Council of the European Union

PRESS

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BACKGROUND[1]
Brussels, 2 October 2015

ECONOMIC and FINANCIAL AFFAIRS COUNCIL
Tuesday 6 October in Luxembourg

*The Council will discuss a proposal on **cross-border corporate tax rulings**, with a view to reaching an agreement.*

*It will discuss the Commission's action plan for the development of a **capital markets union**, as well as flexibility under the EU's **Stability and Growth Pact**.*

*The agenda also includes implementation of **banking union**, preparation and follow-up to **G20 and IMF** meetings and lessons learned from the 2015 **European Semester** policy monitoring process.*

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*Proceedings will start on Monday 5 October at 15.00 with a meeting of the **Eurogroup**. It will discuss implementation of Greece's new economic adjustment programme, reform of the services sector and the use of windfall gains resulting from the current low interest rate environment. It will also begin preparations for the annual euro area budgetary surveillance process.*

*The **European Stability Mechanism** (ESM) board of governors is scheduled to meet at 19:00.*

On Tuesday 6th at 8.15, the ESM board of directors will meet.

*At 9.00, ministers will hold a breakfast meeting to discuss the **economic situation**. They will also discuss bridge financing under the EU's **single resolution mechanism** for banks, the conversion of loans in Swiss francs in **Croatia** and the treatment of **refugee crisis** spending under EU fiscal rules.*

The Council meeting is scheduled to start at 10.00.

Press conferences:

- after the Eurogroup meeting *(Monday evening)*;
- at the end of the Council *(Tuesday afternoon).*

Eurogroup agenda highlights

Press conferences and public events by video streaming

Video coverage in broadcast quality (MPEG4) and photo gallery

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

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Cross-border tax rulings

The Council will be called on to agree on a proposal aimed at improving transparency in the assurances given by member states to companies about how their taxes will be calculated.

The proposed directive is one of a number of initiatives aimed at preventing corporate tax avoidance, in parallel with work ongoing within the OECD.

One issue remains to be resolved by the Council, related to past tax rulings.

The directive would require member states to exchange information automatically concerning advance cross-border tax rulings, as well as advance pricing arrangements. Member states receiving the information would be able to request further information where appropriate. And the Commission would be able to develop a secure central directory, accessible to all member states and the Commission, where the information exchanged would be stored.

A tax ruling is an assurance that tax authorities give to taxpayers on how their tax will be calculated. An advance pricing arrangement is a decision by a tax authority specifying the pricing method that will be applied to goods and services sold between related legal entities within the company.

The proposal is part of a package of measures presented in March 2015. When the Council discussed it in June, all member states supported the main objectives set out by the Commission.

Tax planning by companies has become more elaborate in recent years, developing across jurisdictions with the shifting of taxable profits towards states with more advantageous tax regimes.

The proposal is in line with developments within the OECD and its work on tax base erosion and profit shifting (BEPS). G20 finance ministers are expected to approve the outcome of that work at a meeting in Lima on 8 October, and G20 leaders at a summit in Antalya on 15 and 16 November 2015.

The main outstanding issue relates to the exchange of information on past rulings. The Commission had proposed that advance cross-border rulings and advance pricing arrangements be automatically exchanged if they are issued up to 10 years before entry into force of the directive, on 1 January 2017, and are still valid on that date. However, to address member states' concerns about the administrative burden of such a measure, the presidency proposes to reduce the "look-back" period to five years. The presidency's compromise would also allow member states to exclude companies with an annual net turnover of less than €40 million.

The proposal amends directive 2011/16/EU on administrative cooperation in the field of taxation, which sets out practical arrangements for exchanging information, including the use of standard forms.

The text is based on the work of Council working group responsible for implementing a code of conduct on business taxation. In 2012, the group reviewed developments in member states' procedures regarding tax rulings. It identified the types of cross-border rulings on which information should be exchanged spontaneously, and recommended a model specifying the means of doing so. However, in practice member states exchange little information on their advance tax rulings or transfer pricing arrangements, even where these have an impact on other countries.

The directive requires unanimity for adoption by the Council, after consulting the European Parliament. (Legal basis: article 115 of the Treaty on the Functioning of the EU.)

- Draft directive on information exchange concerning cross-border tax rulings

Implementation of banking union

The Council will take stock of implementation of Europe's banking union, particularly as concerns instruments to deal with the recovery and resolution of failing banks.

The Commission will provide an update on:

- transposition of a directive on bank recovery and resolution;
- ratification of an intergovernmental agreement on the single resolution fund (SRF);
- the work of the single resolution board;
- transposition of a directive on deposit guarantee schemes.

At its meetings on 10 March and 19 June 2015, the Council called on member states to complete transposition and ratification measures at national level.

Participants in the banking union are the 19 countries of the euro area, whilst seven other member states have indicated their intention to join.

The SRF and SRB are components of a single resolution mechanism (SRM) aimed at ensuring the orderly resolution of failing banks. Established by regulation in July 2014, the SRM will be applicable from 1 January 2016.

The single resolution fund, entirely financed by banks, is being set up for possible intervention in resolution cases along with the bail-in of shareholders. It will be built up over eight years to reach a target level of at least 1% of the covered deposits of all credit institutions in the participating member states. It is estimated that this will amount to about €55bn.

The intergovernmental agreement on the SRF contains provisions on the transfer and the mutualisation of contributions to the fund.

The single resolution board will be responsible for putting into place a resolution scheme in the event of a bank being placed into resolution. It will determine the resolution tools to be applied, and decide on the use of the single resolution fund. The board's six full-time members were appointed in December 2014, and Elke König took office as president of the board on 1 March 2015.

The bank recovery and resolution directive identifies the powers and instruments at the disposal of national authorities to resolve failing banks. It sets out to preserve essential bank operations and minimise taxpayers' exposure to losses during the resolution process. Adopted in May 2014, it applies to all 28 member states.

For member states participating in the banking union, national resolution funds set up under the directive as of 1 January 2015 will be replaced by the SRF as of 1 January 2016.

The directive on deposit guarantee schemes (DGS) requires all banks to join a DGS so that deposits of up to €100 000 are protected, and sets requirements for supervision and for regular stress tests of such schemes.

- Press release on the adoption of the regulation establishing the SRM
- Press release on the signature of the intergovernmental agreement on the SRF
- Press release on SRF contributions and the appointment of members of the SRB
- Press release on the adoption of the bank recovery and resolution directive

Capital markets union

The Commission will present an action plan for the development of a capital markets union, and the Council will hold an exchange of views.

The action plan, published by the Commission on 30 September 2015, is aimed at establishing a fully functioning capital markets union in the EU by the end of 2019.

It sets out a variety of measures to strengthen capital markets so as to attract more investment, including foreign investment, for European companies and infrastructure projects. One of the main aims is to improve access to finance for European SMEs and start-ups, especially in innovative industries.

The Commission considers that stronger capital markets would make the financial system more resilient to shocks, as it would broaden the range of available funding sources.

Publication of the action plan follows a public consultation by the Commission on the basis of a green paper it published in February 2015. The Council adopted conclusions in June, welcoming the initiative.

Capital markets have expanded over recent decades in Europe, but remain fragmented. Bank financing remains the predominant source of financing for businesses.

According to the Commission, medium-sized companies in the United States receive five times more funding from capital markets than their counterparts in the EU. This is equivalent to a €90 billion investment shortfall over the 2008-13 period.

Whilst the aim is to reduce reliance on bank financing, banks will continue to play a central role in the financing of businesses. They will also themselves play a key role in the capital markets union.

The initiative is broader in scope than Europe's banking union, as it encompasses all 28 member states. It will require a number of steps, with action at different levels (EU, national or subnational), both legislative and non-legislative, depending on the issues to be addressed.

Measures foreseen for the short term include three legislative proposals:

- a legal framework for the securitisation of financial assets. This includes a regulation introducing criteria to identify simple, standardised and transparent securitisation, and changes to the EU's capital requirements regulation in order to establish a closer relationship between the riskiness of a securitisation and the prudential capital required from banks and insurance companies investing in it;
- changes to the EU's "Solvency II" regulation on insurance, to make it easier for insurers to invest in infrastructure and European long-term investment funds;
- a review of a directive on the publication of prospectuses for the trading of securities, with the aim of reducing administrative burdens, in particular for SMEs.

The Financial Services Committee and the Economic and Financial Committee will examine the action plan in detail, and may prepare conclusions for a subsequent Council meeting.

In its June 2015 conclusions the Council welcomed the Commission's short-term priority actions, as well as work to identify and eliminate the most damaging obstacles to the free movement of capital. It called for an ambitious approach for the medium and long term. It acknowledged that obstacles could still exist in areas such as insolvency law, financial securities, taxation and company law, and called for technical work in these areas. It suggested that European supervisory authorities work to the fullest extent under their existing mandates to establish the conditions for a capital markets union.

- Commission action plan on capital markets union
- June 2015 Council conclusions on a capital markets union

European Semester – Lessons learned

The Council will discuss possible improvements to the "European Semester" policy monitoring process in the light of lessons learned from the 2015 exercise.

The chairman of the Economic and Financial Committee (EFC) will report on EFC discussions on the matter.

The European Semester involves the simultaneous assessment of the member states' economic, fiscal and employment policies during a six-month period every year. It was introduced in 2011 as part of a economic governance reform undertaken in response to the euro crisis.

In the light of the Commission's annual growth survey and policy guidance from the European Council each year in March, the member states present:

- national reform programmes (economic and employment policies);
- stability/convergence programmes (fiscal policies).

The European Semester concludes in July with the adoption of country-specific recommendations to the member states.

It is a process that covers a broad range of policy areas involving several Council configurations and preparatory committees.

The Commission is expected in October 2015 to make proposals for improvements; these will be discussed at a subsequent Council meeting.

Flexibility under the Stability and Growth Pact

The Council will hold an exchange of views on flexibility under the Stability and Growth Pact, the EU's fiscal rulebook.

The chairman of the Economic and Financial Committee (EFC) will report on the EFC's efforts to establish a common position on how to interpret certain of the pact's rules.

In a communication issued in January 2015, the Commission set out its own interpretation, suggesting how to make the best use of flexibility allowed by the existing rules. In April, the Council's legal service contributed an opinion.

The Stability and Growth Pact is aimed at ensuring fiscal discipline in the member states. It sets reference values of 3% of GDP for annual budget deficits and 60% of GDP for public debt.

The flexibility envisaged by the Commission covers three main elements:

- Structural reforms. Member states will be granted conditional flexibility under the preventive arm of the Stability and Growth Pact in relation to structural reforms. They will be allowed temporary deviations of up to 0.5% of GDP from the fiscal adjustment paths leading to their medium-term budgetary objectives. This on condition that the reforms are major, that they are implemented, and that they have verifiable long-term budgetary benefits. Similarly, under the excessive deficit procedure (corrective arm of the pact), the Commission may recommend granting a member state more time to correct its deficit.
- Public investments. The communication clarifies flexibility that was already granted in the past, under the preventive arm of the pact, in relation to public investments. Member states are allowed temporary deviations from their fiscal adjustment paths. This on condition that: (a) GDP growth is negative or the output gap greater than 1.5% of GDP; (b) the deviation does not lead to the 3% of GDP limit being breached and a safety margin is preserved; (c) investment levels are increased as a result; (d) eligible investments are co-funded by EU programmes; (e) the deviation is compensated within the timeframe of the member state's fiscal programme (stability/convergence programmes). Additionally, member state contributions to the European fund for strategic investments (EFSI) will not be counted when defining a fiscal adjustment under either the preventive or the corrective arm of the pact. Nor will funds provided to co-finance EFSI projects.

- Cyclical conditions. Under the preventive arm of the pact, the Commission will be more responsive to the economic cycle of a member state. It will use a more complex method to specify its fiscal adjustment path, depending on whether it is in good or in difficult economic times. Under the excessive deficit procedure, in line with past practice, the Commission will distinguish as much as possible those budgetary developments that are attributable to government control from those that are linked to an unexpected decline in economic activity.

The Commission envisages flexibility within the existing rules of the Stability and Growth Pact and makes no proposals for changes to the rules themselves.

Once a common position has been agreed within the Council, the code of conduct on implementation of the pact will be modified accordingly.

- Commission communication on flexibility
- Council press release on adoption of the EFSI regulation

G20 and IMF meetings

The presidency and the Commission will report on a G20 finance ministers meeting held in Ankara on 4-5 September 2015. And the Council is expected to approve terms of reference for a G20 finance ministers meeting in Lima on 8 October 2015.

The terms of reference constitute a common position for EU representatives and those member states that participate in the G20.

The Council is also expected to approve a draft statement to be delivered by the presidency to the International Monetary and Financial Committee (IMFC). The draft statement covers the world economy and its prospects and challenges, as well as IMF policy issues. The IMFC meeting will be held as part of the annual IMF meetings, in Lima during from 9 to 11 October 2015.

The terms of reference and draft presidency statement have been prepared by the Economic and Financial Committee. Consensus is required for their approval.

Other business

The Council will take note of on-going work on legislative proposals on financial services.