Council of the European Union

PRESS

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BACKGROUND[1]
Brussels, 9 March 2018

ECONOMIC AND FINANCIAL AFFAIRS COUNCIL
Tuesday 13 March in Brussels

Proceedings will start with a breakfast meeting at 9.00 to discuss the **economic situation**.

The Council is scheduled to start at 10.00.

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Ministers will be called on to agree on a package of measures aimed at reducing risk in the **banking** industry. The aim is to strengthen rules on capital requirements and on the recovery and resolution of banks in difficulty.

Ministers will also set out to agree on a proposal aimed at achieving greater transparency in **tax planning schemes**.

The Council is expected to make adjustments to the EU's list of **non-cooperative jurisdictions** in taxation matters.

It will discuss **policy monitoring** under the 2018 'European Semester' process, as well as **macroeconomic imbalances** in some member states.

The agenda also includes preparation of a **G20** meeting in Buenos Aires.

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The **Eurogroup** will meet on Monday 12 March at 15.00. It will discuss Greece's macroeconomic adjustment programme, as well as preparation of the Euro Summit on 22-23 March 2018 and the IMF's spring meetings on 20-22 April 2018.

<u>Press conferences</u>:

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

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.

Taxation - Non-cooperative jurisdictions

The Council is expected to make adjustments to the EU's list of non-cooperative jurisdictions in taxation matters.

It is due to adopt, without discussion, two sets of amendments to its conclusions of 5 December 2017.

These relate to:

- Bahrain, Labuan Islands, Malaysia, Marshall Islands and Saint Lucia.

  The Council is expected to remove Bahrain, the Marshall Islands and Saint Lucia from the list of non-cooperative jurisdictions.

  This follows commitments made since the list was published on 5 December. Letters signed at political level have been assessed, and member states agree that the commitments justify removing the three jurisdictions from the list.

  The three jurisdictions will be moved from annex I of the December conclusions (non-cooperative jurisdictions) to annex II (cooperation with respect to commitments made).

  Implementation of their commitments will be carefully monitored;

- Anguilla, Antigua and Barbuda, Bahamas, British Virgin Islands, Dominica, Saint Kitts and Nevis and the US Virgin Islands.

  The Council is due to amend its December conclusions in respect of these 7 Caribbean jurisdictions.

  A screening of their tax systems had been put on hold after they were struck by hurricanes in September 2017. Letters were sent at the beginning of February 2018, requesting that commitments be made to remedy EU concerns.

  In the light of the responses received, the Council is expected to add the Bahamas, Saint Kitts and Nevis and the US Virgin Islands to the list of non-cooperative jurisdictions (annex I of the December conclusions). This is because they have failed to make commitments at a high political level in response to all of the EU's concerns.

  And the Council will add Anguilla, Antigua and Barbuda, the British Virgin Islands and Dominica to annex II of the December conclusions. Implementation of their commitments will be carefully monitored.

The decisions will leave 9 jurisdictions on the list of non-cooperative jurisdictions: 6 of the original 17 plus three of the Caribbean jurisdictions. (Eight of the original 17 were delisted on 23 January 2018.)

Part of the EU's external strategy for taxation, the EU list is intended to contribute to ongoing efforts to prevent tax fraud and promote good governance worldwide. It was prepared in 2017 in parallel with work undertaken by the OECD.

Whereas the list is to be revised at least once a year, the working group responsible for preparing it can recommend an update at any time.

The 9 jurisdictions that will remain on the list are American Samoa, Bahamas, Guam, Namibia, Palau, Samoa, Saint Kitts and Nevis, Trinidad and Tobago and the US Virgin Islands.

Annex I of the conclusions includes recommendations on steps to take to be delisted.

- 2 March 2018 note on changes to the EU list of non-cooperative jurisdictions (6777/18)
- 8 March 2018 note on changes to the EU list of non-cooperative jurisdictions
- December 2017 Council conclusions on the EU list of non-cooperative jurisdictions
- December 2017 press release on the EU list of non-cooperative jurisdictions
- January 2018 press release on changes to the EU list of non-cooperative jurisdictions

Banking - Risk reduction measures

The Council will be called on to agree on a package of measures aimed at reducing risk in the banking industry.

If agreement is reached, ministers will ask the presidency to start negotiations with the European Parliament as soon as the Parliament is ready to negotiate.

Preliminary agreement has been reached on a broad range of issues, subject to an overall compromise. The presidency has prepared compromise proposals on all elements that remain unresolved.

The proposals set out to implement reforms agreed at international level following the 2007-08 financial crisis. Presented in November 2016, they include elements agreed by the Basel Committee on Banking Supervision and by the Financial Stability Board (FSB).

Strengthening existing EU rules, the aim is to ensure that any outstanding challenges to financial stability are correctly addressed.

The package covers:

- bank capital requirements (amendments to regulation 575/2013 and directive 2013/36/EU on the activities and supervision of banking institutions);
- the recovery and resolution of banks in difficulty (amendments to directive 2014/59/EU on bank recovery and resolution and regulation 806/2014 on the EU's single resolution mechanism).

The proposals on bank capital requirements include a binding leverage ratio to prevent banks from excessively increasing leverage, and a binding net stable funding ratio. They strengthen risk-sensitive capital requirements for banks that trade largely in securities and derivatives. And they require global-systemically important institutions ('G-SIIs') to have more loss-absorbing and recapitalisation capacity in case of resolution.

The proposals on bank recovery and resolution implement the FSB's November 2015 standard on 'total loss-absorbing capacity' (TLAC). They integrate the TLAC requirement into the EU's 'minimum requirement for own funds and eligible liabiltiies' (MREL) rules, in order to avoid duplication. Whereas the TLAC standard covers G-SIIs, the MREL covers the entire EU banking industry; the proposals address this and other differences between the two.

The main issues to be resolved are as follows:

- Subordination requirements in the event of a bank having to be resolved. There are different views on how to structure the subordination of liabilities in the event of resolution for G-SIIs and other banks that could pose a systemic rist to financial stability. Some member states call for a high level of MREL 'pillar 2' subordination (an additional discretionary requirement). Others consider that to be economically not viable and impossible for some banks to meet.

  For other banks that could pose a systemic risk to financial stability, the presidency proposes a new category of 'top tier bank' that would be subject to the same subordination requirement as for G-SIIs. A consolidated balance sheet threshold must be agreed to define that category, and views differ on the nature of discretion to be given to resolution authorities to request subordination.
- Implementation of new market risk capital requirements. Views differ on how to implement the Basel committee's 'fundamental review of the trading book' in a manner that takes account of a three-year delay announced in December 2017.

The Council needs a qualified majority, in agreement with the European Parliament, to adopt the regulations and directives. (Legal basis: articles 53(1) and 114 of the Treaty on the Functioning of the European Union.)

Two other elements of the Commission's November 2016 package of proposals were fast-tracked and adopted during 2017.

These relate to the ranking of unsecured debt instruments in insolvency proceedings and a phase-in of the regulatory capital impact of the IFRS 9 international accounting standard. They also provide for a phase-out of provisions on the large exposures treatment of public sector debt denominated in non-domestic EU currencies.

- Note on March 2018 draft legislative package aimed at reducing risk in the banking industry
- March 2018 draft amendments of regulation 575/2013 on bank capital requirements (6614/18)
- March 2018 draft amendments of directive 2013/36/EU on bank capital requirements (6615/18)
- March 2018 draft amendments of directive 2014/59/EU on bank recovery and resolution (6614/18)
- March 2018 draft amendments of regulation 806/2014 on the single resolution mechanism (6614/18)
- December 2017 press release on bank creditor-hierarchy, IFRS 9/large exposures rules
- Basel Committee on Banking Supervision
- Financial Stability Board

Tax planning schemes

The Council will be called on to agree on a proposal aimed at achieving greater transparency in tax planning schemes.

Member states agree on the main principles of the directive, though one provision raises issues that have yet to be resolved.

Presented in June 2017, the proposed directive targets tax intermediaries such as tax advisors, accountants, banks and lawyers that design and/or promote tax planning schemes. It would require them to report potentially aggressive tax planning schemes to national authorities.

Member states find it increasingly difficult to protect their tax bases from erosion, as tax planning structures become ever more sophisticated. Media revelations such as the April 2016 'Panama Papers' have exposed how some intermediaries actively help companies and individuals to escape taxation, often through complex cross-border schemes. The proposal is aimed at preventing such planning by enabling increased scrutiny of the activities of tax intermediaries.

The draft directive establishes 'hallmarks' to identify the types of schemes to be reported to the tax authorities. The requirement to report a scheme would not imply that it is harmful, only that it merits scrutiny.

Member states would be required to automatically exchange the information they receive through a centralised database. This would provide an early warning on new risks of tax avoidance and enable measures to be taken to block harmful arrangements. Member states would be obliged to impose penalties on intermediaries that do not comply with the transparency measures.

The remaining unresolved provision relates to 'hallmark C.1', which covers deductible cross-border payments with specific features.

This raises several issues. Some member states object to the use of a statutory corporate tax rate as an indicator of the potential risk of aggressive tax planning. Some also consider the scope of hallmark C.1 to be too broad and that tax authorities would be unable to process all the information they receive.

The presidency has presented a compromise proposal.

The draft directive broadly reflects action 12 of the OECD's 2013 action plan to prevent tax base erosion and profit shifting. Work is ongoing in the OECD on model mandatory disclosure rules to address tax avoidance arrangements.

The new reporting requirements would be applied from 1 July 2020. Member states would be obliged to exchange information every three months, within one month from the end of the quarter in which the information was filed. The first automatic exchange of information would thus be completed by 31 October 2020.

The Council needs unanimity to adopt the directive, after consulting the European Parliament. The Parliament voted its opinion on 1 March 2018. (Legal basis: articles 113 and 115 of the Treaty on the Functioning of the European Union.)

- March 2018 draft directive on tax intermediaries

Economic policy – Macroeconomic imbalances

The Council will review economic, employment and fiscal policies under the 2018 'European Semester' process, as well as macroeconomic imbalances in some member states.

The Commission will present:

- 'country reports' on the economic situation in 27 member states;
- 'in-depth reviews' for 12 member states under the EU's macroeconomic imbalances procedure.

Ministers will discuss implementation of country-specific recommendations issued in 2017. The discussion will focus on how to boost productivity growth, and on the specific experiences of Ireland and the Netherlands.

Furthermore, the president of the Court of Auditors, Klaus-Heiner Lehne, will present a special report on the macroeconomic imbalance procedure. The Council is expected to adopt conclusions on the Court's report.

The European Semester is an annual policy monitoring process. It concludes with the adoption of country-specific recommendations each year in July. For 2018, the European Council will provide policy guidance at its meeting on 22 and 23 March.

Country reports

The country reports analyse the economic and social challenges faced by the member states and monitor their policy reforms. The reports also assess implementation of the previous year's country-specific recommendations.

The findings feed into economic and fiscal policy programmes that the member states present each year in April.

There is no country report or in-depth review for Greece, as it is subject to enhanced surveillance under a macroeconomic adjustment programme.

In-depth reviews

Macroeconomic imbalances risk hindering the smooth functioning of the European economy and the EU's monetary union. (For more on the macroeconomic imbalances procedure, see sub-item on 'Court of Auditors report' below.)

For 12 member states, the country reports include 'in-depth reviews' of possible macroeconomic imbalances. The 12 were selected by the Commission in November 2017 for further assessment.

Its findings are as follows:

- Croatia, Cyprus and Italy are experiencing excessive economic imbalances;
- Bulgaria, France, Germany, Ireland, the Netherlands, Portugal, Spain and Sweden are experiencing economic imbalances that are not considered excessive. (For Bulgaria, France and Portugal, the imbalances had been judged excessive in 2017);
- Slovenia is no longer experiencing economic imbalances.

The 11 member states experiencing imbalances will continue to be subject to specific monitoring.

- Country reports and in-depth reviews under the 2018 European Semester
- 2018 assessment of progress on structural reforms and macroeconomic imbalances

Court of Auditors report

Issued on 23 January 2018, the special report looks at whether the macroeconomic imbalances procedure is soundly based and adequately implemented.

It examines in detail a sample of four countries – Bulgaria, France, Slovenia and Spain – and to a lesser degree other member states.

The report commends the procedure for its design, but highlights a lack of effectiveness in preventing and correcting imbalances.

The macroeconomic imbalances procedure was introduced in 2011 as a response to the sovereign debt crisis in the euro area. At the time, the EU had no policy instruments to prevent the build-up of harmful imbalances.

The procedure operates on an annual cycle, starting with the publication by the Commission of an 'alert mechanism report'. This identifies member states at risk of imbalances that require analysis in the form of an 'in-depth review'.

The Commission can propose that the Council issue country-specific recommendations on how to address specific imbalances. If it finds imbalances to be excessive, it can propose that the Council activate an 'excessive imbalance procedure'. This enables enhanced surveillance and, for eurozone member states, includes the possibility of sanctions.

To date, the excessive imbalance procedure has never been activated and sanctions have never been applied.

The draft Council conclusions note that the macroeconomic imbalances procedure has filled an important gap in the EU's economic governance framework. Introduced in the middle of a crisis, implementation in the first years mainly supported the correcting of existing imbalances. The procedure has nevertheless helped raise awareness and created the basis for dialogue amongst the member states, the draft states.

The Council is expected to agree on the need to further reinforce and improve implementation.

- 2018 Court of Auditors special report on the macroeconomic imbalances procedure

G20 meeting in Buenos Aires

The Council will discuss preparations for a meeting of G20 finance ministers and central bank governors in Buenos Aires on 19 and 20 March 2018.

It is expected to approve 'terms of reference' for the meeting.

The G20 meeting will feature discussions on the state of the global economy, the international financial architecture, financial regulation, taxation issues and the future of labour.

The presidency will represent the EU at the meeting, together with the Commission and the European Central Bank.

The terms of reference are used as guidelines for EU representatives and those EU member states that are members of the G20.

This will be the first G20 ministerial meeting under Argentinian presidency, which took over from Germany in December 2017. The 2018 G20 summit will be held in Buenos Aires on 30 November and 1 December.

Other items

Under 'other business', the Council will be updated regarding work on legislative proposals in the field of **financial services**.

The Commission will present a package of proposals related to the EU's **capital markets** union project. It will also report on the **implementation** of legislation in the field of financial services;

- March 2018 progress report on financial services legislative proposals
- Council webpage on capital markets union

Without discussion, the Council is expected to add the Bahamas, Saint Kitts and Nevis and the US Virgin Islands and remove Bahrain, the Marshall Islands and Saint Lucia from the EU's list of **non-cooperative jurisdictions** in taxation matters (see separate item above).