The Weekly Report from Brussels, provided by the European Affairs team at the City of London, provides an update on key developments relating to financial services in the EU.

1 December 2017

Welcome to the Weekly Report from Brussels, prepared by the City of London Corporation European Affairs team.

This week includes:

More information about the work of the City of London Corporation European Affairs team can be found **here.**

ECON Committee holds economic dialogue with Valdis Dombrovskis and Pierre Moscovici

The Economic and Monetary Affairs (ECON) Committee held an economic dialogue with Vice-President of the European Commission Valdis Dombrovskis and Commissioner Pierre Moscovici. The focus was on the Commission's Opinions on the Draft Budgetary Plans (DBPs) for 2018 that were submitted by 18 Member States. The aim of the Opinions is to assess compliance with the Stability and Growth Package (SGP) agreed by euro area Member States. Greece did not submit a DBP as it remains under the ESM stability support programme.

Vice-President Dombrovskis, responsible for the Euro and Social Dialogue, and also in charge of Financial Stability, Financial Services and Capital Markets Union, commented that the issuing of opinions on DBPs is 'an important milestone' in the Commission's ability to assess compliance and maintain oversight of the budgetary situation and fiscal stance in the euro area. He further remarked that the euro area is continuing to improve on the back of recovery and that the Commission expects this strength will continue. Reducing high levels of debt and increasing fiscal buffers remains priority in order to protect against shocks.

Euro area outlook

Six Member States were at risk of non-compliance, compared with eight in the previous year. Average deficit and debt levels are 'clearly moving down' according to Vice-President Dombrovskis. The euro area deficit decreased from 1.6% of GDP in 2016 to 1.1% in 2017. In 2018, the implementation of Member States' plans is forecast to result in a headline deficit of 0.9% of GDP for the euro area, and a reduction in the euro area debt ratio from 88% to 86% of GDP.

Member State positions

The Committee was also informed that Vice-President Dombrovskis and Commissioner Moscovici, responsible for Economic and Financial Affairs, Taxation and Customs, had signed a letter to the Italian government emphasising the importance of not watering down key provisions in the 2018 budget as well as the importance of sticking to crucial structural reforms such as pension arrangements.

Commissioner Moscovici commented on the disparities between Member States' positions, in particular as regard their medium-term budgetary objectives. The Commission therefore has adopted a 'differentiated approach' for the 'smart implementation' of the SGP.

No DBP for 2018 has been found in serious non-compliance with the requirements of the SGP. In several cases, however, the Commission found that the planned fiscal adjustment falls short, or is at risk of doing so, of what is required by the SGP. Therefore further information was requested from Belgium, Italy, Austria, Portugal and Slovenia.

Impact of Brexit

During the interventions, Brian Hayes MEP (EPP, Ireland) raised the issue of how a hard Brexit might affect the Irish economy as an asymmetric shock. Vice-President Dombrovskis advised that the Commission was aiming to avoid a 'no-deal scenario' favouring an orderly Brexit. Commissioner Moscovici added that the Commission had produced 2018 projections on the purely technical assumption that the status quo will continue as regards trade. This was for forecasting purposes only and is not impactful on the ongoing negotiations.

ITRE Committee debates Cyber Security Act

The Industry, Research and Energy (ITRE) Committee held a public hearing in the context of the legislative work on the 'Cybersecurity Act', which was adopted by the European Commission on 13 November 2017.

The hearing was divided in two parts. The first part focused on the European Union Agency for Network and Information Security (ENISA) - the "EU Cybersecurity Agency" - and its new mandate. The second part of the hearing centred on the European cybersecurity certification framework, and its impact on the European cybersecurity industry. The hearing was intended to allow Members to have a dialogue with the relevant experts and stakeholders on the content of the Commission's proposals.

Reform of ENISA Mandate

Gerhard Schabhüser (Vice President, Federal Office for Information Security) advised the Committee that the central mission of ENISA is to provide expertise and consultation to support Member States and EU Institutions as regard the Network and Information Security (NIS) capacities and knowledge. The Commission has set out a permanent mandate for ENISA providing for a 'significant' increase in resources. ENISA would be able under its new mandate to offer unique services for Member Sates including recommendations for the setting up or expansion of cybersecurity certifications.

Mr Schabhüser opined that the implementation of EU Certification would weaken Member States' certification procedures and therefore the level of regulatory oversight. ENISA plays an important coordination role, he contended, stating that 'cybersecurity is part of the national security landscape'. He feared that transferring this function to EU level 'could mean that national efforts are not followed through with necessary determination'. Instead he advocated the value of national bodies' 'detailed expertise' and proximity to target groups (including administrations, businesses and citizens).

Speaking as an independent expert, Merle Maigre (Director, NATO Cyber Defence Centre of Excellence) highlighted the 'number and diversity of cyber threats continuously growing' in the EU and contended that the 'EU must be more resilient'. The new mandate would enable 'better cooperation, crisis management and infrastructure for protection'.

There was some disagreement among the Committee members as to the best direction for the ENISA. S&D MEPs, for example, referred to the 'egotistical tendencies of nation states' having led to a 'communication that is not on the level we would like to see', arguing instead for ‘common action in the future’.

The rapporteur, Angelika Niebler MEP (EPP, Germany) highlighted how vital the information sharing aspect of ENISA may be, and pointed out that with regard to cyber attacks the current position could be perceived as ‘the bad guys are sharing the information, whereas the good guys are not’.

European cybersecurity certification framework

Gabriele Faggioli (President, CLUSIT - Italian Association for Computer Security) commented that a successful certification scheme can raise levels of security to a higher standard. It is an approach based on risk mitigation. Mr Faggioli argued that ‘if European markets would pay more attention to this aspect, products and services will become more attractive’. He reported that the present situation is fragmented meaning the economic burdens associated with certification fall to businesses, in particular those operating across multiple Member States. A new approach based on risk mitigation in line with technical standards was therefore thought preferable. Further, Mr Faggioli opined that there should be capacity to apply penalties for products without required characteristics.

Symantec's Senior Director Government Affairs EMEA and APJ, Ilias Chantzos, focused his comments on certification in the area of defence as was presented by the Commission in its communications on the subject. Mr Chantzos called for harmonisation in the market given the ‘many blind spots’ and disparity between the protection available for PC devices and IOD devices in the existing distributed architecture model. He expressed concern that progress would be hindered by a lack of access to data.

As regards certification, the role of manufacturers, network providers and other players needs to be determined in order to reach a conclusion on how the policy should develop. A market driven certification system could operate at EU level but would ‘need to be technologically neutral’. Further, Mr Chantzos contended that the ‘private sector must have a role in its establishment’. In line with this, Mr Chantzos also welcomed a strong role for ENISA.

European Parliament adopts legislation for the ranking of debt instruments in insolvency

On 30 November, the European Parliament adopted **legislative proposals** setting out provisions for the ranking of unsecured debt instruments in insolvency hierarchy. The aim of the legislation has been to provide legal certainty when systemically important banks face problems such as those which occurred during the financial crisis.

Introducing the legislation, the rapporteur Gunnar Hökmark MEP (EPP, Sweden) presented the hierarchy as achieving legal clarity, safeguarding depositors and tax payers as well as alerting the market that 'you take the same risk investing in a bank as in other companies'. He described the legislation as 'a cornerstone of the Banking Union'.

Present risks

The rapporteur also commented on the current low levels of investment in the EU, which he reported to be at pre-crisis levels. This represents a potential systemic risk as it has knock-on effects for competitiveness, jobs and the growth that is needed to ensure economic and financial market stability, Mr Hökmark said. This legislation is intended to ensure that, should such a risk materialise, governments and tax payers are not called upon to 'finance the problems of others'.

Plenary reception

European Commission Vice-President Jyrki Katainen, responsible for Jobs, Growth, Investment and Competitiveness, praised the 'solid rules based system' that the legislation sets out. Banks will now issue debt under a new statutory category available in all Member States. The 'clear harmonised rules' for creditor hierarchy provide legal certainty, reduce risk and bring the EU in line with international standards as regards the total loss absorbing capacity (TLAC) for banks.

Pedro Silva Pereira MEP (S&D, Portugal) praised the rapid progress of the legislation that had attracted an 'almost complete consensus' as a 'near miracle'.

The agreement in the Parliament was also praised by Brian Hayes MEP (EPP, Ireland) as sending a 'strong message as to how we will deal with a crisis if this were to occur again'. The architecture proposed advances on the position that Member States found themselves in during 2008.

Support was not unanimous in all regards, however, with Miguel Viegas MEP (GUE/NGL, Portugal) expressing concern that the legislation supports a policy of creating 'too big to fail institutions' that 'represent a systemic danger for which there is no backstop'. Mr Viegas contended that this makes the legislation actually likely to achieve the 'opposite of its proclaimed objectives' favouring instead the nationalisation of the banking system 'to put banking services at the service of the public'.

In other news

- The **PANA Committee** held a discussion with the Investigative Journalists behind the release of the 'Paradise Papers'.
- The **European Parliament** held plenary debates (and votes) on transitional arrangements for mitigating the impact of the introduction of IFRS 9, VAT obligations for suppliers of services and distance sales of goods and administrative cooperation/combating fraud in the field of VAT.
- The European Commission adopted **rules** designed to make safer payments made in shops and online under the revised Payment Services Directive.

Upcoming EU Institutions events and consultations

5 January: Deadline for EBA **consultation** for home-host cooperation under PSD2
5 January: Deadline for **consultation** paper on EIOPA’s second set of Advice to the European Commission on specific items in the Solvency II Delegated Regulation
15 January: Deadline for ESMA **consultation** on draft guidelines on standards for trade repositories' derivative positions
22 January: Deadline for Commission **consultation** on how best to encourage sustainable investments
31 January: Deadline for EBA **consultation** on guidelines to strengthen pillar 2 framework

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City of London Research

The City of London produces regular research on EU Financial Services which can be accessed **here.**

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