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31 March 2016: Numerous members of the industry take a common stance on securitisation

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.

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 **regulatory 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 Mechanism 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 its [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.

14 December 2015: Commission conference on CRR/CRD IV impact on bank financing of the economy

On December 14th, the European Commission hold on [public conference](#) on the impact of the CRR and CRD IV on Bank financing of the economy. This conference was meant to close the [consultation process](#) the Commission launched on July 15th. A video of the conference is available on the Commission’s [website](#). The Commission will now begin to draft the report reviewing the CRR that has to be presented to the European Parliament and The Council.

The conference was divided in 3 thematic panels:

1. *“Impact of CRR on lending to corporates, with a particular focus on SME lending*
2. *Role of banks in infrastructure financing*
3. *Future challenges from banking regulation: simplification, proportionality and international developments”.*

Representatives from corporates and small businesses, banks, the European Parliament, EU regulatory and supervisory authorities composed the panels.

1. The impact of the CRR on lending to corporates

Two clear conclusions can be drawn from the first panel:

➡ The stakeholders are broadly in favour of keeping the SME supporting factor

The first panel showed that a consensus exists between banks and SMEs representatives on the necessity to keep the SMEs supporting factor. More banks’ representatives in the audience expressed their support to this stance.

Mette TOFTDAL GROLLEMAN (Commissioner Hill Cabinet) did not express any preference. She indicated that it was necessary to asses if it is the right tool and the right way to go.

Banks representatives (Henrik HOFFMANN, from Danske Bank, and Georg FAHRENSCHON, from the German Savings Banks Association) asked for more regulatory stability on this matter. They underlined that a reason which for credit institutions may not have fully benefit from the SME supporting factor is that it was only temporary.

➡ They call for specific prudential treatments, e.g. for smaller local banks lending to SMEs.

Gerard HUEMER (UEAPME) and Georg FAHRENSCHON emphasized the input of local banks and the better financing condition where a “decentralised local bank system” exists. They both advocated in favour of specific prudential treatments, for example a size-based implementation of a single rulebook divided in chapters.

Henrik HOFFMANN also asked for more flexibility.

Mette TOFTDAL GROLLEMAN agreed to the idea of introducing further proportionality in the prudential rules but highlighted the difficulty to strike the right balance and to ensure a level playing field.

On other issues, it was underlined that bank lending was not the solution for all the SMEs, particularly innovative projects or start-ups, and that the Capital Markets Union should be complementary to bank lending. Henrik HOFFMANN stressed several times the need for standardised accounting standard

2. Role of banks in infrastructure financing

All the speakers acknowledged that CRR diminished bank investments in infrastructure projects and stressed the need to ensure a level playing field at the global level. They also insisted that more infrastructure projects need to be available.

Guntram WOLF (Bruegel) and Carlos MUÑIZ (Banco Santander) advocated for the creation of a new asset class for infrastructure investments, with a different prudential treatment. Niall BOHAN (European Commission) underlined that the Commission work – on Solvency II for example – helped to identify specific features for this type of assets (predictability of the returns on investment, illiquidity, diversification of the projects...).

Both the European Investment Bank and the European Commission indicated that specific considerations should be made on liquidity ratios for infrastructure investments given their specific features.

MEP Sylvie GOULARD (ALDE, FR) and Niall BOHAN pointed out that prudential regulation is not meant as a tool for orienting investments. In this field, SG and Guntram WOLF mentioned the possibility to use tax incentives.

Niall BOHAN insisted that any Commission action in this field should be based on (empirical) evidences.

3. The way ahead: (how to) make rules more simple and proportionate?

The major part of the panellists agreed that the one-size-fits-all approach was not the way to follow and that some adjustments should or could be made for smaller banks, especially on reporting requirements and/or compliance costs. The industry and the Council representatives expressed especially their strong support for reduced compliance costs and/or reporting requirements.

The quantitative risk-based approach should remain the rule. The different EU institutions' representatives included risk profiles and business models within their criteria on which assess potential simplified rules.

However this third session evidenced that **a further “adjustment” or differentiation of the current prudential framework could prove very difficult on the institutional plan:**

➡ The Council is divided on the opportunity to introduce further proportionality in the current prudential framework

Anke KLEIN (Netherlands Permanent Representation, and next Council Presidency) indicated that many Member States were not in favour of introducing differentiated prudential requirements and that risk-based rules were enough to ensure proportionality. For other Member States, the existing discretions allowing further proportionality are not fully used so it is possible to increase proportionality within the current framework.

Others are willing to try new proportionate categories' regimes for new entrants (temporary banking licence and temporary lower prudential requirements) and smaller banks (more proportionate and fit-for-purpose prudential framework for credit institutions, but same level of protection).

➔ **EU supervisors are sceptical on the feasibility and the opportunity of introducing simplified rules**

The Commission, the European Central Bank and the European Banking Authority underlined the difficulty to introduce further proportionality or simplified rules. A first problem would be the evidence or criteria used to justify such a preferential prudential treatment. Isabelle VAILLANT (European Banking Authority) stressed there was no simple solution and that the EBA tested different criteria during the past years, such as size or cross-border activities.

For the ECB, Giuseppe SIANI judged that his institutions has done its part with the implement of 4 different datasets to adapt reporting requirements to credit institutions' features. He underlined that (too) simple would open the possibility of regulatory arbitrages.

Mario NAVA (European Commission) excluded the possibility to trade less detailed or frequent reporting against a higher capitalisation.

However, Isabelle VAILLANT mentioned some possibilities such as a simplified single rulebook available or to take example on the simplified rules under BRRD. Giuseppe SIANI also indicated that the leverage ratio could be a good experiment for differentiated and/or simplified rules.

The Commission will complete its review of the CRR during 2016 and address its report to the European Parliament and the Council. The report could be accompanied with legislative proposals "if necessary" as indicate CRR.

30 November 2015: the EU Council reached an agreement on STS securitisation initiative

On November 30th, the Working Party of the EU Council on financial services reached an agreement on the two legislative initiatives regarding the simple, transparent and standardised (STS) securitisation:

- **The [draft regulation](#) defining criteria for STS securitisations:**
The text will set up the criteria to comply with in order to benefit from a more favourable prudential treatment than under the current EU legislation.
- **The [draft regulation](#) amending the Capital Requirements Regulation (CRR):**
This changes will grant lightened prudential requirements for securitisation complying with the STS criteria.

Both texts were presented by the Commission on September 30th together with the Action Plan on building a Capital Markets Union (CMU). **The changes operated by the EU Council include modifications to the regime for Asset-Backed Commercial Papers (ABCPs) and the third party certification.**

The discussions between Member States on the STS initiative were quite fast, following the wish of

the European Commission.

The agreement found by the counsellors has now to be confirmed by the Member States ambassadors. **This confirmation should be given during the first week of December.**

At the European Parliament, no rapporteur was chosen and so the work has not begun yet.

23 November 2015: ECB study on the impact of the Basel III leverage ratio

On November 23rd, the European Central Bank (ECB) published a [study](#) on *“the impact of the Basel III leverage ratio on risk-taking and bank stability”*.

The Basel III rules will introduce a **non-risk-based leverage ratio (LR) requirement** with the objective to *“restrict the build-up of excessive leverage in the banking sector to avoid destabilising deleveraging processes that can damage the broader financial system and the economy”*. At the same time, a risk-based capital framework will be set up.

The study aims to assess if the non-risk-based features of the LR requirement would represent an incentive for banks to take more risk. If so, **the authors wonder if this incentive would be balanced by the risk-based capital framework introduced by Basel III.**

This analysis concludes that – despite the LR increased incentive for bank risk-taking – such an incentive is “more than outweighed by the synchronous increase in loss-absorbing capacity attributable to higher capital”. As a consequence, the study *“supports”* the introduction of an LR requirement alongside the risk-based capital framework.

12 November 2015: EBA report on remuneration practices

On November 12th, the European Banking Authority (EBA) published a [benchmark](#) on remuneration practices of banks’ personnel and a [report](#) focusing on the use of role-based allowances.

The Capital Requirements Directive (CRD IV) introduced a cap on variable remuneration for banks’ identified staff limiting the ratio between variable and fixed remuneration to 100%. Institutions can increase this ratio to 200% with the shareholders’ approval, if Member States allow for this possibility.

According to EBA’s benchmark, **all but six EU Member States have implemented the possibility for institutions to increase the maximum ratio between the variable and the fixed remuneration to 200% with the shareholders’ approval**. Institutions made use of such possibility only in 15 Member States.

The EBA reports that **France and the United-Kingdom do not apply bonuses’ cap to every credit institutions**. Both countries introduced **derogations** for institutions that have

- A balance sheet total below EUR 10 billion (France);
- Total assets below GBP 15 billion (UK).

In the second report, **the EBA summarises the actions by Competent Authorities ensure institutions using the so called “role-based allowances” adjust their remuneration policies** in line with the criteria set out in the EBA Opinion published in October 2014 on this matter. The role-based

allowances were meant to circumvent remuneration rules.

The follow-up report concluded that Competent Authorities have taken the necessary. However, many of these measures should only be effective for the year 2015. The Authority noted that – In Austria and Finland – some institutions are using new techniques to artificially increase fixed remuneration, for example with “*shared appreciation rights*” based on performance. Such practices are currently reviewed by National Competent Authorities.

5 November 2015: EBA published its draft methodology for 2016 stress tests

On November 5th, the European Banking Authority (EBA) published its 2016 EU-wide stress test draft [methodology](#) and a [draft template](#) for the exercise.

The stress test will be formally launched in the first quarter of 2016 and will cover 53 banks representing over 70% of the EU banking sector. The process aims to assess EU banks' ability to meet relevant supervisory capital ratios in time of adverse economic situation.

The EBA specified that “*no single capital threshold was defined*” for the stress tests. **Banks should be assessed against relevant supervisory capital ratios under a “static” balance sheet.**

The results will inform the 2016 Supervisory Review and Evaluation Process (SREP).

21 October 2015: Commission legislative proposal for an European Deposit Insurance Scheme by the end of the year

On October 21st, the European Commission presented a package of measures aiming to complete the Economic and Monetary Union (EMU). Among the proposed initiatives, the package specifies the [next steps to complete the Banking Union](#), especially through a **European Deposit Insurance Guarantee Scheme** (EDIS). The Commission will present a legislative proposal by the end of the year.

The Commission will not propose a full mutualisation but a **reinsurance system of the national deposit guarantee schemes**, introduced by the directive on the national deposit guarantee schemes (DGSD). For now, no more information is available on the exact content of the future EDIS initiative.

The new calendar on the EDIS proposal – that was not a priority of the Commission - has to be read in the light of the Greek crisis. In order to restore trust in the Eurozone banking system and to avoid banking panic in Member State in financial difficulty, the Commission decided to propose a pan-European deposit guarantee system as soon as possible.

The Commission should present the EDIS legislative proposal by the end of the year.

16 October 2015: EBA released its work programme for 2016

On October 16th, the European Banking Authority (EBA) released its [work programme](#) for 2016 and its [multiannual work programme](#) from 2016 to 2018.

2016 WORK PROGRAMME

The EBA work programme defines 34 “*activities*” to be realised that divided in different “*strategic*

areas”, especially:

1. **Completing the EU Single Rulebook**

The EBA will continue to finalise the EU Single Rulebook for banking activities. To do so, it will carry on delivering technical standards, reports and advice to the European Commission, especially for the following legislations:

- **Regulatory prudential framework for banks (CRD IV/CRR):**
 - **Technical standards on the definition of default;**
 - **A report on the impact of the Liquidity Coverage Ratio (LCR);**
 - **A report and an advice to the European Commission on the Net Stable Funding Ratio (NSFR);**
 - **A report on the leverage ratio and its impact on institutions’ business model;**
 - **A report on SME financing.**
- **Anti-money laundering directive (AML IV):**
 - **Technical standards on central contact points;**
 - **Guidelines on enhanced due diligence;**
 - **Guidelines on simplified due diligence;**
 - **Guidelines on risk-based supervision.**
- **Securitisation :**
 - **A report on risk retention rules.**

2. **Developing common policies and approaches for resolution**

In this area, the EBA will focus on the enforcement of the Banking Recovery and Resolution [Directive](#) (BRRD) and the development of the last **guidelines related to the Deposit Guarantee Schemes [Directive](#)** (DGSD) on cross-border cooperation agreements and stress-tests.

3. **Making supervisory practices converge**

The EBA plans to support the **implementation of the guidelines on the supervisory review and evaluation process (SREP)** and the development of additional guidelines and tools for supervisors, for example on stress-testing.

4. **Enhancing its analytical capabilities**

The EBA will **perform stress-tests, in order to assess the EU banking sector resilience**, following the same pattern than for 2014 stress-tests. The Authority will also realise a **benchmark and a report to assess the consistency of internal models for credit and market risks and the potential consequences on risk-weighted assets (RWAs).**

5. **Protecting consumers and monitoring innovation**

In this area, the EBA will develop technical standards, especially those related to:

- The [regulation](#) on key information documents (KID) for insurance-based investment products (PRIIPs);
- The [directive](#) on payment accounts (PAD).

The EBA also plans to develop guidelines on remuneration requirements for sales staff.

Regarding financial innovation, the EBA will monitor the developments in the fields of **crowdfunding**, electronic currencies and innovative payment services.

6. **Making Payment services more secure**

The EBA activities in this field will focus on delivering the technical standards related to the [directive](#) on payment services (PSD2), especially on authentication and separation of payment card schemes.

2016-2018 WORK PROGRAMME

Most of the EBA's mandates for developing Technical Standards and Guidelines have to be completed by the end of 2016. Therefore, in the years to come, the EBA's focus will shift from developing secondary legislation **to enhancing the convergence of supervisory practices and to its role of supervisor.**

Additionally, the EBA wants **to improve its risk analytical capabilities** for the EU banking sector, especially for microprudential supervision and cross-border activities. To do so, the Authority wishes to **strengthen its role as an “EU data-hub”.**

15 September 2015: ECB aims to further harmonise prudential framework

On September 15th, Danièle Nouy, Chair of the Supervisory Board of the Single Supervisory Mechanism (part of the European Central Bank), announced the ECB was drafting a **“legal package” aiming to reduce or remove around 100 options and national discretions (ONDs) in supervisory matters.**

The targeted ONDs can be implemented by the national supervisors or directly by the banks. Among these ONDs, the treatment of participations within insurance companies for capital requirements calculation and the deferred tax assets (DTAs).

According to the Chair, the ONDs *“have material effects on the level of prudence of the framework and on the comparability of capital ratios, which make it harder for markets and the public to gauge banks’ capital strength”*. As a consequence, the Supervisory Board decided that the harmonisation of ONDs is *“an issue for the SSM to address as a matter of priority”*.

The ECB planned to launch the initiative including an ECB draft regulation dealing with the general ONDs and internal guidance *“laying down stances and specifications for case-by-case ONDs”*.

The ECB should organise a public consultation on the draft regulation at the beginning of November 2015

9 September 2015: EU Court of Justice confirmed EBA investigation powers

On September 9th, the EU Court of Justice, more precisely the General Court, released a [judgement](#) confirming the European Banking Authority (EBA) powers to decide what investigations to pursue.

T-660/14 case opposed the EBA to SV Capital OÜ (Estonia) and dealt with an EBA decision not to pursue its investigation on Nordea Bank. The Court considered that the applicant claim would require the judges give a direction to the EBA.

The Court reminds that *“according to settled case-law, in an action for annulment, the jurisdiction of the EU judicature is limited to reviewing the legality of the contested measure and **the Court may not, in the exercise of its jurisdiction, issue directions to EU institutions”***.

“By analogy”, the Court considers the EBA has some features of an EU institution, i.e. created by the EU Treaties. Such a decision could have a significant impact on the Commission agencies, especially the two other European Supervisory Authorities: ESMA and EIOPA.

2 September 2015: ECB will not be “bound” by national legislation on financial supervision

On September 2nd, the ECB published an [opinion](#) regarding the German draft law transposing the bank recovery and resolution directive (BRRD) and implementing the Single Resolution Mechanism. The ECB opinion welcomed the draft law, especially the proposed statutory subordination, *“is expected to facilitate resolution action”*.

Using this opinion as an opportunity, **the ECB estimates that banking regulation adopted by Member States after the establishment of the Single Supervisory Mechanism should “facilitate the exercise by the ECB of its responsibilities within the SSM including its capacity to enhance the consistency of the supervision of credit institutions across the SSM”**.

The ECB added it **“will not be bound by any governmental regulations or similar measures which may affect its independence or the smooth functioning of the SSM, for which the ECB is responsible”**. According to the ECB, this stance is supported by the principle of supremacy of Union law and the ECB’s status as an independent institution.

19 August 2015: EBA to conduct further analysis on the Net Stable Funding

On August 19th, the European Banking Authority (EBA) made public a [call for technical advice](#) from the European Commission concerning the **Net Stable Funding Ratio (NSFR)** and the **leverage ratio (LR)**.

In addition to the reports required by articles 510 and 511 of the Capital Requirements Regulation (CRR), the Commission asks the EBA to conduct further analysis on several key issues:

- **Proportionality,**
- **Scope of application,**
- **NSFR impact on specific market segments.**

POSSIBILITY FOR A DIFFERENTIATED IMPLEMENTATION

Proportionality is a key issue for NSFR and LR requirements. For the leverage ratio, CRR specifies that the EBA has to study the possibility to introduce different leverage ratios according to credit institutions’ risk profile. In its call for advice, the Commission asks **the EBA to investigate “the possibility of having different NSFR calibrations for different institutions, based on criteria such as type of business model, risk profiles, size, etc.”**.

The Commission also calls the EBA to report on the possibility of introducing **“simplified reporting requirements”** for both the NSFR and the LR, based on credit institutions features.

POTENTIAL EXEMPTIONS

The CRR does not specify if the LR and the NSFR have to apply to all the credit institutions, the Commission requires that the EBA conducts an analysis on **the costs and benefits of “fully excluding some types of credit institutions”**.

AN IMPACT ANALYSIS ON NSFR IMPACT FOR SOME ACTIVITIES

The Commission wants to have an **“independent EU level analysis”** of the **NSFR impact on the financial sector**. The Commission indicates that its request is motivated by stakeholders’ claims that the NSFR could *“lead to a reduction in liquidity in specific markets or in the ability of banks to provide certain services supporting economic activities”*.

The Commission asks the EBA to conduct different impact analysis on:

- Bank lending, particularly **lending capacity to SMEs**;
- The volume and liquidity of financial markets at the EU level;
- **Business models, balance-sheet structures** and refinancing structures of institutions;
- The interaction of the NSFR with **risk-based capital requirements** and the leverage ratio.

NEXT STEPS

The EBA will issue its report on the NSFR by the end of 2015. *“If necessary”*, the Commission will present a legislative initiative on the NSFR by December 31st, 2016.

The EBA should publish its report on the leverage ratio in July 2016. This report will inform the European Commission for its own report on this issue. The Commission will publish it by the end of 2016 and could propose a legislative initiative, *“if necessary”*, introducing one or several binding leverage ratios.

31 July 2015: EBA launches a consultation on SME lending conditions

On July 31st, the European Banking Authority (EBA) launched a [consultation](#) on **small and medium enterprises (SMEs) lending conditions and trends**. In addition to the stakeholders’ comments, the EBA also calls for evidence and data to support its current work on the issue.

The overall objective of the consultation is **to assess the new prudential rules impact on SME financing**.

According to the Article 501 (5) of the Capital Requirements Regulation (CRR), the EBA has to report to the Commission on :

- a) *“an analysis of the evolution of the lending trends and conditions for SMEs;*
- b) *an analysis of effective riskiness of EU SMEs over a full economic cycle;*
- c) ***the consistency of own funds requirements laid down in the CRR for credit risk on exposures to SMEs with the outcomes of the aforementioned analyses.”***

A SPECIFIC ASSESSMENT OF THE SME SUPPORTING FACTOR

The consultation focuses on **the capital reduction factor for loans to SMEs** – the so-called SME supporting factor (SF) – which was introduced in the CRR. The EBA is seeking **to assess if these specific measures allowed credit institutions to free regulatory capital and enhance lending to SME**.

In addition to the consultation, the EBA decided to launch two *“empirical projects”*:

- An empirical study to identify **the credit supply effects related to the introduction of the SME Supporting Factor**;
- An empirical study investigating **the consistency of own funds requirements with the riskiness of SMEs**. This study will address the issue of *“the relative calibration of capital requirements associated to exposures to SMEs”*.

To be noticed, **the EBA mentions factoring as an alternative source of financing and estimates it is used by 6.3% of the SMEs (see p.9-10).**

A CONSULTATION WITH A STRONG POTENTIAL IMPACT

The EBA consultation is taking place at the same time as the EU Commission [consultation](#) on the CRR impact on bank financing of the economy, launched on July 15th (see message below). After this consultation, the EU Commission will produce a report on CRR, dealing with SME financing and long-term and infrastructures investment. Such a report should contain recommendations on CRR recalibration, together with a legislative proposal on SMEs financing “if appropriate”.

The Commission new regulatory approach has also to be taken into account. Indeed, the new European Commission clearly took position in favour of the review of the past legislation and the softening of some prudential rules (see messages below). In his July 15th [speech](#), Jonathan Hill, EU Commissioner for Financial services, stated **this new approach would mean “less new legislation, more reviews of existing legislation”.**

In this context, **the EBA consultation and report on SME financing** – one of the top issues of the Commission – **could have a significant impact** and influence the Commission decision to make some changes to the CRR.

A public hearing will take place on September 4th 2015 at 10.00 in the EBA premises in London. The EBA consultation is open until October 1st, 2015. The Commission consultation will end on October 7th, 2015.

The EBA final report should be published in February 2016.

22 July 2015 : Two EBA’s studies on credit institutions internal approaches

On July 22nd, the European Banking Authority (EBA) published two reports regarding the consistency of internal models and Risk-Weighted Assets (RWA) assessment :

1. The [first report](#) deals with **exposures to Counterparty Credit Risk (CCR) and Credit Valuation Adjustment (CVA)**;
2. The [second](#) deals with **Low Default Portfolios (LDP)**, i.e. exposures to large corporates, sovereigns and institutions.

In both cases, the studies were conducted with quantitative data provided by credit institutions on a voluntary basis, and in cooperation with the National Competent Authority (NCAs). Other benchmarking exercises should be realised by the EBA according to the same methodology, as provided by Article 78 of the Capital Requirements Directive (CRD IV).

The EBA’s objective is to identify variability factors in RAW assessment between credit institutions and reduce them.

SIGNIFICANT VARIABILITY FOR THE ASSESSMENT OF CCR EXPOSURES

The analysis of internal approaches for CCR and CVA shows a significant variability between the different credit institutions.

The variability differs according to the activity considered :

1. For **initial market values (IMV)**, based on internal model methods (IMM), differences are important, particularly for equity and foreign exchange OTC derivatives;
2. For **interest rate derivatives**, variability is lower;

3. Between **stress and risk metrics** (e.g. Stress Effective Expected Positive Exposure, S-EEPE), a real variability can be observed.

As the analysis was based on hypothetical portfolios, the EBA underlines the observed variability cannot *“lead to the conclusion of possible real under- or overestimations for counterparty credit risk charge”*.

Nevertheless, the EBA invites NCAs to further investigate the significant variability between the IMV variability for equity and foreign exchange OTC derivatives.

LDP EXPOSURES

The EBA estimates the RWA observed variability is mainly *“driven by idiosyncratic portfolio features”*, i.e. portfolios’ riskiness.

The EBA study concludes that there quarters of the observed difference in *“global charge”* between credit institutions can be explained by two factors:

1. the proportion of defaulted exposures in the portfolio;
2. the portfolio mix between large corporate, sovereign and institutions exposures.

The analysis provides a work basis for next steps in improving Internal Rating-Based (IRB) models applied to LDP. The EBA might perform an in-depth analysis on the differences between the IRB and the standardised approaches for LDP; and another one on the impact of collateral on internal LGD estimates.

The EBA will use data and conclusions from these studies to support its work on **the consistency of risk assessment and of own funds requirements calculation**.

15 July 2015: Commission consults on the impact of bank capital requirements on lending activities

On July 15th, the European Commission launched a [public consultation](#), backed by an [annex](#) providing *“facts and trends”*, to assess **the possible impact of the Capital Requirements Regulation and Directive (CRR and CRD IV) on the bank financing of the economy**. The EU Commissioner for Financial Services, Jonathan Hill, announced such a consultation in early 2015. The consultation will be followed by the publication of a report by the European Commission, *“together with a legislative proposal if appropriate”* (Article 501 of CRR).

Acknowledging banks play an essential role in ensuring an adequate functioning of financial markets (especially in market making), the Commission wishes to integrate it within its broader initiatives in favour of investment and economy financing, such as the European Fund for Strategic Investments (EFSI) and the Capital Markets Union (CMU).

From a general perspective, the [consultation document](#) of the Commission seeks to find if **the increased capital requirements directly impacted the credit flow towards SMEs and long-term investments, or whether other factors (economic cycle, poor perspectives, etc.) were more important**.

Two specific targets: SMEs and long-term investments

The consultation aims to prepare **the Commission report on CRR dispositions’ relevance and impact** for:

- **SMEs and natural persons financing**, which benefits from a preferential treatment under CRR article 501. To be noticed, the European Banking Authority (EBA) has to publish a

- report to the Commission to assess the “consistency of own funds requirements for credit risk on exposures to SMEs” ;
- **Long-term and infrastructures investments financing**, which benefits from no specific treatment under articles 505 and 516 of CRR.

In both cases, the Commission asks the stakeholders to identify the specific difficulties they are facing when lending SMEs or financing infrastructures. The objective is to determine if the reduced capital requirements for SME lending had the expected effects and if, on the contrary, the absence of infrastructure specific prudential treatment had an impact on their financing.

Towards more proportionality and differentiation in prudential rules

The Commission is also looking for stakeholders’ opinion **concerning CRR proportionality**, especially if **differentiated rules should be set up to match the credit institutions size or risk profile**. The dispositions of the Liquidity Coverage Ratio delegated act and **the exemption for factoring and leasing** are mentioned as an example.

The Commission asks for stakeholders to target specific CRR dispositions and to suggest concrete measures to be implemented.

Enhancing a level playing field

However, the Commission considers the application of proportionality and differentiation principles should not be made at the expense of regulatory consistency among the Member States. Indeed, the consultation document asks the respondents to suggest measures to ensure a “level playing field” between EU actors, by identifying **national discretions that would affect the cost and availability of bank lending**.

The consultation ends on October 7th 2015.

The Commission will publish a report based on the consultation and will organize a public hearing by the end of the year, to prepare its final report in 2016. The Commission final report should contain recommendations on CRR recalibration, together with a legislative proposal on SMEs financing “if appropriate”.

15 July 2015 : EBA guidelines on product oversight and governance for retail banking products

On July 15th, the European Banking Authority (EBA) published the final [Guidelines](#) on **product oversight and governance (POG) arrangements for retail banking products**.

These Guidelines defines the requirements for both **manufacturers** and **distributors** when designing and bringing to market a range of retail financial products:

- mortgage credits,
- personal loans,
- deposits,
- payment accounts,
- payment services,
- electronic money.

The first part of the guidelines deals with manufacturers’ requirements, especially their internal control functions, disclosure or distribution channels. The second part consists of requirements for distributors related to the identification and knowledge of the target market and information requirements.

The Guidelines will apply from 03 January 2017.

7 July 2015: the EBA released its opinion on securitisation

On July 7th, the European Banking Authority (EBA) published a [report](#) and an [opinion](#) to the European Commission on a framework for ‘qualifying’ securitisation. The EBA opinion **suggests criteria aiming at defining simple, transparent and standardised (STS) securitisation transactions** and favourable prudential treatment for such transactions, especially for capital requirements.

The main points of the EBA opinion are the same as the [recommendations](#) presented during the public hearing on June 26th (*see below*), and sets up general and specific recommendations on the future regulatory framework for securitisation :

GENERAL AND “POLITICAL” RECOMMENDATIONS

The EBA takes position in favour of **a differentiated and proportionate approach for securitisation**, breaking from the “one-size-fits-all” approach it considers as not relevant any more. The opinion sets out a **more risk-sensitive approach** to capital regulation for securitisation transactions. Interestingly it shows that asset-backed security finance has, on an historical point approach, lower default rates than other financial products or processes.

The EBA calls for **a “holistic (cross-product and sector) review of the regulatory framework for securitisations and other investment products”** in order to

- enhance consistency between the different EU legislation securitisations are subject to;
- ensure a regulatory level playing for securitisation in comparison to other investment products.

The EBA insists on the need to ensure the consistency of the EU legislation with the ongoing international work of the Basel Committee and the IOSCO Committee.

SPECIFIC AND “TECHNICAL” RECOMMENDATIONS

The EBA suggests to base the EU framework for qualifying securitisation on **a two-stage approach**:

- ➔ First, on **the securitisation process** based on three pillars :
 - Simplicity (homogeneous assets, no excessive leverage, etc.);
 - Standardisation (e.g. for retention rules);
 - Transparency (Disclosure to investor, loan-by-loan data granularity, etc.).
- ➔ Second, on **the underlying assets quality**, according to credit risk criteria and granularity of the portfolio.

The EBA also suggests applying **lower capital treatment to some Asset-backed commercial papers (ABCP) securitisations**, if they comply with the two-stage approach and specific ABCP criteria.

The EBA specifies the preferential prudential treatments from which STS securitisation would benefit from, for risk weights and capital charges. Such treatments are based on the 2014 Basel Committee framework for securitisation.

To be noticed, **the EBA opinion does not cover synthetic securitisation transactions.**

The Capital Requirement Regulation (CRR) introduced a distinction between two types of

securitisation at Article 242:

- **‘Traditional securitisation’** means “a securitisation involving the economic transfer of the exposure being securitised. This shall be accomplished by the transfer of ownership of the securitised exposures from the originator institution to an SSPE or through sub-participation by an SSPE. The securities issued do not represent payment obligation of the originator institution”;
- **‘Synthetic securitisation’** means “a securitisation where the transfer of risk is achieved by the use of credit derivatives or guarantees and the exposures being securitised remain exposures of the originator institution”.

The European Commission will take into account the EBA report and opinion to support its current work on a legislative proposal on an EU framework for STS securitisation.

This legislative initiative should be presented at the end of September 2015.

26 June 2015: EBA recommendations on securitisation

On June 26th, the **European Banking Authority (EBA)** presented its [recommendations](#) on an EU framework for simple, transparent and standardised securitisation.

The EBA recommendations aim to define **criteria for “high-quality” securitisation transactions** and to suggest **preferential capital treatment** for such securitisation transactions.

The EBA listed **5 recommendations** :

1. *“Recommendation for a holistic (cross-product and sector) review of the regulatory framework for securitisations and other investment products. Following the review, action should be taken where appropriate*
2. *Recommendation to create a framework for ‘qualifying’ securitisation*
3. *Recommendation on criteria defining ‘qualifying’ term securitisation*
4. *Recommendation on criteria defining ‘qualifying’ Asset-Backed Commercial Papers (ABCP) securitisations*
5. *Recommendation on the re-calibration of the Basel Committee 2014 framework applicable to ‘qualifying’ securitisation positions”*

These recommendations will be further specified within **an opinion to the European Commission the EBA will publish in early July.**

The European Commission will take into account such a technical advice to support its current work on a legislative proposal on an EU framework for simple, transparent and standardised securitisation.

This legislative initiative should be presented at the end of September or in October 2015.

24 June 2015: EBA published updated technical standards for LCR reporting requirements

On June 24th, the **European Banking Authority (EBA)** published the updated [Technical Standards](#) on supervisory reporting of liquidity coverage ratio (LCR) for EU credit institutions.

The new technical standards include **templates and instructions to update the LCR reporting framework** according to the Commission's Delegated Act on the LCR. In addition, they specify the necessary steps for the calculation of the ratio.

22 June 2015: Basel Committee released Net Stable Funding Ratio disclosure requirements

On June 22th, the Basel committee published the final version of the [disclosure standards](#) for the Net Stable Funding Ratio (NSFR).

Supervisors will implement the NSFR disclosure requirements and banks will be required to comply with them **from January 1st 2018**.

15 June 2015: EBA priorities for 2015

On June 15th, the European Banking Authority (EBA) published its [2014 Annual Report](#), which provides a detailed account of the work achieved during 2014: the EBA launched over 60 consultations and released more than 100 regulatory documents

The document also specifies the key areas of focus for EBA work in the coming years :

SUPERVISORY AND REGULATORY CONVERGENCE

The EBA should study **internal models convergence and consistency** and produce a **benchmark of reporting national options** in order to ensure better comparability of provided information.

LEVEL 2 LEGISLATION

Concerning Capital Requirement Regulation, the EBA will deliver

- By the end of 2015, **a report on the Net Stable Funding Ratio (NSFR)**. It should include a methodology to define a credit institution's NSFR and an assessment of NSFR impact on activities and risk profiles of EU financial institutions;
- By October 31st 2016, **a report on the leverage ratio**, including a assessment on the opportunity to include the ratio in capital requirements.

INITIATIVES CONCERNING PRUDENTIAL REGULATORY FRAMEWORK

During the coming years, the EBA will realise a review of the global prudential treatment for investment firms. It should consider the possibility to extend the Liquidity Coverage Ratio (LCR) to these entities. The EBA should publish this report by September 2015.

The EBA will also deliver a report on SMEs trends and conditions for accessing credit by 2016 1st Quarter.

The EBA will carry on its work on shadow banking (e.g. the Guidelines on shadow banking exposures, *see the Shadow banking section of the MMR*) and **support the Commission on its report on "the appropriateness and impact of imposing limits on exposures to shadow banking entities"**.

4 June 2015: Commission extended transitional period for banks' exposures to CCP

On June 4th, the European Commission adopted an [implementing act](#) **extending the transitional period for capital requirements for EU credit institutions' exposures to central counterparties**

(CCPs) under the Capital Requirements Regulation (CRR).

The Commission explained that this new transitional period aimed to “smooth implementation” for CCPs that are still in the process of reauthorisation under new EU rules. The extension is also applicable to third country CCPs.

EU Commissioner for Financial Services, Jonathan Hill, said that such a decision “will give the market the legal certainty it needs for the next six months”.

The current transitional period will expire on June 15th, 2015.

With the Commission implementing act, the transitional period is extended until December 15th, 2015.

The implementing act should be published shortly in the EU Official Journal.

2 June 2015: the ECB studies national discretions on equity requirements

According to the French newspaper *Les Echos*, the European Central Bank would be working on the harmonisation of credit institutions own funds calculation.

The ECB confirmed a working group has been created in order to study national discretions about equity requirements. The working group objective is to provide information and options in order to **determine which exceptions would be authorised within the Single Supervisory Mechanism.**

A first national exception that could be targeted by the ECB deals with deferred tax assets (DTA). In Italy, Spain, Greece and Portugal, financial institutions can transform DTA in their balance sheet into state-guaranteed tax credits so they are considered as part of their own funds.

Previously, [Danièle NOUY](#), the Chair of the Single Supervisory Mechanism’s Supervisory Board, told during an interview to the *Financial Times* that an harmonisation of definitions of banking capital was necessary, particularly for own funds (*see below*).

28 April 2015: Commission and ECB published their report on EU financial integration

On April 28th, the European Commission and the European Central Bank presented their reports on the EU financial integration for 2014, respectively the:

- [European Financial Stability and Integration Report \(EFSIR\)](#) of the EC;
- [Report on Financial integration in Europe](#) of the ECB.

Both these publications are “working documents” and do not have a legislative value.

The two EU institutions observe an improvement of the European financial integration and of its resilience, two concerns they consider as a prerequisite for restoring efficient credit flows to the real economy and for the EU economic recovery. **Both the European Commission and the European Central Bank identified factoring in their reports on EU financial integration as a financing source for SMEs.**

In its report, the European Commission mentions “factoring” several times and dedicates a short paragraph to factoring activities within the EU (p.80) in the section 4.4.3 concerning “**Asset-based**

finance". The paragraph is mostly descriptive and quotes figures from the EUF and the FCI. The Commission describes the factoring as such :

*"Factoring is a short-term financing mechanism for suppliers in which receivables are transferred from the holder to a 'factor', i.e. the factor buys the right to collect a firm's invoices from its customers. The factor guarantees the contract even if the debtor fails. **As a source of working capital funding, factoring is of particular interest to firms with a solid base of customers but high investment in intangible assets which cannot be used as collateral in securing bank loans** (OECD, 2014b).*

*Factoring can also take place across borders ('export' or 'international' factoring), **reducing the risk of international sales. It is used as an instrument of trade finance, which is often a key tool for helping smaller businesses to become active internationally** (OECD, 2014b). In 2013, the EU factoring and commercial finance industry's total turnover stood at € 1 300 billion,55 equivalent to almost 10 per cent of the EU's GDP. In most countries, **factoring is a source of funding of a size similar to or larger than the volume of bonds issued by non-financial companies**"*

In another part of the report, the Commission identifies factoring as a financial intermediation activity *"providing liquidity"*.

The ECB report also mentions factoring but just once to describe the financial sector in the Euro area.

In their reports both the EC and the ECB include factoring companies within the category *"Miscellaneous financial institutions"*.

21 April 2015: Basel Committee removed selected national discretions regarding Basel II

On April 21st, **the Basel Committee decided to remove some national discretions from the Basel capital framework**. Such a decision was taken because national discretions impact negatively comparability between jurisdictions and increase variability in risk-weighted assets.

Are removed from the [Basel II capital framework](#) **the following national discretions**:

- *Treatment of past-due loans* (footnote 31 of paragraph 76);
- *Definition of retail exposures*: (paragraph 232);
- *Transitional arrangements for corporate, sovereign, bank and retail exposures*: (paragraph 264);
- *Rating structure standards for wholesale exposures* (paragraph 404);
- *Internal and external audit* (paragraph 443);
- *Re-ageing* (paragraph 458).

The Basel Committee also issued **a response to a frequently asked question on funding valuation adjustment**. The BCBS notes that *"a bank should derecognise its debit valuation adjustment in full, whether or not it has adopted a funding valuation-type adjustment"*.

7 April 2015: Commission asked about DTA treatment under CRD IV in 4 Member States

The European Commission asked Spain, Italy, Portugal and Greece for information on deferred tax assets (DTA) and their use as part of a bank's own funds. This information was released on April 7th

and acknowledged by the Commission.

The information requests from the Commission aim to determine if these measures are incompatible with EU State aid rules. In those 4 countries, financial institutions transform DTA in their balance sheet into state-guaranteed tax credits.

For the moment, **there is no formal inquiry** of the European Commission.

Under CRD IV, **such assets may not constitute equity and banks have until 2019 to remove them from their CET1 own funds.**

26 March 2015: ECB published a regulation on financial information reporting

On March 26th, the European Central Bank published an [ECB Regulation](#) on **reporting of supervisory financial information**. The Regulation lays down the rules and procedures for the reporting of supervisory financial information by supervised entities to national competent authorities and the ECB.

The Regulation extends the scope of application of the previous reporting duties to all supervised entities. Previously, only institutions applying International Financial Reporting Standards (IFRS) at the consolidated level were constrained to submit supervisory financial reports. **The reporting covers balance sheet items**, such as financial assets and financial liabilities, income and expenses and other relevant supervisory financial data.

The Regulation extends mandatory reporting to:

- significant supervised groups applying national accounting rules (nGAAP);
- significant supervised entities reporting on an individual basis under both IFRS and nGAAP;
- less significant groups under nGAAP and less significant supervised entities.

The Regulation will be directly applicable the day after its publication in the EU Official Journal.

3 March 2015: J. Hill presented the Commission regulatory agenda for the banking sector

On March 3rd 2015, Commissioner Jonathan Hill http://europa.eu/rapid/press-release_SPEECH-15-4537_en.htm the regulatory agenda of the EU Commission for the banking sector and announced **the launch of a consultation during the summer 2015 focusing on the impact of the EU prudential rules on credit institutions.**

Guiding principles for the Commission action

The EU Commissioner delivered repeated that **the Commission would act only if it is “necessary” and “appropriate”**. He also specified that **“differentiation” and “proportionality” will be the key principles for the Commission’s action**. He also renewed his commitment to find the right balance between prudential regulation and economy financing.

Moreover, Jonathan Hill reaffirmed the Commission will to implement international standards **“in a way that makes sense for Europe and Europe’s diverse financial landscape”**.

Commission regulatory agenda

- **The consultation on the impact of the increased capital charges on EU banking sector,**

particularly on credit institutions lending capacities and on long-term finance, “with a specific focus on SMEs”, should be launched during the summer 2015. The Commission will use the output of the consultation to decide **if changes to the current CRR requirements are necessary.**

- **Regarding the Net Stable Funding Ratio (NSFR),** Jonathan Hill specified that the Commission *“will not be making any hasty decisions, but, with the EBA’s help, will do thorough preparatory work”*. He added that, *“if” the EU Commission decided an initiative on the NSFR is “appropriate”, it will be based on “careful consideration of the options”, and “the impact on the diversity of business models in the European banking system”*.
- The Commission will have to **deliver a report on the leverage ratio impact and efficiency by the end of 2016. If appropriate,** the report will be accompanied by a legislative proposal to introduce a **“binding leverage ratio or ratios in the EU”**. **According to Art. 511 of CRR,** such leverage ratio(s) should be applied according to the different business models chosen by credit institutions. **Commission report and proposal will be based on a report of the European Banking Authority (EBA), delivered by October 31st 2016.**

European Analytical Credit Dataset

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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](#) "**criticising**" 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:

1. 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.

2. 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 utmost 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 on 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 too 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 GIEGOLD 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 to 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](#) from 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.

11 November 2015: ECB published a Q&A on AnaCredit

On November 11th, the European Central Bank (ECB) put on line a [Q&A on AnaCredit](#), answering indirectly to the EUF concerns.

The ECB justifies the building of this database gathering information of individual bank loans in the euro area, to support *"several banking functions, such as such as decision-making in monetary policy and macroprudential supervision"*, explaining that *"good policy decisions are based on good data"*.

€25,000 threshold: AnaCredit can be used as a SMEs' oriented tool.

The ECB considers that AnaCredit, by providing *"detailed data on the availability of credit to enterprises, including SMEs"*, will help to implement appropriate monetary policy decisions for them. Furthermore, **regarding the €25,000 threshold**, the ECB explains it is *"especially relevant to close large data gaps related to the analysis of the financing of the SMEs"*.

Regarding the reporting burden, the ECB insists on the fact it has implemented a comprehensive *"merit and costs exercise, with a view to minimising the reporting burden"* and that the **smallest banking institutions can get derogations** through their National Central Bank.

Public Consultation and merit and cost procedure

There shouldn't be a public consultation, unless *"the ECB governing council considers an extension of scope of the database in the future"*: the European institution deems they have made enough: Via **National Central Banks**, *"representatives of the banking industry"* have already been involved *"in the course of 2014"* in a *"merit and cost procedure"*.

Future extensions of this database?

The ECB doesn't close the door to an extension of this database in the future to other private households loans. Yet, as said just above, an extension of scope of the database could imply a public consultation. The European data protection supervisor will be consulted in such case.

9 September 2015 : MEPs asked ECB about AnaCredit initiative

On September 9th, the Economic and Financial Affairs Committee of the European Parliament published **a series of questions to the European Central Bank (ECB) on the AnaCredit initiative**.

The 3 questions were asked by two German MEPs: Peter SIMON (S&D) and Sven GIEGOLD (Green/EFA) and focus on different aspects of the ECB initiatives:

4. [Question](#) on the implications for small banks;
5. [Question](#) on the costs and benefits of the initiative;
6. [Question](#) on the AnaCredit data template and its implications on data protection.

The two MEPs are most preoccupied by **the potential “administrative burden”** the new reporting requirements AnaCredit will add for EU banks. They ask if the AnaCredit reporting would provide the necessary added value compared to the high costs for credit institutions, especially due to **the low reporting threshold**.

They ask the ECB for precisions regarding the **expected derogations for small credit institutions** from AnaCredit reporting requirements.

MARIO DRAGHI’S ANSWER

On September 22nd, the ECB President, Mario Draghi, [answered](#) them. According to him, the AnaCredit database will provide an enhanced assessment of the monetary policy but also help analyse developments of different sectors such as the corporate debt. **AnaCredit should also enable a “more accurate analysis” of credit risks.**

Regarding the questions raised about proportionality and reporting burden, the President’s letter acknowledges the *“high initial costs”*. However, according to the ECB, **the system will imply a “cost-saving feature”** in a context of highly automated systems, because it should minimise costly ad hoc requests for data. The ECB points out **the potential synergies with the existing nation central credit registers (CCRs)**.

Regarding the potential derogations for small banks, the letter specifies that the regulation will introduce the **possibility for national central banks to grant such derogations**.

For the low reporting threshold, the ECB President specifies it should allow to *“close large data gaps to the analysis of the financing of SMEs across the euro area”*. According to him, **a high threshold would not allow to monitor significant sectors of the EU financial system**, such as real estate credit.

According to our sources, the ECB should release soon its draft regulation paper and launch a consultation to stakeholders

13 April 2015: EBF published a position paper to the ECB

On April 13th, the EBF sent at the ECB a [position paper](#) explaining its concerns regarding AnaCredit.

Underlining the complexity of Anacredit and the cost implied by this project, the EBF raises among others issues the range of attributes, the consistency of the definitions and the questions of home vs. host approach and of the individual vs. consolidated reporting.

Considering there has been insufficient discussion on those topics and that **Anacredit “is also meant to support micro-prudential supervision (SSM)”** **the EBF asks for an open consultation among the stakeholders** on the ECB draft Regulation being currently prepared.

15 January 2015: ECB will draft new initiatives for the collection of granular credit data

On January 15th, the ECB published the 2015 European System of Central Banks' [work programme](#) for statistics.

In this document, the ECB announces it **will continue its initiative for an analytical credit dataset** in 2015. Accordingly, the ECB explained it will intend to ***“draft a new ECB regulation and guideline for the collection of granular credit data and the development of an IT tool for data collection, maintenance and dissemination”***.

The ECB did not give any more precisions on the content of such an initiative or its calendar.

8 April 2014: ECB Decision published in the Official Journal

On 24 February 2014, the ECB Governing Council adopted the [decision](#) ECB/2014/6 and the [recommendation](#) ECB/2014/7 on the organisation of preparatory measures for the collection of granular credit data by the European System of Central Banks. These two acts were published in the EU Official Journal on 8 April 2014. These preparatory measures aim to establish a long-term framework for granular credit data collection. This data deals with the credit exposures of credit institutions or other loan-providing financial institutions vis-à-vis borrowers, provided on a borrower-by-borrower basis or a loan-by-loan basis, based on harmonised ECB statistical reporting requirements.

The decision took effect on the day of its notification. A report analysing the status of preparatory measures and the feasibility of replacing the decision with an ECB legal instrument, will be delivered to the Governing Council by 31 December 2014.

Shadow Banking

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No update in February.

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.

29 October 2015: EP votes deal on SFT Regulation

On October 29th, the European Parliament adopted in plenary session the [agreement](#) reached with the Council on June 17th, on the regulation **dealing with Securities Financing Transactions** (SFTR).

The SFTR aims to better regulate securities lending and repo transactions used to obtain liquidity. The text introduces measures to improve transparency in three main areas:

- The monitoring of systemic risks related to securities financing transactions;
- The disclosure of information to investors whose assets are employed in securities financing transactions;
- The reuse by banks or brokers of collateral pledged by their clients for their own purposes.

The regulation will require that **all securities financing transactions be reported to trade repositories**. The reporting will have to be made “the working day after the conclusion, the modification or the end” of the transaction. The transactions involving central banks will be excluded from the reporting duties.

The regulation still have to be formally adopted by the Council. The Regulation will then be published in the Official Journal of the EU.

Depending on their category, firms should start reporting at different stages from 12 to 21 months after the entry into force of the relevant technical standards.

1 July 2015: FSB peer review on shadow banking policy framework

On July 2nd, the Financial Stability Board (FSB) launched a [peer review](#) on the implementation of its **policy framework for financial stability risks posed by non-bank financial entities other than money market funds** (“*other shadow banking entities*”).

The objective of the review is to evaluate the progress made by jurisdictions members of the FSB in **implementing the core principles** defined by the framework, to “*assess shadow banking entities based on economic functions, to adopt policy tools if necessary to mitigate any identified financial stability risks, and to participate in the FSB information-sharing process*”.

The FSB invites participants to suggest comments especially on:

- institutional arrangements needed to **define and update the regulatory perimeter** to capture new forms of shadow banking;
- types of **information that may be necessary to assess shadow banking risks** for entities identified as having the potential to pose risks to the financial system;
- possible ways to **enhance public disclosure** of shadow bank entities’ risks;
- the design of **policy tools** to mitigate identified financial stability risks.

Contributions to the review have to be submitted by 24 July 2015 to fsb@bis.org under the subject heading “*FSB Peer Review on Shadow Banking*”.

29 April 2015: European Parliament adopted its position on MMF Regulation

On April 29th, the European Parliament in plenary adopted Neena Gill’s [report](#) on the **Money Market Funds (MMF) regulation**.

The adopted report contains **2 main dispositions** :

1. The substitution of the 3% liquidity buffers for MMF (suggested by the Commission) by **liquidity fees and redemption gates**;
2. The creation of **3 new categories of CNAV MMF** :
 - Public debt CNAV, which would invest 99,5% of their assets in sovereign bonds,
 - Retail CNAV, for charity organisations,
 - Low volatility Net Asset Value (LNAV) MMF, which would the same features as CNAV if the portfolio’s value does not exceed 20 basis points. Such MMF would have to convert into VNAV MMF after 5 years.

Amendments from different political groups were tabled but none were adopted during the plenary session. The amendments from the Greens/EFA aimed to convert all the CNAV funds into VNAV funds. The amendments from the ECR wanted to remove the obligation to convert LNAV funds into VNAV after 5 years.

The legislative process could last for quite a long time. Indeed, the Council has not discussed the MMF regulation since the Latvian Presidency began, on January 1st 2015. Moreover, it seems that the EP and the Council could adopt opposed stances on the text and so slow down the legislative process even more.

24 March 2015: ECON Committee adopted its report on SFT Regulation

On March 24th, the European Parliament's **Committee on Economic and Monetary Affairs (ECON)** approved a [report](#) by Renato Soru (S&D, Italy) on the draft regulation concerning **Securities Financing Transactions (SFT Regulation)**. Renato Soru has been entrusted with a mandate to negotiate with the Council in order to reach an agreement.

The SFT Regulation aims to increase the transparency of securities financing markets by introducing new reporting duties. The information on SFTs will be reported to trade repositories and investors in collective investment undertakings. Such information should be provided within 3 working days after the operation.

The regulation proposal introduces measures to improve transparency in three main areas:

- The monitoring of systemic risks related to securities financing transactions;
- The disclosure of information to investors whose assets are employed in securities financing transactions;
- The reuse by banks or brokers of collateral pledged by their clients for their own purposes.

The report suggests that central banks, the ECB included, would not have to provide reports on SFTs in which they are involved.

Negotiations between the European Parliament, the Council and the European Commission should begin in April.

19 March 2015: EBA launches a consultation on exposures to shadow banking entities

On March 19th, the **European Banking Authority (EBA)** launched a [consultation](#) on its draft guidelines proposing **criteria to set limits on EU institutions' exposures to shadow banking entities which "carry out banking activities outside a regulated framework"** under Article 395 (2) of [Capital Requirements Regulation \(CRR\)](#). According to this article, the guidelines should have been issued by December 31st, 2014.

The limits suggested by the draft concern both **aggregated** and **individual limits** on credit institutions' exposures to "*shadow banking entities*" (Title I, par. 2).

The EBA draft guidelines are in line with the previous EBA [Opinion](#) and [Report](#) on the **perimeter of credit institutions**, published on November 27th 2014. The guidelines **set out definitions** absent from the current EU prudential legislation and identified in these two publications :

- "*Shadow banking entities*";
- "*Banking activities*";
- "*Regulatory framework*".

The definition of "shadow banking entities" can be considered as very inclusive because it covers the entities "*which carry out one or more credit intermediation activities*" and are **not a part of the**

“excluded undertakings” list (Title I, par. 6). **Such a definition includes factoring activities** (cf. 3.1.2, point 8, p. 9).

The draft guidelines also define a *“qualitative approach”* for credit institutions to develop **processes to identify and manage risks** and **their internal policies to assess the capital required to cover their exposures**. Those exposures would be subject to **reporting duties**.

These draft guidelines also aim to **help inform the Commission's work** in relation to **its report on “the appropriateness and impact of imposing limits on exposures to shadow banking entities”**. They should also be a new element to assist the Commission in determining if an initiative is necessary to regulate shadow banking entities.

According to our exchanges with Commission representatives, **no “legislative proposal for the prudential regulation for factoring at EU level” is planned in the Commission’s banking unit** at the current time. The Commission for the moment preparing a reply to the EBA Opinion of November 27th 2014.

The consultation is open until June 19th, 2015.

26 February 2015: ECON Committee adopted its report on MMF regulation

On February 26th, the MEPs of the Economic and Monetary Affairs (ECON) Committee adopted a report on the Money Market Funds (MMF) regulation. The approach of the rapporteur, Neena GILL (S&D, UK), was broadly endorsed by the MEPs.

The adopted report contains 2 main dispositions :

1. The substitution of the 3% liquidity buffers for CNAV funds (suggested by the Commission) by liquidity fees and redemption gates;
2. The creation of 3 new categories of MMF :
 - Public debt CNAV, which would invest 99,5% of their assets in sovereign bonds,
 - Retail CNAV, for charity organisations,
 - Low volatility Net Asset Value (LNAV) MMF, which would have the same features as CNAV if the portfolio’s value does not exceed 20 basis points. Such MMF would have to convert into VNAV MMF after 5 years.

The report will be considered by European Parliament during the plenary session of March 2nd.

21 January 2015: Amendments to the MMF regulation discussed in ECON Committee

On January 21st, the MEPs of the Economic and Monetary Affairs (ECON) Committee discussed the amendments to [Neena Gill’s draft report](#) on Money Market Funds regulation.

Over 700 amendments have been tabled (Parts [1](#), [2](#) and [3](#)). The major blocking is the treatment of Constant Net Asset Value Money Market Funds (CNAV MMF). The MEPs’ approaches differ according to their political groups but also according to their nationality. Some MEPs suggest the suppression of CNAV MMF and their conversion in VNAV funds whereas others argue for a slight increase of the liquidity requirements for CNAV.

The ECON Committee should take a vote on the draft report on February 23rd 2015.

Insurance Mediation Directive II	Back to summary
No update in February.	
<p><u>24 November 2015: the EP adopted the revised directive</u></p> <p>On November 24th, the European Parliament approved in plenary session the agreement reached with Council on the Insurance Distribution Directive (IDD, ex-IMD II).</p> <p>The directive was adopted with 579 MEPs in favour, 40 against, and 67 abstentions.</p> <p>The main features of the Insurance Distribution Directive can be found in the article below (see 30 June 2015: agreement between Council and Parliament).</p> <p>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.</p>	
<p><u>30 June 2015: agreement between Council and Parliament</u></p> <p>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).</p> <p>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.</p> <p><u>INSURANCE DISTRIBUTORS AND SELLERS REQUIREMENTS</u></p> <p>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.</p> <p>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.</p> <p><u>DISCLOSURE REQUIREMENTS</u></p> <p>For all on-life insurance products, standardised and free information in clear and easily understandable terms should be provided to the customer on:</p> <ul style="list-style-type: none"> - 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. <p>Insurance distributors will also have to inform customer about any conflict of interest and their</p>	

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.

21 May 2015: Negotiations advance

On May 11th and 21st, the negotiators from the European Parliament, the Council and the Commission continued their discussions on the insurance mediation directive (IMD).

On the IMD scope of application, no agreement has been reached yet. Discussions continue on ancillary insurance intermediaries and their inclusion into the directive’s scope. The EU Commission will provide data and options to the negotiators on the issue during the next meeting, on June 8th.

In absence of the Commission data, **negotiations moved to other issues**. An agreement would have been reached on “*Product Information Document*” available to consumer when purchasing non-life insurance products. Professional requirements for insurance intermediaries and the legal wording of “conduct of business” requirements were also discussed.

The next meetings will be held on June 8th and June 23rd.

13 April 2015: Trilogue negotiations are blocked on the scope of the directive

On April 13th, representatives from the European Parliament, the Council and the Commission met for a new negotiation round on the IMD II. **This meeting dealt only with the scope of application of the directive.** The European Parliament refuses to negotiate on other issues until an agreement is found on this point.

Part of the meeting was focused on **ancillary insurance intermediaries and their inclusion into the directive’s scope**. The EP is ready to accept the Council’s approach suggesting that, below an annual pro-rated threshold of €600, ancillary insurance intermediaries should not be included in the IMD scope. The EP is also concerned by the handling of consumers complaints concerning insurance sold to them by ancillary insurance intermediaries.

Technical work is still ongoing and mostly deals with the juridical structure of the text.

The next meetings will be held on May 11th, May 21st, June 8th and June 23rd.

26 February 2015: Trilogue negotiations have started

On February 26th, representatives from the European Parliament, the EU Council and the Commission hold **their first negotiation meeting on the Insurance Mediation Directive (IMD II)**.

This first meeting was the opportunity for the 3 institutions to present their stances to each other. The discussions dealt with the text title and scope of application, the issue of ancillary intermediaries and professional development training. **No agreement was reached.**

The next meeting will take place on April 13th.

5 November 2014: Council reached a general approach

On November 5th, **the Permanent Representatives Committee (COREPER) adopted the Council [position](#) on the recast of the directive on Insurance Mediation (IMD II)**.

The text adopted by the COREPER is the Italian Presidency compromise proposal of October 28th (see below).

The negotiations between the Council, the European Parliament and the European Commission begun at the end of November 2014.

28 October 2014: compromise proposal from the Italian presidency

On October 28th, the Italian Presidency of the Council presented a new [compromise proposal](#) for the recast of the Insurance Mediation Directive (IMD II). The definition of insurance distribution remains the same and should not change the obligations for factoring activities.

A previous [compromise proposal](#) was published earlier, on October 15th.

26 September 2014: compromise proposal from the Italian presidency

On September, 26th the Italian presidency proposed a new [compromise text](#) to the national delegations of the Council. This is the second compromise proposal from the Italian presidency during the past month, showing its will to find a political agreement quickly. The [first compromise proposal](#) of September was published on September, 8th 2014.

At the European Parliament, Werner Langen (EPP, DE) remains the rapporteur for the Insurance Mediation Directive.

20 June 2014: Greek Presidency proposes a new compromise proposal

On 20 June, the Greek Presidency sent to national delegations a new [compromise text](#). Among the modifications suggested, the change of name from “*Insurance Mediation Directive*” to “*Insurance Distribution Directive*”. In consequence the definition of “Insurance distribution” differs from the first compromise and three new definitions are added: “*Insurance distributor*”, “*Insurance intermediary*”, “*Insurance undertaking*”, and “*Ancillary insurance distributor*”.

The new proposal does not change the obligations concerning professionals distributing insurance products on an ancillary basis. The Italian Presidency will carry on the work on the proposal.

13 May 2014: First compromise proposal on IMD II

On 13 May, the Greek Presidency of the Council of the EU sent to the Member States' delegations a [first compromise proposal](#) on the draft Directive on Insurance Mediation (IMD II), following its examination of the positions communicated by the Member States in April.

Discussions should continue at a rather slow pace in the coming months, and more compromise proposals are to be expected.

April 2014: Greek Presidency will start works in the Council

We were informed that the Greek Presidency of the Council has finally decided to start works on IMD II in the coming days, with several meetings scheduled by the end of June. However, there is no intention at all to give any character of priority to the dossier and no ambition to reach an agreement in the Council.

The Presidency asked the Member States to give their respective positions on the Commission's proposal and on the Parliament's amendments. It will adjust the calendar of examination according to whether it sees possibilities to advance towards consensus on a series of points.

Italy, that will take the Presidency from 1st July, does not seem to consider it as a priority either. A reasonable guess is that the Directive could be adopted under the Presidency of Luxemburg (July-December 2015)

26 Feb. 2014: EP plenary votes MEP Werner Langen's mandate to negotiate with the Council

The European Parliament confirmed on 26 February in plenary session the vote of the ECON committee of 22 January. This vote does not conclude the legislative process, it only brings a series of amendments to the ECON text and provides the rapporteur, MEP Werner Langen, with a mandate to negotiate an agreement in trilogue with the Presidency of the Council. The [voted text](#) is available online (p. 184 onwards of the document)

It is unlikely that the Parliament and the Council can reach an agreement before the end of the legislative term in April. Negotiations would therefore have to be resumed in September 2014.

22 Jan. 2014: ECON votes MEP Werner Langen's reports, Council may resume work in April

The rapporteur and shadow rapporteurs in ECON Committee finally found an agreement on essential parts of the draft Directive, and managed to submit to their colleagues a list of compromise amendments. This made possible a vote of the text in committee on 22 January. The resulting [consolidated text](#) is available online.

Following the rapporteur's demand, the opening of negotiations with the Ecofin Council was postponed. The ECON report will first be submitted to a vote of the plenary assembly of the

Parliament, which may bring technical amendments to ensure the consistency between the Directive and another, related file, the MiFID package. The vote in plenary, which took place on 26 February gave Werner Langen a mandate to negotiate with the Greek Presidency of the Council for an agreement in first reading.

On the Council side, however, negotiations are still suspended. The Greek Presidency may resume work on this issue in April. Such a schedule makes impossible a final adoption of the Directive before the elections, it will therefore be postponed to September at best.

17 Dec. 2013: ECON vote postponed again, serious doubt about adoption before the elections

The vote on IMD II in ECON that was foreseen to take place on 17 December 2013 was finally cancelled and postponed to 27 January 2014. Indeed, disagreements are still strong between the two major groups in ECON committee, the EPP, represented by the rapporteur, MEP Werner Langen, and the S&D.

The European Parliament still foresees a vote of the plenary assembly on 24 or 25 February. Nevertheless, the late vote in committee should leave too little time to the Parliament to reach an agreement with the Council in trialogue negotiations before the end of the parliamentary session in April. It is then almost certain now that the draft Directive will only be adopted after the elections, by the new Parliament.

Oct. 2013: Intense negotiations in ECON Committee for a vote in December

Discussions have been gaining intensity in October between political groups in the European parliament on IMD II. Chapter VII is still the most controversial but the rapporteur, MEP Werner Langen (EPP, Germany), and the shadow rapporteurs agreed on a new and last meeting on 19 November 2013 in which they are expected to agree on compromise amendments.

The draft Directive could then be submitted to a vote in the ECON Committee on 2 December 2013 and in plenary session on 14 January.

13 Sept. 2013: New postponement of the calendar

The European Parliament announced once again the postponement of the votes on IMD II, first in ECON Committee on 5 November, then in plenary session on 10 December 2013.

The setting of new dates is a signal that negotiations within the EP between the rapporteur and the shadow rapporteurs are blocked and that a compromise is still difficult to reach. In the absence of such a vote by the end of the year, the schedule could be substantially offset; and the adoption of the text be postponed after the election of the new European Parliament.

June 2013: Vote of ECON Committee postponed again

The rapporteur and shadow rapporteurs in the ECON Committee decided to postpone to 24 September 2013 the vote of the Committee on the draft directive on insurance mediation. The rationale for this new delay is still the political groups' incapacity to find ground for agreements on

major provisions such as transparency, conflicts of interest and scope.

If no agreement was to be found before 24 September, it is now openly considered that discussions could be postponed *sine die*, possibly after the renewal of the European Parliament in 2014.

28 Mai 2013: Exchange of views in ECON Committee

On 28 May, the Members of the ECON Committee discussed for the second time the amendment proposals tabled by the Committee on IMD II. Exchanges focussed on the issue of consistency between IMD II and the [PRIPs draft Regulation](#) (which creates a key information document (KID) for packaged retail investment products): it is not clear so far whether PRIPs include insurance products or not.

The rapporteur on IMD II, MEP Werner Langen (EPP, Germany) considers that insurance products must be left outside the scope of PRIPs, since MIF II already contains information requirements. The rapporteur on PRIPs, Pervenche Berès (S&D, France) considers that PRIPs can be applied to insurance products, since the requested information for the KID is already required under Solvency II. A compromise seems to emerge on the idea of extending the scope of PRIPs to other financial products through delegated acts.

Linked to the scope of PRIPs is the issue of the responsibility of the intermediary for the provided information. The KID is meant to provide information on the product's performances, which the intermediary has no means to verify. Therefore, MEP Langen considers that, should PRIPs be extended to insurance products, the intermediary should be liable only for providing the consumer with the available information, not for the quality of the information itself.

MEPs will keep negotiating in order to reach compromise amendments for the vote, which is still scheduled for 17 June. The vote en plenary session has been delayed to the 10th of December 2013.

Rome I regulation / Contract law	Back to summary
No update in February.	
<p><u>18 February 2015: Green paper on Capital Markets Union deals with contract law fragmentation</u></p> <p>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.</p> <p>In its Green paper, the Commission identifies legal fragmentation issues for specific financial instruments that would impact factoring activities: <i>“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”.</i></p> <p><u>A report identifying problems and possible solutions for should be published by the Commission in 2015.</u></p> <p>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 <u>divergent national insolvency frameworks</u> and announces that <u>an evaluation will be conduct during 2015.</u></p> <p>In both cases, the Commission’s objective is to ensure <i>“greater legal certainty”</i> in order to make investments easier, particularly on a cross-border basis.</p> <p><u>The consultation is open until May 13th 2015.</u></p> <p><u>A conference about the first results of the consultations will be set up by the European Commission, in Brussels in June, 8th.</u></p> <p><u>The Commission’s CMU action plan should be released next September, even if it could be delayed in October or November.</u></p>	

VAT on financial services

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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.

29 October 2014: State of play on the standardised VAT return

The Italian Presidency asked for partial political orientations in order to finish the legal work on the proposal of directive on **standardised VAT return**. This [proposal](#) was made by the European Commission in October 2013 and aims to replace the 28 different national regimes of VAT declaration. The objective of such a reform is to ensure that companies provide the same information within the same delays through the entire EU.

The blocking points are :

1. The content of the VAT declaration;
2. The standardisation level of the common form for the VAT return;
3. The threshold under which micro-enterprises would be authorised to provide the standardised return on a larger basis than monthly.

On October 30th, the European Commission published a [working document](#) on a **definitive VAT regime for intra-EU trade of goods**. The Commission proposes to set up this future VAT regime on the principle of taxation at the destination. The Commission document, which follows extensive consultations with Member States and stakeholders, sets out five options for shaping the future VAT regime :

1. Taxation of intra-EU supplies where the goods are delivered.
2. Taxation of intra-EU supplies where the customer is established regardless of the place of

delivery of the goods.

3. Reverse Charge where the customer is established.
4. Reverse charge where the goods are delivered.
5. Status quo with some simplification of the procedure.

Anti-Money Laundering Directive/Tax fraud and tax evasion

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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:

1. Compulsory and harmonised controls

The Commission will propose to introduce **a list of all compulsory due diligence measures** 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**.

2. 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.

3. 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.

4. 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*”.

5. **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.

8 October 2015: the Commission launched a consultation on the CCCTB

On October 8th, the European Commission launched a [public consultation](#) on the Common Consolidated Corporate Tax Base (CCCTB) in order to identify the key elements to relaunch the initiative.

The consultation is part of the Commission's [Action Plan for Fair and Efficient Corporate Taxation](#) which was presented in June this year.

The Commission wishes to gather stakeholders’ views on key aspects, for example:

- The CCCTB potential contribution to the fight against “*aggressive tax planning*”;
- The criteria for determining which enterprises should be constrained to use the CCCTB;
- The “debt bias”, with respect to equity financing.

The new CCCTB proposal will rely on a “two-step approach”. First, a **common taxable base** should be secured and then its **consolidation** should be introduced, as it should be the most difficult element in negotiations so far.

The consultation is open until January 8th, 2016.

The Commission will present its new CCCTB proposal “as early as possible in 2016”.

6 October 2015: ECOFIN reached an agreement on tax ruling transparency

On October 6th, the EU Finance Ministers (ECOFIN) reached an agreement on the directive introducing the automatic exchange of information about cross-border tax rulings. The exchange between national administrations will become mandatory on January 1st, 2017.

Concerning rulings issued before 1 January 2017, the following rules will apply:

- For the tax rulings made between January 1st, 2012 and December 31st, 2013, only the arrangements **still valid** on 1 January 2014 have to be communicated.
- For the tax rulings made between January 1st, 2014 and December 31st, 2016, the exchange of information will take place irrespective of whether the arrangements are **still valid or not**.

Member states will have the possibility to exclude from information exchange the arrangements issued to SME, if arrangements were made before April 1st, 2016. **However, this exemption will not apply to businesses conducting financial or investment activities.**

The directive will be formally adopted at a forthcoming Council meeting, once the European Parliament has given its opinion.

17 June 2015: EU Commission presented its action plan for corporate tax

On June 17th, the Commission adopted an [Action Plan](#) for “*fair and efficient corporate taxation in the EU*”.

In its action plan, the Commission sets out 3 key actions:

6. Re-launching the Common Consolidated Corporate Tax Base (CCCTB)

The CCTB will be introduced through a step-by-step approach: first a **common taxable base** should be secured and then its **consolidation** should be introduced, as it should be the most difficult element in negotiations so far.

The Commission will present this new proposal “as early as possible in 2016”.

7. Ensuring Effective Taxation

The Commission is proposing measures to close legislative “*loopholes*” on taxation. Such a goal could be achieved by reviewing the “Parent-subsidiaries” directive and the “Interest and royalties” directive.

8. Increasing Transparency

The Commission has published a pan-EU [list of third countries and territories blacklisted by Member States](#) in reason of their fiscal policy. In a second time, it could take counter-measures against these States.

The Commission also launched a consultation on country-by-country tax reporting for multinational companies. The commission ends on September 9th 2015.

5 June 2015: the 4th AML directive published in the EU Official Journal

On June 5th, the [4th anti-money laundering directive](#) was published in today’s EU Official Journal,

as well as the [regulation](#) on information accompanying transfers of funds.

The directive and the regulation entered into force on June 25th 2015.

Member States will have two years to transpose the directive into their national law, i.e. until June 26th 2017. The regulation is directly applicable.

27 May 2015: Commission will revise its CCCTB proposal

On May 27th, Valdis Dombrovskis, European Commission Vice-president for the Euro, confirmed that **the Commission will present an action plan on company taxation on June 17th**. Such an initiative is part of the Commission broader initiative concerning tax transparency.

The action plan's main piece of legislation will be the revision of the [2011 directive proposal](#) for a **common consolidated corporate tax base (CCCTB) in the EU, by the end of 2016**. The new CCCTB would not be consolidated in a first time, but would become mandatory for multinational companies. Such a proposal will be made only after the conduct of an impact assessment.

The Commission should also include into the new CCCTB proposal the “Marks and Spencer” jurisprudence ([Case C-446/03](#)), which allows a company – under strict conditions – to deduct losses incurred by its foreign subsidiaries from its taxable profits.

20 May 2015: European Parliament definitively adopted 4th AML Directive

On May 20th, **the European Parliament adopted in plenary session the [new rules](#) concerning anti-money laundering.**

The directive and regulation will now be published in the EU Official Journal.

Member States will have two years to transpose the directive into national law. The regulation will be directly applicable.

20 April 2015: Council definitively adopted 4th AML Directive

On April 20th, **the Council of Ministers of the EU definitively adopted the [new rules](#) to fight money laundering and terrorist financing.**

The directive and regulation aim to strengthen EU rules against money laundering and ensure consistency with the approach followed at international level. The regulation deals more specifically with information accompanying transfers of funds.

The main point of the new rules is the creation of **centralised national registers**. These registers will list information on **beneficial owners** of legal entities, such as companies and trusts. Competent authorities will have unrestricted access to the centralized registers.

The decision will enable the European Parliament, with which agreement was reached on December 16th 2014, to adopt the package at second reading at a forthcoming plenary session.

Member States will have **two years to transpose the directive into national law.**

18 March 2015: Commission presented its Tax Transparency Package

On March 18th, the European Commission presented a **package of tax transparency measures** as part of its agenda to deal with corporate tax avoidance and tax competition in the European Union.

The EC package includes several initiatives:

1. A [legislative proposal](#) to make automatic exchange of fiscal information mandatory;
2. The repeal of the directive on the taxation of savings, now obsolete;
3. A [communication](#) outlining a number of other initiatives to advance the tax transparency agenda in the EU.

The legislative proposal would amend the [directive](#) on administrative cooperation in order to introduce **the obligation for the Member States to exchange fiscal information on their income tax rulings benefiting multinationals**. Such exchange will occur every three months from 2016.

The Member states would have to report on tax rulings adopted since 2005, if they are still in force.

The European Commission should present a second package on tax transparency before the European Council of June 2015. This second package should include a proposal to give a new impetus to the project of a common consolidated corporate tax base (CCCTB) in the EU.

26 February 2015: Special Committee on tax issues held its first meeting

On February 26th, the EP Special Committee on Tax Rulings held its first meeting. The Committee elected Alain Lamassoure (EPP, FR) as its chair and Bernd Lucke (ECR, DE), Marisa Matias (GUE/NGL, PT) and Eva Joly (Greens/EFA, FR), as Vice-Chairs.

The rapporteurs will be appointed on March, 9th

As defined by its [mandate](#), the committee will look into EU member states' tax rulings since 1 January 1991. It will also review how the European Commission treats the existing Member states aids and how transparent Member states are about tax rulings arrangements. Moreover, the committee will deliver recommendations for the future.

The creation of the Special Committee was adopted on February 12th by the European Parliament in plenary session. It is composed of:

- 13 EPP MEPs
- 12 S&D MEPs
- 4 ECR MEPs
- 4 ALDE MEPs,
- 3 GUE/NGL MEPs,
- 3 Greens/EFA MEPs,
- 3 EFFD MEPs,
- 2 non-attached Members.

18 February 2015: Commission held its first debate on future initiatives on taxation

On February 18th, the college of commissioners held its first debate on the different initiatives the Commission will present on taxation issues.

The Commission should present its first two legislative proposals on March 18th :

1. The withdraw of the [Savings Taxation Directive](#), which became obsolete with the new global standard for the automatic exchange of information;
2. A directive proposal on automatic exchange of information concerning tax rulings. It could be presented as a revision of the [directive on administrative cooperation](#).

These two proposals will form part of “*a wider set of measures to increase tax transparency, legislative and non-legislative*”, said Vice-president Valdis Dombrovskis.

A second package should be presented by the Commission during this summer, if possible, ahead of the European Council of 25-26 June.

M. Dombrovskis also announced that the Commission would present a “*new proposal*” on the **Common consolidated corporate tax base (CCCTB)**.

10 February 2015: Council officially adopted the 4th AML Directive

On February 10th, the **Council officially adopted the [new rules](#) for anti-money laundering** (4th AML directive and a regulation on money transfer).

The European Parliament still has to adopt both the directive and the regulation in plenary session.

Member States will have **two years to transpose the directive into national law**.

27 January 2015: Council and European Parliament approved AML IV Directive

On January 27th, the **Council formally adopted the [compromise](#)** found with the European Parliament representatives on December 16th on the 4th Anti-Money Laundering Directive.

The same day the **MEPs of ECON and LIBE Committees endorsed the same agreement**.

The main point of this agreement is the creation of **centralised national registers**. These registers will list information on **beneficial owners** of legal entities, such as companies and trusts. Competent authorities will have unrestricted access to the centralized registers.

In a [declaration](#), several Member States expressed their concerns on the agreement reached with the European Parliament. For example, Austria concern deals with the regulatory measures for trusts at Art. 30 that “*leaves room for extensive interpretation*”.

A declaration from France and a joint declaration of the Council and the Commission announcing “*further efforts*” against terrorism financing were also added.

The beneficial ownership threshold remains unchanged: “*shareholding of 25% plus one share or an ownership interest of more than 25%*”.

The European Parliament still has to approve the text in plenary session.

16 December 2014: Council and European Parliament reached an agreement on 4th AML Directive

On December 16th, the European Parliament and the Council reached a political agreement on the 4th Anti-Money Laundering Directive.

The main point of this agreement is the creation of **centralised national registers**. These registers will list information on **beneficial owners** of legal entities, such as companies and trusts. Competent authorities will have unrestricted access to the centralized registers.

However, public access to them is not guaranteed by the agreement reached. Indeed, according to the political compromise, ordinary citizens will have to demonstrate a “legitimate interest” in order to access to registers’ information. The text does not set criteria for the definition of “legitimate interest”. The Member States will define such criteria. Doing so, the Member States will decide which level of access they will grant to the public. Some States have already announced their will to guarantee an open access to their own centralised national register: France, United-Kingdom, Denmark and Netherlands.

The political agreement has to be formally adopted by the European Parliament and the Council.

28 October 2014: FATF guidance on transparency, beneficial ownership and risk-based approach

On October 28th, the Financial Action Task Force published two documents aiming to improve the implementation of anti-money laundering rules.

The first one offers [guidance](#) on Risk-Based Approach for the Banking sector. This guidance aims to help in the design and implementation of risk-based approach for the banking sector, taking into account national risk assessments and national legal and regulatory frameworks.

The second document provides [guidance](#) on transparency and on beneficial ownership. This guidance aims to assist countries to design and implement measures that will deter and prevent the misuse of corporate vehicles - such as companies, trusts and other types of legal persons and arrangements - for money laundering, terrorist financing and other illicit purposes.

10 September 2014: the AML Directive could be outside Jonathan Hill’s portfolio

As Commissioner for Financial Services, Jonathan Hill will rely on the Directorate MARKT F “Capital and Companies” which will be removed from the Directorate General “Internal Market and Services”. A new DG “Financial Stability, Financial Services and Capital Markets Union” will be created on the basis of MARKT F but won’t include the Unit MARKT F2 (Corporate governance). This unit will move from DG MARKT to DG Justice (JUST). By consequence several legislative initiatives will be included in the portfolio of Vera Jourova and not in Jonathan Hill’s :

- Recast of the directive on shareholders rights;
- Delegated act capping bankers bonuses;
- Anti-Money Laundering Directive.

At the European Parliament, the rapporteurs remain the same for AML IV: Krisjanis Karins for the ECON committee and Judith Sargentini for the “Civil Liberties, Justice and Home Affairs” committee

(LIBE).

20 June 2014: Political agreement on the Parent subsidiary directive at the ECOFIN

On 20 June 2014, the ECOFIN adopted a [political agreement](#) on the proposal of directive on common system of taxation applicable in the case of parent companies and subsidiaries of different Member States.

The scope of this amendment to EU tax rules is to prevent the double non-taxation of corporate groups deriving from hybrid loan arrangements. Malta's opposition has been withdrawn after that Taxation Commissioner Algirdas Semeta assured the text "will not set a political precedent" against the principle of national sovereignty over direct taxation.

The compromise adopted is still partial because the Council hasn't yet agreed on the second part of the proposal. This second part proposes to the States to adopt a "common anti-abuse rule" which would allow them to ignore artificial tax arrangements of corporate groups aiming to avoid fair taxation.

The revised directive will be formally adopted at an upcoming ECOFIN meeting. The Member States will have until 31 December 2015 to transpose the amendments into their legislation.

18 June 2014: Council reaches a general approach on AML Directive

At the COREPER of 18 June, the permanent representatives of the Members States at the Council adopted the general approach proposed by the Greek Presidency. This general approach is on both the [directive](#) and the [regulation](#) and gives to the Council Presidency the mandate to negotiate with the other institutions.

The last blocking point was the exclusion of some gambling services. At the end, the general approach states that casinos and online gambling cannot be part of such exclusions. The exclusions will have to be notified and granted after a risk analysis.

The Italian Presidency will begin the negotiation with the European Parliament as soon as MEPs resume the legislative work. The objective is to adopt the new rules at an early second reading.

28 May 2014: Parent subsidiary Directive on the agenda of the next ECOFIN meeting

After Sweden's, that's Malta's delegation that did not agree with the compromise proposed by the Greek Presidency at the 28 May COREPER. The blocking point seems to be the procedure to follow to avoid double taxation.

The Greek Presidency should however not put the text again before the COREPER but take it to the higher level. Indeed, the Directive should be on the agenda of the next ECOFIN Council, on 20 June 2014. The Greek Presidency seems quite confident that the Council will overcome this issue and adopt the Directive.

28 May 2014: Council could reach a political agreement at the next ECOFIN meeting

After the COREPER meeting of 28 May, only a few details were left to discuss before finding a political agreement between the Member States. The basis for discussion was the Presidency's [fourth compromise proposal](#).

The remaining points are :

- The storage of data related to actual beneficiaries;
- The cooperation between financial intelligence units;
- The pecuniary sanctions;
- The exclusion of some gambling services (cash game services), except casinos and online gambling.

These last details should be dealt with at the COREPER level before the ECOFIN Council of the 20 June.

6 May 2014: new OECD rules on automatic exchange of fiscal information

34 OECD Member States and 10 other countries endorsed the [Declaration](#) on Automatic Exchange of Information in tax Matters.

With this declaration, these States committed to implement the new [single global standard](#) on automatic exchange of information. This standard constrains jurisdictions to obtain all financial information from their financial institutions and exchange that information automatically with other jurisdictions on an annual basis. Information will be exchanged by “blocs” according to the different categories.

The signatories have the possibility to implement the standard by bilateral or multilateral treaties. It could be transposed into EU law by a Directive.

The first exchanges of information are planned for September 2017.

11 March 2014: EP amendments to the draft directive

The [amended text](#) adopted by the MEPs meeting in plenary session requires that the beneficial owners of companies and trusts have to be listed in Member States public registers. It also requires from banks, auditors, lawyers, real estate agents and casinos to be more vigilant about their clients in order to detect more easily suspicious transactions and to fight tax evasion.

The European Parliament voted a legislative resolution, thus putting an end to first reading of the draft legislation. It now falls on the Council to take position on the Commission's proposal and on the Parliament's amendments. Discussions in the Council should take place during the summer, and trialogue negotiations between the Council and the new MEPs should be carried out in order to reach an agreement in second reading of the text.

21 Feb. 2014: Council Presidency's compromise proposal on draft AML Directive

The Greek Presidency of the Council issued on 21 February a [proposal for a compromise](#) on the draft AML Directive.

This document is a working document, which can still change following further discussions in the Council, but it gives an idea of where the Council is heading on this topic.

20 Feb. 2014: Adoption of LIBE-ECON report on draft AML Directive

The vote in committee on the draft AML Directive took place on 20 January. It adopted the principle of creating centralized registers of beneficial owners of all types of legal entities (companies, foundations, trusts).

The question was then to know whether these registers would be made public or not. The MEPs answered affirmatively: anyone will be able to consult the register online, after a basic identification.

The [resulting text](#) will be debated and submitted to a vote in plenary session on 11 March. This vote does not intend to conclude the first reading but only to fix the Parliament's position ahead of the elections in May.

12 Feb. 2014: AML Directive vote in committee postponed one week, to 20 February

The vote on the draft AML Directive in the joint ECON-LIBE committee that was set to examine it has been postponed one week, to 20 February, in order to give the rapporteurs and shadow rapporteurs a chance to finalize the list of compromise amendments before the vote.

9 Jan. 2014: Debate on amendments on draft AML Directive

547 amendments were tabled on the draft AML Directive, on a series of main issues:

- Beneficial ownership: Amendments show a broad consensus on the need to create an EU-wide register of beneficial ownership that competent authorities, banks and other entities submitted to AML requirements by the Directive should access. However, there is a disagreement on whether the general public should have a complete access. For Krišjānis Karinš (EPP, Latvia), the rules on the protection of personal data should set the limit to this publicity. For the other rapporteur, Judith Sargentini (Greens, the Netherlands), it is better to have public registers and be as transparent as possible. She will then support her colleagues' amendments in that sense.
- Risk assessment: There is a consensus that the EC should be in charge of the assessment of risks at EU level, but there is disagreement on the extent of the EC's powers to adopt implementing acts and reinforce the existing legislation if needed. Mr Karinš also doubted that risk assessments should be made public: he fears detrimental effects for those industries or market players that would be explicitly named as more risky.
- Scope: There are suggestions to widen the proposed scope to national central bank, the European Investment Bank and natural and legal persons involved in gambling and sport industry. Mr. Karinš said he is sceptical on these extensions and prefers to leave some margins for the Member States to decide on individual activities.
- Data protection: Ms. Sargentini highlighted that it is important that banks and other obliged entities can know precisely how they must balance their AML requirements with data protection requirements. She then tabled some amendments to clarify the link between both legislations and will support amendments made by other, notably Sophia in't Veld's

amendments on data retention.

- Politically Exposed Persons (PEP): the two rapporteurs proposed that each Member State establishes its own list of PEPs, several MEPs support that solution.

The vote in committee is scheduled on 22 January 2014.

11 Dec. 2013: Amendments tabled in Committee published

The European Parliament published on 11 December 2013 the list of amendements ([94 to 413](#) and [414 to 547](#)) that have been tabled by the MEPs of ECON and LIBE Committees on the draft AML Directive.

Those amendments will be discussed in a joint meeting of the two Committees on 9 January 2014

28 Nov. 2013: Presentation of reports in joint meeting of ECON and LIBE Committees

On 28 November 2013, the rapporteurs on the draft AML Directive, Krišjānis Karinš (EPP, Latvia) and Judith Sargentini (Greens, the Netherlands), presented their draft reports during a joint meeting of ECON and LIBE Committees in the European Parliament.

One of the main points of concern seemed to be the degree of publicity of the registers of beneficial owners that the new Directive will create: while Mr Karinš would leave the Member States decide individually on this issue, Ms Sargentini wants those registers to be full public.

The question of data protection is also controversial: the rapporteurs both agree that the best solution would be to insert appropriate cross-references to the General Regulation on data protection

Next steps:

- Deadline for tabling amendments: 5 Dec. 2013
- Consideration of amendments: 9 Jan. 2014
- Vote in Committee: 22 Jan. 2014

11 Nov. 2013: Draft report on AML Directive in Committee

The two rapporteurs on the draft Directive on anti-money laundering, Krišjānis Karinš and Judith Sargentini issued on 11 November their [draft report](#), to be discussed and amended by the Joint ECON-LIBE Committee.

The vote on the report is scheduled on 22 January 2014 and in plenary session on 11 March.

Oct. 2013: Joint ECON-LIBE Committee to work of AML draft Directive

The EP committees on economic and monetary affairs (ECON) and on civil liberties, justice and internal affairs (LIBE) reached an agreement on which committee should be responsible for the examination of the draft Directive on AML: they decided to examine it together.

It is thus a joint committee that will examine the text, with Krišjānis Kariņš (EPP, Latvia) and Judith Sargentini (Greens, the Netherlands), acting as co-rapporteurs, respectively for ECON and LIBE.

17 Sept. 2013: EP special committee on organized crime, corruption and money laundering adopts its final report

On 17 September, the special committee on organized crime, corruption and money laundering of the European Parliament adopted its [final report](#), on the basis of MEP Salvatore Iacolino (EPP, Italy)'s [draft report](#).

The members of the committee recommended that individuals condemned for organized crime, corruption or money laundering are excluded from public mandates and public procurements. They advocated that businesses involved in financial crimes should return any public funding they received, and called for the creation of a European Prosecution Office that would be in charge of coordinating the investigations and prosecutions for cases of financial crime.

6 Sept. 2013: G20 leaders declaration

G20 leaders met in Saint Petersburg on 6 September and discussed, among other topics, the question of tax base erosion and tax avoidance, on the basis. In their final [declaration](#), they endorsed the project of establishing a global standard for automatic exchange of information at multilateral and bilateral level (see points 50 to 52 of the declaration).

8 August 2013: EDPS opinion on proposed legislation against money laundering and terrorist financing

The Council of the EU published on 8 August the [opinion](#) sent by the European Data Protection Supervisor (EDPS) on the proposals for a directive against money laundering and terrorist financing and the proposal on information on the payer accompanying transfer of funds.

The EDPS analyzed both proposals and made a series of recommendations to enhance the protection of personal data on the payer and the payee in AML procedures.

27 July 2013: FATF international best practices on targeted financial sanctions against terrorist financing

The Financial Action Task Force published on 27 July a [set of international best practices](#) for the implementation of its Recommendation n°6, which requires the participating countries to apply a regime of financial sanctions to prevent and suppress terrorism and its financing.

12 June 2013: Review of the directive on administrative cooperation

On 12 June, the European Commission proposed a [review](#) of the directive on administrative cooperation in order to extend the automatic exchange of information between EU tax administrations. The Commission thus proposed to add dividends, capital gains and all forms of financial income and account balances to the list of items which are subject to automatic exchange of information.

The directive on administrative cooperation foresees the automatic exchange of information to be mandatory between all EU tax administrations from 1 January 2015. The current text already covers the following incomes: employment, directors' fees, life insurance, pensions and property.

In its [press release](#), the European Commission remarked that, with the proposed extension, the Member States will share as much information with each others as they agreed to share with the US under FATCA.

This initiative is part of a wider plan of the European Commission to tackle tax fraud and tax evasion, widely supported by the Heads of State and government during the European Council of May.

Data protection	Back to summary
No update in March.	
No update in February.	
<p><u>15 December 2015: the Parliament and the Council found an agreement</u></p> <p>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.</p> <p>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).</p> <p>The agreement found brings new elements to the EU regulatory framework for data protection, such as :</p> <ul style="list-style-type: none"> ▪ 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 data for the purposes of 'profiling'. ▪ a right to portability of data, facilitating the transmission of personal data from one service provider to another. <p>The final texts still have to be formally adopted by the European Parliament and the Council of the EU.</p> <p>The new rules will apply 2 years after the publication of the legislation in the EU Official Journal.</p>	
<p><u>13 March 2015: the Council reached an agreement on Chapter II of the Regulation</u></p> <p>On March 13th, the EU Council reached a partial general approach on two specific points of the Data Protection Regulation:</p> <p>1. Chapter II, i.e. “Principles relating to personal data processing”:</p> <p>Regarding the general principles of data processing, the agreement found by the Council focuses on processing of special categories of personal data and includes measures for processing on the basis of consent. Such a set of principles aims to ensure “<i>lawful, fair and transparent data processing</i>”.</p> <p>Chapter II of the draft regulation includes the <u>Article 6 par. 1 concerning lawfulness of processing</u> EUF is interested in.</p> <p>Several Member States’ delegations expressed some concerns. Austria asked for further</p>	

precisions and guarantees on the **“legitimate interests” of companies processing data**. France and Italy expressed doubts about the **lack of minimisation of data**. Moreover, some delegations estimated that the new definitions ensure a lower level of protection than the 1995 regulation.

9. [Chapters VI and VII](#), i.e. *“The one stop shop mechanism”*.

According to the text agreed on Chapter VI and VII, the **one stop shop mechanism should only play a role in important cross-border cases** and will provide for cooperation and joint-decision making between several data protection authorities concerned.

The EU Council is still discussing several point of the draft Data Protection Regulation.

The Council could find a general agreement on the whole text by the end of June.

The Data Protection Regulation will be discussed on June 15-16th 2015 by the 28 Member States’ Justice Ministers.

11 February 2015: Letter from the working group on data protection to the Latvian Presidency

On February 11th, a [letter](#) from the president of the working group on data protection, Isabelle Falque-Pierrotin, to the Latvian President of the Council, Jekaterina Macuka, was made public.

The president of the working group urges the Council to reach an agreement because the current legal framework is *“outdated”*. According to her, the absence of agreement on the Data Protection Package has already had *“serious consequences”*, mainly because *“organisations are delaying the introduction of necessary improvements”*.

23 December 2015: State of play on the Data Protection Regulation

On December 23rd, the **Italian Presidency of the Council published a [compromise proposal](#) on the Chapter II of the Data Protection Regulation.**

On December 19th, a [compromise proposal](#) on the **whole text** was published.

So far, the **Council has agreed on a [partial general approach](#)** for the following points:

- the territorial scope (article 3(2)) ;
- the question of the public sector (article 1, article 6(2) and 6(3), article 21);
- the obligations of data controllers and processors (chapter IV);
- The transfer of data to third countries or international organisations (chapter V);
- Specific data processing situations (chapter IX).

The Council **still has to reach an agreement on several major points**, principally on **the one-stop-shop, data controller, level of sanctions and individual rights**.

Article 6 (1) and Art. 20 could have an impact on factoring activities. These two points are still discussed within the Council.

The Latvian presidency [announced](#) an **informal EU Council Meeting** for Justice and Home Affairs on **January 30th 2015**, with a focus on personal data protection and the e-justice strategy. The Data

Protection Regulation will also be discussed at the **Council meetings of March 12-13th and May 15-16th 2015.**

There still are many areas of disagreement between the Council and the European Parliament. The negotiations between the two institutions should be quite difficult. Such negotiations will begin once the Council reaches a general approach on the whole text.

28 July 2014: new S&D MEP in charge on the Data protection package

The former S&D rapporteur on the Data Protection Directive and shadow rapporteur on the Regulation, MEP Dimitrios Droutsas (Greece), was not re-elected in last May. The S&D Group therefore named a new MEP to take over Mr Droutsas's work, [Marju Lauristin](#) (Estonia). Like her predecessor, she will be rapporteur for the Directive and shadow rapporteur for the Regulation.

MEP Jan Philipp Albrecht (Greens, Germany) was re-elected and will remain rapporteur on the Data protection Regulation.

6 June 2014: Council reaches a partial general approach on 2 points

On 6 June 2014, the Ministers of Justice reached a [partial general approach](#) on two points of the Data Protection Regulation proposal including the transfer of data to third countries and the territorial scope of the proposal. The orientation debate also dealt with the issue of "one-stop shop" approach.

The Data Protection Regulation is expected to be adopted by the end of the year but this calendar should be very hard to stick to.

26 May 2014: Greek Presidency publishes a state of play of the work on the Directive

On 26 May 2014, the Greek Presidency addressed a state-of-play [document](#) to the Member States' delegations.

The document summarises the work accomplished and the main issues still pending before passing the torch to the Italian Presidency (starting on 1st July). This state of play only deals with the Data Protection Directive, not the Regulation. The points that are still to be dealt with are: the scope of the Directive (difference between public and private bodies, and the purpose of "safeguarding public security"); the rights of the data subject; and the obligations of controllers and processors.

The negotiations on the Data Protection Regulation are still in progress but far from reaching a general approach on the whole text. Negotiations are still led issue per issue (Chapter V, one-stop mechanism, etc).

13 March 2014: EP votes on General Data Protection Regulation, Council still working

A vote of the plenary assembly of the European Parliament on the draft General Data Protection Regulation is scheduled on 13 March 2013. This vote will not conclude the first reading of the

Regulation but only fix the position of the European Parliament before the elections in May.

On the Council's side, work is ongoing but quite slow. No agreement within the Council is expected in the coming weeks. You can consult here the [preparatory document](#) of the last orientation debate that took place at ministers' level on 25 January.

22 Oct. 2013: LIBE Committee backs MEP Albrecht report on Data Protection reform

The LIBE Committee of the European Parliament voted on 22 October on MEP Jan Albrecht (Greens, Germany)'s draft report on the General Regulation on the protection of personal data. MEPs backed the rapporteur and the 104 compromises negotiated by the political groups with 49 votes in favour, 1 against and 3 abstentions.

The European Commissioner for Justice, Viviane Redding, welcomed this vote, highlighting that *"uniform and strong European data protection law will cut costs for business and strengthen the protection of our citizens: one continent, one law"*.

The Committee's vote gives mandate to MEP Albrecht and the shadow rapporteurs to launch negotiations with the Council of the EU on this draft Regulation.

7 Oct. 2013: EU Justice Ministers agree on the "one-stop shop" mechanism, but a lot of work remains

Justice Ministers of the 28 Member States of the EU discussed the draft General Regulation on the protection of personal data during a Justice Council meeting on 7 October.

They reached an agreement on the "one-stop shop" mechanism, one of the main elements of the Commission's proposal, i.e. that when a data controller or data processor is active in more than one Member State, one single supervisory authority should be responsible for supervising its activities in the whole EU. Ministers considered that the mechanism is necessary to ensure fast decisions, consistent application of the rules, provide legal certainty and reduce administrative burden.

However, whereas the Commission's proposal states that the responsible authority should be the one of the country where the company has its main establishment, a majority a member states considers further expert work is necessary for the cases where that authority's jurisdiction is limited to the exercise of certain powers.

10 July 2013: MEP Albrecht says he expects a vote in Committee in October

MEP Jan Philipp Albrecht (Greens/EFA, Germany), who is rapporteur on the general Regulation on protection of personal data, said on 10 July that he expects a vote of the LIBE Committee on his report and the tabled amendments in October. The vote has already been postponed several times due to the huge number of amendments that have been table on the draft Regulation and the divergences between them.

6 May 2013: LIBE Committee postpones vote on Data Protection

On 6 May, MEP Jan Philipp Albrecht asked his colleagues of the LIBE Committee to postpone the vote on his draft report on the draft Regulation on Data Protection, explaining that more time is needed to cope with the more than 3000 tabled amendments and negotiate compromise amendments that could be supported by a large majority of the political groups. MEP Albrecht however told his colleagues that he still plans to vote before the summer break.

Another reason to postpone the vote is the slow pace of work on the other text of the Data Protection package, the draft Directive on the use of personal data for the purpose of criminal investigation and prosecution.

On the Council side, the delegated of the Member States are working in view of the Justice and Home Affairs Council of 6 and 7 June. There too, the objective is to adopt a general approach before the summer, so that the trialogue negotiations could begin in early September 2013.

E-invoicing	Back to summary
No update in March.	
No update in February.	
<p><u>23 May 2014: new CEN Project Committee for e-Invoicing</u></p> <p>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.</p> <p>A first plenary meeting of this committee will take place in Brussels on 9 September. Participants have to register before 15 August 2014.</p>	
<p><u>16 April 2014: Final act signed</u></p> <p>The Directive was formally adopted by the European Parliament in first reading on the 11 March 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.</p> <p>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.</p>	
<p><u>6 Feb. 2013: Trialogue agreement on draft Directive on e-invoicing in public procurements</u></p> <p>Negotiators of the Parliament and of the Greek Presidency of the Council reached an agreement in trialogue on 6 February on the draft Directive on e-invoicing in public procurements.</p> <p>The resulting text will now be submitted to the formal approval of the European Parliament's plenary assembly (a vote is scheduled for 11 March) and of the Council of the EU (a few weeks later).</p> <p>Once the Directive is formally adopted, the Member States will have two years to transpose it into national law. In the meantime, a standard will be developed at European level to ensure interoperability of the e-invoicing systems in use within the 28 Member States.</p>	
<p><u>17 Dec. 2013: Vote of the draft Directive in IMCO Committee</u></p> <p>The Committee on the Internal Market and Consumer Protection of the European Parliament voted on 17 December 2013 on the draft Directive on electronic invoicing in public procurements.</p> <p>The consolidated text of the Committee's report was published on 6 January 2014</p>	

European Account Preservation Order for the attachment of bank accounts	Back to summary
No update in March.	
No update in February.	
<p><u>13 May 2014: Council adopts the EAPO Regulation.</u></p> <p>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.</p>	
<p><u>15 April 2014: EP adopts a first reading position on the EAPO Regulation</u></p> <p>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).</p> <p>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.</p>	
<p><u>6 Feb. 2014: EP and Council agree on the EAPO Regulation, final vote in April</u></p> <p>The negotiators of the Council of the EU and of the European Parliament reached an agreement on a compromise text on the draft Regulation creating a European Account Preservation Order (EAPO). The negotiations had begun in December, after the Council finally adopted a general orientation.</p> <p>In the Parliament, the LIBE committee expressed its support to the compromise text through a new vote on 11 February, before the vote in plenary session, scheduled on 15 April 2014.</p>	
<p><u>Oct. 2013: LIBE report published, vote in plenary session on 3 February 2014</u></p> <p>The European Parliament finally published the report voted on 30 May by the LIBE Committee on the draft Regulation creating a European Account Preservation Order.</p> <p>The vote of the Parliament's plenary assembly is scheduled on 3 February 2012.</p>	
<p><u>30 May 2013: LIBE Committee votes on MEP Baldassare's draft report</u></p> <p>The LIBE Committee voted on 30 May on the report drafted by MEP Raffaele Baldassarre (EPP, Italy) on the draft regulation creating a European Account Preservation Order (see press release). The consolidated text is not available yet.</p>	

Financial transaction tax

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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.

26 November 2015: the enhanced cooperation narrowed its options

On November 26th, the Luxembourg Presidency of the Council published a [state of play](#) of the work on the Financial Transaction Tax (FTT). According to this document, **progresses were made but a deal still seems quite far.**

The document lists several key issues still open for discussion:

- g) Application of "issuance" and "residence" principles and the scope of the FTT;
- h) Taxable event for securities: "gross" or "net" transactions;
- i) The treatment of the transaction chain;
- j) Possible exemption from FTT of market making activities;
- k) Scope of transactions in derivatives contracts to be subject to the FTT;

l) The methods for calculating the tax base for derivatives contract.

For each FTT “bloc”, Member States narrowed their possibilities to 2 or 3 options.

The tax rates and the income distribution should be decided once there will be an agreement on the FTT structure.

Austria – which is in charge of coordinating the FTT work – indicated that if no agreement was reached at the ECOFIN of December 8th, it could be tough to find an agreement at all.

12 September 2015: Some progress but no deal yet

On 12th September, the Finance Ministers of the 11 States involved in the enhanced cooperation met at the occasion of the informal ECONFIN meeting in Luxembourg. Austria Finance Minister, **Hans Jörg Schelling**, stated that « *essential progress* » were made during this meeting but no agreement was reached.

French Minister of Finance, Michel Sapin, specified that it was a decisive step and that the negotiations progressed accordingly to France’s proposal, i.e. “*a large base with as few exceptions as possible*”.

According to some sources, the 11 Member States agreed on the scope of application of the European Financial Transaction Tax. The FTT should covers the transactions involving the following securities: shares, corporate bonds and all derivatives, except those related to sovereign debt.

The negotiations continue on the FTT territoriality and the rates to be implemented.

The European Banking Federation (EBF) renewed its opposition to the FTT, estimating it would be contrary to the guiding principles and objectives of the Capital Markets Union.

According to EU Commissioner for Taxation, Pierre Moscovici, the 11 Member States could reach an agreement before the end of the year.

1 September 2015: “No implementation on January 1st 2016”, said Commissioner Moscovici

On September 1st, Pierre Moscovici, Commissioner for Economic Affairs, Taxation and Customs, announced that the Financial Transaction Tax (FTT) will not be implemented from the expected date, January 1st 2016.

The EU Commissioner explained that 9 months to 1 year are necessary between the political agreement and the FTT implementation.

At this time, there is no agreement between the 11 Member States involved in the enhanced cooperation.

The Finance Ministers of the States involved in the enhanced cooperation should discuss the FTT during the informal ECOFIN meeting on 11th-12th September.

14 July 2015 : the Finance Ministers' meeting cancelled

The meeting of the Finance Ministers of the States involved in the enhanced cooperation planned for July 14th was cancelled because of the Greece negotiations.

An agreement of the FTT core principles might be found in next October.

18 June 2015: the FTT great principles should be fixed in July

On June 18th, the French minister of finance, Michel Sapin, declared that the 11 Member States involved in the enhanced cooperation on the financial transaction tax (FTT) were **close to find an agreement on the great principles of the tax**.

According to the French minister, the FTT would include **a broad range of transactions on both shares and derivatives, and a low imposition rate**.

Austria should make a statement at the end of the next ECOFIN Council, on July 14th, to announce the latest progress made on the issue.

11 May 2015: Still no significant progress

On May 11th, the ministers of finance of the 11 Member States involved in the enhanced cooperation on the financial transaction tax (FTT) met to assess the ongoing work on the issue. **Conclusions were that no significant progress has been made since the beginning of 2015.**

Member States decided to focus their work on some FTT core elements such as the territoriality and the scope of application of the tax:

1. About territoriality, two possibilities are considered:
 - A mechanism cumulating the principles of place of residence, place of issue and counterparty for both equities and derivatives;
 - A mechanism cumulating the principles of place of residence and place of issue only for equities.
2. About the FTT scope of application, two options are discussed for derivatives taxation:
 2. To set a broad scope, including most of derivatives;
 3. To exclude from the scope interest rate derivatives and public debt derivatives.

The Commission indicated that there seems to be **no clear will to reach an agreement between the 11 partners**. *"There is still pronounced dissension"* between countries, acknowledged Belgian Finance Minister Johan Van Overtveldt.

If no agreement is reached during the summer, it would be difficult to respect the expected calendar and implement the FTT from January 1st 2016.

27 January 2015: Austria and France gave a new impetus

On January 27th, the **ministers of finance** of the 11 States involved in the enhanced cooperation **confirmed their objective to implement the Financial Transaction Tax by January 1st, 2016.**

The work will resume on “*new guidelines*”: the tax should finally have both **the broadest base possible** and **lowest rates**, while considering the risks of relocation of financial activities.

Austria – and its Finance Minister Hans Schelling – **will coordinate the cooperation work**. The Commission should be more involved within the FTT work.

Representatives of the banking sector continue to advocate against the FTT project. They sent a [join letter](#) to the 11 Finance Ministers arguing that “*the proposed FTT will negatively impact financial activities that are essential to the functioning of financial markets and our economy as a whole*”.

5 January 2015: France changed its approach

On January 5th, the French President François Hollande announced France’s change of approach concerning the Financial Transaction Tax field of application.

In November 2014, French Finance Minister had suggested to reduce the FTT scope of application to shares’ and CDS’ transactions. France finally said it was in favour of a broad scope of application for the FTT. The French President also proposed to allocate the FTT revenue to support developing countries' efforts to fight climate change.

France is trying to take the political lead on the FTT enhanced cooperation. The European Commission reacted through the voice of its spokeswoman. Vanessa Mock declared that the Commission “*is ready to provide technical support if it is needed*”. However, the spokeswoman reminded **that only the Member States involved in the enhanced cooperation could take such a decision**.

Accounting issues

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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.

No update in February.

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. :

4. The international accounting standards (IAS);
5. The International Financial Reporting Standards (IFRS);
6. 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.

30 June 2014: EFRAG launches an additional public consultation on lessee accounting

On 30 June 2014, EFRAG launched an additional public [consultation](#) on the IASB and FASB approaches for lessees. The IASB proposed a single model based on Type-A lease accounting. The FASB proposed a model that, based on IAS 17 criteria, distinguishes leases that are in effect purchases and other leases; these are accounted for using a straight line cost recognition pattern.

The EFRAG seeks to know the preference of the stakeholders about these two approaches. Comments have to be submitted by 22 August 2014.

28 May 2014: Publication of the new EU framework for statutory audit

On 28 May 2014, the two texts for the new EU regulatory framework on statutory audit were published in the Official Journal of the European Union. The aim of such a reform is to increase the competition with the EU audit services market and to improve the auditing quality and its transparency.

The [Directive](#) and the [Regulation](#) will take effect within two years of their entry into force. The restriction on fee income from non-auditing services is to take effect within three years.

4 Feb. 2014: Commissioner Barnier prolongs Philippe Maystadt’s mission on EFRAG reform

On 4 February, Commissioner Michel Barnier announced he prolonged Philippe Maystadt’s mission as special advisor to supervise the reform of the European Financial Reporting Advisory Group (EFRAG), as a follow-up of the report he submitted to the Commission in November.

For the recall, Mr Maystadt’s mission was first motivated by the legal obligation that the Commission have to produce an assessment of the Regulation that introduced the IFRS as accounting standards in the EU before the end of 2014.

20 Jan. 2014: European Supervisory Authorities worried about Maystadt report

On 20 January, the three European Supervisory Authorities –EBA, EIOPA and ESMA- sent a [letter](#) to the European Commission, saying their concerns about some aspects of the report submitted by Philippe Maystadt, the special advisor to Commissioner Barnier on accounting standards.

In particular, they criticize the proposal made by Philippe Maystadt to transform the supervisory board of the European Financial Reporting Advisory Group (EFRAG) and give a say to representatives of the private sector (banks and insurance companies) on the opinions that EFRAG

gives to the Commission on the IFRS. The authorities consider that only public authorities in the board should decide on the final opinion given to the Commission.

12 Nov. 2013: Philippe Maystadt's report on the governance of accounting standards

Philippe Maystadt, special adviser to Commissioner Michel Barnier, presented on 12 November his [report](#), containing recommendations on possible ways to improve the governance of the European bodies involved in the development of International Financial Reporting Standards (IFRS) and to enhance the European contribution to the establishment of these IFRS.

The exercise was motivated by the view that over the last years, the International Accounting Standards Board (IASB), in charge of setting the IFRS, has focussed too much on the objective of convergence with the US standards, while leaving unaddressed the needs of the EU markets.

After 8 months of interviews and research, Mr Maystadt reached the conclusion that there is a need for a single international accounting standards framework, but that the European influence on it *"is reduced because it is diffuse"*. He thus recommends setting a European structure that would be able to *"carry out a strategic analysis of the economic impact of the standards and better coordinate the European positions"* (see [press release](#)).

10 July 2013: IASB updates 'IFRS for SMEs' factsheet

The International Accounting Standards Board updated the [factsheet](#) presenting its program 'IFRS for SMEs', which aims at simplifying the implementation of International Financial Reporting Standards (IFRS) for SMEs and allowing comparison of their financial statements worldwide.

26 June 2013: Adoption of Directive on annual financial statements, consolidated statements and related reports of certain types of undertakings

On 26 June, the Council of the EU adopted a [directive](#) on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings (Accounting Directive).

The European Parliament had adopted the directive on 12 June in plenary session. Commissioner Barnier welcomed the vote saying that *"financial reporting obligations have been modernised and costs reduced, in particular for SMEs"*.

The directive was published in the Official Journal of the EU on 29 June 2013. The Member States shall transpose it into national law by 20 July 2015.

21 June 2013: Study on the effects of using IFRS in the EU

On 21 June, the European Commission published a [call for tender](#) to realize a study *"to take stock and to assess the effects of using international financial reporting standards (IFRS) in the EU"*.

The Commission aims at gathering information on the impacts of using the IFRS in the EU, both for preparers and users, in view of the forthcoming revision of the IAS regulation (regulation

1606/2002). The Commission wants to know whether the regulation, and the IFRS, met the two initial objectives of *“ensuring a high degree of transparency and comparability of the financial statements of European companies and an efficient functioning of the market”*.

The study will also include a cost-benefit analysis and an analysis of the possible benefits and drawbacks brought by the IFRS to different sectors and stakeholder groups.

The time limit for receipt of tenders is 13 September 2013.

Other topics of interest

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March 2016: the industry gets ready for “Robo Finance”

The Institute of International Finance (IIF) recently published a [study](#) summarising the different potential applications of automation in financial services, or “Robo Finance”.

These new services are based on the **automatic analysis**, using advanced **artificial intelligence**, of large amounts of political, economic, or commercial data (**Big Data**) in order to create **predictive models** establishing instantaneously **optimised strategies** for public or private asset management.

Robo finance to facilitate prudential regulation compliance

These new services are useful to **comply with prudential regulations**. A specific branch of automation in financial services, **RegTech**, allows users to analyse their structures’ activities to identify potential risky behaviours, and to cross-check in real time their activities with the evolution of prudential regulations.

Intelligent automation also authorises instantaneous transformation of **raw data into written reports** complying with the supervision authorities’ reporting requirements.

Which consequences for human contact in financial services?

However, part of the industry wonders about the consequences of the loss of human interaction in financial services. A miscalculation or a fraud in the use of those tools could lead to erroneous decisions from the consumers. **Better finance insists on the necessity to maintain human contact** in financial services, to offer truly personalised services.

A current legislation that seems to be lagging behind

Furthermore, the industry is calling for a **better adaptation of the current European legislation**, which current definitions of “*investment advice*” or “*personal recommendations*” are deemed unsuited to the new practices of robo-advice.

Another issue is that, in cases of misuse, **the legislation does not define any clear repartition of liabilities** between the company that created the tool, the institution that is providing it, and the client that is using it.

The [EFAMA](#) therefore considers that it is “**crucial**” that the European Supervision Authorities (ESA) **assess the current legislation** to evaluate to which extent it is applicable to these new technologies.

31 March 2016: EBF publishes its response to the Green paper of the Commission

On March 31st 2016, the EBF published its [response](#) to the [Green paper](#) of the Commission on

retail financial services.

This Green paper aims at “**creating a true European market for retail financial services**”. The industry was encouraged to express its opinion on this paper during a [public consultation](#) that began on December 10th 2015, and ended on March 18th 2016.

The EBF is **supporting the integration of European financial markets**. The association acknowledges the Green paper as a “**first step**” to complete the Single Market; however, it expresses **concerns** over the numerous prudential regulations of the banking sector that were adopted following the crisis.

The EBF calls for the Commission to :

1. **Identify the national obstacles** to cross-border trade in banking products that the industry cannot solve by itself, from both the supply and the demand sides;
2. **Assess the efficiency of the current prudential regulation** adopted following the crisis, and simplify it if needs be, as well as **harmonising the treatment of the European banks** following the principle of “*same services, same risks, same rules*”;
3. **Adjust the current regulation** to the new technologies in financial services (FinTech);
4. Provide **regulatory flexibility to encourage innovation**, such as creating “**regulatory sandboxes**” which would allow businesses to test innovative products without having to immediately comply with European regulations.

21 March 2016: EBA calls for a greater coherence for retail banking regulation

On March 21st 2016, the European Banking Authority made public its [contribution](#) to the European Commission’s consultation accompanying the Green paper on retail financial services. The Authority chose to only answer questions that were **directly relevant to its supervisory mandate**.

On the enforcement of European regulation, the Authority remarks that it possesses “*very few direct mandates*” for banking products which are included in its prerogatives. Furthermore, the EBA notices that numerous technical standards are for the moment not applied, and that some directives have not been transposed yet in the Member States’ legislation. As a consequence, **the EBA’s supervision on retail banking is limited**.

The EBA equally insists on the fact that **Level 1 banking legislation does not cover the complete spectrum of products and activities of this sector**. This is caused by **specific regulations** targeting particular products or activities. A “*single harmonized Level-1 text on retail conduct and consumer protection rules in the banking sector*”, such as the directive on investment services and regulated markets (MiFID II), does not exist. Such an absence could create significant regulatory vacuums for the retail banking sector. The Authority also insists on the fact that **all the rules introduced by European regulations do not necessarily fall under its supervisory mandate**, with the example of the consumer Credit Directive (CCD).

The EBA judges that the Commission “*may want to take inspiration*” from the “*very detailed and comprehensive*” requirements introduced by MiFID II. It however declares that it **does not want more European regulations, but more coherence** with the regulated banking products. The

Authority considers that **“regulatory certainty”** is a key element to allow for financial innovation, to the benefit of both consumers and industry actors.

The EBA also points out the **existing divergences between the national competent authorities’ attributions** regarding supervision. This situation can lead to arbitraging on their resources’ allocations. The Authority also mentions **“additional complications” which can emerge from the national authorities’ limited resources** when they are confronted to new tasks.

The Authority also highlights another problem: the repartition of liabilities between the home country’s and the host country’s national competent authorities. It points out the fact that these attributions can vary among directives, creating differentiated levels of protection for consumers.

The EBA calls for the Commission to adopt a differentiated approach regarding digital technologies applicable to financial services and emerging actors:

1. Identify and evaluate the **potential benefits** of these technologies
2. Identify and evaluate their **potential risks**, for both consumers and companies;
3. **Prioritise these risks**, to determine the ones that necessitate a **“legislative response”** and those which can be dealt with by the industry;
4. To make sure the policy response find the **appropriate balance between risk reduction and harnessing the full benefits** of these technologies;
5. To guarantee that a **harmonised regulatory approach -if deemed suited- would be “technologically neutral”**;
6. Assess the **extent of risk protection** already assured by the current European legislation, and, if appropriate, **amend or clarify this legislation** rather than adopting new regulations.

The Commission should present its conclusions from the consultation procedure, and the legislative initiatives that could follow in retail finance in **summer 2016**.

2 March 2016: the Commission will not hamper the development of finance digitalisation

On March 2nd, the Commission organised a [Public Hearing on retail finance](#), as part of the [consultation](#) launched for the [Green Book](#) on retail financial services.

In his [keynote speech](#), **Jonathan Hill**, Commissioner for Financial Stability, Financial Services and Capital Markets Union (CMU), focused on one of the goal of the CMU, which is to allow consumers to easily buy, keep, and exchange retail financial services within the Single Market.

According to him, the **new financial technologies (FinTech), based on block-chain infrastructure or cloud computing, are particularly relevant for this project**. They could allow a reduction of the transaction **costs**, while increasing their **speed** and **resilience**.

Jonathan Hill therefore declared that he wanted to create **“smart” regulations** that would **not hinder the benefits of such technologies**.

On the basis of provisory results from the public consultation that was launched on December 10th 2015, the Commissioner said that he was in favour of:

- **“Proportionate” regulations**, by developing regulatory **“safe-spaces”**, or **“sandboxes”**, that would allow companies to innovate and experiment without having to comply

immediately with authorisation requirements.

- Regulations set to maintain a **“level playing field”**, focusing on the nature of the service provided, rather than on the type of business that is providing this service.

The Commissioner however stated that he was not eager to create more regulations, and that he *“won't reach for the rule book unless [he has] to”*.

He also insisted on **some regulatory elements**:

- **The necessity to clarify the *Know Your Clients* requirements for the industry**
- The development of e-ID and e-signature schemes for a safe recognition of consumers

The public consultation stays open **until March 18th 2016**.

The Commission should propose more initiatives in **Summer 2016**, following the end of the consultation process.

1 March 2016: the European Parliament will draft a report on retail financial services

On March 1st, the European Parliament designed **the MEPs in charge of its own-initiative report regarding the Commission green paper on retail financial services**. Such report will not have a binding legal value but will specify the Parliament position towards the Commission's initiative and may suggest actions to take in this field.

THE KEY MEPs WITHIN THE EUROPEAN PARLIAMENT

The EP chose the Economic and Monetary Affairs (ECON) Committee to lead the work on this matter. The issue has not been discussed yet in public session of the ECON committee but the preparatory work has already begun.

Within the ECON members, the following MEPs have been entrusted with the task to lead the work of their political group:

- **Mr. Olle LUDVIGSSON (S&D, SE)** is the rapporteur and so will draft the report and coordinate the common work with the other political groups. Mr. LUDVIGSSON has been MEP since 2009. He was shadow rapporteur on several pieces of legislation dealing with retail financial services: the payment services directive (PSD2), the multilateral interchange fees regulation (MIF) and the payment account directive (PAD).
- **Mr. Alain CADEC (PPE, FR)** was appointed shadow rapporteur for the EPP group, the EP largest political group. Mr. CADEC has been MEP since 2009 and Chairman of the Fisheries (PECH) Committee since 2014.
- **Mr. Ashley FOX (ECR, UK)** will be shadow rapporteur for the ECR, group within he holds a significant influence on economic and financial issues. He was shadow rapporteur on the insurance distribution directive (IDD), the payment services directive (PSD2) and the multilateral interchange fees regulation (MIF).
- **Ms. Sophie in't VELD (ADLE, NL)** was chosen as shadow rapporteur for the ALDE group of which she is Vice-chair. Elected MEP in 2004, Ms. in't VELD was shadow rapporteur for the insurance distribution directive (IDD), the payment services directive (PSD2) and the multilateral interchange fees regulation (MIF) under the past legislature. She is currently involved in the negotiations between the Parliament, the Council and the Commission on the institutions for occupational retirement provision directive (IORP II), as ALDE shadow rapporteur.
- **Ms. Marisa MATIAS (GUE/NGL, PT)** was appointed shadow rapporteur for the GUE/NGL

whose she is the coordinator for the ECON committee. Ms. MATIAS has been MEP since 2009. She was involved as shadow rapporteur for several key pieces of financial legislation during the past years: the bank recovery and resolution directive (BRRD), the regulation on the use of benchmarks in financial contracts and the enhanced cooperation on the financial transaction tax (FTT). She is deeply involved on issues related to taxation and the European Semester.

- **Mr. Sven GIEGOLD (Greens/EFA, DE)** will lead the work for his group as shadow rapporteur. Mr. GEIGOLD is also the spokesperson for the Greens on economic and financial issues and Greens' coordinator in ECON. He has been MEP since 2009. He was rapporteur on some key legislative initiatives such as the UCTICS V directive, the regulation specifying the interactions between the EBA and the ECB and the regulation creating the ESMA. He was shadow rapporteur on many other files: the insurance distribution directive (IDD), the regulation on the key information documents (KID) for packaged retail investment products (PRIIPs) or the 4th AML directive.
- **Mr. Marco VALLI (EFDD, IT)** was chosen as shadow rapporteur for the EFDD group of which he has been an active member since its election in 2014. He was shadow rapporteur on the institutions for occupational retirement provision directive (IORP II), the payment services directive (PSD2) and the multilateral interchange fees regulation (MIF).
- The ENF group has not appointed any MEP yet.

No calendar was given regarding the next steps in the ECON committee (first exchange of views and consideration of the draft report).

22 February 2016: ECON debate on Othmar KARAS's draft report on SME access to finance

On February 22nd, the Economic and Monetary Affairs Committee of the European Parliament held its first discussion on the [draft report](#) on SME access to finance written by Othmar KARAS (EPP, AT).

This report is an Own initiative report that has no binding legal value. However, it will define the Parliament's stance on SME finance.

Othmar KARAS began his intervention by **insisting on a few points of his draft report** :

1. The **need to finance the real economy, by facilitating SME financing**
2. The **conservation of bank financing as the main European investment channel**, while encouraging the use of alternative financing methods such as:
 - ✓ **Financial markets for SME**
 - By facilitating the use of **securitisation** by SME
 - By creating **"one-stop shops"** to inform and help the SME with financial markets financing
 - By diffusing a better European **risk-taking culture** and improving the *"financial literacy"* of European SMEs.
 - ✓ **Emerging financing instruments** (peer-to-peer lending, or crowdfunding)

The interventions of the S&D, ALDE, and ECR groups show a support of the report's main points,

and the need to facilitate financing for SMEs. However, some controversial topics remain:

➔ **The need for banks to remain the principal financing channel in European Union**

Siôn SIMON (S&D, UK) noticed that the debate was on the table for twenty years, and that *“nothing had fundamentally changed”* on this matter.

He called for a **reflection on financing in the EU**, where **bank financing should be more balanced with public investment, crowdfunding or peer-to-peer funding**. He gave the example of the **“funding for lending schemes”** in the United-Kingdom. These schemes, created in 2012, grant special funding for British banks that lend to the real economy.

➔ **Regulatory simplification for SME**

Stanislaw OZOG (ECR, PL) argued that the European regulatory simplification had paradoxically created more complexity for European SMEs. The Polish MEP wished that Member States were more independent in their choices of policies to help SMEs. He therefore rejected any regulatory harmonisation for alternative financing, such as crowdfunding.

Stanislaw OZOG also insisted on the need to simplify and lighten the weight of taxes on SMEs.

Philippe DE BACKER (ALDE, BE) asked the Commission to **conduct an assessment of the policies** that followed his [report on the European Semester for the Coordination of Economic Policies](#) of October 15th 2014. Indeed, this report contained **several recommendations that were comparable** to Othmar KARAS’s draft report, such as **facilitating the financing of SMEs, simplifying their administrative burden, and the need to develop alternative sources of financing such as the crowdfunding**.

There were more disagreements with the Greens, GUE, and EFDD:

According to Pamela LOPEZ-BERMEJO (GUE/NGL, ES), this draft report focuses on the biggest financing structures and ignores the needs of the smallest ones. Furthermore, **she considers that the financial markets lead to the economic crisis, and that orienting their financing capacities towards SME would not be a solution**. According to her, it is however important to focus on bank financing and to adopt more strict regulations for this sector.

Phillippe LAMBERTS (Greens/EFA, BE), quoting the last results of the [Survey on the Access to Finance](#) conducted by the ECB last December, argues that **access to financing is not a priority for European SMEs**. Indeed, **only 11% of the SMEs that were interrogated said that access to financing was their top priority**. For the Belgian MEP, financial instruments such as securitisation, and more globally financial markets, are not adequate for SME financing. According to him, even though other alternatives exist, such as the European Fund for Strategic Investment (EFSI), it lacks in size and true strategic governance to be efficient.

Marco ZANNI (EFDD, IT) agreed with Philippe LAMBERTS, adding that the current difficulties that the SMEs are facing were much more likely to be linked to the lack of demand in the economy than the need for financing. He explained this situation by competition distortions created by the adoption of the single currency in heterogeneous economies.

According to the Italian MEP, the EU should **focus more on bank regulation** to make it finance the real economy. Marco ZANNI also called for a **more flexible taxation for SMEs**, arguing that it could facilitate their growth. He concluded by declaring himself favorable to **the development of alternative sources of financing**, such as crowdfunding and peer-to-peer funding.

Othmar KARAS concluded the debate by **acknowledging that access to finance was indeed not the most important problem the European SMEs** were currently facing, but that it should be improved nonetheless.

The vote in plenary session is scheduled for June 2016.

4 February 2016: Othmar KARAS's draft report on SME access to finance

On February 4th, the [draft report](#) on access to finance for SMEs and increasing the diversity of SME funding in a Capital Markets Union (CMU), entrusted to Othmar KARAS (EPP, AT), was published.

The KARAS report is an Own-Initiative Report and will have no binding legal value. However, **this report will define the European Parliament stance on SME financing issues**, which are a core element of the CMU project.

For memory, Mr. KARAS was the rapporteur on the capital requirements regulation and directive (CRR/CRD IV) and was recently appointed shadow-rapporteur on the regulation defining criteria for simple, transparent and standardised (STS) securitisation.

The rapporteur stresses three main points in his draft report:

1. The diversity of SMEs, their business models and their financing needs

The rapporteur stresses that SMEs represent a much diversified corporate class with different financing needs and conditions, influenced by both SME-specific and country-specific factors.

As a consequence, **he underlines the need for diverse funding options for SMEs and so welcome the Commission's initiative to identify "undue barriers and obstacles to the financial sector providing funding to the real economy"**.

2. The primordial importance of bank lending for SMEs

According to Mr. KARAS, bank lending is the most important source of funding for SMEs. Although he welcomes the Capital Markets Union and the Commission's will to further diversify funding sources, **he is convinced that "bank financing will remain the preferred funding choice for the large majority of SMEs"**.

On this basis, he supports the need for measures to enhance the lending capacity of banks and wishes that the SME supporting factor introduced by CRR should be maintained on a permanent basis.

He also stresses **the need to apply the principle of proportionality to the different initiatives concerning SMEs**, especially for SMEs credit information.

3. The need for a diversification of financing sources

For the rapporteur, **the availability of financial information on SMEs is key** for investors,

supervisors and other stakeholders. Once again, he stresses **the importance to ensure proportionality of reporting and information requirements** for SMEs by considering both, the financing needs of SMEs and the informational needs of investors.

He considers that **innovative financial technologies (FinTec) represent an opportunity to develop new funding options matching SMEs needs** and calls the Commission to explore potential risks of such technologies and the *“need for an appropriate harmonised EU regulatory framework”*. Crowdfunding and peer-to-peer lending may offer *“suitable solutions”* for non-listed SMEs according to him.

The rapporteur also welcomes the Commission’s initiative for a STS securitisation and stresses the importance of corporate and income taxation for the internal financing capacity of SMEs.

In his report, the Austrian MEP also stresses **the need to evaluate the impact of the existing financial regulatory framework**.

Mr. KARAS’s draft report will be discussed by the Economic and Monetary Affairs Committee (ECON) of the European Parliament but no date has been set yet.

26 January 2016: ESAs alerted Commission on cross-selling practices of financial products

On January 26th, the Joint Committee of the European Supervisory Authorities (ESAs) published a [letter](#) to Jonathan Hill, EU Commissioner for Financial Services, **urging the Commission to address the legislative inconsistencies regarding the cross-selling of financial products**.

Under the Markets in Financial Instruments Directive (MiFID II), the ESA Joint Committee had to develop guidelines for the supervision and assessment of cross-selling practices. The ESAs consider that their work revealed **legal issues in the existing regulatory framework between the banking, insurance and investment financial sectors**. The legislations mentioned include MiFID II/MiFIR, the Mortgage Credit Directive (MCD) or the Insurance Distribution Directive (IDD).

The Joint Committee judge that the identified legal issues *“prevent the JC from achieving its objective of ensuring a level-playing field across the three sector”* and impede them to fulfil their mandate and develop the guidelines on cross-selling practices as provided by MiFID II.

ESAs Joint Committee calls to assess the differences in the existing legislation and to “consider any necessary steps” in order to ensure that the ESAs are able to regulate cross-selling practices in a consistent way across the three sectors. The ESAs suggest to the Commission to seize the opportunity provided by the consultations on the [Green Paper](#) on Retail Financial Services and on the [impact](#) of the EU regulatory framework for financial services.

19 January 2016: BALZ report adopted by the European Parliament

On January 19th, the European Parliament adopted Burkhard BALZ’s (PPE, DE) [report](#) on the stocktaking and challenges of the EU Financial Services Regulation.

The BALZ report is an Own-Initiative Report and will have no binding legal value. However, **this report defines the European Parliament position on the EU Financial Regulation**.

SAME PRIORITIES AS THE COMMISSION

The report shows that the MEPs share the Commission views on many issues. For example, it requests **the application of the differentiation and proportionality principles for reforms to come** but also **for the review of the current regulatory framework**. The report stated is in favour of a **regulatory approach based on risk profile**.

Another point of agreement is the will to conduct **a thorough assessment of the cumulated impact of the EU reforms for financial services**. The EP asks the Commission to realise this work by the end of 2016 and then every 5 years.

The BALZ report suggests that SME funding should be the top priority of the Commission action and welcomes the initiatives to come on this issue.

Regarding the Banking Union, the report stresses the importance of implementing the adopted legislation in all its elements and to respect the planned deadlines.

THE GOVERNANCE AND REGULATORY PROCESS AS AN MAIN ISSUE

The report insists on the need **to improve the decision-making process, especially for secondary legislation**. The improvement of the communication between the Commission, the European Supervisory Authorities (EBA, ESMA & EIOPA) and the European Parliament is a key-issue mentioned by the report. **The MEPs call for a better transparency in drafting the delegated acts, the implementing acts and the technical standards**.

15 January 2016: Jonathan Hill specified the 2016 Commission's priorities for the Capital Markets Union

In a letter addressed to ECON Chairman, Roberto GUALTIERI (S&D, It), on January 15th, Jonathan Hill, EU Commissioner for Financial Services, sets out the Commission's priorities regarding the Capital Markets Union for 2016.

Lord Hill listed 7 initiatives to be launched during the coming year:

1. **A package to stimulate venture capital in the European Union:**
 - The publication of the terms of reference for a new pan-European venture capital fund of funds (spring 2016);
 - A legislative proposal to "strengthen" the current EU regulation on venture capital funds (EuVECA) (before summer 2016).
2. A consultation will be launched this spring regarding the functioning of the EU passport for the cross-border distribution of investment funds.
3. The assessment of the opportunity to set out a framework for an EU personal pension market.
4. **A legislative proposal on insolvency by the end of the year to facilitate company restructuring and increase certainty for cross-border investors**, building on well-functioning national regimes.
5. In addition to the existing provisions for supporting SME lending within the CRR, **the Commission will encourage a market-led initiative to improve the communication between businesses and banks in case of declined loan applications**. The Commissioner

wants to improve the reorientation of those corporates towards alternative financing sources.

6. A technical assistance to the Member States to develop their capital markets, through the new Structural Reform Support Service (SRSS). The Commissioner wishes to identify *“suitable pilot project”* during 2016 to be able to fully support them once the SRSS will be operational in 2107.
7. Continuing the work on supervisory convergence, in close cooperation with the European Markets and Securities Authority (ESMA).

The Commissioner also announced that the Commission will publish a report by the end of 2016 first semester on the progresses made regarding the CMU action plan.

10 December 2015: the Commission released its Green Paper on retail financial services

On December 10th, the European Commission published its [Green Paper](#) on retail financial services and insurance entitled *“Better products, more choice, and greater opportunities for consumers and businesses”*. At this occasion, the Commission launched a [consultation](#) on this same topic.

The Green Paper show the Commission’s will to enhance cross-border and cross-sector competition in retail financial services to offer *“better choice at lower costs”* for the EU consumers. In order to achieve this goal, the Commission wishes to:

- **Facilitate consumer access to information** and enhance the services available to them;
- **Favour the arrival of new market participants** and the development of **digital financial services**;
- **Develop 29th (or opt-in) regimes** when the harmonisation of national legislations is too complex.

The most targeted areas are: insurance, loans, payment and saving accounts.

From a more general point of view, the Green Paper announces **very few new regulatory elements**, except a **legislative initiative on geoblocking** and other unjustified barriers to cross-border sale of goods and services.

BRINGING CLOSER FINANCIAL SERVICE PROVIDERS AND CUSTOMERS

In order to *“help consumers to buy financial products cross-border”*, the Commission suggests to improve 3 different elements:

1. **The access to information**, through the development of independent comparison websites and the processes to change of service provider.
2. **The access to a broader offer of services.**
The Commission wants to improve the portability of financial products, such as life-insurance and healthcare insurance.
3. **Increasing consumer trust** thanks to the improvement of claims procedure on the basis of existing elements:
 - The network of cross-border disputes resolution in financial services;
 - The Alternative Dispute Resolution (ADR) Directive.

From the suppliers’ side, the Commission wishes to create new opportunities for financial services providers:

1. **Seize the opportunities provided by the digital economy**, while ensuring consumer protection;

2. **Harmonise certain rules regarding insolvency procedures**, property valuation and financial guarantees;
3. **Develop 29th or opt-in regimes**;
4. **Support the convergence of national regimes** through the work of European supervisory authorities (ESAS and National Competent Authorities) and allow the development of clearer supervisory standards.

2 December 2015: the Council found a compromise on the STS securitisation initiative

On December 2nd, **the Council adopted a political agreement on both legislatives proposals of the Commission's initiative for a simple, transparent and standardised (STS) securitisation :**

- The [draft regulation](#) defining the criteria for STS securitisation;
- The [draft regulation](#) amending the Capital Requirements Regulation (CRR) in order to adapt the prudential treatment for STS securitisation.

The main changes operated by the Member States to the Commission original proposals mainly deal with **the short-term securitisations, e.g. the Asset-Backed Commercial Papers**, and the third-party certification.

The agreement conserves the Commission's proposal to require the originators of a securitisation to hold 5% of the underlying risk.

THE PARLIAMENTARY WORK BEGUN

The European Parliament named some of the MEPs in charge of the parliamentary work within the ECON committee:

- For the STS regulation :
 - [Paul TANG](#) (S&D, NL) will be the rapporteur for the STS legislative proposal. Mr TANG is also shadow rapporteur on the directive regarding Institutions for occupational retirement provision (IORP II).
 - [Othmar KARAS](#) (EPP, AT) is the shadow rapporteur for the EPP group. Mr KARAS was the rapporteur of the CRR/CRD IV reform. He is also the president of the Austrian EPP delegation and of the SME Intergroup.
 - [Petr JEŽEK](#) (ALDE, CZ) is the shadow rapporteur for the ALDE group. Mr JEŽEK is also shadow rapporteur on the Money Market Funds Regulation.
- For the CRR modification :
 - [Pablo ZALBA BIDEGAIN](#) (EPP, ES) will be the rapporteur on the legislative proposal amending CRR. Mr ZALBA BIDEGAIN was rapporteur on the regulation on interchange fees for card-based payment transactions. He is vice-chair of the ECON committee and vice-coordinator of the EEP group for the ECON committee.
 - [Jonas FERNANDEZ](#) (S&D, ES) is the shadow rapporteur for the S&D group. Mr FERNANDEZ is also rapporteur on the regulation on benchmarks used in financial contracts.
 - [Michael THEURER](#) (ALDE, DE) is the shadow rapporteur for the ALDE group. Mr THEURER was one of the rapporteurs of the EP special committee on tax rulings.

24 November 2015: the Commission launched its legislative initiative for an European Deposit Insurance Scheme

On November 24th, the European Commission presented a [Communication](#) entitled “Towards the completion of the Banking Union” and a [proposal of regulation](#) aiming at creating a European Deposit Insurance Scheme (EDIS).

THE COMMISSION’S ACTION PLAN FOR THE BANKING UNION

In its communication, the Commission specifies the measures it wishes to implement to enhance the risk-sharing within the banking sector and ensure a level playing field within the Banking Union framework.

Such measures include :

- Reducing **national options and discretions in the application of prudential rules** so that the Single Supervisory Mechanism (SSM) can operate as effectively as possible.
- **Harmonising national DGS.**
- Implement **the new elements of the international regulatory framework**, in particular the standard on Total Loss Absorbing Capacity for banks (TLAC).
- **Enforcing existing rules on resolution** “*so that the use of public funding to maintain a solvent and resilient banking sector is minimized*”.
- **Greater convergence between national insolvency regimes**, as set out in the Capital Markets Union Action Plan.
- Initiatives regarding the **prudential treatment of banks' exposure to sovereign risk**, e.g. limiting banks' exposures to a particular sovereign in order to diversify risk.

THE EDIS PROPOSAL

The European Deposit Insurance Scheme will be:

- **built on the current Deposit Guarantee Schemes Directive** and the national deposit guarantee schemes it set up. Individual depositors will continue to enjoy the same level of protection, i.e. €100 000;
- introduced **step by step**;
- “**cost-neutral for the banking sector**”: banks’ contributions to EDIS would be deducted from their national contributions to national DGS;
- “**risk-weighted**”: banks’ contributions should be based on their risk profile riskier;
- “**accompanied by strict safeguards**”: for example only national DGS complying with EU legislation would be able to access EDIS funds;
- **mandatory for eurozone Member States**, whose banks are covered by the Single Supervisory Mechanism. EDIS will be but open to other EU Member States who want to join the Banking Union.

The EDIS proposal suggest a progressive approach towards a complete insurance scheme:

1. A **re-insurance** system (2017 – 2020)
During this 1st phase, a national DGS would have access to EDIS only if it complies with EU rules and used all its resources.
2. A **co-insurance** system (2020 – 2024)
During this 2nd phase, a national DGS would not have to exhaust all its own resources to access to EDIS.
This introduces a higher degree of risk-sharing between national schemes through the European system. The share contributed by EDIS will start at a relatively low level (20%) and will increase over a four year period to reach 100%.
3. A **full insurance** system (from 2024)
As of 2024, EDIS should assume 100% of the risk and fully insure national DGS.

The Single Resolution Fund and the requirements of the current DGS Directive will also be fully phased in during this year.

The European Parliament and the EU Council will begin to work on the Commission proposal shortly.

October 2015: the Commission began the preliminary work on its report regarding “barriers to free movement of capital” (**Unofficial information**)

Within the Capital Markets Union project, the Commission will deliver a report on the national barriers to the free movement of capital **by the end of 2016’s last quarter**, on the basis of a work **realised with the Member States**.

Depending on the identified barriers, the Commission could amend some existing EU legislations. More generally, **this report should be used as a roadmap until 2019**.

The Commission has realised a first inventory of the barriers to remove and decided the method to be employed in a confidential Working document dated of October, 13, Euralia obtained. Many issues are already mentioned in the CMU action plan.

The different topics are divided in three categories:

1. **Restrictions stemming from national legislation or practices not implementing EU law**

- **Residence requirements imposed on the management of financial institutions;**
- Requirement for a local intermediary (factoring is not among the targeted sectors but there is a risk of spill-over);
- **Different regimes between bank and non-bank lenders;**
- Different national **securities ownership laws**, already identified by the CMU action plan.

2. **Restrictions stemming from national legislation or practices going beyond EU law**

Gold-plating through national legislation

- Additional requirements imposed on investment funds or investment fund managers;
- Requirements imposed on top of the Settlement Finality Directive and the Financial Collateral Directive, leading to non-levelled playing field for players in the Member States concerned.

Gold-plating through administrative or supervisory practices

- **Additional prudential requirements leading to unjustified ring-fencing of bank assets**, where national supervisors continue to have discretionary powers. The LCR delegated act should partly address this situation;
- **Differences in marketing rules for borrowers trying to raise capital** in another Member State;
- Supervisory fees imposed by host authorities on entities holding an EU marketing passport, especially for AIFM and EuVECA funds’ managers.

3. **Restrictions linked to the business environment deterring cross-border activity**

Barriers non-specific to the financial sector

- **Retail financial markets are affected by the high number of different market**

platforms (some 84 in Europe) with very different products on offer (and a bias in favour of national products). These issues should be addressed in the Green Paper on retail finance the Commission will publish by the end of the year ;

- Highly fragmented and underdeveloped private placement market;
- Difficulty to identify shareholders in a cross-border environment;
- Insufficient retail markets for bonds;
- Discrimination linked to bank account numbers of citizens;
- **Difficulty to access, exchange, collect or compare financial information;**
- **Lack of credit information on SMEs.** As developed in the CMU action plan, Commission explains that it should include “*an investigation, building on work by the ECB, about how to develop or support pan-European information systems*”. If **Anacredit is not mentioned in the document, it seems clear the Commission wants to rely on this database.**
- Barriers faced by consumers for accessing or transferring financial products in another Member State;

Barriers non-specific to the financial sector

- **Differences in tax law;**
- Differences in consumer protection and **contract law rules;**
- Differences in **insolvency legislation** and practices;
- Difficult **cross-border debt recovery;**
- Lack of harmonized **accounting rules;**

Ongoing consultations

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Until 24 June 2016: the Basel Committee launches a consultation on credit risk-weighted assets

On March 24th 2016, the Basel Committee launched a [consultation paper](#) proposing **modifications to the advanced internal ratings-based approach (A-IRB) of credit risk**.

The consultation is opened until June 24th 2016.

The proposals of this document:

- **Removing the option to use IRB approaches for some exposures categories** which do not offer sufficient reliability in the estimation of model parameters for regulatory capital;
- **For the exposures categories where IRB approaches are considered reliable :**
 - Adopt exposure-level floors, to insure a minimum level of stability in portfolios;
 - Provide more precise specifications regarding parameter estimation practices to reduce variability in risk-weighted assets (RWA).

The final proposals following this publication will be presented with a “**comprehensive quantitative impact study**”. Furthermore, the Basel Committee insists **on its aim to “not significantly increase overall capital requirements”**.

It is possible to upload comments on this consultation via [the dedicated webpage](#).

Until 14 June 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 restructuring process of viable companies (“second chance” opportunities)

The Commission’s proposals:

- Adopt **general guidelines** of restructuring 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.

Until 3 June 2016: Basel Committee consults on operational risk under the standardised approach

On **March 7th**, the Basel Committee launched a [consultative document](#) on a revised operational risk capital framework. This revision follows a [previous consultation](#) of October 2014 that already proposed some revisions to the standardized approach.

Indeed, the Committee reviews of banks operational risks modeling practices and capital outcomes judged that the Advanced Measurement Approach (AMA) had to be removed from the current framework. It was indeed deemed **too complex**, and **ill-suited to realize pertinent comparisons** between very different internal modeling practices, which created **variability** in risk-weighted asset calculations, and diminished confidence in risk-weighted capital ratios.

The revised framework will be based on a single non-model based method for the estimation of operational risk capital, which is called **the Standardized Measurement Approach (SMA)**. This approach is based on the combination of a standardized approach, to facilitate comparisons, and of an advanced, risk-sensitive approach.

It combines, in a standardized way, financial statement information and banks' internal loss experience to promote "**consistency and comparability**" in operational risk capital measurement.

The consultation is opened until June 3rd 2016, and the comments can be uploaded on the [dedicated webpage](#).

Until 15 April 2016: ECB consults on Institutional protection schemes under CRR/CRD IV

On February 19th, the European Central Bank (ECB) launched a [consultation](#) on **the eligibility of institutional protection schemes (IPs)**. The consultation is focused on a [draft ECB Guide](#) on the approach for the recognition of institutional protection schemes (IPs) for prudential purposes.

For memory, the Capital Requirements Regulation (CRR) defined the IPS as **"a contractual or statutory liability arrangement of a group of banks which protects the member institutions and in particular ensures their liquidity and solvency"**. Currently, IPs are recognised in 3 euro area Member States: Austria, Germany and Spain.

To benefit from a more favorable prudential treatment – similar to the one for entities part of a consolidated group – **the ECB shall assess if an IPS match the requirements specified by CRR**, e.g. its ability to support its members in difficulty. The decision will be made by the ECB on a case-by-case basis following the approach and the criteria set out in its draft guide.

The draft guide aims at informing on the criteria in a transparent way but also at ensuring their consistent implementation, for credit institutions under the direct supervision of the ECB or the national competent authority's.

A public hearing will be held on March 31st, 2016.

The consultation period ends on April 15th, 2016.

Agenda April 2016	Back to summary
April 7 th , 2016: ECON Committee meeting in Brussels	
April 19 th , 2016: ECON Committee meeting in Brussels	
April 22 nd , 2016: ECOFIN Council meeting in Brussels	

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