



COMMISSION DES COMMUNAUTÉS EUROPÉENNES

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**AVIS DU COMITÉ DES ÉVALUATIONS D'IMPACT**

**PROPOSITION DE DIRECTIVE DU PARLEMENT EUROPÉEN ET DU CONSEIL  
PORTANT COORDINATION DES DISPOSITIONS LEGISLATIVES,  
REGLEMENTAIRES ET ADMINISTRATIVES CONCERNANT CERTAINS  
ORGANISMES DE PLACEMENT COLLECTIF EN VALEURS MOBILIERES (OPCVM)**

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Brussels, 22 October 2007  
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## Opinion

**Title**                      **Impact Assessment of the legislative proposal amending the UCITS Directive**

**(draft version of 26 September 2007)**

**Lead DG**                      **DG MARKT**

### **1) Impact Assessment Board Opinion**

#### **(A) Context**

The November 2006 White Paper on investment funds announced a number of targeted changes to the current EU framework for investment funds (the 'UCITS' Directive) in order to reflect the challenges facing the industry today. The overall objective of the envisaged amendment of the UCITS directive - which is accompanied by the present IA report - is to increase the efficiency of the European market for investment funds while assuring a high level of protection to investors.

#### **(B) Positive aspects**

The IA report provides overall a balanced and proportionate analysis with a strong focus on the most affected stakeholders. Moreover, good use is made throughout the IA process of the feed back received in the course of the stakeholder consultation.

#### **(C) Main recommendations for improvements**

*The recommendations below are listed in order of descending importance. Some more technical comments have been transmitted to the author DG.*

**General recommendations:** The IA report should be further improved by presenting the identified problems/objectives more coherently, by analyzing some impacts (on competition/consumer welfare; administrative costs, regulatory oversight) more thoroughly and by assessing the preferred options in a more integrated way.

**(1) The set of problems identified should be better presented and more coherently linked with the objectives.** The IA report should improve the structure of the problem definition by presenting the various problems and their underlying causes (currently presented at different places in the main report, the annexes and the preceding White

Paper IA) in a more coherent and consistent way. In particular, the IA report should improve coherence between the problem areas identified in table 1 (page 11) and the four key problems presented under the White Paper IA (page 16). Subsequently, the restructured problems should be better linked to the specific objectives defined for the envisaged options/measures as presented in annex 7. For example it is currently not clear how the specific regulator objectives defined for a new notification procedure relate to the identified problems. Moreover the report should better articulate how these objectives relate to the overall White Paper objectives on the one hand and the 'strategic objectives' as defined in the consulting document ('exposure draft') on the other hand.

**(2) The analysis of economic impacts needs improvement.** The IA report should analyse more thoroughly the level of effective competition present in the relevant geographic/product markets by looking at market entry/exit, product innovation or consumer satisfaction rates giving an indication of the rivalry present. Moreover the report should assess to what extent the envisaged efficiency improvements will benefit investors in the form of lower prices and better services. For the potential cost savings associated with the preferred options at least a rough quantification should be provided.

**(3) The reduction in administrative burden should be better assessed.** The IA report should more systematically analyse the reduction of administrative burden and compliance costs resulting from the various measures proposed (simplification of notification procedures, investor information obligations, consultation obligations between regulators, management company passport information requirements). In case a full application of the methodology of the EU standard cost model is not feasible at this point in time, at least a qualitative assessment should be provided.

**(4) The issue of 'consistent standards of investor protection' requires further clarification.** The IA report should better articulate to what extent the proposed measures will promote the harmonisation of investor protection standards across competing financial services products and how these measures relate to broader harmonisation initiatives envisaged in this field.

**(5) The effectiveness of the envisaged regulatory oversight for fund mergers should be better assessed.** The IA report should clarify whether the regulator approving a fund merger is in a position (e.g. knowledge of local marketing rules, resources ...) to effectively assess and possibly remedy the merger impact of the receiving fund in another Member State.

**(6) The IA report should provide an analysis on the synergies and trade-offs between the five measures proposed.** The impacts of the envisaged amendments should be explored by providing a qualitative assessment of their synergies/trade-offs (for example between the fund merger and the Management Company Passport measure). Finally a global assessment of the expected net benefits (including employment) of the optimal option package should be provided.

#### **(D) Procedure and presentation**

The IA report should provide more cross-references, in particular to the annexes and the White Paper IA to facilitate reading. Otherwise it appears that all necessary procedural

elements have been complied with.

## 2) IAB scrutiny process

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Author DG	DG MARKT – G – 4
External expertise used	No
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