

Transatlantic cooperation on financial regulation

Letter (25 November 2004)

During the recent session of the Monetary Panel of the European League for Economic Cooperation in early October, the participants were privileged to hear a most interesting and detailed presentation by Mr. Pecker, Administrator within DGMARKT, on the state of the "transatlantic dialogue" in the field of financial regulation.

We were particularly pleased to hear how, over the last three to four years, the level of both formal and informal contacts at political and working level has developed between the various entities on both sides of the ocean charged with the regulation and supervision of financial markets.

With globalisation and integration of financial markets becoming an ever more important feature for sustaining economic growth, the problems posed by harmonisation and/or equivalence in rules to which market operators are subject becomes a major factor in reducing financing costs for productive investments well as ensuring fair competition.

In this respect the panel fully endorses the aim of identifying problems at an early stage and proposing solutions thus avoiding, as far as possible, the politicisation in a field where ethical and governance considerations should prevail. This is particularly relevant in areas where domestic legislation may have unintended knock-on effects for international operators as was the case for instance with the Sarbanes-Oxley Act. Both sides should benefit from early consultation which should take place systematically and, ideally, before detailed proposals are made public.

We were also pleased to hear that, largely as a result of the progressive implementation of the Financial Services Action Plan, the American counterparts appreciate being able to dialogue now with a single counterpart representing the European single market. This constitutes a major breakthrough but should further be built upon by Member States so as to reinforce the legitimacy of the Union's financial organs. It will indeed only be possible to insist on mutual recognition, in those few areas where structural and/or national practice may justify discrepancies, to the extent both parties are satisfied that the other is fully committed to achieve similar high standards guaranteeing the protection of investors, issuers and intermediaries as actors and the soundness, transparency and efficiency of the markets through which transactions are effected.

A particular area of concern arises from the highly "detailed rule based" approach to regulation espoused by the American authorities, which contrasts with the "principles" based approach favoured by the Europeans. The latter approach is clearly better suited to the European more fragmented market inherited from the period prior to European Monetary Union and certainly facilitates harmonisation at least at Union level. Furthermore, it is far from proven, as financial scandals on both sides of the Atlantic have shown, that the American approach is superior. However, in order to defend our traditions, in parallel with American rules, Europe needs to demonstrate its ability to adequately police financial markets under its preferred approach. This would appear to require a much more voluntarist approach to enforcement of existing regulations which in Europe has often been too lax, too tardy if not sometimes nonexistent.

Another point concerns the possibility of associating in some manner the actors of the market to this transatlantic dialogue as we firmly believe that early input of market operators can contribute to drafting the most appropriate regulatory framework when

addressing problems particularly as market access becomes more global. Indeed, if the ultimate goal is the integration/compatibility of the main world financial markets, consultation should be extended to all operators that wish to contribute to their development. ELEC, and in particular, its Monetary Panel, would be pleased to assist the Commission in making recommendations as to the best way of organising such an involvement.

Once again, on behalf of our colleagues on the Monetary Panel, we would like to express our appreciation for the remarkable presentation provided by the Commission on this very important topic and congratulate it on the steps that have been taken so far.

We are most keen to be kept informed of any significant development in this field and remain at your disposal for any assistance you believe we might provide towards the furtherance of this key objective of the Lisbon agenda.

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