Nyon, 28 June 2010

UNI Global Union, ITUC and TUAC

Contribution to the Basel Committee on Banking Supervision on its Consultative Document "Good Practice Principles on Supervisory Colleges" of March 2010

With their ever more integrated business model, international banking groups pose a clear challenge for national supervisory regimes. The trade unions welcome the initiative of the Basel Committee on Banking Supervision (BCBS) to improve the operation of cross-national supervisory colleges.

For the trade union side, it is of paramount importance to avoid a mere return "to business as usual". It is not acceptable that the finance industry continues to dominate discussions and its interests take precedence over those of other stakeholders and the public interest at large.

The principle cause for the breakdown of the financial system has been a financial industry that essentially pursued a business model based on short-term profits and lack of regulation. Indeed, the crisis was very much due to de-regulation, exploitation of loop-holes, regime shopping and ineffective supervisory structures, especially regarding multinational banks. In short, any proper system of checks and balances was and still is missing.

The continuing financial and economic crisis shows the urgent need for a profound reform and strengthening of regulatory and supervisory systems. The Basel Committee and supervisory colleges play key roles.

In general, the trade unions are in favour of colleges that provide a coordinated approach to the supervision of multinational groups rather than continuing the current approach of loose cooperation (see also our attached statement on the 4th plenary of the Financial Stability Board). The current operations of the colleges, the process of reforming their work and the substance of the BCBS's proposal fall short. The set of principles seems to be about fine-tuning existing procedures rather than looking at a fundamental overhaul of the instrument in light of the financial crisis. The proposal shows an approach that is:

- insulated and inward looking, essentially limited to dealing with cooperation among supervisors – instead, the work of the colleges needs to be transparent and open to the outside world.
- viewing the respective bank, i.e. management, as the only relevant stakeholder – instead, colleges need to integrate the valuable input of trade unions, consumers, etc;
- narrow in focus – instead colleges also need to look at and assess the impact on risk assessment of internal operating procedures and practices of companies.

For the trade union movement, this approach needs to be re-thought and broadened.

As the representative organisation of finance unions around the world, UNI Global Union has networks of trade unions in the major finance companies globally. It can thus contribute to effective supervision by providing the aggregated input of employees. These are the face of the company to

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its customers. They are responsible for creating trust and delivering satisfaction to customers and thereby instrumental for re-establishing confidence in the financial sector as a whole. Their experiences and knowledge of internal business practices and the impact of these on the broader risk situation in the sector are essential to provide effective supervision.

A. Monitoring internal operating procedures and practices

There is a tendency to look at companies from an abstract and top-down perspective when operating, supervising and regulating financial institutions. We suggest a complementary bottom-up perspective to supervision to provide the supervisory authorities with information and assessments from the people who are closest to company practices, the employees. To assess a company's business model effectively, it is essential to take account of internal operating procedures and actual practice. These determine motivations and constraints of employees in implementing regulatory requirements and acting prudently.

For instance, incentive systems and continuous target-based performance assessment are approaches that pervade entire business operations and management systems within banks from top to bottom. For managers, achieving one's target depends on the performance of subordinates. Thus, pressure builds up and individual leeway decreases each step down the hierarchy starting with the CEO. With quantitative targets – profits – being the decisive factor, in a conflict of interest with other criteria, including regulatory compliance, the former tend to prevail. Financial supervision must ensure that such factors do not hinder regulatory objectives.

An additional bottom-up perspective would provide an inside view of what is happening supplementary to that provided by senior management and auditors. It would be an additional element for enhancing checks and balances as well as early warning systems at all levels. Emerging problems could thus be known earlier and dealt with more effectively. Employees are in the best position to provide information about finance companies' day-to-day practices. Their views must be taken into account.

1) To this end, we propose that "Principle 3: Information sharing" should be developed further to include a complementary bottom-up perspective relating to the negative and positive aspects of:
    - regulation and practices on remuneration and incentive systems as well as working conditions, including workload;
    - regulation and practices on the marketing of financial products, including sales' targets and sales' practices (e.g. on credits);
    - training of staff in regulatory compliance and understanding financial products;
    - regulation avoidance through product and practices' innovation;
    - identification of new risks and trends;
    - breaches of compliance.
2) In this context, we propose that international supervisory and regulatory bodies set out guidelines and regulation on these issues to minimise risks deriving from inappropriate procedures and practices in companies.
3) Colleges, as well as other supervisory bodies, should encourage banks to have a charter on responsible sale of financial products with explicit, public and verifiable principles on sale of its products and services as well as relevant work practices. The charter should be agreed at group level and apply across all countries of operation and subsidiaries. It should be monitored independently. A key objective is to stop predatory sales' practices and excessive risk taking. At the centre of the financial business should be excellent customer service. (UNI Finance has developed the model charter attached.)

B. Being transparent and involving stakeholders

The proposal includes only very limited reference to transparency (Principle 2). Indeed, it does not spell out any information flow with a company's stakeholders or the public other than management.

In respect to dialogue, it must be ensured that stakeholders are involved and in a balanced way; in particular colleges must not limit themselves to dialogue with a bank's management (Principle 6).

4) Therefore, colleges should publish their composition and working method; they should give regular reports on their activities as well as on their assessment of and compliance by a bank.
5) Colleges should develop regular and meaningful exchanges with unions and other employees' representative structures (e.g. European works councils), especially to integrate the bottom-up perspective. The same applies to other stakeholders with a view to bring in their specific expertise.
6) Colleges should establish procedures to identify and fight against breaches of regulatory standards, regulation avoidance, undue risk taking and unsustainable business practices. This should include persons being able to alert supervisors ("whistle blowing") as well as the creation of an ombudsman at company level or across the industry to whom staff can report breaches and who will follow-up on them (ombudsmen for corruption might be a model).
7) Colleges should develop standardised surveys to be answered by employees and customers as part of an early warning system (bottom-up perspective).

C. Crisis management

While the trade union movement recognises the limited role foreseen for the colleges in crisis management, we very much agree that they should serve as a building block (Principle 7). Indeed, colleges are essential for an early warning system and should also provide the basis for early intervention. One of the clear deficits of supervisory bodies that led to the financial crisis was a too passive approach and a reluctance to address problems identified forcefully and publicly.

8) Together with other relevant actors, colleges should prepare contingency plans in the case that their bank needs to be rescued.
9) In cooperation with the national authorities, colleges should ensure that the systematic relevant role of their respective bank as a financial intermediary is ring-fenced and safeguarded. In particular,
   - commercial and retail operations should be insulated from high-risk speculative activities and investment banking, in particular in terms of covering the liabilities arising from those.
   - the stand-alone capability of systemically important banks as financial intermediaries within a country should be ensured. This principle should set the framework and limits for foreign ownerships and ownership abroad as well as for offshoring of relevant operating and management functions or their integration across borders.

   In this context, colleges should particularly pay attention to avoiding that a bank becomes "too big to fail" or even "too big to be rescued".
10) In a crisis situation, it is essential that trade unions and employees' representatives of the bank are properly informed and consulted on measures affecting employment and working conditions.

UNI Global Union set out its position on financial market supervision in more general terms in its key issues paper "For a responsible and sustainable finance industry" (attached).

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UNI Global Union is the global trade union organisation for the finance sector. Of its 20 million members, 3 million come from the banking and insurance industry organised in 237 unions.

The International Trade Union Confederation (ITUC) is the main international trade union organisation with 312 unions representing 176 million workers.

The Trade Union Advisory Committee (TUAC) to the OECD is an international trade union organisation that is the interface for trade unions with the OECD.

Model Charter on Responsible Sales of Financial Products

Adopted by the UNI Finance Steering Group on 9 June 2010 in Copenhagen

1 Introduction

The primary purpose of financial institutions is to provide responsible and sustainable financial services. The finance sector plays an important role in economy, which goes much further than the stability of the financial institutions themselves. The sector has a responsibility to ensure stable markets and support the real economy.

Giving good advice and having excellent customer service is a precondition for the sustainable and long-term success of any bank and insurance company.

A company's internal operating practices must be conducive to this and empower employees to act in a way that supports sustainable development. This includes appropriate remuneration and incentive systems, training of staff, good working conditions and a reasonable workload.

We need a sustainable, customer-oriented finance sector, where sales of products are customer lead and always accompanied by proper advice.

Customers have the right to good advice; finance employees have the right to give good advice.

This charter is developed in cooperation between [name of company], its employees and [name of trade union(s)] in the finance sector to ensure the best possible framework for providing advice and responsible sales of products to customers.

2 Objectives of the charter

a) To ensure internal business culture and operating procedures conducive to responsible sales of products.

b) To ensure staff are empowered with a high level of professional competence and have a good work environment.

c) To ensure financial products are of a high quality, suitable for the customer and are sold in a transparent manner.

d) To ensure a continuous dialogue on sales and advice issues between the company, its employees and the trade union representing them as well as other stakeholders.

3 Principles on responsible sales of financial products

[Name of company], its management and employees at all levels commit ourselves to comply with the principles outlined below, while respecting relevant company collective agreements, national legislation, supervision and consumer regulation.

a) To apply internal operating procedures and principles conducive to the responsible sale of financial products.

b) To ensure that incentive systems for employees at all levels are realistic, fair and transparent; based on long-term and sustainable goals; and do not damage employees.

c) To ensure that conflicts of interests, roles and responsibilities of employees are always clear in a sales situation.

d) To ensure that financial products are suitable for a customer's needs.

e) To ensure a fixed monthly income that allows the working individual a decent life.

f) To apply incentive structures which reward good customer services and qualified advice. For instance, no sales targets for specific products.

g) To ensure targets are reasonable and achievable and remuneration is determined through negotiation with trade union representatives. The approach to individual employees must be in line with the collective agreement.

h) To provide a healthy and safe environment which includes sufficient paid time, space, resources and support for staff to provide good advice and responsible sales of product.

i) To stimulate a management culture based on trust, motivation and teamwork – not control, sales pressure and individual ranking.

j) To ensure that products are only sold by staff who are authorised, properly trained and have a thorough understanding of the products including their long-term implications for customers.

k) To develop competence policies and training schemes, which acknowledge every individual employee's rights to continuous development through regular training and support to achieve professional qualifications.

l) To ensure a continuous dialogue on responsible sales of products between the company, its employees and trade union representatives.

m) To contribute to financial education.

4 Scope, implementation and monitoring

a) This charter is a commitment by the company as a whole – management and individual employees.

b) The charter applies to the whole group across all countries of operation and subsidiaries.

c) A member of the top board of directors will be in charge of the implementation of the charter. The implementation will be monitored by a department at group-level or a company ombudsman.

d) Regular reports will be published on the charter's implementation including a description of actual sales practice covering relevant elements of individual remuneration and incentive systems as well as sales targets.

e) The charter will be supervised by a joint committee of the signatories of the charter and may include other stakeholders.

f) [Name of company] should establish an internal structure allowing employees to report inappropriate internal practices to an internal, independent ombudsman in a manner agreed with the trade union side.

g) [Name of company], together with UNI Finance, will engage in a global process of exchanging good practice and promoting global convergence of practice among companies.

h) The work with the charter as well as measures of implementation will be made public.

5 Partners

The charter should be formulated and agreed between top management and trade unions. It may also involve other stakeholders such as consumer associations.

FOR
A RESPONSIBLE AND SUSTAINABLE FINANCE INDUSTRY

From Financial Crisis to Reforming the Financial System

– Key Issues Paper –

19.03.2009

Foreword

This key issues paper sets out the positions of UNI Finance Global Union for re-shaping the financial system and overcoming the financial crisis. It addresses five separate but interlinked aspects:

- Employees at the Centre of a Responsible and Sustainable Finance Industry.
- A Bottom-up Approach to Supervision and Transparency.
- Restructuring and Remuneration.
- Stabilising and Reforming the Financial System.
- Financial Education.

The purpose of the paper is to bring UNI Finance policies together and serve as a foundation for representations to international and regional institutions, governments, financial supervisors and regulators at all levels. It is also the basis for dialogue with banks and insurance companies around the world.

The document builds on the work and decisions of UNI Finance since the beginning of the crisis in 2007. This includes in particular the following (see Annex):

- Statement on the Financial Crisis (20.9.2007)
- Statement – UNI-Europa Finance demands the preservation of the diversity of the European Finance financial services markets (20.9.2007)
- Statement – UNI-Europa Finance fights for the ethical and social dimension of the European financial services market (20.9.2007)
- Statement – Demands of UNI Finance on regulation of financial markets (16.5.2008)
- UNI Finance Proposal to assist with the monitoring and supervision of a new financial regulatory framework (3.11.2008)

This key issues paper is closely linked to the work of the International Trade Union Confederation and other global unions; it adds the specific perspective of the finance unions.

UNI Finance is the Global Union for the banking and insurance industries representing 237 trade unions and 3 million workers worldwide.

Key Elements of Reforming the Financial System:

A New Business Model – Financial Regulation – Restructuring and Bail-outs – Remuneration

A New Business Model

We call for:

A new customer-orientated and risk-conscious business model, sustainable and long-term that empowers customers and staff.

Internal operating procedures and practices should be transparent. The way employees are motivated and constrained in performing their jobs must be clear (remuneration, incentives, skills, and working conditions).

We call for:

Structured dialogue of unions representing financial workers with financial supervisory agencies at national, regional and international level as well as international colleges of supervisors for finance multinationals.

In each financial institution, there should be structured dialogue between unions and senior staff responsible for risk management.

Dialogue should address operating procedures, work practices affecting companies' risk management and the stability of the financial system.

We call for:

Charters for the responsible sale of financial products to be developed by each financial institution and to be agreed between management, unions and other stakeholders.

Such charters should make explicit, public and verifiable the principles being followed in sales and marketing as well as in operating procedures and work practices.

UNI Finance invites other stakeholders to develop a model charter jointly.

Financial Regulation

We call for:

A comprehensive framework of financial regulation and supervision to be created at world level.

This framework should cover all financial products and players in the industry, should stop 'regime shopping' and should ensure rules are strictly enforced.

There should be strong coordination at all levels between regulators/supervisors.

We call for:

The maintenance of diversity in the finance industry that includes private, public and cooperative organisations of all sizes.

We call for:
Commercial and retail operations that are insulated from high-risk speculative and investment banking activities.

Restructuring and Bail-outs

We call for:

State aid that is provided based on normal market terms so that any losses are borne by shareholders and investors.

State aid provided should not have negative effects on competitor businesses, on other sectors or on other countries.

State aid should be accompanied with respect for core labour standards, especially the right to join a trade union, to engage in collective bargaining and to take part in consultation.

We call for:

Restructuring and bail-out plans based on negotiation and dialogue between management, unions and governments at national and international level as appropriate.

At company level, employees and unions in all countries affected should receive relevant information in adequate time to allow meaningful consultation. Global framework agreements are the most satisfactory mechanism to achieve this.

We call for:

Consideration of all possible measures short of lay-offs before any decision is taken on restructuring or staff rationalisation.

Collective agreements must be respected.

Remuneration

We call for:

Remuneration and incentive systems at all levels that are realistic, fair, sustainable, long-term and customer-oriented. They should not be based foremost on increasing short-term revenues.

We call for:

The revision of remuneration and incentive systems for management and traders. In particular, variable pay schemes should be kept at reasonable levels, depend on the results of companies over several years and include claw-back provisions. Prudent and risk-conscious behaviour should be encouraged, rather than short-term revenue generation and excessive risk-taking.

We call for:

In remuneration policies, the autonomy of the social partners and the primacy of collective agreements must be respected.

Part 1

Employees at the Centre of a Responsible and Sustainable Finance Industry

The world is faced with a deepening and mutually enforcing financial and economic crisis.

Fixing the financial system is the first step to end the downward spiral and to move into the economic recovery phase.

For UNI Finance Global Union, the security of employment and livelihood of employees in the finance industry and beyond are the paramount issue in the response to the crisis. Too many have already lost their jobs and the number is increasing every day.

Trust in financial markets and among participants must be re-established as well as a feeling of predictability and security. Banks and insurance companies must be put back on their feet again.

The financial crisis requires a total rethink and overhaul of the way banks and insurance companies operate. Financial institutions are seen nowadays as being neither trustworthy nor transparent.

- A comprehensive and effective framework of global regulation and supervision must be established.
- Within companies, operating practices must be reformed. The underlying principle must be that these practices ensure the long-term sustainability and profitability of a company as well as decrease systemic risks in the finance industry. To this end, governments, regulators and supervisors as well as top management and shareholders must establish appropriate frameworks in cooperation with trade unions and other stakeholders.

Change must be beneficial for customers and employees as well as consistent with the interests of national economies and societies affected. The financial crisis demonstrates that an approach based solely on the short-term economic interests of the shareholders – and top managers – does not work and leads to catastrophic results.

The primary purpose of financial institutions must be to provide responsible and sustainable financial services – not to make profit for shareholders. Giving good advice and having excellent customer service is a precondition for the sustainable and long-term success of any bank and insurance company. The essential asset to achieve this is the employees – from the highest to the lowest level. The employees are key: they are the face of the company towards its customers; they are responsible for creating feelings of trust and satisfaction among customers. As service providers, banks and insurance companies ultimately rely for their competitiveness on their staff.

Management, shareholders and investors as well as governments, regulators and financial supervisors do not take sufficient account of the central role played by employees. They look at companies from an abstract and top-down perspective. Too often, this resembles looking at a one-way mirror mistaking information provided by managers for reality while ignoring actual working practice and operational procedures in the company – beyond the mirror. Or even worse, companies are altogether conceptualised as closed boxes whose internal operations are seen as irrelevant.

UNI Finance believes that this is a manifest failure of management and supervision. A holistic perspective is necessary – in operating, supervising and regulating financial institutions.

At the core of a functioning financial system are the employees!

Their voice must be listened to!

Part 2

A Bottom-up Approach to Supervision and Transparency

We propose that the prevalent top-down perspective is complemented by a bottom-up approach that puts the factor “employees” into the equation of financial regulation, supervision and risk management. To assess a company’s business model effectively, it is essential to take account of internal operating procedures and actual practice with the resulting motivations and constraints for employees. Financial supervisors and companies must ensure that these factors promote rather than hinder regulatory objectives and excellent customer service.

Such a mechanism would provide an inside view of what is happening supplementary to that provided by senior management and auditors. It would be an additional element for enhancing checks and balances as well as early warning systems at all levels. Emerging problems could thus be known earlier and dealt with more effectively. Employees are in the best position to provide information about finance companies’ day-to-day practices. Their views must be taken into account.

UNI Finance proposes a bottom-up approach comprising two elements:

- Extending supervision at all levels to include relevant business and work practices.
- A charter on responsible sale of financial products for each financial institution with principles on sale of products and services as well as a proper monitoring mechanism.

Supervision

1) Supervisory and regulatory frameworks should be developed further on risk assessment to include a complementary bottom-up perspective relating to the negative and positive aspects of:

a) regulation and practices on remuneration and incentive systems as well as working conditions, including workload;

b) regulation and practices on the marketing of financial products, including sales’ targets and sales’ practices (e.g. on credits);

c) training of staff in regulatory compliance and understanding financial products;

d) regulation avoidance through product and practices’ innovation;

e) identification of new risks and trends;

f) breaches of compliance.

2) This perspective should be integrated into risk assessment and corporate governance as well as regulatory and supervisory activities:

a) at global level, through the IMF (International Monetary Fund) and FSF (Financial Stability Forum) as well as the IIF (Institute of International Finance);

b) at national and regional level (e.g. EU), through regulatory and supervisory authorities;

c) at transnational level, through the colleges of supervisors for all major cross-border financial institutions;

d) within companies, through their internal risk assessment procedures.

3) Supervisors and regulators should set out guidelines and regulation on the above-stated issues. They should give regular reports on implementation and compliance by financial institutions. If compliance is insufficient, sanctions should be imposed (e.g. higher capital requirements).

4) In integrating this bottom-up perspective, it is essential to link it to the experiences and views of workers through unions and other workers’ representative structures. To this end, regular and meaningful exchanges on these topics should be developed:

a) on global and regional trends, between UNI Finance and its affiliates, on the one side, and IMF, FSF, IIF as well as regional supervisors, on the other;

b) on national trends, between unions and national supervisors and regulators;

c) on specific developments within a financial institutions:

- between UNI Finance and its concerned affiliates, on the one side, and colleges of supervisors, on the other;
- between workers' representative structures (including UNI Finance and unions) at company-wide, regional (e.g. EWC) and national level, on the one side, and company management, on the other.

5) Together with its affiliates, UNI Finance will develop a procedure of information gathering and assessment of data on these topics (1) by unions. The purpose is, in the first place, to identify global and regional trends and feed them into risk assessment and supervision at the different levels (2).

UNI Finance's role in such a supervisory approach was already set out in its "Proposal to assist with the monitoring and supervision of a new financial regulatory framework" in November 2008.

6) Procedures should be established to identify and fight against breaches of regulatory standards, regulation avoidance, undue risk taking and unsustainable business practices. This should include:

a) developing a legislative framework to protect "whistle blowers" for reporting breaches to regulators and supervisors;

b) creation of an ombudsman at company level or across the industry to whom staff can report breaches and who will follow-up on them (ombudsmen for corruption might be a model).

Transparency: Charter on Responsible Sale of Financial Products

1) Each bank and insurance company should have a charter on responsible sale of financial products with explicit, public and verifiable principles on sale of its products and services as well as relevant work practices. The charter should be agreed at group level and apply across all countries of operation and subsidiaries. It should be monitored independently.

A key objective is to stop predatory sales' practices and excessive risk taking. At the centre of the financial business should be excellent customer service.

2) Principles to be addressed by the charter include:

a) practices on the marketing of financial products, including sales targets, conflicts of interest, roles and responsibilities of staff in a sales situation (are they advising or selling?);

b) remuneration and incentive systems as well as working conditions (including workload);

c) training of staff;

d) financial education.

3) Such a charter should be a commitment by the company as a whole – management and individual employees. A member of the top board of directors should be in charge of its implementation.

4) The charter should be formulated and agreed between top management, trade unions and workers' representatives. It may also involve other stakeholders such as consumer associations.

5) The implementation of the charter should be monitored by a department at group-level or a company ombudsman. It should be supervised by a committee bringing together key stakeholders, including management, shareholders, consumer associations, unions and workers' representatives as well as public institutions.

6) Regular reports should be published on the charter's implementation. They should include a description of actual sales' practice, also covering relevant elements of individual remuneration and incentive systems as well as sales' targets.

7) UNI Finance will invite consumer associations, financial institutions, governments and other stakeholders to develop a model charter.

8) Companies, together with UNI Finance and other stakeholders, should develop a global process of exchanging good practice and promoting global convergence of practice.

Part 3

Restructuring and Remuneration

Governments have provided emergency funding for banks and insurance companies on an unprecedented level, even to the extent that companies have been partly nationalised. Such public support must be accompanied by an increased level of responsibility.

Even in better times, it is a matter of good corporate governance that management and shareholders ensure good operational practices as well as conduct restructuring processes in a socially responsible way, as underlined by the policies of the ILO (International Labour Organisation) and the OECD (Organisation for Economic Co-operation and Development).

Guiding principles are:

1) Remuneration and incentive systems at all levels should be realistic, fair, sustainable, long-term and customer-oriented. They should not be based foremost on increasing short-term revenues.

2) In remuneration policies, the autonomy of the social partners and the primacy of collective agreements must be respected.

3) Restructuring processes – including mergers, de-mergers, acquisitions, disposals, offshoring and outsourcing – should be based on the following:

a) Management must consult unions and workers' representatives at all levels, including group-wide, on the implications of restructuring for workers. Management must take account of the view of staff represented by the unions. By law, the implementation of major restructuring measures must be contingent on proper consultation.

b) Management must ensure that all relevant information on restructuring is made available to unions and workers' representatives in the company globally. This must be followed by consultation that allows workers' views to be taken into account before a decision is taken. There must not be a disadvantage for staff outside a group's home country.

c) No compulsory redundancies. Governments must ensure that public support is also conditional on maintaining employment – restructuring must not be an exercise in cutting or off-shoring jobs while securing paying dividends.

d) Applicable collective agreements and working conditions must be preserved.

e) The observance of core labour standards must be safeguarded, in particular the right of workers to form and belong to trade unions, to collective bargaining as well as to information and consultation.

f) Companies are urged to enter negotiations with UNI Finance on the conclusions of global agreements on core labour standards and social dialogue. Such agreements are the most effective and efficient means to ensure dialogue across countries. Their purpose is to set up a company framework for industrial relations at world level and ensure a level playing field in terms of information and consultation across the respective group.

4) Companies should integrate a bottom-up approach in their operation in terms of supervision/risk assessment as well as a charter on responsible sale of financial products (see Part 1).

Part 4

Stabilising and Reforming the Financial System

The financial crisis has accelerated since 2007. For most of this time, decision-makers at all levels have actively followed a policy of appeasement. Warnings have consistently been ignored; people and institutions have mostly hidden or downplayed their concerns. We must know why and avoid a reoccurrence in future.

While political leaders have promised determined and coordinated action across the world, this has not happened and time is running out. Concrete steps for containing the crisis and for starting the reform of the financial system need to be taken. We need a clear perspective. Markets and people need to be reassured.

Financial institutions, central banks and governments, shareholders, investors and management, trade unions as well as other stakeholders have to work together – within companies, nationally, regionally and worldwide. In a globally interdependent economy, especially in the finance sector, acting without regard to other countries will fail.

Two aspects need to be addressed swiftly:

- Stabilising the finance industry and making financial markets work properly again.
- Outlining and undertaking the first steps to reform the financial system.

Both elements are closely linked and even long-term structural changes should be implemented as soon as possible. A short-term approach of just repairing problems superficially won't get us out of the crisis.

Of main concern is the role of the financial system for the real economy, in particular the functioning of banks as financial intermediaries. This means: setting prices and clearing markets, providing liquidity as well as coordinating buyers and sellers.

Stabilising and reforming the financial system is not only about economic and regulatory matters. Change will also affect and be influenced by the labour and social dimension (including impact on jobs, employment, internal operating procedures, working conditions and practices, skills requirements and social protection). Governments, regulators and supervisors must take account of this.

Giving a Voice to the Social and Labour Dimension

1) Finance trade unions as the representatives of the employees need to be consulted at all levels on measures re-shaping the financial system and alleviating the financial crisis. Trade unions demand a seat at the table.

2) The ILO should be actively involved in the G20, the IMF, FSF and other forums on this matter. Among the international institutions, the ILO is the organisation with the membership structure and expertise to cover the social and labour dimension in the international debate.

Stabilising the Financial System

1) Public action to combat the crisis must be coordinated across countries, within regions and worldwide.

2) Banks and insurance companies should be compelled to be transparent about all their liabilities. A vicious circle of appeasement followed by bad news must be stopped. Liabilities deriving from speculative activities and investment banking should be separated from those deriving from a bank's function as a financial intermediary (commercial and retail banking).

3) Considering the high-degree of financial integration, governments, central banks and regulators should be ready to deal jointly with a systemic failure of financial markets at national, regional or even global level. Protectionism and economic nationalism is self-defeating when faced with an international crisis.

4) Governments and regulators should prepare contingency plans in the event that important cross-border financial institutions need to be rescued. The authorities from all countries covered by such institutions should immediately begin working together. Our concern is focused in particular on the effects of such a collapse on the economies in emerging countries as well as Central and Eastern Europe.

5) Governments – individually and jointly – must ensure sufficient capitalisation of the finance industry.

6) The provision of state aid and public bail-out programmes to financial institutions should follow similar conditions across countries. Besides taking account of the principles for reforming the financial system generally, this includes:

a) Any state aid measure, regardless of its nature, should not be used for remuneration of senior managers, dividends to shareholders or payments to investors. Excessive spending by a company should be forbidden (e.g., top managers' "weekends" or a new company plane).

b) State aid should be provided based on normal market terms (including regarding the establishment of "bad banks") – in the extreme leading to nationalisation. In a market economy, losses must be born by shareholders and investors.

c) Negative spill-overs on competitors, other sectors and other countries should be avoided.

d) Governments should have the means to ensure that financial institutions abide by government policies if they receive state aid funds, both in terms of intervening as a public authority or as an investor.

e) The remuneration of senior management should be capped.

f) Bail-out programmes should be conditional. Banks and insurance companies receiving state aid should be required to abide by the principles on operational practices, remuneration and restructuring (see Part 2). In particular, core labour standards must be respected, including dialogue and consultation with trade unions, freedom of association as well as the rights to collective bargaining and to belong to a trade union.

7) Top managers of financial institutions breaching their fiduciary duties should be pursued in criminal and civil courts.

Reforming the Financial System

1) Governments should ensure that the diversity of financial institutions is maintained. There need to be micro-finance, small, medium and large players; local, regional, national and multinational players as well as private, public and cooperative players.

2) Further consolidation, not least as a response to the financial crisis, must not result in oligopolistic structures of private institutions that are too big to fail but also too big to be saved. Consolidation should not be a political objective in itself, but should bring clear benefits to the economy by stimulating growth and encouraging innovation.

3) The systemically relevant role of banks as financial intermediaries needs to be ring-fenced and safeguarded. As the financial crisis shows, this continues to mean at national level.

a) Commercial and retail operations should be insulated from high-risk speculative activities and investment banking, in particular in terms of covering the liabilities arising from those.

b) The stand-alone capability of systemically important banks as financial intermediaries within a country should be ensured. This principle should set the framework and limits for foreign ownerships and ownership abroad as well as for offshoring of relevant operating and management functions or their integration across borders.

4) A comprehensive framework of financial regulation and supervision should be created at world level that ensures full transparency and strict enforcement of financial regulation. The shadow financial system must be eradicated and regime shopping must be stopped.

a) There should be strong coordination among regulators and supervisors at all levels. At national level, there should generally be only one financial supervisor. Central banks should play a central role.

b) Regulators and supervisors should be independent and have a long-term perspective. It should be ensured that they do not shy away from clearly naming and addressing emerging problems of the financial system. Their primary role is not to facilitate short-term revenues for financial institutions or to enhance the attractiveness of a national financial market by loose regulation and supervision.

c) They should have sufficient enforcement powers, proper staffing and access to expertise and technology to fulfil their tasks.

d) All financial products and financial service providers should be regulated and supervised in line with a single framework of standards nationally and internationally. Providers include bank and insurance companies but also credit rating agencies, pension funds, hedge funds, private equity companies and sovereign wealth funds.

e) There should be close oversight of companies' risk management by supervisors at all levels, including colleges of supervisors for multinational financial institutions.

f) A reform of capital adequacy rules is necessary. All liabilities should be backed by corresponding equity; in particular credit to unregulated financial institutions should require higher capital reserve requirements than for regulated companies. A cap should be defined concerning the extent to which financial institutions' balance sheets can be leveraged.

g) Responsibility for regulatory compliance and risk management at company level should be vested in a member of the company's top management.

h) Regulation should specify for top level decision-makers in financial institutions, including pension funds, that fiduciary duties entail pursuing a long-term and sustainable business strategy and avoiding undue risk-taking and a focus on short-term profits.

i) Standards for financial supervision and regulation as well as risk assessment procedures within companies should be updated constantly to keep up with new requirements and the innovativeness of the industry.

5) Stakeholders, including trade unions from the finance sector and consumer associations, should be involved in financial oversight mechanisms at national, regional and international level. Insofar outside actors are represented on the boards of financial supervisory and regulatory agencies, trade unions from the sector should be among them.

6) The following practices for financial institutions should be prohibited and be made punishable:

a) off-balance sheet transaction.

b) trading with financial products that are not listed at a recognised stock exchange.

c) financial transactions with companies and persons that are legally registered in tax havens or in countries with insufficient financial regulation and supervision.

7) The remuneration and incentive systems for management and traders should be revised. In particular, variable pay schemes should be kept at reasonable levels, depend on the results of companies over several years and include claw-back provisions. Prudent and risk-conscious behaviour should be encouraged, rather than short-term revenue generation and excessive risk-taking.

8) Pension funds and life insurance companies are a major part of people's pension provisions. They should be legally obliged to take a long-term perspective and prohibited from high risk investment, for example in hedge funds or private equity firms.

9) Credit rating agencies:

a) They should be subject to regulatory and supervisory oversight.

b) They should be independent and prohibited from providing consultancy services, in particular regarding the design of financial instruments for which they would give a rating subsequently.

c) The effective global oligopoly should end and regulators should facilitate the creation of competitors.

d) Public credit rating agencies should be established; they could be linked to central banks.

10) A high-level of consumer protection at national and international level should be ensured by law guaranteeing that financial institutions provide any customer with qualified and proper advice based on his/her interests.

11) The bottom-up approach, outlined in Part 1, should be implemented.

Part 5
Financial Education

The current crisis in financial markets has been a reminder of how vulnerable financial markets are to imprudent behaviour and uninformed choices of financial products by customers. The increasing range and complexity of financial products make it extremely difficult to assess the risks associated with specific products. This has been a major contributing factor to the triggering of the crisis.

1) The most important financial education is provided in the situation where customers set out to buy services and are interested and willing to learn. The ability to make informed decisions about financial products in the situation of purchase is decisive. It is a precondition for transparency as well as for trust in the provider and the financial system as a whole. Through advising customers, finance sector employees thus play a crucial role in providing comprehensive and qualified financial education.

2) The precondition for employees fulfilling their role in financial education is their ability to give prudent advice to customers. This depends on:

- a full understanding of the financial products they sell, in particular in terms of the implications for customer;
- appropriate remuneration and incentive systems as well as working practices that put customers, not profit and sales' targets first.

3) This requires continuous training of finance employees and the development of their qualifications, not least to be able to keep up with the constant innovation and increasing complexity of financial products.

4) Standardised global principles on the competences required to perform this work are desirable. Development of such principles should be done jointly by employers, unions and workers' representatives at the different levels in consultation with other stakeholders.

5) Customers should be educated to have a critical and realistic approach to the services they are about to purchase. A basic understanding of financial concepts and prudent economic behaviour is a precondition to the well functioning of any economy. As the financial crisis illustrates, financial education is wanting, whether in countries with developed or developing financial markets.

6) UNI Finance proposes a joint initiative at global level to further a worldwide code of conduct and best practice, building on the work of the ILO and OECD.

ENGLISH

ITUC CSI IGB TUAC UNI global union

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TRADE UNION STATEMENT TO THE 4TH PLENARY OF THE FINANCIAL STABILITY BOARD (FSB)

JUNE 2010

Introduction: the FSB and the G20 process

1 Speculative attacks on major currencies, in particular the Euro, demonstrate that the shadow financial economy is back to 'business as usual'. The FSB was established by the G20 last year to prevent such irresponsible destruction of real economic activity - yet despite claims to the contrary FSB progress on re-regulating global finance has been slow, amounting only to a series of reports and principles for future reform, but no concrete regulatory action. If anything, the FSB's reports reveal the extent to which governments and supervisory authorities have lost control over global finance. The recent FSB/IMF proposals to reform the Basel II Framework for banks and to introduce new taxation on large financial institutions represent too little too late and fall far short of the bold and ambitious action that is needed to deliver the necessary change and quell the rising tide of public anger.

2 In this statement the trade union movement proposes concrete measures to bring the FSB in line with its G20 mandate. Meeting in Plenary session in Toronto ahead of the G20 Summit, the FSB must:

- Deepen internal governance reforms to promote transparency and to formalise consultations with trade unions and other representative civil society organisations;
- Broaden its membership to incorporate key international fora on the issues of retirement security, social finance and international tax cooperation;
- Accelerate and level up the ambition of its work programme to develop effective regulation of the shadow financial economy;
- Prepare for global implementation of a financial transactions tax.

Enhancing transparency and inclusiveness

3 In April 2009, the G20 Summit in London established the Financial Stability Board (FSB) and gave it a mandate to play a central role in the process of

financial reform. At the time, Global Unions pointed out that the Financial Stability Forum – the FSB's predecessor – had "failed in the past to engage with trade unions, civil society or other stakeholders, including the UN and the ILO", and warned that the FSB did not have "the appropriate governance structure, expertise or resources to enable it to do so in the future" as it was constituted solely by central bankers, finance ministries and financial supervisory authorities of the G20 countries, as well as the BIS, the IMF, World Bank, OECD and financial international supervisory organisations. We reiterated our concerns about the lack of transparency and openness of the G20 financial process at the Pittsburgh Summit in September 2009 and called for the G20 to "improve the legitimacy and accountability of the FSB" by "opening it up to dialogue with those stakeholders who can bring a 'bottom up' approach to financial reform" including trade unions

4 Like its predecessor the FSF, the FSB Secretariat remains severely understaffed and appears to be substantially dependent on the IMF, the BIS and its national members. The working procedures of FSB bodies – notably its Plenary, Steering Committee and three Standing Committees on Vulnerabilities Assessment, Supervisory and Regulatory Co-operation, and Implementation of Standards and Codes – are opaque. Its meeting agendas, attendance lists and documents are bound by strict confidentiality requirements. While some confidentiality may be needed (to prevent undue influence and lobbying by the financial sector and regulatory capture) the FSB has yet to strike the right balance with the need for transparency and disclosure in order to obtain public confidence. The same opacity applies to key working documents prepared for the G20 which frequently are not disclosed to the public. Unlike IMF and OECD papers, FSB documents are drafted in arcane technical terminology that is not easily comprehensible for non-insiders.

5 Civil society and trade union organisations have no access to the FSB bodies. This contrasts markedly with the institutional arrangements for consultation with labour, business and civil society that are in place among FSB member institutions such as the OECD, the IMF and the World Bank. Indeed, particularly since some FSB Plenaries and other meetings take place in Paris, advantage should be taken for interaction with the OECD's committee structures intersecting with the FSB's mandate and with the Trade Union Advisory Committee (TUAC) to the OECD.

6 The lack of transparency and consultation is particularly striking with regard to the FSB's various "colleges of supervisors" which each cover large, systemically important international banking and insurance groups, the names of which are kept secret (as is the composition of their respective colleges of supervisors). Trade union representatives of workers in the banking sector need to engage with the colleges of supervisors, and the FSB should propose effective arrangements to bring that about.

7 We call on the FSB and its members to:

- Agree on a formal process of consultation with trade unions and other representative civil society organisations;
- Agree on specific procedures for consultations by FSB colleges of supervisors with trade union representatives;
- Deepen the work to achieve effective oversight and, where necessary, enhanced regulation of large, systemically important international banking and insurance groups, if necessary through legislative reforms and the establishment of "systemic regulators";
- Enhance the resources and staffing of the FSB Secretariat drawing from a diverse pool of experts beyond the IMF and the BIS;

- Set up a credible policy of transparency – including using standard terminology such as that used by the IMF and OECD.

Broadening membership of the FSB to key international constituencies

8 Pension funds, while themselves sometimes guilty of contributing to financial speculative pressures, constitute accumulated savings of workers to provide for their retirement security that need to be shielded from excessive risk-taking or unregulated markets. Furthermore pre-funded pension schemes have been hit hard by the crisis and are a key constituency of the FSB as a financial "consumer"; their funding and investment policies will be impacted by any FSB initiative in the future. Yet pension fund interests are not represented at the FSB as they should be via the International Organisation of Pension Supervisors (IOPS). This absence contrasts with the insurance sector whose international supervisory organisation the IAIS is a member of the FSB.

9 Secondly, global unions are convinced that future global financial stability will be achieved by diversifying the financial sector and promoting social finance institutions, including cooperative banking and insurance and public financial services. This should be recognised and promoted by the FSB.

10 Thirdly, the strong linkages between tax evasion and international tax arbitrage on one hand, and financial 'innovation' and the growth of shadow banking on the other have been documented by bodies such as the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes. Moreover the Financial Action Task Force (FATF) has a strong mandate from the G20 to enforce measures against encouragement of tax evasion by non-complying jurisdictions such as tax havens. The FSB should develop its links with the OECD Global Forum, the FATF and other relevant bodies including the International Tax Dialogue initiative covering all taxation including development issues, and the UN's Committee of Experts on International Co-operation in Tax Matters.

11 We call on the FSB and its members to:

- Invite the International Organisation of Pension Supervisors (IOPS) to become a member, with a fast track membership procedure to join the FSB;
- Engage policy dialogue with international fora that deal with social finance and inclusion, such the ILO;
- Develop interlinkages and coordination with multilateral fora dealing with international tax arbitrage, notably at the OECD and UN.

Accelerating and deepening rigorous financial regulation

12 The current priority of the FSB is the review of the Basel II prudential framework for banks including raising capital and liquidity requirements, coverage of off-balance sheet operations and of derivatives, and creation of a group level leverage ratio, in line with the conclusions of the St Andrews G20 Finance Ministerial (November 2009) that mandated authoritative forms of prudential regulation rather than relying on bankers' self-assessment. The FSB is also working on a new "Too Big To Fail" project which builds on the revision of Basel II and includes (i) new regulations for over the counter (OTC) derivatives (ii) capital surcharges for banks deemed "systemically important", and (iii) new "resolution mechanisms" allowing authorities to intervene with failing institutions before it gets too late and result in costly taxpayer-funded bailouts. This new framework would be coupled to the

recent IMF proposal for a two-tier stability levy consisting of a balance sheet-based Financial Stability Contribution (FSC) and a Financial Activities Tax (FAT). In addition, the FSB is engaging in peer reviews of the implementation of the FSB "Principles for Sound Compensation Practices" for bankers and their traders

13 Yet two years into the crisis, most FSB initiatives are still at the stage of preliminary "high level" principles. Resistance to change due to an obsession with preciously guarded national sovereignty, complexity of banking regulation and concerns about disrupting the fragile economic recovery are cited as reasons for the slow pace of reform. This contrasts with the rapidity of reforms relating to fiscal consolidation, including pension cuts and labour market reforms. Such two-speed reform processes fuel the impression that working people will pay for the crisis, while bankers will be left off the hook. Current G20 and FSB priorities fall far short of the bold and ambitious action that is needed to deliver the necessary change and quell the rising tide of public anger.

14 We call on the FSB and its members to:

- Supplement the work on resolution mechanisms with a real hands-on approach to bankers and robust "disciplining rules" to prevent irresponsible behaviour.- supervisory authorities should be given the right to remove directors or suspend board decisions regarding dividends, bonuses, and share buy-backs;
- Protect commercial and retail banking services from risks associated with the shadow banking model;
- Enforce robust regulation of financial market infrastructure and trading so as to crack down on short term speculation and bring trading of all financial derivatives under the scrutiny of organised exchange authorities rather than thinly supervised OTC trading;
- Ensure a regulatory "level playing field" between all financial institutions, including hedge funds and private equity and sovereign wealth funds so far omitted from consideration by the FSB;
- Deepen the FSB peer reviews and engage in regulatory reforms on bankers' pay, while ensuring this is designed carefully so as to avoid confusion with and a negative impact on collective bargaining in the banking sector;
- Recognise the role of workers' representation in strengthening bank and insurance financial risk management frameworks; and
- Protect working families against predatory sales practices through adequate consumer protection legislation.

Engage new work on the creation of a global financial transactions tax (FTT)

15 The creation of an FTT in response to the global crisis became central in the G20 process following the Pittsburgh G20 Summit in September 2009 which gave a mandate to IMF staff to prepare a report for the G20 Summit in Toronto in June 2010 on "the range of options [...] as to how the financial sector could make a fair and substantial contribution toward paying for any burden associated with government interventions to repair the banking system". The confidential interim report which was leaked to media in April confirmed the long-standing hostility of the IMF to the FTT which is shared by recent papers by the World Bank, the OECD and the European Commission. Yet the economic literature referenced in these reports is questionable to say the least. Many citations refer to academic research conducted prior to 2004 and the phenomenal rise in derivatives market trading that followed,

or are limited to specific transactions (currency or securities) and specific national markets. No member of the FSB has ever produced in-house modelling and a comprehensive impact assessment on the implementation of an FTT. At the same time, it is noteworthy that the IMF's report concedes that "sufficient basis exists for practical implementation of at least some form of FTT".

16 The declared opposition by the IMF, World Bank, the EC and the OECD stands in contrast with the growing support among G20 governments for the creation of an FTT. The labour movement, together with other groups and organisations, considers the introduction of an FTT to be urgently required, both in order to curb speculative activity and to generate necessary resources for fiscal, social, development and environmental objectives.

17 We call on the FSB and its members to:

- Engage modelling and comprehensive impact assessment exercises on the creation of a financial transaction tax at global or regional levels
- Prepare and promulgate legislation for the introduction of effective global implementation of a financial transaction tax.

Key sources:

- Global Unions Statement to the 4th G20 Summit, Toronto, 26-27 June 2010
- Global Unions Statement to the G20 Finance Ministers' meeting, St Andrews, 7 November 2009
- Global Unions Statement to the 3rd G20 Summit, Pittsburgh, 24-25 September 2009
- Global Unions Statement to the 2nd G20 Summit, London, 2 April 2009
- Global Unions Statement to the 1st G20 Summit, Washington, 15 November 2008
- TUAC, The Parameters of a Financial Transaction Tax and the OECD Global Public Good Resource Gap, February 2010
- UNI, Key Elements of Reforming the Financial System, March 2009

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