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**DRAFT MINUTES**  
COUNCIL OF THE EUROPEAN UNION  
(Economic and Financial Affairs)  
8 November 2019

## CONTENTS

**Page**

1.	Adoption of the agenda.....	3
2.	Approval of "A" items	
	a) Non-legislative list .....	3

### Non-legislative activities

3.	Council recommendation on the appointment of a member of the Executive Board of the European Central Bank .....	3
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### Legislative deliberations

2.	Approval of "A" items	
	b) Legislative list .....	3-6
4.	Excise duties .....	6
	a) Structure of excise duties on alcohol: Amendments to the Council Directive	
	b) Directive on general arrangements for excise duty (recast)	
	c) Regulation on administrative cooperation of the content of electronic registers	
5.	Transmission and exchange of VAT-relevant payment data.....	6
6.	Amendments to the Directive on the common system of VAT as regards the special scheme for small enterprises.....	7
7.	Any other business.....	7
	Current financial services legislative proposals	

### Non-legislative activities

8.	Digital taxation .....	7
9.	Follow-up to the G20 Meeting of Finance Ministers and Central Bank Governors and to the IMF and World Bank Annual meetings in October 2019 in Washington .....	7
10.	2019 Annual report of the European Fiscal Board .....	7
11.	Conclusions on EU statistics .....	7
12.	Conclusions on climate finance for the COP25.....	7
13.	Any other business.....	7
	Stablecoins	
	ANNEX - Statements for the Council minutes.....	9

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1. **Adoption of the agenda** 13500/19

The Council adopted the agenda set out in 13500/19.

2. **Approval of "A" items**

a) **Non-legislative list** 13502/19

The Council adopted the "A" items listed in 13502/19 including COR and REV documents presented for adoption. Statements related to these items are set out in the Addendum.

**Non-legislative activities**

3. Council recommendation on the appointment of a member of the Executive Board of the European Central Bank 13651/19  
*Adoption* 13652/19

**Legislative deliberations**

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

2. **Approval of "A" items**

- b) **Legislative list** (Public deliberation in accordance with Article 16(8) of the Treaty on European Union) 13503/19


**Economic and Financial Affairs**

1. Exemption from VAT and excise duty as regards defence effort within the Union framework **SC** 12915/19  
*General approach*  
approved by Coreper, Part 2, on 30.10.2019


The Council reached a general approach on the basis of the text set out in the Annex to doc. 12915/19.

2. Directive on Covered Bonds **OC** 13364/19 + ADD 1  
*Adoption of the legislative act* PE-CONS 86/19  
approved by Coreper, Part 2, on 30.10.2019 EF

The Council approved the European Parliament's position at first reading and the proposed act was adopted, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union (Legal basis: Article 114 TFEU). Statements related to this item are set out in the Annex.

3. Regulation on Covered Bonds  13363/19  
*Adoption of the legislative act*  
approved by Coreper, Part 2, on 30.10.2019 PE-CONS 85/19  
EF


The Council approved the European Parliament's position at first reading and the proposed act was adopted, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union (Legal basis: Article 114 TFEU).

4. Directive on investment firms supervision  13361/19  
*Adoption of the legislative act*  
approved by Coreper, Part 2, on 30.10.2019 PE-CONS 79/19  
EF

The Council approved the European Parliament's position at first reading and the proposed act was adopted, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union (Legal basis: Article 53(1) TFEU).

5. Regulation on investment firms supervision  13362/19  
*Adoption of the legislative act*  
approved by Coreper, Part 2, on 30.10.2019 PE-CONS 80/19  
EF

The Council approved the European Parliament's position at first reading and the proposed act was adopted, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union (Legal basis: Article 114 TFEU).

6. Regulation on SME growth markets  13365/19  
*Adoption of the legislative act*  
approved by Coreper, Part 2, on 30.10.2019 PE-CONS 89/19  
EF

The Council approved the European Parliament's position at first reading and the proposed act was adopted, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union (Legal basis: Article 114 TFEU).

7. Regulation on Sustainable Finance - benchmarks  13359/19  
*Adoption of the legislative act*  
approved by Coreper, Part 2, on 30.10.2019 PE-CONS 90/19  
EF

The Council approved the European Parliament's position at first reading and the proposed act was adopted, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union (Legal basis: Article 114 TFEU).

8. Regulation on Sustainable Finance - disclosures 13360/19  
PE-CONS 87/19  
EF  
*Adoption of the legislative act*  
approved by Coreper, Part 2, on 30.10.2019

The Council approved the European Parliament's position at first reading and the proposed act was adopted, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union (Legal basis: Article 114 TFEU).

#### Justice and Home Affairs

9. Regulation amending the European Border and Coast Guard 13329/19 + ADD 1  
+ ADD 2 REV1  
PE-CONS 33/19  
FRONT  
*Adoption of the legislative act*  
approved by Coreper, Part 2, on 30.10.2019



The Council approved the European Parliament's position at first reading and the proposed act was adopted, with the Spanish and Italian delegations voting against, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. In accordance with the relevant Protocols annexed to the Treaties, the Danish, Irish and United Kingdom delegations did not participate in the vote. (Legal basis: Article 77(2)(b) and (d) and Article 79(2)(c) TFEU). Statements related to this item are set out in the Annex.

#### Internal Market and Industry

10. Directive on the modernisation of EU consumer protection rules 13146/2/19 REV 2  
13146/19 ADD 1  
PE-CONS 83/19  
CONSOM  
*Adoption of the legislative act*  
approved by Coreper, Part 1, on 25.10.2019

The Council approved the European Parliament's position at first reading and the proposed act was adopted, with the Slovakian delegation voting against and the German, Austrian and Polish delegations abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union (Legal basis: Article 114 TFEU). Statements related to this item are set out in the Annex.

11. Regulation on general safety of vehicles  
*Adoption of the legislative act*  
approved by Coreper, Part 1, on 25.10.2019

  13145/1/19 REV 1  
13145/19 ADD 1- 2  
PE-CONS 82/19  
ENT

The Council approved the European Parliament's position at first reading and the proposed act was adopted, with the United Kingdom delegation abstaining, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union (Legal basis: Article 114 TFEU).

Statements related to this item are set out in the Annex.

4. **Excise duties**



- a) **Structure of excise duties on alcohol: Amendments to the Council Directive**
- b) **Directive on general arrangements for excise duty (recast)**
- c) **Regulation on administrative cooperation of the content of electronic registers**

13518/19

13634/19

*Political agreement*

a) The Council did not reach agreement on the draft amendments to the Directive on the structure of excise duties on alcohol and alcoholic beverages, as further work will be required concerning the draft text of Article 22(8).

b)+c) The Council reached a political agreement on the proposal for a Council Directive laying down the general arrangements for excise duty and the proposal for a Council Regulation on administrative cooperation in the field of excise duties as regards the content of electronic registers. A statement related to this item is set out in the Annex.

5. **Transmission and exchange of VAT-relevant payment data**



13519/19

- a) **Amendments to the Directive on the common system of VAT as regards requirements for payment service providers**
- b) **Amendments to the Regulation on administrative cooperation in the field of VAT as regards measures to combat VAT fraud**

*General approach*

The Council reached a general approach on the draft Directive and the draft Regulation, as set out in doc. 13519/19.

6. **Amendments to the Directive on the common system of VAT as regards the special scheme for small enterprises** **SC** 13520/1/19 REV 1  
*Political agreement*

The Council reached a **general approach** on the draft Directive, as set out in doc. 13952/19, and decided to re-consult the European Parliament on the draft text of the Directive, with the deadline of 31 January 2020, due to the urgency of the file. The Council intends to adopt this Directive at the February 2020 meeting of the Council on Economic and Financial Affairs at the latest, as the Directive will have to be rapidly transposed into national law of Member States and the implementation of these rules will entail work on IT and information exchange systems.

7. **Any other business** 13504/19  
**Current financial services legislative proposals**  
*Information from the Presidency*

Ministers were updated on the state of play regarding the financial services legislative proposals.

**Non-legislative activities**

8. Digital taxation 13405/19  
*State of play*
9. Follow-up to the G20 Meeting of Finance Ministers and Central Bank Governors and to the IMF and World Bank Annual meetings in October 2019 in Washington 13429/19  
*Information from the Presidency and the Commission*
10. 2019 Annual report of the European Fiscal Board  
*Presentation*
11. Conclusions on EU statistics 13423/19  
*Adoption*
12. Conclusions on climate finance for the COP25 13657/19  
*Adoption*
13. Any other business 13571/19  
Stablecoins  
*Information from the Presidency*

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- I** First reading
  - S** Special legislative procedure
  - C** Item based on a Commission proposal
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Statements to the legislative "B" items set out in 13500/19

Ad "B" item 4.b)  
and 4.c):

**Excise duties**

- b) Directive on general arrangements for excise duty (recast)**
- c) Regulation on administrative cooperation of the content of electronic registers**

*Political agreement*

**STATEMENT BY THE COMMISSION**  
**on the implementation of Article 32 of Directive 2008/118**

"The Commission recalls the importance of ensuring free movement of goods while ensuring the protection of public health. To secure this balance, it is necessary to clarify the existing rules and provisions of Article 32.

The Commission first recalls that under Article 34 TFEU quantitative restrictions on imports are prohibited between Member States and, therefore, in principle there should be no limits on what private persons can buy and take with them when they travel between EU Member States, as long as the products purchased are for own use and not for resale. Excise duties will be included in the price of the products in the Member State of purchase and no further payment of taxes can be due in any other Member State.

However, special rules apply in the case of goods subject to excise duty, such as alcoholic beverages and tobacco products. If a private person purchases such products in one Member State and takes them to another Member State, the principle that no excise duty has to be paid in the Member State of destination only applies if the traveller transports the goods themselves and the goods are for his or her own use.

To determine whether these products are for the own use of the traveller, Article 32(2) lists a number of criteria that Member States must take account of. "Own use" implies that the goods are held for private purposes of the traveller. This does not include any gifts for other people or goods intended to be used for commercial purposes.

As to the quantity of the excise goods, Article 32(3) indicates that Member States may lay down guide levels, as a form of evidence as to how the goods are to be used. Quantities of excise goods below the guide levels can be assumed to be for own use. If the guide levels are exceeded, a Member State is considered to have reasonable grounds to suspect that the goods are not for own use unless it is evidenced otherwise. If it is not evidenced that the goods are for own use, excise duty shall become due in the Member State of consumption.

Following the Council Conclusions on the Commission report on Council Directive 2008/118/EC of 5 December 2017, the Commission has launched a study to evaluate the application of Article 32 (and Article 36 distance selling) in particular whether those provisions remain fit for purpose to balance the objective of public revenue and health protection."

**Statements to the legislative "A" items set out in 13503/19**

**Ad "A" item 2:**      **Directive on Covered Bonds**  
*Adoption of the legislative act*

**STATEMENT BY THE COMMISSION**

"The requirements for a dedicated liquidity buffer for covered bonds set out in Article 16 of the proposal for a Directive of the European Parliament and of the Council on the issue of covered bonds and covered bond public supervision and amending Directive 2009/65/EC and Directive 2014/59/EU may result in an overlap with the requirements for credit institutions to maintain a general liquidity buffer, as set out in Delegated Regulation (EU) 2015/61.

In order to address this overlap and to ensure, at the same time, that a dedicated liquidity buffer for covered bonds is applied also during the period covered by the Liquidity Coverage Ratio (LCR), the Commission is willing to amend Delegated Regulation (EU) 2015/61 in order to cater for the specific situation of covered bonds. Such amendment should be adopted in time for it to be able to enter into force before the date of application of the Directive on the issue of covered bonds and covered bond supervision."

**Ad "A" item 9:            Regulation amending the European Border and Coast Guard**  
*Adoption of the legislative act*

**JOINT STATEMENT OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

"The European Border and Coast Guard Agency is expected to face challenging circumstances in the coming years to fulfil exceptional needs for recruiting, training and retaining qualified staff from the broadest possible geographical basis. In view of the Agency's mandate and the important number of its staff, it is essential to explore mechanisms which would allow to ensure the attractiveness of the Agency as an employer by adapting the remunerations of the staff of the Agency in Warsaw, in accordance with the applicable Union law.

The European Parliament and the Council therefore call upon the Commission to assess the basis and modalities for any such appropriate mechanism, in particular when presenting the proposals for the revision of the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the Union, laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68<sup>1</sup>. Any such mechanism shall be proportionate to the importance of the objectives pursued and not give rise to unequal treatment among staff of the Union institutions, bodies, offices and agencies if such Union institutions, bodies, offices and agencies are confronted with a similar situation."

**STATEMENT BY POLAND**

"Poland strongly disfavours the removal of provisions expanding the European Border and Coast Guard Agency's (Frontex) mandate regarding the support of return operations from third countries. Keeping in mind the need to reduce irregular migration in line with the comprehensive approach, which includes increased external action, as well as our obligation to prevent the loss of life at sea and to stop migrant smuggling and trafficking in persons, we are of the opinion that denying the Agency the possibility to support returns from third countries goes against our commitments expressed among others in the Council conclusions, adopted of 28 June 2018. This also makes the regulation less suited for tackling the challenges that we face and that we might face in the future.

Furthermore, Poland is concerned about the proposed capacity of the European Border and Coast Guard Standing Corps. We believe that the rapid development of the Corps may significantly impact the Member States capabilities, which can in effect weaken the security of the external borders, still being primarily the responsibility of those Member States. In Poland's opinion, the proposed regulation goes beyond the notion that the Agency's role is to support the Member States. The Standing Corps capacity should be developed gradually allowing for a parallel development of national capabilities."

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<sup>1</sup> OJ L 56, 4.3.1968, p. 1.

## **STATEMENT BY HUNGARY**

"Hungary is convinced that the effective control of the EU's external borders is essential for maintaining the integrity of the Schengen area and for providing safety for EU citizens. Therefore, Hungary supports a reinforced mandate of the European Border and Coast Guard Agency - Frontex in order to provide increased operational support to the Member States and relevant third countries.

Since the beginning of the negotiations, the enforcement of three key principles was of paramount importance for Hungary.

The strengthened mandate of the Frontex should respect the primary responsibility of the Member States for the protection of their external border sections. The EU solution cannot replace, but only complement the competences deriving from the sovereignty of the Member States.

The reinforcement of Frontex and the creation of the European Border and Coast Guard standing corps should not jeopardize the performance of Member States' border protection tasks, and could not have a negative impact on national capabilities to fulfil their primary duties at national level on their respected border sections.

The capacity building of the European Border and Coast Guard should be implemented via the development of Member States border management systems. National capacities shall be improved and Member States' responsiveness further strengthened, thereby ensuring the enhancement of Frontex's reaction capacity.

These should be the cornerstones of the new mandate of the European Border and Coast Guard, and the Regulation contains these main principles.

However, we are disappointed that the Regulation does not fully deliver the expected results. By omitting the competence of the Agency to assist third countries in return procedures, which would be particularly important to address the challenging migration situation in the Western Balkan region, the EU has weakened its role and possibilities in controlling illegal migration outside the EU."

## **STATEMENT BY SLOVENIA**

"The Republic of Slovenia has always considered the control of external borders to be a part of a comprehensive approach to managing migration in the EU. At the same time, strengthened control of external borders is one of the prerequisites to provide safety for EU citizens and proper functioning of the Schengen area.

We support a reinforced mandate of the European Border and Coast Guard Agency - Frontex in order to better complement Member States' efforts and to provide increased operational support when needed. Wider cooperation with third countries and assistance in all areas of border and migration management, including support of return operations, is considered an integral part of this process.

We regret to note that the final text of the Regulation fails to bring the desired added value in this regard.

By omitting the competence of the Agency to assist third countries in return procedures, the Agency misses the opportunity to play a prominent role in the area of migration management outside the EU. This would be of particular importance in view of the challenging migration situation in the Western Balkan region.

While recognising the need to reinforce the Agency's mandate, which will, as a result, require stronger commitments of Member States, Slovenia insists that these commitments should be based on objective criteria and on the principles of shared responsibility and proportionate burden sharing."

## **STATEMENT BY THE COMMISSION**

"Acknowledging the challenges faced by the EBCG Agency in the coming years to fulfil the exceptional needs for recruiting and retaining of qualified staff from the broadest possible geographical basis in the view of building up the Agency's Standing Corps, and considering the substantial mobility of these staff members and the need to ensure equal treatment among them, the Commission proposed concrete arrangements. These proposed arrangements were of a temporary nature and subject to a review clause, in order to assess their contribution to the objectives pursued and to take account of other ongoing processes having an impact on staff remuneration, including the continuous monitoring and improvement of the statistical methodology used to calculate correction coefficients under Annex XI to the Staff Regulations (the "Method").

In this context (while taking note of the joint statement by the European Parliament and the Council), the Commission strongly regrets that the Co-legislators decided not to retain its proposal to allow the Agency's Management Board to temporarily grant a monthly differential payment to the statutory staff members. The Commission believes that this decision may be detrimental to the attractiveness of the Agency as employer and to create optimal conditions for the timely recruitment of statutory staff as a prerequisite for the swift establishment of the standing corps in coming years.

Moreover, in response to the joint statement by the European Parliament and the Council, the Commission notes that it has neither obligation nor intention at this stage to present any proposal for the revision of the Staff Regulations.

The Commission notes that the co-legislators recently amended the rules for updating remuneration and pensions under Annex XI to the Staff Regulations and included a clear timeline for a possible subsequent review, on the basis of a report to be submitted by the Commission in 2022. The Commission believes that the latter report should provide an opportunity to assess the existing system and notably its impact on the attractiveness of EU institutions and agencies as employers. The Commission also notes that, within the existing legislative framework, Eurostat and national statistical institutes have initiated discussions on the possibility to update the statistical methodology of correction coefficient calculation in order to take into account expenditure incurred outside the place of employment."

**Ad "A" item 10:**      **Directive on the modernisation of EU consumer protection rules**  
*Adoption of the legislative act*

**STATEMENT BY DENMARK**

"Denmark welcomes the solution found concerning resale of tickets, following the political agreement on a final compromise text aiming at modernising EU consumer protection rules.

In Denmark's view, high consumer protection in connection with resale of tickets is an important priority, as it contributes to protecting and promoting broad access of citizens to cultural and sports events. Ticket resale is often carried out through online digital platforms thus underlining its significant cross border nature. Misleading and unfair practices in this context should therefore be addressed at European level.

Regarding the final compromise text of Article 3(7)(b) and its corresponding recital 50 it is Denmark's understanding that it will be possible for Member States to maintain and develop any further reaching national measures concerning resale of tickets to cultural and sports events with a view to securing high consumer protection at national level."

**STATEMENT BY AUSTRIA**

"Austria supports the aim of the proposed Directive insofar as it seeks to adapt consumer protection regulations in view of the digital transformation. Nevertheless, Austria is committed to the principles of subsidiarity and better regulation, and is therefore abstaining in the vote. This applies in particular to new provisions on dual quality of products, the need for which has not been proven by the testing. Furthermore, in this decision-making process, Austria is working on the assumption that Member States will not have to set up any new enforcement systems as a result of the new provisions."

**Ad "A" item 11:**      **Regulation on general safety of vehicles**  
*Adoption of the legislative act*

**STATEMENT BY THE FEDERAL REPUBLIC OF GERMANY**

"Germany agrees with the draft Regulation given that it includes numerous measures which may help to significantly improve road safety. However, we still consider it irresponsible that the present Regulation will not be applied until 30 months after its entry into force. In our view, the use of blind spot information systems in particular should become mandatory much sooner, as such systems could contribute significantly towards reducing the number of fatal accidents involving vulnerable road users – especially cyclists and pedestrians – on European roads."

**STATEMENT BY THE COMMISSION**

"The Commission is of the opinion that, in view of road safety, consumer protection, reduction of waste and the circular economy, it is important that tyres are not only tested in new, but also in worn condition. To this effect, the Commission will support the development of appropriate testing protocols in the context of the United Nations world forum for the harmonization of vehicle regulations. If this process is however not finalised by July 2023, the Commission intends to propose EU legislation that specifically covers testing of tyres in worn condition."