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Opinion

Title **Impact Assessment report on: white paper on retail investment products (transparency and distribution requirements)**
(draft version of 20 November 2008)

Lead DG **DG MARKT**

1) Impact Assessment Board Opinion

(A) Context

The May 2007 ECOFIN Council requested the Commission to examine the coherence of disclosure and distribution regimes in EU law applying to different types of retail investment products. Based upon extensive consultations with stakeholders, the IA assesses the substance of potential problems and determines the broad nature of any required policy response. This is to be illustrated in a forthcoming white paper setting out planned measures and further work needs. Proposals contained in the white paper or emerging from the ensuing work would be the subject of further impact assessments.

(B) Positive aspects

The report is well-structured, written in clear language and is accessible to the non-specialised reader. The executive summary succinctly provides a good overview of the issues.

(C) Main recommendations for improvements

The recommendations below are listed in order of descending importance. Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

General recommendation: The report and the need for the planned white paper should be better situated in the context of the on-going regulatory activities and reflections following the financial crisis, be they at the national, EU or international level. The report would benefit from a clearer presentation of the problems detected and their underlying drivers. The report should strengthen the case for the preferred option and clarify its implications for the follow up work. In its written response, DG MARKT has stated its intention to take on board these recommendations.

(1) Place the initiative in the broader context. The report and the planned white paper should be better situated in the context of the on-going regulatory activities and reflections. This should more precisely identify the lessons and risks for retail investment products markets which have been highlighted by the recent financial crisis. The report should more clearly delineate the role and scope of the initiative vis-à-vis on-going, or planned, work streams at the national, international and EU level (non-harmonised retail funds, reviews of Distant Marketing Directive, Insurance Mediation Directive, Prospectus Directive etc.). This should strive to highlight the relevance and proportionality of the initiative as a component of a coherent and comprehensive crisis response in the area of financial regulations.

(2) Better explain problems and underlying drivers. The evidence base and the argumentation leading to the description of the identified problems as "significant" should be strengthened, including through greater quantification - to the extent possible at this stage. The report would also benefit from a clearer distinction among the causes of the problems identified (e.g. deficiencies in existing EU regulations per se, shortcomings in the transposition, implementation or enforcement of the latter and/or problems due to the different provisions of the various relevant EU regulations) and their implications in terms of possible solutions as well as subsidiarity.

(3) Strengthen the case for the preferred option. The presentation (and comparability) of the costs and benefits of the different options should be improved in order to better substantiate the expressed preference for the legislative option. The fact that the latter is assessed as a necessary but not exclusive component of future Commission proposals should be more expressly highlighted. The impact on disadvantaged groups, particularly on those vulnerable to ill-informed investment decisions should be discussed.

(D) Procedure and presentation

A summary of stakeholders view should be added. Readability for the non-specialised reader could be further improved by including an explanatory list for acronyms and an appropriate reference for the Lamfalussy process.

2) IAB scrutiny process

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External expertise used	No
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