

**MEMO# 29441**

October 22, 2015

## **Member Call: EU Commission Call for Evidence: EU Regulatory Framework for Financial Services**

[29441]

October 22, 2015

TO: EQUITY MARKETS ADVISORY COMMITTEE No. 23-15  
FIXED-INCOME ADVISORY COMMITTEE No. 33-15  
ICI GLOBAL CAPITAL MARKETS UNION TASK FORCE  
ICI GLOBAL REGULATED FUNDS COMMITTEE No. 65-15  
ICI GLOBAL RETIREMENT SAVINGS COMMITTEE  
ICI GLOBAL STEERING COMMITTEE No. 17-15  
ICI GLOBAL TAX COMMITTEE No. 21-15  
ICI GLOBAL TRADING & MARKETS COMMITTEE No. 50-15  
INTERNATIONAL COMMITTEE No. 58-15  
INTERNATIONAL OPERATIONS ADVISORY COMMITTEE No. 28-15 RE: MEMBER CALL: EU  
COMMISSION CALL FOR EVIDENCE: EU REGULATORY FRAMEWORK FOR FINANCIAL  
SERVICES

On 30 September, the European Commission (“the Commission”) launched a Call for Evidence [\[1\]](#) to examine the cumulative impact of EU financial services legislation , [\[2\]](#) put in place in response to the financial crisis. [\[3\]](#) ICI Global intends to file a response to the Call for Evidence by the 6 January deadline. [\[4\]](#) A member call has been scheduled on 5 November at 3pm GMT/10am EST to collect feedback from members on the Call for Evidence. Dial-in details are below:

Date:

Time:

Dial-in Numbers: 5 November 2015

3pm GMT/10am EST

US: 1 415 363 0833

UK: 0844 4 73 73 73

Other Numbers <http://www.powwownow.co.uk/Conference-Call/International-Number-Rates>

PIN: 491937

Please indicate your attendance at the member call to Lesley Dunn on +44 (0) 207 961

0830 or at [Lesley.Dunn@iciglobal.org](mailto:Lesley.Dunn@iciglobal.org). An agenda for the member call will be circulated in due course.

## Call for Evidence

### Summary

The Call for Evidence was published by the Commission, alongside its Capital Markets Union (CMU) Action Plan. [5] The stated objective of the Call for Evidence is to examine the interaction, combined impact, and unintended consequences of financial legislation adopted in response to the financial crisis. [6] Furthermore, the Commission wants to examine: (i) whether there are areas where action is needed to support the promotion of jobs and growth; and (ii) whether there are unintended barriers to new market entrants and innovation.

The Commission is seeking to gather feedback in the following areas, through the Call for Evidence:

- Rules affecting the ability of the economy to finance itself and growth – (i) unnecessary regulatory constraints on financing; (ii) the positive or negative effects of regulation on market liquidity; (iii) the positive or negative effects of regulation on investor and consumer protection; and (iv) proportionality and the preservation of diversity in the EU financial sector;
- Unnecessary regulatory burdens – (i) excessive compliance costs and complexity; (ii) reporting and disclosure obligations; (iii) contractual documentation; (iv) rules outdated due to technological change; and (v) barriers to entry;
- Interactions, inconsistencies and gaps – (i) links between individual rules and overall cumulative impact; (ii) legislative definitions; (iii) overlaps, duplications and inconsistencies in legislation; and (iv) gaps in legislation;
- Rules giving rise to unintended consequences – (i) risk; and (ii) procyclicality.

### Responses

The Commission has indicated that it will assess responses to the Call for Evidence against the following objectives:

- promoting economic and financial stability in the EU;
- maximising the benefits of the financial system to the economy, jobs and sustainable growth and promoting better access to finance, notably for SMEs;
- completing the EU single rulebook and promoting the single market for all 28 Member States;
- restoring trust in the financial system following the crisis and ensuring a high level of consumer and investor protection;
- ensuring the EU rules are as simple and clear as possible and keeping regulatory burden to the minimum necessary; and
- promoting the competitiveness of the EU economy.

In its response to the Commission's CMU Green Paper, ICI Global highlighted the importance of evaluating the impact of post-crisis regulatory reforms, before proceeding with new initiatives under the CMU. Furthermore, ICI Global also highlighted the need for such initiatives to seek to enhance the coherence of EU capital markets regulation, collectively support stronger retail investor engagement with the capital markets, promote

the liquidity and depth of the capital markets, and incentivise investment by reducing fragmentation and regulatory barriers.

The Commission has invited responses its new Call for Evidence by 6 January 2016. Responses are to be categorised into one of fifteen “issues” (see annex) and are to be submitted through an online questionnaire. Up to five examples can be provided for each issue.

## **Next Steps**

The Commission expects to report on the main findings of the Call for Evidence, and next steps by mid-2016. As part of its CMU Action Plan, the Commission intends to assess achievements and re-assess priorities for the delivery of the CMU in 2017. In parallel, by 2017, reviews of several current legislative initiatives including the Capital Requirements Regulation (CRR) [\[7\]](#) and the European Market Infrastructure Regulation (EMIR) [\[8\]](#) will have been completed. The Commission is also required to prepare various other reports in 2017 including a review of the AIFM Directive by 22 July 2017 [\[9\]](#) and reports on the functioning of aspects of the Securities Financing Transactions Regulation. [\[10\]](#) These reviews and reports, together with the input the Commission receives in response to the Call for Evidence, are likely to feed into the Commission’s progress assessment on the CMU.

## **Related international level Work**

In their respective Resolutions and Conclusions on the CMU Green Paper, both the Council of Europe and the European Parliament called on the Commission to undertake an evaluation of financial reforms. The Parliament is currently undertaking its own stocktake of financial regulation, [\[11\]](#) and work to examine the impact of financial regulatory reform is also underway at international level in the FSB [\[12\]](#) and other international bodies.

## **Annex - Template for Submissions to the Call for Evidence**

Responses are to be submitted under fifteen issues, divided into four thematic areas. Up to five examples can be provided under each issue.

### **A. Rules affecting the ability of the economy to finance itself and grow**

- Issue 1 - Unnecessary regulatory constraints on financing
- Issue 2 - Market liquidity
- Issue 3 - Investor and consumer protection
- Issue 4 - Proportionality / preserving diversity in the EU financial sector

### **B. Unnecessary regulatory burdens**

- Issue 5 - Excessive compliance costs and complexity
- Issue 6 - Reporting and disclosure obligations
- Issue 7 - Contractual documentation
- Issue 8 - Rules outdated due to technological change
- Issue 9 - Barriers to entry

### **C. Interactions of individual rules, inconsistencies and gaps**

- Issue 10 - Links between individual rules and overall cumulative impact
- Issue 11 - Definitions
- Issue 12 - Overlaps, duplications and inconsistencies
- Issue 13 - Gaps

#### D. Rules giving rise to possible other unintended consequences

- Issue 14 - Risk
- Issue 15 - Procyclicality

Giles Swan

Director of Global Funds Policy - ICI Global

#### endnotes

[1] Call for Evidence: EU Regulatory Framework For Financial Services, available from [http://ec.europa.eu/finance/consultations/2015/financial-regulatory-framework-review/docs/consultation-document\\_en.pdf](http://ec.europa.eu/finance/consultations/2015/financial-regulatory-framework-review/docs/consultation-document_en.pdf)

[2] The Commission intends to consider the full 'EU regulatory framework for financial services' including legislation adopted by co-legislators and also the European Supervisory Authorities such as ESMA.

[3] The Commission has indicated that it will examine at least the last six years of legislation and rule making.

[4] Responses are to be submitted using the Commission's online questionnaire, available from <https://ec.europa.eu/eusurvey/runner/financial-regulatory-framework-review-2015?surveylanguage=en>

[5] COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS Action Plan on Building a Capital Markets Union, 30 September 2015, available from [http://ec.europa.eu/finance/capital-markets-union/docs/building-cmu-action-plan\\_en.pdf](http://ec.europa.eu/finance/capital-markets-union/docs/building-cmu-action-plan_en.pdf)

[6] European Commission – Fact Sheet, Call for Evidence: EU Regulatory Framework for Financial Services, 30 September 2015, available from [http://europa.eu/rapid/press-release\\_MEMO-15-5735\\_en.htm?locale=en](http://europa.eu/rapid/press-release_MEMO-15-5735_en.htm?locale=en)

[7] DG FISMA Consultation Paper on the Possible Impact of the CRR and CRD IV on bank financing of the economy, 15 July 2015, available from [http://ec.europa.eu/finance/consultations/2015/long-term-finance/index\\_en.htm](http://ec.europa.eu/finance/consultations/2015/long-term-finance/index_en.htm)

[8] Public Consultation on Regulation (EU) NO 648/2012 on OTC Derivatives, Central Counterparties and Trade Repositories, 21 May 2015, available from [http://ec.europa.eu/finance/consultations/2015/emir-revision/index\\_en.htm](http://ec.europa.eu/finance/consultations/2015/emir-revision/index_en.htm)

[9] Article 69(1) requires “By 22 July 2017, the Commission shall, on the basis of public consultation and in the light of the discussions with competent authorities, start a review on the application and the scope of this Directive”, Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010, available from <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32011L0061>

[10] Chapter IX, REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on reporting and transparency of securities financing transactions and amending Regulation (EU) No 648/2012 (see Confirmation of the final compromise text with a view to agreement, 26 June 2015, available from [http://www.consilium.europa.eu/en/press/press-releases/2015/06/pdf/st10197\\_en15\\_pdf/](http://www.consilium.europa.eu/en/press/press-releases/2015/06/pdf/st10197_en15_pdf/))

[11] Draft Report on stocktaking and challenges of the EU Financial Services Regulation: impact and the way forward towards a more efficient and effective EU framework for Financial Regulation and a Capital Markets Union, 2015/2106(INI), 26 August 2015, available from <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fNONGML%2bCOMPARL%2bPE-564.921%2b01%2bDOC%2bPDF%2bV0%2f%2fEN>

[12] The FSB Plenary has committed to publishing an annual consolidated report on the implementation of regulatory reforms and their effects, see Financial Reforms – Progress on the Work Plan for the Antalya Summit, 9 April 2015, available from <http://www.financialstabilityboard.org/wp-content/uploads/FSB-Chairs-letter-to-G20-April-2015.pdf>