

From: Sonja Erica Väisänen
Sent: 19 June 2018 16:04
Cc: cmce@humebrophy.com
Subject: CMCE - ECON Consideration of amendments - IFR/IFD (19 June)

Dear Member of the CMCE Regulatory Capital Working Group,

Earlier today, the ECON committee had a consideration of [amendments on regulation](#) and [amendments on the directive](#) for the prudential framework for investment firms and a discussion on the draft reports of Markus Ferber [on the IFD](#) and [the IFR](#). Please find the key takeaways and a detailed read-out here below.

Key takeaways:

- In general, MEPs support the direction that the draft report is taking.
- MEPs are concerned about the third-country regime; equivalence was mentioned repeatedly.
 - o The rapporteur echoed the discussion on other files, namely that they would like to see equivalence decisions made via delegated acts rather than implementing acts.
 - o Anne Sander (EPP, FR) took the opportunity to comment on the priority of equivalence, which is fair competition. Financial markets should maintain their integrity and for this reason, she suggested that ESMA should have a role in the supervision of third country firms.
- Some MEPs (Greens, S&D) would like to see elements of the sustainable finance package (such as the ESG factors) integrated into the IFR/IFD proposal.
- MEPs from several groups (S&D, EPP, ALDE) have raised concerns about thresholds that the Commission contains which creates various classes of investment firms.
 - o The S&D is concerned about the weakening of prudential and supervisory requirements.
 - o On the thresholds between classes 2 and 3, the rapporteur suggested a more predictable regime for smaller firms so they don't switch back and forth between one year and another.
 - o Nils Torvalds (ALDE, FI) called the classification of firms, and the way that they can move between them "the main issue."
- Political groups have quite different views about remuneration; the Greens see it as a way to change short term thinking in the financial industry, whereas the rapporteur sees it as a way to reward successful portfolio management.
- Timeline:
 - o Shadows to meet at the beginning of the Strasbourg week in July (2-4)
 - o Vote in ECON – 24 September, or latest at the end of 2018.

Please let us know if you have any questions.

Best regards,
Sonja

Markus Ferber (EPP, DE, Rapporteur)

- Thanked members for their amendments (377 amendments on the directive and 205 on the regulation)
- Thresholds:
 - o On the thresholds between classes 2 and 3, he had suggested a more predictable regime for smaller firms so they don't switch back and forth between one year and another.
 - o Notes that many colleagues want to change these threshold values.
 - o Recalled that fundamentally, a special regulation for investment firms (not banks) is needed because otherwise we would just use the CRR.
- Disclosure:

- The obligation to disclose, non-systemically relevant obligation is something that we have to look at in the context of disclosure.
 - Environmental aspects and others; the Commission has already made some proposals as to how these disclosures could work; we need to agree on a way forward.
- Remuneration:
 - It's not necessary to have a prescriptive regime for remuneration as there may be a variable bonus related remuneration. These aren't banks; no issue for taxpayer.
 - If a good manager puts together a good plan, then they should have a legitimate right to be remunerated for that effort.
- Third country regime
 - Should operate on the basis of equivalence in every sense. I have looked at equivalence and the internal auditing structures and the practice of the country and we have to ensure that the other countries are truly equivalent in this sense. I believe that there is a case for a stricter approach.
 - Equivalence should give the Commission some room for manoeuvre to accurately determine the similarities between the third country jurisdictions and the EU framework.
 - Would like to see equivalence decisions made via delegated acts rather than implementing acts.

Mady Delvaux (S&D, LU)

- Reiterated her support for the EBA's approach which she described as technically very well done, and therefore does not support the colleagues that want to reintroduce the CRR/CRD criteria.
- Thresholds: She does not support amendments that want to weaken prudential and supervisory requirements for investment firms e.g. for changing class 3 thresholds.
- Describes K factors as a good way to capture risk but calls for small changes e.g. such as changing the calculation for daily trading flow to one year.
- On remuneration & governance, she does not support the alignment of this package with the CRR/CRD, but it should be ensured that remuneration policy does not only focus on short term profits.
- Also on governance, gender balance is very important.
- Supports the transparency on country-by-country reporting.
- Disappointed that the initial proposal lacks any reference to the Sustainable Finance package and to the ESG process.

ECR – on behalf of Bernd Lucke

- The draft legislation and the rapporteur's draft report shows support for the principle that investment firms should only be regulated like large banks if they are systemically important.
- The ECR supports how the principle of proportionality is reflected in the depth and granularity of the regulation as investment firms are not systemically important for the economy if they were to go bankrupt.
- We have to show the distinction between systemically and non-systemically important companies in this legislation.
- If not, this may create barriers for entry to the market for firms which are not systemically important.
- It would be consistent with the goals of the CMU to set the rules for investment firms in a fair and transparent way as long as the prudential approach reduces risk.

Nils Torvalds (ALDE, FI):

- The Commission proposal took on all the EBA advice which seems to imply that if a firm is "dealing with money in the market," somewhat like banks then they should be regulated like a bank would be.
- However, in spite of this, many MEPs see that investment firms aren't banks and they shouldn't be regulated as such. The rapporteur is taking the right approach in his draft report.
- The main issue is how we divide the groups and how they move from one class to another.

- K factors: has listened to the criticism and is with the rapporteur but would like to raise this with the other shadow rapporteurs.
- Would like to further discuss clearing member guarantee.

Sven Giegold (Greens, DE):

- The Greens are not far away from the Commission proposal nor the Rapporteur, but the Greens would like to raise a few issues.
- There is a growing concern over the role of large asset managers so ones with AuM exceeding 100 bn Euros. Such firms exert considerable influence in our economy because they hold the total shares of important companies, something which isn't forbidden, but we should have transparency rules for them which are proportionate to their large importance.
- Would like to have a discussion on the ESG disclosures that are proposed in the Sustainable Finance proposals;
- The Greens also have questions as to taxation.
- Their concerns on the variable remuneration are less about systemic institutions and more about the culture in the financial services industry which lends itself to pro-cyclical and short term remuneration schemes.
- We want more long term sustainability. We want a harmonised approach. Those countries which have an issue with country-by-country reporting are in any case not the large ones.
- Support the gender dimension mentioned by the S&D.
- Welcomes Werner Langen's amendment which gives influence to ESMA, not only just the EBA.
- Supports the amendments which rethink of the 30 bn threshold.

Miguel Viegas (GUE, PT):

- This proposal is fundamentally important to the CMU as it will give capital markets a way to catch up with the US.
- Would like to ask why companies are not financing themselves via capital markets – seems like they aren't interested and asked whether we are trying to force something on the market.
- There is scepticism as to this project and we have to ask whether this is the right time to make life easy for these companies.

Anne Sander (EPP, FR)

- Commented that the delimitation between classes 1 and 2 seems to be a bit narrow in the Commission Proposal.
- Firms that provide bank like activities could fall under class 2 as they will fall under the 30 bn Euro threshold. She raised a concern that as a result, these firms could face a lesser prudential regime despite their risk to the financial industry.
- With respect to the equivalence discussions, the priority is fair competition. Financial markets should maintain their integrity and for this reason, she suggested that ESMA should supervise these third country firms.

Markus Ferber (EPP, DE):

- On the basis of this discussion, he believes that we can manage to comply with the timetable; this should be negotiated within this Parliamentary mandate.
- The difference between banking and investment firm services has been raised a number of times. There should be a lot of firms that fall under the category of Class 1 and the CRR could have been used. The EU legislators put a lot of effort into creating a creditor hierarchy. We have never seen the taxpayer jumping in after the failure of an investment firm. Is it a systemic risk or is a normal company that goes bankrupt, which may not be pleasant but the taxpayer will never have to pay for that.