EUROPEAN COMMISSION

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Dear President,

The Commission would like to thank the Bundesrat for its Opinion on the Proposal for a Council Regulation conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions {COM(2012)511 final}, and apologises for the long delay in replying.

The Commission welcomes in particular the support expressed for the proposal on the establishment of the Single Supervisory Mechanism (SSM) which constitutes a major qualitative step towards a more integrated financial framework, in line with the European Council Conclusions of 14 December 2012.

Following the unanimous agreement by the Council on 12-13 December 2012 and the subsequent consultation of the European Parliament, a political agreement has been reached by co-legislators on 19 March 2013 on a comprehensive compromise text which has now to be formally endorsed.

As regards the concerns raised by the Bundesrat in its opinion on the proposed SSM Regulation, the Commission would like to make the following remarks:

The Commission shares the view that it is essential to strictly separate monetary policy and supervisory tasks conferred on the ECB to prevent potential conflicts of interests. The comprehensive compromise text ensures the separation between the two functions by establishing a Supervisory Board while minimising the role of the Governing Council in the decision making process. In particular, the Supervisory Board would carry out full preparatory work and propose complete draft decisions to the Governing Council which will be deemed adopted unless the Governing Council objects in a duly justified manner. In addition, a mediation panel will be created to resolve differences of views expressed by national supervisors on an objection of the Governing Council to a decision proposed by the Supervisory Board.

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As regards supervisory tasks, the Commission agrees that a clear division of labour between the ECB and national authorities is essential. Indeed, the comprehensive compromise text keeps the ECB's responsibility for the functioning of SSM which should ensure efficient and high quality supervision of all banks. At the same time, it provides that the ECB will carry out direct supervision of more significant banks while national supervisors will have responsibility for less significant banks within the framework established by the ECB. The significance of banks will be assessed on the basis of objective criteria (assets of more than EUR 30 billion or 20% of national GDP, public financial assistance) which seem suitable in view of ensuring that supervision is carried out at the most appropriate level.

The activity of national supervisors will be integrated in the SSM and the ECB will be able to take over the direct supervision of any bank in participating Member States when necessary to ensure consistent application of high supervisory standards. The Commission is convinced that this system will ensure the necessary shared control over risks in the banking sector while maintaining a key role for national supervisors and thereby respecting the principles of subsidiarity and proportionality. The Commission firmly believes that Article 127(6) TFEU is the right legal basis for the SSM Regulation, given the involvement of the ECB. The range of tasks conferred on the ECB by virtue of Article 127(6) TFEU is necessarily broad to allow the ECB to fully deploy its role to promote the safety and soundness of credit institutions and the stability of the financial system, but all other tasks will remain with national supervisory authorities.

The Commission fully acknowledges the importance of ensuring an SSM that has the necessary democratic legitimacy. The comprehensive compromise text provides for strong accountability provisions in particular in relation to the European Parliament and also foresees a role for national Parliaments, to ensure that the ECB uses its supervisory powers in the most effective and proportionate way.

The Commission confirms that the comprehensive compromise text fully preserves the Single Market and its four freedoms. The SSM will contribute to the effective application of the single rulebook for financial services and the harmonisation of supervisory procedures and practices, by removing national distortions and thus reflecting the needs of an integrated currency area.

The Commission agrees that the establishment of the SSM is one of the necessary preconditions for direct recapitalisation by the European Stability Mechanism (ESM) which, however does not result in any form of automatism but requires further specific measures by the ESM.

The Commission hopes that these explanations serve to clarify the points raised by the Bundesrat and looks forward to continuing our political dialogue in the future.

Yours faithfully,

Maroš Šefčovič
Vice-President