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Capital requirements for credit institutions (CRD IV proposals and Basel Committee on Banking supervision)	Geography: all EU
<p><b>Dec. 2012: No agreement on CRD IV</b></p> <p>Despite all efforts to reach an agreement in time, the EU is late for adopting its transposition of the Basel III agreements: by 31<sup>st</sup> December 2012, representatives of the European Parliament and the Council of the EU had still not agreed on a common text.</p> <p>The Parliament now announces a vote of the plenary assembly on 16<sup>th</sup> 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.</p> <p>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.</p>	
<p><b>4 Dec. 2012: Strong uncertainties surrounding the final adoption</b></p> <p>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.</p> <p>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.</p> <p>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.</p> <p>The Council and the Parliament are still opposing on several issues:</p> <ul style="list-style-type: none"> <li>- 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;</li> <li>- 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;</li> <li>- 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</li> </ul>	

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>

#### 21 Nov. 2012: EBA letters to Commissioner Barnier on CRD IV

The European Banking Authority sent to Commissioner Barnier two letters on 21 November, to express its concerns about two issues regarding the draft proposals CRD IV.

One of the letters deals with the definition of own funds and calls on the two co-legislators to ignore a series of amendments which enlarges the definition of own funds to hybrid instruments that the EBA considers too fragile to absorb possible losses.

The second letter raises the issue of the divergences observed by EBA in the supervisors’ calculation methods for the calculation of transitional floors to capital requirements.

Link to the EBA letter on the definition of own funds:

<http://www.eba.europa.eu/cebs/media/Publications/Other%20Publications/Opinions/2012-11-05--Letter-on-draft-CRR---EBA-Op-2012-03-.pdf>

Link to the EBA letter on the calculation of transitional floors to capital requirements:

<http://www.eba.europa.eu/cebs/media/Publications/Other%20Publications/Opinions/2012-11-21--Letter-on-floors---EBA-Op-2012-04-.pdf>

#### Oct. 2012: No agreement between the Parliament and the Council in trialogue negotiations

The two trialogue meetings held on 23 and 24 October in Strasbourg failed to converge views of MEPs and Ministers on several thorny issues, including liquidity ratios.

The rapporteur for the Parliament, MEP Othmar Karas (EPP, Austria) denied any discussion about postponing the date of entry into force, indicating that the timing issues will not be addressed before the latest round of negotiations.

If no agreement is reached before the November plenary session of the Parliament, to be held from November 19 to 22, the plenary could vote the amendments proposed by the ECON Committee, without vote on the legislative resolution. This would increase the pressure on the Council while preserving the possibility of a first reading agreement.

On 5 November, MEP Sharon Bowles, chair of the ECON committee, indicated the members of the

committee that the negotiators did an inventory of the questions that are still to be addressed and gathered them in packages, asking a technical working group to make proposals on each of them. The next trialogue meeting will be held on November 12 and Mrs. Bowles hopes swift progress on this topic.

### 3 October 2012: Trialogue meeting on liquidity ratios

On 3 October, the negotiators for the European Parliament, the Commission and the Council of the EU met to discuss provisions on the liquidity ratios in the CRD IV/CRR draft legislation, a topic on which the respective positions of the Parliament and of the Council differ. The Council wants to take the provisions regarding the two liquidity ratios out of the legislation and adopt them later, in another legislation to be passed at the end of the observation period defined by the Basel Committee. The Parliament wants, to the contrary, to include immediately the ratios to be applied in 2015 (Liquidity Coverage Ratio, LCR) and 2018 (Net Stable Funding Ratio, NSFR).

The stricter reporting requirements on liquidity that the European Parliament wants to impose to credit institutions during the observation period are also badly received by the Council's negotiators.

Commentators now talk about the possibility that the negotiations last until beginning of 2013.

### 1 October 2012: Basel Committee assesses transpositions on Basel III agreements in the EU, the US and Japan

On 1 October, the Basel Committee for Banking Supervision released a series of preliminary reports on the implementation of Basel III in Japan, the United States and the European Union. While the assessment for Japan is based on the adopted legislation, in the European and American case, the Committee was only able to assess the draft legislation currently examined by the legislators (the Council's general approach in the case of the EU).

On 12 of the 14 sections of the preliminary "Regulatory Consistency Assessment", the European transposition was considered "compliant" or "largely compliant". However, two other sections - the definition of capital and the Internal Rating-Based approach for the calculation of capital requirements against credit risk - the Basel Committee noted significant shortcomings in compliance.

Commissioner Barnier has officially reacted to the publication of the report by expressing his "reservations about the preliminary results in [these] two areas [...] do not seem to be supported by rigorous evidence and a well defined methodology." "I think this has led to an apparent lack of consistency in how judgments and ratings have been applied to three countries in these two areas," said the Commissioner, casting doubt on the rigor of the evaluation committee Basel. "The European Commission and the European members of the Basel Committee have provided extensive information and clarification Basel Committee during this process, but it has unfortunately been partially reflected in this preliminary report," he added, before recalled that the Commission remains ready to support the extensive work of the Committee to "improve its assessment of the implementation of the standards."

Link to the report for the EU:

[http://www.bis.org/bcbs/implementation/l2\\_eu.pdf](http://www.bis.org/bcbs/implementation/l2_eu.pdf)

Link to the report for the US:

[http://www.bis.org/bcbs/implementation/l2\\_us.pdf](http://www.bis.org/bcbs/implementation/l2_us.pdf)

Link to the report for Japan:

[http://www.bis.org/bcbs/implementation/l2\\_jp.pdf](http://www.bis.org/bcbs/implementation/l2_jp.pdf)

### 3 August 2012: Letter from EBIC to Othmar Karas to postpone the entry into force of CRD IV

The European Banking Industry Committee (EBIC), whose gathers all the European associations representing the generalist and specialized banking industry in Europe, addressed a letter to MEP Othmar Karas, asking him to push for postponing the date of entry into force of the CRD IV package.

The banking industry fears that the delay in the legislative process will not give the industry enough time to adapt to and implement the new requirements on time if they indeed enter into force on 1 January 2013.

Link to the EBIC's letter:

[http://www.eubic.org/Position%20papers/12.8.3\\_EBIC%20Letter%20on%20CRD%20IV%20Package%20Implementation.pdf](http://www.eubic.org/Position%20papers/12.8.3_EBIC%20Letter%20on%20CRD%20IV%20Package%20Implementation.pdf)

### August 2012: New indicative date for the vote in the European Parliament

Due to several blockages in the negotiations between the European Parliament and the Council of the EU, the European Parliament decided to postpone the vote of the plenary assembly on the CRD IV package to 21 November 2012

A trialogue meeting took place on 5 September, during which divergent positions were observed on the issue of the risk weighting of credits to SMEs. Whilst the Parliament wants to apply a 76% weighting to credits to SMEs up to €2 million, the Commission and the Council want to limit this weighting to €1million. Beyond this amount, the normal weighting shall apply.

Another problematic issue still to be resolved is the topic of bonuses for bankers. On this issue, the rapporteur for the European Parliament, Othmar Karas, adverted that no agreement could be found on the whole package if the Parliament was not to be satisfied on the ratio it proposed for the limitation of bonuses (ratio 1-1).

### 16 July 2012: Vote in European Parliament likely to be postponed again

According to Othmar Karas's office, the Parliament will most likely delay again its vote on the CRD IV package due to the slow pace of the negotiations between the Parliament and the Council. The official decision shall be taken in the second half of August.

It appears that the negotiators are still fighting, *inter alia*, on the risk wheighting for loans to the SMEs.

### 02 July 2012: New provisional date for Parliament's vote in plenary session

After postponing the indicative date for the vote of the Parliament's plenary assembly on CRD IV to 22 October, the Parliament advanced it to 11 September. Other changes are still possible, according to the progress of the negotiations in Trialogue (Commission, Parliament and Council).

### June 2012: State of the trialogues negotiation on CRD IV

During the ECON committee meeting of last 2 June, Sharon Bowles (ALDE, UK) gave an update on the ongoing trialogues negotiations on CRD IV. She noted that intensive work is continuing. The committee is now moving on to work on the regulation. Two negotiation meetings were held during the EP's plenary session in Strasbourg and two more are scheduled between 9 and 12 July.

The fact that the Parliament has set an earlier date for its vote on the package may be a positive signal regarding the advance of the negotiations: the reason why the Parliament thinks it can vote in early September instead of late October is that the negotiators are optimistic about the progress of the negotiation.

#### 15 June 2012: Consolidated version of ECON Committee report on CRD IV published

The secretariat of the ECON committee of the European Parliament published on 15 June the consolidated version of the report adopted by the MEPs on 14 May.

Link to the report:

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A7-2012-0171+0+DOC+PDF+V0//EN>

#### 25 May 2012: Statement by several Member States on the date of entry into force of CRD IV

On 25 May, after the Ecofin Council adopted its General Approach on the CRD IV package, Latvia, Lithuania, Netherlands, Poland, Romania and Slovenia made an official statement to express their "strong doubts regarding the timeline set out in the proposal. "

"Latvia, Lithuania, Netherlands, Poland, Romania and Slovenia believe that an entry into force on 1/1/2013 will not allow for sufficient time for national authorities to introduce the necessary changes to national laws, what may cause legal uncertainty for the institutions" and "will not allow industry to prepare sufficiently to the new rules" they said, adding that "as effect, the very short dateline for entry into force may result in unnecessary turbulences in financial markets." They then asked to revisit the foreseen date for entry into force during the negotiation phase with the European Parliament.

Link to the statement:

<http://register.consilium.europa.eu/pdf/en/12/st10/st10598.en12.pdf>

#### 15 May 2012: General approach of the Ecofin Council on CRD IV

On 15 May, the Ecofin Council – meeting of the Ministers of Finances from the 27 Member States – unanimously agreed on an amended version of the CRD IV draft Directive and the CRR Regulation. The meeting was fairly short given that most of the negotiation work had been carried out during a previous meeting on 2 May. Only the UK remained to convince (though the Council could approve the proposals with a qualified majority, the Council always try to reach unanimous decisions) as the Chancellor of the Exchequer asked for more national flexibility to set the level of the supplementary own funds. A compromise was found on this question: a Member State can decide to add a complementary capital buffer up to 5%.

The adoption of this General Approach opens the way to the negotiations with the European

Parliament in order to adopt the CRD IV package in first reading. The Danish Presidency mentioned that “it is not impossible” that an agreement will be found with the EP before 30 June. But, given the delay for translation and administrative work in the Parliament, it is unlikely that the text will be adopted in the July plenary session if an agreement is not found by 15 June.

Link to the consolidated General Approach on the draft Regulation:

<http://register.consilium.europa.eu/pdf/en/12/st10/st10099.en12.pdf>

Link to the consolidated General Approach on the draft Directive :

<http://register.consilium.europa.eu/pdf/en/12/st10/st10100.en12.pdf>

#### 14 May 2012: ECON Committee vote on CRD IV

On 14 May, the ECON Committee of the European Parliament voted on the legislative package CRD IV. In a marathon vote, the MEPs defined the provisional position of the Parliament, in view of the coming negotiations with the Council of the EU to adopt the two texts in the first reading. Given the size and complexity of the draft proposals, the administration of the Parliament has still not published a consolidated version of the texts as amended by the vote of the Committee.

#### 7 May 2012: ECON Committee vote on CRD IV postponed to 14 May

The rapporteur on the CRD IV package in the ECON Committee, Othmar Karas (EPP, Austria), together with the shadow rapporteurs, decided to postpone the vote of the Committee, initially foreseen on 25 April, to 14 May. The vote had already been delayed to 8 May. They agreed on this delay in order to have more time to negotiate compromise amendments between the political groups of the EP, thus reducing the list of more than 2000 amendments that have been tabled.

#### 2 May 2012 : ECOFIN Council extraordinary meeting on CRD IV

On 2 May, the ministers for Finance of the EU member states met during sixteen hours in an extraordinary Ecofin Council meeting entirely dedicated to the CRD IV proposals. In its conclusions, the Danish Presidency affirms that a qualified majority of member states will support the compromise proposals of 27 April. Nevertheless, the Council’s decision on opening the Trialogue negotiations with the Parliament has been postponed to 15 May in order to proceed to a “technical verification”.

Commissioner Michel Barnier, in charge of Internal Market and Services, declared after the meeting his optimism that a broad agreement will be found on 15 May. He recalled the three principles that are his guidelines in the negotiations:

- 1) All agreement must respect the Basel III requirements;
- 2) All agreement must guarantee and deepen the Single Market (single rulebook);
- 3) All agreement must contribute to the financial stability, necessary base for a return to growth and employment.

#### 27 April 2012: Council Presidency compromise proposals on CRD IV

On 27 April, following the COREPER meeting of 25 April and in preparation for the Council of ministers of Finances that was to be held on 2 May, the Danish Presidency of the Council drafted and



published two compromise proposals – on the draft Regulation and on the draft Directive – aiming at conciliating the views of member states that are in favour of a maximalist harmonisation at European level and those that support more flexibility for individual member states.

Link to the compromise proposal on the draft Directive

<http://register.consilium.europa.eu/pdf/en/12/st09/st09225.en12.pdf>

Link to the compromise proposal on the draft Regulation

<http://register.consilium.europa.eu/pdf/en/12/st09/st09224.en12.pdf>

#### 4 April 2012: EBA consults on Regulatory Technical Standards on own funds

The European Banking Authority (EBA) launches today a consultation on Draft Regulatory Technical Standards (RTS) on own funds (Part one). This consultation groups fourteen RTS covering, among others, areas such as Common Equity Tier 1, Additional Tier 1, deductions from Common Equity Tier 1 and from own funds in general and transitional provisions on grandfathering. These RTS will be part of the single rulebook aimed at enhancing regulatory harmonisation in Europe and namely at strengthening the quality of capital. The consultation runs until 4th July 2012. Besides, a hearing on this issue will be organized at EBA's premises (London) on June 14.

Link to the consultation paper:

<http://www.eba.europa.eu/cebs/media/Publications/Consultation%20Papers/2012/CP02/EBA-BS-2012-059--CP-2012-02v2.pdf>

#### 2 April 2012: Council Presidency compromise proposals on CRD IV and CRR

On 2 April, the Danish Presidency of the Council of the EU released compromise proposals on both the draft Directive and the draft Regulation of the CRD IV package, following Council's work of March 2012.

Link to the compromise proposal on the draft Directive:

<http://register.consilium.europa.eu/pdf/en/12/st08/st08468.en12.pdf>

Link to the compromise proposal on the draft Regulation:

<http://register.consilium.europa.eu/pdf/en/12/st08/st08467.en12.pdf>

#### 29 March 2012: Letter from ESRB Chairman Mario Draghi to ECOFIN Council, European Commission and European Parliament on CRD IV

On 29 March, Mario Draghi addressed, as Chairman of the European Systemic Risk Board (ESRB), a letter to the ECOFIN Council's President and members, to the European Commission's President, José Manuel Barroso, Vice-President for Economic Affairs, Olli Rehn, Commissioner for Internal Market, Michel Barnier, to the European Parliament's President, Martin Schultz, ECON Committee Chair, Sharon Bowles, Rapporteur on CRD IV, MEP Othmar Karas, and shadow rapporteurs.

In this letter, Mr. Draghi highlight the need for flexibility as regards the liquidity requirements set up by the CRD IV project, but at the same time strongly support the project of a single rulebook for the European banking sector.

Link to Mario Draghi's Letter:

[http://www.esrb.europa.eu/pub/pdf/2012-03-29\\_CRR-CRD\\_letter.pdf?9cd50209ce9b3dcb676e50cc912408d8](http://www.esrb.europa.eu/pub/pdf/2012-03-29_CRR-CRD_letter.pdf?9cd50209ce9b3dcb676e50cc912408d8)



### March 2012: Draft amendments on CRD IV for ECON Committee published

The secretariat of the ECON Committee of the European Parliament published between the 15 and the 26<sup>th</sup> of March the draft amendments tabled by the MEPs members of the ECON Committee on the CRD IV draft Directive and Regulation. Two series of amendments regard the draft Directive and five series regard the draft Regulation.

#### Links to the draft amendments:

AM 37 to 379 on the draft Directive:

<http://www.europarl.europa.eu/sides/getDoc.do?type=COMPARL&reference=PE-483.816&format=PDF&language=EN&secondRef=01>

AM 381 to 552 on the draft Directive:

<http://www.europarl.europa.eu/sides/getDoc.do?type=COMPARL&reference=PE-483.817&format=PDF&language=EN&secondRef=01>

AM 140 to 487 on the draft Regulation:

<http://www.europarl.europa.eu/sides/getDoc.do?type=COMPARL&reference=PE-483.850&format=PDF&language=EN&secondRef=01>

AM 488 to 813 on the draft Regulation:

<http://www.europarl.europa.eu/sides/getDoc.do?type=COMPARL&reference=PE-483.852&format=PDF&language=EN&secondRef=01>

AM 814 to 1168 on the draft Regulation:

<http://www.europarl.europa.eu/sides/getDoc.do?type=COMPARL&reference=PE-483.853&format=PDF&language=EN&secondRef=02>

AM 1169 to 1505 on the draft Regulation:

<http://www.europarl.europa.eu/sides/getDoc.do?type=COMPARL&reference=PE-483.854&format=PDF&language=EN&secondRef=02>

AM 1506 to 1643 on the draft Regulation:

<http://www.europarl.europa.eu/sides/getDoc.do?type=COMPARL&reference=PE-483.855&format=PDF&language=EN&secondRef=02>

### 13 Feb. 2012: Exchange of views in ECON Committee on CRD IV (continuation of first exchange of views)

#### **Wolff Klinz (ALDE, Germany):**

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.

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?

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.

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. Other questions are still pending, among them the treatment of sovereign debt, which we now know is not exempt of risk.

**Sven Giegold (Greens/EFA, Germany):**

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.

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.

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.

**Sylvie Goulard (ALDE, France):**

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.

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.

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).

**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

Shadow Banking	Geography: all EU
No update in December	
<p><u>20 Nov. 2012: European Parliament adopts a resolution on Saïd El Khadraoui's report</u></p> <p>The European Parliament's plenary assembly adopted a resolution on MEP Saïd El Khadraoui's report on shadow banking, as amended by the ECON Committee on 22 Oct. 2012.</p> <p>The plenary assembly brought no modification to the text voted by the ECON Committee. It was subsequently transmitted to the European Commission and to the Council of the UE for consideration.</p> <p>Link to the EP resolution:  <a href="http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2012-0427+0+DOC+XML+V0//EN">http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2012-0427+0+DOC+XML+V0//EN</a> </p>	
<p><u>18 Nov. 2012: FSB's "Global Shadow Banking Monitoring Report" and consultative documents on Shadow Banking</u></p> <p>The Financial Stability Board published on 18 November the results of its 2012 "Global Shadow Banking Monitoring" exercise, which aims at establishing a worldwide macro-mapping of shadow banking entities and activities. In this report, the FSB states what the methodology to be used to consistently map the whole sector on a global scale is: first, include in the scope of monitoring all non-bank financial institutions, and second, focus on those activities that represent a systemic risk. It then presents its findings, following this methodology. The size of the shadow banking sector rose from USD 26 trillion in 2002 to USD 62 trillion in 2007 and 67 trillion in 2011, representing broadly half the size of the traditional banking sector.</p> <p>The FSB published the same day three <b>consultative documents</b> on "Strengthening Oversight and Regulation of Shadow Banking":</p> <ul style="list-style-type: none"> <li>- "An Integrated Overview of Policy Recommendations"</li> <li>- "A Policy Framework for Strengthening Oversight and Regulation of Shadow Banking Entities"</li> <li>- "A Policy Framework for Addressing Shadow Banking Risks in Securities Lending and Repos"</li> </ul> <p>The FSB welcomes comments to these documents <b>until 14 January 2013</b>.</p> <p>Link to the "Global Shadow Banking Monitoring Report 2012":  <a href="http://www.financialstabilityboard.org/publications/r_121118c.pdf">http://www.financialstabilityboard.org/publications/r_121118c.pdf</a> </p> <p>Link to "An Integrated Overview of Policy Recommendations"  <a href="http://www.financialstabilityboard.org/publications/r_121118.pdf">http://www.financialstabilityboard.org/publications/r_121118.pdf</a> </p> <p>Link to "A Policy Framework for Strengthening Oversight and Regulation of Shadow Banking Entities": <a href="http://www.financialstabilityboard.org/publications/r_121118a.pdf">http://www.financialstabilityboard.org/publications/r_121118a.pdf</a></p> <p>Link to "A Policy Framework for Addressing Shadow Banking Risks in Securities Lending and Repos":  <a href="http://www.financialstabilityboard.org/publications/r_121118b.pdf">http://www.financialstabilityboard.org/publications/r_121118b.pdf</a> </p>	

23 Oct. 2012: Initiatives on shadow banking in the European Commission's work programme for 2013

In the work programme for 2013 that the Commission released on 23 October two initiatives relating to shadow banking are foreseen:

- An initiative on "addressing systemic risks related to shadow banking" which aims at addressing the systemic problems related to shadow banking, notably in the fields of money market funds, securitisation and repo (expected third quarter of 2013)
- A review of the UCITS legal framework (UCITS VI) to address some shortcomings of the current framework in relation to shadow banking risks and to foster long term investment in Europe.

Those two initiatives show that, in its work to regulate shadow banking activities, the Commission intends to start regulating products and practices on the financial markets rather than regulating specialised finance. This order of priority is understandable if we consider that, for the Commission, the systemic risk accumulated by those products and practices on the markets accounts for the burst of the financial crisis in 2007-2008.

However, this emphasis on market activities seems to be only the first part of a whole set of regulation for the currently unregulated financial activities. Regulation of non-deposit-taking financial institutions is to be expected in the medium term, even though it is not on top of the list so far.

Link to the Commission's work programme:

[http://ec.europa.eu/atwork/pdf/cwp2013\\_en.pdf](http://ec.europa.eu/atwork/pdf/cwp2013_en.pdf)

Link to the Annex to the work programme, which lists all the forthcoming initiatives:

[http://ec.europa.eu/atwork/pdf/cwp2013\\_annex\\_en.pdf](http://ec.europa.eu/atwork/pdf/cwp2013_annex_en.pdf)

22 Oct. 2012: ECON committee votes on Saïd El Khadraoui's report

On 22 October, MEP Saïd El Khadroui (S&D, Belgium) submitted to his colleagues of the ECON Committee his draft report on shadow banking, which is to become the Parliament's response to the Green Paper published by the Commission on this issue last March. Although the consolidated report is not yet available, we know from the last debate that the MEPs would support a targeted revision of the existing laws, to extend some of their provisions to some non-deposit-taking institutions.

Work on this report mainly considered the possible ways to get more information on shadow banking activities, the possibilities of regulating money market funds and exchange traded funds through a revision of the legal framework for UCITS, and an adaptation of banking prudential requirements (CRD IV) to some non-bank financial institutions.

The report of Mr El Khadraoui should be approved by the plenary assembly of the Parliament during its November session (19 to 22). It will then be sent to the European Commission in the form of a resolution of Parliament. The Commission will be invited to consider the Parliament's opinion when formulating legislative proposals.

September 2012: ECON Committee works on shadow banking

On September 10, the ECON Committee of the European Parliament discussed on the draft report prepared by Saïd El Khadraoui on shadow banking, which prepares the Parliament's response to the



Commission's consultation. During the debate, the rapporteur stressed the importance of the necessity to have a better understanding of the size of the sector, in particular the number and amount of transactions that are made for shadow banking activities. According to the rapporteur, it is only when we see more clearly that we can legislate, a position shared by all political groups, although opinions differ on how to collect information without compromising the efficient conduct of these activities and thus the financing of the economy.

Mr. El Khadraoui also outlined what would be the best way to regulate the shadow banking activities. For him, each type of shadow banking activity should be covered by the regulation already covering the nearest regulated activity (CRD IV for specialized financing AIFM for money market funds, for example), a way of addressing the challenge of the multiplicity of the sector.

Asked, however, to clarify his plan to extend CRD IV to non deposit-taking financial institutions, Mr. El Khadraoui tabled an amendment to its own text stating that the extension of CRD IV to these institutions should be "in taking into account that certain provisions should be adjusted to the specificities of these entities" (AM 82). Sharon Bowles (ALDE, UK) introduced an amendment that expresses scepticism about an extension of CRD IV, saying that "CRD IV legislation is complex and that there are disadvantages to solve complexity by complexity" (AM 83).

Link to the list of tabled amendments:

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+COMPARL+PE-496.411+01+DOC+PDF+V0//EN&language=EN>

#### 15 September 2012: The Ecofin Council defines five principles for future legislation on shadow banking

At an informal meeting on 15 September in Nicosia, the Finance ministers of the 27 Member States recognized that the shadow banking sector is a major source of financing for the real economy, but may also represent an accumulation of systemic risk.

They endorsed five principles defined by the working group of the Council working on this subject, on which any regulation should be based:

1. Regulation should improve the economic stability at both micro-and macro-economic;
2. It must ensure that the activities and entities are not used to circumvent the regulation or regulatory arbitrage, especially when they are strongly linked to traditional banking sector;
3. It must reflect the global nature of the shadow banking system;
4. Avoid constantly a negative impact on economic growth; and
5. Improve transparency for better monitoring of developments in the sector, including borrowing and sale of securities.

#### 24 August 2012: Initiative report by MEP Saïd El Khadraoui

The European Parliament published on 24 August the draft initiative report established by MEP Saïd El Khadraoui (S&D, Belgium) on shadow banking, as an answer to the European Commission Green Paper.

The Economic and Monetary Affairs committee intends to vote on this report on 22 October and

the plenary assembly on 19 November.

Link to MEP El Khadraoui's report:

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+COMPARL+PE-494.648+01+DOC+PDF+V0//EN&language=EN>

#### August 2012: Nomination of shadow rapporteurs on shadow banking

The Economic and Monetary Affairs committee of the European Parliament appointed MEPs Corien Wortmann-Kool (EPP, Netherlands), Wolf Klinz (ALDE, Germany), Philippe Lamberts (Greens/EFA, Belgium), Syed Kamall (ECR, United Kingdom) and Jürgen Klute (GUE/NGL, Germany) shadow rapporteurs on the initiative report that Saïd El Khadraoui drafted on shadow banking.

#### July 2012: Initiative report to be drafted by Member of the European Parliament

Mr. Saïd El Khadraoui (S&D, Belgium) has been designated to draft the Parliament's response to the European Commission's Green Paper on shadow banking. So far, the ECON committee plans to vote on Mr. El Khadraoui's report at the end of October, for a vote in plenary session in November. This report, which will be in the end adopted as a resolution of the European Parliament, will contain the orientations and principles that the MEPs want the Commission to follow when regulating shadow banking activities.

Link to Mr. El Khadraoui's résumé on the EP's website:

[http://www.europarl.europa.eu/meps/fr/25718/Saïd\\_EL%20KHADRAOUI.html](http://www.europarl.europa.eu/meps/fr/25718/Saïd_EL%20KHADRAOUI.html)

#### 6 June 2012: Deadline to answer the EC's consultation on shadow banking postponed to 15 June

The European Commission decided to extend the deadline to answer its Green Paper on shadow banking by 14 days, which means the new deadline is 15 June instead of 1<sup>st</sup> June. Some organisations have already published their own answers on their websites, as did the two examples below.

Link to responses to the consultation on shadow banking:

- European Banking Federation:

[http://www.ebf-fbe.eu/uploads/D0772D-EBF\\_Response\\_to\\_Commission\\_Green\\_Paper\\_on\\_Shadow\\_Banking.pdf](http://www.ebf-fbe.eu/uploads/D0772D-EBF_Response_to_Commission_Green_Paper_on_Shadow_Banking.pdf)

- Eurofinas (consumer credit):

[http://www.eurofinas.org/uploads/documents/positions/120601%20Response\\_Shadow%20Banking.pdf](http://www.eurofinas.org/uploads/documents/positions/120601%20Response_Shadow%20Banking.pdf)

#### 30 April 2012: ECB study on shadow banking in the euro area

The European Central Bank published on 30 April a study in which it investigates on the size and the overall structure of shadow banking in the euro area and also analyses the links between regulated and un-regulated parts of the financial sector.

Link to the study:

<http://www.ecb.int/pub/pdf/scpops/ecbocp133.pdf>

#### 27 April 2012: European Commission's conference on shadow banking

The European Commission launched a [public consultation](#) on shadow banking on the 19<sup>th</sup> of March. As this consultation ends on the 1<sup>st</sup> of June, the European Commission hosted a conference halfway through it, to outline the views of the stakeholders involved in shadow banking. The conference was divided in four panels: the first panel dealt with banks, securitisation and shadow banking. The second one focused on securities lending and repo markets. The third one was centered on money market funds and the last one was about investment funds, ETFs and shadow banking. The panelists were representing banks, investment funds and political institutions.

Link to the program of the conference:

[http://ec.europa.eu/internal\\_market/payments/docs/cim/conf\\_programme-2012\\_05\\_04\\_en.pdf](http://ec.europa.eu/internal_market/payments/docs/cim/conf_programme-2012_05_04_en.pdf)

A full report of the conference was established by Euralia and forwarded by Maggie Wessel to the LC delegates on 3 May

#### 19 March 2012: Green Paper on Shadow Banking

On 19 March, the European Commission launched a Green Paper on Shadow Banking, intended to guide its reflexion on a possible legislative proposal on the subject.

In point 3 of the Green Paper ("What is shadow banking?"), the EC lists the entities that, according to its analysis, should be considered as shadow banking entities. In this list, which is not exhaustive, the Commission includes **"finance companies and securities entities providing credit or credit guarantees or performing liquidity and/or maturity transformation without being regulated like a bank"**. Therefore this wording could include the factoring activity.

In sections 4 and 5, the Commission analyses what are the main risks linked to shadow banking and what are the main challenges that the European regulator must face in respect to it. In section 6, the Commission lists EU regulatory initiatives already adopted or currently processed that cover parts of shadow banking (indirect regulation of some entities through banking and insurance regulation, previous regulations that have been extended and now include entities of shadow banking and some shadow banking activities that are directly regulated through AIFMD or UCITS Directive for instance).

In section 7, the Commission examines how it could face the different issues that arise from various activities and entities considered as shadow banking and their links with the "traditional" banking sector.

The Green Paper is submitted to a public consultation until 1<sup>st</sup> June 2012. The Commission announces that, if appropriate, it will take legislative measures, after "a careful assessment of its potential impact".

Moreover, the Commission will organise a conference on shadow banking in Brussels on 27 April.

Link to the Green Paper on shadow banking:

[http://ec.europa.eu/internal\\_market/bank/docs/shadow/green-paper\\_en.pdf](http://ec.europa.eu/internal_market/bank/docs/shadow/green-paper_en.pdf)

Link to the program of the conference:

[http://ec.europa.eu/internal\\_market/bank/docs/shadow/programme\\_en.pdf](http://ec.europa.eu/internal_market/bank/docs/shadow/programme_en.pdf)

**Level of priority: HIGH** – The European Commission seems to target all companies providing financing to the economy that are included yet under other EU legislation (CRD IV, AIFMD...). This is most likely to include factors. At this stage there is no legislative activity, the Green Paper is an early step in the pre-legislative phase, but speeches by EC officials indicate a political will to regulate all remaining financial activities through this “safety net”

**Stakeholders:** European Commission – DG MARKT, Unit 02 “Policy of the Financial Services and Relations with the Council” (Head of Unit: Martin Merlin)

Insurance Mediation Directive II	Geography: all EU
<p><b><u>Dec. 2012: Delayed publication of MEP Langen's draft report</u></b></p> <p>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.</p> <p><b><u>6 Nov. 2012: First exchange of views in the ECON committee</u></b></p> <p>On November 6, the members of the ECON committee exchanged views on the draft directive on insurance mediation. The rapporteur, Werner Langen (EPP, Germany) presented the main points of his working document published on October 16. The discussions particularly focused on the scope of the directive, the question of conflicts of interest and transparency and the training of insurance intermediaries.</p> <p>On the scope, it is to be noticed that the rapporteur expressed doubts about the opportunity to extend the application of the directive to insurance contracts concluded without the intervention of an insurance intermediary. On the question of remunerations and conflicts of interests, the rapporteur and several shadow rapporteurs highlighted the need to be coherent and in the continuity of the work already done on this issue in the framework of the draft directive and regulation on markets in financial instruments (MIFID/MIFIR). On the question of the training of intermediaries, the MEPs insisted on the need to ensure continuous training in order to offer high-quality advice to their customers.</p> <p>The rapporteur intends to publish his draft report by the end of November. The deadline for tabling amendments is set to 21 January 2013, the vote of the ECON committee is foreseen on 26 March and the vote of the plenary session is intended to take place between 15 and 18 April 2013.</p> <p>Link to Mr. Langen's working document:  <a href="http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fNONGML%2bCOMPARL%2bPE-497.963%2b01%2bDOC%2bPDF%2bV0%2f%2fEN">http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fNONGML%2bCOMPARL%2bPE-497.963%2b01%2bDOC%2bPDF%2bV0%2f%2fEN</a> </p>	
<p><b><u>September 2012: New provisional calendar for adoption of IMD II in the European Parliament</u></b></p> <p>After the first provisional dates for the examination and adoption of the reviewed Intermediation Insurance Directive (IMD II) were judged too optimistic by the MEPs, the secretariat of the ECON Committee unveiled new provisional dates: the vote in ECON Committee would take place on 26 March 2013 and the vote in plenary session of the Parliament on 21 May 2013.</p>	
<p><b><u>August 2012: Nomination of the rapporteur and the shadow rapporteurs</u></b></p> <p>The Economic and Monetary Affairs committee of the European Parliament appointed as</p>	

rapporteur on the draft Insurance Mediation Directive II MEP Werner Langen (EPP, Germany).

The ECON committee also appointed MEPs Antolín Sánchez Presedo (S&D, Spain), Sven Giegold (Greens/EFA, Germany) and Olle Schmidt (ALDE, Sweden) as shadow rapporteurs for their respective groups.

Link to MEP Langen's CV:

[http://www.europarl.europa.eu/meps/fr/1928/Werner\\_LANGEN.html](http://www.europarl.europa.eu/meps/fr/1928/Werner_LANGEN.html)

#### July 2012: Adoption of a legislative proposal by the European Commission

The proposed revision of the Insurance Mediation Directive (IMD II) aims at improving the protection of consumers in the sector of insurance by setting common standards for the sale of insurance products and by guaranteeing appropriate advice. For this purpose, it seeks to improve the transparency and to set up uniform conditions for the sale of insurance products through intermediaries or directly from an insurance company.

The legislative proposal on IMD II is part of a package to improve the protection of consumers in financial services, together with a proposal on packaged retail investment products (PRIIPs) and a proposal to review the directive on UCITS.

The ECON committee nominated Werner Langen (EPP, Germany) as rapporteur, while the IMCO and JURI committees will give opinions.

Rome I regulation / Contract law	Geography: all EU
No update in December	
<p><u>8 Nov. 2012: Review of Rome I Regulation postponed</u></p> <p>The policy officer in charge of the topic in the DG Justice of the European Commission informed us that, due to other priorities in the Commission and DG Justice agenda, the foreseen review of the Rome I Regulation has been postponed sine die. She estimates that it might be published by the end of 2013, though she is not sure that it will be possible.</p> <p>She however told us that, in the meantime, her unit would welcome any comment or suggestion from the industry.</p>	
<p><u>May 2012: Publication of the BIICL study on Rome I by the European Commission</u></p> <p>The European Commission (DG Justice and Home Affairs) published the “Study on the question of effectiveness of an assignment or subrogation of a claim against third parties and the priority of the assigned or subrogated claim over a right of another person”, prepared by the British Institute of International and Comparative Law (BIICL). The Rome I Regulation requires the Commission to produce a report on the implementation of the Regulation and, if necessary, to propose amendments to it. The Commission then asked the BIICL to produce the present study that the Commission will use to support its own work towards a possible revision of the Regulation.</p> <p>Link to the study:  <a href="http://ec.europa.eu/justice/civil/files/report_assignment_en.pdf">http://ec.europa.eu/justice/civil/files/report_assignment_en.pdf</a>            Link to the annex 1:  <a href="http://ec.europa.eu/justice/civil/files/annex_assignment_en.pdf">http://ec.europa.eu/justice/civil/files/annex_assignment_en.pdf</a>            Link to the annex 2:  <a href="http://ec.europa.eu/justice/civil/files/annex_2_en.zip">http://ec.europa.eu/justice/civil/files/annex_2_en.zip</a></p>	
<p><u>February 2012: BIICL 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><b>Impact on EUF members: MEDIUM</b> – No legislative activity at this stage. A study is being prepared by BIICL for the European Commission and may be published soon.</p> <p>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.</p>	
<p><b>Stakeholders:</b> European Commission – DG JUST – Unit A2 “Contract Law”</p>	



VAT on financial services	Geography: all EU
No update in December	
<p><u>23 Oct. 2012: Initiatives on VAT in the European Commission’s work programme for 2013</u></p> <p>In its work programme for 2013, the European Commission intends to adopt two new proposals on VAT, as a follow-up to its green paper on the future of VAT, published in December 2011.</p> <p>First, an initiative to review the structure of VAT rates, which objective is to readjust the scope of reduced rates to improve the efficiency of the VAT system. This initiative is unlikely to have any impact on the factoring industry.</p> <p>Second, the Commission intends to adopt a proposal to create an optional standardised EU VAT declaration that the companies could chose over the national declaration. In every Member State would then exist two possible declarations: the national one and the European one. The interest the Commission sees in such a system is that it would allow medium size companies that want to be active in several member states to cope with only one type of VAT declaration, thus cutting administrative costs.</p> <p>The Commission also decided to withdraw a proposal on VAT for postal services, arguing that there was no progress in the negotiation in the Council since 2010, and explaining that it will adopt a new proposal as a follow-up to the green paper. This withdrawal is interesting as it might be a sign that the Commission will progressively withdraw old pending proposals to replace them by new initiatives. If no progress is made on the proposal for VAT for financial services, the Commission might decide to apply the same reasoning.</p> <p>Link to the Commission’s work programme:  <a href="http://ec.europa.eu/atwork/pdf/cwp2013_en.pdf">http://ec.europa.eu/atwork/pdf/cwp2013_en.pdf</a>            Link to the Annex to the work programme, which lists all the forthcoming initiatives:  <a href="http://ec.europa.eu/atwork/pdf/cwp2013_annex_en.pdf">http://ec.europa.eu/atwork/pdf/cwp2013_annex_en.pdf</a></p>	
<p><b>Impact on EUF members:</b> 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.</p>	
<p><b>Stakeholders:</b> European Commission – DG TAXUD, Unit C1 “VAT and other turnover taxes”; Council of the Union – Working Group on Tax questions-Indirect taxation</p>	

Anti-Money Laundering Directive	Geography: all EU
No update in December	
<p><u>12 Nov. 2012: CRIM special committee's hearings on money laundering</u></p> <p>For its first hearing session, organised on 12 November, the European Parliament's special committee on organised crime, corruption and money laundering focused on the issue of money laundering.</p> <p>The committee debated on the ways to protect the Internal Market against money laundering, the channels and techniques used for money laundering, in particular sport betting, casinos and online gambling. The Council's General Secretariat published a summary of the debates.</p> <p>Link to the Council's summary of the debates:  <a href="http://register.consilium.europa.eu/pdf/en/12/st16/st16358.en12.pdf">http://register.consilium.europa.eu/pdf/en/12/st16/st16358.en12.pdf</a></p>	
<p><u>23 Oct. 2012: Review of the AML Directive foreseen in 2013</u></p> <p>In its work programme for 2013, the European Commission mentioned that it foresees to adopt next year a legislative proposal to clarify several definitions and harmonize further the set of sanctions included in the current AML Directive.</p> <p>The Commission did not mention any indicative date for the adoption of this proposal, but we can assume that it will not be adopted before January 2013.</p> <p>This postponement can seem logical: the previously published report on the implementation of the AML III Directive did not reveal any major default in the directive, thus making its review less of an emergency in the Commission's agenda.</p> <p>Link to the Commission's work programme:  <a href="http://ec.europa.eu/atwork/pdf/cwp2013_en.pdf">http://ec.europa.eu/atwork/pdf/cwp2013_en.pdf</a></p> <p>Link to the Annex to the work programme, which lists all the forthcoming initiatives:  <a href="http://ec.europa.eu/atwork/pdf/cwp2013_annex_en.pdf">http://ec.europa.eu/atwork/pdf/cwp2013_annex_en.pdf</a></p>	
<p><u>4 October 2012: European Commission announces the adoption of a proposal for a draft Directive in November</u></p> <p>The European Commission listed all the legislative proposals it intends to adopt for the remainder of 2012. Among these, the proposal for a revision of the AML III Directive, to be adopted in November.</p> <p>Another proposal to be noticed is the proposal to establish a legal and technical framework for a European terrorist finance tracking system (EU TFTS), to be adopted in December.</p>	
<p><u>2 August 2012: European Commission publishes feedback statement on AML III Directive</u></p> <p>The European Commission published on 2 August a feedback statement of the comments it</p>	

received on its report on the implementation of the third AML Directive.

The overall result of the consultation represents a general confirmation of the issues highlighted in the Commission's report. Broad support was expressed for the proposed alignment to the revised Financial Action Task Force standards and for greater clarification of certain issues, specifically in the area of data protection and cross-border situations.

The comments reveal a diversity of opinions, but relevant business sectors and non-governmental organizations, among others, welcomed the review as an opportunity to improve the effectiveness of Europe's anti-money laundering and counter terrorist financing defences.

The Commission will now use these comments to start drafting its proposal for a review of the AML Directive, expect for the end of 2012.

Link to the Commission's feedback statement:

[http://ec.europa.eu/internal\\_market/company/docs/financial-crime/072012\\_feedback\\_statement\\_en.pdf](http://ec.europa.eu/internal_market/company/docs/financial-crime/072012_feedback_statement_en.pdf)

#### 11 April 2012: ESAs publish two reports on the implementation of the AML Directive

The three European Supervisory Authorities for the financial sector jointly published two reports on the implementation of the third Anti-Money Laundering Directive, focusing for one report on the beneficial owners customer due diligence and for the other one on the simplified due diligence requirements.

Link to the report on the Beneficial Owners Customer Due Diligence

[http://www.esma.europa.eu/system/files/jc\\_2011\\_096.pdf](http://www.esma.europa.eu/system/files/jc_2011_096.pdf)

Link to the report on Simplified Due Diligence

[http://www.esma.europa.eu/system/files/jc\\_2011\\_097.pdf](http://www.esma.europa.eu/system/files/jc_2011_097.pdf)

#### 11 April 2012: European Commission's report on the implementation of AML Directive

The European Commission released on 11 April a report on the implementation of the third Anti-Money Laundering Directive in the EU member states.

The report analyses how the elements of the legal framework on AML were applied and imagines the modifications that could be necessary. It contains an examination of the provisions of the Directive and estimates that, generally speaking, the current framework, though working well, calls for some changes and an adaptation to new threats.

All stakeholders are invited to give their opinion until 13 June 2012. The Commission foresees to present a proposal for a fourth AML Directive in autumn 2012

Link to the report :

[http://ec.europa.eu/internal\\_market/company/docs/financial-crime/20120411\\_report\\_en.pdf](http://ec.europa.eu/internal_market/company/docs/financial-crime/20120411_report_en.pdf)

#### 16 Feb. 2012: Updated standards of the Financial Action Task Force on money-laundering, financing of terrorism and proliferation

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.

The FATF sets in its press release a list of the main changes that this update brings to anti-money laundering:

- "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."

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 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".*

Link to the FATF recommendations:

<http://www.fatf-gafi.org/dataoecd/49/29/49684543.pdf>

### 3 Feb. 2012: The European Parliament adopts a resolution on dictators' financial assets in the EU

The European Parliament adopted during its two-day plenary session in Brussels a resolution 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;*

**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><u>6 Dec. 2012: The Member States raise doubts over the proposed rules</u></p> <p>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.</p> <p>According to the report, three points were regularly discussed at meetings of the "Exchange of information and data protection" working group of the Council:</p> <ul style="list-style-type: none"> <li>• <b>Delegated acts and implementing acts:</b> 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.</li> <li>• <b>Administrative burden and compliance costs:</b> 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.</li> <li>• <b>Rules on data protection in the public sector:</b> 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.</li> </ul> <p>Link to the Cypriot Presidency's progress report:  <a href="http://register.consilium.europa.eu/pdf/en/12/st16/st16525-re01.en12.pdf">http://register.consilium.europa.eu/pdf/en/12/st16/st16525-re01.en12.pdf</a></p>	
<p><u>5 Oct. 2012: Opinion of the Working Party Article 29 on the data protection package</u></p> <p>On October 5, the Working Party Article 29, a working group that advises the European Commission on topics linked to the protection of personal data, issued an opinion on the proposed legislative package on data protection.</p> <p>The WP Article 29 supports the "package" approach adopted by the Parliament. It also brings its contribution to the debates on the definition of the concepts of personal data, consent and on the necessity and impact of the use of delegated acts to let the Commission complete the legislation. This opinion follows and completes a previous opinion, published in March 2012</p> <p>Link to the October opinion  <a href="http://ec.europa.eu/justice/data-protection/article-29/documentation/opinion-recommendation/files/2012/wp199_en.pdf">http://ec.europa.eu/justice/data-protection/article-29/documentation/opinion-recommendation/files/2012/wp199_en.pdf</a></p> <p>Link to the March opinion  <a href="http://ec.europa.eu/justice/data-protection/article-29/documentation/opinion-recommendation/files/2012/wp191_en.pdf">http://ec.europa.eu/justice/data-protection/article-29/documentation/opinion-recommendation/files/2012/wp191_en.pdf</a></p>	
<p><u>2 Oct. 2012: European Parliament study on data protection</u></p> <p>The Directorate-General for internal policies of the European Parliament published on 2 October a study ordered by the committee on the Internal Market and Consumer Protection (IMCO) on</p>	

“Reforming the data protection package”.

The study has an informative value to provide the members of the Parliament with an independent analysis of the proposal.

Link to the study:

<http://www.europarl.europa.eu/document/activities/cont/201209/20120928ATT52488/20120928ATT52488EN.pdf>

#### 19 September 2012: LIBE Committee debate on a joint working document on the data protection package

The Committee on Civil Liberties, Justice and Home Affairs (LIBE) of the European Parliament conducted September 19 to review a joint working paper by MEPs Jan Philipp Albrecht (Greens/ALE, Germany) and Dimitrios Droutsas (S&D, Greece).

Several technical meetings were held before the summer break between the European Parliament and the European Commission services followed by the first exchange of views on different parts of the Regulations and the Directive. At this stage, discussion particularly focus on the following elements:

- Delegated acts: The European Parliament is concerned about the importance that is given in draft Regulation to delegated acts and implementing measures, leaving the European Commission alone to decide on the implementation of key provisions of the text.
- Approach: The two rapporteurs wish to adopt a package; the two texts are then to be processed simultaneously and in parallel. This approach will allow the European Parliament to have a strong position in relation to the Council. However, given the uncertainty that still exists about the intentions of the Council on the proposal for a Directive, the key question now for the European Parliament will be how far it is ready to go into negotiations with the Council.
- Transfer of data to third countries: Specific rules should be laid down regarding the international transfer of personal data.
- Implementation: In addition to the need to define a good legal framework, MEPs stressed the importance of implementing provisions to be adopted. Mechanisms for effective implementation must be provided for in both texts. Moreover, questions arise on the very feasibility of the implementation of certain provisions (such as the right to oblivion for example).

As for the agenda, the two rapporteurs will publish a second document during the joint parliamentary meeting on data protection which will be held on 9 and 10 October in the European Parliament. This document should be formally discussed at the meeting of the LIBE 5 and 6 November and will lead to the publication of a draft report. An orientation vote on this draft report is expected in March or April 2013, which will open the door to a triologue with the Council.

The objective is to finalize negotiations late 2014 to allow implementation of the text in 2015-2016. Note that the timetable set by the two rapporteurs is considered very ambitious: some members of the LIBE Committee would like to extend the timeframe.

Link to the working document:

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fNONSGML%2bCOMPARL%2bPE-491.322%2b01%2bDOC%2bPDF%2bV0%2f%2fEN>



9 July 2012: Debate in LIBE committee

On 9 July, MEPs of the committee on civil liberties hold a debate on the legislative package on data protection. The two rapporteurs, Jan-Philipp Albrecht (Verts-ALE, Germany) and Dimitrios Droutsas (S&D, Greece) presented at this occasion a working document (which is not available yet), said that several meeting already took place with the Commission's services. Moreover, an interparliamentary conference will take place on 9 and 10 October with members of the EP and of national parliaments on the subject of data protection.

In the Council, a general orientation is not expected before beginning of 2013.

June 2012: ECON Committee will not issue an opinion

The ECON committee decided not to give an opinion on the legislative proposals on data protection.

Four other committees are asked to provide an opinion to the committee on Civil Liberties, Justice and Home Affairs, in charge of drafting the report: the Employment and Social Affairs committee (rapporteur for opinion: Nadja Hirsch (ALDE, Germany)), the Industry, Research and Energy committee (rapporteur for opinion : Seán Kelly (EPP, Ireland)), the Internal Market and Consumer Protection committee (rapporteur for opinion: Lara Comi (EPP, Italy)), and the Legal Affairs committee (rapporteur for opinion: Marielle Gallo (EPP, France)).

31 May 2012: Debate in LIBE Committee

On 31 May, the LIBE Committee of the EP held a debate on the proposals on data protection. The rapporteur on the draft Regulation, Jan-Philip Albrecht (Greens/EFA, Germany) stated that the aim of the reform is to insure the continuity of the principles of the previous Directive to preserve the fundamental rights, as well as to allow the free exchange of data. He estimates that the provisions of the Regulation must be clear and concrete, as the Regulation will be directly enforceable in the Member States.

The rapporteur on the draft Directive, Dimitrios Droutsas (S&D, Greece) said its disappointment regarding the Commission's decision to separate the general framework (Regulation) and the penal aspects (Directive), resulting in different levels of protection of data. He drew the MEPs' attention on two points of the Directive: the provisions regarding the transfer of data to third countries or international organisations and the provisions regarding the power and role of national data protection authorities and their need for an appropriate funding.

April 2012: Designation of the rapporteur and shadow rapporteurs in LIBE Committee

The Committee on Civil Liberties, Justice and Home Affairs (LIBE) officially designated Jan-Philipp Albrecht (Greens/EFA, Germany) to be rapporteur on the regulation on data protection. Axel Voss (EPP, Germany), Alexander Alvaro (ALDE, Germany), Cornelia Ernst (EUL/NGL, Germany) and Timothy Kirkhope (ECR, United Kingdom) were designated to be shadow rapporteurs.

7 March 2012: Attribution of draft reports in the European Parliament

On 7 March, the political groups' coordinators in Committee on Civil Liberties, Justice and Home Affairs (LIBE) have decided that the draft General Regulation on Data protection would be attributed to the Greens/European Free Alliance group and the draft Directive on aspects of police and judiciary cooperation would be attributed to the Socialists & Democrats group.

Jan Philipp Albrecht (Greens/EFA, Germany) will be the rapporteur on the draft Regulation, though his nomination is not official yet.

Link to MEP Albrecht's résumé:

[http://www.europarl.europa.eu/meps/en/96736/Jan%20Philipp\\_ALBRECHT.html](http://www.europarl.europa.eu/meps/en/96736/Jan%20Philipp_ALBRECHT.html)

#### 7 March 2012: Opinion of the European Data Protection Supervisor on EC's proposals

The European Data Protection Supervisor (EDPS) released its opinion on the draft legislation to review the European legal framework on data protection, adopted by the European Commission on 25 January.

The EDPS welcomes the draft Regulation for the fact that it is a legal instrument which is directly enforceable in the Member States, and which will allow avoiding inconsistencies deriving from the national transposition process. The rules will reinforce the rights of individuals and make companies more accountable for the way personal data are treated. Moreover, it welcomes the reinforcement of the powers of the national authorities for data protection.

However, the EDPS raise several objections as regards :

- the possibilities for restricting basic principles and rights;
- the possible derogation for transferring data to third countries;
- the excessive powers granted to the Commission in the mechanism designed to ensure consistency among supervisory authorities;
- the new ground for exceptions to the purpose limitation principle.

Link to the EDPS's opinion:

[http://www.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Consultation/Opinions/2012/12-03-07\\_EDPS\\_Reform\\_package\\_EN.pdf](http://www.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Consultation/Opinions/2012/12-03-07_EDPS_Reform_package_EN.pdf)

#### 27 Feb. 2012: Debate on Commission's proposals in LIBE Committee

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.

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.

#### 25 Jan. 2012: European Commission adopts legislative proposals on data protection

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**.

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.

The EC's package includes 3 main elements (also attached):

- 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.

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](#)).

Key changes in the reform include:

- **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](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](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](http://ec.europa.eu/justice/data-protection/document/review2012/com_2012_10_en.pdf)

#### **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
No update in December	
<p><u>August 2012: Indicative dates for vote in Legal Affairs committee</u></p> <p>The European Parliament indicated that the Legal Affairs committee foresees to vote on the draft Regulation on a European Account Preservation Order for the attachment of bank accounts on 21 January 2013. The vote in plenary session shall take place on 5 February 2013.</p>	
<p><u>16 March 2012: ECON Committee's opinion published</u></p> <p>The secretariat of the ECON Committee of the European Parliament published the consolidated version of Elena Băsescu's report on the draft Regulation on a European Account Preservation Order for the attachment of bank accounts.</p> <p>Link to the ECON Committee's opinion:  <a href="http://www.europarl.europa.eu/sides/getDoc.do?type=COMPARL&amp;reference=PE-475.906&amp;format=PDF&amp;language=EN&amp;secondRef=02">http://www.europarl.europa.eu/sides/getDoc.do?type=COMPARL&amp;reference=PE-475.906&amp;format=PDF&amp;language=EN&amp;secondRef=02</a> </p>	
<p><u>29 Feb. 2012: ECON Committee votes on Elena Băsescu's report</u></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><u>6 Feb. 2012: The ECON Committee discusses amendments to the draft Regulation on European Account Preservation Order</u></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&amp;D and ECR shadow rapporteurs, Arlene McCarthy (S&amp;D, United Kingdom) and Ivo Strejček (ECR, Czech Republic).</p>	

A vote on this draft opinion and amendments will take place in the ECON Committee on 28 February.

Link to the draft opinion:

[http://www.europarl.europa.eu/meetdocs/2009\\_2014/documents/econ/pa/883/883101/883101en.pdf](http://www.europarl.europa.eu/meetdocs/2009_2014/documents/econ/pa/883/883101/883101en.pdf)

Link to the tabled amendments:

[http://www.europarl.europa.eu/meetdocs/2009\\_2014/documents/econ/am/888/888964/888964en.pdf](http://www.europarl.europa.eu/meetdocs/2009_2014/documents/econ/am/888/888964/888964en.pdf)

**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)

Financial transaction tax	Geography: all EU
<p><b><u>12 Dec. 2012: EP approves launch of an enhanced cooperation on a FTT</u></b></p> <p>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</p> <p>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.</p> <p>Link to the EP's resolution:  <a href="http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2012-0498+0+DOC+XML+V0//EN">http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2012-0498+0+DOC+XML+V0//EN</a> </p>	
<p><b><u>30 Nov. 2012: Council gives a green light to an enhanced cooperation on a FTT</u></b></p> <p>On 30 November, the Council agreed on the decision proposed by the European Commission to authorise an enhanced cooperation on a financial transaction tax. The Permanent Representatives of the 27 Member States decided to send a letter to the European Parliament, requesting its consent for the launch of the enhanced cooperation. Once the Parliament has given its own green light, the Council will be able to formally adopt the decision in an ECOFIN meeting at qualified majority.</p> <p>The ECOFIN Council decision is only one of the first steps to launch the FTT: once it is granted, the 11 participant Member States will have to agree unanimously on a system based on a detailed proposal to be made by the European Commission.</p>	
<p><b><u>23 Oct. 2012: The European Commission recommends authorising an enhanced cooperation for a FTT in eleven Member States</u></b></p> <p>The European Commission adopted on 23 October a proposal for a Council decision that call on the Council to authorise the eleven Member States who expressed the wish to enter into an enhanced cooperation to create a tax on financial transactions to do so.</p> <p>Indeed, after Spain, Italy, Estonia and Slovakia declared their wish to join the project, therefore, since the minimum is nine countries, there are enough countries to start the process (). The Commission examined the legal conditions in which the enhanced cooperation will take place and concluded that it will help realize the goals of the Union and will not go against its interests.</p> <p>It should now be adopted by the Council at a qualified majority. After the vote of the Council, the Commission will make a detailed proposal for the enhanced cooperation, which will have to be adopted unanimously by the eleven participants in the first months of 2013.</p>	



23 May 2012: Resolution of the European Parliament on the project of FTT

On 23 May, the European Parliament voted in plenary session its resolution on the Commission's draft Directive on a common system of financial transaction tax. In adopting by a large majority the report of the Greek Socialist, Anni Podimata, the European Parliament voted in plenary on 22 May in favour of introducing a financial transaction tax at the Union level or at a lower level in the context of an enhanced cooperation. The wide consensus behind the opinion of the Parliament - which is only consulted on this issue - is a strong signal to the Council, even if it is unlikely that it change the position of the Member States most opposed to the project. The agenda envisaged is the one recommended by the Commission: adoption of the text before 1 January 2014 for an effective application of the tax in the Member States from 1 January 2015.

Link to the Parliament's resolution:

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2012-0217+0+DOC+XML+V0//EN>

26 April 2012: ECON vote on FTT

On 25 April, the Committee on Economic and Monetary Affairs voted on the report prepared by Anni Podimata (S&D, Greece) and amendments proposed by her colleagues on the European Commission's proposal for a Financial Transaction Tax in the EU.

The adopted opinion – the European Parliament is only consulted on tax issues, the Council decides alone – estimates that starting 2014, transactions on shares and bonds should be taxed to a minimal rate of 0.1% and transaction on derivatives should be taxed to 0.01%. The MEPs proposed to add to the proposal an “emission principle”, namely the obligation for two foreign financial institutions to pay the tax if the negotiate a financial product that originally issued in the EU. Finally, the Committee agreed on the proposal made by Mrs. Podimata to link the legal ownership of a security to the payment of the FTT: if no FTT has been paid on the transaction, the owner could not legally claim for his ownership on the security.

The consolidated report should be soon available.

22 March 2012: IMCO Opinion on FTT

On 22 March, the Committee on Internal Market and Consumer Protection adopted its opinion on the proposal for a Financial Transaction Tax, to be transmitted to the Committee on Economic and Monetary Affairs, which is responsible for drafting the Parliament's position on the Commission's proposal.

Link to the IMCO Opinion:

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

29 Feb. 2012: Anni Podimata presents her draft report on FTT to the ECON Committee

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.

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.

The ECON Committee plans to vote on the report in April.

Link to the draft report:

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONGML+COMPARL+PE-480.888+01+DOC+PDF+V0//EN&language=EN>

6 Feb. 2012: Hearing on the Financial Transaction Tax in the ECON Committee of the EP

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.

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%.

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.

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.

**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

**Accounting issues**

Geography: all EU

No update in December

5 Nov. 2012: Exchange of views between Hans Hoogervorst, Chairman of the IASB, and the ECON committee

Hans Hoogervorst, Chairman of the IASB, came to the European Parliament on 5 November to have an exchange of views with the members of the ECON committee. During this exchange of views, Mr. Hoogervorst explained to the MEPs what the activity of the IASB has been during the last year and what the next challenges to address are, among them the reluctance of the United States to adopt the IFRS.

Now that most of the IFRS have been delivered, the IASB will use the period of relatively low activity it will have to review its conceptual framework.

He also told the MEPs about the changes that have been made in the internal organisation of the IASB to address the transparency and accountability issues that the European Parliament had raised in past years. He reminded MEPs who asked him what accounting could make to prevent crisis that the role of accounting is to show the value of the assets and debts and make the balance sheet of companies as transparent as possible. For him, it is the task of prudential supervisors, in the case of regulated financial activities, and of investors in all cases to act when the figures they have under sight reveal a problem.

26 June 2012: IASB consults on its strategy “Review of IFRS for SMEs”

On 26 June, the International Accounting Standards Board launched a consultation on its strategy for the application of IFRS to SMEs. This consultation is part of a larger process that should end in 2015:

Date	Action
Second quarter of 2012	Review begins. The IASB staff prepares a Request for Information (RFI) incorporating suggestions by the SMEIG. The SMEIG review and approve the RFI, and recommend that the IASB approve the publication of the RFI for public comment.  The IASB reviews and approves the RFI.
26 June 2012	RFI published (posted on the IASB website). The public are invited to make recommendations on possible amendments to the <i>IFRS for SMEs</i> . Five month comment period.
30 November 2012	Comment deadline on the RFI.
First half of 2013	The SMEIG reviews the responses to the RFI and makes recommendations to the IASB on possible amendments.

<b>First half of 2013</b>	The IASB deliberates amendments and develops and approves an Exposure Draft (ED) of proposals.
<b>Second half of 2013</b>	The SMEIG reviews responses to the ED and makes recommendations to the IASB.
<b>Second half of 2013</b>	The IASB deliberates on the amendments to proposals in the ED and agrees final revisions to the <i>IFRS for SMEs</i> .
<b>Second half of 2013 or first half of 2014</b>	The IASB publishes final revisions to the <i>IFRS for SMEs</i> .
<b>Target date in 2015</b>	Effective date of revisions.

Link to the consultation paper:

[http://www.ifrs.org/NR/rdonlyres/C0EE48A5-E43F-42C1-AF22-8AAEDBDC4143/0/RequestforInformation\\_IFRSforSMEs\\_WEBSITE.pdf](http://www.ifrs.org/NR/rdonlyres/C0EE48A5-E43F-42C1-AF22-8AAEDBDC4143/0/RequestforInformation_IFRSforSMEs_WEBSITE.pdf)

#### 4 June 2012: Speech by Hans Hoogervorst, IASB Chairman in the 3<sup>rd</sup> ECB Conference on Accounting

Mr. Hoogervorst pronounced a speech at the European Central Bank conference on Accounting in which he explained what is the vision that the IASB is pursuing in its works: building transparency in accounting as a contribution to financial stability.

Link to the speech:

<http://www.ifrs.org/NR/rdonlyres/A8F64899-FED7-4037-AA96-21F5F93E4750/0/ECB462012.pdf>

#### March 2012: Updated IASB's work program

The International Accounting Standard Board updated its work program on international standards on financial reporting.

Link to the work program:

<http://www.ifrs.org/Current+Projects/IASB+Projects/IASB+Work+Plan.htm>

#### 9 March 2012: Meeting between the IASB and EFRAG on four major issues

The International Accounting Standard Boards and the European Financial Reporting Advisory Group met on 9 March to discuss, inter alia, four major projects: insurance contracts, leases, financial instruments and revenue recognition.

Link to the press release:

<http://www.ifrs.org/NR/rdonlyres/F810CAD1-9306-449E-9822-2EDC36FF3514/0/IASBEFRAG13March2012.pdf>

**Other topics of interest**

**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](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](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](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>

#### 29 Nov. 2012: ECON vote on the Single Supervisory Mechanism

On 29 November, the members of the ECON Committee voted the two reports on the Single Supervisory Mechanism (SSM) and on the modification of the governing rules of the European Banking Authority (EBA) prepared respectively by MEP Marianne Thyssen (EPP, Belgium) and MEP Sven Giegold (Greens, Germany). Most of the modifications the MEPs proposed relate to the questions of the independence of the supervisor from outside political pressures and from inside the ECB, and the democratic control and accountability of the new supervisor to the European and national Parliaments.

Among the most debated questions were the distribution of tasks between the ECB and national authorities and the equality of rights between the participants to the SSM. On the distribution of tasks, the MEPs opted for a system in which the ECB will supervise directly the biggest banks and those that will be recapitalized through the ESM, while smaller banks will be supervised by national authorities under control of the ECB. On the question of the equality of rights, the MEPs tried to give equal rights to the participating the Member States outside the eurozone as those given to the eurozone countries, despite the legal limitations of the legal basis chosen by the Commission.

The ECOFIN Council was supposed to adopt a general approach on the two texts on 4 December, but discussions failed. Intense discussions are being held on this topic in order to reach an agreement before 31 December 2012.

Link to MEP Thyssen's report:

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fNONSGML%2bREPORT%2bA7-2012-0392%2b0%2bDOC%2bPDF%2bV0%2f%2fEN>

Link to MEP Giegold's report:

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fNONGML%2bREPORT%2bA7-2012-0393%2b0%2bDOC%2bPDF%2bV0%2f%2fEN>

#### 23 Oct. 2012: Initiative on e-invoicing in the European Commission's work programme for 2013

The Commission intends to adopt in the second quarter of 2013 an initiative to promote the use of e-invoicing in contracts between businesses and public administrations and to improve the interoperability of the different national systems of e-invoicing. For the Commission, e-invoicing would reduce the costs for businesses and public administrations.

By speeding the development of e-invoicing, this initiative could mean, for the factoring industry, an increase of the share of e-invoices factored by client companies.

Link to the Commission's work programme:

[http://ec.europa.eu/atwork/pdf/cwp2013\\_en.pdf](http://ec.europa.eu/atwork/pdf/cwp2013_en.pdf)

Link to the Annex to the work programme, which lists all the forthcoming initiatives:

[http://ec.europa.eu/atwork/pdf/cwp2013\\_annex\\_en.pdf](http://ec.europa.eu/atwork/pdf/cwp2013_annex_en.pdf)

#### 2 October 2012: Liikanen Group submits its report on the structural reform of the EU banking sector to the European Commission

The Group of senior experts on the reform of the structure of the banking sector of the EU gave its report on 2 October at the European Commission. The Group, chaired by Erkki Liikanen, Governor of the Bank of Finland's mandate was, firstly, to determine whether, in addition to regulatory reforms that are underway, structural reforms of EU banks could strengthen financial stability and improve system efficiency and consumer protection, and, secondly, to develop, where appropriate, recommendations.

Erkki Liikanen said: "The report identifies the Group's recommendations for further reforms, including structural banking sector. In continuation of substantial measures already underway, I think the implementation of the recommendations of the banking system could create a safer, more stable and more efficient service to the citizens of the EU economy and market.

The Group recommends a set of five measures to complete the regulatory reforms proposed by the EU, the Basel Committee and national governments on the following points:

1. Obligation to separate the banks' trading for their own account and other market activities of high-risk for the Group, it is necessary to require the unbundling of certain financial activities particularly risky deposits of banks within the banking group. Activities that would be placed in safety would include securities trading and derivatives for its own account, and certain other activities closely related to securities and derivatives. The main objectives of this separation is to make banking groups - including the roles of deposit collectors and providers of financial services to non-financial sectors of the economy - safer and less related to trading activities, and limit the implicit or explicit role of the taxpayer in negotiations banking groups.
2. Possibility of separating other activities depending on the bailout and resolution of failures: in the context of the Commission's proposal on the recovery and resolution of banking crises, the implementation of a recovery plan and effective crisis resolution may require broadening the scope of unbundling.
3. Ability to change the use of internal instruments bailout (bail-in) as an instrument for crisis



resolution: in addition to the implementation of a recovery plan and crisis resolution, the Group strongly supports the use instruments to improve internal bailout Capacity Battery absorption losses of banks. The Group also believes that a definition of bail-in would clarify the position of the bailout instruments within the hierarchy of debt commitments in the balance sheet of a bank and allow investors to know the treatment potential of the respective instruments in case of crisis resolution.

4. Revision of capital requirements in relation to assets held for trading and loans related to real estate: the Group suggests that the Basel Committee should take into account in its work gaps existing capital requirements as defined by the Group and an assessment is made by the Commission after completion of the work of the Basel Committee, whether the changes to capital requirements in the trading proposed would be sufficient to cover the risks of bank deposits and commercial entities. The Panel suggests that the Commission consider other measures for the treatment of subprime mortgages in the framework of capital requirements.
5. Strengthening controls and governance of banks: Group proposes measures such as the strengthening of boards and management, the promotion of risk management function (for incentives), facilitating control markets and strengthening its implementation by the competent authorities, including through greater transparency and effective implementation of the sanctions measures.

The European Commission has launched a consultation on October 2 on this report, which is open until November 13.

Link to the Liikanen Group's report

[http://ec.europa.eu/internal\\_market/bank/docs/high-level\\_expert\\_group/report\\_en.pdf](http://ec.europa.eu/internal_market/bank/docs/high-level_expert_group/report_en.pdf)

#### 12 September 2012: The European Commission unveils its proposals for a Single Supervisory Mechanism

On 12 September, the European Commission adopted its proposal for a Regulation entrusting the European Central Bank with specific tasks concerning the prudential supervision of credit institutions. The regulation specifies the tasks that the ECB will carry out, the relationship between the ECB and the national supervisors both in and outside the euro area, but also the internal organization that the ECB must adopt to ensure the separation of supervision tasks and the conduct of monetary policy and the principle of independence of the ECB in the conduct of its supervisory activities.

The Commission also adopted a related proposal for a Regulation amending Regulation (EU) No 1093/2010, constituting the European Banking Authority (EBA), in order to adapt the method of voting and the composition of the Board of EBA to the new supervisory architecture of the euro area.

Finally, the Commission adopted a Communication to the European Parliament and the Council detailing the roadmap it intends to follow for setting up the banking union.

The reactions of the members of these proposals have been rather mixed: while some MEPs welcome the idea of a centralized and strengthened banking supervision, many expressed doubts about possible contradiction between ECB independence and democratic control. Moreover, voices arose against the procedure used to adopt the main Regulation: a special legislative procedure which allows the Council to decide alone and unanimously after consulting the European Parliament.

Link to the draft Regulation entrusting the ECB with supervisory tasks:

[http://ec.europa.eu/internal\\_market/finances/docs/committees/reform/20120912-com-2012-511\\_en.pdf](http://ec.europa.eu/internal_market/finances/docs/committees/reform/20120912-com-2012-511_en.pdf)



Link to the draft Regulation on EBA:

[http://ec.europa.eu/internal\\_market/finances/docs/committees/reform/20120912-com-2012-512\\_en.pdf](http://ec.europa.eu/internal_market/finances/docs/committees/reform/20120912-com-2012-512_en.pdf)

Link to the Communication on the road towards a banking union:

[http://ec.europa.eu/internal\\_market/finances/docs/committees/reform/20120912-com-2012-510\\_en.pdf](http://ec.europa.eu/internal_market/finances/docs/committees/reform/20120912-com-2012-510_en.pdf)

**Banking crisis management, 6 June 2012: Draft Directive of the Commission**

On 6 June, the European Commission adopted a proposal for a Directive establishing a framework for the recovery and resolution of credit institutions and investment firms. The proposals establishes a set of tools and procedures to be used for the prevention of bank failures as well as for organizing clear resolutions for the credit institutions that could not be saved. One of the main measures of the proposal is the creation of “resolution funds” in each member states, which would be funded by the banks and represent after 10 years 1% of the covered deposits.

Currently limited to banks and big investment firms, this Directive could be a model for a future similar framework for failures of all the other financial institutions.

Link to the Commission’s proposal:

[http://ec.europa.eu/internal\\_market/bank/docs/crisis-management/2012\\_eu\\_framework/COM\\_2012\\_280\\_en.pdf](http://ec.europa.eu/internal_market/bank/docs/crisis-management/2012_eu_framework/COM_2012_280_en.pdf)

**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](http://www.ecb.europa.eu/stats/pdf/blssurvey_201201.pdf?f2ebad8504649793b4b964bb72627385)

**Ongoing consultations :**

Until 14 Jan. 2013: FSB consultative documents on Shadow Banking

See “Shadow Banking” section above.

Until 14 Jan. 2013: EC consultation on e-invoicing in public procurement

This consultation is linked to the foreseen initiative on this topic to be adopted by the Commission in the second quarter of 2013.

Link to the consultation:

[http://ec.europa.eu/internal\\_market/consultations/2012/einvoicing\\_en.htm](http://ec.europa.eu/internal_market/consultations/2012/einvoicing_en.htm)

**Agenda January-February 2013**

10 January: ECON committee meeting (Brussels)

14-17 January: European Parliament plenary session (Strasbourg)

21-22 January: ECON Committee meeting (Brussels)

22 January: Ecofin Council meeting (Brussels)

29-30 January: ECON Committee meeting (Brussels)

4-7 February: European Parliament plenary session (Strasbourg)

12 February: Ecofin Council meetings (Brussels)

18-19 February: ECON Committee meeting (Brussels)

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