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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 20.11.2007
SEC(2007) 1520

COMMISSION STAFF WORKING DOCUMENT

Initiatives In The Area Of Retail Financial Services

Accompanying document to the

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

A single market for 21st century Europe

{COM(2007) 724 final}

{SEC(2007) 1517}

{SEC(2007) 1518}

{SEC(2007) 1519}

{SEC(2007) 1521}

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Building on the Commission's strategy for retail financial services outlined in the Green Paper on Retail Financial Services¹ and taking into account the issues identified in the wealth of contributions received, the Commission services have identified several areas where work should be undertaken in order to improve the competitiveness and efficiency of European retail financial services markets.

1. IMPROVING CUSTOMER CHOICE AND MOBILITY

Consumers regularly complain about obstacles they face when attempting to switch from one provider to the other. Foreign banks hesitate to penetrate a new market if local customers are not mobile. Products sold in one national market can often not be sold in others. The Commission services will therefore launch a series of initiatives aimed at improving customer choice and mobility within the single market.

The recent events that occurred in the US have underscored the importance of the **mortgage credit** sector for consumers and the economy as a whole. A White Paper will be published towards the end of this year to unveil several proposals to ensure greater product diversity and an adequate level of consumer protection in this field. In addition, work will continue on reviewing the **credit intermediaries** market with a view to assessing whether regulatory intervention is required.

On bank accounts, the EU banking industry will be invited to develop, before mid-2008, via self-regulation, a set of common rules to the benefit of all customers (individuals and corporates alike). Such arrangements, which in a first phase should only be applicable on a domestic basis, should facilitate the operation of switching by, for example, ensuring within a certain deadline that direct debit and standing orders are redirected to the new bank, that proper information is given to the customer, that there is adequate cooperation between both banks involved. These rules will be designed on the basis of benchmarks determined by the Commission in the light of best existing practices. Banks will also be invited to abolish existing discriminations, either based on nationality or residence, which abusively prevent individuals from opening accounts on a cross-border basis. Should the banking industry fail to set up adequate arrangements, initiating legislation would need to be considered.

¹ COM(2007) 226, 30.4.2007.

In the field of **payments**, efforts will continue towards the development of the Single Euro Payments Area (SEPA). An efficient payments market, where payments can be made quickly, cheaply, easily and reliably, is a key component of a competitive economy. Currently, national payment markets are fragmented with widely differing prices and performance levels. Each Member State has its own rules on payments and the annual cost of making payments between these fragmented systems is high. Efforts will in particular focus on ensuring a smooth and timely migration to SEPA products, on enhancing competition in the cards market and on developing high-value services such as e-invoicing.

Product tying² may have the effect of binding consumers to a particular financial service provider by impeding price transparency and raising switching costs. Tying can also reduce competition for the tied and tying product, discouraging the entry of new players, particularly those specialising in the tied product. It has been identified as a potential concern, notably in the Commission's sector inquiry on competition in the retail banking sector. A two-stage approach is needed. First it is necessary to study current tying (and other potentially unfair) practices in all financial services areas (credit, accounts, payments, insurance) so as to measure their impact on mobility and understand the reasons why financial services providers engage in them. Second, the merits of a regulatory approach on unfair commercial practices in the field of financial services should be assessed.

The access to and availability of **credit data** is an important factor in promoting competitive retail financial services markets. Customers seeking to take out a loan with another institution (be it in the domestic market or cross-border) may face higher prices or be denied access to credit because of the lender's inability to access complete information on the consumer. This reduces customer mobility and choice. Inability to access complete credit data may also impede the ability of new credit providers – be they domestic or foreign – to compete for customers. The ultimate objective is to allow for a smooth lender access to loan applicants' credit histories, and to ensure that the data available is accurate. Several aspects of credit record keeping and access have to be examined, all of which have an impact on mobility: cross-border access by financial services providers to credit data on a non-discriminatory basis; data exchange between providers; possibility for individuals to access their own data and to "carry" their data with them when seeking credit abroad. An expert group representing all relevant stakeholders will be created in 2008, to assist the Commission in the identification and analysis of adequate measures to ensure the smooth circulation of credit data. Regulatory solutions could eventually be envisaged in this area.

Product diversity remains patchy within the single market. All Member States have in place rules that prohibit the selling of certain products, even though the same products are offered under normal conditions in other Member States. The Commission services will seek, in collaboration with the industry, to identify the main restrictions that exist in this respect, with the aim of lifting the national rules that cannot be justified under EU law. It will also continue to pursue a vigorous infringement policy.

The practicability of the so-called concept of **'28th regime'** (optional EU framework not substituting national rules - e.g. European Company Statute) should be assessed to see whether this approach could be successfully applied in some specific areas of retail financial services.

² Tying occurs when two or more products are sold together in a package and at least one of these products is not sold separately - SEC(2007) 106, 31.1.2007.

2. MAKING RETAIL INSURANCE MARKETS WORK BETTER

It is essential to understand the main factors discouraging insurers from providing motor insurance on a cross-border basis and/or by branching. This requires analysing the factors having the greatest influence on the final price of insurance, identifying best practices as regards the reduction of the cost of claims, reviewing the innovative customised solutions applied in the process of price calculation (such as "pay as you drive" systems). The Commission services will design a scoreboard for car insurance premiums similar to the one it already has on car prices.

It will be important to examine whether the national "**general good**" rules currently in force in the Member States comply with the criteria set by the European Court of Justice and the Commission's Interpretative Communication from 2000. An inventory of national general good requirements will be carried out. Cases of abusive or excessive enforcement of such rules should be challenged, after initial discussions with Member States.

It will also be useful to examine whether there is still a justification for the current requirement to appoint a **fiscal representative** prior to carrying out insurance business in another Member State. A general review of the administrative arrangements in place for the collection of premium taxes will be initiated.

3. MOVING TOWARDS ADEQUATE AND CONSISTENT RULES FOR THE DISTRIBUTION OF RETAIL INVESTMENT PRODUCTS

Packaged investments - offering a comparable risk/return performance – can be sold in a variety of forms: unit-linked life insurance, investment funds, and more recently, structured funds, certificates/index-linked bonds, and structured term-deposits. EU legislation applying to the institutions which originate these products imposes different levels of product disclosure (risks, charges, rewards) and foresees different rules on the way that financial intermediaries must conduct business with retail clients, and manage any conflicts of interest that might arise, depending on the legal form of the product.

The Commission has just initiated a review of the need for a coherent approach to product **transparency and distribution requirements for "competing" retail investment products** by launching a call for evidence. The main purpose of this call for evidence is to establish whether there is a real and significant – as opposed to perceived or theoretical – risk to investor protection resulting from the different levels of product disclosure or intermediary regulation embodied in EU financial legislation. A workshop will be held at the end of March 2008. This issue will also be discussed during a specific open hearing in early June 2008. On the basis of responses to the call for evidence and other inputs, a specific Communication is planned in summer 2008 to review the situation.

4. PROMOTING FINANCIAL EDUCATION, FINANCIAL INCLUSION AND ADEQUATE REDRESS FOR CONSUMERS

A Communication on **Financial Education** will soon be presented. This will discuss the reasons why financial education provision is becoming increasingly important, outlining its benefits to the individual, the economy and society, describing the current provision of financial education in the EU and giving the context for EU action in the area. This will also set out some suggestions to assist financial education providers in delivering high quality

schemes and describe some planned initiatives to give practical assistance to those delivering financial education in the EU Member States.

The issue of **financial inclusion** is of particular importance in this context. In many Member States, citizens are not guaranteed access to a basic bank account. This usually prevents the people concerned from having access to other financial services and is an important factor of social exclusion. In line with the views of the European Parliament, and on the basis of a thorough assessment of the situation prevailing in all Member States, reflection should progress on how to ensure that, by a certain date, nobody is denied access to a basic bank account.

In case of litigation with a financial institution, consumers often have no other choice than to have recourse to costly and cumbersome judicial procedures. In some Member States, there are no out-of-court dispute settlement mechanisms. In addition, the mechanisms that exist have not so far proven to be sufficiently effective on a cross-border basis. This was, for example, highlighted in the Equitable Life affair. The Commission services will examine further the possibilities of improving alternative **redress mechanisms** in the field of financial services. Initiatives are already under way to identify and address the gaps in the coverage of the existing FIN-NET network. These efforts will be continued.