



EUROPEAN COMMISSION

Brussels, 3.2.2016
C(2016) 216 final

Dear President,

The Commission would like to thank the Sénat for its Opinion concerning the proposal for a Regulation on structural measures improving the resilience of EU credit institutions {COM(2014) 43 final}.

The Commission takes note of the Sénat's concerns on the recent developments in the negotiations on the proposal, and in particular regarding the subsidiarity and proportionality principles, and the concerns regarding internal market fragmentation, competitive distortions and the competitiveness of the financial sector in the EU.

The proposed Regulation is an important EU project. In drafting the proposal, the Commission has taken due account of the European banking sector's importance in providing finance to the economy as well as the benefits of maintaining the diversity of banking models in Europe. Universal banks would be able to continue to serve clients with a broad set of services and financial products even under this proposal.

It should complement the financial regulatory reforms undertaken over the last years. The Commission considers that large banks' trading activities give rise to systemic risks not fully addressed by existing regulatory instruments. Our objective is to give supervisors the necessary tools to cope with these risks, including by making it possible for supervisors to require the separation of excessively risky trading activities from the core business of credit institutions.

On 19 June 2015, the Council agreed on a general approach. Member States considered that systemic risks stemming from the trading activities of big banks indeed pose specific financial stability concerns and that past reforms have not been able to fully address these risks. The Council's general approach therefore would empower supervisors to assess trading activities and gives them specific tools to address those that are excessively risky. Supervisors are given a large degree of discretion in this process, so there should be no automaticity in supervisory action.

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In order to focus the attention of the supervisor on those banks presenting specific risks due to their size or their level of trading activities, the Council also would introduce exemption, in particular for banks taking eligible deposits up to a threshold of 35 billion euros. The Commission, in its proposal, did not envisage such an exemption.

The Council agreed to take account of the fact that some Member States have already proposed or adopted structural reform measures for their national banking systems. This is in line with what the Commission proposed: we considered that imposing additional EU-based requirements on banks already subject to such decisions at national level would be disproportionate and unnecessary. In order to accommodate those pre-existing regimes, the Council wants to include provisions allowing Member States to maintain their national laws, as long as they pursue the same objectives as those of the Regulation, and respect a set of stringent criteria.

The Commission hopes that the ongoing discussions in the European Parliament will soon lead to the adoption of their position allowing the trilogues between Commission, European Parliament and Council to start as soon as possible. Those trilogues will undoubtedly address the points covered in your Opinion.

The Commission will play a constructive role in this context and will pay particular attention to the scope of the regulation which should cover all banks likely to engage into excessively risky trading activities. We will also be attentive to the need to ensure that the provisions allowing national rules to be maintained are fully aligned with the objectives of the regulation and produce similar results.

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

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Lord Hill
Member of the Commission*