



*Brussels, 13.6.2017
C(2017) 3975 final*

*Mr Urban AHLIN
Speaker of the Riksdag
SE – 100 12 STOCKHOLM*

Dear President,

The Commission would like to thank the Riksdag for its Reasoned Opinion on the proposal for a Regulation amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements and amending Regulation (EU) No 648/2012 {COM(2016) 850 final} and on the proposal for a Directive amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures {COM(2016) 854 final}.

These proposals form part of a broader package of measures designed to strengthen the prudential and resolution frameworks in the European Union. In particular, the two proposals aim at implementing the outstanding elements of the post-crisis reforms already agreed at international level, encouraging bank financing to promote growth and jobs, and increasing the proportionality of the current rules.

The Commission is pleased that the Riksdag is essentially in favour of continued efforts to strengthen the financial system in the European Union and to maintain financial stability, but notes the concerns expressed by the Riksdag as regards the Commission's proposed amendments regarding limitations of the possibility to take into account systemic or macro-prudential risks under Pillar 2.¹

The Commission understands that the main concern put forward in the Reasoned Opinion is that the "proposed amendments regarding the Pillar 2 provisions mean (...) that the Pillar 2 requirement can no longer be imposed to cover systemic or macro-prudential risks, which is currently allowed". The Riksdag considers this to be contrary to the principle of proportionality.

The Commission understands that the concern expressed by the Riksdag mainly refers to the second subparagraph of Article 104a(1) of the proposal for a Directive amending Directive 2013/36/EU. The Commission would like to recall that the main purpose of Pillar 2

¹ Pillar 2 refers generically to supervisory measures, including additional capital requirements, that competent authorities may impose on individual institutions under their supervision to address risks incurred by or affecting those institutions, if such risks are not yet covered or not sufficiently covered by capital requirements enshrined in legislation (so-called Pillar 1).

requirements – as opposed to generally applicable requirements - is to cater for risks which are specific to individual banks. The provision in question has been developed with a view to streamlining the currently applicable legal text governing Pillar 2, in light of divergent interpretations throughout the Union, especially as regards the stacking order of capital requirements relevant for automatic restrictions on distributions. In this context, the Commission proposed to clarify that competent authorities may impose Pillar 2 requirements and may require Pillar 2 guidance.² The Commission proposed that the Pillar 2 requirements, which are relevant for the automatic restrictions on distributions, be clearly framed to address only bank-specific risks or elements of risk that are not already covered or sufficiently covered by Pillar 1 capital requirements.³ By definition, macro-prudential and systemic risks are not bank-specific risks, and it is for this reason that the Commission proposed that they should not be covered through additional Pillar 2 requirements.

The Commission carefully considered its proposal also from the perspective of the principle of proportionality. The Commission would like to point out the significant number of other instruments available to competent authorities for addressing macroprudential risks. Thus, there are several dedicated instruments set out in Directive 2013/36/EU as well as in Regulation (EU) No 575/2013 aimed at addressing macro-prudential risks.⁴ Furthermore, competent authorities have the possibility to ask institutions to have sufficient capital to cover Pillar 2 guidance, as established in Article 104b of the proposal. Pillar 2 guidance is not relevant for the purposes of automatic restrictions on distributions and may be used in broader circumstances than those reserved for Pillar 2 requirements.

The Commission would also like to emphasize that its proposal clarifies that the nature of the Pillar 2 requirements, set in a bank-specific manner, should also be akin to Pillar 1 requirements in that they combine together with Pillar 1 requirements into a total capital requirement, the breach of which can result in license withdrawal. Furthermore, they combine together with capital buffers into a capital level the breach of which should result in automatic limits on distributions to shareholders and other stakeholders.

The Commission values the Riksdag's early engagement at this stage of the legislative process. This specific issue has been raised in preliminary discussions that have taken place in the Council. The Commission undertakes to engage in further discussions with the European Parliament and the Council to ensure that the legal text is fully aligned with the principle of proportionality.

The Commission hopes that the clarifications provided in this reply address the issues raised by the Riksdag and looks forward to continuing our political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Valdis Dombrovskis
Vice-President of the Commission*

² See Articles 104a and 104b of the Commission's proposal for a Directive amending Directive 2013/36/EU.

³ See Article 104a of the Commission's proposal for a Directive amending Directive 2013/36/EU.

⁴ Such as those enshrine in Articles 131 and 133 of Directive 2013/36/EU and Articles 124, 164 and 458 of Regulation (EU) No 575/2013.