

Brussels,
C/2014/528

02 FEB. 2011

Dear President,

Thank you for sending the resolution that the Senate of the Czech Republic has adopted on 3 November 2010 concerning the legislative Proposal of the Commission of 2 June 2010 to amend Regulation (EC) No 1060/2009 of the European Parliament and of the Council on credit rating agencies {COM(2010) 289}.

In line with the Commission's decision to encourage national Parliaments to react to its proposals, in order to improve the process of policy formulation, we welcome this opportunity to respond to your comments. I enclose the Commission's response, and hope you will find it a valuable contribution to your own deliberations.

I am looking forward to continuing our dialogue on EU policy.

Yours sincerely,

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President of the Senate
of the Parliament of the Czech Republic*

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COMMENTS OF THE EUROPEAN COMMISSION ON AN OPINION FROM THE SENATE OF THE CZECH REPUBLIC

COM(2010) 289 - PROPOSAL OF THE COMMISSION OF 2ND JUNE 2010 TO AMEND REGULATION (EC) N° 1060/2009 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON CREDIT RATING AGENCIES.

The Commission welcomes the opinion of the Senate of the Czech Republic concerning the above mentioned proposal insofar as it proposes to grant the new European Securities and Markets Authority (ESMA) supervisory powers over credit rating agencies.

The Commission takes note that the Senate, whilst agreeing with the general objective of the proposed rules on transparency of structured finance instruments, has concerns with regard to the concrete design of the proposed Articles 8a and 8b (notably with regard to the 10 % rule and the access of supervisors to information on websites). Please be informed that these provisions were removed from the legislative proposal during the negotiations in the European Parliament and the Council. Consequently, Articles 8a and 8b are no longer present in the text agreed by Member States on 8 December 2010 and subsequently adopted in the plenary meeting of the European Parliament on 15 December.

Furthermore, the Commission takes note of the concerns expressed by the Czech Senate regarding the powers of ESMA to request information, the general investigation powers and the powers for ESMA to conduct on-site inspections, in particular regarding Article 23b (1) f. The Commission is of the view that ESMA should be granted all necessary powers to effectively supervise on an ongoing basis the compliance with the requirements set out in the Regulation. The Commission also notes that the rights of defence for the persons being subject to supervisory measures taken by ESMA are appropriately addressed in the Regulation. With regard to Article 23b (1) f, the above mentioned political agreement between the Council and the European Parliament further specifies the conditions for exercising this power.

In addition, the protection of individuals with regard to the processing of personal data and the free movement of such data is ensured by the application of Directive 95/46/EC¹ and Regulation (EC) No 45/2001².

Finally, the Commission takes note of the concern expressed by the Czech Senate to the end that the proposed transition period of one month is too short and should be prolonged. The Commission considers it very important to transfer the supervisory competencies as far as credit rating agencies are concerned to ESMA as soon as practicable. Please note that the above mentioned political agreement has fixed the date of 1 July 2011.

¹ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, Official Journal L 281 , 23/11/1995, p 31.

² REGULATION (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, Official Journal L 8, 12.01.2001, p. 1

The Commission believes that the agreed amendments will introduce an efficient supervisory regime for credit rating agencies, and is confident that this will significantly improve the EU regulatory framework for credit rating agencies.