fresh start project

Chapter 7

Financial services

The summary

- Financial and professional services provide 2,029,900 jobs in the UK, more than half of them based outside London. Financial services alone account for 10% of GDP.

- The UK represents 36% of the European Union’s financial wholesale market and 61% of the EU’s net exports in financial services, but under qualified majority voting (QMV) it has only 8% of the vote in the Council of Ministers.

- Financial Services accounted for an estimated 11.2% share of tax receipts in 2009-10 equating to £53.4 billion. Finance provided a £31.5 billion trade surplus in 2010. The overall UK deficit for trade in goods and services was £39.7 billion, meaning that without financial services, the UK would have been faced with an overall deficit of £70 billion.

- Pre-crisis, EU regulation had a largely liberalising effect across Europe, but post-crisis, the trend had been in the other direction. The EU is considering or developing 49 new regulatory proposals that could affect the industry, a great many of which are aimed at constricting rather than enabling the industry.

- Former French President Nicolas Sarkozy welcomed the appointment of his countryman Michel Barnier as EU Commissioner for the Internal Market and Financial Services as a ‘defeat for Anglo Saxon capitalism’.

- The European Central Bank has demanded that clearing houses which deal in ‘sizeable amounts’ of euro-denominated business should be located inside the eurozone. The UK government has taken this to the European Court of Justice.

- The European Commission recognises that its proposal for a Financial Transactions Tax could lead to the loss of half a million jobs across Europe.

- Moves towards a banking union will continue to raise questions over whether a more integrated eurozone is compatible with the EU’s single market in financial services for all 27 Member States and that, without safeguards, the UK could be forced to accept new rules designed for and written by the eurozone countries.

- In some cases, the UK may wish to introduce more stringent regulation than the EU currently proposes, for example regarding capital requirements for banks. This reflects the significant exposure of the UK economy to the banking sector – banking assets are 500% of GDP.

- UK financial services firms do not want to be tied into restrictive EU legislation when growth opportunities are outside the EU. Whilst in 2005 the UK, Germany, France, Spain and Italy accounted for 27% of global banking assets, PriceWaterhouseCoopers projects that in 2050 that will have decreased to 12.5%. PWC also projects that Brazil, Russia, China and India will see their share of global banking assets leap to 32.9% in 2050 from the 2005 figure of 7.9%.

The options for change:

➔ The European Parliament's Economic and Monetary Affairs Committee resisted a ban on short-selling. It will now be restricted to a ban on naked short-selling of sovereign debt.

➔ Parliamentary scrutiny of financial services could be enhanced through reform of the processes and committees in Westminster.

- UK placement to senior roles in Brussels could be prioritised and graduate programmes introduced.

- UK financial services are at a structural disadvantage in the European Union. Most of the EU regulation that pertains to the sector is based on single market articles from the EU treaties, where QMV and co-decision with the European Parliament apply, meaning that British politicians can be outvoted. The little-used ‘Luxembourg Compromise’ could be invoked. It states that where very important national interests are at stake, the Council will endeavour to accommodate a country’s concerns. However, the Compromise is not enforceable under the EU treaties, and some dispute its continued applicability.

- 69% of UK financial services professionals support the UK having a veto on future EU financial services regulation even if at the risk of less access to the single market and reduced business opportunities.

- The UK could employ a mechanism introduced by the Lisbon Treaty, a ‘yellow card’ which forces the European Commission to reconsider a proposal if one-third of all national parliaments object to it within eight weeks of it being tabled.

- A ‘single market protocol’ could be sought that would codify better regulation objectives, establish a one-in-one-out system for regulation, and restate the need for pro-growth measures.

- It would be possible to seek changes to qualified majority voting rules.

- The Prime Minister’s use of the veto demonstrated his commitment to defending financial services. He could continue to negotiate for the protections he sought that led to the veto.

- The UK government could seek a unilateral break on EU financial services regulation. Open Europe outlines a possible UK emergency break or ‘double lock’ approach, embodied in a legally binding protocol attached to the Treaties. Lock One would assert the special circumstances that are the UK’s stake in financial services, requiring the Commission to reconsider proposals that impact disproportionately on the UK. Lock Two would give the UK a right of appeal for any proposal at any stage during the decision-making process before the proposal has been agreed by the Council and European Parliament. This would give the UK a veto, because unanimity applies at the European Council level.

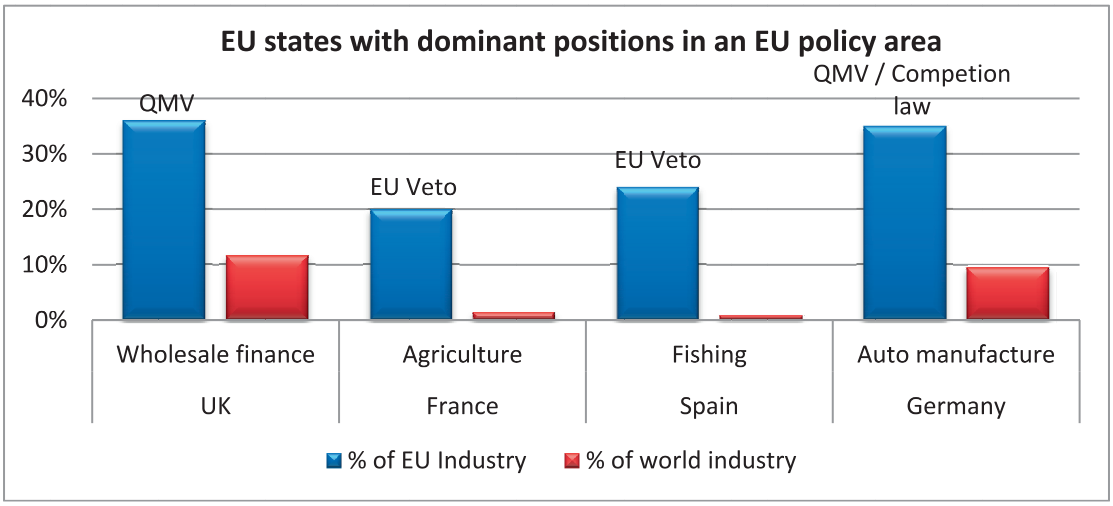
- In a more drastic move, Parliament could refuse to accept, via a sovereignty vote, jurisdiction of the European Union over financial services measures that are against our national interest.

The introduction

Financial services are an immensely important part of the United Kingdom's economic landscape. Banking – whilst vitally significant – accounts for 454,200 jobs in the industry, just under a quarter of the total of 2,029,900 people working in the financial and professional services.[218] More than half of these jobs are based outside the capital,[219] 212,100 of which are based in the North West alone.[220]

The financial and professional services account for 13.5% of total gross value added.[221] Financial services by themselves are only just second behind manufacturing (10% as opposed to 12% of GDP).[222] Financial services are therefore every bit as critical to the United Kingdom's economy as the automotive industry is to Germany. This is not just a matter of jobs for wealthy bankers - it is about people's pension funds, the financing of small businesses and the taxation that pays for our schools and hospitals.

However, although the UK represents 36% of the European Union's financial wholesale market and 61% of the EU's net exports in financial services,[223] it only has 72 seats in the European Parliament out of a total of 736.[224] From 2014 – or 2017 if a member state requests it – the UK will have 12.3% of votes in the Council of Ministers.[225] While that will actually be an increase from 8.4%, the threshold needed to pass a law is lowered and so it will be harder for the UK to block a proposal.[226]



Source: Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.

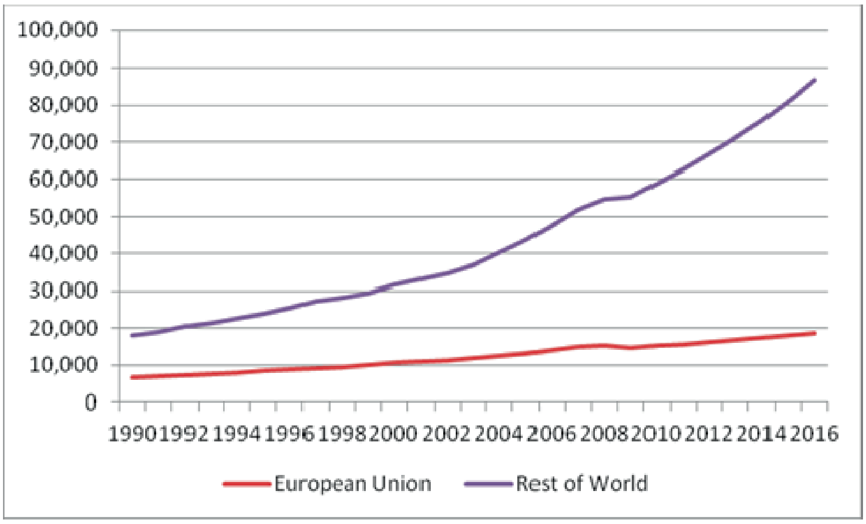
[218] TheCityUK, Regional Breakdown of UK Financial and Professional Services, January 2012.
[219] TheCityUK, Regional Breakdown of UK Financial and Professional Services, January 2012.
[220] TheCityUK, Regional Breakdown of UK Financial and Professional Services, January 2012.
[221] TheCityUK, Regional Breakdown of UK Financial and Professional Services, January 2012.
[222] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.
[223] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.
[224] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.
[225] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.
[226] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.

The eurozone crisis has led to proposals for a 'banking union' with euro countries potentially sharing a common and strengthened supervisor, which would be backed by a eurozone deposit guarantee scheme and bank resolution fund. Although the UK would not take part, this would clearly present a challenge to the EU's single market in financial services and create incentives for the eurozone supervisor, potentially the European Central Bank, to either drive greater harmonisation of regulation across the EU or protectionism within the eurozone. The UK could potentially be forced to accept new regulation designed for and written by the eurozone countries.

This is the context in which European Union regulation of the financial services industry must be seen. It is also necessary to understand the attitudinal shift in the EU towards financial services. Whereas the EU once sought to enable the sector, and Britain was highly influential in completing the single market for financial services, after the 2008 financial crisis attitudes in Europe toward the sector have changed. A total of 49 new EU regulatory proposals that could affect the industry are either being considered or already in train, a great many of which are aimed at constricting rather than enabling the industry.[227] This is an unsustainable and unacceptable state of affairs, not least because much of the growth potential for the UK's financial services industry exists outside the eurozone and European Union.

The International Monetary Fund has calculated that real GDP growth between 2011 and 2016 will be 2.1% in the European Union, which compares unimpressively to the BRIC countries of Brazil (4.2%), Russia (3.8%), India (8.1%) and China (9.5%). The EU also lags behind the global average of 4.9%.[228] Moreover, whilst in 2005 the UK, Germany, France, Spain and Italy accounted for 27% of global banking assets, PriceWaterhouseCoopers projects that in 2050 that will have decreased to 12.5%. PwC also projects that the BRIC countries will see their share leap from the 2005 figure of 7.9% to 32.9% in 2050.[229]

The following chart shows European Union and Rest of the World GDP at purchasing power parity (PPP) between 1990 and 2016.



Source: Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.

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[227] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.
[228] IMF, 'World Economic Outlook – Slowing growth, rising risks', September 2011, http://www.imf.org/external/pubs/ft/weo/2011/02/pdf/text.pdf.
[229] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.

The detail

An analysis of the details presents an even clearer picture of why financial services matter. The estimated 11.2% share of tax receipts in 2009-10 equated to £53.4 billion.[230] Finance provided a £31.5 billion trade surplus in 2010.[231] This is a huge contribution to Britain's trade balance. The think tank Open Europe has highlighted that this trade surplus compares remarkably favourably with goods and travel, which represented trade deficits in 2010 of £98 billion and £11 billion respectively.[232] Nevertheless, the overall UK deficit for trade in goods and services was only £39.7 billion, which means that without financial services the UK would have been faced with an overall deficit of £70 billion a year.[233] To describe financial services as important to the UK economy vastly understates their value – they are absolutely critical.

Confidence in a nation's economy is bolstered when it can point to world-class goods or services. The UK's financial services outstrip competitors in a number of areas. The UK banking sector does more cross-border lending than any other country in the world, with an 18% market share in March 2011.[234] Our foreign exchange market is the biggest on Earth, as is our over-the-counter interest rate derivatives market, which had an enormous 46% global share in April 2010.[235] A net premium income of almost £200 billion gave the UK insurance industry the number one spot in Europe and number three worldwide.[236] We have the largest hedge fund market on the continent and European Climate Exchange contracts - which have made up the vast majority of futures and options trading on the EU Emissions Trading Scheme since 2009 - are traded on the ICE Futures Europe exchange in London.[237]

Yet even these detailed statistics cannot do full justice to the centrality of the financial services industry, for the simple reason that the sector does not operate in a vacuum. Rather, it is intimately connected to most other sectors of the economy. As Open Europe has highlighted:

'The benefits of the financial sector to the broader EU go far beyond the simple generation of jobs and activity in the City to how business investment is funded, including small local businesses; how pensions are paid for; how companies manage to buffer themselves against bad times, to hedge against risks, and insure against disaster; how broader access to financial services enables households to smooth consumption during periods of unemployment or unexpected drops in income (e.g. short-hours working); how Governments

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[230] PricewaterhouseCoopers (PwC), 'The total tax contribution of UK financial services', third edition, December 2010 (report prepared for the City of London Corporation), http://217.154.230.218/NR/rdonlyres/68F49A7E-8255-415B-99A8-1A8273D568D9/0/TotalTax3_FinalForWeb.pdf.
[231] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.
[232] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.
[233] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.
[234] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.
[235] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.
[236] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.
[237] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.

use international financial centres to borrow to service public spending in periods when tax takes are temporarily depressed.'[238]

However, as Open Europe points out, 'compared to the 1990s and early 2000s, the balance of initiative in EU policy-setting is changing, which risks radically reducing the UK's influence.'[239]

There is not space here to describe in detail every Directive or proposed regulation affecting financial services which emanates from the European Union (although we attach them as an appendix), but we can identify some of the most significant and report that there is a move away from liberalisation, as the clamour for greater integration intensifies.

The case study – UCITs: a successful policy

In 1988 the Undertakings for Collective Investment in Transferable Securities (UCITs) Directive came into effect. It sets out a harmonised regulatory framework for investment funds. HM Treasury has commented:

'The UCITS Directive has been key to the development of the European investment fund industry. UCITS investments are well-regarded internationally for giving consumers access to high-quality, consistent investments. UCITS are widely perceived as being regulated to a high standard, and their status as a global "brand" has continued to boost net sales of cross-border funds outside Europe.'[240]

The UCITs experience is no longer typical of EU financial regulation.

The heads of state or government at the Lisbon Council of March 2000 reached the following agreement:

'Efficient and transparent financial markets foster growth and employment by better allocation of capital and reducing its cost. They therefore play an essential role in fuelling new ideas, supporting entrepreneurial culture and promoting access to and use of new technologies. It is essential to exploit the potential of the euro to push forward the integration of EU financial markets. Furthermore, efficient risk capital markets play a major role in innovative high-growth SMEs and the creation of new and sustainable jobs.' [241]

Recently, continental politicians have been less fulsome in their praise of the sector – with no let-up in their desire to integrate the sector on an EU-wide basis. German Finance Minister Wolfgang Schäuble opined in October last year that:

'We have to fight the causes of this crisis, and the main reasons of the crisis are a lack of financial market regulation and an abundance of Government deficits and debt.'[242]

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[238] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.
[239] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.
[240] http://www.hm-treasury.gov.uk/fin_euintl_dossier_ucits.htm.
[241] City of London, Creating a single European market for financial services – a discussion paper.
[242] Bloomberg, 15 October 2011. http://www.bloomberg.com/news/2011-10-15/merkelsays-won-t-accept-u-s-balking-at-finance-transaction-tax.html.

Former French President Nicolas Sarkozy welcomed the appointment of his countryman Michel Barnier as EU Commissioner for the Internal Market and Financial Services as a'defeat for Anglo Saxon capitalism'.[243]

This attitude does not provide a convincing advertisement for expanding European Union control of the financial services. Nor do some recent pieces of legislation or current proposals. On his return from an EU Council in which a financial transactions tax (FTT) was discussed, the Prime Minister was right to tell the House of Commons in December 2011:

'*There were two possible outcomes: either a treaty of all 27 countries, with proper safeguards for Britain; or a separate treaty in which eurozone countries and others would pool their sovereignty on an intergovernmental basis, with Britain maintaining its position in the single market and in the European Union of 27 members. We went seeking a deal at 27 and I responded to the German and French proposal for treaty change in good faith, genuinely looking to reach an agreement at the level of the whole of the European Union, with the necessary safeguards for Britain. Those safeguards—on the single market and on financial services—were modest, reasonable and relevant. We were not trying to create an unfair advantage for Britain. London is the leading centre for financial services in the world, and this sector employs 100,000 people in Birmingham and a further 150,000 people in Scotland. It supports the rest of the economy in Britain and more widely in Europe. We were not asking for a UK opt-out, special exemption or a generalised emergency brake on financial services legislation. They were safeguards sought for the EU as a whole. We were simply asking for a level playing field for open competition for financial services companies in all EU countries, with arrangements that would enable every EU member state to regulate its financial sector properly.*'[244]

The Lisbon Council of March 2000 formally endorsed the Financial Services Action Plan (FSAP). FSAP was a range of measures designed to remove barriers and boost integration by 2005.[245] In essence, FSAP aimed to create: a single wholesale market, with a single point of entry and clear legal rules; an open and secure retail market with greater electronic commerce and clearer information for customers; and first-class rules and prudential regulation.[246]

One of the main aspects of FSAP was the Markets in Financial Instruments Directive, which brought other countries up to speed with UK standards by introducing the categorisation of clients and liberalising trading (so that it did not just focus around a country's main exchange).[247]

Open Europe concludes that in the 1990s and early 2000s:

'Though with several exceptions, a significant chunk of EU financial regulation has been pro-trade, and pro-competition. While the UK might have preferred the details of certain

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[243] Daily Telegraph 21 December 2009. http://www.telegraph.co.uk/finance/newsbysector/banksandfinance/6861065/Sarkozy-will-use-Michel-Barnier-to-advance-French-interests.html.
[244] Hansard 12 December 2011, cols 519 and 520.
[245] HM Treasury, the Financial Services Authority and the Bank of England, The EU Financial Services Action Plan: A Guide, July 2003.
[246] HM Treasury, the Financial Services Authority and the Bank of England, The EU Financial Services Action Plan: A Guide, July 2003.
[247] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.

regulations to be different, some compromise provided the opportunity to extend UK thinking at the EU level, in turn promoting trade opportunities in what was a promising market.'[248]

This welcome trend has now palpably been reversed.

The case study – clearing houses and the ECB

The European Central Bank has demanded that clearing houses which deal in 'sizeable amounts' of euro-denominated business should be located inside the eurozone. The ECB wants this to apply when any of the 'central counterparties' handle over 5% of a euro-denominated product.[249]

The UK – whose capital is home to more clearing houses than any other in the EU - is taking action against this proposal. A spokesman for HM Treasury said in September:

'This decision contravenes European law and fundamental single market principles by preventing the clearing of some financial products outside the euro area. That is why we have begun proceedings against the ECB through the European court of justice. The government wants to see this resolved swiftly and without involving the courts but, if necessary, will not shy away from continuing legal action to make sure there is a level playing field across the EU for British businesses.'[250]

The case study – Financial Transactions Tax

There has been considerable coverage of the proposal for a financial transactions tax (FTT). The European Commission advocates a 0.1% levy on all types of financial transactions, other than those involving derivatives agreements, on which a 0.01% levy would be imposed.[251]

The European Commission itself recognises that an FTT would have considerable disadvantages, stating that the turnover on derivatives markets is 'expected to decline by up to 90% in some market segments'[252] and estimating in an impact assessment that it could lead to the loss of half a million jobs across Europe.[253]

Representatives of the British Bankers' Association, TheCityUK, the International Swaps and Derivatives Association, the Investment Management Association and the Association of British Insurers wrote to the *Telegraph* to express their concern about an FTT:

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[248] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.

[249] Guardian.co.uk, 14 September 2011. http://www.guardian.co.uk/business/2011/sep/14/european-central-bank-treasury-court-action

[250] Guardian.co.uk, 14 September 2011. http://www.guardian.co.uk/business/2011/sep/14/european-central-bank-treasury-court-action

[251] European Commission, Proposal for a Council Directive on a common system of financial transaction tax and amending Directive 2008/7/EC, 28 September 2011.

[252] European Commission presentation, 'The Commission proposal for a Council Directive on a common system of FTT', 28 September 2011, p17. http://ec.europa.eu/taxation_customs/resources/documents/taxation/other_taxes/financial_sector/ftt_proposal_en.pdf.

[253] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.

'The Commission has rejected concerns about the effect of the FTT on the City of London as a global financial centre. Curiously the Commission failed to conduct a country by country impact analysis to truly understand the impacts on each Member State. However, on just one measure the effects of FTT on London are clear. The Commission explicitly assumes that 90pc of derivatives could disappear as a result of the implementation of the FTT in the EU. The UK has the largest financial derivatives market in the world, with an average daily turnover in interest rate derivatives of just over $1.4 trillion, equivalent to 45.8pc of the total. It is hard to comprehend how such a reduction of this business would not significantly affect the UK economy.

These instruments are not the 'socially useless' activities that the Commissioner appears to believe; as DG Competition stated this month, derivatives 'are an indispensable tool for risk management and investment purposes'. Derivatives are an insurance against adverse price moves, protecting companies - and so their customers - against unexpected developments, such as sudden changes in the value of currencies or price of commodities. They are used by a range of businesses from importers such as oil companies and exporters such as manufacturers. Additionally, adding a tax on transactions such as interest rate and currency swaps would only increase the cost and reduce the flexibility (and therefore availability) of funding for businesses.'[254]

Such a policy, if unilaterally applied in the EU, might be toasted in New York but should not raise any sort of cheer in the UK, which – again according to the European Commission's own estimates – would contribute 62% of total revenues.[255]

A report on the FTT by the Institute of Economic Affairs (IEA) cites a calculation from the European Commission which finds that an FTT would lead to a drop in GDP of 1.76%:

'With a tax rate of 0.1% the model shows drops in GDP (-1.76%) in the long-run.'[256]

It has been argued that the UK government was disproportionately worried about the prospect of an FTT. It is true that the European Commission's proposal for a financial transactions tax (FTT) was tabled under Article 113 of the Treaty on the Functioning of the European Union, which requires unanimity, and that therefore the UK could have blocked it anyway.[257] It is however also worth remembering that the Working Time Directive was initially resisted by the UK but then imposed under health and safety legislation.

Another unwelcome proposal comes from the Solvency II rules on insurance and pension funds, which would focus those funds away from long-term investment by favouring investments with shorter maturities and government bonds over bank and corporate bonds. John Cridland, the Director-General of the CBI, has warned:

'*As drafted, the proposals promote an investment strategy of punting on supposedly 'risk-free' EU sovereign debt and shortening the duration of corporate debt investments. This suggests that money is better spent on Government bonds than being put to work funding energy, road and air infrastructure projects*.'[258]

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[254] telegraph.co.uk, 12 February 2012.
[255] http://ec.europa.eu/taxation_customs/taxation/other_taxes/financial_sector/index_en.htm.
[256] http://ec.europa.eu/taxation_customs/resources/documents/taxation/other_taxes/financial_sector/impact_assessment.zip.
cited in IEA, The case against a financial transactions tax, by Tim Worstall, November 2011.
[257] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.
[258] Speech to the CBI annual dinner, 13 October 2011.

The original Markets in Financial Instruments Directive (MiFID) was a deregulatory measure. Countries including France, Italy and Spain had 'concentration rules' which meant that shares had to be sold on the main exchange and the change was a welcome development. MiFID II, however, is a proposal to ban independent advisers from earning commissions from firms whose products they sell. The irony is that, in other parts of the EU, bancassurance companies – i.e. combined bank and insurance companies - are the norm. So their advisers are not taking a commission from the organisation they are recommending, they work for it directly. It is one thing, then, if you work for Barclays, but those UK professionals who offer independent advice in an environment where insurance companies and banks are typically separate would be at a disadvantage.[259]

It may at this point seem counter-intuitive to suggest that sometimes EU regulations might not go far enough. Nevertheless, there may be occasions when the UK would like to impose stiffer rules than the EU suggests or even permits.

The case study – capital requirements for banks

Investor protection is one area where the UK calls for more regulation than the EU. Unlike the Basel III capital requirements for (systemically important) banks, the EU's proposed regulations – called CRD IV – impose not only a minimum requirement but a maximum one too. This development clashes with the recommendations of the Independent Commission on Banking led by Sir John Vickers.[260] It would also, of course, mean that the EU was not operating on level terms with the rest of the world.

As the Chancellor of the Exchequer commented in December last year:

'The balance sheet of our banking system is close to 500% of our GDP, compared to 100% in the US and 300% in Germany and France. So while a European and international regulatory response to the crisis is important, we cannot rely on this response alone to make our banking system safe.'[261]

A representative of a major bank warned us that at a time when banking systems are being constrained it is vital not to try to close down capital markets. [262]

The options for change

The colour-coding used below for possible UK action follows the categorisation for all the Fresh Start Project's Green Paper chapters. Green are those measures that can be achieved domestically or within the current EU legal framework; Amber are those measures that require negotiated EU treaty change; Red are those steps that the UK could take unilaterally that would involve breaking its treaty obligations. Please see the Introductory Chapter to the Green Paper.

Much debate can be had about the best way forward but one thing is undeniable: the financial services are a critically important industry for the UK and the European Union is by no means their only market. The EU must not be allowed to strangle them with red

[259] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.
[260] Independent Commission on Banking, 'Final report recommendations', September 2011.
[261] Banking Reform Statement by the Chancellor of the Exchequer, 19 December 2011.
[262] Private meeting.

tape, nor impose crippling costs on them, nor dissuade financial companies and workers from locating or staying in the UK.

For all the reasons outlined above, we start from the premise that the status quo is not an option. It would however be possible to try to work within the current system to get a better deal in the EU for the UK's financial services.

The European Parliament has had some success. British MEPs on the European Parliament's Economic and Monetary Affairs Committee resisted a ban on short-selling. It will now be restricted to a ban on naked short selling of sovereign debt. Sharon Bowles MEP, the chair of the committee, described the deal agreed with the Council of the European Union, which will come into effect from November next year, thus:

'Proxy hedging using a CDS [credit default swap] *where there are correlated interests is allowed. And if there is any distress in the market, for example as shown by spreads or lowering of liquidity, then a Member State can opt-out of the ban. Review comes up quite quickly, in 2013, and by then there will be more data available, including that from the experiments that are ongoing at present. ESMA will of course be keeping a watching brief on all of this ready for the review and to give its opinion on the reasonableness of any opt-outs.'*[263]

Domestic politicians must play their part too. In other chapters, the Fresh Start Project makes the case for select committees to scrutinise EU proposals and legislation more thoroughly and at an earlier stage. UK MEPs have an enhanced role now that co-decision applies and therefore greater responsibility to make the case for the financial services industry, a vital UK asset.

The government is right to oppose a unilaterally-applied EU Financial Transactions Tax and to challenge the ruling that trade in euro-denominated products must take place in the eurozone. We have highlighted the importance of seeking to place UK nationals in key roles in Brussels. Ministers also constantly need to be abreast of any and all developments in the European Union.

Commissioner Barnier has claimed that the UK does have the flexibility it needs to implement the Independent Commission on Banking's proposals on ring-fencing capital and investment banking and additional capital requirements, thanks to 'Pillar 2', which would allow national regulators to apply additional discretionary requirements on particular firms or groups of firms that are exposed to particular risks.[264] However, HM Treasury has stated, that this flexibility 'is not designed to be applied to all firms at a systemic level and if used in that way may be subject to legal challenge'.[265]

The UK financial services are at a structural disadvantage in the European Union's political system. Most of the EU regulation that pertains to the sector is based on single

[263] Speech by Sharon Bowles MEP, 21 October 2011.

[264] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.

[265] City AM, 'EU in bid to veto UK bank reform', 31 October 2011, http://www.cityam.com/news-and-analysis/eu-bid-veto-uk-bank-reform.

market articles from EU treaties, where Qualified Majority Voting (QMV) and co-decision with the European Parliament apply.[266] This means that British politicians can be outvoted.

It would not be accurate to say that the effect of the EU on the UK financial services industry is just a reflection of the fact that all countries have to take the rough with the smooth in a single market. Open Europe explains how the playing field is unlevel:

'For instance, the French have a dominant position in agriculture, the Spanish in fishing and the Germans in car manufacture. But unlike agriculture where the French have a veto over the reform of the Common Agricultural Policy – from which French farmers do exceptionally well – or fishing where Spain wields a veto over change to the Common Fisheries Policy, the UK has no comparable protection from EU financial regulation.'[267]

General de Gaulle's refusal to take part in European Council proceedings led to the Luxembourg Compromise of 1966, which states:

'Where, in the case of decisions which may be taken by majority vote on a proposal of the Commission, very important interests of one or more partners are at stake, the Members of the Council will endeavour, within a reasonable time, to reach solutions which can be adopted by all the Members of the Council while respecting their mutual interests and those of the Community.'[268]

Although it has never been formally adopted by the European Commission or the ECJ, the French have nevertheless invoked the Luxembourg Compromise in defence of their agriculture industry. It could prove to be an inspiration for the UK in relation to the financial services.[269]

Open Europe continues:

'It is true that the German car industry, like UK finance, is also not fully protected with a veto, for example with regards to EU competition rules. However, unlike the City of London, the German car industry is not an area where the interests of different states diverge so sharply. It is also less mobile than the financial services industry, which is far more susceptible to regulatory competition. And in one significant area the German industry has objected to – and even ignored – EU rules. In fact, Germany has fought a protracted legal battle with the European Commission in order to preserve the 'golden share' in Volkswagen owned by the state of Lower Saxony.'[270]

The crisis in the eurozone has prompted George Osborne to state that:

'the eurozone countries need to accept the remorseless logic of monetary union that leads from a single currency to greater fiscal integration.'[271]

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[266] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.
[267] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.
[268] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.
[269] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.
[270] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.
[271] Daily Telegraph, 7 August 2011.

If such action is indeed inevitable, then one effect may be that the eurozone countries start to act as one voting bloc in the European Union. This would have a massive impact straight away and it would intensify: by 2014 or 2017 the eurozone will have the 65% of votes needed to pass a law by themselves.[272]

One leading industry insider told us that there is a perception that there is a potential for overlap or gaps in mapping EU and UK regulators, that the industry needs to work harder at lobbying the increasingly influential European Parliament, and that people with financial services experience are rather 'thin on the ground' in Brussels.[273]

Another expert told us that the UK should put a levy on the City to finance a lobbying effort in Brussels.[274] He added that the UK should look to win middle-management roles in ESMA - other countries, he assured us, are not squeamish about trying to place people in Brussels - and seek voting alliances with the Dutch, East Europeans and Nordic countries in the EU.[275] We should also look into developing programmes for getting bright graduates into Brussels.

Open Europe has suggested that the UK could make more use of the European Court of Justice, by challenging the use of Treaty articles for ends for which they were not intended and litigation against protectionism in the eurozone.[276]

Open Europe has also made the case for ministers seeking public assurances from the eurozone countries that they will not act as a bloc and recognise that decisions should be taken by all 27 member states. Open Europe adds that this could go as far as the UK demanding to be present at all negotiations.[277]

It may be that more muscular action is necessary.

The industry is evidently both concerned by and losing patience with the EU. In November and December 2011 ComRes surveyed 500 financial services professionals in London about their attitudes towards European Union regulation of the industry, on behalf of Open Europe.[278] 69% supported the UK having a veto on future EU financial services regulation even if at the risk of a lessening of access to the single market and reduced business opportunities.[279] 56% thought that the costs of EU financial regulation now outweigh the benefits of the single market to the City and 62% expected that to be the case over the next five years, with only 24% disagreeing.[280]

This would involve Treaty changes. Open Europe has identified various possibilities, including: a 'single market protocol' which could be used to:

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[272] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.
[273] Private meeting.
[274] Private meeting.
[275] Private meeting.
[276] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.
[277] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.
[278] http://www.comres.co.uk/poll/588/open-europe-eu-veto-survey.htm.
[279] http://www.comres.co.uk/poll/588/open-europe-eu-veto-survey.htm.
[280] http://www.comres.co.uk/poll/588/open-europe-eu-veto-survey.htm.

'Re-state the importance of the single market.

Include a possible timetable for seeking to reduce barriers to trade in areas such as services, the digital economy, telecoms and energy.

Codify the 'better regulation' objectives including a commitment to robust impact assessments.

Establish a one-in one-out system to limit the amount of new regulation.

Ensure that all regulations, including financial ones, are proportional, consistent with subsidiarity and related to a known risk.

Re-state the need for pro-growth measures at the EU-level, including a need to make labour markets more dynamic. This could even include the EU's own commitments to exercise greater flexibility in the aspects of labour market law that it is involved in, including the Working Time Directive and the Agency Workers Directive.' [281]

It would also be possible to seek changes to qualified majority voting rules or employ a mechanism introduced by the Lisbon Treaty – the so-called 'yellow card' which forces the European Commission to reconsider a proposal if one-third of all national parliaments object to it within eight weeks of it being tabled.[282]

More drastically, the UK government could seek a unilateral brake on EU financial services regulation.

Open Europe outlines a possible UK emergency break or 'double lock' approach, embodied in a legally binding protocol attached to the Treaties. Lock One would assert the special circumstances that are the UK's stake in the financial services, requiring the Commission to reconsider proposals that impact disproportionately on the UK. (A FTT would be an obvious example of that). Lock Two would give the UK a right of appeal for any proposal at any stage during the decision-making process before the proposal had been agreed by the Council and European Parliament. This would give the UK a veto, because at the European Council level unanimity applies.[283]

An even more absolutist position would be simply to refuse to implement new or existing directives. Open Europe concludes that:

'The legal repercussions of this option are relatively simple. However, the political implications are hugely uncertain and impossible to predict.'[284]

[281] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.
[282] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.
[283] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.
[284] Open Europe, CONTINENTAL SHIFT: Safeguarding the UK's financial trade in a changing Europe, December 2011.

They may not always be popular and they are widely misunderstood, but financial services matter to the whole of the United Kingdom, and indeed to the European Union. The EU should be their champion, not their executioner.

APPENDIX: EU financial regulation in the pipeline
(Source: Open Europe)

EU legislation adopted but not yet transposed into national law		
EU legislation	**Current status**	**Deadline for transposition/Entry into force**
Alternative Investment Fund Managers (AIFM) Directive – *Directive 2011/61/EU*	Adopted on 8 June 2011	22 July 2013
Solvency II – *Directive 2009/138/EC*	Adopted on 25 November 2009	Transposition will have to be complete by 1 January 2013, but the new requirements will enter into force on 1 January 2014[285]
Prospectus Directive (upgraded version) – *Directive 2010/73/EU*	Adopted on 24 November 2010[286]	1 July 2012
Financial Conglomerates Directive (upgraded version)[287]	Adopted by the Council of Ministers on 8 November 2011, awaiting publication on the EU's Official Journal	To be added in when the Directive is published in the EU's Official Journal – it is temporarily fixed at 18 months after the entry into force of the Directive[288]
Access to basic banking services (part of the European Commission's Single Market Act initiative)	Recommendation adopted by the European Commission on 18 July 2011	EU member states are *invited* to take the necessary measures by at the latest six months after the publication of the Recommendation (i.e. first quarter of 2012)
Consumer Rights Directive (upgraded version)	Adopted in October 2011, publication in the EU's Official Journal expected by the end of the year[289]	Transposition will have to be complete by the end of 2013, while the new rules will be applied at the latest six months after the end of the transposition period (i.e. by approximately mid-2014)
Short-selling and CDS Regulation	Adopted by the European Parliament on 15 November 2011, awaiting final (formal) approval by the Council of Ministers	The Regulation will enter into force after its publication in the EU's Official Journal, but will apply from 1 November 2012[290]
Regulation on wholesale energy market integrity and transparency	Adopted by the Council of Ministers on 10 October 2011,[291] awaiting publication in the EU's Official Journal	After its publication in the EU's Official Journal
Location of clearing houses	ECB communicated its decision to change the Eurosystem's location policy for clearing houses in July 2011. The UK started legal action against the decision in September, timeline remains uncertain at the moment	Unclear

[285] See the FSA website, http://www.fsa.gov.uk/pages/About/What/International/solvency/implementation/index.shtml.
[286] This Directive also amends Directive 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market (aka Transparency Directive), see http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:327:0001:0012:EN:PDF.
[287] Due to amend Directives 98/78/EC, 2002/87/EC , 2006/48/EC and 2009/138/EC (Solvency II) as regards the supplementary supervision of financial entities in a financial conglomerate.
[288] Some provisions must be transposed by 22 July 2013, see http://register.consilium.europa.eu/pdf/en/11/pe00/pe00039.en11.pdf.
[289] See the European Commission's website, http://ec.europa.eu/justice/consumer-marketing/rights-contracts/directive/index_en.htm.
[290] See *European Parliament* press release, 'Parliament seals ban on sovereign debt speculation and short-selling limitations', 15 November 2011, http://www.europarl.europa.eu/en/pressroom/content/20111115IPR31525/html/Parliament-seals-ban-on-sovereign-debt-speculation-and-short-selling-limitations.
[291] See *Council of the European Union* press release, 'New framework for monitoring of energy markets adopted', 10 October 2011, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/trans/124995.pdf.

EU legislation proposed but not yet adopted		
Proposal	**Current status**	**Deadline for transposition/Entry into force**
Draft Directive introducing a Financial Transactions Tax (FTT)[292]	European Commission proposal published on 28 September 2011	The Commission proposes 31 December 2013, with the new provisions entering into force on 1 January 2014
Draft Omnibus II Directive[293]	European Commission proposal published in January 2011	The Commission proposes 31 December 2012, with the new provisions entering into force on 1 January 2013
Draft Directive on the access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms (part of the CRD IV package)[294]	European Commission proposal published on 20 July 2011	The Commission proposes 31 December 2012, with the new provisions entering into force on 1 January 2013[295]
Draft Regulation on prudential requirements for credit institutions and investment firms (part of the CRD IV package)	European Commission proposal published on 20 July 2011	The Commission proposes applying the new provisions from 1 January 2013[296]
Draft Credit Rating Agencies Regulation (CRA III)	European Commission proposal published on 15 November 2011[297]	After its publication in the EU's Official Journal[298]
Draft Directive amending UCITS IV and AIFMD in respect of the excessive reliance on credit rating agencies (part of the CRA III package)	European Commission proposal published on 15 November 2011[299]	The Commission proposes applying the new provisions from 12 months after the entry into force of the Directive
Draft Investors Compensation Schemes Directive (upgraded version)	European Commission proposal published on 12 July 2010. Compromise proposal drafted by the Polish Presidency endorsed by the Committee of EU member states' Permanent Representatives to the EU (COREPER) on 23 November 2011[300]	The Commission proposes applying the new rules from 12 months after the entry into force of the Directive, the FSA notes that the proposals are anticipated to come into effect by the end of 2012[301]
Draft Bank Deposit Guarantee Schemes Directive (recast)	European Commission proposal published on 12 July 2010	The Commission proposes 31 December 2012[302]
Draft Regulation on OTC derivatives, central counterparties and trade repositories (European Market Infrastructure Regulation, EMIR)	Negotiations between member states and the European Parliament are still under way, EU finance ministers agreed on a common negotiating	After its publication in the EU's Official Journal

[292] Also due to amend Directive 2008/7/EC concerning indirect taxes on the raising of capital, see http://ec.europa.eu/taxation_customs/resources/documents/taxation/other_taxes/financial_sector/com%282011%29594_en.pdf.
[293] Due to amend the existing Prospectus Directive (Directive 2003/71/EC) and Solvency II in respect of the powers of EIOPA and ESMA, see http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0008:FIN:EN:PDF.
[294] Also due to amend the existing Financial Conglomerates Directive (Directive 2002/87/EC).
[295] Chapter 4 (on capital buffers) would apply from 1 January 2016, see http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0453:FIN:EN:PDF.
[296] Article 436(1) would apply from 1 January 2015, see http://ec.europa.eu/internal_market/bank/docs/regcapital/CRD4_reform/20110720_regulation_proposal_part3_en.pdf, p153.
[297] Final text of the proposal is not yet available, a provisional version is available here, http://ec.europa.eu/internal_market/securities/docs/agencies/COM_2011_747_en.pdf.
[298] Some provisions would enter into force from 1 June 2014, see http://ec.europa.eu/internal_market/securities/docs/agencies/COM_2011_747_en.pdf, p35.
[299] Final text of the proposal is not yet available, a provisional version is available here, http://ec.europa.eu/internal_market/securities/docs/agencies/COM_2011_746_en.pdf.
[300] See http://consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ecofin/126385.pdf, p7.
[301] See http://www.fsa.gov.uk/pages/About/What/International/pdf/ICSD.pdf.
[302] Transitional measures have been proposed for deposits paid in before 30 June 2010, which would be applied until 31 December 2014, see http://ec.europa.eu/internal_market/bank/docs/guarantee/comm_pdf_com_2010_0368_proposition_de_directive_en.pdf, p42.

	position on 4 October 2011[303]	
Draft Markets in Financial Instruments Directive (MIFID II, upgraded version)	European Commission proposal published on 20 October 2011	Not specified in the Commission's draft
Draft Regulation amending EMIR (part of the MIFID II package)	European Commission proposal published on 20 October 2011	The Commission proposes applying the new rules from 24 months after the entry into force of the Regulation[304]
Draft Market Abuse Regulation[305]	European Commission proposal published on 20 October 2011	After its publication in the EU's Official Journal, although the existing Market Abuse Directive (MAD) would be repealed 24 months after the entry into force of the new Regulation
Draft Directive on criminal sanctions for insider dealing and market manipulation (part of the Market Abuse Directive review package)	European Commission proposal published on 20 October 2011	The Commission proposes applying the new provisions from 24 months after the entry into force of the Directive[306]
Draft new rules on corporate governance in financial institutions	Proposed as part of MIFID II and CRD IV[307]	See above
Draft Transparency Directive (upgraded version)	European Commission proposal published on 25 October 2011	Not specified in the Commission's draft
Draft Savings Taxation Directive (upgraded version)	European Commission proposal published on 13 November 2008, negotiations between member states and the European Parliament are still under way	Deadline for transposition is not specified, the Commission proposes applying the new rules from the first day of the third calendar year following the calendar year in which the Directive enters into force[308]
Draft Regulation on Single Euro Payments Area (SEPA) migration end-date(s)[309]	European Commission proposal published on 16 December 2010	Various, depending on the different provisions[310]
Draft Directive on credit agreements relating to residential property (mortgages)	European Commission proposal published on 31 March 2011, the latest compromise text by the Polish Presidency was published on 28 November 2011[311]	The Commission proposes applying the new provisions from two years after the entry into force of the Directive[312]
Draft Regulation on a common European sales law	European Commission proposal published on 11 October 2011	The Commission proposes applying the new rules from six months after the entry into force of the Regulation[313]
Draft Statutory Audit Directive (upgraded version)[314]	European Commission proposal published on 30 November 2011	Not specified in the Commission's draft

303 See *Council of the European Union* press release, 'Council reaches agreement on measures to regulate derivatives market', 4 October 2011, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ecofin/124903.pdf.
304 Some articles would apply immediately after the entry into force of the Regulation. Existing third country firms would be allowed to continue to provide services and activities in EU member states in accordance with national regimes until four years after the entry into force of the Regulation, see http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0652:FIN:EN:PDF, p60.
305 Due to replace the existing Market Abuse Directive (Directive 2003/6/EC), http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0651:FIN:EN:PDF.
306 See http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0654:FIN:EN:PDF, p13.
307 See *Clifford Chance*, 'European regulatory reform progress report', 3 November 2011, http://www.cliffordchance.com/publicationviews/publications/2011/11/european_regulatoryreformprogressreport-.html.
308 See http://ec.europa.eu/taxation_customs/resources/documents/taxation/personal_tax/savings_tax/savings_directive_review/com%282008%29727_en.pdf, p27.
309 Due to amend Regulation (EC) No 924/2009 on cross-border payments in the Community.
310 See http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0775:FIN:EN:PDF, p23-24.
311 The compromise proposal is available here, http://register.consilium.europa.eu/pdf/en/11/st17/st17608.en11.pdf.
312 See http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0142:FIN:EN:PDF, p44.
313 See http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0635:FIN:EN:PDF, p29.
314 Due to amend Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts, see http://ec.europa.eu/internal_market/auditing/docs/reform/COM_2011_778_en.pdf (provisional version).

Draft Regulation on specific requirements regarding statutory audits of public-interest entities (part of the audit reform package)	European Commission proposal published on 30 November 2011	The Commission proposes applying the new provisions from two years after the entry into force of the Regulation[315]
Draft Directive replacing the EU's Accounting Directives[316]	European Commission proposal published on 25 October 2011	The Commission proposes 1 July 2014[317]
Draft Regulation creating a European Account Preservation Order to facilitate cross-border debt recovery in civil and commercial matters	European Commission proposal published on 25 July 2011	The Commission proposes applying the new rules from 24 months after the entry into force of the Regulation[318]
Draft Directive on Alternative Dispute Resolution (ADR) for consumer disputes[319]	European Commission proposal published on 29 November 2011	The Commission proposes that transposition be completed by 18 months after the entry into force of the Directive[320] and estimates that out-of-court ADRs should be available everywhere in the EU in the second half of 2014[321]
Draft Regulation on Online Dispute Resolution (ODR) for consumer disputes	European Commission proposal published on 29 November 2011	The Commission proposes 6 months after implementation deadline for the draft ADR Directive, i.e. presumably early 2015
Target-2 Securities programme[322]	Framework agreement endorsed by the ECB's Governing Council on 17 November 2011[323]	The ECB's Governing Council decided to push back the go-live date to June 2015 (it was initially planned for September 2014)[324]

[315] Transitional provisions are set out for audit contracts concluded within a certain timeframe, see http://ec.europa.eu/internal_market/auditing/docs/reform/COM_2011_779_en.pdf, p82-83 (provisional version).
[316] Directives 78/660/EEC and 83/349/EEC.
[317] See http://ec.europa.eu/internal_market/accounting/docs/sme_accounting/review_directives/20111025-legislative-proposal_en.pdf, p67.
[318] With the sole exception of Article 48, which would apply from 12 months after the entry into force of the Regulation, see http://ec.europa.eu/justice/civil/files/comm-2011-445_en.pdf, p36.
[319] Due to amend Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws and Directive 2009/22/EC on injunctions for the protection of consumers' interests (codified version).
[320] See http://ec.europa.eu/consumers/redress_cons/docs/directive_adr_en.pdf, p22.
[321] *European Commission* press release, 'Consumers: Commission puts forward proposals for faster, easier and cheaper solutions to disputes with traders', 29 November 2011, http://europa.eu/rapid/pressReleasesAction.do?reference=IP/11/1461&format=HTML&aged=0&language=EN&guiLanguage=en.
[322] Target-2 Securities is the name of the Eurosystem project to harmonise securities settlement in central bank money, see http://www.bundesbank.de/zahlungsverkehr/zahlungsverkehr_t2securities.en.php.
[323] See the ECB's website, http://www.ecb.europa.eu/press/govcdec/otherdec/2011/html/gc111118.en.html.
[324] See the ECB's website, http://www.ecb.int/press/govcdec/otherdec/2011/html/gc111021.en.html.

EU legislation in the pipeline but without a formal proposal		
Potential proposal	**Current status**	**Deadline for transposition/Entry into force**
Insurance Guarantee Schemes (IGS)	A task force on IGS was set up by EIOPA in May 2011.[325] The Commission may present a proposal next year, but the exact timeline is unclear at the moment	Unclear
Harmonisation of Securities Law	European Commission proposal was due in the first semester of 2011,[326] but has been delayed (presumably to next year)	Unclear
Central Securities Depositories	European Commission consultation launched on 13 January 2011.[327] A proposal was due during the summer,[328] but has been delayed and may be put forward by the end of the year[329]	Unclear
UCITS V	European Commission proposal expected in early 2012, according to the FSA[330]	Unclear
Insurance Mediation Directive (upgrade)	European Commission still working on a proposal, which might be published next year[331]	Unclear
Corporate governance framework	European Commission consultation launched on 5 April 2011, with responses due by 22 July 2011[332]	Unclear
Packaged Retail Investment Products (PRIPs)	Part of the new rules on disclosure proposed as part of MIFID II, the rest to be included in the new draft Insurance Mediation Directive. New rules on distribution to be proposed in a specific piece of legislation, maybe next year[333]	Unclear
EU framework on bank resolution	European Commission working on a proposal. Internal Market Commissioner Michel Barnier said on 16 November that he expected	Unclear

325 See EIOPA website, https://eiopa.europa.eu/about-eiopa/organisation/new-working-groups/task-forces/task-force-on-insurance-guarantee-schemes/index.html.
326 See the European Commission's website, http://ec.europa.eu/internal_market/financial-markets/securities-law/index_en.htm#timetable.
327 See http://ec.europa.eu/internal_market/consultations/docs/2011/csd/consultation_csd_en.pdf.
328 See *European Commission* press release, 'Enhancing safety of European financial markets: Common rules for Central Securities Depositories (CDSs) and securities settlement', 13 January 2011, http://europa.eu/rapid/pressReleasesAction.do?reference=IP/11/29&format=HTML&aged=0&language=EN&guiLanguage=en.
329 See European Commission, 'Planned Commission initiatives until end of 2011', p6, http://ec.europa.eu/atwork/programmes/docs/forward_programming_2011.pdf.
330 See http://www.hm-treasury.gov.uk/fin_euintl_dossier_ucits.htm.
331 See *European Commission* communication, 'Commission Work Programme 2012 – Delivering European renewal', COM(2011)777, 15 November 2011, p4, http://ec.europa.eu/atwork/programmes/docs/cwp2012_en.pdf.
332 See the Commission's website, http://ec.europa.eu/internal_market/consultations/2011/corporate-governance-framework_en.htm.
333 See *European Commission* communication, 'Commission Work Programme 2012 – Delivering European renewal', COM(2011)777, 15 November 2011, p4.

	the proposal to be unveiled "in the coming weeks"[334]	
Collective redress	European Commission consultation launched on 4 February 2011, with responses due by 30 April 2011[335]	Unclear
Venture capital	European Commission consultation launched on 15 June 2011, with responses due by 10 August 2011. The Commission aims to publish a proposal by the end of 2011[336]	Unclear
Card, internet and mobile payments	European Commission Green Paper due to be published on 7 December 2011, with follow-up measures to be considered by 2013[337]	Unclear
Payment Services Directive (upgrade)	European Commission could put forward a proposal for revision by 1 November 2012[338]	Unclear
Institutions for Occupational Retirement Provisions Directive (upgrade)	EIOPA launched a second consultation on 25 October 2011, with responses due by 2 January 2012.[339] Based on EIOPA advice, the Commission will consider putting forward a proposal, presumably by the end of 2012	Unclear
Financial Activities Tax (FAT)	European Commission included FAT in a list of potential sources of revenue to fund the EU budget directly.[340] It is unclear when (and if) the Commission will put forward a formal proposal, as the FTT remains the preferred option at the moment	Unclear

334 Quoted by *Reuters*, 'EU to unveil bank crisis toolbox in coming weeks - Barnier', 16 November 2011, http://www.reuters.com/article/2011/11/16/euro-zone-barnier-idUSWEA351120111116.

335 See http://ec.europa.eu/dgs/health_consumer/dgs_consultations/ca/docs/cr_consultation_paper_en.pdf

336 See http://ec.europa.eu/internal_market/consultations/docs/2011/venture_capital/consultation_paper_en.pdf, p17.

337 See http://ec.europa.eu/governance/impact/planned_ia/docs/2013_markt_005_integrated_european_market_en.pdf.

338 See the European Commission's Roadmap for 2012, http://ec.europa.eu/governance/impact/planned_ia/docs/2013_markt_007_psd_en.pdf.

339 See EIOPA website, https://eiopa.europa.eu/en/newsletters/news-alerts/eiopa-launches-second-consultation-on-draft-response-to-call-for-advice/index.html.

340 European Commission, 'Financing the EU budget: Report on the operation of the own resources system', 29 June 2011, p31-32, http://ec.europa.eu/budget/library/biblio/documents/fin_fwk1420/proposal_council_own_resources_annex_en.pdf.