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Committee on Economic and Monetary Affairs

2011/0203(COD)

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*****I**

DRAFT REPORT

on the proposal 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
(COM(2011)0453 – C7-0210/2011 – 2011/0203(COD))

Committee on Economic and Monetary Affairs

Rapporteur: Othmar Karas

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal 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 (COM(2011)0453 – C7-0210/2011 – 2011/0203(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2011)0453),
 - having regard to Article 294(2) and Article 53(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0210/2011),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the reasoned opinion submitted, within the framework of the Protocol (No 2) on the application of the principles of subsidiarity and proportionality, by the Swedish Parliament, asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to Rules 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A7-0000/2011),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive
Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) In order to ensure a well-functioning internal market, transparent, predictable

and harmonised supervisory practices and decisions are necessary for conducting business and steering cross-border-groups of credit institutions. EBA should therefore enhance harmonisation of supervisory practices of home and host supervisors. Supervisory processes and decisions should incorporate the principle of the internal market concerning the free flow of capital. Supervisory colleges should ensure a common and aligned working programme as well as harmonised supervisory decisions. The decisions of supervisory colleges should be binding on all group members as well as on home and host supervisory authorities. Cooperation between home and host supervisor should be strengthened through a higher degree of transparency and information sharing.

Or. en

Amendment 2

Proposal for a directive Recital 44 a (new)

Text proposed by the Commission

Amendment

(44a) A 'management body' should be understood to have executive and supervisory functions. The competence and structure of management bodies differs across Member States. In Member States where management bodies have a one-tier structure the board performs management tasks. In Member States with a two-tier system, the supervisory function of the board is performed by a separate supervisory board which has no executive functions and the executive function is performed by a separate management board, which is responsible and accountable for the day-to-day management of the undertaking.

Accordingly, separate tasks are assigned to the different entities within the management body.

Or. en

Amendment 3

Proposal for a directive

Recital 63

Text proposed by the Commission

(63) The Commission should adopt the draft regulatory technical standards developed by EBA in the areas of authorisation of and acquisitions of significant holdings in credit institutions, information exchange between competent authorities, exercise of the freedom of establishment and the freedom of services, supervisory collaboration, governance, remuneration policies and internal control mechanisms of credit institutions and investment firms, Supervision of mixed financial holding companies, and supervisory review by means of delegated acts pursuant to Article 290 TFEU and in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Amendment

(63) The Commission should adopt the draft regulatory technical standards developed by EBA in the areas of authorisation of and acquisitions of significant holdings in credit institutions, information exchange between competent authorities, exercise of the freedom of establishment and the freedom of services, supervisory collaboration, governance, remuneration policies and internal control mechanisms of credit institutions and investment firms, Supervision of mixed financial holding companies, and supervisory review by means of delegated acts pursuant to Article 290 TFEU and in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010. ***EBA and the Commission should ensure that those standards and requirements can be applied by all different institutions concerned in a way that is proportionate to the nature, scale and complexity of the institutions and their activities.***

Or. en

Amendment 4

Proposal for a directive Article 22 – paragraph 9

Text proposed by the Commission

Amendment

9. EBA shall develop draft regulatory technical standards to establish an exhaustive list of information, referred to in Article 23(4), to be included by proposed acquirers in their notification, without prejudice to paragraph 3 of this Article.

deleted

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1093/2010.

Or. en

Amendment 5

Proposal for a directive Article 52 – paragraph 1 – subparagraph 2 – point b

Text proposed by the Commission

Amendment

(b) the likely impact of a suspension or closure of the operations of the institution on **market** liquidity and the payment and clearing and settlement systems in the host Member State;

(b) the likely impact of a suspension or closure of the operations of the institution on **systemic** liquidity and the payment and clearing and settlement systems in the host Member State;

Or. en

Amendment 6

Proposal for a directive Article 57 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) Deposit Guarantee Schemes as referred to in Article 1(2) of Directive 2012/... [on Deposit Guarantee Schemes];

Or. en

Amendment 7

Proposal for a directive Article 58 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) contractual or institutional protection schemes referred to in Article 1(3) of Directive 2012/... [on Deposit Guarantee Schemes];

Or. en

Amendment 8

Proposal for a directive Article 59 – title

Text proposed by the Commission

Amendment

Transmission of information concerning monetary, systemic and payment aspects

Transmission of information concerning monetary, **deposit protection**, systemic and payment aspects

Or. en

Amendment 9

Proposal for a directive

Article 59 – paragraph 1 – point a (new)

Text proposed by the Commission

Amendment

(aa) Deposit Guarantee Schemes as referred to in Article 1(2) of Directive 2012/... [on Deposit Guarantee Schemes];

Or. en

Amendment 10

Proposal for a directive

Article 86 – paragraph 2 – subparagraph 2 – point a

Text proposed by the Commission

Amendment

(a) identify and recommend, **for the approval of the management body in its supervisory function** candidates to fill management body vacancies. In doing so, the nomination committee shall evaluate the balance of knowledge, skills, diversity and experience of the management body, prepare a description of the roles and capabilities for a particular appointment, and assess the time commitment expected;

(a) identify and recommend candidates to fill management body vacancies **to perform any executive function** for the approval of the management body in its supervisory function. In doing so, the nomination committee shall evaluate the balance of knowledge, skills, diversity and experience of the management body, prepare a description of the roles and capabilities for a particular appointment, and assess the time commitment expected;

Or. en

Amendment 11

Proposal for a directive

Article 86 – paragraph 2 – subparagraph 2 – point b

Text proposed by the Commission

Amendment

(b) periodically assess the structure, size, composition and performance of the management body, and make recommendations to the management body

(b) periodically assess the structure, size, composition and performance of the management body **in its executive function** and make recommendations to the

in its supervisory function with regard to any changes;

management body in its supervisory function with regard to any changes;

Or. en

Amendment 12

Proposal for a directive

Article 86 – paragraph 2 – subparagraph 2 – point c

Text proposed by the Commission

(c) periodically assess the knowledge, skills and experience of individual members of the management body and of the management body collectively, and report this to the management body in its supervisory function;

Amendment

(c) periodically assess the knowledge, skills and experience of individual members of the management body ***in its executive function*** and of the management body collectively, and report this to the management body in its supervisory function;

Or. en

Amendment 13

Proposal for a directive

Article 86 – paragraph 2 – subparagraph 2 – point d

Text proposed by the Commission

(d) periodically review the policy of the management body for selection and appointment of senior management and make recommendations to the management body.

Amendment

(d) periodically review the policy of the management body ***in its executive function*** for selection and appointment of senior management and make recommendations to the management body.

Or. en

Amendment 14

Proposal for a directive

Article 102 – paragraph 4 – subparagraph 2

Text proposed by the Commission

EBA shall submit the draft technical standards referred to in *paragraph 3 to the Commission by 31 December 2015*.

Amendment

EBA shall submit *to the Commission* the draft technical standards referred to in *paragraph 3(a) by 31 December 2015 and the draft technical standards referred to in paragraph 3(b) by 31 December 2016*.

Or. en

Amendment 15

Proposal for a directive

Article 108 – paragraph 1 – point a

Text proposed by the Commission

(a) on the application of *Articles 72 and 92* to determine the adequacy of the consolidated level of own funds held by the group of institutions with respect to its financial situation and risk profile and the required level of own funds for the application of Article 98 to each entity within the group of institutions and on a consolidated basis;

Amendment

(a) on the application of *Articles 64(a), 72, 92 and 100* to determine the adequacy of the consolidated level of own funds held by the group of institutions with respect to its financial situation and risk profile and the required level of own funds for the application of Article 98 to each entity within the group of institutions and on a consolidated basis;

Or. en

Amendment 16

Proposal for a directive

Article 108 – paragraph 2 – subparagraph 1 – point a

Text proposed by the Commission

(a) for the purposes of paragraph 1(a) within four months after submission by the consolidating supervisor of a report containing the risk assessment of the group

Amendment

(a) for the purposes of paragraph 1(a) within four months after submission by the consolidating supervisor of a report containing the risk assessment of the group

in accordance with *Articles 72 and 92* to the other relevant competent authorities.

in accordance with *Articles 64(a), 72, 92 and 100* to the other relevant competent authorities.

Or. en

Amendment 17

Proposal for a directive

Article 108 – paragraph 2 – subparagraph 2

Text proposed by the Commission

The joint decision shall also duly consider the risk assessment of subsidiaries performed by relevant competent authorities in accordance with *Articles 72 and 92*.

Amendment

The joint decision shall also duly consider the risk assessment of subsidiaries performed by relevant competent authorities in accordance with *Articles 64(a), 72, 92 and 100*.

Or. en

Amendment 18

Proposal for a directive

Article 108 – paragraph 3 – subparagraph 1

Text proposed by the Commission

3. In the absence of such a joint decision between the competent authorities within the time period referred to in paragraph 2, a decision on the application of *Articles 72, 84, 92, 98 and 99* shall be taken on a consolidated basis by the consolidating supervisor after duly considering the risk assessment of subsidiaries performed by relevant competent authorities. If, at the end of the time period referred to in paragraph 2, any of the competent authorities concerned has referred the matter to EBA in accordance with Article 19 of Regulation (EU) No 1093/2010, the consolidating supervisor shall defer its decision and await any decision that EBA

Amendment

3. In the absence of such a joint decision between the competent authorities within the time period referred to in paragraph 2, a decision on the application of *Articles 64(a), 72, 84, 92, 98, 99 and 100* shall be taken on a consolidated basis by the consolidating supervisor after duly considering the risk assessment of subsidiaries performed by relevant competent authorities. If, at the end of the time period referred to in paragraph 2, any of the competent authorities concerned has referred the matter to EBA in accordance with Article 19 of Regulation (EU) No 1093/2010, the consolidating supervisor shall defer its decision and await any

may take in accordance with Article 19(3) of that Regulation, and shall take its decision in conformity with the decision of EBA. The time period referred to in paragraph 2 shall be deemed the conciliation period within the meaning of the Regulation. EBA shall take its decision within 1 month. The matter shall not be referred to EBA after the end of the four month period or after a joint decision has been reached.

decision that EBA may take in accordance with Article 19(3) of that Regulation, and shall take its decision in conformity with the decision of EBA. The time period referred to in paragraph 2 shall be deemed the conciliation period within the meaning of the Regulation. EBA shall take its decision within 1 month. The matter shall not be referred to EBA after the end of the four month period or after a joint decision has been reached.

Or. en

Amendment 19

Proposal for a directive

Article 108 – paragraph 3 – subparagraph 2

Text proposed by the Commission

The decision on the application of **Articles 72, 84, 92, 98 and 99** shall be taken by the respective competent authorities responsible for supervision of subsidiaries of an EU parent credit institution or a EU parent financial holding company or EU parent mixed financial holding company on an individual or sub-consolidated basis after duly considering the views and reservations expressed by the consolidating supervisor. If, at the end of the time period referred to in paragraph 2, any of the competent authorities concerned has referred the matter to EBA in accordance with Article 19 of Regulation (EU) No 1093/2010, the competent authorities shall defer their decision and await any decision that EBA shall take in accordance with Article 19(3) of that Regulation, and shall take its decision in conformity with the decision of EBA. The time period referred to in the paragraph 2 shall be deemed the conciliation period within the meaning of that Regulation. EBA shall take its decision within 1 month. The matter shall not be

Amendment

The decision on the application of **Articles 64(a), 72, 84, 92, 98, 99 and 100** shall be taken by the respective competent authorities responsible for supervision of subsidiaries of an EU parent credit institution or a EU parent financial holding company or EU parent mixed financial holding company on an individual or sub-consolidated basis after duly considering the views and reservations expressed by the consolidating supervisor. If, at the end of the time period referred to in paragraph 2, any of the competent authorities concerned has referred the matter to EBA in accordance with Article 19 of Regulation (EU) No 1093/2010, the competent authorities shall defer their decision and await any decision that EBA shall take in accordance with Article 19(3) of that Regulation, and shall take its decision in conformity with the decision of EBA. The time period referred to in the paragraph 2 shall be deemed the conciliation period within the meaning of that Regulation. EBA shall take its decision

referred to EBA after the end of the four-month period or after a joint decision has been reached.

within 1 month. The matter shall not be referred to EBA after the end of the four-month period or after a joint decision has been reached.

Or. en

Amendment 20

Proposal for a directive

Article 108 – paragraph 5 – subparagraph 1

Text proposed by the Commission

5. EBA shall develop draft implementing technical standards to ensure uniform conditions of application of the joint decision process referred to in this Article, with regard to the application of *Articles 72, 84, 92, 98 and 99* with a view to facilitating joint decisions.

Amendment

5. EBA shall develop draft implementing technical standards to ensure uniform conditions of application of the joint decision process referred to in this Article, with regard to the application of *Articles 64(a), 72, 84, 92, 98, 99 and 100* with a view to facilitating joint decisions.

Or. en

Amendment 21

Proposal for a directive

Article 108 – paragraph 5 – subparagraph 3

Text proposed by the Commission

EBA shall develop draft implementing technical standards for submission to the Commission by *31 December 2013*.

Amendment

EBA shall develop draft implementing technical standards for submission to the Commission by *31 December 2015*.

Or. en

Amendment 22

Proposal for a directive

Article 122 – paragraph 1 – point 5 a (new)

Text proposed by the Commission

Amendment

(5a) ‘Buffer guide’ means a benchmark buffer rate calculated according to the harmonised formula set out in the guidance referred to in Article 125, which translates deviations of the credit-to-GDP ratio from its long-term trend into single percentage values.

Or. en

Amendment 23

Proposal for a directive

Article 124 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall require institutions to maintain an institution specific Countercyclical Capital Buffer calculated in accordance with Article 130.

1. Member States shall require institutions to maintain an institution specific Countercyclical Capital Buffer ***equivalent to their total risk exposure amount calculated in accordance with Article 87(3) of Regulation [inserted by OP] multiplied by the weighted average of the countercyclical buffer rates*** calculated in accordance with Article 130 ***on an individual and consolidated basis, as applicable in accordance with Part One, Title II of Regulation [inserted by OP].***

Or. en

Amendment 24

Proposal for a directive Article 125 – paragraph 1 – point c

Text proposed by the Commission

(c) guidance on variables that indicate *or might indicate* the build-up of system-wide risk in a financial system, and on other relevant factors that should inform the decisions of designated authorities on the appropriate countercyclical buffer rate under Article 126;

Amendment

(c) guidance on variables that indicate the build-up of system-wide risk *associated with periods of excessive credit growth* in a financial system, and on other relevant factors that should inform the decisions of designated authorities on the appropriate countercyclical buffer rate under Article 126;

Or. en

Amendment 25

Proposal for a directive Article 126 – paragraph 2 – introductory part

Text proposed by the Commission

2. Each designated authority shall calculate for every quarter a buffer guide as a reference to guide its exercise of judgement in setting the countercyclical buffer rate in accordance with paragraph 3. The buffer guide shall be based on the *deviation of the ratio of credit-to-GDP from its long-term trend, taking into account:*

Amendment

2. Each designated authority shall calculate for every quarter a buffer guide as a reference to guide its exercise of judgement in setting the countercyclical buffer rate in accordance with paragraph 3. The buffer guide shall be based on the *guidance of the ESRB referred to in Article 125(b)(ii).*

Or. en

Amendment 26

Proposal for a directive Article 126 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) the growth of levels of credit within that jurisdiction and, in particular, changes in the ratio of credit granted in that Member State to GDP; *deleted*

Or. en

Amendment 27

Proposal for a directive Article 126 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) any current guidance maintained by the ESRB in accordance with Article 125(1)(b). *deleted*

Or. en

Amendment 28

Proposal for a directive Article 126 – paragraph 3 – point c

Text proposed by the Commission

Amendment

(c) any other variables that the designated authority considers relevant. *deleted*

Or. en

Amendment 29

Proposal for a directive Article 126 – paragraph 4

Text proposed by the Commission

Amendment

4. The variables referred to in point (c) of paragraph 3 may include structural variables and the exposure of the banking sector to particular risk factors, or to any other factors related to risks to financial stability. *deleted*

Where, in setting the countercyclical buffer rate, a designated authority takes into account variables mentioned in point (c), and the setting of that buffer rate would have been lower if variables mentioned in point (c) had not been taken into account, the designated authority shall notify EBA and the ESRB. EBA and the ESRB shall assess whether the variables on which the buffer rate is based relate to risks to financial stability and whether the setting of a buffer rate taking into account those variables is consistent with the fundamental principles of the internal market for financial services as reflected in Union legislation in the field of financial services.

By way of derogation from paragraph 3, the designated authority shall review the part of the countercyclical buffer rate based on the other variables referred to in point (c) of paragraph 3 on an annual basis only. That part shall not be taken into account by institutions established in another Member State for the purposes of calculating their institution specific countercyclical capital buffer.

Or. en

Amendment 30

Proposal for a directive Article 126 – paragraph 5

Text proposed by the Commission

5. The countercyclical buffer rate, expressed as a percentage of the total risk exposure amount referred to in Article 87(3) of Regulation [inserted by OP] of institutions that have credit exposures in that Member State, must be between 0% and 2.5%, calibrated in steps of 0.25 percentage points or multiples of 0.25 percentage points. Where justified in view of the considerations set out in paragraph 3, a designated authority may set a countercyclical buffer rate in excess of 2.5% of the total risk exposure amount referred to in Article 87(3) of Regulation [inserted by OP] **for the purpose set out in Article 130(3).**

Amendment

5. The countercyclical buffer rate, expressed as a percentage of the total risk exposure amount referred to in Article 87(3) of Regulation [inserted by OP] of institutions that have credit exposures in that Member State, must be between 0% and 2.5%, calibrated in steps of 0.25 percentage points or multiples of 0.25 percentage points. Where justified in view of the considerations set out in paragraph 3, a designated authority may set a countercyclical buffer rate in excess of 2.5% of the total risk exposure amount referred to in Article 87(3) of Regulation [inserted by OP].

Or. en

Amendment 31

Proposal for a directive Article 127 – paragraph 2 – point b

Text proposed by the Commission

(b) the Member State to which it applies;

Amendment

(b) the Member State **or third country** to which it applies;

Or. en

Amendment 32

Proposal for a directive Article 129 – paragraph 4

Text proposed by the Commission

4. Where a relevant third country authority sets a countercyclical buffer rate for a third pursuant to paragraph 2 or 3 which increases the existing applicable countercyclical buffer rate, it shall decide the date from which domestically authorised institutions must apply that buffer rate for the purposes of calculating their institution specific countercyclical capital buffer. That date shall be no later than 12 months from the date when the buffer rate is announced in accordance with paragraph 5. If that date is less than 12 months after the setting is announced, that shorter deadline for application must be justified by exceptional circumstances.

Amendment

4. Where a relevant third country authority sets a countercyclical buffer rate for a third **country** pursuant to paragraph 2 or 3 which increases the existing applicable countercyclical buffer rate, **the designated authorities** shall decide the date from which domestically authorised institutions must apply that buffer rate for the purposes of calculating their institution specific countercyclical capital buffer. That date shall be no later than 12 months from the date when the buffer rate is announced in accordance with paragraph 5. If that date is less than 12 months after the setting is announced, that shorter deadline for application must be justified by exceptional circumstances.

Or. en

Amendment 33

Proposal for a directive Article 130 – title

Text proposed by the Commission

Calculation of Institution Specific
Countercyclical Capital Buffer

Amendment

Calculation of Institution Specific
Countercyclical Capital Buffer **Rate**

Or. en

Amendment 34

Proposal for a directive

Article 130 – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. The institution specific Countercyclical Capital Buffer shall consist of the weighted average of the countercyclical buffer rates that apply in the jurisdictions where the relevant credit exposures of the institution are located, or are applied for the purposes of this Article by virtue of Article 129(2) or (3).

Amendment

1. The institution specific Countercyclical Capital Buffer **rate** shall consist of the weighted average of the countercyclical buffer rates that apply in the jurisdictions where the relevant credit exposures of the institution are located, or are applied for the purposes of this Article by virtue of Article 129(2) or (3).

Or. en

Amendment 35

Proposal for a directive

Article 130 – paragraph 4 – introductory part

Text proposed by the Commission

4. Relevant credit exposures shall include all those exposure classes, other than those mentioned in **points (a), (b), (d), (e) and (f) of Article 107** of Regulation [inserted by OP], that are subject to:

Amendment

4. Relevant credit exposures shall include all those exposure classes, other than those mentioned in **points (a), (b), (c), (d), (e) and (f) of Article 107** of Regulation [inserted by OP], that are subject to:

Or. en

Amendment 36

Proposal for a directive

Article 147 – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

(b) the likely impact of a suspension or closure of the operations of the credit institution on **market** liquidity and the payment and clearing and settlement

Amendment

(b) the likely impact of a suspension or closure of the operations of the credit institution on **systemic** liquidity and the payment and clearing and settlement

systems in the host Member State;

systems in the host Member State;

Or. en

EXPLANATORY STATEMENT

The reform of the Capital Requirements directive must be understood in the context of the multiple responses to the financial and economic crisis. Our goal is to restore economic growth and job creation because this is crucial for increasing the welfare of each and every EU citizen. This crisis began with the collapse of financial markets in autumn 2008 and the credit crunch that followed can be attributed to many factors, one of the most important is the accumulation of excessive risk in the financial system. The EU economy needs a financial sector at the service of the real economy, providing stability and being able to respond to the financial needs of our companies and households.

In order to achieve this goal is very important to preserve the level playing field inside the single market and to preserve the credibility competitiveness of the EU financial sector vis-à-vis the rest of the world.

These two objectives are guiding the work of the EP on CRD IV, and the rapporteur would like to thank the Commission for taking up and incorporating key points included in the EP's "Own Initiative report on Basel II and revision of the Capital Requirements Directives into the CRD IV proposal. Going forward, your rapporteur believes that the following principles should guide our way: first, he is committed to keeping and further developing the establishment of a "single rule book" and the principle of maximum harmonisation in order to keep a level playing field in the European Union. He believes that goldplating weakens this principle and shall be avoided. The EBA has an important role to play in the drawing up and implementation of measures relating to capital requirements and counter-cyclical capital buffer standards at EU level. However he believes that this must not undermine the decision power of the European Parliament and the European Council on politically sensitive issues.

Second, Europe is the driving force in implementing the G 20 decisions on financial market regulation and should continue that way. New rules are adapted to the variety of business models and to the special market structure. Your rapporteur firmly believes that this is the right way to go towards a stable, safe and sound financial system all market participants benefit from. Therefore constant dialogue with the United States should continue but timely implementation of Basel III should not be a precondition for an implementation as of 2013 on the European level.

Your rapporteur wishes to comment on some important aspects in the Commission proposal

Your rapporteur is convinced that the financial and economic crisis has revealed the lack of effectiveness of existing corporate governance principles based on a 'comply or explain' approach. He is in favour of the Commission's proposal and highlights that the spirit of the European Parliaments demands as submitted through the Initiative Report on Economic Governance in Financial Institutions - taking into account long term interest of institutions, disclosures and vesting periods - have been respected. Corporate Governance provisions have to ensure that there is no conflict of interest, remuneration policy is aligned with the long term interest of an institution. An idea that is worth discussing during the legislative process is the establishment of an absolute cap on the top salaries in relation to the average salary of each financial institution. Your rapporteur stresses that corporate governance systems differ among member states and the Commission proposal is modelled on the one-tier system only where

both executive and supervisory functions are exercised by one body. He therefore deemed it necessary to adapt the provisions to the two-board system by clarifying the term "management board". In this concept, the supervisory board has no direct oversight of the senior management and only the executive board has the power to issue binding instructions in relation to managers and employees.

The introduction of two capital buffers is meant to attenuate the risk of pro-cyclicality and limit an excessive build up of leverage. The Capital Conservation Buffer is applied uniformly whereas the Countercyclical Buffer will be set by national authorities within a range of 0 and 2,5% of risk weighted assets. Competent authorities can go beyond if justified. As Member States have to mutually recognise a buffer up to a percentage of 2,5% your rapporteur deems it necessary to create legal security when it comes to the variables which are used to setting the buffer rate. He suggests relying only on the buffer guide and the variables developed by the European Systemic Risk Board (ESRB) as freedom in choosing variables would inevitable lead to regulatory arbitrage. In this respect it has to be mentioned that the treatment of systemically important financial institutions is still to be discussed.

The Commission proposes a harmonised sanctions regime which intervenes when institutions breach EU requirements. Your rapporteur believes that dissuasive and enforceable sanctions which can be applied to the situation of every financial institution are vital. Competent authorities must not only be able to effectively supervise institutions, they must also have the power to impose strict sanctions and prevent future violations.