

**FINANCIAL SERVICES ACTION PLAN:
PROGRESS AND PROSPECTS**

ASSET MANAGEMENT EXPERT GROUP

FINAL REPORT

MAY 2004

- Executive Summary -

- The European asset management industry manages over € 10 trillion of assets – roughly the size of EU-15 GDP! This industry plays a vital macroeconomic role in Europe’s economy. It contributes to fostering financial independence during working life-time and to sustaining a high quality of life also during retirement for the European citizens. The asset management industry is also a driver of integrity and efficiency in European financial markets. The asset management working group therefore welcomes the increased recognition given by European policy- makers to this fast growing industry, as a distinct and strategically important pillar of the European financial landscape.
- The investment fund industry is a high-growth sector with significant untapped potential for further expansion. The situation is similar for other parts of the asset management business such as discretionary or institutional business. However, the current level of fragmentation, as reflected in limited cross-border distribution and cross-border flows, together with a sub-optimal scale of operation, still hinder the industry from playing its full part, despite the success of existing legislation. As a result, European investment funds are more costly for European investors than necessary.
- The asset management business is very heterogeneous. This is reflected in different commercial strategies and business objectives. However, there are core functions which are common to the asset management business. These include, inter alia, the process of investment management, the constitution of products and all functions which are related to the industry’s responsibility to investors and/or beneficiaries including distribution. The group recommends that public authorities should ensure that these functions are subject to broadly equivalent regulation. The group emphasised that regulatory arrangements should be flexible enough to encourage a high degree of innovation and to permit different business models to thrive in an open and competitive marketplace.
- The group considered that the efficiency of key support functions to asset management, such as depositary and custody functions, fund accounting and transfer agency, is essential to the continued success of the industry.
- The crucial first step towards delivering a genuine single market for asset management in Europe is the correct and even implementation of the relevant FSAP measures. Supervisory convergence and cooperation should deliver consistent enforcement and the legal certainty needed to support effective market access.
- It is also essential to maintain and enhance high standards of investor protection and transparency to promote both the quality of products and services as well as confidence in the buying public. The group recalls that the interests of investors are always paramount. High levels of investor protection are central to the continued success and development of the asset management industry – and a full commitment to investor protection is a condition for cross-border access.
- Concerning the key improvements that the asset management needs to organise its business on a cross-border basis, the group identified the following priority issues:

simplified fund registration; facilitation of cross-border fund mergers; recognition of asset pooling techniques and structures; a review of the scope of the management companies' passport, free choice of depositary and fund administrator, removal of unnecessary differences between operating protocols, particularly regarding cross-border fund processing. There is a need for ongoing vigilance to ensure that discriminatory tax barriers do not undermine single market freedoms. Transparency, effective disclosure and high quality advice are needed to allow consumers to make informed investment choices to ensure that they are offered the best products.

- The group considered that a flexible, principle-based approach offers the best prospects for an appropriate EU-level framework for alternative investment vehicles including hedge funds, private equity/venture capital, real estate and commodities funds. Taking into account the different level of sophistication of investors, this should alternatively or additionally be flanked by the harmonisation of private placement rules including a clear and uniform definition of private placement.
- The group considers that the EU-pension fund Directive (2003/41/EC) opens new doors for the cross-border pension fund business. The group recalls that this Directive foresees a review of whether the right to provide occupational pensions should be extended to other types of financial institutions capable of offering occupational pension schemes.
- The group considers it essential to work closely together with the Commission and CESR to bring about the most important enhancements in the EU framework. In particular, as regards corporate governance, the group believes that the industry should take the lead in developing high level principles on governance and the prevention of conflicts of interest, and ensure that they are applied rigorously. This should be done in close cooperation with the Commission and CESR. However, the group recognises that regulatory intervention will inevitably follow should the self-regulatory approach not live up to expectations.
- The group discussed the need for further legislation to enhance a single market for asset management, taking into account the inherent driving power of market forces. One way forward would be to build on the possibilities offered by the existing legal framework. This approach would privilege effective enforcement and implementation of existing provisions. Another way forward could be to modify the existing regulation so as to create a stand-alone pillar for asset management within EU-legislative framework. In this context, consideration could be given to a consistent and coherent approach encompassing collective and individual portfolio management, to a comprehensive asset management framework covering all functions related to asset management – regardless of the product or the service provider. In any case, any further regulation in this field, which should be carefully calibrated and not over-prescriptive, should be based on the Lamfalussy approach, - i.e., framework principles agreed by co-decision coupled with detailed technical implementing measures agreed at level 2 and cooperation of regulators at level 3. Effective action aimed at boosting the efficiency and competitiveness of the European asset management industry will be a powerful contributor to economic reform.

Overview: Key-issues, action and actors in view to achieving a single market for asset management

Issues	Action	Actors
<i>Simplified fund registration</i>	Consistent standards for existing registration requirements	CESR in cooperation with European Commission
	Amendment of the UCITS-Directive to replace existing registration requirements by a simple notification procedure	European Commission
<i>Facilitation of cross-border fund mergers</i>	Appropriate measures to facilitate cross-border fund mergers	European Commission on the basis of technical advice from CESR
<i>Recognition of pooling structures and techniques</i>	Legislative measures	European Commission on the basis of technical advice from CESR
<i>Effective single passport for management companies</i>	Review the scope of the passport; possible legislative measures, if necessary	European Commission on the basis of technical advice from CESR
<i>Greater freedom of choice of depositaries</i>	Support of the development of an efficient and well supervised depositary business	European Commission on the basis of technical advice from CESR
<i>Facilitating the operation and administration of funds</i>	Further standardisation of operational protocols, particularly of cross-border fund processing	Industry in close cooperation with the European Commission and CESR
	Greater freedom of choice of fund administrator	European Commission on the basis of technical advice from CESR
<i>Taxation</i>	Rapid and systematic action to react to tax discrimination; establishment of an independent "watchdog"	European Commission – but requires active support from the industry.
<i>Distribution</i>	Principles for quality advice; further work to improve transparency	Industry in close cooperation with European Commission and CESR
<i>Monitoring competition and integration</i>	Development of Indicators to monitor competition; creation of statistical expert group	Industry in close cooperation with European Commission and CESR
<i>Corporate Governance</i>	Further work and implementation of convergent principles of governance and management of conflicts of interest	Industry in close cooperation with European Commission and CESR
<i>Investor education</i>	Concrete investor education initiatives	Industry together with national regulatory authorities and all other parties concerned

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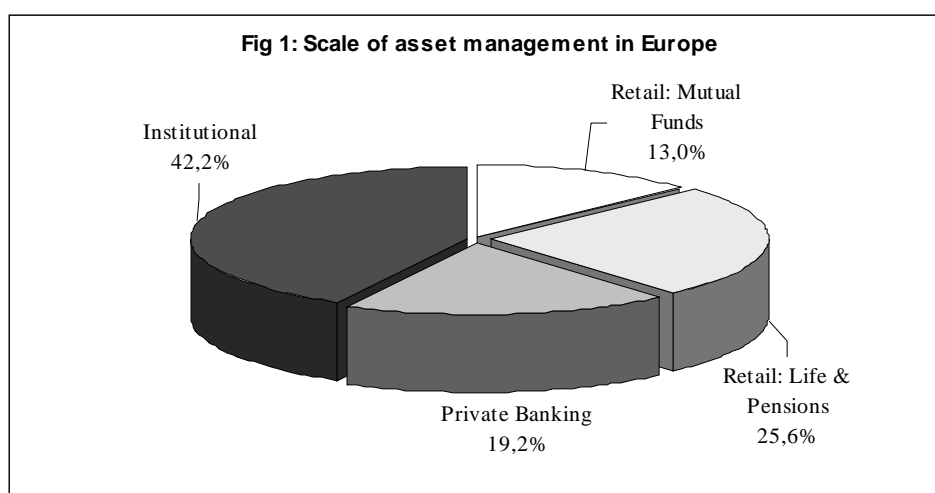
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1. THE ASSET MANAGEMENT INDUSTRY – A FORCE FOR CHANGE IN EUROPEAN CAPITAL MARKETS

1.1 THE SIZE AND STRATEGIC IMPORTANCE OF THE BUSINESS:

1. The European asset management industry plays a vital role in Europe's economy. Taken together, investment funds, life insurance and occupational pension funds manage over € 10 trillion – an amount equivalent to EU GDP (2002)!¹ A common set of capabilities and ingredients generate the industry's value added such as investment, advisory, analytical and risk management capabilities. Thus, this industry is able to service different types of investors by managing a diversity of investments and/or supplying a great variety of investment products and services to satisfy their different needs and purposes.

The European asset management industry plays a vital role ...



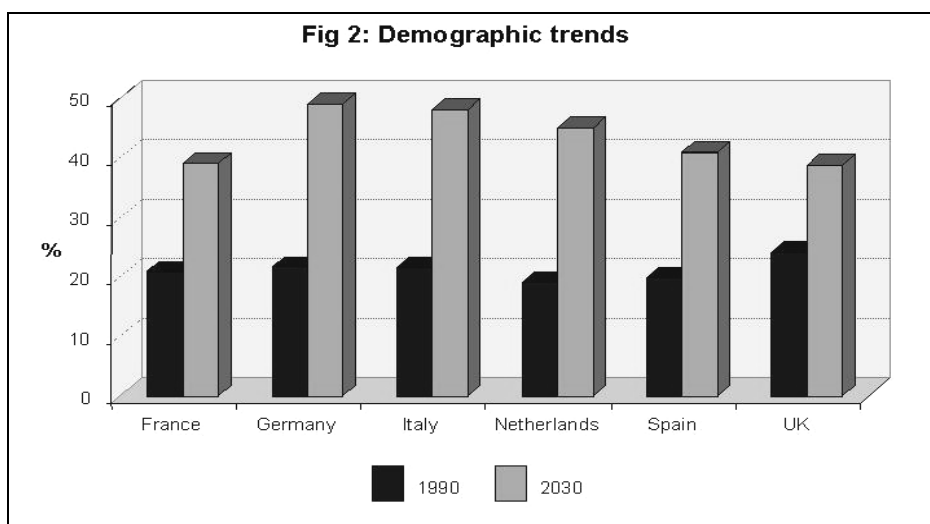
Source: Mercer Oliver Wyman, based on estimates in 2001².

2. The European asset management industry plays an important macroeconomic role: the efficient allocation of savings to investments with the best return prospects will enhance economic growth. Furthermore, an

¹ No agreed data available for calculating the volume of managed assets in Europe: According to some estimates assets under management by occupational pension funds amount to some 26% of EU GDP; by life insurance, to 50% of EU GDP; by investment funds, to over 40% of EU GDP. (It is an element of double-counting as assets held by pension funds or life insurance may be invested in or managed by the investment fund industry) Mercer, Oliver, Wyman offer a total of 8 trillion for investment funds and segregated assets i.e. excluding assets invested in life insurance products According to JP Morgan estimates, upwards of € trillion of savings is in unmanaged deposit/savings accounts.

² No clear definitions of these categories exist but the following assumptions are made: Institutional = sub-advisory mandates, principally on behalf of 2nd pillar pension funds. Private bank = assets held on behalf of clients that are managed on a discretionary basis: Retail life and pensions = Premiums invested in life policies or personal pension schemes managed by life insurance companies, which are not otherwise invested in mutual funds: Retail mutual funds = Authorised collective investment schemes.

efficient European asset management sector can help fostering financial independence of Europeans during their working lifetime. Finally, it is important in view to helping them to sustain a high quality of life after retirement considering its added value generating better returns for long term saving for retirement provisioning. The development of alternative solutions to supplement income in retirement is crucial to the economic sustainability and highlighted by current expectations of demographic trends and retirement income.



Source: OECD, JP Morgan Investor Services³

3. The asset management industry is also important as a driver for the integrity and efficiency of the European financial market. It accounts for a significant share of trading in equities, bonds and derivative instruments in Europe. Moreover, the asset management industry has taken full advantage of the elimination of currency risk (within the euro area) and regulatory restrictions to rebalance portfolios on a pan-European basis. In 2000, the proportion of non-domestic equities held by euro-area pension funds, investment funds and insurance companies had already reached 67%, 55% and 33% respectively (ECB). The group sees no reason why, by 2010, portfolios should not comprise 50-75% of assets issued in other Member States. As a key user of European trading and post-trading infrastructures, the industry can therefore also be a catalyst for ensuring efficiency gains in trade-execution, settlement and custody.

... and also as a driver for the integrity and efficiency of European financial sector

4. Recent studies⁴ have also illustrated the strategic importance of a strong and efficient European asset management sector: For instance, a modest

Integration can yield significant

³ Notes to Fig 2: The chart shows the changes in the dependency ratio in key European markets. According to Eurostat the dependency ratio is the ratio of those over 60 years old to those between the ages of 29 and 50 years old.

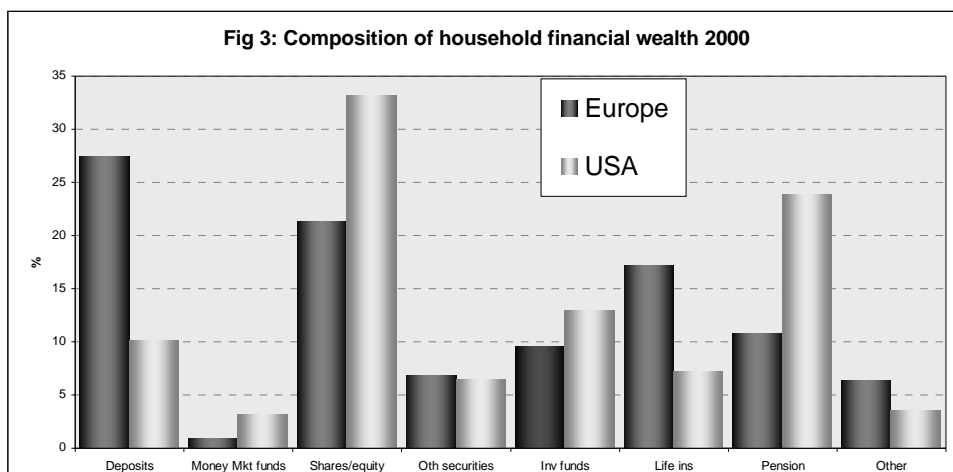
⁴ Heinemann-report 2003 – May 2003 “Towards a Single European Market in Asset Management” (www.investmentfunds.org.uk/investmentuk/research/Heinemannpaper.pdf)

yearly 0.4% improvement in fund returns alone – well within consensus estimates of the benefits from greater integration of Europe's fund industry – could increase the size of pension value at retirement by 9%.

gains for pensioners

5. The European investment fund industry, as a key-part of the asset management sector, recorded very high growth rates during the 90s before reaching a plateau over the period 2000-2003. Growth of assets under management has broadly matched that of the US industry (compound annual growth of 13%) over the latest ten year period (FEFSI). Recent data suggests that Europe is set to exceed US growth rates over the next ten years with more new money invested in European investment funds than in their US equivalents (64% of asset growth attributable to net new sales in European funds compared with a net redemption in the USA during 2003). Net assets held in EU investment funds (UCITS and non-UCITS) increased from € 1.3 trillion in 1993 to over € 4.6 trillion in 2003.

The investment fund industry is a high-growth sector.



Source: FEFSI

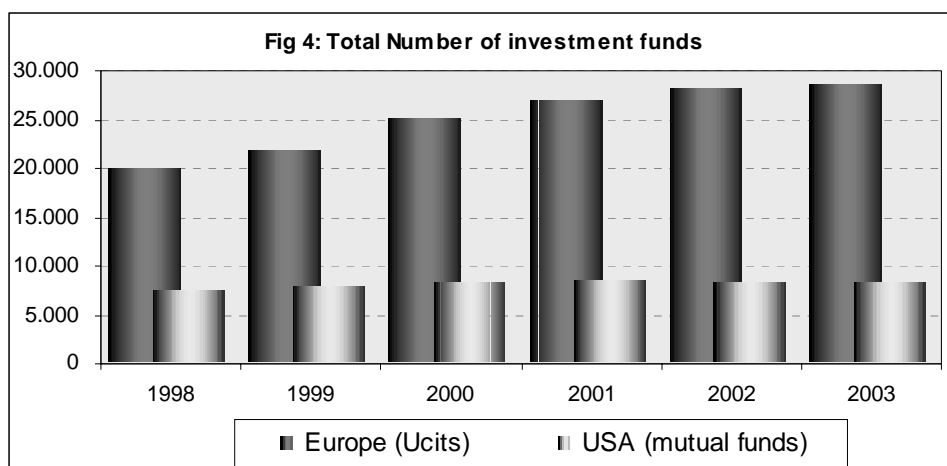
6. It is further scope for growth. If market penetration of investment funds equalled that in the USA, the European fund industry would total € 9.2 trillion (i.e. more than twice its current size). The enlargement of the European single market to 10 new Member States expands the possibility frontiers further. Assets under management in three of the largest new Member States (Poland, Hungary and Czech Republic) account for a marginal 0.4% of total assets under management by UCITS funds in EU including the EEA., Demand for saving vehicles other than traditional bank accounts will certainly emerge in the new accession countries as income levels, savings and the financial systems of the new Member States catch up on EU 15 levels. It should also be noted that several new Member States have already well-developed occupational pension provisioning.

There remains significant untapped potential for growth of the fund industry in Europe.

7. When considering the European asset management business, horizons should not be limited to the confines of the EU. 'UCITS' has established itself as a recognized global label of quality and investor protection. As a result Europe has become the hub of inflows from investors resident beyond European borders. Those groups operating global cross-border strategies

The European investment fund industry must look beyond the confines of

boost significant sales into their European domiciled funds. In 2003 these funds sourced 32% of their net sales from Asia, Latin America and other global markets. *Europe.*



Source: FEFSI

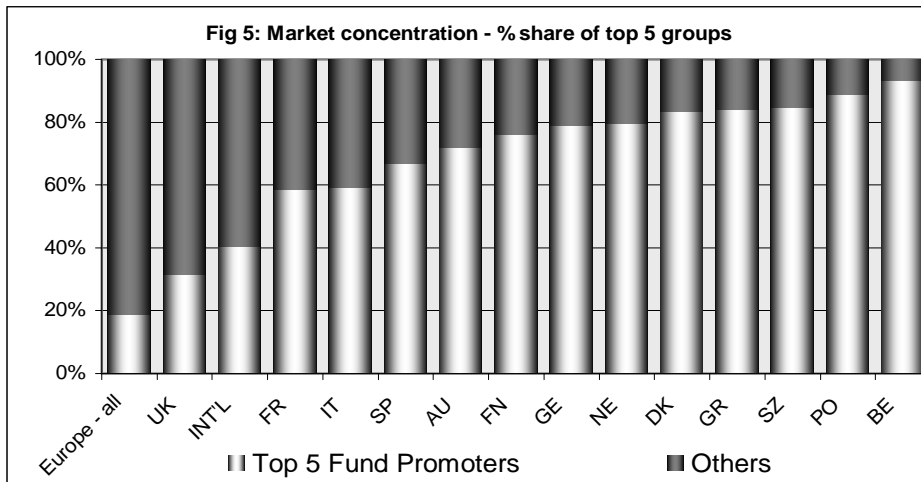
8. Distribution of investment funds remains still substantially structured along national lines. The group noted that the majority of investment funds is distributed through advisors although advice business models vary significantly from country to country. FERI (2003) have identified 4,341 “true” cross-border funds. This is only 18% of the total number of funds in Europe. Funds under management by these assets account around 31 % of total assets under management, although the extent to which these assets are derived from more than one country is extremely difficult to measure.

Fund distribution continues to be organised on a national level

9. Despite undeniable progress under the UCITS-Directive - the continued success of the European fund management industry is hampered by its high level of fragmentation and sub-optimal scale of operation resulting from structural, legislative and regulatory inefficiencies. Europe has three times as many funds as the US. The average US fund is more than six times larger than the average European equivalent⁵. This lack of scale drives up operating costs and makes EU-UCITS products relatively more expensive for investors. It is considerable uncertainty as to the equilibrium level of cross-border distribution that should be expected in a barrier-free market. There was however, unanimity that the legal and tax barriers discussed in chapter 2.2 of this report significantly inhibited the cross-border supply of funds. Part of the explanation may also lie in the absence of common standards of advice. The jury is still out on the extent to which increased cross-border product offer would be matched by demand.

The European fund industry struggles to achieve scale economies.

⁵ Heinemann-report 2003 – May 2003, p.24 sqq.



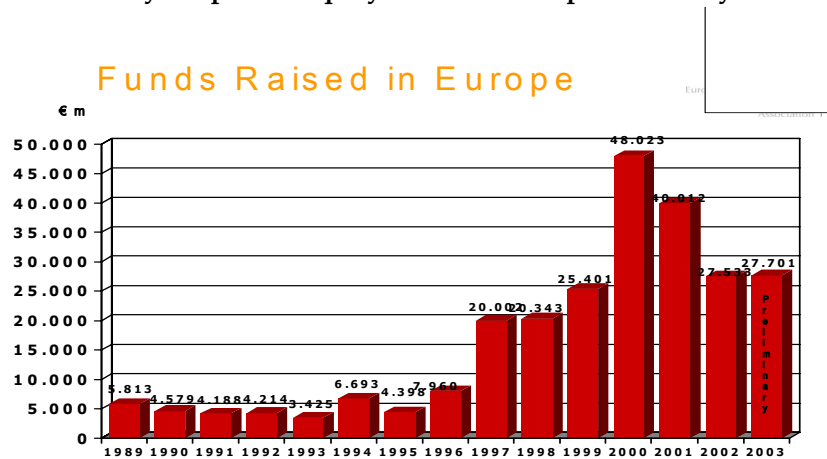
The European markets are essentially national in their orientation with leading players controlling the majority of assets

Source: FEFSI

10. One of the most striking examples of how the market is responding to different investor demands is the successful emergence of the hedge fund business in Europe in recent years, providing products such as single hedge funds or funds of hedge funds. This has been one of the biggest success stories in the European asset management industry over the recent years. Another important example is the development of the private equity/venture capital business. The European Private Equity and Venture Capital manages currently €200 billion. The industry is young in Europe and its development very much concentrated in the last 7 years. As a reference, the last 5 years account for about 75% of the total funds raised by the industry since its early days in the 80s (See Fig:6 below). Currently representing less than 2% of the asset allocation of institutional investors, it is expected that a level of around 5% could be reached in the coming years, more in line with the number seen in the US where the industry has been operational for over 40 years. However, the industry of new products has been held back because there are not yet sufficient opportunities to market these products on a cross-border basis - due in part to the lack of a common regulatory framework (cf. also point 2.4.).

Hedge Funds and the private equity sector are examples of market reaction to investor demands

Fig. 6: Funds raised by the private equity and venture capital industry in Europe



Source: EVCA, PricewaterhouseCoopers, Thomson Venture Economics (2003 preliminary figures)

11. The completion of the Financial Services Action Plan provides a timely opportunity to review progress towards a single market and map out a vision for how the relatively young and fast growing asset management industry should be seeking to enhance the services it provides Europe's investors. As well as describing where we are today, the goal of this report is to highlight features of the European regulatory and tax landscape which impede the efficient pan-European integration and the efficient functioning of key parts of the asset management industry. The group believes that these barriers prevent the European asset management sector from playing its full part in resolving Europe's most pressing socio-economic challenges. Cost-effective, targeted and proportionate steps to overcome these barriers should be a priority for EU policy-makers and industry over the medium term (2005-2010). These significant steps to improve the efficiency of Europe's asset management industry should be considered an integral part of the EU economic reform agenda.

Features of the European regulatory and tax landscape prevent the asset management sector from playing its full part.

1.2 SCOPING THE EUROPEAN ASSET MANAGEMENT BUSINESS:

12. The group welcomes the increased recognition given by European policy-makers (Commission, Parliament, CESR) to the fast-growing asset management industry as a distinct pillar of strategic importance within the European financial landscape. The group notes that asset management (UCITs) will now fall under the remit of the ESC. This will increase visibility and provide more frequent opportunities to discuss core policy challenges. The group considers that the heightened focus on this industry should be reflected in appropriate changes to boost staffing levels and organisation within the Commission.

13. There is huge diversity in the European asset management business both in terms of the products and in terms of the institutions performing asset management services (universal banks, fund managers, individual client managers, life insurance companies or self-managed pension funds).

A very heterogeneous business ...

14. The differences between the various asset management activities, products and institutions are reflected in different interests, strategic objectives and commercial ambitions. All industry players do therefore not hold a single view on determining key commercial or public policy choices. For example, there are differences of view between dedicated asset managers⁶ and asset management activities undertaken by universal banks, life insurance companies, pension funds or other entities carrying out asset management functions as an indispensable part of the funding of pension obligations, insurance policies, or a broader product offering. In particular, these differences have an impact on how their business is organised: for

... reflected in different commercial strategies and strategic interests.

⁶ Institutions specifically dedicated to carry out the asset management activity in its main sub-forms, i.e. collective portfolio management which is the operation of collective investment schemes including UCITS and non-UCITS and individual portfolio management based on mandates given by private or institutional investors (regulated by the ISD)

instance, as regards the legal relationship with the client and/or the beneficiary, the scope of discretion, the investment vehicle, the arrangements to redeem clients' assets or for the segregation of clients' assets.

15. The group discussed to what extent regulators should abstract – as far as possible - from these institutional and structural differences within the industry. The group recommended that when considering the need for regulation or other public policy intervention in respect of this business, public authorities should ideally seek to ensure that comparable business functions are subject to broadly equivalent regulation and professional standards. In the group's view, it is crucial to achieve a level playing field across all market sectors.

Regulatory framework should not be biased towards one or other business model.

16. The group identified common functions which can be considered as lying at the heart of the business:

- (1) The core element of all forms of professional asset management is the **process of investing investor's money** with a view to the defined investment objective. It includes the steps of research, asset allocation and asset, including security, selection and portfolio construction.
- (2) **The constitution of products or savings vehicles:** The ability of the asset management industry to respond to an increasingly broad range of investor preferences by the development of different products (cf. also point 2.4) and the generation of investment returns are the core added-value of the sector.
- (3) Finally, the group places its **responsibilities to investors and/or beneficiaries** at the heart of the business. Whatever the form of the product, the type of service-provider, or the precise legal relationship with the investor or beneficiary - which, depending on the respective sector, is mainly a fiduciary one -, the interests of the investor or beneficiary are paramount. Functions related to commercialisation and distribution including financial advice should therefore be considered as key elements – even when undertaken by other players (e.g. independent distributors.)

The investment process and the constitution of products are functions at the heart of the business

Investors' interests are always paramount

17. When considering the scope of potential policy interventions, policy-makers should consider whether institutions are performing any of the functions set out above – and consequently whether they should be considered as part of the asset management industry or not. Policy makers need to consider to what extent specific business models or products are the appropriate basis for defining the boundaries of the business. The group considers that regulatory arrangements must be flexible enough to permit different business models to accommodate market developments in response to healthy competition.

Appropriate definition of boundaries of business needed

18. The group recommends a functional approach focussing on the core functions of asset management and which is broad in its scope. It would imply, to the greatest extent possible, a coherent approach to the regulation of asset management related business functions – regardless of the product or the asset management provider. These functions should be subject to comparable regulatory disciplines. For example, requirements regarding prudence, business controls, integrity or further conduct of business rules should be aligned, as far as possible. This does not necessarily mean “one-size fits all”- regulation. Necessary adjustments or additions, when relevant, have to be appropriately accommodated by the regulatory framework.

A broad functional approach should be favoured by regulators..

19. Within the industry, Private Equity and Venture Capital shares some, but not all of the characteristics of Asset Management: For instance, private equity and Venture Capital investments are carried out through a management company whose managers are not money managers but investment managers. The investment is not following the analysis of e.g. banks, insurance companies or other research entities, but is based on a negotiated process directly with the company in which the investment shall be made. However, despite these particularities of the private equity/venture capital industry which have to be taken into account the functional approach would make it also possible to include – at least to a certain extent- the private equity/venture capital industry into the scope of asset management. The group emphasises the importance that it attaches to a thriving, dynamic venture capital industry in the EU as the source of funding for start-up companies. With over 32.000 companies invested in by the PE/VC industry since the EU Lisbon process started, the sector has proven its importance and scale in financing companies for future growth. The necessary negotiated process for investing and the hands-on approach to the investment are a strong driver for the improvement of the corporate governance of non listed companies and increased professionalism.

Specificity of the Private equity industry as part of the asset management industry

20. The group identified several activities or processes which - though related to the asset management business - should be more properly regarded as support functions. Depositary and custody functions are examples. Furthermore, fund accounting and transfer agency functions are also vital. These functions should not be considered as an integral part of the asset management industry. Nevertheless, these non-core functions play an important role for asset managers in organising their business and meeting their obligations towards investors. For instance, the depositary of a UCITS is an indispensable element which effectively determines the high degree of investor protection which is associated with this product. Inefficient or badly supervised safekeeping, transaction settlement or execution of depositary’s control functions will be reflected in increased costs and insecurity and this will undermine the competitiveness and efficiency of the asset management business and, ultimately, capital markets themselves. Some estimates suggest that investment administration (fund accounting) transfer agency and custody all together account for *circa* 20% of the

Efficient regulation of support functions such as depositary, custody, fund accounting and transfer agency is of high interest to the industry

industry's total revenues. Likewise, the optimisation of the clearing and settlement infrastructure is crucial to bringing down trading costs. Therefore, the efficiency of these functions is of high interest to the asset management industry. In this regard the group also underlined the importance of pooling structures and techniques (point 2.2.3) and cross-border fund processing (point 2.2.6).

21. When it comes to enhancing the profile and the visibility of the industry, the group members felt that the needs of the industry might be better served by an institutional approach. To conceive an own industry identity this approach would focus on dedicated institutions providing collective and individual portfolio management as core activities on a fiduciary basis.

Institutional approach to increase visibility of the industry

2. ENHANCING THE EU FRAMEWORK FOR ASSET MANAGEMENT

22. Over the course of discussions, the group has examined the extent to which the current legislative framework that has emerged in individual Member States from the FSAP allows the European industry to exploit core commercial freedoms on a pan-European basis. This is urgent in order to improve the quality of services and efficiency of structures and processes to the benefit of investors and to enhance Europe's position as a global centre of excellence in asset management.

We are still a long way from a single market for asset management.

23. Some of the legislative measures adopted at EU level have not been as effective as expected. In some instances, this has been because the relevant provisions have not been sufficiently complete; in other instances, provisions which are intended to open markets have been watered down or suffer from ambiguities which hamper consistent implementation. In other cases, the way in which these provisions have been implemented at national level has robbed them of some of their effect. Furthermore, the group has pointed out inconsistencies between different Directives which have to be resolved - particularly regarding the relationship between sector-related Directives and horizontal or cross-sector Directives (e.g. e-commerce Directive⁷ or the Directive on Distance Marketing of consumer financial services⁸ or the Directive on the taxation of savings⁹). All in all, the EU industry is today still a long way from a genuine single market for asset management.

Progress has been patchy.

24. The Group identified a number of areas in which the current EU legislative framework and its implementation could be enhanced. Progress is required regarding :

- Effective implementation and enforcement: The relevant EU rules such as the UCITS-Directive, the Pension Directive or the forthcoming Financial Instruments Markets Directive, must be enforced and

The correct implementation of relevant FSAP

⁷ OJ L 178/1, 17.7.2000

⁸ OJ L 271/16; 9.10.2002

⁹ OJ L 157/38; 3.6.2003

implemented in a consistent and even-handed way throughout the single market. At present, the transposition and implementation of European legislation at national level gives rise to inconsistencies and divergent national practices. The group was concerned that supervisory discretion in the implementation of regulation could, on occasion, be used to hinder market access. Unnecessary supervisory divergences produce inefficiencies in product manufacture and servicing that in turn lead to over-fragmentation, lack of consolidation and additional costs to consumer. Furthermore, this situation prepares the ground for unhealthy regulatory arbitrage. Ultimately, if these problems go unchecked they risk calling into question the credibility and viability of the 'single passport' concept. The group emphasised the need for arrangements for ongoing and efficient cooperation between supervisors. These should enable national supervisors to work together to develop common approaches to implementation. The group therefore strongly welcomes the extension of the remit of CESR to include asset management which should allow CESR to take on this role in respect of national implementation of UCITS and other relevant legislation. In parallel, the group also underlined the importance of promoting and supporting the consistent implementation of the Pension Fund Directive within CEIOPS.

measures comes first

Supervisory convergence and co-operation is the basis for consistent enforcement.

- Maintaining and enhancing high standards of investor protection, market integrity and transparency throughout the single market. This will enhance the quality of services and products in the eyes of the investing public. The group underlined that considering the possible positive effects of self-regulation in it-self the industry is being proactive in this regard e.g. by developing codes of conduct or other self-regulatory initiatives to ensure that investor interests remain to the fore¹⁰.
- Definition of clear and operational single market freedoms which give participants in the asset management industry the opportunity to achieve scale and scope economies all along the value chain. This requires ground-rules which are clear in content and comprehensive in scope. In this regard, an evolution towards principles-based framework rules, supplemented by uniform and more easily adaptable implementing measures also to keep pace with the rapid developments of the financial markets (the Lamfalussy model) could help to avoid the costs of ambiguity and incompleteness in future EU legislation relating to this sector. This should be flanked by a comprehensive assessment of the extent to which cross-sector Directives affect the overall sector.
- Ensuring that the EU legislative framework remains relevant in terms

¹⁰ cf. section 2.3.

of the asset management services and products which are offered to the investing public.

2.1. DELIVERING A TRUE SINGLE MARKET FOR ASSET MANAGEMENT:

25. A fully integrated single market for asset management will be achieved when it is possible to organise all functions along the value chain from product development to distribution on a pan-European basis and when all Europe's investor have easy access to the best products and services available. This requires that market participants are not hindered in their attempt to roll out all or part of their business model on a cross-border basis by proprietary distribution, legal, tax or other public policy barriers or diverging industry standards.

26. In terms of developing and enhancing the single market, the Group considered a number of key priority issues which should be pursued as quickly as possible. Taken together, the removal of these impediments will represent a significant boost to the operation of the European market for asset management.

2.1.1. Simplified fund registration

27. A key barrier to efficient cross border fund distribution is the requirement for a fund to be registered separately in each market after it has received its UCITS authorisation in its country of domicile. Some authorities – deliberately or inadvertently - use the registration process to create unnecessary administrative and operational barriers to cross-border business. Moreover, the requirements for registration (e.g. which documents have to be presented) differ from market to market. The process of registration can take many months. It adds a significant administrative burden and increases costs for funds and, ultimately, investors. The group considered that, over time, the current system of registration of UCITS in each country where they are marketed should be replaced by a simple notification procedure.

Serial registration per each Host Member State is unnecessary, costly and hinders the cross-border distribution of UCITS

The group recommends

- **The registration of UCITS should be simplified.**
- **As a first step, CESR in cooperation with the Commission should develop consistent standards for the registration requirements foreseen by the existing UCITS Directives. National authorities should commit themselves to streamline the registration process.**
- **As a second step, the UCITS-Directive should be amended to replace the current registration requirements with a simple notification process. Instead of a registration per Host Member State in whose territory the marketing of the units of a UCITS is intended, a UCITS should automatically be admitted for distribution in all Member States of the European Community,**

once it has been authorised in its Home Member State.

2.1.2. *Facilitation of cross-border fund mergers*

28. Smaller funds have higher costs – for investors and fund-providers alike. The ability to merge funds cross-border would enhance efficiency and investors would benefit. It would do so by simultaneously reducing entry barriers and increasing scale. Even if the UCITS-Directive does not prohibit cross-border fund mergers, those are frequently factually hindered due to national legal and tax barriers. For example, Company Law in certain member states (which applies to corporate funds) requires that a change of nationality secure unanimous shareholder approval. In practice unanimous approval is impossible to achieve. It is questionable whether the Commission's proposal on cross-border mergers of companies would be a possible solution in view to facilitating fund mergers. *First*, as a company law Directive it does not take into account the particularities of corporate funds. *Second*, it needs to be considered that this Directive would only apply to corporate type funds and not to contractual type funds. This would put the level playing field between different legal structures of investment funds at risk. A second layer of obstacles to cross border fund mergers arises from their tax treatment. Certain member states regard a cross border merger as a taxable event, whereas a purely domestic merger is not.

Legal and tax barriers to cross border fund mergers should be removed.-

The group recommends:

- **Legal or tax barriers which prevent cross-border fund mergers should be removed.**
- **The Commission, working with CESR, should find appropriate approaches to facilitate cross-border fund mergers on the basis of the existing regulatory framework as far as possible and, if necessary, on the basis of further legislation.**
- **National authorities should further take all action necessary to dismantle discriminatory and unnecessary barriers to cross-border fund mergers. Particularly, it should be ensured that those mergers are at least fiscally neutral to ensure that investors are not fiscally penalised.**

2.1.3. *Recognition of asset pooling techniques and structures*

29. The ability to pool holdings for different investment funds would enable firms to achieve significant cost savings and make improvements in efficiency, particularly in respect of the institutional market. EU-UCITS regulation currently does not foresee either cross-jurisdictional pooling or master-feeder structures¹¹, though many countries allow pooling or master-feeder structures within one fund range or jurisdiction.

EU framework should support asset pooling techniques and structures.

The group recommends that:

- **It would be beneficial to recognize asset pooling techniques and structures.**
- **As a mid-term perspective new legislative measures should therefore be adopted for pooling techniques and structures. This should be flanked by EU-wide cooperation of national regulators to address legitimate concerns about span of control and operational risks.**
- **The industry will support this follow-up process to the UCITS-Directive by providing necessary information.**

2.1.4. Effective Single Passport for management companies

30. Directive 2001/107/EC provides a European passport for UCITS Management Companies. Member States have developed diverging interpretations of the scope of this passport. This includes, inter alia, the question of the scope of business activities which can be undertaken on a cross border basis.

Scope of the management companies' passport

The group recommends:

- **As an urgent short-term top priority the European Commission should review the scope of the management company's passport.**
- **If necessary and appropriate, the UCITS-Directive needs to be amended to achieve a wider scope of the management company's passport providing more flexibility and efficiency in carrying out collective portfolio management.**

¹¹ It should be noted that pension institutions should be able to pool their assets under the Directive 2003/41/EC .

2.1.5. *Greater freedom of choice of depositaries*

31. The UCITS Directive requires that the depositary has to be established in the same Member State as the designated management company of the UCITS/investment company. It would therefore be worthwhile to investigate to what extent permitting a depositary to enjoy passporting rights could reduce the management costs of investment funds and increase their attractiveness for investors, having due regard to not creating legal uncertainty or adding risk for investors.

Cross-border opportunities for EU-depositaries

This would particularly imply promoting convergence of national pre-conditions to the authorisation of a foreign institution as depositary including a uniform approach to the prevention of conflicts of interest, the control duties of the depositary and the clarification of the depositary's liabilities. This would also be important in view to creating a true level playing field for depositary services and building appropriate standards of investor protection in this field. It should also be considered that a full free choice of cross-border depositaries is one important prerequisite for the effective implementation of pooling techniques and structures mentioned above (point 2.1.3).

The group recalls that:

- **The European Commission is already obliged to review the relationship between fund managers and the depositaries in the context of the overall UCITS-report pursuant to Art. 2 of Directive 2001/108/EC;**
- **It has further undertaken the commitment to review whether there is a need for expanding, through EU legislation, cross-border opportunities for a full European passport for EU depositaries¹²**

The group recommends

- **The Commission assisted by CESR should fulfil these commitments already undertaken as soon as possible. It should aim at supporting the development of an efficient and well-supervised depositary and custody business capable of serving a pan-European asset management business.**

2.1.6. *Facilitating the administration and operation of funds*

32. The continued existence of differing operational protocols such as pricing or accounting rules restricts access to certain markets and works against initiatives such as cross-jurisdictional pooling. The group has therefore identified different areas of fund operation where pan-European standardisation would be desirable.

In this respect, the group has highlighted that further standardisation could

Removing

¹² Cf. Communication on depositaries COM (2004), 207.

help— at least to some extent – facilitating the automation of processes which is a relevant factor regarding the level of costs of the European fund industry when compared to the US. In this regard the group considers standards for cross-border processing of fund units as a key issue.¹³ In particular, costs for cross-border transfer agency functions are higher than they need to be, due to e.g. specific reporting requirements imposed by different countries.

unnecessary differences in operational protocols can unlock significant benefits.

33. The group also pointed out that Member States have developed diverging interpretations of whether the existing framework enables the full free choice of a fund administrator – in particular regardless of the fund’s legal domicile. Since full free choice of a centre of fund administration could also help to reduce costs a uniform approach in this regard would be beneficial. This would also imply appropriate solutions of the issues related to the fund’s legal domicile.

The group recommends that:

- **The industry should take the lead in close cooperation with the European Commission and CESR to achieve further pan-European standardisation of operational protocols. In particular, further work should be undertaken on the development of pan-European standards for cross border fund processing.**
- **National authorities should be open to accept international standards for operational issues existing domestic structures.**
- **The Commission assisted by CESR and the industry should take all the measures advisable and necessary to, as much as possible, ensure a greater freedom of choice of the fund administrator.**

2.1.7. Tax discrimination

34. A number of Member States maintain tax regimes that discriminate against asset management related services and products from other countries. For instance, tax discrimination against funds and fund products comes in forms such as explicit exclusion or restriction on non-domestic products from tax advantage schemes or factual double taxation of non-domestic funds. Progress has been made on a number of these issues but unjustified differential tax treatment remains a significant obstacle to asset managers trying to develop and strengthen a pan-European business.

Need of continued vigilance and action to ensure that tax barriers — do not undermine single market freedoms

As other barriers are broken down there is concern that Member States could use fiscal independence to protect local markets and market players from competition. Furthermore, tax discrimination exists not only within one area

¹³ An industry working-group (FEFSI together with SWIFT, Fundsettle & Vestima and other industry representatives) has already started working on the development of pan European standards for cross-border processing of fund units.

of the asset management industry, but also between different asset management products (such as differential tax treatment of investment funds and other asset management products). National policy-makers should be fully aware of the business impact of their decisions, particularly with respect to potential tax arbitrage between products which may be close substitutes. Thus, there is a need for a watchdog to continually monitor the appearance of potential tax barriers.

The group recommends that:

- **As an immediate and on-going priority, the European Commission should ensure rapid and systematic action to react to discriminatory national tax provisions.**
- **The industry should assist the Commission by establishing an independent and regular monitoring capacity to identify tax barriers.**

2.1.8. Distribution

35. In a true single market, all the different types of products should be able to compete for investor savings across the EU. The group underlines the importance of efficient distribution as a significant factor of the asset management value chain and for competition. The group notes that national markets may be effectively locked up to the extent that locally dominant distributors of products only carry proprietary products. Market forces should be able to deal with this by compelling local incumbents to offer the most competitive and best performing products. Good funds should, over time, drive out the bad. However, some group Members felt that these market forces have not operated always quickly or effectively enough and were unlikely to be able, on their own, to dislodge historically embedded but inefficient models. Other group Members, however, took the view that investors already today have a choice between distribution channels providing different product offerings and that this is an indication that market forces nevertheless do work.

Market forces should ensure that investors are offered the best products

36. What is important is that investors have all the information they need and are reasonably placed to make an informed decision both regarding the distribution channel and the product. It is also important that this information is given in an easily understandable language and enables investors to compare products. The group noted that investment funds in Europe are predominantly distributed through advisors, and that advice business models vary significantly from country to country. Therefore, standards on quality advice to ensure that investors receive the advice best suited to their needs should be developed. Moreover, further work should be undertaken on the development of pan European disclosure standards (TER, investment performance, risk characteristics, fund categorisation) to improve transparency in a consistent manner across Europe. The group notes that the recently adopted Financial Instruments and Markets Directive and related

Transparency, disclosure and quality advice are needed to allow consumers to make informed choices

implementing measures aim at harmonizing rules governing distribution and the advice related to savings products, including, *inter alia*, collective investment products.

The group recommends that:

- **the provisions of the Financial Instruments Markets Directive should be implemented in a way that ensures that European investors enjoy objective and impartial advice, providing suitability of products for investors needs.**
- **the industry in close cooperation with the European Commission and CESR should develop high-level standards for quality advice.**
- **further work should be undertaken on common disclosure standards (TER, investment performance, risk characteristics, fund categorisation) to improve transparency in a consistent manner across Europe.**

2.1.9. Monitoring integration and competition

37. The group considers that progress towards an effectively integrated single market for asset management should be kept under review by the industry. To measure the degree of integration and competition within the asset management industry a set of indicators should be developed. These indicators could include e.g. the extent to which consumer choice is expanding, the range of distribution channels and how and which products are sold by which distribution channels, the correlation between the quality of the product and asset flows to it. Such an assessment should also look at the extent to which greater increased choice and competition is driving efficiency and consolidation.

Progress towards these objectives should be regularly reviewed.

The group further notes that its work also in the context of the present report has partly been hampered by the absence of sufficiently detailed and comprehensive statistics covering the asset management industry in its entirety. This problem needs to be remedied by the industry and public authorities working together. The involvement of public authorities should ensure that market participants divulge data that they may consider commercially sensitive.

The group recommends that:

- **the industry should agree suitable and relevant indicators for progress towards a single market and mechanism for monitoring competition**
- **in view to improving the data basis for asset management the creation of a statistical expert group to define statistical needs and explore possible solutions should be considered as a first step.**

2.2. CORPORATE GOVERNANCE AND INVESTOR PROTECTION

38. Recent developments in the US have highlighted the importance of “reputational” disciplines in the asset management industry. Those parts of the US fund industry which were associated with improper conduct have been heavily penalised by investors. High ethical standards and pursuit of the investor’s interest must be the hall-mark of the industry. In Europe, there is a longstanding tradition of regulatory and self-regulatory action to deliver sound governance and high levels of investor protection. For instance, FEFSI, EAMA and EVCA have begun to develop self-regulatory Codes and Principles. In the area of private equity and venture capital, these approaches are particularly important in view of the fact that, generally, neither this industry, neither the vehicles they manage are regulated.

High levels of investor protection are central to the continued success of the asset management industry

39. A shared European commitment to high levels of investor protection and corporate governance are doubly important because it is a condition for access to the different Member State markets. The group has identified a number of areas on which the European industry should continue to focus. In this regard the group has also underlined the need to develop convergent approaches, as far as possible:

A shared commitment to high levels of investor is a condition n for cross-border access.

- 1) **Identification and management of possible conflicts of interest:** The asset management industry should undertake further work to identify where potential conflicts of interest may arise (e.g. transactions with affiliates or investments in securities issued by affiliates, selection of custodians and depositaries, negotiations with distributors) and adopt appropriate policies and procedures to address them (Chinese walls, monitoring mechanisms, record keeping, etc). Some direct prohibitions could also be considered (unfair allocation of trades, front running, late trading, etc.).
- 2) **High Level Principles of corporate governance for the asset management industry:** The industry should continue to develop and promote practices and conventions which protect investors from misleading, manipulative or fraudulent practices including insider trading, front running or trading ahead of customers and the misuse of client assets. These principles should cover areas such as internal organisation, process and implementation of investment decisions including e.g. best execution principles, the use of shareholder rights and information of investors.
- 3) **Adequate disclosure of all information material to investors’ decisions:** Appropriate investor information is a key-tool to achieve investor protection. Furthermore, a lack of transparency or inadequate presentation, both in terms of the products’ features and the cost and nature of the sales process could hinder investors in making an informed decision regarding either the choice of the distribution channel or the relevant product. As indicated in the previous section,

further work should also be undertaken on the development of pan European disclosure standards (TER, investment performance, risk characteristics, fund categorisation) to improve transparency in a consistent manner across Europe. Attention should also be paid to disclosure of information relating to conflicts of interests, specific transactions or arrangements (fees, soft commissions, etc.); information on the adopted policies.

- 4) **Investor education and financial literacy:** Increased transparency and high quality advice will only become fully effective if investors have sufficient knowledge to handle the information they receive and to draw the right conclusions from it. Increased transparency and the improved advice should therefore be flanked by appropriate measures for investor education. Furthermore, considering the fact that Europe faces a demographic problem and that therefore private retirement provisioning is a key-issue, the way consumers plan for their retirement during their working age will be submitted to significant changes. In view to this development a sound basis of knowledge of investors should be provided – a long-term undertaking, best starting already at school. However, this issue is still considered as a mere national issue: Various Member States and Accession Countries have embarked on investor education programmes and in some, albeit not in all Member States investor education is a responsibility of the national regulator. In contrast, EU wide initiatives in this respect have been rather low key. Considering that the challenges, specifically those on retirement provisioning are not country specific, the group debated whether an EU wide approach is actually needed to achieve further advancement in this regard (e.g. by recommendations to Member States for teaching). In any case, the industry should play an important part –together with national authorities-, to push forward veritable and concrete investor education initiatives.
- 5) **Cross-border redress (FIN-NET)¹⁴:** In respect of consumer complaints, the European Commission has already made substantial in-roads towards establishing FIN-NET, the net-work for out-of-court consumer complaints for cross-border cases in the area of financial services. However, this network, considering that not all European investors are yet familiar with this platform, needs further publicity to ensure its benefits are known to all European investors.

The group recommends that:

- **The industry should take the lead in the further development of convergent high level principles on governance and on the prevention of conflicts of interest in close cooperation with the**

¹⁴ http://europa.eu.int/comm/internal_market/finservices-retail/finnet/index_en.htm.

European Commission and CESR.

- The industry should play an important part together with national authorities and all parties concerned to push forward concrete investor education initiatives.

The group recognises that:

- There is constant need to preserve and reinforce the integrity and credibility of the European asset management sector. All forms of malpractice should be prevented. Self-regulation will only make sense if the industry itself is comprehensively and unconditionally adhering to such rules. However, rules developed by the industry itself, will have no direct legal effect and hence cannot be legally enforced towards operators or national associations. If voluntary self-regulation by the industry does not live up to high expectations - and unless a mechanism is found to ensure that such self-regulatory rules are “enforceable” throughout the industry – appropriate regulatory intervention will be inevitable.

2.3. NON HARMONIZED FUNDS

40. European financial markets’ evolution and practices have led to the establishment of numerous different funds and vehicles for so-called alternative investments. These include hedge funds, real estate, private equity and venture capital and commodities. These collective investment vehicles, which entail new and non conventional strategies, cannot be accommodated within the limits and criteria established in the existing UCITS-Directive. As a consequence, the different jurisdictions of the EU countries have reacted to these developments by creating additional, often fragmented national legislation. This prevents these funds and vehicles from taking advantage of single EU-wide marketplace.

30% of asset management industry involves products outside the scope of UCITS law. This proportion is growing.

41. The pace of innovation in this area is very rapid indeed. Whilst the UCITS legislation has spearheaded the development of a European asset management business, it is questionable whether its detailed product-focused approach is always flexible enough to cope with the level and speed of product innovation that characterises the industry. The regulatory system therefore might need to find new approaches to reflect the dynamic nature of this business if it is to facilitate an effective and sound organisation on a pan-European basis. Even if the current UCITS-architecture could be used as reference according to the group, a more differentiated approach taking into account the different risks which are associated with these products and related functions and also the different levels of sophistication of different types of investor should be developed. An EU framework based on general principles, supported by more adaptable implementing provisions could help to improve the situation.

Need to look beyond prescriptive product rules.

42. More specifically, the creation of a pan-European fund structure based on these principles would help to facilitate pan-European market access for these products.¹⁵ The Lamfalussy process provides sufficient scope and flexibility to achieve such an adequate structure: Defining basic key principles in a framework, addressing the different technical characteristics of each asset class, and better coordinating national regulations in a cohesive manner.

Need for a single fund structure

43. The scope for cross-border distribution of a wider range of products - including non-harmonised products - could already be widened significantly through the development of a common regulatory framework for private placement. Such a framework should include a clear and appropriate definition of private placement, eligible investors, as well as a harmonisation of private-placement rules including, for example, a coherent approach to disclosure obligations.

Harmonisation of private placement

The group recommends that:

- **The European Commission should review the EU regulatory framework so as to allow currently non-harmonised products to be brought to the market on an EU-wide basis – subject to appropriate safeguards.**
- **Current UCITS-legislation could be used as a reference but it needs to be adapted to the peculiarities of these products. Flexible principle based standards should be used instead of over-prescriptive product rules. Based on this approach, the development of a pan-European fund structure for these products should particularly be envisaged.**
- **Alternatively or additionally, the rules of private placement for asset management products should be harmonised together with a clear and uniform definition of the concept of private placement.**

44. The group noted that the adoption of Directive 2003/41/EC of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision¹⁶ paves the way to the cross border provision of occupational pensions. The increased possibilities to set up EU-wide pension funds are beneficial both to multinational companies and their employees. Those employees can enjoy the benefits associated with being part of a large-scale operation as well the professional level of a pan-European pension fund independently from the location of their workplace. It should also be noted that funded pension schemes may contribute to significant efficiency gains in

Pension Fund Directive is a watershed for the EU- pension-fund business

¹⁵ The Commission has already undertaken the commitment to consider the merits and possibilities of such a single structure in the area of private equity and venture capital funds (cf. 2003 Risk Capital Communication -COM(2003) 654 final of 4/11/03, pt. (ii) Section 10; Communication COM(2003) 226 final of 30/04/03 p. 24)

¹⁶ OJ L 234/10, 23.9.2003

the way investors organize their assets. The efficiency of those schemes is to a large extent based on their ability to pool investments and risks. There should hence be no impediments against cross-border pooling and possibilities for setting up EU-wide pension arrangements. The consistent and effective implementation of the pension Directive is therefore a major priority. Furthermore, the Financial Instruments Markets Directive and the recommendations of the Giovannini Group to improve the infrastructure for cross-border clearing and settlement should also effectively be implemented. Furthermore, several measures such as the Communication on the elimination of Tax obstacles to the Cross-border provision for occupational pensions of April 2001 and a number of infringement procedures have been taken by the Commission to dismantle tax-discrimination against cross-border pension arrangements.

45. The group considered whether other players, such as investment fund managers, should be able to provide pillar 2 occupational pensions. Recital 12 of the Pension Fund Directive (2003/41/EC) stipulates that the Directive should not lead to distortions of competition. This Recital calls on the Commission to carefully monitor the situation in the occupational pension market and to assess the possibility of extending the application of the Directive to other regulated financial institutions potentially capable of offering occupational pension schemes. Views differed within the group as to how and when the Commission could best fulfil this commitment. Some argued that the Commission should start this assessment immediately in order to level the playing field for other entities capable of providing occupational pension schemes. However, others considered that, taking into account the differences between the existing vehicles providing occupational pension schemes and further vehicles, it could be too early to start this process right now.

Extend the Pension Fund Directive to other entities capable of offering occupational pension schemes

The group recommends that the Commission should ensure consistent and effective implementation of the EU-pension fund Directive, the Financial Instruments Markets Directive and of the recommendations of the Giovannini Group on clearing and settlement.

The group recalls that the Commission has undertaken the commitment to assess the possibility of extending the application of the Directive 2003/41/EC to other financial institutions to avoid distortions of competition.

3. THE WAY FORWARD:

46. There is overall agreement within the group that there is a need for urgent action to make progress along all of the above lines. The industry therefore takes the commitment to work closely together with the Commission and all the other parties involved to bring about the necessary changes. An effective partnership between the asset management industry, the Commission and CESR may already be beneficial in overcoming many

Urgent action is needed to realize the vision of a genuine single market of asset

impediments to the single market freedoms that the asset management industry aspires to. It can create significant changes in the way investors get access to information and advice about products to ensure that they are able to access a full range of products and services. *management*

47. Experts recalled that discussions within the group had been very productive and had contributed to a better understanding of the main opportunities and challenges involved in building a “single asset management market”. The group looks forward to a continued dialogue with the Commission in taking this agenda forward.

48. The group discussed different possibilities regarding the extent to which EU-legislative action is needed to achieve the objectives identified, taking into account the inherent driving power of market forces. There was broad agreement that any further legislation should not merely focus on product harmonisation, but also and even more importantly take into account the way that markets actually function and operate. *Extent to which EU-legislative action is needed*

49. The legislative processes at European level e.g. on UCITS and occupational pension funds have demonstrated the political and technical investment needed to secure progress. The results of these efforts – in terms of tangible improvements in cross-border access – have not always lived up to expectations. Therefore, one possible option discussed within the group would be to focus mainly on exploiting the possibilities offered by the existing legal framework. In this regard, it would be – *first-* critical to have an effective monitoring procedure in place. In particular, necessary powers of enforcement are essential and they should be put in effect immediately. *Build on the existing legal framework*
Second- this would include where inevitable - modifications to the existing framework (for example to modify the existing UCITS-Directive to achieve more flexibility in line with the Lamfalussy process). Progress along these lines would go a long way to establishing a sound regulatory basis for the EU Asset Management industry.

50. The group debated whether the desired improvements could be fully realised by extending and/or modifying the existing rules. It was observed that the time-frames associated with modifications of the existing generation of EU legislation - which seem unavoidable for many of the agreed objectives shown under section 2.2. - will be as long for relatively small adjustments as for more significant reforms. All modifications to existing EU legislation require co-decision in the European Parliament and the Council. This would apply equally to measures to further adapt the UCITS-Directive to the Lamfalussy-procedure. These considerations led the group to contemplate the case for a more far-reaching overhaul of EU legislative arrangements as a further option. The objective of such a step would be to equip the European industry with a sound legislative basis to develop over the coming decades. It would provide a framework capable of taking into account the emergence of new products and techniques. Such an opportunity could be seized to develop a stand-alone asset management pillar in EU legislation. Regarding *Stand-alone pillar of asset management in EU legislation*

the scope of this regulatory framework, different possibilities are conceivable. On the one hand, a broad scope could be envisaged in the form of a comprehensive asset management pillar encompassing all functions related to asset management, regardless of the product or the institution providing this service. On the other hand, a more limited scope covering collective and individual portfolio management could be pursued. Whatever the approach or scope, the group agreed that any further regulation in this field should be based on the Lamfalussy approach - namely framework principles agreed by co-decision, technical implementing measures on level 2 and cooperation of regulators on level 3. But over-prescriptive regulation should be avoided.

51. Whatever the form and timing of further steps to develop the EU legislative framework for asset management, EU industry and policy-makers should be motivated by one aim – to enable the European industry to develop its commercial strengths on a pan-European basis - and in so doing enhance Europe’s position as a global centre of excellence in asset management. Effective action to boost the efficiency and competitiveness of the European asset management industry will be a powerful contributor to economic reform.

ANNEX 1: MEMBERS OF THE ASSET MANAGEMENT EXPERT GROUP

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