Council of the European Union

Brussels, 18 June 2015
(OR. en)

9894/15

LIMITE

EF 112
ECOFIN 480
CODEC 879

Interinstitutional File:
2014/0020 (COD)

NOTE

From:	Presidency
To:	Council
No. prev. doc.:	17137/14; 9579/15 + COR 1 + COR 1 REV 1; 9580/15
No. Cion doc.:	6022/14 + ADD1 to 4
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on structural measures improving the resilience of EU credit institutions *- General approach*

I. INTRODUCTION

1. The Commission Proposal for a Regulation of the European Parliament and of the Council on structural measures improving the resilience of EU credit institutions (hereinafter the banking structural reform, "BSR") was transmitted to the Council on 29 January 2014[1].

The European Economic and Social Committee and the European Central Bank delivered their opinions on 9 July 2014[2] and 21 November 2014[3] respectively.

[1] Doc. 6022/14 + ADD1 to 4.
[2] Doc. 11828/14.
[3] Doc. 15924/14.

A progress report[4] was drawn up under the responsibility of the Italian Presidency, summarising the main outcome of the work carried out by the Working Party on Financial Services during the second semester of 2014.

2. Under the Latvian Presidency, the Working Party on Financial Services continued its discussions on the BSR proposal, holding eleven meetings[5] and focussing on the following main issues:

- scope;
- allocation of entities within the scope in two Tiers;
- general principles for separation;
- the mandatory separation of proprietary trading;
- exemption for certain financial instruments;
- reporting, granular assessment and decision-making for proprietary trading and identify excessive risk of certain other trading activities;
- cooperation between supervisory authorities regarding separation and measures for other risky trading activities.

3. Following these discussions, the Presidency drafted the compromise text presented in doc. 9579/15 EF 100 ECOFIN 438 CODEC 828 + COR 1 REV 1, the key elements of which are set out in doc. 9580/15 (note to Coreper).

This text is the result of the Presidency's best efforts to accommodate and balance, in a legally sound and in the most effective way, the main concerns raised by all Member States.

4 Doc. 17137/14.

5 On 19 January, 13 February, 13 and 31 March, 14 and 30 April, 11, 22, 29 May, 4 and 9 June.

II. OUTCOME OF THE DISCUSSIONS

4. At the Coreper meeting on 17 June 2015, a large number of Member States and the Commission supported this Presidency compromise, while one delegation requested clarifications to the text as regards the following elements:

   – how equivalence is ensured between the two options under Article 5a as regards the powers of the consolidating supervisor and the framing of the flexibility to set large exposure limits. In relation to this, the same delegation tabled drafting proposals for a new Recital 31 bis and for changes to Recital 48 as well as to Article 5a(5) respectively;

   – the conditions for the exemption of certain credit institutions from the scope of the Regulation;

   – the compatibility between the text of Article 10 with Recital 26 as far the as the flexibility in the choice of the measures is concerned.

5. Given the broad support received as well as the reluctance expressed by some delegations in respect to possible further changes to the compromise text, the Presidency remained convinced that the current compromise text represent a fair compromise between the various positions on all the key issues and that further movement would put at risk this delicate balance.

III. CONCLUSIONS

6. Against this background, the Presidency invites the Council to agree on the general approach as set out in doc. 9579/15 EF 100 ECOFIN 438 CODEC 828 + COR 1 REV 1.