

Credit institutions: taking up and pursuit of the business. Recast

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The ECB is convinced that the proposed directives, once properly transposed by the Member States, will considerably strengthen the soundness and stability of the EU banking system through the application of more sophisticated, risk-sensitive capital standards. The ECB therefore stresses its generally positive view of the proposed directives. However, without prejudice to this general view, the ECB has a number of general and specific remarks with regard to the proposed directives and their future application:

Legal instruments for consistent implementation across the EU : in line with the agreement to extend the Lamfalussy process from the securities sector to all other financial sectors, it would have been preferable to have limited the proposed directives to cover framework principles reflecting the basic political choices and substantive matters in the field of capital adequacy for credit institutions and investment firms and to have brought the technical provisions on capital adequacy together in one directly applicable Level 2 regulation. This approach would reinforce a convergent implementation of Basel II throughout the EU, facilitate compliance by financial groups operating across different EU countries and reduce costs, as well as promoting a level playing field and further financial integration. The ECB considers that the envisaged legal structure should not be viewed as the final desirable outcome, but rather as one step in a long-term process towards establishing, whenever possible, a directly applicable set of Level 2 technical rules for financial institutions within the EU.

The reduction of national options and national discretion : given the need for a further reduction in national options, the ECB would support the introduction of a specific provision requiring the Commission to monitor the progress made in this direction and, within a reasonable period of time (e.g. three years), to report to the Community institutions on the use of residual national discretion, assessing how necessary it is and whether there is a need for further regulatory initiatives. It also recommends the use of consistent terminology to express how the competent authorities can intervene prior to the use of certain risk weights and measurement

techniques. Furthermore, the ECB expects that the coordinating role played by the supervisor on a consolidated basis, together with the explicit requirement to exchange information, will contribute to the stability of the banking sector both at EU and Member State level.

Timing and transitional provisions : the ECB welcomes the provisions on the timing of the introduction of the new capital requirements in Chapter 1 of Title VII of the proposed banking directive. These provisions mirror the timing provided for in Basel II.

Monitoring the structural and possible pro-cyclical impacts of the new framework : the ECB supports the proposal that the Commission should periodically monitor whether the proposed banking directive has significant effects on the economic cycle, as set out in Article 156 thereof. Furthermore, the ECB observes that it is the Commission's prerogative to adopt proposals for any amendment to the recast Consolidated Banking Directive, and that this also applies to the possible legislative 'remedial measures' mentioned in Article 156. However, from a macro-prudential perspective it is crucial that possible legislative 'remedial measures' are of a symmetric nature and that capital standards are only changed when the adjustment is prudentially sustainable through the entire cycle.