

POSITION PAPER



**EUROPEAN SAVINGS BANKS GROUP (ESBG)
COMMENTS ON THE COMMISSION'S
WHITE PAPER ON FINANCIAL SERVICES
POLICY (2005 - 2010)**

Final Draft

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EUROPEAN SAVINGS BANKS GROUP



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The Commission's White Paper on Financial Services Policy (2005-2010) (hereafter White Paper) clearly demonstrates, as indeed the associated Green Paper¹ (hereafter Green Paper) did before it, this Commission's commitment to a practical, rational, open, transparent and results-driven regulatory approach in financial services for the next five years which members of the ESBG are very much in support of.

It is the firm belief of ESBG that the next five years should indeed be about dynamic consolidation of existing legislation, effective transposition, enforcement and continuous ex-post evaluation. Only via such an approach can the Commission hope to improve on the effectiveness of regulation as well as increase the integration of Europe's financial services markets. It is the expressed wish of ESBG, furthermore, that the Commission's drive towards achieving a more coherent and convergent legal framework should also lead to less and simpler regulation (deregulation) over this next post-FSAP phase.

In its response to the Green Paper, ESBG also welcomed the Commission's suggestion to modify or even repeal specific legal texts which over time and after careful assessment and analysis, have not worked. This commitment has been re-iterated in the White Paper, underlining the Commission's seriousness on this issue.

The White Paper has also taken on board wishes formulated by ESBG in its response to the Green Paper on the importance of promoting a real dialogue between policy makers and stakeholders by providing feed-back where it was unable to follow stakeholder recommendations. This practice will improve mutual understanding via a continuous and on-going exchange of views.

On impact assessments, the ESBG welcomes the initiative of the Commission, as expressed in the White Paper, to share impact assessment methodologies with stakeholders prior to publication. But the ESBG believes that the Commission should go further. It could make clear for instance that it will also take into account independently derived evaluations. In this respect the impact assessment guidelines² developed by the Commission could provide a model framework not only to all Commission DG's but also for independent evaluations.

In the White Paper, the Commission has also expressed the expectation that "the European Parliament and the council [should] honour their commitments to improve the quality of community legislation by producing impact assessments when tabling substantive amendments to Commission proposals". The ESBG is in support of the idea, having already expressed the wish in our response to the Green Paper, that better regulation principles should be applied not only by all Directorate Generals of the Commission but also by other EU institutions, such as the Council and the European Parliament, which have so far not undertaken the necessary preparations to assure better regulation throughout the EU legislative process. However we believe that the onus should be on the Commission as the EU Executive to produce the appropriate impact assessments alongside legislative proposals, and that the likeliness or not of 'substantive' amendments being submitted by the Parliament or the Council will very much depend on the quality of those proposals, backed by the appropriate impact assessments, in the first place.

¹ Green Paper on Financial Services Policy (2005-2010)

² "Impact Assessment Guidelines", June 2005, SEC (2005) 791, European Commission.



In the area of supervision, the ESBG supports the proposed evolutionary approach, which builds on the existing prudential supervisory structures and arrangements. In addition, the ESBG shares the Commission's view that the area of reporting requirements is one where practical steps can be taken to improve the efficiency of supervision and particularly welcomes the Commission's approach to analyse the potential for "streamlined common reporting" across sectors, taking account of the CRD, IFRSs and MIFID and solvency II. Particular efforts will have to be made to ensure that the objective of streamlining reporting requirements does however not translate into a general increase of the reporting burden.

The ESBG also supports the White Paper's main conclusions on the Lamfalussy procedure. In addition, we welcome the Commission's proposal to have additional impact assessment, to ensure that the principle of proportionality is fully respected and that overly detailed requirements are not imposed on the industry. Regarding the current comitology debate, the ESBG appeals to the EU institutions to swiftly reach a solution that grants equivalent powers to the European Parliament and the Council (i.e. call-back right).

In addition to the above, the ESBG would like to express its views (some of which have already been included in the ESBG response to the Green Paper) on a number of issues either mentioned in the White Paper or omitted from it, on which it would welcome feedback from the Commission:

1. On the issue of **bank accounts**, on which the Commission expresses the view, in the White Paper, that further action is needed to 'open up the fragmented retail financial services markets', the ESBG firmly believes, as it expressed in its response to the Green Paper, that the introduction of legal measures aiming at creating portability of bank account numbers would not be appropriate given the huge cost implications which would by far outweigh any potential benefits. Furthermore, the EC has in the past not only signalled that it shares the industry's concerns in the context of discussions on the new Legal Framework Payments but it has also acknowledged that the introduction of legal measures to achieve portability of account numbers would create disproportionately high costs compared to the benefits³. The ESBG would therefore urge the Commission, as expressed in its response to the Green Paper, to maintain its earlier position in this particular aspect. Further on bank accounts, discussions in the expert group on cross-border opening of bank accounts should keep firmly in mind AML requirements.
2. On the subject of **deposit guarantee schemes**, the ESBG has noted the Commission's intention, as stated in the White Paper, to produce a Communication during the course of 2006, with a view to ensuring that the existing arrangements work effectively on a cross-border basis. We take the opportunity to re-iterate ESBG's general beliefs, already communicated in the ESBG response to the Commission's review of the Deposit Guarantee Schemes Directive, that the Directive has served its objectives to a very large extent, and as such does not require (major) amendments as a matter of priority.

³ Note for instance that in the conclusions of annex 5 of the EC consultation on the New Legal Framework (COM(2003) 718 final, 2/12/2003) the EC states that "The balance between the practical problems which would need to be solved and the advantages which would arise for the Payment System User does not justify a portability solution. In addition, they are unlikely to bear the costs of such an operation".



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3. In terms of **future action generally**, and in line with the Commission's commitment to **better regulation specifically**, the Commission should be more precise as to what the exact aims of integration should be. Clarifying a vision of integration will better enable evaluating action to ensure that integration is not being pushed for its own sake, that it is done to fulfil a real need, and to better assess whether action is likely to improve on what exists. The goals of integration cannot, for instance, be the same for wholesale as for retail financial markets. For the latter therefore, a different regulatory approach is needed, whereby the following should be assured:
 - Transparency of the services on offer (i.e. via streamlined pre-contractual information requirements),
 - Continued market access,
 - Financial stability and efficiency (by further enforcing the current supervisory architecture and cooperation between national supervisors, while elaborating solutions for issues such as lender of last resort, liquidity, etc),
 - Cross-border as well as national competition and, last but not least,
 - Pluralism in the market as different market structures and business models contribute to an integrated, competitive banking market which caters for all strata of society be it in rural or urban areas.

4. Should the EC finally decide to develop **new initiatives in the area of retail financial services**, the ESBG would encourage the Commission to evaluate any potential proposal according to a check-list aimed at ensuring the appropriateness and potential benefits of a proposal. i.e: from the point of view of the ESBG any approach to evaluation (ex-ante or ex-post) could benefit from taking the following approach, as suggested by a working group of the City of London⁴, is the proposed legislation:
 - Proportionate to the problem that it claims to address?
 - Cost-effective (subject to an intensive and well founded cost-benefit and business impact analysis - as proposed by the Commission in its package on better regulation)?
 - Addressing a clear market failure and having a significant probability of producing benefits that demonstrably exceed the cost?
 - Sufficiently clear in terms so as not to create ambiguities of interpretation?

5. If the outcome of any evaluation exercise is to recommend action, the ESBG would ask the EC to consider all regulatory options, e.g. including self regulation or co-regulation before taking legislative initiatives. Only if self-regulation or co-regulation prove to be inappropriate and/or insufficient, should the use of harmonisation be considered, and then the ESBG has made clear its strong preference for targeted harmonization⁵ over and above other models of achieving convergence in the levels of consumer protection at a pan-European level.

⁴ "Creating a Single European Market for Financial Services – a Discussion Paper", Report by a working group in the City of London.

⁵ 'Targeted harmonization' refers to full harmonization of only key provisions, while provisions that are not subject to targeted harmonization should continue to be subject to the Rome Convention. More detail on targeted harmonization can be found in ESBG's response to the Green Paper on Financial Services Policy (2005-2010).



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About ESBG (European Savings Banks Group)

ESBG (European Savings Banks Group) is an international banking association that represents one of the largest European retail banking networks, comprising about one third of the retail banking market in Europe, with total assets of €4,345 billion (1 January 2004). It represents the interests of its members vis-à-vis the EU Institutions and generates, facilitates and manages high quality cross-border banking projects.

ESBG members are typically savings and *retail* banks or associations thereof. They are often organised in decentralised networks and offer their services throughout their *region*. For decades ESBG members reinvest *responsibly* in their region and are one distinct benchmark for corporate social responsibility activities throughout Europe and the world.



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