

# *Financial Law Institute*

Working Paper Series

*Unravelling the General Good  
Exception. The Case of Financial  
Services*

*Michel TISON*

*WP 2000-03*

*February 2000*



The **Financial Law Institute** is a department within the Law School of the Ghent University, Belgium. The research activities undertaken within the Institute focus on various issues of company and financial law, including private and public law of banking, capital markets regulation, company law and corporate governance.

The **Working Paper Series**, launched in 1999, aims at promoting the dissemination of the research results of different researchers within the Financial Law Institute to the broader academic community. The use and further distribution of the Working Papers is allowed for scientific purposes only. Working papers are published in their original language (Dutch, French, English or German) and are provisional.

For more information and a full list of available working papers, please consult the **homepage** of the Financial Law Institute at:

**<http://www.law.rug.ac.be/fli>**

# *Unravelling the General Good Exception. The Case of Financial Services*

*Michel TISON*

## **Abstract**

*In this paper we try to analyze the scope and significance of the general good exception, which has been construed by the Court of Justice as a mitigation of the general prohibition of all restrictions, whether discriminatory or not, to free movement of services and freedom of establishment. After an overview of the case law of the Court of Justice relating to these freedoms, we examine the conditions attached to the possibility for the member states to invoke the general good in order to maintain their national regulation restricting free movement.*

*Notwithstanding the existence of EU directives in the area of financial services with a view to create an internal market, there still is a wide scope for applying the general good by the member states at the level of financial product regulation. In view of the difficulties and the uncertainties surrounding the general good clause, we finally look at possible alternatives which aim at reducing information costs and enhance transparency with respect to the practical application of the general good clause by the member states.*

**Published in:**

*M. ANDENAS, W.-H. ROTH (eds.), Services and Free Movement in EU Law, Oxford, Oxford University Press, 2002, p. 321-381.*

**As this working paper has been published in the abovementioned book, it is no longer available in working paper format. Readers are kindly referred to the published article**

© Financial Law Institute, Universiteit Gent, 2000