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Referat af økonomi- og finansministtermøde (ECOFIN) den 2. december 2008 til Folketingets Europaudvalg

Dagsordenspunkt 1 Forberedelse af Det Europæiske Råd den 11.-12. december 2008

ECOFIN nåede til enighed om et bidrag til DER den 11.-12. december 2008. Bidraget omhandler bl.a. koordinerede økonomisk-politiske tiltag med henblik på at styrke vækst og beskæftigelse i EU under fortsat hensynstagen til finanspolitisk holdbarhed. EU-landene var enige i, at evt. kortsigtede nationale initiativer bør være midlertidige og målrettede og tage hensyn til landespecifikke udfordringer og behov. ECOFIN var endvidere enig i, at kortsigtede tiltag skal gennemføres i overensstemmelse med mellemfristede finanspolitiske strategier og fortsat implementering af strukturelle reformer. Herudover vedrører ECOFIN's bidrag til DER finansiell stabilitet og finansielt tilsyn, og det videre arbejde i forhold til EU's handlingsplan og opfølgning på G20-mødet.

Dagsordenspunkt 2 Finansielle tjenesteydelser

Forud for ECOFIN konstaterede formandskabet, at der var opnået enighed om de finansielle sager på dagsordenen for ECOFIN vedrørende kapitalkravsdirektivet, Solvens II, direktivet om investeringsinstitutter (UCITS) samt direktivet om indskydergarantiordninger og lagde op til, at disse punkter kunne godkendes som a-punkter. På ECOFIN var der imidlertid alligevel en drøftelse af Solvens II, herunder vedrørende gruppets tilsyn, gruppestøtte og muligheden for at udjævne svingninger i aktiekurser i forsikrings- og pensionsselskaber, samt af UCITS. Der blev opnået enighed om en generel tilgang for samtlige finansielle sager med henblik på videre forhandling med Europa-Parlamentet. ECOFIN ventes herefter endeligt at vedtage direktiverne

Dagsordenspunkt 3a Nedsat moms

ECOFIN drøftede Kommissionens forslag vedrørende nedsatte momssatser. Forslaget lægger op til, at alle lande permanent kan anvende nedsat moms for såkaldt arbejdskraftintensive ydelser, og at listen over berørte ydelser udvides. ECOFIN nåede ikke til enighed om forslaget.

Dagsordenspunkt 3b Moms på finansielle tjenesteydelser og forsikringstjenesteydelser

Dagsordenspunktet blev behandlet som et a-punkt. Formandskabets fremskridtsrapport, som giver en status for arbejdet i rådsarbejdsgruppen vedrørende direktivforslaget om moms på finansielle og forsikringstjenesteydelser, blev godkendt uden drøftelse.

Dagsordenspunkt 3c Rentebeskatningsdirektivet

ECOFIN tog Kommissionens rapport om de første tre års erfaringer med rentebeskatningsdirektivet til efterretning og vedtog konklusioner, der støtter videre arbejde med Kommissionens forslag til justeringer i direktivet. De foreslåede justeringer vedrører bl.a. udvidelse af definitionen af rentebetalinger og reduktion af muligheden for at omgå direktivet.

Dagsordenspunkt 3d Adfærdskodeks for erhvervsbeskatning

ECOFIN drøftede rapporten fra adfærdskodeksgruppen for erhvervsbeskatning om det fortsatte arbejde med at overvåge, om nyindførte skatteordninger i EU-landene er i overensstemmelse med kodeksen. ECOFIN tog rapporten til efterretning.

Dagsordenspunkt 3e Exitbeskatning

ECOFIN vedtog rådskonklusioner, der opstiller retningslinjer for medlemslandenes exitskatteregler, uden drøftelse.

Dagsordenspunkt 4 Revisionsrettens årsberetning 2007

Revisionsrettens formand præsenterede årsrapporten for 2007 for ECOFIN, og ECOFIN tog præsentationen til efterretning. Rapporten vil blive behandlet i Rådets budgetgruppe, hvorefter udkast til Rådets dechargehenstilling forventes at blive forelagt ECOFIN på mødet i februar 2009.

Bilag

Rådskonklusioner vedr. indskydergarantiordninger

The Council arrived at a general approach on a draft Directive aimed at tightening up the rules on bank deposit guarantee schemes in order to improve confidence in the banking sector (16030/08 +COR 1).

On the basis of this approach, the Presidency will continue its contacts with the European Parliament in order to reach an agreement enabling the Directive to be adopted at first reading, before the end of the parliamentary term.

The draft Directive seeks to ensure better protection for savers by amending Directive 94/19/EC.

Deposit guarantee schemes are intended to prevent panic reactions by savers if a bank is experiencing difficulties or loses public confidence.

The Council's general approach provides for:

- raising the deposit guarantee level to EUR 50 000, rather than the present EUR 20 000, from 30 June 2009 and harmonising the level at EUR 100 000 from 31 December 2011. That harmonisation should make it possible to avoid the distortion of competition among banks which appeared during the financial crisis (in the form of massive deposit transfers from banks affiliated to a scheme offering a low coverage level to banks affiliated to a scheme offering a high coverage level);
- a period of five working days to establish that a credit institution has failed to repay deposits which are due and payable, and of 20 working days, subject to extension by 10 working days, to make the repayment. The corresponding periods are at present 21 working days and three months, subject to two three-month extensions. Overall, the payout period could not exceed 35 working days, compared with 10 months at present.

The European Parliament's vote is expected during the week of 15 December.

Rådskonklusioner vedr. kapitalkravsdirektivet

The Council worked out a general approach on a draft Directive aimed at tightening up the rules on own funds requirements for banks (16216/08).

On the basis of this approach, the Presidency will continue its contacts with the European Parliament in order to reach an agreement enabling the Directive to be adopted at first reading, before the end of the parliamentary term.

The Council's general approach amends Directives 2006/48/EC and 2006/49/EC¹ in five respects:

- Strengthened supervision of cross-border banking groups: (a) decisions relating to risk assessment and additional capital requirements would be closely coordinated between the supervisor of the parent undertaking and the supervisors of its subsidiaries; (b) reporting requirements would be fully harmonised at European level in 2012; (c) colleges of supervisors, chaired by the supervisor of the parent undertaking, would be established for all cross-border groups; (d) the role of the Committee of European Banking Supervisors (CEBS) would be strengthened; (e) the mandates of national supervisory authorities should be given a European dimension;
- framework for securitisation practices: as a response to the faults of the "originate to distribute" model revealed by the financial crisis, due diligence and transparency obligations imposed on the originators of securitisation operations and on investors would be strengthened. Investors should be able to assess the risks involved in structured products otherwise than solely by means of the rating given by agencies. Alongside these qualitative requirements, the draft adds one quantitative one – the obligation for originators to retain 5 % of risks transferred or sold to investors on their balance sheet – whose purpose is to increase incentives to conduct better risk assessment;
- harmonisation of the classification of banks' tier 1 capital funds and hybrid instruments, with a central role given to the CEBS in ensuring greater uniformity of supervisors' practices in this area;
- introduction of rules on liquidity risk management, in particular as regards setting up liquid asset reserves, conducting liquidity stress tests and establishing contingency plans;
- tighter supervision of exposure to a single counterparty ("large exposures"): the text establishes arrangements which place a greater restriction on the extent of exposure to a single counterparty, whatever its nature, including when it is a bank (in all cases, the limit is 25 % of banks' own funds). Within the current framework, concentration limits for bank counterparties are less restrictive than for "undertaking" counterparties, yet the financial crisis has shown that bank counterparties also present a risk of default.

The European Parliament's vote is expected next April.

Rådskonklusioner vedr. Solvens II

The Council worked out a general approach on a draft Directive laying down new solvency rules for insurance companies ("Solvency II" Directive) (16237/08 + COR 1).

On the basis of this approach, the Presidency will continue its contacts with the European

Parliament in order to reach an agreement enabling the Directive to be adopted at first reading, before the end of the parliamentary term.

The purpose of the draft Directive is to update current legislative arrangements by recasting 14 Directives on insurance into a single legal act, since current solvency rules are substantially out of date.

It aims to:

- deepen the integration of the Community insurance and reinsurance market;
- strengthen the protection of policyholders and beneficiaries;
- enhance the international competitiveness of insurers and reinsurers in Europe.

As regards group supervision, the "group support" that initially appeared in the Commission's proposal no longer appears in the Council's general approach. That system : (i) placed key supervisory decisions in the hands of the group supervisor alone (approval of the internal model, imposition of additional capital requirements, etc.), and (2) allowed the parent company, under the control of the group supervisor, to cover part of the subsidiaries' capital requirements with a promise of support.

The Council's general approach does however represent some progress on a number of points concerning group supervision:

- Creation of "colleges of supervisors": places for information exchange and discussion between the supervisors of parent companies and the supervisors of subsidiaries;
- Strengthening of the role of the Committee of European Insurance and Occupational Pensions Supervisors, which should ensure greater convergence of prudential practices and may be consulted when disagreements between supervisors of a college need to be smoothed out;
- Recognition of mutual benefit insurance companies which, like the other groups, could draw advantage from diversification between the risks they bear.

In sum, the Council's approach is based on an idea of insurance-group supervision that is as ambitious as that which obtains for banks. This system will reduce risk of uncoordinated decisions between supervisors.

Rådskonklusioner vedr. investeringsinstitutter (UCITS)

The Council worked out a general approach on a draft Directive aimed at modernising the rules governing undertakings for collective investment in transferable securities (UCITS) (16214/08 + COR 2).

On the basis of this approach, the Presidency will continue its contacts with the European Parliament in order to reach an agreement enabling the Directive to be adopted at first reading, before the end of the parliamentary term.

This proposal for a Directive seeks to modernise the regulatory framework applicable to European investment funds – undertakings for collective investment in transferable securities (UCITS) – which represent a market of EUR 6 000 to 7 000 billion. This financial product, in which millions of European consumers invest, has a European label of world quality.

The aim of revising the Directive is to modernise the regulatory framework applicable to these financial products in order to:

- offer investors a greater choice of product at lower cost through better integration of the internal market;
- provide investors with suitable protection through high-quality information and more efficient supervision;
- maintain the competitiveness of the European industry by adjusting the regulatory framework to developments in the market.

Against this background, the text has six objectives:

- improve investor information by creating a standardised summary information document: "key information for investors"; this is an innovative approach aimed at making it easier for the consumer to understand the product;
- create a genuine European passport for UCITS management companies – this is the last piece missing from the internal market as regards UCITS management: a management company located in a Member State will be able to manage funds in other Member States;
- facilitate crossborder marketing of UCITS by simplifying administrative procedures;
- facilitate crossborder mergers of UCITS, which will make it possible to increase the average size of European funds;

- facilitate asset pooling by creating a framework for the system of "master-feeder" arrangements whereby a fund invests more than 85 % of its assets in another fund;
- strengthen the supervision of UCITS and of the companies that manage them, by means of enhanced cooperation between supervisors: the Directive encourages the exchange of information between supervisors, harmonises the powers of supervisors, and allows for the possibility of on-the-spot investigation, consultation mechanisms and mutual-aid mechanisms for the imposition of penalties, in particular.

For further details, see press release 16562/08.

The European Parliament's vote is expected in January or February 2009.

Rådskonklusioner vedr. moms på finansielle tjenesteydelser og forsikringstjenesteydelser

The Council adopted without discussion conclusions in which it:

- noted the progress report by the Presidency on the VAT arrangements applying to insurance and financial services (in 15793/2/08 REV 2 FISC 156), and progress to date on the proposal for a Directive;
- invited the incoming Presidency to build on progress made in seeking to reduce the differences in approach and the drafting difficulties encountered in the examination of the proposal for a Directive submitted by the Commission. A detailed examination of the proposed implementing regulation could help to identify the components of a compromise;
- was invited to take stock of progress before the end of the first half of 2009.

The proposals for a Directive and a Regulation are aimed at clarifying the provisions of Directive 2006/112/EC on the common system of VAT as regards financial services, which are exempt from VAT.

They thus aim to increase legal certainty for economic operators and national tax administrations, reduce their administrative burdens and lessen the impact of hidden VAT on the costs of service providers. The existing definitions were established in the 1970s and have led to uneven interpretation by the Member States, causing distortions of competition

Rådskonklusioner vedr. koordination af systemer for direkte beskatning - exit-beskatning

The Council adopted the Resolution set out in 16412/08.

This Resolution lays down the guiding principles on exit taxes which Member States undertake to comply with, in order to organise the taxation arrangements between Member States in the event of transfers of economic activities and avoid double taxation.

It provides that:

- where the exit State applies an exit tax and the host State imposes a tax on gains, the two States will refer to a common value for calculating the tax: the market value on the date of transfer of economic activities;
- in the event of disagreement on the value arrived at, the Member States will set up a procedure for settling their dispute;
- the Directive on mutual assistance is the appropriate framework for the information exchanges required for proper application of the principle concerned.

This is the first time that the Commission's initiative on the coordination of Member States' direct taxation systems (see 17066/06 Fisc 175) has taken tangible form, in a Council Resolution.