EuroFinuse

The European Federation of Financial Services Users
Fédération Européenne des Usagers des Services Financiers

BRUSSELS EURO NEWS

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European Parliament Legislative Initiatives for 2013

Audit Reform

The debate on the audit regulation has certainly heated up since the beginning of 2013. The European Parliament's JURI Committee discussed the report on audit, drafted by the British MEP Sajjad Karim (ECR), on 22 January 2013. Mirroring the position reached by the Financial Research Corporation, the Committee led by British MEP Sajjad Karim **has shelved the EC's radical proposals for mandatory rotation of auditors and creation of 'audit-only' firms**. Instead, the revised draft Regulation produced by the Committee has suggested that public interest entities **conduct a mandatory retender every 25 years**, supported by interim 'independence threat assessments' of their statutory auditors and audit firms.

During the debate on 22 January the MEPs agreed to delay the initial timeline and move the Committee vote to March 2013. Following this postponement, **the presentation of the report to the plenary is not expected before September 2013**.

While the Irish Presidency took over leadership, the Council has also managed to move forward with their talks. The text presented by the Irish Presidency shows a number of similarities with the position of the German Auditor Oversight Commission. Among others, the Irish proposal envisages a 10 year rotation with a possibility of extending it to 12 years in the case of a joint audit. The initial compromise version was circulated to Member States at the end of January. With the Irish Presidency determined to move swiftly on the dossier, much progress is expected between now and June, when Lithuania taking over the Presidency of the EU.

It is worth noting that although the proposals presented in the three EU institutions vary in many details, it seems that **the rotation principle has been widely accepted**.

The EuroFinuse **conference on the issues regarding the Audit Reform**, on 26 March 2013 focuses on the impact on investors, prior to the final JURI vote scheduled for 25 April 2013.

Read our **position paper on the Audit Reform** on our website.

MiFID/R II

Although the **Parliament stands prepared to move to Trialogues, the Council has still not reached an agreement on this issue**. The Member State attachés held their latest meeting on MiFID/R II on 5 February. It was the first official Working Group meeting during the Irish Presidency, although informal talks had been held bilaterally between Dublin and some of the biggest Member States during January. Another two attaché level meetings were scheduled for 14 and 21 February. The Irish Presidency also held a more political Ambassadorial level (COREPER) meeting on MiFID/R II on 27 February. Outstanding issues included the proposed Organised Trading Facility (OTF) trading platform, transparency requirements, and the provisions on non-discriminatory access to trading venues. According to several attachés, the **Irish Presidency** has put a lot of pressure on the Member States to finalise the negotiations as soon as possible, and **is pushing for a political agreement by the end of March ECOFIN meeting of European Finance Ministers**.

EuroFinUse on 11 February published an additional position paper proposing new measures to ensure MiFID II capital market structures do not discriminate individual investors further;

- MiFID II would create yet another "market venue" called "OTF". We believe this would be a mistake. The right direction would be to reduce capital markets' fragmentation and increase transparency for end investors and non-financial issuers.
- A real 'Best Execution' obligation.
- Pre- and post- trade data should be available to retail investors at a reasonable cost.

Read our Position Paper on our website.

Key Information Document for Packaged Retail Investment Products

MEP Pervenche Berès (S&D, France) published her draft report on the Regulation on Key Information Documents (KIDs) for investment products, previously known as PRIPs, on 20 December 2012. The amendments to the draft report were due by 6 February and were considered on 25 February. On 21 January the Parliament's ECON Committee held a consideration of the KID draft report. Rapporteur **Berès' draft report introduces a great number of changes to the Commission's original proposal**, and by extending the scope to cover all investments **the proposal would also cover shares, savings products, fixed term bank accounts, and life insurance**.

The **Shadow Rapporteur Sirpa Pietikainen MEP (EPP, Finland) on the other hand, argued that neither deposits nor life insurance should be included** in the proposal. MEP Pietikainen also expressed her scepticism regarding whether the KID should be a stand-alone document, or whether it should be a possible signpost to further information. In addition, the ALDE Shadow Rapporteur **Sharon Bowles MEP (UK) stated that it is unclear who would be responsible for producing KIDs**; whether it would be the producer or the distributor of the insurance product. **The ECON Committee is expected to vote on the dossier on 27 May, with a Parliament plenary vote to follow on 2 July 2013**.

The Committee on Internal Market and Consumer Protection (IMCO) also held a consideration of the IMCO draft opinion on the dossier on 20 February 2013. The ECON Committee may take into account the IMCO Committee's opinion, but has no legal obligation to do so. In the Council, the Member State representatives have not held any meetings on the dossier during the Irish Presidency of the Council due to the tight schedule to finish MiFID/R II and the Banking Union plans.

EuroFinuse advocates for an enlarged scope of the PRIPs Regulation to guarantee effective long-term and pension savers protection. We have published a position paper on this issue on our website advocating the following:

The PRIPs Regulation must end **the discrimination of simple,** ‘inducement-light’ and long-term products such as **shares and bonds** versus ‘packaged’ products in the EU retail distribution markets, and **ensure that shares and bonds also benefit from a harmonised, simpler and more comparable KID**.

The **PRIPs Regulation must cover all pension savings products** as they require ‘particular care’, also acknowledged by the EC five years ago.

The **regulation must also cover all interest-bearing deposits** as they are one of the most popular savings products in the EU and largely substituted by ‘in-scope’ products such as life insurances.

Insurance Mediation Directive (IMD 2)

The European Council discussions on the Directive have been frozen due to the Irish priority to finish discussions on MiFID/R II and other more advanced dossiers before continuing the discussions on IMD2. Nevertheless, the ECON Committee released its report on the EC proposal Insurance Mediation Directive 2 beginning of February. One of the **aims of this proposal was to raise insurance policy holders’ protection to the level set for MiFID 1 and 2 for retail investors**.

Unfortunately **MEP Langen’s Report erases most of the consumer protection provisions of the EC proposal**. EuroFinUse fully supports the letter addressed on 7 February 2013 to the Rapporteur by the Financial Services User Group (FSUG) which advises the EC from the retail user side. EuroFinuse’s managing director co-signed the letter in his role as vice chair of the FSUG. The FSUG asks Mr Langen to **reconsider all his amendments eliminating consumer protection provisions**.

The ECON Committee vote is scheduled for 25 May while the European Parliament plenary vote on IMD 2 is scheduled for 2 July.

The position of EuroFinuse on IMD has been published on our website.

Corporate Governance

In December 2012, the European Commission unveiled its Action Plan to modernise company law and corporate governance. The Action Plan lays out a number of legislative proposals to be presented in 2013. Key elements include: improving companies' transparency regarding their board diversity and achieving better identification of shareholders by listed companies. **One of the controversial areas of the Action Plan concerns proxy advisers, who provide services to shareholders such as voting advice**. The Commission is concerned about the influence of proxy advisers and suggests creating appropriate operational rules, in particular concerning transparency and conflicts of interests. The initiative moreover **includes plans to grant shareholders the right to vote on remuneration policy and the remuneration report**. In addition to the elements above, the Action Plan foresees a proposal to **merge all major company law directives into a single instrument**, thereby codifying European Company Law.

EuroFinuse participated to informal consultations set up early 2013 by the European Commission and is finalising a position paper on the company law and corporate governance action plan.

Consideration of draft report 5 June 2013; JURI vote 9 July 2013

Capital Requirements Directive (CRD IV)

MEP Othmar Karas (EPP, Austria) said that "*there has been a compromise on every single point*", but the Council has not accepted the compromise text as of yet. However, the Parliament and the Council have made concrete progress. Negotiations on the liquidity coverage ratio (LCR) have been re-opened to discuss the updated information released by the Basel III Committee, which proposed gradual introduction of the LCR between 2015 and 2019. The Parliament would like to have it fully implemented by 2018.

The issues that are still unresolved are the most political ones. While some Member States are now inclined to accept the 1:1 ratio for banker's bonuses, with the possibility for shareholders to increase it up to 2:1, others are still opposing this provision. **The Irish Presidency will present a compromise including derogation from the 1:1 ratio that shareholders could agree on in particular circumstances**, but the details are still to be discussed. This point was addressed during the Trialogue on 28 February, together with the sensitive matter of the flexibility to impose tougher requirements on banks.

EuroFinUse agrees that the outrageous remuneration of many EU bankers is a serious issue, as bankers' bonuses have been largely funded by taxpayers, clients and non-insider shareholders who have been losing billions on their bank equity investments since 2008.We believe **the extension of the bank bonus cap (1:1 to salary) proposal to asset managers is a political move that is on its own not likely to improve the real performance of retail funds sold in Europe**, the primary issue for individual savers and investors.

Better aligning asset managers' incentives to their clients' interests, and enforcing and extending MiFID rules on fair and not misleading information and on conflicts of interests at the point of sales would have a much stronger and positive impact for individual savers and investors in Europe.

EuroFinuse has published a position paper on asset manager bonus caps on the website.

European Commission Legislative Initiatives 2013

Financial Transaction Tax

The European Commission adopted its final proposal for a Directive on a Financial Transaction Tax under the "*enhanced cooperation*" rule on 14 February. The Commission proposes a tax of 0.1% for shares and bonds, and 0.01% for derivatives. The proposal will apply to the eleven EU Member States that have officially signed up to the tax. However, due to the "*residence principle*", the Directive would apply to all financial transactions on the condition that at least one party to the transaction is established in the territory of a participating Member State, acting either on its own account or for the account of another person, or is acting in the name of a party to the transaction. The residence principle is supplemented by the "*issuance principle*" as a last resort, to further strengthen anti-avoidance of taxation and anti-relocation. A number of Member States, including the UK and Poland, have expressed concerns over the residence principle in the proposal, as it could decrease the trade flows in their capitals.

Central Counterparties, Central Securities Depositories, and International Central Securities Depositories will be exempt from the tax. **The proposed Directive will now be discussed by all 27 Member States, with the aim of formally approving the proposal at the 14 May 2013 ECOFIN meeting of European Finance Ministers.** As only the Member States participating in the enhanced cooperation for the FTT will have a vote, it is unlikely that the proposal will be amended from the Commission's version. The European Parliament will also be consulted on the proposal, but will not have legislative powers to change it. If the EU institutions stick to the foreseen timetable, the tax could enter into force as early as January 2014. The Commission hopes that when applied by the eleven Member Sates the FTT will deliver revenues of €30-€35 billion a year.

EuroFinuse published a Press Release available on our website, in response to the European Commission proposal as concerns are high that the proposal **does not ensure a fair and substantial contribution by financial institutions.** EU citizens are likely to bear again the bulk in lieu of financial institutions.

Market Abuse MAD/MAR

In the wake of the LIBOR scandal, the European Commission certainly added language, making the manipulation of benchmarks a criminal offense. The European Institutions have started holding Trialogues to reach an agreement on the Market Abuse legislation on 24 January. It was agreed that further technical work was needed and three technical Trialogues were scheduled for February. **The main issue is disagreement on sanctions**, where the European Parliament has proposed stronger measures than the Council is willing to accept. All other issues are still open and likely to be discussed. The Commission will propose further legislation in the second quarter of 2013 in order to clarify the framework under which benchmarks should operate.

EuroFinuse published a position paper on our website in response to the Commission consultation on the Regulation of Indices advocating that:

- **Indices** used as key benchmarks for widely used retail products, and intended to measure the price or performance of an opaque and/or illiquid market (such as the interbank short term loans market for example and the index supposedly measuring it, the LIBOR) **are thoroughly regulated**;

- The **information of other widely used financial** indices such as many equity or bond indices should be **made available by index providers** to the public;

- Public supervisors should thoroughly **enforce the requirement for index performance information to be exact, fair and not misleading**, as evidence of the contrary is widespread.

- The EC should **launch an investigation on the currencies markets public price and index information** made available to the public. The currencies market is by far the biggest financial market in the world but also the least regulated, and therefore remains quite non transparent for EU citizens. Regulators and supervisors should learn the lesson from the unregulated and misleading LIBOR "market".

Long-Term Investment

The European Commission has identified three main areas of action for its Green Paper on Long-Term Investment, the launch of which has been postponed several times since its initial announcement in late 2012, but is envisaged **for 25 March 2013**.

The Commission aims at addressing the lack of funding for long-term projects such as infrastructure, climate change technology, new innovation, R&D and digital technology. According to the Commission, the **underlying issues relate to capital flow and how to make sure capital is flowing in an effective way**.

The Commission is looking into ways to **ensure the creation of incentives for more conducive long-term financing** and to **clamp down on excessive short-termism,** and is considering **boosting the securitisation market in Europe**, while **redefining asset managers' incentives towards long-term investments**. With regards to Solvency II and the IORP II Directive, the Commission stressed that the Green Paper would discuss prudential rules as well as the impact on long-term investing.

However, having presented a first draft of the Green Paper at the European Insurance and Occupational Pensions Authority (EIOPA) conference in Frankfurt on 21 November 2012, Mick

McAteer, board member of the UK Financial Services Authority (FSA) and chairman of the European Commission's Financial Services User Group (FSUG), said that the Green Paper "***was not about making markets more transparent for investors, but it was more about creating new markets for pension funds and for the private sector***".

In light of the upcoming Green Paper, to which EuroFinuse aims to reply, we have replied to the Commission Questionnaire on Long-Term Investment Funds which can be found on our website. The approach to long-term investment adopted by the Commission in this questionnaire is quite restrictive, and a lot of long-term investments seem to be excluded from its scope. EuroFinuse believes that the European Commission would do better by **looking at ways to promote the engagement of long-term shareholders and of managers of existing "packaged" investment products**.

EuroFinuse calls for more prominent measures to effectively promote long-term investment:

- For qualified investors - the discrimination of direct long-term investments such as bonds and shares, especially small and mid caps, should come to an end;
- For non-qualified investors (who make up the majority of investors) - a necessary overhaul of incentives for asset managers and distributors of 'packaged' long-term products is needed as well as a provision for long-term value protection.

EuroFinuse **position paper on UCITS and long-term investing** can be found on our website.

Banking Union

The Commission proposed a legislative regulation for the Banking Union on 11 September 2012, while the vote of the ECON Committee of the Parliament took place on 29 November 2012. The Trialogue started thereafter on 18 December after the Council came to a general agreement on 13 December 2012.

On 19 March 2013 the commission has taken an essential step and reached agreement on a major legislative package entrusting the European Central Bank with responsibility for the supervision of banks in the framework of the Single Supervisory Mechanism and adapting the operating rules of the European Banking Authority (EBA) to this new framework. This is a first fundamental step towards a real banking union which must restore confidence in the Eurozone's banks and ensure the solidity and reliability of the banking sector. This will contribute to strengthening the single market and financial stability.

With regards to the Banking Union and to the reform of EU banking structures, EuroFinuse calls for:

- A real separation of commercial banking from market and investment banking
- Acknowledging and reacting to the fact that the financial crisis also comes from banks' capital market activities (Dexia, JP Morgan London last year and most recently Monte Paschi

di Siena in Italy), and the extended securitization of US mortgage loans, which is not a commercial banking activity

- Limiting the property lending "bubbles"

The indicative plenary sitting is foreseen to take place on 15 April 2013.

Euro European Securities and Markets Authority (ESMA)

Joint ESMA-EBA Consultation on Principles for Benchmarks-Setting Processes in the EU

EuroFinuse published a response to the joint ESMA – EBA Consultation on Principles for Benchmarks-Setting Processes in the EU. The consultation deals amongst other issues with the following questions:

- Definition of the activities of benchmark setting
- (General) Principles for benchmarks
- Principles for firms involved in benchmark data submissions
- Principles for benchmark administrators
- Principles for benchmark calculation agents

Our Response has been published on our website.

EuroFinuse News

Euroshareholders has merged into EuroFinuse on 1st January 2013

The merger of Euroshareholders into EuroFinuse is effective as of 1 January 2013. On 14 January 2013 the merger and the winding up of Euroshareholders has been filed with the clerk's office of the Commercial Court in Brussels. On 28 March 2013 the two-month creditor protection period will end. EuroFinuse will therefore elect a new Board and President at its General Assembly on 25 March 2013.

EuroFinUse applied for the European Commission's 2013 operating grant

EuroFinuse was awarded an operating grant in late May 2012 for the Pilot Project – "*Capacity building of end-users and non-industry stakeholders in Union policy making in the area of* *financial services*", that helped us expand our activities and expertise, conduct additional research in order to publish more in-depth studies and responses to public consultations, organise high profile conferences, as well as increase our media coverage and public outreach.

To maintain this level of expertise and the number of activities but also to increase our efforts on all levels including advocacy and visibility EF applied for the 2013 operating grant tender that was launched mid-November and is currently awaiting the evaluation of the submission.

The Brussels-team welcomes Karin Balilonoso as our new Office Manager as well as Katarzyna Rusek, our new Intern.

EuroFinuse is finalising its Study on the Real Return on Private Pensions

The study allowed us to establish an innovative methodology that has been applied to a first series of EU Member States, namely France, Spain and Denmark. The developed methodology for this study provides for an analysis of final returns for investors in private pensions schemes which currently is non-existing, and offers findings and recommendations for institutions.

The study is currently proofread and edited. The idea is to translate the study into French and launch it simultaneously in Brussels and France for a bigger impact in April.

Events Calendar

Next General Assembly

The **next board meeting and General Assembly will take place on 17 October in Vienna, Austria**, at the invitation of IVA in conjunction with an International Conference.

EuroFinuse participated to the following recent events

January:

- Guillaume Prache **-** speaker at FAIDER Conference on '*Les Etats Generaux de l'Epargne*' on 15 January 2013
- EBA, EuroFinuse and BEUC held a joint meeting to discuss consumer issues with five EF participants, in London on 18 January 2013.
- Guillaume Prache - speaker at EPFSF event on the '*Reform of EU Banking Structures'* on 29 January 2013

February:

- Jella Benner-Heinacher - speaker at European Issuers/ecoDa Conference on '*Corporate Governance'* on 4 February 2013
- Jella Benner-Heinacher - speaker at FEE event on '*Audit Committees'* on 5 February 2013

- Participation of Maria Bause to the EPFSF event on "*The Framework of Recovery and Resolution of Financial Institutions*" on 19 February 2013

March:

- Guillaume Prache at Afore Roundtable on FTT on 6 March 2013
- Juan Viver at CEPS-ECMI on long-term investment on 14 March 2013
- EuroFinuse International Conference on the Audit Reform – Impact on Investors on 26 March