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Barriers to Provide Cross Border Services

Case Study Nordea

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Abstract/Summary

There is an increase of financial integration, which can be seen in recent mergers of banks, financial institutions etc. in the European Union especially in the Nordic countries. However there are some weaknesses in providing consumers cross border services in the sector of banking, such as cross border bank account transfer of payments. The existing transaction costs do not encourage cross border services. Nevertheless a customer of a global or European bank can anticipate to be treated the same way in all of its branch offices inside the EU countries. Therefore in order to understand why this occurs the problems leading to this should be explored. This thesis is about the identification of the barriers to cross border services in the banking sector using “Nordea” a merger of four banks in four different Nordic countries as case study. Moreover, the Nordic countries were chosen as target research countries given the proximity and similarity of these countries (i.e. Finland, Sweden, Norway and Denmark) therefore they also are the most densely financially integrated countries compared to other EU countries.

The first part of this thesis introduces a case study of a merged bank functioning across borders. This case also demonstrates the problems of law influencing the barriers to provide services to its consumers across borders while under the same bank. Following the introduction and analysis of the case study, a second dimension is added which is corporate branding. The meaning of the corporate branding in the case of cross border mergers is examined.

Lastly, the results from the interviews conducted at Nordea will serve as a base to understand the meaning of corporate branding in the case of Nordea. This thesis will also provide a legal framework for the consumers on how and why the functioning of cross border services of banks work in certain ways. The Euro Regulation and EC Directives on improving services hence their effect on the functioning of banking transactions will be examined. This thesis explores why it is so and what can the EC legislation do to facilitate it. By analyzing the corporate brand a consumer perspective is added and to figure out how consumers can benefit more in terms of using cross border services in the globalizing world.

ABBREVIATIONS

COMMISSION	EUROPEAN COMMISSION
EC	EUROPEAN COMMUNITY
EU	EUROPEAN UNION
ECJ	EUROPEAN COURT OF JUSTICE
NORDEA	NORDEA GROUP
etc	etcetera
i.e.	id est
e.g.	exempli gratia
p.	page
SEK	Swedish Kronor
FIM	Finnish Markka

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Chapter 1. Introduction

1.1 Background

How much do we, the people of the European Union actually benefit from the financial integration occurring in which the Commission takes pride in saying? In today's world where the consumers are guided and influenced by brands and competitive global markets; do we actually have a saying in the more competitive European markets or are we merely victims of market powers? When a consumer in another EU-country e.g. sees a bank that carries the same name as in its home country have the right to expect the same treatment as it would be in the "same" bank in its home country carrying the same name? Or is this just misleading the consumers?

Nevertheless the generic integration and creation of the single market are the foundation of European cooperation. Harmonization of regulations and rules among financial companies and achieving common standards have given way for "the dream" of a single market for the financial services sector (as well as for all the different sectors of business) in the European Union.

In parallel the significance of corporate branding in industries is increasing. In order for companies to compete on European markets not to mention on global markets the significance of corporate brands is crucial for the survival of companies. Customers can relate to brands and companies in turn improve their strategies so that customers can trust them, but is this always the case? In the case of the financial services sector in the European Union, many questions raise. Firstly, since financial services sector is fully dictated by law thus financial services are creatures of law: is it right for companies in the financial services sector to create a cross border brand when the product is services and those services cannot be provided across borders due to problems of harmonization? Is the corporate brand image so important that is created on the expense of its consumers?

1.2 Problem Formulation

The financial services sector in Europe still has a long way to go before achieving harmonization of rules and thus improving the conditions for its consumers.

Question is still out in the air whether or not it ever will be feasible for a total harmonization in the financial sector? Nevertheless, the Commission of the European Union is working hard to develop and enhance integration among the financial services markets in Europe. The different set of national rules in terms of tax, contract law and banking law including currency, credit as well as liquidity and insolvency laws within the financial sector remain nationally monitored and are extremely difficult to harmonize. Nevertheless, European Union legislation makers have acknowledged these problems and are attempting to facilitate cross border interaction by various kinds of secondary legislation(i.e. directives and regulations) to help the integration and harmonization process. Some of the directives have already been implemented and thus facilitate the process for cross-border mergers in the banking sector in Europe hence also for cross border transactions. Mergers and acquisitions activities among all industries are a trend for companies to keep competitive on globalizing markets. Mergers in Europe among banks have occurred mostly between neighboring countries that geographically share the same kind of culture and size hence such as the Benelux and Nordic countries in Europe. Henceforth when compared to other European Union countries Nordic financial integration, it is the most progressive in Europe to date. ¹

According to Schultz (2001) he says that the brand is the core that keeps the different companies together. ²After any kind of merger activity a new corporate brand must be created thus in order to obtain and keep new and old customers, a trustworthy brand must be reinforced. In the more competitive European financial markets to have preferably a globally known brand is an asset.

In order to understand the problems hindering cross border services to its consumers the barriers affecting this concept must be identified. Thus, the identification of the problems of law hindering banks to provide cross border to its customers in Europe is essential in order to be able to find out the corresponding new legislation the European Union has

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Bibby, A; "The bank that is trying to become a European Company" Financial Times 2005

² Schultz D;" The Core of the Integration Process is the Brand" *Marketing Management, Spring 2001:page 37*

formulated and implemented on a European level to facilitate mergers across borders as well as cross border services and thus improve the conditions for consumers on a individual level.

The case study demonstrates the challenges and opportunities for a company implementing European Union legislation regarding the banking sector. From the business administrative perspective according to Hatch and Schultz (2003) they say that the customer is in the center of the branding process. They add that many companies are struggling to become customer oriented with all the change and refocusing that it requires as well as different kinds of legal and human resource management uncertainties.³

Nevertheless, he stresses that for any company in order for its product or service to succeed it must become customer-focused. The first element that customers can relate to is its brand. The essence to the problem formulation stemmed from; when there is a lack of cross border services to its customers is a merger in the banking sector more than just a creation of a corporate brand from a consumer's point of view? This problem triggered the base for my study in the light of integration of banks regarding to corporate branding in the European Union.

Nonetheless my main focus of my research problems is to identify the barriers to provide cross border services and the meaning of corporate branding in the sector. More precise research questions are presented below:

RQ1: What is the meaning of corporate branding in the light of cross border mergers in the case of Nordea?

RQ2: What are the problems of law hindering cross border services particularly in this case the transfer and payments in the financial services sector of the Nordic countries?

RQ3: When the problem of law is identified: what can EC legislation do to facilitate cross border transfer of payments?

³ Hatch M-J& Schultz M" Bringing the corporation into Corporate Branding" *European Journal of Marketing*" Volume 37, Number 7; pages 1041-1064, 2003

1.3 Purpose of the Study

The purpose of this study is to identify the barriers hindering cross border services in the financial services sector in the European Union. By identifying these barriers it aims to answer the main research question of how much the integration process in the cross border financial services sector has benefited the consumer or if it is merely a corporate branding strategy? The meaning of the corporate brand in the case of merger in the banking sector shall be used as a base to understand the objectives behind cross border mergers.

This thesis aims to look at the technical and legal barriers for banks in the Europe Union to provide the same products to their customers across borders. When these barriers are identified hence the different relevant legislations, directives and rules are introduced to see what the Commission has done to in their attempts to solve the problems and what problems still exist.

This has been done by implementing the rules to a case study and analyzed how this company is functioning and why. The thesis is approached from a consumer's point of view as well as it is written for the consumers. Hence, the users of cross borders services which are the customers of financial institutions are provided an understanding of the aspects of banking and EC law affecting the matter.

1.4 Delimitations

This thesis concentrates mostly on the Euro Regulation and the different EC Directives on the areas of law that have an affect on the research question. Hence the aim of this paper is not to identify all legislation available to the problem but to explore what the Commission is doing to improve the conditions to enhance cross border services and to protect the consumers in the European Union.

Since the methodology used in this thesis is to examine a case study that is also a merger of four banks, it was my primary intention to research aspects relating to mergers and acquisitions, but during the discourse of this thesis the main research question changed and as a result the impact of elements relating to the success and failures of mergers shall not be considered in much detail.

Laws that dictate rules for the banking sector and the banking supervision in different countries play a big role in determining the conduct for the banking sectors in Europe. The different national laws in terms of all the elements relating to taxes; dividends, credit, insolvency and contract law will be examined accordingly to the relevance to the research question. However the complex issue of taxes in this thesis shall not be considered, it would require in depth scrutiny and would be a new topic in overall. Nevertheless the complex issue of taxes and tax law is in the background affecting conduct of practice as well as decision-making power of the top management and governments and thus cannot be disregarded as a whole.

Insurance markets are a significant part of the banking/financial sector in the European Union. However, I will not focus on the insurance part of the financial sector since I will focus on banking services between countries. Insurance is considered a service but in this case I will not emphasize on issues related to capital investments and individual contracts related to all aspects of the insurance sector.

Another aspect relating to the banking sector is free movement of capital. To distinguish free movement of capital from free movement of services in the banking sector is a tricky one. Banks provide products, which are capital related as well they provide services which are capital related. Nevertheless, harmonization of regulations on free movement of capital is the most difficult since the national interest of taxation is the trickiest one of all freedoms. The objective of the EC Treaty⁴ was to abolish progressively restrictions to the extent necessary to ensure the proper functioning of the common market. This has influenced the way in which ECJ is ruling on free movement of capital. ECJ is constantly creating new case law as well as new secondary legislation in order to facilitate and protect the free

⁴ See the Consolidated version of the Treaty establishing the European Community. Official Journal C 325, 24/12/2002 P. 0033-0184

movement of capital. However, in this thesis retail banking services are identified as services of the four freedoms and the EC laws protecting free movement of services shall be explored and thus free movement of capital shall not be examined in detail.

There are many separate national rules in all areas hindering the process of cross border transactions. Such as the:

1)National rules related to the liabilities in payment services, 2)National rules related to burden of proof in payment services, 3)National rules related to consequential damage in payment services, 4)National rules related to values dates in payment services, 5)National rules related to non-resident accounts, 6)National rules related to the right to revoke a payment, 7)National rules related to liabilities in payment services, 8)National rules related to burden of proof in payment services, 9)National rules related to value dates in payment services, 10)National rules related to the right to provide service.

All of these rules are national and differ slightly from each other in the four different Nordic countries. All of these countries have their own supervision authorities as well consumer protection authorities. However in this context the emphasis is on what the Commission has done to improve the conditions for banks to provide services and not on the problems relating to different national laws.

1.5 Outline of the Thesis

Throughout this work the descriptive and analytical method of research is used simultaneously in order to facilitate the coherence and the flow of thought. In order to help the readers understand the flow of thought in this study, firstly, the banking sector is introduced with providing some background to the European, more specifically to the Nordic financial markets. Subsequently, the case study of Nordea is introduced and described. At this point the “practical problem” of the study is introduced by using Nordea

as the case study. Following this, a thorough framework on the banking sector and of different regulations and rules on an EC level is examined in order to figure out the weaknesses and barriers to provide cross border services. Some areas of law are explained in order to give some background to the financial sector in the European Union. Some contemporary commission reports shall be examined to indicate what the Commission is doing currently to improve conditions of consumers in the banking industry.

Subsequently, the relevant EC legislation is implemented into the company (Nordea attempts to adapt the SE-regulation) to provide the reader an understanding of problems and opportunities of occurred financial integration. The interviews conducted at Nordea Sweden and Finland serve as a base for my analysis on the meaning of corporate branding. Lastly, the results are analyzed and subsequently, an attempt to answer the research questions.

1.6 Relevance of the latest updated version

This thesis is strictly conducted using information and documents from the internet lastly updated on August 18th, 2005. After this date subsequent laws have not been taken into consideration since laws and legislations can have changed after that time period. Commission is working constantly to improve different banking laws and new EU legislation is implemented quite often thus one has to mention that the latest updated version of this thesis is from August 18th 2005.

Chapter 2. Methodology

In the following chapter the methods which were chosen to be conducted in this thesis will be introduced and described.

2.1 Selection of Methodology

Since business administration and law apply different types of research methods, I will explain both of the methods I used parallel to each other.

2.2 Research Methods

The business administration literature on corporate branding and identity by Hatch and Schultz (2003)⁵ was the starting point for the business part of the thesis. Besides the relevant literature on the subject that was used through out this thesis, some empirical data was gathered. A qualitative research method was chosen to best fit the aim of the study, thus this thesis was more on analyzing “how and what” something is instead of the “outcome” of a quantitative study would be. Four in-depth interviews were applied together with the gathered secondary data thus in order to gain an information background and a first insight into the problem. The analysis of secondary data is used as the base for my research. The data of Nordea as a case study is used as secondary data which works as a base for this thesis and works best as the qualitative research method to be able to best provide in depth detail and specific company related investigation.

In addition the identification of the relevant rules was applied. This seemed at hard times since the corresponding secondary legislation and rules in the banking sector are nationally bound and it was difficult to find the exact up-to date EC rules since the Commission is working even today to come up with new proposals.

In addition I want to comment that this thesis is not a comparative study but a qualitative descriptive thesis.

2.2.1 Selection of Industry and Company

The banking industry in the European Union is facing changes when the trend of consolidation thus more cross border mergers are taking place in the banking sector.⁶ The financial markets of the European Union Member States are integrating to enhance business across borders. Nordea is one of the pioneers and the biggest player in financial consolidation in the Nordic countries thus it is a “banking giant” in the European markets.

⁵ Hatch M-J& Schultz M” Bringing the corporation into Corporate Branding” *European Journal of Marketing*” Volume 37, Number 7; pages 1041-1064, 2003

⁶ This is also facilitated by new EC legislation

In the Nordic markets it has triggered a lot of interest across borders since consumers can find almost 1 200 different Nordea local bank offices in four different countries, but still the banks cannot cooperate together in such way that the consumers would have some concrete benefits of being a customers to Nordea across borders. I felt that to provide a thorough analysis of the barriers relating to financial services, I would choose an integrated market and merged company. The Nordic countries are the most integrated in Europe also due to geographical similarity, and the proximity of welfare systems. I feel that Nordea as a merger of nine national banks as a case study will provide an accurate picture of challenges a contemporary bank in the European Union is facing when trying to improve its performance across borders. In addition, Nordea as a case study can provide a good illustration of the challenges that the banking sector faces when attempting to implement European Union legislation. Nordea was a good example as well since there has been previous research conducted on its brand image building thus can be analyzed and used in the research relating to corporate branding.

2.3 Gathering of Data

The primary data obtained and used in the process of the analysis of the study is from five interviews. These interviews were conducted in Stockholm and Malmö and two on-the phone interviews to Helsinki. They took the form of one hour in depth interviews. The other interviewee had been the head of the integration process of Nordea and the other one was the regional manager of Nordea. The structure of the interview was open-ended so not all primary data can be applied in this thesis. However, the information acquired at the interviews was recent and thus very significant to the result of this study. The interviews took place at the respective companies and all of the respondents chose to conduct the interviews at their own offices.

Secondary data and additional information was retrieved online from the European Union legislation web pages as well as from business law journals and articles. Surveys and questionnaires conducted by the European Commission were also used throughout the discourse of this thesis. Relevant literature on the topic included articles from contemporary business administration journals and articles found online and in these journals.

2.3.1 Data Analysis

The primary data of this thesis was obtained from five interviews, however during this thesis one of the interviews became less relevant. This interview was conducted over the phone to Finland but when the focus of my study shifted more to the EC law perspective, this interview became less relevant to the analysis of the thesis however it is important to the overall background overview.

Subsequently only four interviews were analyzed in relevance to the outcome of the study. Some parts of the interviews were used as an oral source to back up my conclusions and results directly. Some of the questions I raised during the interview were part of their strategy and they were not allowed/want to answer them. However, part of my research area is still under process so some data was not attainable since the interviewees themselves don't know the results (i.e. some of the difficulties relating to the implementation of some regulations to improve the functioning thus harmonization of the financial services internal market in Europe.) Nevertheless, the main issues of the interviews were:

- Nordea's current standing and the transformation to a SE-company and its effect to corporate branding
- Nordea's current strategy of expanding and future goals
- The actual benefits to its customers
- The significance of EC Law
- The difficulties of the post merger time

For the legal part of the thesis, various kinds of Commission reports, press releases, consumer surveys⁷ as well working papers were used in the discourse of this study. All of the above mentioned secondary data such as the articles, commission press releases and articles were used together with the case study to summarize and conclude the

⁷ SEE: **Consumer Protection: "Survey: the use of simplified/standardised financial services products in the EU15"**(2005) [Online]

Available from: http://europa.eu.int/comm/consumers/cons_int/fina_serv/cons_experiences/index_en.htm
[Accessed 15.5.2005]

and **Consumer Protection:" Qualitative study: cross-border buyers of financial services"**(2005) [Online]Available from: http://europa.eu.int/comm/consumers/cons_int/fina_serv/cons_experiences/cross_border_final_report_en.pdf
[Accessed 15.5.2005]

Commission efforts to compare the outcome of the interviewees in practice. In other words, Nordea's example together with the interviews demonstrated the effects of the Commission's legislations in practice. From the business administrative side, the interviews were compared by applying existing theories to the actual case study in practice. The patterns of the primary data was related to the secondary data as well as to the legal part of the study by analyzing and using the case study of Nordea as a demonstrative example.

2.4 Criticism on the Methodology

Since there is no research conducted specifically on my topic, it was most straight forward to use a case study as part of the methodology. The case study of Nordea is a contemporary subject of financial integration in Europe also because it will be one first companies to adapt the SE-regulation, however, in terms of the business administrative side to use Nordea as a case study is rather challenging and broad since the company is a cross border merger indicating many research questions, thus the thesis topic can be too broad. Also to find the connection between the business research and the problem of law was hard to see at first, but during the process it became clearer however due to the few number of interviews (four interviews conducted) there is a threat of superficiality that may diminish the quality of the research. As a criticism towards the chosen literature one can mention the large amount of electronic sources which is considered not desirable, however many of the important data was mostly attained from the Commission's website and hence was contemporary and thus very crucial to the research process and to come to final conclusions. This thesis is more a flexible overview rather than in depth analysis usually implemented in the business administrative side. The focus took a business law perspective where it is relevant to find a problem of law then to find the exact corresponding regulation/law to try to apply to the problem.

Chapter 3. Case Study of Nordea

This chapter aims to provide a general overview of the company chosen as the case study to illustrate the basis for this thesis. In the following chapter the largest banking retailer in the Nordic countries will be introduced and explained in general. Firstly it will provide some general background followed by its business activities to give the reader a better understanding of the company.

3.1 Introduction of Nordea

Nordea is the leading and largest retail bank in the Nordic countries in Finland, Sweden, Norway and Denmark. It is also the leading asset manager in the Nordic financial market with 131 billion Euros (including private banking) under its management. After the mergers of nine banks in the four countries this meant an inheritance of a lot of little local banks across these countries, thus Nordea has the most comprehensive distribution network in the region including 1,198 bank branch offices across the countries. This retail banking provides a broad range of financial services for personal and corporate customers. Nordea operates in Poland and the Baltic countries as well. Together in these four countries, comprising of Poland, Estonia, Latvia and Lithuania there are 64 branch offices and 1498 employees working in this region. In total Nordea employs 28 929 people in 1198 locations around the Nordic and Baltic region. The offices in Poland and the Baltic States are subsidiaries of Nordea.

Furthermore on Nordea's business activities hence what kind of services it provides can be summarized in the following way: Corporate and institutional banking is responsible for the relationships with large corporate, shipping customers and financial institutions as well as the delivery of products and services related to international trade and to foreign exchange, debt and equity capital markets. Corporate and institutional banking is furthermore responsible for the international branch network. Additionally, Nordea share is listed in Stockholm, Helsinki and Copenhagen stock exchanges.

Nordea holds a significant market share in Finland with approximately 40 per cent in the Finnish markets. In Denmark Nordea's operations consist of 25 per cent whereas in

Sweden 20 per cent. In Norway Nordea holds only 15 per cent of the banking sector market share. Nordea has the largest customer base of any financial services group in the region, including 9.6 million personal customers, 930,000 corporate customers and 1000 large corporate customers.⁸

3.1.1 Nordea's Process of Consolidation

The merger and acquisition activity of creating “Nordea “a bank among four national banks has been a long process. Firstly, after Finland and Sweden joined the European Union, it gave way to a merger among four national banks in Finland, Sweden, Norway and Denmark.

Firstly, there was consolidation in each of the countries domestically. In 1995 Finnish and Swedish commenced to merger domestically. In Finland the bank of KOP (Kansallisosakepankki) and SYP (Suomen Yhdyspankki) joined forces together merging and becoming Merita. In Sweden Nordbanken, PK-Banken and Gotabanken merged becoming Nordbanken Sweden. In 1997 two years after Sweden and Finland joined the European Union the shareholders of the Finnish bank Merita accepted the public offer from the Swedish Nordbanken Holding, and the two companies merged becoming Merita-Nordbanken. MeritaNordbanken became one of the leading banking groups in the Baltic region, with strong positions in two home markets.

At the time of the merger in (2000-2001) the customer base comprised of approximately 6,5million private individuals and nearly 300,000 companies. Shortly after that, Nordic Baltic Holding was established in the beginning of 2000 by the unification of the Finnish Merita Abp and Swedish Nordbanken Holding owner companies. In October same year in 2000 the name of the new Nordic group was proposed to be Nordea. This enhanced the company name recognition already earlier before the company name was taken into use. Nevertheless, the new company name of Nordea was taken into use in 2002.

⁸ Please view APPENDIX 2 for a graph on the development

Later on the Danish bank of Unidanmark comprising of three Danish banks, i.e.: Andelsbanken, Privatbanken and SDS were added to the Nordea Group.

In 2000 after the Norwegian Christiania Bank and Kreditkasse merged; this Norwegian Christiania Bank was acquired and became part of the Nordea Group bank. They were the last bank to join the Nordic Holding Group the Nordic Vision was embarked. Nordea was talking about a dream to be the first true Nordic bank.⁹

After the merger and acquisitions action and creating the name of Nordea, the Nordic bank became the leading financial services group in the Nordic region in 2002.¹⁰

By this way, Nordea acquired a competitive advantage of being the largest retail bank in the Nordic countries. Additionally, Nordea has an advantage of scale and scope as reflected in their total assets.¹¹¹² In addition to after the mergers, Nordea inherited 416 branch offices in Finland with amount of 8380 employees¹³ hence Finland being the largest part of Nordea. In Sweden, currently, ¹⁴Nordea has 249 branch offices and the amount of employees reach 7141 respectively. Nordea in Norway is the smallest contributor to the distribution of Nordea with its 125 branch offices as well as of 3411 employees working at these locations. Denmark's part of Nordea is the second largest with 344 branch offices as well as 8469 employees working in Denmark.

After Nordea became the largest bank in the Nordic countries, this triggered a threat on a macroeconomic scale of smaller national banks facing insolvency in the case of smaller players losing customers to Nordea(who with its advantage of size could offer better deals) However, due to competition, this has not proven the case, since the national players in the Nordic countries have kept their competitiveness and there is a fierce competition going on regarding customers in the Nordic countries.

⁹ Interview: Timo Jalamo, Nordea Stockholm, 26.4.2005

¹⁰ SEE APPENDIX 1

¹¹ Currently Nordea has a total assets worth of EUR 276 billion and EUR 131 billion assets under management and EUR 21.8 billion under market capitalization

¹² Annual Report 2004; Available www.nordea.com Accessed 27.4.2005

¹³ Some branch offices in Finland have been abolished

¹⁴ Currently: Accessed:16.4.2005

3.2 Challenges for Nordea

Since Nordea Group was a “structural legal and organizational mess” after the four national Nordic banks merged into one, the creation of the complex legal organization took time to organize. Nordea’s struggle after the complications and struggles of combining the different national and different corporate cultures finally organized itself and took the form of this legal structure.¹⁵(see appendix 3) Nordea itself claims that they themselves did not anticipate the massive and complex legal problems occurred when trying to combine and work together with four different national laws. They were not expecting that the legal complexity was going to as big as it transformed into.¹⁶ There was a clear need to simplify the legal system. This triggered way for interest in the European Company regulation. Nordea already expressed its interest in the adaptation of the regulation in 2002, when the Nordea brand name was established as well as when the very first cross-border activities were provided. (Customers could use Nordea-electron and Nordea cash machine cards at the Nordea ATM-machines cost free in any of the Nordea countries ; i.e. Finland, Sweden, Denmark and Norway.)

After the difficulties of having different corporate cultures as well as the still existent barriers to legal integration, the new organization of Nordea started to formulate its structure in 2002.¹⁷(see appendix 4)This organizational structure is complex with many different organizational units with their own national cultures. The organizational structure among the four countries is divided into operational divisions rather than national divisions.¹⁸(see appendix 4). This organization differs from the legal organization because legal organization is country bound from where Nordea is trying to get away from. This is one of the reasons why Nordea is also interested in implementing SE-regulation, since after the adaptation of the regulation, Nordea will officially become a European Company with no binding to national interests.

In order for Nordea to improve its efficiency, integration of its financial services across borders is said to enhance Nordea’s economies of scale and scope. Because Nordea’s

¹⁵ PLEASE VIEW APPENDIX 3

¹⁶ Interview: Timo Jalamo, Nordea , Stockholm 26.4.2005

¹⁷ PLEASE VIEW APPENDIX 4

¹⁸ PLEASE VIEW APPENDIX 4

strategic vision in 2004 is to emphasize on risk management, by implementing the SE-regulation, risk management performance could be better controlled.

According to Bernstein (2004) an immediate corollary of integration is the creation of a deeper more liquid and thus more efficient market. The resulting wider pool of participants will increase the variety of the risk profiles and facilitate the risk diversification, resulting in a possible prices reduction when compared with the smaller pre-existing markets.

Even though the Nordic financial markets are along with the Benelux countries the most integrated the, end products to end users remain characterized as local. The integration and merger of the four banks has enhanced cooperation for cross border activities on a corporate level but at the other end of the product service chain where the interaction of services providers with the individual customer takes place, activities remain largely locally organized when targeted at consumers.

However, Nordea Group uses the same advertising campaigns in certain countries as a way to decrease costs. According to their annual report Nordea has been able to cut costs in the year of 2004 by 5%.¹⁹Nordea pursued a strategy of establishing a common mutual culture and did not focus on each of the four countries specifically, but rather emphasized the corporate culture which has a united business organization. This business organization can be characterized as customer centric with common segmentation and customer programming. Goal was to expand the core customer bases in all four countries, since Nordea already had strong distribution facilities in the countries. They pursued to exploit large customer bases and strong distribution power by concentrating on continuous improvement in local customer programmers as well as improving the product range.

The focus of the business strategy and marketing strategy was on customer and business organizations rather than on concentrating on legal entities and countries. Decisions and investments need to be business and profit driven, so in order for Nordea to enhance its profit, the significance of its shareholders and customers is crucial not to abandon in the

¹⁹ Nordea Annual Report 2004

process of a merger. ²⁰The main principle of Nordea's strategic planning after the merger was to "keep things simple". Key factor was to manage transformation and reduce complexity. However, since banks and financial services are creatures of law, the law governing financial services is troublesome. *This was especially burdensome with the burden of duplicity of national laws. The legal structural organization at Nordea was more costly and time consuming than was anticipated; this created a need for other solutions regarding the legal aspects of Nordea. This was also a way to improve over all performance of the company. This triggered Nordea's interest for adapting the SE-regulation, where burden of legal aspects could be coordinated and consolidated.

Nevertheless, some process in the cross-border synergies between different branches has been established. Nordea wants to improve efficiency and reduce costs by creating an organizational structure (both legal and management organizational structures). This indicating way for fewer management layers to improve speed and time to market. The SE-regulation will facilitate this goal as well. Structural growth is considered as a complementary strategy. Nordea implemented a continuous improvement in keeping costs low by structural cost reductions. One of the most significant goals of Nordea was to reduce the complexity of the different organizational structures in all four countries. In the corporate governance side, Nordea concentrated in buying back their shares thus implementing various buy-back –programs and dividends to ensure capital efficiency.

To summarize one can see that on these markets hardly any direct cross-border provision of services takes place. Nordea in its four countries separately, (in Finland, Sweden, Norway and Denmark) have kept their local character of the channels for marketing and distribution of mainstream financial products.

Chapter 4. The Banking Sector

This chapter will give a brief overview on some of the goals EU wants to implement in the banking sector in the European Union in general. The purpose of this

²⁰ Interview: Timo Jalamo Nordea Stockholm 26.4.2005

chapter is to introduce some background relating to the integration process of financial services across borders in general.

Traditionally banking sector is a classic service sector and has been extremely domestically concentrated. Especially in the Nordic countries where the liberalization begun by Finland's Sweden's and Denmark's membership to the European Union, hence the national industries are still highly regulated and entry barriers of the national markets remain high. Not even European companies are able to penetrate national markets so a way to expand and to fight global competition is to attempt to go as "big" as possible oneself. The harmonization process in the banking sector has proven hard as well, mainly due to positive and negative harmonization barriers which will be explained more in detail further on in this study.

Additionally, since the 1990's credit institutions in the EU have increasingly engaged in cross-border mergers (Nordea is not the only bank merging) Trends of mergers between banks can be seen in most Member States. This trend is driven by intensified competition between different financial sectors and the utilization of synergies in the development of various financial products (such as the Internet-banking). However some financial analysts say that this development in the domestic markets shall be seen in the light of further consolidation being a limited possibility²¹ There is also a trend towards establishment of cross border branches instead of subsidiaries in the Member States, which Nordea will be the first bank to implement using the SE regulation. Will the implementation of the SE regulation enhance Nordea's opportunities to provide services across borders? Will Nordea's customers Europeanize and will they create a demand for cross border activities?

4.1 Financial Consolidation in the Banking Sector

This chapter will give a short overview relating to the development phases of financial and banking sectors in the European Union aiming at a single common market.

²¹ See Danish Bank Online: Available from:
[http://www.nationalbanken.dk/DNUK/Publications.nsf/1c326d7c6cdf6f66c1256c080048787c/cbd9e4e7273311d2c1256ea1003e5411/\\$FILE/kap06.html](http://www.nationalbanken.dk/DNUK/Publications.nsf/1c326d7c6cdf6f66c1256c080048787c/cbd9e4e7273311d2c1256ea1003e5411/$FILE/kap06.html)

In this chapter I will briefly introduce the historic background for the commencement of financial integration in the banking sector in general in the European Union. The liberalization of national rules and deregulation of transactions at the end of 1980's meant a great step forward towards an integrated banking market in the European Union. The actual integration commenced already on 1977 with the implantation of the first banking directive²² permitting the establishment of branches in other Member States, however primarily under home-country supervision. The second banking directive was followed, which enabled banks to pursue business in other Member States based on their home country license merely by informing the host country of their presence in the form of a branch or cross-order activity.²³ This directive controls the mergers and acquisitions of banks relating to the taking up and pursuit of business of credit institutions.

4.2 Objectives for a Single Market in the Banking Sector

In order to achieve a single common market for the banking sector thus facilitate businesses to provide cross border services, three main aspects will be discussed from the EU legislations.

Firstly, the main objective of banking harmonization is that the capital required covering both credit and market risks fall under the same laws and practices governing access to banking activities.

Second objective of the single market aim in banking is that the limitation of large exposures to a single borrower or a single group of associated clients, and the form content and valuation rules of the annual and consolidated accounts published by banks could be harmonized subsequently, falling under the same rules.

Nevertheless, these legislations recognize the need for the essentiality of home-country control reinforced through cooperation between national supervisory authorities-which indicating a bank operating in other Member States will be supervised by the authorities in

²³See Directive 2000/12/Ec which hereinafter was called the consolidated banking directive which then transposed itself to "Second Banking Directive 89/646/EEC

the country of origin; which is the country which has issued the single license and in which its registered office is located.²⁴

Additionally the subsidiaries of credit institutions are supervised on a consolidated basis which means the significance of mutual recognition by the national supervisory authorities of the rules and regulations in the countries of origin of the banks operating on their territory is not feasible.

Subsequently, the granting of licenses for subsidiaries of banks with registered offices outside the Community is in principle governed by the same rules, subject to the international agreements entered into by the Community.²⁵

4.3 Competition as an element of integration

Market integration is one of the main objectives of the EC Treaty. Competition is the key element in order to achieve integrated markets in the internal market. The objective of establishing an internal market requires the removal of barriers to the four freedoms. There is an increasing competition in the banking sector as well. However, " ..competition is monitored by Articles 85 and 86 and is intended to further support the rules for free movement by preventing firms from replacing protection enjoyed for over a century as a result of state action by agreements to keep out of each others markets...."²⁶ The banking sector in the Nordic countries realized the potential to integrate and merge.

Nordea operates in three of countries that are members of the European Union thus obliged to the treaty of Rome 1957. (Norway is part of EEA-which in practice has adopted the same rules as in the European Union)²⁷

Banks operating under the common single market has proved to be a challenge since national regulations affecting the free movement of capital has been easily justified compared to other three free movements. Articles relating to free movement of capital have been drafted differently compared to free movement of workers, establishment and

²⁴ Three pillars of banking "Available: [http:// europa.eu.int/scadplus/leg/en/lvb/124002.htm](http://europa.eu.int/scadplus/leg/en/lvb/124002.htm)

²⁵ SEE Three pillars of banking" Available: <http:// europa.eu.int/scadplus/leg/en/lvb/124002.htm>

²⁷Norway has adopted the European Union's custom's code and the majority of the associated regulations and commercial policies

services. Some progress has been made indicated by Articles 28 and 29 which strike down domestic rules which can constitute barriers to trade between the Member States. Nevertheless, these rules do not strike down all such rules because both the treaty itself and (Article 30) and the case law developed under Article 28 (*Cassis de Dijon*²⁸ and *Keck*²⁹) recognize that there are public interests that may be protected by domestic rules.³⁰

Chapter 5. Legal Understanding of Cross Border Services

In this chapter I will provide the legal framework for the legal perspective part of the thesis in order to understand the way the European Community Treaty affects the banking sector. I will start off by defining the meaning of “services” across borders on a general level. Subsequently, I will go in depth with cross border payments and see what kind of rules the Commission has developed in order to improve the transactions across borders and what still needs to be done.

5.1 The Principle of Freedom to Provide Services

In the following chapter the general legal framework to provide services will be explored. The freedom to provide cross border services is set out in Article 49 of the EC Treaty. Free movement of services one of the “fundamental freedoms” which is central to the effective functioning of the European Union’s internal market.

The principle of freedom to provide services enables an economic operator providing services in one Member State to offer services on a temporary basis in another Member

²⁸ See Case C-120/78 *Cassis De Dijon*

²⁹ See Cases C-257&268/91 *Keck*

³⁰ Korah, V, “EC Competition Law and Practice” Hart Publishing, Oxford 1997
Steiner J Woods L, “Textbook on EC Law” Oxford University Press 2003

State, without having to be established.³¹ In order for an individual, undertaking to benefit from the right to provide services, article 49 indicates that the person in question natural or legal must already have a place of establishment within the Community. Hence a permanent economic base must be established whether it is under the real seat or incorporation theory of European company law. These provisions have direct effect. This means, in practice, that Member States must modify national laws that restrict the freedom to provide services, and are therefore incompatible with these principles. This includes not only discriminatory national rules, but also any national rules which are indistinctly applicable to domestic and foreign operators but which hinder or render less attractive the exercise of these "fundamental freedoms", in particular if they result in delays or additional costs.

In these cases, Member States may only maintain such restrictions in specific circumstances where these are justified by overriding reasons of general interest, for instance on grounds of public policy, public security or public health; and where they are proportionate. With the development of the rules regulating EU internal market, on going case law has been created in the field of freedom of services to facilitate to provide services across borders

Normally free movement of services is provided for remuneration and there is no strict interpretation. The remuneration shall constitute "consideration" for the service in question.

5.2 Definition of a "Service"(s)

In order to fully understand what a service is and more clearly what is meant by financial services, we must take a look at the services provided by the banking sector. But firstly the meaning of services across borders will be defined. Subsequently, the meaning of the internal market from the perspective of European Treaty will be described and discussed.

³¹ Article 49 EC provides: Within the framework of the provisions set out below, restrictions on freedom to provide services within the Community shall be prohibited in respect of nationals of Member State who are established in a State of the Community other than that of the person for whom the services is intended.

Freedom to provide and receive services is one of the trickiest since there is no clear definition of what is a service. In economic sense, there are many aspects that can be related to the term “services”.

In the service sector, to provide services is intangible per se. In contrast with goods, services are more difficult to define and in practice service crossing borders has not been feasible.³² Defining the exact scope of each of the freedoms is not an easy task either.

The provider undertakes to perform now or in the future a series of tasks over a specified period of time towards a particular objective. The intangible characteristics of the economic function are responsible for a number of key attributes. Firstly, there is no intermediate level of exchange between provider and the recipient. Most services are enjoyed or consumed at the same time as they are produced therefore the physical presence of the provider is required in the place of provision. Hence, most services cross borders only when provider does.³³ This makes it hard to define a service.

In the banking sector banking services are dictated by law both national and EC law as well as contract law. These issues will be dealt separately in the following chapter. The economic value of financial services is largely defined by the contractual obligations of the parties. Another factor that differentiates financial services from other services is that they can cross the border with or without the service provider and therefore are products of international contracts. Additionally, free movement of services unlike the free movement of goods has never developed a Dassonville-like formula³⁴ and henceforth has not felt the urge to retreat into a Keck-like case law.³⁵

There are many kinds of financial services in the banking sector but here are the most significant ones being analyzed in this thesis.

- “*Cross-border payments*” means: “*cross-border credit transfers*” being transactions carried out on the initiative of an originator via an institution or its branch in one

³² See Gkoutzinis A, “ Free Movement of Services in the EC Treaty and the Law of Contractual Obligations relating to Banking and Financial Services” *Common Market Law Review* 41:119-175, 2004 page 120

³³ See Gkoutzinis A, “ Free Movement of Services in the EC Treaty and the Law of Contractual Obligations relating to Banking and Financial Services” *Common Market Law Review* 41:119-175, 2004 page 129

³⁴ See Case C-8/74 Dassonville

³⁵ See Cases C-257&268/91 Keck

Member State, with a view to making an amount of money available to a beneficiary at an institution or its branch in another Member State; the originator and the beneficiary may be one and the same person

- “*Cross-border electronic payment transactions*” being:
the cross-border transfers of funds effected by means of an electronic payment instrument, other than those ordered and executed by institutions,
- “*Cross-border cash withdrawals by means of an electronic payment instrument* and the loading (and unloading) of an electronic money instrument at cash dispensing machines and automated teller machines at the premises of the issuer or an institution under contract to accept the payment instrument
- “*Electronic payment instrument*” means a remote access payment instrument and electronic money instrument that enables its holder to effect one or more electronic payment transactions;
- “*Electronic money instrument*” means a reloadable payment instrument, whether a stored-value card or a computer memory, on which value units are stored electronically³⁶
-

These are definitions used in the Euro Regulation made to improve the conditions for cross border payments. Cross border M&A of banks is governed by Directive 2000/12/EC relating to the taking up and pursuit of the business of credit institutions (Hereinafter the “Consolidated Banking Directive”)³⁷ which has among others become into the body of the law Second Banking Directive 89/646/EEC. These directives will be discussed more in detail further on in the following chapter.

³⁶ Regulation (EC) No 2560/2001 of the European Parliament and of the Council of 19 December 2001 on cross-border payments in euro

³⁷ See Directive 2000/12/EC which hereinafter was called the consolidated banking directive which then transposed itself to “Second Banking Directive 89/646/EEC

5.3 Company Law

In this part I will take a look at the existing and ruling European company law affecting the conduct of business as well as which aspects of company law have a negative impact on the operations of banks in the European Union.

Some of the fundamental barriers lay in the early development phase of European company law. The essential framework of national laws created a pattern that was hard to harmonize in terms of company law in Europe.

The European Community company law is an important aspect of the creation of the single market. The development of the European company law has been said to be influenced by the German style of strict regulation and that was said to be rigid and prescriptive.³⁸

5.3.1 Negative and Positive Harmonization

There are two different ways to harmonize different set of national laws. Firstly negative harmonization refers to measures and actions which Member States should abolish hence no *de novo* rule-making and standard setting will be involved. Negative harmonization is a way of eliminating restrictions on free movement of capital and services has been said to be the cornerstone to functioning cross border financial services.³⁹ Nevertheless positive harmonization is when new rules are introduced and in the case of financial services it refers to law of financial contracts. Positive harmonization has given way to introduction of a lot of secondary legislation attempting to harmonize the banking sector.

The use of various directives has made the process of balancing the different interests among different parties more flexible over time. However, the development of functioning company law has not been burden and barrier free. To fully understand the process one has to look at when the harmonization process started and how it is in general.

³⁸ See Villieus C; "European Company Law-Towards Democracy" Aldershot : Ashgate/Dartmouth ; 1998

³⁹ Steiner J& Woods "Textbook on EC Law" Oxford University Press 2003;page259

The objective of the harmonization program was that companies in the European Community could operate under similar legal structures with comparable rights and obligations. The steps taken by the European Community were focused on approximation of the laws of the Member States in order to facilitate the creation and functioning of the common market and aimed at providing equivalent protection for shareholders and third parties in each Member State together with facilitating freedom of establishment for companies. This further led to a European Community company law which now influences significantly the national company laws of the Member States.

However, the harmonization program was not defined clearly. The EC Treaty refers to equally to “approximation” of laws as to co-coordinating laws in order to give “equivalent” safeguards to the relevant members and third parties. This does not indicate a complete unification of company laws. Directives are regarded as primary legal instrument for harmonizing the company laws in order to achieve the single market in the European Union.

There has been a lack of will to create identical laws in terms of the harmonization program in Europe hence that has been problematic.⁴⁰ There was the threat of the Delaware effect where Member States would compete with each other in order to attract business by creating more relaxed rules. The aim of the more liberal rules was said not to protect stakeholders and third parties but to provide a convenient juridical basis for the creation of companies and thereby to gain more money through taxation and use of services.⁴¹ “...The harmonization program was stemmed to avoid this phenomenon. In regard to this problem is that the adoption and implementation of directives has been so far fragmented and leads to the accusation of the harmonization program being a disaster (Frankenstein model) insofar as it has been pieced together without any real control over what was really being created.”...⁴² Scholars talk about the “salami tactics” where it is difficult to agree to one directive without knowing how other aspects of company regulation will be treated by a later directive. However, mutual recognition and harmonization of laws

⁴⁰Villieus, C; “European Company Law-Towards Democracy” Aldershot : Ashgate/Dartmouth ; 1998; page 220

⁴¹ Edwards, V;”EC Company Law” Oxford University Press, Oxford 1999; page 154

⁴² Villieus, C; “European Company Law-Towards Democracy” Aldershot : Ashgate/Dartmouth ; 1998; page 259

is still under process. There are conflicting views on harmonization and in some areas only mutual recognition is applied. The difference between harmonization and mutual recognition is that when mutual recognition is recognized new laws are not needed but in an attempt to harmonize new secondary legislation is required like it is the case in banking.

5.3.2 SEA-agreement and SE-company ways to harmonize

An important development in the early stages of creating a common market and to fight against the recognized barriers in achieving a functioning internal market was the signing of the Single European Act. (SEA) A White Paper issued by the Commission in 1985 had revealed that despite the Community's long existence, several barriers still existed to the achievement of the single internal market. One way to fight the barriers was to establish the EEIG (European Economic Interest Group). In the case of an EEIG company, the location chosen affects the law applicable to the EEIG as well as the tax position. Another way for the Commission to abolish barriers was to create the SE-company regulation. The SE-company regulation has had a difficult history. SE regulation states that a grouping must compose of at least two companies, firms, or other legal bodies which have their central administrations in different Member States. The SE regulation is contemporary again since the SE regulation came into force in October 2004 and currently Nordea is one of the first companies in attempting to implement the regulation with the objective of becoming the first "European company in Europe" under the same legal system of the parent company.

Chapter 6. Barriers to Provide Services

In the next chapter I shall provide a brief overview on some of the major barriers hindering the integration process of the banking sector in the European Union. Moreover in the following chapter the underlying reasons hindering cross border services shall be identified and described but firstly some relevant company law as well as some aspects to harmonization process shall be described.

6.1 Barriers to Banking Cross Border Mergers and Acquisitions

Firstly, in the case of a merger and acquisition activity the term “barriers” identifies the various reasons why cross border banking M&A has occurred at a slowed pace and less extensively than in other sectors. There many different kinds of barriers from various areas. However here are some of the most significant barriers:

- Legal Barriers: the different set national of laws
- Economic barriers: in order to be sensible, a concentration must bring value to the company carrying on the transaction and bring value to its shareholders:
- Regulatory barriers/technical: regulators can impede a concentration either on the basis of competition law concerns or on the basis of banking stability concerns
- Accounting and tax barriers: the transaction can resolve into a material change of the balance-sheet
- Cultural and linguistic barriers: these differences can be deterrent for the creation of transnational banks: they concur with the legal barriers to the creation of a domestic retail market⁴³

In this chapter the barriers to further consolidation shall be dealt separately.

6.2 Technical Barriers

One of the biggest barriers to full integration thus economies of scale as well as creating customer value are the different technical barriers. In the case of a cross border merger, there will be different countries where the operations of banking services shall be conducted. This itself constitutes a problem, when the different operating countries have s have different customer data base systems thus different consumer protection laws. This hinders the proper functioning of cross border cash flow and payments in the retail banking for consumers.

⁴³ Banca Intesa :Report on Cross Border Mergers and acquisitions among banks ”Memorandum on Existing Legal Barriers and Antitrust Considerations” May 2005

Hence the customer personal identity numbers are not under the same system in any of the countries. Legal and political aspects were raised related to mutual customer base. Is it feasible to share the customer data bases? The different national consumer protection laws hinder this process. ⁴⁴The debate is still out in the air whether or not still will be feasible in the future but at the moment it is not possible, due to national consumer protection laws in all of the respective countries.

Subsequently, at the moment banks are trying to face the challenges brought by the different legal systems which differ in all countries. Moreover many banks are facing discouraging legal uncertainties in the area of e-commerce which limit the effectiveness of the internal market. This problem is also detrimental to its consumers as it restricts access to various services and to greater selection of services. (But for example Nordea; they attempt to reduce costs in consumer transactions and they emphasize the fact there is a need to implement electronic payments in all environments and circumstances.

The major force behind in the integration process of the banking systems has been the development and improvement of technology. Increasing advances in computer, telecommunications, information, transportation and other connecting, hence cooperative technology have improved the limited banking possibilities of its customers across boundaries. Nevertheless there is a lack of technical harmonization and there is a need for more harmonization of technical aspects of e-commerce e-g the harmonization of national standards for the recognition of electronic documents.

The lack of harmonization is seen as the major problem of many professionals at the Commission. National divergences in the implementation of directives cause enormous compliance costs for companies that try to establish their activities in more than one Member State as for companies from non-European countries. (This is the case for Nordea.)

Existing legal framework for E-commerce is under debate and professionals are trying to figure out the best way to tackle down the issues. Regarding on-line effectiveness, it has been enhanced largely by the E-commerce and E-signature Directives. It is argued that the

⁴⁴ Finnish consumer protection authorities: www.kuluttajasuojavirasto.fi/Swedish Consumer Protection authorities: www.econsumer.konsumentverket.se/ Norwegian Consumer Protection Authorities www.forbrukerombudet.no/ Denmark Consumer Protection Authorities: Forbrugerstyrelsen www.consumer.dk

country of origin regime functions despite the existing gaps in the financial services sector. Nevertheless, some remaining barriers still exist and affect the business concerning consumer transactions. This are deliberately is not bound to country of origin regime, and usually national law of the consumer's country applies.

Internet banking has improved with use of SWIFT-codes across countries as well with the use of IBA numbers. These operations are one of the rare advantages to a "regional customer" who desires to operate in more countries simultaneously, meaning on an individual level the transfer of money as well paying bills over the internet across borders.

Future ideas on e-commerce have been proposed. There are several directives on e-commerce to facilitate cross border services.⁴⁵ There is a suggestion of series of legal mechanisms for the reduction of paper in the financial services sector i.e. electronic identity management for citizens (national identity cards, digital certificates) and companies (deploy mechanisms to allow companies to identify themselves). This identity management of citizens shall represent and entitle mechanism and possibilities to exchange documents with public administration by electronic means. Nevertheless the future of this is still insecure.⁴⁶

6.3 Problem of contract law

The exchange of to provide services is governed by contract law. Problems in relation to using, agreeing, interpreting and applying contracts in cross-border transactions may therefore affect the smooth functioning of the internal market.

⁴⁵ SEE the following four directives on e-commerce:

Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC and

Commission Directive 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and services (Text with EEA relevance) and

Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive)

Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce')

⁴⁶ See "e-business without Frontiers": The Legal Challenges ahead" 2004 Online [Accessed 25.4.2005]

To date the EC legislator has aimed to address problems in contracting in the internal market by adopting measures relating to specific contracts or sectors. This sector-specific approach has, however, not been able to solve a number of problems

The European Commission has undertaken a series of initiatives aimed at increasing the overall coherence of European contract law. This institutional reshaping triggers way for abolishment of cross-border movement caused by national rules relating to contractual obligations thus it is apparent that restrictions on national law governing contractual obligations in financial contracts will become less justifiable and more questionable.⁴⁷ However, there are still restrictions existing and the following chapter introduces some potential reasons behind the phenomena.

“...Firstly, there is a close relationship between article 49 EC and financial services and the law of contracts. Since cross border financial services are creatures of law thus the economical value of financial services is largely defined by the contractual obligations of the parties. This indicates how the law will dictate the contractual obligations relating to how the services will be provided. ...”⁴⁸

Nevertheless, Gkoutzinis has identifies that there are two perspectives can be raised relating to the conflict of law in this matter, firstly;

...”1. Whether the private international law relating to contractual obligations, which polices the prima facie application of conflicting national standards in cross-border situations, may per se constitute a restriction of the free movement of services or relates to Article 49 in some other way. ...”

...2. Whether restrictions are caused by substantive rules concerning contractual obligations...”⁴⁹

Article 49 of the EC Treaty applies to any set of facts which demonstrate a cross-border element. Hence the scope of Article 49 should be further explored. But in this case it shall

⁴⁷ See Gkoutzinis A, “ Free Movement of Services in the EC Treaty and the Law of Contractual Obligations relating to Banking and Financial Services” *Common Market Law Review* 41:119-175, 2004 page 35

⁴⁸ See Gkoutzinis A, “ Free Movement of Services in the EC Treaty and the Law of Contractual Obligations relating to Banking and Financial Services” *Common Market Law Review* 41:119-175, 2004 page 35

⁴⁹ See Gkoutzinis A, “ Free Movement of Services in the EC Treaty and the Law of Contractual Obligations relating to Banking and Financial Services” *Common Market Law Review* 41:119-175, 2004 page 35

not be further investigated. This serves an example of future potential investigation regarding article 49.

In this case the emphasis is put on the provisions of trying to identify the barriers to facilitate cross border transfer of money. The typology of movement of financial services is therefore extremely diverse including many different kinds of circumstances in which either the firm or the customer moves to another Member State etc.

The right to receive a service is also guaranteed by the EC treaty, this is significant on an individual level concerning the customers of a “European bank”.

Contract law seeks to find the difficulties for a firm who wants to engage in cross-border activities. In a case of financial services governed by a contract thus it is governed by the law of the country with which it is most closely connected. In Banking the company and the contract should be governed by the law of the country in which the firm’s principal place of business is situated. In terms of financial services such as contracts for the acceptance of deposits and the performance of account-based payment services and for the sale and purchase of financial instruments for the customer; according to Article 49, the principal place of business is located in the Member State where the firm is established licensed and incorporated or in the Member State where the branch is situated in the case which services are provided from that location.

Additionally in the absence of choice of law, the law of country in which the consumer has its habitual residence defines the applicable law. Finally the concept of services in Article 5 of the Rome Convention does not necessarily deal with the entire scope of banking and financial activities.⁵⁰

6.4 The Role of Governments

⁵⁰ See Gkoutzinis A, “ Free Movement of Services in the EC Treaty and the Law of Contractual Obligations relating to Banking and Financial Services” *Common Market Law Review* 41:119-175, 2004 page 35

The role of the governments and public administrators, especially in the Nordic countries is significant in terms of future process regarding a proper functioning of financial services across borders. In order to generate more in the electronic documents and electronic procedures governments should take the lead and demonstrate in practice the possibilities and benefits of electronic processes.⁵¹ One objective of this proposed directive is to reduce the administrative burden for companies in the European internal market and to stimulate the implantation of efficient information and communication processes by public administrations. Additionally, it is expensive to start up new systems. Especially in the public sector of many Member States many public administrators continue to work with paper forms because the introductions of electronic documents require a drastic re-design in their administration activities. Also the different socioeconomic situations of each country play a role in financial integration, not all states can afford to change their systems not to mention to market and invest in e-commerce where its customers would not even have access to internet to be able to use the services.

Chapter 7. EC Rules to facilitate Cross Border Payments

The use of Directives in the service sector has two objectives. Firstly to abolish restrictions and secondly, to facilitate the freedom to provide services. In addition, by simplifying rules, it may also involve the harmonization of Community legislation in this area.

7.1 The Financial Services Action Plan (FSAP)

In this thesis the concentration is on the limitations for banks to provide services across borders. However, when regarding the European Union's process to facilitate services across borders, one has to look at the Financial Services Action Plan. The Financial Services Action Plan was launched by the European Commission in 1999 and is aimed at

⁵¹ See Directives 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC Commission Directive 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and services (Text with EEA relevance) additionally see also Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive /646/EEC

ensuring a Single Market for wholesale financial services, open and secure retail markets an state of the art prudential rules and supervision. Fundamental change in the EU financial markets is being driven mainly by wholesale services. However, the retail sector is itself in the process of considerable adaptation. To summarize the objectives of the Financial Services Action Plan are:

- To establish a common legal framework for integrated securities and derivatives markets.
- To prepare the ground for the effective cross-border provision of investment services. Removing the outstanding barriers to raising capital on an EU-wide basis. The existence of national rules, which hinder the offering of securities in other Member States, makes such operations extremely costly and is inhibiting pan-EU activity.
- To create a coherent legal framework for supplementary pension funds. The development of funded pension schemes calls for the creation of a strict prudential framework affording scheme members a high standard of protection. This should stimulate job creation by lowering labour costs and help to reduce the burden of financing old-age pensions caused by demographic change.
- To provide the necessary legal certainty to underpin cross-border securities trading. The mutual acceptance and enforceability of cross-border collateral is indispensable for the stability of the EU financial system and for an integrated securities settlement structure. Legislative measures are therefore needed to achieve these objectives, and the Commission will, amongst other things, be putting forward a proposal for a Directive on the cross-border use of collateral.
- To create a secure and transparent environment for cross-border restructuring. All areas of the European economy are currently undergoing radical restructuring, and in particular the financial sector. Adoption of the Directive on take over bids and the European Company Statue should protect minority shareholdings and make for a more rational organisation of corporate legal structures in the single market. Adoption of the European Company Statute will enable the Commission to come forward with proposals for Directives on cross-border mergers of public limited companies and transfers of company headquarters. Prudential considerations must also be taken into account.

Retrieved from the Commission website:<http://www.europa.eu.int/scadplus/leg/en/lvb/l24210.htm>

The Commission has identified six key areas for action in the retail market of the internal market, however only four of the areas will be discussed.

...”1.Information and transparency.

Clear and understandable information for consumers is vital when they are investing some or all of their savings in another country. Action must be taken to enhance information provision, transparency and security in the cross-border provision of retail financial services; this will comprise a proposal for a Directive on distance selling of financial services, a recommendation on mortgage credit information, a proposal for a Directive on insurance intermediaries , and an action plan to prevent counterfeiting and fraud in payment systems .

2. Balanced application of consumer protection rules.

For a number of specific financial products, the Commission will analyze national consumer protection rules and will attempt to establish possible equivalence between clearly similar rules. Its action will focus mainly on drawing up an interpretative communication on the concept of the general good in the insurance sector.

3. Electronic commerce.

The overall impact of electronic commerce will be to reinforce market integration, but it can be expected that certain problems, already identified for cross-border sales in retail financial markets, will be thrown into even sharper relief. The proposals for Directives on electronic commerce and distance selling are in the process of being adopted.

4.Cross-border retail payments .

The advantages of the single currency are liable to be not immediately perceptible to individual consumers of financial services if appropriate steps are not taken. Low-value credit transfers between euro zone countries will continue to attract high charges until such time as an efficient, cheaper cross-border payments system is put in place. Likewise, charges for cross-border card payments are often higher than for domestic card payments. There is therefore a clear need for an integrated retail payments system, providing secure and competitive small-value cross-border transfers, to be put in place. Cooperation in this area should be developed between the European System of Central Banks (ESCB), the European institutions and the private sector. ...”

Retrieved from the Commission website:<http://www.europa.eu.int/scadplus/leg/en/lvb/l24210.htm>

Hence this financial services action plan has increased developments in communication and information technologies; in particular the advent of electronic commerce in banking. Two directives relating to e-commerce were proposed and subsequently put in to force, i.e the Directives on Electronic Commerce as well as the Directive on Distance Marketing of Consumer Financial Services.⁵² This has also improved the conditions for Nordea.

7.2 The Economic and Monetary Union (EMU)

The introduction of the Economic and Monetary Union (EMU) and the single currency of EURO in 1999 increased focus on the status of financial integration. It is said that the integration of the financial markets is required in order to obtain the full benefits of the EURO.⁵³ (EURO was launched only in country of the Nordic countries which is Finland.) The advantages of the single currency in terms of cross border payments to a consumer are still limited. Especially the low-value credit transfers between euro zone countries will continue to attract high charges until an efficient, cheaper cross-border payments system is put into force. Likewise, charges for cross-border card payments are often higher than for domestic card payments. There is therefore a clear need for an integrated retail payments system, providing secure and competitive small-value cross-border transfers, to be put in place. Cooperation in this area should be developed between

⁵² See directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on Certain Legal Aspects of Information Society Services, in Particular Electronic Commerce in the Internal Market O.J.2000, L 178/1

⁵³ SEE Regulation (EC) No 2560/2001 of the European Parliament and of the Council of 19 December 2001 on cross-border payments in euro: *Official Journal L 344*, 28/12/2001 P. 0013 - 0016 98/286/EC as well as the Commission Recommendation of 23 April 1998 concerning banking charges for conversion to the euro *Official Journal L 130*, 01/05/1998 P. 0022 – 0025

the European System of Central Banks (ESCB), the European institutions and the private sector.⁵⁴

7.3 The Euro Regulation (EC) No 2560/2001

However, there are some improvements in the financial sector for the consumers in the banking sector due to the Euro Regulation even though it is still more expensive to do transactions across borders than domestically.⁵⁵

Ever since the regulation was put into force in 2002, bank card payments and withdrawals from cash machines cross-border bank transfers in euros within the EU have cost the same as domestic transfers. This has brought an advantage to customers when transferring money from a foreign account to another foreign account. This measure is being introduced in accordance with Regulation (EC) No 2560/2001 on cross-border payments in euros, which establishes the principle of equal charges for domestic and cross-border payments. It has also applied from 1 July 2003 onwards to bank transfers. In recent years, a €100 transfer has cost the customer on average €24 in transaction costs henceforth since July 2002 consumers have been able to withdraw cash and make bank card purchases throughout the euro area without incurring extra costs in comparison with what they would pay in their own country as well as make bank transfers in euros to other countries without losing money through excessive charges.

Notwithstanding, the services to a consumer stay limited in the sense that the same bank account cannot be accessed from the different countries in the same way as it would be domestically. This Regulation has been said to be essential for the efficient functioning of the Single Market. When goods or services are sold across a border, payments cross the same border in the opposite direction. If the cross-border payment generates extra costs, the Single Market is not functioning properly. Nevertheless the Regulation on cross-border payments in euro eliminates the difference of price between cross-border and national payments. It applies to credit transfers, cash withdrawals at cash dispensers and

⁵⁴European System of Central Banks/Retrieved from <http://www.ecb.int/home/html/index.en.html> Accessed 28.7.2005

⁵⁵ See Regulation (EC) No 2560/2001 of the European Parliament and of the Council of 19 December 2001”on cross-border payments in euro

payments by means of debit and credit cards. Hence the Euro Regulation lays down rules on cross-border payments in euro in order to ensure that charges for those payments are the same as those for payments in euro within a Member State. The same Euro Regulation also lays down rules for the charges for cross border electronic payment transactions and credit transfers.⁵⁶ With effect from 1 July 2002, charges levied by an institution in respect of cross-border electronic payment transactions in euro up to EUR 12500 shall be the same as the charges levied by the same institution in respect of corresponding payments in euro transacted within the Member State in which the establishment of that institution executing the cross-border electronic payment transaction is located.⁵⁷

7.4 Consumer Protection Laws

There are two ways for banks to conduct business. On an individual level, which is the bank-consumer level, there are still many restrictions. Biggest limitations banks come across are (which have merged with other banks across the national borders); is the question of potential mutual customer data base. Banks have traditionally secured the customer contract on the existing social security numbers which are given to each citizen at birth in different countries respectively. This meaning that citizens of one country belong to one social security system. These social security systems differ in most countries as well. This question is still out in the air whether or not the customer data

⁵⁶ An institution shall, where applicable, communicate to each customer upon request his International Bank Account Number (IBAN) and that institution's Bank Identifier Code (BIC). The customer shall, upon request, communicate to the institution carrying out the transfer the IBAN of the beneficiary and the BIC of the beneficiary's institution. If the customer does not communicate the above information, additional charges may be levied on him by the institution. In this case, the institution must provide customers with information on the additional charges in accordance with Article 4

⁵⁷ See Regulation (EC) No 2560/2001 of the European Parliament and of the Council of 19 December 2001 "on cross-border payments in euro

bases can ever be united because of different consumer protection laws.⁵⁸ Consumers are also protected by relevant EC law.⁵⁹

On a business-to business level, there has been secondary legislation created in order to facilitate the process of transfer of money i.e. the Council Directive 97/5/.⁶⁰ (Cross border transfer of money legislation) This was created to ensure that funds can be transferred from one part of the Community to another rapidly, reliably and less expensively. This directive applies only transfers of up to 50 000 Euros effected in currencies of the Member State.

Regarding this matter the linkages between private financial and insurance law and the free movement of services are connected with the wider legal discourse relating to the position of private law within the process of European integration. This can be traced back to the early developments of the EC Treaty.

In case of a financial dispute between the consumer and the financial service provider, the consumer can contact the out-of-court complaints body in his own country of residence. This body will give him all the necessary and appropriate information about the complaints network and about the competent scheme in the country of the financial service provider. If the consumer decides to file the complaint with the foreign scheme, he can leave it with the nearest scheme which will transfer the complaint to the competent scheme. Once the competent scheme has received the complaint, it will try to resolve the dispute according to its rules and taking into account⁶¹

7.4.1 Commission's Attempt to Harmonize Consumer Protection

⁵⁸ See the different national consumer protection laws regarding retail banking (Accessed from each country's banking supervision offices. SEE e.g. Finland's Banking Supervision (Suomen Rahoitustarkastus) In Sweden "Finansinspektionen" etc.

⁵⁹ SEE Directive 94/19/EC on deposit guarantee schemes [Official Journal of the European Communities No L 135, 30.5.1994, p. 5] and see Directive 91/308/EEC on prevention of the use of the financial system for the purpose of money laundering [Official Journal of the European Communities No L 166, 28.6.1991, p. 77].

⁶⁰ SEE European Parliament and Council Directive 97/5/ EC of 27 January 1997 on cross border transfer of money [Official Journal L 43 of 14.02.1997]

⁶¹ Commission Recommendation No. 98/257 of 30.3.1998

The European Commission is aware of the lack of integration in terms of technical cooperation and sharing customer data base between banks in the European Union. The Commission sees this as a detrimental problem for the consumers as it restricts access to various products and to greater selection.⁶² The Commission has formatted a general framework for consumer protection called the “Green Paper”. This is still a proposal to facilitate the different consumer protection in each of the member states.

Green Paper’s objective is to analyze possible future developments in consumer protection in the European Union. The Green Paper also takes a look at the various obstacles to the completion of the internal market in this area, with a view to harmonizing Community rules. Green Paper states that Community rules on consumer protection have not succeeded in adapting to the natural development of the market or to the new commercial practices. The principle problem in guaranteeing consumer protection in the internal market lies again in the different national laws concerning commercial practices between businesses and consumers.

The Green Paper makes the claim that neither group is currently taking full advantage of the potential of the internal market which has strengthened since the introduction of the Euro especially in the area of E-commerce.

7.5 Banking Supervision

In order to enhance any consolidation in the European banking industry, the European legislation makers are trying to harmonize a number of sectors that still are domestic. In order to preserve the stability of the European Banking system, the European legislation makers should also ensure that the creation of transnational banking institutions occurs in the presence of banking supervisory system which has the power and the tools to control them. Since at the moment the supervision over banks is decentralized at a national level the fostering of cross border consolidation should occur in the context of a new up-dated architecture of banking supervision which can monitor and regulate banks

⁶² SEE Green Paper on consumer protection of 2 October 2001[not published in the Official Journal]

operating in more than one Member State.⁶³

Each Member State has its own banking supervision authorities. The Committee of European Banking Supervisors (CEBS) will advise the European Commission on banking policy issues and promote convergence of supervisory practices across European Union. The Committee will also foster and review common implementation and consistent application of Community legislation.

Committee of the European Banking Supervisor (CEBS) has issued for public consultation its guidelines for greater supervisory cooperation for EU banking and investment firm groups. Through enhanced co-operation between supervisors, these guidelines aim to avoid any excessive supervisory burden on groups that operate across several EU jurisdictions.⁶⁴

Chapter 8. Corporate Branding

In this chapter the business administration perspectives and theories are introduced.

8.1 Corporate Branding as a definition

I will firstly introduce the different theories on corporate branding subsequently I will illustrate the distinction between corporate branding and corporate identity. This has been a crucial part in dictating the marketing strategy of Nordea hence to develop a corporate brand henceforth to integrate develop and cooperate between the countries. The focus of branding has traditionally been on the product but in this paper I will focus on corporate branding. Both product and corporate branding share the objective of creating a differentiation and preference.⁶⁵

I will start off by examining the meaning of corporate branding.

During the past 30 years there has been a lot of development of product branding towards a direction of adding value to the company. This has become more important in the world of brand conscious brand addicts. Scholars and researchers have extensively studied the

⁶³ Saarto: Interview 16.7.2005 Nordea, Helsinki

⁶⁴ Riksbank <http://www.riksbank.se/templates/speech.aspx?id=4264> Accessed: 15.7.2005

⁶⁵ Knox S & Bickerton D; "The six conventions of corporate branding", *European Journal of Marketing* Volume 37, Issue 7; pages 998-1016, 2001

impact of branding across cultures. In a time where boundaries and within the objectives of the single common market of free movement in Europe, corporate entities have become less distinct, where the external and internal environments have blurred.⁶⁶

The core of any successful business strategy is to focus on its customers. In any case the significance of a corporate brand to a company is crucial. It can be described as a sustainable, valuable strategic resource which can provide sustainable competitive advantage if it can be characterized according to the resource based view as: valuable, rare, durable, inappropriable, imperfectly imitable and imperfectly substitutable.⁶⁷ This intangible asset is hard to achieve but many companies have been able to achieve by different marketing strategies.

The major benefit of a corporate brand is that it differentiates organizations from their competitors.⁶⁸ In any case, to identify the values of a corporate brand is a key value adding element to any company and its strategic management. In the case of Nordea, the Nordic bank wants to be identified as a trustworthy big company and by the status of being a European Company; they hope to achieve a Nordic identity that differentiated itself from its competitors. The Banking sector is very competitive but by cutting costs and achieving economies of scale, Nordea will have better chances to improve and expand its rather limited cross border customer services.

8.1.1 Difference between product and corporate branding

According to Balmer (2001) products make the core of a company, nevertheless there is a difference between product and corporate branding and below I will discuss the differences between the two different concepts. Several scholars distinguish product branding from corporate branding. The significance of corporate branding has been

⁶⁶ Knox S & Bickerton D; "The six conventions of corporate branding", *European Journal of Marketing*" Volume 37, Issue 7; pages 998-1016, 2001

⁶⁷ Bartlett, C.A & S: Ghoshal" Building strategic Capabilities: The Competitive Challenge from Transnational Management", 1994

⁶⁸ Daffey, A & Abratt R; " Corporate Branding in a Banking Environment" *Corporate Communications-An international Journal*, Volume 7, Number 2; pages 87-91, 2002

realized long ago as a crucial part of strategic management in Europe and many companies have based their management strategies on corporate branding. (Coca Cola's corporate brand is worth alone \$50 billion.⁶⁹)

When looking at Balmer's definition of differences between corporate and product brands one can see a clear pattern of that corporate branding focuses more on strategy of the top management whereas product branding is more of the branding of products. Corporate branding is an important element of a company strategy. The significance that the corporate brand puts on the consumer interest and thus its economic benefit is another reason why corporate branding needs to be considered when working on strategic plans and hence is mainly a concern for top management. In contrast product brand management is principally a task for middle management.⁷⁰ In this thesis when looking at a service sector more particularly the banking industry, we can clearly notice the intangible elements of corporate branding. When multinational companies such as Kraft, Nike etc focus on product branding, hence more product oriented, in the case of a bank, the bank is working hard to establish an image hence a strong corporate identity that its customers can rely on. Another difference is that corporate brand values tend to be grounded in the values and affinities of company founders, owners, management and personnel whereas product brand values tend to be on the skills of inventive marketing managers or they are sometimes left into the hands of the advertising department.

When exploiting a successful brand it can save time and effort, as customers know what to expect and do not have to go through an extended decision-making process every time they purchase a product or a service.⁷¹ Strong brand can provide security and reduce the risk of purchase as the brand can offer consistency of quality. A strong product can also offer psychological rewards by association with a sought-after image (You can buy a feeling when buying a certain product, it is how the product makes you feel) as well as it can convey status on the buyer. This conveys in the banking sector as well since banks

⁶⁹ Brown Mike, "Absolut's Ad campaign" *Magazine Financial Management* (CIMA), July/August 2001

⁷⁰ Balmer JMT, & Gray E "Corporate Brands: What are they? What of them?" *European Journal of Marketing* Volume 37, Number 7; pages 972-997, 2003

⁷¹ Aaker, D, "Managing Brand Equity, Capitalizing on the Value of a Brand Name"; The Free Press, NY USA, 1991

have to something that its customers can rely on. It has to be trustworthy enough for the customers to be able to leave their money to.

Some scholars argue that a multinational or global firm's personality, reputation and image will become the biggest single factor in terms of consumers choosing between products and services among competitive products and services.⁷² However, the scope of the image of a corporate brand does not end here; it is argued that personality and image do not just impact on consumer choice and behavior. They also influence a variety of publics or stakeholders whose views and behavior can impact overall corporate performance.⁷³ In this case the major problems that Nordea had to deal with, was to rebuild the corporate brand. In all of the four Nordic countries, prior to the merger all of the banks in the respective countries had strong national corporate brands as well as identities. When Finnish Merita and Swedish Nordbanken merged, Merita lost some of its customers in Finland since Merita-Nordbanken was not considered Finnish i.e. domestic anymore. This was big enough of a reason for Finnish consumers to change their banks away from Nordea to domestic equivalent⁷⁴. However with good marketing, Nordea was able to establish an image that worked well with young professionals and families who preferred to do their banking online. Nordea has today four million of its customers using online banking.⁷⁵

Marketing is a philosophy that underpins the business activities of an organization, but it is also a significant managerial function. The most important tasks of marketing consist of analysis, strategy, tactics and management of it.⁷⁶ Designing a marketing strategy is about setting the direction for marketing activity. In the following chapter another perspective on corporate branding will be introduced hence indicating a need for further research on the matter.

⁷²Hatch M-J & Schultz M "Bringing the corporation into Corporate Branding" *European Journal of Marketing* Volume 37, Number 7; pages 1041-1064, 2003

⁷³ Schultz D, & Kitchen P; Managing the Changes in Corporate Branding and Communication: Closing and Re-opening the Corporate Umbrella" *Corporate Reputation Review*; Winter 6, 4 ABI/INFORM Global 2004

⁷⁴ Interview: Arne Bernroth Nordea Malmö 29.4.2005

⁷⁵Nordea Annual Report, available: www.nordea.com/annual Accessed 2.5.2005

⁷⁶ Hill, E&O'Sullivan T."Marketing" Addison Wesley Longman Limited, USA 1999

8.2 Corporate Identity

Schultz (2000) has made a distinction between corporate brands, corporate identities, and product brands. He emphasizes the fact that underlying characteristics of corporate brands can be uncovered. When discussing strategic management goals; corporate brand is a valuable resource: one that provides an entity with a sustainable, competitive advantage if specific criteria are met. These criteria are defined in terms of an economic theory known as "the resource-based view of the firm". In order for a corporate brand to hold a successful resources: a corporate brand has to be: rare, durable, inappropriable, imperfectly imitable, and imperfectly substitutable.⁷⁷ This is a way for companies to evaluate their strategic performance and according to many researchers the core value of intangible assets such as the brand can be a true asset.

Aaker adds that from the perspective of most brand strategists, a brand identity is something that gets customers to buy the product or service because of how they perceive the brand, this orientation can be said to entirely external.⁷⁸

Kotler has identified a concept which is widely used in international marketing that he calls "the societal marketing concept" hence short-term wants and consumer long-run welfare. This concept holds that the organization should determine the needs, wants and interests of target markets. Subsequently it should then deliver superior value to the customers in a way that maintains or improves the consumer's and the society's well-being.⁷⁹

⁷⁷ Zou, S.T Cavusgil, "Global Strategy :a review and an integrated conceptual framework" European Journal of Marketing" 1996: page

⁷⁸Aaker, D., "Building a Strong Brand", The Free Press; NY USA, 1991:page 80

⁷⁹ Aaker, D., "Building a Strong Brand", The Free Press; NY USA, 1991:page

8.3 Organization as Part of the Corporate Brand

Aaker describes the organization of the company as being part of the branding and thus adding value to the company or product/service.

This concept can be summarized as below:

How Organizational Associations Provide Value
--

<u>THE ORGANIZATION</u>
Culture/values
People
Programs
Assets/Skills
Visibility

<u>ORGANIZATIONAL ASSOCIATIONS</u>	
Environmentally sensitive	Concern for customers
Community orientation	Presence/success
Perceived Quality	Local vs. global
Innovative	

<u>Value</u>	<u>Credibility</u>	<u>Internal Culture</u>
Proposition or Customer	-Expert	-Clarity
Relationship	-Trustworthy	-Buy-in
	-Liked	

Aaker David "Building Strong *Brands" 1991

This framework developed by Aaker summarizes the benefits of a corporate branding in terms of the branding being part of the organization. In this case; traditionally banking has been not that competitive internationally, only locally in the respective countries. In Finland and Sweden, customers chose their bank according to the image hence values of the

bank, traditionally based on political orientations which was typical in the Nordic countries. In terms of corporate brands' relation to customer value, there is competitive advantage gained by establishing a strong corporate brand.⁸⁰

Hatch, M-J and Schulz M (2001) say that corporate brand contributes not only customer-based images of organization but to the images formed and held by all various stakeholders including:

employees, customers, investors, suppliers, partners, regulators, special interests and lastly local communities as well. When successfully developing and exploiting a strong corporate brand hence applying that to many products provides economies of scale and scope in creating visibility and awareness, since the cost involved is spread over multiple products and categories.

Furthermore, the name is exposed whenever the product is sold or advertised.⁸¹This is the strategic goal of Nordea, by getting the brand name of "Nordea" known within its customer base in all four countries; the greater the chances are for the company to create economies of scale and in the case of Nordea, create shareholder value. The intention of creating the brand Nordea was to reach as many customers as possible.

Aaker adds that by establishing a corporate brand a company can distinguish and differentiate itself in the minds of all its stakeholders. Schultz and Kitchen (2004) say that similar to product brand, a corporate brand makes the company and its espoused values easily identifiable and connotes a level of quality and consistency of performance in the minds of its target audiences.

For product brands the focus is on customers and for corporate brands for stakeholders. This can be the difference in the case of Nordea. Since Nordea provides banking services it has to focus on the corporate brand to which its customers can rely on thus enhancing customer loyalty as well as gaining new customers. Hence, the corporate brand provides its customers trust in extending its product or services, this can be called adding value to the corporate brand.

⁸¹ Bernstein D; "Corporate branding - back to basics" *European Journal of Marketing* Volume 37, Issue 7, pages 1133-1141, 2003

According to Bernstein (2004) he says that the value of a corporate brand can be seen in other ways too. Branded companies may find an edge in finding venture partners. Investors also seek strong corporate brands. The value in a corporate brand materially enhances the capitalization of companies and often results in higher price-earning ratios.

Aaker says that when a company uses these organizational associations it can add cost and complexity as well. In the worst case scenario it can only add a minor value and succeed in diverting resources and focus on from what otherwise would be a strong brand.

A brand identity that encompasses organizational associations is more likely to represent the basic goals, values, and strategies of the organization. Aaker emphasizes that this can play a crucial role in identifying those elements to employees and others who must buy into the goals and values and implement the strategies. A strong organizational identity can facilitate the following questions:

What is the purpose of the organization? What does the company stand for? Are there any broader concerns and issues involved besides making profit? What are the values and culture of the organization? What is important? What is the vision for the future? What will be the values, culture, and goals then?

All of these questions are a vital part of the organizational corporate brand image. When the company has identified those attributes it can exploit it for its benefit.⁸²

Chapter 9. A Way for Nordea to Improve Integration?

Nordea is one of the first companies to implement the European Statute Regulation. The idea of finding a legal corporate structure that falls only under the jurisdiction of EU law and not national law is not a new one. The idea of a European company was raised by a group of experts within the Commission of the time as far back as the late 1950s.

⁸² Hatch M-J & Schultz M” Bringing the corporation into Corporate Branding” *European Journal of Marketing*”

Volume 37, Number 7; pages 1041-1064, 2003

In this part of the thesis the benefits of the underlying reasons why Nordea will implement the SE regulation will be examined.

9.1 Framework for Nordea to become a “SE”

In order to comprehend and analyze the reasons why Nordea would be interested to adapt the SE regulation, the framework of how the SE regulation functions shall be provided and described in detail.

Nordea's structure comprises of four big national players thus when a bank has foreign branches that are as large as or larger than the home-country entity, and additionally when the branch in the host country is large enough to be of systemic importance, the home and host countries have a common interest in ensuring financial stability in the countries concerned. This is the case with Nordea and Nordea's largest branch will be Nordea Finland comprising of a market share of 40% in Finland which is substantial. A case in point will be when Nordea transforms into a branch structure with a registered office in Sweden and branches in Denmark, Finland and Norway. Why will this be beneficiary to Nordea?

As regards to financial stability, the main difference between branches and subsidiaries is that branches are not legal entities. Branches are an integrated part of the parent company and the financing of branch activities and cash flows from branches are inseparable from the parent company's total financing and liquidity flows. Unlike subsidiaries, branches thus can rarely experience liquidity problems or problems complying with statutory solvency requirements. Such problems are reflected solely in the overall picture of the group or parent company.⁸³

⁸³ Nordiska Finanställda Report on SE-regulation[Online]

Available from:<http://www.nfufinance.org/Resource.pvx/plaza/nordea/16.htm>

Thus, it is not possible to assess a branch's financial soundness and resilience separately or take action against a branch to protect the financial system from any contagion arising from solvency or liquidity problems of the parent company.⁸⁴

On the other hand, a branch will interact with the general economy of the host country in the same way as other banks. If a branch's activities and related risks are substantial to the host country's economy, the bank will have an impact on financial stability in the host country. This raises the question of Nordea's parent company which will be set out in Sweden. Nordea Sweden is 40% owned by the Swedish state, thus will this in turn mean that in case of insolvency, Swedish tax payers are responsible for the insolvency of Nordea?

9.1.2 Risk Management

Management of risk is one of the key success factors in formulating a functioning strategy for any company.⁸⁵ Nordea's strategy is to emphasize on risk management. Being exposed to risk is inherent in providing financial services, and Nordea assumes a variety of risks in its ordinary business activities, the most significant being credit risk related to lending.

Nordea aims at an overall balanced risk-taking in order to enhance shareholder value. Economic capital is allocated to the business areas and is included in the calculation of economic profit, which is a key performance indicator at Nordea.⁸⁶

In the case of Nordea adapting the SE-regulation, certain aspects of risk management can be improved. However, a general tightening of a bank's extension of credit – for instance, if the supervisory authority in the home country of Sweden for Nordea has instructed the

⁸⁴ **Nordiska Finanställda** Report on SE-regulation[Online]

Available from:<http://www.nfufinance.org/Resource.pvx/plaza/nordea/16.htm>

⁸⁵ Epstein M, "The Determinants and Evaluation of Merger Success" *Business Horizons* Volume 48 pages 37-38, 2005;page 37

⁸⁶ Report on Nordea's risk management :Available from :www.nordea.com

group to reduce risks, hence this may affect the total credit supply in the host countries via the bank's branches. In particular, tightening of credit extension to the corporate sector and other banking institutions with relatively large credits may cause problems refinancing terminated exposures. It may be difficult for the rest of the financial system to absorb large exposures involving a substantial capital burden and great demands of credit-rating capacity.

In principle, the host-country authorities, in this case the Swedish home-company have no knowledge of the risks related to a branch's activities which will be the Finnish, Danish and Norwegian branches. For supervisory purposes, the branches of Finland, Sweden and Denmark would report in full to the home-country authority. In addition, branches, unlike subsidiaries, do not prepare separate annual reports, and the consolidated accounts of financial groups do not necessarily provide information that permits external assessment of activities and risks at branch level. Local branch risks cannot always be separated from the overall risk picture of the bank, and reporting to the public is not required unless such risks are relevant or material to the bank as a whole.⁸⁷

A comprehensive picture of the risks in the host countries of the Finnish, Swedish and Norwegian banks after being transformed into branches therefore requires knowledge of both specific risks related to the activities of a systemically important branch in the host country and the bank's global risks. This would also share the burden and costs of analysis of external threats.

The bank's statistical reporting does not necessarily provide a comprehensive picture of the activities in the individual countries either. If specific activities are all booked in one country, this case it would be Sweden. The statistical information may show strange shifts that do not indicate underlying changes in the customers' business. Consequently, the statistics do not provide the intended information. However, this problem may also arise in a group structure with subsidiaries.⁸⁸

⁸⁷ Report on Nordea's risk management :Available from:www.nordea.com

⁸⁸ **Branches of Foreign Credit Institutions/Danish Bank** Report on SE-regulation

[Online] Available from: <http://www.nationalbanken.dk/DNUK/Publications.html>

[Accessed 25.4.2005]

The branch country's authorities have no insight into a group's risk situation, whether or not the group's activities in the host country may influence financial stability. Furthermore, the branch country authorities do not have access to instruments that can directly contribute to restoring confidence in a bank with a branch in the host country. In other words, a host country cannot on its own prevent or limit the social costs of a crisis in a bank that has a systemically important branch in the host country.⁸⁹

9.2 Conclusion

The EU legislation facilitating business across borders in terms of mergers is called the "SE" regulation. The word SE comes from Latin "Societas Europaeae" meaning: "A European Company". The European Company (SE) has been adopted in the form of a regulation and the effects of the legislation are thus expected to be the same in all EU Member States. Formation by merger and formation of a holding company are available only to EU companies whose registered offices are located in different Member States. The registered office of an SE must be designated in its articles of association and must be the place where it has central administration, i.e. its true centre of operations. However, the registered office can be transferred according to specific procedures. Presentation of annual accounts, winding-up, insolvency and suspension of payments are in large measure to be governed and monitored by national law in the country where the company has its registered office.

To conclude here is a summary for the advantages for Nordea to adapt the SE regulation:

- The ability to operate under a single legal structure and unified management and reporting system;
- The ability to restructure quickly
- The ability to transfer corporate headquarters from one Member State to another with greater ease: it will no longer be necessary to wind up the company in the

⁸⁹ **Branches of Foreign Credit Institutions/Danish Bank** Report on SE-regulation

[Online] Available from: <http://www.nationalbanken.dk/DNUK/Publications.html>

[Accessed 25.4.2005]

Member State where the headquarters were established and re-register the company in the Member State where the headquarters are newly to be established.

- These advantages promise significant savings to companies doing business in more than one Member State in terms of time and money.

Thus, when Nordea become a European company, it will be free from obstacles arising from the disparity and the limited territorial application of national corporate laws.

To conclude the SE is a company subject to independent legislation so that less legal and practical problems are thus avoided.

CHAPTER 10. Correlation of Branding and Legal Perspective

10.1 Results

This chapter gives insight to the role of law that affects the corporate brand of Nordea by analyzing the interviews and reflecting on the results.

10.1.1 Significance of Corporate Branding in the case of Nordea

The meaning of corporate branding after a merger activity is significant in terms of creating the new values, image and name of the company. One way for Nordea to enhance its corporate brand in terms of integration is to use SE-regulation.

This SE regulation aims at enhancing and facilitating mergers and joint ventures across borders. Nordea is one of the forerunners in the process of transforming itself into “European Company” when adapting the SE regulation. The parent company of Nordea will be situated in Sweden and the banks in Finland, Norway and Denmark will transform into branches. Nordea operates in seven additional countries but according to the

management of Nordea, they believe that in the long term; e.g. Poland and Baltic States will be included under the same company.

Will this SE regulation enhance cooperation between the countries in Finland, Sweden, Norway and Denmark? Will Nordea improve its product availability thus its capability to provide services? These questions are only partially answered giving way for further investigation on the matters.

Nonetheless with the SE regulation, a bank has only one home country and which is where the bank is licensed. In this case Nordea is considered Swedish since the majority of stakeholders are Swedish as well as the bank is licensed in Stockholm. Other countries in which the bank conducts business, either through a branch or via cross-border activities, are host countries. A subsidiary's home country is the country where it is resident and independently licensed.⁹⁰

Due to Nordea's difficulties in the past trying to merger and handle nine different banks, thus trying to handle a very complex organizational structure with different complex legal systems, Nordea wants to establish improved operational efficiency especially in the legal side thus to enhance the proper functioning of services.

Since Nordea operates in many different countries and falls under many different set of national rules thus complex legal systems hence the regulations of the SE will reduce the time and cost spend on dealing with many systems.⁹¹ The major benefits of adapting the SE are that it makes operations less complicated. Nordea will become one company with branches in Finland, Sweden, Norway and the side operations in the Baltic States hence this will facilitate Nordea to work under the same regulatory framework and cut costs on the administrative side as well as reduce transaction costs for customers. This new structure will also provide Nordea with a more simple organizational structure thus facilitate cooperation among the parent company and its branches.⁹² But, the adaptation

⁹⁰ **Institutions/Danish Bank**: Report on SE-regulation [Online] Available from:

<http://www.nationalbanken.dk/DNUK/Publications.html>

[Accessed 25.4.2005]

⁹¹ Interview: Timo Jalamo Nordea Stockholm 26.4.2005

⁹² Interview Peter Schutze[online] 2004

Accessed:4.5.2005

of the SE-regulation has not occurred due to the legal problems. This process is not clear whether or not the countries will be able to sort out the problems. But on a consumer level, the implementation of the regulation will not provide the consumers much more benefits as the four banks in the four different will continue to operate as four separate banks on a practical level.

10.2 Nordea's Corporate Brand

The fact that Nordea is a merger of nine national banks among four Nordic countries plays an important role in its strategic decision-making.

By expanding operations through mergers and acquisitions Nordea is establishing itself as a big player in the European markets. By implementing their pan –European strategy⁹³ Nordea has chosen a European orientation strategy, meaning that by enlarging its size by acquiring more subsidiaries as well as expanding its operations it hopes to boost its performance and make profit. Nordea is currently expanding its operations in the Baltic countries as well as in Poland. These operations are in the form of banking retail subsidiaries.

In hindsight the merger of four different banks in four different countries resulted in four different management systems, leadership styles, cultural values, all working under four different legislative and regulatory regimes. The challenge, therefore, was to create a single Nordic bank that would enable regional growth and a focus on a common future. Nordea aimed at creating a single entity with a common image and name under which the different countries were working hence indicating a need for a strong corporate brand. Subsequently prominent reasons for a company to merge include attempts to increase economies scale, geographic scope, and knowledge and cross-industry extension.⁹⁴ According to Griffin (2004) by merging companies are expected to deliver benefits in terms better risk allocation as well as improve innovation. In addition according to Schultz (2001) the core of any integration after a merger is the brand. Managing a corporate brand that really ties an organization together and integrates the entire company is a long term goal.

⁹³ Bartlett, C.A & S: Ghoshal” Building strategic Capabilities: The Competitive Challenge from Transnational Management”, 1994

⁹⁴ Griffin J,” Corporate Restructuring: Ripple effects on corporate philanthropy” *Journal of Public Affairs, Volume 4* : 1, page 27, 2004

Subsequently, the significance of a strong corporate brand concerns multiple stakeholders such as customer attractiveness, investor confidence and staff motivation.⁹⁵ The objective of the top management's decisions to go and merge and acquire companies in many sectors has been said to increase shareholder value. (Different corporate governance issues are related to this depending on corporate governance system of each respective country. However, there is a trend in corporate governance towards the Anglo-Saxon system where the main objective is to increase shareholder value.) This is especially important to Nordea.⁹⁶

10.3 Corporate Brand: A Way to Compete Across Borders

To summarize one can say that a strong corporate brand among a company that operates and provides services in different countries can facilitate the recognition of the company and can create an image as well as a corporate identity that the customers and employees can relate to. This has been the case with Nordea. Nordea was able to establish a corporate brand that is known as the same "brand" in all of its operating countries, but that is pretty much what it is to its customers. In other words, the consumers have no real cross border benefits since financial institutions are creatures of law, the banks are all regulated by national law. Thus the consumers of Nordea Finland are applying Finnish law. Hence, to have a Finnish bank account in Finland is protected by Finnish consumer laws⁹⁷ thus the consumer falls under Finnish laws which have nothing to do with for example Nordea Sweden, in turn Nordea Sweden falls under the Swedish consumer protection laws⁹⁸ hindering that the Swedish Nordea customer could use its

⁹⁵ Schultz D, & Kitchen P, 2004 Schultz D, & Kitchen P; Managing the Changes in Corporate Branding and Communication: Closing and Re-opening the Corporate Umbrella" *Corporate Reputation Review*; Winter 6, 4 ABI/INFORM Global 2004

⁹⁶ Interview: Timo Jalamo, Nordea Stockholm, 26.4.2005

⁹⁷ Finnish Consumer Protection Authorities: www.kuluttajasuojavirasto.fi

⁹⁸ Swedish Consumer Protection Authorities: www.econsumer.konsumentverket.se

bank account in Finland and vice versa. Henceforth, the creation of a corporate brand in terms of strategy and marketing within companies can overrun the expectations of its customers.

CHAPTER 11. Conclusions

In this chapter firstly the results of the identification of problem of law is analyzed. Secondly, the results of the interviews are analyzed and by using Nordea as a case study, the author has come up with the results to be able to answer the research questions of this study.

11.1 Research Questions

RQ1: What is the meaning of corporate branding in the light of cross border mergers in the case of Nordea?

RQ2: What are the problems of law hindering cross border services particularly in this case the payments hence cash flow in the financial sector in the European Union?

RQ3: When the problem of law is identified: what can EC legislation do to facilitate cross border transfer of payments?

11.2 Results of analyzing Nordea's attempt to harmonize by corporate branding

In the following chapter the results together with the interviews and theory will be discussed.

11.2.1 Corporate Branding: The important link between the four companies

(RQ1: What is the meaning of corporate branding in the case of cross border mergers? using Nordea as a case study?)

Customers are vital in order to truly create value for the firm. What creates a corporate brand in the case of a merger and acquisition activity? Is the mutual corporate brand the link between the four banks and a way for further integration? Question arises that is the merger of the four banks more than just a creation of a corporate brand named “Nordea” in these four countries?

Nordea’s strategy after the merger was to create a “Nordic Vision” followed by creating one brand and one culture. This has been a long process, but according to the interviewees the corporate brand exists. They emphasized the fact that directly after they took into use the mutual name of Nordea, the corporate culture started to develop and employees in the four headquarters of each region (Helsinki, Copenhagen, Oslo and Stockholm offices) felt more united. This indicates that significance of the corporate brand has been extensive for Nordea to enhance performance after the merger activity.

Subsequently, after the merger was fully implemented in 2000, Nordea undertook a major “re-branding” strategy. Firstly Nordea created its values of the company. The emphasis of the core values of the company are on: focus, speed and performance as the mission statement say;” making it possible”. The process to create and change the name to Nordea was considered and proved successful for the bank. ⁹⁹In Finland, the name had achieved 90% brand recognition even before it was officially launched. In Norway, too, where the name of Christiania Bank had existed for more than 100 years, the new name was taken up quickly once it was introduced. ¹⁰⁰ The Nordea brand unites the four national banks under the same values thus enhancing the company’s ability to perform in cooperation. This came across in all of the interviews. To conclude, the significance of the brand is crucial for the company thus its employees as well. Employees of Nordea in different countries feel that they belong to a Nordic Bank. ¹⁰¹ The examination of the banks operating in the four different countries indicates that large banks cannot serve retail clients better than small banks because of their dimensions, organization model and standardization.

Additionally, finance to industry is normally provided by national banks which are the only ones entitled to access the central data on the financial exposure and guarantess of

⁹⁹Nordea Annual Report: Available: www.nordea.com Accessed 2.5.2005

¹⁰⁰ **Nordiska Finanställda** [Online] Available from: <http://www.nfufinance.org/Resource.phx/plaza/nordea/16.htm>

[Accessed 25.4.2005]

¹⁰¹ Interview: Nordea Malmö 29.4.2005

corporations. In fact, unless a bank either has a branch or owns a subsidiary in a given Member State, it cannot obtain any information on a corporation operating in that Member State and thus cannot grant credit locally according to the normal credit assessment procedure. It can happen that a foreign bank can provide finance to a well known foreign group with a rating but this is still an exception for many banks.

The acquisition of a foreign bank is one of the technical tools to be able to access central data bases and hence enter the loan market in a given Member State. An alternative is to open a fully authorized branch in that place.

In the case of Nordea, the results of the interviews indicated that the bank still operates as four individual banks, separate from each other that share a common board structure and some expenses. The indications and attitudes of the interviewees from Nordea Finland seemed skeptical whether or not the SE-regulation will ever work in practice. There are so many problems to be harmonized that it will take decades before one can really see the benefits of this regulation to Nordea and its customers. Hence, in practice however whether or not Nordea will become one of the first companies to go under the name of a “European Company” plays a minor role for the consumers/customers of Nordea. On a consumer level, the corporate brand plays an important role to unite the employees of Nordea in the different countries even though legally it is not possible.

11.2.2 Problems of law hindering to provide cross border payments

(RQ2: What are the problems of law hindering cross border services particularly in this case the payments and transfers in the financial sector in the European Union?)

The basis, in other words the underlying framework for financial services in the banking sector in the Nordic countries lies within the legal framework of the country and the welfare provision. Particularly, variations in contracts and legal systems are hindrance on a general level for cross border financial services. In the case of banking, the question comes down to the technical barrier of sharing a mutual customer database

hence sharing the social security numbers or in a case of a non-citizen a temporary identification number.¹⁰²

Here are some of the most significant barriers:

- Legal Barriers: the different set national of laws
- Economic barriers: in order to be sensible, a concentration must bring value to the company carrying on the transaction and bring value to its shareholders:
- Regulatory barriers/technical: regulators can impede a concentration either on the basis of competition law concerns or on the basis of banking stability concerns
- Accounting and tax barriers: the transaction can resolve into a material change of the balance-sheet
- Cultural and linguistic barriers: these differences can be deterrent for the creation of transnational banks: they concur with the legal barriers to the creation of a domestic retail market¹⁰³

11.2.2 How the transformation to a “SE-company” is meant to improve the benefits to the consumers

(RQ3: When the problem of law is identified: what can EC legislation do to facilitate cross border transfers and payments?)

If a company in Europe decides that strategically it is wise to transform itself into a “European Company” in the banking sector, it may have some benefits on global, European level but on a consumer level, its benefits to the consumer would remain limited as well. This can be illustrated using Nordea as a case. When looking at Nordea, even if Nordea would transform itself into a “European Company” the benefits of Nordea to its customers across borders remain small.¹⁰⁴ Even with the SE-regulation implemented and if in the future any banking company will become a “European Company” the benefits to the consumers remain limited in regards to retail banking services, such as cash payments etc. Nevertheless, the integration process and the mergers in the field of banking indicate benefits to company from a corporate perspective on a European level as well as globally. For example Nordea holding an increasingly more known Nordic brand raises its positions

¹⁰² A customer can acquire a bank account with a temporary identification number in case not a citizen of the country

¹⁰³ Banca Intesa :Report on Cross Border Mergers and acquisitions among banks ”Memorandum on Existing Legal Barriers and Antitrust Considerations” May 2005

¹⁰⁴ Saarto Interview 16.7.2005 Nordea, Helsinki

in the global markets thus is more competitive. Nordea as a larger brand can also attract more customers on the business to business level when the brand is more known. In other words, to use or implement the SE-regulation can be a way for a company to use it as part of their marketing strategy to strengthen their corporate brand.¹⁰⁵

Secondly the Commission has launched many directives to secure the rights of the consumers in the internal markets of the European Union. The use of Directives¹⁰⁶ and regulations¹⁰⁷ in the e-commerce and cross border retail services sector has two objectives. Firstly to abolish restrictions and secondly, to facilitate the freedom to provide services. In addition, by simplifying rules, it may also involve the harmonization of Community legislation in this area. However, there are some improvements in the financial sector for the consumers in the banking sector due to the Euro Regulation even though it is still more expensive to do transactions across borders than domestically.¹⁰⁸ Ever since the regulation was put into force in 2002, bank card payments and withdrawals from cash machines cross-border bank transfers in euros within the EU have cost the same as domestic transfers. This has brought an advantage to customers when transferring money from a foreign account to another foreign account. This measure is being introduced in accordance with Regulation (EC) No 2560/2001 on cross-border payments in euros, which establishes the principle of equal charges for domestic and cross-border payments. It has also applied from 1 July 2003 onwards to bank transfers. In recent years, a €100 transfer has cost the customer on average €24 in transaction costs henceforth since July 2002 consumers have been able to withdraw cash and make bank card purchases throughout the euro area without incurring extra costs in comparison with

¹⁰⁵ Saarto: Interview 16.7.2005, Nordea, Helsinki

¹⁰⁶ See Directives 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC Commission Directive 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and services (Text with EEA relevance) additionally see also Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive /646/EEC

¹⁰⁷ See Regulation (EC) No 2560/2001 of the European Parliament and of the Council of 19 December 2001"on cross-border payments in euro

¹⁰⁸ See Regulation (EC) No 2560/2001 of the European Parliament and of the Council of 19 December 2001"on cross-border payments in euro

what they would pay in their own country as well as make bank transfers in euros to other countries without losing money through excessive charges.

Notwithstanding, the services to a consumer stay limited in the sense that the same bank account cannot be accessed from the different countries in the same way as it would be domestically. This Regulation has been said to be essential for the efficient functioning of the Single Market. When goods or services are sold across a border, payments cross the same border in the opposite direction. If the cross-border payment generates extra costs, the Single Market is not functioning properly.

Nevertheless the Regulation on cross-border payments in euro eliminates the difference of price between cross-border and national payments. It applies to credit transfers, cash withdrawals at cash dispensers and payments by means of debit and credit cards. Hence the Euro Regulation lays down rules on cross-border payments in euro in order to ensure that charges for those payments are the same as those for payments in euro within a Member State. The same Euro Regulation also lays down rules for the charges for cross border electronic payment transactions and credit transfers.¹⁰⁹ This has been feasible with between the Nordea banks in the four Nordic countries, A customer has been able to transfer money by using the internet of no charge as well to withdraw money with any bank card from any Nordea bank automat in any of the four countries has been without charge¹¹⁰ However it still not possible to use the bank account opened in one of the four countries freely across borders.

11.3 Discussion

The Commission is working hard to develop and implement secondary legislation to remove some of the barriers hindering cross border financial activity. However, this raises an important question in terms of all Europeans or in this case firstly;

¹⁰⁹ An institution shall, where applicable, communicate to each customer upon request his International Bank Account Number (IBAN) and that institution's Bank Identifier Code (BIC). The customer shall, upon request, communicate to the institution carrying out the transfer the IBAN of the beneficiary and the BIC of the beneficiary's institution. If the customer does not communicate the above information, additional charges may be levied on him by the institution. In this case, the institution must provide customers with information on the additional charges in accordance with Article 4

¹¹⁰ See Regulation (EC) No 2560/2001 of the European Parliament and of the Council of 19 December 2001"on cross-border payments in euro

whether or not it is feasible that the Nordic people fall under the same social security system? Can this be harmonized since it has been justified by the different set of national laws on consumer safeguarding. Do the citizens of the Nordic countries want that? This is serious political question that touches all of us. According to a quantitative survey conducted by the Commission in Finland and Sweden in 2004,¹¹¹ it raised concern among citizens. Particular concern emerged with different financial contracts¹¹² where standardization and harmonization in the market for financial services across the EU would involve the risk that the Nordic countries would have to lower their high standards of consumer safeguards to conform to other member countries, which were generally seen as much more lax with consumer protection.

From the Commission perspective another concern was that harmonization in the banking arena would be detrimental if it led to regression of payment standards. For instance Finland along with Sweden and Norway has a much greater level of automation in their payment system and has a greater use of electronic transactions compared to other Member States. Finland along with Denmark has the highest percentage of users of internet banking. My question is that would the opening of mutual social security systems firstly in the North lead automatically to a mutual social security system with rest of Europe? Could the harmonization of social security systems be detrimental to the consumers? On the other hand, one can question, if this would be the answer to or a step forward in the harmonization process of the internal market as a whole? When citizens can be identified across borders according to a mutual social security system, hence taxes would be easier to pay etc.

Furthermore, it can be discussed whether some form of EU-wide contract could be applied across the European Union such that providers or consumers could choose whether to operate under an EU contract rather than one from a domestic particular Member State. This can again raise the question of consumer preferences in the Nordic countries. Thus, especially in Finland, Denmark consumers prefer domestic products as well domestic banks. This might increase confusion rather than decrease it and would lead to consumer detriment as consumers would not understand the difference

¹¹¹ SEE: Consumer Protection: "Survey: the use of simplified/standardized financial services products in the EU15"
http://europa.eu.int/comm/consumers/cons_int/fina_serv/cons_experiences/index_en.htm
Accessed 15.5.2005

¹¹² E.g. Insurance Contracts

between a European Bank and the local bank. The difference of welfare systems as well as the different taxation regimes still keeps the harmonization process under way.

Nevertheless to conclude the legal aspects, one can say that because of the nature of the services and since financial services are creatures of national law, the national legislation and enforcement jurisdiction by the home Member State relating to cross border provisions of financial services has most likely been justified from the EC perspective.

Today with the help of the European Union the Nordic markets are open for other European players to enter to the countries. Increasing competition and the more open markets of bigger European and Global banks entering into the old regulated and protectionist Nordic countries (i.e. Finland and Sweden) old national banks have been forced to change their strategies into more global and brand image strategy management..

In the case of Nordea, the brand name of Nordea has worked as the link in creating the values of the company thus motivating its employees to work for a well established banking retail giant in the Nordic countries.

In general the Nordic countries' governments' regulations monitoring financial activities in the past has been protectionist. National interests in the respective countries of Nordea have not facilitated the integration process of cooperation of the four banks across borders.

With the opening of borders after the three of the Nordic countries joined the European Union, there has been a shift to the competitive markets of Europe as well globally on a larger scale hence there is a threat of bigger, European banks moving into markets of Finland, Norway, Denmark and Sweden.

In other words the globalization of capital markets, industries and services continues to change the rules of competition. Internationalization of the banking industry (as well as any industry) drive and create an increasing demand for more sophisticated and specialized financial solutions. The European customer is born who travels, is mobile, if not daily, almost weekly travels within borders and potentially will work in several countries simultaneously creates a demand for services to be provided across borders. The use of cash management is a daily routine and for the European customer, the contemporary

limited product range of banks is not enough. The transaction costs do not encourage cross border payments or business.

However, the deregulation of financial services in the Nordic countries and formation of the European Economic and Monetary Union opened opportunities for restructuring the banking industry not only within countries but also across national borders.

Nevertheless, the banking sector is still quite local and especially when related to the end-consumers, business activities remain local; hence the national players in the Nordic countries are still powerful. To conclude the European financial markets are merging and the effects of this phenomenon will enable more consumers to exploit banking services across borders. Hence there is a trend for emerging of a European customer and Nordea will be one of the first ones to provide services for this new customer. However, many practical problems still exist but the Commission is working hard with the respective businesses to facilitate the process of making the internal market work.

Adaptation of the SE-regulation will open a new door to discuss the potential to provide more banking services to its customers as well as it will be a way to lower transactions costs across borders. Nevertheless it is also a way for Nordea to organize its legal structure and thus cut costs.

11.4 Further Research

There are many separate issues that could be further researched relating to mergers and acquisitions. The organizational human resource management aspects as well as national and corporate cultural aspects relating to a success or a failure of a merger are potential research material in the case of Nordea. What is of great interest is how well the SE-regulation will enhance Nordea's business activities since it will be one of the first companies to implement the regulation. This is also very new and the impact on companies in practice has not been researched. Is this one step forward to harmonization of company law in Europe? Will this trigger more interest and desire for other companies to implement the regulation?

Moreover there is future research potential in analyzing the impact of the SE-regulation on the existing brand.

How the SE-regulation will change the impact of corporate brand of Nordea? Will Nordea be able to gain customer confidence after it has transformed itself into a “European Company” Since there is not contemporary information on the matter, only future will show how the transformation for Nordea to become a European Company will turn out in practice as well as how it will improve Nordea’s performance. In the meanwhile, European Union more specifically the Commission is working hard to facilitate cross border business and services as well as to secure the rights of its citizens.

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APPENDIX 1, 2, 3, 4, 5,6

APPENDIX 1 Interviews

List of Interviewees

1. Interview Timo Jalamo, *Nordea Stockholm*, 26.4.2005
2. Interview Arne Bernroth, *Nordea Malmö* 29.4.2005
3. Interview Anne Saarto, *Nordea, Helsinki* 16.7.2005
4. Interview Sanna Niinikoski, *Nordea Helsinki* 21.7.2005
5. Interview with Anne-Liisa Jalava, *Nordea Kuopio*, 20.4.2005