

5.2.1 The Commission's powers are therefore fairly broad and include the right to determine, itself (second indent), the cases in which, and conditions under which, Member States may be required to revoke or amend a decision. The EESC notes that while, in the cases covered by the first and third indents, the Commission is performing its institutional role of coordinating and implementing decisions adopted or endorsed by the Council, in the case of the second indent it is exercising power in an anomalous way, even though, all things considered, this may be justified by circumstances and the EESC is certainly not opposed to it.

Brussels, 5 July 2006.

5.2.2 On a general note, the EESC points out that the decision to carry out controls on operations of all kinds effected by the public — including commercial transactions and customs work — will affect free trade, and that it derives from political decisions, endorsed by the EU and the Member States within their different remits. The Commission, of course, implements these decisions.

5.2.3 The EESC hopes that the customs reform will not upset the necessary balance between free trade and users' and end-consumers' safety and security, and that it will be carried out with due respect for the professionalism of customs staff and importers/exporters' employees.

The President  
of the European Economic and Social Committee  
Anne-Marie SIGMUND

## Opinion of the European Economic and Social Committee on the White Paper on Financial Services Policy 2005-2010

COM(2005) 629 final

(2006/C 309/06)

On 1 December 2005 the Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the *White Paper on Financial Services Policy 2005-2010*

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 31 May 2006. The rapporteur was Mr Iozia.

At its 428th plenary session, held on 5 and 6 July 2006 (meeting of 5 July), the European Economic and Social Committee adopted the following opinion by 152 votes to one with nine abstentions.

### 1. Conclusions and proposals

1.1 The EESC supports the Commission's proposal to devote the next five years to the *dynamic consolidation* of the financial services industry by implementing and strengthening current legislation and by simultaneously avoiding excessive regulatory additions (so-called *gold-plating*), while respecting the spirit of the Lisbon Strategy and the features of the European social model.

1.2 It is essential, not least in the opinion of the EESC, that the role and activities of supervisory authorities be enhanced, thereby optimising coordination as provided for level-3 committees under the Lamfalussy process.

1.2.1 The EESC believes that it would be **premature at this point to establish a single EU supervisory authority** that could, in future, promote market integration, but considers it

would be useful to recommend that European authorities **identify a main supervisory authority**, the one situated in the (home) country of the parent company, which would also be entrusted with the task of supervising the activities of subsidiaries and controlled companies situated in other EU Member States. The advantages that would be gained by European-scale companies and consumers are obvious.

1.3 The growing importance of financial activities in the economy (often referred to as the financialisation of the economy) is underpinned by the improved efficiency of financial transactions. Although the financialisation of the economy is reflected in a significant capacity for economic and job growth in the financial sector, it can also adversely affect the whole economy. The power of stock markets focused on shareholder value can also thwart industrial strategies. Commercial

and financial pressures can lead to problems in the long term and, as is the case at the moment, lead to unplanned takeover bids, a large percentage of which have led to the destruction of value in the short term.

1.3.1 It must be remembered however that, at least in the short- to medium-term, in the wake of consolidation, there are fewer jobs in the financial industry, **which gives rise to growing insecurity among the workforce**. The EESC stresses the need to take account of the social consequences of consolidation and hopes that the Member States would **adopt appropriate social shock absorbers and support professional training and retraining schemes**, which are vital in achieving the objectives of the Lisbon strategy.

1.4 The EESC endorses the objectives of simplification, codification and a commitment towards clarification with a view to achieving 'better regulation' and to this end warmly welcomes the Commission's continued commitment to **frequent and open consultation with all stakeholders**, and to carrying out **impact assessments** prior to every new proposal, including the **social and environmental dimensions** and external factors impacting on the whole economic system.

1.4.1 The EESC calls for work on the FSAP to be given a higher profile and to be more widely debated, not exclusively by experts.

1.5 The EESC welcomes the Commission's proposal to issue a Communication/Recommendation on UCITS, with a view to overcoming current obstacles to the free circulation of these financial instruments.

1.6 It is essential to strengthen consumer information, financial culture and awareness. The Commission's intention, therefore, to launch specific initiatives with European consumer associations, is welcome, but the Commission should deal more actively with the Member States, in order that they can be persuaded to establish more robust ways of involving stakeholders at national level. The EESC is happy to contribute to these initiatives by working in tandem with consumer associations and national ESCs.

1.7 Current supervisory rules, which differ across Member States, force companies to comply with requirements in connection with drawing up balance sheets and providing company information. Adoption of the IFRS could represent the ideal opportunity to standardise these information requirements at EU level. The EESC notes that the IASB, a privately-funded international standards body does not fully reflect the present world economic situation and hopes that it will be willing to cooperate internationally with other bodies, for example the European Commission.

1.8 With regard to the directives on the retail market, the EESC reserves the right to comment specifically on the directive

on consumer credit, which should be approved as soon as possible, and on the directive on payments services, for which it is drawing up a separate opinion. With regard to the directive on mortgage credit, however, the EESC, though supporting the objectives, has expressed well-grounded concerns about the feasibility of early integration of the credits market. Lastly, as regards clearing and settlement arrangements, the EESC would warmly welcome the adoption of a framework directive.

1.9 The Commission has expressed doubts on adopting the so-called '26th regime' in the area of financial services. The EESC takes note of this and declares that it is willing to assess — once they have been laid down — the conditions for effective application, which must always protect the interests of consumers and provide them with genuine value.

1.10 With regard to future initiatives, the EESC has shown:

- the usefulness of action in the area of UCITS, which aims to bring the regulatory standards of unit-linked policies into line with the other financial products;
- the importance of **ensuring access to a bank account**;
- the need to **remove obstacles to the mobility of cross-border bank accounts**.

1.11 The EESC is convinced that European standards regulating financial services are of a very high quality and that the EU can look forward to becoming a point of reference for all the other countries. Europe should open up a dialogue with both newly-industrialised countries (such as India, Brazil and China), as the Commission is suggesting, and less developed countries that need substantial assistance to develop their financial services markets.

1.12 The EESC supports all European and national institutions in their fight against crime and terrorism. Here again, in line with the Commission's emphasis on the need for the financial system to provide full and ongoing cooperation with the competent authorities, the EESC supports and reiterates this call to both the financial institutions and the competent authorities who ought to inform the financial intermediaries of the follow-up given to the information provided.

## 2. Background

2.1 The White Paper on Financial Services Policy 2005-2010 sets out several objectives aimed at the **dynamic consolidation** of the financial services industry, recognising that an efficient financial market is the cornerstone of an economic growth and development strategy. *Dynamic consolidation* is the leitmotiv of the White Paper, which sets the objective of removing the remaining barriers to the free circulation of financial services and capital, notwithstanding the significant progress already made by the 1999-2005 FSAP.

2.2 The key role of regulation for the functioning of financial markets warrants the focus and emphasis given by the White Paper to the need to implement and strengthen existing legislation, **and at the same time avoids excessive regulatory additions** (so-called *gold-plating*), particularly by Member States.

2.3 Analysis of the legal framework must include **consideration of the limits, remit and coordination responsibilities of supervisory authorities within the EU**. While in the current climate, maintaining a national approach to supervision may still remain the best form of consumer and investor protection, it is important to recognise the two significant problems inherent to this approach.

2.3.1 Not integrating supervision at supranational level substantially limits market integration. It is therefore necessary to **promote and strengthen close cooperation between Member State authorities**. Risk management in the major European banks with operations in several Member States, is implemented at group level on a consolidated basis. The supervisory authorities must be in a position to accurately assess the risk profile of these major European groups.

2.3.2 The retention of a substantial national-level element in supervision must not provide an opportunity for raising those barriers against *dynamic consolidation* at EU level whose gradual removal is called for by the White Paper.

### 3. General comments

3.1 In a recent opinion, the EESC set out its views on the *Green Paper on Financial Services Policy (2005-2010)*. As the White Paper incorporates many of the proposals set out there, the EESC reiterates views already put forward and will briefly recapitulate them in this opinion <sup>(1)</sup>.

3.1.1 The White Paper highlights the **economic and employment growth potential of the financial services industry**. The Committee believes, however, that this central premise of the document must be considered carefully and realistically, in light of various well-documented facts.

3.2 The industry consolidation process can lead to greater efficiency and economies of scale, which can ultimately benefit shareholders of intermediaries' risk capital (through increased return on invested capital) and financial services users (through a reduction in the cost of those services).

3.3 At the same time, however, substantial empirical evidence points to **reduced employment in the financial industry following consolidation, which gives rise to growing insecurity among the workforce**. There is no

concealing the fact that business plans presented during mergers and acquisitions focus mainly on cost savings achieved by lowering labour costs. **While in the short term, consolidation may lead to a net loss of jobs, it should also be recognised, however, that it provides room for the development of innovative services and areas of activity, which will in turn have a positive impact on employment**. By lowering the barriers which hinder financial service providers from fully exploiting the synergies of cross-border mergers, banks would be able to provide their services at a lower cost, which would ensure that pricing policies were more attractive to customers and, consequently, boost demand. As a result, financial intermediaries would step up investment, which would have positive repercussions, not least in terms of employment. These new jobs, with certain exceptions, such as call centre and back office functions, generally attract more highly qualified and better-paid professional profiles.

3.4 While accepting, therefore, that industry consolidation does not have an overall negative effect on employment, the EESC firmly stresses that **the gap in terms of both time and different professional qualifications that exists between the loss and creation of new jobs cannot be ignored**. At a time when the emphasis is shifting from job protection to employment possibilities, Member States should give priority to supporting professional training and retraining schemes, as well as providing an appropriate system of social shock absorbers.

3.5 If workers see that they can readily put their qualifications and skills to use, even in a rapidly changing economy, they will be less reluctant to accept the decreased job stability entailed by the *dynamic consolidation* of the industry. This observation should prompt recognition of **professional training as not only an instrument for containing social instability, but also as a vital factor in the long-term success of the dynamic consolidation plan and, more generally, of the Lisbon Strategy, which aims to transform the European economy into the most important knowledge-based economy in the world**. Moreover, an appropriate social network which would contribute to mitigate the often serious effects of these stages of transition needs to be created.

### 4. Specific comments

#### 4.1 Better regulation

4.1.1 The three guiding principles on the road to better regulation are identified as **simplification, codification and clarification**. It is important to move in this direction in order to ensure legal consistency, simplified application and uniform implementation.

<sup>(1)</sup> OJ C 65 of 17.3.2006.

4.1.2 The EESC welcomes the Commission's proposals on *better regulation*, in particular its continued commitment to **frequent and open consultation with all stakeholders**, its commitment to carrying out **impact assessments** for every new proposal, centring on economic costs and benefits in the broad sense, including the **social and environmental dimensions**. A commitment, together with the Council and the Parliament, to improve the quality of legislation and the external factors impacting on the whole economic system is equally important.

4.1.3 The EESC shares the Commission's view of the challenge of ensuring that EU legislation is both properly implemented on time and that it is subsequently properly applied by the 25 Member States, with further enlargements in the pipeline. The Committee also concurs with **the need to curb gold-plating**, i.e. unilaterally adopting additional regulations that go against the principle of the single market. In fact, **the unjustifiable variety of national consumer protection regulations is one of the principal obstacles to the integration of financial services across the EU**.

4.1.4 The EESC also stresses the fundamental importance of **ex-post evaluations** of whether the rules actually achieve their objectives and, at least for the sectors covered by the so-called *Lamfalussy process*, of whether markets evolve in line with the expectations it contains.

4.1.5 Ensuring consistency between EU and national legislation must begin with the **most significant sectors** or where there are the greatest harmonisation and legal consolidation difficulties, as in the case of **UCITS distribution and marketing**. Increased competition and efficiency in this sector inevitably brings about greater scope for distribution and marketing, which are still greatly hindered by an ill-defined legal framework. We therefore particularly welcome the Commission's proposal to issue a communication/recommendation in the course of 2006 and a white paper on asset management in November.

4.1.6 The Commission will propose to **incorporate 16 existing insurance directives into a single directive**. The EESC supports this codification proposal and considers it an excellent example, which should also be followed in other areas, by adopting legislation aimed at bringing together, simplifying and streamlining all of the issues covered by the various directives.

4.1.7 The EESC also endorses the use of **infringement proceedings** where any incorrect implementation or application of Community law is found, but must point out that, in recent times, the Commission has been greatly influenced by the Council and has been increasingly reluctant to go down this road.

4.1.8 The improvement and rationalisation of the retail financial services industry must not overlook the **issue of consumer information, education and awareness** — these factors are essential to the maximum effectiveness of any legal framework. The EESC strongly backs the Commission's intention, therefore, to **launch specific initiatives at EU level with consumer associations and financial industry representatives**, but feels that the Commission should make greater efforts to ensure that at national level such practices are highly recommended, if not mandatory. The **EU consumer newsletter**, is, in theory, an excellent initiative. The Commission must be aware, however, that information tools must have an element of proximity to the consumer. The EESC calls on the Commission to work with the Council and the Parliament, to ensure that **more robust ways of involving stakeholders at national level** are examined, based along the lines of what it envisages at EU level. Developing FIN-NET, a tool that is currently unknown to the vast majority of consumers, is a step in the right direction. In connection with the review of the role of this instrument, the EESC recommends involving both consumer and civil society organisations and the social players, and could itself support the initiative by, for example, working in tandem with national consumer associations and ESCs.

4.1.9 The EESC believes that at a time when the Commission is stressing the importance of circulating information, particularly among consumers, investors and financial industry employees, **the issue of the language in which documents are available must not be underestimated**. The Commission needs to focus on this issue, sparing no effort in ensuring that the essential documents at least are available in as many languages as possible.

4.1.10 The EESC welcomes the **attention given to consumers and to bank and financial services staff** and to their regular consultation on major issues. The added value of market integration lies in consumer satisfaction, while due attention must be paid to the social impact of decisions taken. Nevertheless, previous financial directives have not always taken this approach. The observations put forward in the *General comments* section of this opinion are intended to firmly stress this perspective.

4.1.11 With regard to **interaction with other areas of EU economic policy**, the EESC has already highlighted that, for the major European groups <sup>(?)</sup>, the **VAT system** can hinder the strengthening of financial services and is pleased that the Commission intends to present a legislative proposal in this regard. Particular attention needs to be given to assessing the economic, social and environmental impact of the desired VAT harmonisation process. The EESC has also shown how the current situation could hinder the complete integration and full development of the financial market. Furthermore, the EESC

<sup>(?)</sup> OJ C 65 of 17.3.2006.

highlights the case of **outsourcing, which could be greatly incentivised by a non-harmonised taxation system**, with negative effects on employment, on the quality of services and on the reliability of the whole system. The EESC hopes that this subject will be given careful consideration, given that various instances of outsourcing have had less than ideal results.

#### 4.2 Ensuring the right regulatory and supervisory structures

4.2.1 The objective of **increased coordination of market supervisory authorities** is clearly one we would share. This objective could be facilitated by giving an **increasingly decisive role to level-3 committees**, and harmonising the responsibilities of their members under the Lamfalussy process, as part of the completion of the EU legal framework. This would result in both an easing of the Commission's workload and a decreased risk of *goldplating* by Member States or supervisory authorities.

4.2.2 The EESC believes that it would be premature at this point to consider establishing a single EU supervisory authority which would be responsible for coordinating supervisory activities. Nonetheless, the Committee believes that national supervisory authorities must engage in active and continuous cooperation, and work towards establishing **common codes of conduct and standard procedures**. The ensuing increase in mutual trust would represent a first step on the road to the future establishment of an EU supervisory authority for the major financial, banking and insurance groups operating in various Member States. One of the first important decisions to be made should be to identify a main supervisory authority situated in the country hosting the parent company, which would be responsible for supervising subsidiaries and controlled companies situated in other European states. Multinationals and supervisory authorities could effectively benefit from the single market, by not having to repeatedly present balance sheets and information documents and by not having to take account of different national regulations.

4.2.3 The method used, for instance, in the Market Abuse Directive should be promoted. The presentation of a very detailed draft directive ensured a high level of uniformity in its subsequent transposition, leaving a significant margin of responsibility to regulators: this was also shared at EU level, and specified the duties to be transferred to the remit of the various supervisory authorities.

4.2.4 **The adoption of the IFRS** was an important opportunity to streamline financial reporting by business management and bring it in line with modern standards. It could also represent an opportunity to **standardise at EU level the types of data that intermediaries must present to their respective supervisory authorities**. The EESC believes that with the adoption of the IFRS there are no longer any grounds for defer-

ring or delaying the achievement of this objective, which is a pre-requisite for efficient and effective supervisory coordination and cooperation at EU level. Nevertheless, these should be brought into line with the corresponding objectives of the EU Solvency II project. Those companies which have not yet harmonised their balance sheets and consolidated balance sheets with the IFRS should not however be at a disadvantage compared with companies that are obliged to do so.

#### 4.3 Current and future legislative initiatives

##### 4.3.1 Current legislative initiatives

4.3.1.1 Retail banking is covered by three major initiatives. With regard to **mortgage credit**, the EESC<sup>(3)</sup> has already expressed well-grounded concerns about the feasibility of integrating the market, in the light of legal implications and significant difficulties which were outlined in a recent opinion. The EESC awaits the Commission's line of approach and replies to the objections submitted.

4.3.1.2 The amendments to the directive on consumer credit proposed by the Commission, currently under examination by the European Parliament, improve the previous proposal without fully meeting the needs of consumers. The EESC awaits the outcome of the examination and hopes that the directive will be approved shortly.

4.3.1.3 The **payments services directive** also has an important role to play. Cross-border payments services are still something of a grey area. The financial system must subject itself to the competition, transparency and comparability rules issued by DG Competition. The creation of a Single European Payment Area (SEPA) by 2010 is an ambitious and desirable objective that will ensure that cross-border payments are more efficient and provide consumers with a guarantee. However, it must be taken into consideration that efficient and low-cost systems (such as the direct debit system) are already in place in some Member States. When the SEPA is implemented, the users' interests must be taken into account and added value provided. The EESC is currently drawing up an opinion — specifically on payments services — in which the Committee will set out its detailed assessment.

4.3.1.4 The reappraisal of the **notion of qualifying share-holdings**, through the revision of Articles 16 and 15 of, respectively, the Banking Directive and the Insurance Directive, is a key initiative to prevent certain supervisory authorities from hindering the balanced development of the internal market, using the prudential management of financial systems as a pretext. The EESC considers that improving the efficiency of a system, rather than limiting the transfer of control of companies, offers the best guarantee of its stability.

<sup>(3)</sup> OJ C 65 of 17.3.2006.

4.3.1.5 As regards **clearing and settlement arrangements**, the lack of a regulatory framework has contributed to the persistence of serious diseconomies and genuine abuses. Cross-border settlement and clearing infrastructures are more costly and less efficient than national ones. The EESC would warmly welcome the issue of a framework directive with a view to increasing the competitive capacity of European operators, not least when competing internationally. An efficient and well-ordered market attracts investment and Europe needs to attract investment if it genuinely wishes to pursue the objectives of economic and job growth.

#### 4.3.2 The current debate

4.3.2.1 The EESC agrees with the Commission's assessments following its examination of the unjustified barriers to the full achievement of free movement of capital and cross-border investments.

4.3.2.2 The Commission has expressed doubts on the so-called **'26th regime' in the area of financial services**. On the other hand, the minimum harmonisation principle has created too many differences. The **'home country'** principle has been a formidable instrument of liberalisation and competition within the EU. Indeed, the more solidly **mutual trust** over the quality of internal legislation in each Member State is anchored, the more fully this principle will be accepted by the Member. In this regard, the goal of full **harmonisation of rules is a significant catalyst, enriching and consolidating these trust-based relations** which underpin the progressive creation of a common culture. This should lead to the harmonisation of the essential provisions of financial services contracts. The EESC would like to point out that, on the other hand, no evidence of the (effective) applicability of the 26th regime has been adopted so far and that the Commission should, in any case, conduct an in-depth assessment of its application. In a recent opinion, the EESC stated that: *[the] 26th regime (...) could be a valid option only after it has been ascertained, through a thorough study of the laws and contracts of all 25 countries, that the "parallel" instrument does not contravene the rules and laws of any of them. At all events, it is necessary that standardisation rules should not hinder the supply of new products and thus become a brake on innovation'* <sup>(4)</sup>.

#### 4.3.3 Future initiatives

4.3.3.1 In its recent opinion on the Green Paper of July 2005, the EESC has shown the **usefulness of action in the area of UCITS** <sup>(5)</sup>. *Investment funds compete against financial products such as unit-linked policies, perceived as comparable by investors, despite the fact that they are governed by a very different*

*legal framework. This can distort investors' choices with negative repercussions on cost and risk levels in the investments concerned. The EESC believes that this problem cannot be addressed with reduced competition or by easing the restrictions and guarantees imposed on investment funds. We would call instead for an upward adjustment of standards so that financial products that are perceived as being a direct alternative to investment funds are subject to regulatory requirements that are comparable to those pertaining to such funds.'* The imbalance in the requirements of funds and unit-linked policies, the incomplete development of the European Passport due to the obstacles that certain supervisory authorities continue to create, the lack of transparency of costs, especially exit costs, and market fragmentation with the associated high costs are some of the problems outlined. Nevertheless, the EESC expresses concern at the development, in some Member States, of guaranteed capital funds without the need for the management company to have sufficient own funds, with the result that, in the event of particularly disadvantageous market trends, consumers could be inadequately protected. The EESC calls on the Commission to remedy this shortcoming, by establishing appropriate corporate responsibility obligations for companies issuing guaranteed capital funds and by setting a precise and adequate level of monitoring. The EESC is particularly aware of the pressure to achieve more efficient UCITS, not least due to the fact that, being a significant component of pension fund schemes, they can make a substantial contribution to resolving a problem that was rightly pointed out at the beginning of the White Paper, i.e. the financing of the considerable pensions deficit which affects most European economies.

4.3.3.2 The EESC agrees with the Commission on the importance, which is not merely economic, of having **access to a bank account**. In modern economies, having a bank account in practice confers a kind of economic citizenship on individuals. In certain Member States, this citizenship right is legally recognised, thereby obliging the financial system to ensure that basic banking services can be provided at minimum cost. In other EU countries, a strong awareness of the issue is spreading among companies, which, for a few euros a month, offer a 'package' of services associated with current accounts.

4.3.3.3 The aim to **remove obstacles to the mobility of cross-border accounts** is commendable and could contribute to lowering bank charges. The possibility of opening online bank accounts could actually bring the objective of ensuring intra-European mobility of accounts within reach. However, it must be remembered that not all consumers are IT-oriented. The Commission should propose a satisfactory alternative for these people, who usually belong to the more vulnerable sectors of the population. It must be emphasised that only the consolidation of effective and constructive cooperation between

<sup>(4)</sup> OJ C 65 of 17.3.2006.

<sup>(5)</sup> OJ C 110 of 17.5.2006.

the supervisory authorities can give concrete form to this possibility. Acting on proposals set out in the White Paper, on 16 May 2006 the European Commission <sup>(6)</sup> decided to entrust an expert group with the task of assessing customer mobility in relation to bank accounts.

#### 4.4 *The external dimension*

4.4.1 The Commission's ambitious goal of giving Europe a leading role in setting standards at global level is certainly to be welcomed. Furthermore, in line with the recommendations of the Doha Round, the EESC hopes that Europe will steer the most advanced countries in a commitment to provide less developed countries with proper technical and financial assistance in regulatory and implementation issues relating to the agreements and standards adopted. The advance of international integration must also take account of the **needs of weaker economies** which need to attract investment. The EESC trusts that the Commission will bear these needs in mind

Brussels, 5 July 2006.

during negotiations and discussions with the other more advanced economies.

4.4.2 The EESC supports the Commission and the other European institutions in their fight against all kinds of criminal activities — frequently connected with international terrorism — and is committed to combating the criminal use of financial systems. There are many types of economic crime: corporate and commercial fraud, money laundering, tax evasion and corruption. Illicit funds are frequently channelled through financial services systems to serve criminal ends. The EESC calls on the financial institutions to provide the best possible assistance to the authorities concerned, who, on the other hand, should take sufficient heed of their recommendations. If financial institutions are kept abreast of the follow-up given to information supplied to the authorities in connection with suspect transactions, they will be more motivated to continue and step up the efforts required.

The President  
of the European Economic and Social Committee  
Anne-Marie SIGMUND

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<sup>(6)</sup> Commission Decision 2006/355/EC of 16 May 2006 setting up an expert group on customer mobility in relation to bank accounts (OJ L 132 of 19.5.2006).