Financial Services Action Plan

Progress Report

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Introduction

The European Council in Cologne and the European Parliament have supported both the content and urgency of the Action Plan for Financial Services[1]. The Action Plan details the work that has to be accomplished to reap the full benefits of the euro and to ensure the continued stability and competitiveness of EU financial markets. The Council invited the Commission to report on a regular basis on the progress made and to present its first report before the end of 1999. This first report to the Council and to the European Parliament tracks progress over the first six months (until 10 October) since the adoption of the Action Plan. In view of the short period sice the adoption of the Action Plan, this report focuses in particular on the legislative progress that has been made. Annexed is a detailed breakdown of the separate action points. The second progress report will be made to the ECOFIN Council and the European parliament in mid 2000: it will contain an assessment of the progress, direction and results of the integration of the EU financial services sector and its contribution to growth and employment in the Union.

Mechanisms & process

The mechanisms for implementing the Action Plan are critical to its achievement. Over the past six months, and in line with the suggestions in the Action Plan, the Commission has put in place the following structures.

- The *Financial Services Policy Group (FSPG)*, comprising personal representatives of economic and finance ministers, has resumed its tasks as a forum to forge consensus between national ministries involved in financial services regulation. The FSPG has met twice since the adoption of the action plan and has assisted the Commission in monitoring progress and preparing this report.
- Initial informal discussions have taken place with representatives of the *European Parliament* with a view to finding arrangements to discuss major policy orientations with parliamentarians at an early stage.
- *EU representative bodies* have submitted short lists of experts to help the Commission assess certain implications of technical issues raised in the Action Plan. These 'Forum Groups', composed of market experts, are initially considering issues related to market manipulation; updating the Investment Services Directive; collateral; consumer information requirements for retail financial services; and differences in national legislation that hinder the cross-border marketing of financial services. Further groups may be set up in the future.

Some progress has been made on implementing the Action Plan ….

The challenge set by the Action Plan for all of the Union's institutions is considerable. It will demand intense and sustained activity if we are to achieve the fierce timescale demanded by the rapidly-changing financial services sectors. The first months have seen welcome progress. Already the Commission has issued its Communication on Pension Funds and is actively preparing a draft directive. It has also adopted a proposal for a directive to amend the Money Laundering Directive. With regard to wholesale markets work is well underway within the Forum of European Securities Commissions (FESCO) and the Accounting Contact Committee to meet the timeframe set out in the Action Plan. The Commission also recently adopted its Communication on the implementation of the Risk Capital Action Plan. The Commission will increase its efforts in the field of accounting policy and will pre-

[1] Financial Services - Implementing the Framework for financial markets: Action Plan. Commission Communication of 11.05.1999 COM(1999)232

sent proposals to enhance regulatory co-operation between securities supervisors. Progress to achieve open and secure retail markets is also satisfactory. Discussions in the Council and the European Parliament on the distance selling proposal for financial services are continuing. The preparation of a legislative proposal for insurance intermediaries is on track as is the work on a number of Communications (consumer information, insurance) and a Green Paper on E-Commerce and financial services. Work on prudential rules has also advanced. The proposal for a E-Money Directive is advancing through Council and European Parliament. The review of bank capital rules in parallel with the G-10 Basel Committee on Banking Supervision, the insurance solvency requirements, and the supervision of financial conglomerates are on schedule. The adoption of a Commission Recommendation on the disclosure of financial instruments is imminent. Finally, work on wider conditions for a single market are continuing with a view to direct taxation. The Council deliberations on the Commission proposal on a minimum taxation of savings income are continuing at full speed and it is hoped that a political agreement can be reached before the end of the year. The same holds, mutatis mutandis, for the work of the Council group working on the implementation of the Code of Conduct on business taxation. After first fruitful discussions, inter alia in the Taxation Policy group, work on the taxation of supplementary pensions and financial services in general will be continued as a priority in 2000. A Commission proposal for supplementary pensions is already under preparation.

..But there is a need for greater effort

The pressure to make progress demands a sustained response from all institutions. The European Parliament and the Council have been invited in the Action Plan to make every effort to ensure rapid agreement and implementation of the individual legislative measures. There must be a clear political commitment by all institutions and actors to commit the necessary resources if we are to achieve the ambitious deadlines that have been agreed. Indeed, lack of progress is noticeable in particular in the following areas:

- Political agreement on the proposal for a **Take Over Bids Directive**, which would make the final adoption of this proposal possible, has still not been achieved in the Council. The main stumbling block is to find a mutually acceptable solution for Spain and the United Kingdom over the status of Gibraltar.
- The proposed directive on the **Winding-up and Liquidation of Banks** was presented to the Council and European Parliament in 1985. Here too the lack of progress is the absence of a mutually acceptable solution on the application of winding-up and liquidation procedures in Gibraltar.
- Despite successive political commitments at the most senior level, there is little progress on the **European Company Statute**. This has had implications for two other measures in the field of company law (**10th Company Law Directive** and the **14th Company Law Directive**).
- The preparation of a **Commission Recommendation on Prior Information for Consumers** will build on progress from industry in developing best practices. Delays within industry may soon be resolved. The Commission has also established an 'Forum Group' with industry and consumer representatives to make progress.
- The **Commission Communications on Payments in the Single Market** and **Fraud and Counterfeiting in Payment Systems** will be presented before the end of the year. The short delay in their adoption is due to administrative reasons caused by the change in the Commission over the summer.

An important stumbling block to the political progress of important initiatives has therefore been the absence of a solution for two Member States (Spain and the UK) over any direct or indirect reference to Gibraltar or its status in proposed legislation. Continuation of this impasse carries heavy costs for the development of a single financial market. It is to be hoped that the two Member States concerned can finalise practical solutions to break the deadlock.

Overall assessment:

The Financial Services Action Plan has injected new urgency and momentum into the task of building a single financial market. There is now a shared understanding, at the highest political level, of what is at stake – an unheralded opportunity to put modern and efficient financial markets at the service of EU enterprise, savers and investors. The six months since the endorsement of the Action Plan by the Cologne European Council have witnessed modest but tangible progress in terms of:

- the ground-work for the specific initiatives in the action plan and mobilisation of input from market practitioners and other important constituencies (consumers, users);
- negotiation and adoption of legislation: Council and Parliament have redoubled their efforts to secure progress on number of proposals some of which have been the subject of longstanding deadlock. These efforts have not always come to fruition but with continued application, a number of key initiatives could be agreed over the coming months such as the 13th Company Law Directive, and winding-up and liquidation of insurance undertakings. An important stumbling block to the political progress of important initiatives has been the absence of a solution for two Member States (E-UK) Gibraltar or its status in proposed legislation. Continuation of this impasse carries heavy costs for the development of a single financial market. It is to be hoped that the two Member States concerned can finalise practical solutions to break the deadlock.

Over the next six months, the onus will remain on the Commission services to come forward with a series of important measures in accordance with the timetable foreseen in the Action Plan (pension funds, green paper on Investment Services Directive, modernisation of accounting strategy, e-commerce Green Paper). In addition to the preparation of specific initiatives contained in the Action Plan, the Union will need to refine its strategy in the light of accelerating structural change in financial markets. Discussions in FSPG and other fora in the coming months will be concentrated on the following areas:

- EU-wide trading of securities where particular efforts needs to be devoted to allowing issuers the possibility of raising capital on an EU wide basis. This requires concerted action relating to the demand side (market transparency, information) and supply-side (clear and common understanding on authorised activities, products and intermediaries and effective cooperation in market supervision);
- Emergence of internationally active conglomerates as the mainstay of EU financial system which raises questions for the EU prudential and supervisory framework.
- Harnessing the commercial potential of E-commerce trading of financial services in manner which offers effective safeguards to individual consumers.

Annex

Progress on the Action Plan for Financial Services

This annex provides a first overview of progress on actions included in the Action Plan for Financial Services (COM(1999) 232). The reporting date is 10 October 1999. A star (★) indicates an action which has been successfully completed. A cross (✚) indicates actions where some progress has been achieved in meeting the targets set in the Action Plan. A minus sign (–) indicates those for which progress is disappointing.

The tables summarise the current situation and provide the Commission's assessment of the degree to which Community institutions and Member States are achieving the objectives set out in the Action Plan. Where appropriate a comment has been added in the final column, notably to indicate the next steps to be taken.

Strategic Objective 1: A single EU Wholesale market

Raising capital on an EU-wide basis:

Action	*Timeframe*	*State of play*	*Assessment*	*Follow-up*
Upgrade the Directives on Prospectuses through a possible legislative amendment	For issue by mid 2000 Adoption: 2002	Reflection continues within the Commission in close co-operation with a FESCO working-party	✚	Preliminary results from FESCO expected in December 1999
Update the Directive on Regular Reporting (82/121/EEC)	Launch consultation by mid 2000 Proposal: 2001 Adoption: 2002	Work continuing in the Commission in close co-operation with FESE (Federation of EU Stock Exchanges)	✚	Commission's Contact Committee meeting first quarter of 2000 Commission's Contact Committee meeting spring quarter of 2000 Consultation of FESCO and industry spring 2000

Establishing a common legal framework for integrated securities and derivatives markets:

Action	*Timeframe*	*State of play*	*Assessment*	*Follow-up*
Issue a Commission Communication on distinction between "sophisticated" investors and retail investors.	Draft for issue by end 1999	Draft Communication under preparation in close co-operation with FESCO	✚	FESCO work should be completed end December 1999 Commission adoption of final draft end 1999 Member State and industry consultation first quarter 2000
Directive to address market manipulation.	Proposal by end 2000 Adoption: 2003	Work continuing in close co-operation with FESCO and the industry ('Forum Group')	✚	Industry 'Forum Group' to complete work by March 2000 Preliminary results available from FESCO first quarter 2000
Green Paper on upgrading the ISD	Publish Green Paper: mid-2000	Work continuing in close co-operation with FESCO and the industry ('Forum Group')	✚	Preliminary results available from FESCO December 1999 Industry 'Forum Group' to complete work by February 2000

★ = Action completed
✚ = Some progress achieved in meeting Action Plan targets
− = Progress disappointing

Towards a single set of financial statements for listed companies:

Action	Timeframe	State of play	Assessment	Follow-up
Amend the 4th and 7th Company Law Directives to allow fair value accounting	Proposal autumn-99 Adoption: 2001	The draft proposal is being prepared for adoption by the Commission.	✚	Adoption by the Commission by the end of 1999
Commission Communication updating the EU accounting strategy	For issue by end-99 (now deferred into the first half of 2000)	The proposal has now been deferred until the first quarter of 2000. Following policy discussions in the FSPG and the Contact Committee, an outline for the Communication will be discussed with Member States end October in the Accounting Contact Committee. In addition, bi-lateral discussions are being pursued with Member States.	✚	Discussion of an outline of a Communication in the Accounting Contact Committee on 21/22 October, and the Accounting Advisory Forum on 23 November
Modernisation of the accounting provisions of the 4th and 7th Company Law Directives	Proposal end-2000 Adoption: 2002	Progress is linked to progress on the Communication to update the EU Accounting Strategy (see above) and is therefore on target.	✚	Discussion in the Accounting Contact Committee early 2000
Commission Recommendation on EU auditing practices	For issue by end-99	Following discussions in two meetings of the Committee on Auditing a draft recommendation has been prepared for Member States in the Accounting Contact Committee.	✚	Discussion in the Accounting Contact Committee (21/22 October) and the Committee on Auditing (6/7 December)

Containing systemic risk in securities settlement:

Action	Timeframe	State of play	Assessment	Follow-up
Implementation of the Settlement Finality Directive	Commission to continue monitoring of implementation in a working Group. Commission report to Council end 2002	Transposition of the Directive already completed in: BE, IR, NL done	✚	November: interpretation meeting MS experts Implementation date: 11.12.1999
Directive on cross-border use of collateral.	Launch consultation autumn-99: proposal end-2000. Adoption: 2003	Preparation within the Commission of preliminary discussions with industry ('Forum Group'), also taking into account the 'Giovannini Group' Report on EU Repo Markets	✚	Discussions with industry ('Forum Group') started October 1999

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Towards a secure and transparent environment for cross-border restructuring:

Action	Timeframe	State of play	Assessment	Follow-up
Political agreement of the proposed directive on Take Over Bids	Mid-99 Adoption: 2000	Final adoption awaiting political agreement on the issue of Gibraltar	–	Final adoption expected before the end of 1999l
Political agreement on the European Company Statute	Mid-1999 Adoption: 2000	No further progress	–	No progress expected before the end of 1999
Review of EU corporate governance practices	Launch review early 2000	A terms of reference for the proposed study is currently being drafted.	✚	Issue of terms of tender for a study by end of 1999
Amend the 10th Company Law Directive	Proposal in autumn 1999 Adoption: 2002	Awaiting political agreement on the ECS	–	Commission led meeting of Member State company law experts on 30 September/1 October
14th Company Law Directive	Proposal in autumn 1999 Adoption: 2002	Awaiting political agreement on the ECS	–	Commission led meeting of Member State company law experts on 30 September/1 October

Establishing a common legal framework for integrated securities and derivatives markets:

Action	Timeframe	State of play	Assessment	Follow-up
Commission Communication on Funded pension Schemes	Issued on 11 May 1999 Com (1999)134		★	
Political agreement on the proposed directives on UCITS	End-1999 Adoption: 2000	Negotiations continue in the Council. EP will start its first reading	✚	Political agreement should be reached end 1999. First reading in EP end 1999
Directive on the prudential supervision of pension funds	Proposal: Mid 2000 Adoption: 2002	The Commission is finalising a first draft text of a directive for discussion with member states experts. The FSPG discussed the outline of a draft directive at its October meeting	✚	First discussion of a draft outline of the directive with Member States experts on 25 November 1999: Early 2000: discussion with MS experts on draft Directive (2nd draft)

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Strategic Objective 2: Open and secure retail markets

Action	*Timeframe*	*State of play*	*Assessment*	*Follow-up*
Political agreement on proposal for a directive on the distance selling of financial services	End 99 Adoption 2000	Amended proposal adopted by the Commission (COM(1999) 385 of 23 July 1999)	✚	Technical discussions are underway in the Council, with a view to achieving a common position by November 1999.
Commission communication codifying clear and comprehensible information for purchasers	Review of market practices to begin end 99: Communication: mid 2000	Discussions with industry ('Forum Group') in preparation	✚	Meeting with industry ('Forum Group') started October 1999
Recommendation to support best practice in respect of information provision (mortgage credit).	For issue by end-99	Dialogue was interrupted: the Commission is seeking to restart	–	* Recommendation end 1999
Commission report on substantive differences between national arrangements relating to consumer-business transactions.	Review to begin autumn 1999: status report - mid-2000: Discussions with Council, EP to begin end-2000.	Discussions with industry ('Forum Group') in preparation	✚	Meeting with industry ('Forum Group') started October 1999 Market consultation beginning 2000 Draft consultantcy report autumn 2000: for examination with MS
Interpretative Communication on the freedom to provide services and the general good in insurance	For issue by: end 1999	All services have agreed draft. Some minor translation corrections to be made, but otherwise on track for adoption by Commission in end 1999.	✚	Commission adoption imminent
Proposal for amendment of Insurance Intermediaries Directive	Proposal mid-2000 Adoption: 2002	Draft proposal for a Directive has been prepared and has been discussed by Member State experts in September.	✚	Meetings with Member States experts, industry and consumers will continue in the 2nd semester of 1999. The IC will be consulted beginning 2000. Proposal for a directive: summer 2000
Commission Communication on a single market for payments	For issue summer 1999	Communication to be adopted by the Commission end 1999	–	
Commission Action Plan to prevent fraud and counterfeiting in payment systems	Communication for issue by: end-1999	Draft Communication in preparation	–	Informal consultation of the market will take place in November
Commission green paper on an e-commerce policy for financial services	For issue by: mid-2000	Discussion on policy outline continuing in the FSPG in October	✚	A first draft Green Paper available end Nov.; interested parties will be consulted

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Strategic Objective 3: State-of-the-art prudential rules and supervision

Action	*Timeframe*	*State of play*	*Assessment*	*Follow-up*
Adopt the proposed directive on the winding-up and liquidation of insurance undertakings	New first reading in EP beginning 2000. Political agreement as soon as possible. Adoption: 2001	Work in Council working group progressing steadily but slowly due to technical issues. Finnish presidency very co-operative. A Council working group meeting took place on 23/24 September and other meetings has been scheduled for October and November.	✚	An amended proposal will be adopted by the Commission as soon as the evolution of the file in Council makes this appropriate (most likely in november/december)
Adopt the proposed directive on the winding-up and liquidation of banks	Common position: end-99 Adoption: 2001	The Finnish presidency has re-opened discussions in the Council working group.	−	Awaiting breaking of deadlock in Council on the 'Gibraltar' issue.
Adopt the proposal for an Electronic Money directive	Common position: autumn 99 Adoption: 2000	The Finnish presidency is seeking a common position in the ECOFIN Council of 29 November.	✚	Second reading in EP and likely adoption of the proposal in the first quarter of 2000.
Amendment of the money laundering directive	Commission adopted on 14.7.99 Adoption: 2001	Commission proposal adopted on 14 July 1999 (COM(1999)352). A first exchange of views took place in EP in September.	✚	The Finnish presidency has scheduled at least 2 working group meetings before end '99
Commission Recommendation on disclosure of financial instruments	Communication mid 1999	Adoption by the Commission scheduled for end 1999.	✚	
Amend the directives governing the capital framework for banks and investment firms	Proposal for directive: 2001, pending developments in Basle Adoption: 2002	Discussions in the BAC have been completed with a view to agreeing on relevant issues and possible policy options. The impact of new rules on securities firms is being examined.	✚	A Commission consultation paper available to the industry: November. The results of the consultation will help determine the EU position towards the proposals of the G-10 Basel Committee
Amend the solvency margin requirements in the insurance directives	Proposal for directive: mid 2000 Adoption: 2003	Additional technical meetings held on 17/6 and 5/7 with follow-up meeting scheduled for 15 Nov. Work programme is proceeding satisfactorily.	✚	The IC will be consulted on the results of technical discussions in spring 2000. The Commission will draw its conclusions from these discussions and adopt its proposal mid 2000

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Action	*Timeframe*	*State of play*	*Assessment*	*Follow-up*
Proposal to amend the insurance directives and the ISD to permit information exchange with third countries	Proposal autumn 1999 Adoption: 2001	Internal procedure for Commission proposal underway	✚	Adoption of a Commission proposal is scheduled for end 1999. Discussions in a Council working group: November
Development of prudential rules for financial conglomerates following the recommendations of the 'Joint Forum'	Proposal: end- 2000 Adoption: 2002	The Commission's regulatory committees (BAC, HLSS and IC) reached agreement on a work mandate for a technical group of experts. The first meeting of the group is scheduled for end November	✚	Recommendations from the technical group will be discussed in the BAC, HLSS and IC. The Commission will draw conclusions from those deliberations
Creation of a Securities Committee	Proposal end 2000 Adoption: 2002	The Commission is considering the consequences of the Council's new comitology decision of July 1999	✚	The Commission will define the structure and content of a proposal for a directive

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General Objective: Wider conditions for an optimal single Financial Market

Action	*Timeframe*	*State of play*	*Assessment*	*Follow-up*
Adopt a Directive on the minimum taxation of savings income	Political agreement by November 1999 Adoption: 2000	Work in Council is progressing steadily. The Finnish presidency is seeking progress.	✚	
Implementation of the December 1997 Code of Conduct on business taxation	Ongoing examination in the Code of Conduct group	Work on the Code of Conduct Group is progressing as scheduled.	✚	A final report will be sent to the ECOFIN Council in November 1999.
Review of taxation of financial service products	Discussions in Tax Policy Group	A preliminary analysis and discussions have started.	✚	Discussions will continue in 2000.
Commission proposals for co-ordination of the tax arrangements governing supplementary pensions	Proposal 2000 Adoption: 2002/3	Technical discussions have taken place with Member States in a technical sub group of the Taxation Policy Group.	✚	A draft proposal is.under preparation

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