



EUROPEAN COMMISSION

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Mr Renato Schifani  
President  
Senate of the Italian Republic  
Piazza Madama  
I - 00186 Roma

Dear President,

Thank you for the opinion of the Senato della Repubblica on the proposal for a Regulation of the European Parliament and the Council on short selling and certain aspects of Credit Default Swaps (CDS) {COM(2010) 482 final}, allow me to start by apologising for the undue delay in responding to your opinion.

The European Commission welcomes the favourable opinion of the Senato della Repubblica, notably with regard to the legal base, subsidiarity and proportionality. We also consider that short selling is a cross-border phenomenon and the current fragmented regulatory approach to short selling and CDS limits the effectiveness of supervision and may result in regulatory arbitrage.

The Commission notes the Senate's concern that procedures in relation to government bonds should be distinct in view of their significance for the evolution of public debt. The Commission has taken great care to calibrate the proposal in relation to sovereign debt to take account of this significance, notably by providing for private disclosure only to the regulator and the possibility for regulators to take measures in exceptional situations. With regard to provisions on uncovered short selling, the Commission is convinced that these provisions should also apply to sovereign debt, subject to appropriate adaptations, notably for primary market operations. However, as you may be aware, this issue has been a focus of discussion in Council and the subject of a specific compromise. The Commission will make every effort to broker a compromise acceptable to all three institutions on this issue.

Concerning the Senato della Repubblica's comments about the need for a careful balance to be struck in relation to the thresholds for the reporting requirements, the Commission recalls that the approach proposed by the Commission is based on the advice set out in the report of the Committee for European Securities Regulators (CESR)<sup>1</sup>. This advice

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<sup>1</sup> CESR/10-088, "Model for a Pan-European Short Selling Disclosure Regime".

*was itself the subject of a public consultation and discussions between regulators, who paid particular attention to striking the balance which is rightly emphasised by the Senato della Repubblica. The Commission also points out that several Member States already apply the disclosure regime included in the proposal, without any significant market disruption being observed.*

*The Commission notes the Senato della Repubblica's views on the use of legislative delegation in the short selling proposal. However, while it is true that this delegation is not time-limited, its exercise is clearly circumscribed in the proposal. For example, in relation to the definitions, there is no question of modifying the definitions themselves, only adopting measures specifying them. Concerning the thresholds, these can be modified to take into account the developments in financial markets. The Commission recalls that all delegated powers can be revoked at any time by the European Parliament or the Council, and the co-legislators may also object to a delegated act within two months of notification.*

*The Commission is very attentive to the views of national parliaments on its proposals and appreciates the opportunity to exchange views on this issue with the Senato della Repubblica.*

*Yours faithfully,*

*Maroš Šefčovič  
Vice-President*