

# NEWS from DG XV

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## FINANCIAL INSTITUTIONS

### PAYMENT SYSTEMS

The programme to make it easier, faster and cheaper to transfer money across Community frontiers has moved into a new phase with approval of the next steps of work on payment systems by the Commission.

Reporting to the Commission in March Sir Leon Brittan gave an analysis of the reactions received to the previous Commission paper (COM(90)447), and gave an up-date on the current position and future possibilities for different methods of payment. The Commission has set up two committees, one technical and the other representing the banking sector and the users, to plot the way ahead.

### Reactions to the September 1990 Green Paper

Responses to the Commission paper of September 1990 reveal a widespread acceptance that the current cross-border payment systems leave room for improvement.

There was a consensus that present systems did not provide arrangements for small cross-border payments which met the standards for speed, certainty and economy that characterised purely domestic payment systems, and which would be needed under full EMU. The complete opening of frontiers to trade in goods and services and to the free movement of persons will certainly be accompanied by an increased demand for more convenient payment facilities which is not clearly visible at this stage and may be very responsible to a reduction in prices.

### Stimulating better systems

A range of initiatives has now been proposed or is under development. The Commission intends to focus in particular on links between the various national automated clearing houses to speed electronic transfers; to remove remaining barriers to cross-frontier transactions; and to improve the transparency of service to consumers.

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The increasing needs of Europe's citizens for a variety of cross-border transactions cannot be met through a single monolithic system. More effective competition within the financial sector, leading to cheaper and better exploitation of existing cross-border payment problems, is clearly a priority. In the medium term this may also need to be complemented by new Community-wide arrangements involving more structured cooperation between financial institutions and central banks.

The Commission underlines the need to stimulate development of better payment systems but is not seeking to become involved directly in their provision. However, where obstacles are identified, the Commission has a duty to use its powers to remove them and thus to facilitate the development of new cross-frontier payment systems; it is also prepared to bring forward legislative proposals if that proves necessary.

It is important to ensure transparency in the provision of information on the relative costs and advantages of different payment systems currently provided by banks and other financial institutions to the consumer. In particular, the consumer has a right to the best professional advice on the most suitable form of cross-frontier payments for the various types of transactions. It is clear that there is scope for improvement in this area, which should be pursued in parallel with work on the more technical studies.

The September 1990 discussion paper focussed mainly on payments involving relatively small amounts. Indeed, it is in this area that the Commission frequently receives complaints from private individuals or small and medium sized enterprises, who have experienced difficulties with relatively smaller and in particular irregular cross-border payments. A first priority is to resolve such difficulties. However, large value payment systems (e.g. interbank transfers or systems such as the ecu clearing) should not remain completely outside the debate, particularly since there is not always a strict dividing line between large and small value systems. Furthermore, some of the possible initiatives (for instance concerning legal rules regarding liabilities in the area of credit transfers) can concern small and large payments alike. The development of large value payment systems is closely related to the progressive realisation of EMU. This is a further reason for close involvement by the Community's central banks in the new initiatives.

To assist the Commission, a "payment systems technical development group" and a "payment systems users liaison group" have been established each with up to 18 members. The former are drawn from the commercial and central banking world, while the latter include consumer, retailer and small- and medium-sized enterprises representatives, together with some members of the technical group. These groups met for the first time on 29 April and will continue to meet regularly throughout the year, reporting to the Commission on progress at the end of 1991.

### DIRECTIVE ON MONEY LAUNDERING

The Council adopted at the ECOFIN meeting of 10th June 1991 a Directive on prevention of use of the financial system for the purpose of money laundering. The Commission proposal had been adopted and transmitted to the Council on 23 March 1990, and a Council common position had been reached on 14 February 1991.

The Directive is justified by the need to avoid that launderers could take advantage of the freedom of capital movement and freedom to supply financial services which the integrated financial area involves, in order to carry out their criminal purposes. It was necessary in this respect to ensure that the soundness and stability of the Community financial system are not put in jeopardy by money laundering operations.

The scope of the Directive covers not only banks and other credit institutions but all financial institutions defined in the wide sense of the Annex of the Second Banking Coordination Directive (that means, undertakings carrying out virtually any financial activity) as well as life insurance companies. The whole financial system has, therefore, been included, since a partial coverage could provoke a shift of money laundering from one part to another of the financial sector.

In addition the Directive provides that Member States should extend its application to professions and undertakings which may be particularly susceptible to be used for money laundering purposes.

The Directive contains a provision compelling Member States to prohibit laundering of proceeds from drug related offences and from any other criminal activity designated by each Member State. They will be also obliged to take appropriate measures and to determine adequate penalties to combat this phenomenon.

The main requirements of the Directive are as follows:

- Identification of customers and beneficial owners (principle of "know your customer"): financial institutions must require identification of their customers when entering into business relations or when conducting one-off transactions over specified thresholds;
- Requirement for records of identification and transactions document to be kept for 5 years;
- Due diligence of financial institutions in examining unusual transactions;
- Lifting of bank secrecy by implanting a system of reporting suspicious transactions to the competent authorities for combating money laundering;
- Requirements for financial institutions to establish internal procedures against money laundering including suitable staff training programmes.

The Directive provides a full response to the recommendations adopted by the Financial Action Task Force on Money laundering, created by the Group of Seven most developed countries and which today covers all the OECD countries as well as some other important international off-shore centres. The Directive will align the Community standards in this field with the strictest in the world. Implementation by the Member States must be accomplished by 1st January 1993.

## GRANDS RISQUES DANS LE SECTEUR BANCAIRE

La Commission a adopté le 20 mars 1991 une proposition de directive du Conseil sur la surveillance et le contrôle des grands risques des établissements de crédit. Cette directive complètera les règles prudentielles qui doivent accompagner la seconde directive de coordination bancaire lorsque celle-ci entrera en vigueur au début 1993. Elle a pour objet de garantir une répartition des risques assumés par les établissements de crédit telle qu'aucune banque ne puisse être menacée en cas de défaillance de l'un de ses clients. Les règles plus strictes qui sont proposées renforceront la solidité et la stabilité du système bancaire de la Communauté.

La Commission propose que les risques concentrés sur un seul client ne puissent excéder 25 pour cent des fonds propres de la banque au sens de la directive 89/299/CEE concernant les fonds propres des établissements de crédit. Tout risque dépassant 10 pour cent des fonds propres devrait faire l'objet d'une notification périodique aux autorités et le montant total de ces grands risques ne devrait pas excéder huit fois celui des fonds propres de l'établissement de crédit.

Les propositions de la Commission reflètent les vœux exprimés par le Comité consultatif bancaire de la CE en faveur d'un renforcement des règles et elles vont dans le sens des recommandations formulées par le Comité de Bâle sur la surveillance bancaire lors de la récente conférence mondiale des contrôleurs de banques à Francfort.

Pour permettre aux établissements de moindre importance, tels que les petites banques coopératives, de prendre les dispositions nécessaires, la Commission propose, à compter du 1er janvier 1993, une période transitoire de cinq ans pendant laquelle les autorités de contrôle nationales pourront appliquer des règles moins contraignantes. Cette période pourrait être suivie d'un délai de trois ans pendant lequel les prêts en cours continueraient d'être traités comme avant.

Il n'existe pas encore de règles communautaires concernant les grands risques et la plupart des Etats membres devront renforcer leur législation. En 1986, la Commission a adopté une recommandation sur les grands risques, dans laquelle elle préconisait un plafond de 40 pour cent par risque. Toutefois, comme cette limite était basée sur une définition différente des fonds propres que celle utilisée dans la nouvelle proposition, les deux textes ne sont pas tout à fait comparables.

La Commission s'efforcera de faire adopter cette proposition dans le courant de l'année prochaine, pour que la directive puisse entrer en vigueur en même temps que les autres mesures concernant le secteur bancaire. (COM/91/68 FINAL, JOCE C 123 du 9/5/91 p.18).

FONDS PROPRES DES ETABLISSEMENTS DE CREDIT

La Commission a adopté, le 6/6/91, une proposition de directive du Conseil modifiant la directive 89/299/CEE concernant les fonds propres des établissements de crédit. Elle contient deux modifications de la directive qui ne peuvent être apportées selon la procédure de comitologie.

La première prévoit une dérogation temporaire en faveur des établissements de crédit hypothécaire danois.

Cette dérogation ne devrait pas affecter la concurrence entre les établissements de crédit.

La seconde modification concerne la "procédure de comitologie" elle-même, le Conseil, en arrêtant la directive concernant les fonds propres des établissements de crédit, s'étant réservé l'exercice des compétences d'exécution en ce qui concerne les adaptations techniques.

La Commission propose un comité de réglementation fonctionnant selon la procédure III(a) prévue à l'article 2 de la décision du Conseil 87/373/CEE. (COM/91/188 final)

BANKING ADVISORY COMMITTEE

The 29th meeting of the Banking Advisory Committee took place on 7th March 1991 in Brussels, chaired by Mr. Padoa Schioppa, Vice-President of the Banca d'Italia.

The principal themes of the discussion were:

- deposit protection schemes
- financial conglomerates
- fund for general banking risks

STAGE POUR DES CADRES DU SECTEUR DES ASSURANCES DE HONGRIE ET DE POLOGNE

A l'initiative du Commissaire européen Sir Leon Brittan, la DG XV a participé, dans le cadre de l'action PHARE et en collaboration avec le Comité Européen des Assurances et les Services de Contrôle des Assurances des Etats membres de la Communauté européenne, à l'organisation d'un stage pour des professionnels de l'assurance de Hongrie et de Pologne.

Ce programme de formation d'une durée allant jusqu'à six mois permettra aux stagiaires d'acquérir pendant leur séjour auprès des compagnies d'assurances et les organismes de contrôle une expérience pratique dans le fonctionnement d'un système commercial d'assurance.

Le stage a débuté par une journée d'accueil qui s'est déroulée le 2 mai 1991 à Bruxelles. Les stagiaires ont été accueillis par M. Fitchew, Directeur Général de la DG XV, et ils ont pu se familiariser avec les institutions européennes et l'approche communautaire de l'assurance au cours de plusieurs exposés faits par nos collègues.

10TH COMMISSION DECISION RELATING TO CIVIL LIABILITY FOR MOTOR VEHICLES

Council Directive 72/166/EEC of 24 April 1972 and the Supplementary Agreement of 12 December 1973 between the national motor insurers' bureaux, which it envisaged, established the framework for the removal of green card civil liability insurance checks between the nine Member States, and between Member States and certain third countries.

The Directive and the Supplementary Agreement stipulated that the date from which checks were to be abolished was to be fixed by the Commission.

The Commission subsequently adopted three Decisions in 1974 requiring each Member State to discontinue green card checks on vehicles registered in the other Member States or in eight third countries.

Following the signing by the Spanish and Portuguese bureaux of an Addendum to the Supplementary Agreement on 14 March 1986, the Commission adopted a further three decisions on 16th May 1986 requiring the suppression as from 1 June 1986 of green card checks between Spain and Portugal and the other Member States, except Greece, and between Spain and Portugal and the various third countries which are parties to the Supplementary Agreement arrangements.

However, on 18 May 1988, the Commission adopted the Seventh, Eight and Ninth Decisions requiring as from 1 July 1988 the abolition of green card checks between Greece and the other Member States and also between Greece and the various third countries which belong to the Supplementary Agreement arrangements.

Subsequently the Signatory Bureaux have reviewed and unified the texts of their various agreements and replaced them with a single Agreement, the Multilateral Guarantee Agreement, signed on March 15, 1991 in Madrid.

The Commission, therefore, adopted the 10th Decision on 30 May 1991, the purpose of which is to fix 1 June 1991 as the date for the entering into force of the Multilateral Guarantee Agreement and to annul and replace earlier Commission decisions relating to the implementation of the Supplementary agreements of 1973, 1974 and 1986. (C/91/1035).

ACCORD CEE/SUISSE CONCERNANT L'ASSURANCE DIRECTE AUTRE QUE L'ASSURANCE SUR LA VIE

Le 21 mars 1991, le Conseil a établi les positions communes concernant les propositions de :

- 1) décision du Conseil relative à la conclusion de l'accord (doc. 4994/91 + Add. 1)
- 2) directive du Conseil relative à l'application de l'accord (doc. 4995/91 + Add.1)
- 3) règlement arrêtant des dispositions particulières pour l'application des articles 37 et 39 de l'accord (doc. 4996/91 + Add. 1)

EC/JAPAN HIGH LEVEL CONSULTATIONS, 29 MAY 1991

High level consultations on financial questions between representatives of DG XV and Japan's Ministry of Finance were held in Brussels on 29 May 1991. The Japanese delegation was led by Mr Makoto Utsumi, Vice-Minister of Finance for International Affairs; the Commission delegation was led by Messrs Geoffrey Fitchew (DG XV) and Giovanni Ravasio (DG II).

In addition to a detailed exchange of views on macroeconomic issues, the Commission placed particular emphasis on the need for the Japanese to continue the process of deregulation and liberalisation. Special mention was made of deregulation of interest rates. For Japan, there is a continuing interest in the EC's single market, including of course reciprocity, and in the development of the Community's relations with the USSR and the countries of Central and Eastern Europe.

**DROIT DES SOCIÉTÉS**

SOCIÉTÉ EUROPÉENNE (SE) - STATUT

Au mois de mai 1991, la Commission a transmis au Conseil

- la proposition modifiée de règlement du Conseil portant statut de la société européenne (COM(91/174 final-SYN 218 du 16/5/91)
- la proposition modifiée de directive du Conseil complétant le statut de la société européenne pour ce qui concerne la place des travailleurs (COM/91/174 final-SYN219 du 6/5/91, JOCE C 138 du 29.5.91, p.8)

Les modifications apportées par la Commission tiennent compte des amendements adoptés par le Parlement européen le 24 janvier 1991 ainsi que de la position exprimée par le Comité économique et social le 28 mars 1990.

La Commission a également été attentive aux nombreux avis émis par les milieux intéressés, les groupements professionnels et les organisations syndicales et a tenu compte de l'analyse faite par des spécialistes du droit des sociétés.

Par ailleurs, différentes améliorations techniques ont été apportées résultant des travaux que le groupe ad hoc des questions économiques du Conseil a consacré à ce dossier depuis septembre 1989.

SOCIÉTÉ EUROPÉENNE - CONFÉRENCE DU 15 AVRIL 1991

Ce symposium organisé à l'initiative et sous la présidence du Vice-Président M. Martin BANGEMANN a réuni quelques 80 invités, représentant les grandes entreprises, les organisations représentatives du patronat et des travailleurs, des institutions européennes - Membres du Parlement européen, du C.E.S., du Conseil et de la Commission. Cette manifestation, qui avait pour but, de donner à chaque intervenant la possibilité de s'informer ainsi que d'exprimer ses attentes et/ou ses appréhensions concernant le Statut de la SE a été un succès. Un seul regret, des inscriptions ont dû être refusées faute de place suffisante.



G.E.I.E. :

Le nombre de G.E.I.E. immatriculés s'accroît régulièrement, en mai 1991 nous en étions à 163 groupements répartis de la manière suivante :

Pays-Bas	:	55
Belgique	:	49
France	:	30
Allemagne	:	15
Royaume-Uni	:	9+1 établissement
Espagne	:	4
Danemark	:	1

Une nouvelle loi d'application du règlement (CEE) 2137/85 du 25.07.85 sur le G.E.I.E. est portée à notre connaissance. En effet, le Luxembourg a légiféré le 25 mars 1991 sur les G.I.E. et G.E.I.E. (lois publiées au Mémorial A 30 du 11 avril 1991, p.452 et s.).

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