

**FINANCIAL SERVICES ACTION PLAN
FORUM GROUP COMMUNICATION CODIFYING CLEAR AND
COMPREHENSIBLE INFORMATION FOR PURCHASERS**

**ISSUES PAPER
FOR THE
FIRST MEETING OF THE GROUP**

COMMUNICATION CODIFYING CLEAR AND COMPREHENSIBLE INFORMATION FOR PURCHASERS

1. INTRODUCTION

The European Commission's recent Financial Services Action Plan contains a number of initiatives aimed at tackling barriers to an internal market in retail financial services while ensuring a high degree of consumer protection. As part of this strategy the Commission plans to produce a Communication by mid 2000 codifying clear and comprehensible information for purchasers of retail financial products and services.

The Communication will be an attempt to develop an "overarching policy" through establishment of guiding principles for information provision covering the full range of cross border retail financial services. It will take account of existing legal provision and practice at EU and national level.

This issues paper sets out some thoughts on the task ahead. It is intended for discussion by Forum Group participants.

2. SCENE SETTING – WHERE WE ARE NOW

An internal market in retail financial services has been slow to develop. There has been no common currency. Firms operating in a number of member states have tailored the marketing and design of products to suit the culture, law and practice of each marketplace. Consumers have stuck with what they know either because of a natural reluctance to deal with unfamiliar providers or a lack of choice.

The introduction of the single currency and rapid developments in on-line selling have the potential to transform the situation. But it will only do so if:

Consumers have sufficient confidence to trade cross-border, derived from a high level of protection;

Providers face a business and legislative environment that enables cross-border trade to thrive.

These two objectives go hand in hand. There will be no business without confident consumers and willing providers. And in a world where increasingly more trade is carried out on-line, the quality and clarity of information provided to the purchaser takes on increasing importance.

In an effort to safeguard consumer interests, increasingly detailed information requirements are appearing at national and Community level. In the absence of a coherent approach, a proliferation of information requirements could create a barrier to the development of the single market in retail financial services. Put more positively, developing a coherent approach to information provision will help stimulate cross border activity, bringing greater competition to the industry and better deals for the consumer.

3. OBJECTIVES

Any overarching policy for information requirements should aim to:

- facilitate creation of a single market in retail financial services by ensuring coherence in information requirements throughout the EU;
- provide a high level of protection for purchasers by ensuring they have sufficient information to understand the product/service and make judgements about the provider and the contract on offer;
- promote choice for purchasers and competition in the industry by enabling easy comparison between products/services.

The overarching policy should seek to establish guiding principles for the full range of cross-border financial services. **But to deliver practical benefits, the policy should consider the application of these principles to key financial services/products ie. those that are, or are likely to be, heavily traded cross border.** In so doing, a more detailed set of information requirements should be developed for key products/services. The extent to which these requirements vary depending on the method of selling should also be studied.

Where possible, proposals for guiding principles and specific information requirements should work with the seam of current or planned legislation and practice at national, Community and international level.

Horizontal Community legislation already exists covering the marketing/advertising of retail products and services. It is envisaged therefore that much of this work will focus on the information provided for the consumer downstream of the advertising process. However, the distinction between advertising and the more customer specific dialogue is sometimes vague – particularly in the case of on-line trade. So consistency between information requirements developed under this policy and those advertising provisions already in place will need to be ensured.

4. THE TASK

The work might be broken down into a number of distinct tasks:

- Identify key products and services which are, or have the potential to be, traded cross-border. *This should dovetail with the Forum Group 5's work on mutual recognition;*
- Build up a detailed picture of information requirements at national, Community and international level;
- Based on the aims set out above as well as current legislation and practice, develop a set of guiding principles for information requirements;
- Produce detailed information requirements for the key products/services identified based on the application of the guiding principles.

4.1. Identifying Key Products/Services

We intend the Communication to cover all retail financial products and services that are, or have the potential to be, traded cross border.

Looking on a sectoral level, the following areas will certainly need to be covered:

- banking services, in particular mortgage credit, consumer credit, cross border transfers and accounts;
- insurance (life and non-life);
- securities;
- pensions.

Clearly these sectors cover an extremely wide product range with varying scope for significant cross border trade.

We invite forum group participants, based on their expert knowledge of their field, to consider where the greatest potential for cross-border trade lies. Statistical information on market trends and developments will be gratefully received.

4.2. Information gathering on existing requirements

We need to draw on a number of information sources. At Community level, the Commission is best placed to compile a list of existing provisions. A start has already been made on this – see Annex A. We also need to take account of overlapping work at the international level, for example, in FESCO in the case of securities.

Member State administrations are a useful source of information about current or planned national legislation. We will try to work with them, particularly where participants identify interesting developments at the national level.

Non-legislative requirements may also prove a useful source of information with “codes of conduct” being increasingly used in a number of member states.

What information requirements are participants aware of in their field arising from industry imposed practice, for example, codes of conduct ?

4.3. Guiding Principles

The guiding principles should flow from the three aims set out under “Objective and Scope”. Given the range of services and products to which these might apply, they will be by necessity, “high level” and generic.

Precedents exist at Community level both in horizontal legislation and in more specific sectoral legislation. These provide a useful starting point and enable us to draw out a number of common themes.

An illustrative set of guiding principles, based on these precedents might look as follows:

- all information should be clear and easily understandable;
- information should include a key features document which enables consumers to make informed comparisons between products/services;
- each stage of the purchaser/provider relationship – first contact, contract, ongoing as part of service – should be covered;
- information should be provided on all important characteristics of the product or service;
- the price and payment arrangements should be clear;
- the purchaser's contractual obligations and liabilities should be clear;
- information should be provided on complaints/redress procedures including who to complain to and the procedure to be followed;
- the purchaser should be informed of any right of withdrawal and associated conditions;
- the purchaser should be informed of the law governing the contract;
- (aimed at intermediaries) where appropriate, the purchaser should be informed of any contractual or financial ties the intermediary has to any providers;
- (aimed at e-mail contracts) where appropriate, the purchaser should be provided with information on the process of entering into a contract.

What are participants views on the value of a set of guiding principles ? Is the above illustration in the right direction – is it sufficiently or too detailed ?

4.4. Applying Generic Requirements to individual products/services

The utility of any overarching policy will depend on the practicability of applying the guiding principles to individual products and services. This is likely to be the most difficult part of the exercise, as current product design is often tailored for each individual marketplace. This makes the production of easily comparable information difficult.

Practitioners and consumers need to work closely to reach agreement on what constitutes a useful and workable approach in each case. In the case of securities, there is already a significant cross-border market. As a result, much progress has already been made in setting out information requirements. Further work is ongoing on mini-prospectuses which would allow easier comparison between performance of funds and providers. At the Community level, work is

already at a detailed level in insurance. We should try and learn as much as possible from areas such as these where progress has already been made.

In mortgage credit, although there is no significant cross-border market, work on information requirements is already advanced and should provide useful lessons. There are also a number of schemes at national level for other banking services, which can provide a lead.

For the key products and services identified we will need to consider:

What information is needed and in what form to provide consumer protection and aid comparison ?

Do the requirements vary with trading medium ?

What can we learn from those sectors where cross-border trade is already highly developed ?

5. NEXT STEPS

The initial task of this group and Forum Group 5 (*identifying barriers to cross border trade*) is to identify the key products and services that are, or have the potential to be traded cross-border. Correspondingly, we propose an initial joint meeting.

Following that meeting, the groups will split to concentrate on their respective tasks.

ANNEX A: CURRENT AND PROPOSED COMMUNITY LEGISLATION IN THE FIELD

Legislative Instrument	Nature of Information Requirements
<p>E-Commerce Proposal for a directive (Horizontal)</p>	<p>Establishment details, including registration in trade register and details of any competent authority authorising provider to do business;</p> <p>Pricing details</p> <p>Commercial Communication – must be identifiable as such and details of promotional offers set out.</p> <p>Procedure for formation of contract must be clearly explained by provider prior to its conclusion and acknowledgement of acceptance sent at contract conclusion. The Acknowledgement must subsequently be confirmed by purchaser.</p> <p>Redress procedures (responsibility of member state administrations)</p>
<p>Distance Marketing Proposal for a Directive (Horizontal – Financial Services)</p>	<p>Establishment details</p> <p>Pricing details, including methods of payment</p> <p>Key features of product/service</p> <p>Right of withdrawal and associated penalties</p> <p>Applicable law</p> <p>Applicable jurisdiction</p> <p>Redress procedures</p>
<p>BANKING (sectoral) Consumer Credit Dir. 87/102</p>	<p>Key features document <i>(including APR, total cost of credit, condition for amendment of interest rate, termination of agreement, security required, insurance required, arrangements for early repayment)</i></p> <p>Cooling off period</p> <p>Complaints procedures.</p>
<p>BANKING (sectoral)</p>	<p>Prior and post information</p>

<p>Cross Border Credit Transfers Dir. 97/5</p>	<p>Key Features document</p> <p><i>(including time required, commission and charges payable, rate of exchange used)</i></p> <p>Complaints and redress procedures</p>
<p>BANKING (sectoral)</p> <p>Possible Recommendation on Mortgage credit</p>	<p>Information in plain language</p> <p>Key features document (SPIS)</p> <p><i>(including establishment details, APR, total cost of credit, repayment methods, early repayment with associated charges, linked products and costs, cooling off period, complaints and redress procedures, applicable law)</i></p>
<p>BANKING (sectoral)</p> <p>Transaction by electronic payment instruments</p> <p>Recomm. 97/489</p>	<p>Prior to use:</p> <p>Information to be forwarded in clear and understandable format:</p> <ul style="list-style-type: none"> - details of obligations and liabilities, financial limits, typical time taken to make payment, interest rate and other charging details including for payments made abroad; - information about time to challenge a transaction, complaints and redress procedures should also be indicated. <p>Post use: clear information enabling user to identify transaction, their cost, any charges etc.</p>
<p>BANKING (sectoral)</p> <p>Deposit Guarantee Scheme</p> <p>Directive 94/19</p>	<p>Information must be clear and comprehensible</p> <p>Identification of deposit guarantee scheme</p> <p>provided in language of member state where deposit is accepted and according to national rules</p> <p>provisions of scheme, amount and scope of cover</p> <p>if requested – conditions and procedures to obtain compensation</p>
<p>INSURANCE (sectoral)</p>	<p><i>Builds on requirements already set in law for life insurers – extends to no-life and to all insurance undertakings.</i></p> <p>Prior to contract:</p>

<p>draft proposal for Directive on Insurance Intermediaries</p>	<p>Inform public they have been licensed</p> <p>Give clear information on:</p> <ul style="list-style-type: none"> - the intermediary: agent for one or many providers ? financial interests or contractual ties to any providers ? - the service: will supply in writing to customer written confirmation of their demands/needs. Will explain analysis underpinning advice. - the product: key features document <p><i>(including establishment details, payment details, complaints procedure, cooling off period, applicable law. Plus for life products, information on benefits and options, bonuses, surrender and paid-up values, units if unit-linked policy)</i></p> <p>During contract information must be provided should any of the above change., plus for life contracts, information must be supplied each year on the state of bonuses.</p>
<p>SECURITIES (sectoral)</p> <p>Recommendation on code of conduct relating to transactions in transferable securities</p> <p>77/534/EEC</p>	<p>Information should be fair, accurate, clear, adequate and delivered on time</p> <p>The significance and intent of information should be clear</p> <p>Prospectus to be published before securities issue – its existence and availability to be advertised</p> <p>Access to information to be free</p>
<p>SECURITIES (sectoral)</p> <p>Conditions for coordinating admission of securities to stock exchange and listing particulars</p> <p>79/279/EEC and amendments</p> <p>plus</p> <p>82/390/EEC and amendments</p>	<p>Inform public on regular basis of company's financial position</p> <p>Inform about shareholder meetings, accounts and annual reports</p> <p>Arrangements for payment of dividends and new share issues</p> <p>Inform of any change in rights associated with security</p> <p>Listing particulars contains:</p> <ul style="list-style-type: none"> - establishment details of person responsible for listing and auditing of accounts - general information about issuer and its capital, its activities, financial position and performance - information about the shares/certificates, debt securities etc ,including essential characteristics of the security, any

	<p>conditions and procedures of changing rights</p> <ul style="list-style-type: none"> - market specific information, eg tax, paying agents, notice publication, - information about supervisory bodies
<p>SECURITIES (sectoral)</p> <p>Information to be published on a regular basis by companies with share listings on Stock Exchange</p>	<p>Information aimed at allowing investor to make an informed choice – half yearly reports indicating turnover, profit and loss, dividend, explanatory statements about trends in company activity.</p>
<p>SECURITIES (sectoral)</p> <p>UCITS</p> <p>Directive 85/611 and proposed amendments</p>	<p>Prospectus, simplified prospectus, annual half and half yearly reports to be published.</p> <p>Prospectus is designed to enable investors to make an informed judgement about investment but is complex document.</p> <p>Simplified prospectus designed to operate as key features document. Includes:</p> <ul style="list-style-type: none"> - brief presentation of the UCITS, inc. basic info about management and investment companies; - investment information, inc. historical performance of fund; - economic information, eg, tax regime, entry and exit commissions, other charges - commercial information, eg, price, how to buy/sell, dividend details and contact point for further information <p>Annual and half yearly reports designed to allow investors to make informed judgements about UCITS. Annual report to include balance sheet or statement of assets and liabilities with detailed income and expenditure account for financial year.</p> <p>Periodic reports should be available to unit holders free on request;</p> <p>Management company must give details of any compensation scheme to home member state. They pass on to host member state.</p> <p>If UCITS invests in futures and options, then a health warning</p>

	should be included in the prospectus and any promotional literature.
SECURITIES (sectoral) Investor Compensation schemes Directive 97/9	Investment firm must have information about the investor compensation scheme or any alternative arrangement. Information should include amount and scope of cover. On request, info to be provided on conditions and procedures governing compensations.