



EUROPÄISCHE ZENTRALBANK

16. September 2002

PRESSEMITTEILUNG

EZB VERANSTALTET KONSULTATION ZUR INTEGRATION DER MÄRKTE FÜR KURZFRISTIGE WERTPAPIERE

Die Europäische Zentralbank (EZB) hat einer Bitte der Finanzmarktorganisation ACI entsprochen und veranstaltet für diese eine Konsultation zur weiteren Integration der europäischen Märkte für kurzfristige Wertpapiere.

Die Integration der europäischen Finanzmärkte ist eine Voraussetzung dafür, dass die Vorteile der gemeinsamen Währung voll zum Tragen kommen können, insbesondere dadurch, dass eine optimale Allokation des Kapitals in der gesamten Europäischen Union ermöglicht wird. Die Märkte für kurzfristige Wertpapiere sind im Vergleich zu anderen Segmenten des Euro-Geldmarktes weniger eng vernetzt, und Initiativen des privaten Sektors zur Verbesserung der derzeitigen Situation sind willkommen.

Die ACI hat die EZB gebeten, die folgenden Dokumente zur Verfügung zu stellen:

- ein Dokument, in dem Ziel und Verfahren der Konsultation des ACI beschrieben wird,
- einen von EURIBOR-ACI verfassten Bericht mit dem Titel „The Short-Term Paper Market in Europe“ und
- einen von der EFMLG (European Financial Markets Lawyers Group) verfassten Bericht mit dem Titel „The Money Market: Legal Aspects of Short-Term Securities“ zur Unterstützung der ACI-Initiative.

Diese Dokumente sind heute ab 15.00 Uhr EZB-Zeit (MEZ) auf der Website der EZB abrufbar.

Interessenten werden gebeten, der EZB ihre Beiträge bis zum 30. November 2002 zuzusenden (Einzelheiten sind dem ersten der oben aufgelisteten Dokumente zu entnehmen).

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Consultation on the report “The Short-Term Paper Market in Europe” prepared by the Euribor-ACI Short Term Paper Task Force (ACI-STEP)

1. The background to the ACI consultation

Since the introduction of the euro, significant improvements have been made towards the integration of the European financial markets. Progress remains, however, incomplete to date. The market for short-term securities, in particular, remains fragmented.

Integration benefits market users in many ways. To issuers, it provides access to a broader pool of savings to finance their activities. To investors, it provides more diversified investment opportunities. To intermediaries, it provides business opportunities and scope for economies of scale.

During 2001, the ECB Money Market Contact Group analysed the functioning of the euro short-term securities market. In particular, the insufficient level of development and integration in this market segment was identified and discussed on several occasions. The contact group members put forward several avenues of exploration to improve the current situation.

In order to allow work on these issues to proceed in an appropriate forum, the preliminary conclusions of the contact group were forwarded to the ACI - The Financial Market Association, with the invitation to work towards the integration and development of the short-term securities market in Europe.

In July 2001 ACI decided to set-up, under the aegis of Euribor-ACI, a task force (Short-term European Paper Task Force, hereafter “ACI-STEP”) to elaborate and assess possible initiatives aiming at remedying the shortcomings of the current situation. In doing so, the association emphasised the potential need for collective action where market forces in isolation failed to deliver the appropriate level of integration.

In parallel to the work of ACI STEP, the European Financial Market Lawyers Group (EFMLG), a group of senior financial lawyers active in commercial banks in the EU, established under the auspices of the ECB, has carried out a review of the legal situation with regard to short-term securities. The EFMLG has conducted an investigation of the national laws in each EU Member State and also reviewed non-statutory rules found in market documentation and other types of legal rules and practices applied by market participants. The result of this work is set out in the EFMLG report “*The Money Market: Legal Aspects of Short-Term Securities*”, which has been an important complement of the work done by the ACI STEP and is attached to the ACI STEP report as a separate document. For more

information concerning the EFMLG and the EFMLG report on legal aspects of short-term securities, please revert to the EFMLG web-site at www.efmlg.org.

ACI STEP has now decided to make its analysis and recommendations publicly available in a document entitled "*The Short-Term Paper Market in Europe*".

The ACI STEP report reflects the views of its members, which are dealers active in various European short-term securities markets. ACI-STEP considers that there is a need for a broader consultation of all the parties interested in the creation of a truly pan-European market for short-term securities, with a view to devise potential collective actions as well as possibly recommendations to the relevant authorities.

ACI STEP now invites all interested parties to join its initiative and to provide contributions on the means to achieve the desirable level of integration of the European market for short-term securities.

ACI STEP, anxious to underline the open and co-operative spirit in which it launches this consultation, has asked the European Central Bank to host the consultation on its behalf. ACI STEP is grateful to the ECB for accepting to do so.

2. Parties invited to take part in the consultation

ACI STEP invites all interested parties, acting in an individual or institutional capacity, to participate in the consultation. In particular, the views of the following parties are keenly sought:

- Issuers of short-term securities: current issuers of short-term securities and issuers potentially interested in raising finance through this instrument; Industry associations representing them.
- Investors in short-term securities: current investors in short-term securities (e.g. mutual funds, pension funds insurance companies, etc.) and/or investors potentially interested in investing in these instruments; Industry associations representing them. Trustees, investment management consultants and/or any other parties interested in such investments.
- Intermediaries: financial institutions involved in the origination and trading of short-term securities and/or potentially interested in the development of this market segment.
- Infrastructure providers: Securities settlement systems, custodians, issuing and paying agents currently or potentially active in the market for short-term securities.
- Public authorities: securities regulators, fiscal authorities, the European Central Bank and the National Central Banks of the European System of Central Banks as well as the European Commission and the European Parliament and/or any other interested public authority.
- Legal experts, who are, in particular, invited to comment on the EFMLG report on legal aspects (comments received on legal aspects will be forwarded to the EFMLG).

3. Subject of the consultation

ACI STEP is inviting all interested parties to provide comments on the conclusions and recommendations included in its report entitled "*The Short-Term Paper Market in Europe*".

ACI STEP also invites all interested parties to put forward any additional information or initiative susceptible to facilitate collective action by the participants in the European short-term securities markets, with a view to achieve the development and integration of these markets.

ACI STEP finally invites all interested parties to identify the obstacles to the integration of the market that they cannot be eliminated by free competition or by collective action, but would require an active involvement of legal and/or regulatory authorities. ACI STEP intends to formally convey these concerns to the relevant authorities at the end of the consultation process.

Because of its intention that the consultation be as open as possible, ACI STEP has decided not to submit a specific questionnaire to interested parties. Contributions to the consultation may be sent in a free format. ACI STEP will synthesise all the contributions received and will make the results available to the public.

4. Procedures of the consultation

ACI Step invites all interested parties to send their contributions by 30 November 2002.

Contributions will be collected by the European Central Bank, as host to the consultation. They may be sent:

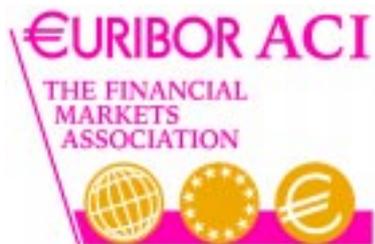
- by e-mail to short-term@ecb.int or
- via surface mail to European Central Bank - ACI STEP Consultation – Kaiserstrasse, 29, D-60311 Frankfurt am Main (Deutschland).

Following the reception of written contributions, the ACI STEP will co-ordinate the processing with the EFMLG and intends to convene one or several meetings with interested parties. The aim of the procedure is to elaborate practical recommendations, reflecting the point of view of market participants as a whole, susceptible to deliver an effective development and integration of the short-term securities market. Participants will be invited to follow-up meeting(s) on the basis of the contributions received.

For more information on this consultation and for any question on the issue of the development of the euro private short-term securities market in Europe, please contact:

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THE SHORT TERM PAPER MARKET IN EUROPE
Recommendations for the development of a pan-European market

**Consultation Report by the
Euribor-ACI Short Term European Paper Task Force
(the ACI-STEP Task Force)**

2 September 2002

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ECB

FOREWORD

The STEP Task Force has received a precious support from ECB's European Financial Markets Lawyers group (EFMLG) through their report: "The Money Market: Legal Aspects of Short-Term Securities". Their report contains very detailed information on the various existing markets not only on legal aspects but also on market developments. In order to avoid duplication, most of this information has not been reproduced in the present report. We strongly encourage the reader to consult the EFMLG report to complete the analysis of this STEP Task Force report.

It has been our prime intention to limit the Euribor-ACI STEP Task Force to a very limited number of participants for the sake of convenience and efficiency. We are also by nature a group of banking representatives, and as such we do not pretend to always express the views and interest of the non-banking issuers, investors and regulators who form the rest of the market. This is why we view this report and our recommendations as a preliminary basis for a much broader consultation that should involve all the above-mentioned participants.

1. Summary of recommendations on the Short Term Paper Markets in Europe

R01. A standardized Information Memorandum. The Task Force recommends that all domestic markets use a standard format for the Information Memorandum of Commercial Papers, and that a translation in English should be available.

R02. Availability of the Information Memorandum at the ECB. The Task Force also recommends that the English version should be available at the ECB, and that a yearly review should be implemented in order to update the presentation of the issuer.

R03. The Task Force recommends the creation of **primary index** on short term paper issues, calculated by the ECB, in order to improve the transparency of the market.

R04: The ECB to be in charge of collecting and publishing statistics on the STEP market and to elaborate indices as described below.

R05. The Task Force recommends that Euro Short Term Papers should be **eligible as Tier 1**, when the following conditions are met:

- Rated with a minimum rating of A2/P2 or equivalent
- Issued (or guaranteed) by entities established in the EEA¹.

R06. The Task Force recommends that Short Term Papers should be classified in the same way in each transposition of the **UCITS directive** so that they could be purchased without restriction by UCITS, independently of the country of residence of the UCITS, of the issuer and of the dealer.

R07. The task force recommends that Short Term Papers (with an initial maturity of less than a year) should be excluded from the proposed **Prospectus Directive** and its national transpositions.

R08. Medium term, the task Force recommends that **same day settlement** should be possible for all domestic and cross border transactions.

R09. We recommend that **domestic legislations** in the Euro-zone adopt a common format for the market.

¹ EEA: European Economic Area

2. Introduction

2.1 The ECB Money Market Contact Group

In the third quarter of 1999, the ECB established the Money Market Contact Group as an informal forum for contact between senior bankers from EU commercial banks to discuss market developments related to the money market. Among the issues examined so far, the Money Market Contact Group has considered the insufficient level of development and integration of the euro area short-term securities market (in comparison, for example, with the United States) and why this market still has a national character. The reasons for this situation were identified as the differences of legal systems across the euro area, the lack of a single settlement system, the lack of homogeneity of the features and the terms and conditions for these securities and a limited investor demand, still segmented on a national basis. The Money Market Contact Group has indicated a set of proposals to overcome these limitations, distinguishing between a set of pragmatic actions for the short-term and some more ambitious programs for the longer term. The set of proposed short-term actions identified by the Money Market Contact Group for consideration includes the standardization of product features, agreement on common settlement terms at the euro area level and the establishment of a euro area-wide collection of statistics. According to the Money Market Contact Group, the possible long-term programs include the establishment of a regulated market, standardization of product documentation, the dematerialization of the securities and the centralization of the settlement at the euro area level.

2.2 Creation of the Euribor ACI Short Term Paper Task Force (STEP Task Force)

In order to find an appropriate grouping of euro area market participants outside the ECB Money Market Contact Group that could address short term initiatives on the euro area short-term securities market, the Money Market Contact Group has contacted the ACI, the Financial Markets Association. As a result of this contact, the ACI has established Euribor ACI Short Term Paper Task Force to take up this initiative and to promote the development of the short term paper market within Europe and the euro area in particular. The task force is working under the auspices of the ACI and within the framework of Euribor ACI. It is working in close connection with the Euribor ACI Money Market and Liquidity Working Group. The ACI's CFP, the Committee for professionalism, is informed of the developments of the Task Force.

2.3 The European Financial Markets Lawyers Group (EFMLG)

The STEP task force has received strong support by the ECB staff and the ECB's European Financial Markets Lawyers group (EFMLG), a group of senior financial markets lawyers active in commercial banks in the EU and established under the auspices of the ECB, on legal aspects of short-term securities. The EFMLG has established a dedicated sub-group to take an active part in the elaboration of the detailed report "The Money Markets: Legal Aspects of Short-Term Securities". The report includes a detailed

analysis of the national legal provisions to different areas of CP, CD and MTN respectively and the quality and the thoroughness of the report has been a great support for the work of the STEP task force.

2.4 The preliminary report of recommendations of the STEP Task Force

The findings of the STEP Task Force are contained in this White Paper. The White Paper is expressing the preliminary recommendations of the participants of the STEP Task Force for the development of the European Short Term Paper Market. It could open a consultation phase with other groups of market participants (issuers, investors, ISMA/ISDA/ECPA, dealers) and lead to a final document and set of recommendations from an enlarged STEP Task Force.

3. Business case for Short Term Papers in Europe

With the introduction of the euro, the previously national money markets – taken as a whole – have been integrated into a euro area money market. A single monetary authority, the ECB (which together with the NCBs of the euro area Member States constitute the Eurosystem) conducts one single monetary policy for the whole euro area. This integration process was supported by the new central bank payment system for real-time gross settlement of funds transfers throughout the euro area, TARGET. Moreover, the two reference rates for the unsecured money market, EONIA and Euribor, together form uniform price references for maturities from overnight to one year. Whilst these developments were successful in integrating the euro area money market as a whole, short term securities markets remain mainly domestic in nature. One aspect is the domestic nature of the EU short-term securities markets, is that debt securities and the short-term securities markets are generally governed by the respective national legal regimes. There is no comprehensive EU-wide legal regime addressing the substantive arrangements relative to short-term securities, such as CDs and CP.

This chapter provides a short description of the US, French and German commercial paper markets as well as of the Euro Commercial Paper (ECP) one. It draws lessons from the US experience as regards the “business case” for the use of CPs, from the point of view of issuers, investors and intermediaries. On the basis of these findings “user requirements” are identified.

3.1 The US Commercial Paper Market

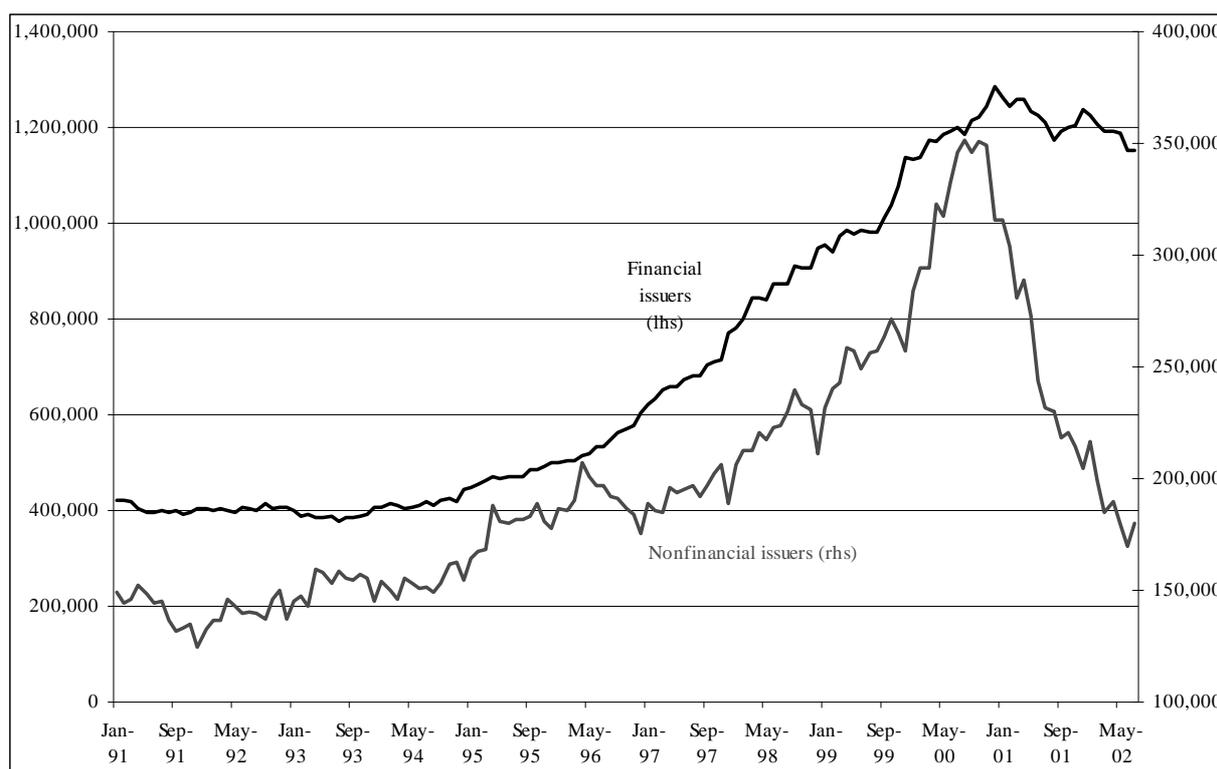
The modern US commercial paper (USCP) market originated in the 1960s and experienced a dramatic growth in the second half of the 1990s. The development of the US CP market can be traced largely to the late 70s and early 80s, a period of high and volatile interest rates, which led households and businesses to shift assets from bank deposits with regulated interest rates to alternative types of assets offering market-determined rates. This demand was met in part by issuance of commercial papers. As a result, the share of commercial papers in the short-term liabilities of non-financial corporations, in particular, rose from less than 5% at the end of the 60s to around 15% one decade later.

Commercial paper consists of short-term, unsecured promissory notes issued mainly by corporations. Maturities range up to 270 days but average about 30 days. Many companies use commercial paper to raise cash needed for current transactions, and many find it a lower-cost alternative to bank loans.

Even though the USCP is still the most developed CP market in the world, it suffered a major contraction during the year 2001 and in the first months of 2002. In non-seasonally adjusted terms, the total outstanding amount decreased from the historical maximum of USD 1,602 billion in December 2000 to USD 1,331 billion in July 2002. Market size is thus back to the levels at the end of 1999.

This contraction was triggered by the collapse of issue by non-financial issuers. Between November 2000 and July 2002 the amount of commercial paper outstanding from non-financial corporations showed a 48% reduction, thus bringing the outstanding to USD 180 billion in July 2002, down from the historical peak of USD 352 billion registered in August 2000. Instead, in 2001-2002 issue by financial issuers (finance companies, bank holding companies, banks and broker-dealers) stabilised around USD 1,200 billion after the long growth phase that started in the mid-1990s.

Not seasonally adjusted outstanding amounts (USD mln)²



² Source: Federal Reserve.

3.2 The French and German CP Markets

The development of the European commercial paper markets, while much more recent than that of the US, is not fundamentally dissimilar, albeit reaching much lower levels. The French commercial paper market, which is the closest to the US one in terms of characteristics, increased by almost 50% in size during 1999 alone and by almost 40% again during 2000. Issuance was fairly stable in 2001 which, taking into account cyclical conditions, may be interpreted as a continuation – albeit at a possibly slower rate, of the impressive growth of the previous years.

The French CP market is part of the larger “TCN” (*Titres de Créances Négociables*) market created in 1985. The size of the broad French TCN market, which includes certificates of deposit, commercial paper and medium term notes, was EUR 305 billion in August 2002³.

The development of the market was helped by the strong involvement of the Banque de France, who helped at the creation of the legal environment for Short Term Paper, acts as a supervisor and provides weekly statistics.

The French market is also favored by the size of the money market funds in France, which represent almost 50% of the European market.

The French commercial paper market is one of the major domestic CP markets in the euro area. The outstanding amount in the French market for corporate issuers (issued in all currencies by domestic and non-domestic issuers) stabilised around EUR 73 billion between the end of June and the end of August 2002. These levels are in line with those of autumn 2000 and were reached because of a 20% contraction registered between March and June 2002. That was the first major contraction in the size of the French market, which more than doubled between January 1999 and June 2001 and then stabilised in the EUR 80-90 billion range, with a peak of EUR 90.2 billion at the end of November 2001.

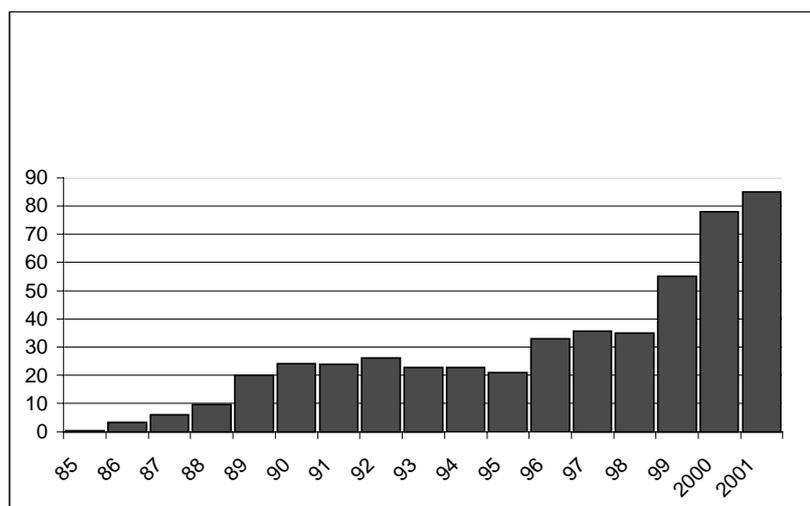
It is interesting to notice that the contraction of the outstanding registered in the second quarter of 2002 was not mirrored in the gross weekly issuance, which continued to hover around the average value of EUR 19 billion. This apparent contradiction is explained by the contemporaneous shortening of the initial maturity of the newly issued commercial paper. In fact, the issues with an initial maturity between 1 and 9 days increased their weight in the total issuance in the week and reached a peak of more than 60% in the week ending on 21 June. Another interesting indicator of that phenomenon is the ratio between the issuance of the previous 4 weeks and the outstanding at the end of the 4 weeks: between April and June 2002 it increased by 50%.

The reduction of the outstanding of few major issuers explains a significant part of the contraction of the size of the French CP market.

³ On 30 August the outstanding certificates of deposit, commercial paper and medium term notes were EUR 176 bn, EUR 73 bn and EUR 55 bn respectively.

In some cases the reduction in issuance is clearly connected to the company's downgrading, while in others issuers decided voluntarily to reduce their reliance on the CP market for example in order to lengthen the maturity profile of the company's debt.

Outstanding amount of French CP, non-bank issuers (EUR billion)



Source: Banque de France

The developments on the French market can be briefly compared with those of the second most important EU domestic CP market, the German CP market. The total outstanding in the German CP market tripled between May 1999 and October 2001, when the peak of more than EUR 30 billion was reached (issues in all currencies by domestic and non-domestic issuers). The first half of 2002 was characterised by a 15% contraction of the market size deriving from the reduction of the outstanding issued by domestic non-banks (-20% between January and July 2002) and the rather stable outstanding CP issued by foreign non-banks.

All in all, the contraction on the French and German markets was much smaller than that experienced in the US CP market.

3.3 The ECP market

The euro commercial paper (ECP) market emerged in the early 1980s as an offshoot of underwritten Note Issuance Facilities (NIFs) and was characterised by US dollar-based uncommitted programmes with a small group of intermediaries acting as dealers for each programme. ECP did not comply with SEC exemptions in the USA and could not, therefore, be sold to US investors. Since then, the ECP market has developed into a multi-currency short-term market, which largely absorbed the sterling domestic market. London-based dealers distribute ECP around the world in contrast to most other major CP markets that

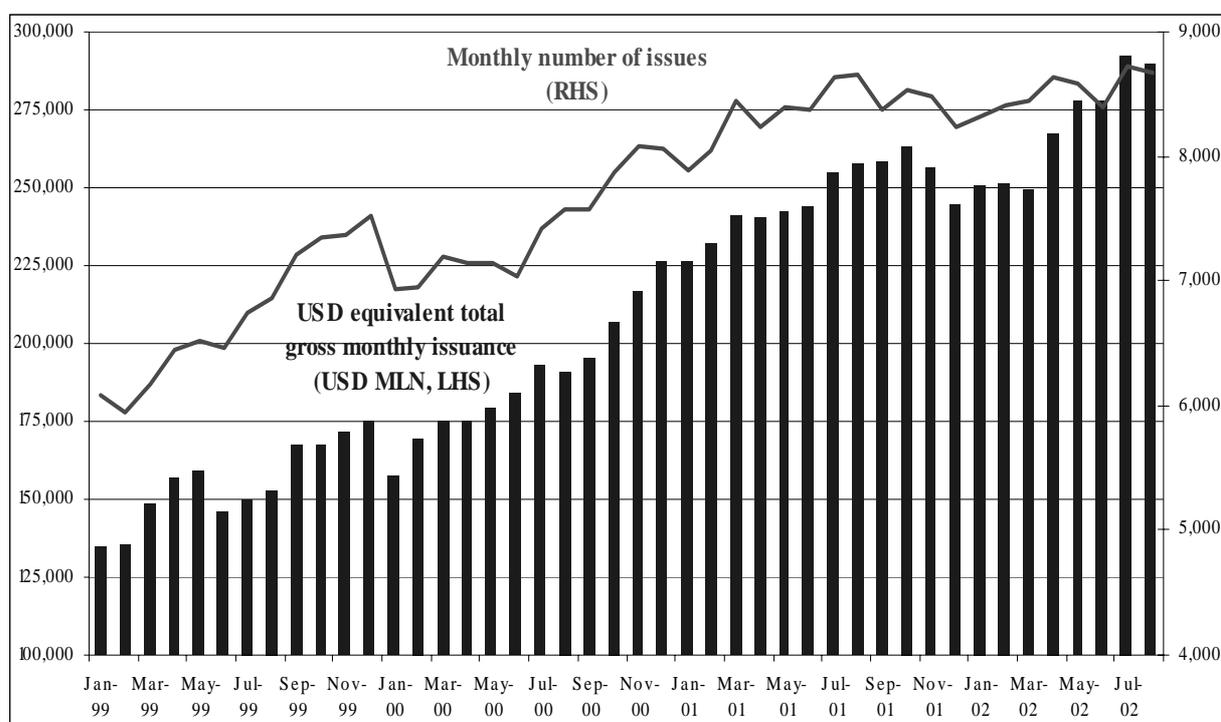
are largely focused on domestic issuers and investors. The ECP market is international in terms of issuers, investors and currencies. English law governs most ECP programmes.

In dollar terms, the monthly gross issuance on the ECP market reached its historical maximum of more than USD 292 billion in July 2002. Between November 2000 and August 2002 the ECP market grew by 33% in dollar terms. Over the same period the number of issues grew by 7.2% to 8,672, slightly down from the maximum of 8,716 registered in July 2002.

Since January 1999 the sum of US dollar and euro denominated ECP has represented about 75% of the ECP market size (measured by the total gross monthly issuance). In terms of issuance the US dollar has always been the major currency of denomination of ECP, while in August 2002 for the first time the number of euro-denominated issues was larger than the number of dollar-denominated issues.

Issuance Size of the ECP market⁴

(banking and non-banking issuers)



3.4 The “business case” for the use of CPs

This section reviews some of the factors that have underpinned rising demand and supply of commercial paper in the US. While some of these factors are specific to the US or to a specific period, most can

⁴ Source: Euroclear.

probably be extended to other market situations as well. They represent therefore a kind of “business case” for the use of commercial paper.

Issuers

Commercial paper serves two purposes for issuers in the US domestic market: they are used as a funding tool and as a cash management tool.

The attractiveness of commercial paper in both these respects can be traced historically to several factors. The development of the commercial paper market has been largely demand-led, and has been a way for issuers to respond to the demand of investors for short-term instruments providing market-determined rates of return. Consistently with this historical situation, commercial paper has provided issuers with two benefits:

- Firstly, access to relatively cheap funding. This was perhaps even more true for those issuers, which place their commercial paper directly with investors, without resorting to the placement services of a dealer⁵;
- Secondly, large and steady demand. Historically, the larger part of highly-rated commercial paper has been absorbed easily by money market funds (exceptions, essentially for intermediate credits, are recession periods such as 1991/1992 and 2001). By the mid-80s, money market funds held around one third of all CP outstanding, and held in excess of 40% of their assets in the form of CP.

These two historical supports to issuance can be further complemented by:

- A broadening of the source of funding (investor base) for issuers of commercial paper, thereby in theory allowing to place larger amount of paper in a wider variety of market conditions;
- A lower “consumption” of bank credit lines.

The ability to obtain refinancing from sources other than banks may have played a particularly important role for a number of (non-bank) finance companies, which, to a certain extent, are involved in competition with banks. General Motors Acceptance Corporation (GMAC) and Ford Motor Credit, for instance, have traditionally been very large issuers of commercial paper in the US and they have also traditionally been *direct* issuers.

Foreign issuers have also become important players in the US domestic CP market, as a domestic subsidiary is not a requirement to issue paper. Among foreign issuers, a number of foreign governments issue commercial papers in the US. Altogether, foreign issuers represent 7½% of domestic CP issuance in the US⁶.

Investors

⁵ However, the savings resulting from the absence of dealer fees have to be weighed against the cost of maintaining a sales force and establishing contacts with a wide range of investors. This point is taken up below.

⁶ “Domestic” issuance refers to issuance taking place in the US according to US legislation/regulation, independently of the location of the issuer. Issuance by residents refers to issuance by institutions located in the US.

Demand for commercial paper in the US originated largely from the demand from investors and businesses for assets offering market-determined rates of return, at a time when interest rates paid on bank deposits were regulated. Money market funds have been the channel of this demand, and the development in the commercial paper market has historically been simultaneous with the development of the money market fund industry.

This being said, there have been major shifts in the ownership of US commercial paper over the past fifty years, and each of these shifts illustrates a different source of demand for these instruments. The various sources of demand are listed below in “chronological” order.

Originally, purchasers of commercial paper were largely banks, which used it as a means of diversification of their portfolios. The argument still holds, and now applies to other types of cash-rich investors, who – through the purchase of commercial paper – can diversify their credit exposure from banks (deposits) to other types of credit (industrial, financial non-banks, governments, etc.). Large holders of US commercial paper include non-financial corporations, life insurance companies as well as private and government pension funds.

A second source of demand, from a historical perspective, has been the realisation that commercial paper could provide higher rates of return than bank deposits.

The possibility to trade commercial paper on a secondary market does not seem to have been crucial to the rise in demand for commercial papers in the US, nor indeed in other major CP markets. Commercial paper is typically purchased at maturities that fulfil the requirements of investors. If investors need to liquidate their assets, it is standard for the dealers or issuers to purchase them back (though a put option is not a standard feature of US CP).

Intermediaries

Intermediaries in the US commercial paper market typically performed either of two roles (or the two simultaneously): issuing and paying agent, on the one hand, and placement agent/dealer on the other.

The fees associated with the role of issuing and paying agent are typically very low in the US.

The role of issuing and paying agent is the sole role of intermediaries in the case of CP issued directly, i.e. in the case where the issuers place directly the paper with investors by using their own sales forces. In the US market, direct issuers were traditionally mainly finance companies or bank holding companies, who issued very significant amounts of CP (typically in excess of USD 1 bn) on a continuous basis. The share of direct issuers has however been on a steady decline over the past decades. Direct issuance represented 55% of total issuance in 1980, while it now represents merely 16% of total issuance. This trend allegedly reflects in part the fall in intermediation margins over the same period.

These margins represent the remuneration for the second role of banks, i.e. the underwriting (in most cases) and placement of the securities. The traditional pattern in the US market was that dealers underwrote the entire issue and immediately resold it to investors, keeping only very small amounts (if

any at all) in their books. The margin levied by the dealer in the process typically stood, in the early 90s, around 10 bpts, which was already considered as relatively inexpensive (compared to the margins levied on banks loans/deposits). This margin is currently estimated, according to anecdotal evidence around 4 bpts⁷.

The type of institutions active in the placement of commercial paper has undergone a shift in the mid-80s, for reasons which are specific to the US market. Prior to that period, commercial banks and bank holding companies were restricted from underwriting issues, which implied that their role was limited to that of issuing and paying agent. Investment banks, on the other hand, carried out a dealing activity including underwriting. The lifting of these legal restrictions resulted in a more active participation of commercial banks in the market, increased competition, a decline in dealer margins and the withdrawal (or downsizing of activity) of a number of investment banks.

From the point of view of commercial banks, substituting an activity of straightforward lending by an activity of placement of commercial paper may represent a number of advantages:

- Substitution of a capital-consuming activity by a fee-generating activity, consuming less resources;
- As a consequence, freeing of credit limits for other, more lucrative business in the context of a global relationship with a customer;

From the point of view of an investment bank, underwriting and placement of commercial paper may benefit from economies of scale or positive externalities in the context of a global relationship, including syndication of bond issuance, etc.

3.5 User Requirements

The elements presented in the previous sections suggest that the development of the US commercial paper market has resulted from the convergence of interests of issuers, intermediaries and investors, in a particular institutional and economic context. In particular, demand for CP at the early stages of the market seems to have been boosted by the absence of a competitive alternative (bank deposits offering uncompetitive regulated rates) and by restrictions on the ability of money market funds to invest in deposits. This may be put in parallel with the relatively favourable environment (high demand from *SICAV monétaires*, regulatory requirement that these institutional investors hold 90% of their assets in regulated markets) faced by the French domestic commercial paper market in its early stages. It is

⁷ Anecdotal evidence suggests that similar margins in Europe are lower, even as low as 1-1½ bpts. The relatively large margins in a mature, highly competitive markets such as the US, coupled with the decrease in the relative share of direct issuance, could be interpreted in the sense that intermediaries provide a valuable service to issuers in allowing them to widen the range of accessible investors, and that they provide a valuable service to investors in giving them access to a more diversified range of credit. Where this service is effectively provided, it is rewarded through wider margins, which do not testify to a dominant position of intermediaries, but to an appropriate pricing of this service at its marginal price. The decision by several European Treasuries to issue euro-commercial papers in lieu of T-bills further suggest that there is real value in the access to a larger pool of potential investors. Under that interpretation, the low level of margins in Europe may be interpreted as a sign that intermediaries do not fully exploit their ability to put in contact a wider range of issuers to a wider (pan-European) range of investors. Anecdotal comments made by large issuers of CP in Europe would seem to support this interpretation, which remains nonetheless very tentative.

possible that this favourable environment has allowed the US CP market to develop, generate economies of scale, and become more competitive, in a way that would have been difficult if it had faced from the start a strong competition from other money market segments.

A factor of success of the US commercial paper market may be that it offers features that meet the “user requirements” of a very wide spectrum of users, including different types of issuers, investors and intermediaries. These “user requirements” are tentatively listed below.

Infrastructure/settlement

Approximately 98% of US domestic commercial papers currently settle on a same day basis. By comparison, in Europe, only the French domestic CP market settles on a same day basis. The ECP market usually settles on a T+1 or T+2 basis, even though the first same-day ECP was issued through Euroclear France on 8 August 2002.

Same-day settlement is not a strict requirement for all participants in the CP market. It is, however, of considerable value for those (issuers or investors) using commercial paper as a cash management tool, i.e. as an alternative to bank deposits/overdrafts.

In the same context, the ability to issue commercial paper with overnight maturity complements same day settlement to make commercial paper an appropriate cash management tool. Incidentally, this opportunity was opened in the French commercial paper market in early 1999.

Regulation/institutional constraints

In the US CP market there existed and continue to a large extent to exist legal or regulatory constraints on investors requiring them to hold only or mainly assets issued in regulated markets. US residents, for instance, are prevented to invest in ECP. Whether waiving regulatory constraints would result – also in the US – in a migration towards non-regulated markets is admittedly difficult to ascertain.

Regulation and market surveillance bring about externalities such as market transparency and the collection and publication of statistics (the Federal Reserve and the Banque de France both publish exhaustive statistics on commercial paper).

Ratings

In 1970, Penn Central Transportation Co. defaulted on 85 million dollars of US domestic CP. Since then, the availability of a short-term debt rating provided by a reputable rating agency appears to have been a more or less systematically necessary condition for access to the US domestic commercial paper market. This is not significantly different for other CP markets.

The concentration of issuance in the sector of highly-rated borrowers is probably to be put in relation with the low appetite for risk of the main investors (shares of money market mutual funds are typically purchased as a risk adverse strategy, just as purchasers of CP in the context of a cash management activity can reasonably be expected to be very risk-adverse).

Primary/secondary market facilities and publication of statistics

Secondary market facilities (e.g. electronic trading platforms, etc.) do not appear to be a significant user requirement in the US (or for that matter in other CP markets). As indicated above, in the event that investors need to realise their assets, the standard way to achieve this appears to be for the issuer or dealer to purchase the assets back. The Federal Reserve does not publish statistics on secondary market turnover in the CP market, as these statistics would probably be of little value-added.

The Federal Reserve, on the other hand, publishes statistics on issuance prices, which are based on indices broken down by rating and maturity. Issuers and investors alike appear to consider the publication of these statistics on prices as an important element of transparency

3.6 Conclusions

The various points listed suggest that the successful development of the US domestic commercial paper market results from at least two elements:

- A favourable initial environment, which is not necessarily replicable elsewhere or in different times;
- A combination of features that meet the requirements of a very broad range of users, thereby allowing the market to reach a critical size.

It is noteworthy that these two remarks, and in particular the second one, appears to be applicable also as regards the French domestic commercial paper market, which is the “other” domestic CP market to have experienced a fairly similar history.

This tends to support the conclusion that a key factor of success for the development of the CP market is that its architecture and its features are designed so as to meet the requirements of the largest possible range of users, even though some of these users may not participate actively in the market in the early stages (but may join once the market has reached a critical size).

In particular, if the US experience was to be used as a reference or a point of comparison for Europe, the following features may appear to be desirable or even necessary to ensure the development of an integrated “domestic “ market at the scale of the euro area:

- Pan-European placement/distribution: The decreasing share of direct issuers in the US CP market suggests that intermediaries have a key role in introducing issuers to a wide range of investors across the entire market, and introducing investors to a larger range of issuers. Pan-European distribution capacity (either directly or through networks of dealers) appears therefore a requirement if the benchmark set by the US market is to be used. In particular, this appears as a prerequisite for CP to effectively fulfil the needs of investors in terms of credit diversification.
- Same-day settlement. Same-day settlement and an efficient infrastructure, as well as the ability to issue overnight CP have the advantage of attracting to the market users concerned with cash management, while not affecting negatively other users.

- Central location for custody/settlement: in the US, the Depository Trust Company acts basically as the sole custodian for almost the entire market. It may be considered whether the adoption of a single location for all domestic CP in Europe could not facilitate access to the market for a wider range of users. In any case, the efficiency of infrastructure cannot be ignored, as it seems to have been essential to the development of successful CP markets so far.
- Regulation: regulation per se is not necessarily a factor of success for the development of the CP market (the ECP market is unregulated). The fact that US residents are not allowed to invest in the ECP market, however, or the rules applying inter alia to French money market funds, suggest that regulation may still be relevant for a large part of traditional investors in this market segment. Independently of these institutional constraints it is at times argued that regulation facilitates investment in commercial paper by investors because it provides them with a “guarantee” as to the quality of the product, without the need to resort to a lengthy assessment of each individual contract. The outcome of a cost-benefit analysis of regulation may however differ for various types of issuers or investors.

4. Current situation in Europe

The various Member States have different categories of issuers of CP. In most of the Member States, both corporations and financial institutions issue CP, and in a few other Member States the issuers can be local authorities or international public institutions as well as banks. As with CDs, the lower limits on the maturity periods ranges between no limit at all or very short limits (one or two days) up and until two or three years or no limit at all. With few exceptions, CP is generally issued in book-entry form.

The ECB publishes monthly data in the monthly bulletin and on the internet on securities issues statistics, including a country breakdown for the amounts outstanding as shown in the table below.⁸ The data for short-term debt securities include commercial paper issued by non-monetary financial corporations and non-financial corporations and certificates of deposit issued by MFIs. ECP issued by all sectors are also included in principle.

⁸ ECB Monthly Bulletin, table 3.6 and <http://www.ecb.int/stats/sec/sec.htm>.

**Euro denominated debt securities by country of residency,
sector of the issuer, and original maturity ^{1,2,3)}**

(EUR billions, amounts outstanding at the end of June 2002, nominal values)

Country	All issuers			General Government ^{4, 5)}		Monetary Financial Institutions		Non-monetary financial corporations		Non-financial corporations	
	Total	Short-term	Long-term	Short-term	Long-term	Short-term	Long-term	Short-term	Long-term	Short-term	Long-term
Euro area	7334.2	671.4	6662.8	325.5	3483	260.3	2398.5	3.7	413.9	81.8	367.4
Austria	205.9	2.6	203.3	1.3	108.4	1.4	87.1	0	3.5	0	4.2
Belgium	345.7	44.4	301.4	32.7	215.5	5.8	67.9	1.9	0.3	4	17.6
Germany	2291.1	67.2	2223.8	21.3	818.1	30.3	1360.3	0	0	15.6	45.4
Spain	419.3	51.4	367.9	36.6	273.7	10.6	47.9	0.9	33	3.3	13.2
Finland	78.4	23.4	55	5	45.1	13.8	3.9	0	2.1	4.5	3.9
France	1489.1	289.6	1199.5	73.1	656.3	169.6	309.1	0	31.1	46.9	203
Greece	115.2	2	113.2	1.8	113	0.2	0.1	0	0	0	0.2
Ireland	22.4	.	22.4	.	22.4	.	.	.	.	.	.
Italy	1593.2	135.8	1457.4	135.8	1005.5	0	355.7	0	62.6	0	33.5
Luxembourg	42.6	14.9	27.7	0.1	0.6	14.8	27.1	.	.	.	.
The Netherlands	634.6	31.6	603.1	17.1	169.5	13.7	114.5	0.6	279.2	0.2	39.9
Portugal	96.7	8.5	88.2	0.7	54.8	0.1	24.9	0.3	2	7.3	6.5
Non-residents of the euro area	1015.5	54.4	961.1	1.1	269.6	21.3	250	27.6	331.8	4.4	109.8

“.” = Data are not yet available

Source: ECB securities issues statistics

- 1) Including items expressed in the national denominations of the euro. Euro-denominated issues by non-euro area residents are summarised in the last line of the table (“non-residents of the euro area”).
- 2) The sector classification is based on the European System of Accounts 1995 (ESA95).
- 3) “Short-term” means securities with an original maturity of one year or less (in accordance with ESA95, in exceptional cases two years or less). Securities with a longer original maturity, or with optional maturity dates, the latest of which is more than one year away, or with indefinite maturity dates, are classified as long-term.
- 4) The data concerning the general government sector are not directly comparable to the data on government debt collected for the purposes of the “excessive deficit procedure” of the Stability and Growth Pact described in Council Regulation (EC) No 1467/97 of 7.7. 1997.
- 5) International organisations are included in the figures for debt securities issued by non-resident general government.

The following paragraphs are partly based on the EFMLG report and briefly summarise the major characteristics of commercial papers in the 12 countries of the euro area. For a complete presentation of these issues, please refer to the EFMLG report.

4.1 Austria

Under Austrian law a CP is a debt security but there is no special definition. Short-term securities (bonds) are issued by corporates, banks and the Austrian Federal Financing Agency (Austrian Treasury Bills). There are no limits regarding maturity, amount or currencies.

A prospectus must be prepared only when securities are offered to the public, while there is no need when securities are only offered to limited number of professional investors or in case of continuous issues by credit institutions.

Settlement take place through the national CSD (OeKB) as well as an international CSD is possible.

The Austrian Securities Authority is responsible for investigations and the oversight of market participants' activities (credit institutions, issuers, investment services providers, securities exchange).

Withholding tax on interests are applied only to Austrian residents .

4.2 Belgium

“Thesauriebewijzen/Billets de trésorie” is the legal name chosen by the Belgian legislator to define CP. They are defined as debt instruments created for a limited period of time by Art. 1 §1 of the Law on Commercial Paper and Certificates of Deposit of 22 July 1991. When issued by credit institutions they are called “*Depositobewijzen/Certificats de dépôt*” (CD or Certificates of Deposit). Belgian CPs have no maturity limits but the issuance amount must be at least EUR 250,000. The currency of issued is not only the euro but it is limited to the OECD ones.

Commercial paper may be issued by corporates or investment funds established in Belgium or in another EU Member State. In this second case they must have the right to issue CP under their respective national laws. Issuers have to meet financial criteria or be guaranteed by a corporate meeting the criteria or a public authority. Rating is not compulsory.

For each CP program a prospectus is to be made available in accordance with the Law 22 July 1991.

. Settlement takes place in the accounts of the National Bank of Belgium (NBB). Buy-back possible by issuer but unusual.

The Banking Commission (CBF) is responsible for approving the prospectus and supervising the issue of CP and CD.

On the taxation front, no withholding tax is applied.

4.3 Finland

The Securities Markets Act (495/1989) contains a broad definition of financial instruments and no specific legal definition of “commercial paper” is laid down. However, CP would seem to fall within the definition in Chapter 1, Section 2(3) of the Securities Markets Act. In practice such papers are securities issued by Government, local governments, companies, banks and other financial institutions.

In practice the minimum amount for CP is EUR 100,000 and its maturity ranges from 1 day to 1 year. Buy-back is possible but unusual in practice.

The Stock Exchange may list an instrument such as e.g. a commercial paper that has been issued to the public, if the issuer is a member of the Stock Exchange and applies for such listing.

All issuers of financial instruments, other than shares in companies that fall within the scope of the Securities Markets Act must provide sufficient information on any circumstances that may substantially affect the value of the securities in question, if they are issued to the public.

Finnish CP is dematerialised. Domestic settlement occurs through the Central Securities Depository (APK). The parties would both be bound by the Rules of the APK.

The Finnish Financial Supervisory Authority (FSA) operates in connection with the Bank of Finland but is a functionally independent body. It supervises the financial markets and their participants. The Capital Markets Department of the FSA, in particular, monitors securities markets practices and issuers' compliance with disclosure requirements.

4.4 France

French commercial paper ("*Billets de Trésorerie*") is regulated by the L 213 of the French Financial and Monetary Code, which defines negotiable debt securities ("Titres de Créances Négociables" -TCN-). This definition covers in particular "certificats de dépôt" (certificates of deposit), "billets de trésorerie" (commercial paper- CP) and "bons à moyen terme négociables" (Medium-Term Notes).

CP can be issued by investment firms, companies making public offerings, resident or non-resident with at least two years of activity, public companies, economic interest groupings and Community institutions and international organisations to which France belongs. Since the law on New Economic Regulations of 15 May 2001, local public bodies are also authorised to issue commercial paper and MTN.

The maturity of CP can range from 1 day to 1 year and the minimum amount is EUR 150,000. They can be issued as discount paper but also at par or at premium. Beside being fixed or floating, interest rates may be computed from an index-linked mechanism, which, however, must be first declared to the Banque de France.

In order to increase the creditworthiness of the CP, guarantees and rating can be used. Although not required, the latter must be obtained from a rating agency mentioned in the list established by the French Ministry of Economy and Finance. Rated issuers are exempted from the application for a visa to the COB and benefit from a simplified information procedure. The issuers are under an obligation to fulfil certain information obligations concerning their economic and financial situation and their issuing program. A Decree specifies the content of these obligations and the conditions of publicity. The information memorandum to be presented by issuers is called "Dossier de présentation financière" and communicated to the Banque de France (BdF). Dematerialisation (complete book entry form) is compulsory since 1993.

The clearing and settlement system developed by Euroclear France allows same-day settlement until 3 p.m. Domestic investors who use this feature to fine-tune their liquidity management appreciate this facility. Bridges from Euroclear France to Euroclear Bank and Clearstream on the same day are available. The standardised EUR 1 denomination offers flexibility to investors in the size of their investments.

Buy-back by issuers is possible, but reporting to the BdF must be done on a monthly basis.

Disposal and trading is open to any authorised credit institution or investment firm.

Banque de France is the competent authority supervising the market. BdF, besides controlling the respect of conditions for the issuance of CP, has the power to suspend or prohibit issuance when, for example, the issuer fails to comply with the conditions laid down for such issuance. BdF is informed of any new entrant on the market and receives communication of " Dossier de présentation financière". The COB is in charge of the control of the fulfilment of information requirements (especially when issuers do not provide any rating and must apply for a visa of the COB). No withholding tax is applied on CP.

4.5 Germany

The general rules within the Civil Code (sections 793 seq. of the Buergerliches Gesetzbuch) and in supervisory law apply to German CPs. Specific definitions can be found in the Banking Act (Kreditwesengesetz) of 1998, in the Securities Trading Act (Wertpapierhandelsgesetz) and in the UCITS-Act (Kapitalanlagegesellschaftsgesetz) ('money market instruments'). CP are considered debt security under German law, usually issued by a (non-financial) corporate.

Prospectus is required by the Prospectus Act (Verkaufsprospektgesetz) of 1998. In practice, exemptions apply in case of restricted subscribers, minimum tradable lots beyond 80.000 DM or maturities below 1 year. Prospectuses have to be deposited with the Federal Financial Supervisory Authority (BAFin) No minimum tradable amount is prescribed by law, however, usually the minimum issue amount is over DM 1,000,000. The issue is normally made on a discount basis, the maturity ranges from 7 days to 2 years less 1 day and settlement T+2. There are approx. 150 issuers in the market. Rating is frequent but not compulsory.

The placement is usually carried out by credit institutions. Due to the short-term nature and its costs, an exchange admission is seldom sought. Secondary market trading activities are very small so far.

CP is normally issued as a securitised debt instrument (Schuldverschreibung), whereby the general securities and safe custody laws apply. Usually, the settlement of CP takes place through Deutsche Boerse Clearing Frankfurt or its affiliates. Normally, CP is held immobilised with a global note.

There is no stamp duty but a capital gains tax (Kapitalertragssteuer) of 30% is levied by banks having safe custody accounts for German private investors.

The market is not regulated as far as issuance is concerned, but it follows a standard of "good market practice".

4.6 Greece

In Greece there is no legal basis for CP.

4.7 Ireland

Commercial paper has been defined as short-term unsecured, unsubordinated promissory notes, issued by both government and private issuers. The maturity ranges from 7 days to 1 year.

- (i) For entities that are not credit institution, the Central Bank of Ireland, as the competent authority for the licensing and supervision of credit institutions, has issued a Notice (BSD CP 1/98) that provides the legal basis for the issuance of commercial paper. None of the provisions of the notice apply to paper issued by or on behalf of the Irish State or any other Member State of the European Union. Three classes of person are exempted from the requirement to hold a banking license when issuing CP: (1) a company or other body corporate or body created under statute, whether Irish or otherwise, the latest audited accounts of which indicate that it has shareholders' funds of at least 20 million Irish pounds, approximately EUR 25 million (alternatively, a parent company with this requirements can guarantee the issue); (2) a company or other body corporate, whether Irish or otherwise, or a statutory body whose commercial paper is guaranteed by a credit institution or equivalent from an OECD member state; or (3)) any OECD member state, or the European Union or a company, other body corporate or statutory body whose CP is guaranteed by any OECD member state or by the European Union. (there are additional conditions for the exemption to apply- see EFMLG report)

Other requirements regarding the characteristics of the issue are:

- (ii) minimum amounts of 100,000 Irish pounds (approximately EUR 125,000) or foreign currency equivalent;
- (iii) explicit statements on the fulfillment by the issuer of all the preconditions set by law (license or exemption, guarantee, if any, etc),
- (iv) the issuer must notify the Central Bank of Ireland as soon as it commences activity, stating the issuer category under which it claims exemption from the requirement to hold a banking license.
- (v) (there are additional requirements- see EFMLG report)

In case of asset-backed commercial paper, in order to gain the exemption from the requirement to hold a banking license, other condition must be fulfilled:

- (i) at the time of issue the commercial paper is backed by assets to at least 100% of its value;

- (ii) at the time of issue, the commercial paper must be rated to at least investment grade by one or more recognised rating agencies;
- (iii) the commercial paper must be issued and transferable in minimum amounts of 250,000 Irish pounds (approximately EUR 312,500) or foreign currency equivalent.

The regime established by the Central Bank of Ireland does not apply to paper issued by or on behalf of the Irish State or any other Member State of the European Union.

The prospectus requirements of the Companies Act, 1963, are applicable to notes offered and placed publicly. In the absence of clear statutory or common law guidance regarding the scope of the private placement exemption, market participants try to avoid prospectus requirements offering the notes to a short list of purchasers.

Commercial paper is in theory negotiable, but in practice every effort is made to ensure that these instruments are issued privately without the need to comply with prospectus requirements, with the result that there is no secondary market for Irish commercial paper. Buy-back possible by issuer but unusual.

Given that Irish commercial paper is issued in private placements without any secondary market trading, the paper is issued in physical form and there are no procedures for clearing and settling commercial paper transactions.

The issuance of commercial paper by credit institutions is supervised by the Central Bank of Ireland as the competent authority responsible for the licensing and supervision of credit institutions.

Under Section 19 of the Finance Bill 2002 currently pending before the Irish Parliament, interest paid by financial institutions on commercial paper is subject to deposit interest retention tax (DIRT) because the amount received by the institution for the commercial paper is treated in the same way as any other deposit made with a financial institution for purposes of applying DIRT. Under Section 246 of the Taxes Consolidation Act 1997 interest paid by a company on euro commercial paper issued by the company must, subject to certain exceptions, be paid net of tax.

4.8 Italy

The Italian CP (“Cambiale finanziaria”) is regulated by the Law 13/01/94, n. 43, even though an atypical instrument called “polizza di credito commerciale” is also known in the market. The “cambiale finanziaria” is a negotiable promissory note with maturity from 3 month to 1 year and a minimum amount of 100 million lire (EUR 52,000). Industrial or financial companies can issue it, but not banks. The rating is not compulsory.

Companies listed in a regulated market and companies who had profits in the last three years can issue CP. In the latter case, a guarantee by a bank, insurance or a financial company is requested.

The issuance of cambiale finanziaria and CP must first have been notified to Banca d'Italia following the procedure laid down by Article 129 of the Consolidated Banking law. See also Istruzioni di Vigilanza of Banca d'Italia, Title IX. No notification is required for securities with standard characteristics issued for amounts below EUR 50 million. Prospectus is required by the CONSOB only if the CP is placed among the public. In this case a prior authorisation by the CONSOB is needed together the certification of the last balance sheet. However, usually a credit institution resorts to a private placement to avoid these requirements. Buy back is not possible.

The general law on promissory notes regulates the circulation. Since the "cambiale finanziaria" is not dematerialised, a physical delivery (with an endorsement) is needed to sell it.

All securities normally traded on the money market are eligible for deposit at Monte Titoli and can be transferred through it, although no secondary market is developed.

Cambiali finanziarie are subject to Article 26 of D.P.R. n. 600/1973 which sets a withholding tax at 12,5% and a reduced stamp duty. CP is free from stamp duty. As regards income tax, proceeds cumulate with normal revenues of the company, hence, no withholding tax is applied. VAT applies as in the case of bonds..

4.9 Luxembourg

Although there is no "official" definition, ABBL (Banker's association) defines CP as "negotiable bearer unsecured promissory notes with maturities of less than one year, issued by corporate, public or semi-public entities."

There is no specific procedure dealing with the issuance. It is generally and in practice considered that certificates of deposit can be issued by banks on an individual and private basis, whilst commercial paper (*Billets de Trésorerie*) will generally be issued in series and placed either privately or publicly.

A prospectus, subject to the approval of the Commission de Surveillance du Secteur Financier, is only required if the instruments are either offered to the public in Luxembourg or listed on the Luxembourg Stock Exchange. To the extent that the instruments are placed among the public, then an annual update of the prospectus is required. An update is also required if major events occur that could affect the creditworthiness of the issuer. Luxembourg entities that issue on regular basis these types of instruments may be considered, depending on the circumstances, as carrying out an activity of taking of deposits from the public and may thus need a banking license.

No specific rules regard the trading, clearing and settlement of such instruments, thus general rules for any other securities apply.

The tax treatment of the commercial paper follows the accounting treatment (please see accounting): profits accounted for are taxable and charges are deductible. In case the Luxembourg bank issues the promissory note, there is no withholding tax on interest, whether to a resident or non-resident taxpayer.

The issue of CP by a bank is not regarded as a falling within the scope of the VAT. Yet transactions, including negotiation that concern negotiable instruments are exempted from VAT. So the bank that conducts the transactions has no right to apply VAT unless the customer is outside of the EU.

4.10 Netherlands

The commercial paper is defined in the Credit System Supervision Manual (implementing the Act on the Supervision of the Credit System 1992) as short-term negotiable debt instrument issued by issuers other than banks, in the form of a discount paper. The maturity ranges from 1 day to 2 years with fixed or floating rates. The minimum amount is of NLG 1,000,000 or EUR 454,000. Rating is not compulsory.

Issuance is generally regulated by the Act on the Supervision of Securities Trade 1995. The prospectus must be published unless securities are offered only to professionals, to a select group or only outside the Netherlands. Buy-back by the issuer is possible but unusual.

No specific rules or regulations exist for clearing and settlement. Market supervision is carried out by the Securities Commission on the basis of the Act on the Supervision of the Securities Trade 1995.

No stamp duty applies while, as far as income tax is concerned, proceeds cumulate with normal revenues of the company and no withholding tax is applied.

4.11 Portugal

According to the Decree-Law N.181/92 as amended by Decree-Law No. 231/94 of 14 September 1994, Decree-Law No. 343/98 of 6 November 1998 and Decree-Law No. 26/2000 of 3 March 2000, commercial paper ('papel comercial') corresponds to short-term securities issued by corporations, including co-operatives and public enterprises, private entities and public authorities. No minimum amount for issue is laid down. As far as maturity is concerned, CPs can be issued for between 7 days and 12 months. The CP may be issued at discount, par or premium.

The issuer of the CP must fulfil the following criteria: (a) shareholders' equity or net assets not lower than € 5 million, (b) positive net incomes/assets variations in the last 3 years. An exemption to these requirements is given when a credit institution provides a guarantee. These credit institutions should, in turn, fulfil the following requirements: (i) the object of the credit institutions at stake must encompass the granting of collateral and (ii) shareholders' equity or net assets not lower than € 5 million.

The rating is compulsory and must be given by a company registered in *Comissão de Mercado de Valores Mobiliários* (CMVM), unless the payment responsibilities are guaranteed by a credit institution.

A prospectus informing about the main features of the issuing program and about the financial situation of the issuer must be released. Buy-back is possible (only before the maturity deadline expires) although rather unusual.

Placement can be direct (CP with a maturity of more than one year but less than two years) or take place via a competitive auction (CP with a maturity of less than one year). In both these cases, CP is considered as a security of a monetary nature, and therefore is not subject to the provisions of the Securities Code. CP with a maturity of more than one year but less than two years can also be placed by means of a competitive auction; in this case, however, it becomes subject to the provisions of the Securities Code, and are thus subject to the supervisory and regulatory powers of the CMVM.

When CP is considered as a security of a monetary nature is subject to the supervisory and regulatory powers of the Banco de Portugal.

Dematerialisation of commercial paper is allowed, subject to the conditions laid down by the Banco de Portugal.

The transfer of CP is only deemed effective upon communication by the transferee to the credit institution in which the issuer has registered or deposited the CP. There are no specific rules or regulations for clearing and settlement.

The interests of CP are taxed in the measure of 20% (tax deduction at source), but exempted from stamp tax. The benefits resulting from the transfer of CP are furthermore subject to IRC taxation.

4.12 Spain

There is no specific legislation regulating commercial paper, that is called “*pagarés de empresa*” or “*pagarés financieros*”. The legal status of commercial paper is object of diverse doctrinal interpretations. Generally issued by corporations, although there are no restrictions on credit institutions to issue commercial paper.

CP is generally issued with a maturity of minimum 7 days and maximum 21 months, although maturity may reach 2 or 3 years although 18 months is the preferred maximum maturity, as it determines the liquidity classification of the title. These limitations are established by market practice, as the law lays down no requirements on the maturity of commercial paper. Corporations may not issue commercial paper for a total value higher than their subscribed capital plus reserves. The law establishes no other limits on the value of commercial paper.

There are no regulatory provisions on rating. The CNMV (Comisión Nacional del Mercado de Valores: Spanish securities supervision agency) has a list of securities classified as having high liquidity. This classification is relevant because Money Market Investment Funds must have 60% of their capital invested in high liquidity titles. The classification of a title as ‘high liquidity’ is determined by 3 criteria: (1) presence of a secondary market, (2) easy transferability, and (3) that it has a maturity of no more than 18 months (Ministerial Order of 31 July 1991). This classification explains that commercial paper is often issued with maturity inferior to 18 months, so as to encourage its acquisition by Funds.

Generally, there is no prior authorisation required for issue, with the exception of securities with an interest linked to price indexes. Nevertheless, the issue must be communicated to the CNMV, together with the submission and registry of documentation regarding the characteristics of the emission, issuer's audit reports and annual accounts, and prospectus. These requirements do not apply to issues of securities with a maturity of less than 12 months that are addressed exclusively to clients, or to public institutions. The requirements to register audit reports, annual accounts and the prospectus do not apply to issues addressed to public institutions, to less than 50 investors, to the staff of the institution, or to those whose total value is less than ESP 1,000.

Before issue, a prospectus must be presented to and registered (with some exceptions) with the CNMV. The prospectus must contain enough information for investor to make a judgment on the proposed investment and must reproduce the procedure for placing the security on the market. The prospectus must follow the models approved by the CNMV (see CNMV Circular 2/1999) and fulfil a series of minimum formal requirements. The public offer must take place within a month of the registry of the prospectus with the CNMV. In the case of international offers (i.e., including non-Spanish residents) the prospectus must include all information provided to foreign investors, even if not required by Spanish legislation. In the case of issuers not resident in Spain, the required audit must comply with the legislation of the place of residence of the issuer. If this is outside the EU, the CNMV may require additional clarification.

As commercial paper tends to have a short maturity, its issue would be often exempt from the requirement of prior registry of a prospectus with the CNMV.

Issue can be dematerialised. The admission of securities to trading in official markets requires prior verification (but no authorisation) by the CNMV and the agreement of the authority of the secondary market concerned. Commercial paper is traded in the stock exchange and mostly in the official secondary market AIAF (*Asociación de Intermediarios de Activos Financieros*). The AIAF is a price market (i.e., not blind) for fixed-return titles without participation from the public. If traded outside an official secondary market, the transaction requires intervention by public notary or a certified securities agent (*sociedad o agencia de valores*) but only if the title is not dematerialised. Generally, commercial paper is documented in accounts. Buy-back would be possible if indicated in a public document (not required for dematerialized commercial paper), and by purchase in the stock exchange.

If traded in an official secondary market, commercial paper must be registered with the SCLV (*Servicio de Compensación y Liquidación de Valores*: settlement and clearing system of the Spanish stock exchange), or a subsidiary agency, with the exception of singular titles. The SCLV has exclusive rights for the registry, clearing and settlement of securities traded in the stock exchanges and other official secondary markets. The clearing and settlement agency for the AIAF is Espaclear, Agencia de Valores, dependent of the SCLV.

The CNMV, Spanish securities supervision agency is in charge of supervision of the issue and trading of commercial paper, as with other securities. The CNMV may suspend issue or trading of any securities under its supervision.

Final taxation could depend on whether the income (from the coupon or at the maturity) is generated over two years or not. Withholding tax and formal duties are treated as general taxation, as regulated in Law 40/1998 ("Individuals Income Tax"), Law 43/1995 ("Corporate Income Tax") and Law 41/1998 ("Non Residents Income Tax")."

ECP/UK

The legal basis for ECP under English law is physical bearer paper containing a promise to pay. By market convention, ECP takes the form of an immobilised global certificate lodged with a central securities depository such as Euroclear or Clearstream. No fully dematerialised system exists in the United Kingdom.

The law of the location on the securities depository holding the immobilised global certificate governs the nature of the investor's rights in ECP. ECP programmes commonly state that in the case of default of an issuer, it will provide definitive certificates to investors as noted in the books and records of the relevant depository. If it fails to issue these definitive certificates by an agreed date, a deed of covenant will apply showing property rights in favour of the investors in line with the account entries at the relevant depository.

The Public Offers of Securities Regulations 1995 (POS) implemented the EU Prospectus Directive and governs the offering of ECP to UK investors. As a practical matter, there are no listing or prospectus requirements for ECP because it falls within an exemption from the POS for instruments with a maturity of less than one year or in minimum denominations of EUR 40,000. As ECP constitutes an "investment" under the Financial Services and Markets Act (FSMA), London based ECP dealers must be authorised or exempt to carry out investment business in the UK. Purchases and sales of commercial paper are regarded as money market activity with secondary trading among market counterparties in the UK being subject to the FSA's Inter Professional Code. The issue and secondary trading of ECP in the UK is subject to the UK market abuse regime, which seeks to prevent insider trading and market manipulation. As a general matter, the UK CP market enjoys a lighter regulatory regime because of its money market characteristics and because transactions occur between wholesale market counterparties.

The acceptance in the UK by an issuer of proceeds of ECP may technically constitute "deposit taking business" under FSMA requiring appropriate authorisation from the FSA. There is an exemption, however, for ECP issued to professional investors in minimum denominations of £100,000 or equivalent in another currency. Ratings of ECP are purely a matter of market convention and are not required by UK law or regulation. In terms of UK taxation of ECP, there is no withholding tax on interest for ECP with a maturity of less than 365 days. There is no VAT or stamp duty.

5. Recommendations

The investigations of the Task Force suggest a good potential for the development of the European short-term paper market. To achieve a better integration of the domestic markets and to reach a critical mass as a key factor of success in a more harmonised market the recommendations of the Task Force ask for a more favourable environment in terms of flexibility, distribution and cost.

5.1 Recommendations relative to Information and Disclosure

The harmonisation and integration of the short-term securities markets, especially for credit markets, requires a high level of information, as highlighted by the recent developments. Investors require availability of information standardised in its presentation all across the euro-area and the information has to be accurate and easily available.

R01. A standardised Information Memorandum. The Task Force recommends that all domestic markets use a standard format for the Information Memorandum of Commercial Papers, and that a translation in English should be available.

The standard format for the IM should include:

- Summary of the program
- Presentation of the Issuer and Incorporation
- Financial Information on the issuer
- Arranger and dealers (if any)
- Ceiling for the outstanding
- Currencies
- Denomination
- Maturities
- Rating
- Governing Law, Place of Performance and Jurisdiction
- Form of the Notes
- IPA
- Selling restrictions (if any)
- Guaranty (if any)
- Termination events, Events of default (if any)
- Name of the people in charge of establishing the IM

As most of the markets that we have studied already provide those elements in their information memorandum, this recommendation mostly relates to the standardized format of presentation of the information as well as the use of English⁹.

R02. Availability of the Information Memorandum at the ECB. The Task Force also recommends that the English version should be available at the ECB, and that a yearly review should be implemented in order to update the presentation of the issuer.

This recommendation for ECB and National Central Banks to collect the Information Memorandums and to ensure they are available and are regularly updated does not imply any involvement of the ECB in a credit approval of the issuers.

This recommendation – and others to come – invites the ECB to play an important part in the organisation and the functioning of the market.. The main reasons that have led us to push for this enhanced role from the ECB and the European National Central banks are the following:

- We have identified that a key success factor for the development of the US and French markets had been the clear involvement of the FED and the Banque de France in the creation and the organisation of the market. To that respect, we feel that the role of those two central banks has been even more decisive as sponsor than as supervisor (Cf.3.3)
- The existing integration of the ECB is an efficient way to ensure a homogeneous organisation of the European Short Term Paper Market
- Short-term papers are part of the money market, and as such are of a natural interest to the ECB. The involvement of ECB appears even more natural when noted that 2/3 of the short term paper market is now constituted of bank issuers and banks usually act as dealer for all Short Term Paper.
- Banque de France is already playing this role in France for the French CP.

5.2 Recommendations relative on an index for the primary market and to Statistical data

5.2.1 Introducing an index for the primary market.

R03. The Task Force recommends the creation of primary index on short term paper issues, calculated by the ECB, in order to improve the transparency of the market.

This index would provide valuable information to issuers, dealers and investors on the market at a European level, and would therefore contribute to the development of a pan-European market.

The pattern for such an index could be as follows:

- a panel of dealers in the euro-zone would provide a daily information¹⁰ on actual levels at which the dealers have dealt the papers with the issuers.
- information would be available on the major vendors (Reuters, Bloomberg...) in the morning the day after.
- the index would be split according to rating and activity of the issuer:
 - Financial, Corporate and ABCP¹¹
 - A1/P1 or better, A2/P2¹⁰
- the index will cover the following maturities: up to 1 month, 3 months, 6 months, 12 months
- ECB would be the calculating agent of the index, mirroring the FED with regards to the FRCI (Federal Reserve Composite Index)

It is worth noting that, on the USCP market, the dealer panel system similar to the one suggested above was replaced in 1997 by a system where data was captured directly from DTC. This new system¹² proved to be more reliable and more efficient. If the settlement systems allow it, it should therefore be considered to adopt a similar system at first.

5.2.2. Recommendations on statistical data

R04: The ECB to be in charge of collecting and publishing statistics on the STEP market and to elaborate indices as described below.

As we have seen, the current market for short-term securities in the euro area is fragmented into minor markets, one for each member country of this community. In those countries where the market has developed significantly, there is a single regulator and a single or dominant clearer for short-term

⁹ The Belgian Commercial Paper market already provides the information in English.

¹⁰ Although the number of dealers should remain limited for operational reasons, the fragmentation of the various domestic markets would require a large representation. 7 or 8 dealers for a large domestic market could be necessary.

¹¹ An issuer not belonging to one those categories would be excluded of the index for better integrity (e.g. local administration or non rated issuer)

securities. The major market for short-term securities in the world is the US market, where also the T-Bill market segment is highly developed. In this case, the Federal Reserve acts as regulator and The Depository Trust Company (DTC) as clearer. The DTC, a national clearinghouse, performs the settlement trades and custody for almost all activity in the US CP market. The DTC is responsible for the data and the Federal Reserve for releasing it. A similar situation has developed in France with the Bank of France and Euroclear France.

Following the above model, the ECB could play in the euro area a similar role with the following mission:

- 1) Collection and publication of statistics
- 2) Elaboration of indices

However, the lack of a single and national clearinghouse to be responsible for the data will complicate this task. Although the Task Force strongly recommends – see 5.5 – the development of efficient and well integrated clearing systems, we acknowledge that is out of the scope of this paper.

The framework that the Task Force recommends to develop in order to collect the statistical information required by the market participants is as follows:

- Real world: establish the level of detail of data needed as a minimum requirement
- Define what is priority
- Implementation plan

Real world: establish the level of detail of data needed as a minimum requirement

- Use whatever information is currently available for each domestic market:
 - The ECB to set up a web page with links to relevant data on short-term securities published already now on the internet (i.e. the Banque de France and AIAF in Spain). The location of the relevant web pages to be provided by the members of the ACI ST TF.
 - Other data sources such as settlement systems, market associations and commercial databases to be provided as well by the members of the ACI ST TF.
- Minimum acceptable:

¹² More details on the Federal Reserve calculation method can be found on its website

- Broad classification:
 - Financial (using ESA95 standards)
 - Corporate (using ESA95 standards)
 - Secured (ABS)
 - Others (mainly Government Owned)
 - Information on *outstanding, new issuance volume (gross/net) and yields/interest rates*
 - Breakdown by: maturity, rating of issue (3 categories, see below), currency and individual issuers
 - Time frequency: monthly
 - Timeliness: one week
- Definition:
 - Outstanding: nominal value
 - New issuance volume (gross/net): nominal value
 - Secondary market volume: nominal value. Volume placed via dealers to be considered as primary market.
 - Yields/interest rates: per definition, commercial paper is defined as a discount paper
 - Types of investors: banks or professional (to be defined) vs investment managers
 - Rating:
 - Best quality: Minimum A1/P1
 - Medium quality: Up to A3/P3
 - Other: non-prime, non-rated. To be excluded from the index
 - Individual issuers information: outstanding (gross/net). If possible yields/interest rates and maturities.
 - Sources of information
 - Outstanding: Issuing & Payment Agents (Clearing Houses)
 - Yields/Rates: Dealers will be in charge of providing the information

Define what is priority

- Identify current sources of information

<http://www.federalreserve.gov/releases/h15/cp.pdf>

- Common framework and glossary of terms and definitions
- Consolidate the current information into the common platform using the minimum acceptable as guidance
- Produce and release of the information

Implementation plan

- Time horizon: 1 year
- Interim deliverables:
 - Common framework and glossary of terms and definitions: 4 months
 - Identify current sources of information: 2 months
 - Consolidation: 4 months
 - Production: 2 months

A list of information sources by country is provided in Annex II.

5.3 Recommendations relative to ECB eligibility

The present situation for ECB eligibility is a two systems approach, such as defined in the ECB's General Documentation (see chapter 6, "Eligible Assets").

Tier 1 is described as "marketable debt instruments fulfilling uniform euro area-wide eligibility criteria specified by the ECB." These criteria are specified as debt instrument, high credit standard, euro area located, € denominated, European issuer, listed or quoted in a regular market. Tier 2 is described as "other assets, which are of particular importance to the national financial markets and banking systems."

On a more practical basis, discrepancies appear both in Tier 1 and Tier 2 assets within the euro area countries. As regards the Commercial Paper segment, for instance, Finish CP issued by banks represent 100% of Tier 2 assets, whereas in other countries, banking short term papers cannot be eligible for ECB operations. It is also worth noting that ratings of the eligible assets for both Tiers vary from AAA to BBB, with few having no rating found

Discrepancies in ECB eligibility are therefore detrimental to a fair pan-European market. This is why:

R05. The Task Force recommends that Euro Short Term Papers should be eligible as Tier 1, when the following conditions are met:

- **Rated with a minimum rating of A2/P2 or equivalent**
- **Issued (or guaranteed) by entities established in the EEA¹³.**

This would be a natural development of the tier1/tier2 system for a well integrated European product.

ECB eligibility is a benefit for the dealers as it reduces the negative impact on liquidity from holding the paper. By making it more attractive for banks to hold short term paper, it will also help reviving the interbank term money market. Despite a very deep and liquid overnight money market in the euro area there are currently hardly any longer business activities in the interbank term money market due to the reluctance on term lending by banks. This could develop into a structural problem for the interbank money market in the euro area in the future. ECB eligibility of short-term paper would encourage banks to warehouse inventory (i.e. providing term funding to other banks by purchasing and distributing short-term paper in the market).

We have not added any condition relative to listing or quotation on a regulated market as we feel this condition will be automatically met with the following recommendation on European Directives.

5.4 Recommendations on legal aspects and market organisation

The Task Force has learned that a key factor of success to establish a successful market is for the market to reach a critical size at one point. Once a critical size is reached, the market can adapt to the changing environment. It is therefore important that each national legal regime for CPs and CDs to be open for issuers and investors from all EU Member States on a non-discriminatory basis.

For the part on recommendations relative to European directives, the Task Force has relied mostly on the conclusions of the EFMLG. Information on those directives can be found in the EFMLG report.

There is still a lot of uncertainties on the requirements for short term papers to be purchased without restriction¹⁴ by UCITS as stated in the new UCITS directive. There could also be a significant number of new discrepancies introduced by each transposition in national law of this directive. Until those questions will be answered, we can only make the following general recommendation:

¹³ EEA: European Economic Area

¹⁴ And more specifically out of the 10% cap mentioned in the Article 19 of the new UCITS directive.

R06. The Task Force recommends that Short Term Papers should be classified in the same way in each transposition of the UCITS directive so that they could be purchased without restriction by UCITS, independently of the country of residence of the UCITS, of the issuer and of the dealer.

It can be noted that we do not go as far as asking for the Short Term Paper market to be regulated. Although we understand that, under the new directive, being regulated would automatically exempt the market from the 10% cap, it may prove a heavy and costly way to achieve it incompatible with the economics and the market practice of the short term paper markets (Cf. 2.5). This should be reviewed if it appeared that the regulation was the only practical route for exemption.

Taking the US and the French examples as guides, the Task Force is convinced that it is important for Short Term Paper to be considered money market instruments according to the directives. This is to ensure that they benefit from the most flexible and the lightest regulatory environment in order for this short term- and low-margin-product to develop. To that respect, and provided that this is still relevant,

R07. The task force recommends that Short Term Papers (with an initial maturity of less than a year) should be excluded from the proposed Prospectus Directive and its national transpositions.

5.5 Recommendations relative to Clearing and settlement.

The settlement on the same day has been described as an important success factor in the USCP and the French market, as it allows fund managers and treasurers to use CPs in their daily liquidity management.

Settlement systems in Europe are very much fragmented and the links between the different domestic and international systems might not be fully established. The efficient French domestic settlement system which allows same-day-delivery is a clear exception but not the rule. Therefore, a European standard shorter than T+2 is not feasible for the time being.

The task force members do not feel that the current impossibility of a same day settlement is a major obstacle to the development of a short term papers market in Europe domestically and in cross-border transactions.

However,

R08. Medium term, the task Force recommends that same day settlement should be possible for all domestic and cross border transactions.

In our view, this does not necessarily requires a unique Clearing and Settlement system, but requires efficient bridges between a limited number of efficient systems.

5.6 A harmonised fiscal regulation.

Harmonised fiscal regulation in Europe has been addressed in other reports (Cf. the Lamfalussy report) and we felt that recommendations this far-reaching issue would go beyond the capacity of our Task Force. We will limit ourselves to give a few examples of some discrepancies that the current environment creates. We are not making recommendations for the removal of the Italian stamp duty on *Cambiali Finanziarie* as this project is already contained in a new set of legislation.

5.7 Recommendations to the domestic legislators.

The very different definitions of Short Term Paper in the domestic market is per se another hurdle for European integration and common language among issuers, dealers and investors.

R09. We therefore recommend that domestic legislations in the euro area adopt a common format for the market.

The following guidelines could serve for this euro format:

Minimum duration: 1 day

Maximum duration: 1 year

Minimum amount: EUR 50,000 ¹⁵

Issuers: any kind, from banks, corporate, local administration, public entities.

Form of interest: freely determined between issuers and investors

Book entry form

¹⁵ or a lower amount if necessary to be compatible with all existing national legislation. For the time being we found that the smallest minimum amount was in Italy with €52,000.

5.8 Other aspects studied by the Task Force.

The following points have been studied by the Task Force as potential recommendations but have then been dropped of our recommendation list when analysed. As some of our information may prove incomplete, they are mentioned in this chapter for discussion if additional information were to change our conclusions.

Openness to any group of issuers

A broad base of issuers is seen as very important success for short term paper markets. By enlarging the number of issuers, investors can satisfy their increasing need for a wide and diversified range of credit names. This is why the Task Force studied the recommendation that the market should be open to Banking and Financial Institutions, Corporate, as well as Local Administrations.

In our country by country analysis, we have not found any market that would prevent the access to one of this type of issuers.

Capital Adequacy Ratio

Together with EFMLG, the Task force has conducted a review of the Capital Adequacy treatment of CP in each European countries (Cf. Annex III).

On a general level, there is a distinction between CAD treatment for investment portfolios and for trading portfolios. Short Term paper capital consumption for the first category follows the general rules of 8% ratio, multiplied by a percentage according to the nature of issuer (20% for Banks, 100% for Corporate, etc.). When in trading portfolios, paper benefits from a reduced capital consumption depending on their liquidity and quality (“Investment grade” as defined by Rating Agencies).

Differences in capital treatment country by country appears to depend more on the liquidity of domestic markets than on different national calculation of the CAD ratio. Our aim to develop the short term paper markets should help improving the liquidity, reduce differences in capital treatment and support the CAD treatment for trading portfolios.

A book entry form

Book entry form for the short-term Paper is seen as a strong mean to boost secondary market activity by reducing the delays when bridges are used between different clearing platforms. A total book entry form also secures the investors in case of default from the Issuing and Paying Agent that otherwise holds the paper forms of the Notes.

According to our studies, Italy is the only country where the current regulation does not allow book entry. However, a new legislation process should solve this issue within a few months.

Annex I – Information sources for European Statistics

List of domestic markets, including Euro Commercial Paper

Banque de France:

<http://www.banque-france.fr/>

AIAF (Spain):

<http://www.aiaf.es>

Germany:

Information is collected by the Deutsche Bundesbank from the German banks

Netherlands:

Necigef (local clearing system)

Finland:

Finish Central Securities Depository (APK). Information published in Reuters pages RAMA1 and RAMA2

Portugal:

Banco de Portugal

Austria:

No information available

Other sources of information:

Database: "CP-ware"

Capital Net

Aldwych House

81, Aldwych

London WC2B 4HN

UK

Contact person: Francoise Lavergne

e-mail: flavergne@computasoft.com

Annex II – Statistics provided by the Federal Reserve on US domestic CPs

The Federal Reserve publishes daily (as well as lower frequency) statistics on commercial paper, based on information provided by the Depository Trust Company (DTC), the custodian for the almost entire domestic CP market. Information is typically provided with a one-day lag.

Statistics are based on sales at issuance of commercial papers, whether the issuance takes place on a direct basis or through a dealer. Secondary market trading, repos, etc. are not taken into account in the statistics and no information is provided on those.

The statistics provided are summarised below:

Outstanding amounts of commercial papers (weekly)

- Seasonally adjusted and not seasonally adjusted;
- Broken down between non-financial and financial issuers;
- Broken down between domestic and foreign issuers;

Issuance volume for commercial paper indexes (selection of commercial papers presenting specific characteristics)

- Broken down by ratings and type of issuer (AA financial, AA non-financial and A2/P2 non-financial)
- Broken down by maturity range;

Interest rate references (for the indexes):

- Broken down by ratings and type of issuer (AA financial, AA non-financial and A2/P2 non-financial)
- Broken down by maturity range;

Annex III - Certain Regulatory Aspects of Commercial Paper

1	Capital adequacy
BELGIUM	CP/CD are usually booked in an investment portfolio (though this brings no benefit compared to unsecured lending). Booking in a trading portfolio is only accepted if it follows an approved internal VAR-model.
DENMARK	No domestic CP/CD market.
GERMANY	CP can be booked in a trading portfolio (in which case reduced risk weighting applies) if there is a liquid secondary market and the CP is listed at an authorized exchange. Most CP is not listed due to the high cost, so it is usually booked in an investment portfolio which means there is no benefit in holding an inventory of CP compared to unsecured lending.
GREECE	No domestic CP/CD market.
SPAIN	CP is usually booked in an investment portfolio due to the liquidity rule and very few issues can comply with; this means there is no benefit in holding an inventory of CP compared to unsecured lending.
FRANCE	CP is usually booked in a trading portfolio. Money Market Funds keep the market liquid and the turnover of inventories is high. The benefit of booking CP in a trading portfolio is that they are weighted respectively at 3.125% under 6 months and 12.5% above 6 months if they are rated A2/P2 or better (règlement n. 99-01 – 21June 1999). If they are booked in an investment portfolio, CPs are weighted 100% and CDs 20%.
IRELAND	Rated corporate issues are only weighted 20% if booked in a trading portfolio. This supports the development of the market.
ITALY	No differentiation between trading and investment portfolio. CP is weighted only by 20% if backed by a bank guarantee. [<i>?weighted by 20% but only if backed by a bank guarantee</i>]
LUXEMBOURG	CP are weighted depending on the nature of the issuer (20% for an OECD bank or 100% for other unguaranteed issue). There is no capital gain from having a CP instead of an unsecured lending.
THE NETHERLANDS	There is a difference between the trading and investment portfolios in the way capital is used. However, most banks need to book their inventories in the investment portfolio, and this partly restricts the trading activities and development of the market.
AUSTRIA	There is a difference between trading and investment portfolios in the way capital is used, but this does not restrict the trading activities or development of the market.
PORTUGAL	There is a difference between trading and investment portfolios in the way capital is used, but this is not restrict the trading activities or development of the market.

1	Capital adequacy
FINLAND	There is no difference between trading and investment portfolios in the way capital is used, but this does not restrict the development of the market.
SWEDEN	Reduced risk weighting applies if the CP is listed on an authorised exchange, rated at no less than investment grade, and held in a trading portfolio. The reduced risk weighting is 3.125%, 12.5% or 20% depending on the tenure. Most corporate CP is not listed due to the high cost.
UNITED KINGDOM	There is a capital benefit in booking both CPs and CDs in trading books rather than investment/accrual books. CP is 100% weighted on accrual books whereas on a trading book it is 3.125% for 0-6 months, 12.5% for 6-24 months and 20% for over 2years. For CDs the weighting is the same as for CPs on a trading book and 20% weighted on an accrual book if issued by a Zone A bank.

2	Liquidity ratios
BELGIUM	No benefit of CP versus unsecured lending to corporates.
DENMARK	No domestic CP/CD market.
GERMANY	No benefit of CP versus unsecured lending to corporates.
GREECE	No domestic CP/CD market.
SPAIN	No benefit of CP versus unsecured lending to corporates.
FRANCE	The regulatory liquidity ratio is monitored by the French banking supervisory authority (Commission Bancaire). CP/CDs holdings have no advantage over interbank or corporate unsecured lending under 1 month maturity (both are weighted at 100% within liquid assets). However, holdings of CDs with a maturity between 1 and 6 months are weighted at 40% within liquid assets. This weighting becomes 25% above 6 months.
IRELAND	CP has an advantage over unsecured lending to corporates if the paper is listed.
ITALY	CP has no advantage over unsecured lending to corporates.
LUXEMBOURG	Holding CP has no advantage compared to unsecured lending.
THE NETHERLANDS	It is beneficial to hold CP rather than make unsecured loans to corporates (calculation of only 70% of the notional amount).
AUSTRIA	CP has no advantage compared to unsecured lending.
PORTUGAL	Holdings of CP are calculated with only 80% of their notional amount for the liquidity ratios compared to 100% for unsecured lending.
FINLAND	The treatment of papers and short-term papers in cash reserve calculations is different – deposits can be deducted by 100% but for CD the treatment is less favorable.
	Holding CP has no advantage compared to unsecured lending.

2	Liquidity ratios
SWEDEN	
UNITED KINGDOM	The FSA allows UK banks to offset up to 50% of their wholesale 5 working day GBP outflow with CDs maturing in >5days. CP is not allowable as a liquid asset and therefore has no liquidity benefits for the FSA.

3	ECB eligibility with regard to commercial paper¹⁶	
	TIER ONE¹⁶	TIER TWO¹⁷
BELGIUM	No	No
DENMARK	No	No
GERMANY	No	Yes
GREECE	No	No
SPAIN	No	No
FRANCE	No	Yes
IRELAND	No	No

¹⁶ Criteria underlying the compilation of Table 3 – ECB eligibility

A **No** in the table means that, at the current stage, CP which is listed (or traded OTC) in a given country is not included in the list of eligible assets. In particular, a No in the Tier One column means that one or more of the eligibility criteria for the Tier One assets are not fulfilled and thus CP cannot be eligible. A No in the Tier Two column, instead, means that either one or more of the minimum eligibility criteria for tier two assets are not fulfilled or that CP is not of particular importance to a given national financial market and banking system and so the relevant national central bank has decided not to include CP in its tier two list.

A **Yes** in the table does not mean that all CPs listed (or traded OTC) in a given country is eligible. Actually, in several cases the amount of eligible CPs is rather small. However, also in these cases, the table reports a Yes.

Financial instruments with CP-like characteristics issued by public institutions have not been taken into consideration.

Of course, in countries where no CP-like instruments exist, a No was also awarded in the table.

3	ECB eligibility with regard to commercial paper¹⁶	
ITALY	No	No
LUXEMBOURG	Yes	No
THE NETHERLANDS	Yes	No
AUSTRIA	No	No
PORTUGAL	No	No
FINLAND	No	No
SWEDEN	No	No
UNITED KINGDOM	No	No
UNITED STATES	No	No

¹⁶ Chapter 6 of “The single monetary policy in the euro area: General documentation on Eurosystem monetary policy instruments and procedures”, April 2002, addresses the issues related to the eligibility of assets for the Eurosystem monetary policy operations. What follows is an abstract of paragraphs 6.1, 6.2 and 6.3. The provisions reported below will be enforced from 7 July 2002

Tier One consists of marketable debt instruments fulfilling uniform euro area-wide eligibility criteria specified by the ECB.

The ECB establishes and maintains a list of tier one assets. This list is available to the public. Debt certificates issued by the ECB are listed as Tier One assets. Debt certificates issued by the national central banks before the adoption of the euro in their respective Member State are also included in the Tier One list. The following eligibility criteria are applied to other tier one assets:

- They must be debt instruments having: (a) a predefined principal amount; and (b) a coupon that cannot result in a negative cash flow. In addition, the coupon should be one of the following: (i) a zero coupon; (ii) a fixed rate coupon; or (iii) a floating rate coupon linked to an interest rate reference. The

coupon may be linked to a change in the rating of the issuer itself. Furthermore, inflation-indexed bonds are eligible. These features must be maintained until the obligation is redeemed.

- They must meet high credit standards. In the assessment of the credit standard of debt instruments, the ECB takes into account, among other things, of available ratings by market agencies, guarantees provided by financially sound guarantors, and certain institutional criteria which would ensure particularly high protection of the instrument holders.
- They must be transferable in book-entry form.
- They must be deposited/registered (issued) in the EEA with a central bank or with a central securities depository (CSD) which fulfils the minimum standards established by the ECB. They must be held (settled) in the euro area through an account with the Eurosystem or with an SSS which fulfils the standards established by the ECB (so that perfection and realisation are subject to the law of a euro area country). If the CSD where the asset is issued and the SSS where it is held are not identical, then the two institutions have to be connected by a link approved by the ECB.
- They must be denominated in euro.
- They must be issued (or, alternatively, guaranteed) by entities established in the EEA.
- They must be listed or quoted on a regulated market as defined in the Investment Services Directive, or listed, quoted or traded on certain non-regulated markets as specified by the ECB. Furthermore, market liquidity may be taken into account by the ECB when determining the eligibility of individual debt instruments.

¹⁷ **Tier Two** consists of additional assets, marketable and non-marketable, which are of particular importance to national financial markets and banking systems and for which eligibility criteria are established by the national central banks, subject to the ECB's minimum eligibility criteria. The specific eligibility criteria for Tier Two applied by the respective national central banks are subject to ECB approval. The national central banks establish and maintain national lists of eligible Tier Two assets. These lists are available to the public. Tier Two assets have to fulfil the following minimum eligibility criteria:

- They can be debt instruments (marketable or non-marketable) having: (a) a predefined principal amount; and (b) a coupon that cannot result in a negative cash flow. In addition, the coupon should be one of the following: (i) a zero coupon; (ii) a fixed rate coupon; or (iii) a floating rate coupon linked to an interest rate reference. The coupon may be linked to a change in the rating of the issuer itself. Furthermore, inflation-indexed bonds are eligible. These features must be maintained until the obligation is redeemed. They can also be equities (traded on a regulated market as defined in the Investment Services Directive). Equities issued by credit institutions and debt instruments issued by credit institutions which do not comply strictly with the criteria set out in Article 22 (4) of the UCITS Directive are normally not eligible for inclusion in the Tier Two lists. However, the ECB may authorise national central banks to include such assets in their Tier Two lists subject to certain conditions and restrictions.
- They must be debt obligations against or equities of (or be guaranteed by) entities which are judged financially sound by the national central bank which has included the assets in its Tier Two list.
- They must be easily accessible to the national central bank which has included the assets in its Tier Two list.
- They must be located in the euro area (so that perfection and realisation are subject to the law of a euro area country).
- They must be denominated in euro.
- They must be issued (or, alternatively, guaranteed) by entities established in the euro area.

