



Brussels, 28 November 2011

BACKGROUND¹
ECONOMIC and FINANCIAL AFFAIRS COUNCIL
Wednesday 30 November in Brussels

Proceedings will begin on Tuesday 29 November at 13.15 with an informal dialogue between the Council (represented by the current and two future presidencies), the Commission and a delegation from the European Parliament, focusing on crisis management and economic governance.

*The **Euro Group** will meet at 17.00.*

*On Wednesday, ministers will discuss the economic situation at a breakfast meeting starting at 9.00. Discussion will focus on implementation of measures agreed in October to strengthen the **banking industry**, including longer-term funding, and on developments on **sovereign debt** markets.*

*The Council is scheduled to start at 10.00. The Commission will present its **annual growth survey** as well as new proposals to strengthen **economic governance**, including on the joint issuance of **stability bonds** ("eurobonds").*

The economic and financial impact of EU legislation is amongst the other items on the agenda.

*The Council will take note (without discussion) of progress on a proposal for a fourth amendment of the EU's **capital requirements** directive ("CRD IV") in the light of recommendations made at international level by the Basel Committee.*

At lunch, ministers will discuss nomination of the president of the European Investment Bank, to succeed outgoing president Philippe Maystadt.

Press conferences:

- after the Euro Group meeting (Tuesday evening);
- at the end of the Council (Wednesday).

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

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

Follow-up to the G-20 summit

The Council will assess the outcome of the G-20 summit held in Cannes on 3 and 4 November, on the basis of a debriefing by the Commission and by the French delegation (in its capacity as G-20 presidency).

The G-20 summit covered:

- coordination of economic policies;
- the G-20 framework for growth;
- reform of financial regulation;
- reform of the international monetary system;
- commodity price volatility;
- other issues, such as food security, global governance, development cooperation, trade, corruption, employment and energy.

This item was postponed from the Council's meeting on 8 November.

Annual growth survey

The Commission will present its annual growth survey, outlining priority actions to be taken by member states in order to ensure better-coordinated and more effective policies for putting Europe's economy on a path to sustainable growth (*doc. [17229/11](#)*).

As the Commission's autumn economic forecasts show, economic recovery has come to a standstill and low levels of confidence are adversely affecting investment and consumption, due to a negative feedback from the sovereign debt crisis and a slowdown in the global economy. As a result, the outlook for growth in 2012 is gloomy and unemployment levels are likely to remain high.

In such a situation, the Commission would have expected stronger progress in following up on last year's guidance. This year's annual growth survey therefore puts strong emphasis on the need for implementation.

For 2012, it suggests that efforts at national and EU levels concentrate on the following priorities:

- pursuing differentiated growth-friendly fiscal consolidation;
- restoring normal lending to the economy;
- promoting growth and competitiveness for today and tomorrow, with particular emphasis on the digital economy, the internal market for services and external trade, as well as better use of the EU budget;
- tackling unemployment and the social consequences of the crisis, in particular mobilising labour, supporting employment of young people and protecting the vulnerable;
- modernising public administration.

The annual growth survey constitutes the starting point for the *European Semester*, which involves simultaneous monitoring of the member states' fiscal policies and structural reforms, in accordance with common rules, during a six-month period every year.

The *European Semester* was implemented for the first time this year (it concluded in July) as part of a reform of EU economic governance. The 2012 *European Semester* will be the second such exercise; presentation of the annual growth survey has been brought forward this time, in order to facilitate implementation.

In March, the European Council will assess implementation of country-specific recommendations made under the 2011 *European Semester* and will provide guidance for 2012.

Economic governance - Second package

The Commission will present a second package of proposals for the strengthening of economic governance, aimed at enabling the EU's monetary union to better function in the longer term.

The package includes:

- a regulation for enhanced surveillance of euro area member states, especially of those subject of an excessive deficit procedure (*doc. [17231/11](#)*);
- a regulation on enhanced surveillance of euro area member states that are experiencing severe financial disturbance or request financial assistance (*doc. [17230/11](#)*);
- a green paper on stability bonds ("eurobonds"), assessing the options for the joint issuance of bonds in the euro area (*doc. [17232/11](#)*).

Presentation of the package follows the recent adoption of a first package of proposals on the strengthening of coordination so as to ensure sustainable public finances and avoid the accumulation of excessive economic imbalances in the member states².

Enhanced surveillance

The two regulations would introduce provisions for enhanced monitoring of countries' budgetary policies. Member states would be required to submit annually to the Council and the Commission their draft budgetary plans for the next year by 15 October. Closer monitoring would apply to member states in excessive deficit procedure in order to enable the Commission to better assess whether a risk of non-compliance with the deadline to correct the excessive deficit exists. Member states experiencing severe difficulties with regard to their financial stability or receiving financial assistance on a precautionary basis would be subject to even tighter monitoring than member states in excessive deficit procedure.

Eurobonds

The green paper assesses the feasibility of commonly-issued stability bonds (often referred to as eurobonds) and launches a public consultation on the issue. To introduce stability bonds, member states would pool their sovereign issuance and share the costs of debt servicing as well as associated revenues.

The Commission proposes three options for stability bonds:

- full substitution by stability bond issuance of national issuance, with joint and several guarantees: Stability bonds would completely replace national issuance. Proceeds would be distributed to member states on the basis of their respective financing needs. Credit risk would be pooled;
- partial substitution by stability bond issuance of national issuance, with joint and several guarantees: Stability bonds would replace only a portion of national issuance. As a consequence, the euro area sovereign bond market would consist of both stability bonds and national government bonds;

² For details, see press release [16446/11](#).

- partial substitution by stability bond issuance of national issuance, with several but not joint guarantees: Stability bonds would replace only a portion of national issuance. But unlike in the previous options, in this case stability bonds would be underpinned by pro-rata guarantees of member states, which would therefore be liable for their respective share of the issuance.

Stability bonds would need to be accompanied by closer and stricter fiscal surveillance to ensure budgetary discipline.

Impact assessments for European legislation

The Council will be called on to adopt conclusions on the economic and financial impact of EU legislation.

The draft conclusions emphasise the importance of evaluating the potential impact of EU legislative proposals on the public finances and competitiveness of member states and the EU as a whole.

They recall the European Council's conclusions of 23 October inviting the Council, working with the Commission, to take steps to ensure that all actions at EU level fully support economic growth and job creation..

Discussion in the Council is expected to focus on a procedure giving an enhanced role to the Council in its Economic and Financial Affairs (Ecofin) and Competitiveness configurations.

On 5 December, the Competitiveness Council will also adopt conclusions on the subject.

EU budget discharge – Annual report from the Court of Auditors

The President of the Court of Auditors, Mr Vitor Caldeira, will present the Court's annual report on management of the EU's general budget, covering the 2010 budget³.

The Court's report will be used in preparing a recommendation from the Council to the European Parliament regarding the discharge to be given to the Commission for implementation of the 2010 budget.

The Council is expected to adopt its recommendation on 21 February.

EU statistics

The Council is expected to:

- o adopt conclusions on EU statistics, as part of an annual review of statistical governance (*doc. [17117/11](#)*);
- o informally endorse nominees for the chairperson and three members of the European Statistical Governance Advisory Board (ESGAB).

³ [OJ C 326, 10.11.2011, p. 1.](#)

The draft conclusions endorse an annual report from the Economic and Financial Committee (EFC) on information requirements under EU economic and monetary union (*doc. [17115/11](#)*) and an EFC opinion on EU statistics, as well as a revised code of practice for the European Statistical System⁴. They also welcome ESGAB's third report, which notes that progress has been achieved in 2011 in compliance with the code of practice and new initiatives to strengthen the governance structure of the European Statistical System and the quality of official statistics. However, the report notes that since last year the pace of progress has not met the board's expectations.

ESGAB was established in 2008 to provide an independent overview of the European Statistical System, in particular as regards implementation of the code of practice. The board is comprised of seven members who are statistical experts:

- the European Parliament and the Council each nominate three members after consulting the Commission;
- the Chairperson is selected by the Council and approved by the Parliament for a three-year term of office (renewable once), after consulting the Commission.

Harmful tax competition: Code of conduct

The Council will take note of a six-monthly report on implementation of a code of conduct on business taxation. It is expected to adopt conclusions.

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

Discussion in the Council is expected to focus on dialogue with third countries, in particular Switzerland. In 2008, the Council agreed to explore ways to help member states increase their influence in the promotion of the code of conduct principles in third countries. Last year it asked the Commission to start a dialogue with Liechtenstein and Switzerland.

After initial discussions with Switzerland, the Commission recently suggested a softer approach, whereby dialogue would start with the identification of specific problematic company tax issues, rather than the application of the principles of the code. One delegation however has reservations on this approach.

The code of conduct, established by the Council in 1997, sets out criteria for a voluntary process of peer review by the member states. It is implemented by a working group, which is responsible for 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, whereby member states agree not to introduce new measures that are harmful.

The report summarises the group's work during the Polish presidency (since July 2011).

⁴ The ESS is a partnership between Eurostat (the EU statistical office) and the statistical institutes and authorities of the member states.

Capital requirements for banks and investment firms

The Council will take note, without discussion, of a progress report from the presidency (*doc. [17166/11](#)*) on proposals for a fourth amendment of the EU's rules on capital requirements for banks and investment firms ("CRD IV").

The proposals for a regulation and a directive set out to amend and replace existing capital requirement directives 2006/48/EC and 2006/49/EC.

They are aimed at translating into EU law an international agreement approved by the G-20 in November 2010. The so-called Basel III agreement, concluded by the Basel Committee on Banking Supervision, strengthens bank capital requirements and introduces new regulatory requirements on bank liquidity and bank leverage.

In addition to implementing the Basel III agreement, the CRD IV proposals strengthen governance and supervision requirements, provide for supervisors to apply sanctions if EU rules are breached and seek to reduce reliance by credit institutions on external credit ratings. They also create a single set of harmonised prudential rules that would apply to banks throughout the EU and are aimed at ensuring uniform application of Basel III in all member states.

The Commission's proposals divide the current capital requirements directive into two legislative instruments: a directive governing access to deposit-taking activities and a regulation which establishes the prudential requirements institutions need to respect.

The draft regulation, which would be directly applicable to prevent national divergences in implementation, sets capital and liquidity requirements, proposes a leverage ratio subject to supervisory review, and introduces changes to encourage banks to clear over-the-counter derivatives through central counterparties.

The draft directive introduces a capital conservation buffer of 2.5%, identical for all banks in the EU, and a countercyclical capital buffer, which would be determined at national level.

The progress report examines concerns raised by member states on the following issues:

- Reduced national discretion within the framework of harmonised rules: Some member states would like to be able to set stricter requirements within their jurisdictions (e.g. the possibility of increasing the minimum level of capital ratio).
- Some member states contest a provision in the draft regulation that would empower the Commission to temporarily impose stricter prudential requirements by way of delegated acts.
- Liquidity coverage requirement: Member states have concerns about implementation of this provision.
- Obligation to disclose the leverage ratio as of 2015: Some member states fear that such disclosure could have a negative impact on market participants and should therefore be postponed.
- Definition of own funds, in particular the treatment of significant investments in insurers.

Taxation of parent companies and subsidiaries

The Council is expected to adopt, without discussion, a directive recasting rules on the common system of taxation applicable in the case of parent companies and subsidiaries of different member states.

Euro Plus Pact - Coordination of tax policies

The Council is expected to endorse, without discussion, a report on tax policy coordination from finance ministers of the member states participating in the *Euro Plus Pact*, and to forward it to the European Council.

The *Euro Plus Pact* is intended to strengthen economic policy coordination between member states with the aim of improving competitiveness and enabling a greater degree of convergence. It was concluded in March by 23 of the 27 member states (including the 17 countries of the euro area), and remains open for others to join.

The pact includes a specific section on the coordination of tax policies, calling for a structured dialogue between the participating member states. In June, the European Council called on finance ministers to report back in December on progress made.

The report identifies the following issues to be addressed in the dialogue:

- avoidance of harmful practices;
- fight against fraud and tax evasion;
- exchange of best practices;
- international coordination.

It suggests that these elements serve as a starting point for further work under the pact.

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Investor compensation schemes - Agreement reached by Coreper

On 23 November, the Permanent Representatives Committee (Coreper) agreed a general approach on a draft directive amending directive 97/9/EC on investor compensation schemes in order to increase compensation levels granted to investors and reduce payout delays ([17164/11](#) + [COR 1](#)).

The investor compensation scheme directive protects investors when a firm is unable to return financial instruments or money held on a client's behalf in connection with investment services. The directive does not compensate investors for losses on investments (i.e. "investment risk"). Instead, it protects investors in cases of fraud or other administrative malpractice or mistakes within a firm.

The draft directive is part of a broader package on compensation and guarantee schemes, which also includes a revision of the directive on deposit guarantee schemes, agreed by the Council in June.

The Council's general approach differs from the Commission's proposal on the following points:

- *Compensation levels: It raises the minimum level of compensation payable to investors to EUR 30 000, rather than EUR 50 000 as proposed by the Commission⁵.*
- *Ex ante funding: It does not require pre-funding to ensure schemes are properly funded.*
- *Coverage of third party custodians: No provisions are made for investors to be compensated in the event of failure of a third party custodian with whom an investment firm has deposited a client's assets resulting in the investment firm not being able to return the client's assets.*

⁵ Investor compensation schemes must provide for coverage of at least EUR 30 000 and not more than EUR 100 000 for each investor.

Approval of the general approach will enable the presidency, on behalf of the Council, to start negotiations with the European Parliament, with a view to adopting the directive early in second reading.

Short selling and credit default swaps - Coreper approves agreement with Parliament

On 10 November, the Permanent Representatives Committee (Coreper) approved an agreement reached with the European Parliament on a draft regulation on short selling and credit default swaps, thus paving the way for adoption of the regulation in first reading ([16338/11](#))⁶.

The draft regulation is aimed at harmonising rules for short selling and certain aspects of credit default swaps. It introduces common EU transparency requirements and harmonises the powers that regulators may use in exceptional situations where there is a serious threat to financial stability.

The regulation covers all types of financial instruments but provides for a response proportionate to the potential risks posed by the short selling of different instruments. In particular, for shares of companies listed in the EU, it creates a two-tier model for the disclosure of significant net short positions: While at a lower threshold, notification of a position must be made privately to the regulator, at a higher threshold, positions must be disclosed to the market.

For sovereign debt, on the other hand, significant net short positions relating to issuers in the EU would always require private disclosure to regulators. The proposed regime also provides for notification of significant positions in credit default swaps that relate to EU sovereign debt issuers.

To tackle the increased risks posed by uncovered short sales⁷, the proposal requires that anyone entering into a short sale must at the time of the sale have borrowed the instruments, entered into an agreement to borrow them or made other arrangements to ensure they can be borrowed in time to settle the deal.

However, these restrictions don't apply to the short selling of sovereign debt if the transaction serves to hedge a long position in debt instruments of an issuer. Moreover, if the liquidity of sovereign debt falls below a specified threshold, the restrictions on uncovered short selling may be temporarily suspended by the competent authority.

In exceptional situations that threaten financial stability or market confidence in a member state or the EU, the regulation provides that competent authorities should have temporary powers to require greater transparency or to impose restrictions on short selling and credit default swap transactions or to limit individuals from entering into derivative transactions.

In such a situation, the European Securities Market Authority (ESMA) is given a key co-ordination role, to ensure consistency between competent authorities and to guarantee that such measures are only taken where they are necessary and proportionate. ESMA is also given the power to take measures where the situation has cross-border implications.

⁶ The presidency has sent a letter to the Parliament indicating that if it were to amend the text as agreed, then that would be acceptable to the Council.

⁷ "Uncovered" or "naked" short selling is a practice where the seller has not made arrangements to borrow the security.