



**COUNCIL OF
THE EUROPEAN UNION**



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Financial services: new rules on credit rating agencies, bank capital requirements, cross-border payments and e-money, and a programme to support the effectiveness of EU policies

The Council today adopted a regulation introducing a legal framework for credit rating agencies ([3642/09](#)) and a directive updating capital requirements for banks ([3670/09](#)), which constitute a significant part of the work programme it launched last autumn in response to the financial crisis.

It also adopted a regulation on cross-border payments ([3665/09](#)) and a directive on electronic money ([3666/09](#)), in the light of assessments of the application of existing rules, as well as a decision establishing Community programme to support activities in the field of financial services, financial reporting and auditing ([3671/09](#)).

For all five dossiers, the Council and the European Parliament reached agreements in first reading.¹

¹ The decisions were taken without discussion at a meeting of the General Affairs and External Relations Council.

P R E S S

Credit rating agencies

Credit rating agencies play an important role in securities and banking markets, as their ratings are used by investors, borrowers, issuers and governments in taking decisions on investment and financing. They are however considered to have failed to reflect early enough in their ratings the worsening of market conditions in the run-up to the financial crisis.

The regulation is aimed at ensuring that credit ratings used in the EU for regulatory purposes are of the highest quality, and issued by agencies that are subject to stringent requirements.

Currently, credit rating agencies are only to a limited extent subject to EU legislation¹ and most member states do not regulate their activities, although their ratings are used by financial institutions which themselves are subject to EU rules. The agencies, most of which have their headquarters outside the EU, may however apply a voluntary code of conduct issued by the International Organisation of Securities Commissions.

The regulation comes in response to calls from both the European Council and the G-20. It establishes a common framework for measures adopted at national level, in order to ensure the smooth functioning of the EU's internal market with comparable levels of investor and consumer protection from one member state to another.

It provides for a legally-binding registration and surveillance system for credit rating agencies issuing ratings that are intended for use for regulatory purposes.

It is also aimed at:

- ensuring that credit rating agencies avoid conflicts of interest in the rating process, or at least manage them adequately;
- improving the quality of methodologies used by credit rating agencies and the quality of their ratings;
- increasing transparency by setting disclosure obligations for credit rating agencies.

¹ Notably directive 2003/6/EC on insider dealing and market manipulation.

Capital requirements for banks

The directive is aimed at tightening up the rules on capital requirements for banks, in response to specific weaknesses identified in the light of the financial crisis.

It amends directives 2006/48/EC and 2006/49/EC¹ in five main areas:

- Strengthening the supervision of cross-border banking groups:
 - (a) close coordination is required between the supervisor of the member state where the parent undertaking is located and the supervisors of its subsidiaries with regard to decisions relating to risk assessment and additional capital requirements;
 - (b) reporting requirements will be fully harmonised at European level in 2012;
 - (c) colleges of supervisors, chaired by the supervisor of the parent undertaking, will be established for all cross-border groups;
 - (d) the role of the Committee of European Banking Supervisors (CEBS) is strengthened;
 - (e) the mandates of national supervisory authorities are given a European dimension.
- Improving the framework for securitisation practices.

In order to remedy the faults of the "originate to distribute" model, due diligence and transparency obligations imposed on the originators of securitisation operations and on investors are strengthened. Investors should be able to assess the risks involved in structured products otherwise than solely by the means of the ratings given by agencies. In order to encourage better risk assessment, the text introduces the obligation for originators to retain on their balance sheets 5 % of risks transferred or sold to investors.

¹ Directive 2006/48/EC relating to the taking up and pursuit of the business of credit institutions; Directive 2006/49/EC on the capital adequacy of investment firms and credit institutions.

- Harmonising the classification of banks' "tier 1" capital funds and hybrid instruments, with a central role given to CEBS in ensuring greater uniformity of supervisors' practices.
- Introducing rules on liquidity risk management, in particular as regards the setting up of liquid asset reserves, conducting liquidity stress tests and establishing contingency plans.
- Tightening the supervision of exposure to a single counterparty ("large exposures").

The text establishes arrangements that place a greater restriction on the extent of exposure to a single counterparty, whatever its nature, including when it is a bank (in all cases, the limit is 25 % of banks' own funds). Within the current framework, concentration limits for bank counterparties are less restrictive than for "undertaking" counterparties, yet the financial crisis has shown that bank counterparties also present a risk of default.

Cross-border payments

The regulation is aimed at achieving a single market for payment services in euros without distinction between cross-border payments and payments made on a national basis, thereby providing significant savings and benefits to the broader European economy.

It updates and replaces regulation 2560/2001 on cross-border payments, which applies to credit transfers, cash withdrawals and electronic payments, including card payments, made in euros up to EUR 50 000. Regulation 2560/2001 has succeeded in bringing down the charges for cross-border payments to the level of national charges, and has encouraged the payments industry to build an EU-wide payments infrastructure for the "single euro payments area".

The new regulation extends the principle of the equality of charges to direct debits and addresses a number of enforcement problems that were identified in a report from the Commission on application of regulation 2560/2001. It also aligns the definitions and wording of the text with those of directive 2007/64/EC on payment services.

Electronic money

The directive is aimed at promoting the design of electronic money services that are both innovative and secure, whilst fostering competition between market participants and providing market access to new players.

Its adoption follows an assessment by the Commission of application of directive 2000/46/EC on electronic money institutions, which shows that electronic money is still far from delivering the benefits that were expected when that directive was adopted eight years ago. The number of newcomers to the market has been relatively low, and in most member states e-money is not yet considered a credible alternative to cash.

The new directive updates the provisions of directive 2000/46/EC, with particular regard to the level of initial capital and the prudential supervision of electronic money institutions. It is also aimed at ensuring consistency with directive 2007/64/EC on payment services.

Community financial services programme

The decision establishes a programme that will enable the Community to participate in the funding of certain bodies, both European and international, so as to ensure the effectiveness of EU policies in the financial services sector and in the fields of financial reporting and statutory audit.

The aim is to enable such bodies to accomplish their mission in an independent and efficient manner.

Beneficiaries include:

- as regards regulation and supervision, the ad hoc structures supporting the Committee of European Securities Regulators, the Committee of European Banking Supervisors and the Committee of European Insurance and Occupational Pensions Supervisors;
- in the field of financial reporting, the International Accounting Standards Committee Foundation and the European Financial Reporting Advisory Group;
- in the field of auditing, the Public Interest Oversight Board.

The decision provides for a financial envelope amounting to EUR 38.7 million for the 2010-13 period.