SUMMARY RECORD OF THE 91ST SESSION OF THE COMMITTEE ON FINANCIAL MARKETS

Paris, 10-11 October 2000
SUMMARY RECORD OF THE NINETY-FIRST SESSION OF THE COMMITTEE ON FINANCIAL MARKETS

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1. Adoption of the Agenda

The Committee adopted the Agenda [DAFFE/CMF/A(2000)2/REV1] after agreeing to modifications in the proposed schedule.

2. Summary Record of the 90th Session

The Committee approved the Summary Record of the 90th session [DAFFE/CMF/M(2000)3].

3. Tour d’Horizon on Financial Markets

The Committee:


− Requested the Secretariat to invite the Russian delegation to submit a note on financial sector developments and reform in Russia that would serve as a basis for discussion at the March Tour d’Horizon session.

− Noted that a monitoring report summarising the key elements of the Tour d'Horizon discussion will be circulated by the Secretariat [see DAFFE/CMF/M(2000)6].

4. Corporate Governance and Collective Investment Instruments

The Committee:

− Took note of a draft summary report of the previous day's informal meeting with representatives of the financial services industry and noted that a revised summary of the discussion will be circulated by the Secretariat [see Annex 1].

− Discussed issues pertaining to investor protection and corporate governance of the CIS sector on the basis of the suggested points for discussion set out in DAFFE/CMF(2000)25.
– Asked the Secretariat to revise the background report "Corporate Governance and Collective Investment Instruments" [DAFFE/CMF(2000)26], taking into account the comments made at the meeting as well as any additional written comments that would be sent to the Secretariat by end-October; accepted an offer by the representative from IOSCO to distribute the document to members of IOSCO Working Party 5 of the Technical Committee for additional comments; agreed that the revised version of the document would be made publicly available as an article in Financial Market Trends and on the OECD’s website.

– Noted that further work on some of the issues discussed under this item might be undertaken in the context of the Committee’s project on institutional investors.

5. Moral Hazard, Contagion and International Financial Crises

The Committee discussed a Secretariat note on "moral hazard" [DAFFE/CMF(2000)28] and agreed that a revised version of the note, which would incorporate empirical evidence and take into account the comments made at the meeting as well as any additional written comments that would be sent to the Secretariat by end-October, would be published as an article in a future issue of Financial Market Trends.


The Committee discussed a paper by the Canadian Delegation and the Secretariat on “Future Prospects for National Financial Markets and Trading Centres” [DAFFE/CMF(2000)29] and agreed that a revised version of the study, which would reflect comments made during the discussion as well as any additional remarks transmitted via the written procedure by end-October, would be published in a future issue of Financial Market Trends.

7. Slovakia: Financial Sector

The Committee:

– Considered the document by the Slovak Delegation on reforms, structural developments and supervision in the Slovak Republic ["Progress Report on the Upgrading and Strengthening of Financial Sector Supervision" DAFFE/CMF(2000)30], and noted the responses by the Slovak Delegation to questions prepared by the Secretariat as well as to those raised by delegates.

– Invited the Slovak Delegation to provide an update on developments in the Slovak financial sector for consideration by the Committee at its October 2001 meeting.

8. Observership

The Committee:

– Agreed to extend to the year 2001 the participation of a Delegation from the Russian Federation in the Tour d'Horizon on financial markets [see DAFFE/CMF(2000)31] and to revert to the issue of Russian observership in the Committee at the end of next year.

– Agreed to an extension of the observer status of Hong Kong, China and Singapore for 2001 and 2002 [see DAFFE/CMF(2000)32].
9. **Work Planning for 2001**

The Committee:


- Noted that work is underway in the Organisation on the issue of “sustainable development”, which will be a major theme for discussion at the 2001 meeting of the Council at Ministerial level, and requested the Secretariat to prepare a document on the financial aspects of sustainable development for consideration at the March session.

- Agreed to hold a meeting with private sector representatives in March 2001 on E-finance and cross-border trade in financial services and noted that a Secretariat report on possible future trends for E-finance and their policy implications will be prepared for consideration at its October 2001 session.

- Agreed to schedule for the March 2001 meeting its consideration of a study of consolidated regulation of financial services firms, the focus of which will be to identify factors that have led jurisdictions to adopt a consolidated system of regulation over alternatives.

- Agreed to table for the March 2001 meeting its consideration of a draft outline of a project on experiences in resolving and restructuring weak financial institutions.

- Agreed to hold a discussion at its March 2001 session on the activities and work programme of the Committee’s Working Parties on Financial Statistics and on Government Debt Management, possibly in the presence of members of the Working Parties’ Bureaus.

10. **Other Business.**

The Committee:

a) Heard an oral report by the Secretariat on recent decisions and planned activities of the Financial Stability Forum.

b) Noted the list of planned outreach activities for 2001 in the financial sector area as set out in DAFFE/CMF(2000)34 and took note of the following summary records:

c) Agreed or noted the following dates of next meetings:

- Committee on Financial Markets
  27-28 March 2001
  9-10 October 2001

- Working Party on Government Debt Management
  7-8 November 2000

- Working Party of Financial Statistics
  8-10 November 2000

- International Roundtable on Securities Markets in Beijing, China
  24-25 October 2000

ANNEX 1

Summary Record of the Meeting between Members of the Committee on Financial Markets and Representatives of the Financial Services Industry
(9 October 2000)

PROSPECTS FOR THE COLLECTIVE INVESTMENT INDUSTRY

11. The meeting opened with a discussion of long-term structural trends in the CIS (collective investment schemes) sector. It was noted that the explosive growth of CIS in the past two decades is one manifestation of the shift of financial intermediation from banks to the capital markets. There was also wide agreement that the good performance of capital markets over the past decade was one of the main sources of growth of the CIS industry. Coincidentally, and perhaps less recognised, is the fact many of the risks in the intermediation process have now been transferred to investors. If performance of markets were to worsen, one would expect the expansion of the CIS sector to slow. Many investors, especially in Europe, have invested in equities for the first time and have yet to experience a difficult market for a protracted period. Nevertheless, most participants expect strong growth to continue and financial institutions continue to see this sector as one offering very attractive opportunities.

12. Recent (and future) advances in information and communication technology (ICT) should be a driving force in the industry. The Internet in particular has made information widely accessible to market participants and potential investors while promoting competition among distribution channels. Even some distributors who only sell proprietary funds in their branch networks now sell external funds over the Internet. The Internet is making information on performance available and will probably force fund distributors to increase disclosure beyond that which is mandatory and to present more data on a comparable basis. The Internet has also weakened the power of national regulators over their domestic
markets, as it is difficult to limit the access of investors to products offered over the Internet. Some participants held that easier access in de-localised markets has made it more important to achieve international agreement on standards of investor protection.

13. One of the big questions overhanging the industry is whether CIS will expand as a vehicle for retirement income. The expansion of retirement savings was one of the main underpinnings of the growth of the US CIS industry in the 1990s. In Europe, perhaps the greatest challenge for the industry is to persuade policy makers that it should be entrusted with a large share of the responsibility for managing retirement income as countries move toward defined contribution pension systems. Some speakers asserted that CIS are essentially very transparent instruments with respect to cost, risk and performance—especially in comparison with insurance products. In this connection, it is important to have a regulatory regime for retirement income that is neutral between CIS and competing products.

14. Most speakers expected intensified competition in the CIS sector, with final investors reaping many of the benefits. One speaker, citing US data, argued that despite a trend of consolidation in the financial services industry, the share of the largest distributors has been declining for twenty-five years and the identities of the top firms have been changing as well. In Europe, the domination of the market by a few large banks and insurance companies is weakening and many distributors are now offering products originated outside of their own groups. Several speakers asserted that an “open architecture” — in which the various functions embedded in a CIS such as distribution, portfolio management are unbundled — will be a defining feature of the industry.

15. Some discussion took place on whether certain “innovative products” are likely to provide competition to CIS. One product with some capacity to displace CIS is Exchange Traded Funds (ETFs), which are index funds that are listed on exchanges and can be traded throughout the day at very low costs. Additionally, ETFs distribute very few earnings and thus are attractive in countries where dividend and interest income is taxed. While ETFs have some capacity to draw business away from collective investments, thus far they have mostly been used for short-term trading and as hedging devices rather than longer-term investment products. “Customised investment baskets” also have potential to challenge CIS in the long run but have not yet made any visible impact on the market.

16. Alongside the spectacular growth in OECD countries, business has been expanding in offshore centres, partly for reasons of tax avoidance but also because there was greater freedom to innovate and take risk in such centres. Some observers expect the hedge fund industry, with its flexible investment mandates and greater appetite for risk, eventually to gain a larger market share. However, it was observed that in the United States the hedge fund sector has recently been contracting.

17. The group heard a brief statement about the CIS industry in Korea where during the past eighteen months assets had fallen by more than one third due to the forced restructuring of the Daewoo group as well as structural weaknesses in the industry. The risk of losses on bonds issued by the group has caused a large flight from fixed income funds. It is hoped that, with structural reforms, the industry will soon recover from this shock.

18. There was considerable discussion over the degree to which international trade in CIS services had progressed in OECD countries and what could be done to encourage further market opening. In particular, it was emphasised that the CIS sector is still highly segmented among countries and regions owing to different legal and regulatory systems. There was disagreement among participants as to how much progress the EU’s UCITS Directive had achieved in terms of facilitating cross-border trade in CIS products within Europe. On the one hand, some speakers stated that Europe continued to be characterised by often-conflicting national legislative and prudential regimes. Other speakers countered that, while the
UCITS Directive had obvious limitations and further reform is indeed necessary, the Directive had enlarged marketability of CIS significantly.

19. It was observed that some 30-40 per cent of the increase in CIS assets in Europe during the 1990s was accounted for by cross-border funds. Other speakers asserted that distribution of foreign products has progressed relatively far in Japan and Hong Kong, but that entry into the United States market remains a big problem. Some participants argued that the “UCITS concept” is worth exploring on a global scale. This concept consists of setting minimal international norms of investor protection while allowing countries to maintain their own domestic legal structures and investor protection systems. Authorisation is accorded to CIS from other jurisdictions that meet minimum standards. Differences in tax treatment of income related to CIS among national jurisdictions were also seen as inhibiting international trade in CIS services.

20. A discussion of fund performance and expenses ensued. In the first place several speakers argued that the lack of comparable data on expenses and costs for the CIS industry constitutes a major barrier to informed investor choice. Mandatory disclosure requirements differ widely among countries. Industry standards and market pressure should encourage fuller disclosure on a comparable basis within and among countries.

21. To the degree that the data can be trusted, the trend in Europe seems to be that total expenses have remained steady as a share of assets, but that distribution charges have been rising in many countries. Thus, even though trading costs have declined significantly and large economies of scale should have been achieved, much of the gain has been captured by distributors rather than being passed through to final investors. Moreover, fee structures seem to be higher in southern Europe than in northern Europe. One speaker alluded to data showing a trend of declining fees in the United States, based upon the average of funds invested.

22. Some speakers attributed the rise in fees to a shift in the categories of funds preferred by investors. The fastest growing categories of funds are equity funds that tend to have higher expenses than bond and money market funds -- the latter accounting for a declining share of total CIS assets. Other speakers indicated that some of the faster growing asset categories, such as sectoral funds and technology funds, tend to have high expense ratios. Due to the good performance of equity markets in general and of some categories of equity in particular, investors have been willing to pay the higher fees.

23. Several participants raised the issue of fund performance, especially in respect of the key question of why many funds fail to match benchmark indices. Some speakers noted that, statistically speaking, some fund managers should out-perform the index while others should under-perform the index but that on average all fund managers should equal the index. Since funds incur costs, while indexes do not, on a net basis, the active managers should on average under-perform the index. Moreover, and perhaps more importantly, many investment managers are risk averse and will not hold portfolios that deviate sharply from the index.

24. Other speakers ascribed the poor returns from active asset management to the pattern of stock price movements. Over the past few years, the large capitalisation stocks that dominate the indices have tended to rise faster than other categories of companies. Thus, a passive investment strategy that simply sought to replicate the index and reduce costs might have produced better results than an actively managed portfolio. In the past few months, however, significant realignments are occurring. Large capitalisation stocks have been flat and portfolio managers have been able to beat indices by active stock selection. There is a pendulum in the market with the returns to active management rising and falling. It was also observed that some regulations which set ceilings on CIS portfolio concentrations make it difficult for fund
managers to out-perform indices in cases where certain shares constitute more than the allowable share of the index.

25. A major topic of discussion was investor protection and alternative systems of governance for the CIS industry. It was noted that there are serious differences among regulators on how aggressive the regulators are willing to be in pursuing infractions and in bringing possible violations into the open (i.e. the process of “naming and shaming”). Some regulators tend to be unequivocally committed to upholding high standards in all cases while others seem to be equally concerned about protecting the reputation of the domestic market. In general, a tough attitude on the part of regulators tends to build investor confidence in the financial market and thus makes the centre more attractive in the long run. It was also observed that in some countries norms of conduct are specifically mandated by the authorities while, in others, industry best practice sets the norm.

26. Perhaps the sharpest division of opinions at the meeting concerned the merits of alternative systems of governance in the CIS sector. The big divide was between advocates of the US system, which relies heavily on independent directors who have strong legal liability for safeguarding investor interests, and defenders of European systems, which have alternate mechanisms. In defense of the US system, one speaker characterised the key issues in CIS governance as: 1) Does the party with oversight responsibility have significant independence in reality from the management company? 2) Is there a strong legal system in which the responsibilities of the various parties are clearly defined? and, 3) Do investors have effective control over the actions of the fund managers, other than simply to liquidate the investment? With regard to the latter point, the United States system allows investors to vote on many issues of concern to the CIS and has strong provisions enabling investors to take legal action against the fund and/or the directors. The industry and the SEC strongly support the system and are recommending measures to require enlarged representation of independent directors.

27. The systems prevailing in Europe rely on multiple levels of control with a far more active role for the depository (or trustee). Moreover, the compliance and audit functions lie outside the control of the management of the investment management company, reporting directly to the supervisory board. Additionally, European systems usually impose institutional separation by function (i.e. Chinese walls) in order to separate the fund manager from other interested parties within the group. Furthermore, the parent company of the asset management company retains considerable liability to make good on losses to investors in cases of misconduct.

28. Some discussion occurred on the degree to which convergence had taken place in standards of CIS. It was noted that work has been going on in IOSCO, which in general has not been able to make much progress in harmonising tax regimes or governance regimes, but has instead taken the approach of enunciating basic principles while leaving their implementation to national authorities. As a result, a large body of standards has emerged. One participant observed that following problems in the CIS sector in the early 1990s, the Australian legislators spent most of a decade trying to define the best possible system and introducing basic changes in CIS organisation and governance. Even after this effort it is not certain whether the best possible system had actually been found. The question should not be which system provides the best investor protection, but whether the level of protection, whatever the system, is adequate.

29. The group briefly discussed closed-end funds. Some speakers indicated that such funds have more flexibility than open-ended funds, especially in investing in illiquid securities, in using leverage and in being able to be fully invested. Such structures shield the portfolio managers from having to deal with inflows and outflows of funds. There was some disagreement as to whether closed-end funds have lower expenses than open-ended funds. It was mentioned that closed-end funds have special governance problems in that their managers and directors must decide whether to liquidate funds that trade at large
discounts to net asset value. The governance of such funds is undergoing significant changes due to stronger industry codes of conduct and greater shareholder activism.

30. Some speakers addressed the question of corporate governance activities by CIS. It was noted that many CIS managers have decided that the value of their portfolios can be augmented through a somewhat more activist stance. Consequently, the CIS industry in several European countries is taking the lead in urging asset managers to take a more active role in promoting shareholder-friendly policies in the companies in their portfolio. Some industry associations may try to develop codes of conduct to guide fund governance activities, and some are encouraging CIS to disclose their corporate governance policies and their use of voting rights in their annual reports.

31. At the end of the meeting, the group discussed briefly the activities of funds that seek to balance ethical and environmental concerns with the objective of obtaining an adequate return for shareholders. Acquisition of large ownership stakes in industry presents investors with the choice of whether to use their ownership rights only to maximise their financial return or whether those rights should be exercised with the social and environmental impact of corporate decisions also in mind. Spokesmen for such funds claim that their final investment results are competitive with those of most funds that do not include such concerns in their investment mandates.
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