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1. Financial Services Action Plan (FSAP)

The successful completion of the FSAP is essential to achieving a truly integrated Single Financial Market. Excellent progress has been achieved and of the 42 original proposals in the FSAP, although we are barely over the half-way mark, more than 30 have already been completed.

Earlier this year at the Barcelona Council, 8 specific core measures were identified for agreement. Four of these 8 measures have already been adopted, namely, the Regulation on the application of international accounting standards (IAS) and the 3 Directives covering financial collateral arrangements, the distance marketing of financial services; and of course Insurance intermediaries. With respect to the remaining 4 measures, the Council has reached a common position¹ on 3 (the market abuse and financial conglomerates directives and the supplementary pension funds directive). As regards the last measure, the proposal for a directive on prospectuses, political agreement (qualified majority) has been reached in the ECOFIN of 5 November 2002 on an amended proposal.

Looking to the future, the need for more effective enforcement and implementation of Community law has been recognised, particularly within the framework of an enlarged EU of 25 members or more. With that objective, the Commission plans to release a Communication before the end of the year on the respect of Community Law.

¹ In fact as we go to press, the European Parliament has agreed in Plenary.

2. Developments in implementing financial services legislation in the securities field (Lamfalussy proposals)

The ECOFIN meeting on 8th October endorsed the EFC report on financial regulation, supervision and supervision. The proposals discussed in this report foresee the extension of the Lamfalussy approach, as approved earlier this year for securities markets, to the insurance and banking sectors as well as to financial conglomerates.

Formal adoption of the extension of the Lamfalussy approach to insurance and banking will require endorsement by both the Council and the European Parliament. The Danish Presidency has started consultations with the European Parliament to facilitate Parliamentary agreement. Amendment of the existing Directive (91/675/EEC) establishing the Insurance Committee will also be required and will lead to extended comitology powers for the IC.

Although a decision on the form of the Solvency II project has still to be taken, it is expected that a more risk sensitive solvency margin regime may call for greater application of comitology powers under level 2 of the Lamfalussy proposals.

Subsequent to the ECOFIN meeting on 8th October, the Danish Presidency has decided to undertake a wide-ranging, open consultation on the final EFC report. The Commission has been asked to assist the Presidency and to this end the Internal Market DG has undertaken an electronic consultation².

² Further information on the Commission web-site at:
http://www.europa.eu.int/comm/internal_market/en/finances/cross-sector/index.htm

3. Regulatory and Supervisory response to increased market volatility

The implications of the continued downward trend on world financial markets for the insurance sector has been carefully followed by the Commission and the Insurance Committee. In particular, the matter was discussed at the IC Committee in November 2001 and April 2002. On both occasions, it was agreed that the Commission should continue to monitor the situation very closely as well as that for the coverage of terrorist risks in the Member States, in the light of market developments after the tragic events of 11 September 2001.

The Commission organised a meeting with EU regulators and supervisors on 23 July 2002. This meeting underlined the need to keep the situation on financial markets as well as regulatory and supervisory implications under close and constant review. It also stressed the need to avoid the risk that current micro disturbances trigger wider macro-economic contagion.

In order to increase mutual knowledge of the extent of the problems in Member States, as well as of the regulatory or supervisory measures taken, the Commission decided to send a questionnaire to Member States and industry. The results of this questionnaire were discussed at the IC meeting on 26 November.

4. Pensions

Thanks to the substantial efforts of the Spanish Presidency, the Council reached a political agreement on the Commission proposal on 4 June and then formally adopted the common position on 5 November 2002.

The Commission considers that the Council common position preserves the main thrust of the Commission proposal. It takes account of nearly all the amendments proposed by Parliament and accepted by the Commission. The common position develops and clarifies the main provisions of the Commission proposal concerning in particular the scope of the instrument (Article 2), optional application to life assurance companies (Article 4), conditions of operation (Article 9), information to be given to members and

beneficiaries (Article 11), technical provisions (Article 15), investment rules (Article 18), management and custody (Article 19) and cross-border activities (Article 20). A new Article 21 on co-operation between Member States and the Commission has also been added.

The common position will now be sent for second reading to the European Parliament. The EP vote on the common position is expected in February or March 2003.

5. Insurance mediation

The Council of Ministers approved on 30th September 2002 the Insurance Mediation Directive, including all the amendments made by the European Parliament at second reading last June. This new Directive will improve choice and reinforce customer protection, while helping insurance intermediaries to market their services across borders. The Directive requires that all intermediaries be registered in their home Member State. To obtain that registration, they will need to meet strict requirements. Once registered, they will be free to sell their services anywhere in the EU.

The Directive, which will come into force in late 2004, is based on a September 2000 Commission proposal. It will replace the 1977 Directive (77/92/EEC) and become the only binding EU law covering individuals or companies selling insurance products on behalf of others. This was a priority measure under the EU Financial Services Action Plan. After signature by the Presidents of the Parliament and Council, it will be formally published in the Official Journal of the EC.

6. Codification: Life

The European Parliament has approved the Directive that will simplify European legislation on life assurance by recasting into a single text all the existing Directives on this subject. The Directive also incorporates the provisions of the Directive of 14th February 2002 updating the solvency margin requirements for life assurance companies.

The Directive is now definitively adopted and will become law as soon as it has been formally signed by the Presidents of the Council and Parliament. It replaces all the Directives on life assurance adopted since 1979 and so includes rules concerning supervision, solvency and the freedom to provide insurance services throughout the EU. It should be published very soon in the EC Official Journal.

7. 4th Motor – Commission Decision

The entry into force of Article 6 of the Fourth Motor Insurance Directive requires an agreement between the national compensation bodies responsible for providing compensation to injured parties in the cases referred to in Article 1 of the same Directive. Furthermore, the Directive calls on the Commission to fix the date from which its Article 6 shall take effect *“upon its having ascertained in close co-operation with the Member States that such an agreement has been concluded”* (Article 6(3)(b)).

End July, the Commission received a copy of the agreement between the compensation bodies and guarantee funds designated by the Member States of the European Union and the European Economic Area. This agreement was prepared following an initiative of the European Federation of National Insurance Associations (CEA), that set up an *Ad Hoc* working group with representatives of the insurance markets and compensation bodies established or approved by the Member States. This agreement defines compensation bodies' functions and obligations and organises the procedures for reimbursement, that have been agreed by all the compensation bodies.

The Commission will adopt before the end of the year a Decision according to which the provision of Article 6 of the Fourth Motor Insurance Directive shall take effect from 20th January 2003, the final deadline for the application of the national rules implementing its provisions.

8. 5th Motor Insurance Directive

Since the adoption of the Proposal by the Commission in June 2002, the Council working group has held three meetings under Danish presidency. A first reading of the Proposal has been completed and work is progressing steadily. At the Competitiveness Council of 14th November the Commission and the Danish presidency made respectively a presentation of the proposal and a short oral progress report on this file. The Commission understands that the (next) Greek presidency has scheduled several Council working group meetings during its mandate. Subject to satisfactory progress, a political agreement for a common position may be expected before the end of the Greek presidency (June 2003).

At the European Parliament, the rapporteur, Mr. Rothley (PSE-DE), has prepared a first working paper, which does not yet constitute his report. A first exchange of views on the proposal on the basis of that paper took place at the EP Legal Affairs Committee on 5th November 2002. According to the available information, Mr. Rothley expects to complete his report by end January 2003. A first reading by the Parliament cannot therefore be expected before March/April.

ECOSOC will have a first exchange of view on the Proposal on 4th December.

9. Solvency 2

Since the last meeting of the Insurance Committee, the IC Solvency Sub-committee has met three times, on 29 April, 28 June and 22 October 2002. Member States' best practices, internal risk models, the links between financial statements and supervisory returns, international developments in the IAIS and IAA as well as the extension of the Lamfalussy approach to insurance regulation were discussed in the Sub-committee.

Meanwhile, the two experts working groups set up by the Commission on life and non-life provisions completed their work. Their reports were presented to the Sub-committee at its latest meeting, in October. The working group set up by the Conference of European Supervisors also finalised its report, which was adopted by the Conference in Copenhagen earlier this month.

The Solvency II project also benefited from the conference held by KPMG on 24-25 June 2002 to present the Commission study on solvency issues.

The first phase of the Solvency II project is now close to its conclusion. On 17 December, market participants will be invited to give their general views on the process. The Commission services are preparing a discussion paper on the possible form of the new solvency system, which will be discussed in the Solvency Sub-committee early next year. The aim of the Commission is to have a major orientation debate at the next IC meeting, in Spring 2003.

This debate will also help to define the next steps of the project (phase 2).

10. Reinsurance

At the April meeting the Insurance Committee strongly supported a fast-track approach for reinsurance supervision based on the existing prudential framework for direct insurance undertakings. With this objective, the Commission Services continued the preparatory work for a proposal for a reinsurance directive.

A new working group was established to assist the Commission Services on technical matters involved in the project. In a first step, this group should initiate, prepare and perform simulations and calculations in order to determine appropriate levels for the solvency margin and the minimum guarantee fund.

In addition, the Commission Services elaborated the first version of a draft proposal for a Directive concerning reinsurance and retrocession.

The tentative results of the simulation exercise and the draft proposal legal text were presented and discussed in the IC Reinsurance Subcommittee meeting on 4 November 2002. Thanks to the active co-operation of Member States the Commission Services hope to soon present a slightly amended draft proposal as well as the final simulation results.

11. Accounting

European developments

On 19 July 2002, the Council adopted a *regulation on the application of international accounting standards* (Regulation No. 1606/2002, OJ L243 of 11.9.2002). According to the regulation, all listed EU companies should prepare financial statements in accordance with IAS from 1 January 2002. Companies that today use US GAAP rules, because they are listed on a third country market may continue to do so until 2007. The regulation foresees a two-tier structure for the endorsement of IAS for mandatory use in the EU: one "technical" and one "political" level.

The *European Financial Reporting Advisory Group (EFRAG)* is a private-sector body created in order to prepare technical input to the IASB and to give advice on endorsement of IAS to the European Commission and to the political level of the endorsement structure. EFRAG has a special Insurance Subcommittee, to which the Commission participates as an observer. The first liaison meeting between the IC Accounting Subcommittee and members of the EFRAG Insurance Subcommittee was held on 24 October 2002. Members of EFRAG have expressed their appreciation for supervisors' contribution at the meeting.

The political level of the endorsement structure consists of the *Accounting Regulatory Committee (ARC)* created by the IAS Regulation. This group had an informal meeting on 17 July 2002 and the first official one on 6 November 2002. IAS and SIC (interpretations) must be available in all Community languages before endorsement. This is a very complex and time-consuming task, and it is unlikely that all language versions be available before the original deadline, 31 December 2002. The Insurance Committee is considering how to be represented at meetings of the ARC.

So far the ARC have only conducted preliminary discussions on the *endorsement of IAS and SIC (interpretations)*. The final endorsement decision will be taken in late spring 2003. The endorsement discussion has to date focused on two issues: whether all standards and interpretations should be endorsed “en bloc”, and potential implementation problems in the banking and insurance sectors stemming from IAS 32 and IAS 39. The next meeting of the ARC will be held in January.

International developments

IASB

In order to have a ***standard on insurance contracts*** in place before 2005, the IASB has decided to divide the insurance accounting project into two phases. The first interim phase should be in place for a relatively short period (perhaps until 2007 or 2008), and then be replaced by a more permanent solution.

The interim solution (phase 1) would contain a definition of insurance contract in order to define the borderline to other standards, such as IAS 39. In principle, insurance companies should be allowed to maintain their national recognition and measurement rules during the first phase. Some accounting practices that are judged to be against the IASB Framework may however be eliminated (for example the use of equalisation provisions). Discounting is unlikely to be required, deferred acquisition costs will be maintained. There will be no attempt to lay down specific rules concerning the borderline between “best estimate” and “prudential margins”. Already in the first phase there will be a significant increase in the amount of items to disclose in the notes to the accounts. An exposure draft could be

published during the first or second quarter 2003.

The IASB Board has clearly stated that the interim standard should not slow down the work on developing a permanent solution (phase 2). The Board is since over a year devoting significant time to the discussion of the Draft Statement of Principles (DSOP), but to this date no major decisions on the direction of the project have been taken. One tentative time planning may be an exposure draft towards the end of 2003, and a standard at the end of 2004.

Two exposure drafts concerning ***improvement of a number of existing standards*** have been out for consultation, and the comment periods have just expired. The first document deals exclusively with amendments to IAS 32 and IAS 39, the other with proposed changes to a large number of other standards.

IAIS Accounting Subcommittee

The IAIS Accounting Subcommittee closely monitors the work of the IASB, and recently comment letters were prepared on different IASB projects (see above). The Subcommittee is also co-operating with the IAIS Task Force on Enhanced Disclosure in order to provide comments on the IASB proposals for disclosure requirements in the “first phase”. Together with the IAIS Solvency Subcommittee, it has also prepared a document on Quantifying and Assessing Insurance Liabilities. Next meeting will be in Paris on 23 December 2002.

IAA Accounting Committee

The International Actuarial Association (IAA) has created a sub-committee in order to co-ordinate the IAA's response to the proposed IASB Insurance Accounting Standard. At their latest meeting in Barcelona in October, significant time was spend on revising and commenting on the last generation of IASB texts for “phase 1”. The group has also made progress on analysing issues that would be included in the second phase of the IASB project, but this work has come to a standstill as they await further information on where the IASB project is going.

12. Guarantee schemes

In November 2001 the Insurance Committee agreed on the creation of a Commission Working Group with the aim to examine the problems arising from the lack of harmonisation of insurance guarantee schemes. Two meetings of the Working Group have taken place since (on 4th February and on 15th July 2002). The Commission Services sent a questionnaire (MARKT/2056/02) to Member States. On the basis of the replies, the Commission services prepared a discussion paper (MARKT/2517/02 and Annexes I and II).

From the survey, it emerged that at present only a few Member States have insurance guarantee schemes in place and that the scope of coverage of the existing schemes varies very much from one country to another. In case of winding up of an insurance undertaking this absence of harmonisation leads to lack of protection for a large number of policyholders, gaps and overlaps in the coverage of the existing schemes and lack of equivalent treatment between the insurance creditors. This situation might also affect the appropriate level playing field among the insurance undertakings in the different Member States and between the insurance sector and the other financial sectors.

The Working Group has examined different issues such as the “moral hazard” for policyholders, insurers and supervisors, the cost of financing the scheme for the industry, and the possible options for a Community action in this area.

Most delegations have considered the option of a binding instrument which ensures mutual recognition of national schemes and harmonisation of minimum standards as the most appropriate “working option” at this stage.

Currently the Working Group is in the process of identifying the possible elements susceptible to be harmonised. On the basis of the contributions provided by the Member States with regard to the elements to be harmonised and on the experience concerning the application of the banking and the securities directives, the Commission services will produce a new discussion paper for a next meeting. It is expected that the work of the Group will continue at least until end 2003.

13. E-Commerce

A first meeting of the working group established by decision of the Insurance Committee was held on 26th February 2002 with the objective to identify the issues raised by e-commerce in insurance in order to achieve a fully functioning internal market for insurance services and to ensure further convergence between insurance and e-commerce legislation. The ultimate aim is the removal of the current derogation for insurance so that insurance is fully aligned with other financial sectors, thus facilitating cross-border e-commerce in insurance whilst ensuring proper consumer protection.

The meeting was devoted to a general discussion of the different issues covering *inter alia*: conditions for the conduct of e-commerce insurance business on a cross-border basis (notification procedures, premium taxes, claims representative, etc), advertising, pre-contractual information to customers, contractual issues and law applicable to e-insurance contracts, insurance intermediaries and e-commerce.

In order to conduct a more detailed analysis for advertising, pre-contractual information, contractual and contractual issues and law applicable, a questionnaire, drawn up by the Commission services, was sent out to the Member States.

A second meeting of the working group is scheduled for the 2nd December 2002 with the aim to examine a discussion working paper prepared by the Commission services in the light of the Member States replies to the questionnaire. The document proposes concrete initiatives to be undertaken in particular sectors (pre-contractual information, contract law and law applicable to insurance contracts) in order to achieve the objective of ensuring further convergence between insurance and e-commerce legislation.

The sub-committee will report back to the IC as soon as it has finished its work – probably towards the end of 2003 or beginning 2004.

14. US-EU Regulatory Dialogue

The purpose of the EU-US regulatory dialogue is to increase the knowledge of each others' insurance regulatory and supervisory systems. As EU and US companies and supervisors are faced with very similar challenges, the dialogue is also an opportunity to exchange experience and views on current issues.

A first meeting between the EU and the US was held in Washington 5-6 March 2002. At this meeting, a general overview of the respective regulatory and supervisory systems was given and areas for further discussions were identified.

The second meeting was held in Brussels in June. The US delegation to the meeting consisted of Alessandro I. Iuppa (Superintendent of Insurance, Maine), Alfred W. Gross (Commissioner of Insurance, Virginia) and George Brady (International Coordinator, NAIC). The EU delegation consisted of Commission staff and representatives from France, Germany, Ireland, the Netherlands, Spain and the UK.

The meeting was dedicated to a number of detailed issues. The first day was spent on primary legal issues, and the second on insurance technical matters. Towards the end we also discussed change of information between EU and US supervisors. Issues discussed: winding-up of insurance undertakings, guarantee schemes, enforcement of court decisions, establishment of technical provisions, reinsurance supervision, issues relating to insurance groups and financial conglomerates, accreditation mechanisms and other confidence-building measures between supervisors, use of secondary guidance and standards, early warning systems, and the possibilities for greater co-operation in the IAIS and IASB

The general feeling among the delegations was that the meeting had been very fruitful and constructive. A number of further issues to be discussed in future meeting was identified: motor insurance, health insurance, e-commerce and issues relating to "outsourcing" of supervision.

The next dialogue meeting is likely to take place in March 2003, probably in Atlanta (Florida).

15. Enlargement

The Commission services have continued to check core legislation on financial services for the ten "accession" candidate countries. This task has been carried out on the basis of transposition tables supplied by the candidate countries, which have frequently been difficult to obtain or when received, have not proved as useful as first hoped.

The overall conclusion on the basis of these checks is that the level of transposition of the financial services directives is uneven as between the ten candidate countries and is also uneven as between the different financial services sectors within the same candidate country.

Generally speaking, legislation – as well as supervisory capacity- has been less developed in the insurance field than in the banking field.

In view of the limited amount of time left until the likely date of accession (15 months) and the limited resources available, the Commission services are now thinking of focussing their efforts on three major countries (Poland, the Czech Republic and Slovakia).

Consideration may also be given to the introduction in the Treaty of Accession of a safeguard clause. Such a clause would allow the Commission (during a specified period after accession) to intervene so as to prevent damage to the internal market as the result of a persistent failure to correctly implement Community measures.

16. Rome Convention

The Commission is currently considering a possible review of the 1980 Rome Convention applicable to contract law and its conversion into a Community legal instrument. The existing Rome Convention excludes insurance contracts for risks located inside the EU from its scope of application. For such contracts the choice of contract law is determined by the insurance directives. A Commission green paper on the Rome Convention is expected to be made public shortly which, inter alia, will consider the special position and requirements of insurance contracts.

17. Financial Conglomerates

Proposal for a Directive on the supplementary supervision of financial conglomerates

On 12 September the Council agreed a Common position with a view to the adoption of the 'Financial Conglomerates Directive'. The debate and the vote on the Directive by Parliament (second reading) has been scheduled for the week of November 18. Once adopted, the provisions of the Directive will have to be applied for the financial year beginning on 1 January 2005.

In order to achieve coherence and consistency in Member States' implementation of the Directive, the Commission services plan to convene the Mixed Technical Group in the first quarter of 2003 to discuss implementation and interpretation issues related to the Directive.

EU-US regulatory dialogue regarding financial conglomerates

The aim of this dialogue is to foster a common understanding of mutual objectives and approaches and to identify and discuss issues in the area of financial conglomerates supervision. A second meeting took place in Washington on 23 October. The EU was represented by the Commission services and three Member States. The Mixed Technical Group has been informed of its outcome. The EU representatives explained the substance of the Directive, as well as the process for the determination of a third country's regulatory regime, a subject in which the US representatives showed particular interest. The SEC explained its thinking on the future Investment Bank Holding Company statute. No major developments as regards financial conglomerates supervision were announced by the FED and the NAIC in their approaches. A written exchange of information has been agreed.

18. Basle II

Review of capital requirements for banks and investment firms – Working Document published

The Commission published on 18th November a Working Document setting out its current thinking on a new capital requirements framework for banks and investment firms. The objective of the review of capital requirements, which forms part of the EU Financial Services Action Plan, is to modernise the existing framework to make it more comprehensive and risk-sensitive and to foster enhanced risk management amongst financial institutions. This will maximise the effectiveness of the capital rules in ensuring continuing financial stability, maintaining confidence in financial institutions and protecting consumers. The document is available on the Europa web-site at: http://europa.eu.int/comm/internal_market/en/finances/capitaladequacy/index.htm

It is intended that the new EU framework should come into effect at the same time as the new Basel Capital Accord at the end of the year 2006.

The Working Document, which is accompanied by a Cover Document designed to act as an explanation and guide, will form the basis of a period of enhanced dialogue (the 'Structured Dialogue') with representative bodies and trade associations from the financial services and other sectors. At the EU level, this dialogue will be carried out directly by the Commission services. At the national level, it will be co-ordinated by the relevant supervisory authorities. The period of the Structured Dialogue will run until the end of January 2003.

19. Annexes:

- 1) Infringements
- 2) FSPG agenda 3.10.
- 3) BAC agenda 9.10.
- 4) ESC agenda 19.11.
- 5) ARC agenda 6.11.

Infringements

Timely transposition of insurance directives is a necessary condition for fair competition, for avoiding unnecessary costs for business and citizens, and for developing the confidence that underpins an effective Internal Market. The Commission checks that the transposition measures are adopted on time and, for the above reasons, it has launched eleven fresh infringement proceedings regarding the transposition of the Fourth Motor Insurance Directive. These cases together with one case still open regarding the transposition of the "insurance groups" directive into domestic law, constitute the group of on-going non-communication cases.

On the other hand, the number of the open infringement proceedings concerning faulty implementation of established directives into domestic law, in particular the third generation of life and non-life insurance directives and the motor insurance directives, still remains high.

Third Generation Directives

The Commission continues to deal with several cases where the implementation of Directives **92/49/EEC** on non-life insurance and **92/96/EEC** on life insurance is **incomplete** or **does not fully conform** with their main provisions.

The European Commission has brought **Italy** to the Court of Justice over the price freeze on motor-vehicle third-party insurance introduced by Decree-Law No 70/2000 (case registered under reference C-59/01). *Pro memoriae*, the Commission considered that these measures were incompatible with the freedom to market insurance products as they breach the key principle of tariff freedom. Further to the hearing that took place on 16th April 2002, the Advocate General, Mr. Alber, issued his opinion on 4th July 2002. This opinion follows the position taken by the Commission and rejects all the justifications (measures adopted as a part of a "general" price control system, measures adopted to fight inflation and increase consumer protection) invoked by the Italian Government. With regard to the second breach, the advocate general recognises that the general duty of insurance companies under Italian law to provide information to the Italian authorities infringes the Directive as the insurance undertakings operating under the freedom to provide services or right of establishment is under the duty to provide information only to the competent authority in its State of origin. The final judgement of the Court may be expected before the end of the year.

As France has still not adopted all the necessary measures following the judgement that the European Court of Justice delivered on 16 December 1999 (case **C-239/98**) concerning the non-transposition of the third insurance directives for mutual societies governed by the Mutual Societies Code, the Commission has decided to refer France back to the Court of Justice under Article 228 of the EC Treaty. In fact, the French authorities notified last year the adoption of a decree No. 2001/350, of 19 April 2001 that, however, was amended by the Law No. 2002/303, of March 2002 in order to postpone the deadline for the adaptation of the mutual societies' structure to the new provisions until end 2002. In view of the seriousness and duration of this infringement, the Commission has also decided to ask the Court to impose on France a daily penalty payment of €242 650. This second case is pending before the Court and has been registered under the case reference C-261/02.

Regarding the case against **Germany** concerning the compatibility of Article 257(2)(a) of the Fünftes Buch Sozialgesetzbuch, as amended by Law of 22 December 1999 (Bundesgesetzblatt, section I) with the provisions of Articles 5, 9(1) and (2) and 54(1) and (2) of the third non-life insurance Directive 92/49/CEE, the case C-298/01 is still pending before the Court. This new legislation continues to block access to the German health insurance market for insurance undertakings from other Member States. The requirement contained in

the new provisions replaces the prior 'material control' – which prevented the combination of sickness insurance with other classes of insurance– by a mechanism having the same practical effects, and thus infringes the provisions of the third non-life directive.

Under Article 226 of the EC Treaty, the European Commission is pursuing its enquiries into the **UK** regulation and supervision of the Lloyd's insurance market. Based on the available information, the Commission has concerns about the supervision and regulation of Lloyd's with respect to certain requirements of the First non-life insurance directive (73/239 as amended). In the light of the substantial changes and improvements over the years in the complex regulatory and supervisory framework that governs Lloyd's, the Commission is examining the compatibility of the current regulatory and supervisory arrangements.

Motor insurance

If citizens are to benefit fully from their Internal Market rights, European legislation has to be both efficiently transposed and effectively applied. This is particularly true for the motor insurance sector, that is closely linked to consumer protection. This is the reason why the Commission monitors very carefully the implementation of the four main Directives governing motor vehicle civil liability insurance (namely Directives 72/166/EEC, 84/5/EEC, 90/232/EEC and 2000/26/EC).

National measures to transpose into domestic law the Fourth Motor insurance Directive 2000/26/EC (adopted on 16 May 2000 and published in the Official Journal No. L181, of 20 July 2000, p. 65-74) had to be adopted before 20 July 2002. Only four Member States respected this deadline: **Germany**, **Austria**, **Finland** and **Sweden**. The Commission launched infringement proceedings against the other eleven Member States. In the meantime, **Denmark** has also completed the transposition of the obligations of this Directive into its domestic law and **Belgium** is very close to doing the same. Commission Legal pressure will continue unless transposition is speeded up in the other Member States (**France**, **Luxembourg**, **Netherlands**, **Italy**, **UK**, **Ireland**, **Greece**, **Portugal** and **Spain**).

Following the adoption of the Commission interpretative communication on freedom to provide services and the general good in the insurance sector, in which it considered that mandatory no-claims bonus systems were tariff provisions, and as such, contrary to the third non-life Directive, the Commission formally requested **Belgium**, **Finland**, **France** and **Luxembourg** to cease applying a mandatory no-claims bonus system for third-party motor insurance. In the Commission's view, insurance companies themselves should be entirely free to set each aspect of premium, including their own scales of premiums. In Belgium and Finland, the automatic link between the position on the no-claims bonus scale and the premium has been abolished this year. The Commission has therefore referred **France** and **Luxembourg** to the Court where two new cases have been registered under the references C-347/02 and C-346/02 respectively.

Following legal pressure from the Commission, Finland has recently changed its legislation according to which, when the driver of a vehicle is intoxicated, insurance cover for injuries caused to passengers in the vehicle concerned may be excluded. This exclusion of passengers' injuries was contrary to Article 2 of the second Motor Insurance Directive (84/5/EEC), which allows exclusions only in the few specific circumstances provided for in the Directive. In the Commission's view, those circumstances do not include the exclusion from cover of passengers' if the driver is intoxicated. This approach has been confirmed by the Court judgement of 28th March 1996 in case C-129/94, *Ruiz Bernáldez*. The emphasis must be on protecting the third party who is a victim of the accident, rather than on his/her ability to assess properly whether or not the driver is too intoxicated to drive. Accordingly, a reasoned opinion has been sent to Finland.

Intermediaries

Application of legislation on insurance intermediaries continues to be a matter of concern for the Commission.

Further to the adoption of the Commission proposal for a directive on insurance mediation (COM(2000)511 final), which has been recently approved (see *supra*), the case against **Spain** was postponed. By way of background, Spanish legislation includes a prior authorisation requirement both for brokers having their establishment in Spain and for those wishing to provide a service in Spain for a limited period of time. The Commission continues to believe that this requirement should be considered as contrary to ECJ jurisprudence, which has rejected the strict application of the principle of full integration into the national regulatory system in cases where a constraint on the freedom of provision of services would not be justified by a valid general interest. A rapid transposition into domestic law of the recently adopted insurance mediation directive may solve this problem.

Insurance Groups Directive 98/78/EC

The European Court of Justice has delivered its judgement in case **C-312/01** against **Greece** for failure to implement the so-called "Insurance Groups Directive" on 12th September 2002. Further to the recognition of the breach by the Court, Greece has taken and published on 23rd October 2002 the necessary measures to implement this Directive, that covers the supplementary supervision of insurance undertakings in an insurance group and sets common basic rules as to the capital requirements of such undertakings necessary to cover unforeseen risk. In doing so, the formal transposition of this Directive into the domestic law of the 15 Member States has been completed.



FINANCIAL SERVICES
POLICY GROUP

**Sixteenth Meeting of the
Financial Services Policy Group
3 October 2002**

Breydel Building, Avenue d'Auderghem 45, Brussels (Room 12A)
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- 10:00 **1. FSAP PROGRESS, INCLUDING BARCELONA PRIORITIES**
Report from the Danish presidency (working document).
- 10:15 **2. SITUATION IN FINANCIAL MARKETS**
Follow-up to the meeting in Brussels on 23 July, between regulators, supervisors and market participants on the situation in financial markets and the adequacy of FSAP measures and responses.
- 10:30 **3. CORPORATE GOVERNANCE: SARBANES – OXLEY ACT**
Exchange of views the EU position regarding the new US law introducing new requirements for listed companies in the USA (working document) plus state of play of the Winter Report
- 11:30 **4. FUTURE ROLE OF FSPG**
(Continued from the last FSPG meeting). Progress of discussions in the EFC, its sub-groups and the Copenhagen informal Ecofin. (working document).
- 12:30 **LUNCH** (Continuation of item 4)
The Chairman of the EFC, Johnny Akerholm has been invited to participate.
- 14:00 **5. INDICATORS & BENEFITS OF FINANCIAL SECTOR INTEGRATION**
The Ecofin Council of 17 July 2000 invited the Commission to propose possible indicators of 'progress in realising economic benefits of an integrated financial services market. A possible summary of the main results of work in this field will be available. (working document).
- 14:45 **6. ENLARGEMENT: FINANCIAL SECTOR ISSUES**
State of play of the accession process, key findings of the peer review process and transposition check for financial sector regulation in accession countries (working document).
- 15:30 **CLOSE**



MARKT/1085/02-REV.1

DRAFT AGENDA

70th meeting of the Banking Advisory Committee (BAC)

Brussels, 9 October 2002, 9.00 a.m.

Meeting Room 1A – CCAB, rue Froissart 36 1049 Brussels

- 1. Adoption of the Agenda (MARKT/1085/02) and of the Minutes of the 69th meeting (MARKT/1086/02)**
- 2. Structures for the supervision and regulation of financial services**
 - Feedback from recent discussions in Parliament (EMAC) and in Council (EFC, ECOFIN)
 - Outline of possible implications for the BAC
- 3. Capital review**
 - Update on Basel developments
 - Discussion of Commission's paper (MARKT/1087/02) on future process and on outstanding issues, including: outline of pre-consultative dialogue cover document, study of consequences, overall structure of capital requirements, treatment of mortgages, operational risk charge for investment firms/investment services. A working draft of the future directive proposal on capital adequacy (MARKT/1088/02) will be provided as background document.
 - Progress report from the Groupe de Contact on supervisory review
- 4. Bank accounting and auditing**
 - Update on EU developments, including the modernisation of the accounting directives
 - Feedback from the second meeting of the Sub-committee on accounting and auditing
- 5. Outsourcing**
 - Presentation of the Groupe de Contact's report on outsourcing
- 6. Internal matters**
 - Election of a deputy chairman of the BAC
- 7. Cooperation with accession countries and with third countries**
 - Update on the peer group review of financial services supervision in accession countries
 - Outline of a joint seminar between BAC and banking supervisors from accession countries (MARKT/1089/02)
 - Feedback from EU-Switzerland negotiations on a free trade agreement on services
- 8. Solvency and liquidity of EEA credit institutions**
 - Presentation of the Groupe de Contact's annual report on solvency
 - Presentation of the Groupe de Contact's biannual liquidity exercise
- 9. Newsletter**
 - The Newsletter (MARKT/1090/02) will include an update on progress in the implementation of the Financial services Action Plan and on activities in other EU fora
- 10. Any other business**

**DRAFT AGENDA FOR THE SEVENTH MEETING OF THE EUROPEAN
SECURITIES COMMITTEE (ESC) [Alternates]
Centre Borschette (CCAB), rue Froissart B-1040 Brussels
19th November 2002, 9.30 – 17.30
- Transparency directive (Regular reporting) -**

9.30 - 9.45: Introductory remarks by Chairman (P. Delsaux)

9.45 - 10.30: General comments on draft Commission proposal (tour de table).

10.30 – 11.00 : Consistency with other securities markets initiatives

(Section 3 of the explanatory memorandum and related draft provisions)
5-minute presentation by Commission services:
Exchange of views and clarification.

11.00 - 11.30: Community wide investor protection and removal of national barriers

(Section 4.1. of the explanatory memorandum and related draft provisions)
5-minute presentation by Commission services:
Exchange of views and clarification.

11.30 – 13.00: Periodic financial reporting

(Sections 4.2. to 4.4. of the explanatory memorandum and related provisions)
5-minute presentation by Commission services:
Exchange of views and clarification.

14.30 – 15.30: Disclosure of changes to major shareholdings

(Section 4.5. of the explanatory memorandum and related provisions)
5-minute presentation by Commission services:
Exchange of views and clarification.

15.30 – 16.30: Information and participation of security holders in general meetings

(Section 4.6. of the explanatory memorandum and related provisions)
5-minute presentation by Commission services:
Exchange of views and clarification.

16.30 – 17.00: Co-operation amongst competent authorities

(Chapter V of the draft provisions)
5-minute presentation by Commission services:
Exchange of views and clarification.

End of the meeting at the latest: 17.30



EUROPEAN COMMISSION

Internal Market DG

FINANCIAL MARKETS

FIRST MEETING OF THE ACCOUNTING REGULATORY COMMITTEE

BRUSSELS, 6 NOVEMBER 2002 (10 AM)

CONFERENCE CENTRE A. BORSCHETTE
RUE FROISSART 36, 1040 - BRUSSELS

DRAFT AGENDA

- 1) Rules of procedure of the Accounting Regulatory Committee
- 2) Endorsement of existing IAS - State of play
- 3) Translation of IAS
- 4) Oral presentation by EFRAG of current IASB's projects
- 5) Convergence

BACKGROUND DOCUMENTS

- (1) Minutes of the ARC meeting of 17 July 2002
- (2) Pondération des voix (Traité de Nice)
- (3) Council Decision 1999/468/EC on comitology
- (4) Standard rules of procedure
- (5) Regulation EC/1606/2002 on the application of IAS & Commission statements