

15068/15

(OR. en)

PRESSE 78  
PR CO 70

## OUTCOME OF THE COUNCIL MEETING

3435th Council meeting

### Economic and Financial Affairs

Brussels, 8 December 2015

President **Pierre Gramegna**  
Minister for Finance of Luxembourg

# P R E S S

**CONTENTS**<sup>1</sup>**ITEMS DEBATED**

FINANCIAL TRANSACTION TAX.....	4
COMMON CONSOLIDATED CORPORATE TAX BASE.....	6
BANKING UNION – EUROPEAN DEPOSIT INSURANCE SCHEME .....	7
IMPLEMENTATION OF BANKING UNION .....	8
TERRORIST FINANCING.....	10
BUSINESS TAXATION – FUTURE OF THE CODE OF CONDUCT .....	11
CORPORATE TAXATION – BASE EROSION AND PROFIT SHIFTING.....	12
ECONOMIC GOVERNANCE – 2016 EUROPEAN SEMESTER.....	13
FLEXIBILITY UNDER THE STABILITY AND GROWTH PACT.....	14
EU STATISTICS .....	15
EU BUDGET DISCHARGE – COURT OF AUDITORS REPORT.....	16
OTHER BUSINESS .....	17
EVENTS IN THE MARGINS OF THE COUNCIL .....	18

**OTHER ITEMS APPROVED***ECONOMIC AND FINANCIAL AFFAIRS*

– Cross-border tax rulings .....	19
– Capital markets union - Securitisation.....	19
– Taxation agreements – Liechtenstein, San Marino and Switzerland.....	20
– Taxation – Reports to the European Council.....	20
– Insurance - Capital requirements.....	21

- <sup>1</sup>
- Where declarations, conclusions or resolutions have been formally adopted by the Council, this is indicated in the heading for the item concerned and the text is placed between quotation marks.
  - Documents for which references are given in the text are available on the Council's Internet site (<http://www.consilium.europa.eu>).
  - Acts adopted with statements for the Council minutes which may be released to the public are indicated by an asterisk; these statements are available on the Council's Internet site or may be obtained from the Press Office.

*GENERAL AFFAIRS*

- Amendment to the Council's rules of procedure - update of EU population figures ..... 21

*TRANSPORT*

- Eurocontrol - Reform ..... 21

## ITEMS DEBATED

### FINANCIAL TRANSACTION TAX

The Council discussed work on a proposal aimed at introducing a financial transaction tax (FTT) in 11 member states by "enhanced cooperation".

It took note of the following statement made by 10 of the member states participating in the enhanced cooperation:

"Statement by: Austria, Belgium, France, Germany, Greece, Italy, Portugal, Slovakia, Slovenia, Spain

#### Financial Transaction Tax

We reached today an agreement on the tax that should have the following features:

1. Regarding shares:
  - a) All transactions including intra-day should be taxed.
  - b) All transactions in the chain should be taxed except agents and clearing members (when acting as facilitators).
  - c) In order to sustain liquidity in illiquid market configurations, a narrow market making exemption might be required.
  - d) The territorial scope of the tax should follow the commission's proposal. It is now being determined whether it is more sensible to start taxation with only shares issued in the member states participating in the enhanced cooperation. Important elements in this determination include relocation risks and administrative costs.
2. Regarding derivatives:
  - a) The territorial scope of the tax should follow the commission's proposal (cumulation of residence and issuance principles with application of counterparty principle).
  - b) The taxation should be based on the principle of the widest possible base and low rates and it should not impact the cost of sovereign borrowing.
  - c) The determination of the tax base for derivatives should abide by the following principles:
    - i) For option-type derivatives the tax base should preferably be based on the option premium.

ii) For products others than option-type derivatives and coming with a maturity, a kind of term-adjusted notional amount / market value (where available) might be considered as the appropriate taxable base.

iii) For products other than option-type derivatives and not coming with a maturity, the notional amount / market value (where available) might be considered as the appropriate taxable base.

iv) In some cases, adjustments to the tax rates or to the definition of the tax base might be necessary in order to avoid distortions.

d) No exemption for market making activities should be granted.

3. Other elements: Member States agreed that further analysis with regard to real economy and pension schemes is required. Negative impact on real economy and pension schemes should be minimised. Further, the financial viability of the tax for each country is required.

4. On the basis of these features, in order to prepare the next step, experts in close coordination with the commission should elaborate adequate tax rates for the different variants. A decision on these open issues should be made until the end of June 2016."

\* \* \*

In the light of the discussion, the president of the Council emphasised that work will have to continue in the Council. The result should be satisfactory to all member states, both those that wish to have a common FTT system and those that will not participate in the enhanced cooperation.

Enhanced cooperation for an FTT was authorised in January 2013 by Council decision 2013/52/EU after a September 2011 proposal for an EU-wide FTT failed to obtain unanimous support.

The directive requires the unanimous agreement of the participating countries (within the Council), after consultation with the European Parliament. All member states can participate in discussions on the proposal, though only participating countries can take part in the vote. (Legal basis: article 113 and articles 326 to 334 of the Treaty on the Functioning of the European Union.)

The proposal is aimed at:

- ensuring that the financial sector pays its fair share of tax;
- discouraging transactions that do not enhance the efficiency of financial markets;
- harmonising implementation of the FTT in the participating member states.

Tabled in February 2013, the proposal on enhanced cooperation essentially mirrors the scope and objectives of the Commission's initial proposal for an EU-wide FTT.

[November 2015 presidency note on the state of play on the FTT](#)

[Proposal for a Council directive on enhanced cooperation on FTT](#)

[Press release on Council decision to authorise enhanced cooperation on FTT](#)

## **COMMON CONSOLIDATED CORPORATE TAX BASE**

The Council reviewed the state of technical discussions on a proposal to establish a common system for calculating and consolidating the corporate tax base in the member states.

The proposed directive, issued by the Commission in March 2011, originally set out to address tax obstacles for businesses arising from the coexistence of different national tax systems. It provided for a common consolidated corporate tax base (CCCTB).

It also included a number of provisions aimed at reducing opportunities for aggressive tax planning by corporate groups. As such, it is linked with more recent efforts by the OECD to address a phenomenon referred to as tax base erosion and profit shifting (BEPS). The OECD's BEPS action plan, launched in July 2013, has received support from both the European Council and G20 summits.

Against this background, the presidency launched a discussion on a possible split of the proposal, so as to focus on international anti-BEPS aspects. The aim was to achieve rapid, consistent and coordinated implementation in the EU of the OECD's recommendations, released in October 2015. The swift progress achieved under the Luxembourg presidency will be the basis for further work under the incoming presidency, before a political agreement can be reached.

The Commission has announced its intention to relaunch the CCCTB project through new legislative proposals. More specifically, it is expected to put forward an anti-BEPS package of legislative and non-legislative measures early in 2016, building on the work carried out by a Council working group on international anti-BEPS aspects.

The directive requires unanimity for adoption by the Council, after consultation with the European Parliament. (Legal basis: article 115 of the Treaty on the Functioning of the European Union.)

[December 2015 presidency note on the state of play on the CCCTB](#)

## **BANKING UNION – EUROPEAN DEPOSIT INSURANCE SCHEME**

The Commission presented:

- a proposal on the establishment of a European deposit insurance scheme;
- a communication on the completion of Europe's banking union.

The Council held a first exchange of views.

The proposal is intended to establish an insurance scheme to reinforce deposit protection in the member states. Whereas the current set-up of national deposit guarantee schemes (DGSs) remains vulnerable to local shocks, a common deposit insurance would boost resilience against future crises.

The European deposit insurance scheme (EDIS) would constitute the third pillar of Europe's banking union, alongside the recently-established single supervisory mechanism (SSM) and single resolution mechanism (SRM). It would be mandatory for euro area countries and open to other member states participating in the banking union. The EDIS would apply to all banks, though risk weighting would result in riskier banks contributing more.

The proposed regulation requires a qualified majority for adoption by the Council, in agreement with the European Parliament. (Legal basis: article 114 of the Treaty on the Functioning of the European Union.)

In its communication, the Commission places the proposal on EDIS in the broader context of completing the banking union. It examines additional measures that it considers necessary for risk sharing and risk reduction in the banking sector.

An ad hoc Council working group will be established to consider both the EDIS proposal and the measures set out in the communication. The two will be handled as a package. The incoming presidency indicated its intention to report to the Council in March 2016 on progress achieved.

- [Proposal for a regulation to establish a European deposit insurance scheme](#)
- [Commission communication on completion of the banking union](#)

## **IMPLEMENTATION OF BANKING UNION**

The Council briefly reviewed implementation of Europe's banking union, after the passage of a key deadline for agreed measures.

As of 30 November 2015 a sufficient number of member states had ratified an intergovernmental agreement (IGA) on the single bank resolution fund (SRF) to allow it to enter into force as scheduled on 1 January 2016.

However, further efforts are needed to implement directives on bank recovery and resolution and deposit guarantee schemes.

The Commission provided an update on:

- ratification of the IGA on the SRF;
- transposition of the directive on bank recovery and resolution. The transposition deadline was 31 December 2014, whilst a provision on the bail-in of investors must be applicable on 1 January 2016;
- transposition of the directive on deposit guarantee schemes, for which the deadline was 3 July 2015.

As of 4 December 2015:

- 18 of the current 19 member states of the banking union had deposited their instruments of ratification of the IGA;
- 19 of the 28 member states had fully transposed the bank recovery and resolution directive, and three others had partially transposed it;
- 15 of the 28 member states had fully transposed the directive on deposit guarantee schemes, and two others had partially transposed it.

The banking union is composed of the 19 countries of the euro area, whilst seven other member states have also indicated their intention to participate.

The single resolution fund is part of a single resolution mechanism (SRM) aimed at ensuring the orderly resolution of failing banks. Established by regulation in July 2014, the SRM will be applicable from 1 January 2016.



Entirely financed by banks, the SRF is being set up for possible intervention in resolution cases along with the bail-in of shareholders. It will be built up over eight years to reach an estimated €5 billion. The fund's target level is at least 1% of the covered deposits of all credit institutions in the participating member states.

The intergovernmental agreement on the SRF contains provisions on the transfer of contributions to the fund and the mutualisation of those contributions.

A single resolution board will be responsible for putting into place a resolution scheme in the event of a bank being placed into resolution. It will determine the resolution tools to be applied, and decide on the use of the single resolution fund. The board's six full-time members were appointed in December 2014, and Elke König took office as president of the board on 1 March 2015.

The bank recovery and resolution directive identifies the powers and instruments at the disposal of national authorities to resolve failing banks. The aim is to preserve essential bank operations and minimise taxpayers' exposure to losses in the event of a bank being resolved. Unlike the SRM, it applies to all 28 member states. It was adopted in May 2014.

For member states participating in the banking union, national resolution funds set up under the directive as of 1 January 2015 will be replaced by the SRF as of 1 January 2016.

The directive on deposit guarantee schemes (DGSs) requires all banks to join a DGS so that deposits of up to €100 000 are protected. It sets requirements for supervision of such schemes and regular stress tests.

[Press release on the adoption of the regulation establishing the SRM](#)

[Press release on entry into force of the SRF following ratification by the member states](#)

[Press release on SRF contributions and the appointment of members of the SRB](#)

[Press release on the adoption of the bank recovery and resolution directive](#)

[Press release on the Council's approval of the directive on deposit guarantee schemes](#)

## **TERRORIST FINANCING**

The Commission presented next steps in work on strengthened measures to prevent the financing of terrorism.

The Council held an exchange of views and agreed to revert to this topic early in 2016.

This item was added to the agenda at the request of France following the Paris attacks on 13 November 2015.

In May 2015 the European Parliament adopted strengthened EU rules, agreed with the Council, to prevent money laundering and terrorist financing. The directive and regulation will apply from 26 June 2017. In its "European agenda on security", published in April 2015, the Commission mentions several further actions to be taken to counter terrorist financing.

On 20 November, the Justice and Home Affairs Council called for the powers of the member states' financial intelligence units and cooperation between them to be strengthened. It also called for strengthened controls of non-banking payment methods, and for a swift and effective freezing of terrorist assets to be ensured throughout the EU.

On 2 December, the Commission presented a proposal for a directive on terrorism, which includes the criminalisation of the financing of travel abroad for the purposes of terrorism.

[Text of the anti-money laundering regulation agreed on 20 April 2015](#)

[Text of the anti-money laundering directive agreed on 20 April 2015](#)

[Conclusions of 20 November 2015 on the response to radicalisation leading to terrorism](#)

## **BUSINESS TAXATION – FUTURE OF THE CODE OF CONDUCT**

The Council discussed the strengthening of a code of conduct aimed at eliminating measures that could create harmful tax competition.

It adopted [conclusions](#) on the future of the code, highlighting the usefulness of the work done by the Council's code of conduct group in assessing individual tax measures in the member states. The Council also endorsed a new work package for the group, and asked it to develop general guidance on how to prevent tax avoidance, tax base erosion and profit shifting.

It is expected that further work to strengthen the code of conduct, as set out in the conclusions, will be finalised during the first half of 2016.

\* \* \*

The Council also adopted conclusions ([14303/15](#)) endorsing the working group's six-monthly report on implementation of the code.

## **CORPORATE TAXATION – BASE EROSION AND PROFIT SHIFTING**

The Council discussed implementation in the EU of OECD recommendations on tax base erosion and profit shifting (BEPS), as part of moves to clamp down on tax avoidance by multinational companies.

This follows endorsement of the OECD recommendations by G20 leaders at Antalya on 15-16 November 2015.

The Council adopted [conclusions](#), demonstrating the importance attached by the EU to the swift and effective implementation of the recommendations and highlighting EU action in this field.

The Council conclusions identify EU directives as the preferred vehicle for implementing the OECD recommendations, also highlighting possible ‘soft-law’, i.e. non-legislative, solutions for a number of anti-BEPS actions.

## **ECONOMIC GOVERNANCE – 2016 EUROPEAN SEMESTER**

The Council launched the "European Semester" annual process for the monitoring of economic, employment and fiscal policies in the member states.

The Commission presented its annual growth survey, which suggests priority actions to be taken by member states to ensure better-coordinated and more effective policies for fostering sustainable economic growth.

It presented an "alert mechanism report", marking the starting point for the annual macroeconomic imbalances procedure. The report finds that adjustment is taking place to correct imbalances despite a challenging economic environment. Nevertheless, it calls for in-depth reviews of the macroeconomic situation in Austria, Belgium, Bulgaria, Croatia, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, the Netherlands, Portugal, Romania, Slovenia, Spain, Sweden and the United Kingdom. (Cyprus and Greece are not part of the exercise as they are under enhanced surveillance.)

The Commission also presented a draft Council recommendation on the economic policy of the euro area.

The Council is scheduled to adopt conclusions on the annual growth survey and the alert mechanism report at its meeting on 15 January 2016. It will discuss the recommendation, with a view to adoption in March 2016, following endorsement by the European Council in February.

The 2016 European Semester will conclude in July 2016 with the adoption of country-specific recommendations.

[2016 annual growth survey](#)

[2016 alert mechanism report](#)

[2016 draft recommendation on the economic policy of the euro area member states](#)

## **FLEXIBILITY UNDER THE STABILITY AND GROWTH PACT**

The Council took note of a commonly agreed position on flexibility in the EU's fiscal rulebook, the Stability and Growth Pact.

The position was agreed by the Economic and Financial Committee (EFC), in the light of a communication issued by the Commission in January 2015.

Under the commonly agreed position, flexibility may be envisaged under specified conditions without changing the rules of the pact. The document clarifies how three specific policy dimensions can best be taken into account for this. These relate to:

- cyclical conditions;
- structural reforms;
- government investments aimed at, ancillary to, and economically equivalent to major structural reforms.

The concession of flexibility is without prejudice to the requirement for member states to reduce their government debt at a satisfactory pace, thereby contributing to the long-term sustainability of their public finances.

The Stability and Growth Pact is aimed at ensuring that fiscal discipline is maintained in the member states. It sets reference values of 3% of GDP for annual budget deficits and 60% of GDP for public debt.

The commonly agreed position is intended as the basis for an update of the code of conduct on implementation of the Stability and Growth Pact.

## **EU STATISTICS**

The Commission provided an update on development in relation to EU statistics. The Council adopted conclusions ([15003/15](#)).

EU policy frameworks rely increasingly on the timely provision of high quality socio-economic statistics. These play an important role in planning, decision-making and the monitoring of policy initiatives.

The conclusions acknowledge welcome progress towards the modernisation of the European statistical system (ESS). The ESS is a partnership between Eurostat, the EU's statistical authority, and national statistical institutes and authorities. Its mission is to provide reliable and comparable statistics at EU level.

They also endorse an annual report from the Economic and Financial Committee (EFC) on information requirements under EU economic and monetary union.

Every year since 2006, the EFC and the Economic Policy Committee have taken stock of statistical needs for supporting the work of the Council. Modernisation of the ESS has been underway since 2009.

## **EU BUDGET DISCHARGE – COURT OF AUDITORS REPORT**

The President of the Court of Auditors presented the court's annual report on management of the EU's general budget.

The report, which covers the budget for 2014, gives an unqualified statement of assurance on the reliability of the EU's accounts. It finds EU revenue to be free from error. However, it qualifies its assessment for expenditure – as in previous years – finding an estimated 4.4% rate of error, compared with 4.5% for 2013. The highest estimated error rates are found in spending for "economic, social and territorial cohesion" (5.7%) and "competitiveness for growth and jobs" (5.6%).

In areas where expenditure is jointly managed by the member states and the Commission, corrective action has had a positive impact on estimated error rates. But the report finds that more errors could have been corrected.

The report recommends a new approach to management of EU investment and expenditure. It calls for the budget to be better aligned with the EU's long-term strategic priorities. The budget should be more responsive in the event of a crisis, the report finds. A forthcoming expenditure review provides an opportunity to rethink priorities.

The Council regretted that the statement of assurance remains qualified for a large proportion of transactions in such important policy areas. It welcomed the Court's increased focus on performance and results.

It called on all involved to persist in their efforts to improve controls and address the weaknesses observed, in order to make EU budget control systems as effective as possible.

The Court's report will be used in relation to a discharge to be given to the Commission for implementation of the 2014 budget. The Council is expected to adopt a recommendation to the European Parliament at its meeting on 12 February 2016. It will then be for the Parliament to give a discharge to the Commission.

[Court of auditors annual report on management of the EU's general budget in 2014](#)



**OTHER BUSINESS**

- **Ongoing work on legislative dossiers**

The Council took note of on-going work on legislative proposals on financial services.

## **EVENTS IN THE MARGINS OF THE COUNCIL**

### **- Eurogroup**

The Eurogroup met on 7 December 2015. It was briefed on the activities of the EU single supervisory board and discussed implementation of Greece's economic adjustment programme. It was briefed on the results of a post-programme surveillance mission to Ireland and held a thematic discussion on implementation of pension reforms.

#### [Eurogroup main results](#)

### **- ESF board of directors**

The board of governors of the European Stability Mechanism met on 8 December 2015.

### **- Ministerial breakfast**

Ministers held a breakfast meeting to discuss the economic situation.

### **- Informal session on the single resolution fund**

Ministers issued a [statement](#) on bridge financing for the EU's single resolution fund (SRF).

The statement envisages bridge financing during an initial phase for the SRF, when the fund's resources have not yet been fully built up. It will consist of national credit lines from the member states. The SRF is due to become operational on 1 January 2016.

### **- Taxation agreement with San Marino**

The EU and San Marino signed an agreement aimed at improving tax compliance by private savers.

The agreement will contribute to efforts to clamp down on tax evasion, requiring the EU member states and San Marino to exchange information automatically. This will enable tax administrations to improve cross-border access to information on the financial accounts of each other's residents.

#### [Press release on the EU-San Marino taxation agreement](#)

## **OTHER ITEMS APPROVED**

### **ECONOMIC AND FINANCIAL AFFAIRS**

#### **Cross-border tax rulings**

The Council adopted an amendment to a directive on administrative cooperation in the field of taxation concerning the exchange of information on advance tax rulings.

The directive is intended to provide member states with an overview of such rulings where there are cross-border implications. It will require them to exchange information automatically on both advance cross-border tax rulings and advance pricing arrangements.

Agreement was reached at the Council's meeting on 6 October 2015. Since then, the European Parliament has given its opinion.

The directive is one of several initiatives aimed at preventing corporate tax avoidance. The Commission proposed it in March 2015 as part of a tax transparency package.

[December 2015 press release on adoption of directive on tax rulings](#)

#### **Capital markets union - Securitisation**

The Council confirmed an agreement reached by the Permanent Representatives Committee (Coreper) on proposals aimed at facilitating the development of a securitisation market in Europe.

This will enable talks to start with the European Parliament.

A framework for securitisation is the first major building block of the EU's plan, launched during 2015, to develop a fully functioning capital markets union by the end of 2019. Developing a securitisation market will help create new investment possibilities and provide an additional source of finance, particularly for SMEs and start-ups.

[December 2015 press release on Coreper agreement on securitisation](#)

## **Taxation agreements – Liechtenstein, San Marino and Switzerland**

The Council approved three agreements that will allow tax administrations to extend the automatic exchange of information and to improve cross-border access to information on private savers.

It adopted decisions:

- on the conclusion of an agreement with Liechtenstein;
- on the conclusion of an agreement with Switzerland;
- on the signature of an agreement with San Marino.

All three agreements relate to the automatic exchange of financial account information. They have been negotiated in parallel with efforts to improve international tax compliance, and by extension to prevent tax fraud and tax evasion.

They upgrade agreements from 2004 that ensured that the three countries applied measures equivalent to an EU directive on the taxation of savings income. That directive (2003/48/EC) has since been repealed to eliminate an overlap with directive [2014/107/EU](#), which includes strengthened provisions to prevent tax evasion.

The agreement with Switzerland was signed in May 2015, and the agreement with Liechtenstein in October 2015.

[Press release on the signing of the 2015 EU-Switzerland tax agreement](#)

[Press release on the signing of the 2015 EU-Liechtenstein tax agreement](#)

[Press release on the repeal of the directive on the taxation of savings income](#)

## **Taxation – Reports to the [European Council](#)**

The Council endorsed two six-monthly reports to the [European Council](#):

- a report on tax issues;
- a report on tax issues by finance ministers of member states participating in the Euro Plus Pact, a 2011 pact to strengthen economic policy coordination.

## **Insurance - Capital requirements**

The Council decided not to object to a Commission regulation amending regulation 2015/35 on the calculation of regulatory capital requirements for several categories of assets held by insurance and reinsurance undertakings ([14363/1/15 REV 1](#) + [12782/15](#) + [ADD 1](#)).

The regulation introduces tailored treatments to insurers' investments in infrastructure, in European long-term investment funds and in equities traded through multilateral trading platforms. It also clarifies and extends the scope of a transitional measure for investments in equities.

The regulation is a delegated act pursuant to article 290 of the Treaty on the Functioning of the European Union. The act can now enter into force, unless the European Parliament objects.

## **GENERAL AFFAIRS**

### **Amendment to the Council's rules of procedure - update of EU population figures**

The Council adopted a decision amending its rules of procedure in order to update the population figures of each member state for the year 2016 ([13612/15](#)).

According to the rules in force since 1 November 2014, when a decision is to be taken by the Council by qualified majority it must be verified that the member states constituting the qualified majority represent at least 65% of the population of the EU. A decision by qualified majority requires the support of at least 55% of the member states, i.e. 16 member states currently.

## **TRANSPORT**

### **Eurocontrol - Reform**

The Council adopted a decision on the position to be taken on behalf of the EU, in respect of the decisions to be adopted by Eurocontrol's permanent commission on its roles and tasks and on centralised services.

It approved the modified recommended EU position, which EU member states' representatives are to use as the basis for their interventions at the 44th Eurocontrol provisional council meeting on 8-9 December 2015.

[Decision on the position to be taken on Eurocontrol's roles and tasks and on centralised services](#)