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Note of the Italian delegation for a new Proposal of Regulation of statute for a European mutual society

The European Commission has recently withdrawn, in the framework of the project “Better Regulation”, the Proposal for a Regulation of the European Parliament and of the Council on the statute for a European mutual society (1991/390/COD), probably for the lack of substantial progress in the legislative process for a significant period of time.

Due to the existence of Council Regulation (EC) No 2157/2001 on the Statute for a European company and Council Regulation (EC) No 1435/2003 on the Statute for a European Cooperative Society (SCE), the choice to abandon the project causes some concerns.

Indeed, an efficient Single Market cannot disregard the need of a harmonized regulation that includes also the mutual insurance undertakings since they represent approximately 20% of the European insurance market and 12% of the Italian insurance market.

The Commission choice seems to be penalizing, due to the fact that the mutual sector will be put in an unfavorable position in the competition with other insurance undertakings; the choice in fact excludes the national mutual societies from the possibility to transform themselves into the European mutual society and jeopardizes their aims of economic growth, thus conflicting with the Lisbon strategy.

Moreover, the resumption of the works on the statute for a European mutual society will allow to meet the challenges of Solvency II: the increasing need for own funds and for solvency requirements could trigger mutual mergers processes. In this regard, the statute for a European mutual society will facilitate the concentration and consolidation process - through an adequate harmonized legal tool - as well as an appropriate environment for the safeguard of small and medium sized entities having the mutual legal form.

Furthermore, with a view to protecting consumers, we believe that legal forms such as members - policyholders should be encouraged.

Finally such a harmonized societary form should be included in the forms allowed by the EU insurance directives as preliminary condition for obtaining the authorization.

In the light of the above considerations, the Italian delegation would like to underline the need for a new European initiative in this field.