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**FINANCIAL INSTITUTIONS**

**Retail issues, consumer policy and payment systems**

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**SUMMARY OF THE WRITTEN CONTRIBUTIONS  
RECEIVED ON THE GREEN PAPER  
ON RETAIL FINANCIAL SERVICES**

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## **1. INTRODUCTION**

On 3 May 2007 the European Commission published a Green Paper on Retail Financial Services in the Single Market. In it the Commission set out the overarching objectives of its policy in the area of retail financial services and presented the actions it viewed as necessary to bring the benefits of integrated EU financial market to users. The Green Paper sought feedback from stakeholders on the direction being taken. The purpose of this consultation was to strengthen and deepen our understanding of the problems faced by consumers and industry in the field of retail financial services and to establish the scope for further initiatives in this area and to ascertain the impediments to the development of a single market in retail financial services.

This document is a summary of the contributions received on the Green Paper. Its objective is to present an overview of the opinions expressed and arguments presented by stakeholders in their contributions. The Consultation will culminate with a public hearing in Brussels on 19 September 2007 which will bring together a cross section of key stakeholders to discuss the issues raised in the Green Paper.

The outcome of this consultation will contribute to the Single Market Review, to be published in the autumn.

## **2. METHODOLOGY**

A high level analysis has been undertaken of contributions received. It is important to take into account the factors discussed below.

This report is structured along the same lines as the Green Paper. In it we asked respondents to address 14 specific questions. This feedback document attempts to summarise the responses to these questions. Not all contributors answered all questions. Some concentrated on those areas that impact most directly on their area of interest. Other respondents did not answer the questions presented but focussed on more general remarks. In these cases where it is clear from the text that the contributor is addressing one or more of the questions posed, we have included that response in our consideration of that specific question.

Due to the uneven distribution of contributions across the stakeholder categories we have not presented the responses to the individual questions in quantitative terms across the stakeholder groups. Where there is a divergence of opinion between stakeholder groups we have indicated that in the text. It is the comments and arguments presented that are valuable for the Commission rather than a numerical breakdown of opinions.

Four general stakeholder categories were established to facilitate this analysis. These groups contain a number of different entities and are then divided into sub-categories to more clearly identify them.

### 3. RESPONSES

189 written responses were received to the Green Paper. This number compares very favourably with the numbers of submissions received on other consultations in the area of financial services. Many of the submissions were very wide ranging, detailed and complex and given the short time frame available for analysis (the closing date for receipt of responses was 16 July 2006) this feedback is by necessity a high level overview of the comments made. However, the responses received will continue to contribute significantly to building the Commission's understanding of issues impacting these markets and to the consideration of any future policy initiatives in this field.

We have classified the respondents into four main categories; Member States, Users, Financial Services Providers and Others. Each of these categories is further sub-divided. The table below sets out the number of responses received broken down by category and their sub-divisions.

*Table 1: Contributions Received by Stakeholder Category*

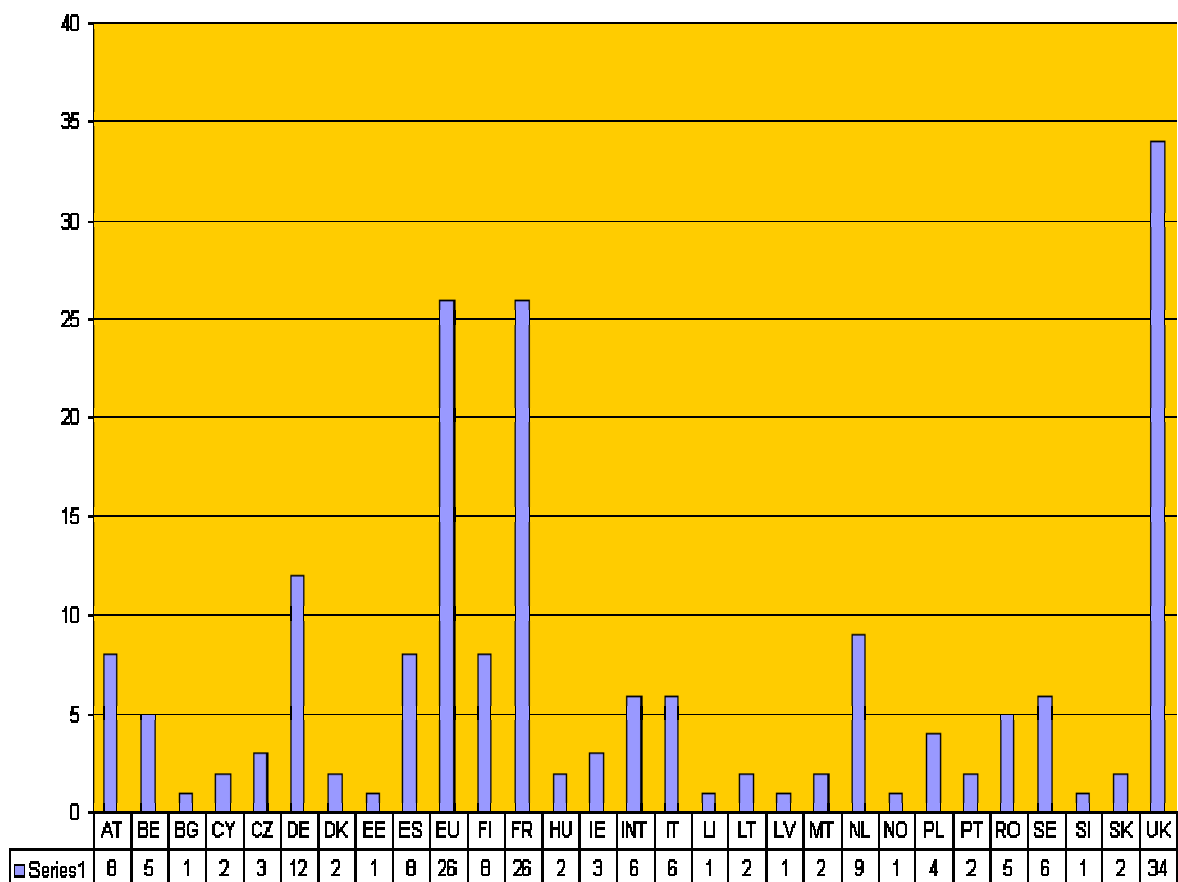
	<b>Number of replies (% of the total)</b>		<b>Number of replies</b>
Member States	43 (22.8%)	Government	24
		Regulator / Central Bank	8
		Parliament	2
		Other Public Body	9
Service Providers	92 (48.7%)	Corporate	26
		Representative Body	60
		Other	6
Users	35 (18.5%)	Consumers	26
		Other Users	9
Other	19 (10.0%)	Credit Bureau	3
		Trade Unions	3
		Academics	2
		Notaries	2
		Unclassified	8
		EU Institutions	1
<b>Total</b>	<b>189</b>		

In common with most public consultations the contributions were dominated by representatives of the financial services sector – almost 50% of the total. The Commission is very heartened by the strong response from the User category which represented over 18% of contributions and this level of involvement can only contribute to a stronger voice for consumers. In addition a number of user advocates are included in the other public bodies sub-category of the Member State group. This is because they are either formal arms of government or established by statute.

The classification of respondents into these groups is purely to assist in analysing the submissions received. We recognise that these are not homogenous groups and that the individual contributors within these groups do not share the same position on all matters. For example the service providers category includes product producers and intermediaries who do have differing views on some matters. Similarly, the user category includes consumers and other users such as retailers and SMEs.

In total, contributions were received from contributors in 25 of the 27 member states with contributions also received from Norway and Liechtenstein as well as from EU representative groups and other international bodies. The following table gives a breakdown of the number of submissions received by territory:

*Table 2: Numbers of Contributions by Territorial Origin*



## **OVERVIEW OF GREEN PAPER**

The Commission expressed the view in the Green Paper that, while significant progress had been made in delivering a single market for retail financial services, integration did not appear to have reached its potential and that competition in some markets was insufficient. As a result EU users are unable to take full advantage of the benefits that a single market provides. The following indicators were used to illustrate this fact:

- modest cross border activity;
- wide variations in prices;
- restricted product diversity and choice; and
- large variations in market performance.

In seeking explanations for the fragmentation of the market the Commission considered barriers that deter market entrants and thus restrict user choice and push up prices. Some of the barriers identified were differing regulatory and consumer protection frameworks, legal and economic barriers, high switching costs and the inability to access suitable and accurate information to enable the consumer to choose the best deal.

The Green Paper also recognised that user behaviour and preferences are a limiting factor on market integration. Most users still prefer to use local providers. This is likely to remain the case for most users notwithstanding the increased mobility of EU citizens. However, the Commission is of the view that further reforms are necessary to make all markets work better for users.

In the Green Paper the Commission gave a commitment that any initiatives to improve the operation of Europe's retail financial services markets would only be pursued where there is evidence of clear and concrete benefits for citizens and there is a strong economic rationale. Policy proposals would have to be subjected to a thorough impact assessment and new regulatory initiatives will only be undertaken if the economic case is made and consumer confidence and cross-border activity improved. The Commission is also committed to ongoing evaluation of the impact of any proposals that are in force and, where they are not working, to withdraw them.

The Green Paper set out the Commission's objectives as bringing concrete benefits to users in terms of prices and choice, enhancing consumer confidence and empowering consumers. It also set out how the Commission proposes to achieve them. It also described the ongoing and planned initiatives in these markets.

## CONTRIBUTIONS AND RESPONSES

### General Comments

There was widespread welcome for the Green Paper. The general opinion was that it was timely and that for the first time it brought together, in a single document, the range of issues to be considered in the context of the further integration of retail financial services. Issues tend to be considered individually within their own particular sector and this paper brings many of those issues together to give stakeholders a wider view of the most the key factors impacting on the retail market.

Among the reasons for publishing the Green Paper was a desire to strengthen and deepen the Commission's understanding of difficulties that both users and providers face in the retail market. The detailed submissions have increased our understanding of those difficulties and of our understanding of the policy challenges that these bring.

All respondents tend to share the view that retail financial services will remain predominantly local for the foreseeable future. Even in domestic markets customers use local providers rather than those situated at a distance from them. The main reasons for this preference for local distribution are language, culture and customers' familiarity with the features of certain products and domestic conditions and with their provider or adviser. Many respondents said that, while there is potential for increased cross border activity, it should not be a goal in itself but that if the right conditions are in place it was likely to increase naturally although that growth will be gradual. The measure of cross-border activity is not a good indicator of the level of competitiveness in retail markets. Many domestic retail markets, such as motor insurance, have a high level of competition which militates against users seeking to purchase across borders. Despite this, many respondents were supportive of the proposals in the Green Paper as they believed they would increase competitiveness in local markets to the benefit of users.

There was also a significant degree of consensus that the key to further expansion of the retail market is consumer confidence and welfare. Confident users are those who understand the products they are being sold, have sufficient information in an understandable format to make meaningful comparisons between products and services and are satisfied that there are accessible and effective complaint and redress mechanisms in place if things go wrong. Developing the circumstances that will create this type of user is where the emphasis should be put.

Most respondents welcomed the Commission's commitment to the Better Regulation agenda. They agreed that all proposals should be subject to robust impact assessment that demonstrates that there is a clear economic need for the particular proposition being put forward. There must be an evidence based approach to policy making and all proposals must be necessary, appropriate and proportionate. User representatives were also supportive of impact assessment but strongly believe that the process must give due consideration to the consumer protection and welfare elements of any proposals rather than a being a straightforward cost benefit analysis.

## Responses to Questions

The Green Paper set out 14 specific questions pertaining to the issues discussed in it. An analysis of the responses to these questions is set out in this section.

### *Question 1:*

Do you agree with the objectives and priorities set out in this paper?

There was a very high level of agreement, among all categories, with the objectives and priorities set out in the Green Paper. It was generally felt that it was a good overview and gave a clear analysis of the position in relation to the retail financial services market. It set out clearly the issues that need to be considered if a pan-European market is to develop. Most agreed that the Commission had correctly identified the three key drivers of future integration, namely – lower prices and more choice for users, enhancing consumer confidence and empowering consumers. It was pointed out that the achievement of these goals would not speed up the process of integration but rather would create the conditions for a more gradual willingness by users to consider cross border options. User groups, while welcoming this approach, reiterated that the objectives set out in the Green Paper were not mutually exclusive but were self-reinforcing and interdependent.

While a sizeable majority of the respondents agreed with the Commission, a number expressed some reservations. Only one categorically disagreed, arguing that the Green Paper had confused two distinct objectives – the integration of financial markets with user welfare. Among the other reservations expressed was the view from industry that the paper concentrated on consumers and more emphasis needed to be placed on the supply side to deliver enhanced integration and that the level of cross border activity should not be used as a measure of competitiveness as corresponding domestic markets may be very competitive.

### *Question 2:*

Are there issues that are not covered in this Green Paper, which are important for the integration of retail financial markets and to which the Commission's attention should be drawn? For example, are consumers in their everyday life confronted with requirements or limitations from either financial services providers or other stakeholders (employers, social security, administrations, businesses, etc.) which restrict their ability to use cross border financial services (such as an obligation to have a bank account or insurance policy in one specific country, etc.).

Most of the responses felt that the Green Paper set out a comprehensive analysis of the issues surrounding the integration of retail financial markets. Together with the natural obstacles such as language culture and customers' preference for local services, a number of other factors were identified as contributing to the relatively low level of cross border activity. Additional impediments applied to both the supply and the demand sides of the market.

On the supply side, the service providers were almost unanimous in their view that differing consumer protection rules in each Member State were a significant obstacle to providing services on a freedom of services basis. The provision of a pan-European product requires familiarity with 27 sets of different rules together with the relevant Directive(s) and the domestic legislation transposing it. They strongly advocate the adoption of harmonised consumer protection rules. They also identified differing taxation regimes as an impediment to a more integrated savings market.

User groups are opposed to maximum harmonisation of consumer protection rules. They argue that, if retail markets are to remain predominately local, the local regulator is best placed to determine the appropriate rules. They identified poor quality information and advice which are not sufficient to enable users to make reasonable comparisons between competing products and tying or bundling, which restrict switching, as the main impediments to increased user mobility.

Trade Union groups questioned the absence of any reference to employees of financial services providers in the Green Paper. They stated that employees are the critical interface between users and the providers and it is important that they be knowledgeable and adequately trained.

There were a number of other matters that respondents felt were not covered but that also had an affect on market integration. These issues were not exclusive to any single category of contributor but tended to be cross-sectional. The most common issues identified included:

- Consumers inability to access to basic financial services and the impact an overly strict application of the identity requirements of Anti-Money Laundering legislation;
- the role of e-commerce and whether the Electronic Commerce and Electronic Signatures Directives could be improved to facilitate cross border payments and transfers of funds; it was suggested that they be reviewed in conjunction with the announced review of the Distance Marketing Directive;
- peoples' concerns about the security of their personal data held in jurisdictions with which they were not familiar;
- the relationship between the financial systems of euro area and non-euro area countries; while SEPA should make it easier to make payments within the euro area no consideration is given to payments between countries outside the euro area countries;
- how the Commission develops policies and proposes legislation; policies should be developed on a more integrated and holistic basis rather than in silos whereby only the specific issued to be addressed is considered which can lead to inconsistencies in the rules between competing products and services;
- Member States transposition of directives into national law is not consistent with each other and they sometimes interpret provisions in Directives differently; and

- the possibility for consumer or other groups to take class actions as user groups feel that the possibility to take class action on behalf of a group of users rather than each member of the group having to instigate proceedings themselves would be a valuable consumer protection.

***Question 3:***

The Commission has undertaken several initiatives to improve consultation with consumers and to secure their input into its policy making. Should further steps be taken and, if so, what steps?

There was a common view that the inclusion of users at the earliest possible stage and throughout the entire consultative process was vital to the ultimate success of regulatory or legislative initiatives. Early involvement of user representatives increases the credibility of the process and will lead to greater acceptance among users when policies are rolled out. Many contributors acknowledged the efforts made by the Commission to increase the level of user involvement. Organisations such as FIN-USE and the Consumer Financial Services Group have increased the users access to and input into the decision making process.

Difficulties arise due to the absence of clear organisational structures for consumers. Adequacy of resources was the issue that created the most problems for user groups. Many of the user groups do not have the technical expertise to fully consider some initiatives and their personnel have wide portfolios unlike the well resourced industry organisations. Proposals put forward were that the Commission should allocate additional funds and resources to EU consumer groups either generally or to enable them to carry out impact studies, or that Member States should fund their domestic user groups to enable them to engage in the consultation process. Other suggestions included carrying out EU consumer surveys or engaging focus groups to gather more information on users' preferences.

Some concern was expressed about the focus of financial services proposals tended to concentrate on the provision of services to consumers as individuals or alternatively to large business. Small & Medium Enterprises (SMEs) tend to get overlooked in the process. They are very important users of financial services and should be given due consideration during any consultation process.

***Question 4:***

Is consumer choice unnecessarily limited by restrictions on the providers and channels through which they access retail financial services? What are, in your experience, these restrictions?

Many contributors raised the same issues in response to this question as question 2. For industry, a lack of harmonisation of consumer protection and taxation laws restricted consumer choice while user felt it related to the quality of choice on offer. Responses from the industry stressed their concern on anti-money-laundering regulation. Restrictions relating to the opening and closing of accounts were pointed out by consumers, while contributions from Member State outside the euro area stressed currency risks as a factor discouraging cross-border business. Restrictions on delivery channels were identified as arising primarily from individual requirements in Member States such as the French government's decision to confine access to a tax efficient

savings scheme to three local banks. It was also mentioned that larger institutions have less interest in providing services in smaller markets and choice is therefore more restricted in these markets. Access to technology and consumer's technological literacy were identified as barriers although not seen as direct restrictions on distribution channels.

***Question 5:***

Despite efforts, in particular the creation of FIN-NET, the handling of cross border consumer complaints in the field of financial services still remains problematic. The Commission would welcome input as to the ways to improve the current situation. For example, should Member States be obliged to ensure that alternative dispute resolution (ADR) schemes are in place? Should providers be obliged to adhere to an ADR scheme? Should they be contractually obliged to offer ADR mechanisms to their clients?

There is a consensus that impartial, effective and accountable Alternative Dispute Resolution (ADR) systems make a very important contribution to increasing user confidence in the provision of retail financial services. Many Member States have such schemes that are considered to meet the necessary criteria to enhance user confidence. The important issue is to develop user confidence in the schemes that operate outside their home state. This will contribute to a wider acceptance of cross border services. Most Member States and user groups felt that membership of an ADR should be obligatory.

The majority of respondents across all groups said that the establishment of FIN-NET was a very positive development and that it had a pivotal role to play in co-ordinating the various ADR schemes in the interests of cross border users of financial services. However, FIN-NET was considered to have a low profile and that an awareness campaign should be undertaken to advise citizens of its existence and the role it can play in facilitating cross border redress. It was also pointed out that the major weakness of FIN-NET is that it is a voluntary system and does not cover all Member States or ADRs. Some respondents said that membership of FIN-NET should be compulsory. It was suggested by a high number of contributors that FIN-NET should gather information on the various types of ADR in operating in Member States. It should publish what it considers to be best practice and highlight gaps in coverage. This would lead to a convergence of and consistency between various schemes. For this reason, many service providers felt that there was no need to harmonise existing schemes as the current schemes reflected different culture and habits in Member States

Many respondents felt that that full harmonisation of ADR schemes across Europe could be detrimental to users rather than of benefit. This could run the risk of interfering with local ADR schemes that are working efficiently and meeting the needs of domestic users of retail financial services. Some user groups felt that the relevant scheme should be that of the home Member State of the user rather than the provider. In such cases, the user would be more likely to be familiar with the requirements of the scheme and the means of making a complaint. Other suggested that the provider should include details of the scheme that applies to the services it provides when giving information to users. Some respondents said that it was important that an ADR scheme should never restrict a person's right to go to court.

One group drew attention to the European Parliaments Report into Equitable Life which they said highlighted major weaknesses in cross border ADR schemes. In this case, UK based policyholders were entitled to redress from the UK Ombudsman Service but policyholders in Ireland and Germany had no such entitlement. On this basis, they argue that, a full review of existing schemes should be undertaken.

There was a difference of opinion on whether service providers should be contractually obliged to offer ADR schemes to their customers. Those in support felt that it gave greater certainty and comfort to consumers. The alternative view was that, as many recent Directives were obliging Member States to encourage the establishment of ADRs, the requirement for a contractual obligation would be superfluous as customers would always have the right to bring the issue to such a scheme. In addition, the question was raised about the implications for the independence of ADR schemes such an obligation meant that they became a party to the contract between the service provider and its customer.

***Question 6:***

The creation of the Single Euro Payments Area (SEPA) offers challenges and opportunities for businesses and consumers alike. What do stakeholders think of SEPA's impact on consumers? Should consumers be more involved in the governance and the preparation of SEPA?

There were mixed views on whether SEPA will have a positive or negative impact for consumers. Industry representatives, particularly in the banking sector, believe that the project will bring very positive benefits to consumers. In the euro area it will remove the distinction between cross border and domestic payments as they will be treated the same. It will provide opportunities for economies of scale and reduce the usage of cash. It will increase competition between payment providers. However, many of the benefits will be dependent on timely and consistent adoption of the Payment Services Directive.

User responses were more circumspect and most have doubts about the ability of SEPA to deliver, expressing concerns about the possibility of efficient and reasonably priced domestic payment systems having to be re-engineered to meet the requirements of SEPA. They are wary that the costs associated with developing SEPA could mean significant increases in charges for payment instruments. There is the possibility of confusion among users with the introduction of IBAN and BIC and if formats and documentation are changed from those that customers are familiar with.

Some said that SEPA, as currently structured, will create circumstances whereby the two largest payment card providers in the market will have a virtual duopoly in the market and believe that this runs counter to EU competition law.

Most Member States contributors welcome SEPA and believe it will create efficiencies and produce longer term cost efficiencies to the benefit of users, suppliers and the economy as a whole. A number said the impact of SEPA will not be uniform across the EU. It will affect euro area countries differently to non-euro area countries.

There were also mixed responses as to whether or not users should be included in the governance and preparations for SEPA. Many respondents felt that, as the issues under discussion related to the technical aspects of payments systems, it was better left to the technical experts to deal with this. Others felt that governance issues require user input. Some countries have already set up systems that will include users while other countries have had no engagement with users on the issue. Member States did not in general support the inclusion of consumers in the governance of SEPA.

***Question 7:***

With view to the launch of its study on credit intermediaries, later this year, the Commission would like to know whether stakeholders believe the current legislative framework to be sufficient and if consumers face any particular problems in dealing with credit intermediaries, particularly on a cross-border basis.

There did not appear to be common ground on this question even within the four stakeholder categories.

Most respondents welcomed the forthcoming study on credit intermediation recently announced by the Commission. The majority felt that the key issue for that study to address will be the definition of credit intermediary. There are many different types of credit intermediary - those who act independently and act on behalf of users in sourcing credit from different providers, agents who act on behalf of a single provider and those who provide credit intermediation services as an ancillary service in connection with their main activity of retailing consumer goods. It may be that the different types of intermediaries may require different treatment. Some Member States, particularly Scandinavian countries and some newer Member States, do not have a culture of credit intermediation and therefore do not feel that the creation of a regulatory regime is justified, while others feel that the economic case for their regulation has not been made.

Some said that credit intermediaries can play a role in enabling consumers to access markets or providers that they otherwise could not and also to facilitate providers who do not have a presence in a particular area or country. Those who advocated a regulatory system did so because they felt that intermediaries should be able to provide services on a cross-border basis similar to the regime for insurance intermediaries under the Insurance Mediation Directive. It was suggested that any regulatory regime to be put in place should, at a minimum, include registration with a competent authority in the home Member State; appropriate professional knowledge and ability; possession of professional indemnity insurance and a complaint/redress scheme in line with requirements for other intermediaries. Some suggested that the regime should be similar to that for credit institutions in respect of their contact with their customers.

***Question 8:***

The Commission believes that it has an important role to play in developing a competitive, open and effective market for long-term savings, retirement and pension schemes that meet consumers' needs. Do stakeholders agree and how could the Commission contribute? Could an optional legal EU-wide regime ("28th regime") for savings and/or 3rd pillar pension products be envisaged?

Most respondents across all categories agreed that the Commission does have a role and a responsibility in relation to pensions and retirement planning. A considerable number of responses acknowledged, however, that the chief attraction of long term-saving schemes were the tax benefits which accrued to consumers on a national basis. Because of that and the strong linkage between national social welfare and long term saving products these responses questioned if the Commission could make an impact on this market. Indeed there were differing views as to the exact nature of that role of the Commission, but there was consensus that the Commission should encourage competitive, open and effective market for long-term savings, retirement and pension schemes that meet users' needs. Due to the increasing age profile of their populations, many Member States are reviewing current Pillar I provision. Pillar II pensions are moving from defined benefit to defined contribution schemes. For these reasons it is important that users can access suitable third pillar pensions where required. The Commission should carry out a study of pension services in all Member States. That study should look at all of the issues relating to pension provision. It should examine barriers to entry in each Member State and take steps to dismantle any barriers that may be identified. The Commission role should also be to ensure that users can have access to suitable pension and long term savings schemes.

Taxation is the major factor in all pension regimes. It was pointed out by some respondents that tax relief is what distinguishes a pension from other forms of long term savings. Respondents identified tax and the social welfare system as the major impediment to pension integration and portability. Without tax harmonisation it would be very difficult to develop an integrated market for EU wide pension provision. These issues are matters for individual Member States and the Commission has no competence under these headings. In some countries, Pillar III pensions are almost invariably life assurance products as these products are where tax reliefs are targeted. This restricts the range of products that can be provided as part of pension planning and discourages innovation. The banking and investment management sectors stated that the levelling of the playing field would allow them to provide products to meet this growing need. The investment management sector also highlighted the fact of the different regulatory treatment between competing products. They said that UCITS were subject to a high level of regulatory oversight and disclosure requirements which meant that they were the most transparent products in the market. Many products that UCITS competed with were had a lesser regime and in certain cases were not subject to any regulatory requirements. The levelling of the playing field in this area would give consumers more choice of products that suited their needs.

The lack of harmonisation of consumer protection rules and differing information requirements were also highlighted by industry as barriers to development of a pan-European market.

On the question of a 28th regime, there were mixed opinions of its suitability. Industry respondents were those who were most in favour of examining the feasibility of developing a 28th regime for long term savings. They felt that the concept had potential but that there were a number of difficulties to be overcome before such a scheme could be viable. A 28th regime would need to be attractive to both providers and users and to be acceptable to all Member States. The relationship between any 28th regime and national regimes would be critical. Member States would have to permit the sale of the 28th regime product in their country without discrimination even if that regime did not meet the standards of consumer protection laid down by that Member State. Some felt that it allow producers to develop product designed to meet the demands of the wider EU market rather than a domestic facing product.

A number of possible 28th regime products were identified. Some respondents pointed to the paper published by the European Financial Services Round Table (EFR) called "Pan-European Pension Plans – From Concept to Action" and indicated that this proposal would represent the optimal way to proceed with a 28th regime. Other suggestions included the European Personal Pension Account which was developed by EFAMA or national level products such as PERCO in France. Some industry contributions felt that as the concept of 28th regimes were relatively new and untried it may be more appropriate to use it initially for simpler more straightforward products to determine the feasibility of this approach. Pensions and old age provisions are very complex and may not be the most suitable starting point for these types of regimes.

User groups on balance did not support the 28th regime suggestion. They felt that it may increase confusion by requiring comparisons and choices to be made between a 28th regime product and existing domestic alternatives. In any regime the quality of information provided and advice given to customers would be vitally important.

Another concern of the user sector is the fact that the Green Paper suggests that the 28th regime would be optional. They say that this will allow for regulatory arbitrage where providers could opt to supply their product only in those Member States where consumer protection laws were strong.

Member States did not represent a single view but the majority did not support the establishment of a 28th regime.

***Question 9:***

Do you think that there could be benefits for both banks and consumers, if banks would have the opportunity to offer an optional simplified standardised product, which would have a good level of consumer protection, would be easy to understand, and could be offered across borders without the need to be modified to fit local rules?

Service providers were almost unanimous in their opposition to the introduction of standardised financial products. They believe that the Green Paper is unclear on the purpose behind standardised products as it doesn't indicate if the proposal is targeted at improving financial access, providing simpler information to customers or creating a 28th regime. They are also uncertain as to whether it applies to bank accounts only or to a wider range of retail financial products or services. They say that product development should be market driven with providers offering products that meet the needs of their customers. Products should not be devised by regulators, as experience in the UK with Stakeholder pensions demonstrates; they do not meet the needs of providers. They also

contend that stifle innovation because there is no incentive to provide additional services and restrict competition by preventing new entrants to a market from differentiating themselves from their competitors. Service providers said that the issue that should be addressed was not the standardisation of products but the standardisation of pre-contractual information.

Other respondents, while not fully supportive of the proposal, felt that there may be merit in carrying out a study on the feasibility of introducing such products. They felt that standardisation would make it easier for users to compare products and make them easier to understand.

Many consumer associations saw potential in the idea, arguing it could improve consumer confidence and facilitate access to financial services for poorer consumers.

Member States had mixed views on the proposal. Many thought that it had merit in principle as it could improve access to financial services for a greater number of consumers, referring to the fact that especially in some new Member States a high percentage of consumers had no bank accounts. Some felt that it had potential to assist more marginalised members of society. However, it was argued that it would be important to get a clearer picture of what was being proposed. Those who were not in favour said that there was no evidence that standardised products would increase cross-border activity.

There was some confusion among respondents as to whether the Commission was proposing a number of 28th regimes for a range of financial services. Many felt that a basic bank account would facilitate access and would be of benefit to less sophisticated and more vulnerable and should be addressed through access exercises of the Member States. If so it should be considered in the context of access to banking services which raises the issue of subsidiarity.

***Question 10:***

The Commission believes that more could be done to improve consumers' financial literacy and capability. Possible measures include developing guidelines or promoting best practices. The Commission would welcome input on how this policy should be further developed at the European level.

There was an almost unanimous view that consumer education and financial literacy programmes are, in the long term, the most effective methods of empowering consumers. It is best achieved through the school curriculum and education should start as early as possible. Education is a matter for national authorities and many respondents said that this should remain the position so that programs can be adapted to the specific legal and cultural nature of each country's market but include information on external markets. Education is a long term project that requires planning and resources and it will be some time before the results can be measured. Some contributors felt that a measure of realism will be needed in terms of potential results.

Many Member States have some programs in place, either on a formal basis with government involvement or provided in a private capacity by service providers. Those who do not should be encouraged to do so. All stakeholders, including governments, regulators, financial institutions and user representatives should have an input into programme development and content.

The user representatives, while supportive of the benefits of financial literacy programmes, did warn that they are not a substitute for consumer protection rules and good quality pre-contractual information. They should not be used to absolve financial service providers from their duty of care to their customers and their obligation to provide suitable products with clear information. They also said that as the outcome would be to educate consumers of the future the issue of empowering existing consumers needs to be considered.

While education is a matter for Member States, most respondents felt that the Commission had a critical role to play in this area. The Commission should encourage Member States to develop financial literacy programmes as part of the school curriculum. The starting point for the Commission should be to gather information on existing programmes in each Member State and set out best practice in this area to enable other Member States to develop appropriate programmes.

Most respondents offered to work with the Commission and to share information on this topic. Other suggestions about the possible role for the Commission include carrying out a survey to assess extent of financial literacy problems across the EU; promoting awareness of existing programmes and resources whether of a public or private nature; establishing a task force to identify gaps and challenges and making EU funds available for Member States to research this issue.

Apart from the caution expressed by some respondents about over reliance on financial education, only two respondents did not support this proposal. One simply stated that there was no need for such a programme while the second said that the knowledge learned by consumers through such a program would not be sufficient to protect their interests.

***Question 11:***

Do you think that, as they stand, the provisions on consumer information contained in financial services directives are adequate and consistent with one another? Were it not the case, how could the Commission ensure that information requirements are set at the right level, ensuring proper information but without creating any overload? Do you think that informing consumers is sufficient or that advice should also be provided? If yes, would that be compulsory or upon request?

There was general agreement from those who expressed a view that the distinction between advice and information set out in the Green Paper is appropriate. Most were of the view that the purpose of information is to enable the user to understand the product on offer, including its suitability and costs, and to make comparison with other equivalent or competing products. There was a consensus that the level and type of information provided should be relevant only to the particular product or service being sought.

Service providers said information overload is an issue and that they are obliged to give large amounts of information to users which can be of questionable value, inconsistent and not wholly relevant. This also adds to costs. These obligations derive from differing EU Directives, both sectoral and horizontal, consumer protection regimes in individual Member States, and other requirements set out in local laws or codes of conduct. They believe that a harmonisation of information requirements would be the most straightforward means of addressing the problem and informing users.

User groups criticised the quality and consistency of information provided saying it does not allow users to make informed comparisons between products. They argue that the information should be precise, clear and concise and in a language and format easily understood by the user. It should be given in plenty of time to enable the information to be assessed and comparisons made. The comment was made that the information provided should pertain to product disclosure information and should be free of marketing or advertising material.

Some Member States felt that the information requirements in Directives were consistent and appropriate while other disagreed. The latter felt that more coherent and targeted information requirements would enhance consumers' confidence and facilitate shopping around. It was said that giving information and communicating information are not the same thing and that how information is presented and explained is also very important.

There is strong opposition from service providers to the making the provision of advice compulsory. They claim that advice and information are two different services and the decision to provide advice is a commercial decision that must be left to the discretion of the service provider. Not all users seek or need advice and these people would have to pay for advice if it was compulsory thus increasing the costs of financial services. The provision of advice changes the relationship between the financial services provider and the client. The risk to the providers increases and so does the cost. The obligation should be to treat customers fairly and give enough relevant information to enable them to take their own responsible decisions. Advice can be provided if the customer wishes but only where the customer requests it.

A majority of Member States contributors felt that advice should not be made compulsory although some felt there was merit in the proposal. Most said that the obligation on service providers should be to ensure that customers receive clear accurate and timely information and that only suitable products should be offered to users.

The users category was divided between those in favour of the compulsory provision of advice and those against. There was consensus that if advice should be given, its quality and independence must be ensured. Many acknowledged that such advice would come at a cost but was favoured for more complex financial products. Some felt that to guarantee its independence, advice should be provided by third parties only.

***Question 12:***

Measures to improve lenders' access to credit data will be discussed in the context of the forthcoming White Paper on Mortgage Credit. The Commission believes that more could be done to promote the accessibility of credit data, in particular on a cross-border basis. Who should be able to access consumer credit data? How could the cross-border transferability of consumer credit data be improved, ensuring in particular that mobile credit data follows increasingly mobile consumers? Could a memorandum of understanding, ensuring smooth data circulation between credit bureaus, be a workable solution?

There was strong support for allowing lenders access to credit registers in other Member States. Some agreed that a memorandum of understanding could be sufficient to achieve this others felt that a legislative process would be necessary due primarily to the different ownership structures (public and private). Access should only be provided on a reciprocal basis where all users of a credit register should also supply information to that credit register. The issue of the type of data to be collected, positive and/or negative is important. The issue of data security and protection is the major concern of user groups and some Member States.

There was strong support for the position set out in the Green Paper that access to credit registers can facilitate cross border activity. It allows lenders to enter markets with greater confidence and to price their products or services more accurately. The common view was that access should be available on a non-discriminatory reciprocal basis to all persons involved in the provision of credit. Harmonisation of the of the form of registers and the data would be necessary and issues that would need to be addressed include ownership of the registers whether public or private, ownership of the data, if they should contain both positive and negative information on borrowers and also include information on payment defaults to utility or communication companies.

All of the respondents stressed the need for data privacy and protection provisions to be factored into the development of policy in this area. User groups concerns focussed on the security, access and use of data. They said that information should only be used to facilitate credit assessment and should not be used for marketing or commercial prospecting. Any system would have to provide customers with the opportunity, free of charge, to correct the information held on them in any register. In addition, when a database is accessed the user should be permitted to get details of who accessed it and the purpose of the request. Some consumer groups were of the view that the databases or registers should not include positive information while others felt that the inclusion of positive information would benefit users.

Most respondents felt that a memorandum of understanding (MOU) would be the most appropriate means of granting access to credit information. Such a system works well in some countries within national boundaries. There was some doubt as to whether the an MOU would be appropriate given that strict data privacy requirements are set out in EU Directives and national laws and any use of information may require primary legislation. Others suggested that that Article 8 of the Consumer Credit Directive provides an appropriate mechanism to facilitate this process.

***Question 13:***

Fragmentation of retail insurance markets, for example in the field of motor insurance, does not allow consumers to reap full benefits of EU integration in this area. Do you think that more should be done at EU level to address this fragmentation?

The view that the insurance sector is particularly fragmented was not accepted by the insurance sector. From a supply side many insurers operate in other Member States but choose to do so by way of establishment. This is to enable them to develop their products to meet local regulations.

They say that to argue that the low level of cross-border activity does not reflect a lack of competition in the market and that many domestic markets are competitive. National laws and requirements are different in Member States

There are a number of factors that restrict the sale of insurances on a cross-border basis. In relation to life insurance, where policies are reasonable homogenous, the major factor is primarily the availability of tax relief in certain Member States rather than significant differences in the policies themselves. Certain domestic laws also hinder insurers' ability to provide their products in other Member States. To illustrate the point they compare the law on taking charges for unit linked policies in Belgium with that in France. In Belgium charges must be taken through a reduction in the value of the units while in France it must be done by cancelling units. This is given as an example of two incompatible laws that impact on the same product.

In relation to non-life insurances, other factors come into play. Policies tend not to be homogenous and are more difficult to compare. They are subject to a number of factors that are particular to each Member State. In the case of motor insurance, which is compulsory in all Member States, the premium is calculated by reference to the risk factors involved. These include issues such as the condition of the road network, claims levels and histories, local laws, consumer protection rules availability and price of spare parts or materials and insurers relationship with local repairers or tradespeople.

Representatives from the insurance intermediary sector suggest that they can have a critical role to play in reducing this fragmentation. They say that the Insurance Mediation Directive is the appropriate framework to permit them to operate across borders. They advise against a hasty readjustment of that Directive until it has had time to bed down in all Member States.

User representatives are not convinced that there is a significant appetite among users for cross border shopping for insurance services. They believe that proximity and the insurers ability to react quickly means that customers will tend to opt for buy locally. Price differences would need to be significant to encourage users to look further. However, they consider that the transparency and comparability of insurance products could be improved.

***Question 14:***

Customer mobility and competition are closely associated. The Commission would welcome input as to how customer mobility could be enhanced. In particular, in the field of bank accounts, and as a follow-up to the Expert Group's work, would stakeholders see merits in, for example, having EU wide account switching arrangements? Will SEPA have an impact on customer mobility?

Many contributors made reference to the consultation on the Report on the Expert Group on Customer Mobility in relation to Bank Accounts and said that their detailed comments on bank account mobility would be made in that context. The view put forward in this consultation largely reflects the outcome of that report with a clear divergence of opinion between industry and user contributors on how to address the issue.

The responses from the banking sector state that increased mobility should not be an objective in itself. Lack of mobility is not necessarily an indication of a lack of competition and could also be a demonstration that customers are satisfied with the products and services they receive from their banks. Many Member States have codes of conduct in place in relation to domestic switching and this would be the most appropriate method if it were felt necessary to introduce a cross border switching regime. In addition, they believe that users are more comfortable in dealing with local based institutions that speak their language and understand the local common good rules. In such circumstances, mobile users are probable more likely to operate more than one bank account that would give them access that local knowledge and culture.

Users do not agree that the low level of cross border switching should be used as a determinant of customer satisfaction. They believe that there are a number of barriers to switching and that many customers do not switch because of the difficulties created by these barriers. These barriers include account closing charges, tying and bundling of products, lack of transparency and good quality information making it difficult for users to compare offerings from different banks, concern over missed payments of direct debits or standing orders, administrative burden of changing bank account number. In addition, they argue the existence of a large number of products on the market does not necessarily increase choice for users as choice is related to quality as well as quantity.

There no single view among the contributions from Member States about the best approach to facilitating mobility of bank accounts. Many of those in whose countries voluntary switching schemes were in place felt that they were working well and that this would perhaps be the most effective means of increasing mobility. They acknowledged that there are barriers to customer mobility and these needed to be addressed in any proposals put forward by the Commission.

There were also divergent views as to whether SEPA would contribute to increased consumer mobility. As with the replies to question 6, it was felt by many contributors that SEPA would contribute to bank account mobility to varying degrees. However, other contributors felt that SEPA, while facilitating cross border payments, would reduce the need for users to open a bank account in a different Member State as they will be able to make payments in the euro area from their existing bank accounts.

With regard to the issue of bank account number portability the dominant view was that, while theoretically it was feasible and welcome, as with telephone numbers, the costs involved in changing payments systems infrastructures may make it too costly.

## **Other Matters Arising**

In addition to replies to the questions asked in the Green Paper, two other issues were raised by some respondents. These are discussed briefly below:

### *(1) ROME 1 Regulation*

Some of the insurance and investment management stakeholders raised concerns about the proposed Rome 1 Regulation on the law applicable to contractual obligations. They claim that if the applicable law becomes that of the country of residence of the consumer it will have a detrimental effect on efforts to enhance cross-border activity in these markets.

### *(2) Definition of Consumer*

How best to classify a consumer was an issue raised by some respondents, primarily from service providers. In response to question 3, some contributors said that when discussing consumer issues the Commission should have regard for other users particularly SME's. In addition some service providers said that when considering consumer interests is the Commission should use, what they call, the "reasonable consumer model" as set out by the European Court of Justice. This states that a reasonable consumer is "reasonable well informed, observant and circumspect". Consumer representatives who commented felt that this is too high a threshold for protecting ordinary consumers.