



EUROPEAN COMMISSION

*Brussels, 11.06.2014*

*C(2014) 3799 final*

*Dear President,*

*The Commission would like to thank the Camera Deputaților for its Opinion on 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 and amending Regulation (EU) No 1093/2010 of the European Parliament and of the Council {COM(2013) 520 final}.*

*The Commission welcomes the support for the Single Resolution Mechanism (SRM) that the Camera Deputaților expresses in its Opinion. After the European Parliament and the Council adopted their positions, in December 2013, on the Commission's proposal for a Regulation of 10 July 2013, the European Parliament adopted the text politically agreed with the Council in its Plenary session on 15 April 2014.*

*The following comments from the Commission on the concerns raised in the Camera Deputaților's Opinion are based on the text adopted by the European Parliament.*

*Established case law of the European Court of Justice requires a Union institution to control decisions of agencies such as the Single Resolution Board, which imply a wide margin of discretion. According to the political agreement between the co-legislators, the decision-making process has been rendered less complex compared to the Council's general approach of 18 December 2013. The Union institution to control discretionary decisions of the Single Resolution Board would in most cases be the Commission while the Council would be able to decide whether to object to the resolution scheme on the ground that the resolution scheme adopted by the Board does not fulfil the criterion of public interest and whether to approve or object to a material modification of the amount of the Fund provided for in the resolution scheme of the Board. Therefore, the Commission is confident that, in practice, intervention into the Board's decision-making by Union institutions will not prevent quick resolution decisions over a weekend.*

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*The Regulation also allows for sufficient flexibility in the application of the bail-in tool in order to avoid financial instability. First, certain liabilities may be excluded from bail-in if this is strictly necessary and proportionate to achieve the continuity of critical functions and core business lines in a manner that maintains the ability of the institution under resolution to continue key operations, services and transactions. Second, certain liabilities may be excluded from bail-in if this is strictly necessary and proportionate to avoid giving rise to widespread contagion, in particular as regards eligible deposits held by natural persons and micro, small and medium sized enterprises, which would severely disrupt the functioning of financial markets, including of financial market infrastructures, in a manner that could cause a serious disturbance to the economy of a Member State or of the Union.*

*As regards the establishment of a bank-financed Single Resolution Fund, the Commission regrets that Member States chose to provide for a progressive mutualisation of national compartments instead of putting in place a truly "Single" Resolution Fund right from the start. However, it welcomes the final agreement according to which the transitional period will last eight years with a high degree of mutualisation already from the start.*

*After this transitional period, the Single Resolution Fund is to have available financial means totalling to 1% of covered deposits owed by banks established in participating Member States. Although this volume will in most instances allow for effective and sufficient financing of resolution actions, Member States also acknowledged that there may exist situations where the means available in the Single Resolution Fund are not sufficient to face a particular resolution action. Therefore, they committed to developing a common backstop during the transitional period that should facilitate borrowings by the Single Resolution Fund. Such bridge financing could be provided by national sources or the European Stability Mechanism in line with agreed procedures. The banking sector will ultimately be liable for repayment by means of contributions in all participating Member States.*

*The political agreement among the co-legislators has addressed the Camera Deputațiilor's concern regarding the principles applicable to contributions. The flat contribution will be pro-rata based on the amount of an institution's liabilities excluding own funds and covered deposits, with respect to the total liabilities, excluding own funds and covered deposits, of all the institutions authorised in the territories of the participating Member States. The risk-adjusted contribution will be based on the same criteria as under the Bank Recovery and Resolution Directive. These criteria inter alia require risk-adjusted contributions to be based on the complexity of the structure of the institution.*

*The Capital Requirements Directive (CRD IV) and the Capital Requirements Regulation (CRR) require better capitalisation, effective liquidity systems and a strengthening of internal governance systems. The CRD IV and CRR will enhance the resilience of the banking system and the capability of individual banks to absorb economic shocks. Systemically Important Institutions must fulfil additional quantitative and qualitative requirements.*

*Effective market structures and an effective resolution regime will diminish remaining negative external effects of failing banks. Overall, the strengthened prudential requirements in combination with robust resolution mechanisms and the recent proposal for a Regulation*

*on structural measures improving the resilience of EU credit institutions would enhance financial stability by reducing the "too-big-to-fail problem", re-establish confidence in a sound financial sector, and reverse the trend towards market fragmentation.*

*The Commission hopes that these explanations address the concerns raised by the Camera Deputaților and looks forward to continuing our political dialogue in the future.*

*Yours faithfully,*

*Maroš Šefčovič  
Vice-President*