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**WHITE PAPER**

**Financial Services Policy 2005-2010**

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# Synopsis

This paper presents the European Commission's (Commission) financial services policy priorities up to 2010. An overview of concrete tasks and activities is included (Annex I).

The consultation on the Green Paper<sup>1</sup> has shown broad support for these political priorities. This White Paper also takes into account the results of the 'Exchange of Views' of 18 July 2005<sup>2</sup> and parallel initiatives such as the Report on financial integration by the Financial Services Committee<sup>3</sup>, the Ecofin Council Conclusions of 11 October 2005 and the Report by the Economic and Monetary Affairs Committee of the European Parliament on the current state of integration of EU financial markets<sup>4</sup>. A proportionate Impact Assessment complements this paper (see Annex II).

The **objectives** of the Commission's financial services policy over the next 5 years are to:

- ***consolidate dynamically towards an integrated, open, inclusive, competitive, and economically efficient EU financial market;***
- ***remove the remaining economically significant barriers so financial services can be provided and capital can circulate freely throughout the EU at the lowest possible cost – with effective levels of prudential and conduct of business regulation, resulting in high levels of financial stability, consumer benefits and consumer protection;***
- ***implement, enforce and continuously evaluate the existing legislation and to apply rigorously the better regulation agenda to future initiatives;***
- ***enhance supervisory cooperation and convergence in the EU, deepen relations with other global financial marketplaces and strengthen European influence globally.***

**Dynamic consolidation is the *leitmotiv* of the Commission's approach – an approach that is practical, ambitious and reflective of stakeholder sentiment.**

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1 Green Paper on Financial Services Policy (2005-2010) published 3 May 2005. It remains valid background for the policy choices made. See: [http://europa.eu.int/comm/internal\\_market/finances/docs/actionplan/index/green\\_en.pdf](http://europa.eu.int/comm/internal_market/finances/docs/actionplan/index/green_en.pdf). Over 150 contributions were received during public consultation until 1 August 2005. A feed-back document has been published simultaneously with this Paper.

2 See: [http://europa.eu.int/comm/internal\\_market/finances/docs/actionplan/infosession/results\\_en.pdf](http://europa.eu.int/comm/internal_market/finances/docs/actionplan/infosession/results_en.pdf)

3 Report for consideration by EU Finance Ministers on 2 June 2004, only in limited circulation.

4 See: [http://www.europarl.eu.int/meetdocs/2004\\_2009/documents/PR/553/553131/55311en.pdf](http://www.europarl.eu.int/meetdocs/2004_2009/documents/PR/553/553131/55311en.pdf)

# **WHITE PAPER ON FINANCIAL SERVICES 2005-2010**

## **1. DYNAMIC CONSOLIDATION OF FINANCIAL SERVICES**

Financial markets are pivotal for the functioning of modern economies. The more they are integrated, the more efficient the allocation of economic resources and long-run economic performance will be. Completing the single market in financial services is thus a crucial part of the Lisbon economic reform process<sup>5</sup>; and essential for the EU's global competitiveness.

European financial market integration has been driven forward by the Financial Services Action Plan 1999-2005 (FSAP). Its central philosophy has proved sound: financial industry's performance has improved; there is higher liquidity, increased competition, sound profitability and stronger financial stability despite much external turbulence. With progressive implementation of FSAP measures in the coming years, these benefits will only increase.

But efforts have to continue. The EU financial services industry has strong untapped economic and employment growth potential. A further boost in the efficiency of pan-European markets for long-term savings products is needed urgently. The EU's major structural economic challenge – its huge pensions deficit – needs to be financed. The retail internal market is a long way from completion. A better functioning risk capital market is needed to promote new and innovative firms and to raise economic growth<sup>6</sup>.

So, consolidating progress; completing unfinished business; enhancing supervisory cooperation and convergence; and removing the remaining economically significant barriers are the key axes of Commission policy for the next 5 years.

## **2. BETTER REGULATION**

The Commission will deploy the most open, transparent, evidence-based policy-making based on a dual commitment to open consultation and impact assessments, so to ensure sound rules are drawn up, adding value to the EU's financial services sector and consumers.

### **2.1. Open and transparent consultation**

Open consultations (including with stakeholder groups) will continue to play a central role and will be required before any legislation is deemed necessary. The Commission will continue to publish responses received to its consultations, practical summaries and feedback statements.

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5 "Common Actions for Growth and Employment: The Community Lisbon Programme", COM(2005) 330 final, 20.7.2005, See: [http://europa.eu.int/growthandjobs/pdf/COM2005\\_330\\_en.pdf](http://europa.eu.int/growthandjobs/pdf/COM2005_330_en.pdf) and "Working together for growth and jobs: Next steps in implementing the revised Lisbon strategy", SEC(2005) 622/2, 29.4.2005, See: [http://europa.eu.int/growthandjobs/pdf/SEC2005\\_622\\_en.pdf](http://europa.eu.int/growthandjobs/pdf/SEC2005_622_en.pdf).

6 Although outside the scope of this Paper, the identification of priorities for any further initiatives in the area of venture capital will be of immense importance and a clear priority for the Commission in the next 5 years.

## 2.2. Impact assessments

Impact assessments will accompany any new Commission proposal. They will scope each issue and determine the most appropriate option. They will focus on costs and benefits across the broad economic, social and environmental dimensions, and, where appropriate, the impact on financial stability, proper functioning of markets and consumer protection.

Wherever possible, impact assessment methodologies will be shared, prior to publication, with relevant stakeholders. The Commission will also assess - on a case by case basis – whether technical implementing (level 2) measures also require impact assessments.

The Commission also expects the European Parliament and the Council to honour their commitments to improve the quality of Community legislation by producing impact assessments when tabling substantive amendment to Commission proposals<sup>7</sup>. So far this has not been put into practice and is a weak link in the better regulation chain<sup>8</sup>.

## 2.3. Implementation and enforcement

Regrettably, the rate of transposition of Community law by Member States within agreed deadlines is poor<sup>9</sup>. Member States need to demonstrate real commitment and deliver proper implementation on time. Enforcement mechanisms need to be strengthened and joined-up across the Member States. This shared responsibility is a major challenge for EU-25 – with further enlargements in the pipeline.

The Commission will work intensively with Member States to monitor progress, ensure accurate implementation and avoid regulatory additions, so-called 'goldplating'. The Commission will regularly update its online FSAP transposition matrix and install hyperlinks to the Member States' own implementing texts. The overall state of transposition will also be covered in the annual Progress Report on financial services<sup>10</sup>.

Transposition workshops with Member States and European regulators will continue to provide a forum for establishing consensus on the implementation of particular provisions of EC legislation and to iron out, *ex-ante*, any problems. The Commission will publish summary notes of the transposition workshops and additional interpretative guidance when needed.

These practical processes will facilitate effective monitoring. In the event of faulty implementation, the Commission will launch infringement proceedings swiftly. Stakeholders have stressed their need for adequate transposition time. The Commission agrees. But, as level-2 measures evolve, transposition work at both

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7 See the Inter-Institutional Agreement on Better Lawmaking (OJ C 321/1 31.12.2003) and the Conclusions of the Competitiveness Council on Better Regulation (9501/05).

8 Up to now, the Commission has provided for nearly 80 impact assessments, while Parliament and Council have carried out only 1. No impact assessment has been carried out on Member States' own legislative initiatives in the field of internal or judicial affairs.

9 See: [http://europa.eu.int/comm/internal\\_market/en/finances/actionplan](http://europa.eu.int/comm/internal_market/en/finances/actionplan).

10 The next Progress Report is foreseen for January 2006.

legislative and technical implementing level (levels 1 and 2) should proceed in parallel where possible.

## 2.4. *Ex-post* evaluation

A fundamental question is whether the rules actually achieve their objective. The Commission will monitor annually the overall state of financial integration in its Financial Integration Monitor (FIM) report<sup>11</sup>. The Inter-institutional Monitoring Group<sup>12</sup> will contribute by evaluating the Lamfalussy process in all financial services sectors<sup>13</sup>.

*Ex-post* evaluation of the FSAP and of all new legislative measures is a top priority for the Commission in the coming 5 years. By 2009, the Commission will endeavor to have completed a full economic and legal assessment of all FSAP measures<sup>14</sup>. A study will be launched in the course of 2007-2008<sup>15</sup>. Evaluations of the key measures will take place around 4 years after the implementation deadline of each measure.

If – over time – careful assessment and analysis reveal that specific legal texts have not worked, they will be modified or repealed in the framework of the legislative procedure<sup>16</sup>.

## 2.5. Simplification, codification and clarification

Community and national implementing rules on financial services must function as one coherent corpus of law. Although the Commission has tried to keep FSAP legislation as simple and coherent as possible, there is room for improvement. Therefore, the Commission will carry out sectoral and cross-sectoral consistency checks, reading across the relevant law to ensure coherence of terminology and effect. Investigating legal coherence will necessarily involve studying the approaches taken by Member States, to understand better how Community law is applied in practice, and to ensure that the level of legal coherence that markets need is in fact being delivered. The natural starting-point of the exercise is to be Community law, but with an immediate eye to its transposition and application at the national level.

The Commission's work, which will be a multi-year initiative, will start with these practical steps:

- Easy access to Community law will be delivered by bringing together the relevant Community instruments on Internet<sup>17</sup> in a form convenient both to specialists and citizens at large;
- The first sectoral consistency check will be in the securities field. A group of practitioners and market experts will be set up to assist the Commission in

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11 See [http://europa.eu.int/comm/internal\\_market/finances/cross-sector/index\\_en.htm#monitor](http://europa.eu.int/comm/internal_market/finances/cross-sector/index_en.htm#monitor).

12 See [http://europa.eu.int/comm/internal\\_market/finances/cross-sector/index\\_en.htm#interinstitutional](http://europa.eu.int/comm/internal_market/finances/cross-sector/index_en.htm#interinstitutional).

13 The Lamfalussy process is applied in the Banking, Insurance and Occupational Pensions, Securities and UCITS sectors; horizontal issues like corporate governance, auditing and accounting are in principle not covered by the Lamfalussy process, unless initiatives in these areas specifically address financial services areas.

14 Apart from those where the implementation deadline is later than 2005.

15 The Commission envisages to organise a workshop with economic experts in autumn 2006 to prepare this work.

16 The consultation on the Green Paper did not identify real candidates for immediate withdrawal.

17 With hyperlinks to national implementing legislation. See Section 2.3.

analysing the main problems. A related exercise is already underway with the Commission's Legal Certainty Group, which deals with cross-border securities rights and transfers;

- Current variety and accumulation of information to be provided to a user may confuse both users and services providers. A broad study will be carried out in 2008 to review possible inconsistencies and appropriateness of information requirements in the existing EC rules;
- This uncertainty is particularly acute in the area of collective investments. Here, both sectoral and transversal rules apply along with residual local advertisement rules. Industry feedback suggests that this situation is hindering the effective cross-border marketing of investment funds. It also leads to uncertainty over whether the fund promoter or distributor is responsible when marketing or providing services to investors. In order to clarify some of these matters, the Commission will issue a Communication/Recommendation in the course of 2006. This work may serve as a starting-point for comparable work in other areas;
- In the context of the insurance Solvency II project, a major codification exercise is now underway. Without renegotiating the existing *acquis*, sixteen insurance directives will feed into the new single EC Insurance Directive. This could serve as an example for similar codification initiatives in other financial services areas;
- In addition, where any incorrect implementation of Community law is found, the Commission will take appropriate action, including the use of infringement proceedings, to ensure a consistent and effective regulatory regime across the EU.

## **2.6. Users of financial services: input, education and redress**

The FIN-USE forum of financial services users plays a very important role by conveying the user perspective about EC policy development<sup>18</sup>. In addition, the Commission will ensure proportionate representation of users in all future advisory groups.

As the public sector gradually withdraws from financing some aspects of social systems, there is a need for increased awareness and direct involvement of citizens in financial issues. To strengthen the demand side and promote good investment choices, e.g. for pensions, it is essential to increase transparency and comparability and to help consumers understand financial products. Although the prime responsibility for consumer education rests with the Member States, the Commission can promote not just a pan-EU exchange of views on financial education, consumer literacy and best practice, but also facilitate common projects. It plans to organize a conference on this subject in early 2007.

Furthermore, to spread awareness of developments in financial services among consumers, the Commission intends to publish a periodic newsletter emphasising the most relevant user/consumer aspects of its ongoing work. Establishing a permanent group of consumer representatives from across Europe is also planned, within which

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18 See: [http://europa.eu.int/comm/internal\\_market/finservices-retail/finuse\\_en.htm](http://europa.eu.int/comm/internal_market/finservices-retail/finuse_en.htm).

financial services issues of particular relevance to consumers will be discussed. Regular contacts with UNI-EUROPA representing employees in the financial services sectors will continue.

FIN-NET<sup>19</sup> plays an important role by providing users and consumers with easy access to out-of-court complaint procedures in cross-border cases<sup>20</sup>. The Commission has launched a review of FIN-NET's role with a view to further maximising its efficiency. The Commission will also conduct an investigation of the national redress systems in the area of financial services to identify any gaps.

## **2.7. Further reinforcing the interaction with other policy areas**

Maximum use of policy synergies between financial services and other policy areas is key. In the next 5 years strong cooperation with other policy areas, particularly competition (sectoral enquiries<sup>21</sup>), consumer policy (consumer protection, contract law<sup>22</sup>) and taxation will be further strengthened.

A recent Commission survey on barriers to cross-border consolidation<sup>23</sup> in Europe has identified discrimination and uncertainty in tax rules as major obstacles for financial services integration, particularly VAT charges linked to restructuring<sup>24</sup>. The Commission intends, after a broad consultation process with all stakeholders, to present a legislative proposal to adapt the rules on VAT in financial services to the evolution of the single financial market<sup>25</sup>. The survey also highlighted the need for action in other policy areas which the Commission may wish to pursue<sup>26</sup>.

## **3. ENSURING THE RIGHT EC REGULATORY AND SUPERVISORY STRUCTURES**

### **3.1. Making the Lamfalussy process work**

EU financial market integration is accelerating. Although some retail business will remain local, firms are increasingly seeking pan-EU economies of scale, although often retaining physical presence locally: through centralisation of risk-management and back-office functions, cross-border mergers and the use of Internet. Regulatory and supervisory structures in the EU, therefore must adapt – and regulatory costs reduced where possible. The core of the EC's regulatory and supervisory approach in financial services is now founded on the 4-level Lamfalussy process<sup>27</sup>. This process is widely supported and seen to be successful. Decision making and supervisory arrangements are now much more efficient and flexible.

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19 See: [http://europa.eu.int/comm/internal\\_market/finservices-retail/finnet/index\\_en.htm](http://europa.eu.int/comm/internal_market/finservices-retail/finnet/index_en.htm)

20 With an increasing volume of cases (in 2001: 335; in 2002: 601; and in 2003: 796).

21 On 13 June 2005, the Commission decided to open enquiries in the financial services sector in the areas of retail banking and business insurance. The enquiries will examine whether competition (in particular, cross-border competition) functions fully in these sectors.

22 The Commission is developing a Common Frame of Reference as a tool to improve the coherence of European contract law.

23 See: [http://europa.eu.int/comm/internal\\_market/finances/docs/cross-sector/mergers/cross-border-consolidation\\_en.pdf](http://europa.eu.int/comm/internal_market/finances/docs/cross-sector/mergers/cross-border-consolidation_en.pdf).

24 See: [http://europa.eu.int/comm/internal\\_market/finances/docs/cross-sector/mergers/survey-results\\_en.pdf](http://europa.eu.int/comm/internal_market/finances/docs/cross-sector/mergers/survey-results_en.pdf): under B.1.2 Tax Barriers.

25 Communication 'The Contribution of Taxation and Customs Policies to the Lisbon Strategy'.

26 In the area of investment funds, the treatment of fund mergers as a 'taxable event' is the biggest stumbling-block to this route of rationalisation of Europe's over-crowded fund landscape.

27 See: <http://europa.eu.int/rapid/pressReleasesAction.do?reference=IP/02/195&format=HTML&aged=1&language=EN&guiLanguage=en>

The central policy of the Commission is to keep faith with this process and develop it over the next 5 years to fulfil its maximum potential. Key regulatory policy issues are:

- (1) The debate on comitology reform is particularly important;
- (2) Improving the accountability and transparency of the whole process, also vis-à-vis the European Parliament and Council, taking account of the defined institutional boundaries and the fact that the committees of national supervisors are advisory bodies to the Commission;
- (3) Developing cross-sectoral regulatory cooperation in an increasing number of cross-sectoral financial issues;
- (4) Ensuring that all 4 levels of the Lamfalussy process respect the better regulation agenda, thereby ensuring good rule-making, consistent implementation and enforcement. Notwithstanding the good work carried out by the level-3 committees and recognising their resource constraints, the Commission considers that their advice which may add significant regulatory costs could benefit if screened additionally in terms of impact and proportionality by a panel of expert economists;
- (5) Working with major partners towards global convergence of standards where practical.

### **3.2. Supervisory challenges**

Obligations to cooperate and exchange information between supervisors have to be reinforced. Co-operation in crisis situations has to be secure.

Some of the challenges for the next five years are:

- (1) The need to clarify and optimise home-host responsibilities as integration accelerates and to deal with potential spill-over effects (3.2.1);
- (2) The need to explore delegation of tasks and responsibilities, while ensuring that supervisors have the necessary information and mutual trust (3.2.2.);
- (3) The need to improve the efficiency of supervision by avoiding duplicative reporting and information requirements (3.2.3);
- (4) The need for more consistent and timely cooperation and to develop a real pan-EU supervisory culture (3.2.4).

#### **3.2.1 Greater clarity in roles and responsibilities of home/host supervisors**

The home-host principle, underpinned by mutual recognition, and consolidated supervision are the core of the EC supervisory system. Potential spill-over effects must be effectively dealt with – e.g. in the event of failure of a group that operates on

a pan-EU basis or of a systemically important institution that operates in one Member State while the responsibility for group supervision resides in another<sup>28</sup>.

Any evolution of prudential supervisory structures in the EU away from the current arrangements raises difficult issues of political and financial accountability, especially when support from the public purse might be called upon. The Commission advocates an evolutionary approach, responding to demonstrated problems, striking the right balance between more efficient and consolidated supervisory arrangements and ensuring financial stability all over the EU.

Deposit guarantee schemes are also important in order to protect consumers. Further work is needed to ensure the existing arrangements work effectively on a cross-border basis and are compatible with other arrangements such as lender of last resort provisions and responsibility for financing financial crises. The Commission will examine the key interrelated issues and will come forward with a Communication on this issue in 2006.

### **3.2.2 Explore delegation of tasks and responsibilities between supervisors**

Banking legislation already gives supervisors the possibility to delegate full responsibility for the supervision of a subsidiary to the supervisor of the parent company. This possibility has, however, not yet been put in practice. Similarly, securities legislation, such as that on market abuse and prospectuses, allows for certain functions to be transferred between regulators. But more can be done to share information and carry out their tasks more effectively<sup>29</sup>.

Mediation mechanisms could be used for rapid and effective resolution of simple day-to-day cross-border disputes between supervisors. This would strengthen convergence of supervisory practices<sup>30</sup>.

### **3.2.3 Some practical steps to improve the efficiency of supervision**

Multiple reporting requirements expose cross-border groups to unnecessary costs. This needs to be replaced by streamlined common reporting, without national 'add-ons'. The International Financial Reporting Standards (IFRS), the Markets in Financial Instruments Directive (MiFID) and the development of new prudential rules in banking and insurance provide a unique opportunity to rationalise reporting formats.

The Commission considers that the time has come to work towards truly common data and reporting requirements – and where necessary – common supervisory databases. The level-3 committees should now begin work in earnest to devise simplified common data and reporting templates, underpinned by real information sharing between national supervisors. The Commission expects delivery of these important efficiency gains by 2008. From 2009 all EU banks, insurance and major investment companies should be able to fulfil their reporting requirements by sending

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28 The Commission will launch a study on liquidity management in banks and Member States' prudential requirements.

29 A conference on supervisory convergence in the banking sector will be organised in 2007.

30 These must be voluntarily, based on a shared principle of a duty to cooperate. Confidentiality requirements and the limits of the European institutional framework must be respected.

only one complete reporting package to the competent supervisor at consolidated level.

### **3.2.4 Developing a pan-European supervisory culture**

To deliver common decision-making and enforcement practices - in particular for multi-country or cross-sectoral groups - joint inspections, peer reviews<sup>31</sup> and practical measures such as staff exchanges, joint training between supervisors, exchange of information and expertise should be developed ambitiously over the next 5 years.

## **4. ONGOING AND FUTURE LEGISLATIVE ACTIVITIES (2005-2010)**

### **4.1. Ongoing projects**

#### **4.1.1. Retail Banking**

Three major retail initiatives are already underway:

- In the area of mortgage credit, a White Paper will be released in 2006, announcing any initiatives necessary and economically justified to integrate the EU mortgage credit market;
- On consumer credit, a modified proposal for a Directive has been published on 10 October 2005 aimed at creating a genuine internal market for consumer credit and improving consumers' protection<sup>32</sup>;
- The proposal for a Payments Services Directive will enhance competition and clarify rules for users' and providers' rights and obligations. This initiative will facilitate and underpin industry's effort to create a Single European Payment Area (SEPA) by 2010. By 2007, the Commission will examine what further measures may be necessary to ensure that the SEPA is successfully delivered on time.

#### **4.1.2. Solvency II**

The Solvency II project intends to overhaul EC regulation and supervision in the insurance area. Risk-oriented calculations of the solvency requirements for insurance undertakings will be introduced. Calculation of insurance liabilities (technical provisions) will be more harmonised, while fostering the convergence of supervisory practices.

This project, which is widely supported, is closely linked with international developments in accounting, supervision and actuarial science and will take account of the important developments in the banking area under Basel II.

The Commission plans to table its single text proposal in mid-2007; the structure will then be completed by level-2 measures adopted in comitology procedure.

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31 Which could be made public.

32 See: [http://europa.eu.int/comm/consumers/cons\\_int/fin\\_serv/cons\\_directive/2ndproposal\\_en.pdf](http://europa.eu.int/comm/consumers/cons_int/fin_serv/cons_directive/2ndproposal_en.pdf).

### **4.1.3. Review qualifying shareholdings**

Supervisors can block potential investments, mergers and takeovers in the financial sectors. There is a clear call for more clarity, transparency and disclosure on this supervisory task to review qualifying shareholdings. The Commission and the supervisory committees (CEBS and CEIOPS) have already started their work to revise article 16 of the Banking and article 15 of the Insurance Directives and to define common prudential criteria. In banking a proposal is expected mid-2006; in insurance this work is expected to take place in the context of Solvency II.

### **4.1.4. Clearing & Settlement**

Cross-border clearing and settlement infrastructures are far more costly than at the domestic level and their level of safety and efficiency is lower. The reasons for the high cost of cross-border transactions are technical, legal and fiscal obstacles<sup>33</sup>. There is also no regulatory framework at EU-level.

The Commission suggested in its Communication of 2004 that a framework Directive may be needed for an efficient, safe and cheap cross-border clearing and settlement industry. To test this possibility, the Commission is carrying out a very thorough consultation and impact assessment. Once this process is finished, while taking into account any new market developments, the Commission will decide during 2006 on the course to take and whether to come forward with a formal proposal.

## **4.2. Reflections underway**

### **4.2.1. Eliminating of unjustified barriers to cross-border consolidation**

The Commission has identified and examined the potential barriers for cross-border investment and economic rationalisation within Europe<sup>34</sup>. Also, the Commission has looked into the respect of Treaty rights on the free movement of capital<sup>35</sup>. Eliminating or at least reducing unjustified barriers will strengthen the competitiveness of the financial sectors and of the economy at large – and foster growth and job creation. Follow-up action is expected to start in 2006 (see also 4.1.3).

### **4.2.2. E-money Directive**

An evaluation of the E-money Directive is underway amidst signs that it has not provided sufficient legal certainty and may have constrained market developments. A report will be published in spring 2006 together with appropriate policy recommendations.

### **4.2.3. Insurance Guarantee Schemes**

The Commission will decide in 2006 whether to propose legislation in this area.

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33 The so-called Giovannini barriers. The Commission will continue its work to tackle these barriers impeding cross-border Clearing and Settlement with the assistance of different groups (CESAME, FISCO).

34 See: [http://europa.eu.int/comm/internal\\_market/finances/cross-sector/index\\_en.htm#obstacles](http://europa.eu.int/comm/internal_market/finances/cross-sector/index_en.htm#obstacles) and see paragraph 2.7.

35 See: [http://europa.eu.int/comm/internal\\_market/capital/docs/communication\\_en.pdf](http://europa.eu.int/comm/internal_market/capital/docs/communication_en.pdf).

#### **4.2.4. Hague Securities Convention**

The legal assessment requested by the Council on some aspects of the Hague Securities Convention<sup>36</sup> will help the Council decide whether to accept the Commission's current proposal for signature.

#### **4.2.5. Optional instruments**

Consultation has shown widespread scepticism about the feasibility and usefulness of optional instruments ('26<sup>th</sup> regimes') in the area of financial services. Its promoters need to explain their ideas and the legal and practical feasibility and advantages of such optional instruments in more detail. The Commission remains open<sup>37</sup>, but is yet to be convinced that optional instruments can bring significant benefits to market participants.

#### **4.3. Areas in which no new legislation is planned at this stage**

The main areas where no new legislation is planned are: rating agencies; financial analysts; level-2 measures for the Takeover Bids Directive on requirements in the offer document; and capital requirements for regulated markets. The Commission considers that for the time being existing regulatory requirements (or those already in the pipeline such as MiFID level-2 measures) are sufficient and that Member States are better placed and self-regulation by market participants better fit to find the most appropriate additional responses to market developments.

#### **4.4. Future initiatives**

The Commission has identified two areas where carefully targeted, evidence-based initiatives might bring benefits to the EU economy: investment funds and retail financial services. Work in these areas will be bottom-up, based on extensive consultations, working with the grain of the market, taking into account the interaction between existing legislation and new initiatives.

##### **4.4.1. Investment funds**

The EU regulatory environment should enable the fund industry, currently managing over 5 trillion euro of assets, to develop soundly structured, well-administered collective investments which deliver the highest possible returns consistent with the individual investors' financial capacity and risk appetite, while giving investors all the necessary information to evaluate risks and costs.

Work to ensure consistent implementation of UCITS law is already well underway; *inter alia* on the delivery of a smoother functioning UCITS passport; a clearer understanding of investment limits; and more consistent transposition of existing UCITS legislation.

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<sup>36</sup> A multilateral Treaty on conflicts of law for securities held with an intermediary.

<sup>37</sup> In the October 2004 Communication on 'European Contract Law and the revision of the *acquis*', the Commission announced that it will undertake an impact assessment on optional instruments.

The Commission's Green Paper of July 2005 on enhancing the framework for investment funds assesses the existing UCITS<sup>38</sup> framework in the light of current developments in the funds industry.

The responses to the Green Paper<sup>39</sup> and ongoing work will provide the Commission with the elements needed to take a firm, evidence-based, view on the content and form of any further steps. The Commission's views will be outlined in a White Paper, to be published by the second half of 2006.

#### **4.4.2. Retail financial services: bank accounts and credit intermediaries**

Further action is needed to open up the fragmented retail financial services markets. The Commission will take a targeted and consultative approach, involving all market participants at every stage of its policy making. The Commission has decided that the following retail areas merit further consideration:

Accessing a bank account is the entry point for most consumers to financial services and markets and increasingly important for citizens to participate in the market and society; even more so within the context of using electronic payments within a Single Payments Area. Undue barriers associated with all types of bank accounts (current, savings, securities accounts) must be removed<sup>40</sup>, consumer choice widened and competition between service providers improved.

The Commission will create an expert group, consisting of industry and user representatives, to identify existing problems associated with user mobility (e.g. cross-border opening of accounts (including online), closing fees and transfers between banks) and consider the usefulness of an optional standard bank account. The results of the expert group should be available in early 2007. The Commission will study the business case for taking initiatives, building on the ongoing sector enquiries in the competition field<sup>41</sup>. Without prejudging the outcome of the legislative process on the Consumer Credit Directive, the Commission believes that further investigation is needed in the area of credit intermediaries. The Commission will launch a study to be available in 2008 in order to gather information about the applicable national rules and identify any problems caused either by divergent or overlapping rules. Available experience from the existing legislation on insurance and securities intermediation will be taken into account.

## **5. THE EXTERNAL DIMENSION**

Increasingly, standards and best practices are set and defined at global level, for example on accounting, auditing and banking capital requirements. Considering the size of the EU market, and Europe's experience in pragmatically uniting the legitimate call for harmonised rules and the diverging needs of different markets/cultures/players, the EU must have a leading role in standard setting at global level.

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38 See: [http://europa.eu.int/comm/internal\\_market/securities/ucits/index\\_en.htm](http://europa.eu.int/comm/internal_market/securities/ucits/index_en.htm)

39 Responses will be published in autumn 2006.

40 Beyond the aspects already dealt with in the initiative on payments.

41 See Section 2.7.

The EU has the most open financial market in the world, which is an emerging strength. The introduction of the euro, supported by free movement of capital, sets the standards world-wide in terms of openness and transparency. Other countries should follow. The EU is fully committed to an ambitious opening of global financial services markets. This commitment is driven forward in the GATS negotiations in the WTO Doha round and other trade negotiations.

There is much support for the Commission's approach to regulatory dialogues – exchanging information, identifying potential regulatory problems upstream and seeking mutually acceptable solutions. The Commission will therefore further deepen the successful problem-solving EU-US financial markets dialogue – keeping Member States, the European Parliament, the private sector and other relevant stakeholders closely informed.

Furthermore, the Commission intends to widen dialogues and cooperation on financial issues with other countries, such as Japan, China, Russia and India, reflecting as far as possible industry priorities.

Likewise, the EC needs to be represented strongly in international bodies, where it needs to speak with one voice in the fight against corporate and commercial fraud, money laundering, terrorist financing, tax evasion, corruption and other malpractices. Cooperation and information exchange must be effective, also vis-à-vis offshore financial centres. European coordination in international fora such as the Basel Committee, IAIS, IOSCO, UNIDROIT needs to be stepped up prior to meetings in order to define precise European negotiating positions. Furthermore, the Commission must also participate in the Financial Stability Forum where it is presently excluded for no good reason.

## **6. MONITORING PROCESS**

A detailed Report covering progress and developments in the areas outlined in this Paper will be published by the Commission on an annual basis.

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