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ZAĻĀ GRĀMATA

par finanšu pakalpojumu politiku (2005. līdz 2010. gadam)

(iesniegusi Komisija)

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II PIELIKUMS

PIEŅEMTO, APSPRIEŽAMO UN SAGATAVOŠANĀ ESOŠO PASĀKUMU GRĀFIKS

ZAĻĀ GRĀMATA PAR FINANŠU PAKALPOJUMU POLITIKU (2005.-2010. GADAM)

(Dokuments attiecas uz EEZ)

Komisijas finanšu pakalpojumu politikas¹ vispārējais mērķis nākamajiem pieciem gadiem ir:

- konsolidēt attīstību virzienā uz integrētu, atvērtu, konkurējošu un ekonomiski efektīvu Eiropas finanšu tirgu un novērst esošos saimnieciski būtiskus šķēršļus;
- veicināt tirgu, kurā iespējama finanšu pakalpojumu un kapitāla brīva aprīte visā ES par viszemākajām iespējamām izmaksām, ar pienācīgiem un efektīviem uzraudzības līmeņiem, finanšu stabilitāti un augstu patērētāju aizsardzības līmeni;
- īstenot, piemērot un pastāvīgi novērtēt esošo likumīgo pamatu, lai precīzi izmantotu labāka regulējuma darba kārtību visām turpmākajām iniciatīvām, sekmētu uzraudzības konvergenci un stiprinātu Eiropas ietekmi pasaules finanšu tirgos.

Šajā grāmatā sniegti Komisijas provizoriskie plāni attiecībā uz tās finanšu pakalpojumu politikas prioritātēm nākamajiem pieciem gadiem. Tajā ņemti vērā daudzi konverģenti viedokļi, kas izteikti 2 gadus ilgušajās apspriedēs, kuras aizsāka četru ekspertu grupu darbs, kam sekoja plašas publiskas apspriedes². Citas paralēlās iniciatīvas ietver ES finanšu pakalpojumu komitejas sagatavoto ziņojumu par finanšu integrāciju³ un Ekonomikas un monetārās komitejas sagatavoto ziņojuma projektu par ES finanšu tirgu pašreizējo integrācijas līmeni⁴.

Pašlaik Komisija cenšas iegūt viedokļus par tās sākotnējām idejām attiecībā uz Eiropas finanšu pakalpojumu politikas nākotni. Atbildes jānosūta līdz 2005. gada 1. augustam uz šādu e-pasta adresi: markt-consult-financialservices@cec.eu.int. Atbildes ievietos Komisijas tīmekļa vietnē, ja nav nepārprotami izteikts lūgums to nedarīt.

Atsauksmes un turpmākie priekšdarbi Komisijā tiks ņemti vērā, nosakot **Finanšu politikas programmu**, ko **2005. gada novembrī** iesniegs baltās grāmatas veidā.

¹ Kā daļa no Komisijas vispārējiem stratēģiskajiem mērķiem 2005.-2009. gadam. Skatīt KOM(2005), 1.1. panta 2. daļu un KOM (2005) 24, 2.2.2005. 3.2.1. punktu.

² http://europa.eu.int/comm/internal_market/en/finances/actionplan/stocktaking_en.htm

³ Ziņojums izskatīšanai ES finanšu ministriem 2004. gada 2. jūnijā, tikai ierobežotā apgrozībā.

⁴ http://www.europarl.eu.int/meetdocs/2004_2009/documents/PR/553/553131/553131en.pdf

1. POLITIKAS GALVENIE PUNKTI

Pēdējo sešu gadu laikā ir gūti ievērojami panākumi attiecībā uz integrētu Eiropas kapitāla un finanšu pakalpojumu tirgu. Ir savlaicīgi panākta vienošanās par lielāko daļu vajadzīgo noteikumu, kas izklāstīti finanšu pakalpojumu rīcības plānā (*FSAP*), un tagad tie tiek īstenoti. Eiropas lēmumu pieņemšanas un reglamentējošās struktūras ir kļuvušas racionālākas un efektīvākas „*Lamfalussy* procesa” rezultātā⁵. Starp Eiropas institūcijām un tirgus dalībniekiem ir izveidojusies pastāvīga un sistemātiska sadarbība. Un ar euro ieviešanu ir pieaugusi politiskā uzticība integrācijas procesam.

Tomēr darbs vēl nav pabeigts. Tagad sākas jauna fāze laika posmam no 2005. gada līdz 2010. gadam ar ļoti atšķirīgām prioritātēm:

- konsolidēt esošos tiesību aktus ar dažām jaunām iniciatīvām;
- nodrošināt, lai Eiropas normas tiktu efektīvi transponētas valstu tiesību aktos un lai uzraudzības iestādes precīzāk veiktu piemērošanu;
- nepārtraukti novērtēt paveikto, kā gaitā Komisija rūpīgi uzraudzīs šo normu piemērošanu praksē un to ietekmi uz Eiropas finanšu nozari.

Dalībvalstīm, regulatoriem un tirgus dalībniekiem ir jāveic savi pienākumi. Nepieciešamības gadījumā Komisija nekavējoši ierosinās grozīt vai pat atcelt tos pasākumus, kas nesniedz paredzēto labumu. Šī pieeja ir būtiska, lai nodrošinātu, ka ar lielām pūlēm izstrādātie Eiropas reglamentējošie noteikumi darbotos optimāli, proti, sniedzot labumu tirgus dalībniekiem, vairāk nekā 20 miljoniem Eiropas uzņēmumu un 450 miljoniem pilsoņu, un tādējādi Eiropas ekonomikai kopumā.

Pēdējo sešu gadu darba kārtības pamatā bija vīzija par to, ka dziļi, dinamiski un likvīdi finanšu tirgi nodrošinās efektīvu kapitāla un pakalpojumu sadalījumu un nodrošinājumu Eiropas ekonomikā kopumā, sākot no vairumtirdzniecības, līdz mazumtirdzniecībai, liekot pamatus augstāka līmeņa ilgtermiņa izaugsmei un darbavietu radīšanai visā ekonomikā. *FSAP* likumdošanas iniciatīvu lozungi bija pārrobežu konkurence, pieeja tirgum, labāka pārredzamība, tirgus integritāte, finanšu stabilitāte un efektivitāte. Kopumā *FSAP* tiesību aktos saglabāta uzticība šiem pamatprincipiem, kas vēl šodien ir spēkā.

⁵ Lamfālisī ziņojums, kas publicēts 2001. gada 15. februārī, ir pieejams Komisijas tīmekļa vietnē: http://europa.eu.int/comm/internal_market/securities/lamfalussy/index_en.htm; skatīt arī I pielikuma 8. parindī.

Eiropas finansiālās integrācijas sniegtais saimnieciskais labums (I pielikums) ir neapšaubāms. Tas atzīts arī Lisabonas stratēģijā⁶ un apstiprināts Komisijas termiņa vidusposma pārskatā attiecībā uz Lisabonas stratēģiju ar tajā likto uzsvāru uz izaugsmi un darbavietām⁷.

Valstu reglamentējošās pieejas pielāgošana kopējai Eiropas reglamentējošajai sistēmai ir izaicinājums; tā paredz ievērojamas iepriekšējas pielāgošanas izmaksas valstu izpildaģentūrām un tirgus dalībniekiem. Šīs pārejas problēmas pašas par sevi ir izaicinājums, jo īpaši tādēļ, ka tās ir koncentrētas īsā laika posmā (no 2005. gada līdz 2007. gadam). Tomēr bažas par šīm pārejas izmaksām nedrīkst aizēnot ievērojamāku saimniecisko labumu. Alternatīva ir skaidra: sadrumstaloti un nepilnīgi funkcionējoši finanšu tirgi un/vai valstu likvīdu kopējo fondu sajaukums, kas pakļauts atšķirīgai, nekoordinētai riska pārvaldības praksei un augstākām kapitāla izmaksām. Ar FSAP izveidoja sekmējošu tiesisku pamatregulējumu, kam vajadzētu ļaut emitentiem, investoriem un finanšu pakalpojumu sniedzējiem veikt darījumus visas Eiropas līmenī bez nepamatotiem juridiskiem šķēršļiem. Tagad galvenais ir panākt, lai tas darbotos labi.

Šodienas ekonomiskā un tirgus situācija liecina, ka Eiropas finansiālā integrācija norit vairākās nozarēs: vairumtirgū; biržās; finanšu tirgu infrastruktūrā, piemēram, mijieskaitā un starpbanku norēķinos. Tas ir uzlabojis visu finanšu pakalpojumu izmantotāju apstākļus. Eiropas tirgus „reflekss” sāk izpausties, tomēr vēl daudz ir darāmā iepriekšminētajās jomās, kā arī citās mazumtirdzniecības un vairumtirdzniecības jomās. Piemēram, mazumtirdzniecības izplatīšanas joma joprojām ir sadrumstalota, un dažos tirgos joprojām nav iespējams iekļūt. Šie šķēršļi ir rūpīgi jānovērtē, jo īpaši tādēļ, lai pārbaudītu, vai tie nerada būtiskus ekonomiskus traucējumus brīvai kapitāla un finanšu pakalpojumu aprītei.

Labi funkcionējošs riska kapitāla tirgus ir stratēģiski svarīgs elements jaunu un novatorisku uzņēmumu un uzņēmējdarbības veicināšanai, noturīga produktivitātes un ekonomiskās izaugsmes līmeņa celšanai Eiropā. Pašlaik Eiropas tirgus riska kapitālam ir daudz mazāk efektīvs nekā, piemēram, ASV tirgus. Tādēļ ir svarīgi noteikt prioritātes visām turpmākām iniciatīvām šajā jomā.

Stingrāku „labāka regulējuma” pieeju piemēros visur: no politikas koncepcijas līdz atvērtām un pārredzamām visu līmeņu pārrunām, pilnīgas un pārlicinošas ekonomiskās ietekmes izvērtēšanai pirms jaunu priekšlikumu ieviešanas, kā arī paveiktā novērtējumam. Ir svarīgi samazināt administratīvos izdevumus finanšu iestādēm un emitentiem un

⁶ Lisabonas Eiropadome 2000. gada 23. un 24. martā vienojās par jaunu ES stratēģisko mērķi nākamajai desmitgadei: kļūt par viskonkurētspējīgāko un dinamiskāko uz zināšanām balstītu ekonomiku pasaulē, kas var nodrošināt ilgtspējīgu ekonomisko izaugsmi ar vairāk un labākām darbavietām un plašāku sociālo kohēziju.

⁷ Izaugsme un darba vietas: jauns posms Lisabonas stratēģijai, 2005. gada februāris. - http://europa.eu.int/growthandjobs/pdf/COM2005_024_en.pdf

palielināt Eiropas finanšu nozares konkurētspēju.

Arī Eiropas Parlamentam un Padomei būtu jāpieņem šīs disciplīnas, lai izvairītos no tā, ka uz pierādījumiem balstīti Komisijas priekšlikumi tiek nevajadzīgi sarežģīti. Dalībvalstīm jo īpaši vajadzētu izvairīties no tādu reglamentējošu papildinājumu pārklāšanās, kas pārsniedz direktīvās prasīto, jeb tā sauktās „pārpilnības”, kas neitralizē vienota ES noteikumu kopuma sniegto labumu un rada lieku apgrūtinājumu un izmaksas Eiropas uzņēmumiem⁸.

Tāpat kā līdz šim ir jānodrošina no pierādījumiem izrietoša paļāvība, ka ikviens jauns Eiropas priekšlikums finanšu pakalpojumu tiesību aktiem un īstenošanas noteikumiem dos ievērojamu saimniecisku labumu efektivitātes un stabilitātes ziņā. Par kritēriju jāizvēlas apmērs, kādā pasākumi veicina pārrobežu uzņēmējdarbību un pastiprina Eiropas finanšu tirgu konkurētspēju, vienlaikus aizsargājot iekšējo stabilitāti.

Komisijas pieeja arī turpmāk būs virzīta uz pēc iespējas lielākas vienprātības panākšanu jebkurā sagatavošanās stadijā, cieši un pārskatāmi sadarbojoties ar dalībvalstīm un Eiropas Parlamentu, ES pārraudzības tīkliem (*CEBS*⁹, *CEIOPS*¹⁰ un *CESR*¹¹), Eiropas Centrālo banku, tirgus dalībniekiem un nākotnē arvien intensīvāk - ar patērētāju grupām¹². Reglamentēšanas filozofija katrai dalībvalstij ir atšķirīga, tādēļ attiecībā uz Eiropas tiesību aktiem šajās sarežģītajās jomās māksla ir panākt līdzsvaru, kas vislabāk atbilst Eiropas interesēm. Visiem tiesību aktiem ir jābūt saskaņā ar Līguma subsidiaritātes un proporcionalitātes principu¹³ un jāstiprina konkurence.

Svarīgā diskusija par Eiropas uzraudzības konvergenci tagad jāvirza tālāk. Uzraudzības sistēmai jābūt instrumentiem, kas nepieciešami, lai Eiropas finanšu pakalpojumu regulējums darbotos efektīvi un tādējādi veicinātu uzņēmējdarbību visas Eiropas mērogā. Rezultātam jānodrošina pilnīga demokrātiska atbildība dalībvalstu un Eiropas Parlamenta priekšā. Šajā sakarā Eiropas Konstitūcijas¹⁴ stāšanās spēkā ir būtiska *Lamfalussy* procesa¹⁵ vidēja termiņa nepārtrauktībai un ilgtspējībai.

Tā kā vairums reglamentējošo noteikumu un uzraudzības struktūru jau

⁸ Skatīt Komisijas Ieteikumu par paraugpraksi ES tiesību aktu transponēšanai dalībvalstīs. SEK(2004) 918.

⁹ Eiropas Banku uzraugu komiteja, ko izveidoja 2004. gada 1. janvārī.

¹⁰ Eiropas Apdrošināšanas un fondēto pensiju uzraugu komiteja, ko izveidoja 2003. gada 24. novembrī.

¹¹ Eiropas vērtspapīru regulatoru komiteja, ko izveidoja 2001. gada 7. jūnijā.

¹² FIN-USE finanšu pakalpojumu ekspertu forums jau tagad sniedz Komisijai vērtīgu ieguldījumu no lietotāja perspektīvas.

¹³ Ja juridiskie risinājumi šķiet attaisnojami, tos iekļauj ES mērogā tikai tad, ja ir skaidri redzams, ka vietējie pasākumi nav devuši rezultātus vai izrādījušies nerealizējami; to ietekmei nevajadzētu pārsniegt ietekmi, kas nepieciešama iekšējā tirgus sekmīgai funkcionēšanai.

¹⁴ Jo īpaši tā (jaunais) I-36. pants, kas nodrošina Eiropas Parlamentam un Padomei tiesības kontrolēt deleģētās regulas, ko pieņēmusi Komisija.

¹⁵ Klauzulas par darbības beigām drošības jomā stājas spēkā, sākot no 2007. gada. Saskaņā ar šīm klauzulām beigsies Komisijai piešķirtās pilnvaras veikt izpildes pasākumus, izmantojot komitejas procedūru (*Lamfalussy* procesa 2. līmenis), ja Padome un Eiropas Parlaments nepārprotami nevienosies tās pagarināt (kas būs Komisijas priekšlikums koplēmumam).

darbojas, Komisija prognozē, ka turpmākajos piecos gados pieaugs dažādu politisko jomu, jo īpaši konkurences un patērētāju politikas jomu sinerģija. Daži nozaru izmeklēšanas procesi finanšu pakalpojumu jomā jau ir pabeigti. Komisija vēlas, lai tirgus dalībnieki rīkotos efektīvāk un savlaicīgāk, pastāvīgi ziņojot vispirms valstu līmenī, tad Komisijai par acīmredzamiem pārkāpumiem vai pret konkurenci vērstu rīcību no jebkura avota.

Arī citas horizontālās un papildu politikas jomas (korporatīvā pārvalde, uzņēmējdarbības tiesību reforma, grāmatvedība un likumā noteiktā revīzija) ir ļoti būtiskas uzticības un pārredzamības veidošanai Eiropas finanšu tirgos. Kaut gan ārpus šīs grāmatas darbības jomas darbs šajās jomās turpināsies atbilstoši saskaņotajiem grafikiem¹⁶ un vienkāršotu pieeju, kas balstās uz „labāka regulējuma” principu. Uzņēmumiem, grāmatvežiem, revidentiem un citiem tirgus dalībniekiem savā darbā jāpiemēro augstākie ētikas standarti. Valstu uzraudzības institūcijām ir jānodrošina šo standartu efektīva piemērošana arī attiecībā uz ārzonas finanšu centriem. Ja tas netiks veikts, palielināsies tirgus un politiskais spiediens pēc papildu regulējošiem pasākumiem šajā un citās sfērās. Pašlaik šis jautājums plašāk ir atspoguļots ceturtās un septītās uzņēmējdarbības tiesību direktīvas par grāmatvedības standartiem pārskatīšanā. Mērķis ir stiprināt informācijas atklāšanu, sadarbojoties ar iestādēm, kas atrodas ārzonas finanšu centros.

Politiski arvien svarīgāka kļūst diskusija par standartus izstrādājošo pasaules organizāciju, piemēram, Starptautiskās grāmatvedības standartu padomes, pārvaldību, investīcijām un politisko atbildību. Komisija uzskata, ka jāstiprina šo struktūru publiska uzraudzība, lai nodrošinātu ieinteresēto pušu viedokļu pienācīgu uzklaušanu, apmierinošu pārredzamību, procedūru atbilstību un noturīgu finansēšanu.

Raugoties ārpus robežām, Eiropai ir ļoti būtiska stratēģiska iespēja ietekmēt topošā pasaules finanšu tirgus reglamentējošos parametrus. Tādēļ tik svarīgi ir padziļināt dialogu par finanšu tirgiem starp ES un ASV un stiprināt finansiālās attiecības ar Japānu, Ķīnu un, piemēram, Indiju (skatīt 3.4.). Komisija atbalsta šo dialogu darba kārtības paplašināšanu, veidojot tos perspektīvākus un vairāk koncentrējoties uz tirgus dalībnieku ieguldījumu. Turpmāki centieni trešo valstu finanšu tirgu atvēršanai tiks pausti Dohas tirdzniecības sarunu kārtā, kā arī divpusējos un reģionālos tirdzniecības nolīgumos.

Komisija būtu ieinteresēta uzzināt no ieinteresētajām personām:

- vai tās piekrīt Komisijas politikas vispārējiem mērķiem turpmākajiem pieciem gadiem;
- vai tās piekrīt iepriekš aprakstītajiem galvenajiem politikas

¹⁶ Korporatīvās pārvaldes un uzņēmējdarbības tiesību rīcības plāns; tostarp pasākumi: IAS (starptautisko grāmatvedības standartu) ieviešana; astotā uzņēmējdarbības tiesību direktīva; IAS pieņemšana trešo valstu jurisdikcijā, piemēram ASV; korporatīvās pārvaldes struktūru pārredzamība; akcionāru struktūru uzlabošana utt.

punktiem.

2. LABĀKS REGULĒJUMS, TRANSPONĒŠANA, IZPILDE UN PASTĀVĪGA NOVĒRTĒŠANA

Uzlabota ekonomiskā darbība un labklājības veidošana lielā mērā būs atkarīga no Eiropas institūciju, pārraudzības iestāžu un tirgus dalībnieku spējas nodrošināt spēkā esošo noteikumu pastāvīgu piemērošanu un izpildi, lai paraugprakse kļūtu par normu (I pielikuma II iedaļa). Tādējādi tiek radīti vienādi apstākļi ar vienotu un precīzu Kopienas tiesību izpratni, izvairoties no juridiskām nenoteiktībām un neskaidrībām. Tas nozīmē, ka izpildes mehānismi ir jāstiprina un savstarpēji jāsavieno starp dalībvalstīm, tostarp izmantojot Eiropas uzraudzības tīklus. Šī dalītā atbildība ir lielākais izaicinājums 25 dalībvalstu Eiropas Savienībai, kurā vēl sagaidāmas turpmākas paplašināšanās kārtas.

Prioritātes ir:

- pastāvīga atvērtas un pārskatāmas politikas veidošanas īstenošana, plaši izmantojot konsultāciju mehānismus visos līmeņos;
- visu attiecīgo (Eiropas un valsts līmeņa) finanšu pakalpojumu normu vienkāršošana un konsolidēšana¹⁷;
- standartu un prakses konverģence pārvaldes līmenī, vienlaikus ievērojot politisko atbildību un esošās institūciju kompetences robežas;
- sadarbība ar dalībvalstīm, lai uzlabotu transponēšanu un nodrošinātu konsekventu īstenošanu;
- esošo direktīvu un regulu novērtējums, lai noskaidrotu, vai tās sniedz paredzēto saimniecisko labumu, un to pasākumu atcelšana, kas neiztur šo pārbaudi;
- pienācīgas īstenošanas un izpildes nodrošināšana, vajadzības gadījumā izmantojot pārkāpumu izmeklēšanas procesus, pamatojoties uz esošajiem tiesību aktiem un tiesu praksi.

Komisija būtu ieinteresēta uzzināt no ieinteresētajām personām:

- vai tās piekrīt norādītajiem prioritārajiem pasākumiem;
- kādi papildu pasākumi būtu jāveic, lai sekmētu Eiropas tiesību aktu konsekventu piemērošanu un izpildi.

¹⁷

Turpmākajos gados var izvēlēties dažus pilotprojektus vienkāršošanas nolūkā. Pirmsizpētes veikšana varētu palīdzēt noskaidrot to, vai laika gaitā visus noteikumus varētu apvienot vienā apvienotā likumu kopumā (tādā kā finanšu pakalpojumu kodeksā).

3. FINANŠU PAKALPOJUMU TIESĪBU AKTU KONSOLIDĀCIJA LAIKA POSMĀ NO 2005. LĪDZ 2010. GADAM

3.1. ATLIKUŠO PASĀKUMU PABEIGŠANA

SPĒKĀ ESOŠIE TIESĪBU AKTI UN PASĀKUMI IZSTRĀDES PROCESĀ

Turpmāko divpadsmit mēnešu galvenā prioritāte ir pabeigt iesākto darbu attiecībā uz pārrunu stadijas atlikušajām daļām Eiropas Parlamentā un Padomē un uz pamatpasākumiem, ko Komisija pašlaik gatavo.

Šie pasākumi ietver (iespējamo) direktīvu par pēctirdzniecības finanšu pakalpojumiem (mijieskaits un starpbanku norēķins), jaunos apdrošināšanas sabiedrību maksājspēju reglamentējošos noteikumus un (iespējamo) likumdošanas iniciatīvu par maksājumiem (skatīt II pielikumu). Šī sagatavošanās ietver gan rūpīgu ietekmes novērtējumu, gan plašas apspriedes ar ieinteresētajām personām.

JOMAS, ATTIECĪBĀ UZ KURĀM KOMISIJA VAR PIENĒMT LĒMUMU NEIZTEIKT PRIEKŠLIKUMU

Komisija ir apņēmusies rīkoties tikai tad, ja Eiropas iniciatīvas sniedz acīmredzamu saimniecisko labumu nozarei, tirgiem un patērētājiem. Praktiski Komisija pašlaik aplūko **vērtēšanas aģentūru un finanšu analītiķu** jomas, attiecībā uz kurām, konsultējoties ar Eiropas Vērtspapīru regulatoru komiteju un Eiropas Banku uzraugu komiteju, jālemj par to, vai nepieciešami papildu tiesību akti šajā posmā vai arī pietiktu ar esošajiem noteikumiem direktīvā par tirgus ļaunprātīgu izmantošanu, kā arī ar pašregulējumu¹⁸ un uzraudzības mehānismiem. Jau tagad ir skaidrs, ka Komisija neierosinās nekādus izpildes pasākumus saistībā ar **direktīvu par pārņemšanas piedāvājumiem**.

Tomēr, ja Komisija nolems neiesniegt tiesību aktu priekšlikumus šajās vai citās jomās, Komisija nevilcināsies no jauna izskatīt šo nostāju gadījumā, ja turpmākās tirgus norises liecinātu par spēcīgas iejaukšanās nepieciešamību.

JOMAS, ATTIECĪBĀ UZ KURĀM KOMISIJA VAR ATKĀRTOTI APSVĒRT SAVU PRIEKŠLIKUMU

Pēc tam, kad ES dalībvalstis bija vienojušās par **Hāgas konvenciju** (daudzpusējs līgums par juridiskiem konfliktiem attiecībā uz vērtspapīriem, kas atrodas pie starpnieka¹⁹), Komisija iesniedza priekšlikumu par parakstīšanu, bet nesen dažas dalībvalstis un Eiropas Centrālā banka izteica bažas par šo Konvenciju. Komisija līdz 2005. gada beigām sagatavos juridisku novērtējumu, izvērtējot radušās bažas, un tad lems par izmaiņu nepieciešamību esošajā priekšlikumā par parakstīšanu.

¹⁸ Piemēram, Starptautiskās Vērtspapīru komisiju organizācijas (IOSCO) kodekss.

¹⁹ Vienota juridiskā formula īpašuma tiesību noteikšanai tiek uzskatīta par īpaši lietderīgu gadījumos, kad vērtspapīrus glabā virkne finanšu starpnieku dažādās valstīs.

3.2. REZULTATĪVA UN EFEKTĪVA PĀRRAUDZĪBA

Progresējot Eiropas finansiālajai integrācijai, uzraudzības iestādēm rodas jauni izaicinājumi. Pārrobežu riska uzraudzība kļūst arvien kritiskāka, un kaut arī integrācija stiprinās vispārējo stabilitāti, pieaugs tādu papildu efektu varbūtība kā, piemēram, sistēmas defekts, kas ietekmē vairākus finanšu tirgus un/vai grupas, kuras darbojas visā ES. Komisija uzskata, ka šīs problēmas jārisina, izmantojot pakāpenisku, „augšupejošu” pieeju (I pielikums, III iedaļa).

3.3. PĀRROBEŽU IEGULDĪJUMU UN KONKURENCES SEKMĒŠANA

Konsolidācijai finanšu pakalpojumu tirgū vajadzētu būt atkarīgai no tirgus. Vienlaicīgi dažās jomās jānodrošina finansiālā drošība un stabilitāte. Pārrobežu darījumu izmaksas un šķēršļi ievērojami kavē pārrobežu ieguldījumus un ekonomikas racionalizāciju Eiropā. Komisija norādīja iespējamus šķēršļus provizoriskā ziņojumā un aicināja ieinteresētās personas izteikties par to, kuri šķēršļi, viņuprāt, ir viskavējošākie²⁰. Šo nepamatoto šķēršļu likvidēšana vai vismaz samazināšana stiprinās konkurētspēju attiecībā uz nozari un ekonomiku kopumā un sekmēs izaugsmi un jaunu darbavietu radīšanu (I pielikums, IV iedaļa).

3.4. ĀRĒJĀ DIMENSIJA

Komisija rūpīgi uzraudzīs, vai kandidātvalstis pilda savus pienākumus finanšu pakalpojumu jomā. Turklāt Eiropas globālas ietekmes sekmēšanai un Eiropas finanšu nozares konkurētspējas nodrošināšanai pasaules līmenī joprojām jābūt prioritātei. Finanšu pakalpojumi ir globāli – notikumi vienā jomā ietekmē citas. Nospraustie (reglamentējošie) mērķi un panākumi, kas gūti iepriekšēju reglamentējošo dialogu veidošanā ar ASV un Ķīnu, ir izklāstīti I pielikuma V iedaļā. Turpmākajos piecos gados Komisija arī vēlētos padziļināt finansiālās attiecības ar citām valstīm, piemēram, Japānu un, ja iespējams, arī ar Indiju.

Komisija būtu ieinteresēta uzzināt no ieinteresētajām personām:

- vai tās piekrīt nospraustajiem mērķiem, kas paredz, ka Komisija var pieņemt lēmumu nerīkoties, vai arī ir citas noteiktas jomas, kurās Komisijai nevajadzētu iesniegt sagatavošanā esošos priekšlikumus, vai pat jomas, kurās Komisijai vajadzētu apsvērt priekšlikumu atsaukšanu;
- viņu novērtējumu tam, vai esošie reglamentējošie vai uzraudzības noteikumi ir pietiekami, lai risinātu uzraudzības problēmas turpmākajos gados; kādas ir nepilnības un kā tās visefektīvāk varētu novērst;
- kādi ir mērķi, nozares, kas jāaptver, un pasaules mēroga

²⁰ http://europa.eu.int/comm/internal_market/finances/cross-sector/index_en.htm#obstacles

prioritārās jomas attiecībā uz reglamentējošo darbību un sadarbību.

4. IESPĒJAMĀS, JAUNĀS NOTEIKTA MĒRĶA INICIATĪVAS

Saskaņā ar viedokļiem, kas pausti divus gadus ilgušo apspriežu gaitā, kuras aizsāka četru ekspertu grupu darbs, Komisija ir noteikusi divas konkrētas politikas jomas, kurās iniciatīvas varētu sniegt labumu Eiropas ekonomikai: **aktīvu pārvaldīšana** (I pielikums, VI iedaļa) un **finanšu pakalpojumi privātklientiem**. Darbus šajā jomā veiks, izmantojot augšupejošo pieeju, tie būs konsultatīvi un virzīti uz tirgus attīstību.

Novērtēšanas procesā pēc *FSAP* finanšu pakalpojumu mazumtirdzniecības tirgu identificēja kā jomu, kam vajadzīga turpmāka uzmanība (I pielikums, VII iedaļa). Kaut gan finanšu tirgu integrācijā ir panākts ievērojams progress, joprojām ļoti sadrumstaloti ir finanšu pakalpojumu mazumtirdzniecības tirgi, t.i., patērētājiem sniegtie finanšu pakalpojumi.

Komisijas pienākums ir veicināt finanšu pakalpojumu mazumtirdzniecības nodrošināšanu Eiropā. Attiecībā uz pārrobežu pakalpojumu sniegšanu var izdalīt četrus izplatīšanas kanālus: (i) patērētājs pērk pakalpojumu no sniedzēja citā dalībvalstī, dodoties uz attiecīgo dalībvalsti; (ii) uzņēmums laiž tirgū/pārdod pakalpojumus patērētājiem citā dalībvalstī, neregistrējoties tajā; (iii) uzņēmums reģistrējas vairāk nekā vienā dalībvalstī un pielāgo savu piedāvājumu vietējiem tirgiem; (iv) pakalpojumi paredzēti visas Eiropas līmenim, pat ja tie tiek sniegti vietējā līmenī.

Lai gan pieeja par vienotu Eiropas pasu izveidi uzņēmumiem un patērētājiem šķiet visizdevīgākā, pašlaik tiek apspriesti citi alternatīvi režīmi, piemēram, tā sauktais „26. režīms” tiem uzņēmējiem un patērētājiem, kas vēlas aktīvi darboties ārpus robežām, neskarot 25 valstu noteikumu kopumus. Šāda „26. režīma” priekšrocības vēl ir jāpierāda, un būs sarežģīti panākt vienošanos par fakultatīviem Eiropas standartiem, kas izstrādāti vienīgi atsevišķiem produktiem. Tomēr Komisija ņem vērā notiekošo diskusiju un reaģēs uz aicinājumu veikt turpmāku šī „26. režīma” izpēti, uzsākot priekšizpēti, piemēram, vienkāršās (noteikta termiņa) apdrošināšanas un krājproduktu jomā.

Tāpēc Komisija ierosina attiecībā uz īpašiem mazumtirdzniecības produktiem izveidot diskusijas grupas, ko veido jomu eksperti, kas pārstāv nozari un patērētāju intereses, lai identificētu visus šķēršļus un izvērtētu iespējamās risinājumus. Šī darba pamatā būs plaši pētījumi.

IESPĒJAMĀS TURPMĀKĀS RĪCĪBAS JOMAS

Hipotekārais kredīts ir viena no jomām, kurā būtu lietderīgi veikt turpmāku mazumtirdzniecības integrāciju, vienlaikus neierobežojot produktu skaitu tirgū; atsevišķā 2005. gada vasarā plānotajā Zaļajā grāmatā tiks apskatīti 48 ieteikumi no Hipotēku kredīta diskusiju grupas ziņojuma. Konkrētas iniciatīvas varētu paziņot pēc padziļinātām apspriedēm - ne agrāk kā

2006. gadā.

Pamatojoties uz secinājumiem no ekspertu grupām un viedokļiem, kas izteikti publiskā apspriedē, būtu lietderīgi turpmāk izskatīt arī šādas jomas:

- **esošo noteikumu par informācijas prasībām kodifikācija un iespējama vienkāršošana**, jo īpaši nolūkā nodrošināt konsekveni un saskanību starp dažādiem tekstiem²¹;
- **finanšu starpniecība**, jo īpaši ļaujot zinošiem un uzticamiem starpniekiem veikt pārrobežu pakalpojumu sniegšanu, vienlaikus piemērojot pilnīgu pārskatāmību maksām un attiecībām ar pakalpojumu sniedzējiem. Darbs jau ir veikts šajā jomā²². Tomēr, neraugoties uz finanšu pakalpojumu sniedzēju produktu un struktūru attīstību, jāizvērtē turpmāka to normu pielīdzināšana, kas attiecas uz uzņēmējdarbības veikšanu, tirdzniecības konsultācijām un publicitāti.
- **bankas konti**: jo īpaši pievēršot uzmanību šķēršļiem, kas kavē kontu atvēršanu ārpus robežām, kā arī jautājumiem, kas saistīti ar to kārtošanu, pārvedamību, pārskaitāmību un slēgšanu. Šķiet, ka īpašas problēmas ir saistībā ar, piemēram, nerezidentu un identifikācijas prasībām.

Komisija būtu ieinteresēta uzzināt no ieinteresētajām personām:

- vai tās piekrīt jaunajiem norādītajiem prioritārajiem pasākumiem;
- kādas ir dažādo pārrobežu pakalpojumu sniegšanas modeļu priekšrocības (trūkumi), vai „26. režīma” attīstība ir nepieciešama, un kuri darbības veidi no tā varētu gūt labumu;
- kā veicināt patērētājus rīkoties ar finanšu produktiem efektīvāk un vai būtu jāsecina, ka nepieciešamas profesionālākas un neatkarīgākas konsultācijas, labāka izglītība vai apmācība finanšu jautājumos;
- vai tās piekrīt iepriekšējā mazumtirdzniecības produktu sarakstā noteiktajiem punktiem vai arī tās varētu ieteikt citas jomas, kur papildu rīcība ES līmenī būtu lietderīga.

²¹ Komisija izstrādā vienotu modeli kā instrumentu, ko izmantot, lai uzlabotu Eiropas līgumtiesību saskanību.

²² Saskaņā ar Direktīvu par apdrošināšanas starpniecību un Direktīvu par finanšu instrumentu tirgiem.

Annex I, Section I - Economic benefits from financial integration

The financial sector plays a key role in the economy by allocating economic resources efficiently in time and space and thereby enabling real-sector activity to expand and develop optimally. In playing this role, a well-functioning financial sector should provide the means to:

- execute financial securities transactions on a cost-effective and safe basis through the appropriate mechanisms for trading, clearing, settlement and custody;
- pool investor resources, subdivide shares in available investment opportunities, and spread the risk, thereby overcoming issues of scale in the resource allocation process;
- rapidly be able to finance and respond to new business opportunities;
- price and manage effectively the risks related to financial transactions;
- reflect available information efficiently in prices so as to overcome problems of co-ordination in decentralised decision making;
- meet consumers' needs at reasonable cost; and
- address possible incentive problems created by the existence of information asymmetries and by the principal-agent relationship in the financial intermediation process.

So that:

- small and medium sized entities (vital for EU job-creation) can access a wider availability of risk capital and more innovative and lower cost finance to fuel their growth;
- larger companies profit from an overall reduction in the cost of capital and a wider range of financial products;
- the public sector can meet its financing needs at lower cost;
- consumers benefit from improved returns on investment funds or life products, or reduced borrowing costs; to access a wider choice of investment opportunities and cheaper and more reliable ways of paying for goods and services;
- financial stability can improve and the European market becomes more attractiveness for foreign capital inflows; and
- the society as a whole to help finance the major structural economic challenge Europe faces – namely its long run pension deficit – by introducing more efficient pan-European markets for long-term savings products.

To the extent that the financial sector is constrained in the performance of these various functions, there is a consequent cost in terms of sub-optimal economic performance and welfare loss.

Within the European Union, the financial sectors of the Member States have evolved to reflect specific national conditions and preferences. While these systems are generally efficient from a national perspective, they are much less so when viewed from the perspective of a progressively integrating European economy. Over time, a divergence has emerged at European level between the real sector which increasingly operates on a cross-border basis and a still highly fragmented financial sector. The degree of fragmentation has been such that the European financial sector cannot function efficiently and therefore acts as a drag on the overall performance of the European economy. The costs and risks associated with cross-border financial transactions are unnecessarily high, thereby discouraging the conduct of financial activity on a pan-European basis. The result has been an inefficient allocation of economic resources due to unexploited scale/scope economies, sub-optimal risk management, inefficient pricing and reduced opportunities for an optimal distribution of investment/consumption over time.

In light of these inefficiencies, financial integration has been a European policy priority since 1998 and now forms an integral part of the Lisbon strategy. The underlying economic rationale is that financial integration will enhance the level of financial development throughout Europe and thus contribute positively to the performance of the European economy. A more efficiently functioning economy will mean more jobs as new business opportunities open up. The largest benefits could accrue to those Member States with the least developed financial markets – facilitating over time economic convergence within the Union.

Given their growth potential and their share of GDP, financial service sectors have a direct and decisive impact on the aggregate competitiveness of modern economies. For example, the key differences in economic performance between Europe and the United States, with US productivity growth showing a strong acceleration during the second half of the 1990s, can be found in a limited number of intensive ICT-using services which account for much of the overall US-EU gap in productivity growth since 1995. More specifically, the US showed rapid productivity expansion in securities trading²³. According to a study by McKinsey Global Institute, the introduction of pro-competitive regulations played a significant role in this remarkable performance. Very recently both the Sapir report²⁴ and the Kok report²⁵ have stressed the importance of completing the single market for financial services because of the role that financial services play both on the supply and on the demand side of the different national economies.

²³ Bart van Ark, Robert Inklaar, Robert H. McGuckin “Changing Gear” Productivity, ICT and Service Industries: Europe and the United States”, Paper for ZEW Conference 2002 on Economics of Information and Communication Technologies, June 24-25, Mannheim.

²⁴ Sapir et al. “An Agenda for a growing Europe”, Oxford University Press, March 2004.

²⁵ Kok et al. “Facing the challenge: the Lisbon strategy for growth and employment”, Report to the Commission, November 2004

Despite the fact that it will take a considerable time before the overall financial and economic impact of the FSAP measures can be assessed directly, the case for creating integrated, open and efficient EU capital and financial services markets remains as strong as ever. This view is supported by the economic literature.

Consecutive studies calculated the economic benefits of financial integration:

- the Cecchini report of 1988 estimated that the integration of the financial markets of 8 Member States would increase the value-added of their financial services by 0.7% of GDP²⁶;
- the London Economics study²⁷ (end of 2002) focused on the benefits from integration by calculating the static efficiency gains from deeper and more liquid equity and bond markets in EU15. The study concluded that fully integrated markets would lower the cost of capital for companies by 0.5% and increase the GDP-level over time by 1.1%;
- the CEPR study²⁸ (end 2002) looked at the relationship between financial integration and growth from a micro-economic point of view. The study concludes that, in a scenario in which manufacturing companies would have the same access to finance as the US companies, value-added growth in European manufacturing is estimated to increase by 0.75-0.94% on a durable basis.

Quantifying the costs and benefits of financial integration is very difficult and is subject to significant data, statistical and model uncertainty. Accordingly, the results of these studies can be considered only as indicative of the potential benefits of European financial integration. Nevertheless, the results of these and other studies underscore the validity of European policy on financial integration. All future proposed regulation will be accompanied by an impact assessment aimed at showing the economic benefits of the proposed measures.

²⁶ This estimate was based on first round effects only and did not take dynamic effects into account, which were expected to have generated a higher figure.

²⁷ London Economics (2002), "Quantification of the Macroeconomic Impact of Integration of EU Financial Markets" Available in the Commission web-site at: http://europa.eu.int/comm/internal_market/en/finances/mobil/overview/summary-londonecon_en.pdf.

²⁸ Giannetti M., L.Guiso, T. Jappelli, M. Padula and M. Pagano (2002), "Financial market Integration, Corporate Financing and Growth", DG ECFIN Economic Paper N° 179. available at: http://europa.eu.int/comm/economy_finance/publications/economic_papers/economicpapers179_en.htm.

Annex I, Section II - Better regulation, transposition, enforcement and continuous evaluation

The benefits from financial integration can only be delivered if the European institutions, supervisory authorities and market participants can ensure that the existing rules are consistently applied and enforced. The Commission's priority measures to make this happen are outlined below.

Preparation of initiatives.

Open and transparent policy making

The Commission will continue to apply the most open, transparent and evidence-based policy-making in line with the Lamfalussy process. Thorough and wide consultation and economic impact assessments will continue to ensure that, where legislation is necessary, sound rules will be drawn up with clear and demonstrable added-value for Europe's markets and consumers. The Commission favours publishing all responses to open consultations. Summaries of consultation procedures will be drawn up by the Commission and published. Responses to the recent public consultation on the Commission's working paper²⁹ evaluating the Lamfalussy process³⁰, strongly endorsed the Commission's general approach.

Simplification

Although the Commission has tried to keep the FSAP legislative framework as simple as possible, there is room for improvement. Simplification and consolidation of the existing rules (codification) is a continuous objective and will be factored in when preparing any new piece of legislation.

Legal coherence

A robust and clear legal framework is necessary for the efficient operation of both financial market participants and the public authorities responsible for regulation and supervision. The Community framework of law for the European financial markets and services is now highly developed, increasing cross-border activity and integration. New market practices can sometimes raise uncertainties or discussions as to how the existing law will apply or as to how it should develop. The Commission has already put in place arrangements to identify and analyse these areas. For example, in January 2005 the Commission launched the Legal Certainty Group dealing with cross-border securities rights and transfers. In conformity with its aim of

²⁹ See "The application of the Lamfalussy process to EU securities markets legislation: a preliminary assessment by the Commission services" - SEC(2004) 1459.

³⁰ European regulatory and supervisory process via a four-level approach: (1) framework legislation adopted in co-decision (between Council and European Parliament) at "level-1", concentrating on the core political principles; (2) "level-2" implementing measures to fill in the details of "level-1" legislation subject to precise constraints fixed in that legislation; (3) day-to-day cooperation by national supervisors and regulators to ensure consistent implementation and enforcement; and (4) more effective enforcement of Community law.

promoting better regulation, the Commission will consider whether it should encourage more actions in this domain.

Full co-operation among the supervisory committees (CEBS, CEIOPS and CESR) is needed to ensure consistent application of European rules across the board. Also, further work on convergence of reporting, organisational and other requirements for businesses will help create homogenous business environments throughout the Union. Cooperation at level 3 must take place in a carefully modulated, open and transparent environment that fully respects institutional boundaries and the need for political accountability.

The Commission intends to carry out an exercise to read across the connected (existing and proposed) directives to ensure consistency and internal coherence of terminology and effect³¹. Launching a feasibility study in the securities area might be helpful to find out if over time all rules (at European, and also national level) can be fused in one body of consistent law, a “*Financial services rulebook*”. Some texts could be simplified, or even repealed; a number of reviews will be carried out (see below). If needed, changes to the legislation could be proposed – with the flexibility of the Lamfalussy process, this could be achieved in reasonable time.

Transposition

Regrettably, the rate of transposition by Member States within the agreed deadlines is worsening³² (for example in the transposition of the Market Abuse Directive). What can be done to improve the situation? The following actions could help.

Renewed political commitment

Member States should demonstrate their commitment by providing clear and detailed transposition tables - preferably in one of the working languages of the Commission³³. The Commission will enhance monitoring and control. To give visibility to the state of transposition, the Commission will be bringing forward an on-line FSAP transposition matrix – showing which texts have been implemented by the Member States, when and how, with hyper links to the Member States’ own texts. Where available, transposition tables will also be provided. A special chapter in the Internal Market Scoreboard³⁴, planned for July 2005, will be devoted to this.

Realistic deadlines for transposition

Allocating sufficient time to Member States and market participants to apply Community rules is important. In the future, more care is needed to work out the

³¹ See ‘European Contract Law and the revision of the acquis: the way forward’ COM(2004) 651 - for an explanation of the development and role of the Common Frame of Reference in reviewing the contract law acquis.

³² An overview of transposition deficits will be put on the Commission’s website, see: http://europa.eu.int/comm/internal_market/en/finances/actionplan.

³³ See “Recommendation from the Commission on the transposition into national law of Directives affecting the Internal Market - SEC(2004) 918, 12.7.2004 - suggesting that correlation tables should be attached to the notification letter.

³⁴ http://europa.eu.int/comm/internal_market

necessary time for implementation of Directives and the implementing measures. The Markets in Financial Instruments Directive is an example where the deadline for transposition needed to be extended after adoption³⁵ - something that should be avoided in the future.

Transposition workshops

A continuation of transposition workshops with Member States and European regulators to iron out, *ex-ante*, the main problems by providing explanatory guidance to the Member States, regulators and markets if needed, while fully respecting the role of the European Court of Justice. The Member States have a duty under the Treaties³⁶ to implement and apply Community law. However, the Commission – as guardian of the Treaties – will remain vigilant in addressing any shortcomings and will launch infringement proceedings swiftly if this obligation is not carried out properly. At the same time, market participants and regulators should help the Commission identify any flagrant failures and address any shortcomings to national courts.

The Lamfalussy arrangements should also play an important role in the continuous monitoring of consistent transposition and effective enforcement. Peer group reviews, benchmarking and efficient mediation mechanisms within the level of the supervisory networks could help find agreement on implementation/enforcement problems and help raise standards and best practises. Good work has already been done by CESR in a number of areas (e.g. transitional provisions for UCITS III).

Mediation and alternative dispute resolving

However, at the same time, Europe needs to strengthen its enforcement mechanisms further – to ensure legal consistency and predictability. Mediation and alternative dispute resolution schemes, such as the already existing SOLVIT and FIN-NET networks³⁷, offer considerable potential. Other, additional complaints and mediation procedures – in particular within the supervisory committees (Lamfalussy level 3) need to be developed and could be very effective.

CESR's recent paper³⁸ illustrates a number of urgent day-to-day problems that CESR thinks could arise under Directives currently being agreed and implemented in the securities sector (e.g. how to supervise the conduct of business rules of an intermediary organised on a trans-national basis, with branches in several Member States; or how to apply a particular International Accounting and Financial Reporting Standard to a market operation). Similar problems could arise in other sectors, such as banking. For example, a branch could have a significant impact on financial stability in the host Member State – where the branch represents a major player – while being much less significant in size in the home Member State where it is supervised. Non-binding mediation is one idea – but further reflection is needed within

³⁵ The Commission came forward with a proposal for a one year extension – to be agreed upon by Council and European Parliament.

³⁶ EC Article 10.

³⁷ http://europa.eu.int/comm/internal_market

³⁸ http://www.cesr-eu.org/consultation_details.php?id=48

current institutional boundaries. Similar pan-European enforcement issues arise in the area of audit oversight.

Whatever alternative dispute solving mechanisms are developed, they cannot be a substitute for ultimate proceedings before the European Court of Justice.

Ex-post evaluation

While consistent transposition and enforcement of European legislation is key in creating the benefits of a level playing-field, the more fundamental question as to whether the rules actually achieve what they were meant to achieve must be addressed. The Commission will continue to report on an annual basis on the state of financial integration³⁹, also addressing competitive structures in Europe, the efficiency gains of integration and related financial stability issues.

With the FSAP having reached its closing chapter, the logical next step is to evaluate its impact on financial markets and institutions as well as on the consumers and users. *Ex-post* evaluation of the FSAP and of all new legislative measures will in the future be a top priority for the Commission. The Commission plans to carry out a full evaluation of the FSAP in the course of 2006-2008, when all measures are implemented and the empirical and possibly the first economic effects start to be measurable⁴⁰. The Commission will also carry out a number of reviews mandated by legislation adopted under the FSAP - e.g. on large exposures, own funds, commodities dealers, regulated markets and regarding the Financial Conglomerates, Insurance Groups and E-money Directives -, with a view to achieving greater coherence and more effective supervisory tools.

Not all measures need to deliver direct economic benefits. Measures can be needed to improve consumer protection, strengthen financial stability *etc.* However, if – over time – careful assessment and analysis reveal that specific legal texts have not worked – and will not produce their desired effect in the years to come – they will be modified or even repealed entirely. The Commission would be interested to learn from stakeholders which measures could be repealed and why.

Moreover, the Inter-institutional Monitoring Group⁴¹ has so far proved a useful, independent mechanism for evaluating progress on achieving the objectives of the Lamfalussy report. A new Group has recently been furnished with a mandate to provide annual reports until the end of 2007. The mandate has been expanded, in line with the extension of the Lamfalussy process, to cover banking, insurance and occupational pensions as well as securities law.

³⁹ http://www.europa.eu.int/comm/internal_market/finances/docs/cross-sector/fin-integration/sec-2004-559_en.pdf. Each year's report will focus on specific issues; in 2005 these issues will be reflected in special features on financial consolidation, retail financial services and new Member States.

⁴⁰ This exercise will require careful preparation and fine-tuned calibration. To that end, the Commission envisages the organisation of a workshop with economic experts in mid-2006.

⁴¹ Composed of 6 people, made up of 2 representatives nominated by the European Parliament, Council and the Commission respectively.

Challenges

Cross-border penetration of financial services and capital markets in Europe is increasing. Delivering efficient and effective supervision remains a key issue for the further development of the Single Market for financial services in Europe. The Economic and Monetary Union (EMU) and the FSAP, almost complete, have acted as catalysts for change. This poses **challenges** for supervisory systems, which remain nationally-rooted.

Financial systems have increased their interoperability and become more integrated, providing services across borders. Large firms have shifted from country-based structures to structures focused more on business lines with centralised management functions. There is demand for supervisory arrangements that better reflect the way in which risk is managed and business is done. In the integrating European market, effective supervisory cooperation is essential, both in terms of day-to-day supervision and in the event of a crisis. More consistency between regulators and supervisors is important to avoid market uncertainty. Firms are demanding more streamlined and less costly cross-border and cross-sectoral supervisory arrangements. Concerns exist about the lack of equivalent powers and tools in exercising European supervisory functions.

A three-step, evolutionary approach

Rushing into a debate on a future supervisory model for Europe without first laying down the necessary groundwork would be counter-productive and not deliver the desired results. Looking ahead at supervisory developments over the 2005-2010 horizon, an evolutionary approach is needed that strikes the right balance between ensuring effective supervision and financial stability, and minimising the regulatory burden for firms, systems and markets. The Commission proposes the following three steps:

Step 1: Agreement on overall policy objectives

The Commission's **policy objectives** for the coming five-year period are two-fold:

- to advance the **Lisbon agenda** by enhancing the **competitiveness** of EU financial markets and institutions. To the extent possible, activities should be subject to the same supervisory requirements both on a cross-border and cross-sectoral basis. All Member States must ensure in their implementation processes that their supervisors have the necessary powers to supervise and cooperate as required in the Directives. Avoiding unnecessary duplication in regulation and supervision will reduce industry burdens and foster expansion of cross-border financial services;
- to maintain the **highest, most up-to-date standards of regulation, oversight and supervision** for EU financial institutions, systems and markets to ensure financial stability, market integrity and consumer protection. Supervisory requirements should accurately reflect the risks run in

the market while converged supervisory practices and powers are crucial to ensure a level playing field and to avoid regulatory arbitrage.

Step 2: Maximise current framework, identify gaps and develop existing tools

Convergence of supervisory practices in all financial sectors is one of the key functions of the recently established Lamfalussy process. The second Lamfalussy review expected in 2007 is a milestone in this regard. Existing supervisory tools and the potential of CEBS, CEIOPS, and CESR should be exploited to the maximum extent. All possibilities to cooperate under the existing framework should be pursued, within the contours of existing institutional boundaries and in full respect of ensuring democratic accountability. Factual evidence needs to be gathered to see whether and where there are difficulties in day-to-day supervision in the various sectors, the efficiency of current supervisory networks should be assessed and gaps effectively filled. Particular attention should be paid to cross-sectoral issues, by providing greater clarity to the roles and responsibilities of supervisors and through convergence of supervisory practices. In addition, a number of practical features could be developed to help improve supervision in European financial markets and to enhance cross-border regulatory and supervisory cooperation, e.g. common reporting templates, effective dispute settlement procedures etc. Future legislative proposals (e.g. post-trade and insurance solvency) will need to anticipate specific solutions for supervisory cooperation. More consolidated supervision is a legitimate demand from industry. However, this should be a long-term objective. We should give the new supervisory committees a few years before they deliver their full potential, instead of rushing into a more integrated supervisory system at a time when markets are not yet really integrated. Targeted EU-level action may be needed to underpin supervisory cooperation in the following **three strands**:

(i) Removing inconsistencies within and between Directives, paying particular attention to cross-sectoral issues. The Commission will review overlapping, conflicting or outdated supervisory requirements in the directives, e.g. whether exceptions to the home country prudential control principle are still justified. Regulation should set the ground rules for an environment that allows well-run firms to succeed without encountering unnecessary supervisory barriers. Present and programmed Directives could create overlapping or conflicting supervisory requirements (e.g. Financial Conglomerates, Insurance Groups and future Solvency Directives). Working with stakeholders, an ongoing cross-sector review of supervisory approaches will be carried out and any necessary adjustments made to ensure coherence, clarity and supervisory efficiency. However, changes should only be considered after sufficient practical experience and after having maximised the current supervisory potential.

(ii) Greater clarity in the roles and responsibilities of supervisors. Home country control remains the core concept for supervision in Europe. The role of supervisors is now slowly starting to follow the way in which firms organise and manage themselves. In banking, for example, the Capital Requirements Directive proposes in some areas decision-making powers for supervisors that apply also to subsidiaries in other Member States, thus avoiding multiple decisions and reducing burdens. Before extending these powers to other areas, the respective roles and responsibilities of supervisors need to be reinforced and a number of key underlying and interrelated

issues should be addressed (liquidity, crisis management, lender of last resort, deposit guarantees, and winding-up and bankruptcy proceedings). In insurance and securities markets, similar issues may require attention. As a matter of priority, work will commence with all interested parties to determine how to optimally address the nature, location and supervision of risks in cross-border operations.

(iii) Convergence of supervisory practices. The three supervisory committees (CESR, CEBS and CEIOPS) are focusing on promoting cooperation and seeking similar responses to similar issues (e.g. developing common reporting rules and formats to reduce regulatory costs, peer pressure/mediation, and sharing information and data). In doing so, any new differences between supervisory powers and approaches which could impede proper market functioning should be identified and addressed. Possible solutions are: a review of divergences stemming from national legislation; enhanced cooperation through Memoranda of Understanding; coordinated or joint investigations; or coordinated group supervision. This should be done in a transparent way that respects institutional boundaries and democratic accountability. All tools underpinning supervisory cooperation, including non-binding standards agreed between supervisors, must of course be fully compatible with binding European legislation and must not prejudice the political process.

Step 3: Development of new structures

New structures should only be developed if all possibilities for cooperation under the current framework have been exhausted and if there is compelling evidence that, once fully implemented and developed, this framework cannot fulfil its financial stability and integration objectives or meet the requirements of European legislation.

Background

The Informal ECOFIN Council in September 2004 in Scheveningen (NL) discussed findings that suggest that cross-border acquisitions in Europe are less common in the financial sector (particularly banking) than in other sectors of the economy.

Eliminating or at least reducing unjustified barriers to cross-border investment and economic rationalisation within Europe will strengthen the competitiveness of the economy at large – and foster growth and job creation. However, consolidation is not an end in itself, and takeovers and mergers will not automatically produce improved economic performance. Rather, market-driven consolidation will enable European financial service providers to reach their effective potential and compete internationally – via economies of scale and scope.

Possible explanations

There are a number of possible explanations why in the financial sector cross-border acquisitions in Europe are less common, e.g. factors related to structural, cultural, language and taxation issues, which weaken the business case for consolidation. It was also suggested that inappropriate intervention by national supervisory authorities and political interference are reasons for banks' failure to consolidate significantly on a cross-border basis. This debate is not about the overall level of 'foreign' participation in individual Member States' financial sectors, which depends on a range of factors (such as profitability, cost effectiveness, etc.). It is rather about whether or not national supervisors use solely prudential criteria to assess the merits or demerits of a particular merger or acquisition. Supervision should not be misused for protectionist purposes.

The Commission's approach

In January 2005, the Commission issued a call for advice to CEBS notably on the criteria used by national supervisory authorities when reviewing acquisitions of qualifying shareholdings (cf. Article 16 of Directive 2000/12/EC). Many of these issues are also pertinent for other financial sectors, where similar provisions exist. In the insurance sector, the Commission issued a call for advice to CEIOPS on the "fit and proper" concept in December 2004. In the UCITS area, the industry is calling for cross-border mergers to be facilitated in order to increase size and reap economics of scale. Transparency in the bond market and how government debt markets function have also been raised as areas where integration would be beneficial. Cross-sectoral consistency will need to be checked regarding these outcomes.

In addition, the Commission will analyse the reasons for the low level of cross-border consolidation to date and investigate whether there are unjustified obstacles hampering the proper functioning of an internal market. In parallel, the Commission

will review the application of the Treaty-based freedom of capital movements (Articles 56-60) in the area of cross-border bank mergers and acquisitions⁴².

In particular regarding its ongoing review of Article 16 of the Banking Directive, the Commission considers that, at the very least, more clarity, transparency and disclosure are needed, based on a set of well-defined common prudential criteria. Supervisors ought to make explicit the criteria they apply when reviewing qualifying shareholdings and their decisions should be made within a reasonable timeframe.

Supplementary action through competition policy is an important complement to financial integration measures. In line with its proactive approach to enforcing antitrust rules, the Commission will undertake sectoral enquiries in the areas of retail financial services and business insurance, with increasing focus on market monitoring. The objective will be to implement selective competition screening, and in particular to enhance competition in certain European retail financial services markets. Special attention will be given to the identification of obstacles to the provision of cross-border services and entry barriers, both in the form of regulation as well as “typical” antitrust issues.

⁴² The Commission will present a factual report on obstacles to the ECOFIN Council by September 2005 along with recommendations stemming from its review of Article 16 of the Banking Directive. It also intends to prepare a Communication on the application of the Treaties based freedom of capital movements this summer.

Future enlargement and neighbourhood policy

The Commission will monitor carefully that candidate countries fulfil their responsibilities in the financial services area and assess whether they are ready to play their role as full members of the Union. As with previous accessions to the EU, the Commission intends to take a pro-active approach by asking candidate countries to apply existing rules already before their accession.

Regarding the countries with which Partnership and Cooperation Agreements are in force and which fall within the framework of the European Neighbourhood policy, the Commission will seek to ensure adherence to the main principles of the European rules.

Global dimension

Enhancing European influence on the global stage and ensuring the global competitiveness of the European financial sector should remain a priority. Financial services are a global business - developments in one jurisdiction have an impact on others.

Three regulatory objectives can be identified:

- (1) the need to remove barriers to open and competitive financial services markets worldwide and to ensure market access, based, where appropriate, on equivalent regulatory approaches;
- (2) the need to manage major structural changes on the global stage – seeking cooperative solutions where possible;
- (3) the need to protect the international financial system from instability, fraud and financial crime.

Good progress has been made in building open, *ex-ante* regulatory dialogues - exchanging information, identifying potential regulatory problems upstream and seeking mutually acceptable solutions. With the United States, a number of important regulatory understandings (e.g. on the cooperative model for the implementation of the Sarbanes Oxley Act and on financial conglomerates) have helped reduce transatlantic friction. Working as far upstream of the political process as possible to converge regulatory and supervisory principles minimises compliance and adjustment costs in the different jurisdictions.

Recently, the Commission has had a first successful macro-economic and financial sector regulatory dialogue with China – which will be repeated in the near future. A number of important areas for cooperation and regulatory dialogue in the financial services area have been identified, such as accounting and the experience with the Lamfalussy regulatory model. The Commission also would like to deepen financial relations with Japan, and, if possible, also with India over the next five years.

The Commission is committed to an ambitious opening of global financial services markets, as modern and efficient financial markets are a prerequisite for further economic development in these countries. This commitment will therefore be reflected in the WTO negotiations on financial services.

The Commission would like to deepen further these regulatory dialogues, more particularly the EU-US dialogue which is already well on track – working closely with the Member States, the European Parliament and the private sector. In the Commission's view, the informality and practicality of the dialogue are proven strengths. The current participants should thus not be changed – although experts could be included on an *ad-hoc* basis.

Important themes for the EU-US regulatory dialogue in the coming years are:

- work towards equivalence/convergence between IAS and US-GAAP – agreeing a roadmap and timetable are now urgent. The Commission intends to take a decision on equivalence of the major third-country accounting systems (required under the Transparency and Prospectus Directives) end 2006 or early 2007;
- facilitate deregistration from US securities exchanges;
- increase co-operation with the US insurance supervisors and remove collateral requirements for EU reinsurers;
- ensuring that the Basel Capital Accord (in Europe the Capital Requirements Directive) is implemented on time and in a way that effectively delivers a level playing field between Europe and the US;
- cooperation on a policy response for Credit Rating Agencies⁴³;
- work toward a cooperative model in supervising auditors (in cooperation with the US Public Company Accounting Oversight Board);
- closely follow the Securities and Exchange Commission's market regulation review and facilitating placement of trading screens of EU exchanges in the US;
- look into the governance, financing and participants of international standard setting bodies.

⁴³ See also Section 3.1.

Annex I, Section VI – Asset management

Alongside pension funds and insurance companies, investment funds play an increasingly important role in European financial markets - mobilising household savings and channelling them towards productive investments. The European fund industry currently manages some € 4.7 trillion of assets on behalf of a growing segment of the European population - in some Member States, over 20% of the adult population hold UCITS⁴⁴. A cost-effective fund industry will diversify risk more efficiently, allow retail investors to earn higher returns and make capital available for investment projects.

Investment funds will assume greater importance as public sector pensions remain under funding pressure and occupational pension funds shift to a defined-contribution basis. Small differences in net return on investments in funds can make a huge difference to the accumulated value of capital at pay-out date. A cost-efficient fund industry, where gains are passed on to end-investors, can be part of the solution to Europe's pension deficit.

The 1985 UCITS Directive seeks to facilitate the cross-border offer of investment funds to retail investors. It has provided a focal point for the development of the fund industry in Europe. However, cross-border sales remain constrained: the 'product passport' continues to encounter difficulties and fund managers have not been able to export their expertise. UCITS legislation may entail significant missed opportunities for the industry if it does not provide for effective exercise of other single market freedoms by fund managers, or respond to the reality of a fast developing business. This may translate into higher costs and a more limited range of investment opportunities for investors.

The Commission services will publish a comprehensive review of UCITS legislation this summer. This will identify concrete steps to improve consistent transposition of existing UCITS legislation and to ensure that it delivers its intended effects. The focus will be on consolidating and enhancing the UCITS framework. However, the growing importance of this business warrants a longer-term reflection on whether the UCITS framework is capable of harnessing the full potential of this industry - taking into account the need for appropriate protection of retail investors - or of responding to profound structural changes affecting the asset management business

On the basis of this review, the Commission services will prepare a Green Paper on asset management for publication in July 2005.

⁴⁴ UCITS are harmonised collective investment undertakings that can operate throughout the EU.

Retail Financial Services integration is needed

The post-FSAP stocktaking process identified the market for retail financial services as an area requiring further attention. A number of important factors have increased the need to consider encouraging future integration in the retail financial services markets:

- the introduction of the **euro** has resulted in price transparency and exchange rate stability;
- **technological innovations**, such as Internet, are providing new opportunities to sell financial services at a distance and hence cross-border;
- increased **consumer mobility** of European citizens is driving demand for efficient cross-border financial services⁴⁵;
- there is a growing need for more efficient long term financial services products to complement **state welfare provision**.

The way forward

However, integration of retail markets is complex and demanding. Product characteristics, distribution systems, consumer protection, contract law, differences in consumption culture or other economic or structural realities play a more prominent role in this area – and create considerable complexity for cross-border supply.

Integration of retail financial services should not only enable consumers to purchase products cross-border, but also facilitate the sale of products, developed in one domestic market, throughout Europe without the need for substantial modification. This would deliver more choice and better prices to consumers.

The Green Paper should help to identify the most significant cross-border barriers and risks for consumers so that the Commission can carefully prioritise a limited number of actions where there is a business case for further retail integration and tangible results can be achieved.

Supplementary action through active application of competition policy is therefore important. Accordingly, the Commission will undertake sectoral enquiries, with a focus on market monitoring (see Section 3.3 of the Green Paper and Annex I, Section IV).

⁴⁵ For an analysis of factors which affect consumers' propensity to buy from firms in another country see Optem survey on cross-border shopping for financial services carried out for the Commission, available at:
http://europa.eu.int/comm/consumers/cons_int/fina_serv/cons_experiences/index_en.htm

Future measures should be based on an appropriate policy mix between harmonised rules and mutual recognition. Such measures must neither erode well-founded consumer protection measures, nor stifle or distort competition.

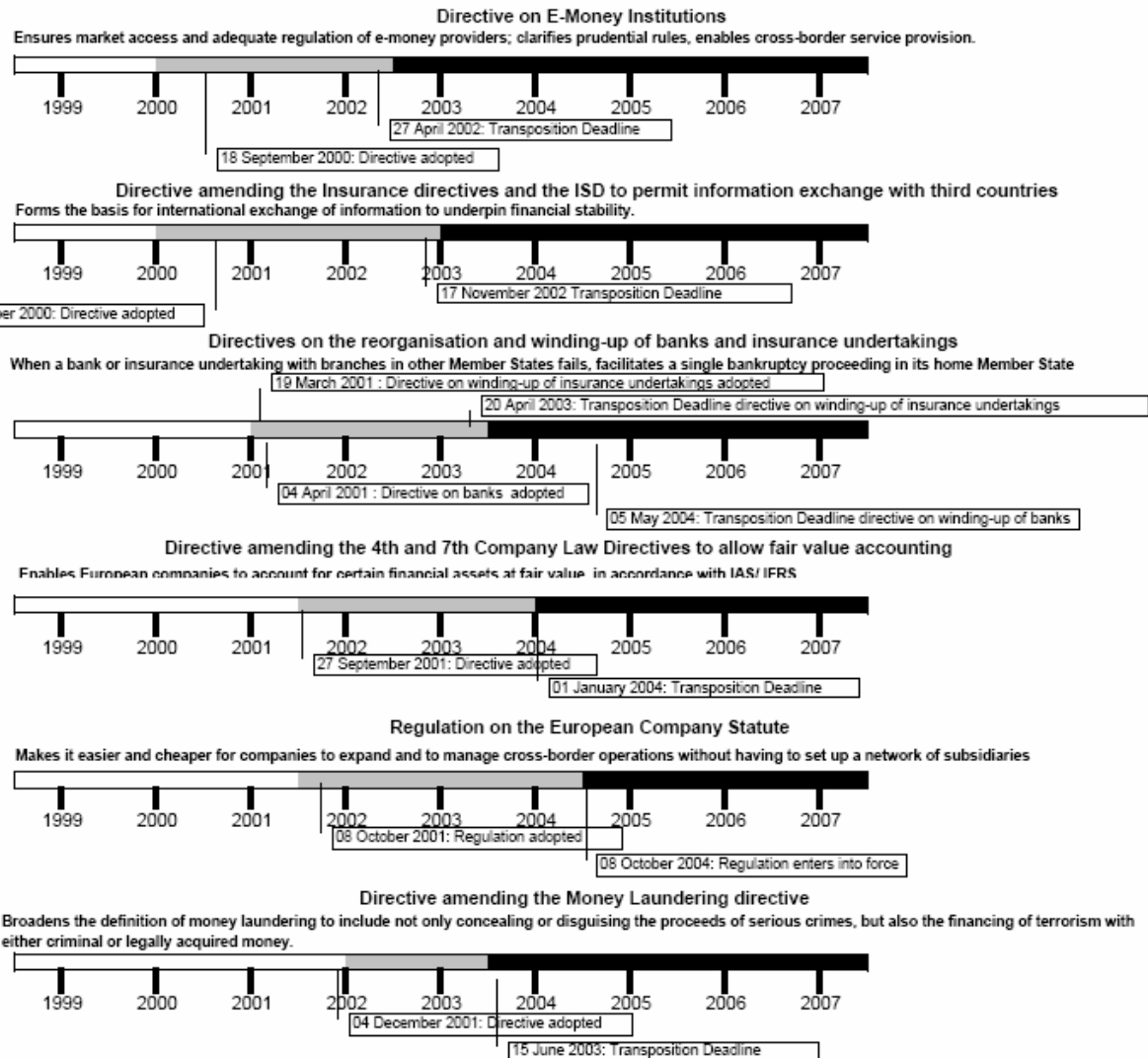
The consumer perspective

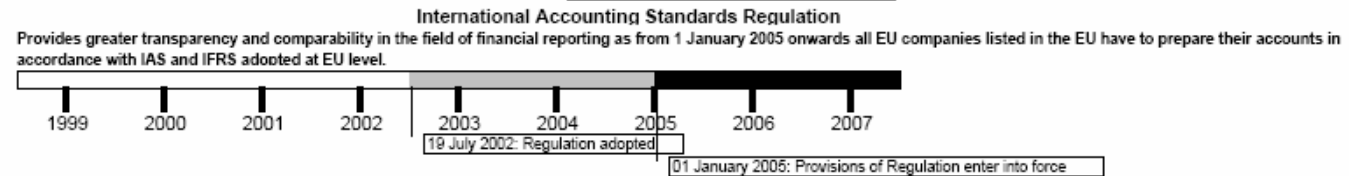
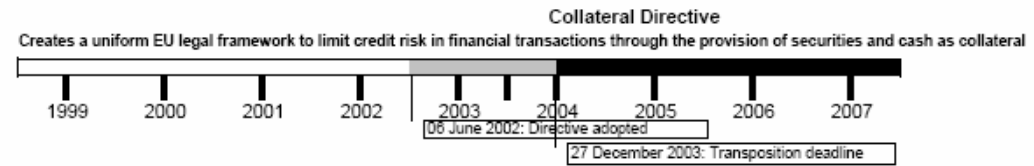
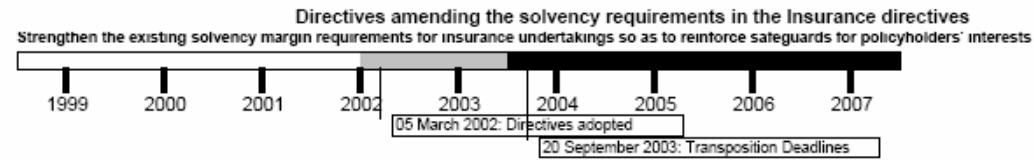
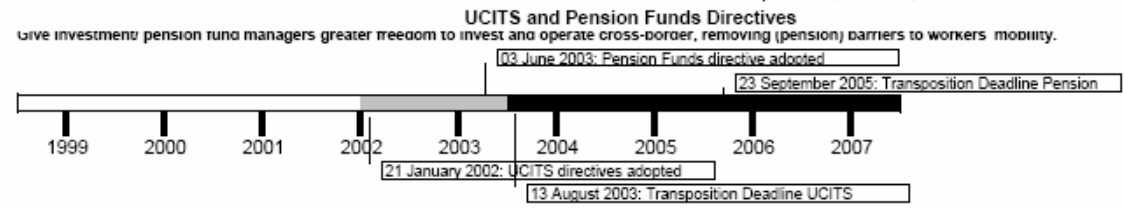
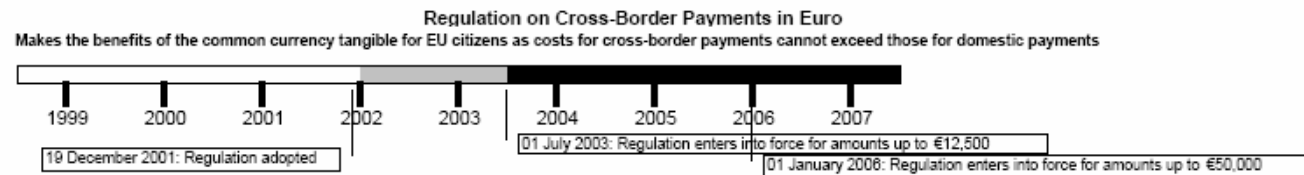
The Commission is committed to listen to all interested parties before coming up with new initiatives. The Commission is committed to ensure the consumer and user perspective is heard⁴⁶, and that the consumer interest is prominent in the major debates. The consumer and user perspective can be further developed with the help of representative organizations which need to continue efforts to improve their organisation and their knowledge and experience in the area of financial services. Additional action to promote and support consumer awareness might be needed – starting at Member State level.

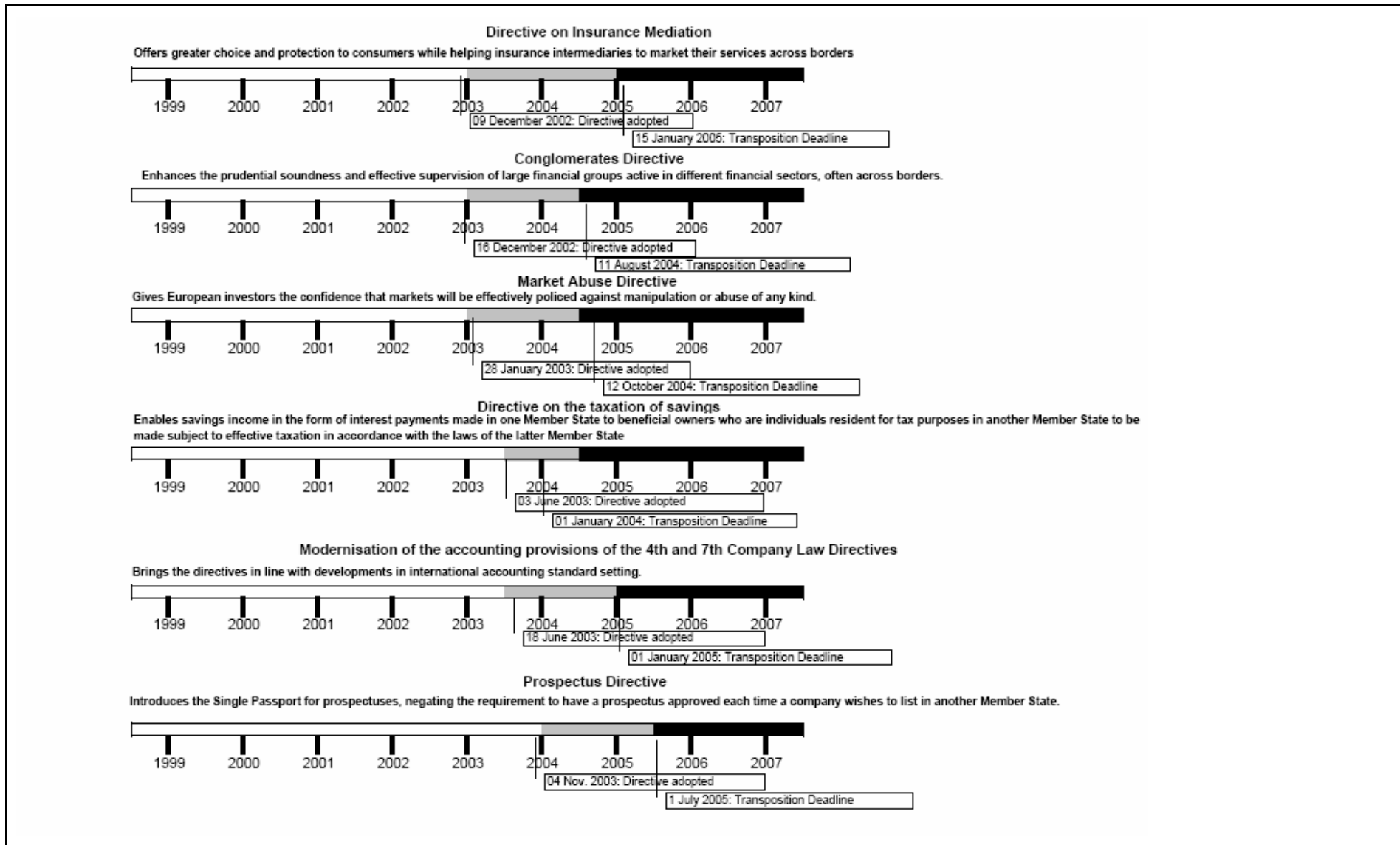
European legislation emphasises the importance of information provision. However, unless consumers themselves develop the skills and knowledge needed to understand increasingly complex financial products, consumers cannot make well-informed (investment) decisions on the basis of this information.

Redress systems could help to increase consumer confidence in the market so that the full benefits of integration can be realized. The out-of-court complaints network for financial services, FIN-NET, already provides some assistance for cross-border disputes.

⁴⁶ One of the initiatives already taken is the establishment of the FIN-USE forum of financial services experts, providing the Commission with valuable input from a user perspective, see http://europa.eu.int/comm/internal_market/finservices-retail/finuse_en.htm.

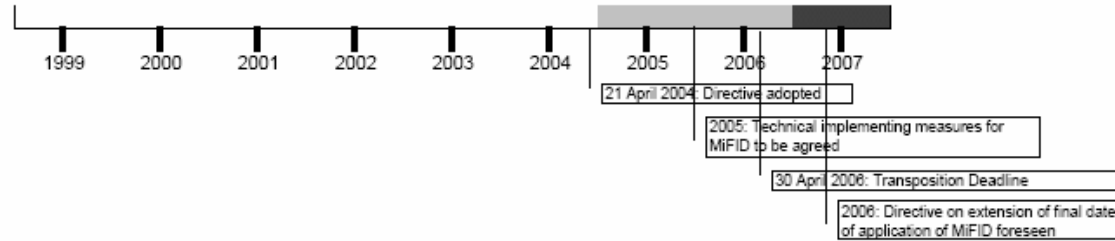






Markets in Financial Instruments Directive

Creates fair competition between exchanges and banks wishing to internalise securities orders; improves pre-trade transparency, order execution and the price of securities trading.



Take-Over Bids Directive

Offers transparent pan-European rules for the conduct of takeover bids to the benefit of shareholders, employees and all interested parties.

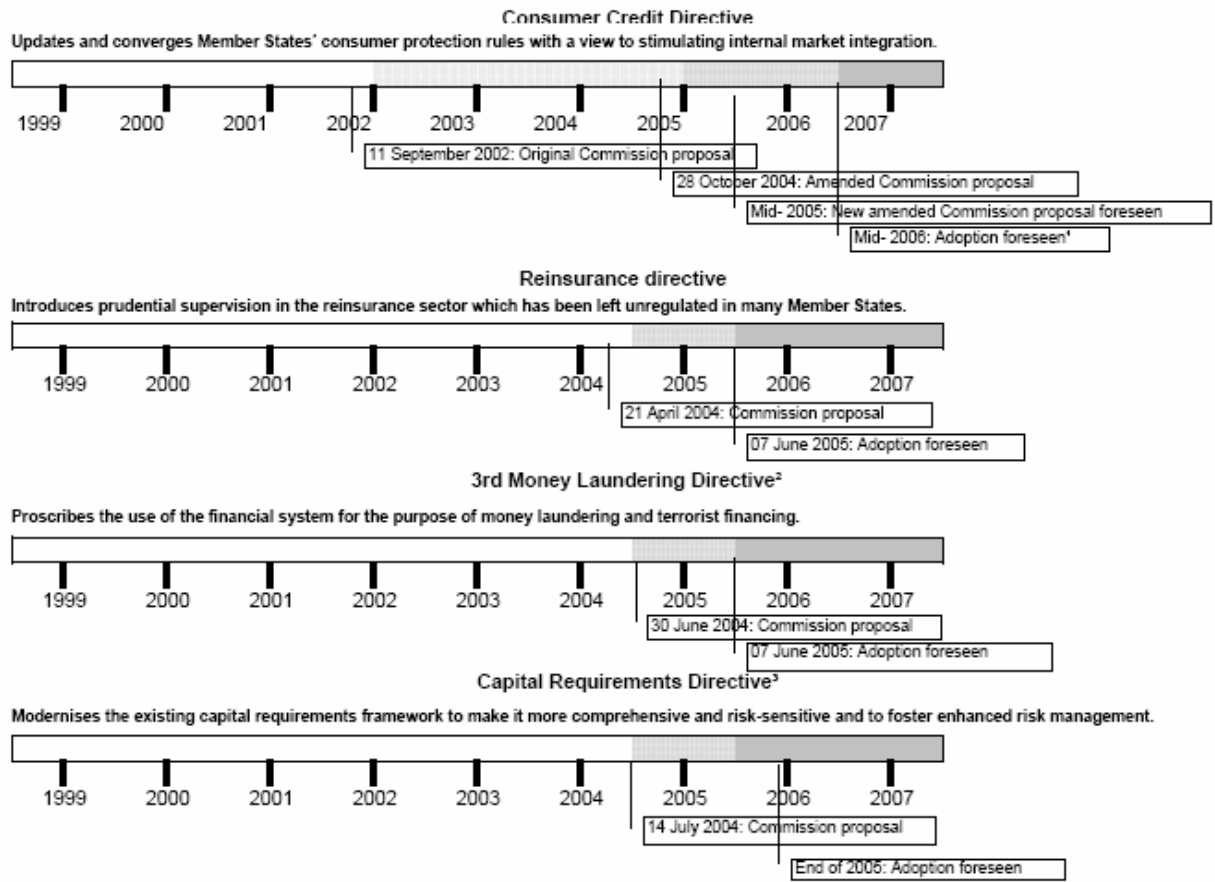


Transparency Directive

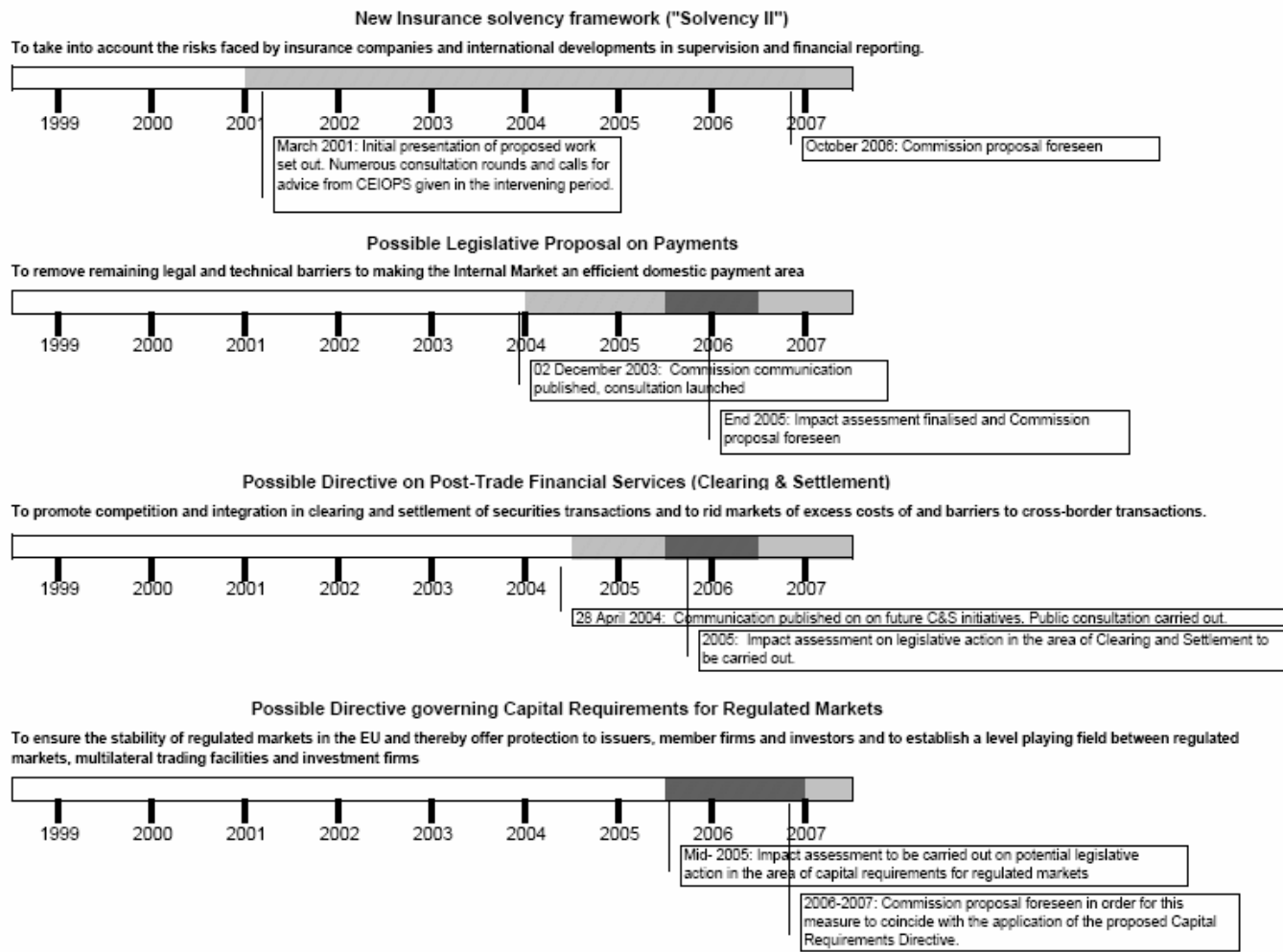
Raises the quality of information available to investors on companies' performance and financial position as well as on changes in major shareholdings.



(ii) Timeline for Completion of Ongoing Legislative Proposals



(1) These proposals are currently discussed in the Council and European Parliament, and are anticipated to be passed at a single reading.
 (2) A general approach was adopted by the ECOFIN council on 07 December 2004
 (3) A general approach was adopted by the ECOFIN council on 07 December 2004



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