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From: Presidency
To: Permanent Representatives Committee/Council
Subject: Strengthening of the Banking Union
- Progress report

Strengthening the Banking Union – Presidency progress report

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 (10460/16, ‘June 2016 Roadmap’) the Council has worked constructively towards strengthening the Banking Union while monitoring progress on risk reduction and other foreseen measures.
2. The progress achieved in the Council on the strengthening of the Banking Union was presented in progress reports prepared by the Dutch Presidency (10036/16), the Slovak Presidency (14841/16), the Maltese Presidency (9484/17), the Estonian Presidency (14808/17), the Bulgarian Presidency (9819/18), the Austrian Presidency (14452/18) and the Romanian Presidency (9729/19 ADD1). This reporting is in line with the mandate of the Council Ad Hoc Working Party on the Strengthening of the Banking Union (AHWP) (5006/16).
3. The Euro Summit on 14 December 2018 endorsed the decision of the Eurogroup in its inclusive format to establish a High-Level Working Group with a mandate to work on next steps towards a roadmap for beginning political negotiations on a European deposit insurance scheme (EDIS), adhering to all elements of the 2016 roadmap in the appropriate sequence.
4. Building on the outcome of the discussions in the High-Level Working Group during the first half of the year, the Eurogroup, in its inclusive format, agreed in June 2019 that further technical work would be needed to define a transitional path to the steady state Banking Union for relevant elements and their sequencing, adhering to all the elements of the 2016 roadmap. The Eurogroup, in its inclusive format, therefore mandated the High-Level Working Group to continue this work and report back by December 2019.

5. In view of these developments, Finland's Presidency convened the AHWP, established on 13 January 2016 (5006/16), once during the second half of 2019. In line with the AHWP's mandate, the aim was to provide delegations with a coordinated view of the progress made in various work streams with respect to the strengthening of the Banking Union.
6. This Progress Report has been prepared under the responsibility of Finland's Presidency, having regard to the views expressed by delegations and with the aim of addressing various calls for a written record of progress achieved on EDIS and measures to strengthen the Banking Union. This report should not be considered binding on the delegations as it constitutes the Presidency's assessment of the outcome of the discussions held at the AHWP meeting; it is intended to provide continuity and facilitate the task of the incoming Presidency.

II. EDIS PROPOSAL

7. Given the ongoing discussions in the High-Level Working Group, the technical work within the AHWP focused on providing continuity and facilitating possible further deliberations, with a view of an enhanced roadmap to be agreed within the framework of the Eurogroup in its inclusive format.

8. Following the discussions under the Romanian Presidency, the Commission services presented a draft updated template for data collection to support the methodology for calculating risk-based contributions under EDIS. The draft template builds to a large extent on the data collection launched in 2017 under the Maltese Presidency with the goal of defining a methodology to compute risk-based contributions for EDIS. It also accounts for the risk indicators identified in the European Banking Authority (EBA) guidelines on methods for calculating contributions to deposit guarantee schemes issued in May 2015 ('core risk indicators') while adding some new data fields. Overall, the delegations welcomed, on a preliminary basis, the initiative and the new data fields. Some delegations had questions on the feasibility of the proposed timeline and the availability of some of the data, also in view of possible applicable confidentiality requirements. The Commission will launch the data collection exercise shortly, taking into account the discussion in the AHWP and possible further comments by Member States in a written procedure. The Commission also expressed its willingness to inform Member States of any further progress made regarding data collection under the incoming Croatian Presidency.

9. Commission services presented the main findings of the soon-to-be-published study 'Options and national discretions under the Deposit Guarantee Scheme Directive and their treatment in the context of a European Deposit Insurance Scheme' prepared for the Commission by contracted consultants. Whereas the study was in general welcomed and found useful in providing further information on the interaction between the substantive legislation on deposit guarantee schemes and the EDIS proposal, some initial concerns were voiced regarding the policy recommendations contained in the study. The Commission stated that once the study is published, there will be further opportunities for detailed discussions with Member State representatives on its substance.

III. IMPLEMENTATION OF ‘THE BANKING PACKAGE’

10. On 23 November 2016, the Commission presented a legislative package (the ‘Banking Package’) which comprised proposals for two regulations and three directives relating to:
 - prudential requirements for banks (amendments to Regulation (EU) 575/2013 — the ‘Capital Requirements Regulation’ (CRR) and Directive 2013/36/EU — the ‘Capital Requirements Directive’ (CRD));
 - recovery and resolution of banks (amendments to Directive 2014/59/EU — the ‘Bank Recovery and Resolution Directive’ (BRRD), included in two different directives, and to Regulation (EU) 806/2014 — the ‘Single Resolution Mechanism Regulation’ (SRMR)).

11. Based on the Commission’s proposals, the European Parliament and the Council adopted amendments to abovementioned regulations and directives. The amendments were adopted in two stages — in December 2017 and May 2019. The legislative acts adopted in May 2019 came into force on 27 June 2019. There are various application dates and transitional rules, and the two directives need to be transposed into national law. While some rules started applying immediately, most will apply as of mid-2021, and some have a transitional schedule extending to 2024.

12. The Banking Package implements a number of elements agreed by the Basel Committee on Banking Supervision and by the Financial Stability Board (FSB) by November 2016, namely the leverage ratio, the net stable funding ratio (NSFR), the total loss-absorbing capacity (TLAC) requirement for global systemically important institutions, revised rules on large exposures, counterparty credit risk and exposures to central counterparties and equity holdings in funds, revised disclosure requirements as well as a new market risk reporting framework, while waiting for the final outcomes of the Basel Committee’s work on certain capital requirements.

13. The Banking Package also included a number of discounts from the internationally agreed prudential standards, such as incentives in the credit risk framework for investments in public infrastructure and SMEs or facilitating the disposal of non-performing loans. It excluded certain banks from the scope of application of the CRR and the CRD. A number of measures aimed at reducing the administrative burden related to reporting and disclosure requirements for small non-complex banks were included, as were simplified remuneration, counterparty credit risk and liquidity risk rules.
14. Furthermore, the Banking Package amended the existing minimum requirement for own funds and eligible liabilities (MREL) and the Pillar 2 and macro-prudential frameworks. A requirement for third-country institutions with significant activities in the EU to have an EU intermediate parent undertaking was introduced, as was a new moratorium tool for resolution authorities. Finally, certain amendments were made relating to the incorporation of environmental, social and governance aspects, as well as anti-money laundering measures, into prudential rules.
15. The EBA and the Single Resolution Board (SRB) updated the AHWP on the implementation of the Banking Package and other topical issues concerning crisis management and deposit insurance. The EBA presented its monitoring of MREL and resolution colleges, the regulatory mandates given to it in the Banking Package and the review of the implementation of the Deposit Guarantee Scheme Directive (DGSD). The SRB concentrated on the specifics and the timeline for implementation of the new legislative texts in its work and on its expectations for banks. Delegations had an opportunity to ask the EBA and the SRB questions. Particular emphasis was placed on challenges connected to the transition from the original BRRD/SRMR framework to the amended BRRD/SRMR framework, taking into account that a number of banks already have binding MREL requirements in place based on the old framework.

IV. ACTION PLAN TO TACKLE NON-PERFORMING LOANS IN EUROPE

16. The Council called for measures to address the problem of non-performing loans in the EU in its Action Plan to tackle non-performing loans (NPLs) in Europe of July 2017. On 6 November 2019, Commission services gave an update to the Financial Services Committee on the progress made on aspects of the Action Plan. The Commission will give another update at the 5 December Ecofin Council, as mandated by the Action Plan. While the total number of NPLs has continued to decline, the amount of NPLs in some Member States remains high.
17. In March 2018, the Commission proposed a package of legislative measures. The Regulation amending the CRR as regards minimum loss coverage for non-performing exposures for newly originated loans that become non-performing ('NPLs prudential backstop proposal') was adopted and entered into force in April 2019; however, work on the proposed directive is ongoing. It was split into two directives by both the Council, in March 2019, and the European Parliament, in October 2019. The Council has had a mandate for negotiations with the European Parliament on the Directive on Credit Servicers and Credit Purchasers since March 2019 [and on the Directive on the Accelerated Extrajudicial Collateral Enforcement Mechanism since November 2019]¹. As a result, the Council is waiting for the European Parliament to adopt positions on the two directives to start negotiations. In addition to the legislative measures, the EBA and European Central Bank (ECB) have also taken steps to address NPLs through, for example, guidelines and guidance.

V. CONCLUSION

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

¹ Square brackets to be removed subject to approval of the negotiation mandate by Coreper on 27 November, as a non-discussion item.