E U R O P E A N   E C O N O M I C   A R E A

S T A N D I N G   C O M M I T T E E
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SUBCOMMITTEE II ON THE FREE MOVEMENT OF CAPITAL AND SERVICES

EEA EFTA Comment

On the proposals for a Regulation of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms [CRR] and for a Directive of the European Parliament and of the Council on the access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms and amending Directive 2002/87/EC of the European Parliament and of the Council on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate [CRD IV]

1. Introduction

1. The EEA EFTA States (Iceland, Liechtenstein and Norway) refer to the proposals of the European Commission published on 20 July 2011 on CRR [COM(2011) 452] and on CRD IV [COM(2011) 453].

2. On the basis of the EEA Agreement, EU legal acts in the financial services sector apply equally to Iceland, Liechtenstein and Norway. Thus, the EEA EFTA States are fully integrated into the Internal Market through the EEA Agreement. The EFTA Surveillance Authority ensures that those EU acts are interpreted and implemented correctly and in a consistent manner in order to secure the homogeneity within the Internal Market.

3. The EEA EFTA States welcome the Commission proposals transposing the Basel III Agreement into EU legislation with the aim of strengthening the financial stability in the banking sector and would like to contribute to the current discussion on the said proposals with the present, preliminary EEA EFTA Comment.

2. Level of harmonisation

4. The EEA EFTA States recognise the importance of ensuring that the new rules are applied across the Internal Market in a timely manner and appreciate the intensive work that the Commission has done in order to transpose the Basel III Agreement into EU legislation. However, like a number of EU Member States, the EEA EFTA States are concerned about the current Capital Requirement Directives being replaced by a Directive and a Regulation and with one single standard of capital and liquidity requirements (maximum harmonisation).

5. The EEA EFTA States would like to remind the Commission that the Basel Agreements have always set minimum capital requirements and Basel III is no exception.[i] Therefore, countries are able under the Basel III Agreement to choose to implement higher standards. Switzerland for example has made this choice of setting higher standards.

6. Moreover, experience from the current crisis and a growing body of academic literature suggests that the capital levels proposed by the directive might be suboptimal from a macro-economic perspective, not least for small economies with highly concentrated banking sectors.

7. Recasting the current Capital Requirement Directives as a Regulation would prevent EU Member States as well as EEA EFTA States from the flexibility granted at international level under the Basel III Agreement, which has been fully endorsed by the G20.

8. Furthermore, the importance of the financial sector with respect to the national economies or size of the banking sector relative to GDPs across Europe varies quite significantly. The macro-economic situation differs, and will presumably continue to differ, between the various EEA Member States. It is, and will be, important to retain the possibility to address specific national circumstances with adequate prudential regulation. Therefore, the EEA EFTA States are of the opinion that flexibility is needed, in particular to set higher capital requirements in order to protect financial stability in an adequate way with respect to the specific national situations.

9. The ongoing financial crises also points to the possibility of extremely high cost from banking crises, not least for small open economies. The EEA EFTA States would like to stress that the ultimate fiscal responsibility for ensuring financial stability is borne by each country (and the respective tax payers). Consequently, it is of utmost importance that a country is able to set sufficiently high capital requirements in a clear and transparent manner that fit the national banking sector, provided that they are above the minimum requirements under Basel III.

10. The speed with which a bank experiencing a run collapses is incomparable with any other organisation. The failure of one bank can have a strong contagion effect on the rest of the banks, even if they are healthy. Given the risks to financial stability, it is therefore important that credit institutions and investment firms are well-regulated in order to avoid such situations in the future. While the financial markets are global, eventual problems in the banking sector in a country must be dealt with by the national authorities of that country. Each country's national authorities therefore have a clear

responsibility and a clear incentive to prevent a crisis in their own banking system. Sound regulation and solid financial institutions are also positive for the competitiveness in the banking sector.

3. Conclusion

11. The EEA EFTA States support the transposition of the Basel III minimum capital requirements into EU legislation. The EEA EFTA States are, however, of the opinion that each EEA Member State must retain the necessary competence to set higher capital requirements than the minimum capital requirements where this is appropriate based on financial stability considerations.

[i] The Chair of the Basel Committee, Mr Nout Wellink, confirmed that Basel III sets minimum standards in his speech at the ING Basel III Financing Conference on 14 April 2011 in Amsterdam, available on the following link: http://www.bis.org/review/r110420a.pdf .