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NOTE

From: Permanent Representatives Committee (Part 2)
To: Council
Subject: Strengthening of the Banking Union / Risk-reduction measures

I. INTRODUCTION

1. Pursuant to Council Conclusions on the Roadmap to Complete the Banking Union as adopted by the Council on 17 June 2016, the Commission put forward, on 23 November 2016, a package of Risk Reduction Measures Legislative Proposals (the "RRM Proposals"). The RRM Proposals comprise 5 legal instruments amending existing legislation:

- a draft Regulation amending Regulation (EU) No 575/2013 (the CRR) as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements;

- a draft Directive amending Directive 2013/36/EU (the CRD) as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures;
- a draft Directive amending Directive 2014/59/EU (the BRRD) and other Directives on loss-absorbing and recapitalisation capacity of credit institutions and investment firms;
- a draft Directive amending the BRRD as regards the ranking of unsecured debt instruments in insolvency hierarchy;
- a draft Regulation amending Regulation (EU) No 806/2014 (the SRMR) as regards loss-absorbing and Recapitalisation Capacity for credit institutions and investment firms.

The RRM Proposals aim, fore and foremost, at reducing the overall risk in the financial system by making banks and other financial institutions (hereinafter the "institutions") sounder and more resilient to external shocks, and to enable, in the future, the completion of the Banking Union with a European Deposit Insurance Scheme ("EDIS")¹.

II. WORK WITHIN THE COUNCIL

2. The Maltese Presidency continued its work at a technical level building on the progress achieved by the Dutch and Slovak Presidencies. The Ad Hoc Working Party on the Strengthening of the Banking Union (the "AHWP") met five times in the first semester of 2017 to continue examining the EDIS proposal. The Financial Services Working Party (the WPFS), in charge of the RRM Proposals, met on a regular and an ad hoc basis as set out in the Presidency Progress Report.

¹ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 806/2014 in order to establish a European Deposit Insurance Scheme COM(2015) 586 final

3. During the examination of the RRM Proposals, the WPFS decided to:

- Prioritise the work on the draft Directive amending the BRRD as regards the ranking of unsecured debt instruments in insolvency hierarchy:

Delegations decided to fast-track the Council's general approach of this draft Directive in order to foster early compliance with the TLAC/MREL requirements. Delegations deem the fast track of these provisions as a necessary step to give institutions a sound legal basis to issue buffers of eligible debt and legal certainty to investors. The Presidency presented its compromise proposal accordingly as set out in doc. 9479/17.

- Split from the Proposal amending the CRR the provisions concerning the phase-in of the regulatory impact of the International Financial Reporting Standard (IFRS) 9 on Financial Instruments and the phase-out of the exemption from the large exposures rules for certain sovereign exposures and fast track the relevant provisions as a self-standing draft Regulation

In 2014 the International Accounting Standards Board published a new reporting standard IFRS 9 which purpose is to improve the financial reporting on financial instruments with a more forward-looking model for the recognition of expected credit losses on financial assets. Institutions using IFRS to prepare their financial statements will be required to apply IFRS 9 for financial periods starting on or after 1 January 2018.

IFRS 9 may have a significant regulatory impact for institutions. The new model for the recognition of expected losses is likely to lead to higher provisions and, as a result, a fall in institutions' regulatory capital. The proposal amending the CRR included a transitional period to mitigate that impact and allow institutions to phase-in the potential detrimental effect of IFRS 9 on their capital ratios for a period of time. The WPFS agreed on the need to apply the phase-in from 1 January 2018 for consistency with IFRS 9's timetable and, accordingly, decided to split off Art. 473a of the CRR from the original Proposal and fast-track its entry into force.

The WPFS also agreed to add to the same draft Regulation a set of transitional arrangements to phase-out the exemption from the large exposure limit for exposures to certain public sector debt of Member States denominated in a non-domestic EU currency. This exemption is currently used by institutions in several non-euro area Member States in connection with their holdings of euro-denominated public debt of those Member States and, unless the CRR is amended, will cease to apply after 31 December 2017. The Presidency presented its compromise proposal accordingly as set out in doc. 9480/17.

Consistent with the Council, the European Parliament decided to split and fast-track the IFRS 9 and the large exposures-related transitionals.

4. The Presidency also prepared a Progress Report covering the outcome of discussions on both risk reduction and risk sharing measures. The Report presents the Presidency's views on the progress achieved, as set out in doc. 9484/17.
5. On 6 June 2017 the Permanent Representatives Committee (COREPER) confirmed an agreement on the above referred Presidency compromise texts. At the meeting, a number of delegations requested changes to the text of the Presidency Progress Report. The Chair undertook to reflect while recalling that introducing further changes could alter the balance the Progress Report achieved so far.
6. On 12 June 2017, COREPER agreed to amendments to the Presidency Progress Report as set out in document 9484/1/17 REV 1.

III. CONCLUSION

7. In light of the above, COREPER invites the Council to:

- agree on a General Approach on the Proposal for a Directive amending Directive 2014/59/EU as regards the ranking of unsecured debt instruments in insolvency hierarchy, as set out in doc. 9479/17;
- agree on a General Approach on the Proposal for a regulation amending Regulation (EU) No 575/2013 as regards the transitional period for mitigating the impact of the introduction of IFRS 9 on own funds and the large exposures treatment of certain public sector exposures denominated in non-domestic currencies of Member States, as set out in doc. 9480/17; and,
- take note of the Presidency Progress Report as set out in doc. 9484/1/17 REV 1.
