



European Commission
Unit B1 – Policy Development and Coordination
of the Internal Market
DG Internal Market and Services
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28 February 2011

Re: SMA/PWE/GCA/MBR

Dear Sir or Madam,

Re: European Commission's Consultation on the Single Market Act

FEE (the Federation of European Accountants) is pleased to provide you below with its comments on the European Commission's Consultation on the Single Market Act. FEE's ID number on the European Commission's Register of Interest Representatives is 4713568401-18¹.

For further information on this letter, please contact Petra Weymüller, FEE Project Manager, at +32 2 285 40 75 or via email at petra.weymuller@fee.be.

Yours sincerely,

Philip Johnson
FEE President

¹ FEE is the Fédération des Experts comptables Européens (Federation of European Accountants). It represents 45 professional institutes of accountants and auditors from 33 European countries, including all of the 27 EU Member States. In representing the European accountancy profession, FEE recognises the public interest. It has a combined membership of more than 500.000 professional accountants, working in different capacities in public practice, small and big firms, government and education, who all contribute to a more efficient, transparent and sustainable European economy.

FEE's objectives are:

- To promote and advance the interests of the European accountancy profession in the broadest sense recognising the public interest in the work of the profession;
- To work towards the enhancement, harmonisation and liberalisation of the practice and regulation of accountancy, statutory audit and financial reporting in Europe in both the public and private sector, taking account of developments at a worldwide level and, where necessary, promoting and defending specific European interests;
- To promote co-operation among the professional accountancy bodies in Europe in relation to issues of common interest in both the public and private sector;
- To identify developments that may have an impact on the practice of accountancy, statutory audit and financial reporting at an early stage, to advise Member Bodies of such developments and, in conjunction with Member Bodies, to seek to influence the outcome;
- To be the sole representative and consultative organisation of the European accountancy profession in relation to the EU institutions;
- To represent the European accountancy profession at the international level.

FEE has considered the questions in the Online Questionnaire and provides hereafter its responses to the questions:

Question 1: What is your overall assessment of the SMA?

FEE welcomes the opportunity to comment on the SMA which can be a way forward to boost growth, competitiveness and social progress in the EU Member States.

FEE fully supports the European Commission's objective to reassess and re-launch the Single Market.

We are however not in a position to express an overall assessment on such a comprehensive communication including 50 proposals covering many legislative areas at different stages of maturity. A reasoned assessment cannot be formed without further information on the content of some of these proposals as much will depend on the details. There is value in taking a holistic approach, however, on the details, no stakeholder could make a substantial contribution to each of the proposals.

Overall, the success of the Single Market Act will depend on what will be the final substance of the various proposals and on how they will be implemented.

Question 2: The SMA proposes 50 actions: please indicate the actions you consider to be the most important (up to 10 choices possible)

We are not in a position to select 10 most important proposals because a number of proposals are beyond our area of expertise which would force us to allocate levels of importance to only those areas where we comment in questions 4 – 6. Furthermore, any selection would depend on the view point, which could be a general one or a sector specific one.

Question 3: Does the SMA propose appropriate measures to address the issues/challenges that are identified?

Partly, please refer to questions 4, 5 and 6.

Question 4: Are there any other issues you consider should be addressed in the SMA in the chapter "Strong, sustainable and equitable growth for business"

Proposal No 8: In 2011, the Commission will be adopting a proposal to revise the Energy Tax Directive so as to better reflect the EU's climate and energy objectives in the fiscal context, by basing the minimum duty rates on CO₂ emissions and on energy content.

Under the current regulation, the tax to be paid is calculated according to the quantity of fuel that is consumed. However, this method seems to fail to treat the different energy products in a modern, efficient and environmentally friendly way. Consequently, in revising the Energy Tax Directive, the European Commission intends to base the minimum duty rates on CO₂ emissions and on energy content, a policy that we support because it could help to strike a proper balance between higher energy efficiency and lower CO₂ emissions and thus help to reach climate and energy policy targets.

The European Commission should make sure that there are no loopholes or sources of energy uncovered.

Furthermore, we encourage the European Commission to go beyond a revision of the Energy Tax Directive. EU tax policy as a whole can help the EU's climate and energy policies reach their objectives. To this end, the multiplicity of environmental taxes (not only energy taxes) and lack of coordination across Member States (particularly for those sectors not covered by the EU Emission Trading Scheme, such as services, transport, households, etc.) is perceived as inefficient and impeding cross-border activities. We encourage the Commission to address these issues and consider the following measures to "green" tax systems:

- Removal of what can be considered as environmentally harmful subsidies;
- VAT rates reduction for energy saving services, materials and household appliances;
- Abolish the use of reduced VAT rates on environmentally harmful products like pesticides and fertilizers (so called environmentally motivated VAT systems);
- Encourage renewable energies by eliminating distortions in the tax system that discriminate renewable energies.

Proposal No 12: The Commission will adopt an action plan for improving SME access to capital markets in 2011. This will include measures to make investors more aware of SMEs, to develop an efficient stock exchanges network or specific regulated markets focussing on SMEs and to make listing and disclosure requirements more adapted to SMEs.

FEE fully supports the European Commission's SME Finance Forum and will continue lending its technical expertise and contributing to the preparatory work as well as participating to the Forum.

In the field, professional accountants, whether in business or in public practice, bring an important contribution to facilitate access to finance. Professional accountants support enterprises throughout the fund raising process, e.g. by preparing reliable information on SMEs' trading performance and prospects, liaising with providers of finance, and also by educating owner-managers where appropriate.

Proposal No 14: The Commission will propose a review of the accounting Directives in 2011 to simplify financial reporting obligations and to reduce the administrative burden, especially for SMEs.

We would welcome a complete overhaul of the Directives based on the "think small first" principle and agree that this principle would best be met by a "bottom up" approach. In addition the need for and benefits of further harmonisation should be considered². In particular, the future Directive should ideally contain as few options as possible both at company and Member State level.

FEE recognises that the use of financial statements differs from country to country. In some countries they are mainly used for commercial, economic objectives meeting the investors' and shareholders' needs, whereas in other countries financial statements are also used for taxation purposes and calculation of distributable income purposes and serve a wider range of stakeholders. Therefore, at this stage, some of the accounting requirements need to be maintained within the Directives, albeit at a high level, in order to allow for future evolutions in accounting standards without the need to change the Directive(s) for every major future development in the (international) accounting standards.

² FEE Position on European Commission Consultation Paper on Review of the Accounting Directives - Cutting Accounting Burden for Small Business/Review of the Accounting Directives, 21 April 2009:
http://www.fee.be/publications/default.asp?library_ref=4&content_ref=1009

FEE believes that the Directives should not form an impediment for Member States to allow for the use of IFRS for SMEs. The use of the IFRS for SMEs would give Member State the possibility of no longer having to produce its own standards and keeping them up to date. This would constitute a real and tangible cost reduction at national level.

FEE supports the objective of reducing useless administrative burdens for SME, enabling them to compete more effectively. The reduction of administrative burdens will only be achieved when changes to the Directives are of such a nature that they require also corresponding changes to national law of the Member States where such burdens still exist and are likely to remain, if not to increase on the long term in certain Member States, in the absence of the ring-fence of an EU framework.

When pursuing the legitimate goal of reducing administrative burdens for SMEs, the Commission needs to have regards for other public policy objectives and strike a proper balance between different policies. To make informed decisions in such matters and effectively reduce costs, impact assessments are essential.

Legislative reviews and fact-based ex-post impact assessments based on an objective analysis of net costs-benefits are good practices that we fully support. The Commission should take steps to ensure that the quality of impact assessments is subject to ongoing enhancement.

Proposal No 19: The Commission will take steps to improve the coordination of national tax policies, notably by proposing a Directive introducing a common consolidated corporate tax base (CCCTB) in 2011.

Introducing a CCCTB has generated plenty of discussion about the economic pros and cons of and has proved to be a major political challenge. However, from a Single Market point of view, benefits from harmonisation and simplification in the tax base could clearly be higher than the possible detrimental outcome. A CCCTB system could simplify intra-community business activities by reducing tax risks and compliance cost resulting from 27 different tax systems. For detailed technical comments regarding CCCTB, we refer to the FEE Working Paper regarding CCCTB issued in October 2008³, with comments on a number of the technical issues described in the European Commission CCCTB Working Document.

Another possibility to encourage and simplify cross-border activities for both large multi-nationals and SMEs would be to promote better cooperation in the tripartite relationship between taxpayers, tax intermediaries and tax authorities. Enhanced cooperation as carried out in the Netherlands and UK appears to create an environment of trust between all parties and to reduce cost for all parties. If such model would exist across Europe, companies of all size might be encouraged to go cross-border.

Proposal No 20: The Commission will publish a new VAT strategy in 2011 on the basis of a Green Paper conducting a fundamental review of the VAT system, planned for 2010.

FEE will contribute to the discussion with a response to the European Commission's "Green Paper on the future of VAT– Towards a simpler, more robust and efficient VAT system".

Proposal No 21: In 2011 the Commission will propose legislation to introduce the linking of company registers.

The linking of company registers could help to encourage cross-border activities and reduce administrative cost for business.

³ http://www.fee.be/news/default.asp?content_ref=465&library_ref=2

A practical application of the increased efficiency and cost reduction will be in the context of Anti Money Laundering, allowing simplification in accessing those information useful to identify the ultimate beneficial owners.

The linking should also include other authorities that hold financial information in countries where those are not identical with the company register.

From a practical perspective, technology can contribute to such a linking and to enhancing cost efficiencies. In particular, XBRL (eXtensible Business Reporting Language) is an open standard that could serve as a tool to enhance and facilitate the linking of company registers. The Commission should leverage the work that has already been carried out in this field, by all stakeholders and especially the one carried by the XBRL Europe EU Business Register Working Group which has developed an XBRL pilot project aiming at linking the company registers in having a common content of XBRL information to be exchanged between them.

Proposal No 22: By 2012 the Commission will propose a Decision to ensure mutual recognition of e-identification and e-authentication across the EU based on online authentication services to be offered in all Member States. In 2011 the Commission will propose a revision of the Directive on electronic signatures with a view to providing a legal framework for international interoperability and recognition of e-authentication systems.

When considering enhancing electronic information exchange, facilitating inter-operability, improving transparency, reducing costs, increasing efficiencies and the quality of (financial and non-financial) information, XBRL has the potential to play an important role.

However, such potential is impeded by the lack of a harmonised e-signature system in Europe and by the absence of a clear policy decision.

Question 5: Are there any other issues you consider should be addressed in the SMA in the chapter “Restoring confidence by putting Europeans at the heart of the single market” Which ones?

Proposal No 31: The Commission will re-examine the Directive on the activities and surveillance of pension funds in 2011 and will develop other proposals based on the July 2010 Green Paper on pensions, inter alia in order to remove obstacles encountered by mobile workers when making arrangements for their retirement.

We refer to the FEE response to the European Commission’s Green Paper towards adequate, sustainable and safe European pension systems.

Overall, the European Commission should consider with Member States any measure to avoid “gold plating” solutions in supervision of pension funds or any other institution submitted to supervision.

“Gold plating” is a problem in many policy areas and Member States need to be convinced that they should refrain from it as it is their responsibility. The European Commission as guardian of the treaty could play an incentive and monitoring role, e.g. via promoting best practices.

Proposal No 33: In 2012 the Commission will propose a legislative initiative to reform the systems for the recognition of professional qualifications, based on an evaluation of the acquis in 2011, in order to facilitate the mobility of workers and adapt training to current labour market requirements. As part of this proposal, the possibility of a professional card will be evaluated.

Recognition of professional qualifications delivered in another EU Member State is essential to establish an internal market for professional services. FEE believes that an EU internal market for accountancy services is necessary because accountants deliver services to companies which operate more and more on the enlarged EU internal market. Professionals and firms need clear regulation allowing them to work without unjustifiable discriminatory barriers.

There are generally however other barriers such as differences in national legislation (e.g. tax and company law) as well as language which will remain difficult to overcome.

In addition to the overall benefits, the adoption of international standards related to accounting, auditing and independence (IFRSs, ISAs, IESBA Code of Ethics) would be an essential prerequisite in setting up an environment that is conducive to enhancing the mobility of auditors across borders and harmonising the quality of audit services – and their understanding by stakeholders – across jurisdictions⁴.

FEE issued in November 2007, the paper on 'Internal Market for Services and the Accountancy Profession: Qualifications and Recognition'⁵, that examines the relation and the inter-actions between the EU Statutory Audit Directive, the Directive on the Recognition of Professional Qualifications and the highly commented Services Directive.

It analyses and evaluates the content and scope of these Directives, as well as studies the manner in which they modify existing recognition regimes at EU level and highlights important pending questions where there is a need for further legal clarification, for instance the scope of the aptitude tests for statutory auditors, the practical interpretation of temporary and occasional provision of services and the requirement to have a stable infrastructure in cases of establishment.

Cross border mobility of accountancy professionals could be enhanced by reducing the barriers to such mobility. As far as auditors are concerned, FEE would support further harmonisation of the legal framework related to qualification and market access, including measures concerning approval, registration and aptitude test.

The aptitude test that is required as compensation measure when statutory auditors seek establishment in another EU Member State, can be oral or written or both. In some countries it is offered at regular intervals, in others on specific demand. The elimination of such differences by harmonising the aptitude test could contribute to facilitating market access and thus enable and encourage cross-border mobility of auditors.

The European Commission should further consider the Member States' practice regarding pro-forma declarations. Further guidance or a standard form would be helpful to avoid that cross-border activities become more burdensome than before the implementation of the Directive on Recognition of Professional Qualifications.

⁴ FEE Response to the European Commission Green Paper on Audit Policy, December 2010, http://www.fee.be/publications/default.asp?library_ref=4&content_ref=1323

⁵ http://www.fee.be/publications/default.asp?library_ref=4&content_ref=761

Proposal No 35: The Commission will implement the European qualifications framework in partnership with the Member States. It will propose a Council Recommendation to promote and validate training outside the classroom (non-formal and informal learning). It will also propose the creation of a 'European Skills Passport' enabling individuals to record the knowledge and skills they have acquired throughout their lives. It will establish a bridge between the European Qualifications Framework and the nomenclature of occupations in Europe.

The implementation of the European Qualifications Framework (EQF) combined with a European Skills Passport could contribute to encourage cross-border mobility of students, trainees and professionals. It should however not be seen in isolation.

A related measure to be considered would be to replace the five quantitative criteria used in the Directive on the Recognition of Professional Qualifications with the eight levels defined in the EQF, even if it might lead to difficulties in practice when it comes to assess the competencies. An approach focused on outcome seems anyway more efficient and pragmatic.

Generally, in addition to existing programmes like Erasmus, the European Commission could investigate additional ways to encourage for example trainees to follow large parts of their training period in another Member State.

Proposal No 38: The Commission will launch a public consultation (Green Paper) on corporate governance. It will also launch a public consultation on possible ways to improve the transparency of information provided by businesses on social and environmental matters and respect for human rights. These consultations could lead to legislative initiatives.

FEE agrees that the transparency and reliability of information provided by businesses on corporate governance, social and environmental matters and respect of human rights is of paramount importance to progress toward a sustainable economy⁶.

As far as the wider context of the provision of this information is concerned, FEE has recently provided the European Commission with its Comments on the European Commission's public consultation on disclosure of non-financial information by companies, where we underlined among other matters:

- The concept of "integrating" the company's key financial and non-financial information could be a means of achieving the objective of reducing the current information overload, while at the same time a way of improving the quality of the disclosures in the current regime and enhancing non-financial information.
- FEE cares particularly about proportionality based on nature, risk, complexity and size of a business and the obligations and needs of Small and Medium-sized Entities (SMEs).

⁶ For more details on Corporate Governance and transparency on financial information, please refer to:

- FEE comments on the European Commission's Green Paper on Corporate Governance in Financial Institutions and Remuneration Policies, September 2010,
<http://www.fee.be/fileupload/upload/EC%20Green%20Paper%20Corp%20Gov%20Fin%20Inst%20remuneration%20p ol%20100901792010371622.pdf>
- FEE comments on the European Commission's public consultation on disclosure of non-financial Information by companies, 27 January 2011,
<http://www.fee.be/fileupload/upload/EC%20DG%20MARKT%20110127%20Public%20consultation%20on%20disclos ure%20of%20non-financial%20information%20by%20companies122011111626.pdf>

Appendix: Responses to the Online Questionnaire on the Single Market Act

Many of the issues raised in the European Commission public consultation on disclosure of non-financial information by companies seem almost exclusively focused on the top end of the market relating to listed entities and other public interest entities including financial institutions. Consequently, many of the issues raised appear to be limited to such entities and should not be extrapolated to other entities without in-depth analysis and an appropriate impact assessment of the implications this would have on SMEs.

- How the information provided can be made accessible to stakeholders and empower them, its usefulness maximised and its costs minimised. To this end, a growing number of jurisdictions around the world, in particular, the USA, Japan and China, have adopted a global and open standard: XBRL. In spite of significant but non homogeneous progress made in various EU countries in the recent years Europe as a whole should not lag behind and consider the value of XBRL that has the potential to facilitate the access to, the exchange and the processing of business information, including non-financial information.
- A fundamental problem relating to sustainability is that very significant costs for society (e.g. damage caused by carbon emissions) are not reflected in financial statements. In the context of looking at enhancing the reporting of companies in general there is a need for a debate, on the most appropriate approach toward reporting such generic risks. While we should avoid any risk of 'boiler-plate' text in reports to investors, we should ensure that financial statements reflect the most relevant information.

The 4th and 7th Council Directives deal with the legal framework for producing annual accounts and consolidated accounts for limited companies as well as with reporting requirements in respect of corporate governance, which could be changed as follows:

- The European Commission is working on an overhaul of these directives with the aim to simplify limited company reporting;
- In the light of the financial crisis, the European Commission also issued a consultative Green Paper on corporate governance of financial institutions and remuneration policies in June 2010 to which FEE responded. In our response we expressed our support for diversity in the board of directors based on the overall principle of "the best person for the job" giving due care to the competences, qualifications and the collective responsibilities of the board of directors, whether or not this entails more differences in gender, background, age, etc. Also, we underlined the need for active involvement of shareholders.
- When the European Commission issues the consultation on corporate governance in either listed entities or in all limited companies including SMEs as referred to in Question 38 in the first half of 2011, FEE plans to comment on it providing further input in this important area.

Against this background and that of simplification, the European Commission should be encouraged to examine the developing trend toward integrated reporting which links financial and non-financial reporting to enhance the transparency of and the relationship between an organisation's strategy, governance and business model.

Proposal No 42: The Commission will adopt a Communication by the end of 2010 aimed at identifying and eliminating the tax obstacles still facing European citizens.

In general, all tax obstacles should be eliminated for citizens and business.

Inheritance tax is – as outlined in the SMA – indeed an area where citizen face double taxation. Whereas in the area of income taxation there is a comprehensive network of treaties for the avoidance of double taxation, such a network does not exist for inheritance tax. Only a few treaties are in place between Member States in the area of inheritance tax. Therefore, frequently

a double taxation occurs in cross-border inheritance cases. The lack of harmonisation of national inheritance tax legislation and the lack of a treaty network are significant obstacles to the cross-border movement of people and investments, especially for family owned businesses. For further details, please refer to the FEE Comment Letter on Possible approaches to tackling cross-border inheritance tax obstacles within the EU.⁷

Regarding other areas of taxation where tax obstacles arise for citizens and business, FEE will contribute to the relevant ongoing consultations (taxation of cross-border dividend payments; the future of VAT).

Question 6: Are there any other issues you consider should be addressed in the SMA in the chapter: “Dialogue, partnership, evaluation: the keys to good governance of the single market”?

Proposal No 44: The Commission and the Member States will cooperate in continuing to develop the internal market by stepping up the procedure for evaluating the acquis, in particular using the 'mutual evaluation' process set out in the Services Directive and currently being implemented by the Member States and the Commission. The experience gleaned from the mutual evaluation process of the Services Directive will also be applied to other key single market legislation.

FEE encourages the European Commission to take actions to unlock further potential for growth that exists in an integrated Single Market for services.

The mutual evaluation process of the Service Directive demonstrated that several issues which could contribute to the improvement of the Internal Market were raised by respondents, even if beyond the scope of the Directive and also beyond the competence of the DG Internal Market and Services.⁸ The European Commission should see this as an opportunity to identify problems that result from the experience of companies and their organisations.

As mentioned above, we support initiatives that can contribute to the completion of the Single Market. Consultations with stakeholders are generally a useful way to gather input in the process of developing or reviewing legislation. While we are appreciative of the high level holistic approach taken by the Commission for instance in this consultation, it is also essential that consultations are carried out on detailed technical proposals. In addition, to bring their full benefit, consultations should allow for sufficient time enabling all stakeholders to make well informed and considered contributions. In particular, European organisations have to be able to analyse and discuss in details the proposals from the different perspectives represented in their membership and coordinate the views across the continent.

Impact assessments are an indispensable complement to consultations and need to be objective and of high quality to deliver smarter regulation and contribute to re-launching the Single Market.

⁷ FEE Comment Letter on Possible approaches to tackling cross-border inheritance tax obstacles within the EU, November 2010, http://www.fee.be/publications/default.asp?content_ref=1311&library_ref=4

⁸ Summary of Stakeholders' consultation, 20 December 2010

Proposal No 45: In early 2011 the Commission will present a strategy on extending the Internal Market Information system (IMI) to other legislative areas during 2011, with a view to creating a genuine face-to-face electronic network for European administrations. This strategy will be the subject of a legislative proposal.

FEE welcomes and supports the initiative. In the area of Recognition of Professional Qualifications, IMI was found to be a very efficient tool that could be expanded also to other areas.

The potential of XBRL as a tool to facilitate the electronic network for European administrations should be further explored.