INFORUM

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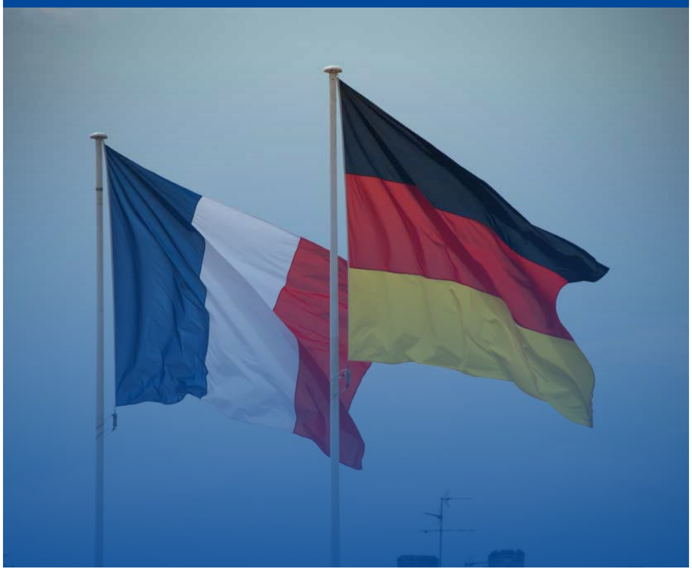
→ **INTERVIEW**



AMAFI and the DDV on the challenges of the European Capital Markets Union

The Capital Markets Union strengthens the European economy and is intended to deepen and broaden the EU's single market for capital and financial services. The further development of the Capital Markets Union planned for autumn 2020 is intended to improve access to finance via the capital market and make it easier for small and medium-sized enterprises to raise capital. It also aims to keep the EU attractive for investment, create jobs, and foster economic growth. In this INFORUM conversation, Stéphane Giordano, President of the French AMAFI,[1] and Dr Henning Bergmann, CEO and Member of the Board of Directors of the DDV, share their views on the future challenges of the European Capital Markets Union.

1 The Association française des marchés financiers (AMAFI) is the trade organisation working at national, European, and international levels to represent financial market participants in France. AMAFI has more than 150 members operating for their own account or for clients in equities, fixed-income, structured products, and derivatives.

Dear Readers,

Our day-to-day lives are once again overshadowed by the coronavirus pandemic, which is holding the economy, politics, and society in check. At the same time, a new German federal government is being formed in Berlin, and the beginnings of the presidential election campaign are taking shape in France. From January, France will also hold the Presidency of the Council of the EU for six months.

In addition to current political matters, it is also important to keep an eye on the long-term developments. To this end, the DDV maintains contact with other financial industry associations, especially in France. Our discussions with the Association française des marchés financiers (AMAFI), the French capital markets association, have been particularly in-depth. We are united by the common goal of making the EU capital market more mature and efficient. We want internal competition to give rise to an EU capital market that is highly competitive with other international financial centres. The work on the EU Capital Markets Union provides the opportunity to achieve this.

In the discussions between AMAFI President Stéphane Giordano and myself, we have set out common positions from Germany and France. In doing so, we want to enrich the debate on a high-performance EU capital market at the service of private investors and the economy.

I hope you enjoy reading this issue of INFORUM, and welcome any feedback you may have.

Dr Henning Bergmann

"The EU needs a competitive financial market"

Dr Henning Bergmann, DDV, in conversation with Stéphane Giordano, AMAFI

↗ Following the adoption of the first Capital Markets Union (CMU) Action Plan in 2015, the President of the European Commission, Ursula von der Leyen, launched the completion of a CMU "that works for people and businesses". This took the form of a renewed Action Plan, published on 24 September 2020. One of its priorities is to prepare proposals of measures for stronger coordination or direct supervision by the European Supervisory Authorities (ESAs). The respective report from the European Commission is expected in Q1 2022. The harmonisation of the EU rules towards the creation of a more efficient and integrated pan-European capital markets architecture is indeed crucial to bring about a CMU that firstly provides retail investors with adequate opportunities for long-term savings to cover future financial needs, and secondly puts in place the conditions for competitive and attractive EU financial markets.

→ The concept of "open strategic autonomy" is increasingly applied to market financing due to Brexit and the Covid-19 crisis. Applied to the financial sector of the EU-27, this continuously evolving concept would mean the decrease of external dependencies while remaining open to other jurisdictions, with the ambition of fostering a greener and more digital economy in particular. In your opinion, how could this concept be instrumental to the success of the Capital Markets Union (CMU)?
Giordano: Since its inception, the objective of the CMU has been to ensure that financial markets take a greater role in the financing of European economies. In light of the strong reliance of the Union on financing from banks compared with other advanced economies, and because Basel rules add further constraints on the ability of banks to distribute loans, the objective remains more valid than ever. Nevertheless Brexit requires an overall rethink of the CMU: the most important European financial market now sits outside the Union."

→ What does this mean for the EU Capital Markets Union?
Giordano: With this in mind, the concept of "open strategic autonomy" will obviously be key to the success of the CMU. First, as it indicates that the authorities have integrated the idea that building a sufficient level of autonomy for the functioning of the EU's financial market – which has to involve all links in the value chain, from investors to companies, including intermediaries and infrastructures – is a matter of sovereignty for the Union. Second, because it shows a common understanding of the fact that the Union's markets will have to remain open to the world, and that they cannot be built in isolation.

Finally, the concept of "open strategic autonomy" perfectly summarises what's at stake for the future of the EU's financial markets: it would be unreasonable to rely too heavily on external resources and skills for the financing of our economies, but neither can we ignore the interconnected nature of financial markets. This also means that, when it comes to financial services, the Union can no longer consider itself as only a market of consumers. It has to position itself also as a market of producers, which means thinking firstly in terms of the attractiveness of European markets and secondly in terms of the competitiveness of European market participants, both within the Union and abroad.

"Germany is a country whose decentralised banking structure provides a strong basis for financing small and medium-sized enterprises. But Germany is also very well networked internationally, with strong trade ties within and outside of Europe. In order to further improve cross-border opportunities, we also need better connected EU capital markets in parallel to Germany's strong banking position. We need to make the capital market more accessible as an additional source of financing, and thus further enhance the competitiveness of European companies and banks."

Engin Eroglu, MEP
Renew Europe Group (Germany: Free Voters)
Member of the European Parliament since 2019

→ Do you agree?

Bergmann: Having mature and autonomous EU financial markets at the service of the European economy is really a key point. The idea is not to copy the US model, which is more capital-markets based than banking based. We all certainly agree that the latter conveys great advantages, but it cannot function with optimal efficiency without the capital flows generated by the financial markets. This is why strong infrastructure and markets on the Continent are a foundation for a respected and prosperous Union in the years to come.

We are convinced that "open strategic autonomy" is a must in a new post-Brexit ecosystem. It is also important for financing the challenges the Union is facing both economically and demographically, including planning for the retirement provisions of the coming generations. Deepened financial markets in the Continent are also key for providing the EU-27 with the means to fulfil its ambition in strategic fields such as digital and sustainable finance.

→ How "open" would you like the EU financial market to be?

Bergmann: The term "open" in this concept clearly implies that the financial markets do not function in isolation. Strong links with the US and Asian markets are essential, not to mention the ongoing importance of the UK market. Fair and reciprocal agreements should be the rule, providing that, for example, the level of investor protection and quality of execution maintain high standards. The EU has to be attractive for national and international capital flows. The existing robust regulatory framework speaks in the EU's favour, however, from an investor perspective, pragmatism and efficiency can still be worked upon.

→ Competition between market places in the European Union is often emphasised. How can this competition at a national level transform into genuine European competitiveness and attractiveness that would lead to the improvement of the financing of the economy?

Bergmann: Competition between European market places makes sense only to the extent that it provides investors in particular with services that are richer and more fit for purpose. Of course, the financial centres in Europe are prepared to compete with each other in terms of location in order promote their economic importance and positioning. However, no one will benefit from a fierce fight, and efforts should be more coordinated in order to systematically develop the needed infrastructure and to welcome the talents who can advantageously develop the financial activities that have been carried out in the United Kingdom to date.

There is a need for a prominent role for coherent cross-EU regulation and supervision. We can still find many examples of gold plating. These cases should be closely scrutinised and strictly addressed. A more coordinated and common supervisory regime cannot be implemented from one day to another, and should be progressive. It would be a good start to concentrate on the efficiency of supervisory convergence combined with better coordination among the ESAs. This further integration will not happen without a strong role played by the national authorities given their strong knowledge of local markets and their particularities (i. e., specific products, client base, tax regimes, and language capabilities). They are also familiar with best practices and national legal frameworks. We are convinced that well-functioning supervision anchored at the national level, accompanied with convergence at the EU level and networks of coordination between regulators, will send positive signals to the industry to transform competition into competitiveness.

→ What is needed to kick-start this development?

Bergmann: We think a strong signal is needed through political commitment at the highest level, both from the EU and national decision makers, so that regulation and supervision can show the way to the market participants. Success will depend on accepting that it is not about shining as a national market place, but about creating a network of market places with international relevance that is able to develop complementarities and synergies in order to be in the position to compete and be attractive from an international perspective.

Giordano: It is clear that, prior to Brexit, there was no real competition between the EU's market places: London was by far the leading market place, both by size and by influence. Brexit has initiated strong – sometimes fierce – competition between some member states, first to benefit from relocations from London, and then to facilitate the development and blooming of their local ecosystem. This has led to a totally renewed landscape, with the emergence of the two "generalist" market places, Frankfurt and Paris, and several more specialised places.

This competition is not without risks: typically, the national competent authority of a specialised market could be tempted to develop a bias in favour of that part of the value chain that has developed in its jurisdiction, moving against the need for supervisory convergence. The challenge for European authorities – and for the European financial industry at large – is therefore to keep such risks under control, and to make this internal competition a source of excellence both within and outside the Union. To achieve this objective, local good practices and successes must be promoted rather than stifled by regulation, NCAs' expertise must contribute to, rather than oppose, the building of coherent pan-European supervision, and the consolidation of each part of the value chain must be encouraged at the European level rather than resisted on the basis of national positions.

→ In your opinion, what are the institutional and regulatory adjustments at both EU and national levels that could lead to an increase in the competitiveness and attractiveness of the EU-27 financial markets?

Giordano: There would be so much to say in that domain!

By order of priority, I would say, in line with the opinion issued in February by the European Economic and Social Committee in reaction to the new CMU Action Plan, each change in the Union's regulation should be subject to an "attractiveness and competitiveness" test. Ensuring that European players can be competitive in the global market must become a key driver of the Union's legislative action, alongside the objectives to guarantee financial stability, to ensure the integrity of markets, and to protect investors. In practical terms, it means notably that the EU co-legislators, while continuing to promote their views on the international scene, must take into account the evolution of regulations in other jurisdictions, and especially in the United Kingdom, which legitimately intends to position itself as an agile competitor vis-à-vis the Union.

Another necessary step would be for European authorities to facilitate the emergence of pan-European players in several domains that are either public by nature, or for which private initiative is confronted to serious obstacles. The European Single Access Point and the Consolidated Tape initiatives are being looked at and must be taken forward. But much more needs to be done: reviving the European securitisation market may require the creation of agencies similar to those in the United States; positioning ESMA as a truly pan-European authority will require a strengthening of its convergence powers while deeply modifying its governance.

What is for sure is that the coming years will be decisive for the future of the European financial industry!

→ Do you share this view?

Bergmann: Our ideas are very much aligned here. Many possible adjustments could lead to an increase in the competitiveness and attractiveness of the EU-27 financial markets. It is a matter of practicability at a given point in time, but above all of political willingness. The idea mentioned by Stéphane of an "attractiveness and competitiveness" test for instance, as already performed in terms of subsidiarity and proportionality every time that a primary legislative proposal is made, would bring reality to the concept. It would also be ideal that the ESAs mandate is amended, when the time has come for a legislative review, so as to extend it to competitiveness and potentially also to attractiveness. This has already been discussed for the UK's FCA. Its role today includes promoting healthy competition between financial service providers, with the attractiveness of UK firms being vigorously defended in practice. The mission of the CFTC in the United States also includes the promotion of competitive and efficient markets; a task that it diligently carries out.

→ What other improvements do you suggest?

Bergmann: Another important adjustment that could lead to a more competitive and attractive regulatory framework is the improvement of supervisory convergence tools, such as the Q&As. These play an important inspirational role regarding the behaviour of market participants, and are a crucial element in achieving greater harmonisation of market practices across the EU. It would indeed be time to follow through on the logic – which is not happening in the new Q&As process - to be as inclusive as possible with respect to relevant stakeholders and market circumstances. We think that something needs to be done to remedy the situation that some NCAs apply the Q&As very strictly, and that there is currently no impact analysis and no recourse in case of inconsistency with the market practices of some markets. For these reasons, the industry's long-standing request to be consulted should be met, at least for the Q&As that have material operational or compliance impacts on market participants. At the minimum, the practicalities and the timing of publications should be improved in order to allow market participants to make better preparations to mitigate the impact of the adjustments.

→ What do you think the next steps should be?

Bergmann: There are many sensible measures to promote investor engagement, even for those investors with relatively small amounts to invest. A first step would be documentation that is more comprehensible and tailored to the interests and commitment of the investor. In addition, digital transformation should make securities investments increasingly easier and more convenient for people, which would also help young people in particular with their provisions for retirement. So there is and will be a lot of work for all involved in EU financial markets – for the industry and the authorities alike.

The Berlaymont building in Brussels, which houses the headquarters of the European Commission.

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Deutscher Derivate Verband (DDV), the German Derivatives Association, is the industry representative body for the leading issuers of structured products in Germany: BNP Paribas, Citigroup, DekaBank, Deutsche Bank, DZ BANK, Goldman Sachs, HSBC Trinkaus, HypoVereinsbank, J.P. Morgan, LBBW, Morgan Stanley, Société Générale, UBS, and Vontobel. Furthermore, the Association’s work is supported by more than 20 sponsoring members, which include the stock exchanges in Stuttgart and Frankfurt, gettex (which belongs to the Bavarian Stock Exchange in Munich), Baader Bank, and the direct banks comdirect bank, Consorsbank, DKB, flatexDEGIRO, ING-DiBa, maxblue, S Broker and Trade Republic, as well as the finance portals finanzen.net, onvista and wallstreet:online, and other service providers.

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