



European Banking Industry Committee

European Banking Federation (EBF) • European Savings Banks Group (ESBG) • European Association of Cooperative Banks (EACB)
European Mortgage Federation (EMF) • European Federation of Building Societies (EFBS)
European Federation of Finance House Associations (Eurofinas)/European Federation of Leasing Company Associations (Leaseurope)
European Association of Public Banks (EAPB)

5 April 2006

EBIC RESPONSE TO THE WHITE PAPER ON FINANCIAL SERVICES POLICY (2005-2010)

The **European Banking Industry Committee** brings together European banking associations with a mandate to provide advice, assure a comprehensive consultation of market participants and ensure a representative industry view throughout the process of drafting, adopting, implementing and enforcing EU-financial legislation and thereby provide input for the European institutions and their relevant sectoral committees. It is among the declared aims of EBIC to advise the Commission on relevant legislative banking and cross-sectoral initiatives and any developments at Community level affecting the banking and financial services activities associated with the establishment of a European Single Market for financial services.

EBIC has been established by the main banking industry federations: the European Banking Federation (EBF), the European Savings Banks Group (ESBG), the European Association of Cooperative banks (EACB), the European Mortgage Federation (EMF), the European Federation of Building Societies (EFBS), the European Federation of Finance House Associations (Eurofinas) / the European Federation of Leasing Company Associations (Leaseurope), and the European Association of Public Banks (EAPB).

1. EBIC welcomes the Commission White Paper on financial services policy for the period 2005 to 2010 (hereafter White Paper). It is the belief of all member associations of EBIC that the White Paper goes in the right direction, and sets the right objectives.
2. EBIC members also support the Commission's general objectives for the financial services industry for the next five years, believing that these should indeed be the priorities ahead, namely: achieving consolidation of existing directives; implementing, enforcing and evaluating existing legislation; applying the better regulation agenda to future initiatives; removing unjustified obstacles to integration in accordance with EU jurisdiction; enhancing supervisory cooperation and convergence in the EU.
3. EBIC commends the Commission's commitment to better regulation in the context of both existing regulations and future regulatory initiatives. EBIC naturally welcomes the important part that open consultations will continue to play in deciding whether legislation is necessary. Where legislation is not appropriate, EBIC is strongly in favour of self-regulation as an alternative to binding regulation. Different types of regulation should be given equal consideration in discussions on devising regulatory solutions to European problems. EBIC members look forward to continue contributing to future consultations and to actively participate in the debates on the necessity of future legislation in all areas of financial services policy.
4. EBIC would however urge the Commission to make clear the steps and timing of the process that it aims to employ in implementing its better regulation approach for each case of legislative initiative. In order to achieve a satisfactory regulatory outcome, it is essential that this approach also be embraced by the European Parliament and the Council. The said approach should also be followed at level 2 of the Lamfalussy process and more generally whenever comitology is being used.
5. EBIC encourages the Commission to pursue both cost benefit analyses and impact assessments of legislative proposals as part of its ex ante analysis of legislative initiatives, and considers that this should become an essential part of the Commission's work. To assure legitimacy, it is vital that evaluations carried out as part of the work of the Commission are executed by independent entities and that their findings are neither anticipated nor preconceived.
6. Alongside the EC commissioned evaluations, if the industry or other independent groups or stakeholders should carry out their own industry-lead cost-benefit/ impact assessment initiatives (some are currently under way in certain Member States, such as Austria and Germany), respecting commission evaluation guidelines, then the Commission is encouraged to also *take into account both their methodologies and findings in its decision-making*.
7. Taking into consideration other evaluations would allow the Commission to benefit from the added input of different approaches and findings, allowing for more informed decision-making and preventing over-reliance on any one initiative. Taking this approach will avoid situations such as with the EC commissioned cost benefit analysis of integrating mortgage credit markets. Although we welcome the report's market driven approach, it nevertheless had a number of shortcomings, both in terms of the quality of the methodology employed and in terms of the accuracy of its findings. This view is widely shared by representatives of both the industry and consumers alike. *A statement from the EC that it is willing to take into consideration independently commissioned*

evaluations will also encourage the development of such initiatives in the future, thereby improving the quality of inputs into policy decision-making.

8. EBIC supports the Commission initiatives to subject findings of evaluations to a wide forum – and organising public hearings at which representativity of stakeholders is assured is one means of doing that – believing that such stake-holder consultation exercises have an important part to play in the design of better regulation. Such transparency and openness will also render possible a wide assessment of the quality of policy evaluations.
9. Taking such an approach will also avoid situations such as with the original Consumer Credit Directive (CCD), on which no consensus could be reached in the advanced stages of the directive as no attempt at consensus was achieved in the stages prior to the adoption of the proposal for a directive. *The experience with the CCD is in fact testament to the need for strong initial consultation to determine first whether there is scope for action and second, when there is, to decide on the most appropriate course of action.*
10. EBIC has noted the various initiatives which the Commission has outlined in the White Paper (including ongoing projects, reflections underway and future initiatives) and stands ready to contribute both information and expert advice on all issues pertinent to the business of banking that fall within its remit as and when the Commission decides to consult with stakeholders on these initiatives.
11. On the basis of what is contained in the White Paper with regards to future initiatives, and specifically in the area of bank accounts, the Commission should strive to avoid over-regulation as well as avoid the kind of proposals that risk imposing unnecessary costs either on the industry or on consumers (such as portability of bank accounts). Taking note with satisfaction that the portability of bank accounts is no longer mentioned as a potential initiative, EBIC stands ready to take an active role in the upcoming Expert Group to identify possible existing problems associated with user mobility. EBIC strongly recommends reliance, to the largest extent possible, on market driven solutions, and urges the Commission to consider the merits of self regulation by the banking industry to adequately address problems, if any should be identified.
12. Furthermore, in the area of credit intermediaries, it is the view of EBIC that the Commission should attempt to attain more consistency across sets of regulatory proposals.
13. We note with great satisfaction that the intra-group VAT treatment of financial services is now recognised as a major obstacle to financial services integration. We hope that decisive progress can quickly be made in that area and urge the relevant Directorate Generals to coordinate their actions to that effect.
14. EBIC is at one with the Commission in acknowledging (as it does in the White Paper) the need for better consumer representation and education and the need to spread awareness of developments in financial services among consumers.
15. EBIC members are keen to see their customers benefit from efforts to integrate Europe's financial services sector, believing indeed that meeting such objectives is important as a gauge of the success

of actions geared towards the ultimate aim of integration, which is to improve the levels of competitiveness of the sector, and consequently to improve the offering to the end-user.

16. EBIC aims to be proactive in its contacts with representatives of users of financial services so as to establish a constructive and structured dialogue with a view to seeking common agreement on ways to facilitate the achievement of those objectives.
17. The achievement of greater benefits to consumers from further integrating Europe's markets for financial services can however only be achieved if both over-regulation and excessive levels of consumer protection are avoided as these impose a burden on both firms and end users with no consequent benefits.
18. The European regulatory framework for the supervision of capital markets has seen considerable modernisation. However, the regulatory framework for banking supervision has not developed at the same pace. EBIC continues to support the adoption of an evolutionary approach to streamline the supervisory framework in the EU. In this context, EBIC would like to encourage national supervisors to enhance practical cooperation, in line with CEBS' recently published guidelines¹. Enhanced cooperation includes more reliance on delegation of tasks between home and host supervisors, as this could contribute to reducing duplication and to improving the effectiveness of supervision in the EU.
19. We agree with the supervisory challenges identified by the Commission. In particular we support the European Commission's view that making the Lamfalussy process work should be one of the key objectives in the field of supervision in the coming years.
20. EBIC's overall assessment of the Lamfalussy process is so far broadly positive. However, the process should not result in overly detailed and burdensome rules. The better regulation principles should therefore be applied at all levels of the process, including the implementing measures developed under the second level and the guidelines designed under level 3.
21. Looking specifically at the work of CEBS, we consider close cooperation between national supervisory authorities of paramount importance to deliver consistent interpretation and application of regulatory and supervisory requirements. Going forward, supervisory cooperation in the framework of CEBS should be further enhanced. For example, while there has been some improvement in the final version, EBIC was disappointed by the recently published guidelines on CoRep. The level of national supervisory flexibility provided for in the framework goes against the primary objective of convergence and streamlining. Against this background we would welcome clarification by the Commission on how it considers the goal of a single reporting package for all EU banks can be achieved by 2009.
22. Furthermore, while we acknowledge that it is difficult to strike the balance between sufficient detail to deliver convergence, and overprescriptiveness, we feel that CP10 on validation of advanced models reads like a handbook for supervisors and could therefore prevent innovation in risk management techniques.

¹ CEBS' Guidelines on supervisory cooperation for cross-border banking and investment firm groups, 25 January 2006.

23. EBiC would also like to take the opportunity to make clear again its support for targeted harmonization, i.e. full harmonization only of those key provisions which would facilitate further integration. A list of provisions which could be fully harmonized was provided in both the EBiC response to the expert groups on the FSAP and in the EBiC response to the Green Paper on financial services policy (2005-2010). We reiterate our regret, already expressed in the latter response, that such proposals were not included in the Green Paper to seek the views of other stakeholders on them. We also note the absence of any wording in the White Paper on the issue of harmonization, yet it is a crucial matter on which agreement is needed ideally before any further integration initiatives are brought forward.