MONTHLY MONITORING REPORT

JULY 2015

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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**.

24 February 2015: SSM Chairwoman in favour of the harmonisation of the definition of capital

On February 24th, Danièle NOUY, the Chair of the Single Supervisory Mechanism's Supervisory Board, told during an interview given to the Financial Times **that a harmonisation of the definitions of banking capital was necessary, particularly for own funds**.

In the interview, the Chairwoman said : *"there are too many, national options in the definition of capital in Europe and we have to address that"* adding *"**we may have to go to the legislature, to the European Parliament, to ask for more harmonization in regulation**"*.

According to her, the supervisor could partially solve the problem but there is still 20% of the prudential regulation that remain the Member States' prerogative.

The SSM is currently executing a comparative analysis concerning the capital composition of the 123 groups under the direct ECB supervision.

5 February 2015: Basel Committee launches a consultation on credit risk management across sectors

On February 5th, the **Joint Forum** formed by the **Basel Committee**, the International Organization of Securities Commissions (**IOSCO**) and the International Association of Insurance Supervisors (**IAIS**), released a consultative document concerning **credit risk management across sectors**.

The consultative document is based on a **survey** conducted by the Joint Forum on the **developments of credit risk management after the 2008 financial crisis**. The survey aimed to update the 2006 Joint Forum paper. Fifteen supervisors and 23 firms from Europe, North America and Asia responded to the survey.

Based on its analysis and subsequent discussions with firms, the Joint Forum suggests **4 recommendations to supervisors:**

1. *"Supervisors should be **cautious against over-reliance on internal models** for credit risk management and regulatory capital;*

2. *With the current low interest rate environment possibly generating a "search for yield", supervisors should be cognisant of the growth of such risk-taking behaviours and the resulting **need for firms to have appropriate risk management processes**;*

3. *Supervisors should be aware of the growing **need for high-quality liquid collateral** to meet margin requirements for OTC derivatives sectors, and if any issues arise in this regard they should respond appropriately;*

4. *Supervisors should consider whether firms are accurately **capturing central counterparty exposures** as part of their credit risk management."*

Comments on the proposals should be **uploaded** on a dedicated web page.

The consultation deadline is on March 4th 2015.

2 February 2015: Basel Committee consults on guidelines for expected credit losses

On February 2nd, the **Basel Committee** launched a **consultation** on its "guidance on accounting for expected credit losses", specifying the Basel Committee's **supervisory expectations for banks** on the matter. With the global transition to an ECL accounting framework, the Committee is updating its guidance.

It also sets out Committee's expectations concerning the way that **ECL accounting framework** should interact with **a bank's overall credit risk practices** and **the regulatory framework**.

The guidelines are structured around **11 fundamental principles** and includes an appendix for jurisdictions applying International Financial Reporting Standards (IFRS).

The ECL accounting framework aims to reflect the fact that **credit quality deteriorates far earlier than when loss events are incurred**. In order to reach this objective, an important feature of ECL accounting framework is to **take into account forward-looking information and macroeconomic factors**. Therefore such an ECL framework should not rely on only on historical credit data and current information.

This document replaces the **Committee's June 2006 guidance** which was **based on the incurred-loss model of accounting**.

Comments on the proposals should be **uploaded** on a dedicated web page.

The consultation deadline is on April 30th 2015.

23 January 2015: Basel Committee work programme

On January 23rd, the **Basel Committee** released its work programme for 2015 and 2016. The Committee will **focus on the regulatory framework review** in order to ensure the consistency and the calibration of its implementation.

The Basel Committee will continue its work on **methods of measuring risk-weighted assets**. Several consultations have been launched on **standardised approaches for credit, market and operational risk**.

In addition, the Basel Committee will carry out new in initiatives in order to:

1. Assess the interaction, coherence and overall calibration of the reform policies;
2. Review the regulatory treatment of sovereign risk;
3. Assess the role of stress testing in the regulatory framework, in light of national developments.

The Committee also wants to finalise the **calibration of the leverage ratio**, revise the **standardised approaches** and **implement a capital floor**.

19 January 2015: LCR delegated act published in the EU Official Journal

On January 17th, the **LCR delegated act** was **published in the EU Official Journal**.

The **LCR delegated act was definitively adopted** on January 12th.

Indeed, both the Parliament and the Council did not object to the LCR delegated act. The LCR delegated act has been approved as published by the European Commission on October 10th 2014 **so that the exemption/derogation for factoring is still included at Art. 33.**

The LCR delegated act **will enter into force the 20th day after its publication in the EU Official Journal**, i.e. February 6th.

The LCR delegated act will apply from October 1st 2015.

15 January 2015: EBA's impact assessment of new liquidity coverage requirements

On January 15th, the **European Banking Authority** (EBA) published a report **assessing the impact of the liquidity coverage requirements on EU financial industry**, i.e. the Liquidity Coverage Ratio delegated act adopted by the European Commission.

According to the EBA report, the implementation of the LCR delegated act *"is **not likely to have a negative impact** on the stability of financial markets and of the supply of bank lending"*.

The EBA identified 4 main factors explaining the *"absence of any detrimental impact on aggregate level"*:

1. The significant improvement of compliance of EU institutions with LCR requirements;

2. The balance sheet adjustments to meet LCR requirements for non-compliant institutions could be done *"without necessarily having a negative impact"*;

3. The reduction of credit supply from non-compliant institutions has been counterbalanced by the credit supply of compliant banks;

4. **The implementation of the delegated act *"will have a marked positive impact on the LCR of specialised credit institutions (such as factoring and leasing, auto and consumer credit banks and other specialised credit institutions), which were identified in first LCR Implementing Act report as being potentially detrimentally affected by the LCR"*.**

To be noticed: an exemption/derogation for factoring is included in the LCR delegated Act at Art. 33.

23 December 2014: EBA issued new draft technical standards concerning disclosure requirements for EU banking sector

On December 23rd, the European Banking Authority (EBA) published final Guidelines related to the information that banking sector institutions should disclose under the Capital Requirement Regulation. These Guidelines aim to ensure the consistency of disclosures practices of the EU banking sector and to guarantee a high level of transparency.

More specifically, these Guidelines cover :

1. the process that institutions should follow
2. the criteria they should consider when assessing the use of any waiver of disclosure requirements related to:
   - The materiality of disclosures,
   - The proprietary of disclosures,
   - The confidential nature of disclosures,
   - The frequency of their disclosure.

These Guidelines will apply six months after their publication in the Official Journal of the EU.

11 December 2014: Basel Committee issued revisions to the securitisation framework under Basel II

On December 11, the Basel Committee issued revisions to the securitisation framework. These revisions deal with Basel II securitisation framework. They aim to strengthen the capital standards for securitisation exposures.

The most significant revisions with respect to the Basel II securitisation framework concern:

(i) The hierarchy of risk approaches, with at its top the Internal Ratings-Based Approach;
(ii) The risk drivers used in each approach;
(iii) The amount of regulatory capital banks must hold for exposures to securitisations (i.e. the framework's calibration).

The revised framework will come into effect in January 2018, as a part of the Basel III agenda.

5 December 2014: Basel Committee's assessment of the EU regulatory framework

On December 5th, the Basel Committee published a report assessing the implementation of the Basel capital framework in the nine EU Member States that are members of the Basel Committee. This assessment is based on the EU's Capital Requirements Regulation (CRR) and Fourth Capital Requirements Directive (CRD IV). **The Basel Committee's report concludes that the EU regulatory framework is *"materially non-compliant"*.**

According to the report, the EU regulatory framework is *"compliant"* or *"largely compliant"* with the Basel III rules on 12 of the 14 components assessed.

The Internal Ratings-based (IRB) approach for credit risk was assessed *"materially non-compliant"* because of the treatment of exposures to SMEs, corporates and sovereigns.

The EU's counterparty credit risk framework was also considered as *"non-compliant"*. Because it provides an exemption from the Basel framework's credit valuation adjustment (CVA) capital charge for certain derivatives exposures.

Both the European Parliament and the Commission reacted strongly to the Basel Committee's assessment. The Chair of the Committee on Economic and Monetary Affairs (ECON), Roberto Gualtieri (S&D, Italy), declared that *"the opinion of a body that is working without legitimacy and without any transparency cannot modify the decisions taken democratically by the EU institutions"*. Jonathan Hill, Commissioner for Financial Services,highlighted that the EU regulatory framework applies to the entire EU banking sector, i.e. 8000 credit institutions. He reminded that the EU framework *"non-compliance"* was a consequence of deliberate choices aiming to stimulate growth and job creation.

27 November: EBA Opinion and Report on the definition of "credit institution" in CRR

On November 27th, the European Banking Authority published two documents related to the perimeter of credit institutions defined under the Capital Requirements Regulation (CRR):

- An opinion addressed to the European Commission on the different approaches across EU Member States on the interpretation of the definition of *"credit institution"* in the CRR;
- A report focusing on:
  - The interpretation of the term *"credit institution"*;
  - The prudential treatment of entities carrying on credit intermediation but not defined as "credit institutions".

A *"credit institution"* was defined in the CRR as *"an undertaking the business of which is to take deposits or other repayable funds from the public and to grant credits for its own account"*.

According to the EBA, the different interpretations of the term *"credit institution"* is due to the absence of a definition of the key-terms, as *"deposit"* or *"other repayable funds"*. In its report, the EBA observes another relevant divergence related to the prudential treatment of entities established in the European Union which carry on bank-like activities within the scope of credit intermediation but are not subject to prudential requirements under CRR or CRD IV.

In both cases, the EBA urges the Commission *"to give consideration to possible clarifications"* and to determine if it would be appropriate *"to put forward any Union legislative proposals"*.

11 November 2014: the LCR delegated act under scrutiny of the ECON Committee

On November 11th, the Economic and monetary Affairs Committee of the European Parliament used its scrutiny power on delegated acts related to the Capital Requirement Regulation (CRR). The MEPs analysed the **CRR delegated act concerning the Liquidity Coverage Ratio** (LCR).

No objection on the LCR delegated act at the Parliament was raised. More precisely, there was no question either comment upon the Art. 33 during the scrutiny of the act.

The European Commission announced that the new reporting templates should be available in April 2015. Sven Giegold (Green/EFA, DE) asked for explanations about the inclusion of covered bonds and Asset-backed securities into the Highly Liquid Assets category. Niall Bohan, head of the unit "Banks and

financial conglomerates" argued that the EBA report provided empirical data to back the Commission proposal.

The period for comments expired on November 12th. The Parliament and the Council have until January 12th, 2014 to object.

3 November 2014: Basel Committee publishes the Net Stable Funding Ratio final version

On October 31th, the **Basel Committee** published the final version of the **Net Stable Funding Ratio** (NSFR). The NSFR requires that banks maintain "*a stable funding profile in relation to their on- and off-balance sheet activities"*. The standard aims to reinforce banks' capacity to resist to liquidity and solvency shocks over a year. One objective is to avoid a too big gap between assets and liabilities maturity. Doing so, it aims to reduce bank failure risk and to avoid systemic consequences for the whole banking sector.

In order to contain these risks, **the NSFR** :

- ***"Limits overreliance on short-term wholesale funding,***
- *Encourages better assessment of funding risk across all on- and off-balance sheet items,*
- *And promotes funding stability*."

The NSFR is calculated as follows:
Available Stable Funding (ASF) / Required Stable Funding (RSF) ≥ 100%

The main changes from the consultative document published in January 2014 deal with the RSF for:

- short-term exposures to banks and other financial institutions;
- derivatives exposures; and
- assets posted as initial margin for derivative contracts.

The NSFR completes the *Liquidity Coverage Ratio* (LCR) in its prudential approach under Basel III. The LCR requires that banks have enough liquid assets to resist to a 30-days liquidity crisis.

The NSFR will become a minimum standard by January 1st, 2018.

30 October 2014: Commission report on transparency accounting for banks

On October 30th, the European Commission published a report on new reporting obligations regarding banks and investment companies. Under CRD IV and CRR new rules, they have to report annually, on a consolidated basis and from each country in which they are established:

- Since July, 1st: the corporate name, the nature of the activity, the geographic localisation, their turnover and their number of salaries;
- Starting on January, 1st: pre-tax operating income, income taxes, public subsidies perceived.

According to the Commission report, the new obligations *"are not expected to have a significant negative economic impact"*. The report concludes that these new reporting duties have a positive effect, providing better information to investors while helping to restore confidence in the banking sector. Moreover, the Commission estimates that the publication of this information could lead to *"a reduction in institutions' ability to mask their true performance"* (earnings management).

30 October 2014: Delegated act on the identification of the geographical location of credit exposures

On October 30th, a new delegated act of CRD VI was published in the Official Journal of the European Union. This new act provides regulatory technical standards on *"the identification of the geographical location of the relevant credit exposures for calculating institution-specific countercyclical capital buffer rates"*.

These technical standards will enter into force on November 29th and will be directly applicable.

29 October 2014: EBA opinion on prudential requirements for credit and investment institutions

On October 29th, the European Banking Authority (EBA) published an opinion addressed to the European Commission on the rules governing the levels of application of prudential requirements for credit and investment institutions (Pillar 1 and 2), in particular the **exemption regime**.

The EBA's opinion is that the **use of waivers should be reviewed** in the future to allow for better alignment. Such a review should also take into account how and where the existing exemptions interact both with bank's recovery and resolution strategies and with the new intragroup financial support regime introduced by the Bank Recovery and resolution Directive (BRRD).

A final report will be transmitted to the European Parliament and Council by end December 2014.

10 October 2014: LCR delegated act published

On October 10th, the European Commission published the delegated act of CRR concerning the Liquidity Coverage Ratio (LCR). This delegated act specifies a set of rules on the liquid assets, cash outflows and cash inflows needed to calculate the precise liquidity coverage requirement.

The LCR delegated act includes derogation for factoring and leasing companies. Art. 33 : "*Subject to the prior approval of the competent authority, **specialised credit institutions may be exempted from the cap on inflows when their main activities are leasing and factoring business,** excluding the activities described in paragraph 4, and the conditions laid down in paragraph 5 are met*".

The European Parliament and the Council dispose of 3 months, renewable, to object (or not) to the LCR delegated act.

22 September 2014: Commission should adopt LCR delegated act by October

During his exchange with the ECON committee on September 22nd, Commissioner Barnier gave more information about the delegated act concerning the Liquidity Coverage Ratio (LCR) that was supposed, to be adopted by the end of past July. Michel Barnier announced that the LCR delegated act should finally be adopted before the end of October and will "*take into account the EU banking sector specificities*".

Once a delegated act is published, the European Parliament and the Council have 3 months to reject the text. They are able to ask for 3 more months in order to study the text. Once this delay past, the delegated act is officially adopted and can enter into force.

20 August 2014: EBA publishes final templates for the EU-wide stress test

On August 20th 2014, the European Banking Authority (EBA) published the final templates for the 2014 EU-wide stress test for the banking sector.

These common templates for all EU banks show the type and the format of data that will be disclosed on a bank by bank basis. The EBA will act as the central data hub for all EU banks providing a comprehensive dataset in an editable and user-friendly format. Such a dataset will be disclosed in a consistent and comparable way across the Single Market.

The final results of the comprehensive assessment of the EU banking sector will be published on 26 October 2014.

30 July 2014: updated EBA's technical standards on supervisory reporting

On 30 July 2014, the European Banking Authority published its Final draft Implementing Technical Standards (ITS) amending the Commission's Implementing Regulation on supervisory reporting under CRR.

These final draft ITS include minor changes to templates and instructions as well as to correct legal references and other clerical errors.

The amendments are expected to be applicable for reporting as of December 2014.

30 June 2014: ESRB publishes recommendations on countercyclical buffers

On 30 June 2014, the European Systemic Risk Board (ESRB) addressed to bank regulators its recommendations on setting countercyclical capital buffers (CCBs). The text is designed to help authorities to operationalise this new macro-prudential instrument. It follows on the EU prudential rules for the banking system that came into effect on 1 January 2014.

National regulators have until 30 June 2014 to notify the ESRB of the measures taken in accordance with these recommendations.

2 July 2014: EBA publishes several texts about credit risk and credit institutions

On 2 July 2014, the European Banking Authority published its technical advice to the Commission on the use of a prudential filter for gains and losses arising from banks' own credit risk on derivatives. The EBA considers the current international approach, under Basel III rules, as appropriate.

On the same day, the EBA published 5 lists about credit risk. These lists aim to assist the EU institutions in the calculation of their capital requirements for credit risk.

They cover the treatment of exposures to EU regional authorities and changes to capital requirements (risk weights and minimum LGD) for exposures secured by immovable property. They deal also with the treatment of equity exposure by banks using the IRB approach and the eligibility of physical collateral.

On 30 June 2014, the EBA also published its final Guidelines on harmonised definitions and templates for funding plans of credit institutions. The objective of such guidelines is to harmonise reporting of funding plans within the European Union. They are to be considered as a new tool addressed to competent authorities to assess the feasibility, viability and soundness of funding plans, as well as their impact on the supply of credit to the real economy

June 2014: Commission publishes a new set of delegated acts of CRD IV and CRR

Since late May 2014, many technical standards for CRD IV and CRR have been published in the EU Official Journal:

- For determining what constitutes the close correspondence between the value of an institution's covered bonds and the value of the institution's assets;
- Specifying the information that competent authorities of home and host Member States supply to one another;
- For the definition of market;
- For determining proxy spread and limited smaller portfolios for credit valuation adjustment risk;
- Specifying the classes of instruments that adequately reflect the credit quality of an institution as a going concern and are appropriate to be used for the purposes of variable remuneration;
- For non-delta risk of options in the standardised market risk approach;
- For assessing the materiality of extensions and changes of the Internal Ratings Based Approach and the Advanced Measurement Approach;
- For defining material exposures and thresholds for internal approaches to specific risk in the trading book;
- With respect to qualitative and appropriate quantitative criteria to identify categories of staff whose professional activities have a material impact on an institution's risk profile.

All these delegated acts entered in force on 9 and 14 June 2014. These are binding in their entirety and directly applicable in all Member States.

28 May 2014: 3rd version of the bridging manual for reporting frameworks of the ECB and the EBA

The European Central Bank and the European Banking Authority jointly published an updated classification system between their respective reporting frameworks. It has been written by the Joint Expert Group on Reconciliation of credit institutions' statistical and supervisory reporting requirements. It is composed of two parts.

First, a bridging manual linking the ECB's statistical requirements on monetary, interest rate and securities holdings with the supervisory reporting templates (mainly FINREP, COREP and large exposures) of the ITS on supervisory reporting. This 3rd methodological manual includes :

- the final implementing technical standards on supervisory reporting for the CRD IV/CRR framework of April 2014;

- the ECB Regulation on securities holdings statistics of October 2012;
- the ECB Regulations concerning balance sheet items (BSI) and interest rates (MIR) statistics of September 2013;
- common modelling of the reporting frameworks with EBA's Data Point Model.

Second, a relational database aiming to help identifying similarities and differences between ECB's and EBA's reporting frameworks. This database comes with an instruction notice.

28 May 2014: EBA publishes a list of CET1 capital instruments

The European Banking Authority published a list of capital instruments which have to be classified as Common Equity Tier 1 by national authorities. As stated by the Capital Requirements Regulation, the list includes all the CET1 capital instruments issued by institutions and evaluated as compliant by national authorities.
The list will be updated on a regular basis.

29 April 2014: ECB and EBA publish stress tests' scenarios

The European Central Bank and the European Banking Authority published the scenarios of stress tests for EU banks. These stress tests aim to evaluate the resilience of the banks to external shocks.

To perform such a EU wide stress test, the EBA set up different scenarios: a scenario based on the European Commission projections, an adverse macroeconomic scenario, market risk scenarios, securitisation scenario and a sovereign bond haircuts scenario.

The ECB released the conditions for banks to cover capital shortfalls revealed by the comprehensive assessment (stress tests and Asset Quality Review). Banks will have to realise such corrections within six to nine months after the disclosure of the assessment results.

15 April 2014: Basel Committee adopts a new standard on large exposures

This Basel Committee on Banking Supervision standard sets out a supervisory framework for measuring and controlling large exposures. Its objective of these limits is to constrain the maximum loss a bank can face in case of sudden failure of a counterparty.

The standard includes a general limit applied to all of a bank's exposures to a single counterparty. The same limit applies to a bank's exposure to identified groups of connected counterparties. The limit is set at 25% of a bank's Tier 1 capital. A tighter limit exists for global systemically important banks (G-SIBs). This limit has been set at 15% of Tier 1 capital.

The framework is scheduled to take effect from 1 January 2019.

March 2014: EBA's final draft technical standards on own funds and liquidity requirements

On 28 March 2014, the EBA published its final draft Implementing and Regulatory Technical Standards related to liquidity requirements for specific currencies. These will be a part of the EU Single Rulebook.

This set of rules includes standards on :

(i) Currencies for which the justified demand for liquid assets is superior to their availability;
(ii) Derogations for eligible currencies;
(iii) A list of currencies with an extremely narrow definition of central bank eligibility.

On 27 March 2014, the EBA published also its final draft Regulatory Technical Standards on own funds (Part IV).
The Commission has now to evaluate and adopt these technical standards.

10 March 2014: EC public hearing on liquidity coverage requirements and leverage ratio

Following the submission by the EBA of its report on impact assessment for liquidity measures in the CRR, the European Commission started working on the implementing standards of the LCR.

The unit in charge of writing these standards, following remarks, including the EUF's ones, on the EBA's report, decided to organise a public hearing in order to gather more stakeholders' views on the issue.

The hearing will take place on 10 March, from 14:00 to 18:00, in Brussels. You can see the programme and register here.

After the hearing, the Commission will receive written comments from the stakeholders on this issue until 31 March.

12 Jan. 2014: the Basel Committee modify the leverage ratio and the NSFR in Basel III

On 12 January 2014, the Group of Governors of central banks and Heads of Supervision (GHOS) of the Basel Committee on Bank Supervision endorsed two set of changes to the Basel III rules, namely:

- Amendments to the Basel III's leverage ratio framework and disclosure requirements (full text and press release)
- Changes to the NSFR : proposed revisions are submitted to public consultation until 11 April 2014 (full text and press release)

European Analytical Credit Dataset	*Back to summary*

No update in July.

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	*Back to summary*

No update in July.

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** (EBAA) 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 fram**ework"*.

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 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.

1 December 2014: MMF Regulation still discussed at the Parliament and at the Council

On November 27th, the Italian Presidency of the Council published a new compromise proposal on the same text.

On December 1st, Neena Gill (S&D, UK) presented before the ECON Committee her draft report on the Money Market Funds (MMF) Regulation.

The blocking point is the same in either the two institutions, i.e.: the treatment of Constant Net Asset Value Money Market Funds (CNAV MMF). Both the rapporteur and the Italian Presidency moved away from the Commission proposal to introduce a capital buffer of 3% for them.

At the EP, Neena Gill suggested to create a new category of CNAV MMF which would have to invest 80% of its assets in sovereign bonds by 2020. The rest of the CNAV MMF would have to be converted in Variable Net Asset Value Money Market Funds (VNAV). EPP and ECR shadow rapporteurs, Hayes (IE) and Syed Kamal (UK), disagreed this proposal and asked for an impact assessment.

At the Council, a consensus exists on the suppression of the 3% buffer. However, there still is a strong opposition on the prudential treatment of CNAV MMF between the Member States hosting such funds – Ireland and Luxembourg – and the Member states in favour of their interdiction – France and Germany for example.

19 November 2014: Council found a general approach on Securities Financing Transactions Regulation

On November 19th, the Permanent Representatives Committee (COREPER) approved the general approach on the Securities Financing Transactions Regulation.

The SFT Regulation aims to increase the transparency of securities financing markets by introducing new reporting duties. The information on SFTs would be reported to trade repositories and investors in collective investment undertakings.

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 general approach reached by the Council proposes stricter reporting duties than the Commission original proposal. Such a general approach constitutes a mandate for the Council Presidency for further negotiations with the other EU institutions.

To be noticed, the Council outran the European Parliament on this text. According to the co-decision procedure, the Parliament vote on the text before the Council. The institutional custom is that the Parliament usually gives its position before the Council. For now, the EP rapporteur, Renato Soru (S&D, IT), has not presented his draft report yet before the ECON Committee. This presentation is planned for January 21st, 2015.

30 October 2014: FSB Global Shadow Banking Monitoring Report

On October 30th, the Financial Stability Board published its fourth annual monitoring report on Shadow Banking. The data used for the report came from 25 jurisdictions, gathering 90% of global financial system assets at the end of 2013. The euro area is considered as a whole.

According to the report, the Shadow Banking sector grew by 7% ($5 trillion) in 2013, reaching $75 trillion. The Shadow Banking assets cover 25% of the global financial assets and 50% of banking system assets.

13 October 2014: MMF parliamentary calendar

On October 13th, the ECON Committee discussed the proposal of regulation on Money Market Funds (MMF). No major announcements were made. The debates are still focused on two points:

- The introduction of a 3% countercyclical buffer;
- The interdiction of constant net asset value (CNAV) funds.

The calendar for the proposal discussion has been announced :

- Report presentation: November 1st, 2014
- Deadline for amendments: December 11th, 2014
- Debate in ECON Committee: January 21st, 2015
- Vote in ECON Committee: February 23rd, 2014
- Vote in plenary: March 2nd, 2014.

September 2014: ECON committee has chosen the rapporteurs on Shadow banking

The European Parliament political groups have chosen their rapporteurs for the ECON committee. Two S&D MEPs will be in charge of Shadow banking regulation, Renato Soru (S&D, IT) will be rapporteur for the proposal of regulation concerning the transparency of securities financing transactions. On the proposal of regulation on Money Market Funds, Neena Gill (S&D, UK) will replace Saïd El Khadraoui (S&D, BE).

22 August 2014: ESMA's opinion on the application of the guidelines on Money Market Funds

On August, 22nd 2014, the European Securities and Markets Authority (ESMA) published its opinion on how national competent authorities should apply the modifications to the guidelines on money market fund. These guidelines deal with the mechanistic reference to credit ratings and were set out by the European Supervisory Authorities on February; 6th 2014 in a report on Mechanistic Reference to Credit Ratings.

29 Jan. 2014: Legislative proposal on transparency for transactions in the shadow banking sector

One year after the Liikanen Group submitted to the European Commission its report on the structural reform of the EU banking sector, Commissioner Barnier finally tabled his legislative proposal to ring-fence risky trading activities in banking groups (see "other topics of interests").

In order that the concerned banks cannot circumvent the new rules by shifting parts of their activities to the shadow banking sector and enjoy its relatively lower level of regulation, the Commission also tabled a complementary proposal for a Regulation aimed at increasing transparency of certain transactions outside the regulated banking sector, in particular securities financing transactions (SFTs).

Two main elements in this proposal:

- Reporting of SFTs: any party to a SFT will have to have the details of the transaction registered on central repositories, which will be available to competent supervirory authorities;
- Information obligations for investment funds managers: the proposed Regulation would add extra information requirements for funds managers. They would have to inform investors of any recourse they had to SFTs.

Considering the complexity and sensitivity of the issue, and the approaching European elections in May 2014, the legislative work on this proposal is highly unlikely to start before September 2014.

14 Nov. 2013: FSB Global Shadow Banking Monitoring Report progressively refined to identify risks

The Financial Stability Board (FSB) released on 14 November the report of its third annual monitoring exercise of shadow banking.

For this new exercise, the FSB defines shadow banking as *"credit intermediation involving entities and activities (fully or partially) outside the regular banking system"* or *"non-bank credit intermediation in short"*. It recalled that *"the objective is to address bank-like risks to financial stability emerging outside the regular banking system while not inhibiting sustainable non-bank financing models that do not pose such risks"*.

A set of new indicators have been included by the FSB in order to refine its analysis of risks, such as whether the institution belongs or not to a consolidated banking group.

4 Sept. 2013: EC Communication on shadow banking

On 4 September, the European Commission published two texts related to shadow banking.

First, a proposal for a Regulation on Money Market Funds (MMFs), which should not impact factoring. It proposes to set prudential requirements for these funds. Money Market Funds are used by many businesses and households as an alternative to banking deposits and a source of funding, but during the crisis they have proved to be vulnerable to runs of investors and a source of systemic risk.

Second, and more importantly as far as factoring is concerned, the Commission released its Communication on shadow banking. This Communication lists the five priorities for action in the field of shadow banking:

1. Increased transparency: in particular setting up the central registers for transactions on derivatives (in application of EMIR Regulation) and setting the Legal Entity Identifier in Europe;

2. Enhanced framework for certain investment funds: through the above-mentioned proposal for a Regulation on MMFs and a review of the OPCVM Directive;

3. Reducing the risk associated with securities financing transactions: the Commission intends to propose legislation on securities law, in order to reduce the risks associated with repurchase agreements or securities lending transactions and make it easier to identify property rights and counterparties;

4. Strengthening the prudential banking framework in order to limit contagion and arbitrage risks: this is where factoring companies may be strongly affected, as the Commission intends to limit on the one hand exposure of banks to unregulated entities, and on the other hand defends the idea that prudential requirements should be extended to avoid opportunities for regulatory arbitrage between regulated and unregulated sectors.

   As regards exposures to unregulated entities:
   - Starting from 2014, banks will have to report to their supervisors their main exposures to unregulated entities;
   - By the end of 2014, the EBA is requested to prepare guidelines to limit banks' exposure to unregulated financial counterparties;
   - By the end of 2015, the Commission will determine whether it is appropriate to establish such limits in EU legislation.

   As regards a possible extension of the scope of application of prudential rules (CRD IV/CRR), the Commission formulates the following considerations:
   - Extending the scope would allow to respond the concern expressed by the European Parliament that prudential rules should apply to entities performing activities similar to those of banks without a banking licence;
   - The definition of credit institution as any "undertaking whose business is to receive deposits or other repayable funds from the public and to grant credit for its own account" is problematic. Indeed, "repayable funds from the public", as well as "credit" or "deposits" are notions whose interpretation is not harmonised in Europe, which can lead to some entities being considered as credit institutions and submitted to CRD IV/CRR in some member states while not in others.

   Therefore, it plans the following:
   - EBA will be requested to assess the size of those financial entities outside the scope of CRD IV/CRR as a part of the macro-prudential supervision framework;
   - The Commission will consider this assessment and other possible forthcoming recommendations by the FSB and will propose, if necessary, legislative measures.

This part of the Commission's battle plan is likely to strongly impact factoring. Indeed,

1. *For all unregulated factoring companies getting their funding from banks, the EBA's guidelines to limit banks' exposures may result in a limitation of the available funding.*

2. *Medium-/Long-term plans to extend the scope of banking prudential rules may result in applying a "light" version of CRD IV to financial entities such as factoring, which currently have different levels of regulation and supervision across the EU.*

5. Greater supervision of the shadow banking sector: The Commission highlights the "multifaceted and dynamic nature" of shadow banking, making it very difficult for an isolated authority to supervise it efficiently. It therefore recommends as much cooperation as possible between sectoral authorities at national and European level, and between regulatory fora at international level.
   The efficient supervision of shadow banking activities will also be one of the key issues in the forthcoming review of the European System of Financial Supervisors (EFSF), on which the EC intends to work in 2013 and 2014.

July 2013: Commissioner Barnier announces Communication on shadow banking in September

The European Commission was supposed to adopt and publish on 24 July its proposal for a Regulation on money market funds, along with a Communication on the next steps of its action to regulate shadow banking activities.

Commissioner Michel Barnier, in charge of the Internal Market and Services, indicated that the adoption of these two documents is postponed to September. The Communication is expected to unveil the Commission's orientation to regulate shadow banking activities such as securitisation, securities lending and repo.

June 2013: EC Communication on shadow banking expected 24 July

The European Commission announced it will adopt on 24 July a Communication on shadow banking, accompanying a proposal for a regulation on money market funds (MMF), which shall not impact factoring.

The Communication will be a non-binding document, indicating the political orientation of the Commission regarding the issue of shadow banking and its broad intentions.

Insurance Mediation Directive II	*Back to summary*

No update in July.

30 June 2015: agreement between Council and Parliament

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

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

INSURANCE DISTRIBUTORS AND SELLERS REQUIREMENTS

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

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

DISCLOSURE REQUIREMENTS

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

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

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

OTHERS OBLIGATIONS TOWARDS CONSUMERS : THE END OF TIED SELLING

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

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

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

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 21th, 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 trialogue 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 July.

18 February 2015: Green paper on Capital Markets Union deals with contract law fragmentation

On February 18th, Jonathan Hill, Commissioner for Financial Stability, Financial Services and Capital Markets Union, launched the Commission initiative aiming to create an Capital Markets Union by 2019.

In its Green paper, the Commission identifies **legal fragmentation issues** for specific financial instruments that would impact factoring activities: *"Differences between the **national conflict-of-law rules** in respect of the **third party effects of assignment and the order of priority between an assignment over the rights of other persons**, as well as between certain substantive rules such as **the conditions for the effectiveness of an assignment** hamper the development of cross-border financing instruments"*.

A report identifying problems and possible solutions for should be published by the Commission in 2015.

The Commission highlights the existence of fragmented legal frameworks in many other fields: **company law**, **corporate governance**, **insolvency** and **taxation**. The Commission insists on still **divergent national insolvency frameworks** and announces that **an evaluation will be conduct during 2015**.

In both cases, the Commission's objective is to **ensure *"greater legal certainty"* in order to make investments easier**, particularly on a cross-border basis.

The consultation is open until May 13th 2015.

A conference about the first results of the consultations will be set up by the European Commission, in Brussels in June, 8th.

The Commission's CMU action plan should be released next September, even if it could be delayed in October or November.

VAT on financial services	*Back to summary*

No update in July.

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	*Back to summary*

No update in July.

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:

1. **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"*.

2. **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.

3. **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 documents 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 Kariņš 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 July.

13 March 2015: the Council reached an agreement on Chapter II of the Regulation

On March 13th, **the EU Council reached a partial general approach** on two specific points of the Data Protection Regulation:

1. **Chapter II, i.e. "*Principles relating to personal data processing*":**

   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 *"lawful, fair and transparent data processing"*.

   Chapter II of the draft regulation includes the **Article 6 par. 1 concerning lawfulness of processing EUF is interested in.**

   Several Member States' delegations expressed some concerns. Austria asked for further 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.

4. 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-shop-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 processer 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 July.

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

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

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

16 April 2014: Final act signed

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

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

6 Feb. 2013: Trialogue agreement on draft Directive on e-invoicing in public procurements

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.

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).

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.

17 Dec. 2013: Vote of the draft Directive in IMCO Committee

The Committee on the Internal Market and Consummer Protection of the European Parliament voted on 17 December 2013 on the draft Directive on electronic invoicing in public procurements.

The consolidated text of the Committee's report was published on 6 January 2014

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

No update in July.

13 May 2014: Council adopts the EAPO Regulation.

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

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

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

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

6 Feb. 2014: EP and Council agree on the EAPO Regulation, final vote in April

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.

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.

Oct. 2013: LIBE report published, vote in plenary session on 3 February 2014

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.

The vote of the Parliament's plenary assembly is scheduled on 3 February 2012.

30 May 2013: LIBE Committee votes on MEP Baldassare's draft report

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.

Financial transaction tax	*Back to summary*

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 FFT 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:
   - To set a broad scope, including most of derivatives;
   - 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.**

4 December 2014: Italian Presidency shouldn't reach an agreement

The Italian Presidency will not propose a new compromise on the Financial Transaction Tax at the next ECOFIN meeting, on December 9th. Instead, Italy decided to present a state of play on the work accomplished on FTT.

An agreement exists on shares' taxation. The blocking point remains the derivatives' taxation. The Italian Presidency proposed two taxation methods:

1. To differentiate derivatives according to their maturity and to their type in order to adjust the taxation on these two criteria;
2. To use the premium as a taxable base only for the "options-type" derivatives.

3 December 2014: Legislative initiatives on taxation are planned for 2015

After the "Luxleaks" scandal, there has been an acceleration on the taxation pending issues.

1. The pending investigations on **tax rulings** should be the Commission priority for the end of the year. They deal with fiscal agreements between multinational companies and national fiscal authorities of Luxembourg, Ireland and Netherlands.

2. At the Council, an agreement is close on the second part of the Par**ent-subsidiaries directive**. This second part suggests to the States to adopt a "common anti-abuse rule". It would allow them to ignore artificial tax arrangements of corporate groups.

3. Furthermore, the European Commission announced that a set of initiative on fiscal issues will be presented during 2015.

   In particular, Pierre Moscovici, Commissioner for Taxation, will be in charge of drafting a legislative proposal on mandatory exchange of information between the Member States on tax ruling arrangements they may make with companies. Such a proposal should be presented during 2015 first quarter.

4. The Commission should also make some changes to its proposal on **a common consolidated corporate tax base**. The discussions on this text are currently blocked at the Council.

5. For its part, the European Parliament decided to draft two reports on taxation:
   - An investigative report to examine the fiscal practices of member states;
   - A legislative report to formulate concrete proposals for the Commission.

29 October 2014: Presentation of the state of play before the Council

The Italian Presidency will present to the ECOFIN Council the progress made on the enhanced cooperation for a financial transaction tax on November 7th.

On shares' taxation, an agreement could be found. The scope has been almost completely defined. There are still discussions on an exemption for transactions in shares made by small companies.

On derivatives' taxation, there are still many disagreements on the types of derivatives that should be taxed. Meanwhile France wants to exclude shares derivatives, other countries want to tax several types of CDS. Some countries worry about the impact of a taxation on interest rate derivatives on state monetary policy.

Yet, after the publication of the Presidency document, some Member States highlighted the gap between the current state of negotiations and the Presidency expectations. They think that the work is not advanced enough to be presented before the next ECOFIN Council. Other Member States are worried about a too deep involvement of the entire Council on the enhanced cooperation.

13 September 2014: FTT discussed at the informal ECOFIN in Milan

Aside from the informal ECOFIN held in Milan on September 13th, the 11 Member States (MS) involved in the enhanced cooperation discussed their project of Financial Transaction Tax. They reaffirmed their will meet the deadline, despite the lack of real progress. The objective of the 11 MS is to reach

an agreement by the end of the year. All the technical work should have been complete by this date. As a result, the timetable should be very hard to respect.

The FTT will be included in Pierre Moscovici's portfolio even if he won't have any control upon the enhanced cooperation.

3 July 2014: German and French professional organisations warn against FTT

In joint press release published on 3 July 2014, German and French professional organisations expressed their concern about the financial transaction tax project: AFEP, BDI, Deutsches Aktieninstitut, MEDEF and Paris EUROPLACE insist on the direct negative impact the EU FTT would have on the European economy. According to these organisations, the FTT *"would put companies established in the area of taxation at a competitive disadvantage vis-à-vis other companies from outside the participating EU Member States"*.

6 May 2014: 10 Member States want the FTT to enter into force before 1st January 2016.

10 ministers of the 11 Member States involved in the FTT enhanced cooperation declared their will and determination to implement the Financial Transaction Tax "*on 1st January 2016 at the latest*". The first phase will tackle the operations on securities and "some derivatives". No further detail was given neither about the principle which will drive such a tax, nor the assignment of the income from the FTT. Austrian Minister Michael Spindelegger commented that was "simply a political declaration. Our common ground is quite modest".

The opponents (UK, Sweden, Denmark, Luxembourg, Malta and Netherlands) criticised the lack of transparency and of impact assessment in the works within the enhanced cooperation.

30 April 2014: Court of Justice dismisses the UK action

On 30 April 2014, the Court of Justice of the European Union dismissed the United Kingdom's action against the decision authorising eleven Member States to establish enhanced cooperation in the area of financial transaction tax (FTT).

This judgement deals with the validity of the decision authorising the enhanced cooperation. The motive of the UK action was that the FTT would have extraterritorial effects. In this case, the Court found impossible to give a judgement based on the FTT potential extraterritorial effects because "*the contested decision […] does not contain any substantive element on the FTT itself*". The Court considered that the arguments of the UK are directed at "*a potential FTT*" and not at "*the authorisation to establish enhanced cooperation*". In consequence the Court decided to dismiss the action.

The European Commission welcomed this decision, hoping it will give "*added impetus*" to the cooperation. The United Kingdom underlined that the Court confirmed "*the UK will be able to challenge the final proposal for a FTT*".

16 April 2014: EP regrets the absence of progress

The European Parliament declared its regrets that the Council has made no progress so far on the legislative proposals of the European Commission to introduce new "real own resources" and among them the Financial Transaction Tax.

18 Feb. 2014: Ministers' meeting on the FTT, political will but no progress

Aside from the Ecofin Council meeting on 18 February, the eleven Member States that engaged in the enhanced cooperation to create a financial transaction tax met, on the initiative of Austria.

This meeting was the first at political level to deal with the question since the European Commission tabled its proposal to set the FTT through an enhanced cooperation. Even though no significant progress was to be expected, the meeting was intended to be symbolic: notwithstanding the numerous criticisms that the proposal is subject of, the eleven governments still want to see this tax to become a reality. Now, they still have to agree on the scope and modalities of the said tax...

10 Sept. 2013: FTT project deemed illegal by Council's legal experts

On 10 September, the legal service of the Council of the EU sent to the Lithuanian Presidency of the Council an opinion on the European Commission's proposal for a tax on financial transactions to be implemented through an enhanced cooperation.

In this opinion, the Council's legal experts explain that the tax goes beyond the participating states' jurisdiction in fiscal matters, and that it would be unlawful under the EU treaties as it would infringe upon non-participating Member States' competences (by forcing their financial institutions to pay the tax even though they refused to participate in the enhanced cooperation).

The legal experts also judged that the project is illegal since it would break the principles of free movement of capital and services, which are cornerstones of the EU single market and embedded in the EU treaties.

Although this opinion is not binding for the Finance ministers of the 11 participating Member States, it could make more difficult the negotiations on the Commission's proposals and give arguments to those non-participating Member States, such as the UK, who already announced their intention to attack the legislation before the European Court of Justice.

3 July 2013: European Parliament votes on the project of FTT through an enhanced cooperation

On 3 July, the plenary assembly of the European Parliament adopted the report voted the previous week by the ECON Committee, based on MEP Anni Podimata (S&D, Greece)'s draft report, on the proposed enhanced cooperation to set up a financial transaction tax in 11 Member States.

The report contains proposals of amendments that the 11 participating Member States can integrate in the Commission's proposals together with their own amendments, or reject.

24 June 2013 : ECON Committee votes on Anni Podimata's draft report

On 24 June, the ECON Committee adopted a report based on MEP Anni Podimata (S&D, Greece)'s draft report on the proposal to implement a FTT through an enhanced cooperation. The MEPs, who are only consulted on this issue, did not change their demands as regards the scope of the tax nor the exemptions to be applied.

Accounting issues	*Back to summary*

No update in July.

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 | *Back to summary*

23 July 2015: Basel Committee and IOSCO published criteria for simple, transparent and comparable securitisation (STC)

On July 23rd, the Basel Committee and the International Organisation of Securities Commissions (IOSCO) published a document specifying the criteria for identifying simple, transparent and comparable securitisation (STC). These criteria are not binding and **should apply only to term securitisation**.

The STC criteria are designed as guidelines for the financial industry and international regulators in developing securitisation structures.

Simple and indicative criteria

The Basel Committee and the ISCO suggest 14 criteria a securitisation has to comply with in order to be considered as simple, transparent and comparable. The 14 criteria are divided in **three main categories related to the different securitisation process risks**:

1. The risks from the underlying assets (Asset risk);
2. The risks from the securitisation structure, especially its transparency (Structural risk);
3. The risks linked to governance of the securitisation parties (Fiduciary and servicer risk).

Both the institutions specify the STC criteria do not substitute to the due diligences investors have to perform, particularly for risk retention.

To be noticed, **leasing is identified as potential underlying asset for STC securitisation**.

The Basel Committee and the IOSCO **do not suggest any preferential prudential treatment for STC securitisations** under Basel III rules, e.g. for capital requirements, even though this point should be a key element of the securitisation legislative initiative the EU Commission will present in next September.

More inclusive proposals than the EBA but with a narrow scope of application

To be noticed, the Basel Committee-IOSCO approach and the EBA's share two principles for qualifying securitisation: simplicity and transparency. However, **the EBA proposals for a simple, transparent and standardised securitisation (STS) ask for a higher convergence of securitisation techniques than the STC criteria**.

Such a difference is motivated by the different objectives of the 2 approaches: **the STC criteria aim to develop convergence in securitisation features whereas the EBA suggest a regulatory standardised framework for securitisation** (*see below*).

The STC Criteria do not concern short-term securitisation, based on Asset-Backed Commercial Papers for example, whereas the EBA suggests specific criteria for such securitisations.

The Basel Committee is exploring how these criteria could be incorporated into the securitisation framework revised in December 2014.

13 July 2015: Jeroen Dijsselbloem reappointed as President of the Eurogroupe

On July 13th, the Finance Ministers of the Eurozone **reappointed Jeroen Dijsselbloem as President of the Eurogroupe**. The Netherlands Finance Minister was unanimously elected, after Luis De Guindos withdrew his candidacy.

Jeroen Dijsselbloem was reappointed for the next 2.5 years.

24 June 2015: Organisational changes within the Commission top management

On June 24th, the European Commission announced its decision to operate changes within its services and its top management.

The European Commission appointed a new Secretary-General, Alexander Italianer (NL), as Catherine Day's successor (IE). Alexander Italianer is currently the Director-General of the Commission's competition services (DG COMP). He is used to Commission high positions: he used to be the head of staff of two EU Commissioners and two Commission Presidents.

The senior management of the Directorate-General "Financial Stability, Financial Services and Capital Markets union" (DG FISMA) will also be reshuffled:

- Jonathan Faull (UK), current Director-General of DG FISMA, will leave his function and become the new Director-General position leading a Task Force responsible for strategic issues related to the UK Referendum;
- **Oliver Guersent (FR), current Deputy Director-General, becomes Director-General of DG FISMA**. Mr Guersent used to be head of cabinet of Michel Barnier when he was Commissioner for Internal Market and Services.
- Katarina MATHERNOVA, currently hors-classe advisor in the Regional policy Directorate-general, (SK) will take Olivier Guersent position as DDG of the DG FISMA.

The Director-General of the Directorate-General "Internal Market, industry, entrepreneurship and SMEs" (DG GROW) will change too: **Lowri EVANS** (UK) will replace Daniel CALLEJA CRESPO.

All those changes will be effective on September 1st 2015.

8 June 2015: Regulatory Agenda for the Capital Markets Union

On June 8th, the European Commission hold a **public hearing on the Capital Markets Union**. At this occasion, Jonathan Hill presented the regulatory agenda of the Commission for the Capital Markets Union.

The EU Commissioner will present the CMU action plan in September 2015.

Short-term initiatives to come (autumn 2015):

- A proposal for the **review of the Prospectus Directive**.
- A legislative proposal aiming to establish **a framework for simple, transparent and standardised securitisation (STS)**, in which issuers will have to keep a part of the risk.

The Capital Requirements Regulation (CRR) and the Solvency II directive (SII) will be amended in consequence.

- **Amendments to Solvency II delegated acts** related to the creation of a new asset class for infrastructures and the implementation of European Long Term Investment Funds (ELTIFs).

By the end of 2015:

- The publication of a **Green Paper on retail finance**.

Future area for medium-term actions:

- A **review of the regulation on venture-capital** (EuVeCa Regulation).
- A reflexion on **crowdfunding, alternative investment funds and ELTIFs role in economy financing**.
- A follow-up on the **private placements market developments**, particularly on Solvency II implementation and different fiscal treatments between the Member States. According to the British Commissioner, French and German framework could become references for the EU.
- A reflexion on the **creation of a 29th professional pension regime**.

The Commissioner also insisted on the need **to achieve the recast of the directive on Institutions for Occupational Retirements Provision (IORP 2)**, still in discussion at the European Parliament.

Long-term areas of action::

The Commission identified several *"horizontal"* barriers penalising cross-border investment, particularly dealing with:

- ✓ **National regulations**, mainly on insolvency proceedings, collateral definition or securities law;
- ✓ **Financial infrastructures**, such as access to credit data, especially on SMEs;
- ✓ **Taxation**.

To be noticed, the **SME standardised credit data** are not part of the short-term priorities of the Commission any more. They are now considered as part of the *"horizontal barriers"* and the long-term objectives.

29 May 2015: EP, Council and Commission agreed on the EFSI Regulation

On May 29th, **the representatives from the European Parliament, the Council and the Commission reached an agreement on the regulation creating the European Fund for Strategic Investment**.

The **European Fund for Strategic Investments** (EFSI) aims to gather at least €315 billion in order to invest in *"strategic European projects"*. It will be guaranteed with € 21 billion of public money with the objective to raise 294 billion of additional capital over the next three years (2015 - 2017).

The last points of negotiation were dealing with the EFSI funding and governance:

1. **EFSI financing**
   The EP was contrary to the re-channelling of €2.7 billion from the research envelope (Horizon 2020) and €3.3 billion from the Connecting Europe Facility (CEF) towards the EFSI.

The final agreement includes a 38% decrease of the contributions from the H2020 and CEF envelopes. In order to balance these cuts, €3 billion will come from the margins of the EU budget.

2. **EFSI governance**
   Two entities will be in charge of the EFSI governance:
   - A **Steering Committee** will be responsible for the overall orientation, the investment guidelines, the risk profile, strategic policies and asset allocation of the Fund. Only representatives from the Commission and the European Investment Bank will sit in this committee ;
   - An **Investment Committee** will choose which specific projects will receive EFSI funds. The Committee will consist of eight independent market experts. A Managing Director and his Deputy who will be in charge of the day-to-day management of the EFSI. Both will have to be nominated by the Steering Committee and auditioned by the EP.
     The EIB will have a veto right within the committee.

External investors, Member States included, **will not be involved into the EFSI governance**.

The agreement has to be officially adopted by both the European Parliament and the Council.
The EFSI is expected to be operational at the end of September 2015.

21 May 2015: State of play and agenda for the Capital Markets Union

On May 21st, the EU Commissioner for Financial Services, Jonathan Hill, was auditioned by the French senators about the Capital Markets Union (CMU) project. On this occasion, he announced that **the Commission would present its legislative initiative for a simple, transparent and standardised securitisation during the autumn 2015**.

During this audition, **the Commissioner was more cautious about other topics, mainly dealing with further regulatory harmonisation**. For example, he did not take position about insolvency regimes or taxation. He added that he will focus on issues where a consensus would be easier to find.

Since the CMU public consultation ended on May 13th, **several EU institutions took position on key aspects** of the Commission project:

- **ESMA proposed action on SME credit data**
  To improve access to SME standardised credit data, the European Securities and Markets Authority (ESMA) suggested ***"further harmonisation of the national accounting standards"***, through the Accounting Directive, and the introduction of specific requirements for information necessary in the process of establishing scoring.

- **European Supervisory Authorities report on securitisation**
  On securitisation, the Joint Committee of European Supervisory Authorities (ESAs) – European Banking Authority, European Insurance and Occupational Pensions Authority and ESMA – published a report concerning disclosure requirements, due diligence obligations, supervisory reporting and retention rules on Structured Finance Instruments (SFIs) in EU regulatory framework. In this report, ESAs recommend, for example, **to**

harmonise due diligence obligations for the different actors involved in securitisation, i.e. requirements from Capital Requirements Regulation, Solvency II and Alternative Investment Fund Manager Directive (AIFMD).

Jonathan Hill, EU Commissioner for Financial Services, will present the CMU action plan on June 8th 2015.

March 2015: J. Hill specified the Commission agenda for financial services

During the past month, Jonathan Hill, EU Commissioner for Financial Stability, Financial Services and Capital Markets Union, further detailed **the EU Commission agenda for financial services** and the way he will conduct his mandate.

The EU Commissioner repeated that **the guiding principles for his action will be *"differentiation"* and *"proportionality"*.** The new Commission wishes to make *"fewer legislative proposals in future"* but to adopt *"better regulation"*. This new guidelines could mean to allow markets participants to regulate themselves, if judged efficient enough, and so not to adopt new legislations. Moreover, the Commission work will rely **on a bottom-up approach**, in order to broadly and deeply involve all stakeholders in policy-making.

The Commission agenda is structured around **different priorities**:

1. **To complete the outstanding financial reforms**
   Lord Hill committed to implement the **European Long Term Investment Funds** (ELTIFs) Regulation as soon as possible and welcomed the adoption of the **Multilateral Interchange Fee** (MIF) Regulation.

   He is also willing to reach an agreement on both the **Insurance Mediation Directive** (IMD II) and the **Payment Services Directive** (PSD II) by the end of the Latvian Presidency of the EU Council. He congratulated the ECON Committee for adopting its report on **Money Market Funds** (MMF) Regulation and urged the Council to make progress on this issue.

   The Commissioner affirmed his **support to the banking structural reform** and reminded the MEPs **the European Commission will set out a proposal on the recovery and resolution of non-bank financial institutions**, particularly Central Counterparties (CCPs).

2. **To implement and assess the adopted reforms**
   The European Commission top priority is to ensure **the effective and consistent implementation of the single Resolution Mechanism**. The Commission is focusing on the transposition of the Bank Recovery and Resolution Directive (BRRD) and the related Intergovernmental Agreement by all 28 Member States.

   Regarding implementing measures, the Commissioner reiterated its commitment to find **the *"right balance"* between risk mitigation and the support to investment and growth**. He reminded that there were *"over 400 empowerments in level 1 legislation"* for the Commission.

   In order to fulfil its objective of investment and growth recovery, the Commissioner announced **there will be a review and a recalibration of the current EU prudential framework through**:

- **A CRR review** to assess its impact on *"on lending to corporates and on long-term finance, with a specific focus on SMEs"*. **The Commission will launch a consultation during the 2015 summer**;

- **Amendments to the "Solvency II detailed rules"** in order to increase opportunities for institutional investors to access ELTIFs and fund infrastructure projects. **The Commission formally asked the European Insurance and Occupational Pensions Authority (EIOPA) to provide technical advice on amending delegated act 2015/35**.

  The EU Commissioner also informed that the Commission will study both **the Net Stable Funding Ratio** (NSFR) and **the leverage ratio during 2016**. It will also assess the **Total Loss Absorbency Capacity** (TLAC) the FSB (Financial Stability Board) is currently drafting, particularly its interaction and consistency with the Bank Recovery and Resolution Directive (BRRD).

3. **To ensure consistent implementation of international standards**

Lord Hill repeated his will to implement international standards and principles from international fora but *"in a way **that makes sense for Europe** and which **matches Europe's diverse financial landscape**"*.

The EU Commissioner mentioned the **Transatlantic Trade and Investment Partnership (TTIP)** on many occasions. On each of them, he affirmed his will to ensure **a *"closer and deeper"* regulatory cooperation between the United States and the European** Union. According to him, a specific chapter for financial services within the TTIP could make sense because of the significant role regulation plays in markets access. He assured *"that greater regulatory cooperation upstream is not a way of the EU trying to undermine Dodd-Frank"* but a way to ensure *"the ability for businesses to operate globally under coherent regulation"*.

4. **To develop a Capital Markets Union and make citizens benefit from the Single Market more directly**

Lord Hill insisted many times on one key aspect of the CMU: **capital markets will be complementary to bank lending**. According to him, the CMU project will provide **a new range of funding sources that will suit better to enterprises needs**, specifically in two situations: first, in Member States where there is a big tightening of bank lending, second to support the development of start-ups and other SMEs.

The CMU objective is that the diversification of financing sources benefits to **SMEs**, **long-term investments** and **infrastructure projects**.

Within this framework and the CMU Green Paper, the European Commission has already announced **several initiatives** to attract investment towards such targets, particularly:

- **A single market for personal pensions** in order to further mobilise savings in long-term financing. To achieve such a goal, a 29th occupational pensions regime would be created;

- **The revitalisation of high quality securitisation** and **the review of the Prospectus Directive**. There are ongoing consultations on both these points;

- **The development of the European private placement industry**, in order to increase investment possibilities. The EU Commissioner welcomed the initiative launched by the industry and suggested there would not be legislative proposal on this issue;

- **The development of venture capital funds**, thath could include the review of the EuVeCa (European Venture Capital) and EuSEF (European Social Entrepreneurship Funds) Regulations.

All these initiatives aim to diversify financing sources to support the EU real economy but also to *"provide better services at better costs"* for EU citizens.

The Commission's CMU action plan should be released next September, even if it could be delayed in October or November.

18 February 2015: Jonathan Hill presented the Green paper on Capital Markets Union

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. The project's objective is to *"unlock funding for Europe's businesses and to boost growth in the EU's 28 Member States with the creation of a true single market for capital"*.

With this wide and comprehensive consultation, the Commission shows clearly its approach switch toward financial services: a bottom-up approach tightly involving stakeholders, particularly the financial industry.

3. General presentation of the Green paper

The EU Commissioner presented a Green paper and launched a general consultation entitled *"Building a Capital Markets Union"*. This Green paper sets out **3 guiding principles**:

1. *"improving **access to financing** for all businesses across Europe and investment projects, in particular start-ups, SMEs and long-term projects;*
4. *increasing and **diversifying the sources of funding** from investors in the EU and all over the world;*
5. *making the **markets work more effectively** so that the connections between investors and those who need funding are more efficient and effective, both within Member States and cross-border"*.

Alongside with the public consultation on the Green paper, the Commission identified 5 other short-term priorities and launched **two specific consultations** on the first 2:

1. An EU framework for simple transparent and standardised securitisation,
2. The review of the Prospectus Directive, in order to facilitate SMEs access to markets.
6. The implementation of the **European Long-term Investment Funds** (ELTIF) regulation,
7. A better access to **standardised credit information on SMEs**,

8. The development of **European private placement markets**.

2. Impact on factoring

The Commission initiative favors sources of financing that could compete with factoring on a long term perspective.

The Commission speaks of factoring several times in both its Green paper and its Staff Working document. That proves that factoring is now well-known of the Commission officials and taken into account as a most relevant finance sector.

The Commission Green Paper **identifies clearly factoring as an alternative financing source** to bank finance. However the Commission considers it *"**difficult to access or insufficient** for companies with significant intangible assets that cannot easily be used as collateral to obtain bank loans"*. Furthermore, according to the Commission, these financing sources rely too much on businesses activities and turnover so that their substitution to bank financing is constrained in case of decline in turnover levels.

The Commission also expresses some concerns about the **increased demand for collateral**, driven by market demand for more secured funding as well as new regulatory requirements, such as set out in the European Market Infrastructure Regulation (EMIR) and Capital Requirements Regulation (CRR).

Moreover, the Commission identifies **legal fragmentation issues** for specific financial instruments that would impact factoring activities:
*"Differences between the **national conflict-of-law rules** in respect of the **third party effects of assignment and the order of priority between an assignment over the rights of other persons**, as well as between certain substantive rules such as **the conditions for the effectiveness of an assignment** hamper the development of cross-border financing instruments"*.
A report identifying problems and possible solutions for should be published by the Commission in 2015.

The Commission highlights the existence of fragmented legal frameworks in many other fields: **company law**, **corporate governance**, **insolvency** and **taxation**. The Commission insists on still **divergent national insolvency frameworks** and announces that **an evaluation will be conduct during 2015**.

In both cases, the Commission's objective is to **ensure *"greater legal certainty"* in order to make investments easier**, particularly on a cross-border basis.

All the consultations will last until May 13th 2015.

A conference about the first results of the consultations will be set up by the European Commission, in Brussels in June, 8th.

The Commission's CMU action plan should be released next September, even if it could be delayed in October or November.

Ongoing consultations | *Back to summary*

Until 11 September 2015: Basel Committee consults on interest rate risk in banking book

On June 8th, the Basel Committee published a consultative document on the risk management, capital treatment and supervision of interest rate risk in the banking book (IRRBB).

The Committee's review of the regulatory treatment of interest rate risk in the banking book aims to help ensure that banks have appropriate capital to cover potential losses from such exposures and to limit capital arbitrage between the trading book and the banking book.

The proposal published today presents two options for the capital treatment of interest rate risk in the banking book:

1. a Pillar 1 approach: the adoption of minimum capital requirements;
2. a Pillar 2 approach: an enhanced supervisory regime which includes quantitative disclosure of interest rate risk in the banking book.

The consultation is open until **Friday 11 September** 2015. Contributions can be uploaded on a dedicated webpage by this date.

Until 1 October 2015: Basel Committee consults on the review of the Credit Valuation Adjustment risk framework

On July 1st, the Basel committee launched a consultation on its review of the Credit Adjustment Risk Framework.

The review undertaken by the Basel Committee aims to

1. ensure that all important drivers of credit valuation adjustment (CVA) risk and CVA hedges are covered in the Basel regulatory capital standard;
2. align the capital standard with the fair value measurement of CVA employed under various accounting regimes;
3. ensure consistency with the proposed revisions to the market risk framework under the Basel Committee's *Fundamental review of the trading book*.

The consultation is open until **Thursday 1 October 2015**. Contributions can be uploaded on a dedicated webpage by this date.

Agenda May 2015	*Back to summary*
September 3rd:ECON Committee meeting in Brussels	
September 11-12th: Informal meeting of the ECOFIN Council in Luxembourg	
September 14-15th: ECON Committee meeting in Brussels	
September 23rd: ECON Committee meeting in Brussels	
October 6th: ECOFIN Council meeting in Brussels	

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