COUNCIL OF
THE EUROPEAN UNION

Brussels, 16 April 2012

8761/12

PE 152
ECOFIN 324
FIN 266
FISC 51
JUR 220

NOTE

from:	General Secretariat of the Council
to:	Delegations
Subject:	Summary record of the meeting of the European Parliament **Committee on Economic and Monetary Affairs (ECON)**, held in Brussels on 12 April 2012

The meeting was chaired by Ms Bowles (ALDE, UK).

1. Insider dealing and market manipulation (market abuse) and Criminal sanctions for insider dealing and market manipulation

ECON/7/07581 2011/0295(COD) and
ECON/7/07609 2011/0297(COD)
Rapporteur: Arlene McCarthy (S&D)
Consideration of draft reports

In her introductory statement, Ms McCarthy (S&D, UK) reiterated some of the ideas expressed in an earlier exchange of views[1]. She underlined the need to apply strict rules and welcomed the Commission proposal to review the 2003 Market Abuse Directive (MAD/MAR), turning it into a regulation, and the formulation of a Directive on criminal sanctions.

[1] See 6163/12, pp 3-5.

Ms McCarthy explained that some of the changes made in her report were meant to ensure better coordination and added uniformity combined with a certain degree of flexibility, less market fragmentation, clearer definitions and legal certainty. More concretely, she suggested removing all references to the Organised Trading Facility (OTF) category to reduce fragmentation, curtail market abuse and ensure adequate monitoring; broadening the definition of relevant inside information to add legal clarity while retaining the necessary scope for competent authorities to effectively combat market abuse, underlining in the process the Council's similar position; deleting SMEs' exemptions from derogations on drawing up insider lists to ensure similar rules for all market participants, despite administrative burden concerns; removing the threshold for the reporting of managers' transactions over EUR 20 000 introduced by the Commission; ensuring effective cooperation and data exchange on cross-border surveillance mechanisms, including the introduction of an order data book concept; introducing strong deterrent measures to ensure that market participants are prevented from engaging in abusive practices; setting up the notion of trading windows to prohibit managers from conducting any transactions on their own account during certain periods; creating an advisory committee made up of national experts to assess the impact of High Frequency Trading (HFT); reinforcing adequate protection for whistle-blowers, harmonising minimum rules on criminal sanctions to ensure that perpetrators could exploit differences in regimes across the EU; and using delegated acts when applicable.

Finally she called for an alignment with the Markets in Financial Instruments Directive (MiFID), and for the swift adoption of both proposals and for its review within 2 years of its application (instead of 4).

In the subsequent debate, Mr Gauzès (EPP, FR), on behalf of Ms Pietikäinen (EPP, FI), favoured enhancing the competencies and resources of the supervisory authorities; agreed on deleting the exception clause for SMEs; suggested better defining the OTF despite market fragmentation and market abuse concerns; and proposed lowering the EUR 20 000 threshold instead of its deletion.

Mr De Backer (ALDE, BE), on behalf of Mr Klinz (ALDE, DE), disagreed with the removal of all references to OTF; supported uniform requirements for the establishment of insider lists; welcomed the trading window concept; agreed with the creation of an expert group on HTF and recommended further discussions on the EUR 20 000 threshold.

Mr Canfin (Greens/EFA, FR) supported the rapporteur's approach concerning market fragmentation; defended harmonising administrative sanctions and correlating them with the level of market abuse practices in order to reinforce deterrence.

Mr Bloom (EFD, UK) raised a word of caution regarding the reach of the current Commission proposals, noting that it could have the opposite effect by inducing the adulteration of balance sheets.
Mr Ferber (EPP, DE), the committee's rapporteur for MiFID, stressed the need for a coherent approach between MiFID and MAD/MAR, in particular regarding the inclusion of OTFs, and called for a commensurable timeframe.
Ms Bowles (ALDE, UK) suggested appropriate articulation on criminal sanctions between the ECON committee and the Civil Liberties, Justice and Home Affairs committee (LIBE), and expressed concerns regarding the workability of the OTF category.

The Commission representative underlined the existing alignment between their proposals and the committee reports; agreed with the calls for consistency between MAD/MAR and MiFID and between criminal sanctions and the Capital Requirements Directive (CRDIV); recommended including trading platforms in the market abuse regime; defended the Commission proposal regarding the exemption for insider lists for issuers trading on the SMEs growth market; highlighted the ongoing work of the European Security and Markets Authority (ESMA) on HFT issues and market abuse under the MiFID framework; called for the allocation of sufficient time for the transposition and application of all the regimes (MAD/MAR, MiFID, criminal sanctions) and hoped for a political agreement between the Council and the European Parliament by the end of the year.

Deadline for amendments: 8 May 2012. Consideration of amendments: 30 May 2012. Vote in ECON: July 2012. Vote in plenary: September 2012.

2. Attractiveness of investing in Europe

ECON/7/07572 2011/2288(INI)
Rapporteur: Ms Rodi Kratsa-Tsagaropoulou (EPP)
Consideration of draft report

In her opening remarks, Ms Kratsa-Tsagaropoulou (EPP, EL) underlined the need to maintain Europe's position as the largest first worldwide recipient of foreign direct investment (FDI). She called for the stabilisation of the European economy, the rationalisation of its resources, added focus on human potential, R&D and innovation to stimulate and attract both internal and external investment, for boosting competitiveness, and for the consolidation of the single market.

More specifically, Ms Kratsa-Tsagaropoulou recommended the efficient use of the structural funds, mutual access to public procurement markets, the introduction of investment and business efficiency as key elements of all flagship initiatives within the Europe 2020 Strategy, reliable statistical data, and the creation of a European investment observatory.

In the subsequent exchange of views, Ms Kleva (S&D, SI) welcomed the rapporteur's proposal to urge the Commission to prepare a new communication and coherence strategy on investment and growth in Europe; suggested addressing more thoroughly local investment; recommended further emphasis on existing European policies (cohesion and future industrial policies); highlighted the use of structural funds and innovative financial instruments as catalysts for additional investments, new public-private partnerships and alternative sources of finance; defended a strong industrial base; the development of an effective eco-efficient European industrial strategy in order to recreate an effective manufacturing capacity, as well as the improvement and sustainability of the European industry guidelines regarding energy and resource efficiency. She also called on the European Union to focus on European Youth policies to tackle youth unemployment, investment in new green technologies leading to the creation of new sustainable jobs, an increase in exports and the reduction of external dependency on fossil fuels. Finally she called for the use of the notions of cross-border efficiency, climate-friendliness and cohesion-boosting as guiding principles of an European investment strategy, adding that Europe should not compete on cheap labour but on the quality and sustainability of its economic system.

Mr Scicluna (S&D, MT) noted that fiscal consolidation should not be the only source of concern; recommended focusing on investment as a means to stimulate growth and on the European Union's capacity to attract investment, and warned against the risks of excessive regulation in curtailing Europe's attractiveness to investment.

Ms Bowles (ALDE, UK), on behalf of Mr Klinz (ALDE, DE), welcomed the rapporteur's text and the introduction of the notion of investment as a key element in all flagship initiatives within the Europe 2020 Strategy, adding that the impact on investment attractiveness and growth should always be considered when dealing with new legislation.

Mr Feio (EPP, PT) called for a growth-driven strategy capable of attracting investment into Europe, underlining in the process the importance of tax policies and incentives to attract investment as well as the need to properly implement the Europe 2020 Strategy.

Finally, Ms Kratsa-Tsagaropoulou concluded by underlining the role of the Commission and of Member States at national and regional level and by recommending the consideration of project bonds as part of a future approach.

Deadline for amendments: 26 April 2012.. Consideration of amendments: 30 May 2012.
Vote in ECON: 31 May 2012. Vote in plenary: July 2012.

3. Access to the activity of credit institutions and prudential supervision of credit institutions and investment firms (amending Directive 2002/87/EC) and Prudential requirements for credit institutions and investment firms - Part I

ECON/7/06631 2011/0203(COD)
ECON/7/07784 2011/0202(COD)
Rapporteur: Mr Othmar Karas (EPP)
Consideration of amendments

In his opening address, Mr Karas (EPP, DE) defended a common position with the Council and mentioned the meeting at ministerial level that would take place on 2 May, stressing the need to have both reports voted in plenary by July. He informed the committee that daily technical meetings would take place in Strasbourg during the upcoming plenary week, followed by a political shadow meeting on Friday 20 April. He gave an overview of the current state of play on compromise amendment negotiations, listing in the process the five main points: SMEs credit risk weighting, liquidity, rules on banking remunerations including bonuses, Systemically Important Financial Institutions (SIFIs), and business models of banks.
He pointed out that there was a broad consensus regarding SMEs' easier access to credit by reducing the credit risk weight for SMEs' lending by one third, from 75 % to 50 % and by increasing the retail threshold from EUR 1 to 2 million or beyond if duly justified by the European Banking Authority (EBA) which was expected to present a proposal by September.
As regards liquidity, he explained that the evaluation period should be effectively set out and noted the broad support for delegated legislative acts.
On banking remuneration and bonuses, the rapporteur mentioned the proposal establishing that the variable remuneration should not be higher than the fixed income and highlighted divergent opinions on this matter.

Regarding SIFIs, he noted that based on the Basel work the committee was looking for an additional capital buffer of between 1 % and 3 % and under exceptional circumstances up to 10 % for SIFIs, explaining that national authorities would be responsible for identifying the SIFIs.
As regards the creation of distinctions in the regulation according to the business model, he underlined the agreement to invite former Commissioner Liikanen to share his insight on banking structure in order to establish what was covered by the Basel Committee and to determine distinctions such as leverage and net stable funding ratios without undermining the rule book and the internal market, adding that the present regulations could not be a collection of national wish lists which could and should apply to all banks.

In the subsequent exchange of views, Mr Bullmann (S&D, DE) pointed out that banks could not continue to be exempted from their responsibilities regarding mismanagement. He proposed differentiating between risk and non-risk causers; welcomed the rapporteur's focus on remuneration issues, irrespective of possible conflicts with the Council; and favoured a common framework with a certain degree of flexibility to embrace some specificities from Member States.
Ms Bowles (ALDE, UK) underlined her group's support regarding current SMEs' risk weighting and liquidity proposals. She suggested adding an additional mechanism to ring fence capital in case variations to the risk weighting did not work to stimulate additional lending. She recommended setting up a methodology for the use of delegated acts and suggested using them in case no legislation applied. She also favoured common rules with a certain degree of flexibility to adjust risk weight in Member States (in particular regarding residential property).
Mr Lamberts (Greens/EFA, BE) reiterated his group's approach regarding the differentiation of business models into three categories (SIFIs, fundamental banks and everything in between), and welcomed the rapporteur's openness to include it in a compromise amendment. He expressed his satisfaction with the inclusion of restrictions on collective investment undertakings; insisted on public disclosure and benchmarking to enforce market discipline; agreed with the rapporteur's proposal on remuneration, suggesting focusing on pay ratios as well; and recommended tackling the issue of shadow banking and having the exposure to shadow banking limited.

Ms Wortmann-Kool (EPP, NL) proposed clearly defining the role of the EBA and the European Systemic Risk Board (ESRB) to build a negotiation position with the Council.
Ms Bérès (S&D, FR) recommended looking into shadow banking and reducing the influence of Credit Rating Agencies (CRAs) whereas Ms Ferreira (S&D, PT) noted that state aid repercussions on the internal market should be addressed.

Mr Karas concluded by underlining the good prospects for an agreement and promised to continue discussions on delegated acts and the definition of natural persons.

Vote in ECON: 25 April 2012. Vote in plenary: June 2012.

4. Date of next meeting

The next meeting will be held in Strasbourg on 17 April 2012