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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),
- 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 Settlement⁶ of 7 November 2006 and the Euro system proposal to develop a settlement system for securities transactions in central bank money (Target 2 Securities),
- having regard to Commission proposal of a Directive 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 monitoring the Lamfalussy Process, issued on 26 January 2007,

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.

⁶ http://ec.europa.eu/internal_market/financial-markets/docs/code/code_en.pdf.

- 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 28 April 2005 on the current state of integration of EU financial markets¹ and 4 July 2006 on consolidation in the financial services industry²,
 - having regard to Rule 45 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A6-0000/2007),
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;
 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 three committees continuously to improve the consistency of its application;
 3. Would welcome a more in-depth examination of the economic effects of the FSAP measures in the light of the Lisbon Agenda Strategy; asks the Commission to commission such studies together with its annual progress reports and implementation monitors;

Market concentration

4. Notes a high market concentration in the top segment of financial services for large listed companies, notably audit firms, credit rating agencies (CRAs) and investment banks; urges the Commission and national competition authorities carefully to enforce the EC competition rules; emphasises the need for accessible complaint and redress procedures; and asks the Commission to take due account of the users' perspective;
5. stresses the need among CRAs for transparency of fees and the separation of rating and consulting activities and related costs; emphasises that CRAs play a public role in, for example, the CRD and that they should thus meet high standards of accessibility, quality and reliability; urges the Securities and Exchange Commission (SEC) and the CESR closely to monitor CRAs on the basis of the code of conduct of the International Organization of Securities Commissions and to advise whether further regulatory steps are needed;
6. Following the implementation of Directive 2004/39/EC³ on markets in financial instruments (MiFID), anticipates increased competition among trading platforms, but also increased consolidation of the large stock exchanges; believes that strong cross-Atlantic convergence of rules and supervisory practices is needed; emphasises that good governance is imperative and that the influence of users should not be eroded with

¹ OJ C 45 E, 23.2.2006, p. 140.

² P6_TA(2006)0294.

³ OJ L 145, 30.4.2004, p. 1.

changing ownership;

7. While calling for progress in removing the other barriers identified in the 2001 Giovannini Report, strongly reiterates the need to improve the post-trading infrastructure both with a view to price transparency and competition as to the public interest of settlement security; intends closely to scrutinise the developments surrounding the Code of Conduct and the TARGET2-Securities project in this context;
8. Points to the increasing influence of proxy voting intermediaries; asks the Commission closely to monitor the effects of the impending directive on the exercise of voting rights by shareholders of companies (COM(2005)0685), which facilitates proxy voting and to present focused measures against the risks of market dominance, market abuse and conflicts of interest by such intermediaries;
9. Signals that a small number of large investment banks provide services to all top-level issuers and investors, including themselves; strongly welcomes the increased vigilance of supervisors on plain cases of market manipulation, insider dealing or front-running; urges the Commission in cooperation with US regulators to initiate an in-depth sector inquiry to check whether internal codes of conduct and 'Chinese walls' are adequate to achieve an appropriate level of corporate governance and market transparency and to prevent conflicts of interest;

Alternative investment vehicles

10. Is fully aware of the rapid rise of alternative investment vehicles (hedge funds and private equity), that provide liquidity and diversification in the market, but may also give rise to systemic risk, increasingly high levels of leverage and debt ratios for companies, and high levels of exposure of other financial institutions;
11. Regrets that the Commission's studies so far have focused only on barriers to growth of such funds, and not on gaps in disclosure requirements with respect to corporate governance and investment policy, or on the adaptation of rules for the level of leverage and risk management and diversification; asks for a broader and more critical approach;
12. Urges the Commission to assess the quality of supervision in off-shore locations and to step up cooperation; recommends joining the United States in investigating compensatory measures such as taxes on particular financial transactions;

Access to finance in the retail segment

13. Notes that cross-border integration of EU retail financial markets remains scarce; notes that consumers favour physically present institutions over virtual ones, resulting in a predominantly domestic financing structure; warns against simply overhauling the national consumer protection traditions and legal systems by one-size-fits-all harmonisation;
14. Prefers a more focused approach directed to the concrete barriers for mobile cross-border users; encourages the development of pilot pan-European financial products such as pensions, mortgages or insurance products by the financial industry and invites the

Commission to develop an appropriate framework of regulation and supervision, contractual law and consumer protection for such products to be portable and mutually recognised within the European Union;

15. Has taken due note of the sector inquiry into retail banking and payment cards systems that shows several areas for improvement, but warns that opening up existing imperfect systems should not lead to a situation in which a high level of market concentration could create new imperfections and price constraints;
16. Acknowledges the challenge of ageing; emphasises the merits of collective second pillar occupational pensions in addition to proper solidarity-based first-pillar pension schemes, and endorses Directive 2003/41/EC¹ on the activities and supervision of institutions for occupational retirement provision as the specific regulatory framework for pension funds;
17. Notes that too many EU citizens are excluded from basic financial services; 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; encourages envisaging universal service obligations on financial institutions to provide such basic services;
18. Signals the growth of specific financial service providers for migrant groups, which transfer remittances and develop Islamic banking; warns that requirements for these new niche players should be solid but not too restrictive to prevent them from disappearing into a grey zone, where no oversight at all is possible;
19. Welcomes the increasing attention for micro credit provision as a contribution to self-employment and start-ups; asks that the Basel rules be adapted for the purposes of micro-credit portfolios and cap the often excessive costs on small loans; urges the Commission to draw up an action plan for micro financing, making use of best practices in and outside Europe;

Financial literacy and users' input in policymaking

20. Believes that more is involved in the creation of a European integrated financial market than just providing consumers with more choice; underlines that promotion of financial literacy and access to proper information and unbiased investment advice is essential;
21. 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, but also urges them to make it an integral part of basic school education;
22. 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 is lagging 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 the FSAP consultation processes;

¹ OJ L 235, 23.9.2003, p. 10.

Better regulation

23. Is fully committed to the aims of better regulation and professional impact assessments and underlines that assessments should not be restricted to financial aspects but take duly into account social, societal, environmental, cultural and other aspects;
24. Welcomes the comitology agreement and is committed to the adaptation of the involved instruments in the financial field; recommends similarly modifying the pre-Lamfalussy instruments; insists that Parliament should be allowed observers in the level 2 (L2) committees;
25. Is committed to fast-track legislative procedures where possible, 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 transparency and democratic control;

Systemic risks

26. Takes note of 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;
27. Points out that those market changes also change the nature, source and transfer of systemic risk, and thus the effectiveness of existing ex-ante risk mitigation tools; and calls for identification and evaluation of sources of systemic risks and underlying dynamics of financial crises in the context of the changes described;
28. Is concerned that the current fragmented supervisory framework cannot keep pace with the financial market dynamics and may hamper adequate and quick responses in cases of a major systemic crises that affect more than one Member State;
29. 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;

Architecture of regulation and supervision

30. Is impressed by the work performed by the European committees of regulators (the CESR, the Committee of European Banking Supervisors, and the Committee of European Insurance and Occupational Pensions Supervisors) in consulting the markets, advising the Commission and the Council L2 committees, and above all in progressing with convergence of regulatory and supervisory practices;
31. Urges the three level 3 (L3) 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 where necessary give advice to the legislators to review the rules accordingly;
32. Calls on the L2 and L3 committees to restrict national discretion and gold-plating; believes that it may help if L3 committees can also operate increasingly on the basis of decision-making by qualified majority voting;
 33. Underlines the importance of an integrated European system of cooperating supervisors, capable of securing the efficient supervision of both big financial players and local entities rooted in national traditions; emphasises that all parts of that system must take due account of those traditions in the way they execute their conduct of business supervision on-the-spot;
 34. Notes that for a real oversight of the systemic and prudential risks of the top players in the market, the present system of cooperation is too weak, and promotes a well-equipped executive European prudential supervisory authority inside that system endowed with the appropriate competences for supervision of large cross-border and cross-sector financial conglomerates; encourages agreements and codes of conduct between Member States and central banks on the financial backing of such a top structure, with respect to bail-out and lender-of-last-resort obligations;
 35. Is aware that the hesitation in many Member States towards the transfer of competences to lead or home supervisors may also make them reluctant to accept such a superstructure; emphasises, however, that participating in a central system will increase the influence of the smaller regulators compared to the present situation in which they have to rely heavily on a few large national home supervisors;
 36. Is positive about colleges of supervisors dealing with multi-jurisdictional financial conglomerates; notes though 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; is concerned that here also the limits of such voluntary cooperation will become visible when real crisis situations appear;
 37. Considers that a more precise allocation of roles is desirable between the Council, the Commission, and the L3 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;
 38. 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; and reiterates its proposal to establish a new inter-institutional Wise Person group to give impetus to concrete further steps for the integration and effectiveness of the financial regulation and supervision architecture;
 39. Invites the Interinstitutional Monitoring Group not to restrict itself to monitoring the technical process, but to use its expertise to contribute to a further forward-looking debate in its final conclusions in the autumn;

Global impact

40. Believes that a supervisory architecture with a European level top segment could reinforce the influence of the European Union globally and counterbalance US dominance in self-regulatory bodies such as the IAS Board; hopes that it will also be possible to bring the IMF back on track as a real global monetary authority and actor to prevent crises and restore global imbalances;
41. Highlights the importance of the implementation of Basel II by the US authorities as well as mutual recognition of accounting standards by the SEC and calls for more cooperation between the European Union and the United States in supervising highly leveraged investment vehicles such as hedge funds;
42. Points to the leading role of the European Union in the current work on the Solvency II framework and expects this to influence the global regulatory architecture and the standard-setting activities of the International Association of Insurance Supervisors;

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

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 basic 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.