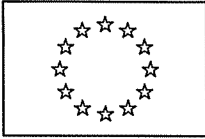

EUROPEAN COMMISSION

Brussels, 18.10.2012
C(2012) 7123 *final*

Mr Valeriu Ştefan ZGONEA
President
Chamber of Deputies
Palace of the Parliament
Str. Izvor nr. 2-4, sector
RO – BUCHAREST

Dear President,

The Commission would like to thank the Camera Deputatilor for its Opinion on the proposal for a regulation of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms {COM(2011) 452 final}, which is part of the so-called CRD IV package[1]*. Let me apologise for the delay in replying to this Opinion.*

The Commission particularly welcomes the Camera Deputatilor's support for the Liquidity Coverage Ratio and of the Net Stable Funding Ratio included in the proposal.

The Commission takes note of the concerns expressed by the Camera Deputatilor. I hope that the detailed explanations made in the annex clarify these and I look forward to continuing our political dialogue in the future.

Yours faithfully,

Maroš Šefčovič
Vice-President

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[1] *Proposal for a regulation of the European Parliament and of the Council on the access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms and amending Directive 2002/87/EC of the European Parliament and of the Council on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate ("CRR").*

ANNEX

LIMITATIONS TO NATIONAL FLEXIBILITY WHEN IMPLEMENTING STRONGER PRUDENTIAL STANDARDS FOR MACRO-PRUDENTIAL REASONS

The Commission fully recognises the need for Member States to be able to impose additional (capital) requirements on their banks in order to take account of the specificities of their national banking sector. To this end, the Commission's original proposals already foresaw a number of levers to ensure national flexibility. However, unilaterally imposed or/and unjustified capital increases in one Member State can lead to a reduction in the credit flow in neighbouring countries, as recently witnessed in countries neighbouring Austria. This is detrimental to the Single Market and particularly worrying in the current economic context.

By defending the integrity of the single rulebook, the Commission is defending the internal market and the collective interest of all Member States, so as to ensure that national macro-prudential measures do not harm the economic growth potential in other Member States and hence undermine the overall EU growth strategy.

However, the Commission has also defined specific areas of national flexibility:

Temporary increase of minimum requirements, in particular on Member States proposals, by Commission delegated acts (CRR Article 443);

Increasing risk weights for lending based on mortgages secured on immovable property (CRR Article 119).

In both cases, the proposed flexibility is balanced by either establishing a role for a "coordinating body" at European level and/or by placing some constraint on the degree of Member State flexibility. For the temporary increase to minimum requirements, the EU coordination would be assured by the Commission (with a possible ESRB opinion), while the constraint on national flexibility would be for a limited period of time. As for the possibility of increasing risk weights for mortgage lending in home Member States, the EBA and the Commission would ensure the coordination at EU level through the development by the EBA and the adoption by the Commission of regulatory technical standards, while the constraint on national flexibility would only refer to risk weight of maximum 100% (instead of 35% for residential and 50% for commercial property). These mechanisms would balance the exercise of national flexibility by a Member State with appropriate safeguards to protect the interests of other Member States (e.g. through the role of the EU coordinating body) and ensure the effectiveness of the home Member State policy. Thus the integrity of the single market would be safeguarded.

Macro-prudential measures taken at the national level should have only a national impact. Where the impact goes beyond national borders and becomes European, then the decisionmaking should also be at European level or the potential scope of the negative impact should be constrained.

LARGE EXPOSURE LIMITS ARE SUBMITTED TO A RISK EVALUATION OF SOVEREIGN DEBT WHICH CONTINUES TO PROMOTE ZERO RISK. BANKS MIGHT BE DISCOURAGED FROM GRANTING CREDITS TO SMES

The large exposure regime is being reviewed by the Basel Committee. The aim is to achieve an internationally consistent and effective framework, taking into account market developments and lessons learned from the crises. In this context, the treatment of exposures to sovereigns for large exposures is under review.

The access to adequate financing for SMEs is an important issue and ensuring that SMEs can grow and prosper in the EU is one of the priorities of the Commission. Lowering the risk weights for exposures to SMEs may not automatically lead to increased lending to SMEs. Indeed, there is no guarantee that banks would use the capital that would be made available to them through such change for increasing their lending to SMEs.

Given the small size of credits granted to SMEs in comparison with the regulatory own funds of the credit institutions, the current large exposure regime does not discourage banks from granting credits to SMEs: the value of loans does not exceed the 25% large exposure limit in most cases. Where the loans to SMEs are guaranteed by the State government or a local authority, the portion of the loans which is guaranteed could be treated as having been incurred to the guarantor rather than to the borrowers, which may lead to a breach of the 25% limit to the guarantor. However, on the basis of Articles 389 (points 1 and 2) and 392, the exposure to the public guarantor could be exempted from the application of the large exposure limit if the public guarantor is itself exempted.

EXPOSURES OF REAL ESTATE PROPERTIES SHOULD NOT RECEIVE A MORE FAVOURABLE RISK WEIGHTING

Article 119 of the CRR proposal comprises a flexibility option given to Member States. For loans secured by mortgages on residential property occupied by the owner, the CRR carries on the approach of the existing directive 2006/48/EU: Member States shall apply 35% risk weights, if certain conditions are met. For commercial real estate, the Single rulebook foresees the option "shall apply 50% risk weighting if certain conditions are met", thus replacing the current directive option of "may assign a risk weight of 50%". However, in both cases, Member States have the possibility of setting higher risk weights after consulting the European Banking Authority.

POSSIBLE LIMITATION TO THE NATIONAL MARKETS OF FINANCIAL INSTITUTIONS' OPERATIONS. DE-STABILIZATION AND FRAGMENTATION FOR THOSE MEMBER STATES WHOSE BANKING SECTOR IS PREDOMINANTLY NON-NATIONAL

The creation of the Single Market is a major achievement of European integration. It mitigates the risks of fragmentation and regulatory arbitrage. Unfettered freedom for Member States to change capital requirements would provoke further capital

reallocation between economies. Such a policy would be to the detriment of some and to the benefit of others.

CRD/CRR COORDINATION WITH RELATED LEGISLATIVE PROPOSALS SUCH AS MIFID AND EMIR

The Commission is committed to ensuring a coherent and convergent approach in the regulation of the financial sector. The Commission wants to avoid the overlap between the proposed legislative proposals. However, due to the uneven degree of legislative development, the different levels of maturity reached within a specific area or sometimes due to the lack of appetite from Member States to agree on similar approaches, it might sometimes prove to be a difficult task. The Commission will therefore continue to advocate a sound and articulated approach in order to warrant a level playing field to financial operators on EU markets.

THE ADOPTION OF MEASURES FOR THE INTERNATIONAL HARMONIZATION OF ACCOUNTING IS RECOMMENDABLE

More and more jurisdictions throughout the world apply the International Financial Reporting Standards (IFRS), which tend to become the international accounting language. The Commission supports the efforts made by the US to converge towards the IFR and the work carried out by the International Accounting Standards Board (IASB) and the Financial Accounting Standards Board (FASB) to strengthen comparability between the EU and US companies and for a more level playing field.

THE PROPOSED REGULATION SHOULD BE APPLIED AFTER THE CREATION OF A EUROPEAN FRAMEWORK FOR CRISIS MANAGEMENT

The proposal for a directive of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms {COM(2012) 280 final} was adopted on 6 June 2012. It is one of the most important pieces of draft legislation in the area of financial services. While the Commission will encourage the Council and European Parliament to give priority to this proposal, it is unlikely that the European framework for recovery and resolution will be in place before the entry into force of the capital and prudential requirements imposed by Basel III.

SHADOW BANKING

The Commission considers that it is important to limit the scope of regulatory arbitrage for entities operating outside the regular banking system while carrying out bank-like activities; if such entities or activities are exposed to similar financial risks as banks, they should be subject to the same requirements imposed by banking regulation and supervision. Any regulatory fragmentation would lead to a regulatory "race to the bottom" for the financial system where banks would be encouraged to operate through unregulated entities.

In this respect, the Commission released a communication on 19 March 2012, organised a Conference in Brussels, on 27 April 2012, and is considering the case for further action in this area.