



**THE SENATE
OF THE PARLIAMENT OF THE CZECH REPUBLIC
8TH TERM**

75TH

RESOLUTION OF THE SENATE

Delivered on the 4th session held on 26 January 2011

**on the Proposal for a Regulation of the European Parliament and of the Council
on Short Selling and certain aspects of Credit Default Swaps
(Senate Press no. N 131/07)**

The Senate

I.

S u p p o r t s

common EU approach towards the regulation of short selling and credit default swaps as it is inevitable given the mobility of financial services as well as the risk of regulatory arbitrage;

II.

1. A g r e e s

with enhancing of transparency of short positions as regards notification duty towards the regulator, but does not consider the duty to notify other market participants appropriate because the fact that market participants find out about an increased short selling of any security may easily contribute to a negative sentiment and trigger another round of selling and, thus, run counter to the original purpose of the regulation, i.e. prevention of a downward spiral in the prices of shares;

2. P o i n t s o u t

additional costs arising from the duty to mark short selling orders on trading venue and a limited benefit of this measure that cannot serve for calculating the real amount of short positions relating to the given issuer because there is no duty to mark close-out trades covering the short selling activity, i.e. trades that neutralize the open position created by short selling;

3. I s o f t h e o p i n i o n

that the highest risk related to uncovered short selling lies in settlement failures and, therefore, the Senate regards as appropriate to put in place buy-in procedures and fines for late settlement as stipulated in Article 13 of the proposal;

4. Considers

too vague the formulation „adverse events or developments which constitute a serious threat to financial stability or to market confidence in one or more Member States“ that is repeatedly used throughout the proposal and on the grounds of which the relevant authorities and ESMA have the power to take intervention measures, and would welcome its clearer specification;

5. Requests

that an article on fiscal neutrality of ESMA's decisions be added to the proposal that would ensure that prospective intervention measures by the authority vis-à-vis individual financial institutions will not have any repercussions for the budget of the given country;

6. Supports

the regulation of uncovered credit default swaps that do not serve for hedging of risks arising from open positions relating to the possession of the underlying asset;

III.

1. Requests

the Government to inform the Senate about the way this position was taken into account and to provide the Senate with further information on the proceeding of negotiations;

2. Authorises

the President of the Senate to forward this resolution to the European Commission.

Milan Štěch
sign manual
President of the Senate

Petr Šilar
sign manual
Senate Verifier