S&D

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Main elements on the CRD - CRR Package
- as agreed at the 27 February 2013 Trilogue -

The last Trilogue on the Capital Requirements Directive and Regulation was held on Wednesday 27 February where a political agreement was found on all the political issues. However, due to the complexity of the dossier and to the high level of technical details, a final meeting will most likely be held in the coming weeks, before the plenary vote of April or May 2013.

The main elements of the deal are as follows:

1. **Bonuses**:

The S&D line to set a ratio between the fixed and variable components of the salary has been accepted. The Council accepted the general rule of a 1:1 ratio between the fixed and variable parts of the salary. Shareholders can agree to increase this ratio to 2:1 provided that:

- at least 50% of shareholders are present at the meeting and 66% of them votes in favour of the increase,

or

- 75% of the shareholders present at the meeting vote in favour of the increase

This is how the bonus structure will look like:

2:1 bonus (after shareholders' approval)
1:1 bonus
fixed salary

In order to incentivise bank managers to take a longer term approach, up to 25% of the overall variable remuneration (i.e. the equivalent of 50% of the base salary) will consist of long-term deferred instruments (with maturity of more than 5 years), bail-in-able and claw-back-able, that can be valued applying a discount factor (to be set by EBA) based on the inflation rate and risk.

That is: $50\% = x / (1 + i)^5$

Whereas ***x*** is the long-term deferred sum, the value of which 5 years from now must equal **50%** of the base salary, ***i*** is the discount factor to be set by EBA, and 5 is the number of years the discount factor must be applied for. Realistically: **0,02 ≥ *i* ≤ 0,1**, whereas 0,02 is the average inflation rate (2%) and 0,1 is a (non-fixed) value (10%) beyond which we do not expect EBA to set the discount factor at. This expectation is explicitly shared by the Commission.

Using an exemplary discount factor of 0,05 (i.e. 5% per year), 50 % in 5 years time would be equivalent to 63% today. The total remuneration package today would thus consist of 100% base salary, 150% bonus, and 63% long-term bonus (worth 50% in 5 years).

Therefore, the overall cap increases slightly from **2:1 to 2,13:1** but only if the fact that 1€ today is not the same as 1€ in 5 years is ignored.

2. **Liquidity:**

Liquidity is a key criterion to measure the ability of a bank to absorb short-term shocks. The deal with the Council foresees that the two main liquidity ratios (liquidity coverage ratio - LCR - and net stable funding ratio - NSFR) will be implemented according to an established, progressive, timetable that takes into account international development at the Basel Committee level. When the Basel Committee will have established both the LCR and the NSFR, the Commission will present a legislative proposal to implement them into European legislation (by using co-decision).

However, in order to ensure that an adequate level of liquid assets is kept by the bank, our Group pushed for giving national Competent Authorities the power to impose macro-prudential charges if disparity exists between the actual liquidity position of the bank and an institution bank and the future liquidity requirements to be established at the international level.

3. **Capital buffers, differentiation, flexibility:**

A key issue in the last stage of negotiation was the possibility for Member States to introduce a further degree of flexibility in term of minimum capital requirements.

The S&D supported greater flexibility, partly taking into account that the acceptable risk for national taxpayers to bail out banks may differ across countries. The final agreement introduces the possibility for Member States to add a specific buffer for Systemically Important Institutions - SIIs. This buffer - between 1 and 3% - would come as an addition to the 8% Basel III requirement.

Member States may also implement a systemic risk buffer applicable to all banks. There is no limit foreseen for this buffer; however, the Commission must approve any buffer greater than 5%.

4. **Corporate governance:**

The S&D and Greens' line to include a provision on country-by-country reporting as of 2015 was accepted. Banks will have to disclose:

- profit or loss before tax,
- tax on profit or loss,
- turnover,
- number of employees, and
- public subsidies received

The fight against tax avoidance and tax evasion is a top priority for our Group and this is a very important achievement - knowing what banks do and where is vital to beating tax avoidance.

5. **Financing of the real economy:**

We prevented higher capital requirements for banks from adversely affecting the financing of the real economy, in particular of small and medium-sized enterprises. The introduction of a balancing factor will ensure that retail loans up to a limit of 1.5m € will not be subject to higher capital requirements. This will prevent an increase in the cost of lending to the real economy in times of low economic growth and scarce investment in the EU.

28 February 2013, S&D ECON Team