

New Year Newsletter 2005

To all friends and colleagues of *iff*,
ladies and gentlemen,

We wish you all a Happy New year for 2005. I would like to hope that the year 2005, after all the zeal for reform, struggle for efficiency, all the mergers and privatisation, will be the year of "greater justice in the money society". (*If the route to iff is too long following the remarks below, start reading at no. 11 on page 9*).

We are now seeing the development of a split market economy. The better-off in our society are being offered market conditions which help them to increase their wealth, while the poorer among us are being locked into markets which drive them deeper into poverty. These markets include the secondary credit market, whose financial service providers specialise in extortionate lending, the secondary underpaid job market for the "unemployed" with its 1 Euro jobs, the secondary food market with its junk food, and secondary housing markets on the streets, the secondary market of education in public schools, the secondary health market or much more globally, the secondary market for the poor.

Where already existing secondary markets have only recently been reorganised, this can even be useful in defeating them. In the case of financial services, there is still no secondary market in Continental Europe and, where it does exist, in Great Britain and the USA, it operates primarily to exploit the weak, thereby contradicting a key precept of justice. We can overcome these new structures with the money system if we use it properly, instead of allowing our future to be dictated to by this system. The guiding principle can be justice once again. It is only a matter of knowing what it means and where it can be found.

1. Justice has a dual nature - it is at once inherently contradictory and indivisible: balancing and distributing, formal and social, defensive and participative, individual and collective. There is justice when each receives according to what he produces or owns, but there is also justice where each receives what he needs out of neighbourliness or solidarity. The bourgeois revolution of 1789 gave the justice of exchange the status of nobility, with its slogan of liberty, equality and security (ie. property). Following the Paris Commune of 1871, people returned to the lost element of justice and substituted fraternity and solidarity for the unstable third category, with retrospective effect.

The two principles of cultural history lie behind the two forms of justice, which can be juxtaposed to the space-time paradigm of natural science as a type of Theory of Relativity for the social sciences: economic viability and love. We encounter them as an unequal pairing of the striving for efficiency and sentiment, or as productivity and empathy. Economic efficiency needs the individual, while demanding his co-operation with other individuals. Without the cohesive power of love, in all its subsidiary forms, which is in fact the force for social cohesion, we could not work together. Without it, as Paul writes in 1 Corinthians 13, everything would be meaningless. That is why love is the most important economic asset, while at the same time being profoundly economically ineffi-

cient. No-one can love economically or efficiently but, without love, the economic tools of efficiency cannot work.. That is why justice is also an issue for the well-off.

The market economy is useful, but not just. Only a "social market economy", which imposes limits on itself in the form of the law, is compatible with most continental European Constitutions.

2. To him that hath shall be given. The pure logic of the market undermines social cohesion in order to increase the efficiency of the resources it exploits – competition and individual responsibility. It does so using the sole principle that human beings, fundamentally equal, take second place to their completely unequal possessions. Financial service providers justify this as efficiency when they base interest rates on income, ratings on creditworthiness or exemption from payment of fees on minimum asset levels. Dogma is completely transformed into practice in three asset-related areas, asset management (eg. Crédit Suisse), Private Banking (eg. Deutsche Bank) and Retail Banking (eg. RBS) as well as, latterly, Slum Banking (Providential). In other words, it appears efficient to give to those who already have. The converse of this logic then turns the saying into a dogma of poverty: *the poor pay more and receive less*. The market economy has not been created to develop solutions for poverty and weakness, disability and disadvantage, underdevelopment and sickness, indeed even for bringing up children and education and our social cohesion. This is apparent from the most recent figures showing the development of a stratum of poverty both in the prosperous USA and in that Mecca of finance, Great Britain, and indeed from the new German report on poverty for 2005, to which IFF made a contribution.

3. It is not the market which achieves justice, but the law: fiat iustitia et pereat mundus.¹ The capitalist economy has always needed a corrective mechanism, however efficient its development. Hegel called for a strong Prussian state, Kant for morality, the conservatives for aristocratic convictions (Lorenz von Stein, Eugen Ehrlich), Rousseau for the respect for eternal natural laws, communitarians (Etzioni) for community values. Above all, religions, before they were reduced merely to identifying evil following the fundamentalist beliefs of the "Coalition of the Willing", attempted the task of curbing the economy through the principles of asceticism, love and morality, which were then taken over by the ideological parties (Lenin, Mao, Castro, Hitler, Mussolini, Franco). All of them, religion, morality, tradition and public spirit, were set free and made a matter of individual choice which, when it takes the form of a legal personality, such as a commercial bank, is a stranger to awe.

At the same time, there is more and more reference to ethics and morality in the finance sector, corporate governance is invoked, there is an apparent concern for new self-regulation and old corrective mechanisms are conjured up in order to counter the anarchy of profits spreading through staff and management. Are these efforts genuine or merely designed to fend off statutory regulation, to placate the public or to avoid the cost of criminal and civil proceedings, as they threaten to become in the activities of the Attorney-General Spitzer in New York, an investigative judge in Milan or a public prosecutor in Dortmund who all attacked suppliers of financial services for fraud and misrepresentation? Are ethics and social responsibility really taken into account in business, or does everything we see addressing the various issues of insider dealing, falsification of balance sheets, environmental destruction, child labour, arms dealing, discrimination, usury, and Third World exploitation just amount to a cacophony of clichés? Are these

¹ The saying attributed to Kaiser Ferdinand I: "Let there be justice, even though the world perish in consequence" (www.wispor.de/wpx-ziti.htm; www.kreienbuehl.ch/lat/latein/sprichwoerter.html)



efforts ultimately taking the tools away from traditional corrective mechanisms in order to get rid of them as obsolete and, above all, to ensure that there is no opportunity for them to be enshrined in law?

Only justice made into law can now insist on universal applicability. If justice is the objective, the law must be independent of business. Consumer protection and social concern are thus important and valuable assets of a free society and it is for that reason that the current attacks by the finance sector on law in the name of business and efficiency are so dangerous.

4. Attacks on the law have many forms. All attacks are made in the name of efficiency and international competitiveness. Because the economy has already been globalised, while the law has only national democratic legitimacy, the law has become an impediment to the economy. The law causes greater unemployment. At the same time, regulations increase in the form of licence agreements, franchises, property rights are generated for us by global corporations. Curiously, the number of "politically correct" rules stifling our day-to-day freedom is growing along with the regulations of the War on Terror. The power of business, morality and security has become a new, undemocratic law leading to a new feudalism.

With the support of the German Federal Government itself (Süddeutsche Zeitung, 10.01.2005), the European Commission is planning a general attack using the Financial Services Directive and the Payment Directive. The intention is to introduce competition between legal systems, whereby corporations can choose their preferred national system, which it can then use as its law of origin. Roland Berger, German Chief Government Advisor goes even further. In his New Year interview, he calls for "All regulation 'restricting' the market to be dropped for a period of two years". (Süddeutsche Zeitung, 8.1.2005 p.18) (of course, he does not mean the law of property or his contractual claim to fees). Using the economic analysis of the law favoured by US commercial lawyers, the law would be, in the meantime, subjected to a general "efficiency check", the poacher being thus employed as gamekeeper. Social justice is inefficient, at least in business terms, and that is precisely what makes it so important as a control mechanism. There is consumer protection, which achieves its objectives inefficiently. This is where the economic analysis of law has its role. But it is abused in the suggestion that justice must be efficient. Self-regulation, the market and ethics are cheaper than the law. The point that an efficient but unjust society has more to distribute than a just society is only of assistance where the additional earnings of the exploited at least compensate for the disadvantage they suffer. The existence of a stratum of poverty demonstrates that a principle cannot be stopped. People who want more for themselves do not share it out when they suddenly get it, which is precisely why a rich man finds it more difficult to get to heaven. Since 1.1.2005, this has been put into practice for the first time in the form of carbon trading. It is now possible to buy the right to pollute the environment within globally fixed limits. The idea comes from the greatest polluter of the planet, which has long used this system to make the state an advocate for the high total quotas of its industry. If we take this ability to purchase rights further, by freezing the overall quota in narcotics offences of 3.2 crimes per 1000 inhabitants in 2003, we can auction the 255,575 crimes to the highest bidder, provided that the perpetrators act with economic rationality. Commercial law now bears no relation to indivisible justice. However, it is not only the theorists of efficiency, dressing up their desire for profit as science, who are mobilising against the law, but the globalisers as well. They find fault with its national character and its cultural barriers to universal happiness. Reformers of the welfare state such as McKinsey criticise its complexity and its distribution methods, defaming them as bureaucratic. Transnational corporations see the law as inflexible and as restricting productivity, and see cultural plurality as demanding too much knowledge, understanding and cost.



5. The world of financial services, in which only money is exchanged for money, may be seen as the cradle of this development. From the point at which people see themselves as exclusive and separate from the rest of the world dealing in products which, in themselves, have no use-value, trading in physically or electronically secure information about purchasing power, a new, international culture of the pure money economy is disseminated with all its advantages, but also its curse. No needs, no strivings and no human destinies can now hinder the majestic uniformity of this commodity and its sale. Money knows no boundaries, no needs and no national cultures, which is why the conversion of already meaningless currencies into the EURO did not unleash any culture shock. Money talks wherever there are communications, equalising, levelling cultures, it is centrifugal. But it is also precisely this threat which defines it. The enormous benefit it brings in the production of big units, rational production methods, the ease with which it can be comprehended, its rapid effect and its socially recognised mechanism for rewarding and penalising prudent conduct is both blessing and curse.

The blessing is promulgated by globalisers, neo-liberals, the financial magnates of the metropolises, the World Bank, the European Commission, the IWF and the WTO. The curse is proclaimed by representatives of Attac, the Catholic church, the Third World, some left-leaning political parties and members of the Verband der Sozialhilfeempfänger (association for recipients of state benefits), now swollen to 1.4 million. The former fight poverty with capital – with loans (micro-lending), with capital cover for retirement provision and by expanding the market. The latter cling to the historical defensive struggles of legends and religions, philosophies and moralists against the modern world, scourged by the power or illusion of money, its miserliness and its dreams of riches, the dehumanisation and cold-heartedness of its abstraction from culture and humanity. Their analysis is often right but what they want is largely unacceptable. Where money does not rule, something else does. The rule of money has made democracy possible yet, as in the Goethe's *Sorcerer's Apprentice*, or in the myth of the easy life, broom and shovel come to life and defeat the bad sorcerer. These stories also teach us that the problem does not lie in the magic of money but in its use by wicked sorcerers, whose power is taken away through the broom and shovel. Ultimately, only the law can control money. The illusion, which iff has also fostered, that social finance could become established as a market strategy, was too good to be true.

6. Committed Bankers, in whom humanity and business are unified, who combined being a citizen with being a member of the bourgeoisie, always took this into account in the past, at a time when morality, tradition and religion still had more power. A Jewish banker, my friend David Caplovitz once told me, always supported a writer, a poet, a musician or a philosopher within his family as a balance. They were philanthropists in private, professional bankers like the Rothschilds (Niall Ferguson, *The House of Rothschild*, two volumes, Penguin, September 2000) and the Warburgs (cf. Kaznelson, S., *Juden im deutschen Kulturbereich*. Berlin 1962, p. XVf.), as well as the Hamburg banker and patron, Salomon Heine, who used his wealth to save the city after the fire of 1842, and who supported his financially chaotic poet nephew, Heinrich Heine. Since banker personalities have been replaced by managers of the major banks, the means have become the ends. Bankers are now the interchangeable officials of their balance sheets and are often mere imprints of the international money markets, with no culture, dependent on imaginary targets for own capital returns. Like the new head of of the World's leading bank in Germany, they operate in countries whose language they cannot speak or whose culture they do not understand, like the Swiss head of a major German Bank, who, smiling, put up two fingers to the cameras in a victory sign over judge and



public prosecutor in the Dortmund court before which he had been brought as defendant. His meaning was that there could have been no issue of bribery and corruption when his actions had been commercially appropriate and efficient and the shareholders had profited as a result.

The banker personalities of history would not have ventured far to bring their services to the needs of ordinary people. They fought against loans for small businesses, which they considered immoral, and they supported the fight against small usurers. They knew that their system could only be applied without problems where both sides, lender and borrower, were subject to the same mechanism and where money increased for its own sake. As money flowed into the area of consumption and employment, anchoring there more freedom and choices, financial services were left to specialist institutions such as community *Sparkassen* (savings banks) or co-operative financial services. Mutual credit institutions, co-operative collection points and lenders developed money as a means of giving economic power to solidarity. The very law which governed credit and banking assisted where it had been developed to maintain cultural traditions, boundaries and the targeting of needs, and the hunger of commercial money capital met its limits.

7. In the sections on usury contained in §138 *Bürgerliches Gesetzbuch* (German civil code) the law imposes an historic limit on the market. Similar paragraphs can be found in all civil codes such as the Austrian usury legislation or the law on undue influence contained in Art. L 123-8 of the French Consumer Law, or at Common Law. Thus, § 138 (immoral legal transaction; Usury):

(1) A legal transaction running counter to decent moral standards, is a nullity.

(2) In particular, a legal transaction through which a person exploits the adverse circumstances, inexperience, lack of means for making a judgment or significant weakness in the will of another to secure for himself or a third party material advantage, or a promise of the same, in return for a benefit, which material advantage is clearly disproportionate to the benefit in question.

This principle has been freed by judicial precedent from morality and adapted to the modern, de-personalised form of finance. Usury is no longer "evil", instead the achievement of a return made possible by market conditions, but which is legally unacceptable.

At the beginning of the 1980s, German judicial precedent (see the *Neue Juristische Wochenschrift* of the *Bundesgerichtshof* 1981 p.1206) extended individual usury in paragraph 2 by social usury in paragraph 1, moving away from wicked "exploitation". Social usury defined the rational outcome of conduct appropriate to market conditions as contrary to decent standards in circumstances where exploitation of market opportunities led to the systematic disadvantage of entire groups of borrowers. Doubling the standard price is an irrefutable indicator that the market and justice have become incompatible. Further, the "Theory of the Specialist Market" was expressly rejected, with its usury limits set at different levels according to risk groups. This judicial precedent, like the administrative upper limits imposed on interest rates in Holland, Belgium, France, Italy and similar devices in the Scandinavian countries, sets a justice requirement for the market, sanctioning breaches as market failure.

In its study of Consumer Protection Regulations against Overindebtedness in 15 European Countries, iff compiled a picture of the continental European heritage of social consumer protection for the European Commission, which set out the prohibition against usury in its many ramifications.

Anatocism, which the Italian Court of Cassation (judgment no. 21095/2004) only recently protected from banking practice until the end of 2004, thus prohibits the automatic accrual of interest charges on current accounts, which causes an avalanche of interest because of the interest charged on interest. All continental European legal systems set statutory upper limits on interest



on arrears, because the market is no longer producing acceptable interest rates for stranded debtors in relation to its enforcement costs. German law moreover provides for the priority of paying off the debt over the payment of interest in the context of arrears. French (and US) law prohibits a bank from using its power in the credit relationship to control small businesses. French and Finnish law provide the judiciary with powers to shape social relationships and devise a credit repayment schedule appropriate to the debtor's social circumstances. Common Law recognises the prohibition against improvident extension of credit. Swiss law similarly has modernised and consolidated its usury regulations with its equivalent of the draft new Consumer Credit Directive in the requirement of "responsible lending", in which the lender is obliged to take the circumstances of the borrower into account. Most legal systems contain comprehensive protection in relation to arrears, with French law leading the way. Mortgages and consumer credit are increasingly being afforded the same protection. Most legal systems, with the exception of Great Britain and the USA, see lending as a dangerous service, which is reserved to the banks and subject to particular vigilance.

8. New EU policy is suppressing a nascent consumer policy with its draft Consumer Credit Directive as Gerhard Rudolf Baum (Liberal Party) former German Home Secretary noted, as an unsuspecting witness. We can indeed take the contents of the final CCD draft from the speech given long ago by the representative of EUROFINAS to member consumer credit banks. It went as follows:

"For competitive reasons, Eurofinas clearly supports maximum harmonisation, vehemently opposes the proposed widening of the concept of the consumer, advocates the unification of time limits for review and withdrawal in the various European Directives, supports abolition of the requirement of writing in the wake of the growth of online business and disputes the principle of associated transactions and the consequential consolidation of indebtedness."

We have opened a special multilingual (<http://www.money-advice.net/ccd>) which will soon also be open under <http://www.responsible-lending.net>.

Different actors now dominate the Brussels stage. Lawyers have been replaced by economists, GD Consumer Protection and Social Policy by GD Market. In their world view, consumers become "users", hungry for information, who are the main beneficiaries of the "common market", as well as of access to the usurious products of predatory lenders. "Consumer protection" (singular) is replaced by "consumer advantages" (plural). Consumers no longer want to consume, they want money not as a means but as an end. The Anglo-American banks set the tone, and an alliance of the British, Irish and Dutch banking ministries, which, in co-operation with the Trade Department of the USA, determine the policies followed by their pairs in the other states. The language has changed and all others feel incompetent. As a result, Continental European social policy is on the defensive in Brussels. For that reason, French and German High Street banks are more active there than at home, because their national governments, weakened by accusations of exceeding the deficit limits, of "anti-competitive" support for mutual *Sparkassen* and of "anti-community" protective legislation on behalf of the socially disadvantaged, are an easier opponent.

After 20 years of active financial services policy-making, GD Consumer Protection has withdrawn from this area, and closed down the relevant department. It now concerns itself primarily with consumer education in financial services and overall with health. GD Social Policy, which has responsibility for poverty and social exclusion, has discovered the alternative sector and promotes protection against social discrimination through support for alternative micro-credit providers in its Social Inclusion programme. Markets and social policy have moved over to the credit provider side. Consumers must once again search for their government in Brussels. Both



DGs are applauded by EUROFINAS, EBA, VISA and even Worldbank and the UNO, whose "year of micro-lending 2005" has been highlighted in place of its development programme as a cost reduction programme for the developed countries.

9. 2004 saw the development of an Euro-sceptic vision now in the mother states of the EU. In this vision Europe might mutate into a 26th state governing our cultures from Brussels.

Like Washington D.C. in the USA, Berlemont could become the 26th state of the EU, with its own state religion ("Good is, in itself, the common market, free of state and law"), its own language ("Banking English", into which concepts like "solidarity", "social market economy" and "public responsibility" are almost impossible to translate), its own population (Euro officials, business lobbyists, week-end parliamentarians and Belgian service staff), businesses that prop up the State (multi-national corporations), its own state bank (the European Central Bank) and a politicians' stock exchange for foreign policy compromises without Minister of Culture, sports associations, churches, trade unions, small businesses, political parties, television and press. It could give rise to a culturally uniform United States of Europe (USE). It would incorporate a spare-time parliament, with no backbone, no population to represent, no critical press and no expert knowledge from the government it controls, thus relying on experts from industry. Legislation (the "Lamfalussy Process") and political programmes (i.e. "Post-Financial Services Action Plans") would be transferred to "expert" committees dominated by the most efficient providers and the Court would administer the European "economic idea" like the Oracle of Delphi. The government of the 26th state, whose key positions would operate in the areas of business rather than policy, could lose touch with its countries of origin, whose populations would show less and less interest in elections for that distant country, which would seem to govern them like a colonial power. While its Commissioners live on call, its officials, stranded for life in that state, could represent an idea rather than a state, and ultimately would only be able to see an obstacle to unification, a cost factor and protectionism in all cultural differences, and especially in the behaviour of citizens and consumers. The 26th state would then have made a lethal copy of the structure of trans-national corporations, with their deployment of managers, for whom the cultural diversity of consumer desires and national legal systems of an entire continent have become a nightmare for their profit and cost planning.

All of this was probably not in the mind of Robert Schuman, first President of the European Parliament, of Walter Hallstein or Alcide de Gasparis, all of whom were multi-lingual, dreaming of a democratic Europe with many states and diverse cultures. The new draft constitution of finance expert Valéry Giscard d'Estaing seems very different from Art. 74 para.16 of the German Constitution, into which the Allies, who overthrew Nazi-Germany and its ruling cartels, forced the "protection from abuse of economic power".

10. What can we do? We should commit to the principle of indivisible justice in the EU. The law (and not the administrative orders issued by committees of experts) must be given primacy at European level over the economy. A broad coalition of all organisations representing human interests is needed, for which money is merely a means, not an end. Prominent individual bankers belong in it, who bring money and morality together and see themselves as servants of the community. Judges, lawyers and officials belong in it, who recognise the state and its laws as a professional ethos, not merely as a means of optimising economic outputs. Christians and Muslims, people with moral or ethical values belong in it, who are committed to reining in the market and the striving for profit. We should meet in 2005 for a first Conference following the efforts of the third world in Rio.



In 2005, we should search our laws for the parts which set limits to the words "to him that hath shall be given". That includes the fundamental principle of the usury threshold and the prohibition of usury in all its forms. We must treat those creditors who discriminate, through their differentiated pricing policies, against the more disadvantaged consumers labelling them as bad debtors and charging them higher fees only because they have less income similarly. We should monitor the City of London, Wall Street and Frankfurt, and lend support to systems like the Money-Advice.net Database . The financial press, which ranks banks according to the best interest rate for the highest incomes, not the worst, should be challenged for misleading by omission. The new Consumer Credit Directive must be blocked as long as it fails to meet the minimum standards under national law and fails to take social justice into account. We must conduct careful research into credit card loans from VISA and its likes, through which social destruction spreads in Britain and the USA, in order to evaluate the effects of their unrestricted availability under the new Draft of a Payment Directive.

The Brussels expertocracy must be made subject to parliamentary control. The national states must remain the centre of activity in relation to European politics. Europe's origins lie in the places where Europeans live, not a 26th state. For that reason, there should be no such thing as a maximum harmonisation principle in the new credit Directive and no competition between consumer and labour law systems (mutual recognition, home country control, single passport). The law of the country in which the consumer can vote and debate is the one which should apply to that consumer. Representatives sitting in the European Parliament should also be able members of their national parliaments so that they are answerable to the public and that they represent the people in their work. The Council of Ministers should become a supra-national organisation in which consistency, expertise and representation before the Commission is guaranteed. Special responsibilities in Brussels should have a duty to specialist responsibilities in the Member States in terms of information provision and accountability and the national opposition should maintain representation in Brussels.

What we need is a just Europe. If we fail to achieve this, we will get fundamentalist substitute religions, which restrict the hunger for boundaries and social cohesion through more political correctness, robbing us of more of our freedoms, providing us with images of enemies and leading us into ever more wars. We cannot allow the limits of our democracy to be drawn more narrowly through 3% hurdles, privatisation obligations and the right of money to seek a return anywhere and in every form. For 2005, we wish for an active legal policy, which supports the existing culture of the national states and creates a democratic Europe of diversity, law and culture. In this form, business plays an important role, but not the only one. With the failure of the Social and Economic Council to resist to economic power we should create an expert council for social justice, which would produce the poverty and wealth reports in Europe.

11. In 2004 iff had a difficult but productive year. We had to reduce our outgoings by 1/3 and sacrifice staff in order to focus on areas which secure sufficient income. Remarkably, commissions from seven different financial service providers in all areas (including those criticised in this newsletter) provided iff with work at a time when foundations, the European Commission and the government expect instead short-term, cost-effective consultancy to guide the economy as a model for a sustainable future. We take seriously all financial service providers wanting us to test their products, who are curious about consumer-friendly product designs or socially responsible products, who want to set up a financial education programme, who enable critical co-existence of consumers and banks in constructing the future or who seek new ideas and critical feed-back through software,



the Internet or consultancy. For that reason we would work for organisations like e Citibank, Noris or GE Money if they would find our work useful. The organisation and the voluntary Board of Directors will ensure, as they have done for the past 17 years, that iff cannot be "bought". What can be bought from us is an internal evaluation, which we compile and make available together with our loyalty and confidentiality to financial service providers exclusively for making improvements. What we will not do for anyone – whether or not presenting under the guise of a non-profit or charitable organisation - is provide research or a service which degrades people to a means for making a profit. .

Nor have we sat on our hands in this difficult year. 10 substantial tenders for EU research – often with over 20 foreign partners – were unsuccessful. Among them were applications for an Internet portal on financial services and consumer law, which involved European adult education centres, an application of over 100 pages relating to an inter-disciplinary project concerning ethics in financial services and involving professors and other faculty members, a study of acceptable forms of micro-lending with a number of European partners, the evaluation with PaySys and its European network, evaluation of the exchange Directives, applications relating to small business finance and Asset Backed Securities, a programme with the Institute for Economic Research, Halle on the analysis of financial areas of risk in the accession countries, etc. This took up more than 30% of our time. Having been commissioned continuously by the EU since our first project in 1983 and delivered successfully, last year we did not receive a single commission aside from appointment to the expert committee of GD Market FIN-USE, of which iff provided the chair.

We have nevertheless been able to achieve a great deal. Our draft legislation on integrated financial services information, for which we drafted a General section as well as, with the participation of an advisory committee of experts, systematising scattered regulations and setting out rigorously the most important principles: the financial aspects of consumer protection, the objectives of regulation, information principles, advice and education with reference to other legal systems. We delivered it to the *Verbraucherministerium* (Ministry of Consumer Affairs) in mid 2004 and hope to publish it in the course of 2005. At the same time, we developed an alternative draft Consumer Credit Directive, with argument, on behalf of European consumer organisations, which was tabled in the European Parliament.

The periodical *Verbraucher und Recht* (Consumers and the Law), which iff has edited for a number of years, will appear in a new layout from 1.1.2005 in its 20th year, with more content, new publisher partners and we expect it to stimulate considerable interest. With the energetic support of our Chair, Frau Prof. Dr. Marlis Dürkop, we have entered into a new contract of co-operation with HWP, which will be taken forward in 2005 with Hamburg University, and we envisage a lasting relationship in the areas of education, research, archives and management. Discussions with the Vice-President of Hamburg University, who is also interested in working with us professionally in the area of small business research (at present commissions are pending), were also very positive.

Our calculation service for consumers and lawyers was extended, as was the production of short expert reports. We are also active in acting for the courts as experts, and the *Bundesgerichtshof* (German Supreme Court – 'BGH'), in a judgment which has attracted considerable attention, followed the opinion we provided at first instance to the Stuttgart *Landgericht* (District Court – 'LG') concerning pre-payment indemnity . Our **finanzcheck** has provided consumer centres with software enabling, with its simple philosophy, all financial services to produce a cash-flow model from the perspective of users, which can be used for comparative purposes, significantly improving inde-



pendent financial advice. We have organised a symposium on overindebtedness for the German organisation of payment incidences SCHUFA, and contributed a chapter to its *Schuldenkompass* (Debt Compass) on experience abroad. Our third Consumer Debt Report has been drawn up for 2005 for consumer and welfare organisations. In relation to private retirement provision, a feasibility study and a number of sessions have taken place in preparation for an education campaign, which is intended to disseminate greater knowledge and awareness. We have collaborated in insurance rating and attempted (thus far in vain) to obtain finance for organisation of the 6th European Financial Services conference. Our Financial Services Information Internet System has expanded to include well in excess of 40,000 documents on the financial services market from the user perspective. We have sent analysis of all major draft legislation, such as the *Rechtsdienstleistungsgesetz* (legislation governing legal services), the new Consumer Credit Directive or the *Alterseinkünftegesetz* (legislation governing retirement pensions) to the relevant Ministries, some in the form of letters, and it was apparent from the detailed responses that what we said was read attentively.

As President of the FIN-USE group of experts to GD Market, I invested considerable time in the course of 2004 in both Hamburg and Brussels to work on the first report of this group to the Commission which has since been published on the Internet. For January 2005 we decided that iff should withdraw from this council of experts..

12. iff staff in 2004 also worked hard and with commitment during these difficult times. Their efforts were rewarded by the fact that iff is once again in good financial health for the New Year and the absence of bigger projects can be compensated for by numerous smaller research projects and services.

Achim Tiffe continues to be responsible for retirement provision, banking law, as well as being active in the Tests. Isabel Herwig will return to iff in February on a permanent basis following her second round of national examinations, replacing Helga Springeneer, who remains our contact partner in the area of money advice in the *Verbraucherzentrale Bundesverband* (national consumer organisation). Isabel Herwig has a qualification in business studies as well as being a lawyer with proficiency in a number of languages, and she will take over responsibility for insolvency law, as well as international contacts and activities. Karen Beyer, who is qualified in vocational teaching and in economics, and has long experience in adult university education, is developing our financial literacy projects. She works with the Hamburg Savings Bank and the Hamburg school authorities on the "Banking in Schools" project; she also works for a hire purchase bank on development of their client correspondence for crisis situations and is involved in EU consumer education projects. Michael Feigl focuses, in addition to the FIS Internet database, which will remain open only to our clients in 2005, on product and service testing. He and Achim Tiffe have conducted advice tests on behalf of individual service providers and, for the public, The results were published in four consecutive issues of the magazine *Öko-Test*. Consumer centres have also been tested for the first time, which has led to a series of debates which may finally turn out to be useful for all those involved. In this context, iff has formed a team of silent shoppers and interviewers and is now able to provide a special test design, the contents of which advisers have tested as far as they were able. Leonore Michaelis has taken over responsibility, in her capacity as acting manager, primarily for financial project management, over-arching project co-ordination and the marketing of our finanz**check** and CAWIN software products. During this difficult period, iff was (and is still) visited by inspectors from the European Commission, the *Forschungsministerium* (research ministry) and the Hamburg *Finanzamt* (tax office) over a total period of more than four weeks, which took up considerable amounts of time and, more importantly, created a great deal of uncertainty. They were nevertheless, to the extent that their work has been concluded,



very pleased with us. This occupied all of the time of one member of staff. Ilona Kotek, who worked for iff for 10 years, left us at the end of the year. Following her maternity leave, she worked for us for 8 hours a week, and we would dearly have liked to keep her on, but for financial reasons we were unable to offer her a permanent position. We take the opportunity of offering her our sincere thanks for all the invaluable work she has carried out for iff. The absence of Internet research contracts has also forced us to rely in the future primarily on external resources and help through our close co-operation with our CTNM partners. The same applies to software development. While Oliver Hansen is responsible for the network and the web-site, Matthias Cantow has moved beyond the status of student assistant and is responsible for all of the software development relating to finanz**check** and CAWIN.

Angela Gruber has our overall office management under control. In 2004, we gained international strength through our guest professors Szpringer, from Poland, and Schwartz from Canada, as well as our Italian lawyer. We thank Prof. Saul Schwartz once again for his considerable support in numerous English language projects. At our traditional Christmas dinner, there were 28 people working with or for iff. We thank them all here once again.

13. 2005 will see us again engaged in a series of publications. We will be publishing our manuscripts "Financial Literacy in Europe" (Nomos), "Consumer Debt and Regulation in Europe" (Ashgate/Dartmouth) and our project report on "Consumer Information in Financial Services", *Schuldenreport 2005* (Berliner Wissenschaftsverlag) as books. Our Nomos Social Finance series contains a number of gems worthy of attention. We hope that we will be able to carry out a causal analysis of insolvency data, which would be important to SCHUFA's preventative work. In this regard, we are planning an integrated evaluation of SCHUFA data, money advice data and data from the SOEP panel. The Banking In Schools project is intended to develop into a cornerstone of the Hamburg school teaching syllabus. There will be a new version of our CAWIN 7.0 programme to incorporate the changes following Hartz IV. A detailed reader's letter in editions of the Süddeutsche Zeitung about the tools we have developed for a small business finance and advice centre resulted in first orders from the medical profession. finanz**chec** will be expanding beyond the area of credit to cover retirement pensions as well. We want to work hard on the international conference, and it is essential that it address extensively the subject of European credit and pension law. We will be co-operating in this area with English colleagues working on Debt-On-Your-Doorstep, who have invited us to on 1.2.2005 and speak on protection from predatory lending in rooms in the English Parliament. We will also be working with colleagues from the USA at NCRC, whose President has visited us. We will be returning his visit in March. It is, however, of high importance for us to work with **colleagues in France, Belgium, Italy, Spain and Portugal**, precisely because the problem of predatory lending has yet to be dealt with in those countries at national level and because the word "solidarity" originates there. Colleagues from those countries need to understand that even Paris will be swallowed up by a 26th state. In the area of retirement provision, we hope that, after 2 years' preparation, we will be starting up the education campaign in September. In the meantime, we will be producing a new brochure on retirement provision for the Deutsche Institut für Altersvorsorge (German Institute for Retirement Provision).

Many national newspapers from Portugal, France or the USA have called us requesting assistance or interviews. Financial television is a regular visitor, with the result that we have acquired the role of authority for the public. Is it worth it? In the sense of formal justice, no. In the sense of social justice, definitely yes.

We are concerned to see the developments of a European statute on contracts, which is focussing on commercial law and, as a group of specialists has already stated in their manifesto,



the social dimension has been neglected. Previously, the model was UN purchase rights as a pure economic right. We would like to put forward as an alternative to the General Section of a European law a right of Social Long-Term Debt relationships. A network from the areas of employment law, landlord and tenant law and financial services law in Italy, France, England, Scandinavia, Canada and Germany could develop a legal system for trade unions, and tenant and consumer organisations, which would link the lifetime factor in with the capital use factor. The old Roman law entity of *locatio* (rental of services, goods and capital) would be worth taking up in relation to the social dimension of consumers, tenants and employees. As always, however, this depends on finance. Ideas are welcome.

Best wishes on behalf of the Chair and staff of iff to all those with an interest in the work of iff and, once again, my personal thanks for your attention.



(Prof. Dr. Udo Reifner, Director)

P.S. The following protocol from Debt-On-your-Doorstep, UK has reached us just now. We would like to inform you about plans on a series of national conferences as well as a final international conference. After the EU-Commission seems to have opted for liberalising national markets which will profit predatory lenders these conferences should alert the public on ongoing developments. We are looking for activists in each country which can organise a meeting in its own country between September and November 2005 and design delegates for the European conference. Already now consumer and welfare organisations, money advice organisations, church action groups as well as universities and politicians are supporting the idea which we want to spread to parties and trade unions. There will be a website www.responsible-lending.net where activities will be co-ordinated.

DooD National/International Conference

Financial Inclusion for All: Responsible lending in Europe

November 2005

Dept on our Doorstep has met with representatives from the National Community Reinvestment Coalition (US) and IFF, the institute for financial services (Germany) as well as New Economics Foundation and Community Development Finance Association in the UK, and has realised the potential for working together on issues of most relevance to the international issues of debt, credit and micro-finance initiatives.

Key aims

The key aims of the conference are to:

- Developing a common agenda between UK, US and EU partners in relation to strategies for tackling over-indebtedness, promoting responsible lending and financial inclusion.
- Promote debate about economic justice, financial inclusion and community reinvestment
- Learn from efforts to promote financial justice in the US and elsewhere within the EU
- Decide what the various actors can do to promote financial inclusion and responsible lending

National Community Reinvestment Coalition (NCRC) Conference Washington D.C. March 15,2005 on International Issues of Credit and Debt

http://www.ncrc.org/traningandassist/annual_conference/2005NCRC_AnnualConference.pdf

