



Brussels, 17 June 2011

BACKGROUND¹

ECONOMIC and FINANCIAL AFFAIRS COUNCIL

Monday 20 June in Luxembourg

*Proceedings will begin on Sunday 19 June with a meeting of the **Euro Group**, starting at 19.00 (and continuing on Monday at 8.30). The press centre will be open on Sunday from 16.00.*

*A ministerial meeting on the **European Stability Mechanism** will be held on Monday, from 12.00.*

*Starting at 15.00, the Council will be called on to update its general approach on **economic governance**, so as to enable negotiations with the European Parliament to be concluded by the end of the month.*

*The Council will be called on to approve a draft regulation aimed at setting clearing and reporting requirements for over-the-counter **derivatives**, as well as a draft directive on **deposit guarantee schemes**.*

*Concluding this year's **European Semester**, which is being implemented for the first time, it is also due to adopt recommendations on the member states' national reform programmes and budgetary policies.*

The EIB's lending mandate in third countries is amongst the other items on the agenda.

*Over dinner, ministers will discuss backstop support schemes in the banking sector, with a view to the publication in early July of the results of this year's **stress tests**.*

Press conferences:

- after the Eurogroup and ESM meetings (Monday +/- 14.30);
- at the end of the Council (Monday, before dinner +/- 18.00).

Press conferences and public events by video streaming: <http://video.consilium.europa.eu/>

*Video coverage for preview and download in broadcast quality (MPEG4):
<http://tvnewsroom.consilium.europa.eu>*

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¹ This note has been drawn up under the responsibility of the press office

Single euro payments area - Credit transfers and direct debits

On 8 June, the Permanent Representatives Committee agreed on a general approach on a key element of SEPA, the single euro payments area: a draft regulation aimed at establishing technical requirements for credit transfers and direct debits in euros ([11019/11](#)).

The general approach will serve as a negotiating mandate for the presidency, on behalf of the Council, in negotiations with the European Parliament. The aim is to reach an overall agreement enabling the regulation to be adopted at first reading.

SEPA is aimed at establishing an EU-wide integrated market for credit transfer and direct debit transactions in euros, with no distinction between national and cross-border payments. The payments industry has committed itself to the project, which should create the conditions for increased competition and economies of scale whilst ensuring security and reliability and a downward pressure on prices.

SEPA was originally conceived as a market-driven project, but slow migration from national payment instruments to EU-wide instruments has led stakeholders to consider it necessary for a legally binding end-date to be established.

The draft regulation accordingly sets migration end-dates for credit transfers and direct debits, whilst making industry standards mandatory and defining technical requirements. Covering all credit transfer and direct debit transactions in euros within the EU, it however does not cover payment card transactions, money remittance and electronic payment transactions more generally. Common standards for card payments are still under development.

The Council's general approach provides for the following migration deadlines:

- for credit transfers, 1 February 2013;*
- for direct debits, 1 February 2014 in respect of most requirements.*

It also provides for a phasing out by 2018 of multilateral interchange fees (MIFs), which currently apply to direct debit transactions in certain member states.

No discussion is required at Council level for a general approach.

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Economic governance

The Council will be called on to update its general approach on a package of legislative proposals on economic governance, with a view to enabling negotiations with the European Parliament to be concluded in time for the European Council meeting on 23 and 24 June.

The proposals set out to strengthen economic governance in the EU – and more specifically within the euro area – as part of the EU's response to the challenges highlighted by recent turmoil on sovereign debt markets.

The Council reached agreement on a general approach on 15 March, opening the way for the negotiations with the Parliament. Its objective is for an overall agreement to be reached by the end of June, as called for repeatedly by the European Council.

The six legislative proposals are aimed at enhancing budgetary discipline in the member states and broadening the surveillance of their economic policies, thus implementing the recommendations of a task force chaired by the President of the European Council, Herman Van Rompuy².

The package consists of:

- a draft regulation amending regulation 1466/97 on the surveillance and coordination of member states budgetary and economic policies;
- a draft regulation amending regulation 1467/97 on the excessive deficit procedure;
- a draft regulation on the enforcement of budgetary surveillance in the euro area;
- a draft regulation on the prevention and correction of macroeconomic imbalances;
- a draft regulation on enforcement measures to correct excessive macroeconomic imbalances in the euro area;
- a draft directive on requirements for the member states' budgetary frameworks.

Four of the proposals deal with reform of the EU's Stability and Growth Pact, strengthening the surveillance of fiscal policies, introducing provisions on national fiscal frameworks, and applying enforcement measures for non-compliant member states more consistently and at an earlier stage. The other two proposals target macroeconomic imbalances within the EU.

Adoption of four of the six proposals will require agreement with the Parliament. The other two, namely the regulation amending regulation 1467/97 and the directive on budgetary frameworks, are to be adopted by the Council, after consulting the Parliament.

The Parliament is due to adopt its first reading position on 23 June (in plenary session).

European Investment Bank - Lending for projects outside the EU

The Council will examine a draft decision aimed at extending an EU budgetary guarantee for the European Investment Bank's external operations to the remainder of the current financial framework 2007-2013.

² Final report of the task force, 21 October 2010:
http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/ec/117236.pdf

The discussion is intended to provide guidance to the presidency with a view to concluding negotiations with the European Parliament. The Council initially requested that projects in Iceland only be considered once the country has fulfilled all its obligations as a member of the European Economic Area. However, Iceland has since become a candidate country and the Parliament, the Commission and a majority of member states now consider that it should be eligible.

Once this issue has been resolved, the presidency will have a full mandate to reach an agreement with the Parliament. A compromise on all other issues has already been agreed.

The EU provides a budgetary guarantee to the EIB covering sovereign and political risks in connection with EIB loan and loan guarantee operations carried out outside the EU in support of its external policy objectives.

The draft decision, which would replace the EIB's existing external lending mandate, also introduces some new elements, including the activation of:

- a EUR 2 billion optional mandate dedicated to the financing of projects in the field of climate change; and
- lending for Iceland, Belarus, Libya, Iraq and Cambodia.

Moreover, in accordance with the March European Council conclusions that called for the ceiling for EIB operations for Mediterranean countries undertaking political reform to be increased by EUR 1 billion, the presidency compromise raises the sub-ceiling for Mediterranean countries under the "neighbourhood and partnership countries" category from EUR 8 700 million to EUR 9 700 million.

Based on articles 209 and 212 of the Treaty on the Functioning of the European Union, the decision requires a qualified majority for adoption by the Council, in agreement with the Parliament. Representatives of the Council and the Parliament are due to meet on 21 June to finalise a deal, so as to enable the decision to be adopted in second reading.

Deposit guarantee schemes

The Council is expected to agree a general approach on a draft directive aimed at simplifying and harmonising rules in the EU on deposit guarantee schemes.

Agreement on a general approach will enable the presidency, on behalf of the Council, to start negotiations with the European Parliament so as to enable the directive to be adopted in first reading.

The draft directive recasts legislation currently in place, whilst modifying the scope of coverage and the arrangements for payout.

Following the near-collapse of Northern Rock in 2007, and to prevent future bank runs, the Council in February 2009 adopted a directive raising guarantee levels and reducing payout delays in the event that deposits of a bank would become unavailable. Specifically, the directive increased the coverage level from EUR 20 000 to EUR 100 000, effective from December 2010, and reduced the payout delay to 25 working days.

However, open issues remained, as the directive was only an emergency measure to maintain depositors' confidence. It therefore contained a clause providing for a broad review of all aspects of deposit guarantee schemes (DGSs).

The main elements of the draft recast directive are:

- Financing requirements for DGSs, with the introduction of *ex ante* financing as a fixed percentage of deposits eligible for coverage;
- Simplification and harmonisation, in particular relating to coverage and payout arrangements;
- Further reduction of the time limit for paying out depositors to one week, and better access for DGSs to information about their members (i.e. banks).

Under the proposed directive, all banks would be required to join a DGS, and all DGSs would be supervised on an ongoing basis and would have to perform regular stress tests of their systems. Depositors would not have to submit an application and their eligibility would be simplified and harmonised.

Based on article 114 of the Treaty on the Functioning of the European Union, the decision requires a qualified majority for adoption by the Council, in agreement with the Parliament.

Derivatives - Requirements for clearing and reporting

The Council will be called on to approve a general approach on a draft regulation on over-the-counter³ (OTC) derivatives, central counterparties and trade repositories.

The draft regulation is aimed at increasing transparency and reducing counterparty risk (i.e. the risk of default by one party to the contract) in the OTC derivatives market. It would also implement commitments made by G-20 leaders in September 2009.

Agreement on a general approach will enable the presidency, on behalf of the Council, to start negotiations with the European Parliament so as to enable the regulation to be adopted in first reading.

The use of derivatives has grown exponentially over the last decade, with over 80% of derivatives traded on the OTC derivatives market, which is largely unregulated. The absence of a regulatory framework for OTC derivatives is broadly viewed as having contributed to the 2008 financial crisis.

One year after the collapse of Lehman Brothers, a major player in OTC derivatives markets, G-20 leaders agreed in Pittsburgh that all standardised OTC derivative contracts should be cleared through central counterparties (CCPs)⁴ by the end of 2012, while non-centrally cleared contracts should be subject to higher capital requirements. They also resolved that OTC derivative contracts should be reported to trade repositories.

In July 2010, the United States passed the Dodd-Frank act, which requires the reporting of OTC derivative contracts, and subjects eligible derivatives contracts to central clearing and exchange trading, while putting in place strict capital and collateral requirements for OTC derivatives that remain bilaterally cleared.

³ A derivative not traded on an exchange but instead privately negotiated between two counterparties.

⁴ CCPs are entities that interpose themselves between the two counterparties to a transaction and thus become the 'buyer to every seller', as well as the 'seller to every buyer'

Along the same lines, the Commission in September 2010 submitted its proposal to the Council. The draft regulation calls for reporting of OTC derivative contracts to trade repositories (i.e. central data centres) and the clearing of standard OTC derivative contracts through CCPs. Trade repositories would have to publish aggregate positions by class of derivatives, thereby offering market participants a clearer view of the OTC derivatives market. The European Securities and Markets Authority (ESMA) would be responsible for the surveillance of trade repositories and for granting and withdrawing their registration.

Under the draft regulation, standardised⁵ OTC derivatives would have to be cleared through CCPs. This is aimed at preventing the default of one market participant causing the collapse of other market players, thereby putting the entire financial system at risk. To be authorised, a CCP would have to hold a minimum amount of capital. Specifically, the draft regulation requires a CCP to have a mutualised default fund to which members of the CCP would have to contribute.

ESMA would be responsible for the identification of contracts that would be subject to the clearing obligation, while national competent authorities would retain the responsibility for authorising and supervising CCPs, except in the case of CCPs from third countries, which would have to be recognised by ESMA, if they meet certain conditions.

If a contract is not eligible and therefore not cleared by a CCP, the draft regulation would require the application of different risk management techniques, including holding of additional capital.

The obligation to clear OTC derivatives contracts through a CCP and report them to trade repositories would apply to financial firms. Non-financial firms would only be subject to the rules if their OTC derivatives positions reach specified information and clearing thresholds, to be set by ESMA and the Commission, and are considered to be systemically important.

Once adopted, the regulation would apply from the end of 2012.

Three key political issues remain to be resolved:

- Authorisation and supervision of CCPs:

A majority of member states support the proposal by the Commission to have a joint opinion of the college of supervisors in the authorisation of CCPs. However, certain member states are opposed to this and want the competent authority of the member state where the CCP is established to be exclusively in charge of granting the authorisation. Other member states favour a stronger role for ESMA in the supervision of CCPs.

- Scope of the regulation:

Certain member states want to extend the scope of the regulation, for clearing and reporting obligations, to include all listed derivative contracts traded on regulated markets.

- Access of CCPs to central bank liquidity:

One member state is promoting this issue. The current presidency compromise includes a clause providing for the Commission, in cooperation with the members of the European System of Central Banks, to assess the need for any measure to facilitate the access of CCPs to central bank liquidity facilities. On the other hand, the Commission's original proposal specifies that a CCP shall, where available, use central bank money to settle its transactions.

⁵ i.e. those that have met predefined eligibility criteria

Additional open issues include:

- Transitional exemption from clearing obligations for pension schemes;
- Exemption for intra-group transactions;
- Criteria for the application of the clearing obligation;
- Strengthening of third-country provisions;
- Eligibility of central and commercial bank guarantees as collateral for CCPs.

Based on article 114 of the Treaty on the Functioning of the European Union, the regulation requires a qualified majority for adoption by the Council, in agreement with the Parliament.

European Semester - Integrated guidelines on economic policies

The Council is due to endorse recommendations to the member states concerning structural reforms set out in their national reform programmes and budgetary policies set out in their stability and convergence programmes.

Adoption of the so-called "integrated guidelines" will conclude this year's European Semester, which is being implemented for the first time as part of an ongoing reform of EU economic governance.

The European Semester involves simultaneous monitoring of the member states' budgetary policies and structural reforms, in accordance with common rules, during a six-month period every year:

- the national reform programmes enable multilateral surveillance of the member states' economic policies. They normally contain a macroeconomic scenario for the medium term, national targets for translating headline targets set under the "Europe 2020" strategy for jobs and growth, identification of the main obstacles to creating growth and jobs, and measures for concentrating growth-enhancing initiatives in an early period;
- the stability and convergence programmes⁶ are aimed at ensuring sound government finances in accordance with the EU's stability and growth pact. They normally set out the member states' medium-term budgetary objectives, the main assumptions about expected economic developments, a description of budgetary and other economic policy measures, and an analysis of how changes in assumptions will affect their budgetary and debt position.

Based on articles 121(2) and 148(4) of the Treaty on the Functioning of the European Union, the recommendations require a qualified majority for adoption by the Council.

The Employment, Social Policy, Health and Consumer Affairs Council is expected to agree on the integrated deadlines at its meeting on 17 June, as regards the member states' employment policies.

Public finance statistics

The Council is expected to adopt conclusions, on the basis of a communication from the Commission, on quality management for EU statistics related to enhanced economic policy coordination.

⁶ Euro-area member states present stability programmes, those that don't use the euro present convergence programmes.

The communication examines weaknesses, highlighted by the recent financial crisis, in the quality and provision of EU statistics. It suggests strengthening the professional independence of members of the European statistical system⁷ and moving from a mainly corrective to a preventive approach to the quality management of European statistics, particularly public finance statistics.

To this end, the Commission proposes two lines of action:

- Strengthening the governance of the European statistical system, including through amendments to regulation 223/2009 on European statistics and through a revised European statistics code of practice;
- Adoption of a preventive approach to verifying government finance (excessive deficit procedure) statistics.

The Council conclusions are expected to welcome the approach set out in the communication and the aims of the strategy put forward by the Commission. The conclusions are likely to emphasise the importance of continuously improving the governance and efficiency of the European statistical system. The Council is expected to invite the Commission to swiftly specify the actions outlined in the communication and to report back in November.

Last year, the Council adopted conclusions welcoming recommendations to strengthen EU statistics⁸. It asked the Commission to present proposals based on those recommendations.

Harmful tax competition - Code of conduct

The Council, without discussion, will take note of a six-monthly report on implementation of a code of conduct on business taxation and is due to adopt conclusions.

The code of conduct is aimed at eliminating situations of harmful tax competition in the EU with regard to business taxation.

A working group is responsible for implementation of the code of conduct, assessing:

- the "rollback" of tax measures deemed as harmful (i.e. where favourable tax treatment in one member state attracts businesses from other member states);
- the monitoring of a "standstill" commitment by member states not to introduce new measures that are harmful.

The report summarises the group's work during the Hungarian presidency.

⁷ The ESS is a partnership between Eurostat and national statistical institutes or other national authorities in each EU member state.

⁸ Put forward by a task force on economic governance chaired by the President of the European Council, Herman Van Rompuy.