

Glass Steagall Act separating commercial and investment banking, denies them at home.

b) Freedom to Provide Cross-Border Services

With a single licence, banks will be allowed to market their products throughout the EC (without needing affiliates) and to operate under many of the regulations of their home country. This is already often the case, but a host country's authorization requirements can sometimes interfere; exchange controls can restrict deposit-taking or lending. The single licence will enable banks to provide fuller and more flexible services to multinational companies operating throughout the Community. At the same time, technological advances will make it easier to deliver those services from the home base. Cross-border retail banking will also be possible with the new telecommunication technologies. Under the new system, host country control will be limited to "conduct of business" regulations aimed at protecting the public interest.

c) Freedom to Extend Services

Universal banking has long been practised in certain parts of Europe. In addition to traditional commercial banking, banks have taken full advantage of the internationalization of securities markets. Many countries are deregulating their markets to prevent trading of their securities from migrating to larger centres such as London or New York.

Banks will also be able to take advantage of increased internationalization of funds management, and will be able to market their own unit trust or mutual funds throughout the Community. This right derives from the Directive on Undertakings of Collective Investment in Transferable Securities (UCITS), which was to be ratified by EC Member States by October 1989. A mutual fund authorized in one EC country is currently allowed to operate

and market in countries that have ratified the Directive.

d) Reciprocity

The wide-ranging right to deliver financial services within the EC will be accompanied by reciprocal access to non-EC countries. The Second Banking Directive provides that a non-EC bank with an *incorporated subsidiary* in a Member State will be granted a single licence on the same basis as an EC bank, and will therefore receive identical treatment.

A non-EC bank with only a *branch* in an EC country will not qualify for a single licence. The activities of such a bank will be restricted to its chosen EC domestic market. The prudent course, therefore, is for non-EC banks that currently have no presence in the EC, or that maintain only a branch or representative office in a Member State, to establish a subsidiary rather than a branch. Leaving such a step until after the Second Banking Directive comes into force may trigger the Directive's reciprocity provisions.

The concept of reciprocity contained in Article 7 of the Directive has contributed to a fear of "Fortress Europe." This issue is largely a matter of interpretation; naturally the conflicting parties have somewhat dramatized their concerns. A more measured approach will no doubt prevail during negotiations. After all, reciprocity provisions will not be retroactive, and non-EC institutions incorporated in the Community before January 1, 1993, (the date of implementation of the Directive) will qualify for the single licence. And those Canadian financial institutions already established in Europe, mostly in London, will benefit from a grandfathering privilege.

In the early drafts of the Second Banking Directive, any request for authorization by a subsidiary of a non-EC institution had to be referred to the Commission, which would decide if the state concerned offered "reciprocal treatment" to EC