

EUROPEAN PARLIAMENT

2004



2009

Session document

FINAL
A6-0248/2007

27.6.2007

REPORT

on financial services policy (2005-2010) - White Paper
(2006/2270(INI))

Committee on Economic and Monetary Affairs

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on financial services policy (2005-2010) - White Paper (2006/2270(INI))

The European Parliament,

- having regard to the Commission White Paper on Financial Services Policy 2005-2010 (COM(2005)0629) (Commission White Paper),
- having regard to the implementation of the Financial Services Action Plan (FSAP) (COM(1999)0232) adopted by the Commission, in particular Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse)¹, Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments², Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market³, the capital requirements directives (CRD) (Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions (recast)⁴ and Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions (recast)⁵ and the proposal for a Directive of the European Parliament and of the Council on the exercise of voting rights by shareholders of companies having their registered office in a Member State and whose shares are admitted to trading on a regulated market (COM(2005)0685),
- having regard to the Commission staff working document - Single Market in Financial Services Progress report 2006,
- having regard to the European Code of Conduct on Clearing and Settlement of 7 November 2006 and the Euro system proposal to develop a settlement system for securities transactions in central bank money (Target 2 Securities) (Code of Conduct),
- having regard to the Commission proposal for a directive of the European Parliament and of the Council amending Council Directive 92/49/EC and Directives 2002/83/EC, 2004/39/EC, 2005/68/EC and 2006/48/EC as regards procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of shareholdings in the financial sector (COM(2006)0507),
- having regard to the FSC Report on financial supervision of February 2006 (Francq Report), published on 23 February 2006,
- having regard to the Second Interim Report of the Inter-Institutional Monitoring Group

¹ OJ L 96, 12.4.2003, p. 16.

² OJ L 145, 30.4.2004, p. 1.

³ OJ L 390, 31.12.2004, p. 38.

⁴ OJ L 177, 30.6.2006, p. 1.

⁵ OJ L 177, 30.6.2006, p. 201.

monitoring the Lamfalussy Process (IIMG), issued on 26 January 2007,

- having regard to the Committee of European Securities Regulators (CESR) report on "which supervisory tools for the EU securities markets", (Himalaya Report), published on 25 October 2004,
 - having regard to its resolutions of 15 January 2004 on the future of hedge funds and derivatives¹, of 28 April 2005 on the current state of integration of EU financial markets², and of 4 July 2006 on consolidation in the financial services industry³,
 - having regard to Rule 45 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs and the opinion of the Committee on Legal Affairs (A6-0248/2007),
1. Congratulates the Commission on the contribution of the FSAP towards the creation of a European capital market that is leading in the world not least because of the quality and solidity of its financial regulation; welcomes the economic priorities set out in the Commission White Paper, namely to consolidate the European financial market, remove barriers to the free movement of capital and improve the supervision of financial services;
 2. Urges Member States to ensure the timely and consistent implementation of the FSAP; calls on the Commission to monitor its enforcement, and on the Level 3 committees continuously to improve the consistency of its application;
 3. Is concerned that the rate of transposition of Community law by the Member States within the prescribed deadline is still low and calls for increased cooperation between supervisory bodies in the Member States;
 4. Welcomes the Commission's commitment to a coherent interpretation of terminology across Member States; urges the Commission, when drafting new legislation, to ensure compatibility with existing terminology at both European and global levels;
 5. Would welcome a more in-depth examination of the economic effects of the FSAP measures in the light of the Lisbon Strategy and the financing needs of the real economy; asks the Commission to commission such studies together with its annual progress reports and implementation monitors and recommends that special attention be given to the effects of the implementation of the FSAP measures with special reference to the countries benefiting from the FSAP implementation and the magnitude of beneficiary countries' profits earned from the consolidation of the financial market;

Market concentration

6. Notes a high market consolidation in the top segment of financial services provided to large listed companies, notably by audit firms, credit rating agencies (CRAs) and

¹ OJ C 92 E, 16.4.2004, p. 204.

² OJ C 45 E, 23.2.2006, p. 140.

³ *Texts Adopted*, P6_TA(2006)0294.

investment banks; urges the Commission and national competition authorities carefully to apply the Community competition rules to those market players, to be vigilant to any risk of unlawful market concentration in the provision of services to large listed companies; emphasises the need for accessible complaint and redress procedures; and asks the Commission to take due account of the users' perspective; underlines the need to remove barriers for new entrants as well as the need to remove legislation favouring incumbents and current market structures where competition is limited;

7. Is pleased with the recent approval of the proposed directive on the reform of Article 19 of the CRD by the prospective directive on the prudential assessment of acquisitions and increase of holdings in the financial sector¹ and urges the Commission to continue its action towards the removal of the obstacles to cross-border mergers and acquisition, as identified in the Commission Staff Working Document on Cross-border consolidation in the EU financial sector (SEC(2005)1398) and Parliament's resolution of 4 July 2006 on further consolidation in the financial services industry² and encourages the wider use of modern software solutions, thereby promoting disintermediated and direct market access by the end investor;
8. Stresses the need among CRAs for transparency of fees and a separation of rating and ancillary services as well as for a clarification of assessment criteria and business models; emphasises that CRAs play a public role in, for example, the CRD and that they should thus meet the same high standards of accessibility, transparency, quality and reliability required of regulated businesses such as banks; urges the International Organization of Securities Commissions (IOSCO) and the CESR to continue closely to monitor the compliance of CRAs compliance with the IOSCO code of conduct; calls on European stakeholders to consider whether they should encourage the emergence of a specifically European player in the CRA sector;
9. Following the implementation of Directive 2004/39/EC³ on markets in financial instruments (MiFID), anticipates increased competition among trading platforms and financial intermediaries, but also increased consolidation of the stock exchanges; believes that stronger cross-Atlantic convergence of financial market rules and supervisory practices is needed without undermining the principles-based approach and avoiding the imposition of extraterritorial rules; emphasises that good governance is imperative and that the influence of users should not be eroded with changing ownership;
10. Calls on the Commission to investigate which measures are best suited to promote shareholder loyalty and to encourage employee share ownership, with a view to balancing the different stakeholder interests;
11. While calling for progress in removing the other barriers identified in the Giovannini Group's report on Cross-Border Clearing and Settlement Arrangements in the European Union of November 2001, strongly reiterates the need to improve the post-trading infrastructure both with a view to price transparency and competition as to the public

¹ COD 2006/0166.

² *Texts Adopted*, P6_TA(2006)0294.

³ OJ L 145, 30.4.2004, p. 1.

interest of clearing and settlement security; welcomes the progress being made in implementing the Code of Conduct which will deliver those aims and which will also support Article 34 of MiFID, requiring stock exchanges to provide all their users with the option of designating the settlement system in which they want to settle their transactions in the event of cross-border share transactions; intends closely to scrutinise the developments surrounding the Code of Conduct as well as the TARGET2 Securities project in this context, emphasising the governance and supervision needed to cope with conflicts of interest; and calls the Council and the Commission to launch, without further delay, the initiatives required to remove completely the obstacles under the control of the public sector relating to the legal and fiscal barriers identified in the Giovannini Group's report and in the areas not covered by the Code of Conduct.;

12. Points to the increasing influence of proxy voting intermediaries and financial intermediaries holding consumers' tangible assets through indirect holding systems; asks the Commission to assess the potential risks of market dominance, market abuse and conflicts of interest by such intermediaries and to closely monitor the effects of the prospective directive on the exercise of voting rights by shareholders of companies;
13. Expresses its disquiet at the high proportion of financial service companies in the new Member States that are wholly or partly foreign owned, given, first, that this makes it difficult for the supervisory authorities in those countries to exercise effective supervision and control and, in addition, that the interests and needs of the new Member States' economies often play only a minor role in the strategies pursued by parent companies' foreign-based head offices;
14. Asks the Commission to assess facts about the functioning of the top level of the market of large merger and acquisition transactions and private equity deals and the accompanying underwriting and lending activities; strongly welcomes the increased vigilance of supervisors on plain cases of market manipulation, insider dealing or front-running; urges the Commission to cooperate with US regulators to check whether the necessary safeguards, such as internal codes of conduct and 'Chinese walls' are adequate to achieve an appropriate level of corporate governance and market transparency and to manage conflicts of interest;
15. Underlines the importance of ensuring the independence of financial analysts and financial market data providers through transparent funding structures; urges the Commission to address the issues unresolved by Commission Directive 2004/72/EC¹ (MAD) and MiFID with regard to the distinction between 'financial analysis' and 'other information';

Alternative investment vehicles

16. Is fully aware of the rapid rise of alternative investment vehicles (hedge funds and private equity); recognises that they provide liquidity and diversification in the market and create an opportunity to improve efficiency of corporate management, but also shares the concerns of some central banks and supervisors that they may give rise to systemic risk

¹ OJ L 162, 30.4.2004, p. 70.

and to high levels of exposure of other financial institutions;

17. Calls on the Commission to launch a debate on hedge funds so as to be prepared for international and European discussions;
18. Welcomes the Commission's recent studies on hedge funds and private equity, but regrets that these studies so far have focused only on barriers to growth of such funds, invites the Commission to monitor any potential policy gaps; emphasises the need for sector-specific work by regulators of such funds, including the CESR and IOSCO and competent authorities in markets where such funds are common taking it on board as part of the EU-US dialogue; asks for a broader and more critical approach with regard to the risks of market abuse; invites the Commission to review the differences in Member States' regimes for retail access to alternative investments, and in particular to determine the appropriate qualifications for distributors of such products to retail investors;
19. Urges the Commission to assess the quality of supervision in off-shore locations and to step up cooperation with the supervisors in these jurisdictions; intends to join forces with the US Congress Financial Services Committee of the House of Representatives in investigating, inter alia, tax measures to respond to the undesired flight of capital to tax havens;
20. Welcomes the updated report of the Financial Stability Forum of 19 May 2007 on the hedge fund industry; in particular welcomes the recommendations of the report aiming to address potential systemic risk and operational risks associated with the activities of hedge funds; calls for increased cooperation and exchange of information among supervisors of financial institutions in taking forward these recommendations and in spreading good practice in order to enhance resilience to systemic shocks; and furthermore urges the creditors, investors and authorities to remain vigilant and adequately to assess potential counterparty risks that hedge funds present;

Access to finance in the retail segment

21. Notes that cross-border integration of EU retail financial markets is less developed than in the wholesale area; notes that consumers still use physically present institutions more than virtual ones, and notes a predominantly domestic-oriented financing structure; but warns against simply overhauling the national consumer protection traditions and legal systems by one-size-fits-all harmonisation; takes the view that national consumer protection traditions must not be interpreted in such a way that new competitors are hindered on the domestic market; underlines the need for a well-functioning internal market for financial services; notes the importance of intermediaries in order to bring competition to Member States' domestic markets; stresses the benefits of open and pluralistic structures in the European banking market to meet the different and evolving needs of consumers;
22. Prefers a more focused approach directed at the concrete barriers which impact on mobile cross-border users; encourages the financial industry to develop pilot pan-European financial products such as pensions, mortgages, insurance products or consumer credit and invites the Commission to undertake the preparation of an appropriate and feasible

framework of regulation and supervision, in terms of contractual law, taxation, consumer credit and consumer protection so that such products are portable and mutually recognised within the European Union, in order to foster favourable conditions for cross-border labour mobility in an integrated single market;

23. Points to the need for the same risks to be matched by the same security on a common European market in financial products and for capital requirements to be couched accordingly; maintains that in order to make for transparency and protect consumers, Member States must be prevented from engaging in competition based on the lowest supervision and security standards;
24. Shares the concern expressed in point 1.2.3 of the Background Paper annexed to the Commission Green Paper on enhancement of the European framework for investment funds (SEC(2005)0947) regarding the emergence in some Member States of guaranteed funds not backed by capital adequacy requirements, given that consumer protection in this area is insufficient; calls on the Commission, therefore, with a view to protecting consumers effectively, to close the European regulatory gap by laying down appropriate capital adequacy requirements for guaranteed funds, observing the principle that supervision requirements must be equal both from the qualitative point of view, in terms of risk management standards, and quantitatively, as regards capital requirements ('same risk, same capital');
25. Has taken due note of the sector inquiry into retail banking and payment cards systems that shows several areas for improvement; welcomes the prospective Payment Services Directive, which is expected to bring about better preconditions for competition in these fields; but warns that opening up existing imperfect systems should not lead to a situation in which a high level of market consolidation could create new imperfections and price constraints, damaging the overall structure of the European economy's financing system, the quality of local services, and the opportunities for SMEs to obtain financing suited to their needs; has taken note of the need to open access to credit registers and payment systems and asks for further clarification on the concrete next steps to be taken in this respect;
26. Calls on the Commission to consider, not least in the light of the current position regarding SWIFT, whether the European Union might be able to set up its own banking card system;
27. Stresses that the two building blocks of the Single European Payment Area (SEPA)t, namely credit transfers and direct debits, will come into effect in 2010; notes that the third pillar, the cards framework, will be put in place from 2008 onwards; notes that the prospective Payment Service Directive is expected to bring new service providers, such as retailers, money remitters and mobile operators into this business line; notes that as a consequence, the cost of cross-border retail payment transactions is likely to decline significantly;
28. Is concerned that the consumer's choice is often limited to retail products of the financial groups operating domestically; stresses the importance of unbundling of different services provided to consumers and calls for disclosure of value chain costs to the clients

in order to introduce more transparency and ensure a level playing field for competition;

29. Urges the Commission, in the light of the foregoing, to reactivate the initiative aimed at providing mutual societies with a European statute, as called for in Parliament's resolution of 16 May 2006 on the outcome of the screening of legislative proposals pending before the Legislator¹;
30. Acknowledges the challenge of ageing; emphasises the importance of collective second pillar occupational pensions in addition to proper solidarity-based first-pillar pension schemes, and endorses Directive 2003/41/EC² on the activities and supervision of institutions for occupational retirement provision as the specific regulatory framework for pension funds; urges the Commission to explore the possibility, within the framework of better regulation, in order to promote supervisory convergence across the European Union and to prevent unequal treatment of market players and distortions of competition, to supplement that Directive with a harmonised solvency framework for pension funds in line with the Solvency II approach, in order to provide for advanced risk management techniques as well as disincentives for regulatory arbitrage by establishing equal supervision requirements both from the qualitative point of view, in terms of risk management standards, and quantitatively, as regards capital requirements ('same risk, same capital'), taking into account the specific features of occupational retirement provision; and reiterates that such a legislative framework must be supported by the coordination of taxation, especially concentrating on the tax base;
31. Notes that too many EU citizens are excluded from basic financial services; concludes that well-functioning basic financial services should remain available and affordable to every EU citizen; asks the Commission to conduct a study into the accessibility of services such as bank accounts, cash machines, payment cards, and loans at low cost; and to promote best practices and experiences developed by financial institutions to provide such basic services;
32. Supports the findings of the sector inquiry into retail banking that credit data sharing tends to have positive economic effects, increasing competition and benefiting new market entrants, by reducing the information asymmetry between the bank and customer, acting as a borrower discipline device, reducing the problems of adverse selection and promoting customer mobility; considers that granting access to both positive and negative credit data can play a key role in helping consumers to obtain access to credit and fight financial exclusion;
33. Signals the growth of specific financial service providers for migrant groups, which transfer remittances and develop the banking system, including Islamic banking; warns that requirements for those new niche players should be solid but also such as to prevent them from disappearing into a grey zone, where no oversight at all is possible; calls on the European Union, especially when pursuing its relations with home countries of migrant workers, to cooperate with the appropriate local economic and monetary authorities ;

¹ OJ C 297 E, 7.12.2006, p. 140.

² OJ L 235, 23.9.2003, p. 10.

34. Welcomes the increasing attention to microcredit provision as a contribution to self-employment and start-ups, e.g. in the activities of the Commission Directorate General Regional Policy and the JEREMIE programme of the European Investment Bank; asks that the Basel rules be adapted for the purposes of microcredit portfolios and cap the often excessive costs on small loans; urges the Commission, working in collaboration with its various Directorates-General responsible for this sector, to draw up an action plan for microfinancing, to coordinate the different policy measures and to make optimal use of best practices in and outside the European Union;

Financial literacy and users' input in policymaking

35. Believes that more is involved in the creation of a European integrated financial market than just providing consumers with more choice; underlines that financial literacy should be more actively promoted than hitherto and that access to proper information and unbiased investment advice is essential; takes the view that principles such as ensuring best execution and carrying out suitability tests when providing investment services should form the basis for regulation of service providers in this field;
36. Strongly supports the Commission's initiatives to upgrade financial capability and invites the Commission and the Member States to increase their efforts to create specific programmes and websites, in which the firms concerned should likewise be involved, but also urges them to make it an integral part of basic school education;
37. Welcomes the establishment of the Financial Services Consumer Group and the attempts to involve user representatives in expert groups and consultations; notes that, nevertheless, the voice of consumers and end users such as SMEs lags far behind that of the financial industry; recommends the creation of a European budget line to finance financial market expertise in consumer and SME organisations in order to feed into the FSAP consultation processes;
38. Calls on industry to play its part in consumer protection by producing readily comprehensible and usable products and succinct consumer-friendly information;

Better regulation

39. Is fully committed to the aims of better regulation based on the findings of careful, independent and professionally conducted impact assessments and underlines that such assessments and the policy decisions based on them should not be made solely on the basis of financial aspects but should duly take into account economic, social, societal, environmental, cultural and other aspects of public interest;
40. Notes that one of the priorities of better regulation concerns the legal aspect, namely to implement, enforce and continuously evaluate the existing legislation and to apply rigorously the better regulation agenda to future initiatives;
41. Takes the view that consultations with stakeholders – in particular, as far as financial services are concerned, the IIMG – should continue to play a key role and stresses that

such consultations should be held sufficiently upstream of the decision-making process so that opinions can genuinely be taken into account; calls on the Commission to continue to publish the replies to its consultations in order to ensure that the process is transparent;

42. Notes that under the agreement on better law-making, any new Commission proposal should give rise to an impact assessment on the important issues; regrets that up to now that commitment has not been fulfilled in a satisfactory manner and stresses that impact assessments should nevertheless not bring law-making to a standstill; reaffirms Parliament's commitment to better regulation and to conducting impact assessments when making substantive changes to legislative proposals;
43. Points out that the choice of appropriate instrument, i.e. a directive or regulation, is not neutral; calls for a debate to be launched on the basis of the work of the IIMG;
44. Welcomes the recent comitology agreement and is committed to the adaptation of the involved instruments in the financial services field; recommends similarly modifying the pre-Lamfalussy instruments; insists that Parliament should be allowed observers in the Level 2 (L2) committees; notes the need to build well-established interinstitutional working methods through practice more than written rules or formal agreements and that, in this respect, the elaboration of Level 2 implementing measures for MiFID could serve as a useful example;
45. Is committed to fast-track legislative procedures where possible, if they have proved their worth in practice, but warns that aiming for first reading agreements should not hamper the quality of decision-making or impinge on the democratic process; suggests an evaluation of these processes and an elaboration of rules of procedure to guarantee collective responsibility, transparency and democratic control;
46. Considers that a variety of information requirements and/or duplicate existing provisions results in unnecessary costs and an excessive administrative burden and may also have adverse consequences in terms of legal certainty and therefore market integrity; stresses that there is a case for obtaining further benefits by streamlining, simplifying and, when necessary, repealing inefficient existing provisions;
47. Believes that the FSAP has contributed to filling many regulatory gaps in the area of financial services; is convinced, however, that further coordination with competition rule enforcement could have a multiplicative effect on the overall functioning and efficiency of the regulatory framework; points out that new legislation should ensure a fair and competitive environment in line with competition policy;

Systemic risks

48. Takes note of a range of new developments, which present both potential strengths and possible concerns including innovative risk mitigation techniques, the substantial growth of credit derivatives markets, the increased systemic importance of large pan-European financial groups, and the growing role of non-bank financial institutions such as hedge funds and private equity;

49. Points out that those market changes also affect the nature, source and transfer of systemic risk, and thus the effectiveness of existing ex-ante risk mitigation tools; thus calls for evidence-based identification and evaluation of the sources of systemic risks and the underlying dynamics of financial crises in this context;
50. Is concerned that the current nationally and sectorally based supervisory framework may potentially fail to keep pace with the financial market dynamics and stresses that it must be sufficiently well resourced and coordinated to give adequate and quick responses in cases of major systemic crises that affect more than one Member State;
51. Appreciates the decision of the Economic and Financial Affairs Council to initiate a crisis exercise to test the appropriateness of the reaction of the prudential supervisors, the finance ministers and the central banks, and encourages the joint working group set up as a follow-up, to draw courageous conclusions, even in the event that they are politically sensitive;
52. Welcomes the recent report from the European Commission evaluating Directive 2002/47/EC¹ on financial collateral arrangements (FCD); notes the Commission's comments on the importance of close-out netting for reduction of credit risk and increasing efficiency in financial markets as well as more efficient allocation of regulatory capital, and encourages the Commission to formulate a proposal for improving the consistency of the *acquis* in relation to various Community instruments, including the FCD, which contains provisions on netting and set-off, possibly by developing a single instrument setting out a set of common fundamental principles for each national legal regime for close-out netting;

Architecture of regulation and supervision

53. Welcomes the work performed by the European committees of regulators (the CESR, the Committee of European Banking Supervisors (CEBS), and the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS)) in consulting the markets, advising the Council and Commission Level 2 committees, and above all in progressing with convergence of regulatory and supervisory practices, without, however, overstepping their remit or attempting to replace the legislators; is convinced that that effort must be encouraged and those committees be adequately employed and resourced for the task which they have undertaken;
54. Urges the three Level 3 committees to improve cross-sectoral consistency in prudential regulation and group supervision rules for large financial groups dealing with the same or similar products, and, following stakeholder consultation and due procedure give advice to the legislators as to where it is necessary to review the rules; urges them also to ensure that all financial institutions are equally supervised on a functional basis in all Member States;
55. Calls on the Level 2 and Level 3 committees to contain national discretion and gold-plating in line with the basic Level 1 legislation, but take into account national

¹ OJ L 168, 27.6.2002, p. 43.

peculiarities and in particular the structural features of individual markets; suggests in the context of the work of the IIMG, a review of whether it may be helpful if Level 3 committees could operate increasingly on the basis of decision-making by some form of qualified majority voting where its principles still have to be defined; suggests that Level 3 committees be given an annual mandate by Parliament and the Council to come up with concrete plans for cooperation and implementation of agreed measures, possibly drawing on EU budgetary resources; recommends that Lamfalussy Level-2 and Level-3 committees' respective powers and mandates be defined more precisely in order to reflect the need to progress towards a greater convergence of their practices and to let them take, within the remit of their activities, binding decisions *vis à vis* their members, and that the consultation process with industry gets more input from small and medium-sized enterprises and investors;

56. Underlines the importance of an integrated European system of cooperating national and sectoral supervisors, capable of securing the efficient supervision of both big financial players and local entities rooted in national traditions; emphasises that all supervisors must take due account of those traditions in the way they execute their conduct of business supervision on-the-spot; welcomes the increasing cooperation of the Level-3 committees CEBS, CESR and CEIOPS and the fact that they now publish joint annual working programmes;
57. Notes that for effective oversight of the systemic and prudential risks of the top market players, the present system of cooperation may need to be strengthened on the basis of the system of cooperation that exists among supervisors, and encourages greater coordination in particular with respect to prudential risk supervision of multi-jurisdictional and cross-sectoral entities and financial conglomerates; encourages agreements and codes of conduct between Member States and central banks on the financial backing of this system of prudential supervision, with respect to bail-out and lender-of-last-resort obligations where several Member States and more supervisors are involved; notes that, to judge whether the present system provides for a real oversight of the systemic and prudential risks of the top players in the market, it is necessary to give the relatively new Level 2 and Level 3 arrangements time to bed down;
58. Understands why Member States wish to give new arrangements time to be implemented and tested before considering any further moves towards convergence; points out that, if progress is not made in this direction, pressure for consideration of a centralised supervisory arrangement may be increased; therefore advocates that, in these circumstances, closer convergence in supervision and cooperation between home and host supervisors within the existing structures become matters of particular significance;
59. Welcomes the cooperation among national supervisory authorities aimed at putting supervisory resources to better use, developing supervisory practice, and lightening the burden that supervision imposes on the market; is positive about colleges of supervisors dealing with multi-jurisdictional financial conglomerates and about the operational networking project that CEBS has recently initiated; calls on the colleges of supervisors to foster a common European supervisory culture and determine exactly where the limits of such voluntary cooperation lie when real crisis situations appear; notes, however, that these colleges lack the national mandates to transfer competences, to accept majority

decisions, or simply to put sufficient resources and expertise into the colleges' work; thus points out the necessity of defining a framework and national mandates for cooperation and expects the colleges of supervisors and the operational networking project to provide necessary practical solutions (memoranda of understanding) for the supervision of cross-border groups within a short time frame;

60. Emphasises that home-host supervisory cooperation is the most significant building-block in the set-up of the single financial market; notes in particular that in the field of the supervisory approval process for mergers and acquisitions there is much to do to facilitate the creation of efficiently functioning financial conglomerates with wider economies of scale; maintains that the banking market landscape of the country where the acquired financial entity is domiciled must be taken into due consideration;
61. Considers that a more precise allocation of roles is desirable between the Council, the Commission, and the Level 3 committees; considers also that for strong supervision (particularly where there is a clear link to competition issues) a high level of independence and neutrality is required, which cannot be well combined with an overly political profile; emphasises that Member States should be encouraged to converge the powers of national supervisors, especially where penalties are concerned; considers that greater convergence among supervisors should facilitate the business of companies now subject to more than one regulator; highlights that the biggest challenge in terms of practical cooperation reside in the Level 3 committees; suggests the creation of training programmes for financial market supervisors to this effect and calls on the Commission to consider to what extent EU-wide standards could be laid down for the training of national supervisors in keeping with, and to promote, a common European supervision culture;
62. Welcomes the decision of the Economic and Financial Affairs Council to set up an Financial Services Committee subgroup on long-term supervisory issues, which is due to report in October 2007; expects that group to give a fair assessment of the present situation; together with the final report of the Inter-institutional Monitoring Group (IIMG) that is also expected in autumn 2007, the report of the European Parliament and the expected follow-up report of the European Commission this may create momentum for an assessment of the remaining challenges to the integration and effectiveness of the financial regulation and supervision architecture, and provide commitment for possible recommendations for further steps;
63. Firmly believes that convergence of supervision practices could encourage the emergence of a European retail financial market;
64. Invites the IIMG to take a broad perspective on the challenges and opportunities facing the European system of supervision and to contribute to a further forward-looking debate in its final conclusions;

Global impact

65. Believes that a greater counterbalance by the European Union to US leadership could reinforce the influence of the European Union and Member States globally as regards the

authority of the US Securities and Exchange Commission; is convinced that the funding model and accountability framework of self-regulatory bodies such as the International Accounting Standards Board, should be clarified; hopes that it will also be possible to bring the International Monetary Fund back on track as a real global monetary authority and actor to prevent crises, guarantee financial stability, and restore global imbalances;

66. Believes that the transatlantic partnership should be developed and strengthened by enhancing regulatory coordination; highlights the importance of the implementation of Basel II by the US authorities as well as mutual recognition of EU and US accounting standards and calls for more democratically controlled cooperation between the European Union and the United States in monitoring the sector-specific work of regulators of alternative investment vehicles such as hedge funds, including with the International Organization of Securities Commissions and the competent authorities in markets where such funds are common and as part of the EU-US dialogue; supports the German Council Presidency's Transatlantic Economic Partnership initiative, which is aimed at fostering transatlantic regulatory coordination and averting needless overlapping, and possibly even inconsistencies, in the rules applying to financial market players;
67. Believes that comparable regulatory responses in the main financial marketplaces are appropriate in the face of some new global challenges and risks; is aware that Community regulation has an impact on relations with third countries; urges the Commission to maintain intense dialogue and technical cooperation between the European Union and developing countries for ensuring efficiency and quality of global legal and regulatory financial services frameworks;
68. Points to the leading role of the European Union in the current work on the Solvency II framework and expects that role to influence the global regulatory architecture and the standard-setting activities of the International Association of Insurance Supervisors;
69. Believes that the European Union should take a constructive, open-minded attitude to the economic rise of south-east Asia, and especially of India, China, and South Korea, and refrain from imposing any protectionist measures at Community or national level; supports initiatives to devise common global standards for financial services such as, for example, the annual meetings of the EU-China Round Table on Financial Services and Regulation;

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70. Instructs its President to forward this resolution to the Council, the Commission, the European Central Bank, the Committee of European Securities Regulators, the Committee of European Banking Supervisors, and the Committee of European Insurance and Occupational Pensions Supervisors.

EXPLANATORY STATEMENT

The Financial Services Action Plan has contributed to delivering an integrated and well functioning European capital market that is taking the lead in the world not least because of the quality and solidity of its regulations. The question is now: who is profiting from this success? Are end users profiting to the same extent as the large multinational players that strengthened their international position in a consolidation that led to pretty dominant positions in the top of the financial markets?

Consolidation at the top of the market is strong, with 30 - 40 major cross border financial players and a high concentration in several member states. Merger and acquisition activity have been high and national markets in new member states are dominated by foreign players. The borders between the sectors are becoming increasingly blurred, with the aid of directives such as MIFID, which has led to initiatives such as project Turquoise in the area of alternative trading platforms, and the CRD and Solvency 2 which offer the possibility of convergence of banking and insurance activity through advanced risk management systems.

The high level of consolidation may lead to issues of competition law and market failure. Can a big listed company (listed on one of the bigger stock exchanges fully involved in such a consolidation process) survive without a rating of one or more of the 3 major rating agencies, without the services of top investment banks accompanying a major acquisition or merger, or without one of the 4 big audit firms for their financial statements?

What happens behind and between the Chinese walls of the City of London and other financial centres? Is there sufficient competition at the top end of the market? That is a first question raised in this report, leading up to suggestions for more in depth economic impact studies and DG Competition sector inquiries, where possible in cooperation with authorities in the US and elsewhere in the world.

Another important topical phenomenon is the rapid rise of the alternative investment business, often based in exotic places outside the EU. Do private equity firms and hedge funds bring the real economy the desired investments in innovation, in sustainable growth, in a higher quality of jobs and social cohesion? Or have they brought a much higher leverage on companies' debt burdens, degrading of their bonds' status, and higher complexity and interdependency of risks involved in complex financial products like credit risk derivatives? Are hedging techniques that diminish the risks for individual investors, also able to spread and diminish risks at the macro level or do they only lead to herd behaviour?

Commissioner McCreevy so far seems only to promote these alternative investors as providers of liquidity and as activist shareholders. His main concern is to take away barriers for private placement and he resists any discussion about further regulation. Prudential supervisors, Central Banks and the ECB, like their counterparts in the USA are becoming more aware of the financial stability and systemic risks involved. Some inquiries have started on market manipulation and insider dealing. The increasing leverage and debt ratios imposed on companies, the growing risks for underwriting banks, and the increasingly complex architecture of financial techniques meant to diversify and spread risks (such as credit risk

derivatives) have led to warnings and investigations. The obverse of greater diversification and liquidity is a greater interdependency between investments and risks, which in case of a major default might lead to unforeseen domino effects in the whole global financial market. Besides individual screening and monitoring of the regulated parts of the system, and better registering and monitoring of the unregulated parts, an overall macro-prudential assessment of systemic and operational risks is what is needed in cooperation between all supervisors and political actors.

A third theme of the report is the much lower degree of integration in the retail financial markets. The answer to the persistent prevalence of traditional domestic structures of retail financing is not simply to open up the national markets by forcing acceptance of foreign products and sales methods on the basis of supervisory and consumer protection regimes of their country of origin. Traditions of consumer protection and conduct of business supervision are firmly rooted in the context of the different legal and social-economic systems and should not be simply overhauled into a one-size-fits-all harmonisation. Focus here should be more on the concrete cross border demands of mobile users than on ambitions to promote cross border shopping amongst domestic users to create more competition and more choice. The rapporteur rather likes to see financial industry developing pilots for pan-European financial products, such as pensions, mortgages or specific insurance products. An appropriate framework of supervision, contractual law and consumer protection should be developed for these products to be portable across borders within the EU, mutually recognised by all involved regulators.

The demand for micro credit from self employed and previously informal sector individuals that endeavour to start their own business is only recently acknowledged and reluctantly met by traditional credit providers. Your rapporteur suggests that, based on best practices in terms of legal and regulatory environment in and outside Europe, the Commission should present an action plan for micro financing.

In this chapter also the sustainable financing of further demographic imbalances via funded pension systems is mentioned. Besides first pillar pay-as-you-go income provision for pensioners, second pillar occupational pensions have a role to play. The big challenge is to make them accessible not just for the happy few. Particularly solidarity based 2nd pillar DB systems should be developed further and not counteracted and endangered by regulations or provisions that tend to lead to qualitatively deteriorated (DC) systems that put all the investment risks on the individual participant. For prudential supervision the specific IORP directive should be distinguished from the overall Solvency II approach.

Access to basic services is another major issue. A bank account, access to cash machines, card or other safe payment systems, the possibility to make financial transfers at low cost, to save or to borrow money, these are basic needs that should be available for every citizen. This is not evident everywhere though. A low income, previous registration of indebtedness, living in the wrong neighbourhood or even having the wrong name, is denying large numbers of European citizens' acceptance as a bank client and excluding them from the use of basic financial services. The Commission is asked to initiate a European study to assess the accessibility to basic financial services and to consider whether and in how far it is desirable and feasible to enforce universal service obligations on financial institutions to provide these basis services.

A fourth set of recommendations is devoted to strengthening financial literacy and input of users in the policymaking process. In a financial environment of proliferation of new and complex products and clever sales and marketing techniques, it is not enough to simply state that consumers are better off with more choice. Besides transparency requirements and protective frameworks, and also promotion of financial knowledge and education of consumers is a public responsibility. The OECD recommended in 2005 to increase efforts for financial education and capability. Recent studies show an uncomfortable picture, in which one of the striking evidences is that younger generations perform even worse than their parents. It is evident that increasing financial capability and improving financial education via specific programmes and websites, but also as an integral part of basic school education is a must, although it should not be seen as a replacement of prudent protection and supervision.

Compared to the huge input of financial service providers into the preparation of legislation and policymaking at European level, the voice of consumers and users such as SMEs is practically absent. In 2004 the Commission established FIN-USE, in which 14 independent experts provide input at an individual basis into the many financial markets dossiers that DG Market is working at. Its relevance and effectiveness will be evaluated this spring. Besides this academic forum in summer 2006 a Financial Services Consumer Group was set up, which – as a subgroup of DG SANCO's dialogue with consumers – intends to have stronger relations with the organisations of consumers. Our own experience in the EP shows that in lobbies on the different FSAP dossiers the input of consumers and end users is heavily underrepresented. The rapporteur recommends the Commission to consider facilitating and financing experts clearly linked or even assigned to European organisations of consumers and users of financial market products and services that will be able to keep track with all the consultative and regulatory activities in the FSAP field.

In the institutional sphere the rapporteur reiterates the line followed by the EP's Economic and Monetary Affairs Committee focused on better regulation by a.o. thorough impact assessments and consistent implementation and enforcement. The comitology agreement is endorsed and the demand for EP observers in the level 2 committees is repeated.

Ample attention is devoted to the architecture of regulation and supervision. The rapporteur warns that the current fragmented supervisory framework may not be able to keep up pace with the dynamics of the financial markets, particularly in overseeing complex new products and their interactions and effects at macro level. While the present system can be considered to be able to secure efficient conduct of business supervision in the context of national traditions and practices of supervision on the spot, the rapporteur makes the case for a system of supervision based on the existing domestic structures and traditions of supervision and enforcement, that includes also a well equipped European level executive level with a mandate for prudential and systemic risk supervision of the large cross border and cross sector financial conglomerates.

She welcomes the activities of the joint Council ECB working group that draws the lessons of the crisis exercise held in April 2006 and the setting up of a FSC subgroup that will be dealing with the problems in the supervisory architecture for the longer term. The EP proposal for the establishment of a new High Level advisory group of wise persons is reiterated and the interinstitutional monitoring group (IIMG) is encouraged to draw some further lines on the future of the Lamfalussy procedure. In the autumn there will be different reports to assess the

state of affairs and to create the basis for further going steps in the regulatory and supervisory structure. Further progress and success of the FSAP requires a reliable professional well equipped European supervisory structure that is well matched against the 30-ish - or via further consolidation even less - big European level players an that also externally could reinforce European influence on the global rules and their enforcement on players acting on the European markets, but based outside the European Union.

11.4.2007

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS

for the Committee on Economic and Monetary Affairs

on the White Paper on financial services 2005-2010
(2006/2270(INI))

Draftsman: Jean-Paul Gauzès

SUGGESTIONS

The Committee on Legal Affairs calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Welcomes the economic priorities set out in the Commission's White Paper, namely to consolidate the European financial market, remove barriers to the free movement of capital and improve the supervision of financial services;
2. Notes that one of the priorities concerns the legal aspect, i.e. to 'implement, enforce and continuously evaluate the existing legislation and to apply rigorously the better regulation agenda to future initiatives';
3. Takes the view that consultations with stakeholders – in particular, as far as financial services are concerned, the 'Inter-institutional Monitoring Group' – should continue to play a key role and stresses that such consultations should be held sufficiently upstream of the decision-making process so that opinions can genuinely be taken into account; calls on the Commission to continue to publish the replies to its consultations in order to ensure that the process is transparent;
4. Notes that under the agreement on 'better law-making' any new Commission proposal should give rise to an impact assessment on the important issues; regrets that up to now that commitment has not been fulfilled in a satisfactory manner and stresses that impact assessments should nevertheless not bring law-making to a standstill; reaffirms Parliament's commitment to better regulation and to conducting impact assessments when making substantive changes to legislative proposals;
5. Points out that the choice of appropriate instrument, i.e. a directive or regulation, is not

neutral; calls for a debate to be launched on the basis of the work of the Inter-institutional Monitoring Group;

6. Welcomes the Commission's commitment to a coherent interpretation of terminology across Member States; urges the Commission, when drafting new legislation, to ensure compatibility with existing terminology at both European and global levels;
7. Is concerned that the rate of transposition of Community law by the Member States within the prescribed deadline is still low and calls for increased cooperation between supervisory bodies in the Member States;
8. Considers that in cases where ex-post evaluation reveals that certain texts have not produced good results, those texts should be amended or repealed under the legislative procedure.

PROCEDURE

Title	White Paper on financial services 2005-2010	
Procedure number	2006/2270(INI)	
Committee responsible	ECON	
Opinion by Date announced in plenary	JURI	29.11.2006
Enhanced cooperation – date announced in plenary		
Drafts(wo)man Date appointed	Jean-Paul Gauzès	24.10.2006
Previous drafts(wo)man		
Discussed in committee	29.1.2007	11.4.2007
Date adopted	11.4.2007	
Result of final vote	+: 17 –: 0 0: 0	
Members present for the final vote	Marek Aleksander Czarnecki, Bert Doorn, Cristian Dumitrescu, Monica Frassoni, Giuseppe Gargani, Klaus-Heiner Lehne, Hans-Peter Mayer, Hartmut Nassauer, Aloyzas Sakalas, Francesco Enrico Speroni, Gary Titley, Jaroslav Zvěřina, Tadeusz Zwiefka	
Substitute(s) present for the final vote	Sharon Bowles, Jean-Paul Gauzès, Marie Panayotopoulos-Cassiotou, Jacques Toubon	
Substitute(s) under Rule 178(2) present for the final vote		
Comments (available in one language only)	...	

PROCEDURE

Title	Financial services policy (2005-2010) - White Paper
Procedure number	2006/2270(INI)
Committee responsible Date authorisation announced in plenary	ECON 29.11.2006
Committee(s) asked for opinion(s) Date announced in plenary	JURI 29.11.2006
Not delivering opinion(s) Date of decision	
Enhanced cooperation Date announced in plenary	
Rapporteur(s) Date appointed	Ieke van den Burg 13.12.2005
Previous rapporteur(s)	
Discussed in committee	30.1.2007 27.3.2007 8.5.2007
Date adopted	18.6.2007
Result of final vote	+ 31 - 2 0 4
Members present for the final vote	Mariela Velichkova Baeva, Pervenche Berès, Sharon Bowles, Ieke van den Burg, David Casa, Jan Christian Ehler, José Manuel García-Margallo y Marfil, Jean-Paul Gauzès, Gunnar Hökmark, Karsten Friedrich Hoppenstedt, Sophia in 't Veld, Othmar Karas, Piia-Noora Kauppi, Wolf Klinz, Christoph Konrad, Kurt Joachim Lauk, Andrea Losco, Astrid Lulling, Cristobal Montoro Romero, Joseph Muscat, Lapo Pistelli, Joop Post, John Purvis, Alexander Radwan, Bernhard Rapkay, Heide Rühle, Eoin Ryan, Antolín Sánchez Presedo, Margarita Starkevičiūtė, Ivo Strejček, Sahra Wagenknecht
Substitute(s) present for the final vote	Katerina Batzeli, Werner Langen, Vladimír Maňka, Donato Tommaso Veraldi, Kristian Vigenin
Substitute(s) under Rule 178(2) present for the final vote	Wolfgang Bulfon
Date tabled	27.6.2007
Comments (available in one language only)	