the various competences within the supervisory teams.

The MiFID plan of action for foreign banks and investment firms takes account of the specific characteristics of the large number of institutions and the diversity of their activities and prudential legal statuses, particularly in respect of MiFID.

MiFID lays down that the authorities of the host country have exclusive competence for monitoring observance of the local code of conduct, though this is not necessarily the logic followed in other European banking directives, where the distribution of competences between the authorities of the home country and those of the host country is less pronounced.

The MiFID plan of action gives effect to the CESR protocol adopted in October 2007⁶⁸ and at Belgian level regulates cooperation between the competent home- and host-country supervisors in the supervision of observance of the MiFID regulations. As regards the effective exercise of branch supervision, the protocol provides for the competent home- and

66 MiFID = Markets in Financial Instruments Directive. See the 2007 report of the Management Committee, p. 12, on the transposition into Belgian legislation.

67 In this respect, see the circular of 20 June 2007 and the 2007 report of the Management Committee, p. 13.

68 Protocol on the supervision of branches under MiFID.

host-country supervisors not only to exchange useful information among themselves, but also to conduct joint and complementary supervision (Common Oversight Request) and to charge one of their number with the execution of all or particular supervisory tasks (Standing Request for Assistance).

Internal governance in practice

In March 2007, after an extensive consultation process, the CBFA set out its new policy on sound governance of financial institutions⁶⁹. This brought in the requirement for financial institutions to elucidate their own policy and to have documented it in a “governance memorandum” to be submitted to the CBFA no later than the end of March 2008. A financial institution’s documentation of its management structure is an important test for self-assessment and for the way in which the choices made in this area are justified in the memorandum.

With a view to this, the CBFA conducted discussions during the past year with several institutions on their management structure and organization. In a number of cases, prior, informal testing of the choices made by institutions appeared advisable and allowed requisite prudential guidance to be given in respect of a number of critical aspects. Particularly in the case of smaller institutions, it is important that a sound basis for an appropriate management structure can thus be laid. In this regard, the CBFA pays attention to the application of governance principles commensurate with the institution’s nature, size, complexity and risk profile. The major points of discussion with institution managements concerned expectations regarding significant shareholders, fleshing out the management structure and the profile of senior management, the effectiveness of the monitoring function within the board of directors and the role of the audit committee, the adequacy of independent control functions, and the appropriate distribution of competences within a group between parent enterprise and subsidiaries.

Following dialogue with the institutions concerned, the CBFA will assess their memoranda on the basis of the criteria set out in its circular and in the light of the new governance provisions in the supervision laws⁷⁰. Once the CBFA’s has given the go-ahead, any previous agreement concluded by financial institutions with the CBFA on autonomy in the banking and insurance sector will lapse.

In the assessment of the memorandum of internal governance, account has to be taken of a number of the typical characteristics of foreign banks and investment firms. In the first place is the diversity of their legal statuses. Second, there are specific features that result from the fact that certain institutions belong to an international group, meaning that they have to combine Belgian requirements for sound governance with the group’s own internal rules on the matter. A third element that must be considered concerns the parameters arising from the fact of certain institutions belonging to a group in which a number of key functions are centralized at a single credit institution that also acts as a group holding company. Lastly, account must be taken of the specific characteristics of the legal status of branches subject to the law of a country that is not a member of the EEA and to a number of principles set out in the circular of 30 March 2007.

During the period under review, ideas were repeatedly exchanged with the institutions concerned on the practical application of the principles set out in the circular of 30 March 2007 regarding corporate governance. Where possible, indeed, application of those principles had already been taken into account in the treatment of questions about the changes within the corporate bodies of the institutions concerned.

Other aspects of prudential supervision

Inspection regarding independent control functions and consolidation

Given the importance of the proper operation of independent control functions at institutions subject to supervision, the most closely inspected functions are internal audit, compliance and risk management. In respect of supervision on a consolidated basis, inspections were also conducted at foreign branches of Belgian banks. In a number of cases at smaller institutions, several areas at a time were looked at and the organization as a whole was scrutinized. All these inspections were carried out within the framework of a multi-year audit programme and took account of the control activities of internal audit and of the accredited auditors.

69 See the circular of 30 March 2007 and the CBFA Annual Report 2006, p. 28-29.

70 In this respect, see the new provisions regarding appropriate organization and internal control and regarding independent transverse functions in Article 20 of the banking law of 23 March 1993 and Article 62 of the Law of 6 April 1995 on the legal status and supervision of investment firms. See also the present report, p. 44.

Combating money-laundering

As regards the combating of money-laundering and the identification and scrutiny of customers ("customer due diligence"), and with implementation of the Third European Anti-Money Laundering Directive⁷¹ in prospect, the CBFA took further steps during the past year to make the management of financial institutions and their compliance officers aware of the need for an adequate prevention policy and appropriate control measures to manage their reputation risk. Particular attention was also paid to adequate procedures for international payment processes and correspondent banking activities.

Dematerialization of securities

With the abolition of bearer securities set to take place with effect from 1 January 2008, requisite steps were taken during the period under review to prompt financial institutions to ensure a smooth process of transition⁷². Attention was focused on a number of important, operational aspects and on vigilance for possible money-laundering operations. Institutions contemplating becoming recognized securities account providers were required to submit an information file to the CBFA. Furthermore, guidance was given on a number of principles of sound practice to be followed, as well as on attendant internal control procedures for the administration of financial instruments. A special focus was directed at institutions that, as account providers at the top of the pyramid, will carry out functions similar to those of a recognized settlement institution.

Using the information files submitted by prospective recognized account providers, the priority follow-up action to be taken was verified. At the same time, a procedure was developed for registration on the lists of recognized account providers. As at 1 February 2008, 48 institutions (banks and investment firms) were registered and licensed to maintain accounts for dematerialized securities for third parties, and 72 recognized account providers for dematerialized corporate securities were registered. With effect from 2008, lastly, institutions will be reporting to the CBFA quarterly on their holdings of financial instruments for account of customers, using a model developed by the CBFA for the purpose.

Securing e-banking systems

Another special point of focus during the period under review was the security of e-banking systems. The CBFA conducted a review of whether the security is adequate, bearing in mind the nature and extent of the e-finance services offered and the risk of fraud. Where necessary, it requested financial institutions to enhance their security. It also instructed them to notify it forthwith of any e-banking fraud, with a view to the rapid identification and correction of any gaps in system security and to adequate analysis of the techniques of attack being used. Unfortunately, 100% security is not possible to achieve. In 2007, 34 successful attempts at fraud were registered in Belgium, a very low figure in comparison with the number of transactions executed via internet banking; indeed – although few precise figures are available – everything points to the number of instances of fraud in Belgium being substantially lower than abroad, thanks to the high level of security and constant efforts on the part of the financial industry. Insofar as is known, moreover, all customers that have been hit have been reimbursed, except in one case that has demanded additional investigation. In consultation with Febelfin and the Federal Computer Crime Unit, various initiatives have been launched to improve the flow of sectoral information regarding threats and protection measures. Looking to take appropriate corrective action, the CBFA conducted a worldwide analysis of the security of e-banking services offered in Belgium. A circular on prudential expectations in respect of security is in preparation.

1.3.2. Organization of prudential supervisory actions

The CBFA attunes prudential supervision to the respective risk profiles of the institutions concerned. Risk can stem from external factors (including new regulations and economic developments) or may be inherent in the characteristics of the supervised institution itself.

A substantial amount of prudential action in 2007 was prompted by external factors, examples being the necessity to follow up the implementation of new, important regulations such as Basel II and MiFID⁷³, and to supervise the impact of the uncertain situation on the financial markets.

71 See Directive 2005/60/EC of the European Parliament and Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, OJ L 309/15 of 25 November 2005.

72 See the circulars of 26 February and 10 April 2007 and the 2007 report of the Management Committee, p. 18.

73 See the present report, p. 42, 49 and 51.

Additionally, there was separate evaluation and monitoring of the risks at the level of every institution, attention in this respect being given, as customary, to institutions to which the CBFA's services assigned the highest risk profile, a profile not always in proportion to the size of the institution.

Lastly, it proved necessary to subject each institution separately to a number of minimum checks, even in the case of institutions with a low risk profile.

1.4. Supervision of insurance companies

1.4.1. Points requiring attention and developments in 2007

In 2007, the CBFA placed great emphasis on implementation of the circulars on the risk management models of life assurance companies, and on application of the rules for internal governance and investment strategies, as well as on the organizational structures of insurance companies.

Application of the circulars on the risk management models of life assurance companies and on the exemption from the obligation to set aside a supplementary life assurance provision

Pursuant to the Royal Decree of 30 November 2004⁷⁴, 24 insurance companies applied for exemption from the obligation to set aside a supplementary life assurance provision for the 2007 financial year.

This was the first year for which the multiplier assigned after examining each application had an effect on the amount of the exemption granted for life assurance provisions. Given that the "models circular" and the "exemption circular" were completed only during the second half of 2006, the CBFA had decided that, by way of a transitional measure, it would not yet apply the set multiplier to applications in respect of the 2006 financial year, but simply notify the insurance companies concerned of its value, so that any shortcomings registered could be dealt with.

Regular contact was maintained throughout the year with most of the insurance companies concerned, strengthening the dialogue that permitted them to make improvements to their applications in order better to satisfy the requirements set by the CBFA in the above-mentioned circulars.

The examination conducted in 2007 represented the second step in the medium-term process of supervision and was based chiefly on the CBFA's analysis of documents and on the discussions conducted with the companies, with the exception of a few companies where brief site visits were carried out. In the organization of the handling of the applications, account had to be taken of the large number of them to be squeezed into a short period (1 October to 14 December 2007).

The analysis of dossiers carried out in 2007 will serve as preparation for a series of supervisory tasks with respect to models, tasks that are scheduled in the supervisory plans for several companies to take place in 2008. Risks identified by the analysis will determine which companies receive priority and what aspects will require scrutiny.

The operational teams involved in the analysis did not comprise solely technical analysts in life assurance, but also included actuaries from the Centre of Expertise for Quantitative Methods⁷⁵, financial analysts and, to a less extent, technical analysts in non-life insurance.

Parallel to the examination of the dossiers, and with the support of the Centre of Expertise for Quantitative Methods, a number of interdepartmental and multidisciplinary working groups were set up, resulting in regular meetings between the Prudential Policy Department and the three operational departments involved in the analysis of model and exemption applications.

The working groups were tasked with making arrangements to ensure harmonized treatment of the applications by the various departments and supervisory teams, and more particularly to determine and document objective criteria for assessing fulfilment of the requirements set out in the circulars. A first step in this respect was taken with the

⁷⁴ See the present report, p. 42.

⁷⁵ See the present report, p. 20.

drawing-up of interpretation guidelines. The staff of the Prudential Policy Department and of the various sections of the operational departments responsible for supervision of insurance companies began work on an exhaustive document that will elucidate those criteria more closely. That work will be carried further in 2008.

On the basis of the assessment of fulfilment of the criteria laid out in the circulars, and in accordance with the above-mentioned procedure, the operational teams assigned a multiplier to each of the 24 companies that applied for an exemption.

The multiplier took account of future developments undertaken by companies, insofar as those developments were incorporated into a plan approved by senior management and regarded as credible and well-designed. To be deemed well-designed, a development plan had to be prepared in accordance with the principles generally applied within the context of project management. Moreover, the data included in it had to be linked to the points of the circular that could be assessed in the light of the development plan. Such a plan was deemed credible if the necessary resources for its implementation were commensurate with companies' capacities.

A criterion of essential importance for assessing applications is the use test, in other words the verification that the model developed by the company, as described in the company's application file and examined by the CBFA, is actually that used for the measurement, management and control of risks.

The amounts of the exemptions from the obligation to set aside supplementary life assurance provisions that were granted to companies corresponded with the amounts of the allocation to the "flashing-light" provision for the financial year, multiplied by the multiplier assigned on the basis of the development plan.

Should the CBFA later determine that the development plan on the basis of which the multiplier was assigned has not been observed, that multiplier may be reduced. Furthermore, as indicated in the "models circular", the CBFA

reserves the right to adjust the assigned multiplier appropriately and commensurately where, for example, it records certain findings in the course of on-site inspections.

In processing the exemption applications, the CBFA meets the primary aim of the regulations regarding the setting aside of a supplementary provision for the interest rate risk in life assurance. Furthermore, analysis of the applications enables it to form both a quantitative and a qualitative judgement on the management philosophy and instruments developed by the companies. The requirements of those regulations are an incentive and a preparation for application of the more sophisticated methods that will need to be included in the forthcoming Solvency II Directive, and they should prompt companies to adopt a stringent risk-management philosophy based on advanced techniques, a controlled environment and continuous follow-up all the way to companies' top echelons.

The applications handled at the end of 2007 were approved in the light of the commitments undertaken by companies in their development plans. Monitoring of the effective implementation of plans will continue in 2008 and beyond.

Internal governance and the importance of control functions

In March 2007, after an extensive process of consultation, the CBFA, as previously indicated, set out its new policy regarding the sound governance of financial institutions⁷⁶. In line with other financial institutions, insurance companies were required to elucidate their policy and document its features in a memorandum of internal governance to be submitted to the CBFA no later than the end of March 2008.

Adequate and efficient governance is a key factor in the prospective prudential assessment of the situation of complex groups. In this respect, the highest management bodies of the company bear a fundamental responsibility in terms of the result to be achieved, more even than for compliance with legal or regulatory provisions.

⁷⁶ See the circular of 30 March 2007 on the CBFA's prudential expectations as regards financial institutions' sound governance, as well as the CBFA 2006 Annual Report, pp. 28-29.

The role of prudential supervision is to assess how the company and its management bodies evaluate the risks it is exposed to and whether they have put appropriate responses and an appropriate framework in place to meet them. In this respect, the transverse functions (risk management, compliance and internal audit) are a major focus of attention. They form an essential part of the institution's structure, but neither their existence nor their operation diminishes the responsibility of the management bodies of the company. The independence of these functions, the resources devoted to them and the follow-up given to their actions are indications of how much the company is prepared to pursue a technical, financial and commercial policy that is sound and prudent.

Specific points of attention in inspection tasks

Besides the above-mentioned inspections regarding exemption dossiers, attention in insurance supervision in 2007 also focused on the valuation of technical provisions in long-term risks in non-life insurance. Often scrutinized, too, was the quality of internal control.

Attention was also given to ongoing projects concerning the revamping of reporting and the improvement of report processing, the introductory use of the software acquired by the CBFA for stochastic analysis of provisions in non-life insurance, and the transposition of the directive on reinsurance.

Monitoring of development strategies

In respect of foreign companies, the CBFA paid especial attention to the monitoring of the development strategies of groups to which those companies belong and to the consequences those strategies have for the support provided to their subsidiaries. The CBFA also monitored whether those strategies translated into concrete measures. Those measures can take various forms, ranging from the use by a Belgian company of its group's international logo to operational intervention by the group in administrative, accounting and management organization, and to explicit measures such as the provision of guarantees by the group, i.e. the addressing of letters of comfort to the CBFA to confirm that the group does indeed support the subsidiary for which the CBFA considers the group to be responsible.

Preparing the implementation of international regulations

During 2007, the CBFA held discussions with one of the major insurance companies on the preparations for Solvency II (the prospective European framework for the calculation of solvency), the expected application of IFRS accounting standards and the application of the so-called "prudential filters" to correct inherent decreases and increases in value resulting from an IFRS valuation. Within the context of international cooperation, the CBFA, as coordinating supervisor, organized two coordination committee meetings for the European insurance supervisors of Belgian bancassurance groups.

Protocol on the free provision of services

Notifications coming in from other supervisors regarding the free provision of services by insurance companies of European law demand particular attention and monitoring, given the specific regulatory framework of certain branches of non-life insurance.

Following the CEBS and CESR protocols, a new protocol was drawn up within CEIOPS, with a view to achieving a more efficient processing of notifications regarding the free provision of services by insurance companies of European law.

Insurance company transfers and mergers

The CBFA handled various dossiers concerning the transfer or merger of insurance companies. In certain cases, the transfer or merger formed just a part of a set of operations decided on at international group level.

The dossiers were examined by the operational control teams, which check to see what impact proposed operations could have on the local market. The teams also monitor whether the operations are conducted with due attention for the interests of the insured of the companies subject to supervision.

The internationalization of the activities of groups and, among other things, the stipulations regarding the free provision of services within the European Union has prompted the CBFA to examine whether the supervisory

status of insurance companies that belong to international groups and that have their registered office in Belgium does in fact correspond with the location of the risks or at least with the location where they are effectively managed. In this respect, special attention was paid to where management is effectively located, as well as to the essential transversal functions.

In cooperation with other European supervisors, the CBFA resolved to reflect with the companies concerned on how to ensure that a supervisory regime is in place that is adapted to the legal, structural and economic realities of activities.

1.4.2. Organization of action regarding prudential supervision

Belgian insurance companies

Belgian insurance companies that are part of a group will henceforth be treated in integrated fashion. This move is in line with practice among foreign integrated supervisors and takes account of operational reality among big financial groups, which manage their risks on an integrated basis.

Among those financial groups, a distinction can be made between bancassurance groups and "assurfinance" groups, both of which types can be regarded as systemically important for the Belgian financial market. With bancassurance groups, the basic activity is oriented towards banking; with "assurfinance" groups, towards insurance.

Despite this difference in orientation of the activities which these groups conduct through their various entities, and despite the fact that those entities are subject to different supervisory regimes, it is important that prudential supervision take account of the consistency of the strategy – whether commercial or growth – that a particular group pursues.

The segment consisting of smaller domestic insurance companies contains companies with divergent activities and risk profiles. Some concentrate their commercial strategy around the industrial accidents branch, others offer various indemnity insurance products in the retail sector or limit themselves chiefly to group insurance; yet others have developed a restricted niche business. Because of their size and the nature of their activities and organization, certain companies are especially vulnerable

and therefore demand additional attention. In consequence, the attempt is made in prudential supervision to group companies according to their activity.

On the basis of the risk score and with a view to a balanced cycle of supervision at all the companies concerned, concrete goals are set as regards not only thorough inspection, but also brief on-site "state of affairs" assignments and planned and prepared discussions.

Foreign insurance companies

The significant presence in Belgium of foreign insurance companies makes it all the more important that the approach to setting supervisory priorities be based on an assessment of the risks and that account in this respect be taken of the added value of the proposed supervisory action. Also of importance is that the resources and time available to carry out the supervisory tasks be used optimally. In the preparation of a plan of action, therefore, a choice has to be made between recurring tasks, specific types of action (for example, on-site inspections), action required by regulatory developments, and other specific actions (such as the analysis of risk-management models).

The risk-oriented approach must be based on prudential assessment of the will and capacity of a group to control and support its subsidiaries.

In the supervision of foreign companies, an important role is played by international cooperation among supervisors. That cooperation is expressed in constructive dialogue with the supervisors of the group's home country and in participation in coordination committees, which consist of the supervisors of insurance companies belonging to the same group. Such cooperation results in both a better assessment of the risks facing each individual foreign company subject to supervision and facing the parent company, and a better assessment of the financial situation of the parent company. The improved insight that the supervisor thereby gains into the risks will, as the case may be, have an effect on the nature and extent of any action taken in respect of companies subject to supervision.

Cooperation among supervisors also has the advantage that priority discussion channels can be set up in crisis situations.

1.5. Supervision of clearing and settlement institutions

1.5.1. Post-trade activities in Belgium

Belgium hosts several major players in post-trade activities (i.e. clearing, settlement and custody), a fact that has repeatedly prompted Transconstellation, the specialized professional association for the sector, to label Brussels “transaction processing valley”. Depending on their legal status and whether or not they run a “system”, certain of those major players are subject to prudential supervision by the CBFA, oversight by the NBB, or are monitored by both institutions.

In this chapter, the various post-trade activities are discussed in the logical order in which they are carried out in the handling of securities transactions (clearing, settlement and custody). Briefly touched on, too, are the nature of the activity, the major players engaged in the activity after being authorized by the CBFA and lastly the organization of controls in respect of prudential supervision of those players.

1.5.2. Clearing

The nature of clearing

Clearing forms the link between trading and settlement (see below). Its purpose is to ensure that all necessary conditions or preconditions for settlement are satisfied. More particularly, clearing refers to the procedure whereby flows between market participants are cleared, in order to determine each party's net balance of debts receivable and payable in securities and cash which require settlement

LCH.Clearnet Group

CBFA supervision takes in LCH.Clearnet NV/SA, an institution that arose out of the merger in 2003 of Clearnet (which assumed Eurozone clearing activities upon the merger of the national markets concerned and the establishment of the Euronext Group in 2000) and London Clearing House to become LCH.Clearnet Group. This last consists of an umbrella holding company (LCH.Clearnet Group Ltd), a holding company governed by UK law, and two operational entities, LCH.Clearnet Ltd and LCH.Clearnet NV/SA, which are functionally and institutionally independent of each other. In France, LCH.Clearnet SA has the legal status of a credit institution.

Organization of action within the scope of prudential supervision

On 7 November 2006, the market and post-trade (clearing and settlement) infrastructures signed a code of conduct designed to increase competition within the sector through price transparency and the segmentation of activities and their accounting, as well as to promote interoperability between competing infrastructures. Directive 2004/39/EC on markets in financial instruments (MiFID) also posited the principle of free competition between the clearing and settlement infrastructures, thus prohibiting any form of discrimination regarding access to national regulated markets, save where that would threaten their orderly operation.

Interoperability in respect of clearing means that the trading members of a market for financial instruments can turn with their matched orders to a (clearing) member of the clearing institution of their choice. As a result, intermediaries are chosen independently of each other, and it is possible for the purchase leg of a transaction to be executed at one clearing body and the sale leg at another. In order for a performance guarantee to be given to both legs, a link has to be established between the two clearing bodies, whereby they become each other's counterparty.

Given these developments and their substantial technical implications, the CBFA will proceed in 2008-2009 to a total overhaul of the present framework for supervision, the most important objective being promotion of the following key points:

- ◆ transparency and administrative efficiency in the conducting of checks;
- ◆ predictability of supervisory action;
- ◆ proportionality in the action taken by the Belgian authorities as regards the risks, for the smooth operation of Belgian regulated markets; and
- ◆ a level playing-field regarding the conditions for conducting clearing activities for identical transactions.

1.5.3. Settlement

The nature of settlement

Settlement is the activity whereby title to a security is transferred by the seller to the buyer, for the sum constituting that security's countervalue. In accordance with the customary standards for the conduct of this activity, this exchange takes place under the so-called "delivery versus payment" principle, whereby cash and security are exchanged simultaneously, so that, with the aim of limiting counterparty risk, no party to the transaction will at any moment be in possession of both the security and its countervalue.

The Euroclear Group

The Euroclear Group is one of the most important players in transaction settlement (worldwide, it is the biggest depository for international bonds) and its participants are drawn from more than eighty countries. The Euroclear Group is currently working on unifying the highly fragmented settlement segment of the European markets and to that end has in recent years acquired various European central securities depositories (CSDs), including the French, the Dutch, the British and the Belgian. The Group also acts on behalf of the Irish CSD.

Organization of action within the scope of prudential supervision

In order to render the Group's structure compatible with the above-mentioned objective and, more particularly, to break down the reticence regarding the sale of national CSDs that has prompted the fear of spreading risk among entities carrying out different activities (ICSDs and CSDs) and thus with different risk profiles (namely in respect of credit risk), the Group set to work in 2005 on a corporate restructuring. Briefly, this consisted in Euroclear Bank being split into a holding company (Euroclear NV, otherwise known as ESA), which engages in providing services to all subsidiaries, and an operational wing that, in the same way as the Group's CSDs, is held by ESA.

On its submission for approval, the operation was deemed acceptable from the point of view of prudential supervision, though only insofar as identical supervision could be exercised on both of the entities arising from the splitting of the bank and forming an indivisible, functional whole. In that respect, a Royal Decree was approved subjecting Euroclear NV/SA, as an institution assimilated to a settlement institution, to supervision similar to that applying to Belgian credit institutions.

Besides, on the one hand, analysis of and acceptance of the project and, on the other, continuous monitoring of the Group's financial position, the CBFA launched two consecutive thematic programmes of inspection, over and above its traditional supervisory plan (the accent in this instance being on technical inspection).

The two programmes, the second of which was rounded off in 2007, can be summarized as follows.

As there was a risk that, due to the extent of the restructuring it had undertaken, the Euroclear Group would be faced with a lack of continuity in its production and control activities, prudential supervision was initially concentrated on obtaining a reasonable guarantee regarding that continuity. The initial programme of inspection therefore focused on specific evaluations of the Group's transversal control functions, i.e. internal audit, risk management, compliance and management audit.

A characteristic of settlement activities and of services linked to the custody of assets is the need for interconnection – within a tight and closely interwoven network – between the financial markets, their participants and the range of instruments for managing security and cash flows and stocks. Once a reasonable guarantee was obtained regarding continuity in the steering of risk and in risk management by means of the transversal control functions adapted to the new group structure, a second programme of thematic inspection was devoted to the review of the suitability (in terms of the stability, the security and the contribution to risk profile of the activities concerned) of the network of relationships between the Group's various entities and between those entities and the Group's counterparties. The programme tasks related to, among other things, internal and external outsourcing, the bridge and governance.

During the 2008-2009 period, prudential action on the part of the CBFA in respect of supervision of clearing, settlement and custody activities (CS&C) will be based on the assumption that the period will be marked by accentuation of the extent and speed of the development of the European financial environment in which entities engaged in CS&C and subject to supervision operate. The changes in the structure of the CS&C field of operations have a dual origin.

In the first place, there is the rolling-out of legal and regulatory frameworks such as Basel II, MiFID, the transparency directive and the Single European Payment Area (SEPA) Directive, which are geared to a general harmonization of the operation of European financial markets.

Secondly, there is the launching of specific initiatives around the unification of the internal market for post-trade activities, not only with regard to the principles set out in the code of conduct and the consequences thereof for the interoperability and unbundling of the services offered, but also, at the operational level, with regard to the development of the T2S project and (chiefly) to the rolling-out of the Euroclear Group's strategic projects, which aim at operational consolidation of the markets where the Group is active.

Against this general background, the CBFA's prudential supervision of CS&C activities during the 2008-2009 period will be based on the following three aspects:

- ◆ the follow-up of the impact of legislative and regulatory developments (Basel II, MiFID, the transparency directive) on supervised entities and of the situation regarding those entities' preparation and implementation of the legislative and regulatory measures resulting from those developments;
- ◆ the follow-up of the development and rolling-out of the Euroclear Group's strategic projects, against the background of the keener competition within the post-trade environment and of the challenges arising from the aforementioned specific developments (the code of conduct, T2S, etc.);
- ◆ greater convergence between the CBFA's prudential supervision and the NBB's oversight, in order to achieve a fully homogenous and coordinated policy of supervision, built around the respective competences of the two Belgian supervisory authorities. Over and above the enhanced efficiency which this highly synchronized supervision model means for the group being supervised, this approach ought also to contribute towards an optimal execution of the activities linked to the legal status of the supervisory authorities of the home country, namely the CBFA and the NBB for the Euroclear Group.

It is to this end that high-level meetings have taken place between the leaders of Belgian and foreign regulatory bodies, either during the regular meetings organized, in accordance with the Memorandum of Understanding, with the authorities of the countries where Euroclear Group entities are established or during the ad hoc meetings organized when circumstances demand.

1.5.4. Custody

The nature of custody

The concept of "custody" refers not only to the safe-keeping as such of securities on behalf of their owners (financial intermediaries and investors), but also to the management of the securities held in custody (calculation and collection of the proceeds of the rights of the owners in the event of corporate action, administrative management of securities held in custody, specific reports adapted to the needs of different types of owner, etc.). Such activities are often linked

to other services with value added, such as the follow-up and recovery of taxes withheld at source, assistance in the exercise of voting rights, securities lending or borrowing, the management of guarantees or multi-currency management.

The Bank of New York – Brussels Branch

The Bank of New York Mellon Corporation (BNY Mellon) Group offers worldwide financial services and is the world's largest custodian in terms of assets managed.

As an operational centre, the Group's Belgian branch (The Bank of New York – Brussels Branch) is tasked with global custody, i.e. the custody and management outside the United States of the securities and financial instruments of the Group's (institutional) clients: banks, brokers/dealers, insurance companies, investment and pension funds, etc.

In addition to this activity, the branch also engages in certain allied specialist activities for all other Group entities, in this respect being active as correspondent for currencies such as the euro, the US dollar, the yen and sterling, or in currency exchange.

Organization of action within the scope of prudential supervision

Bearing in mind that the legal status adopted by the BNY Mellon Group's Belgian entity was that of a branch, the CBFA put the necessary framework in place for developments within the Group and for the resulting organizational changes for that entity. For 2007, mention can be made of three particularly important matters:

- ◆ the follow-up, in cooperation with the US supervisory authorities, of introduction of the central system used by The Bank of New York – Brussels Branch in pursuing its activities: more particularly, an integrated system for the automated processing of corporate action, interest payments and refund of taxes withheld at source;
- ◆ on 8 April 2006, the Bank of New York (BNY) and JP Morgan Chase & Co (JPMC) groups concluded an exchange agreement whereby BNY would acquire

JPMC's corporate trust & agency business in exchange for the transfer of its entire retail banking activity in the United States. Against this background, The Bank of New York – Brussels Branch in 2007 requested and obtained the authorization of the CBFA's Management Committee to transfer on its own behalf the contracts of pledge regarding assets given in custody by clients of the activity transferred in accordance with Articles 30 and 31 of the banking law of 22 March 1993;

- ◆ in July 2007, the BNY Group merged with the Mellon Financial Corporation Group.

Provided its competences remain unchanged, the CBFA will continue to provide a supervisory framework for developments regarding entities on the financial market active in custody, a framework that consists chiefly in the implementation of pragmatic and appropriate solutions based on the thorough technical CS&C know-how built up by the teams charged with prudential supervision of the most advanced players within the sector.

1.6. Supervision of institutions for occupational retirement provisions

During 2006 and at the beginning of 2007, a number of legal and regulatory texts were published whose purpose was to transpose the Directive on the activities and supervision of institutions for occupational retirement provision (the IORP Directive) into Belgian law and to achieve a complete revision of prudential supervision of such institutions. The new framework was completed in 2007 with the approval of the Royal Decree of 5 June 2007 on the annual accounts of institutions for occupational retirement provision⁷⁷. The Supervision of Supplementary Pensions Department made a substantial contribution to the drawing-up of that decree, and indeed of the Law on the supervision of institutions for occupational retirement provision and its implementing decree.

This regulatory framework was supplemented with several circulars and memoranda setting out the CBFA's expectations in various areas.

77 See the 2007 report of the Management Committee, p. 25.

One such document was the memorandum published in May 2007⁷⁸, which set out the content and form of the application for authorization and took account of the new legal provisions introduced by the Law on the supervision of institutions for occupational retirement provision. The new legal guidelines and, in particular, the greater freedom given to IORPs regarding financing make it imperative that the Supervision of Supplementary Pensions Department specifically examine whether, in its application for authorization, an institution can demonstrate that it recognizes and manages the risks attendant on its activity.

A circular of 23 March 2007⁷⁹ was devoted to cross-border activities (activities conducted by an IORP in another Member State of the EEA) and activities conducted in a State that is not a member of the EEA. This circular defined the concept of "activity outside Belgium" more closely and set out the cases where notification as referred to in Articles 62 to 73 of the Law on IORPs is required to be given to the CBFA.

The circular on the governance of IORPs, the draft version of which was discussed in the previous report⁸⁰, was finalized⁸¹. In the final version, account was taken of the amendments by parliament to the bill on the supervision of institutions for occupational retirement provision and of the result of the open consultation organized by the CBFA. The original principles were retained in the definitive version, but the structure was adjusted to facilitate the circular's application. The actual circular thus contains solely the legal provisions, and it is the accompanying note that goes more closely into the principles of the circular, as well as into best practices and recommendations regarding sound governance. The Supervision of Supplementary Pensions Department expects of IORPs that they begin forthwith to give thought to how they will comply with the guidelines of the circular and the accompanying note, or that, in accordance with the principle of "comply or explain", they justify why they will not be doing so. For this purpose, they may make use of the self-assessment questionnaire accompanying the circular and the note on governance.

During a seminar organized on 20 June 2007 in cooperation with the Belgian Association of Pension Institutions, the CBFA elucidated its expectations as regards internal governance.

Initially, it was planned that the CBFA's expectations in respect of the professional integrity, qualifications and experience of the members of the operational entities of IORPs would be incorporated into an annex to the circular on governance. In order to achieve greater flexibility, however, they were brought together into a specific standard letter⁸². Henceforth, the form included with that letter must be used, though only in the case of renewal of the mandate of a member of such an operational entity. The Supervision of Supplementary Pensions Department expects that, after four to five years, most of those concerned will have complied with the guidelines of the standard letter.

On its web site, furthermore, the CBFA published two notes on the new provisions regarding prudential supervision. The first⁸³ is a general note on the amendments made by the Law on IORPs and its implementing decree to regulations regarding prudential supervision. The second note⁸⁴ goes more specifically into the new provisions in force regarding the pension schemes of public authorities and public enterprises.

Lastly, the CBFA revised two circulars, that on the collection of data on IORPs and supplementary pensions, and that on the financial statements of IORPs. The annex to circular P40 was replaced via P42⁸⁵, a step necessary in order to amend the content of the annex to the new legal and regulatory provisions, and also to incorporate additional data on governance. Circular P43⁸⁶ contained a number of minor amendments to the collection of financial statement data. Given that a new accounting decree⁸⁷ has come into force, a completely new circular on this matter will be prepared in 2008.

78 See the 2007 report of the Management Committee, p. 35.

79 Circular CPP-2007-1-WIBP/LIRP of 23 March 2007 on notification by an institution for occupational retirement provision of Belgian law of a cross-border activity or an activity in a State that is not a member of the EEA. See the 2007 report of the Management Committee, p. 26.

80 See the CBFA Annual Report 2006, p. 60.

81 Circular CPP-2007-2-WIBP/LIRP of 23 May 2007 on the governance of IORPs.

82 Standard letter of 23 May 2007 on the appointment of a member of an operational entity of an institution for occupational retirement provision. See the 2007 report of the Management Committee, p. 28.

83 The Law of 27 October 2006 and the new prudential supervision of IORPs.

84 Note on the pension schemes of public authorities and public bodies.

85 Circular P42 of 16 January 2007 on amendments to Circular P40 - reporting. See the 2007 report of the Management Committee, p. 26.

86 Circular P43 of 16 January 2007 on the financial statements, the statistics and the requisite accompanying documents for the 2006 financial year. See the 2007 report of the Management Committee, p. 26.

87 The Royal Decree of 5 June 2007 on the financial statements of institutions for occupational retirement provision. See the 2007 report of the Management Committee, p. 25.

The data compiled in respect of IORPs serve as, among other things, a basis for the risk model developed by the Supervision of Supplementary Pensions Department. In 2007, the model allowed the department to identify a number of IORPs that required closer supervision, though none of them, except those that had already submitted a rectification plan, were subject to any special measures on the part of the CBFA.

During 2007, a large number of IORPs adopted the legal form of an "Organization for Pension Financing" (OFP). This necessitated submission of their duly amended articles of association to the CBFA. The Supervision of Supplementary Pensions Department examined the articles and where necessary commented on them to the IORPs concerned. In most cases, comments related to the composition of operational entities and of the General Meeting, more particularly in the latter case to the obligation for the contributing company to be a member of the OFP and to remain a member for as long as that institution manages its pension scheme.

In 2007, the department examined the situation regarding the two categories of IORP, i.e. the registered funds and the internal funds.

The first category comprises the IORPs registered at the time the prudential provisions applying to them came into force⁸⁸ but which – for various reasons – have not yet been granted definitive authorization, among those reasons being that the pension scheme did not comply with social security provisions or that the institution no longer complied with prudential provisions, in consequence of the various amendments made to the relevant legislation.

As at 31 December 2005, the number of registered funds stood at twenty-one. Since then, twelve of those have been granted definitive authorization – one at its own request and the other eleven at the CBFA's request – and three are in the process of liquidation or have been fully

liquidated. As at 31 December 2007, there remained just six. Concerned in most cases here are closed pension schemes counting just a few remaining annuitants.

As their name indicates, internal funds are pension schemes managed by companies exempt from the obligation to set up a separate legal person. Such pension schemes operate without contributions from their members and without the setting-aside of technical provisions; they involve solely those persons who became members before the prudential provisions applying to the schemes came into force. Of the sixty such funds in 1986, there are now just under thirty. Concerned in most cases here, too, are closed pension schemes with just a few remaining annuitants.

On 6 December 2007, lastly, the CBFA, together with the Belgian Association of Pension Institutions, organized a half-day information session on the new requirements regarding prudential supervision and more particularly on the continuity test that IORPs will be required to introduce.

⁸⁸ In most cases, 1 January 1986 (employee pension schemes), 1 September 2000 (pension schemes for managers and certain pension schemes for public corporate bodies) or 1 January 2007 (certain pension schemes for public corporate bodies and social security funds).

2. Supervision of undertakings for collective investment⁸⁹

2.1. Outline in figures of the evolution of the UCI sector and of the activities of the service supervising collective management of savings products

Number of supervised undertakings

	31.12.2003	31.12.2004	31.12.2005	31.12.2006	31.12.2007
Belgian UCIs	155	160	158	185	179
Sub-funds	1 252	1 372	1 481	1 652	1 844
Foreign non-passported UCIs	49	39	18	17	15
Sub-funds	142	112	99	104	108
Foreign passported UCIs	218	206	198	209	216
Sub-funds	1 925	1 918	2 023	2 068	2 258
Total UCIs	422	405	374	411	410
Total Sub-funds	3319	3 402	3 603	3 824	4 210

Although the number of *Belgian UCIs* fell by 3.2% in 2007 (+17% in 2006), a steady increase in the number of *sub-funds* was recorded for the fourth year running, by 11.6% (identical to the increase in 2006).

2007 also saw the total number of *foreign UCIs marketed in Belgium* (both passported and non-passported) grow by a further 2.2% (+4.6% in 2006, after sharp decreases in 2004 and 2005), and the number of foreign *sub-funds* rise steeply by 8.9% (compared with increases of 2.4% and 4.5% in 2006 and 2005 respectively). These figures can be broken down as follows between passported and non-passported foreign UCIs.

For the second successive year since 2002, the number of *foreign passported UCIs* climbed, this time by 3.3% (+5.6% in 2006, -3.8% in 2005 and -6% in 2004). The number of

sub-funds of foreign passported UCIs grew by a substantial 9.2% (+2.2% in 2006), once again confirming the successful integration of UCITS III.

Although the number of *foreign non-passported UCIs* fell by 11.8% (-5.6% in 2006), an increase of 3.9% in the number of their *sub-funds* was recorded (+5% in 2006 compared with sharp drops in the preceding years).

The *UCIs for which the CBFA is the first-line supervisor* (namely UCIs governed by Belgian law plus foreign non-passported UCIs) accounted for 47.3% of all *investment undertakings* and 46.3% of all *sub-funds* marketed in Belgium as at 31 December 2007 (compared to 49.2% and 45.9% respectively as at 31 December 2006).

⁸⁹ For an overview of these supervisory tasks, see the 2004 and 2005 CBFA annual reports.

Evolution of the net assets of Belgian open-ended UCIs

	31.12.2003	31.12.2004	31.12.2005	31.12.2006	31.03.2007	30.06.2007	30.09.2007	31.12.2007
Net assets of open-ended UCIs governed by Belgian law (in EUR billion)	85.05	95.33	112.14	124.27	123.47	126.12	125.90	121.24

As at 31 December 2007, the *net assets* of open-ended UCIs governed by Belgian law which were marketed in Belgium amounted to € 121.24 billion⁹⁰. The net assets of Belgian open-ended UCIs thus decreased by 2.4% from their record level in 2006. Strikingly, the growth which continued to be experienced over the course of 2007 was completely reversed during the last quarter.

Net subscriptions in Belgian UCIs totalled € 4.12 billion in 2007, continuing the downward trend since the record year of 2005 (down 61% on 2006). The net inflow in 2007 is almost entirely due to UCIs with fixed maturity and capital protection, which generated a net inflow of € 6.88 billion, whereas the other categories of UCI experienced a net capital outflow, apart from pension savings funds (up € 98.6 million) and monetary UCIs (up € 342 million). These figures again demonstrate the vital role of fixed-maturity UCIs in the growth of the Belgian UCI market.

Gross subscriptions and redemptions as at the end of December 2007 were € 50.8 and € 46.68 billion respectively. These amounts, which are strikingly higher than in previous years, relate mainly to three categories of UCI: those investing principally in shares, those investing in units of other UCIs and fixed-maturity UCIs (these categories together account for 68% of subscriptions and redemptions).

Subscription and redemption amounts were disproportionately high during the last quarter of 2007 (35% and 41% of total subscriptions and redemptions respectively). Particularly worthy of note here is the situation of UCIs that invest in shares (51% of total subscriptions and 47% of total redemptions relate to the last quarter of 2007) and of monetary UCIs (53% and 65% respectively). This increase in capital inflow and outflow activity in the market for UCIs governed by Belgian law over 2007, and in the last quarter in particular, may be due to the uncertainty about investment choices created by the subprime crisis.

⁹⁰ The net assets of open-ended UCIs governed by Belgian law account for 70% of the net assets of Belgian and foreign UCIs (excluding so-called "funds of funds") offered on the Belgian market (72% in 2006).

Evolution of the volume of activity

	2003	2004	2005	2006	2007
Number of registrations					
• New UCIs	33	27	30	59	26
- <i>Belgian harmonized UCIs</i>			1	1	0
- <i>Other Belgian UCIs</i>			8	28	6
- <i>Foreign harmonized UCIs</i>			21	29	20
- <i>Other foreign UCIs</i>			0	1	0
• New sub-funds	473	418	578	543	684
- <i>Belgian harmonized sub-funds</i>					60
- <i>Other Belgian sub-funds</i>					345
			283	288	405
- <i>Foreign harmonized sub-funds</i>					261
- <i>Other foreign sub-funds</i>					18
			295	255	279
Number of changes in the list					1 351
Number of takeover bids and squeeze-out bids	2	0	0	1	2

The above table showing the number of registrations and changes in the lists of Belgian and foreign investment undertakings gives an indication of the volume of activity at the service which supervises collective management of savings products. 61.8% of the newly *registered sub-funds* fall under the first-line supervision of the CBFA (59.2% Belgian sub-funds and 2.6% non-harmonized foreign sub-funds). The increase in the number of newly registered sub-funds compared with 2006 (+26%) relates mainly to Belgian undertakings: the number of newly registered Belgian sub-funds in fact rose by 40.6% compared with 2006.

Eighty-eight per cent of the newly created Belgian sub-funds in 2007 belong to the segment of *investment undertakings with fixed maturity and capital protection* (93% in 2006). The Belgian UCI market thus continues to be characterized by the traditional success of such products, which are also gaining in importance as an export product.

As was the case in 2006, the investment policy of the majority (74.2%) of new sub-funds of foreign UCIs focuses on direct investment in shares and/or bonds.

According to the service's internal registration systems, the volume of *advertising* submitted to the CBFA for approval climbed by 12.9% compared to 2006.

Finally, one real estate UCI was listed in 2007.

2.2. Points of focus and key themes in the supervision of UCIs in 2007

As the above figures show, from an operational point of view 2007 was characterized first of all by a further rise in the volume of activity. Among other things, the continuous increase in the volume of advertising for UCIs submitted for approval is striking.

Secondly, in operational terms the following areas were focused on last year:

- ◆ Work was done on the ongoing revision of the internal supervision guidelines relating to advertising standards. The aim of this exercise was to adapt the standards to ongoing developments in advertising practice, to the MiFID rules which have now entered into force and to the supervisory practices which are being developed in this field by other departments. It also formed the basis for a twice-yearly consultation, started during the period under review, with the specific Beama working group on distribution and marketing;
- ◆ The activities of the working group started in 2006 with statutory auditors of UCIs, the aim of which is to define in more detail the (semi-)prudential role of a UCI's statutory auditor, focused during the period under review on the implications of the so-called CRD law⁹¹;
- ◆ Even before the subprime crisis had fully emerged, an inspection was conducted at the largest UCI management companies of the way in which the liquidity risk of open-ended UCIs is managed. In the wake of the turmoil which broke out, the scope of this inspection was widened to include a further specific survey of the concrete consequences of this crisis for Belgian UCIs. It did not bring to light any particular problems for the Belgian UCI sector;
- ◆ As a result of CESR's recommendations on simplifying the notification procedure for UCITS which wish to market their shares abroad, the service has completely revised the relevant administrative procedure, both internally and externally, so as to bring it fully in line with the recommendations. To help ensure legal certainty and transparency, the new procedure was explained in detail in two circulars. With the same purpose in mind, a related Communication explained the Belgian marketing rules which apply to UCITS wishing to market their shares in Belgium and with which the CBFA supervises compliance⁹²;

- ◆ In order to provide Belgian promoters with the necessary operational instruments to choose Belgium as a place for the international launch of the UCIs promoted by them, the department last year devised a special administrative procedure for non-activated sub-funds. This procedure can be used to start the notification procedure for marketing UCITS abroad before all the definitive characteristics of a product that will be launched in the future have been determined. After a test phase, a circular will be published explaining this administrative procedure.

Although most of its resources were devoted to operational supervision, as was the case in previous years, the service also started work on a number of projects which should contribute to the development of a favourable *regulatory environment*:

- ◆ As part of a CBFA interdepartmental working group, the service first of all worked out proposals for the adaptation of the dematerialization law⁹³ to the specific characteristics of the UCI regulations⁹⁴. A Communication⁹⁵ was then issued, in connection with the close consultation with **Beama** on the specific application of dematerialization to the UCI sector, in order to provide information about these special application arrangements.
- ◆ With a view to ensuring an appropriate demarcation of the operational spheres of public and institutional collective investment vehicles, the service put considerable technical efforts into the drafting of the Royal Decree of 7 December 2007 on institutional open-ended undertakings for collective investment whose sole object is collective investment in the category of authorized investments referred to in Article 7, §1, 2°, of the Law of 20 July 2004. A procedure was developed for UCIs wishing to change their status from a public to an institutional UCI.

91 Law of 15 May 2007 amending the Law of 22 March 1993 on the legal status and supervision of credit institutions, the Law of 6 April 1995 on the legal status and supervision of investment firms, intermediaries and investment advisers, and the Law of 20 July 2004 on certain forms of collective management of investment portfolios. In particular, this law transposes Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions.

92 CBFA Circular UCI/2007 on the notification procedure for undertakings for collective investment governed by the law of another Member State of the European Economic Area that fulfil the conditions of Directive 85/611/EEC, CBFA Circular UCI 2/2007 on the notification procedure for undertakings for collective investment governed by Belgian law that fulfil the conditions of Directive 85/611/EEC and CBFA Communication on the rules applicable to UCITS governed by foreign law that wish to market their shares in Belgium (see the report of the Management Committee, p. 69).

93 Law of 14 December 2005 abolishing bearer securities.

94 These proposals were, at least in part, included in the Law of 25 April 2007 containing miscellaneous provisions (IV).

95 CBFA Communication of 12 June 2007 explaining the application to Belgian public undertakings for collective investment of the Law of 14 December 2005 abolishing bearer securities.

- ◆ After lengthy consultation with **Beama**, a circular on the use of a nominee was also issued⁹⁶. This circular explains the specific rules governing situations in which investors who buy registered securities in UCIs hold these securities via an intermediary who is responsible for the relationship between the UCI in question and its investors.
- ◆ The service also took part in the CBFA's internal work on the transposition of MiFID into Belgian law, in particular so as to seek optimal consistency between the requirements of the UCITS Directive and those of MiFID. The service also provided technical cooperation in the transposition of the CRD and of the Transparency Directive in connection with all aspects of collective portfolio management.
- ◆ Preliminary discussions were also held on the adaptation of the Royal Decrees on public *pricafs/privaks* and real-estate UCIs⁹⁷ to the framework Law of 20 July 2004 and on modernizing the regulatory framework for these types of investment undertakings.
- ◆ Finally, a start was also made on the proposals for the transposition of the Eligible Assets Directive⁹⁸.

On the *international front*, the service closely monitored developments with regard to the European proposals for a new UCITS IV framework. Through participation in open consultations, active involvement in the activities of CESR IM and open hearings, the CBFA sought to contribute to the debates on this high-profile development of the European regulatory framework.

More specifically as part of the CESR Expert Group on Investment Management, the CBFA is a member of the Operational Task Force, which is seeking to achieve operational convergence of European supervisory practices in collective portfolio management. It is also a member of the sub-working groups which have prepared CESR's opinions on the inclusion of derivatives of hedge fund indices in the

portfolio of a UCITS⁹⁹ and on the form and content of the key investor information¹⁰⁰. Finally, it was responsible for coordinating the CESR working group which organizes consultation with the European Commission on the interaction between MiFID and the UCITS Directives.

3. Supervision of financial information and markets

3.1. Introduction

2007 was another year of change, primarily of a regulatory nature, with the entry into force of several major directives:

- ◆ the Takeover Directive¹⁰¹, which radically changes the circumstances under which an obligation arises to launch a takeover bid;
- ◆ the Transparency Directive¹⁰², which overhauls the obligations of issuers whose securities admitted to trading on a regulated market and the notifications of large shareholdings;
- ◆ the Markets in Financial Instruments Directive (MiFID)¹⁰³, which in particular opens the way to multilateral trading facilities and to the internalization of orders under certain conditions.

The CBFA responded to these changes by adapting its supervision to the new regulatory requirements and working to ensure that their implications were communicated to market players.

This evolution was accompanied by significant developments such as the formation of the NYSE Euronext group, the integration of Brussels into this group and the adaptation of the trading rules in anticipation of the expected changes resulting from the new situation created by MiFID.

96 CBFA Circular UCI 4/2007 on holding securities in an undertaking for collective investment through a nominee.

97 Royal Decree of 18 April 1997 on undertakings for investment in unlisted companies and growth companies and the Royal Decree of 10 April 1995 on real-estate UCIs.

98 Commission Directive 2007/16/EC of 19 March 2007 implementing Council Directive 85/611/EEC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) as regards the clarification of certain definitions.

99 CESR's guidelines concerning eligible assets for investment by UCITS - *The classification of hedge fund indices as financial indices* (CESR/07-434 - July 2007).

100 CESR's advice to the European Commission on the content and form of Key Information Document disclosures for UCITS (CESR/08-087 of February 2008); according to the European Commission's preliminary proposals, this document is intended to replace the simplified prospectus.

101 Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids, OJ L 142, 30 April 2004, p. 12.

102 Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 relating to the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC, OJ L 390, 31 December 2004, p. 38.

103 Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments, OJ L 145, 30 April 2004, p. 1.

Changes in stock market conditions during the second half of the year prompted the CBFA to display a high degree of responsiveness in allowing the issuers of securities to adapt their operations to the market's highly volatile character at very short notice, without compromising on quality while at the same time ensuring that supervisory procedures were not regarded as an obstacle to the performance of operations.

At the same time, the CBFA continued to perform its various day-to-day supervisory roles with regard to the functioning of the financial markets. Despite all the upheavals and challenges, the CBFA did not note any major problems in the securities sector during 2007.

3.2. Supervision of financial operations

The supervision of financial operations is intended to ensure the proper application of the Law of 16 June 2004¹⁰⁴ with regard to the issuing of investment instruments (public offerings of securities) and of the Law of 1 April 2007¹⁰⁵ with regard to takeover or squeeze-out bids. This is done via the approval of the prospectus and/or advertisements relating to the bid. With regard to takeover and squeeze-out bids, supervision is also intended to ensure the correct use of the bidding procedure.

Operations on equity securities

	2005	2006	2007
IPOs	13	20	19
on Euronext Brussels	7	7	9
on Alternext	-	4	2
on the Free Market (Marché libre/Vrije Markt)	6	9	8
Admissions of new issues by companies listed on Euronext Brussels	38	15	12
Takeover bids in cash or securities, squeeze-out bids	15	16	22
Issues and/or admissions of warrants	11	15	13
Special reports on the basis of Article 583 of the Code on Companies	17	25	35
Other	9	24	23
Total	103	115	124

2007, like 2006, was a particularly lively year in terms of IPOs. This trend was observed on both the regulated market and on the non-regulated markets, although a preference was shown for the Free Market. Nineteen companies were admitted to the various markets organized by Euronext Brussels: nine to the regulated market and ten to an organized market (known as a "multilateral trading facility" or MTF since 1 November 2007). The duality already observed in earlier years between major operations, such as those

carried out by Nyrstar, and very small operations on the Free Market remains. However, the CBFA treats these different types of dossier in the same way, ensuring that the public is properly informed and undertaking *a priori* supervision. The time it takes to process a prospectus is usually five to six weeks for large-scale operations, and varies for small operations depending on the responsiveness of the companies concerned, which usually have a smaller infrastructure and a more modest budget for using the services

104 Law of 16 June 2006 on public offers of investment instruments and admission of investment instruments to trading on regulated markets, Belgian Official Gazette, 21 June 2006.

105 Law of 1 April 2007 on takeover bids, Belgian Official Gazette, 26 April 2007.

of external advisers. Many of the IPOs carried out involved cases with complex financial backgrounds, and the CBFA provides some discussion of this point in the report of the Management Committee¹⁰⁶.

2007 was also characterized by a large number of takeover bids. The new legislation in this area¹⁰⁷ came into force on 1 September 2007, and five out of the 22 bids made in 2007 took place under the new regime. These first application cases are also commented on in the Management Committee's report¹⁰⁸. For comments on the transitional measures, see the section in the present report on the

supervision of financial information on a continuous basis¹⁰⁹.

The IPOs also provided an opportunity to evaluate the new Royal Decree on primary market practices¹¹⁰, which came into force in June 2007. On the basis of these initial application cases, the CBFA drew up proposals in order to adjust the balance of certain of the decree's provisions. The proposals are to be submitted in 2008 to the sector for consultation in accordance with the procedure stipulated by the Law of 2 August 2002.

Non-equity securities operations

	2005	2006	2007
Issues and/or admissions of investment instruments with capital risk	79	309	217
<i>issued from within Belgium</i>	32	7	0
<i>issued from within another EEA Member State or non-EEA</i>	47	302	217
Issues and/or admissions of investment instruments with no capital risk	128	166	194
<i>issued from within Belgium</i>	70	33	39
<i>issued from within another EEA Member State or non-EEA</i>	58	133	155
Bank savings certificates, subordinated liabilities and capitalization bonds	16	5	7
Total	223	480	418

The apparent decline in the number of operations is the result of the significant reduction in the number of operations performed under the European passport and relating to debt securities without protection of capital at maturity. The number of operations conducted under the European passport with capital protection continues to rise. For these operations, the CBFA verifies that the advertisements are not misleading. In order to increase the predictability of its

actions in this area, the CBFA has drawn up recommendations and guidelines which are to be submitted for consultation to the sector in 2008. The value of debt security operations, based on the results communicated by the issuers, was € 6 059 687 in 2007, of which € 772 592 derived from the issue of investment instruments without capital protection.

106 See the report of the Management Committee, p. 49.

107 Law of 1 April 2007 on takeover bids.

108 See the report of the Management Committee, p. 49.

109 See the present report, p. 71.

110 Royal Decree of 17 May 2007 on primary market practices.

European passports

Approval declarations per supervisory authority	Complete prospectus	Basic prospectus	Supplement to prospectus	Supplement to basic prospectus	Total
AFM (Netherlands)	21	14	8	27	70
AMF (France)	6	7	1	15	29
BAFIN (Germany)	15	6	0	14	35
CSSF (Luxembourg)	39	27	37	81	184
FSA (United Kingdom)	26	13	26	52	117
IFSRA (Ireland)	12	23	20	19	74
Total	119	90	92	208	509

The above table provides a more detailed analysis of the number of passports notified to the CBFA and their origin, and is indicative of the degree of functioning of the Prospectus Directive¹¹¹. However, it should be noted that the passports do not always result in actual operations, which explains the difference between the number of passports received and the number of operations shown in the previous table. Twenty operations where the prospectus was approved by the CBFA were passported at the issuer's request, for 56 countries (certain operations being passported for multiple countries).



The pace of supervisory tasks both in terms of substantive matters and of timing activities is determined by the operations carried out by market players. For the rest, in 2008 the CBFA will finalize its proposals for adapting the decree on primary market practices and its recommendations and guidelines on advertising. It also plans to propose an overhaul of the model prospectus for issues of investment securities with a value of less than € 2.5 million, which hence lie outside the scope of the European regulations in this area. In addition, it will evaluate the functioning of the European passports in the light of the work done by the Committee of European Securities Regulators (CESR).

3.3. Supervision of financial information on a continuous basis

In the course of 2007, the CBFA supervised 146 Belgian and 57 foreign issuers.

The CBFA's main actions in this respect were as follows:

- ◆ As in previous years, the CBFA's supervisory work was guided by its *risk model*, which is adapted every year and used to draw up a supervisory programme and determine which companies will undergo closer scrutiny in the light of their risk structure or based on factors relating to the frequency of checks. Its supervision led to a number of interventions by the CBFA, which yielded satisfactory responses from the issuers. As a result, the CBFA did not have to resort to using its warning procedure;
- ◆ in order to adapt supervisory tools to regulatory developments, the Accountancy and Finance unit updated its IFRS checklists¹¹² in light of the decisions regarding the IFRS taken by the European regulators¹¹³;

111 Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC, OJ L 345, 31 December 2003, p. 63.

112 See the CBFA Annual Report 2006, p. 66 and 67.

113 These decisions are recorded in the database of the European Enforcers' Co-ordination Sessions (EECS).

- ◆ the Accountancy and Finance unit also drew up a checklist to use for valuations. Particularly when it is examining prospectuses for securities issues or for takeover bids in cash or securities, the CBFA is required to examine the valuations of companies or businesses. As well as ensuring that sufficient information is provided, the CBFA checks that the valuation in question has been carried out in line with best practice, and that the assumptions used are correctly validated by the valuer. On the basis of past experience, a number of general principles have been proposed, and for each valuation method (stock market multiples, transaction multiples, discounted cash flow model, dividend discount model, revalued net assets) an indication is given of which points need to be considered;
- ◆ Supervision of Financial Information and the Accountancy and Finance unit, in addition to their ongoing supervision of listed companies, worked closely with Supervision of Financial Transactions in numerous cases involving securities issues or takeover bids in cash or securities. In this connection, numerous questions relating to issuers with a complex financial background or to company valuations were dealt with;
- ◆ as in previous years, the CBFA verified compliance with the deadlines for the publication of the annual and half-yearly statements by listed companies. In line with its customary practice, it published a warning listing the names of issuers which had failed to publish their information on time. For the annual statements three warnings had to be published, and for the half-yearly statements, one.
- ◆ worked actively on the preparatory study for and drafting of CESR's review of the implementation and enforcement of the IFRSs in the EU;
- ◆ took part in the CESR Credit Rating Agencies Task Force, which is responsible for issuing opinions, first on the compliance of credit rating agencies with the Code of Conduct published by the International Organization of Securities Commissions (IOSCO), and secondly on the effectiveness of the current self-regulation regime and whether it needs to be replaced with a regulatory framework;
- ◆ is represented on Standing Committee 1 (SC1), which reports to the Technical Committee of IOSCO. In particular, SC1 monitors the IFRSs and the international audit standards (IASs). To this end, it is developing a set of principles on the periodic provision of information. IOSCO has recently issued two communications: the first encourages companies whose securities are admitted to trading on a regulated market to inform the public clearly about the standards under which their accounts are drawn up, while the second seeks to promote the establishment of high-quality international audit standards. Moreover, the Technical Committee and SC1 encourage the uniform application of the IFRSs through the creation of a database similar to that of CESR, collecting decisions by supervisors on the application of the IFRSs.
- ◆ took part in the activities of the *Institut francophone de la Régulation financière* (Francophone Institute for Financial Regulation, IFREFI), whose sixth annual session was held in Tunis in June 2007. The meeting of high-level officials led to fruitful exchanges of viewpoints on corporate governance and internal controls. The associated training seminar, which was open to the entire Tunisian financial market and was attended by nearly 100 people, was on international accounting standards and audit standards.

In the international arena, the CBFA:

- ◆ took part in all meetings of the European Enforcers' Co-ordination Sessions (EECS), at which the European regulators discuss cases of the application of the international financial reporting standards (IFRSs) with which they have to deal and the decisions recorded in the EECS database. The purpose of these sessions is to ensure European coordination and convergence in the application of the IFRSs and their supervision by the various regulators. The CBFA contributed the decisions it took during 2007 to the database;

As was mentioned in the 2006 Annual Report, the CBFA has cooperated closely in preparing the transposition of the Transparency Directive into Belgian law. During 2007, most of the legislative framework was put in place: on 12 June 2007, the Law of 2 May 2007 was published in the Belgian Official Gazette, followed on 3 December 2007 by the Royal Decree of 14 November 2007 on the obligations of issuers of securities, which came into force on 1 January 2008.

The CBFA used both a circular and contacts with the issuers at Euronext Brussels and Alternext to ensure that they were properly informed about their new obligations.

Circular FMI/2007-02, addressed to the issuers of Euronext Brussels and explaining the application of the new regulations, was published in December 2007. The securities issuers of Alternext were also informed in a suitable manner.

Additionally, the issuers were alerted to the fact that the use of a web site to make information available is now obligatory. Finally, the issuers of Euronext Brussels were asked to provide the CBFA with a hyperlink to the financial section of their web site. The CBFA is required to place this hyperlink on its own web site. This arrangement has been in place since 2 January 2008.

For issuers subject to supervision, the entry into force of the new regulations has brought about a number of changes. Belgian issuers whose shares are listed in European regulated markets other than Euronext Brussels now fall under the supervision of the CBFA. Conversely, issuers from other countries in the European Economic Area whose shares are listed on Euronext Brussels no longer fall under the CBFA's supervision. Other issuers, such as those from non-EEA countries whose shares or certificates are listed on Euronext Brussels, can choose a Member State of origin and hence a supervisory body. They have been informed of this.

During the year, issuers were also informed of other changes in legislation:

- ◆ The CBFA has taken various initiatives to publicize the optional *exemption regime* included in the Law of 1 April 2007 on takeover and squeeze-out bids. To be eligible for this regime, the security-holders concerned had to notify the CBFA within 120 working days of the law's entry into force, i.e. by 21 February 2008. The Belgian issuers were informed of this exemption regime in both June and August 2007, so that they could in turn inform their security-holders. Two notification forms were also placed on the CBFA's web site. In January 2008 various further contacts were also made to draw the security-holders' attention to the fact that the deadline for notification was 21 February 2008.

By 21 February 2008, the CBFA had received notifications relating to 98 issuers.

- ◆ The CBFA also communicated with Belgian share issuers about the *abolition of bearer securities*¹¹⁴, pointing out that the issuers had to make the necessary arrangements with a settlement institution and indicating that should any problems arise (e.g. with the reconciliation of the capital), it wished to be informed immediately.



As 2008 is the year in which the *Transparency Directive* will come into force, the CBFA will work to ensure above all that the Directive is properly implemented by the market, making the necessary arrangements to provide information and respond to problems. More particularly, it will also evaluate the initial application of the new provisions, such as the interim statements.

The CBFA will focus on organizing the new shareholding disclosure regime effectively. This regime should come into force during the second half of 2008 and will mean that any shareholder with a holding larger than the disclosure thresholds stipulated by law or by the articles of association will have to draw up a basic disclosure statement. The CBFA will endeavour to inform the market properly about these new arrangements and will work to provide it with a disclosure procedure that is as simple and effective as possible.

¹¹⁴ Law of 14 December 2005 abolishing bearer securities, Belgian Official Gazette, 6 February 2006.

3.4. Market supervision

During the period under review, the CBFA's trading room interventions were as follows:

Actions undertaken by the trading room	Number of cases in 2005	Number of cases in 2006	Number of cases in 2007
Treatment of received, obtained or analyzed information	409	234	302
Financial instrument monitoring	196	183	247
Request for information from issuers or market players	124	66	145
Request for suspension of trading	32	34	35
Pre-analysis of stock exchange offences	113	72	72
Replies to questions on market supervision	58	25	85

The markets were highly volatile in 2007, and this clearly explains the increase in the number of CBFA interventions in connection with its supervision of the markets.

As can be seen, despite the more volatile markets, the number of listing suspensions has not increased, and remains in line with the European average. The trading room found that companies were generally complying with the requirement to disclose inside information outside trading hours or, where necessary, were organizing a suspension of trading in consultation with the CBFA, thus demonstrating that the rules on the disclosure of inside information had been properly taken into account and understood.

In 2007, the trading room managed 41 postponed disclosures of inside information¹¹⁵, compared with 30 in 2006.

The transposition of MiFID also entailed the adaptation of the CBFA's market supervision procedures.

The main supervisory objective for 2008 is the adaptation of the trading room's procedures to the implementation of the Transparency Directive, which came into force in Belgium on 1 January 2008.

115 Pursuant to Article 10 of the Law of 2 August 2002. See the 2005 report of the Management Committee, p. 81.

3.5. The fight against market abuse

The CBFA examines potential cases of market abuse, identified either on the basis of internal information passed on by the Market Supervision unit (see above), or after having been notified by financial intermediaries or the

Belgian Financial Processing Unit (CTIF-CFI) of suspicious transactions. The CBFA also cooperates with its foreign counterparts in their investigations, and ensures implementation of the preventive measures stipulated by the regulations.

Basic figures	Cases ongoing as at 31.12.2006	Analyses or investigations opened in 2007	Analyses or investigations closed in 2007	Cases ongoing as at 31.12.2007
Analyses	8	42	33	17
Investigations	91	26	52	65
Cooperation requests from other supervisors	5	48	46	7

In the course of 2007, the CBFA opened 26 new investigations. 52 investigations were closed. Where, following an investigation, the Management Committee finds serious indications of an offence (insider trading or market manipulation), it refers the case to the investigations officer, who investigates the charges and the defence. During 2007, five cases of market abuse were referred to the investigations officer in this way¹¹⁶. The CBFA made 80 requests for cooperation from foreign supervisors in connection with an investigation, under the terms of the multilateral cooperation agreements between the members of CESR or of IOSCO. The main purpose of these international cooperation requests is to obtain the name of the order issuer when an order has been placed by a foreign intermediary. A request addressed to a foreign supervisor may relate to several intermediaries. The CBFA in turn received 48 requests for cooperation from foreign supervisors. At the time of compilation of this report, 3% of the international cooperation requests from the CBFA remained unanswered. The average reply time was 70 days. For its part, the CBFA took an average of 41 days to reply after obtaining the necessary information from the financial intermediaries.

The measures to prevent market abuse continue to have their effect, with a growing number of notifications of suspicious transactions. The notification obligation is a regulatory obligation for financial intermediaries. Thus the CBFA received 14 notifications of suspicious transactions from nine different intermediaries in 2007. These notifications are a valuable source of information for the CBFA, and an investigation is automatically opened when one is received. Notifications relating to financial instruments listed on another European regulated market are passed on to the regulator concerned. The CBFA and the authority in question determine which of them will conduct the investigation and arrange the details of their cooperation in the light of criteria relating to the transaction. It should be noted that in certain neighbouring countries where the obligation has been in existence for longer, notifications of suspicious transactions are the main reason for starting investigations. The CBFA is therefore monitoring with interest and attaches great importance to the changes in the number of notifications and categories into which they fall.

¹¹⁶ See the present report, p. 91.

In 2007, the CBFA published on its web site 1 432 transactions by senior managers at over 100 listed companies, in accordance with the Royal Decree of 3 June 2007 on the rules and arrangements for transposing the Markets in Financial Instruments Directive. Most of the disclosures relate to share transactions (74%), among which share disposals often result from the exercise of employee options or warrants (18% of the reported transactions). The number of disclosures is a good indicator of the extent to which senior managers have become aware of their obligations in this area and are therefore participating fully in the scheme for the prevention of market abuse.

The CBFA also continued to contribute to the activities of CESR-Pol in 2007. CESR-Pol published guidelines on the implementation of certain aspects of the regulations, such as the definition of inside information and the compilation of lists of those privy to inside information by issuers whose financial instruments are admitted to trading in several Member States. CESR-Pol went on to examine a number of new aspects, with the aim of achieving a convergence of approaches and practices by the supervisory bodies. With the same aim in view, but this time at the request of the European Commission, the group of experts drew up a list of measures and administrative sanctions that the competent authorities can impose in cases of market abuse¹¹⁷. Apart from these activities, CESR-Pol worked hard to ensure cooperation between its members in connection with cross-border investigations and dialogue with third countries in order to improve international cooperation with them.



2007 also saw the introduction of a new system for reporting transactions in financial instruments admitted to a regulated market, following the entry into force of MiFID. This system offers financial intermediaries who are required to report their transactions a direct reporting channel at national level which is part of the European-wide network for data sharing stipulated by the Directive. The aim is to ensure that the competent authority with respect to market abuses has an overall view of the transactions carried out in a given financial instrument, whether or not they have taken place in a regulated market.

In order to alleviate as far as possible the constraints associated with the reporting obligation incumbent on financial intermediaries, the CBFA has opted, in accordance with the terms of the Directive, for the approach of reporting by the regulated market itself. In concrete terms, this means the market, rather than the financial intermediaries, reports directly to the CBFA the transactions by financial intermediaries subject to the reporting obligation carried out on the regulated cash markets operated by the Euronext group. The CBFA plans to extend this approach to the derivatives markets operated by Euronext once the required technical conditions have been satisfied.

3.6. Supervision of market operators

The CBFA ensures that the conditions stipulated by law for obtaining the status of market operator or regulated market operator are satisfied. It also monitors the conditions imposed on the multilateral trading facilities organized by these operators. The purpose of these conditions is to protect investors' interests and preserve the smooth functioning, integrity and transparency of the markets in question.

The main objects of supervision are Euronext Brussels SA/NV and the Belgian Securities Regulation Fund (*Rentenfonds / Fonds des rentes*). With regard to Euronext, the CBFA acts in conjunction with the British, French, Dutch and Portuguese regulators. This College of Euronext Regulators has a rotating chairmanship, which is held by the CBFA during the first half of 2008. The College entered into a memorandum of understanding with the Securities and Exchange Commission (SEC) on cooperation and the exchange of information about the group formed by NYSE and Euronext. This memorandum provides for a meeting of the Chairmen of the six authorities at least once a year, and in 2007 this was held at the CBFA's premises. We can report that no spill-over of American law in Europe has been observed following the formation of the group consisting of NYSE and Euronext, so that there has been no need to use the protective mechanisms put in place to safeguard European interests under such circumstances.

¹¹⁷ More information on these initiatives is available on the web site: www.cesr-eu.org

Following the entry into force of MiFID, the CBFA approved the transformation of the Trading Facility into a multilateral trading facility and authorized the market operator Euronext Brussels SA/NV to run the Free Market and the Public Sales Market as an MTF. Euronext Brussels SA/NV has also obtained the authorization as of right to run Alternext, which was a designated organized market under the terms of Article 15 of the Law of 2 August 2002, as a multilateral trading facility.

The CBFA also approved the modifications to the rules applying to regulated markets made necessary by the Directive. Under a branding policy developed by the NYSE Euronext group, the name of the regulated market, formerly known as "Eurolist by Euronext", was modified at the same time to "Euronext Brussels", with effect from 1 November 2007. The most important modifications relate to the conditions for being recognized as a member of the market and to the trading rules. The College used an *ad hoc* working group to consider these modifications prior to their approval, which occurs in the various countries of the Euronext zone.

It will be noted in particular that, in line with the requirements of MiFID, entities other than credit institutions or investment firms can now join the Euronext Brussels regulated market provided they satisfy the conditions set out by the market operator itself. As such, this category of members need not be subject to any supervisory status on the part of the regulators. In view of this, it is up to the market operator to ensure that the entity has the qualities required to be a member of its market, both at the time of admission and on an ongoing basis thereafter.

As regards trading rules, Euronext submitted to the College a proposal to introduce a new trading algorithm enabling orders placed by the same intermediary to be matched, where possible, on equal terms, so as to reduce post-transaction costs. The purpose of introducing this option is to offer members of the Euronext Brussels regulated market which wish to use it an alternative to the possibility created by MiFID of internalizing their transactions without having to pass them through a regulated market, with the associated savings on settlement and delivery costs.

It should also be stressed that, under MiFID, the new Euronext trading rules enable blocks of orders off the central orderbook to be traded without any check on the unit price of the financial instrument in question and that they allow off-orderbook transactions to be traded without any constraints in terms of volume, but at a price which reflects market conditions.

Since the start of the period under review, the CBFA has been responsible for approving the market rules of the multilateral trading facility Alternext and for all subsequent changes to those rules. In line with this, the CBFA ruled on changes in connection with the abolition of bearer securities.

In connection with its advisory powers regarding the market rules of the Belgian electricity market Belpex, during the period under review the CBFA gave advice to the competent minister on a number of occasions.

In 2007, the CBFA again contributed to the CESR working groups addressing the application of MiFID and its implementing Regulation. Particular mention should be made of the database which CESR publishes pursuant to the market transparency provisions applying to shares listed on a regulated market.

The CBFA will be particularly attentive to market developments since the entry into force of MiFID, and the impact of those developments on the financial market in Brussels. It will also ensure that the functions necessary for the operation of the Belgian market remain in Brussels despite the merger of the Euronext and NYSE groups.

4. Supervision of bureaux de change

The CBFA's supervision of *bureaux de change* relates purely to compliance with money-laundering regulations and the associated conditions for registration, and is thus less comprehensive than its prudential supervision. It is conducted on the basis of analyses of the *bureaux'* monthly reports and of on-site verifications which are carried out at least once a year.

The interest in the money transfer business which has been observed recently has not yet resulted in an increase in the number of registered *bureaux de change* permitted to perform money transfers (at the end of 2007, ten out of the 20 registered *bureaux de change* had such permission). To improve the quality of information available to the public, the published list of *bureaux de change* now specifies which services they are allowed to provide on the basis of their registration, i.e. currency exchanges in cash or money transfers (to which stricter financial and organizational conditions apply). In the sector's turnover figures, currency exchanges in cash are decreasing, whereas money transfers are increasing markedly.

In the on-site verifications, increasing emphasis is now placed on the activity at the *bureaux* in terms of atypical customer transactions, methods for tracing these and the associated measures that have been put in place (personnel training, creation of customer profiles, compilation of a customer acceptance policy). With a view to ensuring optimal and consistent application of these on-the-spot verifications, an adapted methodology and work programs have been developed. For instance, random sample checks are conducted of the transaction records at the *bureau de change* to ascertain whether the current organizational and supervisory procedures enable particular transactions to be traced adequately. The conclusions of such checks are always discussed with the *bureau de change*, which ought to lead to improvements in internal controls at the branch and in the subsequent tracing system.

5. Protection of consumers of financial services

By virtue of its responsibility for the protection of consumers of financial services, the CBFA:

- ♦ supervises the companies and transactions referred to in the Law of 4 August 1992 on mortgage loans;
- ♦ ensures that the terms and conditions of policies written by insurance companies, and the publicity issued by those companies, comply with the provisions of the Law of 25 June 1992 on terrestrial insurance policies and its implementing decrees, and of the Law of 9 July 1975 on supervision of insurance companies and its implementing decrees;
- ♦ supervises compliance with the rules intended to protect depositors, investors and insurance policyholders against illegal offers of financial products or services;
- ♦ provides secretariat services for the Insurance Commission.

Moreover, the service worked on various projects aimed at educating and informing consumers of financial services.

5.1. Activities regarding mortgage credit

List of companies authorized to offer mortgage loans

In 2007 the CBFA enrolled or registered 6 companies, and the enrolment or registration of 13 other companies was deleted, chiefly in consequence of mergers. As at the end of 2007, the list of companies authorized to offer mortgage loans within the meaning of the Law of 4 August 1992 totalled 214, of which 194 were enrolled companies governed by Belgian law and 20 were registered companies established under the law of another Member State.

The table below indicates the movements in the list of mortgage loan companies.

	31.12.2006	31.12.2007	Difference
Insurance companies and pension funds	31	29	-2
Credit institutions	39	39	0
Public institutions	5	5	0
Other institutions	125	121	-4
Total number of enrolled companies governed by Belgian law	200	194	-6
Registered companies established under the law of another Member State	21	20	-1
Total number of enrolled and registered companies	221	214	-7

At the request of the Federal Public Service Finances and after consultation with the *Koninklijke Federatie van het Belgisch Notariaat/Fédération royale du Notariat belge* (federation of notaries), the *Federatie van hypotheekbewaarders/Fédération des conservateurs d'hypothèques* (federation of mortgage registries) and the *Beroepsvereniging voor het Krediet/Union professionnelle du crédit* (professional credit association), the CBFA has decided to publish the historical lists of mortgage loan companies on its web site¹¹⁸.

Supervision of rates, documents and publicity

The Law of 4 August 1992 lays down that any amendment to documents is required to be notified in advance to the CBFA. This refers to amendments to the prospectus, rate, deed or application form. In 2007, the CBFA examined 826 documents (compared to 730 in 2006 and 600 in 2005). This total has been rising over the past few years, partly as a result of companies' more frequent rate adjustments.

The CBFA also supervises the observance of the rules concerning publicity for mortgage credit. The publicity of both the mortgage loan companies themselves and of intermediaries was examined. There was continued cooperation with the Federal Public Service Economy in this area.

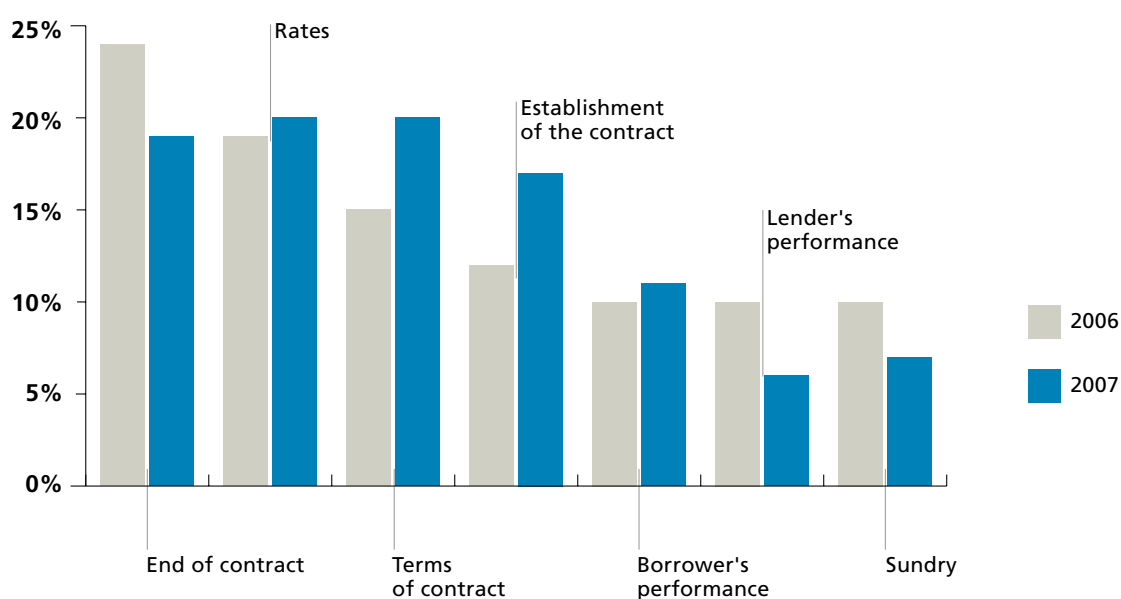
On-site inspections

The number of on-site inspections was doubled: 12 in 2007, as compared to 6 in 2006. These inspections monitor observance of the provisions of the Law of 4 August 1992, particularly in respect of contractual information, the application of the rules on the variability of the interest rate, the charging of costs and the way in which disputes are handled, in particular the monitoring and management of cases of non-payment. In the case of mortgage companies that are neither credit institutions nor insurance companies, observance of the requirements of money-laundering legislation is also checked. After consultation with the Federal Public Service Economy and the *Centrale voor Kredieten aan Particulieren / Centrale des crédits aux particuliers* (Central Office for Credits to Individuals) of the National Bank of Belgium (NBB), additional attention was paid to observance of mortgage loan companies' obligations under the Law of 10 August 2001 on the Central Office for Loans to Individuals.

Complaints

Besides numerous requests for information, the service handled 70 complaints in 2007 (compared to 250 in 2006). The level of complaints has thus returned to the average level experienced in previous years. The level in 2006 was exceptionally high because of the CBFA's actions in that year in connection with mortgage loan costs¹¹⁹.

In the graph below, the complaints are broken down by cause.



¹¹⁸ On this, see the Management Committee's report, p. 90.

¹¹⁹ For the standpoint taken by the CBFA in 2007 regarding certain mortgage loan costs, see the report of the Management Committee, p. 91.

Circular regarding the management of payment arrears

In the course of 2007, the CBFA sent a circular to the mortgage companies to clarify how payment arrears should be managed in accordance with the Law of 4 August 1992. The circular is commented on in the report of the Management Committee¹²⁰.

Preparatory work in view of a possible change to the law on mortgage credit

In last year's report, mention was made of the federal government's request to prepare a draft bill for the introduction of a legal status for intermediaries in mortgage credit. The CBFA prepared this draft bill during 2007 in consultation with the Federal Public Service Economy. The texts have been drafted by analogy with the legal status for insurance intermediaries and banking and investment service intermediaries. They also include a number of rules of conduct that will apply to both mortgage companies and intermediaries and which reflect the requirement to treat customers with proper consideration and efforts to prevent an excessive debt burden. The texts were sent to the Minister for Economic Affairs, and there are plans to hold an open consultation exercise about them, in particular via the CBFA's web site.

European activities

On 18 December 2007, the European Commission published its White Paper on the integration of EU mortgage credit markets¹²¹. In the white paper, a number of measures are proposed, aimed at improving the competitiveness and efficiency of the EU market for mortgage credit, which should be beneficial to consumers, lenders and investors alike.

The white paper announces further enquiries in a number of areas in 2008, including that of the credit intermediaries referred to above.

5.2. Activities regarding insurance

Supervision of policy terms and conditions

As part of its *a posteriori*, non-systematic supervision of the conformity of insurance policy conditions with insurance legislation, the CBFA conducted a number of examinations and surveys:

- ◆ it examined the policy conditions of a number of life assurance products;
- ◆ in the field of travel insurance, it commenced a sectoral survey of exclusion clauses and how they are applied;
- ◆ following the entry into force of legislation on natural disasters, it checked with several insurance companies on how the new legal requirements had been reflected in insurance policy conditions;
- ◆ in the area of legal protection, it examined the replies given to the questions which had been put to a number of insurers; it identified a number of principles on the basis of these replies, which were discussed with Assuralia; work was started on compiling a new circular to replace the circulars of the Insurance Supervisory Authority on legal protection;
- ◆ the survey of the notification of general and particular terms and conditions, launched in 2006, led to the identification of a matter requiring attention: the frequent absence of a consolidated version of the general terms and conditions after they had been amended; the CBFA drew the attention of Assuralia to this point with a view to identifying possible ways of addressing it;
- ◆ finally, it launched a survey among a number of insurance companies looking at how instances of *faute lourde* ('gross fault') are defined and invoked in certain insurance policies, and how insurers take legal proceedings on the basis of *faute lourde*.

Supervision of publicity

In the course of its *a posteriori*, non-systematic supervision, the CBFA also examined numerous advertisements for insurance products, especially life assurance.

¹²⁰ See the report of the Management Committee, p. 89.

¹²¹ *White paper on the integration of EU mortgage credit markets* (presented by the Commission), COM (2007) 807 final of 18 December 2007.

The CBFA also checked whether the "life assurance financial fact sheets" of a representative sample of Belgian insurance companies were in line with the code of good conduct on publicity and information about individual life assurance¹²². It found that this was in fact the case for the most part. However, it brought to the attention of Assuralia a number of points where additional efforts could be made to improve the usefulness of the fact sheet for consumers. These observations led Assuralia to address a circular to its members taking account of the suggestions that had been made.

Mandatory insurance

In November 2007, an updated list of mandatory insurance was placed on the CBFA's web site. The criteria on which the list is based were explained.

Complaints in the insurance sector

Since the end of November 2006, the CBFA no longer has competence to handle individual complaints in respect of insurance¹²³. However, nearly 200 new complaints were addressed to it in 2007¹²⁴. The CBFA referred complainants to the Insurance Ombudsman, while recommending that they should first lay their complaint before the customer complaints service at the insurance company concerned.

In line with the memorandum of understanding entered into between the CBFA and the Insurance Ombudsman Service, the latter passed on to the CBFA individually identifiable statistics about the complaints submitted in 2007. This information about the number and type of complaints and the response made to them was analysed. Based on this analysis, the CBFA in certain cases decided to examine a complaint dossier in greater detail at the premises of the Insurance Ombudsman Service. The aim of these investigations was to use the complaints handled by the sectoral ombudsman as a basis for identifying problems which are of more than individual concern, and which could justify corrective action being taken by the CBFA.

Secretariat services for the Insurance Commission

In 2007, the CBFA provided secretariat services for nine meetings of the Insurance Commission and for 10 meetings of the third-party car insurance working group.

The Insurance Commission issued six opinions, which are available on the CBFA's web site under the heading "La CBFA/ Over de CBFA – Organes consultatifs/Adviesorganen" (available in French and Dutch only).

5.3. Protection of depositors, investors and the insured against illegal offers of financial services

In connection with the protection of the public against illegal offers of financial services (known as "perimeter control"), the department received a large number of written requests for information in 2007 (343, compared to 310 in 2006), as well as many telephone requests.

On the basis of third-party information or its own enquiries, the CBFA opened 251 dossiers for further investigation in 2007.

The CBFA published twelve warnings in the course of 2007. These concerned:

- ◆ a company that posed as an entity active in respect of consumer protection on futures markets and that claimed that its registered office was at the same address as that of the CBFA, probably to create the impression that the investments offered to the public by affiliated companies were trustworthy;
- ◆ six companies that claimed to be established in Belgium and that offered investment services in Belgium or abroad without the necessary authorization to do so;
- ◆ three foreign companies (two from Japan and one from Malaysia) that offered investment services in Belgium without the necessary authorization to do so;
- ◆ a group of people that claimed to be acting on behalf of an American company and that offered shares in that company as an investment without having a CBFA-approved issue prospectus;
- ◆ a company that was carrying out insurance intermediation activities without being entered in the register of insurance intermediaries.

¹²² On this code, see the 2006 report of the Management Committee, p. 115 and 116.

¹²³ On the reform of the insurance complaints system, see the 2006 report of the Management Committee, p. 111.

¹²⁴ In addition, over 100 complaints about credit institutions were erroneously addressed to it.

In all twelve cases, the CBFA passed on its findings to the judicial authorities.

As in previous years, the CBFA used its web site to publish warnings from other European supervisory bodies that were sent to it by the CESR-Pol secretariat. During 2007, 94 such warnings were published (compared to 111 during 2006).

The CBFA also investigated various precedent-setting cases:

- ◆ it examined, in the light of the monopoly on the collection of repayable funds from the public stipulated in Article 4 of the Banking Law, the operating conditions for an Internet platform on which loan contracts can be entered into between private individuals¹²⁵;
- ◆ it examined a number of cases relating to the question of whether certain activities fall within the scope of the insurance supervision law, and in particular:
 - whether the coverage of risks by a car leasing company constitutes an insurance activity reserved for authorized insurance companies¹²⁶;
 - whether certain assistance services provided by automobile associations constitute insurance activities reserved for authorized insurance companies¹²⁷.
- ◆ it defined in more detail the legal framework within which the offer of investments in rights derived from life assurance policies – also known as "viatical settlements" – should be assessed in Belgium¹²⁸.

5.4. Activities geared to the education and information of consumers of financial services

In response to a request of the federal government, the CBFA offered to work on a detailed report on public financial education, describing the requirements in this area, the current state of affairs and extra measures that could be taken.

In order to carry out this study, between July and December 2007 the CBFA held bilateral contacts with a wide variety of players involved in financial education. Thus it held

discussions with representatives of the NBB, of the financial institutions' professional associations, of the ombudsman services from the financial sector, of the sector for prevention and mediation in connection with excessive debt, of consumer protection organizations, of retired people and of families. The CBFA also talked to the President of the *Raad voor het Verbruik / Conseil de la Consommation* (Consumers Council) and of the Insurance Commission, and with university and secondary school teachers¹²⁹.

At the same time, the CBFA monitored progress in a number of international projects.

In a communication dated 18 December 2007¹³⁰, the European Commission underlined the growing importance of financial education. It set out a number of principles for the provision of financial education and specified the areas in which the Commission itself plans to contribute to financial education. The European Commission has also published on its web site the results of a survey conducted in the 27 Member States, providing an overview of what practical measures they are taking in the financial education field.

For its part, the OECD continued with its work on financial education relating to insurance and pensions.

In the light of the above-mentioned discussions as well as on the basis of international work, the CBFA has started drawing up a report on the provision of financial education in Belgium. It plans to submit the report, which will suggest various future possibilities in this area, to the government in early 2008.

Finally, the CBFA published a brochure in 2007 entitled *Hoe een klacht indienen / Comment porter plainte* ("How to make a complaint") which is part of a new collection of publications intended for consumers of financial services (entitled *En savoir plus sur les services financiers/Financiële diensten nader toegelicht*). The purpose of this brochure is to inform consumers of financial services about the bodies to which they can complain in the event of a dispute about a financial service.

125 See the report of the Management Committee, p. 81.

126 See the report of the Management Committee, p. 88.

127 See the report of the Management Committee, p. 89.

128 See the report of the Management Committee, p. 81.

129 The CBFA has deliberately chosen not to contact certain types of contributor in the field of financial education at this stage. These are the media and the federal and regional public services involved in financial education (in particular those with powers relating to education, pensions, finance, insurance, credit and consumer protection). These various contributors have a very important role to play in financial education, but the CBFA has opted to wait for the agreement of the minister(s) concerned before contacting them.

130 Communication from the Commission - Financial Education, COM (2007) 808 Final of 18 December 2007.

6. Supervision of intermediaries

The supervision of intermediaries, as defined by the Law of 27 March 1995 on insurance and reinsurance intermediation and the distribution of insurance and by the Law of 22 March 2006 on intermediation in banking and investment services and the distribution of financial instruments, consists of three aspects:

1. maintaining registers of insurance and reinsurance intermediaries and of intermediaries in banking and investment services;
2. supervising compliance with the legal conditions for retaining such registration;
3. recognizing courses which satisfy the legally defined expertise requirements.

6.1. Maintaining registers

6.1.1. The register of insurance and reinsurance intermediaries

Registration movements in 2007

In 2007, 2 076 insurance intermediaries were entered in the register, including 1 057 collective registrations. This was 341 fewer registrations than in 2006. The first reinsurance intermediaries were also registered in 2007: seven in total.

In 2007, 3 845 insurance intermediaries were removed from the register. This was 869 more deregistrations than in 2006. The majority of these were 2 549 collective insurance intermediary registrations which were deleted *ipso jure* after the termination of their collaboration with the relevant central undertakings (compared to 1 573 in 2006). 1 003 insurance intermediaries relinquished their registration in 2007 (compared to 693 in 2006). The registration of 292 insurance intermediaries (compared to 710 in 2006) was deleted or it expired *ipso jure* on the grounds that the registration conditions (professional liability insurance, financial capacity, fitness and probity, payment of the registration fee) were no longer fulfilled. The registration of two insurance intermediaries was suspended, which meant a temporary ban on the exercise of insurance intermediation activity.

As at 31 December 2007, 22 884 insurance intermediaries and seven reinsurance intermediaries were registered, in the following categories:

Insurance intermediaries	Natural person	Legal person	Total on 31.12.2007	% Total	Total on 31.12.2006
COLLECTIVELY REGISTERED	7 761	2 644	10 405	45.5%	12 123
Agent	3 480	835	4 315		5 372
Sub-agent	4 281	1 809	6 090		6 751
INDIVIDUALLY REGISTERED	4 598	7 881	12 479	54.5%	12 675
Broker	2 911	5 855	8 766		9 137
Agent	1 340	1 712	3 052		2 788
Sub-agent	347	314	661		750
General total	12 359	10 525	22 884	100%	24 798

Reinsurance intermediaries**Total on
31.12.2007**

INDIVIDUALLY REGISTERED	7
Broker	6
Agent	1
General total	7

The European passport

In accordance with European Directive 2002/92/EC, intermediaries registered in another Member State of the European Economic Area (EEA) can notify the supervisory authority in their country of origin that they also wish to carry on insurance and reinsurance intermediation activities in Belgium, either under the free provision of services or via a branch. In turn, Belgian registered intermediaries can notify the CBFA that they wish to operate in one or more other EEA Member States under the free provision of services or via a branch.

In 2007, the CBFA received notification from 535 Belgian insurance intermediaries that they wished to carry on insurance intermediation activities in one or more other EEA Member States.

Conversely, 906 intermediaries registered in another EEA Member State notified their supervisory authority in 2007 that they wished to carry on insurance intermediation activities in the Belgian market.

6.1.2. The register of intermediaries in banking and investment services

Under the Law of 22 March 2006 on intermediation in banking and investment services and the distribution of financial instruments, all intermediaries in banking and investment services which were already active before 1 July 2006 (the date on which the Law entered into force) had to submit an application for the retention of provisional permission by 31 December 2006 at the latest¹³¹. Intermediaries which were able to demonstrate that they satisfied the legal expertise requirements could opt for the immediate submission of an application for permanent registration.

In 2007, a total of 4 058 agents in banking and insurance services were registered: 1 378 under the provisional permission scheme and 2 680 permanent registrations.

30 central undertakings were primarily responsible for the compilation and verification of the collective registration applications of 3 433 intermediaries. They used the online tool to submit these applications electronically to the CBFA.

The CBFA also registered the first bank brokers in 2007, although there were only two such registrations during the year.

The table below gives an overview of the registrations which occurred in 2007.

Intermediaries in banking and investment services	Natural person	Legal person	Total registered in 2007	Total on 31.12.2007	% Total
COLLECTIVELY REGISTERED	890	2 543	3 433	3 434	78.3%
Agent	890	2 543	3 433	3 434	
INDIVIDUALLY REGISTERED	133	492	625	953	21.7%
Broker	0	2	2	2	
Agent	133	490	623	951	
General total	1 023	3 035	4 058	4 387	100%

¹³¹ For further commentary, see the 2005 report of the CBFA Management Committee, p. 41-42, and the 2006 report of the CBFA Management Committee, p. 31-32.

6.2. Supervision of compliance with the legal registration requirements

6.2.1. Updating of insurance intermediaries' registration dossiers

Under the Law of 22 February 2006 modifying the Law of 27 March 1995 on insurance and reinsurance intermediation, all insurance intermediaries already registered before the entry into force of the Law of 2006 need to bring their registration dossier into line with the changed legal requirements.

In view of this, the CBFA sent out a circular in 2007 to 4 888 natural persons with individual entries in the register and 7 451 legal entities with individual entries in the register. The contents of the circular were also published on the CBFA's web site.

The answers to these mailings must be checked for completeness and compliance with the legal requirements, and then need to be entered into the database of insurance intermediaries. Only some of this processing work was completed in 2007.

6.2.2. On-site inspections

In 2007, 109 on-site inspections were carried out: 77 of individually registered intermediaries and 32 of central undertakings (collective dossiers).

The importance of the inspection of central undertakings has been increased by the changed regulations. The central undertakings are no longer required to provide the CBFA with their (sub-)agents' data, but are merely required to keep these available for verification. The inspections at the premises of central undertakings are used to check how those undertakings are organized to carry out their first-line supervisory role, and checks are also made of the completeness and accuracy of the dossiers which are maintained.

In 2007, special attention was focused on those credit institutions and investment firms which had opted to submit a collective dossier as a central undertaking for the registration of the independent agents in their networks as intermediaries in banking and insurance services.

The inspections that are carried out at the premises of individually registered intermediaries make it possible, among other things, to check on those registration conditions which are difficult to verify on the basis of the submitted registration dossier, such as only dealing with firms which have the required recognition, refraining from participation in activities which infringe the law and compliance with information provision requirements.

6.2.3. Insurance intermediaries' obligations regarding information provision

In line with Directive 2002/92/EC, the Law of 22 February 2006 inserted a chapter on "Information provision requirements" into the Law of 27 March 1995. The main obligation introduced by the law requires an insurance intermediary, before he concludes an insurance contract and, if necessary, when the contract is amended or extended, to identify the customer's wishes and requirements (on the basis of the information provided to him by the latter) and to inform the customer of the data on which he has based his recommendation of a particular insurance product. Those data may vary according to the degree of complexity of the insurance contract in question.

In order to address the information provision obligation concretely, the insurance intermediaries' professional associations (FVF, Feprabel, BVVM/UPCA) and Assuralia have, after consulting with the CBFA, drawn up sectoral documents for insurance intermediaries. Specifically, three fact sheets have been produced: one for conventional life assurance, one for saving or investing with a life assurance policy, and one for non-life insurance.

The CBFA has responded positively to this initiative from the professional associations. It believes that the documents will help ensure that the insurance intermediaries comply with their legal obligation regarding information provision and has indicated that, in connection with its supervision of insurance intermediaries' observance of their information obligation, it will among other things refer to these fact sheets as a model of good practice¹³².

132 For more information, see the 2006 report of the CBFA Management Committee, p. 113 - 114.

The limited number of inspections carried out by the CBFA in this area show that the majority of inspected intermediaries have complied with the information obligation. In most cases, use was being made of the sectoral documents to this end. However, many questions still arise with regard to the information obligation. The CBFA has therefore taken the initiative of setting up a working group which will evaluate the concrete application of the information obligation and consider any adjustments that may be needed. The various professional associations for insurance intermediaries and Assuralia are participating in this working group.

6.3. Recognition of training courses

The CBFA is responsible for approving and reviewing specialized courses for insurance intermediaries and their personnel, as well as for the personnel of firms subject to supervision. In 2007, 14 new courses were approved and eight received an on-site inspection. Many of the new courses include e-learning approaches and interactive distance learning.

In consultation with the sector, a new programme and structure for specialized courses have been established. At the end of 2007, just one reinsurance course had been approved – that of Assuralia.

To assist the CBFA in the fulfilment of its mandate with regard to training in the sector of intermediation in banking services and investment services, a guidance committee was set up. The committee consists of representatives from the sector and from the CBFA. It met ten times. In particular, the committee worked to define the transitional measures of the Law of 22 March 2006 for the provision of proof of professional expertise on the part of intermediaries in banking services and in investment services and of their personnel.

After consultation within the guidance committee, the CBFA developed a structure for training courses in the field of intermediation in banking services and investment services. It approved a first course, organized by Febelfin Academy. It paid particular attention to the organisation of the computer-based examinations intended to assess the expertise acquired during the course, and concluded that the examination put in place represents a suitable framework for the approved training.

7. Supervision of supplementary pensions: social aspects

7.1. Complaints and questions of interpretation

As in previous years, the CBFA examined a large number of requests for information and a number of complaints about a pension institution (i.e. an IORP or an insurance company) or about an organizer. In the majority of cases, the questions had to do with the interpretation of the applicable legislation, concerning *inter alia* the calculation of the rights acquired in case of a redemption or exit, or the precision and exhaustiveness of the information which must be included on the pension information sheet. A relatively large number of questions had to do with problems of discrimination in supplementary pension plans.

As well as queries and complaints relating to the social regulations, there were also a large number relating to purely prudential questions. The law on the supervision of institutions for occupational retirement provision (LIRP/WIBP) and its implementing instruments were the subject of numerous queries from sponsoring undertakings, IORPs and various consultants.

A total of 341 requests for information or complaints were recorded in 2007, nearly 16% more than in 2006 (294).

7.2. Supervision of social aspects

New legislation on discrimination

The main change to social legislation in 2007 derived from the new laws on discrimination. These provisions¹³³ made it necessary to revise the circular on the so-called "4% rule"¹³⁴. A new circular (LPC-6/WAP-6) was published¹³⁵ which comments on the legislation and provides more detail than circular LPC-5/WAP-5, which has been withdrawn. Apart from the fact that the legal rule now appears in the Law of 10 May 2007 rather than in the law on supplementary pensions for employees (LPC/WAP), the most important innovation is its extension to include pension plans of the cash balance type¹³⁶. Such plans are

133 Article 12, § 2, 5°, of the Law of 10 May 2007 designed to fight certain forms of discrimination.

134 Circular LPC-5/WAP-5 of 18 April 2006, Application of the 4% rule referred to in Article 14, § 3, of the Law of 28 April 2003.

135 Circular LPC-6/WAP-6 of 24 July 2007, Application of the 4% rule referred to in Article 12, § 2, 5°, of the Law of 10 May 2007 for the combating of certain forms of discrimination.

136 See the report of the Management Committee, p. 78.

of the *defined benefit* variety, but the guaranteed benefit is calculated using an interest rate or index defined in the pension rules. This makes it possible, as with plans of the *defined contribution* type, to stipulate an interest rate which varies with age.

Information provision requirements

The legal requirements regarding the provision of information to members and beneficiaries have been consolidated in a new Article 26 of the LPC/WAP, from which Articles 26*bis* and 26*ter* have been deleted¹³⁷. In the same area, 2007 also saw the publication of the Royal Decree authorizing the creation of a databank of supplementary pensions¹³⁸. However, this databank is not yet in operation. A working group, including representatives of the CBFA, will decide what information it will contain.

Social pension agreements for self-employed workers

Self-employed workers who enter into a social pension agreement receive a tax advantage, provided the conditions relating to social aspects are satisfied. Thus a social pension agreement represents an intricate blend of social aspects, whose supervision is entrusted to the CBFA, and tax aspects, whose supervision lies within the competency of the Federal Public Service Finances. Under a cooperation protocol signed by the two bodies, it has been agreed that the CBFA should be responsible for issuing a formal opinion on the correctness of the social pension agreements which are submitted to it. The procedure for requesting an opinion was the subject of Circular LPCI 1/WAPZ-1¹³⁹.

In 2007, 22 pension institutions submitted an application for a formal opinion: 19 insurance companies and three IORPs. After examining the applications and, where necessary, consulting with the pension institutions concerned, the CBFA issued a positive opinion in each case. The list of formal opinions is available on the CBFA's web site.

Conversion of capital into income

Among the projects initiated in 2007 was one relating to the issue of the conversion of capital into annuities, and more particularly the life tables to be used in order to do so. Such tables must take account both of increasing longevity in the future and the anti-selection phenomenon whereby, in this specific case, those at greatest risk of dying are inclined to choose the capital option (and vice versa).

A working group was formed with representatives of the National Institute of Statistics (INS), the Federal Planning Office and the CBFA, as well as actuaries and academics. The group completed its work, whose purpose was to enable the CBFA to prepare a regulation setting out the life tables.

A draft regulation was sent to both the Supplementary Pensions Commission and the Commission for Voluntary Supplementary Pensions for the Self-employed¹⁴⁰. The definitive regulation should be issued in 2008 on the basis of the working group's activities and the opinions of the two commissions. It will also be necessary to take account of new provisions on sexual equality, and in particular to decide on the circumstances in which unisex tables must be used.

Information on the current level of financing

The second project worked on in 2007 relates to the provision of information to members about the current level of financing of the vested reserves in their pension plan. The obligation to provide such information is imposed by Article 11, § 4, Paragraph 2, of Directive 2003/41¹⁴¹ and has been transposed into Belgian law both in Article 26, § 1, Paragraph 1, 5°, of the LPC/WAP and in Article 48, § 1, 4°, of the law on supplementary pensions for self-employed persons (LPCI/WAPZ). The unusual feature of Belgian law is that this information must be provided both about the vested reserves in the strict sense and about the guarantee provided for in Article 24 of the LPC/WAP and Article 47, Paragraph 2, of the LPCI/WAPZ.

137 See the report of the Management Committee, p. 77.

138 Royal Decree of 25 April 2007 implementing Article 306 of the Programme Law (I) of 27 December 2006. See the report of the Management Committee, p. 79.

139 Circular LPCI 1/WAPZ-1 of 5 December 2006 on the procedure for requesting a formal opinion as to the social nature of a model pension agreement. See the 2006 report of the Management Committee, p. 106 and the CBFA Annual Report 2006, p. 62.

140 See the present report, p. 89.

141 Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision, OJ L 235 of 23 September 1993, p. 10.

A number of interpretive problems arise, in particular about whether it is sufficient to disclose the overall level of financing, or whether the requirement relates to the financing of the rights of each member individually. The method of disclosing information about the guarantee stipulated in Article 24 of the LPC/WAP and by Article 47, Paragraph 2, of LPCI/WAPZ is also problematic.

Preliminary draft circulars have been sent to the Supplementary Pensions Commission and the Commission for Voluntary Supplementary Pensions for the Self-employed, which are expected to issue their opinions in 2008.

Biennial report on sectoral pension schemes

In 2007, the CBFA drew up the first biennial report on sectoral pension schemes¹⁴², a task entrusted to it by Article 50 of the LPC/WAP.

The report aims to describe developments in the field of sectoral pension schemes. These schemes, which are set up on the basis of a collective labour agreement within a joint committee or subcommittee, have been subject to the legislation on supplementary pensions and to the CBFA's supervision only since the entry into force of the LPC/WAP on 1 January 2004.

The report is based on the answers provided by the sectoral organizers to a questionnaire compiled by the CBFA, which was sent to the relevant sectors during 2006 via the chairmen of the joint committees concerned.

This first report principally related to 2004 and 2005. However, a survey of the state of affairs in a number of areas as at 1 January 2007 was drawn up.

On 1 January 2007, 20 sectoral pension schemes were operating under the terms of the LPC/WAP. These schemes related to 633 350 mainly blue-collar workers. Sectoral pension regime members represented around 24% of the national workforce. In total, around 54% of employees in Belgium are members of a supplementary pension scheme, nearly half of which are sectoral.

The majority of these schemes are of recent origin. The sectoral pension schemes which already existed when the LPC/WAP came into force had a maximum of three years to comply with the provisions of the new legislation. This adaptation process is proceeding relatively rapidly.

Biennial report on voluntary supplementary pensions for the self-employed

In 2007, the CBFA also drew up for the first time the report on voluntary supplementary pensions for the self-employed that it is required to compile every two years under the terms of Articles 44, § 4, and 46, § 3, of the LPCI/WAPZ.

The biennial report published in 2007¹⁴³ is unusual in that, for practical reasons, it relates only to the year 2005. It is based on a questionnaire addressed to the pension institutions, i.e. to all insurance companies offering life assurance and to institutions for occupational retirement provision specializing in supplementary pensions to the self-employed. The questionnaire related first to the pension as such, and secondly to the question of solidarity. It covered various subjects such as the number of members, the amount of the contributions, the benefits offered, the investment strategy and the level of beneficiaries' profit-sharing.

According to the report, 169 502 people who were self-employed in their main or in a supplementary occupation made payments into a supplementary pension scheme in 2005. This represents about 20% of self-employed people. There were 71 982 social pension agreements in total.

142 See our web site: www.cbfa.be/fr/ap/wn/ap_report.asp

143 See our web site: www.cbfa.be/fr/ap/zs/ap_report.asp

7.3. The secretariat of the commissions and boards

The Supervision of Supplementary Pensions Department provides secretariat services to the four advisory bodies created by the LPC/WAP and the LPCI/WAPZ, and for the working groups set up by those bodies.

The Supplementary Pensions Commission issued six opinions in 2007:

- ◆ Opinion No. 18 – Calculation rate used in connection with the 80% rule in defined contribution plans;
- ◆ Opinion No. 19 – Creation of the 'Building-up of Supplementary Pensions' databank;
- ◆ Opinion No. 20 – Glossary explaining the concepts used in the annual pension information sheet;
- ◆ Opinion No. 21 – Socially responsible investment;
- ◆ Opinion No. 22 – Difference of treatment in the social and tax regulations of early capital repayments during the transition period stipulated by the LPC/WAP;
- ◆ Opinion No. 23 – Draft circular on joint management and the supervisory committee.

The Supplementary Pensions Board did not issue any opinions in 2007.

The Commission for Voluntary Supplementary Pensions for the Self-employed issued two opinions in 2007:

- ◆ Opinion No. 7 – Draft regulation of the CBFA determining the life tables for the conversion of capital into income;
- ◆ Opinion No. 6 – Creation of the Constitution of Supplementary Pensions database.

The Board for Voluntary Supplementary Pensions for the Self-employed did not issue any opinions in 2007.



B. Procedure for imposing administrative fines

1. Identification by the Management Committee of serious indications of an infringement

If the Management Committee, while carrying out its legal duties, determines that there are serious indications of a practice liable to give rise to an administrative fine, or if such indications are brought to its attention in a complaint, it refers the matter to the Secretary General in his capacity as investigations officer, so that he can investigate the charges and the defence¹⁴⁴.

During the period under review¹⁴⁵ and up to 1 March 2008, the investigations officer was charged by the Management Committee with investigating the charges and the defence in nine new dossiers.

These dossiers related to a total of 17 natural or legal persons in respect of which the Management Committee had determined that there were serious indications of practices liable to give rise to an administrative fine.

It should be noted that a “dossier” is understood to mean the decision by the Management Committee to charge the investigations officer with an investigation pursuant to Article 70, § 1, of the Law of 2 August 2002; this decision may concern serious indications of an infringement of one or more laws identified by one or more persons.

144 Art. 70, § 1, of the Law of 2 August 2002 on the supervision of the financial sector and on financial services (hereafter referred to as “the Law of 2 August 2002”).

145 I.e. from 1 January to 31 December 2007.

2. Investigation of the charges and the defence by the investigations officer in the case of serious indications of an infringement

2.1. Summary of dossiers handled

The Secretary General of the CBFA, in his capacity as investigations officer, is responsible for investigations in respect of procedures to impose administrative fines initiated by the CBFA Management Committee¹⁴⁶.

During the period under review, the investigations officer focused his activities on pursuing the investigation of the various dossiers referred to him.

Under the investigations officer's direction, the Investigations Office's staff members thus performed the investigative work regarded as necessary to investigate the charges and the defence in the dossiers assigned to them, in their function as rapporteurs, and examined the evidence collected in the light of the relevant legal provisions, with a view to compiling a draft report setting out the investigations officer's findings.

The investigations officer also drew on the specific expertise available within the various departments of the CBFA. During the period under review, ten different staff members from services other than the Investigations Office served as rapporteurs, either alone or jointly with an Investigations Office staff member.

During the period under review and up to 1 March 2008, the investigations officer drew up his findings regarding two dossiers which had been referred to him, submitted these findings to the Sanctions Committee and made them available to the persons concerned, in accordance with Article 71, § 2, of the Law of 2 August 2002¹⁴⁷.

The findings submitted by the investigations officer concerned:

- ◆ A legal person in a dossier concerning serious indications of non-compliance with the obligations regarding the disclosure of transactions in financial instruments admitted to trading on a regulated market.
- ◆ A legal person whose financial instruments had been admitted to trading on a Belgian regulated market, and a natural person.

The serious indications of an infringement identified on the part of the legal person were of three types: serious indications of non-compliance with its obligation to publish forthwith any significant new facts in its sphere of activity which are not in the public domain and which, by reason of their impact on its assets, its financial situation or the general course of its business, are likely to have a significant effect on the price of its financial instruments (Art. 6, § 1, 1, of the Royal Decree of 31 March 2003 on the obligations of issuers of financial instruments admitted to trading on a Belgian regulated market); serious indications of non-compliance with Article 8, §§ 2 and 4, of the said Royal Decree of 31 March 2003, in connection with the publication of a half-yearly statement; serious indications of the dissemination of information giving or likely to give false or misleading signals about financial instruments where the person in question knew or ought to have known that the information was false or misleading (Art. 25, § 1, 4°, of the Law of 2 August 2002).

In the case of the natural person, the serious indications of an infringement related to the dissemination of information giving or likely to give false or misleading signals about financial instruments when the person knew or ought to have known that the information was false or misleading (Art. 25, § 1, 4°, of the Law of 2 August 2002).

¹⁴⁶ See the CBFA Annual Report 2004, p. 95, for a presentation of the role of the investigations officer in the procedure for imposing administrative fines and a description of the course of an investigation.

¹⁴⁷ When submitting his findings to the Sanctions Committee, the investigations officer shall notify the perpetrator(s) of the practice in question that he is doing so. This or these last may, at the registered office of the CBFA and on the days and at the times indicated by the investigations officer, take cognizance of the dossier that has been compiled (Art. 71, § 2, of the Law of 2 August 2002).

From the time when the provisions of the Law of 2 August 2002 concerning the procedural rules for the imposition of administrative fines entered into force (1 November 2002) until 1 March 2008, the investigations officer was charged with investigating 38 dossiers concerning serious indications of one or more practices, by one or more persons, liable to give rise to an administrative fine. The investigations officer

submitted his findings in 19 of these dossiers. Thus 19 dossiers, relating to 43 persons, remained under investigation as at 1 March 2008.

The dossiers which the investigations officer was charged with investigating concerned serious indications of infringements of one or more of the following legislative texts:

LEGISLATION CONCERNED IN CASES WHERE SERIOUS INDICATIONS OF AN INFRINGEMENT WERE REFERRED TO THE INVESTIGATIONS OFFICER

Cumulative list (1 November 2002 - 1 March 2008)

Law of 11 January 1993 on preventing the use of the financial system for purposes of money-laundering and the financing of terrorism	7
Law of 27 March 1995 on insurance and reinsurance intermediation and on the distribution of insurance	1
Law of 6 April 1995 on the legal status and supervision of investment firms, on intermediaries and on investment advisers (including conduct of business rules)	3
Law of 2 August 2002 on the supervision of the financial sector and on financial services	
1. Abuse of inside information	17
2. Market manipulation	3
Law of 22 April 2003 on public offers of securities (prospectuses)	2
Royal Decree of 31 March 2003 on the obligations of issuers of financial instruments admitted to trading on a Belgian regulated market	2
Royal Decree of 31 March 2003 on the reporting of transactions in financial instruments and on the storage of data	6

2.2. Changes in the investigative powers of the investigations officer

The investigative powers conferred on the CBFA for the supervision of transactions in financial instruments, in particular with regard to the prohibition of insider dealing and market manipulation and with regard to the rules of conduct¹⁴⁸, were extended pursuant to an amendment to the Law of 2 August 2002¹⁴⁹.

These changes have a direct effect on the investigative resources that the investigations officer may use in the exercise of his functions. The investigations officer is now empowered, by virtue of Article 70, § 2, paragraph 2, of the Law of 2 August 2002, to exercise all the investigative powers entrusted to the CBFA by the legal and regulatory provisions governing the area to which the potential infringement relates¹⁵⁰.

148 More specifically, the purpose of these investigative powers is to supervise compliance with the provisions in Section 7 of Chapter II of the Law of 2 August 2002, governing transactions in financial instruments (see in this connection the bill on the reporting of significant interests in issuers whose shares are admitted to trading on a regulated market and containing miscellaneous provisions, Statement of reasons, Doc. parl./Parl. St., Ch./Kamer 2006-2007, No. 2963/001, p. 70) and the unlawful provision of investment services.

149 See Art. 46 to 56 of the Law of 2 May 2007 on the reporting of significant interests in issuers whose shares are admitted to trading in a regulated market and containing miscellaneous provisions, Belgian Official Gazette, 12 June 2007, p. 31588. The articles in question entered into force on 22 June 2007.

150 For a general presentation of the investigative powers conferred on the CBFA by the amendment of the Law of 2 August 2002, see the report of the Management Committee, p. 41.

Independently of the investigative powers which he holds as the CBFA's representative, the investigations officer has also had investigative powers conferred on him directly, mainly for supervising transactions in financial instruments in the light of the prohibition of insider dealing and market manipulation, for applying the rules of conduct and for investigating the charges and the defence where there are serious indications of an infringement of these provisions.

These powers may also be exercised by the investigations officer for the purposes of an inquiry conducted by the CBFA¹⁵¹ or as part of international cooperation at the request of foreign supervisory authorities, in the areas mentioned above. These investigative powers are presented briefly below.

Freezing of assets

In an emergency and by means of a reasoned decision, the investigations officer may order the temporary freezing of assets belonging to the person who is the subject of an inquiry by the CBFA or a foreign authority or the subject of an investigation by the investigations officer. The assets in question must either be the subject of the infringement in question or have been used for or implicated in committing it, or constitute a direct profit from the infringement or the equivalent thereof¹⁵². This power may not be exercised in private homes.

Such a measure, prompted by an emergency, is temporary in nature and may be ordered for a non-extendable period of no more than 48 hours¹⁵³. Precise legal rules govern the execution of this measure¹⁵⁴.

In the absence of an emergency, a freezing of assets of the type described above may be ordered by the investigations officer only with prior authorization from an investigating magistrate¹⁵⁵. The investigations officer must describe in

his decision the circumstances which justify the measure, and take account of the principles of proportionality and subsidiarity when justifying his decision¹⁵⁶. The effects of such a measure apply until the final decision of the Sanctions Committee has been issued¹⁵⁷. An appeal may be made against such a decision to the Brussels Court of Appeal¹⁵⁸.

Identification of subscribers to telecommunication services and location of telecommunications

For the purposes described above, the investigations officer may, by a written and reasoned decision, require the operator of a telecommunication network or the supplier of a telecommunication service to identify the subscriber or habitual user of a telecommunication service, and to pass on identification data relating to the telecommunication services to which a given person subscribes or which are habitually used by a given person¹⁵⁹.

Where he considers that circumstances require telecommunications to be traced or the originator or recipient of telecommunications to be located for the purposes of the investigation, the investigations officer may, with the prior authorization of an examining magistrate, also require data about calls or the originator or recipient of telecommunications to be passed on to him¹⁶⁰.

The conditions under which these measures must be executed are set out in Articles 81, §2 and 82, 2° *jo* 84 respectively of the Law of 2 August 2002.

Temporary ban on professional activity

With the prior authorization of an investigating magistrate, the investigations officer may, by reasoned decision, impose on a natural or legal person in respect of which there are

151 Bill on the reporting of significant interests in issuers whose shares are admitted to trading on a regulated market and containing miscellaneous provisions, Statement of reasons, Doc. parl./Parl. St., Ch./Kamer 2006-2007, No. 2963/001, p. 73.

152 Art. 80, paragraph 1, of the Law of 2 August 2002.

153 Art. 80, paragraph 2 and 3, of the Law of 2 August 2002.

154 Art. 80, paragraphs 4 to 7, of the Law of 2 August 2002.

155 Art. 82, 1°, of the Law of 2 August 2002.

156 Art. 83, § 1, paragraph 2, of the Law of 2 August 2002.

157 Art. 83, § 2, of the Law of 2 August 2002.

158 Art. 121, § 1, paragraph 1, 6°, of the Law of 2 August 2002.

159 Art. 81, § 1, of the Law of 2 August 2002.

160 Art. 82, 2°, *jo* 84 of the Law of 2 August 2002.

serious indications of an infringement of, in particular, the rules of conduct or the prohibitions of insider dealing or market manipulation, a temporary ban on the exercise of professional activities which may give rise to further infringements¹⁶¹.

The ban applies for three months from the notification by the investigations officer of his decision to the party concerned, and may be extended once by the same procedure. An appeal may be made against such a decision to the Brussels Court of Appeal¹⁶².

2.3. The investigation process

Hearing

Information is often gathered orally by the investigations officer by means of a hearing. The conduct of the hearing is subject to procedural safeguards modelled on those which apply in criminal law. In particular, the person concerned is reminded of his right to remain silent and his right not to respond to the investigations officer's requests if this would lead him to collaborate in his own incrimination¹⁶³.

There is now a formal legal framework governing such hearings when they are held for the purposes of investigating serious indications of non-compliance with, in particular, the prohibitions on insider dealing or market manipulation or with the rules of conduct.

The investigations officer may summon and hear any person for the aforementioned purposes¹⁶⁴. The summoned person is required to appear. Failure to appear may give rise to an administrative fine or a penalty¹⁶⁵.

Such a hearing must observe certain procedural safeguards defined by law. Thus the person concerned must be informed at the start of the hearing of his right to request that any questions put to him and any answers he gives be recorded in the wording that was used, of his right to request that a given investigative task be performed,

and of the fact that a specific hearing is to be conducted and that any statements he makes may be used in evidence against him¹⁶⁶. Every hearing must be recorded in an official report, a copy of which must be given immediately to the person concerned¹⁶⁷.

These rules must be observed, regardless of the capacity in which the person is heard. Although these procedural rules apply to hearings for the investigation of serious indications of non-compliance with the prohibitions on insider dealing or market manipulation or with the rules of conduct, the investigations officer must ensure that the same safeguards are in place during hearings held for purposes other than those expressly referred to in Article 79 of the Law of 2 August 2002, without prejudice to the fact that the Law of 2 August 2002 does not stipulate in such cases that the person summoned is required to appear.

Access to the dossier during the investigation process

When summoned for a hearing by the investigations officer as part of the latter's investigation of serious indications of insider dealing identified by the Management Committee, in one case the person under investigation requested access to the investigation dossier.

The investigations officer evaluated this request in the light of the right every person has to be informed immediately of the nature and grounds of the accusation to which he is subject, enshrined in Article 6, § 3, a), of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), and in the case law of the Court of Cassation in this area.

The investigations officer found, firstly, that when the person in question was summoned to the hearing, he had been informed of the nature of the serious indications of infringement of which he was accused and which had been referred to the investigations officer by the Management Committee.

161 Art. 82, 3°, jo 85 of the Law of 2 August 2002.

162 Art. 121, § 1, paragraph 1, 6°, of the Law of 2 August 2002.

163 See the CBFA Annual Report 2004, p. 97.

164 Art. 79 of the Law of 2 August 2002.

165 Art. 86 of the Law of 2 August 2002.

166 Art. 79, paragraph 4, 1°, of the Law of 2 August 2002.

167 Art. 79, paragraph 4, 3° and 5°, of the Law of 2 August 2002.

Turning to the case law of the Court of Cassation, to which Article 6, § 3, a), of ECHR applies in the judgement phase¹⁶⁸, he noted that the Law of 2 August 2002 provides for access to the investigation dossier and recognizes the right to such access at the *end* of the investigation: under Article 71, § 2, of the Law of 2 August 2002, when the investigations officer submits his findings to the Sanctions Committee, the accused may take cognizance of the dossier that has been compiled.

Accordingly, on the grounds that the rights of the defendant had been respected during the procedure taken as a whole, the investigations officer took the view that he was not required to grant access to the investigation dossier during the investigation, in view of the risk this posed to its effectiveness.

2.4. Agreed settlement

In principle, at the end of his investigation the investigations officer submits his findings to the Sanctions Committee, which has the power to decide whether to impose an administrative fine¹⁶⁹.

The Law of 2 August 2002 also stipulates that where the factual evidence is not disputed, the investigations officer may draw up a proposal for an agreed settlement with the perpetrator of the infringement¹⁷⁰. If the perpetrator of the infringing practice accepts the proposal for an agreed settlement, the latter is submitted to the Management Committee¹⁷¹.

The person who is the subject of the agreed settlement may request a hearing before the Management Committee.

The Management Committee may accept or reject the settlement. If it rejects it, the Management Committee must refer the dossier to the Sanctions Committee¹⁷².

Agreed settlements are published on the CBFA's web site. Other than in cases where this would seriously disrupt the financial markets or cause undue harm to the persons concerned, the perpetrator is named¹⁷³.

No appeal may be made against agreed settlements¹⁷⁴.

3. Decisions of the Management Committee to impose an administrative fine

The investigations officer submits his findings to the newly formed Sanctions Committee, which consists of members of the Supervisory Board, in accordance with the amendment to the Law of 2 August 2002. The Sanctions Committee deliberates on the dossier. The Management Committee, which had powers in this area until the amendment of the Law of 2 August 2002¹⁷⁵, ruled on four dossiers in 2007, imposing an administrative fine in two of these cases. Appeals have been made against these decisions to the Brussels Court of Appeal.

168 See in particular, Cass. 13 February 2002 (P.01.1540.F/1); Cass. 9 November 2005 (P.05.1026.F.), available on www.cass.be.

169 Art. 48, § 6 and 71, § 2, of the Law of 2 August 2002.

170 Art. 71, § 3, of the Law of 2 August 2002 introduced by Article 174 of the Programme Law of 27 April 2007, Belgian Official Gazette, 8 May 2007, ed. 3, p. 25153.

171 Art. 71, § 3, paragraph 1, of the Law of 2 August 2002.

172 Art. 71, § 3, paragraph 2, of the Law of 2 August 2002.

173 Art. 72, § 4, paragraph 1, of the Law of 2 August 2002.

174 Art. 71, § 3, paragraph 2, of the Law of 2 August 2002.

175 See the present report, p. 15.



C. Involvement in national and international forums of supervisory and regulatory bodies

1. The Financial Stability Committee

Matters of common importance for the CBFA and the National Bank of Belgium (NBB) are dealt with by the Financial Stability Committee (FSC)¹⁷⁶.

In 2007, the committee was particularly focused on the subprime crisis in the United States and its consequences for the international and Belgian financial markets. Cooperation within the committee between the two institutions with their separate areas of competency was extremely

useful here. The NBB was able to ensure the necessary support with regard to changes in the macro-economic indicators and in the financial markets, while the CBFA, as prudential supervisor, was able to contribute by evaluating the impact of what was happening on Belgian financial institutions with systemic risk.

The FSC also monitored on a regular basis developments with regard to the payment and settlement systems, and in particular the TARGET 2 and SEPA projects¹⁷⁷.

Work continued in 2007 on the development of procedures and recommendations applying to incidents of an operational nature that could have a sharply negative impact on the proper operation of the Belgian financial system. This was done within the Permanent Monitoring Entity (PME) of the FSC which devised a specific escalation and communication

176 See the CBFA Annual Report 2006, p. 15 and Article 117, §§ 1 and 3, of the Law of 2 August 2002 on supervision of the financial sector and on financial services.

177 See the CBFA Annual Report 2006, p. 15.

procedure in 2006¹⁷⁸ for incidents of an operational nature (natural disasters, terrorist attacks, pandemics, etc.). In 2007, the focus was on carrying out a number of tests to check the soundness of the crisis procedures. The tests made it possible to adjust and adapt the procedures where necessary.

One specific field of common importance is the cooperation between the two institutions in respect of support tasks, cooperation that is given shape through service level agreements (SLAs). At the close of the period under review, 19 SLAs had been concluded between the two institutions. These are discussed individually later on in this annual report¹⁷⁹.

2. International and European activities

The CBFA takes part in many international and European activities in which the future supervisory framework for financial activities is being defined.

Via its Chairman, the Chairman of the Supervisory Board and the members of the Management Committee, the CBFA is closely involved in international discussions on the supervision of banks, the insurance sector, pension funds and the securities business.

In 2007 they were given the following mandates:

- ◆ on 15 January 2007 Rudi Bonte became a member of the CEBS bureau;
- ◆ on 1 February 2007 Eddy Wymeersch became Chairman of CESR;
- ◆ on 15 February 2007 Michel Flamée was elected Chairman of the IAIS;
- ◆ on 1 August 2007 Jean-Paul Servais became Chairman of the MiFID expert group within CESR.

In addition, staff from all departments are actively involved in the international and European working groups in which regulation is being fleshed out, the new supervisory framework is being created and ever more intensive consultation is taking place among European supervisors.

In 2007 a total of 62 staff members took part in 158 different international and European working groups¹⁸⁰.

In this way, from the outset, note can be taken of and influence brought to bear on planned activities, and Belgian companies can be informed of impending developments. Moreover, Belgian supervision can be prepared in due time for the announced innovations; in a number of cases, the CBFA itself has provided the inspiration for international regulation¹⁸¹.

178 See the CBFA Annual Report 2006, p. 15 and the FSC's web site: www.csf-cfs.be.

179 See the present report, p. 100.

180 See the present report, in particular p. 38, 40, 45, 46, 68, 72 and 76.

181 See the present report, in particular p. 38.



CHAPTER 3

PRINCIPAL ASPECTS OF OVERALL ORGANIZATION

A. The internal audit function at the CBFA

The task of internal audit is to examine the entire field of auditing at the CBFA by means of operational, financial and compliance audits. In so doing, it supports the Management Committee in the latter's performance of the legal tasks of the CBFA and in achieving the institution's objectives.

In 2007, the internal audit function mainly focused on the analysis of a number of important operational processes in the organization. The process of management of risks by the three departments responsible for prudential supervision at the CBFA was scrutinized. In particular, the organizational framework of the prudential supervision of credit institutions and investment firms, insurance companies and institutions for occupational retirement pension was examined.

In each case, the same audit approach and the same methods were used to consider how the departments determine their strategy, how they identify and assess the operational risks to be managed and how they prioritize those risks when organizing their activities.

Special attention was also paid to the way in which the departments coordinate their actions with one another in order to achieve the requisite coherence in their supervision.

In addition to these wide-ranging audits, internal audit also conducted two examinations at the request of the Management Committee. One related to the way in which a department had handled a complaint, while the other concerned the working of a specific service and the operational resources which are (or should be) used for that service.

Internal audit prepared a report on each examination and discussed it with the audited entity. The definitive report was then submitted to the Management Committee for deliberation. The head of internal audit elucidated each report for the members of the Management Committee and discussed the conclusions and recommendations of the exercise with them.

In accordance with the internal audit charter, the Management Committee reported to the Supervisory Board on the activities of the internal audit function.

B. Code of ethics

The code of ethics did not undergo any modifications in 2007.

By way of reminder, one of the main purposes of the CBFA's code of ethics is to protect the institution, its leaders and the members of its staff from any suspicion concerning the use of privileged information that they inevitably possess as a result of the institution's mandate. By applying this code, the leaders of the CBFA abstain from holding any shares in companies under the permanent supervision of the CBFA, with the exception of units of undertakings for collective investment or securities under discretionary management.

Members of staff who held shares at the time the code of ethics came into force or who have joined the CBFA since then and already held shares are permitted to retain them. However, they may execute transactions in respect of them only with the prior formal authorization of the Secretary General, and provided those transactions are of a defensive character.

In 2007, members of staff submitted 32 requests to sell their securities or include them in an exchange or repurchase operation.

For each of these requests for authorization, the Secretary General verified whether the proposed transaction was of a defensive character, and whether the CBFA services had any relevant information that could be deemed to be privileged.

C. Cooperation with the National Bank of Belgium

Cooperation with the National Bank of Belgium was the subject of 14 service level agreements (SLAs) at the end of 2006, entered into on the grounds of the Royal Decree of 17 September 2003, implementing Article 118 of the Law of 2 August 2002¹⁸².

By the end of 2007 another four SLAs had been finalized, relating to:

- ◆ the NBB's management of the CBFA's central IT infrastructure;
- ◆ the CBFA's use of the NBB's infrastructure for gathering financial information;
- ◆ the development of IT applications by the NBB for the CBFA;
- ◆ the participation by CBFA staff members in training courses organized by the NBB.

These are important agreements, which together account for the vast majority of the budget relating to cooperation with the NBB¹⁸³.

Service level agreement relating to the integration into the NBB's IT service of the management of the CBFA's central IT infrastructure

Since the beginning of 2008, the management of the entire CBFA infrastructure (servers, desktops, laptops and connectivity) has been almost fully integrated into the NBB.

The *Service Level Agreement on the second phase in the convergence of the IT infrastructures of the CBFA and the NBB* will govern this management activity¹⁸⁴. The SLA had been under discussion since June 2006.

The discussions related to

- (1) the charges for the service,
- (2) the description of the service and the correspondence between the service quality standard and the charges and
- (3) the legal aspects of the service (liability).

The service provision charges proposed by the NBB are based on the application to the CBFA of the NBB's internal pricing in accordance with the direct costing principle, less a percentage corresponding to the investments made by the CBFA. The CBFA compared these prices with those that a private service provider would charge for the management of the infrastructure, taking into account the high standards that the NBB was offering.

These market standards were incorporated into the SLA, and in the course of the year instruments were devised within the NBB to enable the standard of its service provision to be measured against the set performance indicators.

The discussions were concluded in December 2007. The NBB's management of the CBFA's IT infrastructure includes:

- ◆ hosting the IT infrastructure;
- ◆ helpdesk service;
- ◆ management of software licences and maintenance contracts;
- ◆ databank management;
- ◆ management of the various categories of CBFA servers;
- ◆ management of the SAN infrastructure (storage area network);
- ◆ network management;
- ◆ desktop and laptop management;
- ◆ the security of the CBFA's IT infrastructure;
- ◆ disaster recovery management.

SLA on the gathering, transmission and processing of external information

The SLA on the gathering, transmission and processing of external information was in response to a request from the Financial Stability Committee. It provides for the collection by the NBB of external information¹⁸⁵ for the CBFA, and more specifically for the use of its Internet information-gathering infrastructure, the Central Server for Statistical Reporting (CSSR). This agreement defines the framework within which the current information-gathering applications are accommodated: Layout A, COREP, FINREP, Insurance data gathering and IORP.

¹⁸² See the CBFA Annual Reports 2004, p. 104, 2005, p. 88 and 2006, p. 96.

¹⁸³ See the present report, p. 117.

¹⁸⁴ This SLA incorporates the arrangements included in the *Service Level Agreement on the first phase in the convergence of the IT infrastructures of the CBFA and the NBB*, which it will replace.

¹⁸⁵ This is the financial information that the financial institutions subject to supervision have to submit periodically to the CBFA.

The SLA is an example of the synergies which provide the rationale for pooling the two organizations' resources for external information processing, including the transmission, monitoring and reception, validation, storage and use of the financial information that financial undertakings are required to report to the CBFA and the NBB on a periodic basis.

The CSSR, as a generic infrastructure developed by the NBB, as well as the extensions financed by its users, belongs to the NBB and is made available by it to third parties, including the CBFA.

SLA on the development of IT applications

This agreement enables the CBFA to use the NBB's IT service for the development of customized IT applications.

SLA on training

This agreement sets out the conditions under which CBFA personnel can take part in training courses of various types organized by the NBB.

The CBFA is now working on the basis that – apart from the definition of a similar financial status and a similar career structure for new recruits in similar functions at the two institutions, an area which still needs thorough examination – the main, if not all areas of synergy stipulated in the Royal Decree of 17 September 2003 are covered by the existing SLAs with the NBB. In 2008, attention will therefore be focused primarily on consolidating these agreements and evaluating the added value contributed by this partnership.

D. Evolution of IT

In addition to the completion of the transfer of IT infrastructure management to the NBB¹⁸⁶, attention was also focused on the IT applications that support the CBFA in its supervisory

tasks. In 2007, this involved the further pursuit or delivery of projects commenced in 2006¹⁸⁷ and the ongoing adaptation of existing applications to the changes in the reporting obligations of the institutions under supervision¹⁸⁸.

Additionally, during the period under review the CBFA started work together with the NBB's IT service on the development of the Transaction Reporting System in implementation of Article 25 of MiFID¹⁸⁹. This reporting system is oriented around the receipt and exchange of information by European supervisors about transactions in financial instruments on their respective regulated markets.

Unlike certain other Member States (United Kingdom, France, Germany and Austria), Belgium did not yet have any centralized registration of information about transactions on its regulated markets. The CBFA investigated various possibilities in order to introduce such a system within the deadline imposed by MiFID, ranging from the purchase and further development of a generic application, through cooperation with other supervisors, to the development of a system in synergy with the National Bank of Belgium. Cooperation with the NBB was chosen as the most appropriate solution, on the basis inter alia of the following factors:

- ◆ the fact that the reporting system is primarily a communication infrastructure between systems (business to business) between the CBFA and the Belgian reporting parties as well as a helpdesk, both of which functions have already been developed within the NBB for other purposes;
- ◆ the fact that the CBFA's central IT infrastructure is combined with that of the NBB;
- ◆ the fact that the centralization at the NBB of all information streams from financial institutions is one of the main purposes of the cooperation in the area of IT.

The MiFID reporting system went into production on 5 November 2007.

¹⁸⁶ See the present report, p. 100.

¹⁸⁷ See the CBFA Annual Report 2006, p. 95.

¹⁸⁸ In particular, the reporting obligations of credit institutions have undergone continual changes in recent years.

¹⁸⁹ See the present report, p. 76.

E. Human resources management

Development of staff numbers in 2007

The number of staff that can be employed by the CBFA is determined by the Royal Decree of 22 May 2005 on the financing of its operating expenses and as at 1 January 2008 was 414 full-time equivalent staff (FTEs)¹⁹⁰. The number of staff indicated in the royal decree does not necessarily

correspond to the number entered in the staff register, as the decree only takes account of available staff.

Over recent years, staff numbers have developed as follows:

	2004	2005	2006	2007
Number of staff (units)	408	421	438	435
Number of staff according to the staff register (FTEs)	383.33	397.63	415.06	411.96
Available staff (FTEs)	369.93	375.58	393.96	389.97
Average number of staff (units)	386.53	419.5	430.83	435.67

For the first time since the integration of the CBF and the Insurance Supervisory Authority (ISA) on 1 January 2004, the CBFA's actual workforce has undergone a net decrease, by 3.1 FTEs.

The following are the main developments compared with the situation as at 31 December 2006:

- ◆ the allocation of the CBFA's full personnel budget¹⁹¹;
- ◆ the transfer of 7.3 FTEs¹⁹² from general services to the supervisory departments and the internal audit service;
- ◆ the reduction of the management positions by two FTEs;
- ◆ the internal transfer of 106 FTEs as a result of a rearrangement of the organization chart.

Characteristics of the workforce

At the end of 2007, 52% of the CBFA's staff had university degrees. The CBFA employs nearly as many women as men, and the average employee age is 41.82. 25% of employees have opted to work part-time. Over half of these have chosen an 80% arrangement, i.e. a four-day week.

The integration of statutory and contractual staff of the former ISA

2007 saw the continued implementation of the procedure enabling staff of the former ISA to transfer from civil servant status to an employment contract under common law¹⁹³; ten executives and one non-executive were able to take up this option after passing through the stipulated evaluation procedure.

¹⁹⁰ See also the present report, p. 113.

¹⁹¹ See the present report, p. 22-23.

¹⁹² These 7.3 FTEs include:

- 2.8 FTEs as a result of the integration of the CBFA's infrastructure with the NBB;
- 3.95 FTEs on the sub-budget of the Commission for Accounting Standards (CAS) which was included in the Secretariat General's budget. Under the Royal Decree of 3 April 2006 (published in the Belgian Official Gazette of 28 April 2006), the CAS, whose staff members had previously been withdrawn from the CBFA's personnel budget, was converted into an autonomous institution. It is now responsible for the recruitment of its own administrative and scientific personnel.

¹⁹³ CLA of 25 May 1995.

Under the CLA of 25 May 2005, the CBFA is required to give staff who still have statutory civil servant status the possibility of participating, between 2008 and 2010, in an evaluation procedure with a view to obtaining an integration employment contract. However, the CBFA is assuming that staff of the former ISA who have opted to retain their civil servant status are unlikely to change their minds unless there are significant new developments.

The table below sets out the impact as at 31 December 2007 of the integration measures in favour of staff of the former ISA as regards pre-retirement leave¹⁹⁴ and the transfer to an integration contract.

Staff of the former ISA	Executive (cadre)	Non-executive	Total
As at 01.01.2004	62.8	58.3	121.1
Departure: pre-retirement leave/retirement	-10.3	-7.4	-17.7
Departure: other	-1.3	-2.0	-3.3
Change in working hours	0.1	1.3	1.4
As at 31.12.2007	51.3	50.2	101.5
Of which, CBFA integration contract	34.35 or 67%	15.40 or 30,7%	49.75 or 49%

As the above table indicates, about half the staff of the former ISA transferred to contractual status in 2007, with relatively more executive than non-executive staff taking up this option. This latter point is related to the insignificance of the financial incentive for transferring to the contract for holders of a bachelor's degree.

Recruitment

The CBFA traditionally seeks to recruit highly educated employees who have already successfully obtained useful work experience elsewhere. The average age on recruitment is 28.

In 2007, there were 22 vacant positions¹⁹⁵. In view of the need for personnel with specific expertise, the CBFA conducted its campaign this year via the specialist press (legal and

financial journals). However, the campaign did not yield the results hoped for: 11 people were recruited in 2007, compared with 32 and 35 in 2005 and 2006 respectively. Like other institutions in the financial and insurance sector, the CBFA came up against the general shortage of people with financial/mathematical profiles, IT specialists and management assistants on the employment market.

Taking account of departures and changes of employment status, 21 positions still needed to be filled at the end of 2007, and the available workforce experienced a net decrease for the first time in a number of years¹⁹⁶.

Filling the executive vacancies is thus a matter of priority for 2008.

194 See the CBFA 2006 Annual Report, p. 92.

195 As at 1 January 2007, the number of staff the CBFA may employ under the terms of the Royal Decree of 22 May 2005 is 415, expressed in full-time equivalents. See the present report, p. 113.

196 See the present report, p. 102.

Participation in the HR networks set up by the European organizations of supervisory authorities

The committees of European banking, insurance and securities supervisors, CEBS, CEIOPS and CESR, have each set up an HR network in which each supervisor is represented by a personnel policy coordinator. As an integrated supervisor, the CBFA is represented in all three networks.

The CESR HR network, followed by those of CEBS and CEIOPS, has devised a framework for promoting secondments and study visits between supervisors. The main objective of this practice, and one which represents an important political priority, is to create a common supervisory culture.

The working groups created a toolkit to enable supervisors to introduce a policy on secondments and study visits and make it easy to put it into practice. All European supervisors have undertaken to implement these toolkits in the near future, and to devise a policy on secondments and study visits.

A work-related visit to a supervisor is defined as a secondment if it lasts longer than three months. Shorter visits are regarded as study visits.

In view of the considerable obstacles to effective, systematic personnel exchanges (language requirements, restrictions in terms of workforce and budget considerations), no concrete targets on secondments were set in 2007. In fact, within its "common framework on short term secondments" the CEBS proposes reciprocal visits of a maximum of six months as a general principle. This approach is regarded by many supervisors as more realistic.

In addition to one member of staff on secondment at the CEIOPS secretariat in Frankfurt, in 2007 the CBFA organized reciprocal study visits of between six weeks and six months with the Banque de France and the Czech National Bank.

Training

The CBFA attaches increasing importance to the arrangement of suitable training programmes to familiarize employees with new developments and regulations.

In addition to internal training, briefings for the sector also play an important role.

As part of its cooperation with other supervisors, the CBFA receives various foreign delegations, for which individually tailored courses are devised.

Finally, the CBFA takes part in the training initiatives of the HR networks set up by the European federations of supervisors (CEBS, CEIOPS, CESR) with a view to developing uniform supervisory practices.

The formalization of the function of coordinator

In parallel with the rearrangement of responsibilities and resources, the Management Committee also decided to formalize the function of coordinator. This function has existed for a number of years, and meets an operational need associated with the supervisory departments' flat hierarchical structure, in which all executives report directly to an assistant director. This structure ensures an optimal flow of information to the management, which is absolutely vital for effective supervision. However, in such a structure, the management needs assistance from employees whose task is, for example, to monitor the legislative framework, to coordinate the substantive aspects of the executives' activities and hence to contribute where necessary to the adoption of a uniform position and methodology in individual supervision dossiers. This task may also involve supervising the quality of the documents prepared by the staff, or of coordinating projects rather than employees. Thus the content of the coordination function can vary depending on the nature of the tasks and operational requirements of the service concerned. Under no circumstances, however, does the coordination function involve hierarchical powers with regard to the executives of the service concerned.

The coordinators are recruited by the Management Committee, and their function is in principle temporary in nature. In view of the fact that the coordination function is closely connected with the recurrent tasks of the employees concerned, they receive a monthly functional salary for the duration of their assignment. As at the beginning of 2008, the CBFA had 26 coordinators¹⁹⁷.

F. Consultation on social matters

Together with the NBB, the National Decredere Office, the Participation Fund, the Federal Participation and Investment Corporation, the National Lottery and the company Credibe, the CBFA is part of Joint Committee 325. Within this Committee, a sectoral agreement for 2007-2008 was concluded on 3 December 2007, in which job security, the right to training and increased purchasing power were central as in previous years.

At the proposal of the CBFA's Occupational Health and Safety Committee (CPPT/CPBW), and in the light of the requirements of the Law of 4 August 1996 on employee well-being at work and of CLA no. 72, it was decided to conduct a stress survey in 2007. The government contract for the conduct of the survey was put out to tender and allocated in 2007, and the survey itself was held in mid-January 2008.

Likewise under the auspices of the CPPT/CPBW, the implementation of the final section of the CBFA transport plan, approved by the Management Committee in December 2005, was commenced with the organization of a "teleworking" trial project. The project will run from 1 March to 31 December 2008.

G. Financing of the CBFA's operating expenses

Specific developments in a number of sectors led to the Royal Decree of 22 May 2005 on the financing of the CBFA's operating expenses (the 'financing decree') being modified again in 2007¹⁹⁸.

The following aspects had an impact on the financing of the operating expenses in 2007¹⁹⁹.

1. To prevent the considerable increase in subscriptions to Belgian undertakings for collective investment causing an unwarranted rise in that sector's contributions to the CBFA's operating expenses, the contribution rate on new subscriptions was reduced from 0.5 ‰ to 0.4 ‰.

With a virtually equivalent amount in subscriptions in 2007 as in 2006, the sector's overall contribution²⁰⁰ in 2007 was 10% lower than in 2006.

2. As a result of new legislation²⁰¹, it was necessary to revise the scale of charges for the approval by the CBFA of prospectuses relating to a public offering of investment instruments, a takeover bid for securities or the admission of investment instruments to trading on a regulated market. At the same time, certain charges were brought into line with the CBFA's actual workload.

It is expected that the revision of the scale, which came into force on 1 August 2007, will not have any impact on the average contribution per approval.

197 As a quantitative standard it has been proposed that the number of coordination functions, together with the functions of assistant director, may not in principle exceed one per ten FTEs.

198 Royal Decree of 23 May 2007 amending the Royal Decree of 22 May 2005 on the financing of the CBFA's operating expenses, in implementation of Article 56 of the Law of 2 August 2002 on the supervision of the financial sector and on financial services and in implementation of various legal provisions regarding the tasks of the CBFA, published in the Belgian Official Gazette of 15 June 2007.

199 The Report to the King describes in greater detail the changes to the financing decree that have been introduced by the Royal Decree of 23 May 2007.

200 The contribution consists of a component calculated on the basis of subscriptions, as well as a component calculated on the basis of the managed assets (Art. 15 of the financing decree); the sector's total managed assets increased by nearly 11% in 2006.

201 Law of 16 June 2006 on public offers of investment instruments and admission of investment instruments to trading on regulated markets.

3. The CBFA was tasked with new supervisory roles in connection with the recognition of the Alternext market for financial instruments²⁰².

This will have only slight consequences for the financing of the operating expenses²⁰³.

As the supervision of issuers admitted to a regulated market is being extended to include those admitted to Alternext, this latter group should contribute to the CBFA's operating expenses in the same way as other issuers; this will occur within the existing, unaltered contribution budget (see Art. 21 of the financing decree).

4. For *bureaux de change*, the contribution system was adapted based on a belief that, if the overall budget for the sector is retained while the number of *bureaux de change* decreases significantly, the individual contribution of the *bureaux* would eventually rise too high. The contribution will therefore be calculated henceforth on the basis of size, i.e. turnover.

Comparison of sectoral contributions in 2007 and in 2006 shows that the new contribution structure has not led to any overall increase in charges for the sector.

Under the terms of a Royal Decree of 27 April 2007 transposing the European Markets in Financial Instruments Directive (MiFID) into Belgian law, multilateral trading facilities (MTFs) can now be set up, i.e. organized trading systems which offer the same trading functions as the regulated markets. The financing decree now stipulates a contribution rule for this category of institution, as it does for existing market undertakings. Apart from those MTFs which existed *de facto* at the time when the royal decree came into force, no new MTF licences have been granted.

With effect from 2007, the financing decree stipulates a contribution for a market undertaking organizing a market to which only those financial instruments are admitted which are already admitted to a regulated market or MTF. So far, no licence for the exercise of such activities has been granted.

Finally, 2007 is the last year in which the contribution budget for institutions from the insurance sector will be decreased in accordance with Art. 33 of the financing decree. As at 31 December 2007, these institutions' credit balance with the former Insurance Supervisory Authority which does not relate to the financing of the CBFA's head office will be completely refunded.

202 Royal Decree of 14 December 2006 on the Alternext market for financial instruments and amending the Royal Decree of 5 March 2006 on market abuse.
203 € 314 is payable for the notification of a major holding in a company whose financial instruments are admitted for trading on Alternext.



CHAPTER 4

FINANCIAL STATEMENTS FOR THE 2007 FINANCIAL YEAR²⁰⁴

204 All amounts are expressed in € 000 unless otherwise stated.

The financial statements of the CBFA for the 2007 financial year were approved on 16 April 2008 by its Supervisory

Board, in accordance with Article 48, §1, 4°, of the Law of 2 August 2002.

BALANCE SHEET

ASSETS	31.12.2007	31.12.2006
FIXED ASSETS	54 542	56 595
I. Formation expenses	1 110	2 064
II. Tangible and intangible fixed assets	53 432	54 531
1. Tangible fixed assets		
A. Land and buildings	51 943	53 339
B. Plant, machinery and equipment	66	133
C. Furniture and vehicles	84	330
2. Intangible fixed assets	1 339	729
CURRENT ASSETS	50 303	53 121
IV. Receivables within max. one year	2 795	5 823
A. Receivables in respect of operating expenses	1 442	4 374
B. Other receivables	1 353	1 449
V. Investments	46 000	40 000
VI. Liquid assets	625	5 913
VII. Deferred charges and accrued assets	883	1 385
TOTAL ASSETS	104 845	109 716
LIABILITIES	31.12.2007	31.12.2006
OWN FUNDS	15 000	15 000
II. Reserves	15 000	15 000
Restricted reserves	15 000	15 000
A. General budget reserve	4 500	1 875
B. Liquidity reserve	10 500	13 125
FINANCING FUND	11 418	11 725
PROVISIONS	2 326	3 638
III. Provisions for liabilities and charges	2 326	3 638
A. Pensions and similar obligations	1 136	1 168
C. Other liabilities and charges	1 190	2 470
AMOUNTS OWED	76 101	79 353
IV. Amounts owed over more than one year	40 825	41 943
A. 2. Credit institutions	40 825	41 943
B. 2. Other amounts owed in respect of operating expenses	0	0
V. Amounts owed within max. one year	33 391	35 506
A. Amounts owed over more than one year, portion due within the year	1 118	1 467
C. Amounts owed in respect of operating expenses	5 900	3 389
1. Suppliers	4 508	2 167
2. Other amounts owed	1 392	1 222
D. Amounts owed in respect of taxes, remunerations and social charges	7 397	7 273
1. Taxes	835	827
2. Remunerations and social charges	6 562	6 446
E. Other amounts owed	18 976	23 377
VI. Deferred income and accrued charges	1 885	1 904
TOTAL LIABILITIES	104 845	109 716

INCOME STATEMENT**2007 financial year****2006 financial year**

I. Income	81 906	83 971
A. Contributions to operating expenses	80 988	83 133
B. Other income	918	838
II. Operating expenses	62 233	57 147
A. Services and miscellaneous goods	9 022	6 386
B. Remunerations, social charges and pensions	51 509	48 790
C. Write-downs on receivables in respect of operating expenses	28	245
D. Provisions for liabilities and charges	-1 458	-1 333
E. Depreciation on formation expenses and fixed assets	3 133	3 058
III. Operating surplus	19 673	26 825
IV. Financial income	1 326	874
A. Income from current assets	1 160	816
B. Other financial income	166	58
V. Financial charges	2 023	2 072
A. Debt charges	2 018	2 068
C. Other financial charges	6	4
VI. Normal operating surplus	18 976	25 626
VII. Extraordinary income		
VIII. Extraordinary charges		
IX. Operating surplus for the financial year	18 976	25 626

Appropriation of the operating surplus for the financial year**2007 financial year****2006 financial year**

A. Operating surplus for the financial year to be allocated	18 976	25 628
C. Allocation to the restricted reserves		2 250
D. Repayments pursuant to Royal Decree of 22 May 2005 relating to the operating expenses of the CBFA	18 976	23 377

ANNEX

BALANCE SHEET

ASSETS

II. STATEMENT OF FIXED ASSETS	Land and buildings	Software	Plant, machinery and equipment	Furniture and vehicles	Total tangible fixed assets	Development costs
a) Acquisition value						
As at the end of the previous financial year	56 866	1 075	1 283	1 324	60 548	911
Movements during the financial year						
Acquisitions	0	154	53	49	256	823
Other						
As at the end of the financial year	56 866	1 229	1 336	1 373	60 804	1 734
b) Depreciation and write-downs						
As at the end of the previous financial year	3 527	1 075	1 150	994	6 746	182
Movements during the financial year						
Entered	1 396	154	120	295	1 965	213
Other						
As the end of the financial year	4 923	1 229	1 270	1 289	8 711	395
c) Net carrying value as at the end of the financial year	51 943	0	66	84	52 093	1 339

V. CASH INVESTMENTS

2007 financial year

2006 financial year

Invested via the Federal Public Service Finances (Treasury)	46 000	40 000
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LIABILITIES

2. PROVISIONS FOR LIABILITIES AND CHARGES

2007 financial year

2006 financial year

Pensions	1 136	1 168
Estimated costs of adjustments	80	84
Provision for disputed debt	0	322
Pre-retirement leave	1 110	2 064
Total	2 326	3 638

INCOME STATEMENT

I. A. CONTRIBUTIONS TO OPERATING EXPENSES

A1.Gross contributions	2007 financial year	2006 financial year
1.a. Credit institutions, investment firms and investment advice companies - Art. 10	17 767	17 767
1.b. Intermediaries (banking and investment services) - Art. 10bis	1 300	747
2. Public offers of securities - Art. 14	1 201	924
3. Investment firms - Arts. 15, 16 and 17	28 665	31 131
4. Belgian market listings - Art. 21	6 271	6 272
5. Investigations officer and consumer protection - Art. 22	754	744
6. Sundry former CBF	3 795	4 421
7. Insurance sector - Art. 2	15 471	15 470
8. Intermediaries (insurance) - Art. 4	3 408	3 290
9. Sundry former ISA	2 356	2 367
Total	80 988	83 133

A2. Net contributions	2007 financial year	2006 financial year
1.a. Credit institutions, investment firms and investment advice companies - Art. 10	11 633	10 439
1.b. Intermediaries (banking and investment services) - Art. 10bis	851	747
2. Public offers of securities - Art. 14	1 201	924
3. Investment firms - Arts. 15, 16 and 17	20 583	20 380
4. Belgian market listings - Art. 21	4 106	3 685
5. Investigations officer and consumer protection - Art. 22	754	744
6. Sundry former CBF	3 565	5 218
7. Insurance sector - Art. 2	13 670	12 924
8. Intermediaries (insurance) - Art. 4	3 408	3 290
9. Sundry former ISA	2 241	2 243
Total	62 012	60 594

II. B. 1. Employees entered in the staff register	2007 financial year	2006 financial year
a) Total at end of financial year	435	438
b) Average number of full-time equivalent staff	413	406
c) Number of hours worked	565 057	549 084

II. B. 2. Remunerations, social charges and pensions	2007 financial year	2006 financial year
a) Remunerations and direct social benefits	34 239	32 467
b) Employer's social security contributions	9 635	8 827
c) Employer's premiums for voluntary insurance	2 274	2 078
d) Other staff charges	4 293	4 035
e) Pensions	1 068	1 383
Total	51 509	48 790

II. D. Provisions for liabilities and charges	2007 financial year	2006 financial year
Estimated costs of adjustments	-4	-50
Sundry	-1 147	-990
Use of financing fund	-307	-293
Total	-1 458	-1 333

RIGHTS AND OBLIGATIONS NOT INCLUDED IN THE BALANCE SHEET

Pending disputes and other obligations

The CBFA is the subject of a number of claims for damages, based on alleged shortcomings regarding the supervision of credit institutions, investment firms or capitalization companies. Taking into account the specific circumstances of each of these claims, the CBFA is of the opinion that they are inadmissible and/or unfounded, and thus no provision has been set aside for them.

Notes to the 2007 financial statements

1. Legal framework

The financial statements were drawn up in accordance with the provisions of Article 57 of the Law of 2 August 2002 on the supervision of the financial sector and on financial services, and of the Royal Decree of 12 August 2003 determining the layout of the financial statements²⁰⁵. The layout of the balance sheet and of the income statement is adapted to the specific character of the CBFA's tasks and activities.

The operating expenses of the CBFA are financed by the companies and sectors that are subject to supervision²⁰⁶. Pursuant to the Royal Decree of 22 May 2005²⁰⁷, the maximum amount of the CBFA's 2007 operating expenses²⁰⁸ eligible for cover was 64.5 million euros.

Contributions that exceed the operating expenses of the CBFA or, if lower, the maximum budget, must be repaid to certain companies and sectors in accordance with the method set out in the Royal Decree²⁰⁹.

The maximum amount of the budget may be adjusted at the end of the financial year using one of the two following methods:

- ◆ taking into account the development of the costs in respect of the members of the CBFA's bodies and its staff, as certified by the CBFA's auditor; for 2007 the maximum number of staff the CBFA was entitled to employ was 415²¹⁰;
- ◆ indexing the budget for other expenditures, likewise certified, according to the retail price index.

2. Valuation rules and notes to particular captions

The overview below provides a full picture of the approved valuation rules at the end of the financial year.

Formation expenses

Restructuring costs are charged in full to the financial year in which they are incurred.

Fixed assets

The caption "Tangible fixed assets" is subdivided into:

- ◆ land and buildings;
- ◆ plant, machinery and equipment;
- ◆ furniture and vehicles;
- ◆ other tangible fixed assets.

The acquisition value of the CBFA's registered office is depreciated progressively over 25 years, in parallel with the capital repayments of the loan contracted to finance that building.

Apart from the registered office, tangible fixed assets also include purchased goods expected to have a useful life of several years and with a minimum purchase price of € 1 000 per unit.

205 Royal Decree implementing Article 57, first paragraph, of the Law of 2 August 2002 on the supervision of the financial sector and on financial services, published in the Belgian Official Gazette of 15 October 2003, p. 50050.

206 See the CBFA Annual Report 2005, p. 16 and 17.

207 Royal Decree of 22 May 2005 on the operating expenses of the CBFA, implementing Article 56 of the Law of 2 August 2002 on the supervision of the financial sector and on financial services, and implementing various legal provisions on the tasks of the CBFA (hereafter the "Royal Decree of 22 May 2005"), Belgian Official Gazette, 27 May 2005, p. 24963, Article 1, § 1.

208 Other than the costs in respect of collaborative bodies as referred to in Article 117, § 5, of the Law of 2 August 2002.

209 Royal Decree of 22 May 2005, Articles 8, 9, 25 and 26.

210 Royal Decree amending the Royal Decree of 22 May 2005 on the operating expenses of the CBFA, implementing Article 56 of the Law of 2 August 2002 on the supervision of the financial sector and on financial services, and implementing various legal provisions on the tasks of the CBFA, Belgian Official Gazette, 29 December 2006, p. 76365, Article 1, 2°, and Article 13, fourth paragraph, 2°.

These tangible fixed assets are entered at acquisition price and depreciated according to the straight line method over four years, save for hardware, which is depreciated over three years.

The caption "intangible fixed assets" concerns computer application development costs paid to third parties. Provided these do not exceed € 100 000 per application, they are depreciated over five years according to the straight line method, with effect from the entry into operation of the application in question.

Computer licences are depreciated in full in the year of acquisition.

Receivables

The caption "Receivables" concerns chiefly the contributions to the operating expenses of the CBFA due from companies subject to its supervision. Amounts receivable are entered for the amounts yet to be settled. With respect to the valuation, a distinction is made between amounts receivable from Belgian and foreign debtors other than intermediaries and amounts receivable from intermediaries²¹¹.

Amounts receivable from Belgian and foreign debtors that are not intermediaries

Amounts receivable from Belgian debtors are entered as doubtful and subject to a write-down of 50% if they remain unpaid three months after a dossier is submitted for collection to the Land Registry, Public Records and Crown Lands Office of the Federal Public Service Finances. Where payment is still not forthcoming after a further three months, an additional write-down of 50% is entered.

Amounts receivable from foreign debtors are entered as doubtful and subject to a write-down of 50% where, three months after dispatch of a registered letter, no payment has yet been received. Where payment is still not forthcoming after a further period of three months, the balance of the amount receivable is written off in full.

In the case of a firm's bankruptcy, the amount receivable is immediately entered as doubtful and a write-down is entered forthwith for the full amount.

Amounts receivable from intermediaries

Unpaid amounts receivable from intermediaries are entered under doubtful amounts two years after the intermediary concerned has been struck from the register. At the same time, a provision is set aside for the amount outstanding.

Liquid assets

Cash balances, balances on demand deposits and time deposits are valued at nominal value.

Provisions

Provisions are set aside to cover losses or charges, the nature of which is clearly defined and which, at balance sheet date, must be considered as likely or certain to be incurred, but whose extent can only be estimated.

Provisions for liabilities and charges are individualized according to the liabilities and charges that they are intended to cover.

Amounts owed

Amounts owed are entered at nominal value as at balance sheet date for the financial year.

Amounts receivable and owed, denominated in foreign currency

Items denominated in foreign currency are translated into their equivalent in euros at the conversion rate as at the end of the financial year. Differences can occur in the case of liabilities denominated in foreign currency; where they occur, they are processed as exchange-rate differences.

211 These are the insurance intermediaries referred to in the Law of 27 March 1995 on insurance and reinsurance broking and the distribution of insurance (Belgian Official Gazette, 14 June 1995), as amended by the Law of 22 February 2006 amending the Law of 25 June 1992 on non-marine insurance policies and the Law of 27 March 1995 on insurance and reinsurance broking and on the distribution of insurance (Belgian Official Gazette, 15 March 2006), and the intermediaries in banking and investment services referred to in the Law of 22 March 2006 on banking and investment intermediaries and the distribution of financial instruments (Belgian Official Gazette, 28 April 2006).

3. Notes to the balance sheet

Formation costs

In 2004, provision of 5 million euros was set aside to cover future charges in respect of the arrangement for pre-retirement leave for staff of the former ISA²¹². In 2005 the provision was adjusted and reduced to 3 million euros. This amount is included under "Formation expenses" and is depreciated each year in the amount actually paid in that year (€ 954 000 in 2007).

Fixed assets

In 2007, two important computer applications developed for the CBFA's account by the NBB were completed and entered as fixed assets, to be depreciated over four years. These applications concern, on the one hand, financial reporting to the CBFA by insurance companies and institutions for occupational retirement provision (data collected via the Central Server for Statistical Reporting - CSSR²¹³) and, on the other hand, the transaction reporting in application of the Markets in Financial Instruments Directive (MiFID)²¹⁴.

Current assets

It should be noted that unlike in 2006, contributions to the operating expenses of the CBFA due from insurance intermediaries in 2007 were made earlier in the year, resulting in a decline of 2.9 million euros in contributions to the operating expenses at the end of the year.

Investments (€ 46 million) refer solely to time deposits with the Federal Public Service Finances (Treasury).

Own funds

The restricted reserves, which in 2006 had been increased to 15 million euros, remained unchanged in the past year. By virtue of Article 27 of the Royal Decree of 22 May 2005, the relationship between the general budget reserve and the liquidity reserve was modified in order to raise the former to 4.5 million euros, in anticipation of financing an expansion of the registered office.

Financing fund

In 2007, 307 000 euros from the financing fund (€ 11.4 million)²¹⁵ was used to reduce by 113 000 euros and 194 000 euros respectively the 2007 contributions of the contributors of the former CBF and the former ISA.

Provisions

The movement in the provisions for other liabilities and charges (€ 2.3 million) was the result chiefly of the above-mentioned adjustment to the provision concerning the arrangement for pre-retirement leave for staff of the former ISA (€ 954 000)²¹⁶ as well as to the liberation of a provision (€ 322 000) relating to a disputed debt, which dispute was settled in 2007.

Amounts owed

Amounts owed over more than one year (€ 40.8 million) concern solely debts incurred for the financing of the CBFA's registered office. The annual repayment of the financing due in 2008 (€ 1.1 million) is entered under the caption "Amounts owed over more than one year" which come due during this financial year.

Amounts owed to suppliers increased in 2007 largely because of the following items that have not yet been invoiced:

- ◆ € 1.5 million for services provided by the NBB in the area of:
 - development and operation of the application for collecting financial information (CSSR) and the MiFID transaction reporting system,
 - management of the IT infrastructure during the fourth quarter of 2007,
- ◆ € 0.4 million for withholding tax relating to the assessment notices yet to be received for 2006 and 2007.

212 See the CBFA Annual Report 2004, p. 110.

213 See the present report, p. 100.

214 See the present report, p. 100.

215 See the CBFA Annual Reports 2004, p. 112 and 2006, p. 103.

216 See the CBFA Annual Report 2005, p. 89.

The caption "Other amounts owed" includes the portion (€ 19 million) that is to be reimbursed to the sectors referred to in the above-mentioned decree on operating expenses²¹⁷.

The breakdown of the operating surplus across the supervisory tasks of the former CBF and the former ISA²¹⁸ is as follows for the 2006 and 2007 financial years:

	CBFA	CBF share	ISA share
2006 surplus ²¹⁹	23 377	20 667	2 710
2007 surplus	18 976	17 059	1 917

4. Notes to the income statement

The 2007 financial year closed with an operating surplus of 19 million euros.

Income

Income comprises chiefly the amounts companies subject to CBFA supervision are called upon to contribute, in accordance with the Royal Decree of 22 May 2005²²⁰, to cover the operating expenses of the CBFA. Calculation of those amounts is based on either a fixed sum per sector supervised or a tariff of fees by transaction or based on the volume of activity.

By way of reminder, these contributions are collected by the CBFA in the form of pre-financing. After closing the

financial statements and determining the operating expenses to be covered, any surplus of contributions over costs is reimbursed.

The reason for the decrease in contributions to expenses (- € 2.1 million) is to be found in a recent amendment to the Royal Decree of 22 May 2005, in which the contribution rate applied to investments by Belgian UCIs was reduced (from 0.50 to 0.40 per mil²²¹). The effect of this reduction, which is calculated at c. 3.4 million euros, is partly compensated by the contributions calculated on the basis of the UCIs' net assets (+ € 980 000).

"Other income" concerns essentially the reimbursement of the costs of staff secondments.

Operating expenses

	2007		2006		Change 2006/2007
Sundry goods and services	9 022	14.5%	6 386	11.2%	+ 41.3%
Staff charges	51 509	82.8%	48 790	85.4%	+ 5.6%
Provisions and write-downs	1 702	2.7%	1 971	3.4%	- 17.3%
Total operating expenses	62 233	100%	57 147	100%	+ 8.9%

217 See the CBFA Annual Report 2005, p. 16.

218 The costs attendant on the former CBF and former ISA supervisory tasks continue to be financed separately. In this respect, see the CBFA Annual Report 2005, p. 16.

219 After allocation of EUR 2 250 to Restricted reserves.

220 See the CBFA Annual Report 2005, p. 16.

221 An initial reduction in the contribution rate on investments – from 0.75 to 0.50 per mil – was introduced by the Royal Decree of 14 February 2003.

The bulk of operating expenses is accounted for by staff charges (82.8%).

The rise in these charges (+ 5.6%) is comparable to that of last year (+5.4%). It is a result of the increase in the number of staff (+1.7% in the average number of staff), the further implementation of the programme of integrating the staff of the former ISA, and of salary-scale adjustments.

The caption "Sundry goods and services", which had remained largely stable over the past years, saw a noticeable rise in 2007 on account of the implementation of various service level agreements²²² with the NBB, which specify that the CBFA will henceforth draw upon the expertise of the NBB for various support services, in particular in the area of IT.

Type of expense	2007	2006
Buildings	947	867
Rent and maintenance of material	2 985	1 234
Office supplies	986	1 417
Sundry	4 104	2 868
Total	9 022	6 386

Financial income

Financial income stems from revenue from the investment of current assets. By way of reminder, that investment consists of time deposits with the Treasury, as well as of current accounts for day-to-day management, in accordance with the Circular of 28 November 1997.

The development of the CBFA's staff charges and of the charges in respect of the members of the institution's governing bodies has been certified by the CBFA's auditor, as has been the development of all other costs.

Notwithstanding the fact that the actual amount of the CBFA's operating expenses was lower than the amount of the institution's maximum budget, it was decided that, in accordance with the provisions of Article 1 of the Royal Decree of 22 May 2005, the amounts due for 2008 would be adjusted in order to maintain equilibrium among the contributions of the various sectors. Not adjusting the contribution levels would mean that the increase in operating expenses would be borne exclusively by the sectors for which the total amounts of pre-financing due is not set down in the Royal Decree of 22 May 2005²²⁴.

5. Adjustment of amounts due in 2008

Pursuant to the Royal Decree of 22 May 2005, the CBFA's maximum budget and the fixed amounts of pre-financing due from the CBFA's contributories may be adjusted each year in accordance with the development of staff charges and the consumer price index for other expenditures and charges²²³.

²²² See the CBFA Annual Reports 2005, p. 102, 2006, p. 105 and the present report, p. 100.

²²³ Article 1, § 1, of the Royal Decree of 22 May 2005. See the CBFA Annual Report 2005, p. 16.

²²⁴ As opposed to those sectors for which the Royal Decree sets down very specific pre-financing amounts. See the CBFA Annual Report 2005, p. 17.

Auditor's report on the financial year ending 31 December 2007

In accordance with the legal and regulatory provisions, we are pleased to report to you on the performance of the audit mandate entrusted to us.

Unqualified audit opinion on the financial statements

We have audited the financial statements for the financial year closed as at 31 December 2007, prepared in accordance with the reference accounting system in use in Belgium – with a balance sheet total of EUR 104 845 000 and with an income statement that closed with a surplus of EUR 18 976 000. We have likewise conducted the specific examinations required by the Law of 2 August 2002 and the Royal Decree of 12 August 2003.

The preparation of the financial statements is the responsibility of the Management Committee, a responsibility that includes, among other things: the establishment, implementation and maintenance of an internal control function regarding the drawing up and faithful rendering of the financial statements, free of material misstatement resulting from fraud or error; the selection and application of appropriate valuation rules; and the preparation of bookkeeping estimates that are reasonable under the given circumstances.

It is our responsibility to express an opinion about those financial statements, based on our examinations. Our audit was conducted in accordance with the legal provisions and according to the audit standards in force in Belgium, as issued by the *Institut des Reviseurs d'Entreprises/Instituut der Bedrijfsrevisoren*. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of any material misstatement resulting from fraud or error.

In accordance with those standards, we have considered the CBFA's administrative and accounting organization, as well as its internal control procedures. The officers of the CBFA and the members of its Management Committee have given clear answers to our requests for elucidation or information. We have examined, on the basis of random tests, the evidence supporting the amounts included in the financial statements. We have assessed the soundness of the accounting principles, the judiciousness of the significant accounting estimates made by the CBFA and the overall presentation of the financial statements. We believe that our procedures provide a reasonable basis for our opinion.

In our opinion, taking into account the applicable legal and regulatory requirements, the financial statements closed as at 31 December 2007 give a true and fair view of the assets, the financial situation and the operating expenses of the CBFA, and the information given in the notes is in accordance with the provisions of the Royal Decree of 12 August 2003.

Brussels, 5 March 2008

André **KILESSE**

Auditor



ANNEXES

COMPOSITION OF THE DEPARTMENTS AND SERVICES

Reporting to Mr Jean-Paul SERVAIS, Chairman

Press Officer

Luk **Van Eylen**

Internal Audit

Herman **De Rijck**
Els **Lagrou**

Supervision of Financial Information
and of Financial Markets, Accountancy and Finance

Thierry **Lhoest**,
Deputy Director

Luk **Behets**
Luk **Delboo**²²⁵
Geoffrey **Delrée**
Sonja **D'Hollander** *
Kristof **Dumortier**
Nathalie **Flamen**
Johan **Lembreght** *

Kris **Martens**
Roland **Melotte**
Martine **Nemry**
Stefaan **Robberechts**
Koen **Schoorens**
Maud **Watelet**

Supervision of Financial Transactions
and Market Operators, Stock Market Surveillance
and Analysis, and International Regulation

Jean-Michel **Van Cottem**,
Deputy Director

Niek **Bundervoet**
Bénédicte **Clerckx** *
Stéphane **De Maght** *
Ann **De Pauw**
Valérie **Demeur**

Annick **Lambrighs**²²⁵
Didier **Niclaes**²²⁶
Patrick **Van Caelenberghe**
Dieter **Vandelanotte**
Hendrik **Van Driessche**

Headed by Mr Henk BECQUAERT

Supervision of Pension Institutions

Filip **Gijsel**,
Deputy Director

Saskia **Bollu**²²⁷
Maria **Di Romana**
Gerhard **Gieselink**
Bertrand **Leton**
Fabienne **Maudoux**
Marc **Meganck** *
Marie-Paule **Peiffer**

Johanna **Secq**
Paul **Teichmann**
Marleen **Tombeur**
Ingrid **Trouilleux**²²⁸
Diederik **Vandendriessche**
Caroline **Vandevelde** *

Supervision of Domestic Insurance Companies

Filip **Gijsel**,
Deputy Director

Christel **Beaujean**
Dirk **De Paepe**
Guido **De Pelsemaeker**
Erik **Degadt**
André **Desmet**
Olivier **Fache**
Delphine **Genot**
Dirk **Goeman**

Jan **Hooybergs**
Pascale-Agnès **Keymeulen**
Philippe **Loison**
Carine **Luyckx**
Françoise **Renglet**
Carl **Vanden Auweele**
Eddy **Van Horenbeeck** *
Steve **Vanhuldenberg**

Collective Management of Savings Products

Greet **T'Jonck**,
Deputy Director

Conny **Croes**
Nathalie **Flamen**
Gaëtan **Laga** *
Johan **Lammens**

Astrid **Moens**
Sabine **Philippart**
Tom **Van den Elzen**
Benoit **Zinnen**

* Serves as coordinator.

²²⁵ Working partly in another service.

²²⁶ Also serves as internal coordinator for the activities relating to the Committee of European Securities Regulators (CESR).

²²⁷ Also serves as Secretary of the Commission for Voluntary Supplementary Pensions of the Self-Employed and of the Board for Voluntary Supplementary Pensions of the Self-Employed.

²²⁸ Also serves as Secretary of the Supplementary Pensions Commission and of the Supplementary Pensions Board.

Headed by Mr Rudi BONTE

Large Bancassurance Groups

Frans **Beukelaers**,
Deputy Director

Koen **Algoet** *
Jacques **Bodard**
Len **Braem**
Paul **Callebaut**
Philippe **de Barsy**
Christophe **Debrabandere**
Isabelle **De Groote**
Michel **De Schuyter**
Jan **De Smedt**
Peter **Dhoedt**
Philippe **Dubois**
Pierre **Juridan** *
Véronique **Lorea**
Bart **Maselis**

Peter **Monderen**
Sarah **Ndayirukiye**
Jérôme **Nélis**
Nicolas **Staner**
Gino **Thielemans**
Thierry **Thuysbaert**
Katherina **Tiebout**
Marc **Van Caenegem** *
Joseph **Van Cauwenbergh**
Inge **Van de Paer**
Johan **Vanhaverbeke**
Marc **Verleye** *
Rudy **Vermaelen**

Domestic Banks and Investment Firms, and Bureaux de Change

Françoise **Herbay**,
Deputy Director

Yves **Billiet**
Joan **Carette**
Ilse **Ceulemans**
Sofie **Covemaeker**
Marc **Denys**
Jean-Luc **Hacha**

Madeleine **Kaleyanga Tshiama**
Philippe **Leirens**
Christine **Pécasse**
Willy **Sermon**
Marc **Van de Gucht** *

Headed by Madam Marcia DE WACHTER

Protection of Consumers of Financial Services

Luc **Roeges**,
Deputy Director

Elisabeth **Bardiaux**
Pascale **Coulon**
Jan **De Pagie**
Patrick **Declerck**
Philippe **Despontin**
Annick **Dewulf**²²⁹
Nathalie **Gigot**
Christian **Janssens**

Brigitte **Leën**
Annick **Mettepenningen**
Philippe **Reul**²³⁰
Monique **Siscot**
Cécile **Van Leeuw**
Lutgarde **Vandermassen**
Luc **Vynckier**

Supervision of Intermediaries

Luc **Roeges**,
Deputy Director

Herlindis **Boogaerts** *
Nicole **Peeters**
Marie-Ange **Rosseels**

Christophe **Viaene**
Rosanne **Volckaert**

* Serves as coordinator.

229 Also serves as Secretary of the Insurance Commission.

230 Seconded to the Belgian-Congolese Redemption and Management Fund.

Headed by Mr Michel FLAMÉE

Foreign Banks, Investment Firms and Insurance Companies

Christian **Jacob**,
Deputy Director

Philippe **Authom**
Jean-François **Bodart**
Cindy **Courtois**
Eva **De Cnodder**
Dirk **De Moor**
Alain **Degroide** *
Gaëtan **Doucet**
Cécile **Flandre** *
Isabelle **Gérard**
Patrick **Gregoire**
Luc **Hars**
Michel **Hastir**

Giles **Motteu**
Peter **Piu**
Joseph **Pulinx**
Florence **Rigo**
Frederic **Romont**
Vincent **Sapin**
Karel **Spruyt**
Viviane **Van Herzele**
Alexander **Van Ouytsel**
Alain **Vranken**
Coleet **Vynckier**
Patricia **Zaina**

Large "Assurfinance" Groups, Institutions
Specialized in Clearing, Settlement and Custody

Patrick **Massin**,
Deputy Director

Lot **Anné**
Gentiane **Bury**
Claire **Dubuisson**
Cécile **Flandre** *
Jean-Marie **Hardy**
Patricia **Kaiser**
Laurent **Ohn** *
Pamela **Schuermans**²³¹

Serge **Rompoteau**
Dominik **Smoniewski**
Christel **Spaepen**
Nicolas **Strypstein**
Brigitte **Vandeveld**
Paul **Windels**
Valérie **Woit**

Headed by Madam Françoise MASAI

Legal Service

Georges **Carton de Tournai**,
Director

Hilde **Daems**
Sylvie **Decoster**
Jean-Pierre **Deguée**
Veerle **De Schryver**
Jean-Marc **Gollier**
Antoine **Greindl**
Clarisse **Lewalle**

Hans **Seeldrayers**
Catherine **Terrier**
Frank **Trimpeneers**
Luc **Van Cauter**²³²
Antoine **Van Cauwenberge**²³³
Aline **Waleffe**

Headed by Mr PETER PRAET

Prudential Policy – Banks and Insurance

Jo **Swyngedouw**,
Deputy Director

Guillaume **Bérard**
Benoît **Bienfait**
Aimery **Clerbaux**²³⁴
Michel **Colinet** *
Emmanuel **Cortese**
Jean-Michel **Delaval**²³⁴
Peter **De Vos**
Ann **Devos**
David **Guillaume** *
Jurgen **Janssens**²³⁴
Luc **Kaiser**

Hjeroen **Lamoot**
Hein **Lannoy**²³⁵ *
Annemie **Lefevre**
Pierre **Lemoine**
Guillaume **Mathey**
Jos **Meuleman**
Marc **Peters**
Marc **Picteur** *
Claire **Renoirte**²³⁴
Kajal **Vandenput**

* Serves as coordinator.

²³¹ Seconded to the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS).

²³² Also serves as Euro-coordinator.

²³³ Chargé de mission to the Chairman of the Supervisory Board.

²³⁴ Member of the staff of the National Bank of Belgium, but operationally included in Prudential Policy – Banks and Insurance.

²³⁵ Also serves as Secretary of the Financial Stability Committee.

Headed by Mr Albert NIESTEN, Secretary General, in his capacity as Investigations Officer

Investigations Office

Michaël **André**
Marie-Sheila **Bastians**

Merel **Pieters**
Ann **Dirkx**²³⁶ *

Headed by Mr Albert NIESTEN, Secretary General

Annemie **Rombouts**,
Deputy Director

Personnel, Administration and Infrastructure

Jean-Marie **Jacquemin**

Egwin **Schoolmeesters** *

People & Communication

Marie-Josèphe **Léonard**

Myriam **Penninckx** *

IT and Online help desk (OHD)

Emmanuel **De Haes**
Hilde **Dierckx**

Véronique **Léonard** *
Jan **Vyverman**

Accounting and Comptroller

Paul **Verbiest***

Translation

Natasja **Baeteman**
Jean-Pierre **Coeurnelle**
Françoise **Danthinne**
Xavier **Jeunechamps**

Jan **Leers**
Monica **Sandor**
Christine **Triest**

Prevention Adviser

Yannick **Bauwens**

* Serves as coordinator.

236 Seconded from the Legal Service.

The CBFA granted the request of two deputy directors, Philippe de Mûelenaere and Jean Pierre Maes, to exercise their right to retire as from 1 December 2007. The CBFA thanks them for their long years of service to the institution.

Philippe de Mûelenaere began his career at the Banking Commission on 16 August 1978 in the Banking Supervision service. He was appointed deputy director on 1 December 1994. After the merger with the Insurance Supervisory Authority (OCA/CDV), he was placed in charge of the supervision of intermediaries. He has also been a member uninterruptedly since its foundation in 1998 of the Belgian Financial Intelligence Processing Unit (CTIF-CFI). He continues to serve as its vice-president.

Jean-Pierre Maes joined the Banking Commission on 1 September 1978 in the General and Legal Research service. On 8 May 1990, the Commission named Jean-Pierre Maes its official press officer, tasked with developing its external communications policy. On 1 November 1998 he was appointed deputy director responsible for supervision of undertakings for collective investment. Given his expertise in the field of accounting law, he was also appointed Chairman of the Belgian Commission for Accounting Standards on 25 September 1999.

The CBFA wishes also to thank the following staff members whose professional careers ended during the year under review: Jeanine Léonard, Martine Uyttenhove, William Lampens and Alex Parijs.

In Memoriam

The CBFA mourns the loss of Mr Guy Gelders, who died on 2 December 2007. Guy Gelders joined the Banking Commission on 7 March 1952. He was appointed director on 1 January 1966. As head of the general and legal research service, Mr Gelders was behind several reforms in Belgian financial law, in particular the Law of 17 July 1975 on accounting and the annual accounts of undertakings, and of the Royal Decree of 8 October 1976 on the annual accounts of undertakings, which have both become internationally recognized standards in accountancy law, as well of the reform of banking supervision known as the "Mammoth law" and of the reform of auditors. Mr Gelders was appointed Chairman of the Belgian Commission for Accounting Standards on 14 February 1976, a post he held until 1997. In this capacity he oversaw the development of Belgian accounting law, which has become an internationally recognized standard in the field. Mr Gelders also held the position of Chairman of the *Office de Contrôle des mutualités et des unions nationales de mutualités/Controledienst voor de ziekenfondsen en de landsbonden van ziekenfondsen* (Office for the supervision of mutual societies and national unions of mutual societies) between 1991 and 1997.

The CBFA wishes to express its profound gratitude to him for his 42 years of service.



LIST OF EUROPEAN AND INTERNATIONAL ORGANIZATIONS MENTIONED

ASC	Accounting Subcommittee
BCBS	Basel Committee on Banking Supervision
BSC	Banking Supervisory Committee
CEBS	Committee of European Banking Supervisors
CEIOPS	Committee of European Insurance and Occupational Pensions Supervisors
CESR	Committee of European Securities Regulators
EEA	European Economic Area
EFRAG	European Financial Reporting Advisory Group
FASB	Financial Accounting Standards Board
IAASB	International Auditing and Assurance Standards Board
IAIS	International Association of Insurance Supervisors
IASB	International Accounting Standards Board
ICS	Insurance Contracts Subcommittee
IOSCO	International Organisation of Securities Commissions