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Agenda

Capital requirements for credit institutions (CRD IV proposals and Basel Committee on Banking supervision)
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16 April 2013: Adoption by EP's plenary

On 16 April, the European Parliament's plenary assembly voted on the two texts of the CRD IV package. The published texts (see below) still have to pass through the legal-linguistic finalisation.

The next step is the formal adoption by the Ecofin Council, which could take place on 14 May during the Ecofin meeting. Then the texts will have to be published in the Official Journal of the EU, before 30 June 2013 in order to be applied as from 1st January 2014, or before 31st December 2013 in order to be applied as from 1st July 2014.

Link to the adopted texts: [Regulation](#) and [Directive](#)

20 March 2013: Final agreement in trialogue

On 20 March, the negotiators for the European Parliament and the Member States reached an agreement on the technical issues that were still pending after the political agreement reached on 27 February (see below). Among these technical issues were the precise rules that will set a limitation to bonuses in the banking sector.

On 27 March, the Committee of Permanent Representatives (COREPER) confirmed to the Irish Presidency, on behalf of the Council of the EU, that the Member States agree with the outcome of the negotiation. Only the United Kingdom voted against, due to its strong opposition to the limitation of bonuses, but this vote will not change the fate of the agreement, since a qualified majority is sufficient to adopt the Regulation and the Directive.

Next step: The Parliament will formally adopt the two texts by a vote of its plenary assembly on 17 April. After that, the Council is expected to also give its formal approval as soon as possible, to make possible a publication in the Official Journal of the EU before 30 June. In fact, the Parliament and the Council agreed that, should the texts not be published before that date, the application of the new rules should be delayed six months, from 1st January to 1st July.

Text of the agreement on the CRD IV Regulation:

[Text](#); [COR 1](#); [ADD 1](#)

Text of the agreement on the CRD IV Directive:

[Text](#); [COR 1](#); [COR 1 REV 1](#)

Statements:

[By the Commission](#); [By the Member States](#)

27 Feb. 2013: Agreement in political trialogue, final negotiations on technical issues

On 27 February, the European Parliament and Council of the EU finally reached an agreement on the

CRD IV package. This agreement was reached on political issues, but technical issues remain pending.

During the last trialogue meeting, participants agreed on:

- Requirements for national systemic risk buffers and buffers for systematically important financial institutions (SIFIs);
- Flexibility for member states to impose stricter national measures to address increased macro-prudential risks to financial stability;
- Reporting requirements for banks on a country-by-country basis;
- Restrictions on bankers' bonuses;
- Additional own-initiative mediation powers for the European Banking Authority (EBA).

You can find more detailed information on the content of the agreement in the [background note](#) that was sent to the Member States' delegations before the Ecofin Council of 5 March. Barring a last minute change, the date for implementation should be 1st January 2014.

On 5 March, the Ecofin Council "broadly endorsed" the outcome of the trialogue and "mandated the Permanent Representatives Committee to finalise negotiations with the Parliament on outstanding technical issues, with the aim of reaching a final deal in the second half of march" (see the Council's [press release](#)). The Parliament has set the date for vote in plenary session on 17 April.

5 Feb. 2013: Resumption of work under Irish Presidency

While little progress had been observed during the first trialogue meetings under Irish Presidency in January –quite the contrary, the new Presidency decided to reopen several topics that had been closed by the previous Cypriot Presidency– negotiators of the Parliament and the Council seem to have come close to an agreement on major political points during the meeting of 5 February.

However, such a political agreement –on bonus limitations, European oversight of the national flexibility and powers entrusted to the EBA– must be translated into a legal wording that will suit both parties. Discussions are still under way, although at a rather higher speed.

Dec. 2012: No agreement on CRD IV

Despite all efforts to reach an agreement in time, the EU is late for adopting its transposition of the Basel III agreements: by 31st December 2012, representatives of the European Parliament and the Council of the EU had still not agreed on a common text.

The Parliament now announces a vote of the plenary assembly on 16th January 2013, although this deadline is unlikely to be met. The last trialogue under the Cypriot Presidency, originally scheduled for the week of December 17 to 21 was cancelled, so negotiations will resume in January under the new Irish Presidency of the Council.

The issue regarding the calendar of entry into force is to be discussed during the last round of

negotiations, once all other issues will be solved.

4 Dec. 2012: Strong uncertainties surrounding the final adoption

On 29 November, the European Parliament announced that the vote of the plenary assembly on the CRD IV proposals is postponed to 12 March 2013. On 3 December it changed it back to 12 December, whereas it is widely acknowledged that, even in the unlikely event that an agreement is found with the Council before that date, it will be materially impossible to submit the text to the plenary assembly.

On 29 November, the Cypriot Presidency of the Council transmitted to the 26 other governments a progress report on the Trialogue meetings with the Parliament which lists the issues that are still to be resolved. In this report, the Presidency repeats its optimism that an agreement can be reached before the end of the year.

On 4 December, ministers of Finance met in Brussels to discuss the state of negotiations with the Parliament. Four Member States (UK, Poland, Austria and Sweden) called to keep sticking to the Council's general approach, approved by the ECOFIN Council in May, judging that this compromise, painfully agreed on after numerous hours of negotiations, is very well equilibrated.

The Council and the Parliament are still opposing on several issues:

- The Council wants to allow the Member States to require from all banks at national level an additional capital buffer ("systemic risk buffer"), thus creating a breach in the maximal harmonisation of rules. The Parliament and the Commission would accept this national flexibility only if it is submitted to European overview;
- The Parliament wants to introduce an additional capital buffer specifically for Systematically Important Capital Institutions (SIFIs). The Parliament would accept to set a maximum amount for this buffer if the Council accepts the cumulative character of the two buffers;
- The bonuses of bankers and traders, which the Parliament wants to limit within a ratio of 1:1. Commissioner Barnier told the ministers that under the current circumstances, he finds politically difficult to reject this demand.

Besides those conflicting issues, the Parliament and the Council still need to find agreement on the liquidity and leverage ratios and on the role of the European Banking Authority.

Agenda: An extraordinary ECOFIN Council meeting has been scheduled for 12 December, while new Trialogue meetings are scheduled on 11 and 13 December in Strasbourg. Even if the Cypriot Presidency is still officially expecting an agreement before the end of the year, Commissioner Barnier told the ministers that all the necessary efforts must be made *"in order that the Directive and the Regulation are implemented together **and as early as possible in 2013**"*.

Link to the Presidency's progress report:

<http://register.consilium.europa.eu/pdf/en/12/st16/st16677.en12.pdf>

Shadow Banking	Back to summary
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<p><u>29 Jan. 2013: FSB publishes responses to its consultative documents on oversight of shadow banking</u></p> <p>On 29 January, the Financial Stability Board published on its website the list of all the responses it received to the three consultative documents it has published in November 2012 on possible recommendations for a regulatory and supervisory framework to be applied to shadow banking activities.</p> <p>Link to the responses: http://www.financialstabilityboard.org/publications/c_130129.htm</p>	
<p><u>10 Jan. 2013: MEP asks the Commission to say how it will monitor shadow banking</u></p> <p>MEP Monika Flašíková Beňová (S&D, Slovakia) asked the European Commission a written question on shadow banking.</p> <p>In her question (see full text with the link below), the MEP recalls that <i>“shadow banking is carried out through entities or financial agreements which create a combination of functions similar to the functions of banks. However, these functions are outside the regulatory framework, or within the framework of a regulatory regime which is either not rigorous enough or addresses issues other than systemic risks, and without access to a central bank liquidity facility or credit guarantees provided by the public sector.”</i></p> <p>She then remarks that <i>“despite some potentially positive effects, the shadow banking system was identified as one of the possible main causes of the circumstances that led to the financial crisis, and a factor threatening the stability of the financial system.”</i></p> <p>And finally, considering the above said, the MEP asks: <i>“how does the Commission plan to focus on monitoring and supervising shadow banking, in order to detect risky transfers and ensure consumer protection?”</i></p> <p>The Commission is required to give an answer to the MEP’s question within eight weeks.</p> <p>Link to full text: http://www.europarl.europa.eu/sides/getDoc.do?type=WQ&reference=E-2013-000216&format=XML&language=EN</p>	

Insurance Mediation Directive II	Back to summary
<p><u>25 April 2013: Adoption of opinion in IMCO Committee</u></p> <p>The IMCO Committee –which is required to give an opinion to the ECON Committee– has adopted its opinion on IMD II on 25 April.</p> <p>The ECON Committee is planning to vote on MEP Werner Langen’s report on 27 May. The indicative date for a vote of the plenary assembly is set to 23 October, sign that the Parliament foresees tough trialogue negotiations with the Council.</p> <p>Link to the IMCO opinion</p>	
<p><u>11 April 2013: Consideration of compromise amendments in IMCO Committee</u></p> <p>MEP members of the IMCO Committee have exchanged on the compromise amendments tabled within the Committee on 11 April. At the moment, 16 compromise amendments have been tabled, but the rapporteur, Catherine Stihler (S&D, UK), said that it is probably not a final number. Most of the compromise amendments deal with the scope of the directive including website for comparing prices, transparency of remuneration, the definition of “advice” and “provide”, prohibition of cross-selling and dispute resolution.</p> <p>The divergence of views between the political parties remains on the issue of transparency of the remuneration of insurance intermediaries. The EPP and ALDE Groups call for a disclosure on request, whereas the S&D Group supported by the European Commission advocates for a total transparency for consumers protection.</p> <p>Compromise amendments will be further discussed between rapporteurs next week, in view of a vote in committee on April 25. ECON Committee plans to proceed to a vote on May 27.</p>	
<p><u>21 Feb. 2013: Amendments tabled in ECON Committee</u></p> <p>The secretariat of the ECON Committee published on 21 February the amendments tabled by MEPs members of the Committee on the draft Directive on insurance mediation. Most of these 565 amendments deal with major points of disagreement: concept of independent advice, sale without advice, transparency of remuneration, definition of cross-selling, dispute resolution and delegated acts.</p> <p>With such a number of amendments to examine, the debate in Committee was postponed to end of April for a vote in Committee on 27 May 2013. The date of the vote in plenary session has been set for July 02.</p> <p>IMCO Committee will try to adopt its draft opinion by end of March or beginning of April, in order to present a unified position that could influence the ECON Committee.</p>	

Link to the amendments:

[110 to 364](#); [365 to 675](#)

7 Feb. 2013: MEP members of the IMCO Committee have tabled their proposed amendments to the draft opinion by the rapporteur, Catherine Stihler (S & D, UK) on IMD II.

The amendments confirm the divergence of views between the political parties on the issue of transparency of the remuneration of insurance intermediaries. IMCO Committee is divided into two sides: on the one hand, the Group of Socialists and Democrats (S&D), of the rapporteur for opinion, and the liberal group (ALDE) –via his shadow rapporteur Olle Schmidt (ALDE, Sweden)– who tend to strengthen measures of transparency through automatic disclosure of the remuneration of intermediaries, and on the other hand, the conservatives –EPP and ECR with their respective shadow rapporteurs, Othmar Karas (EPP, Austria) and Malcolm Harbour (ECR, UK)– advocating for a total suppression of information about the remuneration of intermediaries (see Amendments 111 to 125). The conservatives consider that the disclosure of the remuneration is an "unnecessary detail to distract consumers from more essential characteristics of an insurance product or service" and propose, in accordance with the advice of EIOPA, to adopt an "on request" disclosure approach.

Differences between political parties are also visible on the issue of cross selling and tying, which should be better regulated or prohibited for the S&D and ALDE Groups, while EPP and ECR believe they should be allowed.

However, we can notice some convergence between the proposals of several IMCO Committee members and those of the rapporteur in the Committee on Economic and Monetary Affairs (ECON), Werner Langen (EPP, Germany), in particular on:

- The exclusion of claims management in the scope of the Directive;
- The inclusion of information on comparison websites in the scope of intermediation;
- The elimination of the possibility of use of delegated acts.

These amendments will be subject to a preliminary examination in IMCO Committee on 20 February.

Moreover, the decision whether IMCO will be associated with the ECON Committee has been postponed to 07 March 2013.

Link to the proposed amendments to MEP Stihler's draft opinion

<http://www.europarl.europa.eu/sides/getDoc.do?type=COMPARL&reference=PE-504.096&format=PDF&language=EN&secondRef=01>

11 Jan. 2013: EP publishes MEP Langen's draft report on IMD II

The draft report by Werner Langen (EPP, Germany) on the revision of the Insurance Mediation Directive was published on 11 January 2013.

Here are the main measures proposed by the rapporteur:

- **Scope:** The rapporteur wishes to exclude the sale of ancillary insurance products such as insurance policies sold by travel agencies and car rental companies. He also adds in the definition of "insurance mediation" the activities of providing information through a website or other means of communication.

- **Conflicts of interest and transparency:** The rapporteur proposes to remove the requirement to inform customers on inducements and variable compensation received. The rapporteur refers to the Member States the possibility to impose more stringent disclosure requirements, provided that equal conditions of competition between the various modes of sale and intermediation are maintained and that the resulting administrative burden is proportionate to the protection of consumers.
- **Cross-selling / tying:** The rapporteur proposes to remove the prohibition of tying, which he calls "a quite sensible strategy." He proposes that the obligation is made only to inform consumers of the opportunity to buy separately the components of the proposed lot. He also proposes to delete the definition of "cross-selling" given in point 15 of Article 2 (Amendment 36).
- **Professional requirements:** The rapporteur proposes that the form and content of vocational training are determined by the Member States. According to him, provisions on vocational training should be those, minimally harmonized, of the 'European Qualifications Framework' for the education and training throughout life, completed by a mutual recognition of qualifications (Amendment 51).
- **Registration and simplified registration procedure:** The rapporteur supports the fact that insurance companies and their employees are not required to register again. It also supports the possibility of registration of intermediaries linked through intermediaries already registered.
- **Reduced use of delegated acts:** The report proposes to cancel all reference to delegated acts in the Directive and allow Member States to define certain provisions if further harmonization shows necessary, for instance in case of inadequate mutual recognition of qualifications.

The deadline to table amendments was set to 6 February 2013; the ECON Committee intends to vote on the report on 26 February. The indicative date for the vote in plenary session was postponed to 2 July.

So far, the discussions in Committee have revealed differences on the central issue of the transparency of the remuneration of intermediaries both in IMCO and ECON. The rapporteur in IMCO, Catherine Stihler (S&D, UK) and the shadow rapporteurs in ECON, Olle Schmidt (ALDE, Sweden) and Sven Giegold (Greens, Germany) want full transparency of remuneration, considering that the consumer is not always aware of conflicts of interest that arise when the intermediary is remunerated by commissions a third party.

Link to MEP Langen's draft report:

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fNONGML%2bCOMPARL%2bPE-502.060%2b01%2bDOC%2bPDF%2bV0%2f%2fEN>

8 Jan. 2013: EP publishes MEP Stihler's draft opinion on IMD II

The draft opinion by MEP Catherine Stihler (S&D, UK) for the IMCO Committee was published on 8 January. It aims at strengthening the Commission's proposals. The rapporteur stresses several key points such as the strengthening of rules on remunerations: thresholds and sales targets specific contracts shall no longer be a factor that consumers should worry about. It considers that there is a conflict of interest between selling targets and the requirement to act in the best interest of the

consumer.

The rapporteur also proposes to strengthen the obligations of information: the intermediary should disclose information voluntarily, without waiting for the consumer to request. The rapporteur proposes aligning the information system for all insurance products (both life and non-life, after a transitional period of 5 years).

The rapporteur also stresses the importance of clarifying the concepts of bundling and cross-selling and recalls that tying should be banned because "the benefits are not commensurate with the risks." Mrs Stihler also proposes expanding the scope of the Directive to websites offering price comparison of insurance products.

Link to MEP Stihler's draft opinion:

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fNONGML%2bCOMPARL%2bPE-502.077%2b01%2bDOC%2bPDF%2bV0%2f%2fEN>

Dec. 2012: Delayed publication of MEP Langen's draft report

The publication of the draft report by Werner Langen (EPP, Germany) on the revision of the Insurance Mediation Directive, unofficially scheduled for 12 December 2012 has been postponed to mid-January 2013. According to the latest information received, the first review of the text in the ECON Committee, originally scheduled 17 December 2012, is postponed to the next committee meeting on 21 and 22 January 2013.

Rome I regulation / Contract law	Back to summary
No update in April	
<p><u>4 March: European Commission answers EUF letter on Rome I</u></p> <p>In the letter received by the EUF from the European Commission as a response to the EUF letter on the subject of applicable law on cross-border factoring, the Commission indicates that it will adopt a report on Rome I in October 2013 (See Maggie Wessel's e-mail from 8 March).</p> <p>So far the Commission does not commit itself to deliver a proposal for a review of the Rome I Regulation.</p>	

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Anti-Money Laundering Directive

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25 April 2013: First exchange of views in LIBE Committee

On 25 April, the LIBE Committee held its first exchange of views on the two legislative proposals regarding anti-money laundering.

It is to be noticed that the two texts will be examined as a package with a common calendar and the same MEPs working as rapporteurs and shadow rapporteurs on both proposals.

Also to be noticed: the ECON Committee is contesting the LIBE Committee's competence on the issue of money-laundering and has required to be designated as responsible Committee. This contestation formally blocks the progress of work in the LIBE Committee until it is solved by the conference of Chairs of Committee.

MEPs Judith Sargentini (Greens, the Netherlands) and Timothy Kirkhope (ECR, UK), respectively rapporteurs on the draft Directive and on the draft Regulation (and shadow rapporteurs on each other's text) said that most of their work will deal with the proposed 'risk-based approach'. Indeed, they think this process –as set in the Commission's proposal– is too imprecise to reconcile successfully the fight against money-laundering and the requirements of data protection.

March 2013: Nomination of three shadow rapporteurs in LIBE Committee

In the LIBE Committee, three shadow rapporteurs were nominated for the examination of the AML Directive: Frank Engel (PPE, Luxembourg), Sir Graham Watson (ALDE, UK) and Timothy Kirkhope (ECR, UK), who is also rapporteur for the Regulation on information accompanying transfers of funds (see below).

Link to the MEPs' CVs:

[Frank Engel](#)

[Sir Graham Watson](#)

[Timothy Kirkhope](#)

15 March 2013 : Conference on fighting money laundering and terrorist financing

Following its two legislative proposals published on 5 February, the European Commission launched the debate on 15 March at a conference on fighting money laundering and terrorist financing: new framework and future challenges. The first panel dealt with the new international standards, the second panel discussed the basics of an effective EU AML regime and the third one focused on future challenges for the AML/CFT framework.

It appeared that issues on the definition of beneficial ownership, control and new technologies are keys elements. The Commission tends toward more harmonisation on this issue not only European but international.

Link of the program of the conference :

http://ec.europa.eu/internal_market/company/docs/financial-crime/conferences/20130315_programme_en.pdf

20 Feb. 2013: European Parliament nominates MEP Judith Sargentini as rapporteur

The European Parliament has decided to entrust the Committee on Justice, Civil Liberties and Home Affairs (LIBE) with the examination of the draft Directive on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing. The Committee decided to nominate [MEP Judith Sargentini](#) (Greens, the Netherlands) as rapporteur.

The LIBE Committee is also competent for the examination of the draft Regulation on information accompanying transfers of funds. [MEP Timothy Kirkhope](#) (ECR, United Kingdom) was designated rapporteur.

The Committees on Petitions (PETI), on Development (DEVE), on Internal Market and Consumer Protection (IMCO), on Economic and Monetary Affairs (ECON) and on Legal Affairs (JURI) have been called to deliver opinions on both texts. The Committee on Petitions (PETI) has yet decided not to give an opinion.

5 Feb. 2013: EC's proposals on Anti-Money Laundering Directive and Regulation on information accompanying transfers of funds

The European Commission today adopted two legislative proposals to strengthen the European framework for fighting money laundering and terrorist financing:

- A proposal for a Directive "on prevention of the use of the financial system for the purpose of money laundering and terrorist financing";
- A proposal for a Regulation "on information accompanying transfers of funds."

These new rules are the implementation of the recommendations of the European Financial Action Task Force (FATF) and, according to the Commission's press release, "go further in a number of areas to promote the highest standards in the field."

The main elements of the Directive are:

Extension of the scope:

- Application of provisions relating to politically exposed persons (PEPs) also to "national" PEPs (residents of the European Union) and PEPs working for an international organization;
- Extension of the scope of the Directive to gambling in general (and not just casinos) and to criminal tax offenses;
- Application of the Directive to any person who trades goods or provides services subject to a cash payment in an amount equal to or higher than EUR 7500 (the threshold can still be lowered by the Member States, according to the minimum harmonization principle). To these people, the following provisions will in particular apply:
 - Customer due diligence;
 - Obligation to retain documents;
 - Requirement to have internal control mechanisms; and
 - Obligation to report suspicious transactions

Clarification of certain rules:

- Clarify rules for the identification of beneficial owners;
- Clarify the concept of customer due diligence to ensure a better understanding of clients and the nature of their activities, and specify the simplified procedures so that they cannot be considered as exemptions;

Strengthening cooperation between national financial intelligence unit (FIU) and increased powers of sanction for competent authorities.

Both texts will now be forwarded to Parliament and the EU Council for adoption by codecision.

Link to the text of the Directive:

http://ec.europa.eu/internal_market/company/docs/financial-crime/130205_proposal-directive-money-laundering_en.pdf

Link to the text of the Regulation:

http://ec.europa.eu/internal_market/payments/docs/transfers/130205_proposal-regulation-information-transfer_en.pdf

Link to the EC's press release:

http://europa.eu/rapid/press-release_IP-13-87_en.htm?locale=en

Data protection

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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.

25 March 2013: EP publishes JURI Committee's opinion on draft Regulation on data protection

The secretariat of the Committee on Legal Affairs (JURI) published on 25 March the opinion adopted by the Committee on the draft Regulation on data protection, based on MEP Marielle Gallo's report.

Link to the JURI [opinion](#)

8 March 2013: EP publishes amendments tabled on draft Regulation on data protection

The secretariat of the LIBE Committee published between 6 and 8 March the amendments tabled in Committee on the proposal for a Regulation on data protection. In total, members of the LIBE Committee tabled 2783 amendments, to which must be added the 350 amendments from MEP Albrecht's report.

Link to amendments:

[351 to 601](#); [602 to 885](#); [886 to 1188](#); [1189 to 1492](#); [1493 to 1828](#); [1829 to 2090](#); [2091 to 2350](#); [2351 to 2617](#); [2618 to 2950](#); [2951 to 3133](#)

20 Feb. 2013: ITRE Committee adopt opinion on data protection Regulation

The Committee on Industry, Research and Energy (ITRE) adopted on 20 February 2013 its opinion on the draft Regulation on data protection. MEP Sean Kelly was rapporteur for the Committee's opinion to the LIBE Committee.

The opinion of the Committee has not been published yet. It takes largely into account the concerns raised by the industry. Amongst the main elements of the opinion is the proposal to limit the requirement to have a data protection officer to those SMEs whose main activity is processing or

collecting data, the introduction of a “legitimate interest” that could be invoked by national data authorities, processors or third persons to process personal data without informing the consumers.

23 Jan. 2013: IMCO opinion on data protection Regulation

The Committee on Internal Market and Consumer Protection (IMCO) adopted on 23 January its [opinion](#) on the draft Regulation on data protection, on the basis of MEP Lara Comi’s draft opinion.

17-18 Jan. 2013: Informal Justice and Home Affairs

EU Justice Ministers met at an Informal Justice and Home Affairs meeting in Dublin on 17-18 January 2013. The new Irish Presidency of the EU confirmed that making significant progress on the proposed Data Protection Reform package is a key priority.

According to the discussion paper that was published, the Presidency sought agreements on three issues at this meeting: the so-called “household exemption” (not to apply data protection requirements to individuals processing data for exclusively personal activities); the “right to be forgotten” and the exemptions from it; the administrative sanctions to be imposed by data protection authorities for breaches of data protection law.

Link to the Irish Presidency’s discussion paper:

http://edri.org/files/irl_dppaper.pdf

16 Jan. 2013: MEP Albrecht’s draft report published

MEP Jan-Philip Albrecht published on 16 January his draft report to the LIBE Committee of the European Parliament. Here are the main proposals contained in the report:

- **The scope of application of the draft Regulation** should be extended to cover all processing activities related to services, regardless of whether these services are free of charge, and to all collection and processing of personal data about EU residents.
- **Asking for the user’s consent** remains a cornerstone of the EU approach to data protection.
- The **right-to-be-forgotten** constitutes another key element of the report – should an individual agree to the publication of his personal data, this right would no longer be legitimate.
- Consumers must have a **right of data portability**.
- The **concepts of personal data and data subject** (which would include natural persons that “can be singled out”, “alone or in combination with associated data”) are clarified and **new definitions** for “pseudonym”, “transfer”, “profiling” and “producers” are created.
- The **processing of sensitive data (eg. health data) is further restricted** and some of the exceptions are limited.
- The number of **delegated acts** is drastically reduced. Those that remain are limited to technical provisions, subject to approval by the European Data Protection Supervisor, whose responsibilities are enhanced.
- Some of the **powers of supervisory authorities** are refined and strengthened: supervisory authorities will retain enforcement powers within their respective jurisdictions but a lead authority will act as a single contact point for the controller or processor, with increased cooperation among supervisory authorities (a one-stop coordination shop). The European Data

Protection Board shall designate the lead authority in cases where it is unclear or the authorities do not agree.

- **Sanctions for noncompliant organisations** remain in place with some minor changes. Any infringements of the Regulation not listed specifically could be sanctioned with fines.
- Companies will also have to **protect European citizens whose data are managed abroad** by companies not established in the Union.

Link to MEP Albrecht's [report](#)

6 Dec. 2012: The Member States raise doubts over the proposed rules

The Data Protection package was on the agenda of the last Justice and Home Affairs Council on 6 and 7 December, where ministers held an exchange of views on the basis of a progress report drafted by the Cypriot Presidency of the Council.

According to the report, three points were regularly discussed at meetings of the "Exchange of information and data protection" working group of the Council:

- **Delegated acts and implementing acts:** a majority of Member States opposed to delegated acts and implementing acts for both their number (26 delegated acts and implementing acts 22 total) and for their implementation. The Commission stated that alternatives are possible and that the delegated acts may only be used as a last resort and accompanied by strict oversight.
- **Administrative burden and compliance costs:** some Member States consider that the provisions of the draft Regulation result in higher costs for businesses, and exemptions for SMEs are insufficient. Member States consider it necessary to adopt a risk-based approach.
- **Rules on data protection in the public sector:** a number of delegations called for the public sector exempt all or part of the rules to give them the flexibility to adapt their national legal frameworks. The Commission believes instead that the application of common rules in the public sector will facilitate cross-border cooperation, particularly in the fields of taxation and banking and financial supervision.

Link to the Cypriot Presidency's progress report:

<http://register.consilium.europa.eu/pdf/en/12/st16/st16525-re01.en12.pdf>

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<p><u>March 2013: Date postponed for vote in JURI Committee</u></p> <p>The Secretariat of the JURI Committee set a new date for the Committee's vote on the draft Regulation on EAPO, on 30 May 2013</p>	
<p><u>1 March 2013: Amendments table in JURI Committee</u></p> <p>The secretariat of the Committee on Legal Affairs (JURI) published on March 1 the list of amendments tabled by the members of the Committee on MEP Raffaele Baldassarre's draft report, which is now available in English. Unfortunately, the list of amendments is only available in German so far.</p> <p>The vote in Committee is scheduled on 25 April and the vote in plenary session on 9 September 2013.</p> <p>Link to the documents: MEP Raffelle Baldassarre's draft report (EN) List of tabled amendments (DE)</p>	
<p><u>5 Feb. 2013: MEP Baldassarre publishes his draft report for JURI Committee</u></p> <p>MEP Raffaele Baldassarre, rapporteur on the draft Regulation creating a European Account Preservation order for the attachment of bank accounts, published on 5 February his draft report for the EP's Committee for Legal Affairs (JURI).</p> <p>Through the amendments he proposes, the rapporteur seeks to increase legal certainty for both the creditor and the debtor by:</p> <ul style="list-style-type: none"> ▪ Refining the definitions and rules of jurisdictional rules to be applied for the emission of a European Account Preservation Order (EAPO); ▪ Determining the conditions for this Order to be valid (motivations, information to be provided...); ▪ Affirming the responsibility of the plaintiff for all damages caused to the debtor because of a EAPO (new Art. 12 bis); ▪ Specifying the powers at the disposal of the judicial authority to apply the EAPO. <p>So far the report is only available in the rapporteur language (Italian), but should soon be translated into other languages by the Parliament's services.</p> <p>Link to MEP Baldassare draft report (in Italian): http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fNONGML%2bCOMPARL%2bPE-483.539%2b01%2bDOC%2bPDF%2bV0%2f%2fit</p>	

Financial transaction tax

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11 April 2013: MEP Podimata presents her draft report on the FTT project

MEP Anni Podimata (S&D, Greece) presented on 11 April to the members of the ECON Committee her draft report on the European Commission's proposal for the establishment of a financial transaction tax, in the framework of an enhanced cooperation.

Although according to the enhanced cooperation procedure, the participating Member States decide alone and unanimously on the proposal, the Parliament gives an opinion and can propose amendments to the project.

Ms Podimata welcomed the introduction of the issuance principle but called to extend it to OTC derivatives, as their exclusion could undermine the EU's efforts to bring OTC trading towards regulated platforms. She also criticized the Commission on its choice not to introduce an 'ownership principle', *"inspired by the success of the UK Stamp Duty"*. She also made proposals to strengthen the 'residence principle' and to create an Expert Working Group –a 'FTT Committee'– in charge of monitoring the implementation of the tax in the participating Member States.

Amendments proposals on Ms Podimata's draft report by other members of the ECON Committee were published on 30 April. The vote in Committee is foreseen in the end of May and the vote in plenary of the EP in July.

Link to the MEP Podimata's [draft report](#) and to the [amendments](#).

3 April 2013: Study by London Economics on the impact of a financial transaction tax on corporate and sovereign debt

Commissioned by the City of London Corporation, the economics and policy consultancy London Economics conducted a study on the potential impact of a financial transaction tax on corporate and sovereign debt. For a number of reasons, the study concludes that the tax would be detrimental for end-users and for the wider EU economy.

Link to the [study](#) and to the [executive summary](#)

14 Feb. 2013: European Commission's proposal for a FTT in enhanced cooperation

On 14 February, the European Commission adopted a [proposal for a Directive](#) of the Council implementing enhanced cooperation in the area of financial transaction tax. This new proposal – which follows and replaces a [previous proposal](#) for the UE-27– builds on the scope and rules defined in this first proposal.

On the scope of the tax, the new proposal adds the principle of the place of issuance of the security that is the object of the transaction. Thus, a transaction will be taxable as soon as one of the two

parties to the transaction is located within one of the 11 participants or if the security they exchange was issued in one of the 11 participants, even if the parties are both located outside in a jurisdiction that does not apply the tax.

As in the first proposal, the FTT won't apply to:

- Transactions with the ECB, EFSF, ESM, and the EU;
- Transactions made by the Member States when managing their public debt;
- Primary market transactions (in which falls factoring).

The tax will be applied with a rate of 0.1% to transactions on bonds and equities and a rate of 0.01% to transactions on derivatives.

22 Jan. 2013: Ecofin Council confirms authorisation to launch enhanced cooperation

The Ecofin Council has authorized, by a decision taken by a qualified majority, eleven Member States of the Union to initiate enhanced cooperation to implement a tax on financial transactions. The decision was expected, and only the Czech Republic, Luxembourg, Malta and the United Kingdom abstained. As stated in the press release of the Council, it is only the third time that enhanced cooperation is launched since the creation of this possibility in 1997. The Commission should adopt its proposal on February 14.

Link to the Council's press release

http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ecofin/134949.pdf

12 Dec. 2012: EP approves launch of an enhanced cooperation on a FTT

The European Parliament's plenary assembly approved on 12 December the proposal for a Council decision which was submitted by the Ecofin Council to allow 11 Member States of the Union to launch an enhanced cooperation for the implementation of a financial transaction tax (FTT). In its resolution of approval, however, the Parliament asked the Commission to conduct a detailed impact assessment of the consequences of this cooperation for the internal market as a whole. According to the MEPs, the Commission should take the results of this impact assessment into account when drafting its detailed proposal for the FTT.

Indeed, after the approval of Parliament, and formal approval by the Ecofin Council, the Commission will make a proposal for the implementation of the FTT, which must in turn be approved unanimously by the eleven participating states.

Link to the EP's resolution:

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2012-0498+0+DOC+XML+V0//EN>

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No update in April	

Other topics of interest

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11 March 2013: Responses to the consultation on recovery and resolution for non bank financial institutions

The DG Internal Market and Services of the European Commission published a [summary](#) of the [67 answers](#) it received to its consultation on a possible recovery and resolution framework for non bank financial institutions (consultation open from 5 October to 28 December 2012).

The consultation was aiming more particularly at large financial institutions such as market infrastructures (CSD, CCP...), insurance and reinsurance undertakings.

The Commission will now use the results of the consultation to feed its reflexion on a possible framework for recovery and resolution of nonbank financial institutions.

12 Dec. 2012: EC proposal on cross-border insolvency proceedings

On 12 December, the European Commission adopted a proposal for a Regulation to modernize the European cross-border insolvency proceedings. With its proposal to replace the current Regulation 1346/2000, the Commission wants to change the primary objective of insolvency proceedings: helping businesses overcome financial difficulties rather than trying to accelerate their liquidation. The proposed Regulation is accompanied by a Communication explaining the Commission's new approach to insolvency proceedings and a report on the implementation of Regulation 1346/2000. This review is part of the priority actions under the Small Business Act and the Act for the Single Market II.

The review of the current legislation has highlighted five main failures:

- **Scope:** The scope of the current Regulation does not cover procedures for "pre-insolvency" and hybrid procedures (which leave in place the management of the company), while many Member States have recently established such procedures, which seem to increase the chances of recovery companies.
 - The Commission proposal extends the scope by revising the definition of insolvency procedures to include pre-insolvency procedures, hybrid procedures, procedures of unloading of debt and a series of other insolvency proceedings for individuals.
- **Jurisdiction:** The rules determining which court has jurisdiction to open insolvency proceedings pose difficulties for implementation in practice.
 - The proposal clarifies the rules of jurisdiction and improves procedural framework for determining jurisdiction
- **Secondary Insolvency Procedures:** The secondary insolvency proceedings also pose problems in that they create barriers to the management of the debtor's assets by the administrator in the main proceedings and, being limited to the liquidation they can prevent companies from recovering.
 - The Commission proposes to allow courts to refuse the opening of secondary proceedings, if it is not necessary to protect the interests of local creditors, and to remove the requirement that these procedures lead to a winding up. It also proposes to improve the links between the main and secondary proceedings by extending cooperation to the courts involved.
- **Publicity of procedures and lodging of claims:** The rules on publicity of insolvency proceedings and the lodging of claims are insufficient: the publication or recording of court decisions is not

compulsory in countries where a procedure is open or those in which the company has an establishment, and there is no European register of insolvency proceedings.

- The proposal would require Member States to publish in an electronically accessible register all important judicial decisions in insolvency proceedings and allow the interconnection of national insolvency registers. The new legislation would also create standard forms for the lodging of claims.
- **Group of companies:** The current regulation lacks of specific rules regarding the insolvency of groups of companies: Currently, a procedure must be open for each company in the group individually, often resulting in a dismantlement of the group rather than its overall restructuring.
 - The proposal establishes procedures for coordination of different members of the same group of companies and gives administrators the procedural tools necessary for the suspension of proceedings in progress on other members of the group and to propose a plan of rescue of these other members.

Link to the proposal for a Regulation

http://ec.europa.eu/justice/civil/files/insolvency-regulation_en.pdf

Link to the EC Communication

http://ec.europa.eu/justice/civil/files/insolvency-comm_en.pdf

Link to the Report on the implementation of Regulation 1346/2000

http://ec.europa.eu/justice/civil/files/insolvency-report_en.pdf

11 Dec. 2012: EP resolution on the financing of activities and investments of SMEs

On 11 December, the European Parliament plenary session adopted a resolution proposed by the Committee on International Trade, on the basis of a report by MEP Jan Zahradil (ECR, Czech Republic) on the financing of activities and investments of SMEs to promote internationalisation.

In this resolution, the Parliament stresses in particular that "lack of finance [...] remains one of the main challenges to EU enterprises' competitiveness and entrepreneurship" in the EU (recital F) and "consistently over the last two years almost a third of SMEs which applied for a bank loan did not obtain any credit, or obtained less than they applied for"(recital L). MEPs therefore ask the Commission and Member States to facilitate SME access to capital, whereas "recurrent difficulties in accessing capital are one of the key reasons preventing SMEs' internationalisation", and to "help overcome disinvestment and deleveraging by banks" (paragraph 7). Parliament finally "encourages banks and other financial institutions to provide their SME clients with regularly updated information on available financial instruments" (paragraph 13).

Link to the EP resolution:

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2012-0469+0+DOC+XML+V0//EN>

Ongoing consultations	Back to summary
<p>26 April to 19 July 2013: EC consultation on the review of the European System of Financial Supervision</p> <p>After two years of the European System of Financial Supervision being in operation, the European Commission is required by the Regulations establishing the European Supervisory Authorities (ESAs) and the European Systemic Risk Board (ESRB) to produce a report assessing their functioning and, on the basis of this report, to make proposals to review these Regulations.</p> <p>For this purpose, the European Commission launched a public consultation asking all stakeholders to submit their views on the functioning of the System of Financial Supervision by 19 July 2013.</p> <p>Link to the consultation</p>	

Agenda May 2013	Back to summary
7 May: ECON Committee meeting (Brussels)	
8-9 May: European Parliament mini-plenary session (Brussels)	
14 May: Ecofin Council meeting (Brussels)	
22 May: European Council meeting (Brussels)	
20-23 May: European Parliament plenary session (Strasbourg)	

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