



Council of the  
European Union

Brussels, 5 February 2016  
(OR. en)

15112/15  
ADD 1

PV/CONS 72  
ECOFIN 961

## DRAFT MINUTES

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Subject: **3435th** meeting of the Council of the European Union (**ECONOMIC AND FINANCIAL AFFAIRS**) held in Brussels on 8 December 2015

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# PUBLIC DELIBERATION ITEMS<sup>1</sup>

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<sup>1</sup> Deliberations on Union legislative acts (Article 16(8) of the Treaty on European Union), other deliberations open to the public and public debates (Article 8 of the Council's Rules of Procedure).

## **LEGISLATIVE DELIBERATIONS**

*(Public deliberation in accordance with Article 16(8) of the Treaty on European Union)*

### **"A" ITEMS**

#### **1. Securitisation**

- **Proposal for a Regulation of the European Parliament and of the Council laying down common rules on securitisation and creating a European framework for simple, transparent and standardised securitisation and amending Directives 2009/65/EC, 2009/138/EC, 2011/61/EU and Regulations (EC) No 1060/2009 and (EU) No 648/2012 [First reading]**

and

**Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms [First reading]**

= General approach

14701/1/15 REV 1 EF 216 ECOFIN 936 SURE 42 CODEC 1616 IA 19

14536/15 EF 209 ECOFIN 918 SURE 38 CODEC 1584

14537/15 EF 210 ECOFIN 919 SURE 39 CODEC 1585

approved by Coreper, Part 2, on 2.12.2015

The Council adopted the general approach regarding the proposed Regulations.

#### **2. Council Directive amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation**

12802/15 FISC 124 ECOFIN 755

+ COR 1 (fi)

+ COR 2 (nl)

+ COR 3 (cs)

The Council adopted the above directive. (Legal basis : Article 115 of the TFUE)

## "B" ITEMS

### 3. **Enhanced cooperation in the area of financial transaction tax**

#### – **Proposal for a Council Directive implementing enhanced cooperation in the area of Financial Transaction Tax**

= State of play

14942/15 FISC 181 ECOFIN 947

The Council held a discussion on a state of play on this dossier, as set out in the Presidency note set out in doc. 14942/15.

On the basis of a presentation by Austria, 10 Member States, participating in the enhanced cooperation, have agreed the following statement to be inserted into the minutes of this Council meeting (as set out hereafter).

#### **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 other 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."

Estonia indicated that it would not be in a position to support the statement on FTT and expressed doubts that it could adopt the tax as proposed.

In the light of the discussion, the Presidency:

- took note of the concerns raised by a number of Member States not participating in the enhanced co-operation, that the final agreement on FTT, once it is reached, should not go against their interests, e. g. as extra-territoriality is concerned;
- recalled that further discussions should take place in an inclusive manner, involving all Member States;
- noted that the Commission should continue ensuring that a possible FTT would be compatible with the relevant legal framework."

#### 4. **Common Consolidated Corporate Tax Base (CCCTB)**

- Proposal for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB)
  - = State of play  
14509/15 FISC 169 ECOFIN 916

The Council took note of the progress achieved so far at technical level with regard to a possible split from the pending CCCTB proposal focusing on its international anti-BEPS (base erosion and profit shifting) aspects and exchanged views on how best to implement OECD BEPS recommendations in the EU. The Commission announced its intention to put forward an anti-BEPS package of legislative and non-legislative proposals in January 2016, building on the work of the Council, and the Presidency concluded that the Council looks forward to these proposals.

#### 5. **Completing the Banking Union**

- **Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 806/2014 and Directive 2014/49/EU in order to establish a European Deposit Insurance Scheme (EDIS)**
- **Commission Communication 'Towards the completion of the Banking Union'**
  - = Presentation by the Commission and exchange of views  
14649/15 EF 213 ECOFIN 928 CODEC 1604  
14650/15 EF 214 ECOFIN 929

The Council held a first exchange of views on the package. The Presidency concluded that an *ad hoc* working party on the completion of the Banking Union would be established, which would consider at the same time the EDIS proposal and the measures set out in the communication. The Council will return to this issue in March.

#### 6. **Any other business**

- **Current legislative proposals**
  - = Information from the Presidency

The Council took note of the state of play in relation to legislative financial services files.