Basic information

2004/2185(INI) INI - Own-initiative procedure	Procedure completed
Clearing and settlement in the European Union **Subject** 2.50.04.02 Electronic money and payments, cross-border credit transfers	

Key players

European Parliament	**Committee responsible**	**Rapporteur**	**Appointed**
	ECON Economic and Monetary Affairs	KAUPPI Piia-Noora (PPE-DE)	21/09/2004
Council of the European Union	**Council configuration**	**Meetings**	**Date**
	Economic and Financial Affairs ECOFIN	2623	2004-11-25

Key events

Date	Event	Reference	Summary
29/04/2004	Non-legislative basic document published	COM(2004)0312	Summary
18/11/2004	Committee referral announced in Parliament		
25/11/2004	Resolution/conclusions adopted by Council		Summary
24/05/2005	Vote in committee		Summary
06/06/2005	Committee report tabled for plenary	A6-0180/2005	
06/07/2005	Debate in Parliament		
07/07/2005	Decision by Parliament	T6-0301/2005	Summary
07/07/2005	Results of vote in Parliament		
07/07/2005	End of procedure in Parliament		

Technical information

Procedure reference	2004/2185(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative

Legal basis	Rules of Procedure EP 55
Stage reached in procedure	Procedure completed
Committee dossier	ECON/6/22710

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, single reading		A6-0180/2005	06/06/2005	
Text adopted by Parliament, single reading		T6-0301/2005 OJ C 157 06.07.2006, p. 0409-0485 E	07/07/2005	Summary

European Commission

Document type	Reference	Date	Summary
Non-legislative basic document	COM(2004)0312	29/04/2004	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0138/2005 OJ C 221 08.09.2005, p. 0126-0133	10/02/2005	

Clearing and settlement in the European Union

2004/2185(INI) - 07/07/2005 - Text adopted by Parliament, single reading

The European Parliament adopted the report drawn up by Piia-Noora **KAUPPI** (EPP-ED, FI) by 470 votes for, 20 against and 82 abstentions. (Please refer to the summary dated 24/05/2005).

Parliament supports the goal set out in the abovementioned Commission communication of an efficient, integrated and safe market for clearing and settlement of securities in the EU. It believes that the creation of efficient EU clearing and settlement systems will be a complex process, and notes that true European integration and harmonisation will require the combined efforts of different stakeholders and that the current public policy debate should take due account of the principles underpinning Directive 2004/39/EC and focus on: a) bringing down the cost of cross-border clearing and settlement; b) ensuring that systemic or any other remaining risks in cross-border clearing and settlement are properly managed and regulated; c) encouraging the integration of clearing and settlement by removing distortions of competition; and d) ensuring proper transparency and governance arrangements.

Moreover, Parliament believes that, as a general principle, legislation by the EU should be subject to a cost-benefit analysis and that the EU should resort to legislation where there is clear risk of market failure and where legislation is an effective and proportionate way to remedy clearly identified problems.

It states that if the Commission, on the basis of the results of the impact assessment study, does opt for legislation, its proposal should particularly focus on:

- re-confirming and strengthening access rights in order to ensure fair and non-discriminatory access to central clearing and settlement service providers;

- strengthening passporting rights for providers of clearing and settlement services supported, when needed, by regulatory convergence;

- allowing for transparency and enabling market forces to work effectively;

- achieving consistency of regulation, supervision and transparency to enable providers of clearing and settlement services to manage systemic risk and anti-competitive behaviour;

- establishing a functional approach to the regulation of different players, which takes into account the different risk profiles and competitive situations of different entities;

introducing definitions that are coherent and consistent with existing market practices and with the terms used globally and within the EU.

Lastly, it agrees with the Commission that it is principally the market that should decide the structure of clearing and settlement services; considers that no particular model should be mandatory, e.g. user owned and governed, shareholder owned, publicly owned.

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 ad 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 hat the legal certainty aspects are a precondition for adequate investor protection and the creation of a stale 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 out 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.

Clearing and settlement in the European Union

2004/2185(INI) - 29/04/2004 - Non-legislative basic document

PURPOSE : outlines the actions the Commission intends to undertake in order to improve Clearing and Settlement arrangements with a view to ensuring a level playing field among the different providers of Clearing and Settlement services.

CONTENT : the creation of an integrated and efficient European capital market is one of the most important and ambitious economic projects currently under way in the European Union. Since 1999, when the Financial Services Action Plan was launched, considerable progress has been made towards this goal, both in terms of legislative measures and market integration.

A crucial element of this framework will be the safety and efficiency of the arrangements required to finalise securities transactions ("Clearing and Settlement"). These arrangements, largely invisible to the retail investor, lie at the core of all securities markets and are indispensable for their proper functioning.

The Communication defines the key policy objectives that the Commission has taken into account in proposing future action at the EU level. It includes an action plan outlining the various initiatives that need be undertaken to achieve an integrated, safe and efficient securities clearing and settlement environment in the EU.

In this Communication the term "Clearing and Settlement" is intended to describe the full set of arrangements required to finalise a securities or derivatives transaction. These arrangements encompass a broad collection of institutions, instruments, rules, procedures, standards and technical means.

In this Communication, the Commission outlines the actions it intends to undertake in order to improve Clearing and Settlement arrangements. The Commission's approach is based on the following considerations:

- the objective to be pursued is the achievement of an efficient, integrated and safe market for securities clearing and settlement;

- the integration of securities clearing and settlement systems will require the combined intervention of market forces and public authorities. In this context, the Commission will seek to promote co-ordination between private sector bodies, regulators and legislators so as to achieve the desired outcome as efficiently as possible;

- in an integrated barrier-free environment, infrastructure providers and users of the relevant services should have access to and choice of their preferred, properly authorised and supervised clearing and settlement system, operating in full conformity with the EU's competition rules. In order to arrive at such a liberalised environment and to ensure the mutual recognition of systems, regulatory intervention at an EU level, through the adoption of a framework Directive, will be necessary.

The Commission's overarching objective is the creation of EU Securities Clearing and Settlement Systems that are efficient and safe and which ensure a level playing field among the different providers of Clearing and Settlement services. In order to achieve this objective, the Commission considers that the following measures and policies need to be pursued:

a) the liberalisation and integration of existing Securities Clearing and Settlement Systems through the introduction of comprehensive access rights at all levels and the removal of existing barriers to cross-border clearing and settlement;

b) the continued application of competition policy to address restrictive market practices and to monitor further industry consolidation;

c) the adoption of a common regulatory and supervisory framework that ensures financial stability and investor protection, leading to the mutual recognition of systems;

d) the implementation of appropriate governance arrangements.

The Commission invites comments on all aspects of this Communication from the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee, the Committee of the Regions, national regulatory and supervisory authorities, other EU level and national organisations and federations, market practitioners, institutional investors, infrastructure providers and all other interested parties by the 30th of July 2004. It will then finalise its decisions during 2005 as to the course of action it will adopt and the exact contents of any measures that may prove necessary.