



**COUNCIL OF
THE EUROPEAN UNION**

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"I/A" ITEM NOTE

From: General Secretariat of the Council

To: Permanent Representatives Committee/Council

Subject: Proposal for a Directive of the European Parliament and of the Council on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (**first reading**)

- Adoption of the legislative act (**LA + S**)
= Statements

COMMON GUIDELINES
Consultation deadline for Croatia: 19.6.2013

Statements by the Commission

Article 133 (14) of the Directive:

The Commission regrets that, in the context of the modalities around the conferral on EBA of binding settlement powers as regards higher buffer requirements established by a national authority, the fact that a recommendation of the Commission is given the same weight as that of the ESRB does not reflect the correct institutional balance between the ESRB and the Commission.

Article 162(1) of the Directive:

The Commission considers that Article 162(1) is not in compliance with Article 260(3) TFUE, which provides for the obligation upon Member States "to notify measures transposing a directive adopted under a legislative procedure". Since the Commission interprets such a provision of the Treaty as imposing upon Member States to notify to the Commission all measures aimed at transposing a directive, it will require Member States to communicate to the Commission all laws, regulations and administrative provisions necessary to comply with CRD IV.

Declaration by Austria

“The Austrian constitutional law presently does not allow for administrative pecuniary sanctions in the amount provided for in Article 66 para 2 (c) to (e) and Article 67 para 2 (e) to (g) CRD. Therefore, currently we cannot commit to the implementation of this provision, as implementation would require an amendment to constitutional law. It is not predictable whether such an amendment to the Constitution will be adopted.”

Statement by the United Kingdom

“The UK cannot support:

- a) The Proposal for a Regulation of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms
- b) The Proposal for a Directive of the European Parliament and of the Council on the access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms and amending Directive 2002/87/EC of the European Parliament and of the Council on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate

This package of legislation was intended to ensure financial stability and delivery of the EU’s international commitments in the area of banking regulation.

The UK is concerned that the legislation may not be compliant with the Basel 3 agreement for internationally active banks in certain significant areas and therefore awaits international assessments on this matter.

The UK notes, among other concerns, that the remuneration provisions have not been subject to any impact assessment and are not consistent with internationally agreed principles. The UK considers that they will be damaging to financial stability and the soundness of affected credit institutions.”
