

## Latest developments in EU legislation on financial services

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## 12 Recent Developments

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## Lamfalussy process

- 20-Nov-07  
EC published a Communication on the review of the Lamfalussy process.  
(following report from the Inter-Institutional Monitoring Group, whose mandate terminated in Oct-07)

### Conclusions:

- The Process broadly met the overall objectives;
- Some important changes are required to improve efficiency, i.e. functioning of Level 3 Committees  
- CEBS, CEIOPS, CESR – in order to enhance supervisory convergence.

## MiFID enters into force

- 1-Nov-07  
Markets in Financial Instruments Directive entered into force.

### The aim of MiFID:

- Transform the landscape for the trading of securities,
- Introduce competition and efficiency,
- Reduce the cost of capital,
- Provide investors with greater choice and stronger protection.

## Non-Equities markets

- 11-Sept-07  
Public hearing on non-equities markets transparency (report under MiFID).

Industry feedback, *inter alia*, is:

- MiFID transparency provisions for equities should not be extended to e.g. bonds or derivatives;
- Possibility of self-regulatory measures to improve transparency, esp. for retail investors, to be explored;
- **Mandatory transparency** to non-equities to be applied (item supported by regulators, exchanges and consumer representatives).

## Fiscal compliance procedures

- 23-Oct-07  
EC's FISCO issued a report setting out solutions to fiscal compliance barriers to clearing and settlement of cross-border securities transactions (post-trading).

Results:

The report highlights a number of solutions (on withholding tax & transaction tax), which will lead to improved, simplified, and modernised procedures.

## Substitute investment products

- 26-Oct-07  
EC published a call for evidence on the impact of the fragmented regulatory landscape for retail investment products on the protection of retail investors.

Input is invited by 18-Jan-08 on:

- range of investment products to be considered;
- factors driving sale and promotion of particular investment products;
- whether/how varying information disclosures or distribution regulations lead to investor detriment;
- the need for corrective action, if material risks are identified.

## Cross-border private placement

- 15-Oct-07  
EC published results of a call for evidence regarding the functioning in EU MS of private placement regimes.

Conclusions, *inter alia*, are:

- Serious problems exist in the cross-border distribution of some types of investment products, in particular, non-harmonised investment funds;
- Arrangements established under the Prospectus Directive work well for securities and closed-end funds, and should be extended to non-harmonised open-ended funds, such as institutional funds and hedge funds.

## Access to financial information on listed companies

- **15-Oct-07**  
EC urges MS's to create an electronic network interconnecting the national repositories which store financial information on listed companies.

The recommendation foresees an important role for the Committee of European Securities Regulators (CESR) in launching the electronic network.

Long term goal: to provide a one-stop-shop for investors for regulated financial information on listed companies.

## Ownership rules for audit firms

- **23-Oct-07**  
EC (DG MARKET) published an independent study on the ownership rules that apply to audit firms and their consequences on audit market concentration.

Conclusions, *inter alia*, are:

- The audit market for major listed companies is dominated by the Big Four audit firms;
- Audit firm owned by external investors (i.e. not auditors) might expand more easily into the market of large audits;
- Other barriers are: reputation, the need for international coverage, international management structures, and liability risk.

## US SEC move to end reconciliation to US GAAP

- **15-Nov-07**  
EC welcomes US Securities and Exchange Commission's move to end reconciliation to US GAAP for foreign companies using IFRS as published by the IASB.

The next step:

Have a close look at the overall standard setting process by the IASB.

## Standards convergence in partner countries

- **12-Jul-07**  
EC published a report on the work underway in Canada, Japan and the US on convergence between their national GAAPs and IFRS used in the EU.

The EU is the largest jurisdiction making use of IFRS and fully supports a move towards common worldwide accounting standards.

## Non-EU audit firms

- 12-Jul-07  
EC published results of public consultation on the regulation of non-EU audit firms.

Conclusions, *inter alia*, are:

- Respondents support EC action (under the Directive on Statutory Audit) to regulate and supervise non-EU audit firms at national level;
- Respondents believe that EC should assess and decide on equivalence of non-EU countries' public supervision systems and – in this context - support the introduction of transitional measures for the non-EU audit firms.

## Directors' pay and independence

- 19-Jul-07  
EC published two reports on MS's application of EU recommendations on company directors' pay and independence.

Conclusions:

The application of corporate governance standards has significantly improved, but some weaknesses remain, e.g. transparency on CEO remuneration and independence of board members.

Thank you for your attention!