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Capital requirements for credit institutions (CRD IV proposals and Basel Committee on Banking supervision)	Geography: all EU
<p data-bbox="185 421 1404 488">13 Feb. 2012: Exchange of views in ECON Committee on CRD IV (continuation of first exchange of views)</p> <p data-bbox="185 562 544 595">Wolff Klinz (ALDE, Germany):</p> <p data-bbox="185 600 1404 770">Some questions remain open, some fallout are still to be addressed, according to Mr. Klinz. We have to ensure that SMEs do not lose their access to credit. Mr. Klinz judges that there is a mistake in the “balancing factor” proposed by the rapporteur: the Bank of International Settlements (BIS) has been taken into account but not the standard banks; he thinks that it is necessary to modify the proposal in order to say that all SMEs should have access to credit.</p> <p data-bbox="185 775 1404 880">Mr. Klinz talked about the issue of liquid assets: he asked who should decide which assets can or cannot be considered as liquid assets. Should the European Banking Authority (EBA) decide or should it be written in level 1 legislation?</p> <p data-bbox="185 884 1404 1055">Regarding the transparency requirements, Mr. Klinz judges that there should be no fixed deadline to meet the transparency requirements but rather that any credit institution that meets the prudential requirements should announce it as soon as possible. According to him, this would create emulation between credit institutions: every bank would want to be among the firsts to meet the prudential requirements in order to prove that it stands among the safest.</p> <p data-bbox="185 1059 1404 1126">On the level of harmonization, Mr. Klinz judges, like the rapporteur, that a full harmonization of the rules is the best solution: “we should have a level playing field at least within the EU” he said.</p> <p data-bbox="185 1131 1404 1198">Other questions are still pending, among them the treatment of sovereign debt, which we now know is not exempt of risk.</p> <p data-bbox="185 1240 655 1274">Sven Giegold (Greens/EFA, Germany):</p> <p data-bbox="185 1279 1404 1449">Mr. Giegold said he was worried about the tentative of several Member States to create exemptions to the new European rules laid down by the EU institutions and the EBA in order to protect national assets. He said that such a fragmentation of the European banking sector would prevent the banks from restoring trusts in each other and would be against the idea of the Single Market. To the contrary, Mr. Giegold judges that more harmonization is necessary.</p> <p data-bbox="185 1453 1404 1592">Regarding the question of separating the activities of retail banking and investment banking, Mr. Giegold judges that the solution that the United Kingdom wants to apply to its banks might be a good one but, facing the opposition of France and Germany to this idea, he could agree on leaving this question to the national legislator at this stage.</p> <p data-bbox="185 1597 1404 1736">Regarding the leverage ratio, Mr. Giegold judges that the proposal is good and he invited his colleagues not to cede to the pressures that are made on them. He thinks that the compromises made in Basel III were already low requirements and, considering the level of danger that represents the leverage effect, it would not be reasonable to lower them more.</p> <p data-bbox="185 1778 560 1812">Sylvie Goulard (ALDE, France):</p> <p data-bbox="185 1816 1404 1912">Mrs. Goulard highlighted the need to protect the Single Market and the work that has already been done on the Single Rulebook for the financial sector against tentative of national governments to evade European rules.</p> <p data-bbox="185 1917 1404 2018">She also dealt with the issue of a level-playing field with the United States, recalling that differences exist between the way the real economy is financed in the EU and in the US, which implies that constraints on bank lending can be far more harmful to the real economy in the UE than in the US.</p>	

Finally, she highlighted the paradox in the attitude of the banking industry, which denounces the side effects of Basel III on the financing of the economy and at the same time anticipates its implementation, even before the political discussion on the text had actually started, regardless of the consequences that those anticipated actions could have on the economic growth and the development of European SMEs, an issue that should be, according to Mrs. Goulard, “the alpha and omega” of the Parliament’s work on CRD IV.

Astrid Lulling (EPP, Luxembourg):

Mrs. Lulling raised the issue of the relationships between the mother banks and their subsidiaries, or between home and host countries, which is very important for small Member States. She thinks that recent banking crisis have shown that host countries are generally bearing a heavier burden than home countries and she thus pleads for a shared supervision of the financial sector in the framework of the European supervision authorities.

Regarding the question of the liquidity ratio, Mrs. Lulling considers that limiting the outflows to 75% of the inflows is not justified as regards prudential requirements. However, as the Basel Committee decided to adopt this cap on the consolidated basis, she proposes to keep it for the group consolidation and to give it up for subsidiaries.

Elisa Ferreira (S&D, Portugal):

Mrs. Ferreira repeated that it is necessary to be very careful when dealing with sovereign debt and regulating the financing of the real economy, in particular SMEs, because we can hardly foresee the consequences of the current monetary and economic policy.

She said that she is really in favour of a strong European supervision, under the condition that, when necessary, the possibility is maintained to adapt the rules to specific cases.

Jürgen Klute (GEU/NGL, Germany, shadow rapporteur):

Mr. Klute warned against the effect of raising the risk weight on sovereign debt in the framework of CRD IV, as Mr. Karas proposes in its amendment 9: he judges that raising this risk weight will make more costly the financing of the debt for the Member States while they are already out of treasury.

Mr. Klute also said he would try to make amendments in the sense of separating retail and investment banking activities, in the sense already advocated by Mr. Giegold.

Mr. Klute also recalled that Basel III was first intended to apply to big, internationally active banks whereas CRD IV will apply to the whole European banking sector. He judges that this proposal does not take enough into account the huge diversity of banking models that exist in Europe. He said he would table amendments in order that prudential requirements would be proportional to the actual risk linked to an individual credit institution.

Othmar Karas (EPP, Austria):

Mr. Karas recalled that his report was intended to gather a broad majority within the Parliament, not to divide. He sees in the debate a series of inconsistencies. Regarding the parallelism with the United States, Mr. Karas insisted that the European legislators must not tie themselves to what the US are doing on their side to transpose, or not, Basel III into US law; but at the same time, it is necessary to be aware of what the US are doing in order to know whether the European solution might be detrimental for the European banking industry in its competition with American banks.

Mr. Karas said that, in his view, the European Parliament should aim at drafting a legislation that would apply the Basel III requirements to all banking actors while taking into account the diversified natures, legal forms and sizes of those actors.

Regarding the risk weight, Mr. Karas acknowledged that his proposals in CRD IV could have procyclical effects on the short run, but this does not make less necessary the search for a solution that would equilibrate the banking system on the long run, taking into account the lessons of the

sovereign debt crisis. He recalled that, while raising the risk weight on sovereign debt, it would be necessary to lower it on loans to SMEs in order to protect their financing through bank lending.

13 Feb. 2012: Deadline for tabling amendments postponed to 5 March

Due to technical problems preventing MEPs from sending their amendments on most parts of the CRD IV draft Directive and draft Regulation to the Secretariat of the Economic and Monetary Affairs Committee, Ms. Sharon Bowles, Chair of the Committee, decided to postpone the deadline for tabling amendments on the text to 5 March 2012.

24 Jan. 2012: Othmar Karas presents his draft reports to the ECON Committee of the European Parliament

In his intervention in the Economic and Monetary Affairs (ECON) Committee of the European Parliament, Othmar Karas (EPP, Austria) recalled that a previous own initiative report had laid the ground for the current legislative work on Basel III/CRD IV, though economic and political circumstances have changed a lot since that time, in particular since the European Council's decision of last fall to raise the capital requirement of 70 EU banks to 9% from 2012. He also highlighted the fact that, even if the Basel III agreement needs to be fully implemented in the EU, there are special features of the European banking sector that must be taken into account.

Mr. Karas judges that the CRD IV project can only have a political articulation if it does not only reinforce the resilience of the banking sector but also create a banking system that can promote the growth of the European economy. This implies adapting Basel III to the European economy, in a sense that still needs to be discussed within the Parliament and with the Council of the EU.

Mr. Karas highlighted several times that his draft reports are not the final point of his work but to the contrary the starting point of his work with the other members of the Parliament, a work that they will have to bring forward through compromise amendments.

All the same, he stated that his amendment proposals are not all just changes proposals to the Commission's draft; several of them are more of invitations to the Commission to explain or refine its proposal in a dialogue with the MEPs. He also invited his colleagues to establish contacts with the European Banking Authority (EBA).

On the level of harmonisation, Mr. Karas stated that uncoordinated provisions would result in transfers of risks from Member States with higher standards to the others, a situation that he judges "unacceptable", reason why he prefers a full harmonisation of the prudential rules.

After M. Karas, the shadow rapporteurs expressed their views on the text:

Udo Bullmann (S&D, Germany) stated that this text is "an important chance to influence the structure of the banks": He estimates that the reformed banking system should establish a clear separation between actors that are willing to support high levels of risks and those who are only requiring financial services to fund their economic activity.

Mr. Bullmann also stated that, in the context of the debt crisis and the critics to the credit rating agencies, banking legislation should encourage banks to lead their own credit assessments rather than relying on external ratings.

Sharon Bowles (ALDE, UK) showed agreement with the recital concerning trade finance. However,

she expressed her concerns that, in time of crisis and possible credit crunch coming from a sharp fall of bank lending, it may be unwise to “experiment” on the financing of businesses “just for the pleasure of saying that we should add more capital”.

Vicky Ford estimated that, though harmonisation is needed in the European banking sector, fully harmonised rules are not a good solution: the EU being an heterogeneous economic zone, Member States should be able to adapt the rules when local economic situations require so.

Philippe Lamberts (Verts/ALE, Belgium) called for a « Karas rule », European equivalent of the Vickers rule on the separation of investment and retail banking. He also called the rapporteur to deal with the question of Systematically Important Financial Institutions, which, according to him is an urgent issue because the systemic risk they represent is even higher today than before the crisis. Finally, he judged that the levels of capital should be much higher than proposed in the draft regulation.

The deadline for tabling amendments is set to 27 February 2012

9 Jan. 2012: Danish Presidency of the Council tables compromise proposals on CRD IV

The Danish Presidency of the Council took good notes of the work realised by the Polish Presidency during the second semester of 2012 on CRD IV and translated it into compromise proposals on the draft Regulation and on the draft Directive.

For an unknown reason, those two documents have not been published on the Council’s website. The pdf files will be sent along with the present report and enclosed to the updated stakeholder mapping on CRD IV (Docs 5107/12 and 5104/12).

16 Dec. 2011: The European Parliament releases Othmar Karas’ reports on CRD IV

A few days before the winter holidays, the Austrian member of the European Parliament Othmar Karas, rapporteur on the CRD IV legislative project sent to the EP’s Committee for economic and monetary affairs (ECON) his draft reports on the regulation and on the directive.

Mr. Karas will formally present his projects to the ECON Committee on 24 January, before a vote expected in April.

Link to the draft report on the Regulation:

<http://www.europarl.europa.eu/sides/getDoc.do?type=COMPARL&reference=PE-478.506&format=PDF&language=EN&secondRef=01>

Link to the draft report on the Directive:

<http://www.europarl.europa.eu/sides/getDoc.do?type=COMPARL&reference=PE-478.507&format=PDF&language=EN&secondRef=01>

18 Nov. 2011: Progress report of the Council on the work on CRD IV

The Polish Presidency of the Council released on 18 November a progress report on the Council’s work on the CRD IV legislative proposals. According to the report, “there is a broad measure of agreement on a number of proposed provisions to improve current prudential requirements, in

particular the need to improve significantly the qualitative and quantitative capital requirements.”

It appears though that the Member States’ delegations are split on the level of national discretion that is allowed within the Commission’s proposals. Some of them agree with the Single Rulebook framework proposed by the Commission, arguing that the possibility to determine the level of the countercyclical buffer is enough flexibility, while others would like to be able to strengthen the prudential requirements in their jurisdictions, through higher core capital targets.

Disagreement is also visible on Article 443 of the draft Regulation that allows the Commission to temporarily raise capital requirements through delegated acts. Some delegations are unwilling to grant the Commission such a power.

Though all delegations agree on the need to introduce a liquidity coverage requirement, several concerns have been raised. First, some Member States (MS) argue that, contrarily to what is currently planned, the LCR should be introduced by amending the CRD IV Regulation through ordinary legislative procedure and not through delegated act of the Commission. Second, the MS wants to make the wording of the provisions relative to the LCR more precise. Third, the MS are concerned about the changes made to the liquidity structure: “The main concerns are related to the possibility of establishing single liquidity sub-groups and intra-group treatment. The proposed Regulation foresees an obligation to establish a single liquidity sub-group once certain conditions are met. There seems to be a prospect of agreement on the principle of having a single liquidity sub-group, subject to sufficient safeguards being defined, especially in terms of procedure and conditions of application. Notably, in place of the proposed obligatory waiver of liquidity requirements to subsidiaries if certain conditions are met, a large number of Member States suggests providing for discretion of national competent authorities in this respect. Moreover, the proposed Regulation contains a requirement to apply liquidity intra-group treatment where the single liquidity sub-group has not been established. The proposed solution has very similar features to the single liquidity sub-group issue. Some Member States, however, are of the view that there are no safeguards foreseen within the suggested procedure. The structure of liquidity supervision is subject to further examination.”

The delegations also examined the question of the leverage ratio. Several Member States estimates that the disclosure of a the leverage ratio before taking the decision whether it should be a binding requirement might have negative effect on the market participants and suggest to postpone this disclosure.

The report notes “that some of Member States have concerns about definition of own funds, in particular the treatment of significant investments in insurers and the “substance over form” approach on Common Equity Tier I capital”. Those MS consider that the CRD IV proposals “do not fully transpose the Basel III requirements”, an opinion that is not shared by all the delegations. Finally, the Presidency estimates that “further work is also needed on, *inter alia*, countercyclical buffers, the sanctioning regime, requirements linked to corporate governance, etc.”

The EcoFin Council took note of the report during its meeting of 30 November.

Link to the progress report:

<http://register.consilium.europa.eu/pdf/en/11/st17/st17166.en11.pdf>

26 Oct. 2011: The EBA unveils the EU measures to “restore confidence in the banking sector”

The European Banking Authority (EBA) published on 26 October a press release explaining the measures to be taken to solve the banking crisis in the EU, as part of the broader plan decided at the European Council to address both the sovereign debt crisis and the EU banking crisis.

The EBA estimates that, beyond the current actions undertaken by the European Central Bank (ECB)

to help banks, **“public guarantee schemes should be set in place where appropriate to support banks’ access to term funding at reasonable conditions”**. It insisted that “a coordinated approach at EU level is needed, especially in terms of entry criteria, pricing and conditions”, an approach that will involve the EBA, the European Commission, the ECB and the European Investment Bank (EIB)

The EBA also “designed a capital package, which [...] aims at providing a further capital buffer for the EU banking system”. Banks are required to build a **temporary capital buffer to compensate the decrease of the market price of various Member States’ sovereign debt** and to **“establish a buffer such that the Core Tier 1 capital ratio reaches 9%”**. Those two buffers should be constituted by **June 2012**. The EBA estimates that **€ 106 billion** will be necessary to cover banks’ capital shortfall. Banks are required to submit by the end of 2011 to their national supervisors their plans to reach the targets.

Banks are asked to reach the targets **“avoiding excessive deleveraging**, so as to contain the potential impact on the real economy”; among the measures they are expected to take is retaining dividends and bonuses and the transformation of debt into Core Tier 1 capital instruments.

Link to the EBA’s press release:

<http://www.eba.europa.eu/News--Communications/Year/2011/The-EBA-details-the-EU-measures-to-restore-confide.aspx#>

14 Oct. 2011 : EBIC’s letter to the ECON Committee of the European Parliament on CRD IV

The European Banking Industry Committee EBIC, a joint organism of the main European federations of the banking sector, sent a letter to the MEPs of the EP’s Committee on economic and monetary affairs to express their views on the transposition of the Basel III agreements through the CRD IV proposals of directive and regulation.

On the point of liquidity, the EBIC states that: “it should be noted that the new liquidity provisions, which were designed for deposit-taking institutions, may also be applied by Member States on a legal entity basis to non-deposit-taking institutions such as leasing, **factoring** and consumer credit companies. By definition, **the Basel III proposals do not cater for institutions that are not authorised to accept deposits**. EBIC would like to reiterate that **the application of these rules to this class of institution would not be appropriate**. It is vital that the European Parliament ensures that these institutions are excluded from the new liquidity requirements on a legal entity basis.

Position paper :

<http://www.eubic.org/Position%20papers/2011.10.14%20EBIC%20letter%20to%20members%20of%20ECON%20-CRD%20IV.pdf>

28 Sept. 2011: Outcome of the September 2011 Basel Committee meeting

After its September monthly meeting, the Basel Committee on Banking Supervision communicated that it “reviewed its work to finalise the liquidity standards over the observation period”. In particular, the Committee “agreed to accelerate its review to arrive at any adjustments in key areas well in advance of the mid-2013 deadline. The Committee decided to accelerate its work on this issue in order to “provide greater market certainty about the technical details and calibration of the Liquidity Coverage Ratio (LCR)”. The Committee also pursues its work on the Net Stable Funding Ratio (NSFR).

Press release :

<http://www.bis.org/press/p110928.htm>

26 Sept. 2011 : First exchange of views on the CRD IV proposals in the ECON committee of the European Parliament

The committee on economic and monetary affairs of the European Parliament held a first exchange of views on the **CRD IV proposals** on Monday 26 September in Strasbourg.

The rapporteur, **Othmar Karas** (EPP, Austria), recalled the schedule for the examination of the proposals :

- Report 23 January
- Vote in ECON committee end of April 2012
- Vote in plenary session in July 2012 (first reading)

Mr. Karas recalled that the starting point of his work would be the [initiative report](#) of 5 October 2010, that was approved by a large majority of the EP, a report that, according to him, is still relevant despite the changes in the economic environment (sovereign debt crisis, public finances consolidation, first impacts on the real economy) that the legislator will have to take into account.

Mr. Karas sees two changes in the Commission's proposal following the EP's initiative report :

- A new division between directive and regulation, still subject to a strong debate. The rapporteur pleads for a level playing field in all Europe and all sectors.
- The Commission integrated various demands of the EP :
 - o A definition of the capital requirements that is independent from the bank's legal status;
 - o Modified transitional periods;
 - o Increased powers for the national control authorities;
 - o Minority participations in capital better taken into account;
 - o A non-binding levy ratio.

He also welcomed the elements of the proposals that are outside the scope of the Basel III agreement: corporate governance and sanctions.

He identifies the role of the European Banking Authority (EBA) as one of the big issues in the coming discussion; the question being: will the EBA have enough staff to achieve its tasks.

Mr. Karas concluded that the Council of the EU will probably have more difficulties to reach an agreement within its member than with the European Parliament. The main line of his report will be to support the Commission's project, rejecting the will expressed by various member states to stick to the Basel III agreement's text.

Udo Bullman (S&D, Germany) welcomed this initiative and explained that the banks are clearly undercapitalized. He welcomed the counter-cyclical measures (Capital conservation buffer...). However, some points need to be corrected: too much importance has been given in the past years to rating agencies. The fundamental problem is the quality of bank capital, that need to be reinforced but we also need to preserve the access to credit for SMEs. We know indeed that lower investments will have a negative impact on growth.

Vicky Ford (ECR, UK) quoted a document that has been given her by an American bank showing that there are 22 differences between CRD 4 and Basel III.

She thinks necessary to set up higher capital ratios and criticizes the covered bonds, which are not liquid assets according to her. She prompted the ECON committee to audition John Vickers (author of a report on the reform of the British banking sector).

Sharon Bowles and the other shadow rapporteurs had no time to intervene.

Impact on EUF members: **HIGH** – Legislative process running. Liquidity ratios might prevent factors from lending.

Stakeholders: European Commission – DG Internal Market, Unit H1 (Mario Nava HoU); European Parliament – ECON Committee, Othmar Karas (EPP, Austria) rapporteur; Council of the European Union

Rome I regulation / Contract law	Geography: all EU
<p><u>February 2012: BICCL study on Rome I to be published in June, along with the Commission's proposal.</u></p>	
<p>The European Commission informed us that the BICCL study on the revision of the Rome I Regulation will be published along with the Commission's proposal to review the Regulation. The Commission plans to adopt the proposal in June.</p>	
<p><u>10 Nov. 2011: Commissioner Reding's speech at the European contract law conference in Warsaw</u></p> <p>On 10 November, the European Commissioner for Justice, Viviane Reding, pronounced a speech at the European contract law conference in Warsaw. In this speech, she explained what her proposal of a Common European Sales Law, coming through a regulation proposed in October, was aiming at and the way she intended it to function. The optional character of the proposed system is, according to her, a way to allow the Member States that are reluctant to harmonizing contract laws across Europe, a reluctance that she saw during the negotiations on the Consumer Rights Directive. The proposed system is then optional and limited to a narrow range of contracts, but the Member States that are willing to expand it will be free to allow their economic agents to use it for other situations. The Commission's idea is then that Member States and economic actors progressively generalize the use of the European sales law to such an extent that it will <i>de facto</i> replace national contract laws, without constraining unwilling national authorities or economic agents.</p> <p>Link to Commissioner Reding's speech: http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/11/742&format=PDF&aged=0&language=EN&guiLanguage=en </p>	
<p><u>11 Oct. 2011 : The European Commission unveils its Regulation proposal for a Common European Sales Law</u></p> <p>The European Commission, through the voice of Viviane Reding, Commissioner for Justice, presented on 11 October its proposal for a Regulation on a Common European Sales Law, ending the pre-legislative work that begun with the green paper on a European instrument for contract law published in July 2010. The Commission finally opted for an optional instrument, limited to cross-border sales contracts between businesses (B2B) and between businesses and consumers (B2C).</p> <p>As regards the relation between this proposal and the Rome I Regulation, the proposal's introduction states that <i>"the Rome I Regulation and the Rome II Regulation will continue to apply and will be unaffected by the proposal. It will still be necessary to determine the applicable law for cross-border contracts. This will be done by the normal operation of the Rome I Regulation. It can be determined by the parties themselves (Article 3 of the Rome I Regulation) and, if they do not do so, this will be done on the basis of the default rules in Article 4 of the Rome I Regulation. As regards consumer contracts, under the conditions of Article 6(1) of the Rome I Regulation, if the parties have</i></p>	

*not chosen the applicable law, that law is the law of the habitual residence of the consumer.” Then “where the parties have agreed to use the Common European Sales Law, its rules will be the only national rules applicable for matters falling within its scope. [...] This **agreement to use the Common European Sales Law is a choice between two different sets of sales law within the same national law and does therefore not amount to, and must not be confused with, the previous choice of the applicable law within the meaning of private international law rules.**”*

According to the Commission’s explanation, the Article 6(2) of the Rome I Regulation, that imposes to the contactors the respect of the mandatory provisions in the consumer’s contract law, still applies. But considering that if the contractors opted for the Common European Sales Law the mandatory provisions are the same in all member states, the contractors only have to conform themselves to the mandatory provision of the Common European Sales Law to be in line with Article 6(2) of the Rome I Regulation.

As concerns the chances of this initiative in the European legislative chambers, the European Parliament already adopted a resolution this summer that called for such an optional instrument and will thus probably support Mrs. Reding’s initiative, whereas the negotiation might be harder in the Council, Poland being the only government who expressed its support.

Commission’s proposal :

http://ec.europa.eu/justice/contract/files/common_sales_law/regulation_sales_law_en.pdf

September 2011: The legislative proposal for an optional European contract law to be presented in October.

The European Commission is preparing a legislative proposal for an optional European contract law (28th regime) to be presented **on Wednesday 12 October**. Viviane Reding believes differences in contract law may hinder cross-border trade for both SMEs and consumers buying across borders.

19 July 2011: the European Commissioner for Justice, Viviane Reding, attended the informal Council of Justice Ministers in Gdansk. [Her speech](#) focused on European Contract law. She congratulated the Polish Presidency which announced that the harmonization of the European Contract Law was a priority of the semester. *“An optional and voluntary European contract law system, which could be freely chosen by traders, would in my view be a very good way to meet our objectives. An optional instrument that provides guarantees and certainty to both consumers and businesses would provide a useful and necessary boost to the internal market. The optional nature of the regime fits well with the principle of freedom of contract.”* said Commissioner Reding

19 August 2011: The DG Justice of the European Commission has published a new version of its draft feasibility study for a European Contract Law (http://ec.europa.eu/justice/contract/files/feasibility-study_en.pdf).

21 September 2011: The Commission wants to start a dialogue with the insurance sector about the possible added value of an **optional European Insurance Contract Law**, on which work could start in 2012.

Impact on EUF members: MEDIUM – No legislative activity at this stage. A study is being prepared by BIICL for the European Commission and may be published soon.

The parallel initiative on a Common European Sales Law must be kept under vigilance for possible changes that could be introduced by the legislator, but it currently does not affect the Rome I Regulation.

Stakeholders: European Commission – DG JUST – Unit A2 “Contract Law”

VAT on financial services	Geography: all EU
No update in February	
<p><u>14 Dec. 2011: VAT on Financial Services: The Polish Presidency publishes a progress report</u></p> <p>The Polish Presidency of the Council of the EU added its own item to a very long list of documents on the draft Directive for VAT on Financial Services: a progress report (document FISC 170) published on 14 December intended to summarise the work that has been done during its six months in turn. In its report, the Presidency recalls, among other things, that the Member States have chosen to keep working on the project, without linking it to the upcoming examination of a new general strategy for the European system of VAT.</p> <p>Link to the Presidency's progress report : http://register.consilium.europa.eu/pdf/en/11/st18/st18650.en11.pdf</p>	
<p><u>6 Dec. 2011: European Commission's communication on the future of VAT</u></p> <p>The European Commission released on 6 December a communication on the future of VAT, analyzing the results of its Green Paper of December 2010. The Commission announces the key principles that will drive its reform of the EU VAT system, among those reducing the administrative burden on companies, reducing the number of exemptions and reduced rates, and reinforcing the fight on fraud. The Commission's main goal is to allow Member States to increase their revenues from VAT while facilitating cross border trade within the Single Market.</p> <p>The Commission intends to simplify the rules on VAT, especially for companies that have cross border activities. It will extend the one-stop-shop system, entering into force in 2015 for electronic services providers, to other sectors and will set a multilingual website in order to provide companies with the necessary information.</p> <p>The reduction of exemptions and reduced rates should be driven by three principles:</p> <ul style="list-style-type: none"> - Suppressing reduced rates that are barriers to the Single Market by creating distortion of competition; - Suppressing reduced rates on products of which consumption is discouraged by other EU policies (on environment or health); - Taxing at same level products that are similar. <p>Finally, the Commission wants to set in 2012 an "early warning mechanism" on VAT fraud and will examine the possibility to reinforce the European mechanisms for the exchange of information.</p> <p>Link to the Commission's communication: http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/key_documents/communications/com_2011_851_en.pdf</p>	
<p><u>17 Nov. 2011: Results of the Council's High level working group on indirect taxation</u></p>	

The Polish Presidency of the Council presented to the Member States' delegations a project of progress report on the work achieved during the past six months. This draft report was examined by the delegations during the High level working group's meeting on 17 November and rejected due to the lack of neutrality in the Presidency's tone. A new draft project will be examined during the next meeting, on 14 December.

A more important piece of information of this meeting came from the Danish delegation: the forthcoming Danish Presidency indicated that it will not advance works on this issue during its turn. This means that the examination of the legislative drafts might start again only under the Cypriot Presidency (starting on 1st July 2012).

10 Nov. 2011: Publication of document FISC 127 (orientation debate)

The Council published the document FISC 127, in which the Polish Presidency sets the orientation debate that took place during the meeting of 26 October (see article below).

Link to FISC 127 document:

<http://register.consilium.europa.eu/pdf/en/11/st15/st15265.en11.pdf>

26 Oct. 2011: High level working group on indirect taxation

A **high level working group dedicated to tax questions** met on 26 October and discussed, among other issues, the **compromise proposals issued by the Polish Presidency on 30 September** (see below).

Four issues are still subject to debates between the delegations:

- The exoneration for sales of insurance contracts portfolios;
- The treatment of subcontracting;
- The treatment of pension and investment funds;
- The treatment of derivatives.

Factoring has not been regarded as a priority issue and does not seem to be controversial for any delegation.

The Polish Presidency identified that **a compromise is still possible** on this issue but **did not mention any schedule**. The project may be discussed again in a working group on 23 November, which leaves **very little room for an agreement under Polish Presidency**, given that the last EcoFin meeting of 2011 will take place on 30 November. Moreover, the **German delegation has adopted a very strict position** on each of the mention points and estimated that a new regime for VAT on financial services is "**rather a long term issue**". **Germany rejects any enlargement of the current exonérations**. Conversely, the **United Kingdom seems to be willing to advance towards an agreement** and various Member States show themselves open to compromise.

The Polish Presidency also asked the delegation whether the VAT on financial services project should be discussed in link with the **Commission's Green Paper on the future of VAT** or in link with the **Financial Transaction Tax proposal**. In both case, the delegation answered negatively, they **fear a pollution of the debate if it is mixed** with other projects and want to maintain VAT on financial services as an independent initiative in order to find an agreement on a mid-term.

13 Oct. 2011: The European Parliament adopts a resolution on the future of VAT

During its plenary session of 14 October, the European Parliament adopted a non-legislative resolution on **MEP David Casa's** report on « **the future of VAT** ».

On the question of exemptions, the Parliament explicitly mentions financial transactions in point F, inviting the Member States to “**consider ending the VAT exemption on financial transactions** following an analysis of the implications involved, while taking into consideration the proposal for a Council Directive.” Moreover, in point 9, the Parliament “points out that Member States should **ensure that in principle all commercial transactions are taxed as far as possible** and that **any exemptions are construed narrowly**”.

The resolution supports the Commission's will to generalize the **origin principle** for cross-border taxation (see points 15 and 16).

Finally, it is to be noticed that in point 18, the Parliament “calls on the Commission to come up with a **proposal by the end of December 2012 on simplifying cross-border taxation**”, with a major focus on lightening the administrative burden for SMEs that operates cross-border businesses.

Resolution :

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2011-0436+0+DOC+XML+V0//EN&language=EN>

30 Sept. 2011: New compromise proposals from the Polish Presidency of the Council

On 30 September, the Polish Presidency of the Council issued two compromise proposals on the draft **Directive on VAT treatment for insurance and financial services** (FISC 122) and on the **related draft Regulation** (FISC 123). An explanatory document accompanies the proposals (FISC 124)

Link to FISC 122:

<http://register.consilium.europa.eu/pdf/en/11/st14/st14964.en11.pdf>

Link to FISC 123:

<http://register.consilium.europa.eu/pdf/en/11/st14/st14965.en11.pdf>

Link to FISC 124:

<http://register.consilium.europa.eu/pdf/en/11/st14/st14967.en11.pdf>

Impact on EUF members: The clarification of the definitions of exemptions should allow the factoring industry to reduce administrative costs linked to the compliance with tax rules. Moreover, the harmonization of exemptions and reduction of national options should foster the cross-border activity of factors.

Stakeholders: European Commission – DG TAXUD, Unit C1 “VAT and other turnover taxes”; Council of the Union – Working Group on Tax questions-Indirect taxation

Anti-Money Laundering Directive	Geography: all EU
<p><u>16 Feb. 2012: Updated standards of the Financial Action Task Force on money-laundering, financing of terrorism and proliferation</u></p> <p>The Financial Action Task Force (FATF), international organization in charge of establishing standards against money laundering, released on 16 February the update of its recommendations on combating money-laundering, the financing of terrorism and proliferation. Those standards are applied in more than 180 countries and the European Commission intends to apply them in the EU through the revision of the Anti-Money Laundering Directive.</p> <p>The FATF sets in its press release a list of the main changes that this update brings to anti-money laundering:</p> <ul style="list-style-type: none"> - "Combating the financing of the proliferation of weapons of mass destruction through the consistent implementation of targeted financial sanctions when these are called for by the UN Security Council." - "Improved transparency to make it harder for criminals and terrorists to conceal their identities or hide their assets behind legal persons and arrangements." - "Stronger requirements when dealing with politically exposed persons (PEPs)." - "Expanding the scope of money laundering predicate offences by including tax crimes." - "An enhanced risk-based approach which enables countries and the private sector to apply their resources more efficiently by focusing on higher risk areas." - "More effective international cooperation including exchange of information between relevant authorities, conduct of joint investigations, and tracing, freezing and confiscation of illegal assets." - "Better operational tools and a wider range of techniques and powers, both for the financial intelligence units, and for law enforcement to investigate and prosecute money laundering and terrorist financing." <p>The European Commissioner for the Internal Market and services, Michel Barnier, has commented the release of the FATF's standards, which pave the way to the revision of the AML directive: <i>"I welcome the adoption of new standards by the Financial Action Task Force (FATF) aimed at strengthening global safeguards and protecting the integrity of the financial system against money laundering and terrorist financing. These recommendations pave the way for a stronger fight against money laundering and terrorist financing at EU level. The Commission is committed to maintain effective systems to prevent the financial system from being abused by criminals and terrorists. It will now take appropriate steps to ensure that these revised standards are rapidly incorporated into our own European framework".</i></p> <p>Link to the FATF recommendations: http://www.fatf-gafi.org/dataoecd/49/29/49684543.pdf</p>	
<p><u>3 Feb. 2012: The European Parliament adopts a resolution on dictators' financial assets in the EU</u></p> <p>The European Parliament adopted during its two-day plenary session in Brussels a resolution</p>	

regarding the external action of the European Union towards authoritarian regimes. The resolution, addressed by the Parliament to the Council of the EU, deals with the need to adopt a coordinated, targeted action aiming at depriving dictators of the financial assets they hold in the EU.

Among other recommendations, the EP asks the Council:

- (z) *to commit EU Member States to **declare when persons on the sanction list have physical and financial assets held within their borders**, and the **approximate value and location of the assets**; to call on EU Member States to collaborate in **exchanging relevant information**, for example through the existing Asset Recovery Offices and the Camden Asset Recovery Inter-Agency Network (CARIN); to enhance cooperation between EU Member States in the identification and confiscation of those assets;*
- (aa) *to commit all EU Member States to ensure the rigorous application of targeted financial sanctions or restrictive measures such as:*
 - ***extending Directive 2005/60/EC on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing to apply in a mandatory way to all attempts to open accounts or deposit money by sanctioned dictators and natural and legal person or entities associated with them, this money being the proceeds of crime, theft and embezzlement; and exploring options for other preventive mechanisms to curb the inflow of misappropriated state funds or assets into EU financial institutions;***
 - ***the refusal of loans, the tightening of measures aimed at repayment of loans and the freezing of deposits, in order to ensure that, in practice, the measures deny designated persons and entities all access to all financial services within the EU's jurisdiction;***
- (ab) *to ensure that **restrictive economic and financial measures, including targeted financial sanctions, are applied by all persons and entities operating within the Union, including nationals of third countries, as well as by Union citizens or economic entities operating outside the Union's borders but registered or established under the legislation of a Member State of the Union;***

15 Nov. 2011: European Commission announces a legislative proposal on AML Directive in 2012

In its work programme for 2012, the European Commission announced that it will make a proposal for a revision of the Anti-Money Laundering directive in 2012.

The proposal should be published in October and implement in EU law the international standards that the Financial Action Task Force is currently revising and should be published in February. Besides, the European Commission has mandated Deloitte consultants to carry out a study on the implementation of the 3rd AML directive, and the EC should publish its own impact assessment in March 2012.

According to the Commission, the provisional results of the study show no need of a full-scale revision of the EU system but rather some practical improvements (e.g. guidance on the risk based approach, ensure better access to information on beneficial ownership and politically exposed persons, provide for a more tailored approach for small businesses and professionals, etc.).

The Commission estimates that the minimal harmonization approach of the last AML directive led to huge diverging national laws on this matter and that Single Market developments such as SEPA justify a more coordinated approach.

Link to the Commission's work programme for 2012 (initiative n° 93):

http://ec.europa.eu/atwork/programmes/docs/cwp2012_annex_en.pdf

Impact on EUF members: **Low** – Small practical changes might be introduced through revision of the AML Directive.

Stakeholders: European Commission – DG MARKT, Unit F2 “Corporate governance & social responsibility”

Data protection	Geography: all EU
<p data-bbox="185 450 1005 481"><u>27 Feb. 2012: Debate on Commission's proposals in LIBE Committee</u></p> <p data-bbox="185 521 1394 589">The Committee for Civil Liberties, Justice and Home Affairs (LIBE) held a discussion on 27 February on the European Commission's proposals on data protection.</p> <p data-bbox="185 629 1394 801">Several MEPs expressed doubts about the realism of the Commission's proposal, in particular the feasibility of the "right to be forgotten" and the principle of explicit consent. MEP Sarah Ludford (ALDE, United Kingdom) thus wondered whether a "right balance" has been found between the data protection requirements and the importance not to harm the development of e-trade or not, and expressed her fear that the proposed legislation leads to overloading the economic actors.</p> <p data-bbox="185 882 1190 913"><u>25 Jan. 2012: European Commission adopts legislative proposals on data protection</u></p> <p data-bbox="185 954 1394 1144">The European Commission has today proposed a comprehensive reform of the EU's data protection rules to strengthen online privacy rights and boost Europe's digital economy. This major reform tackles the challenges of globalization (worldwide data transfers) and new technologies (the current legislation dates back from pre-Internet times). It also aims at making Europe an international standard.</p> <p data-bbox="185 1160 1394 1312">The Commission's proposal for the general framework consists of a Regulation, which becomes immediately enforceable as law in all member states simultaneously. This aims at preventing legal fragmentation between the 27 EU Member States, which occurred after the 1995 Directive on protection of personal data (95/46/EC) came into force.</p> <p data-bbox="185 1361 900 1393">The EC's package includes 3 main elements (also attached):</p> <ul data-bbox="236 1402 1394 1576" style="list-style-type: none"> - a Communication presenting the Commission's vision and objectives : "A European Data Protection Framework for the 21st century" - a Regulation proposal setting out a general EU framework for data protection ; - a Directive proposal on protecting personal data processed for the purposes of prevention, detection, investigation or prosecution of criminal offences and related judicial activities. <p data-bbox="185 1619 1394 1731">The EC also issued a Report on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters; and an Impact Assessment accompanying the proposals (view Annexes and Executive summary).</p> <p data-bbox="185 1740 606 1771">Key changes in the reform include:</p> <ul data-bbox="236 1780 1394 2016" style="list-style-type: none"> • A single set of rules on data protection, valid across the EU. Unnecessary administrative requirements, such as notification requirements for companies, will be removed (estimated savings : €2.3 billion a year) ; • A single national data protection authority (single point of contact or "one-stop-shop" system) in the EU country where organisations have their main establishment. Likewise, people will be able to refer to the data protection authority in their country, even when their data is processed outside the EU. 	

- **Independent and strong national data protection authorities** will be strengthened so they can better enforce the EU rules at home ;
- **Clear rules** will define when **EU law is applicable to data controllers established in third countries**, in particular by specifying that whenever goods and services are offered to individuals in the EU, or whenever their behaviour is monitored, **European rules shall apply**;
- The Directive will apply general data protection principles and rules for **police and judicial cooperation** in criminal matters. The rules will apply to both domestic and cross-border transfers of data and make exchanges of information easier between Member States;
- **Reinforcement of data security** by encouraging the use of privacy-enhancing technologies (technologies which protect the privacy of information by minimizing the storage of personal data), privacy-friendly default settings and **privacy certification schemes** (Article 39 of the Regulation).

New rights and duties for businesses:

- Data protection authorities will be empowered to **impose sanctions and fine companies that violate EU data protection rules**. This can lead to penalties of up to €1 million or up to 2% of the global annual turnover of a company.
- Instead of the current obligation of all companies to notify all data protection activities to data protection supervisors, the Regulation provides for increased responsibility and accountability : **companies and organisations will have to notify the national supervisory authority of serious data breaches within 24 hours**;
- **EU rules must apply if personal data is handled abroad** by companies that are active in the EU market and offer their services to EU citizens. Foreign legislation (ex: the US Patriot Act) shall not apply to the EU territory;
- Legitimate flows of data to third countries will be made easier by **reinforcing and simplifying rules on international transfers** to countries not covered by an adequacy decision;
- **Obligation to designate a Data Protection Officer** in companies with more than 250 employees and in firms which are involved in processing operations which, by virtue of their nature, their scope or their purposes, present specific risks to the rights and freedoms of individuals. SMEs (less than 250 employees) will be exempted.

Bringing confidence and transparency to citizens/consumers:

- People will have easier access to their own data and be able to transfer personal data from one service provider to another more easily (**right to data portability**);
- Data policies will have to be clear and written in plain language;
- To use the data, it will be necessary to get the explicit consent of the citizen;
- A '**right to be forgotten**' will help people better manage data protection risks online: people will be able to delete their data if there are no legitimate grounds for retaining it;
- Reinforcing **the right to information** so that individuals fully understand how their personal data is handled.

The Commission's proposals will be passed on to the European Parliament and EU Member States (meeting in the Council of Ministers) for discussion. Discussions are expected to take 1 or 2 years and the proposals will take effect two years after they have been adopted. Therefore, **complete implementation is not expected before 2015 or 2016**.

Link to the EC's Communication:

http://ec.europa.eu/justice/data-protection/document/review2012/com_2012_9_en.pdf

Link to the EC's Draft Regulation:

http://ec.europa.eu/justice/data-protection/document/review2012/com_2012_11_en.pdf

Link to the EC's Draft Directive:

http://ec.europa.eu/justice/data-protection/document/review2012/com_2012_10_en.pdf

15 Nov. 2011: European Commission announces a revision of the EU data retention framework

In its work programme for 2012, the European Commission announced that it will propose a revision of the EU legal framework for data protection in March 2012, in particular the revision of the Data Retention Directive. The announced objectives of the revision are three:

- To ensure the appropriate authorities have swift access to the telecommunications information which is strictly necessary for combating crime;
- To provide appropriate limitations on data retention and safeguards against unnecessary infringements of right to privacy and the protection of personal data;
- To remove unnecessary obstacles to the smooth functioning the internal market and to ensure consistent reimbursement of the telecommunications industry across the EU of the costs of applying data retention.

Link to the Commission's work programme for 2012 (initiative n°63):

http://ec.europa.eu/atwork/programmes/docs/cwp2012_annex_en.pdf

Oct. 2011: The Commission will propose a revision of the legal framework for data protection to be published by the end of 2011

In a communication **to be published in late November or early December** on measures to reinforce the confidence in the digital single market of e-commerce and online services, the European Commission **will announce as a key action a revision of the European legal framework on data protection by the end of 2011**, in order to "reinforce it, adapt it to technological evolutions, reduce the costs and administrative charges for operators and improve the legal coherence and certainty".

Impact on EUF members:

- The revision of the Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data will affect the way factoring and commercial finance professionals collect, retain and distribute consumer data for credit reporting purposes. New stricter rules might induce restrictions on the ways factors assess the credit risk linked to a customer.

+ Harmonised rules will facilitate cross border activity for the factoring and commercial finance industry.

Stakeholders: European Commission – DG JUST, Unit C3 "Data protection"; European Parliament – LIBE Committee, MEP Axel Voss (EPP, Germany); European Data Protection Supervisor

European Account Preservation Order for the attachment of bank accounts	Geography: all EU
<p>29 Feb. 2012: ECON Committee votes on Elena Băsescu's report</p> <p>On 29 February, the Economic and Monetary Committee (ECON) of the European Parliament voted to establish its opinion on the draft Regulation on a European Account Preservation Order, on the basis of the report established by MEP Elena Băsescu (EPP, Romania). The consolidated report should be available soon.</p> <p>It will be transmitted to the Committee on Legal Affairs, where MEP Raffaele Baldassare (EPP, Italy) is preparing his draft report.</p>	
<p>6 Feb. 2012: The ECON Committee discusses amendments to the draft Regulation on European Account Preservation Order</p> <p>The Economic and Monetary Committee of the European Parliament, that is required to deliver an opinion on the draft Regulation on a European Account Preservation Order, hold a discussion on 6 February on the amendments that ECON Committee members would like to submit to their colleagues of the Legal Affairs Committee (JURI), which is in charge of the main legislative report.</p> <p>The rapporteur, Elena Băsescu (PPE, Romania), recalled that her main objective was to balance the creditors' right to collect their debts and the protection of the debtors. Ms. Băsescu tabled 27 amendments in her draft opinion and 11 more amendments were tabled by the S&D and ECR shadow rapporteurs, Arlene McCarthy (S&D, United Kingdom) and Ivo Strejček (ECR, Czech Republic).</p> <p>A vote on this draft opinion and amendments will take place in the ECON Committee on 28 February.</p> <p>Link to the draft opinion: http://www.europarl.europa.eu/meetdocs/2009_2014/documents/econ/pa/883/883101/883101en.pdf</p> <p>Link to the tabled amendments: http://www.europarl.europa.eu/meetdocs/2009_2014/documents/econ/am/888/888964/888964en.pdf</p>	
<p>21 Dec. 2011: The European Data Protection Supervisor publishes an opinion on an European Account Preservation Order</p> <p>The European Data Protection Supervisor, the authority in charge of coordinating the data protection authorities in EU Member States and of assessing the European Commission's legislative projects that can have an impact on data protection, released an opinion on the draft Regulation</p> <p>Link to the EDPS' opinion: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2011:373:0004:0007:EN:PDF</p>	

23 Sept. 2011: Justice and Home Affairs Councils starts its work on the European Account Preservation Order

The member of the JAI Council attended a presentation by the European Commission, which marked the beginning of the legislative examination of the project by the Council.

13 Sept. 2011: ECON Committee of the European Parliament appoints Elena Băsescu to draft its opinion

Elena Băsescu, substitute member of the Committee on Economic and Monetary Affairs of the European Parliament, was appointed by this Committee to propose, on behalf of the Committee, an opinion on the draft Regulation creating a European Account Preservation Order to facilitate cross-border debt recovery in civil and commercial matter.

The Committee for legal affairs is responsible for the report. The rapporteur has not been appointed yet.

MEP Băsescu's curriculum vitae:

<http://www.europarl.europa.eu/members/expert/groupAndCountry/view.do?id=96814>

Impact on EUF members: The proposal aims at strengthening the certainty of recovery of cross-border debts in the EU, which may open new market opportunities of cross-border business for European factors by lowering the risk of cross-border factoring activity.

Stakeholders: European Commission – DG JUST; European Parliament – ECON Committee, Elena Băsescu (EPP, Romania)

Cross-border dispute resolution

No update in February

29 Nov. 2011 : European Commission's proposals on Alternative Dispute Resolution and Online Dispute Resolution for consumers

The European Commission issued on 29 November a Directive proposal on Alternative Dispute Resolution (ADR) for business to consumer (BtoC) disputes and a Regulation proposal on Online Dispute Resolution.

By the Directive on ADR, the Commission wants to make sure that quality ADR entities exist for any kind of dispute, regardless the kind of product or service in question and regardless the place where it was bought. Those entities will have to be "well-qualified, impartial, transparent, effective and fair" in order to be valuable alternative to in-court dispute resolution. They will have to deal with disputes in less than 90 days and businesses will have to inform their clients about which entity can deal with their potential dispute.

The regulation on Online Dispute Resolution (ODR) will create an EU-wide online platform for all disputed concerning purchases made on-line in another EU-country. This platform will automatically send the consumer's complaint to the competent ADR entity and facilitate the resolution of the dispute within 30 days.

Link to the ADR for BtoC Directive proposal:

<http://register.consilium.europa.eu/pdf/en/11/st17/st17795.en11.pdf>

Link to the ODR Regulation proposal:

<http://register.consilium.europa.eu/pdf/en/11/st17/st17815.en11.pdf>

9 Sept. 2011: The European Parliament publishes a study on Cross-border alternative dispute resolution in the European Union

The European Parliament realized, on demand of the committee on Internal Market and consumer protection (IMCO) a study on cross-border alternative dispute resolution in the EU, which identifies barriers to the use of ADR schemes by consumers in the EU, especially in cross-border cases.

It assesses other legislation relevant for consumer redress: the European Small Claims Procedure, the Injunctions Directive and the Mediation Directive. Finally, it examines ways to improve the effectiveness of cross-border ADR and the usefulness of a European legal instrument.

Study:

<http://www.europarl.europa.eu/activities/committees/studies/download.do?language=en&file=41671>

Impact on EUF members: non-legislative item

Stakeholders: European Parliament – Policy Department A, IMCO Committee

6 Sept. 2011: Opinion from the IMCO Committee of the European Parliament on alternative dispute resolution in civil, commercial and family matters

The European Parliament published on 6 September the opinion adopted on 31 August by the Committee on Internal Market and Consumer Protection of the European Parliament on alternative dispute resolution in civil, commercial and family matters. This is a non-legislative procedure, the IMCO Committee acts as secondary committee associated to the Committee on Legal Affairs.

Opinion :

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+COMPARL+PE-467.258+03+DOC+PDF+V0//EN&language=EN>

Impact on EUF members: non-legislative procedure

Stakeholders: European Parliament – IMCO Committee, Robert Rochefort (ALDE, France) rapporteur

Financial transaction tax	Geography: all EU
<p><u>29 Feb. 2012: Anni Podimata presents her draft report on FTT to the ECON Committee</u></p> <p>The European Parliament, which only gives an advice on the project of Financial Transaction Tax, has published on 10 February the draft report issued by MEP Anni Podimata (S&D, Greece) for the Committee on Economic and Monetary Affairs.</p> <p>Mrs. Podimata presented her report to her colleagues of the ECON Committee on 29 February. She said she wants “a more watertight framework to capture more trades and to minimise the interest for tax evasion”. Mrs Podimata’s report aims at enlarging the scope of the Commission’s proposal by adding a system that would include transactions between financial institutions located outside the EU made on securities first issued within the EU. The report also proposes to adopt the “stamp duty” approach, like in the UK, to link the acquisition of legal ownership rights to the payment of the FTT.</p> <p>The ECON Committee plans to vote on the report in April.</p> <p>Link to the draft report: http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+COMPARL+PE-480.888+01+DOC+PDF+V0//EN&language=EN </p>	
<p><u>6 Feb. 2012: Hearing on the Financial Transaction Tax in the ECON Committee of the EP</u></p> <p>The Committee on Economic and Monetary Affairs (ECON) of the European Parliament hold a public hearing on 6 February on the European Commission’s proposal for a Financial Transaction Tax (FTT), on which the Parliament has to deliver an opinion.</p> <p>On this occasion, the MEPs received Avinash Persaud, from Intelligence Capital, Snoy Kapoor, from the think tank Re-Define, Stephany Griffith-Jones, from Columbia University, who advocated this tax that would, according to them, not only curb practices that create risk on the financial markets, but could also boost European GDP by 0.25%.</p> <p>However, MEP Markus Ferber (EPP, Germany), shadow rapporteur, warned that the tax needs to target more closely high-frequency traders and intermediary players to ensure that the cost is not merely transferred to the final users.</p> <p>The experts pointed out that the Commission’s proposal should be amended regarding the point at which the tax would be levied: the tax should be payable to legalise a financial transaction and not only if one of the financial institutions is resident in a participating Member State. The tax base would then be widened and the tax would remain fully efficient even with some EU Member States joining the initiative at first.</p>	
<p><u>8 Nov. 2011 : First debate of the ECOFIN Council on the FTT</u></p> <p>On 8 November, after a presentation of the project of FTT by the European Commission, the delegations of the Member States debated on this project. Some of the ministers showed</p>	

themselves opposed to this project, holding positions between reserved and strongly hostile, like the United Kingdom's Finance minister, George Osborne, who asked for a vote on this issue as early as 2012, in order to bury the Commission's initiative. To the contrary, seven Member States strongly support the initiative (among them France, Germany and Spain), while fourteen fear relocation of financial activities outside the EU and ask for evidence that this risk is taken into account by the proposal.

28 Sept. 2011 : Adoption of a legislative proposal on the FTT

The European Commission adopted on 28 September 2011 its legislative proposal introducing a **financial transaction tax (FTT)** in the European Union **starting 1st January 2014**.

The tax will be charged on **all transaction made between two financial institutions if at least one of them is located within the EU**.

The rate will be **0.1% on exchange of equities and bonds, and 0.01% on derivatives**. The expected revenue, 57 billion euros per year, should go to the general budget of the EU, thus replacing part of the national contributions made by the Member States. **The Member States would stay free to impose higher rates**. In such a case, the extra revenue would go to the national budgets.

Transactions between financial institutions and their clients, private individuals or companies, would fall out of scope, as well as **"house mortgages, bank loans, insurance contracts and other normal financial activities carried out by individuals or small businesses"** said the Commission in its press release.

Legislative proposal :

[http://ec.europa.eu/taxation_customs/resources/documents/taxation/other_taxes/financial_sector/com\(2011\)594_en.pdf](http://ec.europa.eu/taxation_customs/resources/documents/taxation/other_taxes/financial_sector/com(2011)594_en.pdf)

Press release :

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/11/1085&format=PDF&aged=0&language=EN&guiLanguage=en>

Impact assessment and summary :

http://ec.europa.eu/taxation_customs/resources/documents/taxation/other_taxes/financial_sector/impact_assessment.zip

http://ec.europa.eu/taxation_customs/resources/documents/taxation/other_taxes/financial_sector/summ_impact_assesmt_en.pdf

9 Sept. 2011 : Joint letter by the French and German governments to the European Commission pushing for a FTT in the EU alone

On 9 September 2011, the **French and German ministers of Economy**, François Baroin and Wolfgang Schäuble, sent a **joint letter to the members of the European Commission in charge of the project of a financial transaction tax (FTT)**, Michel Barnier, Commissioner for the Internal Market and services, and Algirdas Šemeta, Commissioner for taxation and the customs union.

In this letter, the French and German government affirm their **strong support to the upcoming initiative of the Commission to set up a FTT at EU level** starting with the next financial framework (1st January 2014).

Even though the G20 meetings showed the reluctance of non-European countries to implement such a tax, **France and Germany believe that implementing it in the EU would be "a crucial step on**

the path to reaching a global consensus in a way that does not affect the European competitiveness”. They wished that the tax would be technically simple and the tax base would be broad (transactions on equities, bonds, currency transactions and derivatives). According to them, a **low tax rate would minimise the risk of distortion and circumvention.**

A “**preliminary outline of a financial transaction tax**” was attached to the letter. It covers seven issues related to the concrete design of the tax : transactions subject to the tax, territorial coverage, tax bases, tax rate, persons liable for the tax, collection and taxable event.

Text of the letter and preliminary outline of a financial transaction tax:

<http://www.economie.gouv.fr/files/lettre-franco-allemande.pdf>

Impact on EUF members: **MEDIUM** – Legislative process to be followed: core activities of the factoring industry seem to be out of the scope for now but could be modified when discussed in the EP and the Council.

Stakeholders: European Commission – DG Taxation and Custom Union, DG Internal Market; European Parliament – ECON Committee; Council of the Union – Working Group on Tax questions

Electronic invoicing	Geography: all EU
No update in February	
<p><u>13 Sept. 2011: First meeting of the new European Multi-Stakeholder Forum on Electronic Invoicing</u></p> <p>The European Commission convened on 13 September the first meeting of its newly formed European Multi-Stakeholder Forum on Electronic Invoicing in Brussels, “to make a reality its objective to make e-invoicing the main method for invoicing in Europe”.</p> <p>The Forum is composed of 63 members from public administrations, standardization bodies, users and providers. It will provide a platform to exchange best practices, monitor the generalization of e-invoicing in EU Member States and help the Commission in identifying new measures to facilitate the mass adoption of e-invoicing across borders.</p> <p>More information: http://ec.europa.eu/internal_market/payments/einvoicing/index_en.htm </p>	
Impact on EUF members: Could be a base for future legislative proposals from the Commission	
Stakeholders: European Commission - DG Internal Market; European Committee for Standardization; European Central Bank	

Accounting issues	Geography: all EU
No update in February	
<p><u>30 Nov. 2011: The Commission answers the IASB's consultation on the Board's agenda for the next years</u></p> <p>The Director General of the DG for Internal Market, Jonathan Faull, sent on 30 November a letter to Hans Hoogervorst, Chairman of the International Accounting Standards Board, answering this way the consultation of the IASB on its future agenda.</p> <p>According to the European Commission, the IASB's priority should be to conclude its work in progress (on financial instruments, leases, revenue recognition and insurance contracts) before launching new projects. The Commission also thinks necessary to "reduce the pace" of the accounting standards setting activity in order to let the users "understand and implement the new standards". Finally, M. Faull said that the IASB should "put considerable effort" into maintaining existing standards.</p> <p>Link to the letter: http://ec.europa.eu/internal_market/accounting/docs/news/20111130_letter_IASB_agenda_consultation_en.pdf </p>	
<p><u>21 Oct. 2011: ESMA's annual activity report on the enforcement of IFRS</u></p> <p>The European Securities and Markets Authority (ESMA) published for the second year its annual report on the activity of the European enforcers of International Financial Reporting Standards (IFRS) in 2010.</p> <p>Report : http://www.esma.europa.eu/popup2.php?id=8010 </p>	
<p><u>19 Sept. 2011 : Report on the responses received to the Commission's consultation on the use of option within the accounting directives</u></p> <p>The Directorate General for Internal Market published on 19 September a report analyzing the responses received to the public consultation launched by the accounting regulatory committee members on the use of options in the accounting directives.</p> <p>Study: http://ec.europa.eu/internal_market/accounting/docs/2010-options_en.pdf </p>	
Impact on EUF members: Follow-up of implementation of EU law	
Stakeholders: European Commission – DG Internal Market	

Other topics of interest

ECB, 2 Feb. 2012: Quarterly Euro Area Bank Lending Survey

The percentage of banks attempting to cut down on loans to businesses rose to 35% and 29% on loans to households in the last quarter of 2011, according to the ECB's quarterly euro area bank lending survey of 124 European banks. Banks argue that they are suffering from a "substantial deterioration" in their ability to fund themselves due to the sovereign debt crisis, while they are at the same time facing recapitalisations pressures. In the meantime, there has also been a drop in demands for loans – -5% from firms, -27% for mortgages.

However, banks are expecting their access to money markets and wholesale markets to improve in 2012, with the ECB's decision to offer three-year loans at a 1% interest rate.

Link to the ECB's survey:

http://www.ecb.europa.eu/stats/pdf/blssurvey_201201.pdf?f2ebad8504649793b4b964bb72627385

SMEs, 7 Dec. 2011: European Commission unveils a proposal on venture capital for the financing of SMEs

The European Commission adopted on 7 December a regulation proposal on venture capital. Among the elements of this proposal, we should notice the creation of a "European passport" for venture capital funds that would respect the regulation. This passport would allow them to sell venture capital products to eligible investors through the whole EU after being authorized in one Member State.

The regulation proposal also creates a "European venture capital fund" label, that would be given to funds that invest at least 70% of their capital in SMEs under form of own funds or quasi-own funds without leveraging.

Link to the regulation proposal:

http://ec.europa.eu/internal_market/investment/docs/venture_capital/111207-proposal_en.pdf

SMEs, 25 Oct. 2011: The Commission unveils its package for responsible companies and entrepreneurship

The European Commission presented on 25 October its **package of measures to foster responsible practices in businesses**. The Commission's communication states as key actions for the development of social businesses the development of easy access to credit, through **social investment funds** and through **micro-finance**, which needs an "improve[d] analysis, promotion and development of the legal and institutional environment".

Included in this package is also suggested a **revision of the accounting directives** (78/660/EEC and 83/349/EEC) as regards the **accounting obligations of SMEs** in order to **lighten the administrative burden** that the current system makes them bear. The potential saving induced by those measures amounts to € 1.7 billion per year. This package is a **part of the Single Market Act**, the EC's strategy to foster growth in the European single market.

Commission's communication:

http://ec.europa.eu/internal_market/social_business/docs/COM2011_682_en.pdf

INSURANCE, 2 Sept. 2011: Initiative report from the ECON Committee of the European Parliament on

Insurance Guarantee Schemes

The European Parliament published on 2 September the non-legislative report adopted on 16 June by the Committee on Economic and Monetary Affairs on Insurance Guarantee Schemes.

Report :

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A7-2011-0243+0+DOC+PDF+V0//EN>

BANKING, 1 Sept. 2011: Study of the European Central Bank “The price of liquidity: the effects of market conditions and bank characteristics.

The ECB has studies the prices that individual banks pay for liquidity (captured by borrowing rates in repos with the central bank and benchmarked by the overnight index swap) as a function of market conditions and bank characteristics.

Study:

<http://www.ecb.int/pub/pdf/scpwps/ecbwp1376.pdf>

Ongoing consultations :

Until 14 May 2012: Consultation on the future of company law

DG Internal Market and Services launched a reflection exercise at the end of 2010 with the creation of an ad hoc reflection group composed of eminent academics. This group presented a [report to the Commission](#) which contained a number of recommendations for action. The report was discussed at a [public conference in Brussels](#) on 16 and 17 May 2011. The Commission now wishes to launch a public consultation to seek views from all stakeholders on European company law from 2012 onwards. Commissioner Barnier will announce in mid-2012 possible initiatives on corporate governance and company law for the second half of his mandate.

Link to the online questionnaire:

<http://ec.europa.eu/yourvoice/ipm/forms/dispatch?form=companylaw2012&lang=en>

Link to the printable document:

http://ec.europa.eu/internal_market/consultations/docs/2012/companylaw/questionnaire_en.pdf

Agenda March 2012

1-2 March 2012: European Council (Brussels)

12-15 March 2012: Plenary session of the European Parliament (Strasbourg)

13 March 2012: ECOFIN Council (Brussels)

20-21 March 2012: EP's ECON Committee session (Brussels)

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