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EBIC conference „Better Regulation Challenges: From *ex-post* analysis to *ex-ante* assessment”

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Keynote speech “*Better Regulation* for financial services at every stage of a regulation lifeline”

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I. Introduction

Ladies and Gentlemen,

This is the first time I address the European financial services industry in my new capacity as Director General of DG Internal Market. I would like to thank Mr Pleister, the main associations representing the EU banks,

mortgage lenders and leasing companies for this opportunity - recognizing your importance to the EU financial sector and the economy as a whole. I am also particularly supportive of the topic of this event Better Regulation forms the very foundation of the Commission's policymaking from the President downwards. You all know my Commissioner's passionate belief in Better Regulation.

The European Commission's role in regulating financial services is increasingly important. This is linked to global economic trends and the increasingly integrated nature of the EU internal market. And also to the Commission's exclusive right of initiative in the EU's institutional structure. That is why the work of DG MARKT has become so crucial. We are responsible for establishing a state-of-the-art regulatory framework for the single financial market of 27 Member States and nearly half a billion potential consumers and investors... Just listing these numbers brings home importance of the endeavour ...

II. Better Regulation at DG MARKT

Let me begin by introducing you to how DG MARKT approaches the Better Regulation Agenda and applies it to our day-to-day work.

Real progress on Better Regulation is not about lofty policy debates, but developing concrete tools and mechanisms that can deliver better results. Let me give you a couple of concrete examples from DG MARKT, particularly with regard to engaging stakeholders.

We know that we need to go beyond the well-organised groupings represented here in Brussels. To address this, DG MARKT has developed internet-based consultation systems: the Interactive Policy Making and the European Business Test Panel. The former is used in consultations that are open to a wide audience of all stakeholders, including organisations. The latter has been tailored to obtain direct feedback from a standing panel of more than three thousand businesses. The panel tests

Commission legislative proposals or initiatives which have immediate business impact. Both these consultation systems have proven successful and are widely applied also by other Commission services in reaching out to stakeholders.

Our open policy making in financial services, triggered by the so-called Lamfalussy decision making process, is respected by market participants and regulators. Indeed – openness is a strength – one reason why we may be edging ahead of the US in terms of regulatory quality.

III. Better Regulation in financial services

The plan of action for Better Regulation in financial services was set out in the White Paper on Financial Services Policy 2005-2010 – my colleagues and I are working hard on implementing it.

Better regulation is a state of mind. A framework.

From examining an issue

- is there a market failure?
- to research
- to scoping the problem
- to widespread, interactive consultation
- to carrying out impact analysis
- to discussing legal texts
- to rigorous implementation and enforcement
- to constant evaluation of the effectiveness of the decision
- adjusting where necessary

This process is common sense; circular and continuous.

Let me take you through some examples of how DG MARKT applies this quality management system in practice.

1. Consultations

The first step and a condition *sine qua non* for Better Regulation is a transparent and consultative approach at the earliest stage of policy making. The process followed for mortgage credit is a good example.

We began four years ago with the establishment of a Forum Group, representing all stakeholders in order to identify the main barriers to the development of an integrated market for mortgage credit. Then we extended the debate by issuing a Green Paper in July 2005, followed by a broad public consultation and a Hearing. In parallel, we published a cost/benefit study.

During last year, we further explored all the issues identified. Two specific expert groups, one on mortgage funding and one on key consumer protection issues, were established to dig deeper into these areas. The reports of both groups were published at the beginning of the year. Then we launched a short public consultation on them, which closed last week.

Throughout this process, we consulted extensively with consumers and users, the mortgage lending industry and the Member States. We also consulted notaries, insurers, credit bureaus, land registrars, property valuers

and others. We were as transparent as possible by publishing on our website the relevant information on meetings, working documents, and contributions received as part of our consultative process.

The White Paper on Mortgage Credit, which will be published at the end of June 2007, will contain the Commission's policy orientations in this field. Based on this extensive preparatory work I just described. We don't have a recipe for success.

But there is a recipe for failure: try to keep everybody happy.

Our policy-making is not about making everybody happy. But we have undertaken every effort to understand all positions and evaluate the pros and cons.

So that any decision we make will be taken with full knowledge of the issues at stake.

2. Impact Assessments

The second step in preparing a Commission proposal is an impact assessment. Someone once said: "if you can't measure it, you can't manage it". If we don't know the impact of regulation, the chances are remote that we will give the right response to the problem we are trying to solve.

That is why impact assessments are a critical component of our better regulation agenda. A legislative proposal shouldn't leave the Commission without a rigorous assessment of costs and benefits. Now we have set up a new Impact Assessment Board – chaired by the deputy Secretary General of the Commission – to get an even better Quality Control of our impact assessments and legislative proposals.

Let me give a concrete example. Basel II. Well known to this audience. The G-10 Basel Committee conducted five quantitative impact assessments on its draft recommendations. In Europe we went further.

In addition to participating in the Basel assessments we conducted 4 general public consultations seeking input on impacts. And we did another 5 to better understand the impact

- on covered bonds,
- on mortgage lending,
- on expected versus unexpected losses,
- on collective investment undertakings
- and on the trading book.

Finally, we requested an independent impact assessment from Pricewaterhouse Coopers to objectively double-check supervisors' assumptions. And to make sure that the Council and the European Parliament had a full overview of the impact of their decisions before adopting the Commission's proposed Directive.

Impact assessments don't stop after the adoption of new legislation. Ex-post analysis is just as necessary to monitor the practical impact of our rules. So every two

years after the implementation of the Capital Requirement Directive, the Commission and the European Central Bank will need to report on the possible impact of the CRD on credit cycles.

In short, in the Commission's view, impact assessments are crucial during the entire lifespan of legislation.

But a word of warning here. First, perfect precision is impossible – not just because we have 27 Member States. No – because economics is not an exact science. And also we are not fortune tellers. We cannot predict the future. Second, the Council and the European Parliament have also promised to bring forward Impact Assessments on their major amendments. They don't yet. So a logical economic Commission proposal can be wrecked by changes whose consequences have not been fully analyzed.

3. Implementation & enforcement

The adoption of legislation is only the first challenge. The hardest part is its transposition and implementation. 27 national laws implementing one directive give rise to the potential for

- overlaps,
- gaps,
- and unintended, as well as intended, divergences.

So what are we doing to minimise the costs and inefficiencies this causes?

Let me stay with the CRD for a moment. Beginning in 2006, a full year ahead of the transposition date of the Capital Requirements Directive, my colleagues put in place an innovative project to help legislators to transpose and supervisors to apply the directive in the same way across Europe. We made sure that industry was involved in this process. It is simple and effective: a public page on our internet site where any stakeholder can ask concrete questions on interpretation. And we guarantee a reply within 90 days.

To date we have received more than 200 questions.

From

- banks,
- investment firms,
- consultants,
- supervisors,
- and finance ministries.

Some examples to give you a flavour:

- "What does 'significant risk transfer' mean?"
- "How should we treat master netting agreements?"
- "Why do the conversion factors include advised limits?"

The key point about this process is that the Commission crafts its replies in consultation with the 27 EU banking supervisors in CEBS. In full partnership with the Member States. They have agreed to transpose and implement the CRD in line with the answers that we publish on the internet. And as you know, my services organise regular meetings with our Member States, CEBS and yourselves from the banking industry to make sure that the process is on track and continues to meet expectations.

This powerful example of achieving convergence in banking regulation through a simple but effective mechanism has been so successful that we are also doing it for MiFID.

4. Ex-post evaluation

Once a regulatory initiative is firmly in place, we do not forget about it.

Methodic ex-post evaluation allows us to draw conclusions from our actions and to constantly improve our policy making.

The Commission is currently carrying out an evaluation of the Financial Services Action Plan – our biggest evaluation so far in the area of financial services. The first part of the FSAP evaluation dealt with the processes involved in driving forward the action plan.

The second part is the assessment of its economic impact. We are handling this project with particular care. We will soon be launching a tender for the external evaluation study. My services have been preparing for this thoroughly.

In order to identify the best possible methodology for this evaluation, DG MARKT organised a workshop in October last year, which featured high-level economic experts. A report summarising their advice was published for comments on the Commission website. The ideas and suggestions that the experts and the Workshop attendees contributed are instrumental in establishing the Terms of Reference for the evaluation study.

Thanks to the effort invested in preparation of the methodology, we are confident that the evaluation study will deliver robust and meaningful results.

5. Simplification and codification

I mentioned earlier that impact assessments should continue over the life of our legislation. What was a perfectly good law at its time of adoption may have become outdated. Even worse, it may not only have become redundant. It may impose unnecessary regulatory burdens and costs on firms. The biggest sin in this instance would be to do nothing. That is why we, and you in the industry, should constantly monitor whether our legislation continues to meet its objectives.

One example of where we believe that this is not the case is the Large Exposures regime for banks. This piece of legislation is, in our view, both redundant and costly. My services have asked industry to make a preliminary estimate of the costs of the large exposure rules. They have been estimated at some €255 million a year.

You will be glad to hear that we are working with Member States on a full review of the Large Exposures regime.

6. Users of financial services

Evaluation is just one arm of Better Regulation. Another is involving consumers and users of financial services in our policy making. Let me just give you a couple of our initiatives over the last few years.

Last year we established the Financial Services Consumer Group, giving us direct contact with consumer organizations from the 27 Member States.

We publish a regular newsletter on financial issues of particular relevance to consumers, Fin-Focus, which is jargon-free and translated into all Community languages.

On 28 March, we are hosting a major conference on the issue of financial capability. This is a key issue for consumers, and we are very supportive of initiatives being undertaken in the member states to help educate citizens to make informed financial decisions.

Another service valued highly by consumers is Fin-Net – an out-of-court redress system for disputes with financial services providers. Since 2001, the Commission has been instrumental in bringing the national complaints bodies together in a cross-border network. Members of FIN-NET cooperate in resolving disputes between consumers and their financial services provider in another member state rapidly and efficiently. Usually by avoiding lengthy and expensive legal action. Hundreds of complaints are handled through FIN-NET each year.

These are not flash-in-the-pan efforts. Europe's citizens must be able to really experience the benefits of our financial services policies.

We will publish a holistic Communication on Retail Financial Services later in the spring, setting out our objectives in this area in the coming years.

7. Interaction with other policy areas

Finally, improved coordination with other EU policies is also an important facet of Better Regulation. By working closely with other DGs we can strengthen our own policies and avoid overlapping or inconsistent initiatives.

Examples here include our cooperation with DG Competition on the sector inquiries in banking. Or the contacts we have with DG Taxation and Customs Union on the review of VAT in financial services.

IV. Conclusion

Ladies and Gentlemen,

DG MARKT application of Better Regulation in the area of financial services is still a fairly recent phenomenon, but we have already had some significant achievements.

And the work is ongoing, as outlined in the White Paper on Financial Services Policy. By implementing this ambitious agenda in full, we will bring about a major change in the quality of EU regulation.

I appreciate that not only the Commission was invited today to talk about Better Regulation, but also the representatives of the European Parliament and the Member States.

I am sure the Parliament and the Council share our belief in the Better Regulation principles. But they also need to prove that they are committed to applying them systematically and rigorously. Only then can we guarantee that the final outcome of any legislative procedure will be better for the European citizens and for the European financial services industry.

To conclude, let me repeat three main messages.

First, Better Regulation is key. It is a top priority for the Commission – and for me and my colleagues in DG MARKT.

Second, it works well. In DG MARKT it is now an embedded practice, applied for all policy initiatives.

Third, we don't rest on our laurels. With your help, we will continue to improve our way of policy making.

Thank you for your attention.