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REPORT

From:	Presidency
To:	Delegations
Subject:	Progress report on Banking Union = endorsement

PRESIDENCY PROGRESS REPORT ON THE WORK ON STRENGTHENING OF THE BANKING UNION

I. INTRODUCTION

1. Pursuant to the Council Conclusions on the Roadmap to complete the Banking Union as adopted by the Council on 17 June 2016 (doc. 10460/16, 'June 2016 Roadmap'), and building upon the Progress Reports prepared respectively by the Dutch Presidency (doc. 10036/16), the Slovak Presidency (doc. 14841/16), the Maltese Presidency (doc. 9484/17), the Estonian Presidency (doc.14808/17),

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the Bulgarian Presidency (doc. 9819/18) and the Austrian Presidency (doc.14452/18),the Council continued to work constructively towards strengthening the Banking Union while monitoring progress on risk reduction and other measures outlined in the June 2016 Roadmap.

2. This Progress Report has been prepared under the responsibility of the Romanian Presidency having regard to the views expressed by delegations and to calls for a written record of progress achieved by the Presidency measures to strengthen the Banking Union. This report may not be relied upon as binding on the delegations as it constitutes the Presidency's assessment of the outcome of the discussions held. This report is intended to provide continuity and facilitate the task of the incoming Presidency.

II. PROGRESS ON THE BANKING UNION

3. The Presidency contributed significantly to the progress achieved on the risk reduction measures.

4. The Romanian Presidency followed up on the work of the previous Dutch, Slovak, Maltese, Estonian, Bulgarian and Austrian Presidencies with the aim of progressing to the extent possible on the pending technical elements of EDIS.

A) BANKING PACKAGE

5. On 23 November 2016, the Commission presented a Risk Reduction Measures Legislative Package (the ‘RRM Package' or ‘RRM Proposals') which comprises legislative proposals for two regulations and three directives relating to prudential requirements for banks (amendments to Regulation 575/2013 - "CRR" and Directive 2013/36/EU - "CRD"), recovery and resolution of banks (amendments to Directive 2014/59/EU - "BRRD", included in two distinct directives) and Regulation 806/2014 - "SRMR").

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6. On 25 October 2017, the co-legislators reached a political compromise on elements of the RRM package relating to the creation of a new category of unsecured debt in bank creditors' insolvency ranking, implementation of the new International Financial Reporting Standard (IFRS 9) and avoiding potential disruptions in government bond markets that would result from rules limiting large exposures to a single counterparty.

7. On 25 May 2018, the Council agreed its mandate to start negotiations with the European Parliament on the remaining elements of the package. The European Parliament confirmed its position on them at the June 2018 plenary. On 21/22 November 2018, the Austrian Presidency and the European Parliament reached a provisional political compromise on the key issues, and this result of the political trilogues was presented to and endorsed by the ECOFIN Council on 4 December 2018.

8. During the Romanian Presidency, on 30 January 2019 and 7 February 2019, respectively, silence procedures were launched after technical work had been concluded and technical solutions had been found for all outstanding issues.

9. On 15 February 2019, the Permanent Representatives Committee approved the text of the proposals with the view to reach an agreement at first reading with the European Parliament and the Chair of the COREPER was mandated to inform the Chair of the European Parliament's Economic and Monetary Affairs Committee that, should the European Parliament adopt the text of the proposal in the exact form as set out in the compromise, the Council would adopt the proposed legislation thus amended, subject to legal-linguistic revision by both Institutions.

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10. On 16 April 2019 the European Parliament adopted its position at first reading on the Commission proposal and the COREPER endorsed the text adopted by the European Parliament on 7 May, which was finally approved by the Council on 14 May (in its Agriculture and Fisheries configuration).

11. The signature of the adopted legislation took place on 20 May 2019 leading to its publication in the Official Journal in the course of June and its entry into force 20 days later.

B) MEASURES TO TACKLE NPLS

12. In response to the call by the Council for further measures to address the problem of non-performing loans in the EU as set out in its Action Plan to tackle non-performing loans in Europe of July 2017, and in addition to other initiatives put forward by other authorities (e.g. EBA and ESRB), the Commission proposed in March 2018 a package of measures to address the NPLs issues, including:

- a draft Regulation amending Regulation (EU) No 575/2013 as regards minimum loss coverage for non-performing exposures for newly originated loans that become non-performing ('NPLs prudential backstop proposal'). This measure will make banks set aside funds to cover the risks associated with future loans when they become non-performing and are not sufficiently covered by provisions or other adjustments;

- a draft Directive on credit servicers, credit purchasers and the recovery of collateral. This measure aims at providing banks with an efficient mechanism of out-of-court value recovery from secured loans and encouraging the development of secondary markets where banks can sell their NPLs to investors and make use of specialised credit servicers;

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- a Commission services' staff working document containing a blueprint on the set-up of national asset management companies (AMCs). The document provides non-binding guidance to national authorities on how they can set up AMCs dealing with NPLs.

13. Concerning the NPL prudential backstop proposal, on 31 October 2018 the Austrian Presidency reached a general approach in the Council, and on the 18 December 2018 a provisional political agreement with the European Parliament.

14. On 7 January 2019, the Permanent Representatives Committee approved the text of the proposals with a view to reaching an agreement at first reading with the European Parliament, which triggered the legal-linguistic revision by both Institutions.

15. On 13 March 2019 the European Parliament adopted its position at first reading on the Commission proposal, and the COREPER endorsed the text adopted by the European Parliament on 27 March, which was finally approved by the Council on 9 April (in its General Affairs configuration). The text was published in the Official Journal on 25 April 2019.

16. As regards the development of secondary markets for sales of non-performing loans, the Romanian Presidency organised two meetings of the Working Party on Financial Services to discuss the Directive on credit servicers, credit purchasers and enforcement of collateral.

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17. The progress on the Accelerated Extrajudicial Collateral Enforcement (AECE) part was considerably slower than on the secondary markets part. Therefore, given the urgent need to foster development of a well-functioning secondary market for non-performing loans, the Presidency proposed to move forward only with the secondary markets part of the Directive. On 27 March 2019, the Member States in the Council reached an agreement, with the majority of delegations expressing no opposition to splitting the proposal and moving forward with part of the Directive related to secondary markets. Therefore, the COREPER approved the mandate for negotiations with the European Parliament on the secondary markets part, enabling the possibility to start trilogues as soon as the other co-legislator is ready.

18. A parallel progress was achieved in the European Parliament where a report limited to a part on secondary markets was submitted for discussion in the European Parliament's Committee on Economic and Monetary Affairs (ECON) on 11 March 2019. The vote on report in ECON was scheduled for 1 April 2019. However, the vote did not take place, thereby re-directing the file to the newly elected European Parliament.

19. As further discussions on the AECE part are needed in order to reach a compromise within the Council, the Presidency organised a meeting of the Working Party on Financial Services on 14 May 2019 with the next meeting being planned to take place in June.

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C) EDIS Proposal

20. The Ad Hoc Working Party on the Strengthening of the Banking Union (the 'AHWP'), established on 13 January 2016 (doc. 5006/16), met once under the Romanian Presidency (on 21 May). The constructive work related to the EDIS proposal was of a technical nature as discussions at political level on a roadmap for beginning political negotiations on EDIS have been tackled by the High Level Working Group on EDIS.

21. As a follow-up to previous discussions during the Austrian Presidency on the impact of EDIS on non-Banking Union Member States and the internal market, the Commission services presented three sets of analyses at the meeting of the AHWP of 21 May 2019:

- an overview of the banking sectors in non-Banking Union Member States;

- an analysis of the impact of EDIS on banks´ profitability;

- an overview of the implementation of alternative funding arrangements under Article 10(9) of the Deposit Gurantee Scheme Directive (DGSD).

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22. Based on public data and the confidential bank-by-bank database collected to develop a risk-based contribution regime under EDIS the Commission services and the Joint Research Centre (JRC) presented key statistics on the banking sectors in non-Banking Union Member States. The figures showed that some banking sectors are dominated by assets in foreign ownership while others have a strong “home basis”. Deposit Guarantee Schemes (DGSs) in almost all non-Banking Union Member States have already achieved the minimum target level of 0.8% of covered deposits, some of them well above the minimum target level. Sector concentration levels in most of the non-Banking Union Member States are below the EU median. Credit unions and institutional protection schemes play an important role in a few non-Banking Union Member States.

23. In their interventions, several Member States provided individual updates on the composition of their respective banking sectors. In this context, some Member States highlighted some gaps in the confidential database and asked for an update of the data. They argued that the reference date of December 2016 would not reflect important changes in the EU banking sector. Furthermore, by adding new data items, the database would allow for a more accurate analysis, for example, with regard to credit unions, entities affiliated to a central body according to Article 10 CRR or institutional protection schemes. The Commission services welcomed those interventions and showed its willingness to start with the preparatory work for a new data collection under the incoming Finish Presidency.

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24. As regards the impact of EDIS on banks´ profitability, the Commission services and the JRC showed the differences in contributions when moving from a purely national system to a fully-fledged EDIS and how these differences affect the average Return on Equity (RoE) or the interest paid by depositors (in case differences will be passed on to depositors). The anonymised country-by-country results demonstrated that the impact on the RoE is rather low, although some specific simulations for calculating risk-based contributions indicated larger variations. The impact on interests seems to be negligible across all simulations.

25. One Member State requested further analysis based on alternative EDIS design options such as a re-insurance approach or a mandatory lending mechanism. Two Member States asked the Commission services to share the results and the respective data with Member States. The Commission services confirmed their willingness to cooperate with Member States and to discuss concrete results with Member States bilaterally (in view of the confidentiality of the database). However, there would be a multitude of potential simulations to be analysed. Hence, for the sake of efficiency, it would be more productive to elaborate on a reasonable set of simulations after achieving more clarity on the EDIS design and to proceed on the basis of an updated and extended database (see previous paragraph).

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26. As regards alternative funding arrangements under Art. 10(9) DGSD, the Commission services provided an overview of the implementation in Member States. In the vast majority of Member States, different types of loan arrangements (e.g. commercial credit lines, issuance of debt securities) are implemented. In several Member States, the Government and/or the National Central Bank (e.g. guarantees, bridge-financing arrangements) are involved. In some Member States, these arrangements are complemented by elements of a “solidarity mechanism” (for example, other DGS in the same Member State may be requested to support a DGS in need). Alternative funding arrangements are refundable, i.e. such arrangements are ultimately financed by the banking sector. The Commission considered that more reflection would be needed on such arrangements under EDIS, in view of its envisaged greater financial capacity and the efficiency gains delivered by the anchoring of a common insurance on a broader and more diversified basis. Furthermore, in a liquidity support phase, alternative funding arrangements would further guarantee the repayment of EDIS assistance.

27. One Member State appreciated the fact that alternative funding arrangements are available in almost all Member States, an improvement not visible a few years ago. Some Member States doubted that EDIS would have the positive effects envisaged by the Commission and one Member State especially questioned the statement that liquidity support by EDIS would be less burdensome for the national banking sector than alternative funding arrangements since EDIS means would have to be repaid by the national banking sector as well. Some other Member States raised the issue of a backstop to EDIS in the context of alternative funding arrangements, while others objected to the idea of a backstop for EDIS. The Commission services pointed to the scope of the presentation which was restricted to arrangements implemented at national level under the DGSD.

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III. CONCLUSIONS

The Romanian Presidency invites the Council to take note of this Report, with a view to progressing work further.

The Finnish Presidency is invited to build on the progress made when taking over and continue to work towards strengthening the Banking Union, by addressing its various work-streams as agreed in the June 2016 Roadmap.

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