

ANNEX

PROGRESS ON THE FINANCIAL SERVICES ACTION PLAN

2 JUNE 2004

This table provides an overview of progress on the individual actions in the Financial Services Action Plan (COM(1999)232). It shows the present state of play and provides the Commission's assessment of the degree to which Community institutions and Member States are achieving the objectives set out in the Action Plan. 39 measures have now been completed: they are listed at the beginning of this Annex.

A further five measures are also being prepared in response to wider market developments over the past five years. These measures, which are not included in the original Action Plan, are mentioned separately in the Annex under the three strategic objectives. They are included to provide a more complete overview of the EU's present workload in the area of financial services.

The progress reports remain available on the following web-page:
http://europa.eu.int/comm/internal_market/en/finances/actionplan/index.htm

- + Plus sign: progress has been achieved in meeting the targets set in the Action Plan
- Minus sign: indicates no progress

COMPLETED FSAP MEASURES
(Legislative proposals in bold)

- (1) **Directive 2003/71/EC on prospectuses of 4 November 2003. To be transposed by 30 June 2005.**
- (2) **Political agreement on the Directive on transparency obligations for securities issuers on 11 May 2004. Entry into force is scheduled for Autumn 2004, with a transposition deadline two years later.**
- (3) Commission Communication on the Application of Conduct of Business Rules under Article 11 of the Investment Services Directive (ISD) (distinction between professional and retail investors). Issued on 14 November 2000, (COM(2000)722).
- (4) **Directive on insider dealing and market manipulation. Directive 2003/6/EC of 28 January 2003. To be transposed by 12 October 2004.**
- (5) **Directive 2004/39/EC on Financial Instruments Markets (update Investment Services Directive) adopted on 21 April 2004, and published on 30 April 2004. To be transposed by end of May 2006.** The Directive was based on a Commission Communication issued on 15 November 2000, (COM(2000)729).
- (6) **Amendments to the 4th and 7th Company Law Directives to allow fair value accounting. Directive 2001/65/EC adopted on 27 September 2001. Transposition deadline has passed on 1 January 2004.**
- (7) Commission Communication updating the EU accounting strategy. Issued on 13 June 2000, (COM(2000)359).
- (8) **Regulation (EC)1606/2002 of the European Parliament and of the Council on the application of international accounting standards adopted on 19 July 2002. To be applied from 2005 onwards.**
- (9) **Modernisation of the accounting provisions of the 4th and 7th Company Law Directives adopted on 16 June 2003. Directive 2003/51/EC amending Directives 78/660/EEC, 83/349/EEC, 86/635/EEC, and 91/647/EEC on the annual and consolidated accounts of companies, banks and other financial institutions and insurance undertakings. To be transposed by 1 January 2005.**
- (10) Commission Communication (COM(2003)286) of 21 May 2003 reinforcing the statutory audit in the EU, following Commission Recommendation 2001/256 of 15 November 2000 on quality assurance of the statutory audit (C(2000) 3304).
- (11) Commission Recommendation 2001/6942 of 16 May 2002 on statutory auditor's independence in the EU: A set of fundamental principles (C(2002)1873).
- (12) Implementation of the Settlement Finality Directive 98/26/EC of 19 May 1998. In the coming months, the Commission will publish a modification of this Directive and the Directive stated under (13) to integrate The Hague Convention into EU Law.
- (13) **Directive on financial collateral arrangements. Directive 2002/47/EC adopted on 6 June 2002. Transposition deadline has passed on 27 December 2003.**
- (14) **Directive (2004/25/EC) on Take Over Bids adopted on 21 April 2004. To be transposed by Summer 2006.**
- (15) **Political agreement on the European Company Statute. Directive 2001/86/EC and Regulation (EC)2157/2001 adopted on 8 October 2001. To be transposed by 8 October 2004.**
- (16) Commission Communication (COM(2003)284) of 21 May 2003 modernising Company Law and enhancing Corporate Governance in the EU. Subsequent to the review of EU corporate governance practices, for which the final Comparative Study report was published on 27 March 2002 (available on DG Markt website: http://europa.eu.int/comm/internal_market/en/company/company/news/corp-gov-codes-rpt_en.htm).
- (17) Commission Communication on Funded Pension Schemes. Issued on 11 May 1999, (COM (1999)134). This includes the Review of taxation of financial service products. This action has been taken care of in the context of the initiative on taxation of cross-border occupational pensions.
- (18) **Adoption of the two Directives on UCITS. Directives 2001/107/EC and 2001/108/EC of 21 January 2002. Transposition deadline has passed on 13 August 2003. Application and control of transposition deadline has passed on 13 February 2004.**
- (19) **Directive 2003/41/EC on the activities and supervision of institutions for occupational retirement provision adopted on 3 June 2003. To be transposed by 23 September 2005.**

- (20) Commission Communication on Clearing and Settlement issued on 28 April 2004, (COM(2004)312).
- (21) **Directive 2002/64/EC on the distance marketing of consumer financial services adopted on 23 September 2002. To be transposed by 9 October 2004.**
- (22) Commission Communication on clear and comprehensible information for purchasers. The work on the communication has been integrated in the context of the Commission Communication on an e-commerce policy for financial services. Issued on 7 February 2001, (COM(2001)66).
- (23) Commission Recommendation 2001/193 of 1 March 2001 to support best practice in respect of information provision (mortgage credit) (C(2001)477).
- (24) Commission report on substantive differences between national arrangements relating to consumer-business transactions. Discussions with industry ('Forum Group') and consumers are concluded. Information gathered is used for further Commission initiatives in the field of retail financial services.
- (25) Interpretative Communication on the freedom to provide services and the general good in insurance. Issued on 2 February 2000, (C(1999)5046).
- (26) **Directive 2002/92/EC on insurance mediation of 9 December 2002. To be transposed by 15 January 2005.**
- (27) Commission Communication on a single market for payments. Issued on 31 January 2000, (COM(2000)36).
- (28) Commission Action Plan to prevent fraud and counterfeiting in payment systems. Issued on 9 February 2001, (COM(2001)11).
- (29) Commission Communication on an e-commerce policy for financial services. Issued on 7 February 2001, (COM(2001)66).
- (30) **Adoption of the proposed Directive on the reorganisation and winding-up of insurance undertakings. Directive 2001/17/EC adopted on 19 March 2001. Transposition deadline has passed on 20 April 2003.**
- (31) **Adoption of the proposed Directive on the reorganisation and winding-up of credit institutions. Directive 2001/24/EC of 4 April 2001. To be transposed by 5 May 2005.**
- (32) **Directive 2000/46/EC on the taking up, pursuit and prudential supervision of the businesses of electronic money institutions. Adopted on 18 September 2000. Transposition deadline has passed on 27 April 2002.**
- (33) **Amendment to the Money Laundering Directive. Directive 2001/97/EC adopted on 4 December 2001. Transposition deadline has passed on 15 June 2003.**
- (34) Commission Recommendation 2000/408 of 23 June 2000 on disclosure of financial instruments (C(2000) 1372).
- (35) **Amendments to the solvency margin requirements in the Insurance Directives. Directives 2002/12/EC and 2002/13/EC adopted on 5 March 2002. Transposition deadline has passed on 20 September 2003.**
- (36) **Amendment of the Insurance Directives and the Investment Services Directive to permit information exchange with third countries. Directive 2000/64/EC adopted on 7 November 2000. Transposition deadline has passed on 17 November 2002.**
- (37) **Directive on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate. Directive 2002/87/EC of 16 December 2002. To be transposed by 11 August 2004.**
- (38) **Creation of two Securities Committees. Decision of 6 June 2001 setting up the European Securities Committee - ESC (C(2001)1493) and Decision of 6 June 2001 setting up the Committee of European Securities Regulators - CESR (C(2001)1501).**
- (39) **Directive 2003/48/EC on the taxation of savings income in the form of interest payments. Adopted on 3 June 2003. Transposition deadline has passed on 1 January 2004 with application deadline 1 January 2005.**

STRATEGIC OBJECTIVE 1: A SINGLE EU WHOLESALE MARKET

Towards a secure and transparent environment for cross-border restructuring

Action	Initial FSAP optimal Timeframe	Present Timeframe	State of Play/Follow-up	
Follow-up to Communication on Company Law and Corporate Governance		From end of 2003 onwards	The Final Report of the High Level Group of Company Law Experts was presented on 4 November 2002. The Commission has organised the necessary consultations and presented a Communication on Company Law (including Corporate Governance) on 21 May 2003. It includes an Action Plan comprising legislative and non legislative measures. The Action Plan has been endorsed by Competitiveness Council on 22 September 2003. The European Parliament adopted its opinion on the Action Plan in Plenary meeting on 21 April 2004. As part of the Action Plan, a new proposal for the 10th Company Law Directive has been adopted on 18 November 2003 (see below). The first other initiatives under the Action Plan are expected in the second half of 2004, in particular a Commission proposal for simplifying the 2 nd Company Law Directive on Capital Maintenance and Alteration.	+
Proposal for a 10th Company Law Directive on cross-border mergers	Proposal Autumn 1999 Adoption 2002	Adoption in 2005	A first proposal tabled in 1985 remained blocked on the issue of workers' participation and was withdrawn by the Commission in December 2001. A new proposal also taking into account the solutions adopted within the framework of the European Company Statute has been proposed on 18 November 2003 and is under discussion in the Council and Parliament.	+
Proposal for a 14th Company Law Directive on cross-border transfer of seat	Proposal Autumn 1999 Adoption 2002	Proposal autumn 2004 Adoption in 2005	Reassessment is expected from the follow-up (with EP and Member States) to the Final Report of the High Level Group of Company Law Experts and from pertinent decisions of the European Court of Justice.	-

(MEASURES IN RESPONSE TO WIDER MARKET DEVELOPMENTS SINCE THE ADOPTION OF THE ACTION PLAN, BUT NOT INCLUDED IN THE ORIGINAL PLAN)

Proposal for a 8th Company Law Directive on Statutory Audit		Adoption in 2 nd half 2004	The Commission presented its proposal on 16 March 2004. The proposal is based on the Commission Communication (COM(2003)286) of 21 May 2003 reinforcing the statutory audit in the EU, which followed Commission Recommendation 2001/256 of 15 November 2000 on quality assurance of the statutory audit (C(2000) 3304).	+
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STRATEGIC OBJECTIVE 2: OPEN AND SECURE RETAIL MARKETS

Action	Initial FSAP optimal Timeframe	Present Timeframe	State of Play/Follow-up	
EU legal framework for payments in the Internal Market		Proposal 2 nd half 2004	Wide consultations of all interested parties have taken place together with an evaluation of deficiencies in present legal acts. The Commission has come forward with a Communication in November 2003. A Commission Proposal for legislation is expected in the second half of 2004.	+
Follow-up to FIN-NET	Ongoing	Permanent	Follow-up to: the Commission Communication on an E-commerce policy for financial services COM(2001) 66 final. FIN-NET was established in 2001 as an EU network of out-of-court redress bodies in the Member States for financial services. The present follow-up includes : - further widening of the geographical and sectoral coverage; - further improvement of information and co-operation between schemes.	+
Follow-up to Commission's Action Plan to prevent fraud and counterfeiting in payment systems		Ongoing	Follow-up to: the Communication "Preventing fraud and counterfeiting of non-cash means of payment" adopted by the Commission on 9 February 2001 (COM(2001)11). The Action Plan was attached to the Communication and will run from 2001 to 2003. In 2004 the Commission will publish a report on its implementation and propose further measures, if needed.	+

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Work on Insurance Guarantee Schemes	Ongoing (2004)	Technical level work started in February 2002 to study the necessity for insurance guarantee schemes similar to those existing for banks and securities. The working group has accepted, as a hypothesis of work, to examine the possibility of an approach consisting of mutual recognition and minimum harmonisation of essential standards. On 9 April 2003 the Insurance Committee agreed that the working group should carry out further exploratory work and report the Committee before starting the preparation of a draft proposal.	+
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STRATEGIC OBJECTIVE 3 : STATE-OF-THE-ART PRUDENTIAL RULES AND SUPERVISION

Action	Initial FSAP optimal Timeframe	Present Timeframe	State of Play/Follow-up	
Amend the Directives Governing the Capital Framework for Banks and Investment Firms	Proposal Spring 2000 Adoption 2002	Proposal mid 2004 Adoption by 2006	The Basel Committee postponed the finalisation date of the new international Accord until June 2004. The Commission Services have published on 1 July 2003 a Consultation Paper as a basis for discussion with the interested parties. In addition, the Commission Services has published a Consultation Paper regarding further amendments by end of November 2003. Since the Basel postponement affects the Commission's timetable, the proposal for a directive is now expected to be adopted by the Commission mid 2004. Implementation date for the new framework remains 31 December 2006.	+

(MEASURES IN RESPONSE TO WIDER MARKET DEVELOPMENTS SINCE THE ADOPTION OF THE ACTION PLAN, BUT NOT INCLUDED IN THE ORIGINAL PLAN)

Directive on Reinsurance Supervision	Adoption in 2005	The Commission presented its proposal for a Directive on a "fast-track" reinsurance supervision on 21 April 2004. Discussions in Council and European Parliament will start in the second half of 2004.	+
Fundamental review of the solvency system in insurance (Insurance Solvency II)	Proposal for a framework Directive expected in 2005	Long-term project to define a new solvency framework for EU insurance companies (started in 2000). Work at two stages: 1. an orientation debate with Member States took place within the Insurance Committee to decide on the general form of the system; 2. followed by elaboration of the detailed technical solutions to be included in the future system. The first legislative action will be the presentation of a framework directive in the course of 2005.	+
Third Money Laundering Directive	Proposal expected in June 2004	A Third Directive on prevention of the use of the financial system for the purpose of money laundering and terrorist finance will follow-up the Second Directive in the light of the revision in June 2003 of the 40 Recommendations of the FATF.	+

GENERAL OBJECTIVE: WIDER CONDITIONS FOR AN OPTIMAL SINGLE FINANCIAL MARKET

Action	Initial FSAP optimal Timeframe	Present Timeframe	State of Play/Follow-up	
Implementation of the December 1997 Code of Conduct on business taxation		Ongoing monitoring of rollback and standstill	A report identifying 66 harmful tax measures was submitted to the ECOFIN Council in November 1999. Final agreement on the tax package was reached at the ECOFIN Council meeting of 3 June 2003. All 66 harmful tax measures are being brought in line with the principles of the Code – in most cases by the end of 2005. The dismantling process is well underway and the Code of Conduct Group continues to monitor its implementation, as well as the due observation of the standstill.	+

Action	Initial FSAP optimal Timeframe	Present Timeframe	State of Play/Follow-up	
Commission initiative on taxation of cross-border occupational pensions	Proposal end 1999 Adoption 2002	Ongoing	A Commission Communication on the elimination of tax obstacles to the cross-border provision of occupational pensions was presented on 19 April 2001 (COM(2001)214). It provided guidelines on the application of the Treaty provisions, and on this basis following discussions of the ideas in the Communication in the Council the Commission opened infringement procedures in February 2003 and decided in July 2003, in an already ongoing procedure, to refer Denmark to the Court of Justice (Case C-150/04). The infringement procedures will continue to be pursued in all cases where the Commission considers that Member States are not respecting their obligations and the public will be kept aware of the progress by press releases. The Communication also made proposals on the exchange of information and the elimination of double taxation and double non-taxation, but despite efforts by the Spanish and Danish Presidencies, the ECOFIN Council did not accept these.	+