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NOTE

From: Presidency
To: Council
Subject: Draft Council Conclusions on a roadmap to complete the Banking Union

THE COUNCIL OF THE EUROPEAN UNION:

1. RECALLS that major steps have been taken at unprecedented speed over the past years to establish the Banking Union. After a comprehensive assessment of all significant credit institutions in the Banking Union, the Single Supervisory Mechanism was fully established in 2014 and the Single Resolution Mechanism has become operational in 2016.
2. Furthermore, RECALLS the fact that almost all Member States have transposed and implemented into national law the relevant legal provisions of the single rulebook. This has ensured more consistent regulation and high-quality supervision across the EU by: stronger prudential requirements for banks, introduced under the Capital requirements Directive and Regulation (CRDIV/CRR); a new recovery and resolution framework for banks, established under the Bank Recovery and Resolution Directive (BRRD); the functioning of national Deposit Guarantee Schemes (DGSs), enhanced by the Deposit Guarantee Scheme Directive (DGSD).

3. As for the SRF, REITERATES that participating Member States agreed on 8 December 2015 on a harmonised Loan Facility Agreement with the Single Resolution Board (SRB), providing national credit lines to the SRB to support the national compartments of the SRF in case of possible funding shortfalls in that compartment following resolution cases of banks during the transition period. All Member States that have not yet signed the Loan Facility Agreement with the SRB commit to do so as soon as possible, ultimately by September 2016.

4. CONSIDERS that these achievements, combined with the ECB's measures as well as national measures, made a significant contribution to financial stability, reversing the fragmentation of financial markets, mitigating moral hazard and reducing the risk for the involvement of public financial means.

5. Building on the important progress made, and in the context of the deepening of the Economic and Monetary Union, REAFFIRMS the importance of the Banking Union with a view of its completion.

6. RECOGNIZES that, to this end, further steps will be have to be taken in terms of reducing and sharing risks in the financial sector, in the appropriate sequence, in order to address a number of remaining challenges.

7. UNDERLINES the importance of the work being carried out by several institutions at Banking Union, EU28 and international level, in particular work by the Commission to:

- a) propose amendments to the legislative framework in view of implementing the Total Loss Absorbing Capacity (TLAC) standard and reviewing the minimum requirement for own funds and eligible liabilities (MREL). The Council will seek to ensure consistent rules and adequate amounts for the bail-inable buffers that contribute to an efficient and orderly resolution process in line with BRRD for all credit institutions for which bail-in would be the validated resolution strategy.

- b) put forward a proposal on a common approach to the bank creditor hierarchy, to enhance legal certainty in case of resolution.
- c) propose amendments to the CRR/CRDIV as part of an overall review exercise, which would result in:
 - i. harmonisation or further specification of options and national discretions (ONDs) granted to MS, which could also contribute to the objective of reducing financial fragmentation;
 - ii. implementing and finalising remaining Basel reforms including the introduction of a leverage ratio, possibly set higher than 3% for systemic banks, and the introduction of a net stable funding ratio;
- d) propose a legislative proposal for minimum harmonisation in the field of insolvency law in the context of the Capital Markets Union (CMU), which may also support efforts to reduce future levels of non-performing loans;
- e) conduct further work on examining whether and how harmonizing the rules and application of moratorium tools can contribute to the stabilisation by the relevant authorities of an institution in the period before, and possibly after, an intervention.

8. In this context, UNDERLINES the following key steps:

- a) On the Commission's banking proposals set out under paragraph 7, the Council invites the Commission to put forward the proposals as soon as possible and by no later than the end of 2016. On that basis, the Council will start technical work immediately in view of a swift implementation. The Council underlines the importance of considering European specificities when implementing global regulatory standards, including Basel standards, in the EU;

- b) On the common backstop for the Single Resolution Fund, the Council takes note of the intention of participating Member States to start work in September 2016 if and when all participating Member States have fully transposed the BRRD. In this context, the Council will also take stock of the establishment of the bridge financing arrangements, noting that participating Member States are committed to sign the Loan Facility Agreement by that time. They reaffirm the need to have the common backstop fully operational at the latest by the end of the transition period. When the work is completed, it may be decided, in line with the risk reduction measures mentioned in paragraph (a), that the backstop may become operational ahead of the end of the transition period;¹
- c) On the regulatory treatment of sovereign exposures, the Council agrees to await the outcomes of the Basel Committee. Following the work of the Basel Committee the Council will consider possible next steps in the European context;
- d) On a European Deposit Insurance Scheme (EDIS), the Council will continue constructive work at technical level. Negotiations at political level will start as soon as sufficient further progress has been made on the measures on risk reduction, as mentioned above. In this context, the Council takes note of the intention of the participating Member States to have recourse to an IGA when political negotiations on EDIS start;
- e) The Council will assess annually the progress made on the above mentioned measures towards completing the Banking Union.

9. REAFFIRMS that the discussions on measures relevant to all Member States continue to take place at the level of EU28 to ensure that the Banking Union remains open to all Member States and in view of preserving the single market within the EU.

¹ Arrangements concerning the SRF backstop will be fiscally neutral over the medium term, ensure equivalent treatment across all Member states participating and incur no costs for Member states not participating in the Banking Union.