

# Clearing and settlement in the European Union

2004/2185(INI) - 25/11/2004

The Council adopted the conclusions of the Commission's communication on Clearing and Settlement. In particular, it welcomes the Commission's initiative to put forward such a communication. The efficient, cost-effective and safe cross-border clearing and settlement of securities transactions in a competitive environment with the EU would constitute a significant step towards the completion of the Internal Market for financial services.

The Council equally welcomes the establishment of the Cesame clearing and settlement advisory and monitoring group which will have the important task of supporting and coordinating of the dismantling of the barriers identified by the Giovannini for which the private sector has responsibility.

The Giovannini Group has identified several important barriers to efficient cross-border clearing and settlement which need to be addressed by the public authorities. The Council agrees with the Commission that legal and fiscal barriers should not hamper efficient, effective and safe cross-border clearing and settlement. The Commission will establish expert groups on legal and tax issues. These groups will focus on the above mentioned barriers, the analysis of the existing legal systems and the reduction of legal uncertainty and of costs, in particular those resulting from the additional compliance burden created by differences in national legal, regulatory and tax regimes. The Council emphasizes that the legal certainty aspects are a precondition for adequate investor protection and the creation of a stable market in which cross-border back-office costs can be reduced.

The Council agrees with the Commission that differing national regulatory regimes may be hindering the development of efficient and safe cross-border clearing and settlement systems in the EU. The Council believes that creating rights of access and choice and establishing a common regulatory and supervisory framework may be useful to create free movement of services and to reach the aforementioned goals. Public measures should follow a functional approach, based on precise functional definitions, aiming to ensure a level playing field between all market participants, without imposing any specific market or institutional structure.

The Council welcomes the Commission's intention to put forward an extended impact analysis of each of the main elements of its planned regulatory proposal. This impact analysis including a quantitative cost-benefit analysis, based on a non-legal document elaborating the Commission's proposal, should include all the relevant aspects of the proposal including, in particular the cost-reduction potential of dismantling all the barriers identified by the Giovannini Group, the impact on direct holding systems and the interaction between different holding systems, free access and choice, a common regulatory and supervisory framework, as well as implementation of appropriate governance arrangements. Further proposals by the Commission should take in account the outcome of the regulatory impact analysis. Possible adaptations of supervisory arrangements could be considered, based on the principle of home country control while ensuring an efficient coordination between the concerned authorities and to make sure that risks in relation to the stability of all relevant markets are taken into account.

The Council invites the Commission to present such an extended impact assessment, based on a non-legal document elaborating the Commission's proposal. This impact assessment is expected to be presented by autumn 2005.