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Regulatory Affairs in Europe

EP adopts Commission proposal raising guarantees on bank deposits

In a move to help restore trust and confidence in financial markets, the European Parliament on 18 December 2008 endorsed the Commission's proposal tabled in mid-October to raise the minimum amount of protected bank deposits to €100,000 by 31 December 2010. Considering the current coverage level of €20,000 (with the option for Member States to determine higher levels) "not adequate for a large number of deposits in the Community", the measure was approved by 556 to 21 votes (with three abstentions) in Strasbourg.

A first step will lift the ceiling of guaranteed deposits to €50,000 in June 2009, when the proposed legislation is expected to enter into force. If the Commission impact assessment (to be submitted to the European Parliament and the Council by 30 December 2009) concludes that a further increase is "appropriate" and "financially viable for all Member States in order to ensure consumer protection and financial market stability", the level will be raised to the proposed €100,000.

Deposit guarantee schemes are currently regulated by Directive 1994/19/EC (which has remained unchanged over the last 14 years) and attempt to avoid bank runs and their economic consequences. The bank run experienced by Northern Rock in September of 2007 and the current financial turmoil have brought the issue of insuring bank deposits back into the spotlight.

In addition, lawmakers agreed to substantially cut the reimbursement periods to a maximum of 30 working days (20 days plus a potential 10-day extension in exceptional cases), down from as long as 9 months under the current legislation. The European Commission had initially proposed a repayment period of 3 days. In view of the fact that some consumers are still waiting for payouts of deposits made in Icelandic banks, such a move seems to be overdue and may well contribute to re-establishing trust in financial services.

MEP Christian Ehler, rapporteur for the Parliament's report, commented that "in the future, 90% of the savings in the European Union will be safe".

Download the report and get more information at <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P6-TA-2008-0630&language=EN>

Draft report on E-Money Directive published

As of August 2007, a sum of €637 billion of cash was in circulation. In contrast, the outstanding amount of only €1 billion in electronic or e-money is, according to EU policy-makers, “unsatisfactorily low” and e-money itself has not yet become “a credible alternative to cash”.

With the aim of enhancing competition within the (developing) single market for e-money, John Purvis, Vice-Chairman of the European Parliament’s Committee on Economic and Monetary Affairs (ECON), published his draft report on 17 November 2008, on the Commission’s proposal to review the directive of the European Parliament and of the Council on the taking up, pursuit and prudential supervision of the business of electronic money institutions, the E-Money Directive. The rapporteur stated that “with the adoption of the Payment Services Directive (PSD) 2007/46/EC, which has modernized the regulation of payment systems, it makes sense to update the regulation of e-money services too”.

In the explanatory statements of the draft report, Mr Purvis welcomed the Commission’s proposal to “automatically and specifically exempt[s] certain types of e-money institutions” from the E-Money Directive, under certain conditions. Taking some discretion away from the Member States – several of which are currently choosing not to apply the waiver and “thus hampering new technological developments in the area” – would help move the directive from minimum to maximum harmonisation. He added that the set of provisions for the “de minimis waiver from the old/current e-money directive is more suited”, basing it on the money held by the institution rather than on the size of the institution.

Elaborating on the issue of initial capital requirements, the rapporteur voiced his support of implementing a “more reasonable” level of €125,000 (down from €1 million), consistent with the provision of the PSD. This will in his view lead to enhanced innovation and a more level playing field for e-money institutions. Fellow ECON members, however, consider these levels as “far too low”, proposing changes to the report which would require e-money institutions to hold a minimum of €200,000 to €250,000.

As regards the ongoing capital requirements, Mr Purvis expressed his concern that the Commission’s proposal would unduly penalise the smallest firms with the highest levels of marginal cost of capital due to the “graded” nature of the provisions. Instead, he suggests that own funds calculated under the so-called ‘method D’ for institutions regulated by the directive should amount to at least a flat 1.5% of outstanding electronic money, with a “carve-out for mobile phone companies that are unable to calculate ‘float’ due to the fact that customers’ pre-paid accounts can be used for both phone-related services as well as e-money”. He justifies his amendments by referring to different character of e-money from payment services and the fact that the calculation methods used by the Commission had not been subject to an impact assessment.

In addition, Mr Purvis stated that despite his preference for giving consumers the right to redeem their funds “at any time with no charge”, he would accept the right of parties to agree a contract including redemption conditions and fees, provided that there are detailed statements of fees and explicit consent by the user.

A vote on the draft report in the Committee is scheduled to take place on 11 February 2009.

Download the full text of Mr Purvis’ draft report at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+COMPARL+PE-415.201+01+DOC+PDF+V0//EN&language=EN>

EP adopts report on financial education

With the aim of increasing consumer protection in financial services and financial education, the European Parliament adopted a “Report on protecting the consumer: improving consumer education and awareness on credit and finance” (2007/2288(INI) on 18 November 2008.

As stated in the report, the issue of financial education had to be raised for two reasons: 1) consumers are confronted with financial services of increasing complexity, and 2) consumer information cannot keep up with the level of complexity. Both points have potentially increased the vulnerability of the consumer. One significant problem, according to the report, is the lack of financial knowledge and the necessary skills among consumers to evaluate products and services, hence leading to poor decisions. Rapporteur Iliana Iotova also expressed concern about the phenomenon of young people incurring debt through online purchases without their parents’ knowledge.

The report outlines a differentiated approach of financial education and financial information in order to tackle the problem. For the first part, financial education should be practical and take into account consumers’ needs. Further educational schemes should be provided, as has already been done by the European Commission, developed at the European level with the support of national stakeholders. Financial education should start as early as in primary school and be included in the education curriculum as well. Regarding the second point of the approach, financial information, it is important to have it presented in such a manner that the consumer can process it. If consumers are burdened with too much information, they may not be able to filter it and, as a consequence, take the wrong financial decision.

The report is a ‘non-legislative resolution’, meaning that it has no legal implications for EU jurisdiction but can be understood as an expression of the EP’s point of view. It is to be forwarded to the Council, the Commission and the governments of the Member States for further discussion.

Download the report and get more information at <http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A6-2008-0393&language=EN#title4>

ECON Committee publishes draft report on cross-border payments

In the future, EU citizens may be able to pay for goods or services purchased abroad by means of direct debit from their home country account – a financial service that is currently not available to consumers. In addition, charges for such cross-border direct debits will be the same as for domestic direct debits, once Regulation 2560/2001 will have been successfully modified.

On 18 November 2008, Margarita Starkevičiute, Member of the European Parliament's Committee on Economic and Monetary Affairs (ECON), circulated her draft report on the Commission's proposal on Regulation 2560/2001 on cross-border payments in the Community.

A reading of the document reveals that the MEP welcomes the proposal and feels a need to align the regulation's wording with the Payment Services Directive (2007/64/EC). She introduces only minor changes, with a view to:

- Further clarifying certain definitions and the notion of corresponding payments;
- Ensuring that competent national authorities are required to effectively monitor the Regulation and compliance herewith; and
- Setting out further details about how competent authorities and out-of court redress bodies of different Member States could efficiently cooperate.

As a background, the European Commission tabled a proposal on 13 October 2008 to modify Regulation (EC) No 2560/2001 on cross-border payments. The proposal's main objective is to extend the application of the "principle of equal charges for cross-border and corresponding domestic payments" in order to also include means of payment not falling under the scope of the current regulation, such as direct debits. The use of this popular payment instrument, currently not yet available on a cross-border basis, is envisaged to be enhanced by the implementation of the SEPA direct debit scheme by November 2009.

If adopted by the European Parliament and the Council, the proposal would replace the existing regulation by November 2009, together with the deadline for the transposition of the PSD.

Download the full text of Ms Starkevičiute's draft report at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+COMPARL+PE-415.203+01+DOC+PDF+V0//EN&language=EN>

Developments in Europe and the US

Moving towards a new world financial system

On 15 November 2008, the leaders of the 20 largest developed and emerging economies in the world gathered in Washington to "lay the foundation for reform to help ensure that a global crisis, such as this one, does not happen again." Aiming at implementing a list of "high priority actions" before 31 March 2009, the participants committed to an open global economy, recognising that the success of the proposed reforms and the resumption of economic growth were dependent on free trade and capital flows, competitive markets and efficiently regulated financial systems.

Responsible for drawing up concrete measures to implement the proposals, the nations' finance ministers will work to transpose the five common principles agreed upon during the summit by the spring of next year in order to make financial markets more resilient to potential future crises. These measures include the promotion of integrity in financial markets and a reform of international financial institutions.

In order to strengthen transparency and accountability, banks and other market participants will be required to ensure a "complete and accurate disclosure" of their financial conditions as well as complex financial products offered. In addition, measures to avoid excessive risk-taking will be implemented.

Aiming at appropriately regulating and overseeing "all financial markets, products and participants", the G20 nations agreed to include credit rating agencies, which are often blamed for playing a significant role in the emergence of the current financial turmoil by issuing overly positive ratings for dubious and complex financial products. According to the declaration, steps will be taken to "ensure that credit rating agencies have the right incentives and appropriate oversight" to provide "unbiased information" and avoid conflicts of interest. The establishment of supervisory colleges and proposed regular meetings with the world's major banks, discussing their activities and involved risks, is considered necessary to "strengthen the surveillance of cross-border firms".

The next meeting of the group is scheduled to take place before the end of April 2009, when the implementation of the discussed principles and actions taken are to be reviewed, most probably in London.

Download the official declaration at http://www.ue2008.fr/webdav/site/PFUE/shared/import/1115_sommet_cri_se_financiere/declaration_washington_en.pdf

EBIC initiates regulation for switching accounts



[European Banking Industry Committee](http://www.eubic.org)

As announced on 1 December 2008, the European Banking Industry Committee (EBIC) has published an initiative for self-regulation on personal bank account switching. The proposed guidelines aim at smoothing the procedure for consumers to switch accounts from one bank to another in the same Member State, thereby facilitating consumers' mobility on the national level.

Several EU countries, such as Ireland and the Netherlands, already have codes of conduct for personal account switching in place (see "ECRI Survey and Database of Banking Codes of Conduct", referenced below, for more information). As stated by the EBIC, this initiative is compatible with the existing guidelines and with the market conditions in the 27 Member States as well.

Among the main points of the EBIC's Common Principles is the proposal that the new bank should serve as the contact point and assist the customer in switching accounts. The new and former banks commit to provide complete and clear information to the consumer. Additionally, the pricing structure, in case any fees are charged, should be transparent. It is aimed to implement the guidelines by November 2009.

The European Commission has welcomed the EBIC's initiative on the grounds that it is likely to increase competition in retail banking markets, resulting in benefits to consumers.

Download the Common Principles at <http://www.eubic.org/Position%20papers/2008.12.01%20Common%20Principles.pdf>

Access the ECRI Survey and Database of Banking Codes of Conduct at www.ecri.eu

Notable Events

ECRI seminar on PSD and SEPA



M. Temmerman, J. Bott, K. Lannoo, M. Malaguti and H. Schmiedel

The transposition of the Payment Services Directive (PSD) into national legislation and the ongoing work on the Single Euro Payments Area (SEPA) were the subjects of debate at an ECRI seminar on 5 November 2008, co-sponsored by Visa Europe. Papers had been commissioned

from Professors Maria Chiara Malaguti (University of Salento) and Jürgen Bott (University of Applied Sciences of Kaiserslautern), whose work formed the basis for discussion.

In his introductory remarks, CEPS CEO Karel Lannoo pointed out that the importance of addressing the topic had not diminished during the financial crisis due to the re-focusing of financial institutions on the retail side of their business and the estimated huge benefits that could be reaped by successfully pushing forward the implementation of SEPA. Referring to the requirement of broad support for the project both on the supply and the demand side in order to efficiently move towards the new regime, Mr Lannoo lamented the almost complete lack of publicity about SEPA in the past, which would be necessary to achieve a critical mass.

Marc Temmerman (Executive Vice President, Visa Europe) welcomed the effort to construct an integrated internal market for payments, pointing to the potential advantages of increased choice, competition, efficiency, convenience and security that would come with the success of SEPA. Promoting the need for interchange fees, the "cornerstone of the four-party model", he elaborated on the fact that the supply of payment services was a "commercial business which needed to be financially self-sustaining" in order to ensure investments in innovation, efficiency and security. According to Mr Temmerman, it is important to guarantee a level playing field as a prerequisite for an open, fair and competitive market in which all players were bound by the same rules. He welcomed the PSD as a positive step forward on the way towards greater legal consistency and certainty.

Maria Chiara Malaguti presented the first draft of her paper entitled "The Payment Services Directive: Between the *Acquis Communautaire* and National Implementation". She underlined the difficulty of trying "to solve problems without creating new ones" when drafting a comprehensive piece of legislation like the PSD. Policy-makers were confronted with the unprecedented exercise of detaching the service of transferring money from traditional financial services. According to Ms Malaguti, the adoption of the PSD gave rise to a number of criticalities as regards its interaction with other Community legislative acts and the broader *acquis communautaire*. For example, the PSD failed to clarify what exactly a payment services meant and what criteria qualified an institution to be a payment service provider. The addition of new requirements for payment institutions could result in a barrier to a level playing field. Ms Malaguti stated that the high degree of autonomy left to Member States by granting a whole range of derogation powers might prove to be beneficial in terms of necessary flexibility to cope with the continuous evolution of the field. However, she cautioned that this could also further compromise the general architecture of the PSD.

Presenting his draft paper, Jürgen Bott drew the attention to the estimated "impressive economic benefits" of the SEPA

project. The European banking industry took on the task of developing the SEPA project in a self-regulatory process, which – according to Mr Bott – also implied that banks needed to create the economic incentives necessary to motivate market participants to migrate from national standards to new SEPA schemes. Mr Bott argued that increased efficiency, reduced risk and improved convenience would generate benefits for both service providers and users. As banks served heterogeneous markets in Europe, exemplified by the different uses of monetary interchange feeds (MIFs) for direct debits in Germany and France, the realisation of economies of scale and/or scope could, however, be limited.

By meeting customers' expectations and fulfilling previously unsatisfied needs, according to Mr Bott, the SEPA project would generate additional revenues as enhanced products and services would subsequently justify higher prices. Due to the network industry nature of the payment systems industry, new alliances were necessary to tip the market.

In the discussion that followed, Mr Temmerman warned against being “overly optimistic” as regards the realisation of the SEPA project and the potential benefits it eventually would yield. In addition, he argued that there was “no better time than now” to invest in innovation and new technologies, in order to “be ready to reap the benefits once things start speeding up” in two years time.

Mr Bott held the view that despite the current difficult circumstances, the crisis should not be an excuse for slowing down the process of change in SEPA schemes.

Starting off her intervention, Ruth Wandhöfer (Payments Industry & Strategy, EMEA Cash management, Citi) stated that “banks needed clarity in terms of a harmonised legal framework”, pointing at the vast derogation powers granted to the Member States as one of a number of critical issues arising from the transposition of the PSD into national law. In her view, the PSD was “blown out of proportion”, leading to interesting and complex discussion on how to correctly interpret the text in stakeholder conferences like the PSD Transposition Workshops in which regulatory best practices were also being shared. While SEPA would certainly bring benefits, especially arising from economies of scale and scope, these were “more likely to be reaped in 5-10 rather than 2-5 years”, given the infancy of the project.

Christian Westerhaus (Managing Director, Deutsche Bank AG Global Transaction Banking, Head of Product Management – Financial Institutions) explained that in February 2006, Deutsche Bank had chosen to follow an integrated approach rather than a minimum compliance approach for 10 different countries as a response to the SEPA project. Deutsche Bank had decided from the start to retire legacy systems in two years and not by 2013/2014. This underlined the necessity of creating one integrated EU clearing structure rather than continuing the co-existence of numerous platforms with small amounts of transactions. In view of the current market turmoil, he praised the ECB for having done a good job in setting up the safe and well-

functioning TARGET2 system. As regards the progress of the SEPA project, Mr Westerhaus pointed out that SEPA Credit Transfers (SCTs) still lacked a higher volume of transactions. To that end milestones, such as a corridor for a migration end date, needed to be defined, also to avoid surprises when volumes pick up.

In a short discussion round, Mr Lannoo questioned whether cost-saving potentials existed and whether the current SEPA environment stimulated innovation. Mr Westerhaus replied that cost savings from retiring legacy systems were projected to amount to “low double-digit million euros per annum”.

Heiko Schmiedel (European Central Bank) emphasised the potential economic effects of SEPA, whose realisation could lead to the creation of a competitive and fully integrated European retail payments market. The current financial turmoil caused banks to reconsider their business model and to concentrate on their core business, namely retail banking and payments services. The Eurosystem welcomed the substantial efforts undertaken by the European banking community, for example in the setting up of the SCT scheme, the preparations for SEPA Direct Debit (SDD) as well as the work on electronic and mobile payments. However, the Eurosystem observed that some energy was fading away from the project. Some final hurdles yet needed to be overcome. As regards SEPA for cards, the Eurosystem would welcome the emergence of at least one additional European card scheme.

In the concluding discussion, and responding to Mr Lannoo's question if “more regulation” would be the answer to a failure of the SEPA project, Mr Schmiedel stated – with regard to an end-date for migration – it needed to be seen if this will be achieved by self-regulation or regulation. Mr Bott subsequently pointed to the “often ignored fact” that a “quasi”-end date for SDD (November 2009) had already been set.

Concluding on the various issues discussed, Mr Westerhaus stated that while the SCT worked “more or less”, some banks still “needed to speed up”. As regards direct debits, he explained that the existing scheme in Germany was already PSD-compliant, while substantial work was necessary in other countries, especially in terms of outreach, which was a “key issue for the success of the SDD scheme”. In that vein, progress needed to be achieved in the transposition of the PSD and the discussion of the direct debit interchange fee issue. In his view, problems would arise over the fact that the European Payments Council needed to “manage the outreach but cannot force or mandate the banks to join the scheme”.

The programme and other workshop materials can be found at www.ecri.eu.

Leading EU think tanks debate ways to tackle the financial crisis

On December 1st, CEPS joined forces with three other leading European think tanks – Notre Europe, the European Policy Centre (EPC) and Bruegel – to organise a discussion of the adequacy of the EU’s response to the global financial crisis.

The meeting was opened by Tommaso Padoa-Schioppa, President of Notre Europe and former Finance Minister of Italy, who explained that Europe was in a better position compared to the US when it came to the fundamentals, but it was in a much worse position to manage a crisis because it is not as developed as an international policy actor.

Hans Martens, CEO of the EPC, noted that the joint meeting was intended to sound a wake-up call for those member states that are “in denial” about the state of the economy, and then went on to stress the role that has been played by the euro.

Daniel Gros, Director of CEPS, concurred with Padoa-Schioppa on the shortcomings of the EU, remarking that the exceptional circumstances of recent months have proved that the European framework is structurally inadequate to deal with serious crises at the systemic level.

André Sapir, Senior Fellow at Bruegel, focused on the blurring boundaries between action at the EU level and action at the level of the members of the Eurogroup. He also drew attention to the important spill-over effects that “call for action”.

IPF is currently operating in five markets in the EU (Czech Republic, Hungary, Poland, Romania and Slovakia) as well as in Mexico and in a pilot operation in Russia. Despite the recent financial crisis, *The Economist* reports that IPF’s customer arrears have remained stable.

IPF’s membership is yet another step in ECRI’s efforts to diversify its membership base, with the aim of attracting not only ‘traditional’ financial institutions, but a wider range of stakeholders in the area of retail financial services.

More information on IPF can be found at <http://www.ipfin.co.uk/> and the *Economist’s* article at http://www.economist.com/finance/displaystory.cfm?story_id=12609781

New ECRI research projects

ECRI has initiated a new research project on credit reporting systems in the EU-27. ECRI teamed up with Professor Giancarlo Spagnolo of Tor Vergata University in Rome and Dr. Caterina Giannetti of Tilburg University in the Netherlands to work on the project. Dr. Giannetti is also now an ECRI Associate Researcher. The research will analyse whether the structure of credit reporting systems affects the entry mode of banks into a market, and investigate the relationship between information-sharing and financial stability – in the context of the ongoing financial crisis. The team will publish research reports and articles.

Two awards for CEPS: Think tank of the year



The Think Tanks & Civil Societies Program

In January 2009, the Centre for European Policy Studies was ranked among the top ten “Global ‘Go-to’ Think Tanks” for 2008, by the Think Tanks and Civil Societies Program at the University of Pennsylvania. This

programme developed the first index of its kind and lists the leading public policy research organisations in the world, based on an analysis of 5,500 think tanks in nearly 170 countries. The index of the top ten institutes worldwide (non-US) has been published for the second time, and as in 2008, CEPS was the only Brussels-based think tank to receive this title.



Furthermore, in November 2008, CEPS was awarded “Think Tank of the Year 2008” by the European Public Affairs Directory (EPAD), in association with The Parliament

Magazine. CEPS received the award for its outstanding research, publications and event series that offer an “invaluable platform” for politicians, academics and industry representatives. With a staff of over 50 from more than 20 different countries, the Parliament stated that CEPS “far outstrips its Brussels-based rivals”.

News about ECRI



ECRI welcomes IPF as new corporate member



ECRI welcomes International Personal Finance (IPF) to its circle of corporate members. The company, having spun off from Provident Financial Group in July of 2007, specialises in small and unsecured loans. Its business model is based on providing cash loans, with IPF’s agents acting as the customer relationship manager, visiting the customer at his/her home in order to gather key income information.

The two awards cap a successful year in 2008, in which CEPS celebrated its 25th anniversary, and open a promising year in 2009.

More information on the Think Tanks and Civil Societies Program can be found at <http://www.fpri.org/research/thinktanks/>

More information on the EPAD Awards can be found at <http://www.theparliament.com/epadawards/>

Publications

CEPS Task Force Report on financial oversight



The financial crisis exposed dangerous weaknesses in the regulatory and oversight structure that need to be urgently corrected to restore confidence in the financial system and to keep the single market alive.

Towards this end, a Task Force Report by CEPS and ECRI CEO Karel Lannoo entitled “Concrete Steps Towards More Integrated Financial Oversight:

The EU’s Policy Response to the Crisis” and published in December 2008, puts forward three main policy recommendations to the EU:

- 1) The European Council should formally mandate the High-Level Expert Group on EU financial supervision to analyse the optimal structure of financial oversight and propose concrete steps leading to a European System of Financial Supervisors;
- 2) A European Financial Institute should be created to lay the groundwork for the establishment of the European System of Financial Supervisors; and
- 3) The European System of Financial Supervisors should be given definitive target date to commence operations.

The publication also attracted the attention of Sir Howard Davies, Director of the London School of Economics and former Executive Chairman of the Financial Services Authority (FSA). In a commentary recently published in the Financial Times (14 January 2009), he backed the idea of creating a federal European supervisory authority with access to a lender of last resort facility, stating that Lannoo’s report “sketched a practical approach to the creation of the two institutions needed”.

The report can be downloaded for free in PDF or purchased in printed form (€25/copy) from the CEPS online bookshop (<http://shop.ceps.eu>).