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– CROATIA –**

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Subject : EUROPEAN UNION COMMON POSITION
Chapter 9: Financial Services

EUROPEAN UNION COMMON POSITION
(Revision of CONF-HR 16/07)

Chapter 9: Financial Services

This position of the European Union is based on its general position for the Accession Conference with Croatia (CONF-HR 2/05), and is subject to the negotiating principles endorsed by the Accession Conference (CONF-HR 5/05), in particular:

- any view expressed by either party on a chapter of the negotiations will in no way prejudice the position which may be taken on other chapters;
- agreements - even partial agreements - reached during the course of the negotiations on chapters to be examined successively may not be considered as final until an overall agreement has been established;

as well as to the requirements set out in points 13, 16 and 26 of the Negotiating Framework.

The EU underlines the importance for Croatia of compliance with the Stabilisation and Association Agreement as well as the Accession Partnership, which constitute basic elements of the pre-accession strategy.

The EU encourages Croatia to continue the process of alignment with the *acquis* and its effective implementation and enforcement, and in general develop already before accession, policies and instruments as close as possible to those of the EU.

The EU notes that Croatia, in its addendum (CONF-HR 5/09) to its position CONF-HR 8/07 accepts the *acquis* under chapter 9 as in force on 1 June 2009, and that Croatia declares that it is ready to implement it by the date of its accession to the European Union.

Banks and financial conglomerates

The EU notes that Croatia's legislation is now to a large extent aligned with the *acquis*.

As regards *the taking up and pursuit of the business of credit institutions*, Croatia has aligned its legislation with the Capital Requirements Directive (Directive 2006/48/EC and Directive 2006/49/EC) including amendments proposed to this Framework Directive by the Commission in 2008, by means of the adoption of the Credit Institution Act and relevant secondary legislation. The EU recalls that it considers acceptable Croatia's request to exclude credit unions and the Croatian Bank for Reconstruction (HBOR) from the scope of the credit institution definition as set out in Article 2 of Directive 2006/48/EC.

As regards *capital adequacy requirements*, through the Credit Institution Act and relevant secondary legislation Croatia aligned the provisions against risks, minimum own funds requirements for credit risk and operational risk and disclosure by credit institutions. Croatia also aligned with the initial capital requirements for investment firms and the provisions concerning the trading book through the new Securities Market Act.

The EU takes note of the adoption of the Act on *electronic money institutions* implementing Directive 2000/46/EC adopted in October 2008. The Croatian National Bank is designated as the competent supervisory authority for electronic money institutions.

The EU notes that Croatia has implemented provisions on the *supplementary supervision of financial conglomerates* as required by Directive 2002/87/EC by means of the Financial Conglomerates Act, which was adopted in December 2008.

Croatia enhanced its existing *deposit guarantee scheme* in accordance with Directive 94/19/EC through the adoption of amendments to the Deposit Insurance Act in October 2008. The EU takes note of the Croatian commitment to eliminate remaining minor inconsistencies with Directive 94/19/EC and to align with the Directive 2009/14/EC at the latest in the first quarter 2010.

The EU welcomes the alignment of Croatia's legislation to the EU *acquis* with regard to *bank accounts and branch accounts* (Directives 86/635/EEC and 89/117/EEC) and to the *re-organisation and winding up of banks* (Directive 2001/24/EC).

With regard to *administrative capacity*, the EU takes note of the actions undertaken by Croatia to strengthen the capacity of the Croatian National Bank (HNB), including by increasing its staff and the provision of training. The EU notes that in line with EU approach, the HNB shifted its focus towards targeted supervision, while basing full-scope supervision on risk-analysis and took several actions to reduce the impact of the financial crisis on Croatia's national financial system. The EU welcomes the increasing cooperation between the HNB and foreign supervisory bodies, including by means of Memoranda of Understanding. The EU invites Croatia to continue its efforts to reinforce the administrative capacity in this field.

The EU notes that the adoption of the above-described legislative provisions fulfils the requirements of the first closing benchmark set out in the EU common position (CONF-HR 16/07).

The EU invites Croatia to keep it regularly informed of the developments and steps undertaken as regards further alignment of its legislation on banking and financial conglomerates to the *acquis*.

Insurance and occupational pensions

With regard to *life and non-life insurance*, the EU notes that the amendments to the Insurance Act adopted in July 2008 and July 2009 and relevant implementing legislation aligned its legislation as regards the calculation of the solvency margins in life and non-life insurance undertakings. The EU further notes that Croatia abolished investment restrictions regarding technical reserve coverage of insurance undertakings. These provisions will enter into force as from the date of Croatia's accession to the EU.

The EU notes that on specific *non-life insurances*, Croatia eliminated the remaining inconsistencies with Directive 87/344/EEC and has fully aligned its legislation to the EU *acquis*.

The EU welcomes the fact that Croatia's alignment has been completed as regards insurance mediation (Directive 2002/92/EC), supervision of reinsurance companies (Directive 2005/68/EC) and insurance groups (Directive 98/78/EC).

With regard to *motor insurance*, the EU welcomes the amendments to the Act on Compulsory Insurance within the Transport Sector, which abolished the prior approval of premium price lists as of Croatia's accession.

With regard to the *reorganisation and winding up of insurance undertakings*, the EU notes that Croatia removed remaining inconsistencies with Directive 2001/17/EC concerning publication of re-organisation measures through the adoption of the Insurance Act in July 2008 and its subsequent amendments in July 2009.

In the area of occupational pensions, the EU takes note of Croatia's commitment to complete alignment with Directive 2003/41/EC regarding voluntary pension insurance at the latest by 1 November 2009.

On *administrative capacity*, the EU notes the strengthening of the Croatian Agency for the Supervision of Financial Services (HANFA), and the enhancement of its supervisory activities, including on-site supervisions. The EU takes note of the results achieved by HANFA in enforcing national legislation and prudential requirements and invites Croatia to continue strengthening the capacity of HANFA and to develop its cooperation with other national bodies and other foreign supervisory authorities. The EU takes note of the effectiveness of HANFA's actions to reduce the impact of the financial crisis on Croatia's national financial system and welcomes adoption and continuous implementation of an action plan to strengthen its administrative capacities.

The EU notes that the adoption of the above-described legislative provisions fulfils the requirements of the second and fifth closing benchmark set out in the EU common position (CONF-HR 16/07).

The EU invites Croatia to keep it regularly informed of the developments and steps undertaken as regards further alignment of its legislation on insurance and occupational pensions to the *acquis*.

Financial Market Infrastructure

The EU welcomes the adoption of the Act on Financial Collateral in July 2007 and of the Act on Settlement Finality in Payment and Financial Instruments Settlement Systems in September 2008, which completed the alignment of Croatia's legislation on financial market infrastructure as provided for in Directives 2002/47/EC and 98/26/EC.

The EU notes that the adoption of the above-described legislative provisions fulfils the requirements of the third closing benchmark set out in the EU common position (CONF-HR 16/07).

The EU invites Croatia to keep it regularly informed of the developments and steps undertaken as regards further alignment of its legislation on financial market infrastructure to the *acquis*.

Securities market and investment services

With regard to markets in financial instruments, the EU notes that Croatia adopted a new Capital Market Act in July 2008, and subsequent amendments to this Act in July 2009, which harmonised provisions on the relevant definitions and requirements regarding authorisation to trading and transparency obligations of publicly traded companies .

By means of these legislative acts, the EU notes that Croatia has aligned also its national legislation with the EU *acquis* on investment services and securities markets, in particular in relation to regulation and supervision of investment firms and regulated markets, investor compensation schemes, the publishing of prospectuses, and prohibition of market abuse.

With regard to *collective investment in transferable securities*, the EU notes that Croatia adopted in July 2009 relevant secondary legislation with an aim to complete alignment with the remaining inconsistencies with the UCITS Directive 2007/16/EC, as regards the clarification of certain definitions.

The EU notes that the adoption of the above-described legislative provisions fulfils the requirements of the fourth closing benchmark set out in the EU common position (CONF-HR 16/07).

The EU invites Croatia to keep it regularly informed of the developments and steps undertaken as regards further alignment of its legislation on securities market and investment services to the *acquis*.

The EU invites Croatia to keep it regularly informed of the further measures undertaken to reinforce the administrative structures to implement the *acquis* in the field of financial services.

The EU underlines the importance for HNB and HANFA to enforce prudential requirements in accordance with the principle of non-discrimination in the implementation of the *acquis* and national legislation.

In view of the financial crisis, the EU invites Croatia to closely follow the developments of the *acquis* in this chapter and implement any changes as a matter of urgency.

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In view of all the above considerations, the EU notes that, at this stage, this chapter does not require further negotiations.

Monitoring of progress in the alignment with and implementation of the *acquis* will continue throughout the negotiations. The EU underlines that it will devote particular attention to monitoring all specific issues mentioned above with a view to ensuring Croatia's administrative capacity to implement the legislation in the field of financial services. Particular consideration needs to be given to the links between the present chapter and other negotiation chapters. A final assessment of the conformity of Croatia's legislation with the *acquis* and of its implementation capacity can only be made at a later stage of the negotiations. In addition to all the information the EU may require for the negotiations in this chapter and which is to be provided to the Conference, the EU invites Croatia to provide regularly detailed written information to the Stabilisation and Association Council on progress in the implementation of the *acquis*.

In view of all the above considerations, the EU will, if necessary, return to this chapter at an appropriate moment.

Furthermore, the EU recalls that there may be new *acquis* adopted between 1 June 2009 and the conclusion of the negotiations.
