On 24 September 2014, during its visit to Brussels in relation to its current inquiry into the EU financial sector regulatory framework, the House of Lords EU Economic and Financial Affairs Sub-Committee held a stakeholder seminar with a number of Brussels-based representatives and organisations. The participants were as follows:

- Lord Harrison (Chairman)
- Earl of Caithness
- Lord Hamilton of Epsom
- Lord Kerr of Kinlochard
- Lord Shutt of Greetland
- Elizabeth Gillam, Deputy Head of Office, City of London Office in Brussels
- Erik Berggren, Business Europe
- Michael Collins, EVCA
- Hans Hack, FTI Consulting
- Lothar Blatt-von-Raczek, German Savings Banks Association
- Judith Hardt, Swiss Finance Council
- Susannah Haan, EuropeanIssuers
- David Henry Doyle, Hume Brophy
- Juan Viver, Better Finance for All

This is a note of the discussion.

**Lord Harrison** opened the meeting and invited participants to introduce themselves. He then introduced the Committee and paid tribute to Lord Hill in his previous role as Leader of the House of Lords. He then asked what the big policy issues within the Sub-Committee’s remit of economic and financial affairs for the incoming Commission were.

**Judith Hardt** said that the big issue was Banking Union and its impact. It presented a real challenge not only for non-eurozone EU Member States but for non-EU countries such as Switzerland. The new concept of Capital Markets Union meant different things to different people. The EU needed to be better at using capital markets to finance the economy.

**Susannah Haan** said that nobody knew what Capital Markets Union was, which presented an opportunity to influence the policymaking process. For members of EuropeanIssuers, the Banking Union was important for Europe but the primary concern for the association was about companies raising finance on the stock exchange. The key issue was how to make markets serve end users and to make a connection between capital markets and society, the real economy, and creating jobs and growth.

**Lothar Blatt-von-Raczek** said that nobody knew what Capital Markets Union was. It had been announced by Mr Juncker when he appeared before the European Parliament. He
believed that Mr Juncker had the twin pillars of Banking Union and Capital Markets Union in mind to finance the real economy. The banking market was heavily regulated. Capital Markets Union could seek to create a level playing field of regulation, or alternatively could include shadow banking. Although shadow banking should be regulated, its growth should not be to the detriment of banking.

David Henry Doyle said that the Financial Transaction Tax was the elephant in the room. Participating Member States had made a commitment to reach an agreement by December. There were mixed messages emerging from the Commission. There was also the implementation challenge of the last five years. He spoke of the AIFMD challenge, and the question of how Capital Markets Union would affect Eurozone ‘ins’ and ‘outs’. He thought that the Single Market was starting to look fractured.

Lord Harrison spoke about the Sub-Committee’s previous work on the FTT.

Juan Viver said that the FTT had been presented as a way to make the system fair, but the end result was a tax paid by citizens rather than financial markets.

Lord Shutt asked what the most significant issues in the context of the Sub-Committee’s current inquiry into the EU financial sector regulatory framework were, including from a UK perspective.

Erik Berggren said that the key question was in terms of the overlaps and contradictions. He was worried about the cumulative effect of regulation and the interpretation of different rules. He pointed to EMIR and MiFID. The ability of banks to lend to the economy could be affected.

Michael Collins said that definitions were not harmonised. He gave the example of the definition of a highly liquid asset. This was usually not because there needed to be a difference but the nature of the legislative process meant that no-one took responsibility for aiming for harmonisation or a single, consistent definition. There was a need to focus on existing legislation rather than the next wave. His organisation’s members were less concerned about Capital Markets Union but remained focused on implementation of the 40 existing pieces of legislation such as AIFMD. Six Member States had still not transposed it.

Judith Hardt said that she was member of a stakeholder group advising ESMA. It had prepared an own initiative report in 2013 on the ability of companies accessing bank loans, venture capital and capital markets. The ability of companies to raise money had been negatively affected in each area. She recommended that the Committee should call for the Commission not only to undertake more effective Impact Assessments but also to ask what it would do to enhance the ability to access funds, venture capital and public markets.

Lothar Blatt-von-Raczek said that Mr Barnier was aware of the problem, especially those regarding long-term financing. There needed to be a rebalancing of the proportionality and impact of legislation. In the EU, between two-thirds and three-quarters of SMEs depended on banks rather than capital markets. The reverse was true in the US. The approach was problematic in that it gave the task to the Basel Committee because of its mandate of standard setting and supervision in relation to large financial institutions. The process there was heavily influenced by the US. The end results were then transposed by the Commission for all banks in the context of the Single Market. This created problems for smaller banks –
most EU banks were small, not just those in Germany. The task of the Commission was to find out which Basel legislation would apply to small banks. This was easy to say but harder to do. They were now looking at the standards at Level 2. It was difficult for level 2 standard-setters to keep to the lines of level 1 and their co-legislators.

**Hans Hack** said that there was an external dimension to EU legislation. The EU likes to be seen as a global standard-setter. This has to some extend been successful, the US was listening to the EU because the markets are linked. However there were risks in terms of equivalence not being achieved. It wasn’t about building a fence but rather ensuring legislative consistency and consistency of implementation. The ESA review for example was quite important in this regard, and it was likely to be a step up from the former structure, not by definition Commission looking at ways to increase their level of power. More consistency in regulation and stronger ESAs were not by definition a threat to the UK because their remit covered the Single Market. **Elizabeth Gillam** pointed to the review clauses in legislation after three years. However a longer-term view was needed. Some of the review timings did not make sense. EMIR was being reviewed now, with MiFID in 2017. It was more sensible to wait to review EMIR once MiFID II had come into force. There was a need to take stock of the cumulative impact, which would only be possible at the end of the current Commission.

**Lord Kerr** asked whether, in circumstances where legislation needed to be corrected, the legislative process could be accelerated. He asked what Shadow Banking was, and whether there was a danger of stifling something useful by using a wide definition. He said that the bank structural reform proposals were a mess. What was likely to be the outcome?

**Michael Collins** said that much depended on whether you took an idealistic or a pragmatic view. An idealistic approach said that reforms were necessary to right wrongs. A pragmatic approach said that further uncertainty would be created. Companies were spending millions to comply – this would be wasted if rules were changed again. In his view a period of stability was necessary. In many cases, the legislative procedure would need to be a heavy if changes were at Level 1. He said that the FSB had put forward a definition of shadow banking, but the problem was that the term itself was pejorative. There was lots of potential in shadow banking. There was a need for competition and alternatives to banks because of the lack of access to credit.

**Hans Hack** said that changes could be undertaken at Level 2 but the co-legislators would not wish to do so because they would lose their grip on the process. The review clauses were included as a point of closure to difficult negotiations, and were very specific in some cases where some had lost out in negotiations. The Commission was required to publish reports. He also said that shadow banking was a pejorative term. Securities financing transactions were now being focused on.

**David Henry Doyle** said that there was a drive to rename shadow banking ‘parallel banking’. The Commission wanted to make it useful and regulate it properly. The European Parliament was struggling to fully grasp what shadow banking entailed. It was not possible to have one definition of shadow banking because something else would inevitably come up.
Juan Viver said that bank structural reform would be difficult at EU level because Member States had their own measures which were completely different. However Lord Hill would have a good opportunity to promote the Vickers proposals to others.

Susannah Haan said that her organisation was looking at the review clauses and what went wrong in legislation. They would not seek review in every case, but rather were looking at the most important three to five cases where the administrative burden on small companies was high.

Judith Hardt said that the new legislative Level 1 and Level 2 processes needed more flexibility. At the moment the adoption of Regulatory Standards by the ESAs were too cumbersome. She referred to the difficulty for ESMA to calibrate liquidity for non-equity instruments such as bonds and derivatives. There was a danger of killing the market. There should be more flexibility at Level 2 to allow ESMA and the Commission to be more responsive to the market without going through a review.

The Earl of Caithness asked whether the growing power of the ECB was a good thing or whether it presented any dangers.

Judith Hardt said that Banking Union was needed from the point of view of stability. Espirito Santo showed that new resolution rules were already working in a pre-emptive way. There was a new confidence in the sovereign. Was it right for consumer protection? Time would tell. The EU was still in a fog when it came to the end destination. This also had implications for those not in the Eurozone/ Banking Union, whether inside the EU or outside the EU such as Switzerland.

Lord Hamilton said that Espirito Santo cost the Portuguese sovereign money.

Lothar Blatt-von-Raczeck said that his organisation would have preferred a better outcome on the Single Supervisory Mechanism, because the threshold for banks directly supervised by the ECB was €30 billion. This did not reflect the importance of a bank to financial stability. The question determining what was a big bank and what was a small bank can still be debated. CRD IV measured this as €70 billion on the total balance sheet for a big bank, which did not align with the level used by the SSM. There was lots of legislation but little coherence. He thought that the arguments around Capital Markets Union were incoherent, i.e. that banks had been regulated, lending had reduced and therefore Capital Markets Union was needed to bridge the gap. It was not as easy as this. Particularly for SMEs, they did not have the expertise nor knowledge of using capital market instruments. On the ECB, he said that Jens Weidmann (President of the Bundesbank) was reluctant to say that the ECB was a solution. It had gone beyond its initial duty. The real policymaker was now the ECB, but this was not its duty. The Draghi exercise should have bought time for politicians to act. But they had not done so – Member States had not undertaken reforms.

Hans Hack said that Mr Draghi stepped in because no-one else was doing so. He thought everyone should be glad he did so. He said that the ECB had a vital role to play in supervision because it was less tied to national politics.

Lord Hamilton asked about the stress tests and the implications for Landesbanken.
Lothar Blatt-von-Raczek said that their balance sheets had been considerably reduced and the worst offending bank no longer existed. Therefore he was not nervous.

Lord Kerr asked whether ill-judged reforms would be resurrected under the guise of Capital Markets Union, e.g. the proposal for an EU Credit Ratings Agency or proposals on benchmarks. Was it necessary to regulate benchmarks if they were not traded? He asked what securitisation was, and whether there was a danger of banning a good thing. He also asked about money laundering and venture capital. He suggested that the 2011 change had not made much difference. Lord Kerr also paid tribute to Lord Hill’s leadership of the House of Lords. He asked whether it was an issue that Banking Union was being supervised by a Commissioner from a non-participating Member State.

Susannah Haan said that there was a risk of Capital Markets Union being full of ill-judged ideas because there was a policy vacuum to be filled. This was both an opportunity and a threat. It was therefore important to think of more positive ideas of what a Capital Markets Union should be, to increase access to capital markets, to build an equity culture in the EU and to make capital markets accessible to investors. It was necessary to move the debate away from the role of intermediaries. EuropeanIssuers, together with FESE and EVCA, had put together an IPO Task Force in order to come up with some positive recommendations for improving capital markets for companies.

Michael Collins said that it was uncertain at this stage how ‘regular’ Commissioners would interact with Vice-Presidents under the Juncker proposal. Lord Hill would report to Mr Katainen, but it was uncertain how this would work in practice, and whether it was a real line of accountability. If you were in the Eurozone, you would want reassurance that Katainen would reflect the interests of the Eurozone. Overall, the Juncker structure had still to bed down. In terms of the Venture Capital Regulation, it was early days in terms of marketing passports. The take-up had been poor, because, when they were used, the competent authority in Member States such as Italy were charging for their use. There have been complaints that this is contrary to EU law. A complaint had been made to the EU, but this highlighted the implementation problems of such legislations.

Juan Viver said that there was some concern over Lord Hill’s appointment given his role as a former lobbyist. But that might not be fair because he would be able to push forward on things already agreed in the UK. It was brave to put him forward. He acknowledged the intense work undertaken by the ECB and the Bank of England on securitisation.

Hans Hack said that he hoped that Capital Markets Union was about more than securitisation, e.g. private placement and bond structures. On benchmarks, he pointed to problems that EU investors had had in investing in S&P 500 constituents. Imperfect transparency was better than no transparency.

Lord Harrison asked what advice participants would give to the Sub-Committee.

Lothar Blatt-von-Raczek said that he had been contacted by UK institutions anxious to find out about the German banking structure and how it worked after the crisis. German business had been hit by the crisis because it was export-oriented. One reason why it recovered so quickly was because they didn’t ask for money back from industry but rather
increased credit to SMEs. He is interested to know whether in the UK, the idea will be pursued to establish regional and local banks as a complement to the big banks.

Lord Harrison said that the Sub-Committee was planning to visit Frankfurt and would like to find out more about the German banking sector.

Judith Hardt said that Lord Hill’s appointment presented a real window of opportunity. Capital Markets Union was a great opportunity to take advantage of expertise in the City, in a holistic rather than a self-serving way. She didn’t want to look back in five years at a missed opportunity.

David Henry Doyle said that the Financial Transaction Tax was the elephant in the room. Participating Member States had made a political commitment to reach an agreement by December. There were mixed messages emerging from the Commission as to the exact intention of the tax. There was also the implementation challenge of all of the financial services legislation passed in the last five years. He spoke of the AIFMD challenge by way of example as the first piece of legislation to be passed in the last mandate and how this Directive was still not yet full transcribed into all Member States national laws. The question of how Banking Union would affect Eurozone ‘ins’ and ‘outs’ was also raised. He thought that the Single Market was starting to look fractured when compared to the ambition of the unified Capital Markets Union.

Susannah Haan agreed that the UK could offer experience and knowledge. There was a need to offer a translation service from the City of London to the rest of the EU on the relationship of financial markets to the real economy. She urged the City to use less jargon and to communicate to others more effectively.

Erik Berggren said that the terrible economic climate was holding growth back. Capital Markets Union was not enough. There was a role for public funds and a need for R&D and infrastructure investment.

Juan Viver said that Capital Markets Union was an opportunity to address the bias towards home investment particularly with regards to pension funds. Most EU sovereigns were in trouble and there was a need to extend the benefits of financial markets, in particular so end users felt the benefits.

Michael Collins said that there was a danger that Capital Markets Union focussed more on ‘Union’ than ‘Capital Markets’. But capital markets were global. Pools of activity were growing not in the EU but elsewhere. He was concerned that the EU was becoming too inward-looking. It should not be about five years of EU institution-building but rather about enhancing access to global capital. His advice to the Sub-Committee was to spend less time in Brussels than in Frankfurt, Paris and London meeting with the ESAs.

Hans Hack said that he hoped that the UK would retain its constructive engagement in the EU. This was important both from the point of view of the balance of power in the Council and the expertise that the UK had to offer.

Lord Harrison thanked the participants for their attendance and their contributions and closed the meeting.