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EU – Pan-European Public Procurement Online project

The European Commission will co-finance a pilot project called PEPPOL (Pan-European Public Procurement online) that will link existing national electronic public procurement systems. It will make it easier for companies, in particular Small and Medium-Sized Enterprises (SMEs), to bid for public sector contracts anywhere in the EU. Eight countries are taking part in this project, i.e. Austria, Denmark, Finland, France, Germany, Hungary and Italy as well as Norway (as a member of the European Economic Area). According to the Commission, simplifying cross-border procurement will generate savings on administrative and transaction costs and will benefit taxpayers who ultimately pay for public purchases. Moreover, the Commission believes that by levelling the playing field for SMEs, cross-border e-procurement can boost competitiveness by providing tools for businesses to access the entire European market for public services. At present, SMEs account for 67% of employees in the business sector and 58% of turnover in the EU, but only win 42% of government contracts. The Commission's e-procurement project will invest some €19 million over three years, €9.8 million of which will come from the European Commission's Competitiveness and Innovation Framework Programme. More information can be found on <http://www.peppol.eu/>

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EU – Proposal for improved EU framework for investment funds

On 16 July 2008, the European Commission published its revised UCITS (Undertakings for Collective Investment in Transferable Securities) regime for investment funds. Although UCITS do not cover all types of investment products available on the retail market, they are widely used by consumers and small investors throughout the EU and worldwide. At the end of 2007, UCITS accounted for over €6.4 trillion of assets in total which is equivalent to half of the Union's GDP and represents 11.5% of European household financial assets. The new provisions will allow UCITS managers to develop their cross-border activities and generate savings consolidation and economies of scale; investors will benefit from a greater choice of investment funds operating at lower costs; the proposal also seeks to improve investor protection by making sure that retail investors receive clear and relevant information when investing in UCITS. These improvements will help to reinforce the competitiveness of UCITS on global markets. Currently 40 % of UCITS originating in the EU are sold in third countries, mainly Asia, the Gulf region and Latin America. As part of the Commission's commitment to simplify the regulatory environment, the new directive will replace 10 existing directives with a single text. The Commission is aiming for political agreement in the second quarter of 2009 and hopes that the directive and the implementing measures will enter into force in mid-2011.

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EU – Consultation on Credit Rating Agencies

On 31 July, the European Commission published two consultation documents on CRAs. The first document relates to the conditions for the authorisation, operation and supervision of credit rating agencies. The main objective of the Commission's proposal is to ensure that ratings are reliable and provide accurate information for investors. CRAs will be obliged to deal with conflicts of interest, have sound rating methodologies and increase the transparency of their rating activities. The second document proposes policy options in order to tackle the excessive reliance on ratings in EU legislation. The documents are open for consultation until 5th September. This short consultation period is justified by the need to issue a proposal in the autumn to allow the Council of Ministers and the Parliament to agree before the next European Parliament elections in June 2009. The move to reinforce the existing framework for the operation of CRAs - mostly based on the IOSCO Code of Conduct (International Organisation of Securities Commissions) - was welcomed by the Ecofin Council at its meeting of 8 July 2008.

For more information, please visit:

http://ec.europa.eu/internal_market/securities/agencies/index_en.htm

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EU – European Commission’s proposal for a directive on discrimination

On 2 July 2008, the Commission adopted a proposal for a directive which provides for protection from discrimination on grounds of age, disability, sexual orientation and religion or belief beyond the workplace. This new directive would ensure equal treatment in the areas of social protection, including social security and health care, education and access to and supply of goods and services which are commercially available to the public, including housing. The directive will only apply to private persons insofar as they are performing their commercial or professional activities. Also, Member States will remain free to maintain measures ensuring the secular nature of the State or concerning the status and activities of religious organisations. It is recognised in the proposal that insurers should be allowed to take age or disability into consideration in certain circumstances. According to the CEA, the European insurance and reinsurance federation, *“the limits the Commission proposes to such differentiations will reduce the availability of and restrict the affordability of insurance products for consumers. Legal restrictions on risk-equivalent calculations must be avoided to ensure that insurance pricing is adequate, reasonable and fair”*.

The Commission’s proposal must now go through the European Parliament and Council. BIPAR will closely monitor this issue.

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EU – Distribution of non-life insurance by European post offices

In May 2008, the French government gave its green light to the French Post to distribute non-life insurance products on top of the life insurance it is already selling. According to AGEA, the French Association of insurance agents (member of BIPAR), the French market is already very competitive (local markets could be “destabilised” by the arrival of La Poste as a new rival); La Poste prominence, extensive geographical reach and huge workforce would compete unfairly with other players and the appearance of a « non-professional » player would be detrimental to consumers.

In the UK, the Post has been quite successful in the sale of insurance. Through a cooperation agreement with the Bank of Ireland, the British Post has been slowly developing its insurance activities since 2004. So far, it has sold some 500,000 motor insurance and 100,000 home insurance. It sells 15,000 new motor and home insurance every month. This success can be explained by its good reputation, an extensive network (14,000 offices throughout the country) as well as an attractive financial incentive for clients: it offers €64 to each client who takes out a motor or home insurance and €100 to those who take out a life insurance.

In Italy, the Post started selling insurance 9 years ago. It is today the leader of the life insurance market. In 2007, Poste Vita – which has a sales network of 11,000 offices – collected €5.5 bn premiums, a 7% decrease compared to 2006 when it reached the record level of nearly €6 bn premiums. It is to be noted that the Italian life insurance market declined by 14% in 2007. Poste Vita has not yet asked for the authorisation to operate on the non-life market as it prefers to consolidate its position in the life sector.

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France – *Old-age dependency: government wants public/private partnership*

On 28 May 2008, the French government introduced old-age dependency as the fifth risk to be covered by the French social security system, in addition to health, occupational accidents, pensions and family benefits. There are currently in France 3 million dependency insurance policyholders, of which 2 million are covered by private insurers. The French government is calling for a public/private partnership in which insurers and provident organisations would play a large part. It has proposed two avenues: tax aids to those who take out dependency insurance and the possibility to convert, free of charge, existing life insurance contracts into dependency contracts. The FFSA, the French Federation of insurance companies, stated in its press release that “*insurers were aware of the need to find the right balance between public financing and a market offering. A sustainable financing of state-backed benefits and private initiatives would allow everyone to find coverage suited to their resources and needs*”.

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France – *Key figures on insurance agents*

According to AGEA’s figures (the French Federation of insurance agents, a member association of BIPAR), French insurance agents’ turnover increased by 2.8% in 2007 compared to 2006. Despite the slight decline in the market, this increase can be explained by the good penetration of agents in property/casualty (p/c) insurance and by their presence all over the country and direct contact with policyholders. Market share held by agents remains stable, with 35% in p/c and 7% in life related insurance. With an average yearly turnover of €250,000, most French agents work in small structures, employing an average of 2.4 people. At the end of 2007, there were 12,938 insurance agents in France. There are 700 new agents every year and this is likely to become an upward trend in future as 25% of agents are over 55 years old. Agents’ average age is 48 and they tend to join the business after an initial career in a different profession. Only 11% of French agents are women.

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Germany – *Financial Supervisory Authority questions sale of insurance by supermarkets*

While the sale of insurance policies by supermarkets is increasing, BaFin, the German Federal Financial Supervisory Authority, is seriously questioning whether the practices of large distribution comply with the Insurance Mediation Directive (IMD). Germany transposed the IMD into its national law on 22 May 2007. Since 1 July 2007, every insurance intermediary in Germany must register with the Chamber of Commerce and Industry (CCI) and undergo an ability as well as a practical examination. Moreover, intermediaries must have PI cover and prove that they are solvent. The various CCI are now examining how the legislation can be applied to supermarkets. Training of personnel and obligation to inform and advise clients are the two main stumbling blocks.

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Germany – *Allianz reintroduces low-cost motor tariff*

Despite a court defeat in February 2008 over reduced commissions for insurance agents, German insurer Allianz plans to launch in September 2008 a new low-cost motor tariff with a full 10% commission. Two agents had sued Allianz over the change in its motor insurance rates as a result of fierce competition and introduced a new, low-price motor policy for which agents received only a 6% commission instead of the contractually agreed 10% (see BIPAR Press Issue no 1, March 2008). Given intense competition in the market, Allianz has now been forced to reverse the decision it took in March to withdraw its low-cost tariff. Allianz has taken legal steps to obtain leave to appeal before the Federal Court of Justice. If this move proves unsuccessful, the earlier judgment will be legally binding and Allianz will have to pay the difference between the two commission levels in full to all agents concerned.

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Italy – *Implementation of new class action legislation postponed*

The Italian Parliament decided to postpone the implementation of the new law on class action for six months. This legislation was scheduled for implementation on 1 July 2008; it will now come into effect on 1 January 2009. According to some insurance market sources, the new law was passed hurriedly by legislators and needs to be amended to make it more workable. The previous law recognised 16 consumer organisations as the only groups allowed to file class-action litigation. The new legislation recognises classes as long as their claims have some tie to consumer interests. Under the current version, the law provides for a cumbersome process by which class members can file complaints which will then be decided in several phases. According to the vice chairman of Italy's risk management association, the new law "*was a basket with some rules from the US and the UK, all put together with no real serious look at what a class-action should be, especially considering Italian people are different from those in other countries*".

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UK – *FSA discussion papers on increasing transparency in regulation*

On 27 May 2008, the British Financial Services Authority (FSA) published a discussion paper that aims at identifying what further information the regulator might publish about firms and industry sectors. The FSA recognises the importance of transparency and believes that it could lead to better regulatory outcomes for firms, markets and consumers. The discussion paper contains a proposed code of conduct and decision trees which the FSA would follow when deciding to disclose information obtained from and about firms. Confidentiality issues are acknowledged but information may be disclosed in any event. Firms may be required to make additional disclosures on material given to customers. The FSA wants to initiate a full and open debate on this issue that involves all those who may be impacted by its proposals. The FSA invites comments on the proposals in its discussion paper by 29 August 2008.

In March 2008, the FSA published a discussion paper on broker remuneration for consultation (which ended in late June 2008) – see BIPAR Press Issue no 1/2008. AIRMIC, the UK Association of Risk & Insurance Managers called on the regulator to require full and automatic disclosure of brokers' pay, saying that many buyers were not receiving the level of disclosure they wished for. BIBA, the British Insurance Brokers' Association, on the other hand, believes that the current system is sufficient and that there is no evidence that commercial insurance buyers want a change. It is now working on a market agreement towards greater transparency. "*A solution that provides for greater transparency for the commercial customer in respect of the intermediary's status, the services provided and how those services are paid for, while disclosing the details of the remuneration upon the request of the commercial customer is one which has widespread support*" said BIBA's head of compliance.

The FSA will decide on which option to choose in the last quarter of this year.

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UK – Equitable Life: “No option but to compensate”

On 17 July 2008, the UK Parliamentary Ombudsman published a report on the Equitable Life 2001 scandal. She calls on the British government to apologise to the thousands of Equitable Life UK and EU policyholders who lost their savings in the near collapse of UK’s oldest life insurer and to establish a compensation scheme within 6 months for those policyholders. She reports on a decade of regulatory failure on the part of UK financial authorities. The European Parliament’s Committee of Inquiry into the crisis of Equitable Life drew the same conclusion in its report published on 19 June 2007. It found, amongst others, that European insurance directives had been implemented in a piecemeal fashion and that Equitable’s non-UK policyholders (some 8,000 in Ireland and 4,000 in Germany) were left with no adequate redress procedures and were faced with a shifting of blame between the UK regulators and the host regulators of their own Member State. The EU report also makes wider recommendations for EU financial services legislation, particularly for pensions. According to MEPs, in order to ensure pensions’ mobility within Europe, consumers must be sure of compensation rights when things go wrong. MEPs called on the European Commission to be more proactive in monitoring the implementation of legislation.

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Switzerland – Overhaul of Swiss Insurance Act

The 100-year old Swiss Federal Act on the Insurance Contract (ICA) is to be totally overhauled. In April 2003, the Swiss government appointed a group of experts that submitted its recommendations for a new ICA in a report dated July 2006. Some revisions have already been made over the last decades. Some of the most urgent modifications to the ICA were enacted in advance. The most important change deals with the consequences of pre-contractual non-disclosure and misrepresentation. Under the new article of the ICA, the insurance contract can only be terminated with immediate but no retrospective effect. Moreover, the payment of losses under the policy can only be refused in case of a causal link between the non-disclosure or misrepresentation and the loss. The expert committee has made, amongst others, the following proposals in its report: prohibition of compensation of the broker by the insurer; extension of the limitation period for claims under the ICA from two to five years; the insurer’s right to demand information about the loss from the insured is restricted to information that is “necessary” to assess the loss rather than “useful”, as is presently the case.

Once it has consulted the interested parties, the government will draw a legislative proposal. The process is expected to last several years before the implementation of the new law.

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