

Professor Norbert Walter

The Lamfalussy Framework: A View from the Inside

Centre for European Economic Research
Mannheim
July 11, 2003



Lamfalussy Process explained – I

□ Background: Committee of Wise Men

- Identifies legislative process as too slow, too rigid, and ill-adapted to the needs of modern securities markets
- Recommends reforming processes of legislation, regulation, implementation and enforcement
- Proposes four-level approach (Lamfalussy Process)

□ Objectives of Lamfalussy Process

- Legislation and regulation to become more
 - flexible and speedy
 - consistent
 - better co-ordinated among decision makers



Lamfalussy Process explained – II

□ Key characteristics of LP

- Well-defined four-stage legislative and regulatory process including
 - drafting and legislation of EU-wide rules (levels 1 and 2)
 - consistent implementation in member states (level 3)
 - consistent enforcement in member states (level 4)
- Decomposition of new legislative acts into
 - framework legislation (level 1)
 - technical implementing measures (level 2)



Lamfalussy Process explained – III

Level 1: Framework principles	Level 2: Implementing measures	Level 3: Consistent application	Level 4: Consistent enforcement
Form <ul style="list-style-type: none"> - Framework legal acts - Definition of Commission powers in enacting level-2 measures 	Form <ul style="list-style-type: none"> - Technical implementing measures - Level-1 measure as legal basis - Within the scope defined in level-1 measure 	Form <ul style="list-style-type: none"> - Guidelines - Joint interpretation - Common standards - Comparison of regulatory practice - Peer review 	Form <ul style="list-style-type: none"> - Commission takes measures to enforce EU law in case of infringements
Procedure <ul style="list-style-type: none"> - Conventional co-decision procedure 	Procedure <ul style="list-style-type: none"> - Modified comitology procedure 	Procedure <ul style="list-style-type: none"> - Multilateral dialogue 	Procedure <ul style="list-style-type: none"> - Exchange of information - Complaints - Lawsuits
Decision makers <ul style="list-style-type: none"> - European Parliament - Council of Ministers 	Decision makers <ul style="list-style-type: none"> - EU Commission adopts measure on the basis of <ul style="list-style-type: none"> - technical advice from Committee of European Securities Regulators (CESR) - endorsement by European Securities Committee (ESC) 	Decision makers <ul style="list-style-type: none"> - CESR co-ordinates consistent implementation among <ul style="list-style-type: none"> - legislatures - regulatory authorities - supervisory authorities in the member states 	Decision makers <ul style="list-style-type: none"> - Commission has primary responsibility - National authorities and private sector provide support

Applying the LP – securities regulation to date

☐ **Market abuse directive (MAD)**

- ☐ Level 1: completed, MAD in force since April 12, 2003
- ☐ Level 2: two sets of measures under negotiation

☐ **Prospectus directive**

- ☐ Level 1: adopted by EP, Council vote expected for July
- ☐ Level 2: two provisional mandates under negotiation

☐ **Investment services directive (ISD)**

- ☐ Level 1: political agreement sought by October 2003
- ☐ Level 2: no steps taken yet

☐ **Transparency directive**

- ☐ Level 1: political agreement sought by November 2003
- ☐ Level 2: no steps taken yet



Potential benefits of the LP – I

□ Levels 1 and 2

- More systematic handling and form of regulation throughout the process
- Easier and swifter amendment of technical details at level 2

→ Higher responsiveness of regulation to market realities



Potential benefits of the LP – II

□ Levels 3 and 4

- More consistent application of level-1 and level-2 measures
 - Reduction of major weakness related to single market principles
 - mutual recognition
 - home country control
- and to use of directives as legal instrument

→ Closing gaps in the EU's single financial market



Difficulties in making LP operational – I

□ Time pressure

- FSAP deadline (2003 for securities-market law)
- EP elections, enlargement, Commission appointment
- Parallel work at levels 1 and 2
- Tight consultation schedule

□ Danger of over-regulation

- Level-1 measures already rather detailed (ISD, prospectus directive)
- Even more to come at level 2?



Difficulties in making LP operational – II

☐ Resources

- ☐ Decision makers and market participants alike may not be sufficiently equipped to cope with regulatory task in due time

☐ Levels 3 and 4 pending

- ☐ Commission and CESR have failed to tighten work on consistent implementation and enforcement



LP – interim assessment

□ Teething troubles

- Initial criticism of LP has given way to largely positive responses
- Stakeholders now more self-confident in handling LP

□ LP decision-making is no routine business

- Financial-market legislation at levels 1 and 2 too different in content and form to ever become matter of simple routine (cf. allocation of regulatory detail across levels 1 and 2)

□ It's the regulatory output, stupid!

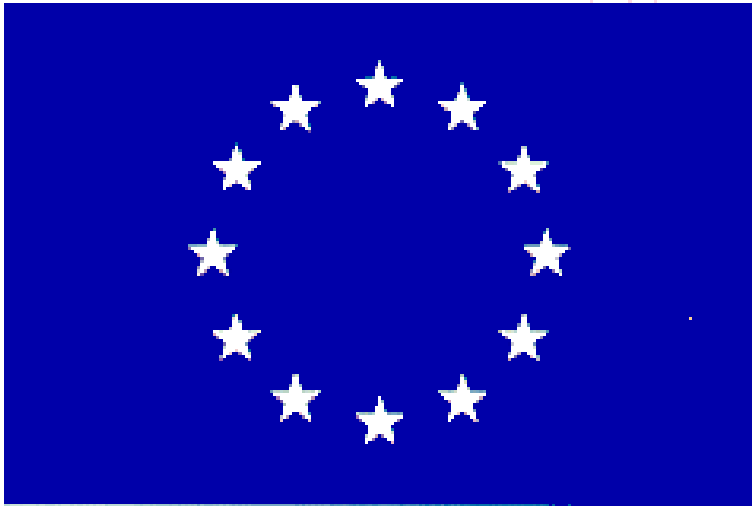
- It is the outcome of regulation that actually matters, not the processes by which it is reached
- EU must come up with lean and efficient regulatory framework for EU financial markets
- Presupposes that policy makers and stakeholders actually strive to reach the objective of the single EU financial market, rather than narrow-mindedly defend national or sectoral interests



Future of the LP – what to do next

- **Optimise existing LP**
 - Tackle shortcomings identified by IIMG effectively
- **Extend LP to banking, insurance, conglomerates**
 - Make benefits of LP available to entire range of financial-market legislation
 - CAD 3 (Basel II) would greatly benefit from LP
 - Desired location for all regulatory committees: Brussels
- **Prepare the ground for single EU supervisory authority**
 - Enabling clause in new EU Treaty needed





Professor Norbert Walter

The Lamfalussy Framework: A View from the Inside

Centre for European Economic Research
Mannheim
July 11, 2003

