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Association for Financial Markets in Europe

Speech: Five years in the chair

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It is a great pleasure to be here today and thank you for inviting me. You've worked all day already on post trade matters, which are part of the substantial changes that have been made to the regulatory landscape following on from the financial crisis.

So rather than repeat issues that have been discussed and as I am coming to the end of my term as both an MEP and Chair of the ECON committee, I have been asked to give an overview about this extraordinary period of new regulation and where possible give some guidance on lessons for the future.

I will not go into any detail about how I became chair of the Economic and Monetary Affairs Committee of the European Parliament. That is a story in itself and something that happened to my surprise without my seeking it.

It was controversial as I was British and there are Euro responsibilities, but there seem to be times when destiny just points its finger no matter by who or how many times it is told to point somewhere else.

And maybe that is a first lesson for you looking forward, that no matter who you think may be lining up as the next ECON chair, it is a process of political agreement: with the chairs picked in turn according to the strengths of the various groups and the size of national delegations within the groups. It does not always turn out as planned in advance.

At the start of this Parliament there was much fuss about Parliament gaining power in more policy areas under the Lisbon Treaty, so there has been a general ambience of empowerment.

However, for ECON we already had co-decision powers for financial services and the Lisbon Treaty seemed to have passed us by a bit, except for a small sentence about 'multilateral surveillance' which turned out to be quite significant when it came to making new rules to make Member States deal better with their debt, deficit and imbalances.

And that is how it has been all through my chairmanship – on the one hand dealing with enormous reform to financial legislation stemming from G20 and revision of the original EU legislation, and on the other dealing with the Greek and other debt crises, redenomination risk and all the issues around stabilisation of the Euro and economic governance. These two branches of work came together from summer 2012 onward when the banking union project was launched, but even before that they were linked by cause, rhetoric and banking regulation.

The statistics of the work that we have done speak for themselves: the committee has completed over 60 pieces of co-decision legislation, produced 192 other reports, opinions and resolutions, I have chaired 300 committee sessions and chaired over 300 trialogue negotiation sessions – the trilateral negotiating meetings between teams from the Parliament, Council and Commission meet to thrash out the final version of legislation. Financial services has accounted for a little over half of those statistics. Most of the work has been both highly technical and politically charged.

An example of the interactions can be seen in the onset of the Greek sovereign debt crisis, when much was made by the then Greek premier George Papandreou of the role of short selling of sovereign credit default swaps and the role of hedge funds. Unfair though it seems to make bets and gains from another's misery, the figures never bore this out as a substantive cause: but the anger and rhetoric against greedy bankers and hedge funds found a ready audience in Commission and Council as well as Parliament, that influenced the attitudes and thereby the legislation on matters such as the Alternative Investment Fund Management Directive and spawned a whole new piece of legislation on short selling.

That first wave of legislation with AIFMD, also included CRD3, Credit rating agencies and the formation of the new system of financial supervision with the creation of the ESAs, the ESRB and the invention of Regulatory Technical Standards.

In the world of financial industry and externally of the EU, AIFMD created a lot of noise – far too much for the good of the cause. I won't go into the details as I have done so in other a speeches, but it was tough and stormy, and you did not believe me when I said I thought it would be all right on the night, which more or less it was in the end.

Lessons to take from AIFMD are that 'no, we do not want/need regulation' is an impotent answer in Europe. What is needed is recognition that the financial crisis proved the case of contagion via banks and via markets, and so in a single market there has to be one set of rules, not 28, for cross border protection and for access to authorisation and passporting rights for financial services.

With less noise, the supervisory framework was far more fundamental for its horizontal effect. The Parliament pressed hard for and won a greater degree of power for the European Supervisory Authorities. Our view was that we wanted them as independent as possible, we wanted the technical standards as independent of the Commission as possible. On the other side Member States in general were unwilling to have binding decisions taken by the ESAs and we also found our hands tied by the Meroni case that limited the amount of power we could delegate to the ESAs.

It is this that has determined to a large extent the type of discussions that have gone on today, about what has to be done at level 2, and there is a substantial amount; but it was the ESA regulations and the Meroni constraints that has determined the level of detail that we have to do in the basic level 1 legislation.

It is worth noting here the similarities and differences between the EU and US rule making because I often hear complaints that to me seem rooted in a lack of understanding.

In the EU, as I have said, the level of discretion of the ESAs is very limited so there is much more detail in the basic legislation. In both EU and US there is consultation with industry on level 2, but in the EU there is no obligation to give specific responses to the submissions whereas there is that requirement in the US: perhaps that is a reasonable quid pro quo for US agencies having more discretion.

The striking down of a rule happens via the courts in the US, whereas in the EU it is via the veto rights of the Council and Parliament. So US is court oversight, EU is democratic oversight.

If you have a problem with a rule in the EU, where do you go? Well, both Parliament and Council, but given that the national regulators sit on the ESAs, it is far more likely that the Parliament would indicate discontent, as indeed we have shown ourselves willing and capable. This is especially the case if there is a breach of the basic level 1 legislative texts.

Remember too that the Parliament should continue to engage at all stages with the Commission and the ESAs on the level 2 measures, not just at the end, and that engagement should also include industry. It is awkward when the level 2 process bridges over into a new mandate and MEPs change, but it is the business of the committee to scrutinise.

We have fought hard to have technical standards and delegated acts rather than implementing acts – so that we have a veto right – which means the responsibility must be accepted. There is no harm in reminders. The committee staff will also be judged on it in their internal assessments. What is key in any engagement is to explain, in particular, the real economy effects. Just wanting it is not an argument!

A spin off from AIFMD, and the Greek crisis, was the short selling regulation. Whether this breached Meroni has been challenged by the UK and the case lost. I would just like to say that there is no reason for anybody to get alarmed or uptight about the fact that the UK has filed several cases at the ECJ. With financial services a major industry for the UK and lots of ground breaking legislation being made it is to be expected. Germany knocks on the door of the ECJ far more often to defend its manufacturing industry. It is also not unusual to have to go more than once on the same topic as legislation develops – tobacco advertising I believe went there three times. So don't get over-excited about the FTT going round again in due course.

However, on short selling, as with many pieces of legislation, a single row, this time over ESA powers and Meroni overshadowed other moderation that was achieved during negotiations, not least achieving the wording about 'reasonable expectation of settlement' in Article 12.1 c, over which I recall sweating blood.

The second wave of legislation included EMIR, the infrastructure for derivatives clearing and of course in later waves we had CRD4 and MiFID, parts of which complete and interact with EMIR.

In all of this legislation the Parliament pushed for transparency, more reporting to get a better understanding of what is going on and to make changes to protect the real economy. The real economy changes included the exemptions of corporates and pension funds in EMIR and the corresponding measures in CRD4 including to CVA charges.

Derivatives legislation commanded more transatlantic attention and efforts at coordination than anything else, but especially with EMIR the loophole fear was rampant. We were caught between needing to be flexible on things that the US was likely to exclude and we should too, like FX swaps and forwards and the Commission bearing down on loophole fears, includinh to ridiculous lengths on things like frontloading. The fact that ESMA have regurgitated my own arguments to me and the Commission has said I didn't know how right I was about so many things, gives me hope that wrinkles will be ironed out at level 2.

The Parliament did a lot on CRD4 beyond the only issue – bonuses – that ever gets mentioned. Again I have done speeches I will not repeat but we obtained better terms for Trade Finance, SMEs, added various transparency reporting requirements including country by country reporting, made wider definitions of liquid instruments, and universal basic crisis management provisions that I inserted saved us later on in BRRD when the Council wanted exemptions.

However what I take away from CRD4 is that political engagement has to happen earlier and frankly we need to know more about who said what at Basle. I fear the regulators are taking too narrow a view.

MiFID I have also given speeches on, including last week, the Parliament priorities were market transparency and investor protection. There were some awkward trade-offs, but in general care was taken not to be destructive whilst increasing controls. Time delay, for example on consolidated tapes, was conceded to council in order to get any positive commitment, but it does provide opportunity for industry to sort itself sooner. Transparency rules have been extended to include bonds and derivatives, but we added waivers for those over a certain size and modifications for less liquid sovereign bonds.

Rumbling on alongside we also had CSDR. Here we struggled without the Securities Law Directive, with competing vested interests and along with some other pieces of legislation it got deprioritised in Council more than once due to MiFID, BRRD and SRM taking all the available time. But with determination we got there in the end with this important piece of the post trade infrastructure. We have provided flexibility for settlement and buy-in, in particular for SMEs, short term repos and illiquids. Non-discrimination on the basis of location or currency is reiterated, there is better control over core and ancillary services including no cross-subsidy, and we resolved the one licence or two conundrum with a symmetrical treatment and highest capital standards to apply. We intended to have clarity in who owned or was liable for what, but I am not convinced we have achieved that in every case. Level 2 will be important for that and other things.

To finish, I have to reflect a little on Bank Recovery and Resolution and Banking Union given the seriousness of what has been agreed and how Euro stability is an issue in financial stability.

First there is the single supervisory mechanism where Eurozone Member States have agreed to have their bank supervision done by the ECB. This is giving up a great deal of sovereignty. For the main part the Council and Parliament were pushing in the same direction but it was imperative to write in protection for the single market, which was done. The Parliament also negotiated much more oversight, including an inter-institutional agreement with the ECB. This pitted the Parliament against the ECB, which is rather used to being independent, and made a lot of waves in the governing council. We did such a good job in the end that the Council have decided they want one as well in the same terms.

Then came BRRD, which of course covers the entire EU. This too is an incredibly powerful new piece of legislation, taking taxpayers out of the first line of fire, requiring losses to be taken by shareholders and bondholders, restricting the limit of State intervention and requiring up front contributions from industry to resolution funds. And of course it works in conjunction with the much higher capital buffers of CRD4.

Then to compliment Eurozone level supervision there is the SRM for Eurozone level resolution, creating a new European Resolution Authority and incorporating the BRRD rules in a way that actually removes some of the flexibility. This is again another huge pooling of sovereignty. In addition the Single Resolution Fund progressively mutualises. Those sniping at it complain that it has not gone all the way to a fiscal backstop – well, we know the reason, it was a step too far for the German-led blocking faction. Nevertheless it does have a borrowing facility.

Given the profound nature of the changes already made in support of the Euro some Treaty change and public endorsement will eventually be needed.

We all wait to see whether within the Eurozone we really do get banks without borders and greater freedom to move assets and liquidity. And I've spoke recently on that too!

Not for the first time appetites for 'Unions' have been whetted, and there is again talk of the need for a 'market union'. This was brought up last week at the ECB/Commission conference on fragmentation. Very quickly it was clarified that any such Union must be EU wide, which is something I have said before reminding that we already have a single market. We wait to see what is forthcoming and whether it can at last remove all the barriers, old and new, deal with securities law, eliminate other reluctances we ran into in CSDR, remove the fragmentation of data reporting and even deliver my favourite aspiration of real time transaction mapping.

What is clear though is that going forward markets will continue to be in focus, with scrutiny of the so-called shadow banking sector and as banks cease to be the intermediaries of everything. However growth is back on the stage, unlike for much of the last five years where growth considerations were brushed aside in the dash for stability through regulatory reform.

So to conclude, my time in the chair has been extraordinary. The effects of the financial crisis cannot be under-estimated. Sub-prime mortgages and overly complex securitisation is one thing; miss-selling, interbank lending rate scandals, insider-dealing and forex investigations another.

The response from regulators and legislators has been to try and rebuild public trust by a comprehensive overhaul of rules. Anyone responsible for anyone else's money has to have the right levels of governance and accountability - maybe ***more*** than the right levels - for that trust to be restored.

This has all been done in the excruciatingly tense backdrop of an existential crisis for the Euro and profound responsive measures in which the committee had a key role. My significant role in those and being seen as 'on the same side' has certainly aided financial services negotiations too. I'm the proof that you get the best deal for the UK in Europe by being European.

It is an era where the ECON committee of the Parliament has left its mark. Although there is more to be done, I doubt things will ever be the same again.

Thank you.

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