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Finance for Europe

An agenda for capital markets union

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Association for Financial Markets in Europe
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We advocate stable, competitive, sustainable European financial markets that support economic growth and benefit society.

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An agenda for capital markets union

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FOREWORD

For Europe, capital markets union is the right project at the right time. We are delighted that European Commission President Juncker has identified CMU as a flagship initiative for his five-year mandate. We also welcome the inclusion of the project in the brief of Commissioner Hill as part of the wider financial services portfolio.

The EU is facing a growth crisis: output is flat, unemployment remains high and investment is falling. What Europe needs is a new growth model to put underemployed resources – labour, capital and entrepreneurship – to work, to generate jobs and growth for citizens across the continent. The financial sector can and must play a central role in this economic revitalisation, through a successful capital markets union. But clearly we will need a growing economy to gain the full benefits of CMU.

Strictly, CMU is not a new project. A single EU financial market was already a goal of policy prior to the Single European Act. To this end, much has been tried in Europe, much has been achieved, but more remains still to do. Policymakers should think about CMU as at least a 5 year project, and they should identify clear economic goals that they want it to achieve. In this paper we propose just such a set of firm, measurable targets – most notably, to increase the capital markets' share of debt financing by at least 10 percentage points over the next 5 years. In defining its ambition, we ask the Commission to consider the goals we have proposed for CMU.

For each individual action that is proposed under capital markets union, we must ask: will it promote investment and growth? There is already a long list of potential policy options for CMU and it will be crucial to make the right choices based on good evidence – in order to develop a targeted, strategic agenda of high impact interventions. We would encourage the Commission to take the necessary time to build the evidence base and refine the policy agenda. AFME and its members will offer all the support we can, and we will also examine where industry itself can deliver positive change.

Europe's financial sector is still rebuilding after the crisis. Furthermore, while regulatory reform has made the financial system much safer, it has also reduced the capacity to fund growth, both through banks and the capital markets. Advancing CMU in this environment will not be easy, but it is achievable. However, Europe should not have to also contend with a new financial transaction tax and further banking structure reform – both of which would fragment markets and reduce liquidity. We call on the Commission to demonstrate an unequivocal commitment to capital markets union and to jobs and growth by reassessing its position on both files and taking the FTT in particular off the table.

Over the next five years AFME is committed to helping Europe's policymakers achieve a capital markets union. If we can forge a strong, positive partnership to deliver CMU then the rewards for Europe will be substantial: deeper, more diverse capital markets; a more stable financial system; and above all, new businesses, new investment and new jobs. Capital markets union is an exciting opportunity which we must seize.

Simon Lewis
Chief Executive, Association for Financial Markets in Europe

1. EXECUTIVE SUMMARY

As the voice of Europe's wholesale financial markets, AFME is committed to supporting the Commission's initiative on building a capital markets union. The CMU process should examine legislative and regulatory issues, market impediments and business practices in the EU28 in order to identify the key steps towards an open, efficient framework for all types and sizes of corporate issuers and investors. We propose that the work programme for CMU is organised under three pillars, covering:

- issuance of capital market instruments (the supply side);
- long-term investment in the capital markets (the demand side); and
- infrastructure for capital markets issuance and trading.

Economic ambitions for a capital markets union

In comparing the current state of development of European and U.S. capital markets, we must acknowledge some essential structural differences in Europe – notably the diversity of currency, economic policies, tax rules, language and regulatory structures. Based on the current stage of development of EU capital markets we consider that a realistic aim for the five-year horizon of the CMU initiative would be to increase the overall share of debt financing from the capital markets in Europe by 10 percentage points, from 25% of the total to at least 35%.

In pursuing such a target the Commission should consider the case for setting objectives for expanding specific product markets over the next five years; for example:

- increasing Europe's stock market capitalisation from around 75% of GDP currently to 100% of GDP, as the Federation of European Securities Exchanges has suggested;
- at least doubling European issuance volumes of securitisation and private placement by encouraging greater participation by both bank and non-bank investors; and
- increasing the share of capital market funding of SMEs, through both equity and debt.

There is a critical link between primary and secondary markets, as the efficiency and depth of secondary markets have a direct influence on capital allocation in the economy and the cost of funding for companies and governments. The participation of market makers is critical to supporting liquidity and the overall functioning of secondary markets.

Three pillars of capital markets union

We propose three complementary objectives for the CMU initiative which, taken together, should provide a comprehensive framework for action:

1. <u>Developing more efficient and liquid markets for issuance of financial instruments</u>

A range of reforms should be pursued to promote the issuance of capital markets instruments, particularly by SMEs and midcap firms, in order to expand the capital markets and increase the choice for issuers and investors. Industry initiatives on high quality securitisation and private placement should be complemented by review of applicable regulation, especially capital requirements, as well as the Prospectus and Takeover Directives; and by review of the tax regime for SME equity, in order to promote greater equity issuance by European firms.

2. <u>Harnessing long-term savings to promote investment</u>

CMU should improve the incentives for both institutional and retail investors to make long-term investments in Europe's capital markets. The priority reforms from an AFME perspective are to:

- appropriately calibrate the capital framework for institutional investors;
- achieve greater harmonisation of EU insolvency rules;
- maintain an economically viable model for capital markets research; and
- widen product choice for investors.

3. Promoting open, integrated capital markets infrastructure

Market infrastructure is a key enabler of CMU, supporting pan-European issuance, investment, trading and risk management. The priority reforms from an AFME perspective are to:

- achieve closer integration of clearing and settlement systems;
- pass a new securities law to clarify collateral ownership;
- remove barriers to cross-border collateral use; and
- ensure broad and affordable access to market data.

Building CMU through a better regulation approach

We welcome the Commission's assurance that before presenting a detailed plan, it will conduct a thorough economic analysis of the impediments to CMU and the available options to tackle them. The recommendations which we are putting forward in this paper should be seen in the same light; as proposals for investigation and analysis in the Commission's scoping work on capital markets union.

On each issue where the Commission considers that action is required, there should be detailed analysis of the appropriate form of intervention. Broadly, the options for action are:

- industry-led initiatives;
- review of existing EU regulation;
- action by Member States and regulators; and
- new EU legislation.

The choice between market-led or regulatory initiatives and, in case of the latter, over which instrument to adopt, should be made on a case-by-case basis. We encourage the Commission to adopt a strategic approach to its policy programme, with a very limited number of new regulatory proposals; each of which should be chosen to deliver the maximum economic impetus to the capital markets union project.

Overall, we consider that while some improvements can be made to the current framework, the institutional set-up for securities markets supervision in Europe is broadly fit-for-purpose. Thus we welcome the Commission's aim to make full use of the current supervisory framework to improve regulatory and supervisory convergence. At the international level, closer integration of EU capital markets should ensure that the Single Market increasingly serves as a reference for best practice and promotes regulatory convergence across jurisdictions.

2. GOALS FOR A CAPITAL MARKETS UNION

Europe needs efficient and dynamic capital markets alongside a strong and stable banking sector in order to deliver long-term funding that will promote growth, jobs and recovery in the EU economy. As the voice of Europe's wholesale financial markets, AFME is committed to supporting the Commission's initiative on building a capital markets union (CMU).

CMU should be seen as a process to identify specific market impediments and areas of underperformance which, if addressed, would lead to more investment within Europe, especially across borders, as well as more inward investment from outside the EU. The CMU process should examine legislative and regulatory issues, business practices and market functioning in order to identify the key steps towards an open, efficient framework for all types and sizes of corporate issuers and investors. The resulting programme should comprise market driven initiatives and actions by policymakers and regulators.

Making further progress towards CMU could deliver a number of important economic benefits[1] for Europe, particularly:

- enhancing economic resilience by reducing Europe's reliance on bank financing. In Europe, the financial crisis highlighted both the heavy reliance on bank financing and the interdependence between the financial health of banks and sovereigns as sources of systemic weakness. Both factors have also restrained the pace of recovery;
- improving economic efficiency by creating a larger, more integrated capital market. This is in line with the basic philosophy of the Single Market programme and a number of studies[2] have identified the additional jobs and output which might flow from a single EU capital market; and
- improving the effectiveness of monetary policy transmission. Macroeconomic policy in Europe remains heavily dependent on monetary policy, particularly on unconventional policy measures[3]. Building a broader and deeper EU capital market would provide central banks with new policy options and also increase the impact of existing policy measures focused on the capital markets.

In view of the challenges that Europe faces in generating economic growth and maintaining financial stability, the further development of EU capital markets is rightly seen as a high priority. However, the Commission is right to highlight that growing capital markets need not, and should not, result in a shrinking banking sector. The challenge for policymakers on CMU is to widen choice and promote capital market integration without making existing alternative funding options uneconomic.

Defining the capital markets union

The CMU initiative must have a clear set of aims and definitions in order to enable a constructive policy debate. In this section we propose a workable definition, from a policy viewpoint, of the 'capital markets'. Next, we consider a practical definition of the 'union' which Europe should seek to achieve in this area.

At a high level we propose that the work programme for CMU is organised under three complementary pillars, covering:

- issuance of capital market instruments (the supply side);
- investment in the capital markets (the demand side); and
- infrastructure for capital markets issuance and trading.

The priority actions which are identified under each pillar must be calibrated by reference to the realities of Europe's capital markets, the needs of issuers and investors and the existing regulatory framework. Based

[1] For a fuller discussion see Coeuré (2014), *Completing the single market in capital.*

[2] See for example London Economics (2002), *Quantification of the Macroeconomic Impact of Integration of EU Financial Markets*.

[3] See Bini Smaghi (2009), *Conventional and unconventional monetary policy*.

on the three pillars we propose three complementary objectives for the CMU initiative which, taken together, should provide a comprehensive framework for action. These objectives are:

i. developing more efficient and liquid markets for issuance of financial instruments[4]. The evidence suggests that debt markets for EU sovereigns and very large companies are generally more developed and integrated, whereas market funding for small and mid-cap companies, and generally for infrastructure projects, remains patchy and expensive across much of Europe. Moreover, with broadly the same GDP as the U.S., Europe's equity and corporate bond markets are significantly smaller and less integrated. CMU should remove regulatory and technical impediments to the formation of an efficient pan-European market for debt and equity products;

ii. harnessing long-term savings to promote investment. For the wholesale markets there is a broad work programme to redesign the incentives for institutional investors in order to promote sound long-term investment in Europe's capital markets; and

iii. promoting open, integrated capital markets infrastructure. Although a range of major reforms are already underway through MiFID, EMIR and initiatives facilitating the finalisation of cross-border transactions (i.e. through the Target 2 Securities project and CSD Regulation), aspects of Europe's capital markets infrastructure may remain fragmented in ways which raise costs for end-users and hinder coordinated supervision. The CMU initiative should focus on practical steps to reduce cross-border transaction costs and widen access to key market infrastructure.

The end-user perspective must be embedded in each of these three objectives. An important test of any individual CMU initiative – and the CMU project as a whole – must be whether it increases choice, reduces costs and strengthens confidence in the market.

Economic progress towards CMU

The CMU initiative must be understood as a Single Market project encompassing the EU28, as reflected in President Juncker's political guidelines. In pursuing the CMU initiative the Commission faces two key questions: first, what kind of union should be built; and second, how far is the EU from achieving that vision. Different answers result depending on whether these questions are answered in an economic or a legal sense.

In economic terms, the EU could define its ambitions for a capital markets union by reference to the most developed and larger marketplaces in advanced economies. As a proxy, Annex 2 provides a high-level comparison of the development of EU and U.S. capital markets by examining issuance volumes for key equity and fixed income products. More broadly, while there is a range of possible data sources and definitions, the following broad patterns emerge:

- around 25% of total debt funding in Europe is provided by the capital markets, compared to around 80% in the U.S.[5];
- around 80% of SME funding in Europe is provided by the banking system, whereas in the U.S. only 50% of SME funding is from bank loans[6]; and
- equity plays a larger role in financing the U.S. economy than in Europe. Over the past 5 years the U.S. stock of listed equity averaged 116% of GDP compared to 69% in Europe.[7]

In comparing the current state of development of European and U.S. capital markets, we must acknowledge some essential structural differences in Europe – notably the diversity of currency, economic policies, tax

[4] The term 'financial instruments' has a specific legal application in relation to MiFID. In this paper we are focusing on instruments to provide capital market funding; i.e. largely debt and equity products

[5] The Commission has given a broad estimate of 20% for the EU but noted that definitions vary. Some industry estimates which remove working capital give a higher share for EU debt capital markets funding.

[6] 2013 estimates from a forthcoming publication by AFME and Boston Consulting Group.

[7] Average GDP share from 2008 to 2013. Source New Financial (2014), *Driving growth: making the case for bigger and better capital markets in Europe*.

rules, language and regulatory structures. Based on the current stage of development of EU capital markets we consider that a realistic aim for the five-year horizon of the CMU initiative would be to increase the overall share of debt financing from the capital markets in Europe by 10 percentage points, from the current level of around 25% of the total to at least 35% of all corporate funding.[8]

In pursuing such a target the Commission should consider the case for setting objectives for expanding specific product markets over the next five years, such as:

- at least doubling European issuance volumes of securitisation and private placement by encouraging greater participation by both bank and non-bank investors [9];
- increasing Europe's stock market capitalisation from around 75% of GDP currently to 100% of GDP, as the Federation of European Securities Exchanges has suggested[10]; and
- increasing the share of capital market funding of SMEs, through both equity and debt.

There is a critical link between primary and secondary markets, as the efficiency and depth of secondary markets have a direct influence on capital allocation in the economy and the cost of funding for companies and governments. The participation of market makers is critical to supporting liquidity and the overall functioning of secondary markets.

Legal progress towards CMU

For several decades the EU has been taking steps towards achieving a notional capital markets union. The Commission has noted that work to build a single financial market began in 1973.[11] Since then several legislative plans have been developed to that end, including the Single Market Programme (launched in 1985) and the Financial Services Action Plan (launched in 1999).

Annex 3 provides an overview of the key legislative measures which the EU has adopted which have, directly or indirectly, helped to promote a capital markets union. The key points which can be drawn from this high-level survey of EU legislation are that:

- liberalisation is a longstanding goal of EU policy in banking and insurance, while initiatives in securities and investment occurred much later;
- the EU has undertaken an extensive legislative programme in company law and in related areas including accounting, audit and credit ratings;
- with the advent of the Single Market Act the EU made major reforms to liberalise capital movements and remove barriers to establishment of financial services firms;
- on securities, the historic focus of EU legislation has been on listing, prospectus requirements and market abuse;
- in the area of investment business, the main focus of legislation has been on developing the UCITS framework;
- the broad 'rulebook' approach pursued in MiFID, EMIR and AIFMD is relatively new, as is the use of regulations as opposed to directives; and
- the development of a pan-European component to supervision has been recent and fairly gradual, with the first steps taken following the Lamfalussy report.

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[8] Because of the characteristic of equity as a permanent funding instrument, it is not possible to construct a reliable composite measure of Europe's total share of capital market funding from debt and equity.

[9] European issuance of private placement in 2013 is estimated at around €15bn, compared to around €45bn ($54bn) in the U.S. The Financial Times has reported that European companies raised an estimated €12bn in private placement on the US markets in 2013.

[10] See FESE (2014) *A blueprint for European capital markets.*

[11] See Commission Communication COM(1999)232 on the Financial Services Action Plan.

Before it makes proposals for any specific new regulatory measures we would encourage the Commission to reflect on the evidence of where and why the existing base of EU regulation has or has not been effective in promoting the development of a single capital market.

The international dimension to capital markets union

Alongside the EU perspective, CMU should also feature an international dimension since it represents a major opportunity to facilitate European businesses' access to global capital pools and funding opportunities. Attracting a wide range of global investors with diverse profiles and risk appetites, increasingly from emerging economies, should be a key priority in the future development of the Single Market.

Closer integration of EU capital markets will ensure that the Single Market increasingly serves as a reference for regulatory best practice and convergence across jurisdictions and that Europe speaks with one voice in global fora. We would emphasise the importance of:

- strengthening the framework for global regulatory coordination. Conflicting regulatory policies and divergent implementation of global standards create barriers to capital flows and reduce market efficiency. Initiatives such as the proposed Transatlantic Trade and Investment Partnership between EU and U.S. and the IOSCO Task Force on Cross-Border Regulation can help to promote better regulatory coordination; and
- developing a coherent approach to third country equivalence across different EU legislations. Inconsistent approaches to equivalence create complexity and may discourage overseas investment into Europe. A first-order question is whether regulatory equivalence or the extraterritorial application of EU regulation (e.g. for financial benchmarks or market infrastructures) is appropriate. Once that determination is made, the challenge remains to develop a consistent and proportionate assessment process. The Commission is conducting equivalence assessments for a large number of jurisdictions according to key regulatory regimes (e.g. AIFMD, EMIR and MiFID).

Building CMU through a better regulation approach

Drawing from work still in train under the outgoing Commission, it might already be possible to develop an initial list of measures to flesh out the CMU initiative. However, given the scale of the economic opportunity and the breadth and complexity of the issues at stake, we would encourage the new Commission to develop the CMU initiative more deeply with a robust evidence base and solid recommendations that will drive a coherent 5-year work programme. We therefore commend the statement by Commissioner Hill that before presenting a detailed plan on CMU the Commission will conduct a thorough economic analysis of the barriers and the available options to tackle them. The recommendations which we are putting forward in this paper should be seen in the same light; as proposals for investigation and analysis in the Commission's scoping work on capital markets union.

Building the evidence base on CMU

In order to provide a solid foundation to take forward the CMU initiative, the Commission's analysis should examine both 'macro' issues relating to the overall performance of Europe's capital markets and 'micro' issues relating to specific product/user segments and policy issues. In terms of macro questions, we would encourage the Commission to examine:

- long-term trends in bank and capital market funding in Europe, including the balance between debt and equity funding and between bank deposits and market investments;
- broad patterns of capital market funding in the U.S. and EU, highlighting specific product and investment segments where Europe appears to be lagging; and
- the reasons for differing performance in funding markets across Europe, particularly in the crisis affected countries of the Eurozone.

The bulk of the Commission's research agenda on CMU should deal with specific market and regulatory questions. We suggest that, as below, these questions could be organised under the three key objectives

which we have proposed for the CMU initiative. We would note that certain horizontal policy issues such as taxation and insolvency law have the potential to cut across more than one theme.

Turning proposals into concrete actions
On each issue where the Commission considers that action is required, there should be detailed analysis of the appropriate form of intervention. Broadly, the options for action are:

- industry-led initiatives;
- review of existing EU regulation;
- action by Member States and regulators; and
- new EU legislation.

The choice between market-led or regulatory initiatives and, in case of the latter, over which instrument to adopt, should be made on a case-by-case basis. The approach should include a balanced application of the principles of subsidiarity and proportionality, as laid down in the Treaty on European Union, with the requirement that the case for new legislation to be clearly made through the impact assessment process.

Annex 1 provides an overview of our initial proposals for CMU (which are discussed in detail in the next section) and the appropriate form of intervention on each issue. Overall, we would encourage the Commission to adopt a strategic approach to its policy programme, with a very limited number of new regulatory proposals; each of which should be chosen to deliver the maximum economic impetus to the capital markets union project.

3. THREE PILLARS OF CAPITAL MARKETS UNION

In the previous section we outlined three complementary objectives to provide a comprehensive framework for action on the CMU. These objectives are:

i. developing more efficient and liquid markets for issuance of financial instruments;
ii. harnessing long-term savings to promote investment; and
iii. promoting open, integrated capital markets infrastructure.

In this section we outline a range of proposals under each pillar which we would encourage the Commission to develop as part of the CMU initiative.

More efficient and liquid markets for issuance of financial instruments
This section considers reforms to promote the issuance of two key classes of funding instruments – fixed income and equity – which would enhance the depth and performance of EU capital markets and widen choice for issuers and investors. As noted above, currently around 25% of debt funding to European companies is provided by the capital markets, while 75% is in the form of bank loans. Redressing this imbalance will require action to promote significant new issuance of stocks and bonds by small and large companies across the EU.

Once issued, securities will typically be tradable on secondary markets. There is a critical link between primary market issuance and secondary markets. While primary markets direct investors' funds to issuers, the secondary market provides the support and liquidity for such issuance. The participation of market makers is critical to supporting liquidity and the overall functioning of secondary markets.

<u>Fixed income</u>
This section outlines options for developing specific fixed income product markets which could be taken forward under the CMU initiative. A number of these proposals were tested with market participants as part of our earlier report on funding growth[12], and they should be explored further in the CMU project.

Securitisation
The securitisation market in Europe remains weak: investor-placed issuance remains far below pre-crisis levels and has amounted to less than EUR 100 billion a year since 2010. However, institutional investors such as insurers, occupational pension funds and investment funds have many trillions of Euros available to invest, and if only a small allocation of these funds were allocated to securitisation this could provide an important boost to financing in Europe, including to SMEs. This has become more accepted in recent months when a significant and positive shift has taken place in both the tone and substantive comment used by senior policymakers and regulators when discussing securitisation. While some progress has been made (for example, treatment under the liquidity coverage ratio), much regulation of securitisation in Europe, especially that specifying capital requirements, remains harsh.[13]

A number of practical steps should be taken to harmonise securitisation regulation both within Europe and with respect to third countries, in particular the U.S. Specifically:

- the rules on risk retention (or 'skin in the game') should wherever possible be harmonised between the different types of regulated investors – banks, insurers, AIFMs etc. to provide a level and consistent playing field;
- while much good work has been done already to improve standards of disclosure and transparency, more could be done to make consistent, and streamline, reporting requirements in order to make compliance for originators easier and to assist investors and other users of the data. The ECB has

[12] See AFME (2013), *Unlocking funding for European investment and growth.*

[13] ECB Executive Board member Yves Mersch has described this lack of differentiation as "like calibrating the price of flood insurance on the experience of New Orleans for a city like Madrid."

emphasised that information should be presented in an accessible manner, avoiding "information overload";

- prudential rules on capital should recognise the strong credit performance of European securitisation through and since the crisis, and should treat securitisation consistently, in context and on a level-playing field with other fixed income investments (e.g. covered bonds) as well as with direct investment in the underlying assets; and
- in order to help banks lend more to the real economy, securitisation needs to regain its function not just as a provider of direct funding but also as a tool for risk transfer. To achieve this, we need harmonisation across Europe in the approach of national supervisory authorities to the applicable rules.

There needs to be continued work to follow the first steps taken already by both the industry and regulators towards a revived and sustainable securitisation market which serves the real economy. We welcome the ECB's recently announced ABS Purchase Programme as a significant and positive step to rehabilitate the market. The current focus is on the EBA's recently published discussion paper on high quality securitisation which builds on the prior work done by EIOPA, the Commission (in the LCR) and the ECB and the Bank of England. AFME has contributed and responded to all these efforts, and will continue to do so. We encourage continued support for the Prime Collateralised Securities (PCS)[14] initiative, an independent and not-for-profit body which seeks to promote quality, transparency, simplicity and standardisation throughout the asset-backed securities market in Europe.

Private placement

We support the Commission's focus on strengthening European private placement markets as an alternative for large and mid-cap issuers to bank lending and public bond issuances. This option could be developed through expanded access to the European private placement market using standardised structures, practices and to the extent appropriate, documentation, and definitions of how broadly a transaction is placed in order to promote secondary liquidity and possibly further measures to encourage investment. The U.S. market (underpinned by a 'safe harbour' exemption provided by Section 4(2) of the 1933 Securities Act) and the German Schuldschein[15] market both offer models to inform the development of a pan-European private placement market.

We encourage the Commission to draw on the work of the Pan-European Private Placement Working Group – a joint industry task force which has been established to help identify and promote best practice in the market, key principles and standardised documentation – and to identify and overcome barriers to entry for new issuers and investors into this market.

High yield

As outlined in Annex 2, the EU high yield bond market remains around half the size of the U.S. market. This is due to many factors, including a historical corporate bias for bank financing, as well as a lack of familiarity with issuing sub-investment grade debt in European capital markets. The expansion of the European high yield bond market could be promoted in particular a concerted effort for insolvency reform in Europe, which is discussed in detail in the next section on investment incentives.

Project finance

In Europe, the funding of long term infrastructure investment is much more reliant upon banks than in the U.S., which relies on the municipal bond market. In addition, Basel III reforms and changes to bank funding costs have changed the economics of project finance lending for certain European banks. The Commission is proposing to address some of the resultant funding gap through an EU Investment Plan[16] to unlock more than €300 billion of public and private funding, of which around 75% will be channeled into long-term

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[14] PCS was set up by AFME and European Financial Services Roundtable, but is now wholly independent.

[15] Schuldschein are bilateral loans, with lending terms also agreed bilaterally. They have a hybrid structure which sits between debt securities and bilateral or syndicated bank loans.

[16] See Commission Communication COM(2014) 903 on an Investment Plan for Europe.

projects in transport, energy, telecoms, research and innovation. The eventual impact of this initiative will depend substantially on the commitment of the Member States, including by providing additional resources.

More broadly, it is vital that the project finance market in Europe is made more accessible to non-bank investors. A range of wider reforms should be considered, including: rules to reduce political risks associated with infrastructure regulations or tariff structures; increased transparency of planning and procurement processes; and greater acceptance of capital markets instruments as part of an overall financing package. While institutional investors can bring new funding capacity, public sector commitment will remain crucial in areas such as project budget capacity and certainty of tariffs.

Covered bonds

Covered bonds have long been thought of as a stable fixed income product offering high credit quality. We note that both the Commission and the ECB have proposed much greater harmonisation in the regimes for covered bonds[17], and that the Commission may set out its thinking by the end of 2014. Any pan-European reform should preserve the broad attributes of covered bonds and should also take full account of the well-established models of covered bond financing in countries such as Germany, France, Spain, Italy and Denmark.

The potential benefits of a single EU framework include that a more integrated market would be larger, more liquid, and improve ease of access for issuers. However, as covered bond issuance rules currently vary significantly across the EU28, this project will be technically complex to implement. For that reason it may be best to pursue a minimum harmonisation approach at EU level. The challenge will be harmonising not just the covered bond legislation but also related laws such as insolvency and mortgage laws (which in turn are closely linked to public policy such as taxation and housing policy).

Equity[18]

In 2007, Europe's stock markets capitalisation was a little over 90% of EU GDP[19]; today, that figure is closer to 75%. Valuations have struggled to recover and, notwithstanding a strong performance in IPOs this year, total issuance remains low. This section outlines a range of options to revitalise Europe's equity markets, through direct and indirect means.

Progress towards a pan-European takeover code

The Commission has found that the EU takeover bids regime is generally working well, but that some Member States still accord unfavourable treatment to corporate acquisitions by companies from other jurisdictions within the EU.[20] Such discrimination represents an obstacle to the free flow of capital among Member States. We suggest that the Commission conducts a further, targeted review of the implementation of the Takeovers Directive to determine which Member States have implemented its Optional Arrangements with respect to the defensive actions by a board[21] and any related corporate actions – and then proposes revisions to the Directive based on its findings.

Listing and ongoing reporting regime for corporates

We consider that the Prospectus Directive is generally effective as a passport to listing in the major EU financial centres. We suggest that in its work on CMU the Commission should include a review of the appropriate level of disclosure for initial public offerings (IPOs) by SMEs, seeking to balance the requirements for quick and low-cost execution with investors' need for robust company data on which to base their decisions.

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[17] The EBA's 2014 *'Report on EU covered bond frameworks and capital treatment'* set out a starting point to discuss what constitutes a covered bond.

[18] A range of instruments such as mezzanine finance, payment-in-kind notes and contingent convertible bonds have some equity-like characteristics but are not discussed in the paper.

[19] World Bank estimate.

[20] See Commission report COM(2012) 347 on application of Directive 2004/25/EC on takeover bids.

[21] As set out in Article 9(2) and (3) of the Takeovers Directive and the breakthrough provisions (Art 11).

Other factors also influence the choice of listing venue, such as the desired shareholder base, liquidity of trading venue, and the variances in listing rules. An important issue is the availability of updated research concerning an issuer at the time of issuance. This results from the perceived risks of research being seen as conflicting with a prospectus. This risk has resulted in research blackout periods at the time of issuance for up to two weeks. This blackout period effectively extends the period of risk for issuers and underwriters and adds to the risk premium being paid by investors. Finding effective means to remove such risk would provide more research to investors as well as reduce risk premiums in an offering.

Tax structure for equity and debt financing
In its communication on long-term financing of the European economy, the Commission noted that: *"A large majority of corporate tax systems in Europe favour financing by debt against equity by allowing deduction of interest costs, while there is no similar treatment for the costs incurred in raising equity. This tax bias towards debt financing may incentivise companies to take on more debt and may penalise innovative companies and start-ups financed through equity."*[22] This issue has recently been highlighted in other recent reports including the UK's Parliamentary Commission on Banking Standards.

A 2011 paper by the IMF staff[23] stated that achieving equal tax treatment for debt would require either reducing the tax deductibility of interest or introducing similar deductions for equity returns. The paper noted that reducing the tax deductibility of interest would introduce new complexities and distortions to the tax system, and would likely negatively affect investment in the bond markets, while completely abolishing interest deductibility would be very difficult to implement.

The IMF staff paper advises that introducing a deduction for corporate equity looks like a more viable option but would still represent a loss of tax revenues of around 0.5% of GDP for an average developed country. In view of the potential loss of tax revenue arising from such a broad reform, some commentators have instead proposed targeted tax deductions for small business equity (to mirror the current deductions for loan interest payments) in order to reduce the financial disincentive for small firms to increase their equity capitalisation. We would support further work in this area as part of the CMU initiative.

A further disincentive to cross-border equity investment is the prevalence of withholding tax on dividends. The European Commission has previously consulted on various options for reform, including abolition of withholding taxes on cross-border dividend payments. It is appropriate in the context of CMU to revisit the options with a view to promoting cross-border equity investment.

Harnessing long-term savings to promote investment
This section considers reforms to improve the incentives for investors – both at the institutional and retail levels – to make long-term investments in Europe's capital markets. This is a broad agenda and other market participants and trade groups – particularly on the investor side – will have important contributions to make. The priority reforms from an AFME perspective are to:

- appropriately calibrate the prudential capital framework for institutional investors;
- achieve greater harmonisation of EU insolvency rules;
- maintain an economically viable model for capital markets research; and
- widen product choice for investors.

Appropriate calibration of the prudential capital framework for institutional investors
The prudential framework for institutional investors such as pension funds and insurers provides a critical incentive structure in shaping investment decisions. It is increasingly recognised that aspects of the current EU prudential framework for insurers and pension funds (notably Solvency II and the IORPS Directive) are discouraging certain types of productive long-term investment in Europe's capital markets.

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[22] See Commission Communication COM(2014) 168 on Long-Term Financing of the European Economy.

[23] See de Mooij (2011), *Tax Biases to Debt Finance: Assessing the Problem, Finding Solutions*, IMF Staff discussion note SDN/11/11

On Solvency II, key provisions of the recent Delegated Act mean that insurance companies will remain disincentivised to invest in securitisation for the following reasons:

- the charges for type 1 securitisations (AAA-rated), despite having been substantially reduced, remain too high: securitisation spreads will not be sufficient to make investments attractive once the capital charges are applied;
- the classification of all non-senior tranches as Type 2 securitisations creates a cliff effect in the capital charge treatment of senior and non-senior securitisations[24]; and
- direct investment in pools of mortgage loans will continue to receive significantly lower capital charge treatment, creating adverse investment incentives.[25]

We also believe, as the ECB and Bank of England have highlighted, that if a securitisation is high quality, the whole transaction (not just the senior tranche) should be treated as such.

In addition, the expected new capital requirements for investments in securitisation by bank investors from the Basel Committee for Banking Supervision, and their implementation in Europe, will be crucial. Bank investors are key participants, underwriting new issues and providing liquidity to support investment by the non-bank sector. We very much hope that the final rules from Basel, and their implementation in Europe, will provide a framework which is properly calibrated to the risk, and consistent.

<u>Achieving greater harmonisation of EU insolvency rules</u>

European market participants have been discussing the need for reform and harmonisation of European insolvency regimes for more than ten years. Meaningful progress in this respect has been hampered by many factors, including protection of national, and often market participant interests, as well as a general consensus that many of the relevant issues may be too complex or divisive to resolve. For these and other reasons, differences between national insolvency regimes continue to increase uncertainty amongst issuers, investors and other stakeholders, and to reduce the overall efficiency of European capital markets generally.

As the Commission recently highlighted[26], national insolvency laws across Europe vary in many respects, both procedurally and substantively. Key aspects of divergence include:

- the procedure for opening insolvency proceedings,
- the length of and process for a general stay of creditor rights,
- management of insolvency proceedings,
- ranking of creditors,
- filing and verification of claims,
- responsibility for proposing and approving reorganisation plans,
- annulment of transactions entered into before the start of insolvency proceedings,
- liability of directors, shareholders and management, and
- availability of post-commencement financing.

The differences between national insolvency frameworks outlined above can discourage the timely restructuring of viable companies in financial difficulties and often lead to liquidation rather than providing the ability to restructure as an ongoing concern.[27] Small and medium sized companies are often at a particular disadvantage as they are generally unable to cope with high restructuring costs or take advantage

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[24] For example, the senior tranche of a 5-year AAA-rated RMBS would receive a capital charge of 10.5% and the non-senior would receive a charge of 67%. This distortion is even more marked for securitisations which require greater credit enhancement, such as SME securitisations.

[25] For example, a 5 year AAA-rated RMBS will receive a capital charge of 10.5%. Direct investment in a whole loan pool comprised of the same mortgages can receive a capital charge as low as 0% to 3%.

[26] See Commission Recommendation C(2014)1500 on a new approach to business failure and insolvency.

[27] To illustrate, according to World Bank data, an insolvency process in Greece takes 3.5 years on average, compared to only five months in Ireland.

of more efficient restructuring procedures in other member states through a shift in Centre of Main Interest (COMI). Finally, from an investor viewpoint, lack of certainty regarding the timing, structure and form of insolvency – particularly with respect to multinational companies or those with complicated financing structures – and the associated uncertainty with respect to creditor recovery rates, may all act as ex ante disincentives to invest on a cross-border basis in Europe.

We cannot expect the challenges caused by the factors outlined above to be resolved or determined by market forces. Further harmonisation of European insolvency regimes would help to facilitate more predictable and orderly outcomes for corporate restructurings. We consider the following to be the most important elements in order to enhance the efficiency of European insolvency practices:

- *Stay* – it is critical to the successful rescue of a failing business that precipitate action by creditors be prevented – in other words, a stay of enforcement action is required. Otherwise, assets that have been secured would be subject to seizure by creditors, and as the company defaults on its obligations its creditors will seek to obtain and enforce judgments.
- *Valuation* – Our view is that a consistent and harmonised framework should be created for fast judicial resolution of valuation disputes in restructurings, short of administration proceedings.
- *Financing* – Steps should also be taken to address the issue of ongoing funding for distressed companies. In the U.S., the Bankruptcy Code provides a super-priority status for post petition Debtor-in-Possession lending. In contrast, in Europe, there are few legislative provisions to prioritise rescue finance.

Insolvency reform will be a long-term project, but one which should significantly strengthen and integrate Europe's capital markets. In taking the project forward, the Commission will face an important judgment about how widely harmonization need apply. The quality and coherence of any reform package are also vital.

Maintaining a viable model for capital markets research

In the MIFID Level 2 process, ESMA has proposed that investment research should be regarded as an 'inducement' and hence should not be funded from dealing commission. This proposal is likely to have a number of negative effects on the development of Europe's capital markets[28], including that:

- EU portfolio managers' charges will be higher than those of non-EU managers placing the former at a disadvantage cf. their global peers and resulting in reduced choice for EU investors;
- while some managers may, as an alternative to passing on research costs in the annual management charge, be able to absorb those costs, all managers will likely reduce the amount of research consumed to the detriment of investors and issuers;
- research providers will likely concentrate on blue chips resulting in reduced research coverage of EU SMEs and midcap firms, which are precisely the sectors which will benefit from greater access to the capital markets;
- reduced research coverage is likely to curb non-EU investment into EU companies (as Asian and U.S. investors will often use research to make investment decisions); and
- a ban on EU managers paying for U.S. research from commission would likely make it much harder for EU managers to procure U.S. research from U.S. brokers, resulting in less, and higher cost, U.S. research for EU investors and poorer performance for EU managers of U.S. assets.

We believe that the policy aim of separating decisions and payments regarding execution from those relating to research should be achieved in a way that maximizes benefits and minimizes costs for investors and issuers. Accordingly, in MiFID, we have proposed a mechanism comprising commission sharing agreements between portfolio managers and executing brokers, combined with contracts for the provision of research. These contracts should explain the basis on which expenditure will be made and be signed with each research provider used by the manager.

[28] ESMA has also, in the Level 2 process for the Market Abuse Regulation, made disproportionate proposals regarding dissemination of communications (e.g. sales notes and non-written investment recommendations).

Wider product choice for investors

Currently there is no power at the European level similar to the facility of U.S. regulators to issue "No Action" letters in response to requests from market participants for clarifications regarding proposed transactions or structures. The safe harbours created through No-Action letters often result in new and innovative market practices and product structures, and have produced many positive developments in U.S. capital markets. Section 4(2) (and the so-called 4 1/2 exemption), Rule 144A and Regulation D – all under the 1933 Securities Act – also provide useful safe harbours, resulting in increased market flexibility and greater product choice for issuers and investors.

The Commission should consider whether and how to incorporate such safe harbour regimes into the EU regulatory framework, and the product classes and issuer and investor categories to which they would apply. Broadly, there are two options. The first option would be to create a 'horizontal' instrument which the Commission (or potentially, ESMA) could apply in order to develop safe harbour regimes in specific product segments.[29] A second option would be to include provisions in new EU legislation to permit subsequent amendment of the regulatory regime for investors, subject to thorough cost-benefit analysis.

Regime for investment in loans

Market participants, governments and regulators can act collectively to increase institutional investor appetite for purchases of loans, including establishing a legal framework for loan funds (similar to UCITS), the removal of barriers such as banking license restrictions on the purchase of loans, and the creation of loan performance benchmarks. In the medium term, the development of illiquid retail instruments will be important as this brings large pools of money into play. However, distribution should initially be limited to institutional investors, given the time required to develop analysis on investor suitability.

Open, integrated capital markets infrastructure

Market infrastructure is the third pillar of capital markets union. It provides the market platforms which bring together buyers and sellers and the tools to enable trading to take place. The infrastructure pillar should be seen as an enabler of capital markets union by supporting pan-European issuance and investment as well as efficient trading and risk management.

A crucial initiative already in train is Target-2 Securities (T2S). The successful implementation of T2S between 2015 and 2017 will have a dramatic effect on the settlement of Euro denominated securities and have a significant impact on the business models of incumbent central securities depositories. From an AFME perspective, the further priority reforms in market infrastructure to facilitate CMU are:

- achieving closer integration of clearing and settlement systems;
- passing a new securities law to clarify collateral ownership;
- removing barriers to cross-border collateral use; and
- ensuring broad and affordable access to real-time market data.

Clearing and settlement – integration of infrastructures

The European infrastructures for post trade processing have developed according to the markets which they serve. This has led to differences in every part of the value chain from clearing and settlement through to the processing of corporate actions. These differences are the cause of material inefficiency and cost, and they hinder cross-border access to infrastructure.

In *settlement*, the cost of transferring securities from one EU Member State to another is largely prohibitive, even if the same security is traded in different countries (dual listed). Banks and brokers need to connect, either directly or via a third party, to settle their transactions. Maintaining those connections throughout the EU or retaining a local presence is expensive, both for the settlement itself and for the subsequent safekeeping and custody of securities. These costs are likely to be passed along the chain, from the custodian

[29] The discretionary powers of ESMA and the European Supervisory Authorities are circumscribed by the 'Meroni doctrine', the application of which was recently reviewed in an ECJ judgment (case C-270/12) on ESMA's implementation of the Short-selling Regulation.

to the broker and then on to the end investor. With the introduction of T2S, an ECB initiative, prices for cross border settlements in Euro denominated securities are likely to fall, allowing greater freedom of movement of capital between issuers in EU Member States.

In *clearing*, multiple central counterparties (CCPs) have emerged to service local markets and their participants. Competition between execution venues such as exchanges and Multilateral Trading Facilities has reduced the direct costs of trading. However, the need to clear trades via a CCP and the participation of trade counterparties in separate CCPs creates a need for interoperability between CCPs (including non-discriminatory access to relevant trading venue feeds) if overall costs are to fall further. Where interoperability is practiced, the market has seen considerable success in reducing clearing fees.

Securities law to clarify collateral ownership

We would welcome EU legislation to clarify ownership of securities when trading cross-border. Over the past decade, numerous proposals have floundered, principally because Member States would prefer to retain their own laws. The certainty provided by such EU-wide legislation would provide reassurance to investors who may be trading outside of their 'home' legal jurisdiction, and in the event of adverse market conditions, find themselves unable to determine which law is applicable to a transaction with a defaulting counterparty.

The legal barriers defined in the Giovannini Reports of 2001 and 2003 need to be dismantled to contribute to the overarching objective of safe and efficient post trading environment in Europe. In a true capital markets union, the elimination of legal uncertainties is even more important. Priority actions are:

- for credit and debit account entries to become legally constitutive for valid acquisition and disposition of securities;
- for EU law to provide for a harmonised understanding of 'good-faith acquisition' of securities and securities collateral; and
- for commercial and insolvency law to address a shortfall in securities, in particular in case of insolvency of an intermediary. First, there should be rules preventing loss of client securities, in particular imposing segregation of client assets. Second, however, shortfalls cannot be entirely prevented by law or regulation. Therefore, a proposal to harmonise, to some extent, loss sharing and compensation mechanisms is required.

It is important to be clear about which law has to be applied to a certain case. Therefore, the existing conflict-of-laws rule of the Financial Collateral Directive should be extended to all areas of holding, acquisition and disposition of securities.

Removal of barriers to cross-border collateral use

Collateral has assumed a particular significance in recent years as market participants seek to protect themselves from potential adverse movements in the markets. This trend has helped to stabilise markets by giving a lender comfort that any debt can be largely, if not fully recovered. By mitigating these risks, collateralized instruments also ease the flow of credit through the financial system to the real economy.

Participants may trade with each other and seek collateral, or make use of a CCP which requires collateral to protect itself against a member default. European regulation increasingly requires additional collateral. EMIR calls for an increasing number of derivative transactions to be cleared via a CCP, with the consequent requirement to post collateral.

In terms of removing barriers to cross-border collateral use, key aims are:

- ensuring that there can be free flow of collateral and collateral availability across entities and across borders;
- ensuring that this is not constrained by excessive regulatory restrictions (e.g. caused by constraints on the repo markets, margin requirements, insolvency laws etc); and
- standardising forms of collateral (e.g. assets and transactions) where appropriate

Ensure broad and affordable access to real-time market data

Despite the emergence of other sources of information with the introduction of competing trading platforms, market data from primary exchanges remains essential. Easy access to market data is strongly related to increased market transparency and a range of market participants also require such data in order to meet regulatory obligations. Appropriate market transparency promotes more efficient price formation and discovery and reduces search costs. Increasing or high costs of market data restrain competition and may also increase the cost of capital.

Accordingly, access to such data must be fair, reasonable and non-discriminatory across the EU. Sufficiently granular tariffs should allow users of data to access and pay for only those services that they need and to be able to consume only trade data without other unwanted services. Data should be supplied at the same prices and other terms and conditions, to all customers who are in the same position, according to published, objective criteria. Availability of pre- and post-trade data on a reasonable commercial basis is especially important to gain the benefits of the increased competition in the market for trading, and to contribute to an efficient Single Market for equities.

Delivering a single European Consolidated Tape would, as is intended, improve the quality and consistency of post-trade data. Ensuring that post-trade data is provided in a consistent and unambiguous format would remove scope for varying interpretations, allow comparison across venues, give greater transparency of price formation, and facilitate consolidation. It would also significantly reduce the cost of post-trade data for investors.

4. INSTITUTIONAL FRAMEWORK FOR CAPITAL MARKETS UNION

Alongside the substantive policy priorities for CMU, there are important questions to be considered on the institutional framework for a capital markets union. In particular, are the supervisory arrangements suited to a larger and more integrated EU capital market? Under the current framework:

- the European Commission sets policy at EU level (with the agreement of Council and Parliament) and is the final arbiter on implementing technical standards;
- the European Securities and Markets Authority (ESMA) advises on and develops implementing technical measures, conducts some specific supervisory functions (e.g. in relation to rating agencies and trade repositories) and is responsible for supervisory coordination in general; and
- national authorities in the EU28 are responsible for implementation of EU directives into domestic law and the vast majority of market supervisory operations.

Overall, we consider that while important improvements in the functioning of the current framework can be achieved, the current institutional framework for securities markets supervision in Europe is broadly fit-for-purpose.

CMU and the Single Market

Capital markets union is fundamentally a Single Market concept and should reflect both the nature and key principles of the Single Market in the EU28. The Single Market is designed to eliminate as far as practical impediments to any of the four freedoms of movement: those of goods, services, capital and people. Capital markets union requires the achievement of two key freedoms: free movement of capital and of services.

A key principle of the EU is subsidiarity: to refrain from doing centrally what can be done just as well locally. In this context, the essential question to be asked is whether there is any need, in order to achieve the objectives of capital market union, to go beyond the current institutional arrangements for supervision.

CMU and banking union

Unlike securities supervision, the basic model of banking supervision focuses on risk within individual firms and systemic risk as a whole. Banking supervision is embedded in the day-to-day life of supervised firms and has a vital relational aspect. A further key difference is that prudential supervision is a central aspect in considering responsibility where there is failure of potentially systemic institutions. In the context of a monetary union, this means that if supervision remains national, there is a perception that responsibility remains national. It is for this reason that a single supervisor is necessary to make a banking union work in the Eurozone.

Securities markets supervision by contrast focuses on activities within the market and is more transactional in nature. To achieve a substantially level playing field in the area of securities markets requires a single rulebook (broadly defined) and close convergence of supervisory practices. However it is not necessary to have single supervisory authority or indeed full harmonisation of EU regulation: such steps would be premature and would distract from the immediate policy challenges of promoting investment and market growth.

From a legal perspective, an important material difference between CMU and banking union is that whereas the EU Treaty provides a legal basis for the ECB to operate at the centre of the Single Supervisory Mechanism, there is no EU Treaty basis for a pan-European body with full authority for markets' supervision. The establishment of or the entrustment to a pan-European body with full authority for markets supervision would thus require a potentially long and difficult process of EU Treaty change.

Supervisory convergence and the role of ESMA

Securities supervision in Europe does require strengthening and enhancement of existing structures and processes related to the European Supervisory Authorities (ESAs), including ESMA. We thus welcome the

Commission's aim to *"make full use of the current supervisory framework to improve supervisory convergence"*[30]. Indeed, this is already a core objective of ESMA and it should remain a top priority.

As regards structures and processes, the leadership capacity of the ESAs, including ESMA, should be enhanced by strengthening their independence – including from the European Commission and from national authorities. This could be achieved by exploring thorough governance reforms aiming at greater independence (including financial independence) and effectiveness, for example as regards the composition, role, tasks and powers of the Board of Supervisors and the Management Board.

The ESAs are entrusted with the key task of developing a single rulebook. In both the banking and markets areas, the Commission continues to develop legislation through both Regulations and Directives, and increasingly through the former. We believe the policy process should be based on the principles of clarity, efficiency, openness, transparency and evaluation. These principles should be fully enshrined in the level 1-level 2 relationship, which in many cases since the ESAs' inception has not functioned effectively, and would benefit greatly from a more robust quality control framework.

A necessary precondition to ensure that CMU is developed effectively and meaningfully, is that ESMA's, and more generally all ESAs' resource allocations are considerably enhanced in the coming period. However, as the Commission has highlighted in the review of the European System of Financial Supervision[31], there is an important debate about whether the ESAs should be funded from public or private sources. Currently, ESMA is funded 45% from national authorities, 30% from the EU budget and around 25% from fees on supervised entities[32]. We believe that this model of predominantly public funding is appropriate for the foreseeable future. Moreover, it should be noted that although securities supervision in the U.S. is much more highly centralised, key agencies such as the Securities and Exchange Commission and the Commodity Futures Trading Commission remain funded by appropriations from the U.S. Congress, i.e. public funding.

[30] See Jonathan Hill supplementary written answers to MEPs, 6 October 2014.

[31] See Commission report COM(2014) 509 on the operation of the European Supervisory Authorities and the European System of Financial Supervision.

[32] ESMA report on staffing and resources 2014, ESMA/2014/939

ANNEX 1. OVERVIEW OF INITIAL AFME PROPOSALS TO PROMOTE CMU

This table summarises the initial proposals outlined in this paper under each pillar and according to the appropriate form of intervention. Near term priority actions for the next 12 months are highlighted in **bold**. Long-term cross-cutting reforms are shown in *italics*.

	Issuance	Investment	Market infrastructure
Industry action	Securitisation: **initiatives to promote securitisation, with a focus on SME loans** Private placement: **develop standard documents and practices to promote pan-EU market**		Settlement: support implementation of T2S platform, enabling broader EU harmonisation
Review existing EU measures	Securitisation: streamline reporting requirements M&A: review implementation of the Takeovers Directive to reduce obstacles to capital flows Equities: review SME rules in Prospectus Directive and MiFID; reduce research blackout periods	Securitisation: recalibrate regulatory capital for investors (notably Solvency 2) and for bank investment; harmonise risk retention rules Investment research: **recast MiFID proposal in order to maintain research coverage of EU firms, particularly midcaps and SMEs**	Collateral: ensure collateral flow is not constrained by excessive restrictions (e.g. on repo markets, margin rules, insolvency laws)
Action by governments or regulators	Equities: *review tax treatment of SME equity; review withholding taxes on cross-border equity* Securitisation: **embed and recognise a core definition of high quality securitisation** Project finance: **firm Member State support for EU Investment Plan**; public sector commitment on tariffs, regulatory regime and project pipelines	Equities: *review tax treatment of SME equity; withholding taxes on cross-border equity* Investment research: identify incentives for brokers and research providers to widen coverage of SMEs and midcap firms Private placement, project finance: review legal and regulatory impediments to investment in unlisted securities and project finance deals	Market data: open, affordable data access from primary exchanges; develop pan-European Consolidated Tape for post-trade data Settlement: support implementation of T2S platform, enabling broader EU harmonisation
New EU legislation	*Safe harbour regime: explore options for an EU-wide regime to develop key funding markets (e.g. private placement, loans)* *Insolvency reform: examine scope for greater harmonisation of insolvency rules in Europe*	*Safe harbour regime: explore options for an EU-wide regime to develop key funding markets (e.g. private placement, loan funds)* *Insolvency reform: examine scope for greater harmonisation of insolvency rules in Europe*	Collateral: Securities Law Directive to provide certainty of cross-border share and collateral ownership

ANNEX 2. COMPARATIVE DATA ON EU AND U.S. CAPITAL MARKETS

This annex provides a high-level comparison of the depth of EU and U.S. capital markets by examining the balance of bank and capital markets funding and the issuance volumes for key equity and fixed income products. The data provide additional granularity to the broad observation that around 25% of all corporate funding in Europe is provided by the capital markets, compared to around 80% in the U.S. There is a lack of standardised data comparing capital markets in Europe and U.S. As a result, the data provided here are based on a number of different sources and reference periods and do not have a uniform geographic scope.[33]

Overall, the U.S. economy is more reliant than Europe on the capital markets to fund its companies. That trend is consistent over time and across fixed income and equities products. The tables below give a perspective of the European and U.S. issuance of securities and outstanding capital, for specific asset classes.

Debt funding through banks and capital markets

The table below shows the historic totals of outstanding bank and capital markets debt to European companies. The data show that since 2008, the stock of bank lending in Europe has fallen by 10% to €5.4 trillion. This decrease in bank funding has been offset by a €600 billion increase in debt securities to EU firms. As a result, the share of total financing from the debt capital markets increased from 15% to 24% by the end of 2013.

	Stock of debt funding of EU non-financial corporations (€bn)		Share of capital markets financing
	Bank loans	Debt securities	Share of total (%)
2007	5,627	1,099	16.3%
2008	6,026	1,065	15.0%
2009	5,836	1,270	17.9%
2010	5,827	1,328	18.6%
2011	5,883	1,403	19.3%
2012	5,691	1,606	22.0%
2013	5,448	1,701	23.8%

Source: ECB, BIS
Data provided by New Financial

Investment grade corporate bonds

Corporate bonds are investment-grade debt instruments raised by non-financial corporations. In the Eurozone, issuance of corporate bonds has been stable since 2010 but, with a contraction in bank lending over the same period, has provided a growing share of the funding mix.

	Corporate bonds issuance	
	Eurozone (€bn)	U.S. (€bn)
2007	1,382	766
2008	1,209	505
2009	948	630
2010	816	796
2011	750	774
2012	813	1,033
2013	766	1,005
2014 YTD*	529	867

Source: ECB (Eurozone), SIFMA (U.S.)
**Eurozone: as of August 2014, U.S.: as of Sept. 2014*

	Outstanding stock of corporate bonds	
	Eurozone (€bn)	U.S. (€bn)
2007	631	3,564
2008	689	3,865
2009	790	4,138
2010	837	4,897
2011	858	5,058
2012	977	5,331
2013	1,047	5,414
2014 YTD*	1,118	6,040

Source: ECB (Eurozone), SIFMA (U.S.)
**Eurozone: as of August 2014, U.S.: as of Sept. 2014*

High yield bonds

High yield bonds are below investment-grade debt instruments issued by corporations. Data for Europe (in this case covering EMEA) are only provided for 2012 onwards. Overall, issuance volumes are two to three times higher in the U.S. than in Europe.

	High yield bonds issuance	
	Europe (€bn)	U.S. (€bn)
2007	41	92
2008	24	31
2009	41	103
2010	65	198
2011	66	172
2012	83	250
2013	122	244
2014 YTD*	91	196

Source: AFME (data covering EMEA), SIFMA (U.S).
**as of Q2 2014*

	Outstanding high yield bonds	
	Europe (€bn)	US (€bn)
2007		603
2008		663
2009		707
2010		800
2011		833
2012	452	919
2013	571	963
2014 YTD*	619	

Source: SIFMA (Europe), Credit Suisse (U.S.)
**as of Q3 2014*

Leveraged loans

Leverage loans are below-investment grade quality loans which are originated by banks and sold to institutional investors. They are often used to fund acquisitions. Over the past 5 years, European issuance has grown by200% but volumes still remain at around half the U.S. level.

	Leveraged loans issuance	
	Europe (€bn)	US (€bn)
2007	239.7	
2008	91.3	
2009	58.7	91
2010	49.1	163
2011	68.8	127
2012	69.2	213
2013	104.5	196
2014 YTD*	55.6	96

Source: AFME (data covering EMEA), SIFMA (U.S).
**As of September 2014*

Securitisation

Securitisations bundle loans made by banks for assets such as mortgages, car loans and SME lending into securities which are offered to investors. Securitisation volumes in Europe[34] have declined steadily over the past 5 years, whereas the U.S. market[35] has largely recovered.

	Securitisation issuance		
	Europe (€bn)		U.S. (€bn)
	Placed	**Retained**	**Total**
2007	418	175	1,254
2008	106	713	934
2009	25	399	1,359
2010	90	289	1,277
2011	89	287	1,014
2012	86	166	1,550
2013	76	104	1,512
2014 YTD*	52	103	753

*Source: AFME (Europe), SIFMA (U.S). *as of Q3 2014*

	Outstanding stock of securitisations	
	Europe (€bn)	US (€bn)
2007		
2008		
2009	2,289	7,150
2010	2,160	7,373
2011	2,012	7,550
2012	1,731	7,220
2013	1,521	6,822
2014 YTD*	1,406	7,640

Source: AFME, SIFMA
**as of Q1 2014*

[34] Data for 'Europe' cover Austria, Belgium, Finland, France, Germany, Greece, Ireland, Italy, Netherlands, Portugal, Spain, UK, Sweden, Hungary and 4 non-EU members: Russia, Turkey, Iceland and Switzerland.

[35] Data for the U.S. include mortgage-backed securities issues by the three federal agencies.

Listed equity

Listed equities represent all company shares that are exchanged on a trading venue. Equity plays a far larger role in financing the U.S. economy than in Europe: over the past 5 years, U.S. stock market capitalisation has averaged 116% of GDP compared to 69% in Europe. On IPOs, European issuance is close to the U.S. level but volumes of secondary issuance are far lower.

	Initial public offerings (€bn)	
	Europe (€bn)	US (€bn)
2007	79.4	70.4
2008	11	20.1
2009	5.4	18.7
2010	29.3	32.8
2011	26.7	34.5
2012	11.6	45.9
2013	27.6	57.8
2014 YTD*	50.8	73

Source: Dealogic
**as of Q3-2014*

	Market capitalization	
	Europe (€bn)	US (€bn)
2007	12,889	13,362
2008	7,745	8,187
2009	8,822	10,527
2010	10,259	12,951
2011	9,124	11,969
2012	9,459	14,134
2013	11,533	17,464
2014 YTD*	11,848	20,064

Source: World Federation of Exchanges
**as of September 2014*

ANNEX 3. OVERVIEW OF EU LEGISLATIVE BASE FOR THE CAPITAL MARKETS

Overview

The tables on the following pages attempt to summarise the relevant EU legislative base for capital markets activity, understood in a broad sense. For example, certain EU laws on banking and insurance are included because of their importance in establishing the operational framework for banks and insurers as major players in Europe's capital markets.

The legislative overview is divided into seven sets of tables, relating to the following aspects of EU financial services law: (i) securities; (ii) investment; (iii) market infrastructure; (iv) banking; (v) insurance; (vi) company law, accounting and audit; and (vii) the general regulatory framework.

The legislative measures contained in the tables are typically directives (which are transposed into national law) or regulations (which have direct effect). For each measure, the name and legislative reference is provided, along with the summary of objectives given in EUR-Lex.

A number of measures could fit under two or more headings. Where this is the case we have chosen the best fit. For brevity, implementing and delegated regulations (notably those related to CRD4, EMIR or AIFMD) have not been included. The measures in this list have been compiled from a range of public sources but should not be seen as providing an exhaustive overview. Moreover, large parts of the legislative base for capital markets business in Europe are national and hence not described here.

Key findings

Among the main points which can be drawn from this high-level survey of EU legislation linked to the capital markets are that:

- liberalisation is a longstanding goal of EU policy in banking and insurance, while initiatives in securities and investment occurred much later;
- the EU has undertaken an extensive legislative programme in company law and in related areas including accounting, audit and credit rating;
- with the advent of the Single Market Act the EU made major reforms to liberalise capital movements and remove barriers to establishment;
- on securities, the historic focus of EU legislation has been on listing, prospectus requirements and market abuse;
- in the area of investment business, the main focus of legislation has been on developing the UCITS framework;
- the broad 'rulebook' approach pursued in MiFID, EMIR and AIFMD is relatively new, as is the use of regulations as opposed to directives; and
- the development of a pan-European component to supervision has been recent and fairly gradual, with the first steps taken following the Lamfalussy report.

1. Securities

YEAR	REFERENCE	NAME	SCOPE / OBJECTIVES
1979	Directive 79/279/EEC	Admissions Directive	Coordinating the conditions for the admission of securities to official stock exchange listing
1980	Directive 80/390/EEC	Directive Coordinating the Requirements of the Listing Particulars to Be Published for the Admission of Securities to Official Stock Exchange Listing	Coordinating the requirements for the drawing up, scrutiny and distribution of the listing particulars to be published for the admission of securities to official stock exchange listing
1989	Directive 89/298/EEC	Public Offers Directive	Coordinating the requirements for the drawing-up, scrutiny and distribution of the prospectus to be published when transferable securities are offered to the public
1989	Directive 89/592/EEC	Insider Dealing Directive	Coordinating regulations on insider dealing
1990	Directive 90/211/EEC	Directive 90/211/EEC	Mutual recognition of public-offer prospectuses as stock-exchange listing particulars
1990	Directive 90/434/EEC	Council Directive 90/434/EEC	Common system of taxation applicable to mergers, divisions, transfers of assets and exchanges of shares concerning companies of different Member States
2001	Directive 2001/34/EC	Consolidated Admissions and Reporting Directive	Admission of securities to official stock exchange listing and on information to be published on those securities.
2003	Directive 2003/124/EC	Market Abuse Implementing Directive	Definition and public disclosure of inside information and the definition of market manipulation
2003	Directive 2003/6/EC	Directive on insider dealing and market manipulation (market abuse) MAD.	Measures to combat market manipulation.
2003	Directive 2003/71/EC	Directive 2003/71/EC	Harmonise the requirements for the drawing up, approval and distribution of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market situated or operating within a Member State. Directive the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC.
2003	Regulation 2273/2003	Stabilisation Regulation	Exemptions for buy-back programmes and stabilisation of financial instruments
2004	Directive 2004/109/EC	Transparency Directive	Harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC
2004	Directive 2004/39/EC	Directive on markets in financial instruments (MiFID)	On markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC
2004	Regulation 809/2004	Regulation (EC) No. 809/2004	Information contained in prospectuses as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements
2006	Directive 2006/73/EC	MiFID Implementing Directive	Organisational requirements and operating conditions for investment firms and defined terms for MiFID
2006	Regulation 1287/2006	MiFID Regulation	Recordkeeping obligations for investment firms, transaction reporting, market transparency, admission of financial instruments to trading, and defined terms for the purposes of MiFID
2007	Directive 2007/14/EC	Commission Directive 2007/14/EC	Detailed rules for the implementation of certain provisions on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market

1. Securities (continued)

YEAR	REFERENCE	NAME	SCOPE / OBJECTIVES
2007	Directive 2007/36/EC	Shareholders' Rights Directive	Regulating the exercise of certain rights of shareholders in listed companies
2007	Directive 2007/44/EC	Merger and Acquisition in the Financial Sector Directive	Procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector
2007	Regulation 1569/2007	Commission Regulation (EC) No 1569/2007	Establishing a mechanism for the determination of equivalence of accounting standards applied by third country issuers of securities
2007	Regulation 211/2007	Commission Regulation (EC) No 211/2007	Financial information in prospectuses where the issuer has a complex financial history or has made a significant financial commitment
2008	Directive 2008/22/EC	Directive 2008/22/EC	Harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market, as regards the implementing powers conferred on the Commission
2008	Regulation 1289/2008	Commission Regulation (EC) No. 1289/2008	Elements related to prospectuses and advertisements, equivalence of third country GAAPs
2009	Directive 2009/101/EC	Directive 2009/101/EC	Coordination of safeguards which, for the protection of the interests of members and third parties, are required by Member States of companies within the meaning of the second paragraph of Article 48 of the Treaty
2009	Directive 2009/133/EC	Council Directive 2009/133/EC	Common system of taxation applicable to mergers, divisions, partial divisions, transfers of assets and exchanges of shares concerning companies of different Member States and to the transfer of the registered office of an SE or SCE between Member States
2010	Directive 2010/73/EU	Directive 2010/73/EU	Prospectus to be published when securities are offered to the public or admitted to trading and 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market
2012	Directive 2012/17/EU	Directive 2012/17/EU	Interconnection of central, commercial and companies registers Text with EEA relevance
2012	Regulation 236/2012	Regulation (EU) No 236/2012	Short Selling and certain aspects of Credit Default Swaps
2013	Directive 2013/50/EU	Directive 2013/50/EU	Transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market
2014	Directive 2014/57/EU	Market Abuse Directive - MAD	Criminal sanctions for market abuse (market abuse directive)
2014	Regulation 600/2014	MIFID II Regulation	Markets in financial instruments
2014	Directive 2014/65/EU	MIFID II Directive	Markets in financial instruments

2. Investment business

YEAR	REFERENCE	NAME	SCOPE / OBJECTIVES
1985	Directive 85/611/EEC	Undertakings for Collective Investment in Transferable Securities - UCITS	Coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS).
1993	Directive 93/22/EEC	Directive on investment services in the securities field. (ISD)	Achievement of the internal market from the point of view both of the right of establishment and of the freedom to provide financial services, in the field of investment firms.
1995	Directive 95/26/EC	Directive 95/26/EC	Undertakings for collective investment in transferable securities (Ucits), with a view to reinforcing prudential supervision
1997	Directive 97/9/EC	Investor Compensation Directive	Investor-compensation schemes
2001	Directive 2001/107/EC	UCITS III (Management)	Coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) with a view to regulating management companies and simplified prospectuses
2001	Directive 2001/108/EC	UCITS III (Product)	Coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS), with regard to investments of UCITS
2003	Directive 2003/125/EC	Directive 2003/125/EC	Fair presentation of investment recommendations and the disclosure of conflicts of interest
2003	Directive 2003/41/EC	Institutions for Occupational Retirement Provision Directive - IORPs	Make occupational pension funds in the EU benefit from the principles of free movement of capital and free provision of services
2003	Directive 2003/48/EC	Directive 2003/48/EC	Taxation of savings income in the form of interest payments
2007	Directive 2007/16/EC	Commission Directive 2007/16/EC	Coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) as regards the clarification of certain definitions
2009	Directive 2009/14/EC	Directive 2009/14/EC	Deposit-guarantee schemes as regards the coverage level and the payout delay
2009	Directive 2009/65/EC	Undertakings for Collective Investment in Transferable Securities IV - UCITS IV	Coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS)
2010	Directive 2010/42/EU	Commission Directive 2010/42/EU	Provisions concerning fund mergers, master-feeder structures and notification procedure
2010	Directive 2010/43/EU	Commission Directive 2010/43/EU	Organisational requirements, conflicts of interest, conduct of business, risk management and content of the agreement between a depositary and a management company
2010	Regulation 583/2010	Commission Regulation 583/2010	Key investor information and conditions to be met when providing key investor information or the prospectus in a durable medium other than paper or by means of a website
2011	Directive 2011/61/EU	Alternative Investment Fund Managers Directive - AIFMD	Creating a harmonised regulatory and supervisory framework for alternative investment fund managers Add summary of AIFMD Implementing Regulations
2013	Regulation 345/2013	European Venture Capital Funds	European venture capital funds
2013	Regulation 346/2013	Social Entrepreneurship Funds	European social entrepreneurship funds
2014	Directive 2014/91/EU	UCITS V	Coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) as regards depositary functions, remuneration policies and sanctions

3. Market infrastructure

YEAR	REFERENCE	NAME	SCOPE / OBJECTIVES
1997	Directive 97/5/CE	Directive 97/5/CE	Establishing minimum information and performance requirements for cross-border credit transfers
1998	Directive 98/26/EC	Settlement Finality Directive	Reducing the systemic risk associated with participation in payment and securities settlement systems
2000	Directive 2000/46/EC	E-Money Directive	Taking up, pursuit of and prudential supervision of the business of electronic money institutions
2001	Regulation 2560/2001	Regulation on Cross-border Payments	Laying down rules on cross-border payments in euro in order to ensure that charges for those payments are the same as those for payments in euro within a Member State (up to €50,000).
2002	Directive 2002/47/EC	Financial Collateral Directive	Introduction of a Community framework to reduce credit exposure in financial collateral arrangements.
2002	Regulation 332/2002	Council Regulation (EC) No 332/2002	Establishing a facility providing medium-term financial assistance for Member States' balances of payments
2004	Directive 2004/72/EC	Directive 2004/72/EC	Accepted market practices, definition of inside information, lists of insiders, managers' transactions and notification of suspicious transactions
2006	Regulation 1781/2006	Payer Information Regulation	Information on the payer accompanying transfers of funds
2007	Directive 2007/64/EC	Directive 2007/64/EC	Payment services in the internal market
2009	Directive 2009/110/EC	Directive 2009/110/EC	Taking up, pursuit and prudential supervision of the business of electronic money institutions amending
2009	Directive 2009/44/EC	Directive 2009/44/EC	Settlement finality in payment and securities settlement systems
2009	Regulation 1060/2009	Credit Rating Agencies II - CRAs II	Improving the process of issuance of credit ratings
2009	Regulation 924/2009	Regulation (EU) No 924/2009	Cross-border payments in the Community
2011	Regulation 513/2011	Regulation (EU) No 513/2011	Credit rating agencies
2012	Regulation 260/2012	Regulation (EU) No 260/2012	Establishing technical and business requirements for credit transfers and direct debits in euro
2012	Regulation 272/2012	Regulation (EU) No 272/2012	Fees charged by the European Securities and Markets Authority to credit rating agencies
2012	Regulation 648/2012	European Market Infrastructure Regulation (EMIR)	OTC derivatives, central counterparties and trade repositories – EMIR
2014	Directive 2014/92/EU	Directive 2014/92/EU	Comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features
2014	Regulation 596/2014	Market Abuse Regulation - MAR	Market abuse (market abuse regulation)
2014	Regulation 909/2014	Regulation (EU) No 909/2014	Improving securities settlement in the European Union and on central securities depositories

4. Banking

YEAR	REFERENCE	NAME	SCOPE / OBJECTIVES
1973	Directive 73/183/EEC	Directive on the Freedom of Establishment for Credit Institutions	Abolition of restrictions on freedom of establishment and freedom to provide services in respect of self-employed activities of banks and other financial institutions
1977	Directive 77/780/EEC	First Banking Directive	Coordination of the laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions
1986	Directive 86/635/EEC	Council Directive 86/635/EEC	Coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions, having many different legal forms, are in competition with one another in the banking sector.
1989	Directive 89/299/EEC	Own Funds Directive	Own funds of credit institutions
1989	Directive 89/646/EEC	Second Banking Directive	Coordination of the laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions
1989	Directive 89/647/EEC	Insolvency Ratio Directive	Solvency ratio for credit institutions
1992	Directive 92/30/EEC	Second Consolidated Supervision Directive	Supervision of credit institutions on a consolidated basis
1993	Directive 93/6/EEC	Capital Adequacy Directive	Setting capital adequacy of investments firms and credit institutions
1994	Directive 94/19/EC	Deposit-guarantee Schemes Directive - DGS	Setting deposit-guarantee schemes. Protect a part of depositors' wealth from bank failures, and thus to prevent depositors from making panic withdrawals from their bank with potentially economic consequences.
1998	Directive 98/31/EC	Directive 98/31/EC	Requirements on credit institutions and investment firms (often referred to electively as 'banks') with respect to market risk and other trading book-related risks.
2000	Directive 2000/12/EC	Banking Directive	Taking up and pursuit of the business of credit institutions.
2000	Directive 2000/28/EC	Directive 2000/28/EC	Taking up and pursuit of the business of credit institutions
2001	Directive 2001/24/EC	Directive on the reorganisation and winding up of credit institutions	Setting out the applicable reorganisation measures and the framework process for winding-up of credit institutions
2001	Directive 2001/65/EC	Directive 2001/65/EC	Valuation rules for the annual and consolidated accounts of certain types of companies as well as of banks and other financial institutions.
2003	Directive 2003/51/EC	Directive 2003/51/EC	Amendment on annual and consolidated accounts of certain types of companies, banks and other financial institutions and insurance undertakings
2004	Decision 2004/10/EC	Decision 2004/10/EC	Establishing the European Banking Committee
2006	Directive 2006/46/EC	Directive 2006/46/EC	Annual and consolidated accounts of credit institutions, insurance undertakings and other financial institutions
2006	Directive 2006/48/EC	Banking Consolidation Directive	Taking up and pursuit of the business of credit institutions
2006	Directive 2006/49/EC	Capital Requirements Directive – CRD	Capital adequacy of investment firms and credit institutions
2008	Directive 2008/25/EC	Directive 2008/25/EC	Supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate, as regards the implementing powers conferred on the Commission

4. **Banking** (continued)

YEAR	REFERENCE	NAME	SCOPE / OBJECTIVES
2009	Directive 2009/111/EC	Capital Requirements Directive II	Banks affiliated to central institutions, certain own funds items, large exposures, supervision and crisis management
2010	Directive 2010/76/EU	Capital Requirements Directive III - CRD III	Capital requirements for the trading book and for re-securitisations, and the supervisory review of remuneration policies
2011	Directive 2011/89/EU	Directive 2011/89/EU	Supplementary supervision of financial entities in a financial conglomerate
2013	Directive 2013/36/EU	Capital Requirements Directive – CRD IV	Access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms
2013	Regulation 575/2013	Capital Requirement Regulation	Prudential requirements for credit institutions and investment firms
2014	Directive 2014/49/EU	Deposit-guarantee Schemes Directive III - DGS III	Deposit guarantee schemes (recast)
2014	Directive 2014/59/EU	Bank Recovery and Resolution Directive	Establishing a framework for the recovery and resolution of credit institutions and investment firms
2014	Regulation 806/2014	Regulation (EU) No 806/2014	Establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund

5. Insurance

YEAR	REFERENCE	NAME	SCOPE / OBJECTIVES
1964	Directive 64/225/EEC	Reinsurance Directive	Liberalisation of all sectors of re-insurance business, with respect both to establishment and the provision of services
1973	Directive 73/239/EEC	First Non-Life Insurance Directive	Coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance
1973	Directive 73/240/EEC	Council Directive 73/240/EEC	Abolishing restrictions on freedom of establishment in the business of direct insurance other than life assurance
1976	Directive 76/580/EEC	Directive on the Freedom of Establishment in Direct Insurance	Coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance
1976	Directive 77/92/EEC	Insurance Agents and Brokers Directive	Measures to facilitate the effective exercise of freedom of establishment and freedom to provide services in respect of activities of insurance agents and brokers and, in particular, transitional measures in respect of those activities
1978	Directive 78/473/EEC	Co-insurance Directive	Coordination of laws, regulations and administrative provisions relating to Community co-insurance
1979	Directive 79/267/EEC	Coordinating Directive on Direct Life Insurance	Coordination of laws, regulations and administrative provisions relating to the business of direct life assurance
1984	Directive 84/641/EEC	Council Directive 84/641/EEC	Coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance
1987	Directive 87/343/EEC	Council Directive 87/343/EEC	Credit insurance and suretyship insurance
1988	Directive 88/357/EEC	Second Non-Life Insurance Directive	Coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance
1990	Directive 90/619/EEC	Second Life Insurance Directive	Coordination of laws, regulations and administrative provisions relating to direct life assurance, laying down provisions to facilitate the effective exercise of freedom to provide services
1991	Directive 91/674/EEC	Insurance Accounts Directive	Provision for the same layout and the same item headings for the balance sheets of all Community insurance companies in order to ensure comparability.
1991	Directive 91/675/EEC	Council Directive 91/675/EEC	Setting up an insurance committee
1992	Directive 92/49/EEC	Third Non-Life Directive	Coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance
1992	Directive 92/96/EEC	Third Life Insurance Directive	Coordination of laws, regulations and administrative provisions relating to direct life assurance
1992	Regulation 3932/92	Insurance Block Exemption Regulation (former)	Application of Article 85 (3) of the Treaty to certain categories of agreements, decisions and concerted practices in the insurance sector
1998	Directive 98/78/EC	Insurance Groups Directive	Supplementary supervision of insurance undertakings in an insurance group
2001	Directive 2001/17/EC	Reorganisation and winding-up of insurance undertakings	Setting out the applicable reorganisation measures and the framework process for winding-up undertakings

5. Insurance (continued)

YEAR	REFERENCE	NAME	SCOPE / OBJECTIVES
2002	Regulation 1/2003	Business Insurance Regulation	Implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty
2002	Directive 2002/12/EC	Solvency I	Solvency margin requirements for life assurance undertakings
2002	Directive 2002/13/EC	Solvency I	Non-life undertakings and adjustments to the issue of solvency margins.
2002	Directive 2002/83/EC	Consolidated Life Directive	Governing establishment and conduct of life assurance including the provision of services in other Member States
2002	Directive 2002/92/EC	Directive 2002/92/EC	Insurance mediation
2003	Regulation 358/2003	Block Exemption Regulation	Application of Article 81(3) to certain categories of agreements, decisions and concerted practices in insurance sector
2005	Directive 2005/68/EC	Reinsurance Directive	Reinsurance
2009	Directive 2009/138/EC	Solvency II Framework	Taking-up and pursuit of the business of Insurance and Reinsurance

6. Company law, accounting and audit

YEAR	REFERENCE	NAME	SCOPE / OBJECTIVES
1968	Directive 68/151/EEC	First Company Law Directive	Co-ordination of safeguards which are required by Member States of companies within the meaning of the second paragraph of Article 58 of the Treaty, with a view to making such safeguards equivalent throughout the Community
1977	Directive 77/91/EEC	Council Directive 77/91/EEC	Coordination of safeguards which are required by Member States of companies, in respect of the formation of public limited liability companies and the maintenance and alteration of their capital
1978	Directive 78/660/EEC	Fourth Company Law Directive	Coordination of Member States' provisions concerning the presentation and content of annual accounts and annual reports, the valuation methods used and their publication in respect of all companies with limited liability.
1978	Directive 78/855/EEC	Third Council Directive	Mergers of public limited liability companies
1982	Directive 82/121/EEC	Regular Information Directive	Information to be published on a regular basis by companies the shares of which have been admitted to official stock-exchange listing
1982	Directive 82/891/EC	Sixth Council Directive	Division of public limited liability companies
1983	Directive 83/349/EEC	Seventh Company Law Directive	Coordination of national laws on consolidated accounts (Article 54 (3) (g) of the Treaty)
1984	Directive 84/253/EEC	Eighth Company Law Directive	Approval of persons responsible for carrying out the statutory audits of accounting documents
1985	Regulation 2137/85	Council Regulation (EEC)	European Economic Interest Grouping (EEIG)
1988	Directive 88/627/EEC	Acquisition of Major Shareholdings Directive	Information to be published when a major holding in a listed company is acquired or disposed of
1989	Directive 89/666/EEC	Eleventh Council Directive	Disclosure requirements in respect of branches opened in a Member State by certain types of company governed by the law of another State
1989	Directive 89/667/EEC	Twelfth Council Company Law Directive	Single-member private limited-liability companies
2001	Directive 2001/86/EC	Directive 2001/86/EC	Supplementing the Statute for a European company with regard to the involvement of employees
2001	Regulation 2157/2001	SE Regulation	Creation of a "European company" with its own legislative framework.
2002	Regulation 1606/2002	International Accounting Standards Regulation - IAS	Regulation on the application of international accounting standards for the consolidated accounts of the EU listed companies.
2003	Directive 2003/58/EC	Directive 2003/58/EC	Disclosure requirements in respect of certain types of companies
2003	Regulation 1435/2003	Council Regulation (EC) No 1435/2003	Statute for a European Cooperative Society (SCE)
2004	Directive 2004/25/EC	Takeovers Bid Directive	European company law's treatment of mergers and acquisitions
2005	Directive 2005/56/EC	10th Company Law Directive on Cross-Border Mergers	Facilitating cross-border mergers between limited liability companies in the European Union (EU)

6. Company law, accounting and audit (continued)

YEAR	REFERENCE	NAME	SCOPE / OBJECTIVES
2006	Directive 2006/43/EC	Statutory Audit Directive	Statutory audits of annual accounts and consolidated accounts
2006	Directive 2006/68/EC	Directive 2006/68/EC	Formation of public limited liability companies and the maintenance and alteration of their capital
2007	Directive 2007/63/EC	Directive 2007/63/EC	Requirement of an independent expert's report on the occasion of merger or division of public limited liability companies
2008	Directive 2008/30/EC	Directive 2008/30/EC	Statutory audits of annual and consolidated accounts, as regards implementing powers conferred on the Commission.
2008	Regulation 1126/2008	Regulation (EC) No 1126/2008	Adopting certain international accounting standards
2009	Directive 2009/102/EC	Directive 2009/102/EC	Company law on single-member private limited liability companies
2009	Directive 2009/109/EC	Directive 2009/109/EC	Reporting and documentation requirements in the case of mergers and divisions
2011	Directive 2011/35/EC	Directive 2011/35/EC	Mergers of public limited liability companies Text with EEA relevance
2012	Directive 2012/30/EU	Second Company Law Directive	Coordination of safeguards which, for the protection of the interests of members and others, are required by Member States in respect of the formation of public limited liability companies and the maintenance and alteration of their capital, with a view to making such safeguards equivalent
2013	Directive 2013/34/EU	Directive 2013/34/EU	Annual financial statements, consolidated financial statements and related reports of certain types of undertakings
2013	Regulation 1174/2013	Commission Regulation (EU) No 1174/2013	Adopting certain international accounting standards
2014	Directive 2014/56/EU	Directive 2014/56/EU	Statutory audits of annual and consolidated accounts
2014	Regulation 537/2014	Regulation (EU) No 537/2014	Specific requirements regarding statutory audit of public interest
2014	Regulation 634/2014	Commission Regulation 634/2014	Adopting certain international accounting standards

7. General regulatory framework

YEAR	REFERENCE	NAME	SCOPE / OBJECTIVES
1957		Treaty of Rome	Foundation of the European Economic Community
1983	COM(83) 207	Commission White Paper on Financial Integration	Full liberalisation of capital movements, integration of financial services
1986		Single European Act	Set the European Community an objective of establishing a Single Market
1988	Directive 88/361/EEC	Council Directive on the Liberation of Capital Movements	Implementing Freedom of Capital Resources Movement. Implementation of the Article 67 of the Treaty.
1992		Treaty on the European Union (Maastricht Treaty)	Creation of the single European currency, the euro, and of the pillar structure of the European Union
1999	FSAP	Financial Services Action Plan	Proposal of policy objectives and specific measures for improving the Single Market in financial services
2001	Decision 2001/527/EC	Lamfalussy	Establishing the Committee of European Securities Regulators
2001	Decision 2001/528/EC	Decision 2001/528/EC	Establishing the European Securities Committee
2002	Directive 2002/87/EC	Financial Conglomerates Directive FICOD	Supervision of the conglomerate closer coordination between the supervisory authorities for the individual sectors and the exchange of information between them.
2003	Decision 2004/9/EC	Commission Decision 2004/9/EC	Establishing the European Insurance and Occupational Pensions Committee
2004	Decision 2004/6/EC	Commission Decision 2004/6/EC	Establishing the Committee of European Insurance and Occupational Pensions Supervisors
2004	Decision 2004/7/EC	Commission Decision 2004/7/EC	Establishing the Committee of European Securities Regulators
2005	Directive 2005/1/EC	Directive 2005/1/EC	Establishing a new organisational structure for financial services committees
2010	Directive 2010/78/EU	Directive 2010/78/EU	Powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority)
2010	Regulation 1092/2010	Regulation 1092/2010	On macro-prudential oversight of the EU financial system and establishing a European Systemic Risk Board
2010	Regulation 1093/2010	Regulation 1093/2010	Establishing a European Supervisory Authority (European Banking Authority)
2010	Regulation 1094/2010	Regulation 1094/2010	Establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority)
2010	Regulation 1095/2010	Regulation 1095/2010	Establishing a European Supervisory Authority (European Securities and Markets Authority)
2010	Regulation 1096/2010	Council Regulation 1096/2010	Conferring specific tasks upon the ECB concerning the functioning of the European Systemic Risk Board
2011	Regulation 513/2011	Regulation 513/2011	Establishing a European System of Financial Supervisors, Establishing a European Systemic Risk Board
2013	Regulation 1022/2013	Council Regulation 1022/2013	Conferral of specific tasks on the European Central Bank pursuant to Council Regulation (EU) No 1024/2013
2013	Regulation 1024/2013	Council Regulation 1024/2013	Conferring specific tasks on the ECB concerning policies relating to prudential supervision of credit institutions

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