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Capital requirements for credit institutions (CRD IV proposals and Basel Committee on Banking supervision)	Geography: all EU
<p><b>18 Nov. 2011: Progress report of the Council on the work on CRD IV</b></p> <p>The Polish Presidency of the Council released on 18 November a progress report on the Council's work on the CRD IV legislative proposals. According to the report, "there is a broad measure of agreement on a number of proposed provisions to improve current prudential requirements, in particular the need to improve significantly the qualitative and quantitative capital requirements." It appears though that the Member States' delegations are split on the level of national discretion that is allowed within the Commission's proposals. Some of them agree with the Single Rulebook framework proposed by the Commission, arguing that the possibility to determine the level of the countercyclical buffer is enough flexibility, while others would like to be able to strengthen the prudential requirements in their jurisdictions, through higher core capital targets. Disagreement is also visible on Article 443 of the draft Regulation that allows the Commission to temporarily raise capital requirements through delegated acts. Some delegations are unwilling to grant the Commission such a power.</p> <p>Though all delegations agree on the need to introduce a liquidity coverage requirement, several concerns have been raised. First, some Member States (MS) argue that, contrarily to what is currently planned, the LCR should be introduced by amending the CRD IV Regulation through ordinary legislative procedure and not through delegated act of the Commission. Second, the MS wants to make the wording of the provisions relative to the LCR more precise. Third, the MS are concerned about the changes made to the liquidity structure: "The main concerns are related to the possibility of establishing single liquidity sub-groups and intra-group treatment. The proposed Regulation foresees an obligation to establish a single liquidity sub-group once certain conditions are met. There seems to be a prospect of agreement on the principle of having a single liquidity sub-group, subject to sufficient safeguards being defined, especially in terms of procedure and conditions of application. Notably, in place of the proposed obligatory waiver of liquidity requirements to subsidiaries if certain conditions are met, a large number of Member States suggests providing for discretion of national competent authorities in this respect. Moreover, the proposed Regulation contains a requirement to apply liquidity intra-group treatment where the single liquidity sub-group has not been established. The proposed solution has very similar features to the single liquidity sub-group issue. Some Member States, however, are of the view that there are no safeguards foreseen within the suggested procedure. The structure of liquidity supervision is subject to further examination."</p> <p>The delegations also examined the question of the leverage ratio. Several Member States estimates that the disclosure of a the leverage ratio before taking the decision whether it should be a binding requirement might have negative effect on the market participants and suggest to postpone this disclosure.</p> <p>The report notes "that some of Member States have concerns about definition of own funds, in particular the treatment of significant investments in insurers and the "substance over form" approach on Common Equity Tier I capital". Those MS consider that the CRD IV proposals "do not fully transpose the Basel III requirements", an opinion that is not shared by all the delegations. Finally, the Presidency estimates that "further work is also needed on, <i>inter alia</i>, countercyclical buffers, the sanctioning regime, requirements linked to corporate governance, etc."</p> <p>The EcoFin Council took note of the report during its meeting of 30 November.</p>	

Link to the progress report:

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

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

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

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

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

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

Link to the EBA’s press release:

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

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

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

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

Position paper :

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

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

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

Press release :

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

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

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

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

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

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

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

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

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

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

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

**Udo Bullman** (S&D, Germany) welcomed this initiative and explained that the banks are clearly undercapitalized. He welcomed the counter-cyclical measures (Capital conservation buffer...). However, some points need to be corrected: too much importance has been given in the past years to rating agencies. The fundamental problem is the quality of bank capital, that need to be reinforced

but we also need to preserve the access to credit for SMEs. We know indeed that lower investments will have a negative impact on growth.

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

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

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

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

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

Rome I regulation / Contract law	Geography: all EU
<p><b>10 Nov. 2011: Commissioner Reding's speech at the European contract law conference in Warsaw</b></p> <p>On 10 November, the European Commissioner for Justice, Viviane Reding, pronounced a speech at the European contract law conference in Warsaw. In this speech, she explained what her proposal of a Common European Sales Law, coming through a regulation proposed in October, was aiming at and the way she intended it to function. The optional character of the proposed system is, according to her, a way to allow the Member States that are reluctant to harmonizing contract laws across Europe, a reluctance that she saw during the negotiations on the Consumer Rights Directive. The proposed system is then optional and limited to a narrow range of contracts, but the Member States that are willing to expand it will be free to allow their economic agents to use it for other situations. The Commission's idea is then that Member States and economic actors progressively generalize the use of the European sales law to such an extent that it will <i>de facto</i> replace national contract laws, without constraining unwilling national authorities or economic agents.</p> <p>Link to Commissioner Reding's speech:  <a href="http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/11/742&amp;format=PDF&amp;aged=0&amp;language=EN&amp;guiLanguage=en">http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/11/742&amp;format=PDF&amp;aged=0&amp;language=EN&amp;guiLanguage=en</a> </p>	
<p><b>11 Oct. 2011 : The European Commission unveils its Regulation proposal for a Common European Sales Law</b></p> <p>The European Commission, through the voice of Viviane Reding, Commissioner for Justice, presented on 11 October its <b>proposal for a Regulation on a Common European Sales Law</b>, ending the pre-legislative work that begun with the <b>green paper on a European instrument for contract law</b> published in July 2010. The Commission finally opted for an <b>optional instrument</b>, limited to <b>cross-border sales contracts between businesses (B2B) and between businesses and consumers (B2C)</b>.</p> <p>As regards the <b>relation between this proposal and the Rome I Regulation</b>, the proposal's introduction states that <i><b>"the Rome I Regulation and the Rome II Regulation will continue to apply and will be unaffected by the proposal. It will still be necessary to determine the applicable law for cross-border contracts. This will be done by the normal operation of the Rome I Regulation. It can be determined by the parties themselves (Article 3 of the Rome I Regulation) and, if they do not do so, this will be done on the basis of the default rules in Article 4 of the Rome I Regulation. As regards consumer contracts, under the conditions of Article 6(1) of the Rome I Regulation, if the parties have not chosen the applicable law, that law is the law of the habitual residence of the consumer."</b></i> Then <i><b>"where the parties have agreed to use the Common European Sales Law, its rules will be the only national rules applicable for matters falling within its scope. [...] This agreement to use the Common European Sales Law is a choice between two different sets of sales law within the same national law and does therefore not amount to, and must not be confused with, the previous choice of the applicable law within the meaning of private international law rules."</b></i></p> <p>According to the Commission's explanation, the Article 6(2) of the Rome I Regulation, that imposes to the contactors the respect of the mandatory provisions in the consumer's contract law, still</p>	

applies. But considering that if the contractors opted for the Common European Sales Law the mandatory provisions are the same in all member states, the contractors only have to conform themselves to the mandatory provision of the Common European Sales Law to be in line with Article 6(2) of the Rome I Regulation.

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

Commission's proposal :

[http://ec.europa.eu/justice/contract/files/common\\_sales\\_law/regulation\\_sales\\_law\\_en.pdf](http://ec.europa.eu/justice/contract/files/common_sales_law/regulation_sales_law_en.pdf)

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

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

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

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

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

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

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

**Stakeholders:** European Commission – DG JUST – Unit A2 "Contract Law"



VAT on financial services	Geography: all EU
<p><b><u>6 Dec. 2011: European Commission's communication on the future of VAT</u></b></p> <p>The European Commission released on 6 December a communication on the future of VAT, analyzing the results of its Green Paper of December 2010. The Commission announces the key principles that will drive its reform of the EU VAT system, among those reducing the administrative burden on companies, reducing the number of exemptions and reduced rates, and reinforcing the fight on fraud. The Commission's main goal is to allow Member States to increase their revenues from VAT while facilitating cross border trade within the Single Market.</p> <p>The Commission intends to simplify the rules on VAT, especially for companies that have cross border activities. It will extend the one-stop-shop system, entering into force in 2015 for electronic services providers, to other sectors and will set a multilingual website in order to provide companies with the necessary information.</p> <p>The reduction of exemptions and reduced rates should be driven by three principles:</p> <ul style="list-style-type: none"> <li>- Suppressing reduced rates that are barriers to the Single Market by creating distortion of competition;</li> <li>- Suppressing reduced rates on products of which consumption is discouraged by other EU policies (on environment or health);</li> <li>- Taxing at same level products that are similar.</li> </ul> <p>Finally, the Commission wants to set in 2012 an "early warning mechanism" on VAT fraud and will examine the possibility to reinforce the European mechanisms for the exchange of information.</p> <p>Link to the Commission's communication:  <a href="http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/key_documents/communications/com_2011_851_en.pdf">http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/key_documents/communications/com_2011_851_en.pdf</a></p>	
<p><b><u>17 Nov. 2011: Results of the Council's High level working group on indirect taxation</u></b></p> <p>The Polish Presidency of the Council presented to the Member States' delegations a project of progress report on the work achieved during the past six months. This draft report was examined by the delegations during the High level working group's meeting on 17 November and rejected due to the lack of neutrality in the Presidency's tone. A new draft project will be examined during the next meeting, on 14 December.</p> <p>A more important piece of information of this meeting came from the Danish delegation: the forthcoming Danish Presidency indicated that it will not advance works on this issue during its turn. This means that the examination of the legislative drafts might start again only under the Cypriot Presidency (starting on 1<sup>st</sup> July 2012).</p>	
<p><b><u>10 Nov. 2011: Publication of document FISC 127 (orientation debate)</u></b></p> <p>The Council published the document FISC 127, in which the Polish Presidency sets the orientation debate that took place during the meeting of 26 October (see article below).</p>	



Link to FISC 127 document:

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

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

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

Four issues are still subject to debates between the delegations:

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

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

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

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

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

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

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

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

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

Resolution :

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2011->

[0436+0+DOC+XML+V0//EN&language=EN](#)

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

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

Link to FISC 122:

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

Link to FISC 123:

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

Link to FISC 124:

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

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

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

Anti-Money Laundering Directive	Geography: all EU
<p><b>15 Nov. 2011: European Commission announces a legislative proposal on AML Directive in 2012</b></p> <p>In its work programme for 2012, the European Commission announced that it will make a proposal for a revision of the Anti-Money Laundering directive in 2012.</p> <p>The proposal should be published in October and implement in EU law the international standards that the Financial Action Task Force is currently revising and should be published in February. Besides, the European Commission has mandated Deloitte consultants to carry out a study on the implementation of the 3<sup>rd</sup> AML directive, and the EC should publish its own impact assessment in March 2012.</p> <p>According to the Commission, the provisional results of the study show no need of a full-scale revision of the EU system but rather some practical improvements (e.g. guidance on the risk based approach, ensure better access to information on beneficial ownership and politically exposed persons, provide for a more tailored approach for small businesses and professionals, etc.).</p> <p>The Commission estimates that the minimal harmonization approach of the last AML directive led to huge diverging national laws on this matter and that Single Market developments such as SEPA justify a more coordinated approach.</p> <p>Link to the Commission's work programme for 2012 (initiative n° 93):  <a href="http://ec.europa.eu/atwork/programmes/docs/cwp2012_annex_en.pdf">http://ec.europa.eu/atwork/programmes/docs/cwp2012_annex_en.pdf</a></p> <p><b>Impact on EUF members:</b> <b>Low</b> – Small practical changes might be introduced through revision of the AML Directive.</p> <p><b>Stakeholders:</b> European Commission – DG MARKT, Unit F2 “Corporate governance &amp; social responsibility”</p>	

Data protection	Geography: all EU
<p><b>15 Nov. 2011: European Commission announces a revision of the EU data retention framework</b></p> <p>In its work programme for 2012, the European Commission announced that it will propose a revision of the EU legal framework for data protection in March 2012, in particular the revision of the Data Retention Directive. The announced objectives of the revision are three:</p> <ul style="list-style-type: none"> <li>- To ensure the appropriate authorities have swift access to the telecommunications information which is strictly necessary for combating crime;</li> <li>- To provide appropriate limitations on data retention and safeguards against unnecessary infringements of right to privacy and the protection of personal data;</li> <li>- To remove unnecessary obstacles to the smooth functioning the internal market and to ensure consistent reimbursement of the telecommunications industry across the EU of the costs of applying data retention.</li> </ul> <p>Link to the Commission’s work programme for 2012 (initiative n°63):  <a href="http://ec.europa.eu/atwork/programmes/docs/cwp2012_annex_en.pdf">http://ec.europa.eu/atwork/programmes/docs/cwp2012_annex_en.pdf</a></p>	
<p><b>Oct. 2011: The Commission will propose a revision of the legal framework for data protection to be published by the end of 2011</b></p> <p>In a communication <b>to be published in late November or early December</b> on measures to reinforce the confidence in the digital single market of e-commerce and online services, the European Commission <b>will announce as a key action a revision of the European legal framework on data protection by the end of 2011</b>, in order to “reinforce it, adapt it to technological evolutions, reduce the costs and administrative charges for operators and improve the legal coherence and certainty”.</p>	
<p><b>Impact on EUF members:</b></p> <ul style="list-style-type: none"> <li>- 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.</li> <li>+ Harmonised rules will facilitate cross border activity for the factoring and commercial finance industry.</li> </ul>	
<p><b>Stakeholders:</b> European Commission – DG JUST, Unit C3 “Data protection”; European Parliament – LIBE Committee, MEP Axel Voss (EPP, Germany); European Data Protection Supervisor</p>	

European Account Preservation Order for the attachment of bank accounts	Geography: all EU
No update in November 2011	
<p><u>23 Sept. 2011: Justice and Home Affairs Councils starts its work on the European Account Preservation Order</u></p> <p>The member of the JAI Council attended a presentation by the European Commission, which marked the beginning of the legislative examination of the project by the Council.</p>	
<p><u>13 Sept. 2011: ECON Committee of the European Parliament appoints Elena Băsescu to draft its opinion</u></p> <p>Elena Băsescu, substitute member of the Committee on Economic and Monetary Affairs of the European Parliament, was appointed by this Committee to propose, on behalf of the Committee, an opinion on the draft Regulation creating a European Account Preservation Order to facilitate cross-border debt recovery in civil and commercial matter.</p> <p>The Committee for legal affairs is responsible for the report. The rapporteur has not been appointed yet.</p> <p>MEP Băsescu's curriculum vitae:  <a href="http://www.europarl.europa.eu/members/expert/groupAndCountry/view.do?id=96814">http://www.europarl.europa.eu/members/expert/groupAndCountry/view.do?id=96814</a></p> <p><b>Impact on EUF members:</b> 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.</p> <p><b>Stakeholders:</b> European Commission – DG JUST; European Parliament – ECON Committee, Elena Băsescu (EPP, Romania)</p>	

## Cross-border dispute resolution

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

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

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

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

Link to the ADR for BtoC Directive proposal:

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

Link to the ODR Regulation proposal:

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

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

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

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

Study:

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

**Impact on EUF members:** non-legislative item

**Stakeholders:** European Parliament – Policy Department A, IMCO Committee

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

The European Parliament published on 6 September the opinion adopted on 31 August by the Committee on Internal Market and Consumer Protection of the European Parliament on alternative

dispute resolution in civil, commercial and family matters. This is a non-legislative procedure, the IMCO Committee acts as secondary committee associated to the Committee on Legal Affairs.

Opinion :

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

**Impact on EUF members:** non-legislative procedure

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



Financial transaction tax	Geography: all EU
<b>8 Nov. 2011 : First debate of the ECOFIN Council on the FTT</b>	
<p>On 8 November, after a presentation of the project of FTT by the European Commission, the delegations of the Member States debated on this project. Some of the ministers showed themselves opposed to this project, holding positions between reserved and strongly hostile, like the United Kingdom's Finance minister, George Osborne, who asked for a vote on this issue as early as 2012, in order to bury the Commission's initiative. To the contrary, seven Member States strongly support the initiative (among them France, Germany and Spain), while fourteen fear relocation of financial activities outside the EU and ask for evidence that this risk is taken into account by the proposal.</p>	
<b>28 Sept. 2011 : Adoption of a legislative proposal on the FTT</b>	
<p>The European Commission adopted on 28 September 2011 its legislative proposal introducing a <b>financial transaction tax (FTT)</b> in the European Union <b>starting 1<sup>st</sup> January 2014</b>. The tax will be charged on <b>all transaction made between two financial institutions if at least one of them is located within the EU</b>. The rate will be <b>0.1% on exchange of equities and bonds, and 0.01% on derivatives</b>. The expected revenue, 57 billion euros per year, should go to the general budget of the EU, thus replacing part of the national contributions made by the Member States. <b>The Member States would stay free to impose higher rates</b>. In such a case, the extra revenue would go to the national budgets.</p> <p><b>Transactions between financial institutions and their clients, private individuals or companies, would fall out of scope</b>, as well as <b>"house mortgages, bank loans, insurance contracts and other normal financial activities carried out by individuals or small businesses"</b> said the Commission in its press release.</p> <p>Legislative proposal : <a href="http://ec.europa.eu/taxation_customs/resources/documents/taxation/other_taxes/financial_sector/com(2011)594_en.pdf">http://ec.europa.eu/taxation_customs/resources/documents/taxation/other_taxes/financial_sector/com(2011)594_en.pdf</a></p> <p>Press release : <a href="http://europa.eu/rapid/pressReleasesAction.do?reference=IP/11/1085&amp;format=PDF&amp;aged=0&amp;language=EN&amp;guiLanguage=en">http://europa.eu/rapid/pressReleasesAction.do?reference=IP/11/1085&amp;format=PDF&amp;aged=0&amp;language=EN&amp;guiLanguage=en</a></p> <p>Impact assessment and summary : <a href="http://ec.europa.eu/taxation_customs/resources/documents/taxation/other_taxes/financial_sector/impact_assessment.zip">http://ec.europa.eu/taxation_customs/resources/documents/taxation/other_taxes/financial_sector/impact_assessment.zip</a> <a href="http://ec.europa.eu/taxation_customs/resources/documents/taxation/other_taxes/financial_sector/summ_impact_assesmt_en.pdf">http://ec.europa.eu/taxation_customs/resources/documents/taxation/other_taxes/financial_sector/summ_impact_assesmt_en.pdf</a></p>	
<b>9 Sept. 2011 : Joint letter by the French and German governments to the European Commission pushing for a FTT in the EU alone</b>	

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

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

Even though the G20 meetings showed the reluctance of non-European countries to implement such a tax, **France and Germany believe that implementing it in the EU would be “a crucial step on the path to reaching a global consensus in a way that does not affect the European competitiveness”**. They wished that the tax would be **technically simple** and the **tax base would be broad** (transactions on equities, bonds, currency transactions and derivatives). According to them, a **low tax rate would minimise the risk of distortion and circumvention**.

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

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

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

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

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

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

Accounting issues	Geography: all EU
No update in November 2011.	
<p><u>21 Oct. 2011: ESMA's annual activity report on the enforcement of IFRS</u></p> <p>The European Securities and Markets Authority (ESMA) published for the second year its annual report on the activity of the European enforcers of International Financial Reporting Standards (IFRS) in 2010.</p> <p>Report :  <a href="http://www.esma.europa.eu/popup2.php?id=8010">http://www.esma.europa.eu/popup2.php?id=8010</a></p>	
<p><u>19 Sept. 2011 : Report on the responses received to the Commission's consultation on the use of option within the accounting directives</u></p> <p>The Directorate General for Internal Market published on 19 September a report analyzing the responses received to the public consultation launched by the accounting regulatory committee members on the use of options in the accounting directives.</p> <p>Study:  <a href="http://ec.europa.eu/internal_market/accounting/docs/2010-options_en.pdf">http://ec.europa.eu/internal_market/accounting/docs/2010-options_en.pdf</a></p>	
<b>Impact on EUF members:</b> Follow-up of implementation of EU law	
<b>Stakeholders:</b> European Commission – DG Internal Market	

## Other topics of interest

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

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

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

Link to the regulation proposal:

[http://ec.europa.eu/internal\\_market/investment/docs/venture\\_capital/111207-proposal\\_en.pdf](http://ec.europa.eu/internal_market/investment/docs/venture_capital/111207-proposal_en.pdf)

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

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

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

Commission’s communication:

[http://ec.europa.eu/internal\\_market/social\\_business/docs/COM2011\\_682\\_en.pdf](http://ec.europa.eu/internal_market/social_business/docs/COM2011_682_en.pdf)

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

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

Report :

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

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

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

Study:

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

**Ongoing consultations :**

**Until 16 December 2011 :** Public Consultation on Directive 2006/114/EC concerning Misleading and Comparative Advertising and on unfair commercial practices affecting businesses (DG JUST)

Link : [http://ec.europa.eu/justice/newsroom/consumer-marketing/opinion/111021\\_en.htm](http://ec.europa.eu/justice/newsroom/consumer-marketing/opinion/111021_en.htm)

**Agenda December 2011**

8-9 December: European Council (Brussels)

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

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