



EUROPEAN COMMISSION

Brussels, 10.2.2014
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Dear President,

The Commission would like to thank the Folketing for its Opinion concerning the Proposal for a Regulation of the European Parliament and of the Council establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Bank Resolution Fund {COM (2013) 520 final}.

The Commission welcomes the Folketing's general support for its proposal and takes note of the concerns expressed. Please find hereinafter some clarifications regarding these concerns.

The Commission would very much welcome if Denmark decided to participate in the Single Resolution Mechanism (SRM) in accordance with its constitutional provisions. In this regard, the Commission would like to point out that within the SRM democratic scrutiny would be preserved. According to the proposal of the Commission, the Resolution Board would include, in addition to members appointed by national resolution authorities, independent members appointed by the Council after hearing the European Parliament. Moreover, the Commission proposes that the Board be accountable to the European Parliament and to national Parliaments.

In particular, national Parliaments would be entitled to request the Board to reply in writing to any observations or questions submitted by them in respect of the functions performed under the SRM. The national Parliament of a participating Member State could also invite the Executive Director to participate in an exchange of views in relation to the resolution of credit institutions established in the territory of that Member State.

Even though the Single Resolution Mechanism would apply to the participant Member States in the Single Supervisory Mechanism (SSM), it would be open to any other Member State of the European Union, whether in the euro-area or not, and foresees cooperation with the non-participant Member States.

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The composition of the Resolution Board reflects the Member States that participate in the SRM as the plenary session of the Board comprises a member appointed by each national resolution authority of the participant Member States. As regards the voting rules in the plenary session of the Board, the general approach reached by the Council at the 18 December ECOFIN provides for exemptions from the simple majority rule in the plenary when deciding on issues regarding the Fund above certain thresholds. In such cases, decisions shall be taken by a majority of 2/3, representing at least 50% of contributions. At the same time, the European Parliament's text as voted in the ECON committee on 17 December 2013 requires that the simple majority rule be applied in the plenary.

The SRM proposal comprises a number of provisions setting out the principles of such cooperation. It expressly states that it would be the Resolution Board, representing national authorities of the participant Member States, which would cooperate with the resolution authorities of the non-participant Member States. Such cooperation would be governed by the rules set out in the Directive establishing a framework for the recovery and resolution of credit institutions and investment firms (BRRD) which constitutes the Single Rulebook on bank resolution on which the SRM is built. This means that where a resolution case would concern entities established in both participant and non-participant Member States, the rules on resolution colleges set out in the BRRD, such as, for example, the provisions empowering the European Banking Authority to mediate between the national resolution authorities in case of disagreement would be applicable. In addition, the SRM sets out a number of principles to ensure equality of treatment in resolution between the participant and non-participant Member States.

The powers that would be conferred upon the Commission according to the legislative proposal do in the Commission's view not go beyond what is necessary for an effective SRM. The Single Resolution Board would perform all the technical work, from the drafting of resolution plans to adopting resolution schemes setting out the resolution tools, actions and measures that national resolution authorities would have to implement, and providing for the use of the Single Fund. National resolution authorities would thus also play an important role in the SRM. The Commission would be involved in the SRM only insofar as the most discretionary decisions relating to bank resolution need to be taken. Indeed, the Council Legal Service confirmed that, a European institution would have to be involved in the SRM.

Concerning the application of the bail-in tool, the agreement found on the BRRD on 11 December 2013 represents a good compromise by advancing the application of the bail-in to 1 January 2016.

As regards the Danish mortgage credit institutions and the concerns the Folketing expressed on such institutions being subject to the SRM, the agreement found on the BRRD should solve this issue. As regards a possible backstop for the Single Resolution Fund, discussions have started in the Economic and Financial Committee (EFC) and the Eurogroup Working Group (EWG) at the end of October 2013. At the 18 December ECOFIN, Member States agreed to work on developing a common backstop for the Single Fund during the transitional period until the Fund is built-up so that the backstop would be operational in the steady state. Member States agreed that such discussions on a common backstop take into account the need to ensure equality of treatment towards the non-participant Member States in the SRM. For the transitional period, Member States agreed to work on finding temporary bridge financing solution. The Commission insists that the discussions on the backstop continue in parallel with the trilogues on the SRM as a common backstop to the Single Resolution Fund would enhance the credibility of the Single Fund and the SRM. The Commission has noted the request to leave the choice between administrative and criminal sanctions expressly to the Member States. However, the approach taken in the Commission's proposal according to which the Board is to instruct national resolution authorities to impose sanctions responds to the need for legal certainty on such an important matter.

Regarding the separation of lending and deposit-taking activities from proprietary and certain other trading activities, the Commission would like to refer to the report of the Liikanen High-Level Expert Group of 2 October 2012 and to the legislative proposal presented by the Commission on 29 of January.

The Commission hopes that these clarifications address the concerns and issues raised by the Folketing and looks forward to continuing our political dialogue in the future.

Yours faithfully,

*Maroš Šefčovič
Vice-President*