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Summary – The new European Parliament: what's left to be done?

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The new European Parliament (EP) and European Commission (EC) will have some important open financial reform issues on its agenda, including restructuring mega-banks to avoid bail-outs, long term financing, shadow banking, anti-money laundering, and manipulation of benchmarks. At the same time, the issues which were finalized during the final months of the EP's 2009-2014 legislature, such as the banking union or the [Markets in Financial Instruments Directive](#) (MIFID-II-MiFIR), still require extensive work on many technical details which will be decisive for the final impact and effectiveness. Overall, the EU decision-making in which the EP was co-legislator with the Council of Ministers has not proven to be quick about financial reforms compared to the US. Given that the pressing issues of the financial crisis seem to be fading, it is not certain how much of the remaining important issues will be properly addressed by the incoming Parliament and Commission. Developments of the Euro crisis and potential future problems with European banks, which are still far from safe and sustainable, will also determine the agenda of the new 2014-2019 legislature. Since the financial reforms, that were already decided, and the planned initiatives for new financial laws do not tackle major structural problems, such as the size of mega banks or of derivative markets, many risks remain, that can lead to another crisis.

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Full article

The new European Parliament: what's left to be done?

By Myriam Vander Stichele, SOMO, and Markus Henn, WEED



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Between 22 to 25 May 2014, a new European Parliament (EP) will be elected, after which also a new European Commission (EC) will be installed. In April 2014, during the last plenary session of the EP's 2009-2014 legislature, the EP finally adopted a long list of financial reforms, adding to the ones that have been decided already over the last five years. However, there are still important law proposals left for decision by the EP and the Council in the new term and plans for new laws that will need to be initiated by the EC. In European law making, there are two important levels: the first is referred to as 'level 1', in which the laws are introduced or amended, and passed by the EP and the Council after a legislative proposal is made by the EC. But as the laws cannot regulate all the details, they often transfer powers to authorities and the EC to deal with the details at 'level 2'. The EP and the Council have the power to approve or reject these level 2 technical standards. Furthermore, EU directives have to be implemented into national law by the member states. The following gives an overview on what is left for the new parliament on financial reform issues.

Level 1

1. Banking

An important left-over on banking issues is the law to deal with too-big-to-fail banks, who need to be bailed-out if they fail, which is referred to as reforming the structure of banks. An important issue is to prevent banks from trading and speculating for their own profit and engaging in investment banking activities, i.e. to create a structure that disconnects these activities from taking deposits (being guaranteed by the deposit guarantee system), giving loans and other basic financial activities. The EC's law proposal has been on the table since January 2014 (for details see [February 2014 newsletter](#)) and the new EP will have to find its position. Afterwards the EP has to come to an agreement with the Council, who has to decide on its own position, in the trilogue (informal meetings attended by representatives of the EP, the Council and the EC). The way the debate went so far does not provide ground for high hopes that the result will be ambitious and that speculative trading as well as investment banking will be clearly separated from the deposit and loan business.

Furthermore, there are still important details on some aspects of the Basel III agreement that are either up for review in the next years or have just been finalised in the last months by the Basel Committee on Banking Supervision. This includes, amongst others, details on a debt limit ('[leverage ratio](#)') and [risks linked to clearing](#) by [central counterparties](#) (CCPs) when trading in derivatives. The Basel committee is also working on new standards, such as on the [risk management associated with derivative transactions \(trading book\)](#). These details will have to be transferred into European law. The fourth review of the [Capital Requirements Directive](#) (CRD IV) and the new

Capital Requirements Regulation decided last year (for details see [May 2013 newsletter](#)) thus also contain some provisions for possible future law proposals to be provided by the EC by end of 2016: on the [Leverage](#) Ratio, on another benchmark called Net Stable Funding Ratio, on the internal risk models that banks use to evaluate credit risks, and on the measurement of risk of credit counterparties.

2. Shadow Banking

Shadow Banking is one of the issues that also have not been sufficiently dealt with at the international level. The G20 and [Financial Stability Board](#) (FSB) are still working on standards that at some point will have to be translated into EU laws. At the same time, the EP's Economic and Monetary Affairs Committee (ECON) has been working on one of the first laws in the EU, that deals with important financing mechanisms in shadow banking, namely money market funds. The EP however stopped the process in one of its last sessions due to lobby pressure from the financial industry (see [March 2014 Newsletter](#)). It is not sure yet if the new parliament will pick up the issue of money market funds again, and other proposals and aspects of shadow banking. The EC already proposed a new related law on [securities transaction financing](#) (for details see newsletter above). The EC has also announced a more general proposal on the crisis management for non-banks in October 2014.

3. Long Term Financing

In March 2014, the EC released a [Communication on 'Long Term Financing of the European Economy'](#). The EC already included some of the ideas of the Communication in a legal proposal for a new type of fund, called European Long Term Investment Fund (see [February 2014 Newsletter](#)), on which the EP adopted its [position](#) in April 2014. It basically accepts the initial proposal by the EC, even though some civil society organisations like WEED have [severe concerns](#) that they could foster undue privatisation of public infrastructure and services. In any case, the incoming members of the EP will have to further deal with this long term financing agenda.

4. Benchmarks, payment services and pension funds

Following the scandals of manipulating important financial index benchmarks such as the "London Interbank Offered Rate" (LIBOR) for bank interest offered from one bank to another (see [December 2013 Newsletter](#)), a better regulation was initiated with a Commission law proposal that is still [awaiting the decisions of the EP's Committee](#) and of the Council, after which a final compromise text will have to be found. A bit further in the process but still awaiting plenary EP decision is a new law on [payment services](#). There is finally a revision of the [pension fund directive](#) in the early stage.

5. Trade in Services: TTIP and TiSA

The negotiations for a Transatlantic Trade and Investment Partnership (TTIP) agreement between the EU and the US will be on the political agenda during the next years, at least until end of 2015. It could have huge implications for financial markets and their regulation (for details see [February 2014 Newsletter](#)). Simultaneously, the same controversial issues are being negotiated for a Trade in Services Agreement (TiSA) with little political and public scrutiny, while the almost finalised Canada-EU agreement (CETA) is drawing more attention (for more information see the [services union PSI](#)).

6. Money Laundering and Tax Evasion

The review of the EU's money laundering directive is one of the first issues that will probably be finalised (for an overview see [March 2014 Newsletter](#)). In its plenary session in April 2014, the EP adopted its [position](#), providing good amendments on the issue of public registers about the so-called 'beneficial owners', i.e. transparency about the ultimate beneficiaries of accounts and legal entities. However, the Council is said to negotiate on its position until autumn so that the trilogue for a compromise legal text will probably start towards the end of this year.

Tax Evasion has been a major political issue in the last few years, with the G20 calling for concerted actions against individual tax evasion and

corporate tax avoidance ([‘Base Erosion and Profit Shifting’](#), [‘BEPS’ initiative](#)). But as the EP still has hardly any competence on tax issues, it is mainly the member states that take decisions on these issues in the Council. Last month, a reform on the Parent Subsidiary Directive (for details see [March 2014 Newsletter](#)) was blocked, according to [newspaper reports](#) due to the resistance of Sweden.

7. Reviews of financial laws

Many laws that were agreed since 2009 have a review clause, which means that the implementation and effectiveness of the new laws have to be evaluated and assessed, which may be cause for the EC to propose changes to existing laws. The recent financial laws that will come under review under the 2014-2019 legislature are the EU law on [hedge funds](#) and other [alternative investment funds](#) (AIFMD), [short selling](#) and [credit default swaps](#), retail investment funds ([UCITS IV](#), see [March 2014 Newsletter](#)), particular aspects of [MiFID-II](#) (e.g. the impact of the application of position limits) and MiFIR, the [Market Abuse Directive](#) and different aspects of the [Market Abuse Regulation](#).

Level 2 and national implementation

The financial reforms over the last five years have resulted in a long list of new EU financial laws adopted at level 1, including reforms of rating agencies (see [December 2012 Newsletter](#)). The points below provide a selected overview of some recently adopted laws of which the technical standards and other details still are being or will be decided at level 2 in the next months, i.e. by the European regulatory and supervisory bodies such as the European Securities and Markets Authority (ESMA) and/or the EC. Beyond further specification of the EU laws at level 2, directives need to be translated in national laws by the national parliaments of each member state, and effective implementation and supervision has to take place.

1. Banking

One level 2 issue is still the quality of the capital that banks have to hold to be able to cover losses, that are based on Basel III and have been decided in the new EU laws on capital requirements (CRD IV / CRR, see above; for the many single issues see the [European Banking Authority \(EBA\)](#)). A small but potentially forceful issue of implementation at the national level will be the duty of banks to report on their tax payments and business activities country-by-country. Another rule for national and level 2 implementation is the regulation of bankers' remuneration. So far, the rule seems not to have been very successful as bankers salaries have revived to pre-crisis levels and as banks are finding ways to circumvent the rules. The Deutsche Bank, for example, just [reshaped their salary schemes](#) to uphold and even increase the high salaries.

A major reform project that the EP had to deal with in its 2009-2014 legislative period was the creation of a Banking Union for the Eurozone member states. It includes a [joint supervision](#) of Eurozone banks by the European Central Bank (ECB), a [joint resolution mechanism](#) and a [joint guarantee scheme for deposits](#) of up to 100,000 Euro. The EP and the Council have decided on all aspects of the banking union during the recent years, so now the implementation phase has started. To start with the supervision, the ECB and the EBA in April 2014 released the [conditions of a stress test](#) for the major Eurozone banks, which tests the banks' robustness against crises with a set of hypothetical severe market conditions. The main task during the new EP legislature will be to decide on the remaining details. For example, the resolution mechanism should actually protect tax payers from paying for failing banks, but let the bank shareholders and the creditors pay. However, there is an option for a special type of re-capitalisation to prevent a resolution where owner or creditor participation is absent, as is regularly foreseen now. The impact of this rule will depend on the technical rules designed at level 2. A similarly delicate issue is the right point of time to decide about a recovery or a resolution process.

2. Financial Markets and Products

During the last months and weeks of the 2009-2014 legislature, the review of the Markets in Financial Instruments Directive ([MiFID II](#) / [MiFIR](#)) was finalised after more than three years of discussions (for details see [February 2014 Newsletter](#)). The April Parliament's plenary [decided to adopt the new laws](#). The MiFID as a directive will have to be implemented into national law.

Alongside this, the EU's Securities and Markets Authority (ESMA) is working on a long list of technical standards and regulations, most of which have to be agreed upon by the EC with approval from the EP and the Council. Issues are, amongst others, the methodology for setting position limits to be applied by commodity speculators the definition of bona-fide hedging, the obligation to trade [OTC derivatives](#) on trading venues, or electronic high-speed trading by algorithms.

A similar process at level 2 is still going on for the new law on [Packaged Retail Investment Products \(PRIIPS\)](#) and the [Market Abuse Directive and Regulation](#), that were also finalised just in time for the April EP plenary session. Some details of the implementation of the over-the-counter derivatives law ([European Market Infrastructure Regulation, EMIR](#)), in force since 2012, are still being decided (e.g. the clearing obligation) and technical problems are being dealt with (see [here](#) for the timeline).

Conclusion

To summarise, the outgoing parliament took a considerable amount of decisions but these often took a very long time, and final decisions were often delayed due to arduous disagreements with the Council of Finance Ministers. Some important reforms still have not taken place, even seven years after the financial crisis has started, such as seriously tackling the size of mega banks or the size of derivative markets and shadow banking. Compared to the United States, where with the Dodd-Frank Act in 2010, a rather comprehensive reform, was passed at – you might say – level 1,

the European Union is far behind, also on the implementation of laws that have already been adopted. Furthermore, the EU legislative structure is a complex series of new financial laws and the supervisory structure is very different per law with different level of powers for national and EU level supervisors. Thus many risks, that can cause another financial crisis, still remain or new risks are appearing.

An issue not appropriately covered in this newsletter is the Euro crisis and the EU's failure to deal with it properly and prevent a social catastrophe in crisis-driven countries such as Greece. This issue, however, shall be dealt with in the next newsletter when the results of the election will be clear and its political consequences visible.

Calendar of official events

For background to the official agenda of European institutions, see the following websites:

- The [European Commission \(EC\)](#)
- The [Economic and Financial Affairs Council \(ECOFIN\)](#)
- The [European Council](#)
- The [Economics and Monetary Affairs Committee \(ECON\) of the European Parliament](#)
- The [Financial Stability Board](#)

The links below give the website with updates and overviews of documents and dates related to the EU decision making process

May

- **19-23, TTIP (Arlington):** 5th round of negotiations
- **15-25, Blockupy (Frankfurt):** Solidarity Beyond Borders – Building Democracy From Below
- **22-25, EP (Europe):** Elections

June

- **4-5, G7 (Brussels):** [Heads of State Summit](#)
- **20, ECOFIN (Brussels):** Meeting, possible agreement on taxation of parent companies and subsidiaries; discussion on common consolidated corporate tax base, and single supervisory mechanism, fiscal pact
- **20-21, G20 (Melbourne, Australia):** [Summit civil society organisations in the G20 process](#)
- **22-23, G20 (Melbourne, Australia):** [Finance and Central Bank Deputies meeting](#)
- **26-27, European Council (Brussels):** Meeting of EU heads of state, selection of candidate for President of the Commission

July

- **1-3, EP (Strasbourg):** First plenary session, election of the President of EP
- **6, Commission (Brussels):** Deadline [Consultation on Investor-State Dispute Settlement in the TTIP](#)
- **7 Eurogroup (Brussels):** Meeting
- **7/8, ESMA (Paris):** Hearing on MiFIDII and MiFIR (tbc)
- **8 ECOFIN (Brussels):** Meeting
- **14, ESA (Brussels):** Deadline Consultation on Risks from non-cleared OTC derivatives contracts
- **14-16, EP (Strasbourg):** Plenary, vote on the Councils candidate for president of the Commission
- **22, ECON (Brussels):** Meeting

August

- **19-23, Attac (Paris):** Summer Academy

September

- **3-4, ECON (Brussels):** Meeting
- **15-17, EP (Strasbourg):** Plenary
- **18 Eurogroup (Brussels):** Meeting
- **18-21, G20 (Cairns, Australia):** [Finance and Central Bank Deputies meeting](#)
- **19 ECOFIN (Brussels):** Informal Meeting
- **22-23, ECON (Brussels):** Meeting
- **30, ECON (Brussels):** Meeting

October

- **?, EBA (London):** [Stress test](#) results for 124 major EU banks will be released
- **7, ECON (Brussels):** Meeting
- **9-10, G8 (Washington):** Finance Deputies, Ministers meetings
- **13, ECON (Brussels):** Meeting
- **13, Eurogroup (Brussels):** Meeting (tbc)
- **14, ECOFIN (Brussels):** Meeting (tbc)
- **21-23, EP (Strasbourg):** Plenary
- **23-24, European Council (Brussels):** Meeting

November

- **3-4, ECON (Brussels):** Meeting
- **9, Eurogroup (Brussels):** Meeting
- **10, ECOFIN (Brussels):** Meeting

- **11, ECON (Brussels):** Meeting
- **13-15, G20 (Brisbane, Australia):** [Possible Deputy Finance Ministers and Central Banks communiqué drafting](#)
- **15-16, G20 (Brisbane, Australia):** [Heads of State Summit](#)
- **17, ECON (Brussels):** Meeting
- **24-27, EP (Strasbourg):** Plenary

December

- **1-2, ECON (Brussels):** Meeting
- **8, ECON (Brussels):** Meeting
- **13, Eurogroup (Brussels):** Meeting
- **14, ECOFIN (Brussels):** Meeting
- **15-18, EP (Strasbourg):** Plenary
- **18-19, European Council (Brussels):** Meeting

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