

REGULATION OF EUROPEAN SECURITIES MARKETS: THE CONCLUSIONS OF THE WISE MEN'S COMMITTEE – WHERE TO GO FROM HERE

Summary: At the Lisbon summit in March 2000 EU leaders formulated a challenging objective: that the European Union, over the next decade, should become “*the most competitive and dynamic knowledge-based economy in the world.*” All the EU institutions have underlined that a key element in achieving this goal and sustaining higher productivity and growth, is a more efficient functioning of European financial markets. The Committee of Wise Men, headed by Baron Lamfalussy, has analyzed the obstacles to this, set out priorities for action, and recommended procedural innovations to help make it possible to deliver the Financial Services Action Plan by the target deadline. The Wise Men have in particular stressed the importance of transparency, flexibility and speed in regulation of rapidly changing European securities markets. They suggest more framework legislation, with the task of filling in technical detail and adapting it to change delegated to a committee. They support Parliament's active role both in creating such framework legislation, and in scrutinizing use of the delegated powers.

What the Wise Men have correctly identified as a hidden potential

The Committee of Wise Men has rightly focused on the huge potential still buried by the incomplete integration of Europe's financial markets. Exploiting this potential should result in microeconomic and macroeconomic benefits to Europe's businesses and consumers. In particular, small and medium sized companies in the EU stand to gain considerably from this integration – and these enterprises have been defined as key elements in the path towards prosperity and employment in the Union. The Committee has called for a ‘new Cecchini study’ to quantify the economic benefits of financial market integration, and supply benchmarking tools for progress towards it.

Means of acceleration of financial market integration

The Lamfalussy Committee has recommended that, as a tool to accelerate market integration, a number of near-term priorities in the Financial Services Action Plan should be identified and agreed, with the aim of making these operational by 2003 at the latest. It suggests a possible list of such priorities, as follows:

- A single prospectus for issuers
- Modernization of listing requirements
- Generalization of the home country principle (mutual recognition) for wholesale markets
- Modernization of investment rules for investment funds and pensions
- Adoption of International Accounting Standards
- A single passport for recognized stock markets on the basis of home country control

The Committee of Wise Men has however rightly identified that the main barrier to further integration of financial markets lies on the procedural side:

- avoidable delays in the EU legislative procedure;
- inconsistent implementation at national level;
- inadequate enforcement by the European Commission

There is general consensus on the need for faster and simpler legislation in order to keep up with developments in markets and global regulatory fora. Otherwise there are risks of constraints on innovation, competitiveness and the ability to cope with new market risks. But although the diagnosis of the problem, and of the main elements of the solution, are common ground, the specific procedural details for delivering are a matter of some debate.

What the Wise Men are proposing

The Committee of Wise Men believes that speeding up and increasing the transparency of the EU legislative processes is critical to the success of European financial markets. Its key proposals include:

- allowing the Commission, the European Parliament and the Council to concentrate their efforts on developing key policy principles for European securities regulation by means of Framework Directives or Regulations (*so-called Level 1*);
- leaving the technical details needed to implement those key principles efficiently to a Securities Committee and to the advice of a European Securities Regulators Committee (*so-called Level 2*);

Essential transparency requirements are included in both levels in order to ensure that both market practitioners and consumer interests are taken into consideration.

The financial industry agrees that transparency, openness and accountability, and adherence to short time tables are key to the success of such a process. Integrating Member States, national regulators, the industry, the European Parliament, and end-consumer interests into the process of law-making should contribute to better quality regulation and support more rapid progress. Market practitioner input is an essential element of this - and indeed is a feature of the most successful financial centres of the world, including at early formative stages. The Wise Men recommend that such input should be provided for at every stage of the legislative process, with particular priority given to those with the relevant experience and expertise. This also raises the question as to whether this consultation process should be mandatory in order to ensure more transparency and openness in the procedure.

What is the role of the European Parliament?

The European Parliament has continually showed its commitment to efficient and flexible legislation.

The Wise Men proposal to use comitology procedures is designed to create a fair balance of influence between all sides involved, with the purpose of producing legislation which is better adapted to the needs of the European securities markets.

- The Parliament, when involved in co-decision on "Level 1" (the main legislative level), will have ample opportunity to consult with those whose interests it is committed to protect - consumers, market practitioners and participants -, and to express its commitment to market integrity and efficiency. It will also decide jointly with the Council on the extent of the mandate for implementing measures to be left to the Securities Committee in Level 2.
- In "Level 2" there will be further consultation and the process will be completely transparent to the European Parliament. Parliament will also have one month to consider whether proposed final draft measures exceed implementation powers agreed to in Level 1. If Parliament disagrees with the final draft it can pass a Resolution stating that these measures are not in conformity with the agreed measures. The Commission must then re-examine its proposal taking 'utmost account' of the Parliaments view. The Lamfalussy Committee comments on this that 'given the importance of institutional balance, it would be inconceivable if the Commission did not'. The Wise Men looked with interest at the idea of a formal "call-back" mechanism empowering Parliament to veto Level 2 measures, but concluded that the introduction of such a measure 'is not envisaged in the Treaty' (page 34).

A Plea for Progress

The financial services industry hopes that Commission, Parliament and Council will not let a question of technical procedures block or slow progress in resolving problems whose identification is agreed, particularly when the main elements of the solutions are also agreed. Industry respects and supports the Parliament's active role in lawmaking and oversight in the financial services area. However, if Europe is to reach an efficient and integrated competitive financial market, speed & flexibility in the EU decision-making process are critical. Protracted delays in the process will increase the risks of being left behind, and lengthy inter-institutional negotiations or eventually Treaty changes could further slow down the reform drive.

The European Parliament can contribute to this effort by agreeing to the proposals as presented by the Wise Men in their final report provided that an agreement among the different institutions is reached on the role of the Parliament in Level 2. Such an agreement would constitute a clear political message and a strong commitment to the competitiveness of Europe's securities markets to be sent to the Stockholm European Council.

Europe, its markets, and its citizens need the political impetus of the Parliament in the ‘Lamfalussy’ process. This modern and innovative legislative approach seems one worth trying if the Union is to become, as stated in Lisbon, “the most competitive and dynamic knowledge-based economy in the world.”

Briefing notes are prepared by the Industry Advisory Committee to the European Parliamentary Financial Services Forum. For further information on the subjects raised in the briefs please contact the Chairman, Members or Secretariat of the Advisory Committee.

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