



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 11 May 2012

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REPORT

from : Presidency
to : Council

No. Cion prop.: 13284/11 EF 112 ECOFIN 531 CODEC 1284 + ADD1, ADD2
13285/11 EF 113 ECOFIN 532 CODEC 1285

Subject : Revised capital requirements rules (CRD IV)

- a) Proposal for a Regulation of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms
- b) 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

= *General approach*

I. INTRODUCTION

1. The above-mentioned Commission proposals have been transmitted to the Council on 20 July 2011. The objectives of this legislative package are, *inter alia*, to:
- a) ensure that the effectiveness of the regulation of credit institutions and investment firms in the EU is strengthened and that financial stability is enhanced;
 - b) contain the pro-cyclicality of the financial system ensuring a high level of protection of investors and depositors and for the benefit of the operators on these markets;
 - c) transpose the agreements reached by the Basel Committee on Banking Supervision (i.e. the Basel III requirements), as endorsed by the G20 leaders.

2. The European Council of March 2012 concluded that the proposals should be agreed by June 2012, bearing in mind the objective of having a single rule book and of ensuring timely and consistent implementation of Basel III requirements.¹
3. The Committee on Economic and Monetary Affairs of the European Parliament is expected to adopt its report on 14 May 2012. The Presidency has already pursued informal contacts with the European Parliament in order to facilitate reaching an agreement at first reading.
4. The Presidency has tabled three full compromise proposals to the Working Party on Financial Services in order to make progress on the file. Following the examination in the Committee of Permanent Representatives (Coreper - Part 2) on 19 and 25 April 2012, a fourth full compromise text of the proposed Regulation² and Directive³ was submitted to the ECOFIN Council of 2 May 2012.
5. Following the debate at the ECOFIN Council of 2-3 May, the Presidency has concluded that the compromise text, as amended during the meeting, will be submitted as a fifth full compromise text to the ECOFIN Council of 15 May for confirmation. This text is now set out in documents No. 9715/12 EF 112 ECOFIN 392 CODEC 1251 (Regulation) and No. 9716/12 EF 113 ECOFIN 393 CODEC 1252 (Directive).
6. As announced on the ECOFIN Council of 2-3 May, the Presidency have, taking into account input received from delegations, had a technical verification process of the texts amended during the ECOFIN Council of the 2-3 May. This technical verification process concerns Articles 57, 123, 124, 124a and 124c and recital (59a) of the Directive and Articles 4, 25, 46, 75, 401, 402, 416, 441, 443a, 461, 461a and 481, as well as recital (10) and (86a) of the Regulation and a Council statement (set out in the Annex to this report). These technical adjustments will be concluded at technical level shortly after the ECOFIN Council of 15 May, during preparation for the trilogue procedures, within the limits of the political mandate received.

¹ Doc. EUCO 4/1/12 REV 1 CO EUR 2 CONCL 1, point 22.

² Doc. 9224/12 EF 101 ECOFIN 363 CODEC 1099.

³ Doc. 9225/12 EF 102 ECOFIN 364 CODEC 1100.

7. Hence, changes from the fourth to the fifth compromise only include the Articles as amended during the meeting on the ECOFIN Council of 2-3 May. As such the text in the fifth compromise reflects the provisional agreement on the ECOFIN Council of 2-3 May.
 8. Against this background the Council is invited to:
 - a) confirm the agreement on the general approach, as set out in doc. 9715/12 and 9716/12;
 - b) agree to insert into the minutes of the Council meeting the statement set out in the Annex to this report;
 - c) invite the Presidency to start negotiations with the European Parliament, as soon as possible, on the basis of this general approach with a view to reaching an agreement at first reading.
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ANNEX

"STATEMENT BY THE COUNCIL

The treatment of the capitalisation of exposures to Central Counterparty's default fund is an issue still under consideration in the Basel Committee. It is expected that the rules will be finalized at the June Basel Committee meeting. The treatment of these exposures is a key determinant in meeting the G20 commitment to creating incentives for derivatives to be centrally cleared where appropriate. As such the final rules within the Capital Requirement Regulation should be amended in the trilogue process."
