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The Council took note of a progress report from the presidency 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 directive are intended to amend and replace existing capital requirement directives 2006/48/EC and 2006/49/EC.

They are aimed at transposing 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.

General remarks: all Member States recognise the importance of quick adoption of this legislative package and are committed to working towards an agreement which would also swiftly transpose the Basel III requirements into legislative acts of the European Union. In the view of the Presidency, there is a broad measure of agreement on a number of proposed provisions to improve current prudential requirements, in particular the need to improve significantly the qualitative and quantitative capital requirements.

Member State concerns: in this Progress Report the Presidency aims to inform about some of those principal concerns expressed by Member States, where a solution would be needed to reach a compromise agreement at the Council. This Progress Report is without prejudice to the scope and content of other issues that would require further negotiations in the preparatory

bodies of the Council.

National discretion and the single market objective (flexibility and maximum harmonisation):

- A number of Member States have concerns about reduced national discretion and limited scope of flexibility within the framework of harmonised rules. They fear that the proposed approach might have a negative impact on Member States due to differences in their national financial systems.
- In particular, a number of delegations pointed out that they would favour additional powers for Member States to set stricter requirements within their jurisdictions (e.g. the possibility of increasing minimum level of capital ratio). They have indicated that as the ultimate (fiscal) responsibility for ensuring financial stability within its jurisdiction is borne by a Member State, Member States must have effective supervisory tools at their disposal. On the other hand, some delegations support the framework and the single rule book principle proposed by the Commission.
- Those delegations consider that the framework proposed by the Commission already provides for sufficient flexibilities, including through a strengthened "Pillar 2" measures and the countercyclical buffer.
- Lastly, the proposed Article 443 of the Regulation empowers the Commission to impose temporary more stringent prudential requirements by way of delegated acts, where this is necessary to address changes in the intensity of micro-prudential and macro-prudential risks. Some delegations oppose such powers being granted to the Commission, while other delegations generally support this idea, provided that the operational framework of these provisions is fine-tuned and delegation of powers is adequately framed.

Liquidity coverage requirement: there is agreement that a liquidity coverage requirement (LCR) should be introduced, in order to close an important gap in EU prudential requirements. In view of this general objective, a number of Member States have raised the concerns set out below:

- Article 444 of the proposed Regulation foresees that the LCR shall be implemented by a delegated act of the Commission. A number of Member States insist that, given the importance of this issue and its possible impact on the economy, the LCR should be implemented by subsequently amending the Regulation under the ordinary legislative procedure while still ensuring that the 2015 date is met. Moreover, provisions dealing with the principle of having adequate liquid assets at all times, are subject to further examination, given that many Member States wish to render the wording more precise.
- The Member States main concerns are related to the possibility of establishing single liquidity sub-groups and intra-group treatment. The proposed Regulation foresees an obligation to establish a single liquidity sub-group once certain conditions are met. There seems to be a prospect of agreement on the principle of having a single liquidity sub-group, subject to sufficient safeguards being defined, especially in terms of procedure and conditions of application. The proposed Regulation contains a requirement to apply liquidity intra-group treatment where the single liquidity sub-group has not been established. The proposed solution has very similar features to the single liquidity sub-group issue. Some Member States, however, are of the view that there are no safeguards foreseen within the suggested procedure. The structure of liquidity supervision is subject to further examination.

Leverage ratio requirement: the proposed Regulation foresees an obligation to disclose the leverage ratio from 2015, before decision is taken whether it becomes a binding measure upon amendment of the Regulation.

On this issue, some Member States are of the opinion that such disclosure might have a negative impact on market participants and should be postponed till the leverage ratio calibration requirements are completed.

Collaboration between competent authorities in cases of branch supervision: overall, the Presidency is in a position to note an agreement on the principle that supervision of branches of credit institutions should at all times remain efficient and effective.

Further work: following the discussions, the Presidency notes that some of Member States have concerns about definition of own funds, in particular the treatment of significant investments in insurers and the "substance over form" approach on Common Equity Tier I capital, and more work is required in this area. Moreover, the Presidency is of the view that further work is also needed on, inter alia, countercyclical buffers, the sanctioning regime, requirements linked to corporate governance, etc.

The Permanent Representatives' Committee is invited to recommend that the Council to invite the incoming Presidency and Member States to continue work, with a view to reaching an agreement on a compromise text to advance towards negotiations with the European Parliament, in order to reach an agreement by June 2012.