



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 14 June 2013  
(OR. en)**

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**Interinstitutional File:  
2011/0202 COD**

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**10851/13  
ADD 1**

**CODEC 1429  
EF 123  
ECOFIN 538  
OC 406**

**"I/A" ITEM NOTE**

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**From:** General Secretariat of the Council  
**To:** Permanent Representatives Committee/Council

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**Subject:** Proposal for a Regulation of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (**first reading**)  
- Adoption of the legislative act (**LA + S**)  
= Statements  
**COMMON GUIDELINES**  
**Consultation deadline for Croatia: 19.6.2013**

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**Statement by the Commission**

*Article 458 of the Regulation:*

The modifications made to this Article would permit the creation of 27 different national approaches on key elements of the single rule book such as own funds, risk weights and exposure limits. Moreover, in an area governed by co-decision where implementing powers are normally conferred on the Commission, implementing powers relating to national deviations from an EU regulation would be conferred exclusively on the Council, and the Commission be reduced to a mere advisory role, along with EBA and ESRB.

To ensure compatibility with Article 114 TFEU, the Commission is of the opinion that Article 458, paragraph 4 must be interpreted as requiring that, upon receipt of a proposal from the Commission, the Council must always adopt a reasoned decision within the prescribed deadline. The last sub-paragraph of Article 458, paragraph 4, which establishes the legal position of the Member State concerned where the Council wrongfully fails to act, cannot be interpreted as releasing the Council from its obligation to act in accordance with the fifth sub-paragraph of Article 458, paragraph 4, namely the obligation to always adopt a reasoned decision. In the absence of such a reasoned decision of the Council, the last sub-paragraph of Article 458, paragraph 4, would permit derogations disproportionate with respect to the harmonisation achieved by the Regulation without allowing judicial review, which would be contrary to Article 114 TFEU. The Commission therefore reserves the right to bring the matter before the Court of Justice where the Council would ignore the legal obligations imposed upon it by Article 458, paragraph 4, and in particular where it would not adopt a reasoned decision within the prescribed deadline.

### **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.”

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