The role of the financial intermediary in the European Single Market

By Vincent J. Derudder, Secretary General, European Federation of Financial Advisers and Financial Intermediaries (FECIF)

In May 1999, the European Commission (EC) launched its Financial Services Action Plan (FSAP), which identified not less than 42 legislative initiatives necessary to complete the single market in financial services. In June 1999, the European Federation of Financial Advisers and Financial Intermediaries (FECIF) was chartered by the Belgian Government for the sole purpose of defending and promoting the role of financial intermediaries in Europe. FECIF is the only European body representing European financial intermediaries, based in Brussels, the heart of Europe.

The European financial intermediary community is made of approximately 500,000 individuals exercising this profession as a main occupation (representing approximately 26,000 legal entities) and more than 200,000 are members of national professional associations (56 at today's count).

A non-profit-making association, FECIF is an independent organisation at the exclusive service of its members from the 25 European Union (EU) Member States, the British Isles, Gibraltar, Norway and Switzerland.

FECIF represents some 200,000 financial intermediaries to date. Whilst as an organisation it may not big enough to block airports and motorways, or to demonstrate in the streets of Brussels, Strasbourg or Luxembourg, in terms of real effective economic power, our members serve several tens of millions EU citizens, advising them on how to invest billions of euros. The sums involved are considerable.

Definitions of an intermediary's role:

- An intermediary acts as a service provider for his or her client.
- If independent, an intermediary is required to offer absolutely impartial advice.
- An adviser is remunerated exclusively by his or her client.
- An intermediary can be independent (broker or multi-tied agent) and acts either as a representative of his or her client (broker), or as an independent supplier of a product and/or service (multi-tied agent).
- Most EU intermediaries are remunerated by the supplier whose product or service is proposed.
- Most EU intermediaries (about 53%) represent from three to five product or service suppliers.
- Although a multi-mandated intermediary does not give his or her client totally impartial advice, the latter can however have access to a selection of products and services.

An intermediary who is single-mandated (representing only one product and/or service supplier), is obviously not in a position to advise his or her client since there is no choice to be offered.

Advisers or intermediaries have certain obligations in common:

- To ensure the adequacy of their working capital with the necessary infrastructures for providing quality assistance for their clients.
- To hold a professional civil liability indemnity insurance.
- To have the requisite experience, training and qualifications.
- To be placed under the supervision of a public supervisory body.

An adviser or independent intermediary is defined as an individual who, not being attached to a single product and/or service supplier is capable of examining with his or her customer - with complete freedom - the advisability of selecting a particular product or a service from the range of products and services available on the market.

What are the prospects for intermediaries in the EU today? Where does our future lie?

According to reliable statistics, EU intermediaries are providing advice and/or services to about 50 million EU consumers who prefer a face-to-face personalised relationship with a competent, friendly intermediary, than making contact via the Internet or with an anonymous clerk sitting behind the counter of a bank.

The middle class in the EU is made up of approximately 120 million consumers, many of whom are anxious about the future of their pension and retirement schemes and healthcare, are all potential clients of intermediaries. In spite of such an enormous business potential, the imposition of detailed regulatory requirements upon already massively over burdened intermediaries only serve to drive more intermediaries out of business either by bankruptcy or by choice.

It would appear that intermediaries are merely a nuisance to most of the national regulators and that there is a scurrilous conspiracy to drive them out of business, thus leaving the large institutions with the clear field they have always wanted and actively worked towards.

The EU is certainly not entirely responsible for the mess created by the national regulators, but, we had 15 different set of rules in 1999 before the FSAP was launched, which is a big improvement, as we get 25 at today's count!

A new basic principle should rule the EU now: plain common sense. To start with, the EC could partly solve the problem by not inviting Member States to implement stricter rules.

At every industry meeting, convention or seminar, we advocate the concept of co-regulation because we believe that co-regulation is the only viable solution to the challenges arising from the new regulations.

In spite of this, and in spite of the willingness of the EC to create a pan-European playing field, most national regulators want to get rid of as many intermediaries as they can, and channel all mass-market sales through the big banks, life companies and other international conglomerates. The easiest way to regulate the market is to destroy the independent sector and promote tied service. Unfortunately, the consumer is left out of the loop and this is why these regulators will fail. The problem with an independent intermediary is just that – they are independent and governments too often only have room for lackeys. The independent intermediary is the agent of the consumer and not of the provider or the government.

Unlike tied banks, the independent intermediary has a choice, and on the whole does not like poor value products and will not sell them.

Although the consumer is being turned against the independent intermediary in pursuit of "free for all" compensation, the fact remains, the consumer does not like poor value either.

The future

We keep talking about freedom of services, freedom of competition, freedom of establishment, freedom of circulation in the EU. Is it then acceptable to see a national regulator adding a new category of intermediaries during the process of transposition of the directive on insurance mediation?

Is it acceptable to see EU directives systematically made to ease business development across the EU turned into hundreds of pages of highly restrictive rules and regulations preventing such business development?

Is it tolerable to see the cost of compliance escalating without limit? If the compliance costs account between 3% and 5% for the large groups, it may represent up to 30% of administrative expenses for a small firm.

The FSAP was not only designed to provide a "level playing field" for the large institutions and priority was given always to consumer protection, transparency, full disclosure of all elements of service, etc. Unfortunately, we are no longer about normal market forces coming into play but a costly and continual stream of bureaucratic imposition requiring non-stop business restructuring - arguably caused by those who do not understand the markets - and ultimately it leads our industry to a reduction in consumer choice and higher charges.

Large institutions have considerable resources to carry out every regulators' and law makers' requirements for years to come without suffering major impact on their businesses, other than reduced profitability in the affected areas of operation. These are in turn cross-subsidised by massive and escalating profits in their other areas of activity.

Small and medium firms suffer disproportionate costs and do not have access to cross-subsidies. Small and medium firms therefore cannot possibly have the same staying power in the face such a sustained onslaught.

"An EU antitrust inquiry into retail banking may lead to changes in the way European banks are regulated", EU Competition Commissioner Neelie Kroes said. Ms. Kroes also said that an ongoing investigation may be widened to see how regulation affects customer choice: "Do public rules that may have a legitimate objective end up making markets more rigid and limit competition and consumer choice?" she asked European regulators at a meeting in London. "We want government to protect the consumer, but we also need to protect the consumer from the government."

The EU launched its investigation in early-2006, saying it wanted to look at areas where it thought competition was not functioning as well as it might. Ms. Kroes said it was hard for consumers to get clear comparative information about products to allow them to make informed choices.

Sir Callum McCarthy of Britain's Financial Services Authority cited one example of jargon-filled mail to customers which told them about "negative retrospective augmentation."

One might presume that the EC considered the competition aspect when providing the optional exemption. Clearly the EC was of the view that for independent intermediaries, operating within their own borders and not handling consumer funds, some additional regulation was unnecessary and burdensome.

How can this achieve a 'fair competitive balance' when a multi-national bank or institution has vast economies of scale, resources and staff to manage these matters and when the costs of compliance can be factored in to products provided by them?

Independent intermediaries provide a valuable and beneficial service to the public. The over-burdensome regulation of small firms is a significant factor in the financial exclusion of vast numbers of the public, who can no longer afford to use independent intermediaries' services due to the necessary costs they have to apply as a result of compliance requirements.

Less well off consumers will increasingly find themselves at the mercy of large institutions and direct sales organisations who are the true perpetrators of miss-selling.

Most of the regulators seem to wish to simplify their own role by eliminating a group which is difficult to control and independent of thought and action.

In the name of some highly arguable principles, Member States bureaucrats, without proper mandate, without any form of consultation with the industry whatsoever, dictate their biased vision of society.

Naively, we thought that the EU was all about more freedom and more democracy and that the law will be in our hands. This would prove not to be the case! The EC and the European Parliament cannot live by good intentions alone. It is just about time to say no to the Member States bureaucrats because business expects to see Europe becoming genuine.

Because we want to be practical, we make one very simple proposal: to start a process of simplification of existing legislation sooner rather than later, in order to build a better regulatory environment. By imposing co-regulation as the rule and state-control as the exception: the state must act as a referee between the industry players, not take side for some undisclosed political motives. The future use of the formula "the Member States may adopt stricter provisions, etc.", should also be banned as this understood by the Member States bureaucracies as a green light to distort the meaning of the EU legislation.

The Members States bureaucracies must be accountable to the public to allow a more effective relationship to be established between the regulator and the regulated. The regulators then need to take an adult approach with regards to the relationship between themselves and the industry.

The large institutions that the regulators liked so much are the worst enemies of the consumer. The consumer does not stand a chance to get a redress in case of any malpractice.

In conclusion, nobody can better protect the interest of the consumer than the intermediary: for an intermediary, the consumer is his only asset in business; he does not have a factory, machinery, stocks, etc. to capitalise on. It is therefore in his best interest to serve the consumer the best he can.

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