

MEMO# 29392

October 1, 2015

European Commission Action Plan -- "Building a Capital Markets Union"

[29392]

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TO: EQUITY MARKETS ADVISORY COMMITTEE No. 19-15
FIXED-INCOME ADVISORY COMMITTEE No. 31-15
ICI GLOBAL CAPITAL MARKETS UNION TASK FORCE
ICI GLOBAL REGULATED FUNDS COMMITTEE No. 61-15
ICI GLOBAL RETIREMENT SAVINGS COMMITTEE
ICI GLOBAL TAX COMMITTEE No. 19-15
ICI GLOBAL STEERING COMMITTEE No. 16-15
ICI GLOBAL TRADING & MARKETS COMMITTEE No. 46-15
INTERNATIONAL COMMITTEE No. 54-15
INTERNATIONAL OPERATIONS ADVISORY COMMITTEE No. 25-15 RE: EUROPEAN
COMMISSION ACTION PLAN - "BUILDING A CAPITAL MARKETS UNION"

On 30 September 2015, the European Commission ("the Commission") published an "Action Plan on Building a Capital Markets Union" ("the Action Plan"). [\[1\]](#) This memo summarises the workstreams and initiatives in the Action Plan, and analyses the proposals against those discussed in the Commission's earlier Green Paper [\[2\]](#) and Public Hearing [\[3\]](#), to which ICI Global responded. [\[4\]](#) It also considers the influence of the conclusions and resolutions of the European Parliament ("the Parliament") and the Council of the European Union ("the Council") in respect of the Capital Markets Union ("CMU").

The Commission published a number of documents accompanying the Action Plan [\[5\]](#) including the supporting economic analysis [\[6\]](#) and a feedback statement on the prior Green Paper. [\[7\]](#) Furthermore, the Commission published: (i) a call for evidence on the cumulative impact of recent financial services regulation [\[8\]](#); (ii) a consultation on the development of a pan-European framework for covered bonds [\[9\]](#); (iii) a review of the European Venture Capital Fund and European Social Entrepreneurship Fund Regulations [\[10\]](#); (iv) amendments to the delegated regulation under Solvency II [\[11\]](#); and (v) a package of two measures related to securitisation. [\[12\]](#)

Background to the Capital Markets Union Initiative

The CMU is a flagship initiative under the Commission's "jobs and growth" agenda. [\[13\]](#) The Commission's stated objective for the CMU is to "create opportunities for investors, connect

finance to the wider economy, and foster a more resilient financial system, with deeper integration and more competition". [14] Following the initial announcement of the CMU by Commission President Juncker in October 2014, the Commission launched its work in January 2015 [15], following which it published a Green Paper and held a public hearing, both leading up to the publication of the Action Plan.

Overview of the CMU Action Plan

In the Action Plan the Commission sets out what it considers to be "the building blocks for a well-functioning and integrated Capital Markets Union, encompassing all Member States". [16] The Commission reaffirms its commitment to put in place a CMU by 2019, but states that as the CMU is a long-term project, it will assess achievements and re-assess priorities in 2017.

The publication of the Action Plan follows the Commission's Green Paper [17], published in February, to which it received c.430 responses. [18] ICI Global's response supported the Commission's stated objectives for the CMU. Overall, the Commission has taken a step-by-step approach to the CMU. This approach has been supported by statements from the European Parliament [19] and from the Council of the European Union [20], whom have also broadly supported the priority areas of focus identified by the Commission.

The European Parliament has called on the Commission to "to speed up its work on the action plan and put forward legislative and non-legislative proposals as soon as possible to achieve the objective of a fully integrated single EU capital market by the end of 2018". The Commission's stated intention is to put in place the CMU by 2019

In the preamble to the Action Plan, the Commission asserts that "stronger capital markets will complement Europe's strong tradition of bank financing" and will deliver the following four outcomes:

- Unlock more investment from the EU and the rest of the world;
- Better connect financing to investment projects across the EU;
- Make the financial system more stable;
- Deepen financial integration and increase competition.

To achieve these outcomes, the Commission sets out actions under the following five priority areas:

- Providing more funding choices for Europe's businesses and SMEs – through (i) revisions to the Prospectus Directive; (ii) the promotion of best practice on tax incentives to support equity financing; and (iii) the promotion of private placement and loan-originating funds;
- Ensuring an appropriate regulatory environment for long-term and sustainable investment and financing of Europe's infrastructure – through revisions to Solvency II and the Capital Requirements Regulation, and by assessing the coherence and consistency of previous regulatory reforms.
- Increasing investment and choices for retail and institutional investors – by looking at ways to boost choice and competition in cross-border retail financial services, through a Green Paper published later this year
- Enhancing the capacity of banks to lend – by (i) revitalising simple, transparent and standardised European securitisations; and (ii) building a pan-European covered bond framework;
- Bringing down cross-border barriers and developing capital markets for all 28 Member

States – by (i) taking forward principles based legislation on business insolvency; (ii) providing greater certainty around securities ownership and improving cross-border clearing and settlement; (iii) strengthening supervisory convergence across the EU; and (iv) reviewing macro-prudential supervisory tools.

Workstreams comprising the CMU Action Plan

The Commission intends to pursue actions under the following six workstreams:

- The path to growth - financing for innovation, start-ups and non-listed companies;
- Making it easier for companies to enter and raise capital on public markets;
- Investing for the long term, infrastructure and sustainable investment;
- Fostering retail and institutional investment;
- Leveraging banking capacity to support the wider economy
- Facilitating cross-border investing

The actions that are relevant for investment funds are outlined below, under each workstream.

1. The path to growth - financing for innovation, start-ups and non-listed companies

The Commission identifies various measures to support the financing of small and medium-sized enterprises. The measures of direct relevance to funds include: (i) a commitment to “assess the need for a coordinated approach to loan origination by funds and the case for a future EU framework”; and (ii) supporting the promotion of industry initiatives to draw on the best practices for private placement. In respect of the latter, the Commission underscores the potential it sees for growth in the EU private placement market if this is “channel” of finance is developed.

The Commission has also identified possible future actions to break-down credit-information sharing barriers and to support the development of: (i) crowdfunding; and (ii) venture capital and risk capital financing, through revisions to the EUVECA and EUSEF frameworks.

2. Making it easier for companies to enter and raise capital on public markets

The Commission identifies various measures to support the financing of mid-sized and large companies. Of particular relevance is a commitment by the Commission to review “the functioning of the EU corporate bond market, focusing on how market liquidity can be improved, the potential impact of regulatory reforms, market developments and voluntary standardisation of offer documentation”. The Commission also plans to revise the Prospectus Directive. [\[21\]](#)

The Commission has committed to: (i) ensuring the regulatory environment for the admission of small firms to public markets is fit for purpose, including through possible changes to accounting practice; and (ii) examining ways to address debt-equity bias that impede efficient capital market financing.

3. Investing for the long term, infrastructure and sustainable investment

The Commission identifies various measures to support new long-term and sustainable investment. Of particular note is the Commission’s commitment to launch “a call for evidence to evaluate the interactions between rules and the cumulative impact of the financial reforms on the investment environment”. [\[22\]](#) This call for evidence is discussed in more detail later in this memo.

Alongside the Action Plan, the Commission has also published proposed revisions to calibrations in Solvency II [\[23\]](#), with the objective of ensuring that insurance companies are subject to a regulatory treatment that better reflects the risk of infrastructure and ELTIF investments. [\[24\]](#) Furthermore, the Commission will also work to support the pooling of private and EU resources to increase infrastructure financing, including working with other bodies to provide guidance as to eligibility under the European Fund for Strategic Investments (EFSI). [\[25\]](#)

4. Fostering retail and institutional investment

The Commission identifies various measures to support the investment chain, including providing confidence and certainty to retail investors, and creating an environment to foster investment opportunities that meet the requisite return profiles of institutional investors. As outlined in greater detail below, several measures proposed by the Commission are of direct relevance to funds.

Retail Investors

The Commission identifies choice and the ability of investors “to compare products and find the most suitable savings vehicles at competitive prices” as key components of competitive financial markets that remove barriers to retail investors saving via the capital markets. [\[26\]](#) By the end of 2015, the Commission has committed to publishing “a Green Paper on retail financial services and insurance that will seek views on how to increase competition and cross-border supply of and access to retail financial products”. Furthermore, work will be undertaken by the European Supervisory Authorities [\[27\]](#) on the “transparency of long-term retail and pension products and an analysis of the actual net performance and fees”. [\[28\]](#)

The Commission also identifies the importance of ensuring that retail investors have “have easy access to a range of suitable and cost-effective investment products and affordable and independent advice”. The Commission highlights the transition to online distribution of investment products and the emergence of technology. The Commission commits to undertaking “a comprehensive assessment of European markets for retail investment products, including distribution channels and investment advice, drawing on expert input. The assessment will identify ways to improve the policy framework and intermediation channels so that retail investors can access suitable products on cost-effective and fair terms. The assessment will examine how the policy framework should evolve to benefit from the new possibilities offered by online based services and fintech.”

The Commission notes that no effective single market for individual (“third pillar”) personal pension plans currently exists, and that the patchwork of rules at EU and national level is a barrier to a large and competitive EU market for personal pensions. [\[29\]](#) Furthermore, it asserts that market fragmentation prevents personal pension providers from maximising economies of scale, risk diversification and innovation, thereby reducing choice and increasing cost for pension savers. The Commission commits to assessing “the case for a policy framework to establish a successful European market for simple, efficient and competitive personal pensions, and determine whether EU legislation is required to underpin this market.”

Institutional Investors

The Commission highlights the long-term nature of many institutional investors, but notes

the decline in equity investment by institutional investors over the last couple of decades. The Commission commits to assessing “whether changes are warranted and, if so, prepare amendments which could be brought forward in the context of the Solvency II review”.

The Commission notes the increase in cross-border investment by funds into equity and corporate bond markets over the last 20 years. As was highlighted in ICI Global’s response to the Green Paper, the Commission acknowledges that market fragmentation is a prevalent issue for the European asset management sector. Factors such as (i) discriminatory tax treatment; (ii) varying national requirements on the marketing of funds; (iii) and fees for cross-border notifications, are cited as restricting cross-border fund activity. The Commission therefore commits to “gather evidence on the main barriers to the cross-border distribution of investment funds. This would include in particular disproportionate marketing requirements, fees, and other administrative arrangements imposed by host countries and the tax environment. Based on the evidence provided, the Commission will seek to eliminate key barriers, through legislative means if necessary.”

5. Leveraging banking capacity to support the wider economy

The Commission outlines a number of actions of direct relevance to banks. These actions include revisions to the prudential calibrations for banks and insurers under the Capital Requirements Regulation [\[30\]](#) and Solvency II [\[31\]](#) Regulation respectively. The Commission has also published a consultation on the development of a pan-European framework for covered bonds. [\[32\]](#)

6. Facilitating cross-border investing

The Commission has identified several obstacles that it considers stand in the way of cross-border investments. The obstacles and resulting actions are summarised below.

Legal certainty and market infrastructure for cross-border investing

The Commission highlights the importance of efficient and safe post-trade infrastructures. It acknowledges long-standing and deep-rooted obstacles that exist in securities law, property law and insolvency laws, but asserts that the increasingly cross-border nature of most securities transactions warrants action. The Commission proposes to:

- take forward early targeted work on uncertainty surrounding securities ownership. On the basis of further consultation and impact assessment, the Commission will also propose uniform rules to determine with legal certainty which national law shall apply to third party effects of the assignment of claims; and
- undertake a broader review on progress in removing Giovannini barriers to cross-border clearing and settlement, following the implementation of recent legislation and market infrastructure developments.

Removing national barriers to cross-border investment

The Commission underscores the importance of “consistency in the application, implementation and enforcement of the legal and supervisory framework” to the free movement of capital and the creation of a level playing field. It identifies several underlying factors that can result in barriers to cross-border investment including national “gold-plating” of EU minimum rules. Working with Member States, the Commission commits to “map and work to resolve unjustified national barriers to the free movement of capital, stemming, amongst other things, from insufficient implementation or lack of convergence

in interpretation of the single rulebook and from national law that are preventing a well-functioning Capital Markets Union and publish a report by the end of 2016”

Promoting financial stability and supervisory convergence

The Commission highlights the on-going work being undertaken by the FSB [\[33\]](#) to understand and address vulnerabilities related to entities undertaking bank-like activities in capital markets. The Commission asserts that ensuring a global regulatory approach to potential emerging systemic risks, will both support financial stability and facilitate cross-border investment. The Commission commits to “work with the FSB and ESAs alongside the European Systemic Risk Board (ESRB) to assess possible risks to financial stability arising from market-based finance. Further analytical work will be conducted, for example to better understand the issues of market liquidity and interconnectedness in the financial system, and to assess if additional macro-prudential instruments should be developed. The Commission will make any changes necessary to the macro-prudential framework in the context of the forthcoming ESRB review.”

The Commission considers that deeper financial integration under the CMU “will need to be accompanied by increased focus by ESMA on achieving convergence of supervisory outcomes across the EU”. As was highlighted in ICI Globe’s response to the Green Paper, the Commission also acknowledges the emphasis placed by other respondents to the Green Paper on ensuring supervisory convergence and consistent implementation and application of EU financial services legislation. [\[34\]](#) The Commission therefore commits to “work with ESMA to develop and implement a strategy to strengthen supervisory convergence and to identify areas where a more integrated approach can improve the functioning of the single market for capital. The Commission will also work with ESMA to enhance the effectiveness of its thematic and country peer review decision-making. The Commission will publish a White Paper in 2016 on the governance and the financing of the ESAs.”

Facilitating international investment

The Commission asserts that “for EU capital markets to thrive, they will need to be open and globally competitive, and able to attract additional equity and debt investment from international investors.” It commits to ensuring that the CMU will take account of the wider global context. Furthermore, that the Commission will continue to work closely with EU Member States and third countries in international fora such as the FSB and IOSCO to develop convergent policy responses in order to support the development of global capital markets. In addition, the Commission will seek to establish frameworks for regulatory cooperation in financial services with key third countries to strengthen integration of capital markets. [\[35\]](#)

Feedback Statement on the CMU Green Paper

The Commission received 430 responses to its Green Paper. [\[36\]](#) The Feedback Statement provides a detailed overview of responses. [\[37\]](#) Extracts from this overview, of particular relevance to funds, are outlined below (question numbers relate to those in the CMU Green Paper)

- Priority areas for action (Q1) - A majority of the respondents supported the Commission’s proposed five priorities for early action. [\[38\]](#) Respondents also cited the need to finalise the reform of Money Market Funds, improving corporate bond market liquidity, and lowering legal barriers to support efficient post-trade processes for cross-border securities transactions;

- Private Placement (Q4) – A significant number of respondents favoured market-led solutions, over a legislative initiative, to create a European private placement regime;
- Access to Funding and Channelling of funds (Q5) – Asset management associations called for a more holistic approach to corporate reporting and advocated a consolidated tape for equities;
- Corporate Bond Market Liquidity (Q6) - The majority of respondents considered that there is a liquidity issue in the secondary market for corporate bonds that warrants action. Many respondents focused on the need to pros and cons of standardisation. Several other measures were suggested by respondents, including developing electronic platforms for corporate bond trading, using the Prospectus Directive review to facilitate the subscription of bonds by retail investors, removing the dual standard for disclosure and supporting the development of a consolidated tape of transactions in the secondary corporate bond market;
- Boosting Institutional Investment (Q10) – a series of policy measures were proposed by respondents, including: (i) revised capital requirements for high-quality securitisation; (ii) establishing a cross-border investment-friendly tax environment by removing unfair tax treatment (mainly in the withholding tax area); and (iii) introducing tax incentives;
- Costs and barriers to setting up and marketing funds across the EU (Q11) – respondents pointed out that in spite of the passport regimes available under the UCITS and AIFM Directives, the EU investment fund market remains highly fragmented. Respondents noted that such fragmentation resulted in: (i) proportionally higher costs; and (ii) barriers to economies of scale. Respondents also cited (i) domestic tax regimes; (ii) national marketing requirements on cross-border competition; (iii) administrative fees imposed by regulators for cross-border notifications; and (iv) requirement for appointing a local paying agent, as particular barriers and/or factors that excessively increase cost without resulting benefits to investors;
- Single Market in Pension Provision (Q13) – a large number of respondents supported a European Personal Pension Product (EPPP) as a cross-border alternative to existing national schemes. National social and tax legislation were cited as potential obstacles. Consumer organisations felt an EPPP should allow for several investment options, withdrawal restrictions with some key exceptions, and several pay-out options;
- Increasing cross-border retail participation (Q17) – respondents suggested that to increase cross-border retail participation in UCITS it would be necessary to: (i) re-establish trust in capital markets; (ii) ensure the provision of unbiased and affordable advice and transparency; and (iii) remove barriers to cross-border sales. Respondents also cited: (i) a stable legal framework with consistent enforcement of existing rules; and (ii) the need to provide financial education to retail investors, as important steps. Tax, marketing and distribution issues were cited as burdens to the cross-border sale of UCITS within the EU. The importance of cross-border retail markets outside the EU was also highlighted. Respondents urged the Commission to preserve the preserve a strong footprint for UCITS in Asia by exploring opportunities to engage in strategic partnerships in the region;
- ESAs' contribution to ensuring consumer and investor protection (Q18) – many respondents suggested that, going forward, the ESAs should have a stronger focus on achieving supervisory convergence and consistent and effective implementation of EU rules. Several asset managers called for improvements to reporting channels and the development of centralised IT systems to avoid overlaps and improve the efficiency of reporting;
- Increasing retail investment (Q19) – respondents highlighted the importance of

ensuring that investors have the confidence, trust, knowledge and support necessary to understand the risks and benefits of different products and services, in order to make informed investment decisions. Many respondents asked for consistent and clear information disclosure requirements for all retail investment products. Industry respondents highlighted the importance of a simple, predictable and consistent regulatory framework, as well as clear and, where possible, convergent fiscal rules;

- International competitiveness (Q21) – the CMU was perceived as a positive movement towards increasing Europe's competitiveness and making it a more attractive place for investment. Specific proposals for new measures included a better assessment of the overall impact of financial regulation, in particular cross-sectorial effects, and a closer alignment of EU regulations with international standards. Improvements to provisions governing third-country access in the current legislation, especially "equivalence" provisions, were also drawn to the Commission's attention by respondents;
- EU access to third countries (Q22) – respondents cited the development of a framework for global coordination towards regulatory convergence as an important longer-term objective. A shorter-term approach, based on mutual recognition, was highlighted as important to facilitate cross-border business. The need to ensure that European players have a similar treatment to local players in third countries was also highlighted;
- Functioning and efficiency of markets (Q23) – many respondents recommended policy actions to improve market liquidity on secondary equity and bond markets. Respondents called for the preservation of market-making activities and an appropriate regulatory framework for these activities. MiFID II pre- and post-trade transparency requirements, particularly for corporate bonds, were seen as potentially significant drivers of market liquidity. The impact of bank structural reforms, and a Financial Transaction Tax, were both cited as potentially detrimental to market liquidity. Other respondents were in favour of greater use of electronic trading platforms for corporate bonds and a European consolidated tape;
- Taxation barriers (Q30) – respondents cited tax issues as presenting challenges to an effective CMU. Respondents highlighted the impact of withholding taxes on the income derived from cross-border securities investment, the lack of harmonisation of tax systems in the EU, and the Financial Transaction Tax (FTT) as particular issues. Some respondents cited recommendations from the OECD Base Erosion and Profit Shifting System (BEPS) project and inconsistencies in national tax regimes, as acting contrary to the goals of the CMU.

Call for Evidence - EU Regulatory Framework for Financial Services

As noted above, the Commission has launched a call for evidence [\[39\]](#) to examine the cumulative impact of EU financial services legislation [\[40\]](#) put in place in response to the financial crisis. [\[41\]](#) The stated objective of the call for evidence is to examine the interaction, combined impact, and unintended consequences of the legislation.

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.

Through the call for evidence, the Commission is seeking to gather feedback in the following areas:

- 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 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;

The Commission 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.

ICI Global has highlighted the importance of evaluating the impact of post-crisis regulatory reforms before proceeding with new initiatives under the CMU. [42] 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.

In their respective Resolutions and Conclusions on the CMU, both the Council [43] and the Parliament called on the Commission to undertake an evaluation of financial reforms. Furthermore, the Parliament is currently undertaking its own stocktake of financial regulation, [44] and work to examine the impact of financial regulatory reform is also underway at international level in the FSB [45] and other international bodies.

The Commission is inviting responses to the call for evidence by 6 January 2016, [46] and is expecting to report on the main findings and next steps by mid-2016. As noted above, in 2017 the Commission intends to assess achievements and re-assess priorities for the delivery of the CMU. By 2017, reviews of several current legislative initiatives including the Capital Requirements Regulation (CRR) [47] and the European Market Infrastructure Regulation (EMIR) [48] 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 [49] and reports on the functioning of aspects of the Securities Financing Transactions Regulation. [50] These reviews and reports are likely to feed into the Commission's progress assessment on the CMU.

Conclusions and Resolutions of other co-legislators in respect of CMU

The Council and the Parliament have adopted Conclusions and Resolutions for the CMU, respectively. The conclusions adopted by the Council recognise the need to strengthen “equity culture in the EU ...to encourage long-term investment” and stress the need to

develop “non-bank financing opportunities for all SMEs”. Furthermore, the Council “recalled the importance of increasing retail investment and ensuring robust investor and consumer protection” and “the need to ensure that Europe’s capital markets can compete on a fair basis with other economic areas”. The Council identified securitisation, the identification and removal of “barriers to the free movement of capital”, the “potential of private placements”, and the simplification and streamlining of the preparation and approval of prospectuses, as short-term priorities for action. [51]

In addition to the formal Resolution adopted by the Parliament in relation to CMU, MEP Burkhard Balz (German, EPP) has prepared a 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” [52] for discussion by the Economic and Monetary Affairs Committee (ECON). The draft report contains a number of proposed recommendations to the Commission including “that a sound and robust CMU has to acknowledge the interdependencies with other financial sectors and has to be based on well-established existing structures; stresses the need for a holistic view of EU financial services regulation”. [53] Opinions of other Parliamentary Committees have underscored the importance of reflecting the global context of the CMU. [54]

Next Steps

The Commission has announced a number of measures, reports and proposals for delivery during the remainder of 2015 and in 2016. Of particular note, in the near-term, is the call for evidence on the EU regulatory framework for financial services (noted above), for which the Commission is accepting responses until 6 January 2016. The Commission has also indicated that it will publish a Green Paper on retail financial services and insurance before the end of 2015.

The Commission intends to assess achievements and re-assess priorities in 2017, with a view to putting in place a CMU by 2019.

A table summarising the timeline and actions in the CMU Action Plan that are of particular relevance to investment funds is contained in Annex (i).

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[Attachment](#)

endnotes

[1] Action Plan on Building a Capital Markets Union, European Commission, 30 September 2015, available from http://ec.europa.eu/finance/capital-markets-union/docs/building-cmu-action-plan_en.pdf

[2] See ICI Global Memo Ref 28743, dated 18 February 2015, Re: European Commission Green Paper – “Building a Capital Markets Union”, available from <https://www.iciglobal.org/portal/site/ICI/menuitem.9ad35c6866c5fcca09ce3110b52001ca/?vgnextoid=f58294f85748b410VgnVCM1000001c0210acRCRD&vgnextchannel=4d1b1e9fd9c3b410VgnVCM1000001c0210acRCRD&vgnextfmt=global>

[3] A Public Hearing on “the Next steps to build a Capital Markets Union” was hosted by the Commission in Brussels on 8 June 2015. Details of the hearing, including a webstream, are available from

http://ec.europa.eu/finance/events/2015/0608-cmu-hearing/index_en.htm

[4] See ICI Global Memo Ref 28990, dated 18 May 2015, Re: Response to European Commission Green Paper on “Building a Capital Markets Union”, available from

<https://www.iciglobal.org/portal/site/ICI/menuitem.9ad35c6866c5fcca09ce3110b52001ca/?vgnextoid=0a3b7d303395d410VgnVCM1000001c0210acRCRD&vgnnextchannel=4d1b1e9fd9c3b410VgnVCM1000001c0210acRCRD&vgnnextfmt=global>

[5] These documents comprised a Commission Staff Working Document containing Economic Analysis (see

http://ec.europa.eu/finance/capital-markets-union/docs/building-cmu-economic-analysis_en.pdf) and a Feedback Statement summarising responses to the Commission’s earlier Green Paper (see

http://ec.europa.eu/finance/consultations/2015/capital-markets-union/docs/summary-of-responses_en.pdf

[6] Commission Staff Working Document, Economic Analysis accompanying the Action Plan on Building a Capital Markets Union, 30 September 2015, available from

http://ec.europa.eu/finance/capital-markets-union/docs/building-cmu-economic-analysis_en.pdf

[7] Commission Staff Working Document, Feedback Statement on the Green Paper “Building a Capital Markets Union”, 30 September 2015, available from

http://ec.europa.eu/finance/consultations/2015/capital-markets-union/docs/summary-of-responses_en.pdf

[8] 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

[9] Consultation Document, Covered Bonds in the European Union, available from

http://ec.europa.eu/finance/consultations/2015/covered-bonds/docs/consultation-document_en.pdf

[10] Consultation Document, Review of the European Venture Capital Funds (EUVECA) and European Social Entrepreneurship Funds (EUSEF) Regulations, available from

http://ec.europa.eu/finance/consultations/2015/venture-capital-funds/docs/consultation-document_en.pdf

[11] Commission Delegated Regulation amending Commission Delegated Regulation (EU) 2015/35 concerning the calculation of regulatory capital requirements for several categories of assets held by insurance and reinsurance undertakings, available from

http://ec.europa.eu/finance/insurance/docs/solvency/solvency2/amendment/20150930-amendment-to-the-delegated-act_en.pdf

[12] A proposal for a Securitisation Regulation that will apply to all securitisations and include due diligence, risk retention and transparency rules together with the criteria for Simple, Transparent and Standardised ("STS") Securitisations, available from

http://ec.europa.eu/finance/securities/docs/securitisation/com-2015-472_en.pdf and a

proposal to amend the Capital Requirements Regulation to make the capital treatment of securitisations for banks and investment firms more risk-sensitive and able to reflect properly the specific features of STS securitisations, available from

http://ec.europa.eu/finance/securities/docs/securitisation/com-2015-473_en.pdf

[13] The concept of a Capital Markets Union was first announced by Jean-Claude Juncker during his candidacy as President of the European Commission (see Political Guidelines and Opening Statement in the European Parliament Plenary Session, 22 October 2014, available from http://ec.europa.eu/priorities/docs/pg_en.pdf)

[14] European Commission – Press Release, Capital Markets Union: an Action Plan to boost business funding and investment financing, available from

http://europa.eu/rapid/press-release_IP-15-5731_en.htm?locale=en

[15] European Commission – Press Release, “Commission launches work on establishing a Capital Markets Union”, 28 January 2015, available from

http://europa.eu/rapid/press-release_IP-15-3800_en.htm

[16] p7, Action Plan

[17] Green Paper: Building a Capital Markets Union, 18 February 2015, available from

<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52015DC0063>

[18] Published Responses: Green Paper – Building a Capital Markets Union, available from

<https://ec.europa.eu/eusurvey/publication/capital-markets-union-2015?language=en>

[19] European Parliament resolution of 9 July 2015 on Building a Capital Markets Union , available from

<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P8-TA-2015-0268>

[20] Council of the European Union, Council conclusions on a Capital Markets Union, adopted by the Economic and Financial Affairs Council on 19 June 2015 (see

<http://www.consilium.europa.eu/en/press/press-releases/2015/06/19-conclusions-capital-markets-union/>). Conclusions available from

<http://data.consilium.europa.eu/doc/document/ST-9852-2015-INIT/en/pdf>

[21] A proposal to modernise the Prospectus Directive is expected in November 2015

[22] p17, Section 3.4, Action Plan

[23] Commission Delegated Regulation amending Commission Delegated Regulation (EU) 2015/35 concerning the calculation of regulatory capital requirements for several categories of assets held by insurance and reinsurance undertakings, available from

http://ec.europa.eu/finance/insurance/docs/solvency/solvency2/amendment/20150930-amendment-to-the-delegated-act_en.pdf

[24] The Commission has also committed to completing “a review of the Capital Requirements Regulation (CRR) and make changes on infrastructure calibrations, if appropriate”

[25] The ESFI is a EUR315bn fund announced by European Commission President, Jean-Claude Juncker, to support investment in the real economy (see

http://europa.eu/rapid/press-release_IP-14-2128_en.htm and
http://ec.europa.eu/priorities/jobs-growth-investment/plan/index_en.htm).

[26] Several national authorities are pursuing work on the competitiveness of the asset management industry. For instance, the UK Financial Conduct Authority has signalled its intention to conduct a market study on asset management that “will include the charges paid by investors, and the factors that drive those charges” (see p44, Business Plan 2015/16, Financial Conduct Authority,

<http://www.fca.org.uk/static/documents/corporate/business-plan-2015-16.pdf>

[27] Under the ESA’s consumer protection powers, for instance, Article 9 of the REGULATION (EU) No 1095/2010 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC, available from

http://www.esma.europa.eu/system/files/1095-2010_esma_regulation_amended.pdf)

[28] Work has been conducted by the Joint Committee of the ESAs (comprising EBA, ESMA and EIOPA) concerning the disclosure of costs in the Key Information Document under the Packaged Retail And Insurance-based Investment Products (PRIIPs) Regulation, see Discussion Paper, Key Information Documents for Packaged Retail and Insurance-based Investment Products (PRIIPs), 17 November 2014, available from

http://www.esma.europa.eu/system/files/jc_dp_2014_02_-_priips_discussion_paper.pdf and

Technical Discussion Paper, Risk, Performance Scenarios and Cost Disclosures In Key Information Documents for Packaged Retail and Insurance-based Investment Products (PRIIPs), 23 June 2015, available from

http://www.esma.europa.eu/system/files/jc_dp_2015_01.pdf

[29] The Action Plan includes a reference to EIOPA’s Consultation on the Creation of a Standardised Pan-European Personal Pension Products, see ICI Global Memo 29227, dated 5 August 2015, available from

<https://www.iciglobal.org/portal/site/ICI/menuitem.9ad35c6866c5fcca09ce3110b52001ca/?vgnextoid=ea7ad6b326afe410VgnVCM100000650210acRCRD&vgnextchannel=d7c998a0c3494410VgnVCM1000005a0210acRCRD&vgnextfmt=global>

[30] See proposals to amend the Capital Requirements Regulation to make the capital treatment of securitisations for banks and investment firms more risk-sensitive and able to reflect properly the specific features of STS securitisations, available from

http://ec.europa.eu/finance/securities/docs/securitisation/com-2015-473_en.pdf

[31] Commission Delegated Regulation amending Commission Delegated Regulation (EU) 2015/35 concerning the calculation of regulatory capital requirements for several categories of assets held by insurance and reinsurance undertakings, available from

http://ec.europa.eu/finance/insurance/docs/solvency/solvency2/amendment/20150930-amendment-to-the-delegated-act_en.pdf

[32] Consultation Document, Covered Bonds in the European Union, available from

http://ec.europa.eu/finance/consultations/2015/covered-bonds/docs/consultation-document_en.pdf

[33] For a discussion of the FSB’s work in this area see “Market liquidity and asset management”, Press Release – Meeting of the Financial Stability Board in London on 25

September, available from

<http://www.financialstabilityboard.org/2015/09/meeting-of-the-financial-stability-board-in-london-on-25-september/>

[34] This was also a recommendation in the so called “Five Presidents’ Report”, “Completing Europe’s Economic and Monetary Union”, Jean-Claude Juncker, available from http://ec.europa.eu/priorities/economic-monetary-union/docs/5-presidents-report_en.pdf

[35] The ECON Committee in the European Parliament are undertaking a report into the broader role of the EU in international financial, monetary and regulatory institutions and bodies, see Draft Report on the role of the Union in international financial, monetary and regulatory institutions and bodies, 3 September 2015, available from <http://www.sylviegoulard.eu/wp-content/uploads/2015/09/1071667EN-2.pdf>

[36] <https://ec.europa.eu/eusurvey/publication/capital-markets-union-2015?language=en>

[37] http://ec.europa.eu/finance/consultations/2015/capital-markets-union/docs/summary-of-responses_en.pdf

[38] The priority areas are simple, transparent and standardised securitisation; the revision of the Prospectus Directive; the improvement of the availability of credit information on SMEs; the development of a pan-European private placement regime; and the taking up of ELTIFs.

[39] http://ec.europa.eu/finance/consultations/2015/financial-regulatory-framework-review/docs/consultation-document_en.pdf

[40] 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.

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

[42] For instance, the impact of reforms on the functioning of bond markets, see answer to Question 6, Green Paper, available from <https://www.iciglobal.org/pdf/28990.pdf>

[43] The Council concluded that “in order to ensure cross-sectorial consistency, work to prepare the CMU should carefully evaluate the cumulative effect of legislative changes since the financial crisis and assess the need for proportionate measures.”, paragraph 22, Council conclusions on a Capital Markets Union

[44] 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>

[45] 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>

[46]

<https://ec.europa.eu/eusurvey/runner/financial-regulatory-framework-review-2015?surveylanguage=en>

[47] 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

[48] 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

[49] 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>

[50] 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/)

[51] p5 and p6, Council conclusions on a Capital Markets Union

[52] Draft Report on stocktaking and challenges of the EU Financial Services Regulation, ECON Committee, European Parliament

[53] p4, Draft Report on stocktaking and challenges of the EU Financial Services Regulation

[54] The Committee on Industry, Research and Energy has provided an opinion that “stresses the need to take into account the wider global context; calls for a set of measures to improve the investment climate, attracting capital flows into the EU and restoring the international competitiveness of the Union”, see paragraph 2, Draft Opinion of the Committee on Industry, Research and Energy for the Committee on Economic and Monetary Affairs 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)), 13 July 2015, available from <http://www.europarl.europa.eu/sides/getDoc.do?type=COMPARL&reference=PE-560.837&format=PDF&language=EN&secondRef=01>

[55] Annex 1, Action Plan

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