



EUROPEAN COMMISSION

Brussels, 22.5.2018
C(2018) 3084 final

Dear President,

The Commission would like to thank the Senat for its Opinion on the proposal for a Regulation of the European Parliament and the Council amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority); Regulation (EU) No 1094/2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority); Regulation (EU) No 1095/2010 establishing a European Supervisory Authority (European Securities and Markets Authority); Regulation (EU) No 345/2013 on European venture capital funds; Regulation (EU) No 346/2013 on European social entrepreneurship funds; Regulation (EU) No 600/2014 on markets in financial instruments; Regulation (EU) 2015/760 on European long-term investment funds; Regulation (EU) 2016/1011 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds; and Regulation (EU) 2017/1129 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market {COM(2017) 536 final}.

The proposal forms part of the Commission's efforts for further financial integration and the creation of a full Capital Markets Union. The Commission considers the completion of the Capital Markets Union a high priority in order to promote jobs, growth and investment in Europe and to strengthen the Economic and Monetary Union.

One indispensable building block for truly integrated financial markets is an enhanced European System of Financial Supervision. The Commission is of the view that further strengthening of and more integration within the European System of Financial Supervision is needed to deliver the benefits and manage the challenges associated with more integration of the financial markets in the European Union and current global developments.

*Mr Călin POPESCU-TĂRICEANU
President of the Senat
Calea 13 Septembrie nr. 1-3, sector 5
RO – 050711 BUCHAREST*

To this end, the Commission proposes to enhance existing tools and to add some new ones for achieving more coordinated supervisory outcomes across the European Union. Hence, the proposal introduces direct supervision by European Supervisory Authorities only in very limited cases where this is deemed more effective. The proposal also aims to modify to a limited extent the governance of the European Supervisory Authorities and the European System of Financial Supervision to improve their functioning as a whole. Finally, the Commission proposes new rules for the funding of the European Supervisory Authorities to make their funding sustainable.

The proposal is based on several reviews, consultations and an extensive impact assessment. It also takes inspiration from a report of the European Parliament of 2014, which requested various amendments to the existing European System of Financial Supervision.

Under full consideration of the crucial role which national competent authorities play for solid supervision of financial markets, the proposal also aims at strengthening the European component of supervision.

The Commission welcomes the constructive Opinion of the Senat and takes the concerns expressed by it very seriously. With regard to the more specific issues raised in the Opinion, the Commission would like to refer to the attached Annex.

The Senat's Opinion has been made available to the Commission's representatives in the ongoing negotiations with the co-legislators and will inform these. The discussions between the Commission and the co-legislators concerning the proposal are now underway and the Commission remains hopeful that an agreement will be reached by the end of this year.

The Commission hopes that the clarifications provided in this reply address the issues raised by the Senat and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Valdis Dombrovskis
Vice-President*

Annex

The Commission has carefully considered the specific issues raised by the Senat in its Opinion and would like to offer the following observations:

As far as the issue of governance is concerned, the Commission sees a need for increasing the efficiency and effectiveness of the decision making of the European Supervisory Authorities. While not touching the function of the Board of Supervisors as the main decision making body, the Commission considers that entrusting a smaller body – the new Executive Board – with certain decisions would be helpful as regards the European Supervisory Authorities. The Commission considers this to be particularly beneficial for the European Supervisory Authorities to fulfil their task of fostering supervisory convergence.

The Commission agrees that the Strategic Supervisory Plan is intended only to set certain pan-European supervisory goals without removing the ability of the national competent authorities to define national priorities in order to reflect the specific needs and features of national financial markets.

The Commission believes that the existing tool of peer reviews has an inherent structural weakness which needs to be addressed in order to make this instrument more useful for fostering supervisory convergence. To this end, the Commission proposes a more independent review capacity of the European Supervisory Authorities and to enhance the follow up to the reviews.

As regards the European Supervisory Authorities' enhanced investigatory powers in case of breach of Union law, the Commission considers it necessary to give the European Supervisory Authorities sufficient tools to receive all the information needed to fulfil their tasks from different sources. Otherwise, the effective execution of these tasks would solely depend on the information provided by a single national competent authority.

Already today, stress tests are executed also at Union level. The proposal entails only limited changes aimed at making this instrument more effective and credible by ensuring a more effective and efficient decision making on terms and timing of such stress tests.

On the issue of empowering the European Supervisory Authorities to request information directly from market participants, the Commission agrees with the Senat that the European Supervisory Authorities should directly request information from individual supervised entities only if the request to the competent national authority has proven or is considered to be insufficient to obtain the necessary information. The Commission would like to emphasise that its proposal effectively ensures that this will be the case.

As far as funding rules are concerned, the Commission takes note of the Senat's concern that the criteria for determining the proposed industry contributions are not known in detail yet and that this might hinder a full assessment of the impacts on the financial market participants. To address this concern, the Commission would be open to discuss how to give more detailed guidance already in a legislative act. However, given the foreseeable strains on the Union's budget and national budgets, and given the static

nature of the current financing mechanism, the Commission is convinced that enhanced funding rules are crucial in order to be able to adjust the European Supervisory Authorities' budget to the needs triggered by new challenges in the future. The proposed new funding rules would allow for a proportionate distribution among financial firms according to their size. Those new rules also contain a fairer distribution of the financial burden in proportion to the size of the financial markets of the Member States.