Germany Goes It Alone On Hedge Fund Controls

by Rainer Apel

In a speech in Frankfurt May 4, at the farewell ceremony for outgoing German central banker Edgar Meister, Finance Minister Peer Steinbrück said that he was aware that his original proposal for hedge fund transparency would not be realized for the time being, due mainly to resistance from the British. This directly referred to meetings a few days before, with British and American hedge funds, in New York, where the funds signalled profound opposition to transparency. Steinbrück said he found visibly more openness to his views among the Americans, especially at the SEC (Securities and Exchange Commission), which wants more oversight and control over the funds. The German finance minister was proven right about the SEC, when, at a panel discussion in New York on May 29, several former SEC directors, including William Donaldson, Arthur Levitt, and Harvey Pitt, endorsed hedge-fund transparency and supervision. In addition, U.S. pension funds, many of which have invested capital in hedge funds, have grown concerned that their investments are exposed to great risk in these highly speculative funds.

Therefore, although the G-8 Summit (June 6-8) will not pass any measures on fund control, the German government holds to its view that more than just voluntary standards agreed among the funds themselves was required, that a formal code of conduct should be agreed upon, at some time. Sources inside the German government have leaked that the British insisted that any reference to the term "transparency" be taken out of the G-8 documents, because in their view, that smelled of "regulation," which the City of London firmly rejects. Because of that, neither the meeting of the 27 EU finance ministers in Berlin on May 8, nor the meeting of the G-8 finance ministers in Potsdam on May 19, made progress on the matter.

Debate Spreads Beyond Germany

The call for transparency and controls is, however, reaching beyond Germany, which has been the center of the debate on the "locust funds" for the past two years. In Switzerland, the Parliament is considering holding a special hearing on the issue, following the example of the Dutch Parliament, which held such a hearing in early April. The urgency of fund control is underlined by developments around the Netherlands' biggest private bank ABN Amro, which is under heavy attack by a number of British hedge funds. In Switzerland, warnings are out against hostile takeover attacks against the nation's biggest corporations and banks, as well. The alarm bell has been sounded also in Austria, where the Vienna daily *Die Presse* on May 3 warned about a target list of 50 leading corporations and banks, which the funds plan to attack in the coming weeks and months. The article appeared with a picture showing a big fat green locust.

With an indirect approach, the German government may begin controls, not waiting for the other EU and G-8 partners to get on board: The German finance ministry plans to upgrade the status of the national financial market watchdog agency BAFIN, to enable it to expand the list of banks and funds it will monitor on a regular basis, to 400. This will be done in place of the monetarist-dominated German central bank, which has up till now been in charge of oversight functions for most banks. Furthermore, an agreement signed in Berlin at the end of April between the BAFIN and its U.S. counterpart, the SEC, on cooperation in monitoring and exchange of information on "cases of concern," or even of official investigation of banks and funds on both sides, may be seen as the first step to fund control. The aforesaid legislation on the funds includes the obligation of funds to report their plans for takeovers, and to reveal the sources of their credit-lines. This is to make sure that the current practice of the funds to gang up anonymously for surprise hostile takeover attacks, and to have available multi-leveraged credit lines from banks and insurance companies, will no longer be tolerated.

Important backing for the German government comes from the labor unions, whose national federation DGB issued a statement on May 30, saying that "voluntary codes of conduct are not enough," because "this were equal to turning the criminal into the policeman." Legislation such as that planned for Germany, is the only way to keep at least some control of the funds' activities, the DGB statement said. It endorsed regulations banning bank loans to funds that insist on non-transparency: for example, those thousands of funds that reside off-shore on the British Commonwealth's Cayman Islands.

All of that is, naturally, only a small, limited step towards re-regulation of the highly speculative financial markets, and it does not solve the big problem posed by the giant financial bubble as such. The debate, especially in Germany, must move now from the funds issue toward discussion about a new global re-regulation, a New Bretton Woods that bans speculative methods like those practiced excessively by banks and funds today, and that gives priority again to investments in productive, job-creating ventures of industry, agriculture, and infrastructure development. The LaRouche movement in Germany, which with its political campaigning for the New Bretton Woods under the slogan "Production, Instead of Speculation!" provided the spark for the entire "locust" debate since April 2005, welcomes the planned legislation on the funds, as a first positive step towards global monetary-financial reform.