

European Commission
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Consultation on the Single Market Act

Danish Shareholders Association is the organisation representing private investors in Denmark.

Danish Shareholders Association finds the continued development of the Single Market a matter of the utmost importance to the ordinary citizen, the consumer, and the approach used in the Single Market Act to regard the financial sector as an integrated part of the Single Market an important step.

The financial sector has been regarded as a special part of the Single Market and split up in several submarkets covered by not harmonised legislation on the European level and at the level of the Member States.

It is of paramount importance to the consumer that the financial sector is “normalized”. The legislation should give the same rights and protection to consumers in all parts of the financial sector and these rights and that protection should be as close as possible to the rights and protection in other parts of the Single Market.

One of the main problems related to the special status of the financial sector is that legislation in that sector to a large extent has been a question of regulation the relations between the authorities and the financial institutions. Consumers have been left to themselves or invited to comment on the penultimate version of a bill. The result is that the balance between the financial institutions and the clients is biased.

We have comments to some of the proposals.

Proposal No 5: By the end of 2011, the Commission will take initiatives to

develop electronic commerce in the internal market. It will concentrate in particular on problems faced by consumers in the digital economy. These initiatives will include a Communication on the operation of electronic commerce and guidelines for the Member States to guarantee the effective application of provisions in the Services Directive to combat discrimination against recipients of services because of their nationality or place of residence.

Consumers will find it more attractive and less dangerous to use electronic commerce if the consumer protection is the same for all type of products.

Proposal No 12: The Commission will adopt an action plan for improving SME access to capital markets in 2011. This will include measures to make investors more aware of SMEs, to develop an efficient stock exchanges network or specific regulated markets focussing on SMEs and to make listing and disclosure requirements more adapted to SMEs.

Proposal No 13: The Commission will assess the Small Business Act by the end of 2010 with the aims of ensuring that the 'Think Small First' principle is implemented in both policy and the legislative procedure in order to closely link the Small Business Act with the Europe 2020 Strategy.

Proposal No 14: The Commission will propose a review of the accounting Directives in 2011 to simplify financial reporting obligations and to reduce the administrative burden, especially for SMEs.

Proposal No 16: The Commission will explore measures with the potential to encourage private investment – particularly in the long term – to make a more active contribution towards achieving the objectives of the Europe 2020 strategy. These measures might concern the reform of corporate governance and create incentives for the long-term, sustainable and responsible investment required by smart, green and inclusive growth. Moreover, by 2012 the Commission will ensure that venture capital funds set up in any Member State can operate and invest freely in the European Union (if necessary by adopting a new legislative framework). It will endeavour to eliminate any tax treatment that disadvantages cross-border activities.

Europe needs entrepreneurs and companies that dare developing new products, services and markets.

Danish Shareholders Association finds it of the utmost importance that SMEs and other new companies have access to financing via markets regulated so that at the same time they are attractive to the SMEs and to the private investors. The regulations must be so that the markets are attractive to the SMEs because access is easy and the administrative procedures not too heavy

but at the same time the transparency must be so that private investors can have confidence in the markets and the information from the issuers.

The proposals regarding bank recovery and resolution are seen by private investors as a minefield. The supervisors are asking for a new tool. They want to be able to strip investors of their rights in relation to banks in trouble and the reconstruction will make the value of the shares disappear.

We see it as a minefield because we fear that this new wonder-tool can be developed to cover all important listed companies.

If at the same time SMEs can be listed without giving proper information to the market will the market stop being attractive to private investors.

Proposal No 31: The Commission will re-examine the Directive on the activities and surveillance of pension funds in 2011 and will develop other proposals based on the July 2010 Green Paper on pensions, inter alia in order to remove obstacles encountered by mobile workers when making arrangements for their retirement.

Pensions are one of the two most important investment decisions made by a consumer. The other one is the investment in a house or a flat. And none of these investment decisions are regarded as investment decisions.

We find it important that consumers become aware of pension arrangements being an investment decision and that consumers get a free choice between different pension schemes.

Proposal No 38: The Commission will launch a public consultation (Green Paper) on corporate governance. It will also launch a public consultation on possible ways to improve the transparency of information provided by businesses on social and environmental matters and respect for human rights. These consultations could lead to legislative initiatives.

Private investors find that corporate governance is of the utmost importance. Private investors are often the most faithful shareholders; they buy a share and hold it because they like the company. The private investor is per definition a minority shareholder and her or his ability to influence on the politics of the company or the election of board members is not crucial. But when the company is reconstructed because the board has run it into trouble will the minority shareholders not be asked and their shares will lose the value if the current ideas in relation to reconstruction of companies prevail.

An important point in the coming considerations on corporate governance must be the role of the private investor or the minority investor. Can she or he be

given a more important voice or should they be warned more seriously against placing their savings as risk-taking capital.

Proposal No 40: The Commission will adopt a legislative initiative on access to certain basic banking services at the start of 2011. It will also call on the banking sector to submit a self-regulatory initiative geared towards improving the transparency and comparability of bank charges by the end of 2011.

It is very important that bank charges become transparent and comparable.

Bank charges should be covered by the same principles guiding the PRIPs initiative.

Consumers must have the possibility to know and compare all charges related to all the possible ways to place savings.

Proposal No 41: By February 2011 the Commission will propose a Directive geared towards the creation of a single integrated mortgage market with a high level of consumer protection.

Coming from a Member State with a well-functioning mortgage system with a history of 200 years without losses for the investors is it important to stress that a single integrated mortgage market must be open for different solutions.

Danish Shareholders Association recommends the Danish mortgage system both for the debtors and the investors. It is a fine system and it should not be devaluated and spoiled by the development of the Single Market or the Basle III rules.

Proposal No 46: In 2011, the Commission will be submitting an initiative on the use of alternative dispute resolution in the EU. It will also be adopting a Recommendation in 2011 on the network of alternative dispute resolution systems for financial services. The aim of these two initiatives is to ensure that simple, reasonably priced out-of-court settlement procedures are established to deal with cross-border consumer disputes. By 2012, the Commission will be proposing a European system for the settlement of online disputes for digital transactions. It will also carry out a public consultation on a European approach to collective redress in 2010-2011, in order to identify arrangements which could be introduced into the legal framework of the European Union and the legal systems of the Member States.

It is important that out-of-court settlement procedures are binding for both parts. We have experienced in Denmark that banks in an increasing degree say no to

the decisions from our out-of-court system. The consumer-ombudsman is looking in to the problem and it seems that the problem will be solved but out-of-court settlement systems are only good if they bring resolutions.

Proposal No 48: The Commission will increase consultation and dialogue with civil society in the preparation and implementation of texts. Particular attention will be paid to taking into account the points of view of consumers, NGOs, trade unions, businesses, savers, users and local authorities in the consultations prior to the adoption of proposals and, in particular, with regard to the work of expert groups.

It is not enough to invite to consultations and dialogue. NGOs for consumers financed by contributions from members find it increasingly difficult to find the money necessary to pay experts who can contribute to consultations and the dialogue.

Experts cannot live of travel costs they need salaries too.

Kind regards

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