



Fédération Bancaire Européenne
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SPEECH BY MR MICHEL PÉBEREAU

PRESIDENT OF THE EUROPEAN BANKING FEDERATION

Question 1:

Given the Action Plan is nearly completed, what changes do you anticipate to your business models?

Thank you very much, Mr Chairman. I am very happy to be here at this first CESR conference. This is my first engagement as President of the European Banking Federation. In my remarks on the Financial Services Action Plan, I will give the perspective of European banks, with a particular emphasis on the parts of the FSAP that relate to CESR's work.

The FSAP is designed:

- to enhance the integrity of European markets;
- to increase investor confidence;
- to lower the costs of offering cross-border services; and
- to unify the primary markets.

Based on these objectives, our business environment should change in a very tangible way.

For example:

- Thanks to the Markets in Financial Instruments Directive, we should be able to provide financial services on a pan-European basis, based on one authorization. We should have more competition between execution venues. The end result should be better services to clients.
- Thanks to the Prospectus Directive, European and non-European companies should be able to offer a range of instruments on a pan-European basis. A wider pool of investors should lead to lower financing costs for companies.

This is what should happen. But will it happen?

This, in my view, will depend on:

- The quality of the technical implementing measures, in other words the “Level 2” legislation; and
- The consistency of the implementation of the FSAP legislation.

More precisely:

The required **technical implementing measures** should support the objectives of the FSAP.

For example, in MiFID, the definition of “best execution” needs to strike the right balance between **flexibility** and **legal certainty**. Similarly, the provisions clarifying “non-advisory services” for retail clients must **preserve choice** for clients while providing an **appropriate level of protection**.

In addition:

Rules must be **transposed** without delay, **implemented** correctly by national authorities and put into effect on the ground by the industry.

Here, clearly, each actor has a critical role to play.

Of course, the quality of the implementation on the ground requires not only **full commitment**, which we have, but also a very scarce resource: **time**.

Here we face an **urgent problem** with respect to the MiFID timetable. We expect that the industry will need at least **one and a half years** to adapt its systems and procedures to the new regime once the final shape of these rules is known. We must revise the implementation timetable accordingly. And we must do it as soon as possible.

So, in conclusion, **yes**, we do expect positive changes to our way of doing business. However, **none of these outcomes** are going to be **automatic**. Unless we give proper consideration to the quality of the implementing measures and the implementation of the legislation, we will not achieve the objectives of the FSAP – which are fully shared by the industry and urgently needed to make the EU an attractive marketplace.

Question 2:

What types of business models would you like to have which are not possible with the current supervisory or legislative structures (post-implementation of the FSAP initiatives)?

What regulatory or supervisory changes are needed to be able to work more effectively in the single market?

What **additional actions** or **changes** are necessary to make the Single Market a reality? I can be relatively brief here.

Implementing the FSAP will require an immense amount of effort. We must first achieve the maximum potential of these rules. Therefore we need a **regulatory pause**.

There are exceptions, however, where legislative action may indeed be necessary and useful. Subject to an impact assessment, **clearing and settlement of securities** is one such area. Post-trade activities are essential for the proper functioning of European markets and the wider economy. The public policy implications include the protection of investors, the stability and competitiveness of our financial markets, and the management of financial risks.

We therefore welcome the Commission's initiative of exploring what may need to be done in the post-trade field. For the optimal outcome, market forces must be allowed to play a role. Our main focus should be overcoming the Giovannini Barriers, which, in the legal and tax arena, requires public support. The FBE is happy to be part of this overall collective effort.

Another area where potential legislative action may be useful is **asset management**. Here the goal must be to attract international savings while developing an EU standard. We welcome CESR's pragmatic initiative in respect of the implementation of the so-called "amending UCITS Directives" and the Commission's upcoming review. Of course, here as well, any future initiatives in this area must be subject to a rigorous cost-benefit assessment.

These areas of activity in the securities field need to be supported by continuing actions to increase **investor confidence** and **market integrity**, such as the completion of the Corporate Governance Action Plan.

Whether or not new legislation is needed in the banking field – and in particular the retail banking field - is a different issue. As this is a CESR conference, I will not elaborate further on this issue, and keep our focus on the securities field.

Question 3:

Reactions to the Himalaya paper (“Which supervisory tools for the EU securities markets? Preliminary Progress Report”, Ref: 04-333f, October 2004): Do you think supervisors have the right supervisory tools to really work in a single market environment? If not, what is needed in your opinion?

What do we think on the subject of **supervisory tools**?

First of all, I would like to commend CESR for its excellent work on this so-called “Himalaya Report”. This is a very good **starting point** for discussion. I will only touch upon a few initial ideas here.

Let me start by stating our strong belief in the Lamfalussy process:

We believe that, at a **macro level**, the process creates the right structure, and we need to make the best use of it.

Hence, we agree with CESR’s pragmatic approach, which relies on the current system, instead of proposing sweeping new structures.

We fully share CESR’s main objective of optimizing its contribution to effective implementation and enforcement in the next five years.

We consider this five-year horizon appropriate.

We also explicitly support the decision to gather views from the market, consumers and the EU institutions at this stage. Some of these questions are quite sensitive. We must especially take note of

the legitimate concerns of the Parliament and those of the Commission.

For the Single Market to become a reality, the Level 3 Committees need to develop an “**EU-centric**” **view of policy** and promote a culture of **cooperation** between their members.

We also agree that CESR should have **more resources** to execute its tasks.

In addition, the Himalaya Report presents a good opportunity to discuss the **scope** and **legal basis** of CESR’s actions at Level 3.

Here I have two points of caution:

- First, in areas of work where CESR is working **under a formal mandate**, we need to focus on the uncertainties that could jeopardize the day-to-day exercise of the cross-border passport.
- Secondly, whenever CESR is working **outside a formal mandate**, we need maximum caution to avoid entering into political questions. An open debate on the **legal basis** on which CESR is acting and a **robust consultation** with the industry are essential. The case of CESR’s work with the ECB on the Standards for securities clearing and settlement raised some concerns on these points.

At a **micro level**, we may need some adjustments to the structure to provide the regulators with the **right tools**. It seems to us quite reasonable, for the level playing field, that the members of CESR should have **equivalent supervisory tools**.

As I conclude, and looking beyond CESR's paper, I would like to also emphasize a more general principle that underlines the Lamfalussy process:

We support the strengthened commitment of all institutions to **evidence-based regulation**. We especially support the focus of the current Council discussions on the **net cost of regulation**. We hope that these declarations will turn into a concrete change in the EU legislative process.

Europe desperately needs **better regulation, less red tape** and **more efficient ways** of doing business in the EU. Failure to properly integrate Europe's securities markets is not an option! Europe's competitiveness is at stake.

With these objectives in mind, we, at the FBE, will develop our position on this important "Himalaya Report".

Thank you very much for your attention.