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COMMENTARY ON PANEL II: STATE AID AND DEVELOPMENTS IN THE EUROPEAN UNION

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The presentations by Professors Cavalier and Reiss, and by Dr. Rugiero, cover a wide range of forms of state aid and intervention in the European Union and in the United States. It is challenging to pull together particular themes. The presentations deal specifically with state aid and structural reform in France, regulatory and supervisory concerns and possible reform of prudential supervision in the EU, and the long-range strategic pre-crisis intervention in U.S. Federal housing markets by the U.S. government as a precursor to current problems.

In considering the totality of these presentations, I would suggest that there is little indication that the French or EU approaches provide a new paradigm for possible modification of the U.S. regulatory model. Professor Cavalier's paper makes clear that intervention in France is of an extreme central national character. An important element of the French approach was to provide a direct state guarantee of the fundraising without the need for additional legislation. The detailed French state intervention described by Professor Cavalier, the more general European approach presented by Dr. Rugiero and the use of the instrumentalities of the U.S. housing agencies—Freddie Mac and Fannie Mae—as described by Professor Reiss do not suggest common themes but instead a set of ad hoc approaches informed by national history, culture and predispositions. In short, the situation is quite different for each country and from circumstance to circumstance.

Professor Cavalier outlines several instrumental steps in France. In contrast to the U.S. intervention, French intervention seems to be more structural. This is to be expected from the French state, which has a direct and more extensive continuing involvement than is the case in the U.S. The French state, unlike the U.S., established specialized single purpose vehicles (SPV's) for recapitalization and short-term funding matter, with state guarantees for both. Further, Professor Cavalier suggests a permanent role for the French government. This diverges from the U.S. where the effort is to intervene only temporarily, tweak and improve the regulatory system, and then withdraw.

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Two similarities with the U.S. noted by Dr. Rugiero are the need for improved prudential supervision and a broadened scope to encompass near financial institutions, however characterized. Dr. Rugiero's presentation focuses on the EU approach. He suggests that as a result of the economic dislocations there will be a focus in Europe on more extensive prudential regulation and greater transparency than has heretofore been the case. Dr. Rugiero also suggests that full implementation of fair value accounting may be too extreme. There is, of course, some similarity in this to U.S. concerns. Dr. Rugiero foresees measures to support greater independence and specific accountability as well as transparency. Surprisingly, Professor Rugiero also sees a role for legal actions in the E.U, so that the EU. would be moving more toward the U.S. situation. Whether this is truly the case, remains to be seen.

The presentation of Professor Reiss, by contrast, is directed at a long term aspect of U.S. federal housing policy. He suggests that U.S. housing policy headed off track and was a significant component of the crisis in the U.S. By implication, perhaps, one can conclude that this U.S. housing policy contributed to the seriousness of the financial crisis in the U.S. as compared to, for example, the French and EU experiences. Professor Reiss focused on policies of the U.S. that were not in response to the crisis but that were the very creation of the crisis. It suggests, at least in part, the important local differences in how the financial crisis develops and will play out.

In assessing these diverse presentations, it is apparent that although there is similarity in the rapidity of the responses, and the common themes of greater prudential supervision and wider scope to cover broader types of financial intermediaries, there are overall very considerable differences in the strategy and details. It is noteworthy that there may be a move in the EU toward more centralized regulation, but it does not appear that the U.S. will replicate this. In conclusion, these presentations are instructive in showing different approaches and in indicating that new paradigms for financial regulation in the EU are likely to be quite separate and without detailed similarities to U.S. regulatory changes.