

Financial markets

European Parliament resolution on the current state of integration of EU financial markets (2005/2026(INI))

The European Parliament,

- having regard to the implementation of the Financial Services Action Plan (FSAP) (COM(1999)0232) adopted by the Commission, in particular Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading¹, Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse)², Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments³ and 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 market⁴,
- having regard to Directives 2001/107/EC⁵ and 2001/108/EC⁶ of the European Parliament and of the Council of 21 January 2002 amending Council Directive 85/611/EEC on undertakings for collective investment in transferable securities (UCITS)⁷,
- having regard to the Inter-Institutional Monitoring Group's third Report monitoring the Lamfalussy Process,
- having regard to the four reports by four independent groups of experts on the state of financial integration in the banking, insurance, securities and asset management sectors published by the Commission in May 2004 and the financial markets participants' comments on these reports,
- having regard to its resolution of 21 November 2002 on prudential supervision rules in the European Union⁸,
- having regard to its resolution of 15 January 2004 on the future of hedge funds and derivatives⁹,

¹ OJ L 345, 31.12.2003, p. 64.

² OJ L 96, 12.4.2003, p. 16.

³ OJ L 145, 30.4.2004, p. 1.

⁴ OJ L 390, 31.12.2004, p. 38.

⁵ OJ L 41, 13.2.2002, p. 20.

⁶ OJ L 41, 13.2.2002, p. 35.

⁷ OJ L 375, 31.12.1985, p. 3.

⁸ OJ C 25 E, 29.1.2004, p. 394.

⁹ OJ C 92 E, 16.4.2004, p. 407.

- having regard to its resolution of 10 February 2004 on the role and methods of rating agencies¹,
 - having regard to the Committee of European Securities Regulators (CESR) report on "which supervisory tools for the EU securities markets", known as the "Himalaya" report,
 - having regard to Rule 45 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A6-0087/2005),
- A. whereas, on 11 May 1999, the Commission adopted the FSAP aiming to increase investment, growth, and competitiveness, improve security and stability and provide transparency and protection for all parties involved,
 - B. whereas cross-border trade, particularly in retail financial products, is still fragmented and hindered by legal and tax barriers, cultural differences and widely differing national laws, especially in the area of consumer protection,
 - C. whereas scope for further legislative or non-legislative action at EU level should be clearly identified and debated, and the impact of such action on stakeholders, the rules in force and, in particular, completion of the internal market should be fully assessed in consultation with all relevant stakeholders; whereas the principles of better regulation should be followed and cost-benefit analyses should be conducted,
 - D. whereas the regulatory and supervisory environment should provide a framework which contributes to the realisation of a single financial services market in which companies can operate efficiently and effectively; such a framework should be applied and enforced consistently irrespective of the Member State in which business is being conducted,
 - E. whereas the Lamfalussy process aims at ensuring a high degree of quality and flexibility of legislation, consistency of implementation and supervision, institutional transparency and high standards of consultation; whereas the achievement of these objectives, the political and democratic accountability of the overall process and the involvement of non-legislative stakeholders, should be carefully assessed,

A. General perspectives

1. Notes that the FSAP is considered a success in legislative procedural terms, with 39 out of 42 measures having already been adopted; notes, however, that it is too early to pass a definitive judgement, given that many implementing measures have not yet been adopted, implementation deadlines have not yet expired and national transposition has not yet taken place; suggests that the Commission conduct a full and public evaluation of the current FSAP as regards its efficacy when transposition is completed;

¹ OJ C 97 E, 22.4.2004, p. 117.

2. Emphasises the fact that efficient transposition and enforcement, as well as increased convergence of national supervisory practices, will be the key to the FSAP's success; urges the European Institutions to ensure that the Lamfalussy process works effectively at each level, notably that level-3 committees perform their roles and that, by means of level-4 enforcement procedures, accurate and timely transposition of EU rules into national legislation is secured;
3. Recommends that greater political attention be given to the implementation and application of existing legislation; intends to organise on a systematic basis dialogues at the level of its competent committee with all relevant players, so as to ensure democratic scrutiny of the implementation process;
4. Recalls that recognition of its right to challenge implementing measures at level 2 and provisions to that effect in the EC Treaty were a precondition for the European Parliament's support of the Lamfalussy process and its extension to the banking, insurance, pension funds and UCITS sectors and the sunset clauses in the various directives;
5. Believes that the principles of better regulation, as set out in the Commission's 2002 Better Regulation Action Plan (COM(2002)0278), should be followed; in particular any future measures, which should be targeted at correcting specific market failures, should include a cost-benefit analysis of non-legislative options for addressing such failures;
6. Believes that consultation of all interested parties is very important for the development of appropriate legislation and calls on the Commission to extend this to include a formal dialogue with representatives of associations of both financial providers and consumers, including small shareholders' associations, the social partners and SMEs;
7. Regrets the lack of input from consumers and users with regard to financial services legislation; asks the Commission and the Member States to promote and support consumer awareness programmes and education initiatives and the creation of specialised consumer initiatives in the financial sector; recalls the importance of the consultative process led by the CESR and involving representatives of consumers' associations, and urges those stakeholders to take an active part and give their valuable input into the decision-making process;
8. Believes that policy and legislation aimed at financial integration should be based on key principles and objectives of the type recommended by the Lamfalussy report and the Securities Experts Group report, including those to the effect that legislation should: maintain confidence in EU markets and high levels of prudential supervision; contribute to systemic stability; ensure appropriate levels of consumer protection proportionate to the different degrees of risk involved; respect the subsidiarity and proportionality principles; promote competition; ensure that regulation is efficient and encourages, not discourages, innovation; take account of the European and wider international dimension of markets; be evidence based and subject to regulatory impact analysis; encourage non-legislative solutions; be based on thorough consultation and a reasoned assessment of responses to such consultation; maintain the international competitiveness of European markets; and be effectively implemented and enforced at national and EU level;

9. Believes that a global perspective is needed when considering the impact of EU financial services regulation on the competitiveness of EU-based financial firms and centres, taking into account the fact that financial markets are global and require international and not solely EU solutions;

B. Supervisory and regulatory system

10. Notes that the convergence of the supervisory practices of Member State authorities is key for efficient cross-border operations; considers that cooperation and mutual trust between supervisory authorities is crucial, and urges those authorities to strengthen their cooperation;
11. Points to the importance of coordinating transposition by the Member States so as to prevent the benefits of harmonisation being lost at the transposition stage; supports the Commission's initiative of organising informal working meetings on this subject for the Member States and proposes that a representative of its appropriate committee be involved in the process; asks to receive reports on the outcome of the meetings to enable it to exercise its prerogatives more effectively, as laid down in the Lamfalussy procedure;
12. Welcomes the so-called 'Himalaya' report brought forward for consultation by the CESR, and agrees with its core recommendations notably on the need for convergence of supervisory powers, responsibilities and practices, subject to parliamentary control; recommends a benchmarking and monitoring role for the CESR, the Committee of European Banking Supervisors (CEBS) and the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS), building on the current supervisory framework, close cooperation between them and, above all, appropriate action by Member States to adapt working methods and increase where necessary the resources of the national supervisory systems;
13. Is aware that convergence of regulatory powers and sanction systems is more complicated to achieve than supervisory convergence, owing to differing national traditions and legal systems; nevertheless, asks the Commission, together with the Financial Services Committee and the CESR, CEBS and CEIOPS, to clearly identify where this diversity might lead to problems and might undermine the implementation of the FSAP measures;
14. Calls, so as to guarantee democratic accountability and enable Parliament to exercise its prerogatives to the full under the Lamfalussy procedure, for the regulators' committees responsible not just for securities, but also for banking and insurance to be heard twice a year by the appropriate committee of Parliament in order to report on their activities; calls also for that committee to be made an official recipient of the letters and all other documents which the regulators' committees send to the Commission and the Council;
15. Favours a step-by-step, voluntary, bottom-up approach to standardise and secure the convergence of practices with a view to possibly drawing up a set of European standards which would provide greater transparency and security for market participants throughout the European Union;

16. Notes that European financial markets are very dynamic and that notably the concentration of European stock exchanges and further consolidation of major European banks and financial conglomerates require a European response that provides adequate, efficient and coordinated supervision; warns that problems could arise for the efficient operation of the market in financial instruments if such coordinated supervision were lacking; notes again, in that connection, the challenge of establishing an integrated European supervision system that reflects the need for each and every Member State to be able to assume its responsibility, in accordance with the principle of mutual recognition, for safeguarding the interests of their companies and citizens wherever they are based;
17. Urges the European institutions to encourage convergence by continuously assessing whether the level of cooperation between supervisory authorities is sufficient or whether, in due course, consideration may have to be given to developing some form of integrated supervision at European level, including among the options the possibility of a two-tier system of supervision at European level for large cross-border players, without distorting the level playing field for cross-border and local players;
18. Considers important and positive the concept of the "lead" or "consolidating" supervisor, with cross-border powers, as set out in the Capital Requirement Directive proposal (COM(2004)0486); advocates the drawing up of adequate guidelines or, in due course where necessary, rules for the transfer of decision-making powers between supervisors, the resolution of conflicts and for last-resort decision-taking; notes that mediation by the CESR, CEBS or CEIOPS, in the cases for which each is responsible, could be a way forward; asks the Commission to consider the possibility of drawing up proposals to allow the European Community committees to perform those roles;
19. Whilst acknowledging the need for national supervisors to be able to organise themselves in the discharge of the powers that have been conferred on them by Community Directives and Regulations as well as by their national laws, attaches the utmost importance to guaranteeing the political accountability of the supervisory system at European and national level; notes the gaps in parliamentary scrutiny and democratic control particularly with respect to work undertaken at Level 3, because of a transfer of competences to the European level or initiatives by supervisors in their European coordination structures that might have a significant impact on the single market; urges all Level-3 committees to pay the utmost attention to providing a sound legal basis for their actions, avoiding dealing with political questions and preventing any prejudice to upcoming Community law; intends to organise at the level of its competent committee on a regular and formalised basis hearings with experts and debates with the Commission, the European Central Bank, the CESR, CEBS and CEIOPS;
20. Is also concerned to ensure political and democratic accountability where other regulatory bodies such as the International Accounting Standards Board, the International Auditing and Assurance Standards Board (IAASB), or the Financial Action Task Force (FATF) deal with 'technical measures' that may have an impact beyond the technical level and touch on major policy principles that should be decided at the political level; proposes a continuous inter-institutional dialogue with the relevant existing bodies in the form of a working group, for establishing procedures for the decision-making process at European level in cases where the EU will be bound to such external measures; believes that, whatever the procedure selected, it must include the

European Parliament and the Council, which must be allowed to reject standards contrary to the European interest;

21. Underlines the importance of building up and maintaining close relations with the relevant counterparts in the USA and other important global financial markets; urges the Commission and the CESR, CEBS and CEIOPS to closely coordinate their contacts with the respective political and supervisory authorities and to inform and update its competent committee on these contacts and to maintain a dialogue on these contacts with all stakeholders in the EU; intends to intensify its competent committee's contacts with its parliamentary counterparts in the US Congress and elsewhere;

C. Follow up of the FSAP

22. Notes that, apart from the legislative initiatives still in the pipeline, such as those on Capital Requirements for credit institutions and investment firms, Reinsurance, Solvency II, Statutory Audit, Money Laundering, the Legal framework for Payments, Clearing and Settlement, and action in the area of corporate governance and company law, together with the significant number of level-2 measures being prepared, the Commission should only bring forward targeted and carefully argued and assessed proposals, accompanied by an impact analysis and a justification for the choice of either legislative or non-legislative means to achieve the intended objectives;
23. Notes the existence of overlapping directives, which might lead to contradictory and duplicate requirements; is in favour of a functional risk-based approach for (future) legislation that provides a level playing field for similar products provided by different issuers; asks the Commission to make use of the existing review clauses provided for in the relevant Community Directives to assess, and if necessary recast, the present set of instruments in that perspective, particularly where there is a risk of distortions of competition and/or legal vacuums or even non-compliance; calls on the Commission, when assessing the FSAP or drawing up its future proposals, to ensure that the horizontal directives in this field are consistent with those governing consumer protection; further asks the Commission to prioritise amendment or removal of any legislation that is detrimental to the smooth functioning of European financial markets;
24. Suggests an approach to legislation that ensures fair competition between a variety of providers, and their business models, structures, distribution channels, and diversified products;
25. Urges the Commission to consider, in the context of its ongoing analysis of asset management in Europe and the blurred dividing lines between different types of asset management, the need for an overall horizontal regulatory approach for asset management, not in a new, separate pillar, but potentially covering and harmonising the relevant aspects in the markets in financial instruments, UCITS, Institutions for occupational retirement provision and life insurance Directives, in order to achieve a properly functioning, truly integrated, safe and globally competitive single market in asset management;
26. Asks the Commission for an assessment of the many national schemes for venture capital, notably for innovative start-ups and micro credits; supports the capital requirement directive proposal to give such schemes preferential treatment; calls for the

development of the relevant promotional, supervisory and anti-discriminatory measures for cross-border capital-raising from sophisticated investors and investment by venture capital funds;

27. Notes that private equity is currently booming and asks the Commission to monitor this development with a view to encouraging its contribution to innovation and growth in the economy while also assessing the risks for inexperienced investors and improving transparency requirements;
28. Asks for an analysis of those corporate structures that have been shown to present major financial or systemic risks and for particular attention to be paid to offshore constructions (including any that make use of special purpose vehicles in inappropriate roles or circumstances);
29. Emphasises the role of competition policy in monitoring and improving the performance of the financial markets in the European Union; urges the Commissioners and the Directorates involved to cooperate closely and to be more proactive in relation to the possible concentration of European stock exchanges;
30. Urges the Commission to tackle any significant remaining barriers to the cross-border supply of financial services within the EU as e.g. identified by the Giovannini reports, and, while taking into account the competence of Member States in this area, to examine ways to eliminate discriminatory and anti-competitive tax barriers;
31. Encourages the Member States to make progress with the implementation of the IORP Directive¹ and to create an integrated internal market for supplementary pension fund investments, so as to increase the opportunities and alternatives for savers and to provide them with a maximum return on their investments, bearing in mind the key role which such schemes play in integrating, and guaranteeing efficiency and liquidity on, the European markets, and their growing importance to the sustainability of social security systems in view of the fact that the Union's population is ageing;
32. Asks the Commission to respond to the own-initiative reports adopted by the European Parliament during the previous parliamentary term; notes with interest the efforts of the International Organisation of Securities Commissions and the CESR to improve transparency and governance of credit rating agencies, and suggests that the Commission, with a view to establishing a EU recognition scheme for External Credit Assessment Institutions under Article 81 of the draft capital requirements directive, assess their situation regarding competition and potential conflicts of interest; calls on the Commission to communicate its findings in this area to the European Parliament;
33. Notes the growth in the volume of assets managed through hedge funds and other collective savings products falling outside the scope of the UCITS directive; notes the initiatives of the US Securities and Exchange Commission to register hedge fund managers and/or advisers, and urges the Commission to consider whether there is a need for action in the EU;

¹ Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision (OJ L 235, 23.9.2003, p.10).

34. Notes the crucial importance of reforming and streamlining accounting and auditing standards; emphasises the need for ethical and responsible behaviour not only of auditors but also of investment banks, law firms and others involved in advising companies on financial management and accounting practices; looks forward to the Action Plan for Corporate Governance (COM(2003)0284) being developed further; welcomes the convergence of national codes of corporate governance based on the "comply or explain" principle; welcomes the establishment of the European Corporate Governance Forum;
35. Requests that the Commission provide a comprehensive study of retail financial services with a special emphasis on banking services in the various Member States which identifies the major barriers to competition and further integration, including cultural or social differences; recognises that a low level of cross-border activity does not imply a lack of competition in national retail markets; also recognises the importance of freedom of establishment in enabling market participants to be highly active in many different national markets for retail services, even where cross-border trade is limited;
36. Considers that Member States have long and diverse traditions in consumer protection; notes that the call from part of the financial services industry is for minimum harmonisation, whereas certain practitioners, notably the banking industry, advocate targeted harmonisation in order to achieve a true level playing field; therefore, urges the Commission to organise a discussion about the fundamental structure of the EU financial services market, bearing in mind consumer and practitioner interests and European global competitiveness;
37. Notes that the development of Internet and e-banking may increase the demand for cross-border financial products; asks the Commission to assess the implementation and effectiveness of the Financial Services Distance Marketing Directive¹;
38. Notes that, despite low current demand for cross-border financial services, there is substantial demand from certain groups of internationally mobile consumers, such as cross-border commuters and expatriates, for financial service products with which they are familiar; considers that, for such groups and such a purpose, opt-in "pan-European" schemes, under a uniform 26th European regime (similar to e.g. the European Company Statute) may offer a voluntary option; asks the Commission to assess and analyse the feasibility of such schemes;
39. Is aware that, for other consumer groups, the potential benefits of the single market in financial services depend on the activities of foreign and domestic operators in consumers' home markets; notes that increased competition should not lead to financial exclusion of customers; concludes that basic financial services should remain available and affordable to every European citizen; asks the Commission for an assessment of the situation in the Member States;

◦
◦ ◦

¹ Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services (OJ L 271, 9.10.2002, p.16).

40. Instructs its President to forward this resolution to the Council and the Commission.