

## **ANNEX**

# **PROGRESS ON THE FINANCIAL SERVICES ACTION PLAN**

**25 FEBRUARY 2003**

This table provides an overview of progress on the individual actions in the Financial Services Action Plan (COM(1999) 232). It shows the present state of play and provides the Commission's assessment of the degree to which Community institutions and Member States are achieving the objectives set out in the Action Plan. 32 measures have now been completed: they are listed at the beginning of this Annex.

A further five measures are also being prepared in response to wider market developments over the past three years. These measures, which are not included in the original Action Plan, are mentioned separately in the Annex under each of its four strategic objectives. They are included to provide a complete overview of the Union's present workload.

The progress reports remain available on the following web-page :  
[http://europa.eu.int/comm/internal\\_market/en/finances/actionplan/index.htm](http://europa.eu.int/comm/internal_market/en/finances/actionplan/index.htm)

- : Plus sign: progress has been achieved in meeting the targets set in the Action Plan
- Minus sign: indicates no progress

## COMPLETED FSAP MEASURES

(Legislative proposals in bold)

- (1) Commission Communication on the Application of Conduct of Business Rules Under Article 11 of the Investment Services Directive (ISD) (distinction between professional and retail investors). Issued on 14 November 2000, COM(2000)722.
- (2) **Directive on Insider Dealing and Market Manipulation (Market Abuse). Directive 2003/6/EC of 28 January 2003.**
- (3) Commission Communication on upgrading the ISD. Issued on 15 November 2000, COM(2000)729.
- (4) **Amendments to the 4th and 7th Company Law Directives to allow fair value accounting: Directive 2001/65/EC adopted on 31 May 2001.**
- (5) Commission Communication updating the EU accounting strategy. Issued on 13 June 2000, COM(2000) 359.
- (6) **Regulation (EC)1606/2002 of the European Parliament and of the Council on the application of international accounting standards adopted on 19 July 2002.**
- (7) Commission Recommendation 2001/256 of 15 November 2000 on quality assurance of the statutory audit (C(2000) 3304).
- (8) Commission Recommendation 2001/6942 of 16 May 2002 on Statutory auditor's independence in the EU: A set of fundamental principles (C(2002)1873).
- (9) **Directive on financial collateral arrangements. Directive 2002/47/EC adopted on 6 June 2002.**
- (10) **Political agreement on the European Company Statute. Directive 2001/86/EC and Regulation (EC)2157/2001 adopted on 8 October 2001.**
- (11) Review of EU corporate governance practices The final report of the Comparative Study was published on 27 March 2002 (available on DG Markt's website : [http://europa.eu.int/comm/internal\\_market/en/company/company/news/index.htm](http://europa.eu.int/comm/internal_market/en/company/company/news/index.htm)).
- (12) Commission Communication on Funded pension Schemes. Issued on 11 May 1999 (Com (1999)134).
- (13) **Adoption of the two Directives on UCITS. Directives 2001/107/EC and 2001/108/EC adopted on 21 January 2002.**
- (14) **Directive on the Distance marketing of Financial Services. Directive 2002/65/EC adopted on 23 September 2002.**
- (15) Commission Communication on clear and comprehensible information for purchasers. The work on the communication has been integrated in the context of the Commission Communication on an e-commerce policy for financial services (COM(2001)66 – 07/02/2001).
- (16) Commission Recommendation 2001/193 of 1 March 2001 to support best practice in respect of information provision (mortgage credit) (C(2001)477).
- (17) Commission report on substantive differences between national arrangements relating to consumer-business transactions. Discussions with industry ('Forum Group') and consumers are concluded. Information gathered is used for further Commission initiatives in the field of retail financial services.
- (18) Interpretative Communication on the freedom to provide services and the general good in insurance. Issued on 2 February 2000, C(1999)5046.
- (19) **Directive on Insurance Mediation. Directive 2002/92/EC of 9 December 2002.**
- (20) Commission Communication on a single market for payments. Issued on 31 January 2000, COM(2000)36.
- (21) Commission Action Plan to prevent fraud and counterfeiting in payment systems. Issued on 9 February 2001, COM(2001)11.
- (22) Commission Communication on an e-commerce policy for financial services. Issued on 7 February 2001, COM(2001) 66.
- (23) **Adoption of the proposed Directive on the Reorganisation and Winding-up of Insurance undertakings. Directive 2001/17/EC adopted on 19 March 2001.**
- (24) **Adoption of the proposed Directive on the Winding-up and Liquidation of Banks. Directive 2001/24/EC adopted on 4 April 2001.**

- (25) **Adoption of the proposal for an Electronic Money directive. Directive 2000/46/EC adopted on 18 September 2000.**
- (26) **Amendment to the Money Laundering Directive. Directive 2001/97/EC adopted on 4 December 2001.**
- (27) Commission Recommendation 2000/408 of 23 June 2000 on disclosure of financial instruments (C(2000) 1372).
- (28) **Amendments to the solvency margin requirements in the Insurance Directives. Directives 2002/12/EC and 2002/13/EC adopted on 5 March 2002.**
- (29) **Amendment of the Insurance Directives and the Investment Services Directive to permit information exchange with third countries. Directive 2000/64/EC adopted 7 November 2000.**
- (30) **Directive on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate. Directive 2002/87/EC of 16 December 2002.**
- (31) **Creation of two Securities Committees. Decision of 6 June 2001 setting up the European Securities Committee - ESC (C(2001)1493) and Decision of 6 June 2001 setting up the Committee of European Securities Regulators - CESR (C(2001)1501).**
- (32) Review of taxation of financial service products. This action has been taken care of in the context of the initiative on taxation of cross-border occupational pensions.

## STRATEGIC OBJECTIVE 1: A SINGLE EU WHOLESALE MARKET

### Raising capital on an EU-wide basis

Action	Initial FSAP optimal Timeframe	Present Timeframe	State of Play/Follow-up	
<b>Directive on Prospectuses</b>	Adoption 2002	Adoption July 2003	Proposal for a directive on prospectuses adopted by the Commission (COM(2001)280 of 30/05/2001). An amended proposal (COM(2002)460) has been adopted by the Commission on 9 August 2002. Political Agreement was reached in Council on 5 November 2002. Common Position expected in March 2003. The Barcelona European Council (March 2002) has asked the Council and the European Parliament to adopt the Directive as early as possible in 2002.	:
<b>Directive on transparency obligations for securities issuers</b>	Proposal 2001 Adoption 2002	Proposal March 2003 Adoption 2004	Work continuing in the Commission in close co-operation with parties concerned. First consultation summer 2001. Second consultation concluded in July 2002.	—

### Establishing a common legal framework for integrated securities and derivatives markets

<b>Directive on investment services and regulated markets (upgrade Investment Services Directive)</b>		Proposal November 2002  Adoption end 2004	Follow-up to: Communication on upgrading ISD (COM(2000)729 of 15/11/2000). First consultation process concluded in first quarter 2001. Second consultation concluded in May 2002. A proposal for a Directive has been adopted by the Commission on 19 November 2002 (COM (2002)625).	:
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### Towards a single set of financial statements for listed companies

<b>Modernisation of the accounting provisions of the 4th and 7th Company Law Directives</b>	Proposal end 2000 Adoption 2002	Proposal 28 May 2002  Adoption March 2003	The Communication on accounting strategy (COM(2000)359) of 13 June 2000 adopts this action as part of its implementation program. Proposal adopted by the Commission on 28 May 2002 (COM(2002)259 final). The first reading in EP took place on 14 January 2003. The Directive is expected to be adopted in March 2003.	:
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**Containing systemic risk in securities settlement:**

Action	Initial FSAP optimal Timeframe	Present Timeframe	State of Play/Follow-up	
<b>Implementation Settlement Finality Directive</b>	Commission report to Council end 2002	Commission report to Council 2 <sup>nd</sup> quarter of 2003	Implementation date 11 December 1999. All Member States have implemented the necessary measures. A study on the implementation is expected to be finalised in March 2003, on the basis of which the Commission's services will draft the report.	:

**Towards a secure and transparent environment for cross-border restructuring:**

<b>Directive on Take Over Bids</b>	Adoption 2000	New Proposal October 2002  Adoption 2003	The European Parliament and the Council reached an agreement on a compromise text of the Directive on 6 June 2001. The EP rejected the compromise text on 4 July 2001. A new proposal was adopted by the Commission on 2 October 2002 (COM(2002)534).	–
<b>Follow-up: Report of the High Level Group of Company Law Experts</b>		2003	The Final Report of the High Level Group of Company Law Experts was presented on 4 November 2002. The Report contains an important chapter on corporate governance, in which the Group presents recommendations on both general and specific issues. It also contains recommendations on the way forward in other areas (including capital formation and maintenance, groups and pyramids, corporate restructuring and mobility). The Commission is organising the necessary consultations, with the aim of presenting an Action Plan on Company Law (including Corporate Governance) in the first quarter of 2003.	:
<b>Proposal for a 10th Company Law Directive</b>	Proposal Autumn 1999  Adoption 2002	New Proposal 2 <sup>nd</sup> half of 2003  Adoption 2004	A first proposal was tabled in 1985, remained blocked on the issue of workers' participation and was withdrawn by the Commission in December 2001. A new proposal will take account of the solutions adopted within the framework of the European Company Statute.	:
<b>Proposal for a 14th Company Law Directive</b>	Proposal Autumn 1999  Adoption 2002	Proposal 2 <sup>nd</sup> half of 2003	Reassessment is expected from the follow-up (with EP and Member States) to the Final Report of the High Level Group of Company Law Experts and from pertinent decisions of the European Court of Justice.	–

**A Single Market which works for investors:**

Action	Initial FSAP Optimal Timeframe	Present Timeframe	State of Play/Follow-up	
<b>Directive on the Prudential Supervision of Pension Funds</b>	Adoption Jan/2002	Adoption Mid-2003	Proposal adopted on 11 October 2000 (COM (2000)507 provisional). Opinion of European Parliament adopted on 4 July 2001. Common Position adopted by Council on 5 November 2002. The Barcelona European Council (March 2002) has asked the Council and the European Parliament to adopt the Directive as early as possible in 2002.	:

(MEASURES IN RESPONSE TO WIDER MARKET DEVELOPMENTS SINCE THE ADOPTION OF THE ACTION PLAN, BUT NOT INCLUDED IN THE ORIGINAL PLAN)

Communication on Clearing and Settlement	Issued in May 2002	Efficient cross-border clearing and settlement in Europe is essential to realise the full benefit of an integrated financial sector. The Commission has launched a consultation (with deadline August 2002) on the basis of a Communication (COM(2002)257 of 28 May 2002). A summary of the responses will be published before the end of 2002. A further document, identifying what action is needed in this area and what the priorities are, will be published in the first quarter of 2003.	:
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## STRATEGIC OBJECTIVE 2: OPEN AND SECURE RETAIL MARKETS

Action	initial FSAP optimal Timeframe	Present Timeframe	State of Play/Follow-up	
<b>EU legal framework for payments in the Internal Market</b>		Proposal 2003	Wide consultations of all interested parties has started. Evaluation of deficiencies in present legal acts is ongoing. Commission Proposal for a Directive expected in 2003.	:
<b>Follow-up to FIN-NET</b>	Ongoing	Permanent	Follow-up to: the Commission Communication on an E-commerce policy for financial services COM(2001) 66 final. FIN-NET was established in 2001 as an EU network of out-of-court redress bodies in the Member States for financial services. The present follow-up includes : - publication and dissemination of a brochure (1,5 million copies) in order to inform better the wider public - further widening of the geographical and sectoral coverage - further improvement of information and co-operation between schemes	:
<b>Follow up to Commission's Action Plan to prevent fraud and counterfeiting in payment systems</b>		Ongoing (2003)	Follow-up to: the Communication "Preventing fraud and counterfeiting of non-cash means of payment" adopted by the Commission on 9 February 2001 (COM(2001)11). The Action Plan was attached to the Communication and will run from 2001 to 2003. At the end of 2003 the Commission will prepare a report on its implementation and propose further measures, if needed.	:

### (MEASURES IN RESPONSE TO WIDER MARKET DEVELOPMENTS SINCE THE ADOPTION OF THE ACTION PLAN, BUT NOT INCLUDED IN THE ORIGINAL PLAN)

Work on Insurance Guarantee Schemes	Ongoing (2003)	Technical level work started in February 2002 to study the necessity for insurance guarantee schemes similar to those existing for banks and securities. The working group has accepted, as a hypothesis of work, to examine the possibility of an approach consisting of mutual recognition and minimum harmonisation of essential standards.	:
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### STRATEGIC OBJECTIVE 3 : STATE-OF-THE-ART PRUDENTIAL RULES AND SUPERVISION

Action	Initial FSAP ptimal Timefram	'resent Timefram	State of Play/Follow-up	
<b>Amend the Directives Governing the Capital Framework for Banks and Investment Firms</b>	Proposal spring 2000  Adoption 2002	Proposal 2004  Adoption 2005	The Basel Committee has extended the timetable for development and implementation of the new international Accord. The QIS3 impact study started 1 October 2002. The Commission Services have published on 18 November a Working Document and Cover Document. These form the basis of a Structured Dialogue with representative associations from the financial services and other sectors. The proposal for a directive is expected to be adopted by the Commission in the first part of 2004. Implementation date for the new framework : 31 December 2006. The Commission will report to the Council on the consequences of the Accord at the end of 2003.	:

### (MEASURES IN RESPONSE TO WIDER MARKET DEVELOPMENTS SINCE THE ADOPTION OF THE ACTION PLAN, BUT NOT INCLUDED IN THE ORIGINAL PLAN)

Reinsurance supervision	Ongoing (2003)	Investigation of the possibilities to create a harmonised supervision framework for reinsurance. The work on a "fast-track" reinsurance supervision regime is advancing and the aim is to present a Commission proposal towards the end of 2003.	:
Fundamental review of the solvency system in insurance (Insurance Solvency II)	Ongoing (2005)	Long-term project to define a new solvency framework for EU insurance companies (started in 2000). Work at two stages: 1. an orientation debate with Member states to take place in the Insurance Committee in April 2003 to decide on the general form of the system. The drafting of a framework directive could follow; 2. in a second phase, elaboration of the detailed technical solutions to be included in the future system (likely to be adopted under comitology procedures).	:
Third Money Laundering Directive	Proposal End 2003	Proposal on definition of "serious offences" required by 2 <sup>nd</sup> Directive. On other issues, content and timing will depend in part on progress of work (on review of 40 Recommendations and implementation of 8 Special Recommendations) in FATF.	:



**OBJECTIVE: WIDER CONDITIONS FOR AN OPTIMAL SINGLE FINANCIAL MARKET**

<b>Action</b>	<b>Initial FSAP optimal Timeframe</b>	<b>Present Timeframe</b>	<b>State of Play/Follow-up</b>	
<b>Adopt a Directive on taxation of savings income in the form of interest payments</b>	Political Agreement by Nov/1999  Adoption 2000	New Proposal Jul-01  Adoption March-03	Following agreements at the European Council in Feira in June 2000 and at the Ecofin Council in November 2000, the Commission on 18 July 2001 presented a new proposal for a Directive, replacing the 1998 proposal. In December 2001, the Ecofin Council approved the draft Directive for the purpose of negotiations with third countries. Following the adoption of a negotiating mandate by the Ecofin Council on 16 October 2001, the Commission entered into negotiations with the US and five key third countries to promote the introduction of equivalent measures. The results of these negotiations were presented to the ECOFIN Council of 3 December 2002. The Ecofin Council on 21 January 2003 reached political agreement and committed itself to formally adopt the tax package before the European Council in March 2003.	:
<b>Implementation of the December 1997 Code of Conduct on business taxation</b>	Ongoing examination in the Code of Conduct group	Ongoing examination in the Code of Conduct group	A report identifying the harmful tax measures was submitted to the ECOFIN Council in November 1999 and a detailed timetable for dismantling those measures was agreed on one year later. The Code of Conduct Group is continuing its work by e.g. monitoring the roll-back and the standstill processes with a view to the final agreement on the tax package.	:

Action	Initial FSAP optimal Timeframe	Present Timeframe	State of Play/Follow-up	
<b>Commission initiative on taxation of cross- border occupational pensions</b>	Proposal end 1999 Adoption 2002	Issued Apr-01	<p>A Commission Communication on the elimination of tax obstacles to the cross-border provision of occupational pensions was presented on 19 April 2001 (COM(2001)214). It sets out how the fundamental freedoms of the EC Treaty apply to cross-border pensions. The Communication announced that the Commission would examine national rules and, where necessary, open procedures against Member States on the basis of Article 226 of the EC Treaty. On 5 February 2003 the Commission sent Denmark a reasoned opinion, asking it to give pension contributions paid to funds in other Member States the same tax treatment as contributions to domestic funds. On the same date the Commission opened infringement procedures against Belgium, Spain, France, Italy and Portugal, which apply comparable rules. In the meantime, a similar case has already been decided by the Court of Justice (Danner, case C-136/00), on the basis of a request for a preliminary ruling from a Finnish judge. The Court decided in favour of the taxpayer. Another case is pending (Skandia/Ramstedt, case C-422/01) concerning Sweden. The opinion in this case is announced for 3 April 2003.</p> <p>The Communication had also made proposals on the exchange of information and the elimination of double taxation and double non-taxation, but despite efforts by the Spanish and Danish Presidency the ECOFIN Council did not accept these.</p>	: