



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 12 October 2009**

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**NOTE**

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from:	General Secretariat
to:	Coreper/Council
Subject:	Draft Council conclusions on strengthening EU financial stability arrangements

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Please find enclosed draft Council conclusions on strengthening EU financial stability arrangements.

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***Draft Council conclusions on  
Strengthening EU financial stability arrangements***

1. The current crisis in global financial markets has severely tested the stability of the European financial system and revealed that more fundamental changes to the financial stability arrangements, supervisory and regulatory framework are needed to ensure enhanced coordination among national supervisors, central banks and governments in a crisis situation, as well as an integrated approach to crisis prevention, management and resolution in order to promote financial stability.
2. Against this background, the Council RECALLS the conclusions adopted by the 9 June 2009 ECOFIN Council<sup>1</sup> and the 18-19 June 2009 European Council<sup>2</sup>, which underscored the need "to advance work on building a comprehensive cross-border framework for the prevention and management of financial crisis". The Council STRESSES the need to move forward to ensure that progress is made in parallel to the ongoing work on the EU supervisory framework.
3. In particular, the Council WELCOMES the Report of the EFC High Level Working Group on Cross-Border Financial Stability Arrangements (HLWG) of 8 July 2009<sup>3</sup>, and on that basis AGREES on the need to make progress on the following two strands, which are closely interrelated and complementary: strengthen the existing regulatory framework for crisis prevention, management and resolution and develop a comprehensive EU-wide framework for closer policy coordination on financial stability, in particular in a financial crisis, taking into account the respective responsibilities of EU bodies/institutions/committees participating in this process as well as the international dimension.

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<sup>1</sup> Doc. 10862/09 ECOFIN, 434EF91, SURE20  
Doc. 11225/2/09 REV2

<sup>3</sup> Report on Lessons from the financial crisis for European Financial Stability Arrangements, EFF-HLWG on cross-border financial stability arrangements, 8 July 2009.

4. The Council UNDERSCORES the importance of:

- significantly enhancing the EU regulatory framework for crisis prevention, management and resolution by developing common and interoperable tools to improve Member States' ability to adequately handle a financial crisis. To this end, and recalling its 9 June conclusions, the Council IS LOOKING FORWARD to consider the Commission Communication on bank resolution (including early intervention tools) to be adopted [today], and INVITES the EFC to carry on preparatory work in view of the discussion at its December meeting. The Council IS LOOKING FORWARD to the Commission's proposals in respect of deposit guarantee schemes in early 2010, which should also include consideration for alternative ways to organise deposit guarantee schemes in the EU, including pan-EU deposit guarantee schemes. The Council INVITES the Commission to further review the home-host arrangements for branches under the EU single passport.
- developing a comprehensive EU-wide framework for closer policy coordination on financial stability, in particular to deal with a cross-border financial crisis, while taking into account the respective responsibilities of EU bodies/Institutions/Committees and national authorities participating in the process and building on the following elements:
  - stronger prevention policies and the efficient and timely assessment and prioritisation of risks, including with EU-wide stress tests on a regular basis in addition to the tests carried out by national authorities;
  - the full implementation of the 2008 MoU, taking into account the lessons from the current crisis and the new EU supervisory system;
  - strengthened mechanisms for policy coordination in crisis management among Member State governments in line with the Treaty obligations;
  - the need to develop credible alternative to public support, notably through facilitating winding-down of cross-border financial groups, including through the development of firm-specific contingency planning and resolution plans.

5. The Council therefore INVITES the EFC together with the Commission to work further towards developing a policy coordination framework for crisis prevention, management and resolution, taking into account ongoing work at the Financial Stability Board and the Commission proposals on the regulatory framework, by:
- developing practical arrangements to further enhance the EU-wide policy coordination in cross-border crisis prevention, management and, resolution between Member State governments within the Council/EFC, taking into account as appropriate, the links to the ESRB and ESFS, and building on the practical arrangements set up during the crisis;
  - carrying out further work on burden sharing to explore the pros and cons of ex-ante and ex-post burden sharing arrangements as well as possible principles, criteria and procedures that could be applied in a crisis in the case government support becomes necessary.

To this end, the Council INVITES the EFC to produce a reflection paper for the December Ecofin.

6. The Council ENDORSES the attached ECOFIN roadmap, which sets out the short, medium and long term priorities in strengthening EU financial supervision, stability and regulation.

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*(Attachment: draft ECOFIN roadmap)*

## ECOFIN ROADMAP- on financial supervision, stability and regulation

### 1. Supervisory framework

Action	Timetable	Actors	State of progress
<b>1. Follow-up to the de Larosière Report</b>			
Revision of EU supervisory framework by:	September 2009	Commission	Legal Proposals by Commission
1. adopting a general approach on the a macro-prudential framework (creation of the ESRB)	October 2009	Council	
2. adopting a general approach on a micro-prudential framework (creation of ESFS)	December 2009	Council	

<b>2. Colleges of supervisors</b>			
<ul style="list-style-type: none"> <li>Establishment of colleges of supervisors for large cross-border financial groups</li> </ul>	As soon as possible and at the latest end 2009	CEBS-CEIOPS	Ongoing for CEBS, fulfilled for CEIOPS
<ul style="list-style-type: none"> <li>Operational guidelines for the colleges of supervisors</li> </ul>	End 2009	CEBS-CEIOPS	Ongoing: CEBS guidelines to be published end 2009; fulfilled for CEIOPS
<ul style="list-style-type: none"> <li>Establishment of CEBS and CEIOPS risk assessment methodology within colleges</li> </ul>	End 2009	CEBS-CEIOPS	Ongoing: both CEBS and CEIOPS respectively working on a common methodology

<b>3. Reports/analysis of operational aspects to EU supervision</b>			
<ul style="list-style-type: none"> <li>Explore ways to strengthen national application of guidelines of EU Committees of supervisors</li> </ul>		EU Committees of supervisors	Completed by CEBS and CESR. Ongoing in CEIOPS (to be finalised by end 2009)
<ul style="list-style-type: none"> <li>Study on sanctioning powers</li> </ul>	Autumn 2009	Commission, based on input from EU supervisory Committees	Postponed Input by the EU Committees of Supervisors has been delivered.
<ul style="list-style-type: none"> <li>Report on supervisory Cooperation and information exchange</li> </ul>	Autumn 2009	Commission	Ongoing (will be released after finalisation of the Supervision package)
<ul style="list-style-type: none"> <li>Report on delegation of tasks and responsibilities</li> </ul>	Autumn 2009	Commission	Input by the EU Committees of Supervisors has been delivered.

<b>4. Transparency</b>			
Financial institutions provide full risk disclosure in reporting and disclosure of all losses on an ongoing basis	Ongoing	Financial institutions, Commission with input from EU Committees of Supervisors	The CEBS Reports on Financial Statements respectively on Pillar 3 disclosures were published in June 2009; follow-up work is ongoing  CEIOPS to develop Level 3 guidance on reporting and disclosure (follow up to Level 2 advice in 2009)
<b>5. Taking account of the EU dimension</b>			
<ul style="list-style-type: none"> <li>Enable supervisory authorities to take account of the EU dimension</li> </ul>	<p>Mid-2009;</p> <p>End-2009</p>	<p>Member States, taking into account recent legislation on banking and insurance and securities</p> <p>FSC to follow up on implementation</p>	Ongoing



## 2. Framework for crisis prevention, management and resolution

Action	Timetable	Actors	State of progress
<b>1. Bank resolution framework</b>			
<ul style="list-style-type: none"> <li>Bank resolution framework (including early intervention tools) of the EU</li> </ul>	June 2009	Commission Communication  (Poss. follow-up: consultation and legislative proposals in 2010  Input from the EFC	Ongoing  Scheduled for October 2009        Ecofin December 2009
<ul style="list-style-type: none"> <li>Resolution plans for financial institutions ('living wills'), ensuring consistency and coordination in implementation.</li> </ul>	2010	Commission, Council with input from Level 3 Committees /ESAs	

<b>2. Guarantee Schemes</b>			
<ul style="list-style-type: none"> <li>Review the adequacy of existing guarantee schemes in banking, securities and insurance and make appropriate legislative proposals</li> </ul>	July 2009- mid 2010	Commission Consultation in July, possible legislative proposal in early 2010	Ongoing
<ul style="list-style-type: none"> <li>Assessment of the need for a pan-EU guarantee scheme</li> </ul>	2010	FSC, with inputs from Commission, BSC, CEBS, CEIOPS and CESR/ESAs	Pre-consultation

<b>3. EU-wide framework for policy coordination on financial stability</b>			
Creation of a comprehensive EU-wide framework for closer policy coordination on financial stability, including:	2010	EFC	
<ul style="list-style-type: none"> <li>▪ regular transmission of risk assessments,</li> </ul>	2010	ESRB	
<ul style="list-style-type: none"> <li>▪ carrying out EU-wide stress tests in cooperation with the Commission and the ESAs as appropriate;</li> </ul>	2010	ESRB	
<ul style="list-style-type: none"> <li>▪ further enhancing policy coordination between relevant authorities in the EU, (CBSGs or the ECOFIN/EFC for the EU as a whole), taking into account as appropriate, the links to the ESRB and ESFS , by developing practical arrangements and carrying out further work on burden sharing</li> </ul>	2010	EFC	
	End 2009	based on a reflection paper from the EFC AHWG	

<b>4. Memorandum of Understanding</b>			
<ul style="list-style-type: none"> <li>Implementation of the 2008 MoU</li> </ul>	2009	Supervisory authorities, Finance Ministries, Central Banks	Ongoing FSC to report on implementation to the November EFC (in particular on the establishment of CBSGs)
<ul style="list-style-type: none"> <li>(Poss) revision of the need to revise the 2008 MoU beyond the adjustments for new developments</li> </ul>	2010	EFC	
<b>5. Home –Host</b>			
<ul style="list-style-type: none"> <li>Consider the need and possibility of introducing a number of changes in EU legislation to enhance the functioning of the EU single Passport</li> </ul>	2009	Commission	Poss. legislative changes to be discussed in EBC on 23 October

### 3. Regulatory framework

Action	Timetable	Actors	State of progress
<b>1. Valuation and accounting standards</b>			
<ul style="list-style-type: none"> <li>▪ Replacement of IAS 39 (covering level playing field issue following the FASB's decision of April 2009) <ul style="list-style-type: none"> <li>○ Exposure draft on classification and measurement (phase I)</li> <li>○ Exposure drafts on loan loss provisioning and on hedge accounting (phases II and III)</li> </ul> </li> </ul>	<p>July 2009 (standard in October 2009)</p> <p>Oct. (phase II) and Dec. (phase III) 2009 (standards H1/2010)</p>	IASB (Commission and EU Committees of Supervisors closely monitoring progress)	Ongoing
<ul style="list-style-type: none"> <li>▪ Standard setters to address weaknesses and consider improvements in market valuations of financial instruments based on their liquidity and investors' holding horizons</li> <li>▪ Replacement of IAS 39 (see above) <ul style="list-style-type: none"> <li>○ Exposure draft on fair value measurement</li> </ul> </li> </ul>	<p>May 2009 Comments by 28 Sept. (standards H1/2010)</p>	IASB (Commission closely monitoring progress)	Ongoing



<b>3. Pro-cyclicality</b>			
<ul style="list-style-type: none"> <li>▪ Follow-up to the report of the EFC-WG on Pro-cyclicality and the July Ecofin Conclusions Possible measures to address pro-cyclicality of capital requirements in the short term</li> <li>▪ Identify policy tools to mitigate pro cyclicality in the financial system and financial regulation, including of capital requirements through counter-cyclical capital buffers in the CRD <ul style="list-style-type: none"> <li>○ Dynamic provisioning</li> <li>○ Proc-cyclicality of CRD</li> </ul> </li> </ul>	September	EFC with input from Commission and FSC discussion	Ongoing; (the Commission proposal in July addressed one of the perceived drivers of pro-cyclicality: remuneration policies)
	October 2009	Commission proposal	Ongoing (linked to Basel process), CEBS
	End 2009	Commission report	Expected in early 2010
<b>4. Credit rating agencies</b>			
<ul style="list-style-type: none"> <li>▪ Credit rating agencies to adopt standards for compliance with EU regulation based on the IOSCO code of conduct <ul style="list-style-type: none"> <li>○ EU regulation</li> </ul> </li> <li>▪ Registration and oversight of CRAs</li> </ul>	Autumn 2009	CESR- CEBS (CRD) based on IOSCO Works	Ongoing
	2010		

<b>5. UCITS regulation</b>			
<ul style="list-style-type: none"> <li>Assess risk management in non-bank investors, particularly for illiquid assets.</li> <li>Any further initiative as a follow-up to the Madoff case.</li> </ul>	Autumn 2009	Commission, CCSR and industry	Expected level II  Provisions of the UCITS directive  CCSR draft advice under public consultation
<b>6. OTC derivatives</b>			
<ul style="list-style-type: none"> <li>Increasing the safety for "over the counter" derivatives markets , by :- the clearing of standardized OTC derivative contracts through central counterparties and, if not, higher capital requirements ;</li> <li>- the reporting of non-standardized derivative contracts to trade repositories.</li> </ul>	Autumn/end 2009  (political orientations)/ 2010 (potential legislation )	Commission to examine possible future solutions  CCSR report on trade repository/"warehouse" starting with consultation	Ongoing
<ul style="list-style-type: none"> <li>Improve transparency in use of derivatives</li> </ul>	June 2009  + MIFID review	Commission presented a report	Ongoing



<b>8. Other actions</b>			
<ul style="list-style-type: none"> <li>Extend the scope of regulation to all to date still unregulated instruments, institutions, markets in respect of systemic institutions</li> </ul>	<p>Overview by September 2009 and Mifid review in 2010</p>	<p>EFC, FSC, Commission</p>	<p>Ongoing.</p> <p>Initiated for hedge funds managers, CRAs, OTC derivatives.</p>
<ul style="list-style-type: none"> <li>Member States' common format to disclose national transposition of EU legislation</li> </ul>		<p>MS and EU Committees of Supervisors</p>	<p>CEBS completed</p> <p>CESR-CEIOPS ongoing</p>
<ul style="list-style-type: none"> <li>Review of the Prospectus Directive</li> </ul>	<p>Autumn 2009</p>	<p>Commission proposal</p>	<p>Ongoing</p>
<ul style="list-style-type: none"> <li>Cross sectoral consistency checks of terminology of EU legislation</li> </ul>	<p>September 2009</p>	<p>Commission</p>	<p>Ongoing</p>
<ul style="list-style-type: none"> <li>Harmonization of reporting formats for financial institutions</li> </ul>	<p>2012</p>	<p>EU Committees of Supervisors, Commission, FSC</p>	<p>Ongoing</p>
<ul style="list-style-type: none"> <li>Review market abuse directive</li> </ul>	<p>Autumn 2009</p>	<p>Commission proposal</p>	<p>Ongoing</p>

#### 4. Promoting integrity of financial markets

Action	Timetable	Actors	State of progress
<b>1. Retail policies</b>			
<ul style="list-style-type: none"> <li>Ensure responsible lending and borrowing</li> </ul>	Autumn 2009	Commission	Public consultation launched in June 2009 with a deadline of 31 August, public hearing took place on 3 September 2009. Analysis of the results of the consultation and hearing ongoing.
<ul style="list-style-type: none"> <li>Promote best practices for pre-foreclosures arrangements</li> </ul>	October 2009	Commission	Responses to questionnaires to national supervisory authorities on pre-foreclosure practices are being analysed by the Commission
<ul style="list-style-type: none"> <li>Empowering retail clients</li> </ul>	Early 2010	Council, Commission	

<ul style="list-style-type: none"> <li>▪ Packaged Retail Investment Products (PRIPs)</li> </ul>	End 2009	<p>Commission</p> <p>EU Committees of Supervisors</p>	<p>Orientation paper subject to public consultation</p> <p>Input to the Commission from CESR, CEIOPS and CEBS on issues relating to “scope”, product disclosure and selling practices by end Oct 2009.</p>
<ul style="list-style-type: none"> <li>▪ Strengthen financial services consumer inputs to EU policy</li> </ul>	End 2009	Commission	Internal deliberations on the best approach to strengthen consumer/investor input
<ul style="list-style-type: none"> <li>▪ Simplify and harmonize national substantive law on securities holding and transactions</li> </ul>	Early 2010	Commission proposal	Ongoing
<ul style="list-style-type: none"> <li>▪ Short selling</li> </ul>	End 2009	CESR	Current public consultation
<ul style="list-style-type: none"> <li>▪ Complete the Single Euro Payment area</li> </ul>	Mid-2009	Commission	Commission Communication (SEPA roadmap) adopted 10 September 2009

<b>2. Remuneration policies and governance</b>			
<ul style="list-style-type: none"> <li>▪ Link capital requirements of banks to remuneration policies and give enforcement powers to supervisors on remuneration issues</li> </ul>	End 2009	Commission  Inputs from CEBS	Proposal tabled in July (CRD III)  CEBS guidelines have been published on 20 April 2009
<ul style="list-style-type: none"> <li>▪ Examine additional measures on remuneration and risk management in relation to non-banking institutions</li> </ul>	Autumn 2009	Commission proposal/implementing measures	Ongoing
<ul style="list-style-type: none"> <li>▪ Report on corporate governance principles for financial institutions</li> </ul>	2010	Commission report	Ongoing,  (also input from Basel Committee). CEBS work on internal governance and risk management. CEIOPS work on Level 3 guidance on governance as a follow up on Level 2 advice to EC in 2009.

3. Non cooperative jurisdictions			
<ul style="list-style-type: none"> <li>▪ Implement the agreed strategy in the context of the G-20 on non-cooperative jurisdictions based on:               <ul style="list-style-type: none"> <li>- Criteria for identifying non cooperative jurisdictions</li> <li>- Developing a process for evaluating compliance</li> <li>- Developing a toolbox of dissuasive measures to promote adherence to international prudential standards</li> </ul> </li> </ul>	<p>Various dates.</p> <p>(the FSB to report to G20 on criteria and compliance against regulatory standards by November 2009)</p>	<p>Commission and Member States in the context of the FSB</p>	<p>Ongoing</p>