MONTHLY MONITORING REPORT

JUNE 2016

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24 June 2016: EBF concerns on the implementation of the NSFR within the EU

On June 24th, the European Banking Federation (EBF) published its response to the European Commission's consultation regarding the Net Stable Funding Ratio (NSFR).

The EBF announced its support to the NSFR but voiced some concerns regarding its potential negative impacts on market activities if it was implemented as defined by the Basel Committee, explaining it could reduce markets liquidity.

The EBF also pointed out that the Basel NSFR would have a negative effect on short-term lending activities, e.g. on trade finance and factoring, by raising their costs for final consumers.

The EBF considers that the NSFR should be applied either on a consolidated or on individual basis, "*accordingly with each banking group liquidity structure and existing derogations*".

The Commission will publish a report on the NSFR implementation within the EU by the end of 2016, accompanied "*if necessary*" by a legislative proposal.

22 June 2016: the banking industry warns on the impact of internal approach revision

During the month of June, the EU banking industry was mobilised on the evaluation process on the methodologies for assessing risk led by the Basel Committee. Such revision, especially of internal models, would represent of new set of international standards for the banking sector, called i.e. "Basel IV" by the industry. The banking sector estimate that this new rules would deeply impact the current capital calculations of the EU industry.

On June 8th, the European Banking Federation (EBF) wrote to the Slovakian Presidency of the EU Council in order to include this issue at the ECOFIN meeting taking place on July 12th. The EBF Chairman, Frédéric OUDEA, warned against the negative impact that could have the revised Basel rules on the EU banks, increasing capital requirements, constraining banks to raise "*hundreds of billions of euros*" and so "*reducing banks' capacity to finance the economy*".

In a joint statement, the French and German banking associations raised their concerns during their meeting with the French minister of Finance. Both organisations asked to the UE authorities to conduct their own impact assessment on the new Basel rules for internal models. They also called the EU to define a single common position on the matter and to speak with one voice at the Basel Committee.

On June 22nd, a group of several international and national associations– Global Financial Markets Association (GFMA), International Swaps and Derivatives Association (ISDA), International Association of Credit Portfolio Managers (IACPM) and Japan Financial Markets Council (JFMC) – voiced similar concerns in a common response to the Basel Committee consultation on the use of internal model approaches.

They explained that the new Basel rules would represent *"the most significant conceptual change to the capital framework since the advent of Basel II, and, rather than improve the measurement and understanding of risk, would more likely do the opposite"*.

21 June 2016: 21 June 2016: ECB report on banks' governance and risk appetite

On June 21st 2016, the European Central Bank (ECB), as the European banking supervisor, published a report on its supervised banks' governance and risk management.

In this report, written as part of the Single Supervision Mechanism (SSM), the ECB assessed the supervisory and management bodies of these banks as well as their "*risk appetite* ".

This report concludes that the practices of the "*Significant Institutions*" (SIs) that were assessed are improving, but also that "*most Sis are still far from international best practices*".

The ECB explains that the SSM sets "*high and specific*" expectations regarding banks' boards, in particular their capacity to question and supervise the activities of their senior management.

The ECB also concluded that most of the observations and lessons formulated towards SIs are also valid for smaller institutions.

26 May 2016: The Commission launches a targeted consultation on the Net Stable Funding Ratio

On May 26th 2016, the European Commission published a consultation document on the implementation of the Net Stable Funding Ratio (NFSR) in the European Union.

The NFSR was adopted by the Basel Committee in October 2014, in order to insure the stability of banks' long term financing. It incorporates the assumed degree of stability of liabilities (*Available Stable funding Factor,* ASF) and the liquidity of assets (*Required Stable funding Factor, RSF*) over a 12-month horizon. The NFSR is calculated as follows: *Available Stable Funding (ASF) / Required Stable Funding (RSF)* ≥ 100%.

However, the work of the European Banking Authority (EBA) regarding the regulatory framework set by the European Regulation and Directive on Capital Requirements (CRR / CRD IV) (*see below*), as well as the Call for Evidence on the assessment of the EU regulatory framework for financial services, revealed the stakeholders' concerns regarding a potential hindrance caused by the NSFR to the financing of the EU economy. Several responses highlighted the need for a more appropriate application of the NFSR, which would better take into account the size and business models particularities of some European structures.

Therefore, the Commission launched this consultation to assess whether a "*more nuanced treatment"* in the application and calibration of the NFSR factors was possible, in order to take into account the "*specific business models and specific transactions*" that can be found in the European Union.

The Commission especially wishes to **gather specific responses from the stakeholders**, based on **concrete evidence**, regarding the following points:

1. **Potential adjustments resulting from complying with the NSFR**
   The Commission declared that it will **be especially attentive to the European banks' business models and to their diversity**, and will make sure that their financing capabilities will not be affected by the NFSR, **namely for trade finance**. As a reminder, the EBA opinion on the NSFR application already suggested a differentiated treatment for trade finance-related transactions, **including factoring**.

To adjust the NSFR requirements to the EU banks' business models, the Commission calls for:

- Stakeholders to precisely identify the transactions and business models that would be negatively impacted by the NFSR, and to **justify these claims using factual arguments**.
- Banks, in particular, to provide a quantified response of this impact on their long-term financing as well as on their balance sheet.

2. **<u>Problems caused by the NSFR on derivatives transactions</u>**

   The Commission calls for the participants to specify these problems and their recommendations regarding the impact of NFSR on derivatives transactions, as well as to quantify the improvements that would be allowed by following these recommendations.

   According to the Commission, the RSF, that currently requires 20 % of the current gross derivatives liabilities to be stably-funded on a 12-month horizon, is lacking risk-sensitivity regarding banks' funding. More specifically, the Commission welcomes stakeholders' proposals for an approach that could allow for a better risk-sensitivity in this area.

   The Commission also wishes to know whether stakeholders consider that the new ***Standardised Approach for Counterparty Credit Risk*** **(SA-CCR) – which is not yet implemented in the EU -** would allow for a more precise risk measurement regarding banks financing.

3. **<u>The problems caused by the NSFR regarding short-term transactions with financial institutions</u>**

   The Commission calls for stakeholders to give quantitative evidence highlighting potential restrictions that would be imposed by the NSFR regarding short-term transactions, as well as proposals to solve this problem. **Only short-term transactions with financial institutions, and lasting less than 6 months, are considered.**

4. **<u>The application of the proportionality principle</u>**

   The Commission calls for the stakeholders to identify the sectors in which the application of the NSFR should be more "*proportionate*" regarding the banks' size, as well as the criteria that would be used to define the size of these structures.

   It also asks for the stakeholders' contribution to set a precise definition for a "*low liquidity risk profile*".

   Finally, the Commission encourages stakeholders to define which institutions could be completely exempted from the NSFR and on which basis.

   The Commission **clearly refers to the *"flexibility"* provided for the implementation of the Liquidity Coverage Ratio (LCR)** and the specific treatment for certain business models that were introduced. Since factoring activities were granted a derogation from the LCR requirements, the application of the proportionality principle under the NSFR may have the same output.

As a final remark, it is to be noted that the Commission paper **does not question the EBA opinion and recommendations** (*see below*) and that the consultation **is aimed at completing such work**. Given that the EBA recommended to introduce alternative treatment for factoring, the Commission is likely to introduce such a (partial) waiver from NSFR requirements.

The comments and proposals from stakeholders regarding this consultation document can be sent at the following address :
FISMA-CONSULT-NSFR@ec.europa.eu

This consultation will last until June 24th 2016.

On the basis of the EBA's report, as well as on the results of this consultation, the European Commission could, "*if necessary*", issue a legislative proposal for the end of 2016.

18 May 2016: the ECB launched a 2nd consultation on national options and discretions under EU law

On May 18th, the European Central Bank (ECB) launched a **second public consultation regarding the ECB Guide on the national options and discretions (NODs)** available under the Capital Requirements Regulation (CRR) and the Capital Requirements Directive (CRD IV).

The consultation focuses on an Addendum to the ECB Guide published on March 14th, 2016.

On March 14th, the ECB also published a regulation to clarify the extent of the NODs applicable to credit institutions, in order to harmonise their application within the Single Supervisory Mechanism framework (SSM) and facilitate their supervision by the ECB.

The addendum on which the ECB consults deals with 8 NODs regarding the following issues:

1. Capital waivers ;
2. Exclusion of intragroup exposures from the calculation of the leverage ratio;
3. Valuation of assets and off balance sheet items – use of ifrs for prudential purposes;
4. Calculation of risk-weighted exposure amounts – intragroup exposures;
5. Additional collateral outflows from downgrade triggers;
6. Cap on inflows ;
7. Combining the functions of chairman and CEO;
8. Internal capital adequacy assessment process for credit institutions permanently affiliated to a central body.

The consultation will end on June 21st, 2016.

17 May 2016: the EBA confirmed the possibility of using unsolicited credit assessments

On May 17th, the European Banking Authority (EBA) issued a report and a decision regarding the use of unsolicited credit assessments assigned by External Credit Assessment Institutions (ECAIs) for calculating institutions' capital requirements.

Under the Capital Requirements Regulation, some unsolicited credit ratings can be used by credit institution for calculating their capital requirements, but only if such unsolicited ratings *"do not differ in quality from solicited ratings of that same ECAI"*.

The decision of the EBA confirms the possibility to use such ratings and allows the use of the unsolicited ratings assigned by 22 ECAIs.

The EBA adds that this decision is also aiming to *"support the intention of EU legislators to open the market to all registered and certified credit rating agencies"*.

The EBA decision will enter into force on June 6th, 2016.
11 May 2016: the EBA consults on LCR disclosure requirements On May 11th, the European Banking Authority (EBA) launched a consultation on the draft guidelines on the disclosure requirements related to the Liquidity Coverage Ratio (LCR). **The proposed guidelines aim at harmonising qualitative and quantitative information reported and disclosed by credit institutions on the LCR**. In particular, the EBA provide two tools for ensuring harmonised disclosure within the EU banking sector: 1. A *"qualitative and quantitative harmonised table"* for the disclosure of general information on liquidity risk management; 2. *"Qualitative and quantitative templates"* for the disclosure of the LCR composition. **The consultation will run until 11 August 2016.** These Guidelines will not be applied before June 30th, 2017.
21 April 2016: the Basel Committee revised the standards for Interest Rate Risk in the Banking Book On April 21st, the Basel Committee issued the standards for Interest Rate Risk in the Banking Book (IRRBB). These standards revise those published in 2004 on *Principles for the management and supervision of interest rate risk*. The main modifications the Committee made to the 2004 principles are the following: ▪ A more accurate guidance on the expectations for a bank's IRRBB management process in areas such as the development of interest rate shock scenarios and their modelling; ▪ An enhancement of the disclosure requirements to promote greater consistency, transparency and comparability of IRRBBs; ▪ An updated standardised framework, which supervisors could mandate their banks to follow or banks could choose to adopt; and ▪ A stricter threshold for identifying outlier banks, reduced from 20% of a bank's total capital to 15% of a bank's Tier 1 capital. The revised standards should be implemented by 2018.
20 April 2016: the Commission answered MEPs technical questions on STS securitisation On April 20th, the European Commission published 3 documents aiming at answering MEPs technical questions on the draft regulation on simple, transparent and standardised (STS) securitisation: ▪ A letter from EU Commissioner on Financial Services, Jonathan Hill; ▪ A briefing note summarising the main objectives and features of the Commission's two STS proposals; ▪ A table listing all questions from the MEPs with the corresponding answers provided by the Commission services.

In his letter, **Jonathan Hill calls the MEPs of the Economic and Monetary Affairs Committee (ECON) to *"progress rapidly with the securitisation proposal"*.** For the EU Commissioner, *"every day the framework is not in place is a missed opportunity to support Europe's recovery"*.

The table answers to 109 technical questions the MEPs on very diverse topics such as:

- **Transparency**, especially of underlying assets for STS securitisations;
- **Risk transfer**, for example the concentration of risky tranches of securitisations in a bank's assets portfolio;
- The **funding of the real economy**, e.g. capacity of STS securitisations to allow for constant financing provision including under adverse economic scenarios;
- The **exclusion of synthetic securitisations** of the draft regulation scope.

The parliamentary calendar is the following:

- Exchange of views in ECON on May 23rd, 2016;
- ECON Hearing on June 13rd, 2016;
- Consideration of the draft report in ECON on June 21st, 2016;
- Deadline for amendments on July 21st, 2016;
- Consideration of the amendments on October 10th, 2016;
- Vote in ECON on November 9th, 2016.

<u>7 April 2016: UEAPME sent comments to the Basel Committee on the standardised approach revision</u>

On April 7th, The European Association of Craft, Small and Medium-sized Enterprises (UEAPME) released a letter sent to the Basel Committee regarding the **treatment of retail and SME loans in the Standardised Approach for credit risks**.

The UEAPME welcomes the Committee's proposals to lower risk weight for exposures to corporate SMEs but considers that **the risk weight could be even lower, in line with the EU legislation (CRR): 75% instead of the proposed 85%.**

The EU association also asks that loans granted to SMEs and covered by third-party guarantee as additional collateral are considered as representing less risk. So UEAPME suggests that such loans fall into the retail class of exposures, and not the corporate exposures.

Finally, **UEAPME calls the Basel Committee to take into account the SME supporting factor** introduced by CRR in its further work on the standardised approach for credit risk.

The Basel Committee is expected to complete its work on the Standardised Approach by the end of 2016.

<u>31 March 2016: Numerous members of the industry take a common stance on securitisation</u>

On March 31st, a joint note firmed by 32 signatories was published regarding the draft regulations composing the Commission's initiative to revive EU securitisation markets:

- The draft regulation laying down common rules on securitisation and creating a European framework for simple, transparent and standardised (STS) securitisation;
- The draft regulation amending the Capital Requirements Regulation (CRR).

From a general perspective, the signatories welcome the Commission's legislative proposals but consider **they are incomplete**. They also call the Commission to adopt **a holistic approach**, allowing an effective comparison regarding credit and systemic **risks and costs** of the provided financing tools.

The note highlights 10 key problematic points and suggest solutions:

1. **Many criteria remain vague or unnecessarily prescriptive**
   - ➡ The signatories recommend to conduct a careful examination of the individual STS criteria and the additional CRR criteria and check that the criteria do not exclude *"traditional, proven and safe real economy assets"* from the STS designation.

2. **The lack of grandfathering provisions for STS and retention will cause unwarranted market dislocation and possible losses for existing investors**
   - ➡ The signatories recommend to introduce transitory provisions to allow existing securitisations which are "fundamentally STS" – but not exactly responding to the STS criteria – to benefit from the preferential prudential treatment.

3. **The lack of a holistic approach for investor due diligence creates high barriers to entry for investors, mainly unnecessarily duplicative and costly process**
   - ➡ The signatories recommend to allow regulated asset managers to perform the due diligence on the assets for the purchase of which they are mandated.

4. **Originator/sponsor STS compliance attestation must focus on clear and controllable requirements**
   - ➡ The signatories recommend to introduce
     - A component attestation, requiring that originators and sponsors attest to the individual components of the STS definition;
     - A presumption of innocence for originators and sponsors when a regulator disagrees with the released attestation, if they received an independent, regulated third party opinion.

5. **STS compliance must be clear to investors and consistently applied across the European Union and transactions**
   - ➡ The signatories recommend introducing the possibility to use a third party certification for checking STS compliance. Such a recourse would not be mandatory.

6. **The choice to leave the STS scheme with a multiplicity of national regulators is problematic**
   - ➡ The signatories recommend to establish a *"permanent, effective and swift European single point of interpretation"* to harmonise interpretation of STS criteria.

7. **Maturity caps on underlying exposures and disproportionate public disclosure requirements for asset backed commercial paper conduits ("ABCP conduits") do not match investor and prudential needs and will materially reduce this important market**
   - ➡ The signatories recommend that the maturity cap is substantially extended or omitted and to adopt more proportionate disclosure requirements.

8. **Proposed revisions to the CRR capital framework remain a major disincentive for banks holding STS securitisations and for banks originating STS securitisations**
   - ➡ The signatories recommend to perform some "corrections":
     - *"the removal of the double counting of maturity risk in SEC-ERBA;*

- *changing some of the arbitrary numbers that generate requirements that are multiples of the observed risk for STS securitisations;*
- *allowing European banks to use proxy data to estimate credit risk in a more effective way;*
- *creating flexibility amongst the mandated methodologies so European banks can use the SEC-SA approach, when the SEC-ERBA results are not commensurate with the actual risk of the securitised assets"*.

9. The very severe consequences of securitisations losing their STS status as a result of ex post facto changes risks creating a very unstable system with substantial cliff-effects

➡ The signatories recommend to introduce *"reasonable and safe regulatory mitigants"* to reduce cliff-effects.

10. There is an urgent need for a completion of the STS project by the addition of the remaining parts of the construction

➡ The signatories recommend to amend some provisions of the following EU rules:

- The Solvency II directive;
- The Liquidity Coverage Ratio;
- The leverage ratio.

23 March 2016: EBA report on the SME Supporting Factor

On March 23rd 2016, the European Banking Authority (EBA) published a report assessing the impact of the measures aiming at reducing the capital requirement for banks' expositions to SMEs.

As a reminder, the article 501 of the European Capital Requirement Regulation (CRR) was modified in January 2014 to encourage loans for SMEs. This modification introduced a **multiplication factor (*SME supporting factor, SME SF*)** of .7619 to capital requirements related to banks' expositions towards SMEs.

This measure's aim was to **reduce the capital requirement for banks lending to SMEs**, in order to spur this type of loan in a context of difficult access to finance.

According to article 501 (5) of the CRR, the EBA had to publish a report assessing the impact of this measure on SME financing, as well as the evolutions of risks attributed to banks' expositions to SMEs.

For the conclusions of this report, the EBA bases its analysis on a consultation that was opened from July 31st 2015 to October 1st 2015, and on two parallel empirical studies.

A lack of data to observe a significant impact of the SME SF on a European scale

According to the EBA, **the lack of relevant data** and the **recent adoption** of the SME SF prevent from assessing a real impact of this measure on European SMEs.

Therefore, "*no additional stimulus*" was granted to loans aimed at SMEs, compared to loans granted to a comparative sample of larger companies.

Furthermore, the EBA cannot evaluate, for both the internal approach (IRBA) and the standard approach (SA), whether the SME SF has a real impact on risk calibration concerning banks' companies and retail exposition.

The EBA wishes to continue this evaluation and to improve its methodology

The EBA introduces 4 recommendations aiming at clarifying the application criteria of the SME SF, defined in the article 501 (2) of the CRR, in order to **improve its data collection**:

1. The EBA wishes to **continue monitoring** the SME SF over a longer period of time
   - The Authority wants to wait for more data, coming from the European reporting frameworks (COREP) and the surveys conducted by the European Central Bank (SAFE).
   - The EBA also wishes to conduct another review of the SME SF once the risk-weights' reviews are introduced by Basel in late 2016 (see Recommendation 2).

2. The EBA aims at **adopting a more comprehensive approach for the review of risk weights**

   The SME SF only applies to "*companies*", "*retail*" or *"secured by mortgages on immovable property"* exposition classes, and does not apply to exposures in default. As a result, the EBA proposes:
   - a "***support discount***", which would not affect current risk weights, but would be applied at the end of the capital requirement calculation process.
   - a **more precise risk calibration**, with a supporting factor that would be calculated according to the nature of the exposition, as described in the Basel committee's works:
     - .75 for the "retail" exposition class
     - 85 for the "companies" exposition class

3. The EBA wants **to review the pertinence of the limitation of the SME SF to loans under 1.5 million Euros.**

4. The EBA wishes to **harmonise the definition of SMEs** in the application of the CRR
   The SME SF only focuses on SME as defined in the Commission Recommendation of May 6th 2003 : "*enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million*". This definition still **varies across institutions.**

A report of the Commission on the impact of the SME SF should be presented to the co-legislators by January 2nd 2017.

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22 March 2016: ECB annual report on prudential supervision for 2015

On March 22nd, 2016, the European Central Bank (ECB) published a report on its prudential supervision for the year 2015. It was addressed to the European Parliament, the Council, the Eurogroup, and the national parliaments.

This report is particularly important, as it is the first one to be published after a full year of implementation of the banking regulations created to respond to the economic crisis.

In a press conference organised for the publication of this report, Danièle Nouy and Sabine Lautenschläger, respectively Chair and Vice-Chair of the ECB's Supervisory Board, presented its key points.

The end of the important regulatory reforms in the European banking sector

Danièle Nouy began her intervention by coming back on the r**egulatory reforms that were being implemented in 2015,** such as the Capital Requirement Regulation (CRR). She also spoke of the Basel III reform, which is supposed to end in late 2016, and of the current implementation of the new bail-in rules in case of bank failures, such as the Minimum Requirement of own funds and Eligible Liabilities (MREL).

According to her, those reforms are **sufficient to allow European banks to be "*more resilient*"** to economic shocks. The Chair of the Supervisory Board also insisted on the fact that "***the regulatory reform is coming to an end***".

Danièle Nouy concluded her intervention by naming the ECB's supervision priorities for 2016:

- **Banks' business models and profitability**;
- **Credit risk**, in particular concerning non-performing loans;
- **Capital adequacy**, especially bail-in capital;
- **Risk management and governance**, in a difficult environment marked by low interest rates and abundant liquidity;
- **Liquidity risks**.

Some important progresses, but a supervisory harmonisation that needs to be completed

Sabine Lautenschläger insisted on the "*important progresses*" made by the European banking supervision during the year 2015.

She took as an example **the Supervisory Review and Evaluation Process (SREP),** which became the principal supervisory tool of the ECB. This process will be completed in 2016 by two stress-tests in the banking sector, conducted respectively by the European Banking Authority (EBA) at the EU scale, and by the ECB at the Eurozone scale.

Even though the Vice-Chair of the Supervisory board also considers that the "*regulatory reform is coming to an end*", **harmonisation in the application of some prudential regulations is still to complete in 2016** :

- **"*Joint standards*" of supervisory planning and recovery planning for Least Significant Institutions (LSI)** will be established to allow for an indirect supervision of the ECB through national supervisory authorities.
- **National Options and Discretions (NODs) will be harmonised** by a regulation and a guide which will come into force on October 1st 2016.
- A **targeted review of banks' internal models (TRIM) will be conducted**, to reduce the non-risk based variability in model-based capital requirements.

14 March 2016 : the ECB sets a common basis for National Options and Discretions

On March 14th 2016, the European Central Bank published a regulation to **clarify the extent of the National Options and Discretions (NODs)** applicable to credit institutions, in order to harmonise their application in the Single Supervisory Mecanism framework (SSM).

This regulation is published with a guide that defines the regulatory approach of the ECB concerning NODs.

As a reminder, the Capital requirement Regulation and Directive (CRR/CRD IV) leave the opportunity for Member States to decide of the **application method of some provisions (options)** or **whether to apply or not some provisions (discretions).**

After an assessment realised in November 2014, the ECB concluded that **differences in the application of these NODs impacted the level playing field** in the banking sector. This **compulsory regulation** creates a common basis on NODs to insure the equality of treatment in the industry.

The **common dispositions are based on the European CRR and CRD IV**; they particularly focus on :

- **Definitions** of credit institutions, national authorities and other financial actors (article 2)
- **Calculation processes** for own funds and capital requirements (chapters I and II)
- **Large exposures** (chapter III)
- Credit institutions' **liquidity** (chapter IV)
- **Transitional provisions** of the Capital Requirements Regulation (chapter V)

This regulation will enter into force on October 1st 2016.

The article 4 of the regulation, concerning default of an obligor, will only enter into force on December 31st 2016.

The article 13 of the regulation, concerning outflows from stable retail deposits, will only enter into force on January 1st 2019.

11 March 2016: ECB opinion on the STS securitisation initiative

On March 11th, the European Central Bank released an opinion both the draft regulations composing the Commission's initiative to revive EU securitisation markets:

- The draft regulation laying down common rules on securitisation and creating a European framework for simple, transparent and standardised (STS) securitisation;
- The draft regulation amending the Capital Requirements Regulation (CRR).

The ECB Opinion was required by the EU Council. It mainly focuses on the Commission's initial proposals but also considers the general approach reached by the Council on December 2nd, 2015.

THE ECB WELCOMES THE COMMISSION'S INITIATIVE

In its opinion, the ECB welcomed the legislative initiative initiated by the EU Commission to revive EU securitisation markets. It is supportive of the initiative's objectives: enhance EU financial markets integration, diversify financing sources and unlock capital for the real economy.

For the Frankfurt-based institution, the draft regulations stroke the right balance between reviving EU markets and maintaining a strong prudential framework. The STS criteria and the corresponding capital charges are considered as generally "appropriate".

THE ECB BRINGS SOME CLARIFICATIONS REGARDING ITS SUPERVISORY COMPETENCES

Under Article 15 of draft STS regulation, the ECB considers that some of its assigned missions would not match its supervisory prudential tasks but rather deal with to product markets or investor protection supervision.

More accurately, the **ECB does not consider itself as competent to perform the following tasks**:

- The **control of compliance with STS criteria**, under articles 6 to 14 of the STS regulation;

- The **compliance check of risk retention requirements** (Article 4 of the STS regulation) and **transparency obligations** (Article 5) for banks directly supervised by the ECB.

Regarding both these points, the ECB welcomes the Council amendments, removing the direct reference to the ECB as the competent authorities to perform these supervisory missions.

SOME KEY RECOMMENDATIONS OF THE ECB

The ECB also suggest some specific recommendations on key points of both the draft regulations:

1. *For the draft STS regulation, the ECB recommends :*
   - Introducing **a mandatory loan-by-loan granularity for underlying assets data for all securitisations**, including asset-backed commercial papers (ABCP);
   - Mandating the European Banking Authority (EBA) to clarify several STS criteria through regulatory technical standards (RTS);
   - **Reducing the maturity cap for ABCP underlying assets to 1 year**;
   - Excluding securitisations whose repayment is dependent on collateral liquidation from the STS designation;
   - **Not granting an explicit function to third party for the certification of the securitisations compliance with STS criteria**;
   - Reducing administrative sanctions and removing the possibility for Member States to impose criminal sanctions.

2. *Regarding the draft CRR regulation, the ECB recommends :*
   - **Prohibiting the use of the Securitisation External Ratings-Based Approach (SEC-ERBA);**
   - **Keeping the cautious approach of the Commission regarding the synthetic securitisations;**
   - Clarifying and enhancing current provisions regarding the significant risk transfer and implicit support.

The EU Council already reached a political compromise on December 2nd, 2015.
The European Parliament is still in the preparatory work phase. A first public exchange of views within the ECON Committee should take place on May 23rd, 2016.

23 February 2016: the European Parliament calendar for the securitisation initiatives

Following the shadow meeting of February 23rd, **the provisional calendar that has been set for both the securitisation initiatives marks a regulatory downturn** at the European Parliament**:**

- The draft regulation defining criteria for a simple, transparent and standardized (STS) securitization;
- The draft regulation amending the Capital Requirements Regulation (CRR) to adapt the prudential treatment of such transactions.

The rapporteur for the first legislative dossier, **Paul TANG (S&D, NL)** has indeed **refused to fast-track** the new rules on STS securitisation, which is one of the pillars of the Commission's Capital Markets

Union (CMU). This deal is a blow to the European Commission that hoped for a swift legislative process.

Paul TANG suggested a **provisional timetable that would settle the Parliament's position on the securitisation initiatives for late 2016.** The EP representatives would still have to conduct compromise talks with the EU Council afterwards, in order to agree on a final version of the legislation.

Furthermore, the rapporteur declared that this dossier had to be examined in the European Parliament **in parallel with the controversial bank deposit insurance proposal**, to which Germany is strongly opposed. Esther DE LANGE (EPP, NL), rapporteur of this dossier for the European Parliament, already expressed that she will take all the time needed to realise an *"efficient report"*.

The **provisional calendar** is as follows :

- **May 12th** : publication of a working document
- **May 23rd-24th**: exchange of views on the STS in the Economic and Monetary Affairs (ECON) Commission of the European Parliament.
- **June 13th -14th**: ECON hearing, possibly with the Commissioner Jonathan Hill, in charge of the CMU, as well as European Supervision Authorities and industry representatives
- **July 13th**: consideration of the draft report in ECON.
- **July 22nd** : deadline for amendments on STS proposal
- **October 10th-11th** : consideration of the amendments in ECON
- **November 28th 29th** : vote of the report in ECON
- **(TBC) January 2017** : adoption of the text in plenary session of the European Parliament

In this context, the industry expresses its concern. **A joint position paper was published by the AFME, the EFAMA, the ICMA and Insurance Europe** on March 3rd, stressing the importance of securitisation for the European economy and urging the policymakers to implement this initiative "*as soon as possible*".

22 February 2016: the ECB priorities for banking supervision

On **February 22nd, Danièle Nouy,** Chair of the ECB's Supervisory Board, gave a speech in which she set the supervisory guidelines that will be followed by the ECB for 2016.

She acknowledged that the small and medium-sized banks faced many challenges, in a difficult context characterised by low interest rates and feeble growth. Danièle Nouy warned that the lack of profitability that it provoked **could affect the European banks' stability**, despite **the progresses made these past years thanks to the European capital requirement regulations.**

The Chair of the Supervisory Board **encouraged the European banks to focus on long-term profitability**. A **search for short-term profit** – investing in high-yield bonds for instance – could, in a low risk-remuneration context, **endanger the whole European banking sector**.

She drew some **potential consequences** for European banks

- The revaluation of their security holdings, for assets whose price is decreasing
- An increase in the need of collateral holding
- An increase in financing costs

To help the banks face these challenges, the Chair of the Supervisory Board gave some propositions to the banks, such as the expansion of their non-interest based business operations, in favour of fee-based income. She also encouraged the banks to increase their productivity.

Danièle Nouy repeated her wish to see the efficient incorporation of **new standards**, such as the ***Total Loss Absorbing Capacity* (TLAC)** and the ***Minimum Requirement for own Fund of eligible Liabilities* (MREL).**

However, she also insisted on the fact that "*all things being equal, supervisory requirements will not be increased further*".

The 5 priorities for the European banking supervision are, for 2016:

- **Business models and profitability**
  - ✓ A **thematic review has already been started on bank's profitability drivers**, to prevent risky behaviors such as weaker credit standards, greater reliance on short-term funding, or increased risk exposure.

- **Credit risk and non-performing loans**
  - ✓ A task force has been created and is going to produce proposals
  - ✓ The European supervisory authorities are going to focus on areas with excessive risk concentration, such as real estate.
  - ✓ The implementation of the **International Finance Reporting Standards (IFRS 9)** which will "*change the way credit impairments are measured*".
    A thematic review will be conducted in 2016.

- **Risk governance and data quality**
  - ✓ A thematic review will be conducted **focusing on the compliance of banks regarding the principles for effective risk data aggregation and risk reporting** issued by the Basel Committee on Banking Supervision.

- **Capital adequacy**
  Several thematic reviews are to be conducted, in particular:
  - ✓ Concerning the consistency and quality of banks' internal capital adequacy assessment processes, or **ICAAP (*Internal Capital Adequacy Assessment Process*)**
  - ✓ Concerning the **internal stress testing capabilities of banks**, under the supervision of the European Banking Authority (EBA) or the ECB.

- **Liquidity risks**
  - ✓ A methodology on liquidity risks is to be developed, taking into account the reliability of liquidity risk management in banks with the internal liquidity adequacy assessment process (ILAAP).

On the same topic, the EBA updated is Risk Dashboards for the EU banking sector on February 23rd.

On February 24th, it began its 2016 EU-wide stress-test exercise.

22 February 2016 : the issue of proportionate regulation for small and medium-sized banks grows

On the **22nd February**, the **Vice-Chair of the ECB's Supervisory Board, Sabine Lautenschläger**, gave a speech in which she declared that the ECB will keep conducting an **indirect supervision on small and medium sized banks.**

She stressed the importance of strict supervision towards these "***less significant institutions***" in terms of individual systemic risks, which remain the "***bedrock***" of the economy. However, gathered in **associations of saving banks and cooperative banks**, or closely linked with larger institutions *via* institutional protection schemes, these banks **can create potential systemic risks for the banking sector**.

According to **Sabine Lautenschläger**, this supervision should however take into account the **national and regional particularities** of these banks. They are indeed often **specialised** in relevant regional services for their clients. This situation makes them **particularly vulnerable** to economic shocks.

Therefore, the ECB will not impose direct and compulsory regulations for the small and medium-sized banks.

Sabine Lautenschläger's proposal is however based on **minimum requirements** that will be **enforced by national competent authorities under the supervision of the ECB**. According to her, it would allow for:

- A **more efficient risk supervision**, tailored to the activities and risk-profile of the structure;
- A better respect of **both proportionality and subsidiarity principles**

The Vice-Chair of the Supervisory Boards concluded her intervention by pointing out several areas in which the minimum requirement would have to be specified:

- The **reporting procedures of data collected from small and medium-sized banks by national authorities to the ECB**. This reporting is one of the most expensive regulatory costs for this type of banks.
- The **special treatment of banks belonging to an institutional protection scheme (IPS)** in the framework of the Capital Requirement Regulation (CRR). A consultation has been launched on this matter (*see "Ongoing consultations"*).

Meanwhile, the **National Association of German Collective Banks (BVR)** published a report on February 23rd, assessing the consequences of the EU financial regulations on the German small and medium-sized banks.

In its conclusions, the BVR recommends a greater independence for national authorities for small and medium-sized banking supervision. According to this study:

- The average regulatory cost, in relation with the total assets, is many times higher for small and medium-sized banks than for larger structures.
- This creates further pressure for small and intermediate banks to merge, which increases the employees and boards of managing directors' workload. This provokes a shift in these banks activities, drifting away from the regional needs of their consumers.

As a reminder, **these activities represent 70 % of Germany's total regional financing**. The small and medium-sized bank's supervision system is therefore an important issue for Germany.

The BVR formulates 12 recommendations, some of which call for **changes in the supervisory and resolution regulatory framework:**

- Decrease the remit of European Supervision Agencies (ESAs), and imposing a better democratic control over their activities
- Put an end to the project of a risk-mutualisation in the European banking sector. The liabilities should be, according to the BVR, contained at the regional and national levels.
- Diminish investor protection to reach a more "*realistic*" level.

Other recommendations call for a **deeper reflection on the EU regulatory framework** :

- Make the "better regulation" principle permanent, and increase the regulatory moderation for new regulations

- Conduct more frequent impact assessments of the existing regulations
- Diminish the scope and complexity of the European regulatory requirements
- Set realistic implementation deadlines

11 January 2016: Basel Committee revised its framework for market risk

On January 10th, **the Basel Committee on Banking Supervision adopted its new market risk framework**. The purpose of the revised market risk framework is to ensure that the standardised and internal model approaches to market risk deliver credible capital outcomes and promote consistent implementation of the standards across jurisdictions.

The key features of the revised framework include:

- **A revised boundary between the trading book and banking book**, to reduce incentives to arbitrage between the regulatory banking and trading books;
- **A revised internal models approach for market risk**, introducing a more rigorous model approval process;
- **A revised standardised approach for market risk**, to make it more risk-sensitive;
- **A shift from value-at-risk to an expected shortfall measure of risk under stress**, to ensure *"prudent capture of "tail risk" and so maintain capital adequacy during periods of significant market stress"*.
- Incorporation of the **risk of market illiquidity**, incorporating varying liquidity horizons.

The revised market risk framework comes into effect on January 1st, 2019.

15 December 2015: the EBA recommends to implement the Net Stable Funding Ratio, with a differentiated treatment for factoring

On December 15th, the European Banking Authority (EBA) published its report on the impact assessment and calibration of the Net Stable Funding Ratio (NSFR). **The EBA report recommends the introduction of the NSFR in the EU.**

The EBA observed that there was already a strong compliance with the NSFR in a significant part of the EU banking sector. In a sample of 279 institutions (representing 75% of total assets in the EU in December 2014), 70% of banks are already compliant.

On the basis of the EBA analysis, the Authority does not find *"strong statistical evidence suggesting a detrimental effect of the NSFR on bank lending"*. For the EBA, introducing the NSFR would not trigger a swift to the shadow banking activities.

According to the Authority, the report does not find evidence that the NSFR would result in significant distortions in financial assets markets or trading book positions in banks. However, the EBA indicates that *"certain assets, like equities, or certain activities, like market making or equity derivatives, might be affected"*.

On the basis of its report, the EBA sets out 11 recommendations :

1. **A net stable funding requirement (NSFR) should be introduced for credit institutions in the EU.**

2. **The NSFR should be applied on a consolidated and individual basis.**

3. The calibration and definition adopted in Basel "*fit well*" with the European banking system according to the EBA. However, the Authority stated that **some European specificities justify a different calibration of factors for specific transactions**.

4. A minimum amount of available stable funding should be imposed in relation to assets and off-balance-sheet commitments.

5. **The calibration of a net stable funding requirement for trade finance-related transactions needs to be differentiated.**
   In the case of factoring, some alternative treatments are suggested, either a similar treatment as for import/export loans, or a lower NSFR requirement or a waiver on a solo basis.

6. The treatment of interdependent assets and liabilities, as envisaged in the Basel standard, is recommended in the case of fully matched funded amortised mortgage lending.

7. For CCPs acting purely as mediators between counterparties, CCPs could be exempted from the net stable funding requirement.

8. In the case of banks due to transfer received customer-regulated savings to a centralised state-controlled fund, the corresponding liability towards the retail customer and the claim towards the state-controlled fund should be analysed as interdependent assets and liabilities.

9. *"Residential loans guaranteed by banks or insurers who, in the case of default of the borrower, would repay the loans to the originating credit institution and contractually benefit from a mortgage on the real estate should be assimilated into mortgage loans and have an equal treatment under the NSFR"*.

10. According to the EBA analysis, smaller banks should be *"subject to the same stable funding requirement"* as the rest of the banks.

11. **The net stable funding requirement should be equal to at least 100% on an ongoing basis.**

On the basis of the EBA report, the European Commission may present a legislative proposal "*if necessary*" by the end of 2016.

European Analytical Credit Dataset

Back to summary

20 May 2016: the ECB publishes the regulation on the collection of granular credit and credit risk data by the euro area institutions

On May 20th 2016, the European Central Bank (ECB) published a **regulation as well as a decision regarding the collection of granular credit and credit risk data by the euro area institutions for the AnaCredit (*analytical credit datasets*) database**.

As a reminder, this initiative aims at harmonizing the collection of credit data within the euro area, and to improve the Eurosystem's analysis capabilities in this regard. AnaCredit should also assist the ECB in its monetary policy decisions, in order to get a better grasp of its concrete influence on real economy financing – and especially SME financing.

A draft regulations was published by the ECB on September 4th 2015, as part of a consultation on this matter, which ended on January 29th 2016.

The regulation that resulted from this consultation process sets :

1. **Which institutions have to report information**
   Article 3 of the regulation sets its application to "*reporting agents*", which are "*residents in EU Member States and which currency is the Euro*". This definition includes :
   - Any credit institution resident in a euro area Member State;
   - Any foreign branches of credit institutions, provided that these branches are resident in a euro area Member State.

   Each reporting agent will have to report the granular credit data related to the entities that they control, the "*observed agents*":
   - The domestic part of the reporting agent;
   - Any foreign branch controlled by the reporting agent, **whether it is located, or not, in a euro area Member State**.

   The reporting agents must report their data, as well as their observed agents' data, to their national central bank.

2. **Which credits are subject to reporting**
   This regulation applies to "*conventional*" lending products, which means any item that is used to extend a credit to a debtor.
   The instruments subjected to reporting are classified as follows :
   - Deposits other than reverse purchase agreements ;
   - Overdrafts;
   - Credit card debt;
   - Revolving credit other than overdrafts and credit card debt;
   - Credit lines other than revolving credit;
   - Reverse purchase agreements;
   - Trade receivables;
   - Financial leases;
   - "*Other loans*".

   Credit derivatives and strict off-balance sheet items are excluded from the scope of this Regulation.

As a reminder, in a letter dated on December 16th, the president of the ECB, Mario Draghi, stated that the draft Regulation *"only focuses on credit granted by credit institutions to non-financial corporations and other legal entities and,* ***thus, does not cover credit extended by, for example, leasing, factoring*** *or insurance companies"*.

It is important to note that at least one debtor to which a credit is extended has to be a "*legal entity*" (see Article 1 (5)) or has to form part of a legal entity for the Regulation to apply.

Following Article 5 of the Regulation, **an instrument has to be reported if it is held by a debtor whose commitment amount for all eligible instruments in respect of the observed agents equals or exceeds EUR 25 000**. **In this case, every single eligible instrument of the debtor is subject to reporting**, even though the commitment amount of an individual instrument can be inferior to the EUR 25 000 threshold.

3. **Which data are to be reported**
The reporting will have to be done on a "*loan-by-loan*" basis. The information that has to be reported to national central banks covers more than 90 data attributes, which characteristics are defined in Annex IV of the Regulation.

These data attributes are related to the eligible instrument that is reported, the collateral or guarantee securing the instrument, or the counterparty related to the instrument or providing the collateral to the instrument.

4. **Derogations and reduced reporting**
Within a Member State of the euro area, derogations can be granted by national central banks to reporting agents if the total sum of these exempted reporting agents' contribution do not exceed 2 % of the total outstanding amount of loans reported according to the regulation 1071/2013 of the ECB regarding the balance sheet of the monetary financial institutions sector.

National central banks can also exempt their reporting agents from the monthly reporting until January 1st 2021. In this case, the sum of their contribution must not exceed 4% of the total outstanding amount of loans reported according to the regulation 1071/2013 of the ECB.

5. **Reporting timelines and frequency**
This regulation sets **three frequencies** for reporting, which depend on the datasets that have to be reported: **monthly**, **quarterly**, or **following a change in the credit instrument**.

The text also sets timelines for reporting:
- For monthly information, 30 working day after the reporting reference date, or 35 working days if the observed agent is not located in a euro area Member State;
- For quarterly information, 15 working days after the reporting reference date, or 20 working days if the observed agent is not located in a euro area Member State.
The reporting remittance dates are : 31 March, 30 June, 30 September, 31 December.

The first reporting under AnaCredit will be related to data for 30 September 2018, for both monthly and quarterly data.

Further requirements regarding the reporting population, the coverage of counterparties' sectors, the credit and credit risk data registered and the data attributes to be collected may be

implemented in the future. However, the ECB announced that consultations would be conducted beforehand if this ever was the case.

The decision ECB/2016/14 of the ECB amends the decision ECB/2014/6 of February 24th 2014 to take into account the new regulation and to specify the implementation date that was previously set in "*late 2016*". It also removes the requirement for national central banks which obtained a derogation for a longer phase-in period in order to obtain comprehensive granular credit databases to report their progresses twice a year to the ESCB Statistics Committee.

This Regulation sets the starting date for data collection on September 30th 2018.

The data are to be reported to the ECB :

- **On 30 September 2018 + 30 working days for monthly data relating to *observed agents* resident in a euro area Member State;**
- **On 30 September 2018 + 35 working days for monthly data relating to *observed agents* non-resident in a euro area Member State;**
- **On 11 November 2018 + 15 working days for quarterly data relating to *observed agents* resident in a euro area Member State;**
- **On 11 November 2018 + 20 working days for quarterly data relating to *observed agents* non-resident in a euro area Member State.**

9 February 2016: The EPP MEPs criticise the AnaCredit project

On February 9th, the European People's Party (EPP) group within the European Parliament published a press release ***"critcising"* the ECB initiative aiming to create an analytical credit datasets for the Eurozone**: **AnaCredit**. The EPP group is the largest political group within the European Parliament, it gathers 216 Members of the European Parliament (MEPs) from 27 Member States.

The EPP group wants **the *"small loans"* to be exempted from the reporting requirements** planned by the AnaCredit initiative and so call for an increase of the planned threshold (€ 25 000).

THE EPP STANCE ON ANACREDIT

The EPP considers that the *"bureaucratic burden* [of AnaCredit] *clearly outweighs the gain in information on potential risks"*. According to the group the AnaCredit project represents *"disproportional bureaucracy"*.

The EPP stance focuses on two points:

I. **The level of the reporting threshold:**
According to the EPP group, **the proposed threshold triggering reporting duties is too low** (€ 25 000) so that the AnaCredit project would represent *"an incredible additional burden"* because of the high implementation and operating costs for small and medium-sized banks.

The EPP MEPs ask to exempt small loans from the planned database and increase the current threshold. They consider that reporting costs might *"distort competitiveness"* to the disadvantage of small and medium-sized banks.

II. **The protection of the collected data:**
The EPP MEPs also express **their concerns regarding the level of data protection provided by the AnaCredit database**.

The press release was written on behalf of the whole EPP group of the Parliament but two MEPs are leading the EPP action on the topic:

- **Dr. Markus PIEPER**, German MEP, President of the SME Circle, an EPP Group working group that checks new laws for their suitability for small companies. Dr. PIPER is member of the Parliament's Committee on Industry, Research and Energy (ITRE);
- **Mr. Burkhard BALZ**, German MEP, EPP Group spokesman and coordinator in Parliament's Committee on Economic and Monetary Affairs (ECON), rapporteur on several pieces of legislation of outmost importance and recently author of the EP Own-Initiative report on the impact and challenges of EU Financial Regulation.

OTHER GROUPS OR MEPS POSITIONS

To be reminded that the EPP MEPs are not the firsts to express concerns regarding the AnaCredit initiative (*see below*).

During the past months, **MEP Sven GIEGOLD** (Greens/EFA, DE) and **ECON Vice-chair Peter SIMON** (S&D, DE) asked a series of questions to the ECB on the AnaCredit initiative, on the same issues:

1. Question on the **implications for small banks**;
2. Question on the **costs and benefits** of the initiative;
3. Question on the AnaCredit data template and its implications on **data protection**.

More recently, **Mr. Sven GIEGOLD** published his response to the ECB consultation on AnaCredit, also expressing **concerns on the level of reporting threshold, the reporting costs for small and medium-sized banks and the protection of the collected data**.

To be noticed that the MEPs leading the parliamentary mobilisation so far are German MEPs: Mr. BALZ and Dr. PIEPER for the EPP, Mr. SIMON for the S&Ds, Mr. GIEGOLD for the Greens.

29 January 2016: Sven GIEGOLD published his response to the ECB consultation on AnaCredit

On January 29th, MEP Sven GIEGOLD (Greens/EFA, DE) published his answer to the ECB consultation regarding the AnaCredit draft regulation.

He highlighted some key issues:

- **The legal basis of the ECB regulation:**
  He judged that the AnaCredit scope of application and objectives – especially supervisory purposes – require broader legal basis: the regulation should be based not only and the ECB statistics regulation but also on the SSM regulation.

- **The cost of reporting:**
  According to the MEP, the reporting requirements will trigger high initial installation costs and high operating costs for credit institutions and data centers.

- **Data protection:**
  Sven GIEGOLD asked the ECB to specify minimum safeguards so that effective personal data protection is guaranteed.

- **Alignment with other reporting requirements:**

He considered that the AnaCredit reporting requirements are not consistent with established EBA reporting framework. For him, *"this lack of alignment of the counterparty classification creates an unnecessary administrative burden for reporting agents »*.

- **Reporting requirements' scope:**
  According to the Green MEP, all financial institutions engaged in lending activities should be included within the scope of application of the AnaCredit regulation.

- **Reporting threshold**
  For Mr GIEGOLD, the reporting threshold is to low (€25 000). He judged the current threshold in Germany (€1 million) provides sufficient coverage for the necessary macro-prudential analysis to be carried out by AnaCredit.

- **Exemptions**
  Sven GEIGOLD asked the ECB to design the derogation mechanism so that decisions are taken at the EU level, and not by national central banks.

25 January 2016: the ECB provides clarifications to the MEPs on AnaCredit

On January 25th, Sabine Lautenschläger, member of the executive Board of the European Central Bank (ECB), intervened before the Economic and Monetary Affairs Committee (ECON) of the European Parliament to further present the ECB initiative aiming to create an analytical credit datasets for the Eurozone: AnaCredit.

THE ANACREDIT INITIATIVE

Ms. Lautenschläger presented once again the AnaCredit project and its objectives to the Members of the European Parliament. Its first objective is to harmonise the collection of data on credit within the Euro area and to improve the Eurosystem analysis capabilities in this area. AnaCredit is also meant to further inform the ECB monetary policy decisions and to provide a better understanding of the impact of the monetary policy on real economy financing, especially for SMEs.

In the future, the scope of application and the use of the dataset may be extended:

- **To supervisory requirements**
  Ms. Lautenschläger reminded that the AnaCredit initiative was launched in 2011, *"long before European banking supervision was even considered"*. As a consequence, the draft ECB regulation of 4 December 2015 does not include any specific supervisory requirements.
  However, she added that the use of AnaCredit may be extended *"to cater for supervisory requirements in the future"*.

- **To other market segments**
  The Board member specified that *"based on the experience gained with AnaCredit, **the ECB may decide to follow a staggered approach of progressively covering different market segments** in different stages at significant intervals"*.

Any such actions would have to be submitted to a public consultation before the Governing Council could take a decision on the matter.

Ms. Lautenschläger confirmed that 94 data attributes would have to be provided regarding the debtor, the loan, the interest rate and the collateral. She insisted that such information should already be in banks' possession.

THE ANACREDIT'S COSTS

The ECB representative acknowledged that the initiative would provoke supplementary costs and administrative burden for credit institutions, especially when developing IT solutions to meet the reporting requirements. She judged that the long-term benefits would offset the initial costs.

However, costs can significantly differ between different credit institutions, especially for the medium and small-sized banks that could support high costs. Ms. Lautenschläger recalled that **the draft ECB regulation gives national central banks the option to *"take into account the specific situations of credit institutions by exempting them, in part or in full, from reporting"*.**

THE STAKEHOLDERS CONSULTATION

Sabine Lautenschläger used the same arguments as Mario Draghi in his letter the EU Ombudsman: she argues that the method followed by the ECB to involve stakeholders into the policy-making process ensured the sufficient opportunities to contribute to the ECB work.

16 December 2015: factoring should not be included in AnaCredit's scope

On December 16th, the ECB released a letter form Mario Draghi to the European Ombudsman, Emily O'Reilly regarding the analytical credit datasets (*"AnaCredit"*).

The objective of this letter is to present the reasons of the AnaCredit initiative and the method followed by the ECB to involve stakeholders into the initiative building process.

In this document, the president of the ECB stated that the draft Regulation *"only focuses on credit granted by credit institutions to non-financial corporations and other legal entities and,* ***thus, does not cover credit extended by, for example, leasing, factoring*** *or insurance companies"*.

In the rest of the letter, Mario Draghi exposes the results of the 'costs and merits' analysis conducted by the ECB and indicates that the method followed by the ECB to involve stakeholders into the policy-making process ensured the sufficient opportunities to contribute to the ECB work.

The ECB launched a consultation on the draft regulation setting the AnaCredit database.
The consultation is open until January 29th, 2016.

Shadow Banking	Back to summary

No update in May 2016.

15 December 2015 : EBA published guidelines on exposures to shadow banking

On December 15th, **the European Banking Authority (EBA) published a report and its final guidelines regarding exposures of credit institutions to shadow banking entities**, i.e. entities carrying *"bank-like activities outside of a regulatory framework"*. The Guidelines define an approach aiming at allowing EU credit institutions to set "internal limits" for their exposures to shadow banking entities.

This guidelines give the following **definition of *"shadow banking entities"***: *"undertakings that carry out one or more credit intermediation activities and that are not excluded undertakings"* (see p.20). This very broad definitions is completed by a list of undertakings which are excluded from the scope of the guidelines (see pp.20-24).

The EBA specifies in its analysis of the received responses to the consultation that **clarifications have been made about the definition of *"financial institution"* so that it is *"interpreted in line with Article 119(5) of the CRR"* in order to take into account factoring companies' specificities** (*see p. 46 & pp.48-49*).

Where **a factoring company is subject to a prudential framework comparable to the 'financial institution' regime**, the entity **shall not be treated as a 'shadow banking entity'** for the purposes of the guidelines.

The EBA Guidelines will apply from January 1st, 2017.

Both the guidelines and the report will inform the European Commission's work regarding the appropriateness (and the potential impact) of imposing limits on exposures to shadow banking entities. The Commission will deliver a report on the issue.

Insurance Mediation Directive II	[*Back to summary*]()

No update in May 2016.

24 November 2015: the EP adopted the revised directive

On November 24th, **the European Parliament approved in plenary session the agreement reached with Council on the Insurance Distribution Directive** (IDD, ex-IMD II).

The directive was adopted with 579 MEPs in favour, 40 against, and 67 abstentions.

The main features of the Insurance Distribution Directive can be found in the article below (*see 30 June 2015: agreement between Council and Parliament*).

The directive still need to be officially endorsed by the EU Council.
Member States will have 24 months to transpose the new rules into their national law.

30 June 2015: agreement between Council and Parliament

On June 30th, the representatives of the European Parliament and the EU Council **reached a political agreement on the Insurance Mediation Directive** (IMD II) they decided to rename "Insurance Distribution Directive" (IDD).

After many discussions, the two parties agreed on the conditions under which ancillary insurance intermediaries will be excluded from the IDD scope of application: **under €600, insurance products for services or goods will not be submitted to IDD rules**.

INSURANCE DISTRIBUTORS AND SELLERS REQUIREMENTS

All insurance distributors will have to register to a competent authority and such registration will be subject to regular checks. Education and skills of insurance sellers will also be assessed on a regular basis. The IDD sets up a continuous professional training obligation: 15 hours a year for insurance distributors.

All insurance sellers would themselves have to take out **insurance contracts to provide cover of at least €1,250,000 against professional negligence claims**. To protect clients against the financial inability of an insurance distributor, intermediaries would have to maintain a financial capacity amounting to 4% of all annual premiums amount received, but no less than € 18,750.

DISCLOSURE REQUIREMENTS

For all on-life insurance products, **standardised and free information in clear and easily understandable terms** should be provided to the customer on:

- the contract overall cost, included advice and service remuneration;
- the type of insurance,
- obligations under the contract,
- risks insured and excluded,
- means of payment and premiums.

Insurance distributors will also have to **inform customer about any conflict of interest** and their remuneration arrangements *“should not provide incentives to recommend a particular insurance when a different one would better meet the customer's needs”.* The text enables Member States to require insurance distributors to disclose remuneration, fees, commissions and other benefits.

OTHERS OBLIGATIONS TOWARDS CONSUMERS : THE END OF TIED SELLING

When an insurance contract is sold as a part of a package with other services or goods, the text provides for **customers the possibility to buy the various components jointly or separately**.

There is still some technical work to be finished before a draft can be endorsed by the Council and the ECON Committee.

Once the official legal text is finalized, the Parliament will put it to a vote in plenary session. The final text will also need to be formally adopted by the EU Council.

Rome I regulation / Contract law	*Back to summary*

No update in May 2016.

22 April 2016: the Eurogroupe held a first discussion on national insolvency regimes

On April 22nd, the finance ministers of the Eurozone released a statement summarising their discussions on the efficiency of national insolvency regimes.

As a reminder, the EU Commission launched a public consultation on the insolvency regimes within the EU on March 23rd, 2016 (*see below*).

The discussions initiated by the work party of the Eurogroupe on growth and jobs, allowed to set several common principles for efficient national insolvency regimes:

- **Reducing the costs and the time of insolvency procedures:**
  The Eurogroupe wishes to make procedures more flexible in their early stages, for example through the development of out-of-court settlement. Such a proposal was not part of the Commission consultation document.

- A "second chance" should be offered to "honest" people unable to reimburse their debts;

- **Clarify rules on cross-border insolvency proceedings**, as a part of the Capital Markets Union Action Plan of the Commission;

- **Develop adequate flanking policies at the Member States level:**
  The Eurogroupe incourages Member States to improve their institutional frameworks of insolvency procedures in order to enable a correct implementation of the EU legislation.

The Commission's consultation ends on June 14th, 2016.
A legislative initiative regarding insolvency frameworks by the end of 2016, aiming to build "***on national sets of rules that work well***".

23 March 2016: the Commission launches a public consultation on an effective insolvency framework within the EU

On March 23rd 2016, the European Commission launched a public consultation on the insolvency regimes within the EU.

This consultation is opened until **June 14th 2016**.

It follows a precedent Commission Recommendation adopted on March 12th 2014, on bankruptcy and insolvency, **which few Member States implemented**. Its assessment, as well as **the preparation of a draft directive on insolvency regimes**, was announced in the Commission's Action Plan on building a Capital Markets Union.

The Commission's aim is **to harmonise, to a certain extent, the European insolvency regimes** in order to bring confidence across the market's actors and to limit the barriers to cross-border European investments and exchanges.

The Commission encourages the parties of this consultation **to indicate which specific measures they would like to implement in a common European framework:**

- For **financial institutions**, the Commission points out the possibility to prevent the accumulation of **non-performing loans** in their balance sheet (which is also one of the priorities of the European Central Bank), and to allow for a **better recovery of debts** in insolvency.
- For **consumers and companies**, the interest of this initiative could be to allow for "*second chances*", and therefore encourage entrepreneurship, innovation, consumption and growth.

It is important to notice that the Commission will only focus on addressing "*the most important barriers to the free flow of capital*".

This harmonization **will most likely take place via a directive,** with a **minimal amount** of new regulations. Indeed, the Commission wishes to build "***on national sets of rules that work well***".

The consultation focuses on the **main points of divergence** in European insolvency regimes:

The debt restructuration process of viable companies ("*second chance*" opportunities)

The Commission's proposals:

- Adopt **general guidelines** of restructuration and insolvency processes;
- **Limit the "*time to discharge*"**, which is the amount of time between the entry in insolvency proceedings of an entrepreneur and when she/he can restart an entrepreneurial activity.
- **Harmonise bankruptcy and debt settlement procedures**

The efficiency of debt recovery

The Commission's proposals:

- **Harmonisation on the basis of a few key measures :**
  - Minimum standards on the ranking of claims in formal insolvency proceedings
  - Minimum standards on avoidance actions
  - Minimum standards applicable to insolvency practitioners/mediators/supervisors
  - Measures providing for a specialisation of courts or judges
  - Measures to shorten the length of insolvency proceedings
  - Measures to prevent disqualified directors from starting new companies in another Member State
- **Authorise cross-border access to information about whether a person has been disqualified from the rights to hold a management position.**
- **Creation of a decentralised European system to interconnect insolvency registers.**

For every proposal, the Commission leaves the opportunity for stakeholders to make their own proposals.

The consultation ends on June 24th 2016. A **legislative proposal** will follow this consultation procedure.

Following this consultation, a **conference will be organised by the Commission on July 12th 2016**. It will gather different stakeholders, and will contribute to the preparatory works of the Commission.
18 February 2015: Green paper on Capital Markets Union deals with contract law fragmentation On February 18th, Jonathan Hill, Commissioner for Financial Stability, Financial Services and Capital Markets Union, launched the Commission initiative aiming to create an Capital Markets Union by 2019. In its Green paper, the Commission identifies **legal fragmentation issues** for specific financial instruments that would impact factoring activities: *"Differences between the* ***national conflict-of-law rules*** *in respect of the* ***third party effects of assignment and the order of priority between an assignment over the rights of other persons****, as well as between certain substantive rules such as* ***the conditions for the effectiveness of an assignment*** *hamper the development of cross-border financing instruments"*. **A report identifying problems and possible solutions for should be published by the Commission in 2015.** The Commission highlights the existence of fragmented legal frameworks in many other fields: **company law**, **corporate governance**, **insolvency** and **taxation**. The Commission insists on still **divergent national insolvency frameworks** and announces that **an evaluation will be conduct during 2015**. In both cases, the Commission's objective is to **ensure *"greater legal certainty"* in order to make investments easier**, particularly on a cross-border basis. **The consultation is open until May 13th 2015.** **A conference about the first results of the consultations will be set up by the European Commission, in Brussels in June, 8th.** **The Commission's CMU action plan should be released next September, even if it could be delayed in October or November.**

VAT on financial services	Back to summary
No update in May 2016.	

7 April 2016: the Commission publishes a communication on its Action Plan for the VAT

On April 7th 2016, the Commission published a communication on an Action Plan on VAT, in which it announces a coming legislative proposal to create a "*genuine single EU VAT area for the single market*" for trade in goods.

This communication follows a 2014 working document of the Commission aiming at establishing a **definitive VAT** regime for intra-European trade in goods. On February 26th 2016, the Commission held a debate to guide the "*reboot*" of the European VAT system, in which it was decided **that the principle of taxation in the Member State of the destination of the goods** would be adopted.

This Action Plan therefore proposes to put in place a "***definitive***" VAT system, which would be based on the principle of taxation in the Member State of the destination of goods. This Plan also states that "*taxation rules according to which the supplier of goods collects VAT from his customer will be extended to cross-border transactions*".

Furthermore, the Action Plan acknowledges that the current VAT system "*struggles*" with digital innovation and **does not "*reflect today's realities*"**. This Plan therefore sets longer-term orientations to a definitive VAT system and VAT rates in those areas.

By the end of 2016, the Commission will make its proposal for removing VAT obstacles to cross-border e-commerce.

A VAT package focusing on SMEs is to be published in **2017**.

24 February 2016: towards the recast of the VAT regime

On February 24th, the College of EU Commissioners held an orientation debate on **the recast of the EU VAT system for intra-EU trade of goods**. The recast should definitively base the VAT regime on the principle of taxation at the destination.

Originally the EU intended to create an origin-based VAT regime. The future VAT Action Plan the Commission will propose should definitively abandon this option.

The EU Commission limited the reform options to two alternatives:
- A system based on the taxation of intra-EU goods according to their destination;
- A *"reverse charge mechanism"*, in which the beneficiary would be liable for the VAT.

Member states could choose between these two regimes.

The Commission plans to put forward an Action Plan on this issue in March.

27 January 2016: the Commission published its roadmap for VAT

On January 27th, the European Commission published the roadmap preparing its Action Plan for *"A simple, efficient and fraud-proof definitive system of Value Added Tax tailored to the single market"*.

The common system for VAT was established in 1967 and aimed to establish a *"definitive VAT system operating within the EU in the same way as it would within a single country"*. However, transitional VAT arrangements were adopted instead of such a common VAT system, based on **the taxation of the goods in the country of destination**.

The idea of an origin-based system was abandoned and the Commission's Action plan will confirm **the implementation of the *"destination principle"* for intra-EU supplies of goods**. As the Commission's initiatives will deal with goods trade, factoring should not be concerned by them.

The Action Plan will focus on 3 main issues:

1. The compliance costs of the current VAT system and the cross-border VAT frauds;
2. The VAT rates structures and levels, with a potential legislative initiative;
3. The simplification of the VAT system, in particular for SMEs.

Besides improving the current VAT treatment of intra-EU business to business (B2B) supplies of goods, the Commission identified four alternative options:

- Taxation of intra-EU supplies where the goods are delivered;
- Taxation of intra-EU supplies where the customer is established regardless of the place of delivery of the goods;
- Reverse charge where the customer is established;
- Reverse charge where the goods are delivered.

Once the Commission would have published its Action Plan, a consultation should be launched on the key elements of its future initiatives.

Anti-Money Laundering Directive/Tax fraud and tax evasion	Back to summary

5 July 2016 : the Commission proposes to amend the 4th AML directive

On July 5th 2016, the European Commission published a proposal for a directive amending some dispositions of the 4th Anti-money Laundering directive (4AMLD).

The 4th AML directive was definitively adopted on May 20th, 2015 and was supposed to be applied by the Member States from June 26th, 2017. Its revision was announced by the Commission on February 2nd, 2016, as part of its action plan to strengthen the fight against terrorist financing. Following the terrorist attacks that occurred in Paris, France called in late 2015 for new actions at the European level, while the official text of the directive was not yet published in the Official Journal of the EU.

This proposal follows the main points of the action plan of February 2nd 2016. In the aftermath of the last leaks regarding the tax-evasion practices of several multinational companies, namely the publication of the "Panama Papers", the Commission decided to also include anti-tax avoidance dispositions in this directive proposal.

I. **Measures countering the financing of terrorism**

- **Compulsory and harmonised controls**
  The Commission proposed to introduce **a list of all compulsory due diligence measure**s all financial institutions would have to reach **for financial flows coming from countries having insufficient anti-money laundering and terrorist financing regulatory frameworks**. This list will be adopted under the form of a delegated act to the 4AMLD on next July 14th.

- **Enhanced powers for the Financial Intelligence Units**
  EU Financial Intelligence Units will have access to more information, in line with the latest FATF (Financial Action Task Force) standards in this area.

  The Commission proposed to set up **centralised registers of national bank and payment account or *"central data retrieval systems"* in all Member States**.

- **The inclusion of virtual currencies within the scope of the directive**
  The Commission extends the current scope of application of the 4AMLD to virtual currency exchange platforms and custodians wallet providers. **Such platforms would have to comply with the customer due diligence requirements** in order to *"end the anonymity associated with such exchanges"*.

- **Measures specific to anonymous pre-paid instruments**
  The Commission will propose to:
  - **Lower thresholds for user identification from 250 € to 150 € regarding pre-payed cards;**
  - **Widen customer verification requirements.**

  The Commission specifies that the proportionality principle will be carefully applied, *"in particular with regard to the use of these cards by financially vulnerable citizens"*.

II. Measures to prevent tax-avoidance and money laundering

- **Full public access to the beneficial ownership registers.**

  The Commission proposes to lower from 25% + one share to 10% the threshold set out in the 4AMLD in respect of certain limited types of entities "*which present a specific risk of being used for money laundering and tax evasion*" the criterion to identify the beneficial owner of corporate entities.

  The beneficial owners possessing more than 10 % of Passive Non-Financial Entities (Passive NFE) such as defined in **section VIII (D) (7)** of the **directive 2011/16/EU** on administrative cooperation in the field of taxation are therefore to be included in these national registers.

  Passive NFE notably include entities **that are not** Custodial Institution, a Depository Institution, a Specified Insurance Company, or an Investment Entity which is not a "*Participating Jurisdiction Financial Institution*" according to the **directive 2011/16/EU**.

  The threshold remains at 25 % (plus one share) for all other entities.

  Furthermore, in its proposal, the Commission asks to grant public access to beneficial ownership information on "*companies and business-related trusts*". For other entities, such as charity organisations, these information will be accessible only by parties proving a "*legitimate interest*" in their consultation.

  The Commission also insists on the need to harmonise the information disclosure practices among Member States, yet without making any specific proposals.

- **Interconnection of the registers and extension of the information available to authorities**

In this propositions, the Commission also proposes to **bring forward the deadline of transposition of this revised directive in the Member States' law to January 1st 2017**.

This revision proposal will follow the ordinary legislative procedure and the European Parliament and the Council will have the opportunity to amend the text

21 June 2016: the Council reached an agreement on the anti-tax avoidance directive

On June 21st, the Council found an agreement on a proposal for a Council directive laying down rules against tax-avoidance practices. As this text regards taxation, an agreement of the Council was the only necessary step for its adoption.

As a reminder, this proposal was made by the European Commission on January 28th 2016, in order to transpose in the EU legislation the action plan of the OECD regarding Base Erosion and Profit Shifting (BEPS).

The main dispositions of the proposal are the following:

- Rules regarding the interest limitation rule (article 4);
- Rules regarding exit taxation (article 5);
- A general anti-abuse rule (article 6);
- Rules regarding hybrid mismatches (article 9);

- Rules regarding **controlled foreign companies** (CFC) (articles 7-8).

This last point was particularly contested amongst the Member States. As proposed by the Commission, these rules regarding the Controlled Foreign Companies (CFC) re-attribute the incomes of a subsidiary which is lightly taxed in a third country to its parent company, if the tax structure linking these two structures is deemed "*artificial*". Low-taxed subsidiary, specific categories of income or incomes which have "*artificially been diverted to the subsidiary*" may be targeted by the CFC rules.

Therefore, the parent company should pay its income tax in the country in which its head office is located, where higher taxes are potentially applied.

Income categories concerned by the CFC rules are:

- interest or any other income generated by financial assets;
- dividends and income from the disposal of shares;
- Income from financial leasing;
- **income from insurance, banking and other financial activities;**

Several member States, such as Ireland, Belgium, Slovenia and Estonia, were opposed to this measure, which has to be triggered if the effective taxation in the third country is inferior to 50% of the reference rate of the Member State.

This text is still to be formally adopted by the Council. Once adopted, the Member States will have until December 31st 2018 to transpose it in their national law.

17 May 2016: the Commission options for reforming the 4th AML directive

On May 17th, the French newspaper *Les Echos* presented some of **the options under consideration by the European Commission for the revision of the 4th Anti-Money Laundering Directive.**

The 4th AML directive was definitively adopted on May 20th, 2015 and will apply from June 26th, 2017, i.e. the deadline for its transposition in national law by Member States. Its revision was announced by the Commission on February 2nd, 2016, as part of its action plan to strengthen the fight against terrorist financing.

According to *Les Echos*, the Commission is considering 4 options:

- **Revising the definition of *"effective beneficiary"*, in particular lowering the threshold for their identification from 25% plus one share of a company (potentially down to 10% plus one share);**
- Ensuring public access to national registers;
- Enhancing information exchanges between Member States;
- Extending the scope of application of the directive to trusts and other *"complex structures"*.

The revision of the 4th AML directive should be presented on June 7th, 2016.

8 March 2016: The Council agrees on its stance on the exchange of tax-related information on multinationals

On March 8th 2016, the council of the European Union agreed on its stance concerning the draft directive on automatic exchange of tax-related information on multinationals within the EU.

This directive is follows a special legislative procedure. The Council can make amendments to the Commission's proposal, and, doing so, have to take into account the European Parliament's non-binding opinion.

The automatic exchange of information is part of the anti-tax avoidance package presented last January by the Commission. This package is based upon the most recent recommendations by the OECD, published in autumn 2015, **against Base Erosion and Profit Shifting (BEPS).** These recommendations aim at making multinationals pay their taxes in the country where their profits are made.

This Directive's goal is to **establish a harmonised framework** for the implementation of these recommendations. It will apply to **multinational companies which total consolidated group revenue is of at least 750 million Euros;** between 10 and 15 % of multinational enterprise groups are concerned.

This Directive sets an automatic, country-by-country exchange of tax-related information**, but only between national tax authorities.** Member States insisted on the fact that they did not this information to be public**. Wolfgang Schäuble, Germany's Finance minister, even declared that this was "*the necessary condition for any agreement*".**

Starting from the 2016 fiscal year, multinational companies will have to file their country-by-country reports to the tax authorities of the Member State in which they are tax resident.

If the group's parent company is not an EU tax resident, it will have to file a report through its EU subsidiaries. This "**secondary reporting**" is **optional for the fiscal year 2016**; it will be **compulsory starting the fiscal year 2017**. This disposition was not present in the OECD's recommendations.

This agreement is pending the opinion of the European Parliament on the scope of the mandatory automatic exchange of information, which will be given on **April 26th 2016**.

The indicative date for the adoption of this draft directive in plenary session of the European Parliament is **May 5th 2016**.

The Dutch presidency of the Council is planning for an agreement on **May 25th 2016** on a proposal to tackle some of the most important tax avoidance practices within the EU.

23 February 2016: the FATF published guidance on money-transfer activities

On February 23rd, the Financial Action Task Force (FATF) released **its guidance for a Risk-Based Approach for Money or Value Transfer Services (MVTS)**. This publication updates the *2009 Guidance on a Risk-Based Approach for Money Services Businesses*.

The Guidance document aims to support States and economical actors to ensure the good implementation of the risk-based approach to these activities of money transfer.

The FATF specified that the anti-money laundering and terrorist financing measures proposed for money transfer services **should not *"result into the categorisation of all MVTS providers as inherently high-risk"*.**

The guidelines are mainly meant for non-banking MVTS providers, but can also be applied to the providers part of the banking sector.

2 February 2016: the Commission published its action plan to fight terrorist financing

On February 2nd, the European Commission presented its action plan for strengthening the fight against terrorist financing. The Commission's agenda will pursue to main objectives:

- Preventing the movement of funds and identifying terrorist funding;
- Disrupting the sources of revenue of terrorist organisations.

To reach the first objective, the Commission wants to revise the 4th anti-money laundering directive, which was officially adopted on May 20th, 2015. Member States have to transpose the text into their national law before June 26th, 2017.

THE MODIFICATIONS TO THE 4TH AML DIRECTIVE PROPOSED BY THE COMMISSION

The Commission announced it will propose a number of targeted amendments by the end of the second quarter of 2016. These amendments will focus on 5 key-measures:

- **Compulsory and harmonised controls**
  The Commission will propose to introduce **a list of all compulsory due diligence measure**s all financial institutions would have to realise for financial flows coming from countries having insufficient anti-money laundering and terrorist financing regulatory frameworks. Such mandatory checks should be **the same in all EU Member States**.

- **Enhanced powers for the Financial Intelligence Units**
  EU Financial Intelligence Units would have access to more information, in line with the latest FATF (Financial Action Task Force) standards in this area.

- **Centralised national registers in all Member States**
  In order to facilitate the access to information on the holders of bank and payment accounts, the Commission should propose to set up **centralised registers of national bank and payment account or *"central data retrieval systems"* in all Member States**.

- **The inclusion of virtual currencies within the directive scope**
  The Commission wishes to extend the current scope of application of the 4th AML Directive to virtual currency exchange platforms. **Such platforms would have to comply with the customer due diligence requirements** in order to *"end the anonymity associated with such exchanges"*.

- **Measures specific to anonymous pre-paid instruments**
  The Commission will propose to:
  - **Lower thresholds for identification ;**
  - **Widen customer verification requirements.**

  The Commission specifies that the proportionality principle will be carefully applied, *"in particular with regard to the use of these cards by financially vulnerable citizens"*.

COMMISSION'S OTHER MEASURES

In its Action Plan, the Commission fixed other objectives:

- Improving the efficiency of the EU's transposition of UN asset freezing measures, and improve the accessibility of UN listings to EU financial institutions and economic operators;
- Applying a comprehensive common definition of money laundering offences and sanctions across the EU to improve judicial and police cooperation in this area ;
- Limiting risks linked to cash payments, through an extension of the scope of the existing regulation on money transfer to include cash shipped by freight or post;
- Assessing *“additional measures to track terrorism financing”*, including a complementary system to cover intra-EU payments not captured.

The initiatives aiming at fulfilling these objectives should be launched during the 2nd semester of 2016.

Data protection	[Back to summary](#)

No update in May 2016.

14 April 2016: The European Parliament definitively adopted the reform on data protection

On April 14th, the European Parliament officially adopted the general data protection regulation in its plenary session in Strasbourg.

The general data protection regulation is meant to allow EU citizens to have better control of their online data. For example, the new rules deals with clear consent to the processing of personal data.

Furthermore, the new EU legislation **strengthens the accountability of controllers** (responsible for determining the purposes and the means of the processing of personal data) **and processors** (responsible for processing personal data on behalf of the controller).

The regulation still have to be published in the EU Official Journal.

The new rules will apply 2 years after the publication of the legislation in the EU Official Journal.

15 December 2015: the Parliament and the Council found an agreement

On December 18th, the Permanent Representatives Committee (Coreper) confirmed the **compromise texts agreed with the European Parliament on data protection reform**. The agreement was reached between the Council, Parliament and Commission on December 15th.

Data protection reform is a legislative package composed by two legislative texts: the general data protection regulation (intended to replace directive 95/46/EC) and the data protection directive in the area of law enforcement (intended to replace the 2008 data protection framework decision).

The agreement found brings new elements to the EU regulatory framework for data protection, such as :

- **specific rules allowing data controllers**, i.e. entities responsible for the processing of data, to process personal data, including through the requirement for the consent of the individuals concerned.
- **a right to object to the processing of personal data** relating to the public interest or to legitimate interests of a controller. This right covers the use of personal date for the purposes of 'profiling'.
- **a right to portability of data,** facilitating the transmission of personal data from one service provider to another.

The final texts still have to be formally adopted by the European Parliament and the Council of the EU.

The new rules will apply 2 years after the publication of the legislation in the EU Official Journal.

E-invoicing	Back to summary

No update in May 2016.

23 May 2014: new CEN Project Committee for e-Invoicing

CEN will launch on 9 September 2014 a new Project Committee (CEN/PC 434). It will be in charge of developing standards in support of European Electronic Invoicing.

A first plenary meeting of this committee will take place in Brussels on 9 September. Participants have to register before 15 August 2014.

16 April 2014: Final act signed

The Directive was formally adopted by the European Parliament in first reading on the 11 Mach 2014 and then by the Council on the 14 April 2014. The final act was signed on the 16 April 2014 and is now awaiting publication in the EU Official Journal.

Once published, the Member States should transpose the Directive and adopt all the necessary laws to comply with it at the latest 54 months after its entry in force.

European Account Preservation Order for the attachment of bank accounts	Back to summary

No update in May 2016.

13 May 2014: Council adopts the EAPO Regulation.

On 13 May 2014, the Council adopted the European Account Preservation Order Regulation. After its publication in the Official Journal, the text will be directly applicable in the Member States (except in the UK and Denmark). The publication is expected in June 2014.

15 April 2014: EP adopts a first reading position on the EAPO Regulation

On 15 April 2014, the European Parliament in plenary session voted a first reading position on the European Account Preservation Order Regulation (pages 209 to 311 of the document).

Justice Minister of Greece, Mr Athanasiou confirmed on 4 March 2014 the political agreement reached with the EP, the Council should therefore adopt its own position on the same terms in the coming weeks.

Financial transaction tax

Back to summary

16 June 2016: two task forces were created to continue the work on the FTT

On June 16th, the Member states participating to the enhanced cooperation procedure aiming at creating a European Tax on Financial Transaction (FTT) put in place two taskforces to revitalize the discussions surrounding this dossier.

As a reminder, on March 16th, Estonia formally left the procedure. Slovenia is still fearing that this tax would cost more than it would bring money. Belgium, on the other hand, is unsure about the effect of such a tax on sovereign debt. Both of these countries are therefore likely to leave the procedure, which would leave only eight countries out of the nine minimum required.

These two taskforces aim to keep this FTT procedure alive by addressing their concerns:

1. The first taskforce, required by Belgium, will focus its work on exemptions to avoid a negative influence of this tax on sovereign debt;
2. The second taskforce, required by Slovenia and Slovakia, will work on the potential incomes that could be allowed by the implementation of this tax.

The conclusions of these taskforces are to be published next September.

If this is seen as a "*progress*" by Hans JOËRG SCHELLING, Austrian minister of Finance and informal Chair of the meetings, this new delay reveals the inability of the participating Member States to agree on this tax. The Member States were indeed expected to find a definitive agreement in June.

20 May 2016: the Commission could work to an alternative to the FTT

On May 20th, a new meeting gathering the 28 Member States dealt with the enhanced cooperation aiming at creating a Financial Transaction Tax.

After the withdrawn of Estonia from the cooperation, Austria and Portugal tried to give a new impetus to the cooperation and suggested new amendments to the FTT in order to extend its scope 3 years after its entry into force and then every 5 years. However Belgium and other Member States objected.

According to some sources, the European Commission would be preparing an alternative solution to the FTT in order to ensure that the first EU enhanced cooperation on taxation issues will not be a failure.

Such a failure could compromise the Commission future tentative to relaunch the Common Consolidated Corporate Tax Base (CCCTB). Indeed, if the initiative were to be blocked at the Council, the Commission's initiative could also be continued as an enhanced cooperation. The failed negotiations on the FTT would be a very negative signal for the CCCTB.

The ECOFIN Council should discuss a state of play of the FTT initiative at its next June meeting.

16 March 2016: Estonia formally leaves the cooperation

On March 16th 2016, Estonia formalised its departure from the enhanced cooperation process regarding the European Financial Transaction Tax (FTT).

As a reminder, Estonia's Finance minister, already stated last December that this procedure did not have the mandate to allow the vote of this tax.

This departure follows the reunion of March 7th 2016, in parallel with the ECOFIN meeting, and which did not lead to any significant decision.

Furthermore, **two other country are likely to leave the procedure :**

- **Slovenia** is wondering whether the **revenue** generated by this tax would justify its cost of implementation;
- **Belgium** believes in a **negative impact** of this tax on pension funds and the real economy, and judges that it is problematic for the introduction of a Capital Markets Union (CMU). Johan Van Overstveldt, Belgium's Finance Minister declared last January that "*the draft texts as they exist today are unacceptable, as they enter in contradiction with the government agreement*".

If these two countries were to leave the procedure, **only eight members would be left, whereas a minimum of nine members is required for such a procedure**, which would put an end to the discussions regarding this tax.

Furthermore, despite Austria's support, **the procedure is stalled**. France and Germany recently made public their **weariness** regarding these talks that have been going on for three years.

February 2016 : the cooperation in jeopardy

Several members of the enhanced cooperation concerning the Financial Transaction Tax (FTT) recently made public either their wish to leave the debates, or their doubts concerning the relevance of the current discussions:

- **Estonia**, by the intermediary of its minister of Finance, had already stated last December that **the procedure's remit would not allow a vote on the FTT**. A formal letter to notify its departure of the procedure should be published soon.
- **Slovenia** is currently wondering if the **receipts of this tax could justify its implementation cost.** Slovenia could follow Estonia if it leaves the procedure.
- **Belgium** fears a **negative impact of this tax on pension funds and the real economy**. It judges that it is also problematic for the implementation of the Capital Markets Union (CMU). Johan VAN OVERSTVELDT, the Belgian minister of Finance declared in late January that "***the draft text as it exists today is unacceptable, as they enter in contradiction with the government agreement***".

If these **three countries were to leave the procedure, only eight countries would remain on the minimum requirement of nine, which would terminate the debates on this tax.**

Austria, however, **remains an active supporter of the enhanced cooperation**. Hans Jörg SCHELLING, the Austrian minister of Finance and Chair of the FTT meetings at the ministerial level, set on February

15th the receipts objective for this tax, which is to be between 15 and 20 billion Euros, to be compared to the 34 billion Euros aim that was initially set by the Commission.

Hans Jörg SCHELLING will try to reinvigorate the debates between ministers of Finance during their **next scheduled meeting during the Eurogroup / Econfin of March 7th and 8th.**

8 December 2015: an agreement postponed to mid-2016

On December 8th, the ministers of the 10 States involved in the enhanced cooperation aiming at creating a Financial transaction tax (FTT) released a common statement.

This statement renewed the commitment of 10 of the 11 Member States – Estonia left the cooperation for the time being – and defined a **new calendar: the 10 remaining States want to reach an agreement by mid-2016**.

Despite this common statement, **many issues remain open for discussion**:

a) Application of "issuance" and "residence" principles and the scope of the FTT;
b) Taxable event for securities: "gross" or "net" transactions;
c) The treatment of the transaction chain;
d) Possible exemption from FTT of market making activities;
e) Scope of transactions in derivatives contracts to be subject to the FTT;
f) The methods for calculating the tax base for derivatives contract.

The 10 States seem to agree on an only point: the FTT should have a broad scope and low rates.

Given this state of play, the new calendar seems to be quite optimistic for negotiations lasting for 4 years.

Accounting issues	*Back to summary*

17 June 2016: the EU statutory audit rules became applicable

On June 17th, the EU rules regarding statutory audit – a regulation and a directive – became applicable.

These two legislative texts aim to improve transparency of enterprises' financial information, allowing investors to be provided with more thorough audit reports and providing an additional report to the audit committees of Public-Interest Entities (PIEs).

The directive sets out the framework for all statutory audits and the regulation defines the specific requirements for statutory audits of PIEs, such as listed companies, banks and insurance undertakings.

In order to ensure the independence of the PIEs' auditors, the regulation provides that they will rotate on a regular basis and will no longer be allowed to provide certain non-audit services to their audit clients.

Another provision of the new rules aims at strengthening the coordination of EU audit supervision and by creating the Committee of European Auditing Oversight Bodies (CEAOB).

2 May 2016: the ECON committee adopted a report on the IFRS implementation

On May 2nd, the European Parliament's Committee for Economic and Monetary Affairs (ECON) adopted an own-initiative report on International Accounting Standards (IAS) evaluation and the activities of the International Financial Reporting Standards (IFRS) Foundation, the European Financial Reporting Advisory Group (EFRAG) and the Public Interest Oversight Board (PIOB).

Such report does not have any binding value but defines the Parliament position on the issue.

The report assesses the IAS regulation and its implementation as well as the different institutions in charge of defining the international and European accounting standards. The main conclusions are the following:

- The MEPs are preoccupied by the **complexity of the IFRS standards**;
- They call for a **simplification of this accounting standards**;
- They consider that the EFRAG and IASB activities **lack democratic control**, especially since no representative of the EU citizens is part of their governing body.

The report should be put to a plenary vote on June 7th, 2016.

29 March 2016: ESMA published a report on accounting practices within the EU

On March 29th 2016, the European Financial Markets Authority (ESMA) published a report on the enforcement and regulatory activities of accounting enforcers within the European Economic Area in 2015.

Among the 189 companies surveyed by ESMA, **one out of five European companies did not comply with the International Framework for Reporting Standards (IFRS).** The national accounting enforcers, surveying around 1 200 European companies, came to the same results.

The main cause of this situation is **deferred tax assets**, which result from tax losses.

In order to encourage a better compliance with these norms, ESMA envisages to carry **out peer reviews** on some of its guidelines on enforcement, to **publish statements** on the new major international reporting standards' implementation, and to develop "***supervisory briefings***" to harmonise the procedures of the national enforcement authorities.

12 January 2016: EP draft report on the implementation of IFRS

On January 12th, the draft report of Theodor Dumitru STOLOJAN (EPP, RO) **on *"IAS Evaluation and on Activities of IFRS Foundation, EFRAG and PIOB"*** was published. Mr. SOLOJAN is the Chair of the IFRS working group within the Economic and Monetary Affairs Committee (ECON) of the European Parliament.

For memory, the IAS regulation (2002/1606/EC) defined the conditions of adoption and implementation of the international accounting standards, i.e. :

1. The international accounting standards (IAS);
2. The International Financial Reporting Standards (IFRS);
3. The amendments to these standards and the interpretations adopted by the International Accounting Standards Board (IASB).

The Commission recently published a report reviewing the regulation's implementation, and more generally the implementation of the international accounting standards.

In his draft report, **Mr. STOLOJAN highlighted the importance of having harmonised accounting standards for the functioning of the single market** and for the Commission's project of building a Capital Markets Union. According to him, *"the effects of applying IFRS in the European Union in the last ten years have therefore been overall positive"*.

He insisted on the need to ensure **the consistency of the coherence and the consistency within the existing body of international accounting standards** but also with respect to other EU financial services regulation. Given the policy-making process of these standards, he recommended that the EU intervene during all this process. **He called for *"****a further strengthening the European influence in early stages of the accounting standard development"*.

The rapporteur also stressed the key role of the European Markets and Securities Authority (ESMA) in ensuring supervisory convergence at the EU level and a level playing field in this area.

The draft report should be discussed by the ECON Committee on February 22nd, 2016.

Other topics of interest	[Back to summary]

29 June 2016: Brexit first consequences

On June 23rd, UK citizens voted in favour of leaving the European Union, with 52% of the votes.

Despite his previous statements before the vote, the UK Prime Minister, David CAMERON, will let to his successor, that is bound to be Theresa MAY, his Minister of the Interior the responsibility, to notify the European Council of the country's desire to leave the EU, as provided by the article 50 of the Treaty on European Union which the 1st paragraph states that *"any Member State may decide to withdraw from the Union in accordance with its own constitutional requirement"*.

Yet, a great uncertainty remains regarding the activation of such procedure by British leaders and –should it be launched - the terms of the UK withdrawal. The negotiations' process will be defined jointly by the 28 Member States.

EU institutions' reaction

In the aftermath of the vote, the European Parliament and the European Commission urged the United Kingdom to activate the article 50, in order to engage the negotiations as soon as possible.

During an extraordinary plenary session of the EP on June 28th, **the Commission President Jean-Claude JUNCKER assured that there will be no negotiation until the United Kingdom notified its will to leave the EU and warned about the risks of political instability**. According to him and the chairmen of three EP political groups Manfred WEBER (PPE, DE), Gianni PITELLA (S&D, IT) and Guy VERHOFSTADT (ALDE, BE), the agenda should not be decided by the *"the ones who wish to leave the EU"*.

The European Parliament adopted a resolution *"point[ing] out that the will expressed by the people must be entirely and fully respected, starting with the activation of Article 50 of the Treaty on European Union (TEU) as soon as possible"* and pressing David CAMERON to *"notify the outcome of the referendum to the European Council of 28-29 June 2016"*. The MEPs announced they will make changes in the EP internal organization top reflect the vote outcome.

In this resolution the European Parliament also calls for:

- a roadmap for a *"better Union"* based on exploiting the Lisbon Treaty and *"to be completed by a revision of the Treaties"*;
- a change of the order of the EU Council Presidencies so the UK will not assume such responsibility during the exit negotiations;
- a *"reinforced core"* of the EU.

Member States' and EU political leaders reactions:

- On June 27th, leaders of France, Germany and Italy clearly asked the United Kingdom to activate the Article 50 procedure and excluded the possibility to hold any negotiations on UK withdrawal prior to it.
- **The foreign affairs ministers of the 6 founding Member states (Belgium, France, Germany, Italy, Luxembourg and Netherlands) asked the UK to launch *"as soon as possible"*** the exit procedure.
- The French President renewed such position on the doorstep of the European Council : *"We must get started as soon as possible on the exit process and then commit to the negotiations which will follow"*.

- The Belgian Prime Minister Charles MICHEL also called on the EU to start negotiations with the UK quickly : *"We wish to have some clarity as soon as possible"*.
- Dutch Prime Minister Mark RUTTE – currently chairing the EU council –said that the UK should be given some time to deal with the outcome of the vote.
- The representatives of 10 Member States gathered in Warsaw on June 27th (Austria, Bulgaria, Greece, Hungary, Poland, Rumania, Slovakia, Slovenia, Spain and United Kingdom). **For this group of Member States, the UK withdrawal from the EU should not be precipitated** and the EU institutions should be put through a thorough assessment.
- On the doorsteps of the European Council, the leaders of Estonia and Lithuania asked again for time to think and not to make any rush decisions.

A vote which impacts EU policies for financial services

On Saturday June 25th, **the British Commissioner for Financial Stability, Financial Services and Capital Markets Union, Jonathan HILL resigned from his position**. His portfolio will be taken over by the Vice-president of the European Commission in charge of the Euro and the social dialogue, Valdis DOMBROVSKIS, on July 16th. It will be interesting to monitor to what extent the former Latvian Prime Minister will support the initiatives of his predecessor, especially the building of a Capital Markets Union.

As the United Kingdom will remain a EU Member State until the end of the negotiation procedure – that has not started yet, Jean-Claude JUNCKER, president of the Commission, said he was ready to *"discuss swiftly with the British Prime Minister potential names for a Commissioner of UK nationality as well as the allocation of a possible portfolio"*. Such portfolio should be less politically sensitive than Lord HILL's. This Commissioner could be Julian King, UK ambassador in France.

Divisions among political and economic actors

The stakeholders' reactions to the UK vote show the division of EU economic actors on the attitude to adopt towards their British partners.

In the financial sector, one of the main stakes of the future negotiations will be the EU passporting mechanism for British financial services providers, allowing them access to the single market. In an interview to the French newspaper *Le Monde*, the City interests' main representative Jeremy BROWNE considers the EU passport as the *"jackpot"* the City wishes to keep.

Official negotiations will only start once the UK activated the exit procedure, according to the article 50 of the treaty on European Union. The exit negotiations is forecasted to last 2 years in maximum but such process could be longer if Member States unanimously decide it.

Some key EU stakeholders have not taken any position yet :

- The European Banking Industry Committee (EBIC);
- The EU federation for leasing companies (Leaseurope);
- The EU federation of consumer credit providers (Eurofinas);
- The European Mortgage Federation (EMF);
- The European Covered Bond Council (ECBC);
- The EU federation of insurers and reinsurers (Insurance Europe);
- The European federation of asset managers (EFAMA).

Official negotiations will only start once the UK activated the exit procedure, according to the article 50 of the treaty on European Union. The exit negotiations is forecasted to last 2 years in maximum but such process could be longer if Member States unanimously decide it.

21 June 2016: State of play of the STS initiative

On June 21st, the Economic and Monetary Affairs Committee (ECON) of the European Parliament discussed the draft reports on the two legislative proposals of the European Commission aiming at revitalising securitisation:

1. The draft report of Paul TANG (S&D, NL) on the draft regulation defining criteria for simple, transparent and standardised (STS) securitisation
   The TANG report key elements are the following:
   - **The increase of risk retention requirements for originators up from 5% to 20% of the securitised assets**;
   - The creation of a European Securitisation Data Repository, ensuring public access to comparable information on the basis of uniform reporting duties;
   - The exclusion of re-securitisation from the regulation's scope;
   - **Reduce the maturity threshold of underlying exposures for ABCP STS from 2 to 1 year;**
   - Make rely the whole responsibility of STS compliance on originators.

2. The draft report of Pablo ZALBA BIDEGUAIN (EPP, ES) on the draft regulation amending the capital requirements regulation in order to adapt the prudential treatment of STS securitisations.
   The ZALBA report key elements are the following:
   - **The exclusion of the Securitisation External Ratings-Based Approach** (SEC-ERBA) from the approaches available for the prudential treatment of STS securitisations;
   - Encourage securitisations supporting SMEs, including synthetic securitisations, but in a separate legislative proposal.

Key differences between EU institutions

The examination of both draft reports by the ECON MEPs showed that the main point of disagreement between the European co-legislators will be the **risk retention requirements, which rapporteur Paul TANG set to 20% of the securitised assets, as opposed to the 5% of the Commission and Council proposal**.

Similarly, the maturity threshold of underlying exposures for ABCP STS proposed by Paul Tang is 1 year, compared to the 2 years of the Commission and the 3,5 years of the Council.

17 June 2016: the EU Council released a roadmap for the completion of the banking union

On June 17th, the Council agreed on a roadmap to finalise the Banking Union project.
As a reminder, the Banking Union is organized around three pillars:
1. A single supervision mechanism (SSM);
2. A single resolution mechanism (SRM);
3. A European Deposit Insurance Scheme (EDIS), yet to be implemented, and which modalities are currently discussed within the European institutions.

This roadmap set the framework for the beginning of the political discussions regarding the 3rd pillar. Prior to this, the completion of the risk-reduction measures undertaken within the European Union's banking sector is the main condition to be fulfilled. This approach follows the requests of Germany, which wishes to delay the implementation of EDIS.

Risk-reduction policies defined by the Council are:

1. **The reforms to be finalised by the Commission as soon as possible, "*at the latest*" by the end of 2016:**
   - Modification of the legislative European framework to implement the Total Loss Absorbing Capacity ratio (TLAC) by revising the Minimum Requirements for Eligible Own-fund Liabilities (MREL) contained in the European directive for the resolution of credit institutions (BRRD).
   - Proposition of a common approach of the bank creditor hierarchy in case of resolution, to enhance legal certainty;
   - Amendments to the capital requirement Regulation and Directive (CRR/ CRDIV) to :
     - Further harmonise the National Options and Discretions (NODs);
     - Finalise the reforms launched by the Basel Committee, namely :
       - ✓ **The implementation of the leverage ratio** – which could, according to the Council, "*eventually be higher than 3% for systemic banks*"
       - ✓ **The implementation of the Net Stable Funding Ratio (NSFR).** The Commission launched a consultation that ended on June 24th.
   - **Legislative proposal regarding a minimal harmonisation in the field of insolvency law**, following the consultation that was launched between March 23rd and June 14th 2016.
   - Further work on the possible harmonisation of the rules and application of moratorium tools can contribute to the stabilisation by the relevant authorities of an institution

2. **By September 2016:**
   - Beginning of the works regarding the common backstop for the Single Resolution Fund (SRF), which funds the Single Resolution Mechanism (SRM);
   - The Council calls the Member States to sign the Loan Facility Agreement providing national credit lines to the Single Resolution Board, the governing body of the SRM.

   Furthermore, the Council will wait until the publication of the **Basel Committee's works on sovereign exposures** to assess the potential implementation of these policies in the European regulatory framework. This approach is favourable to countries which are in difficulty regarding their budget, such as Spain, Italy or Portugal.

At the European Parliament

The rapporteur for the EDIS dossier **Esther DE LANGE (PPE, NL) confirmed her will to link, as the Council risk-sharing (i.e. EDIS) to progress in the European risk-reduction measures. She announced she was also waiting for further development regarding sovereign exposures. Her report on EDIS is due to be published next September.**

13 June 2016 : the ECON Committee discussed the draft report on retail financial services

On June 13th 2016, the Member of the European Parliament forming part of the Economic and monetary affairs (ECON) Committee examined the draft initiative report of Olle LUDVIGSSON (S&D, SE) on the Green paper regarding retail financial services published by the European Commission last December.

Without being binding for the European Commission, this initiative report will set the position of the Parliament regarding the upcoming proposals of the Commission on retail financial services.

A majority of the MEPs globally agreed on the proposals of the rapporteur. Only Marisa MATIAS (GUE/NGL, PT), shadow rapporteur for the GUE/NGL group - replaced for this session by Miguel

VIEGAS (GUE/NGL, PT) - expressed a disagreement with the core of the report, arguing that a greater financial integration would create oligopolies that would decrease consumer protection.

Among the rest of the MEPs, some controversial points also emerged :

- **Regarding the financial products that would be proposed**
  Ashley FOX (ECR, UK) – shadow rapporteur for the ECR group, replaced by Sander LOONES (ECR, BE) – seemed doubtful regarding the inclusion of mortgages in the coming initiatives of the Commission, as wished by the rapporteur Olle LUDVIGSSON.

- **Regarding the online comparison platform**
  Olle LUDVIGSSON proposes the creation of an online platform that would centralize and compare the retail financial services accessible by the European citizens.

  Ashley FOX (ECR, UK) and Marisa MATIAS (GUE/NGL, PT) replaced by their substitutes Sander LOONES (ECR, BE) and Miguel VIEGAS (GUE/NGL, PT) expressed their concerns regarding the capacity of the consumers to exploit these complex information to choose the products best suited to their needs.

  Sven GIEGOLD (Greens/ALE, DE) shadow rapporteur for the Greens/ALE group, supported that a harmonization - to an extent – of the national laws regarding consumer protection and retail financial services should be conducted beforehand. According to him, only easily comparable products could guarantee the efficiency of such a platform.

  Pervenche BERES (S&D, FR) agreed with him, and supported the harmonization upon the model of the Key Information Documents (KID) offered with packaged retail and insurance-based investment products (PRIIPs). She also proposed the creation of a European system to compensate investors, in order to increase the consumer's confidence in those products.

- **Regarding consumer protection**
  If the MEP agreed on the necessity of consumer protection, they were opposed regarding which measures should enforce it. Sven GIEGOLD (Greens/ALE, DE) called for a real debate on the financial resources given to the European Supervisory Authorities (ESA) which are according to him insufficient to assure a good consumer protection.

- **Regarding the role of intermediaries**
  The report insisted on the importance of "*first line*" employees to help consumers realise the right choice of product. Alain CADEC (EPP, FR), shadow rapporteur for the EPP group, replaced for this session by Maria HÜBNER (EPP, PL), insisted as well on the need for a "*proportionate*" approach that should be adopted by the Commission to adapt to the different business models.

  However, Sven GIEGOLD (Greens/ALE, DE) called for a decrease of the cost created by this intermediation. According to the German MEP, protecting the intermediaries more than necessary from an emerging competition – namely, the new financial technologies (FinTech) industry – could make the latter flee the European Union.

The report is to be voted in the ECON committee of September 29th 2016.

The report should be adopted in plenary session of the European Parliament on November 21st 2016.

7 June 2016: new call for the inclusion of financial services within the TTIP scope

On June 7th 2016, fourteen European and American associations representing the interest of the financial services industry published a communication in which they announced the creation of the Transatlantic Financial Regulatory Coherence Coalition (TFRC).

Its aim is to participate in the elaboration of the financial regulation having an impact from both sides of the Atlantic, in order to increase the transparence of the discussions and to diminish the costs created by the regulations inconsistencies between the EU and the United-States.

The TFRC calls for the inclusion of the financial services in the Transatlantic Trade and Investment Partership (TTIP) which is currently negotiated between the EU and the US.

As a reminder, the financial authorities of the EU and the US acknowledged in March the equivalence of their regulatory regimes regarding Central Counterparties (CCP). However, 4 years of negotiation were needed to find this agreement.

The TTIP negotiations are currently entering their 14th round. However, the situation seems to be deadlocked, because of both the proximity of the US presidential elections and the opposition of Germany, regarding some points of the TTIP.

17 May 2016: Jonathan Hill wishes to adopt a more "proportionate" regulatory approach

On May 17th 2016, the Commissioner for Financial Stability, Financial Services and the Capital Markets Union **Jonathan Hill gave a speech about the European financial regulations, during the Public Hearing following the consultation regarding the efficiency of the current EU regulatory framework for financial services.**

As a reminder, this consultation was launched between September 30th 2015 and January 31st 2016, as part of the Action Plan for a Capital Markets Union. Lord Hill's speech summarized the **preliminary findings** of this consultation.

Without questioning the current regulatory framework, the Commissioner wants to check whether the **same regulatory objectives could be obtained in a "*more growth-friendly way*"**. In particular, Jonathan Hill wishes to adopt a more "***proportionate***" approach for its application**, to avoid reducing the markets' liquidity,** and, where it is deemed "***appropriate***", **to reduce reporting and disclosure requirements**.

1. **For the banking sector**
   Jonathan Hill wishes to adopt a more proportionate approach regarding the European Capital Requirements Regulation and Directive (CRR / CRD). He proposes :

   - For smaller banks, to **standardize the criteria** and **to speed-up the process regarding capital requirements exemptions** under CRR and CRD;
   - To **simplify the reporting templates**;
   - **To encourage lower capital requirements for banks that are lending to SMEs ("*SME supporting factor*") as well as for banks using Simple, Transparent and Standardized Securitization (STS securitization).**

   The Commissioner also announced that he was considering **raising the threshold for loans qualifying for the SME supporting factor**.

2. **For the financial markets' actors**

   The Commissioner emphasized the importance of banks as "***market makers***", to ensure the markets' liquidity. Subsequently, he :

   - Asked ESMA to adopt a **more "*cautious*" approach when applying the directive on markets in financial instruments (MiFID II**);
   - Required an impact assessment from the EBA on **short-term (*Liquidity Coverage Ratio - LCR*)** and **long-term (*Net stable funding ratio - NSFR*) liquidity ratios**, as well as on the **Fundamental Review of the Trading Book**. **Targeted consultations on the NSFR and the Trading Book Review will soon be launched.**

The results of this consultation, as well as the Commission's analysis, will be published this summer 2016.
More precise measures could then be announced.

Ongoing consultations

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Until 15 July 2016: the Basel Committee consults on non-performing exposures

On April 14th, the Basel Committee on Banking Supervision launched a consultation on *Prudential treatment of problem assets - definitions of non-performing exposures and forbearance*.

The Basel Committee proposes to harmonise the measurement and application of two key measures of asset quality:

1. **The definition of *non-performing exposures* introduces criteria for categorising loans and debt securities focused on delinquency status** (90 days past due) or **the unlikeliness of repayment**. It also clarifies the consideration of collateral in categorising assets as non-performing and introduces clear rules regarding the upgrading of an exposure from "*non-performing*" to "*performing*".

2. Forbearance refers to "*concessions, such as a modification or refinancing of loans and debt securities, that are granted as a result of a counterparty's financial difficulty*". The definition put to consultation also specifies criteria for when *"a forborne exposure can cease being identified as such"*.

The Basel Committee indicates that the proposed definitions are intended to be used in supervisory monitoring of a bank's asset quality as well as by banks in their credit risk management and as part of their internal credit categorisation systems.

The consultation is open until July 15th, 2016.

Comments can be uploaded directly on the dedicated webpage of the Basel Committee website.

Until 4 August 2016: the EBA consults on the use of consumers data

On May 4th, the European Banking Authority (EBA) launched a consultation on innovative uses of consumer data by financial institutions. It motivates such consultation by its mandate to monitor financial innovation.

The discussions paper identifies some key risks and benefits for consumers and financial institutions, as well as for financial integrity in general.

Potential benefits to consumers include cost reductions and improved product quality of the services provided. The EBA also identified risks for consumers:

- information asymmetries,
- data misuse,
- (lack of) security for the storage data.

Potential Risks to financial institutions are also identified in the paper :

- The questionable use of consumer data may expose institutions to reputational risks,
- Competitive distortions may emerge *"as institutions which are not in a position to process consumer data may not be able to compete with new market entrants specialised in using consumer data"*.
- Data security could also present issues for financial institutions, especially legal risks in case of failure to protect the consumer data.

The consultation is open until August 4th, 2016.

Following the consultation, the EBA will decide whether further actions may be required to mitigate the risks arising from this innovation.

Until 2 September 2016: the Commission performs a fitness check on EU marketing legislation

On May 12th, the European Commission launched a **public consultation** **regarding the current EU legislation on marketing and consumer protection**. The objective is to assess whether the considered EU directives are still fit for purpose and do not represent an unnecessary burden for enterprises.

The following six directives are subject to a *"Fitness Check"*:

- Unfair Contract Terms Directive 93/13/EEC;
- Consumer Sales and Guarantees Directive 1999/44/EC;
- Unfair Commercial Practices Directive 2005/29/EC;
- Price Indication Directive 98/6/EC;
- Misleading and Comparative Advertising Directive 2006/114/EC;
- Injunctions Directive 2009/22/EC.

In addition, this consultation also covers the Consumer Rights Directive 2011/83/EU , which is subject to a separate evaluation.

Such "Fitness Check" is to be considered within the broader "Better regulation" initiative, especially the identification of the issues for which the EU legislation could be lighter.

The questionnaire covers very transversal and different issues but **some specific questions are focused on financial services**. Respondents are for example asked to evaluate **the interaction between the 7 legislative texts mentioned above and the specific financial regulatory framework**, especially with the rules recently introduced within EU law.

The consultation is open until September 2nd, 2016.

Until 20 September 2016: European Commission's consultation on the evaluation of the financial conglomerate directive

On June 9th, the European Commission launched a consultation aiming at evaluating the implementation of the financial conglomerate directive ("FICOD").

The purpose of the evaluation is to assess whether the current FICOD regulatory framework is proportionate and fit for purpose, and delivering as expected considering its objective of identifying and managing risks that are inherent to financial conglomerates to ensure financial stability.

The directive focused on three key elements:

a. contribute to enhanced financial stability;
b. safeguard creditors' and policyholders' interests; and
c. promote the competitiveness of financial conglomerates within the EU and at international level.

The directive introduced provisions for conglomerates regarding different issues, for example solvency requirements in order to prevent the simultaneous use of capital to cover risks in different institutions of the conglomerate.

The consultation focuses on several key elements of the directive:

- Its scope of application, for example the quantitative thresholds to identify and manage risk;
- The internal measures for group risks management:
    1. The group's own funds and their use;
    2. The group organization complexity;
    3. The concentration of risks from different sources;
    4. The contagion within the group;
    5. Conflicts of interests.
- The supervision of conglomerates and the coordination between national competent authorities.

The consultation is open until September 20th, 2016.

Until 29 September 2016: EBA launched a consultation on disclosure requirements for the EU banks

On June 29th, the European Banking Authority (EBA) launched a consultation on a set of Guidelines on regulatory disclosure requirements following an update of the Pillar 3 requirements by the Basel Committee in January 2015.

These guidelines' scope of application covers Globally & Other Systemically Important Institutions (G-SII & O-SII). They are aiming to improve and enhance the consistency and comparability of institutions' disclosures as well as to ensure market discipline.

The incorporation of the revised Pillar 3 into the Capital Requirements Regulation (CRR) would requires an update of the disclosure requirements laid down in the regulation. Since CRR and Basel disclosure requirements can diverge, these guidelines provide guidance to institutions to enable them to comply with the CRR provisions while implementing the revised Basel Pillar 3 requirements.

However, the EBA indicates that the guidelines will not substantially change the CRR Part 8 requirements and will mainly specify them on the following issues:

- Scope of application;
- Risk management;
- Credit risk;
- Counterparty credit risk;
- Market risk.

Requirements concerning own funds, leverage ratio and securitization are not covered by the draft guidelines.

Anchoring these Guidelines to the CRR has necessitated the following adjustments in the tables and templates for disclosure purposes:

- Adjustments to align to the EU specificities, for instance in terms of exposure classes or concepts used
- Adjustments to fit with the CRR requirement that the table or template specifies
- Adjustments to cater for redundancy between the RPF and the CRR requirements

The Guidelines will apply for the year-end 2017 disclosures. However, G-SII are recommended to implement a limited subset of disclosures relating to risk-weighted assets (RWA) and capital requirements as soon as year-end 2016. The consultation is open until September 29th, 2016.

Agenda	*Back to summary*
July 11th : Joint Meeting of the Economic and Monetary Affairs (ECON) and of the Budgets (BUDG) Committee of the European Parliament	
July 12th : meeting of the Economic and monetary affairs Council (ECOFIN)	
July 13th : Economic and monetary affairs (ECON) committee of the European Parliament	

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