Brussels, 17 March 2017

AMICE's Response to European Commission Public Consultation on the Capital Markets Union mid-term review

Purpose of this consultation (extract from EC's consultation)

The Commission aims to publish the Mid-term Review of the Capital Markets Union (CMU) Action in June 2017. The Mid-term Review aims to:

- Plan take stock of progress on the implementation of the CMU Action Plan;
- reframe actions in the light of work undertaken so far and evolving market circumstances;
- complement the CMU Action Plan with new measures which constitute an effective and proportionate response to key challenges.

This consultation provides an opportunity for stakeholders to provide targeted input to revise the CMU Action Plan. The preparation of the CMU Mid-term Review will also draw on relevant submission and findings from the Commission's Call for Evidence on the EU regulatory framework for financial services.

Context of the consultation

The Capital Markets Union (CMU) is a core component of the Commission's Investment Plan for Europe to boost jobs, including youth employment, and growth. It encompasses the reforms of our financial system needed to enable the flow of private capital to fund the EU's pressing investment challenges – in the domains of infrastructure, energy transition, but particularly in financing growing businesses. CMU seeks to better connect savings to investment and to strengthen the EU financial system by enhancing private risk-sharing, providing alternative sources of financing, and increasing options for retail and institutional

Association of Mutual Insurers and Insurance Cooperatives in Europe aisbl
Rue du Trône 98/14 | B-1050 Brussels | Belgium | T: +32 2 503 38 78 | F: +32 2 503 30 55 | secretariat@amice-eu.org

investors. Removing obstacles to the free flow of capital across borders will strengthen the Economic and Monetary Union by supporting economic convergence and helping to cushion economic shocks in the euro area and beyond, making the EU economy more resilient. This is even more important in the current economic environment.

The evolving economic and political context in the EU, as well as pronounced differences in the maturity of capital markets across Member States, shows that developing stronger capital markets in the EU is more important than ever. The EU economy needs bigger and better capital markets to help break its reliance on bank lending and diversify its sources of funding. The configuration of EU capital markets is faced with significant change in the years ahead. However, whatever the precise configuration of those markets, it is clear that the EU must remain strongly focussed on developing capital market finance as a complement to a restored banking system, and to ensure that, as capital markets deepen, the capacity to supervise and manage risks keeps pace. The work on setting the broad policy framework and creating the right enabling conditions for capital markets to finance the real economy should continue.

This is why on 14 September 2016 the Commission adopted a Communication to reaffirm its commitment to the CMU. This Communication calls for an acceleration of the reforms and reviews commitment to the CMU priorities. The Commission firmly believes that, to reap the benefits of the first CMU commitments, there is a need to speed up the legislative process, starting with the long overdue securitisation package and the implementing measures of the Prospectus Regulation.

The CMU pipeline is delivering. Some 15 initiatives have been completed by the Commission, which corresponds to almost one-half of the CMU Action Plan. Several more will be completed in the coming months. As we approach the end of the delivery of the first wave of CMU-building, it is appropriate to take stock of what has been done, its effectiveness in addressing policy challenges, and how to build on these foundations.

The aim of this consultation document is to seek feedback on how the current programme can be updated and completed so that it represents a strong policy framework for the development of capital markets, building on the initiatives that the Commission has presented so far. To support the discussion, this document provides an up-to-date overview of the state of implementation of the CMU Action Plan. The document retains the structure of the CMU Action Plan which identifies six policy areas on which CMU building should focus. Under each heading, the consultation paper identifies outstanding issues and challenges, having briefly recalled the drivers for policy action and the work done so far.

Respondents are invited to provide concise and operational suggestions on measures that can be enhanced and on complementary actions to deliver the policy goals.

A. Financing for innovation, start-ups and non-listed companies

** Are there additional actions that can contribute to fostering the financing for innovation, start-ups and non-listed companies?*

- Yes

** Please propose complementary policy measures, explain their advantages, and illustrate any foreseeable challenges to their implementation.*

AMICE believes that the actions listed in pages 5 to 7 of the consultation document would contribute to foster the financing for innovation. The proposal for a pan-European venture fund for innovation should be encouraged and it should be ensured that social innovation is also considered in an appropriate way. Additionally, the Study on tax incentives for venture capital should be enlarged; The short-term market approach that gives preference to early dividend distribution to shareholders/investors strongly penalizes the capacity for mid/long term investment, particularly for small and mid-caps companies. A tax incentive strategy that would encourage investors to buy and hold on a mid/long term basis should be considered with conditional dividend rules. The lack of information available on mutual organisations may act as a deterrent for investors to invest in mutual-issued capital instruments such as private placements.

B. Making it easier for companies to enter and raise capital on public markets

** Are there additional actions that can contribute to making it easier for companies to enter and raise capital on public markets?*

- Yes

** Please propose complementary policy measures, explain their advantages, and illustrate any foreseeable challenges to their implementation.*

We welcome the proposal to address the debt-equity bias by introducing a corporate tax offset allowance for equity issuance (i.e proposal for a Common Consolidated Corporate Tax Base). However, this proposal would not help mutual companies which cannot issue equity and which can only use long-term subordinated debt to reinforce their own funds. Long-term debt instruments should receive the same treatment as equity.

Mutual companies, who issue subordinated debt, have to prepare their financial statements according to IFRS – international accounting standards. Adopting IFRS to value insurer's assets and liabilities imposes excessive costs on small firms. Other challenges to bear in mind are the costs of issuance for small entities, the rating/credit analysis information and the premium to liquidity.

Mutual companies should therefore be exempted from applying international accounting standards when preparing their financial statements provided the costs of doing so will be disproportionate with respect to the total administrative expenses.

AMICE would encourage the European Commission to consider extending the scope of instruments such as the French "certificats mutualistes" (Décret n° 2015204 du 23 février 2015 relatif aux certificats mutualistes ou paritaires) to make them pan-European.

C. Investing for long-term, infrastructure and sustainable investment

* *Are there additional actions that can contribute to fostering long-term infrastructure and sustainable investment?*

- Yes

* *Please propose complementary policy measures, explain their advantages, and illustrate any foreseeable challenges to their implementation.*

With Solvency II now in application since January 1 2016, we would like to reiterate that, as things stand, the prudential requirements of some assets are overstated for long-term investors. Long-term investments are absolutely key to meet policyholders' expectations on long-term and guarantee products, hence allowing the provisions of such products at affordable prices. I n the case of assets without contractual values and maturity such as equities and property, investors who can avoid forced sales and who can choose when and if to sell, are exposed to long-term risks and not shorter term value shocks. Only long-term investment strategies allow the earning of the liquidity and risk premium while avoiding the effects of the short-term volatility of the financial markets. Solvency II should therefore not discourage investments in those assets because of a wrong assessment of the true level of risks associated with their holding when managed with a long-term view.

While Solvency II relies on insurers respecting the prudent person principle, that is, selecting assets that are safe, liquid and profitable, we can say that these requirements are remarkably met by listed equities which is an asset category type that best achieves this. Solvency II should not discourage investments in listed equities because of a wrong assessment of the true level of risks associated with their holding when managed with a long-term view.

AMICE calls for immediate work and action to fix the calibration of listed equities managed with a long-term horizon and of property in the standard formula. This request can be articulated as an additional action that can contribute to reach the Capital Market Union Action Plan's objectives of fostering long-term investment and growth.

Furthermore, insurance firms subject to the IORP Directive are also long term investors; Future reviews of the IORP Directive should ensure that long-term investments and private equity are appropriately treated.

D. Fostering retail investment and innovation

** Are there additional actions that can contribute to fostering retail investment and innovation?*

- Yes

** Please propose complementary policy measures, explain their advantages, and illustrate any foreseeable challenges to their implementation.*

Regarding the appropriate information to be given to the client, the disclosure rules should ensure readability, consistency and legal certainty. In order to avoid an inappropriate accumulation of information, AMICE calls to previously test the readability and consistency of illustrative documentation. Moreover, if a certain degree of standardisation is possible for a few key requirements, the quality of the advice provided by the distributor should take into account the whole profile of the saver (e.g. analyse the importance of the additional pension revenue in the projected financial situation for pension products – critical, useful, comfort). The assessment of the product profile adequacy with the current and expected situation of the saver at retirement age should be updated as many changes may occur in the social and financial situation of the saver. As past performance may not be repeated in the future, illustration on past performances or projected expectations should be used very carefully.

E. Strengthening banking capacity to support the wider economy

** Are there additional actions that can contribute to strengthening banking capacity to support the wider economy?*

- Don’t know / no opinion / not relevant

F. Facilitating cross – border investment

** Are there additional actions that can contribute to facilitating cross-border investment?*

- Don’t know / no opinion / not relevant