

**CONV 562/03**

**CONTRIB 249**

**COVER NOTE**

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from           Secretariat

to             The Convention

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**Subject :       Contribution by Lord Tomlinson, alternate member of the Convention:**  
**"Reinforcing the Single Market for Financial Services"**

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The Secretary-General of the Convention has received the contribution in Annex from Lord Tomlinson, alternate member of the Convention.

## **Contribution to the Convention from Lord Tomlinson (UK)**

### **REINFORCING THE SINGLE MARKET FOR FINANCIAL SERVICES**

I commend the report - creating a Single European Market for Financial Services –produced as a discussion paper by a working group drawn from a broad range of international financial services interests serving Europe and the wider world.<sup>1</sup>

The Report, now available on the Forum website, is animated by a strong desire to see the completion of the Single Market for Financial Services achieved in an orderly and consistent way, not only in principle but in practice. It is also driven by a conviction that there will be real benefits for the EU, in terms of greater choice and better value for customers, growing employment and increased economic activity. The Report also recognises that to achieve a fully functioning, innovative and competitive single market in which investors can be confident requires high standards of corporate governance and accountability.

The Report recognises that good progress has been made in introducing a wide range of financial services directives but explains that a single market does not yet exist – one in which buyers and sellers of financial services and products may deal with one another throughout the EU wherever they or their systems or their infrastructure may be located. This will only be secured and sustained by whole hearted implementation of the relevant directives by all Member States and then by effective monitoring and necessary enforcement by the Commission itself

In this spirit we would hope to see the Convention take into account the following principles in reinforcing language in the Treaty to underpin the market:-

1. Policy instruments other than legislation should always be considered including, as the Working Group on Simplification proposed, “self regulation” by the sectors concerned or “co-regulation” by co-operation between those sectors and the public authorities, in compliance with the law and whenever such an approach is effective and maintains public confidence.
2. If Union action (legislation, decisions, recommendations, opinions) is necessary it:

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<sup>1</sup> This working group is being chaired by Sir Nigel Wicks, Deputy Chairman of Euroclear

- (i) should be free from ambiguities of interpretation, which could hinder the single market;
  - (ii) should be only undertaken if it is demonstrably more effective than any other action, and is proportionate to the problem it claims to address;
  - (iii) should enable the free movement of goods and services across the Union which comply with any legal requirement in their country of origin.
3. Any Union action should be taken, except in cases of emergency, on the basis of consultation with interested parties, as proposed by the Simplification Working Group, allowing sufficient time for those affected to make submissions which should be the subject of reasoned response including reasons for acceptance, non acceptance, or partial acceptance
4. In order to ensure the proper functioning and development of the single internal market the Commission should be required to regularly:
- (i) evaluate through a detailed and systematic process whether Member States' laws and administrative procedures comply with Union legislation regarding the single market, competition and state aids policy and whether it should bring proceedings for infringement for any failure to comply
  - (ii) review those sectors in which the single market remains to be completed and identify what further Union or Member State action is needed to complete the single market in those sectors
  - (iii) report to the Council and Parliament on the above.
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