EUROPEAN COMMISSION

*Brussels, 12.6.2012*
*C(2012) 3833 final*

*Herr Per WESTERBERG*
*Talmannen*
*Riksdagen*
*Sveriges riksdag*
*SE – 100 12 STOCKHOLM*

*Dear President,*

*The Commission would like to thank the Riksdag for its reasoned opinion on the Proposal for a regulation on credit institutions and investment firms {COM(2011) 452 final} and apologises for the delay in replying.*

*In June 2009, the European Council called for the establishment of a "European single rule book applicable to all financial institutions in the Single Market."*

*Today, European bank prudential requirements are based on a Directive*[1] *which leaves room for significant divergences in national rules. This has created a regulatory patchwork, leading to legal uncertainty, enabling institutions to exploit regulatory loopholes, distorting competition, and making it burdensome for firms to operate across the Single Market.*

*The proposal for a regulation– coupled with the proposal for a directive governing the access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms {COM(2011) 453 final} – accordingly sets out a single set of harmonised prudential rules which credit institutions and investment firms throughout the EU must respect. This will ensure uniform application of Basel III in all Member States. It will close regulatory loopholes and will thus contribute to a more effective functioning of the Single Market. The Commission proposes removing national options and discretions from the current Directive, and achieving full harmonisation by allowing Member States to apply stricter requirements only where these are needed on financial stability grounds or because of a bank's specific risk profile.*

*A single rulebook is particularly important, as the EU in general, and the euro area in particular, has a very high degree of financial and monetary integration. Decisions on the level of capital requirements therefore need to be taken for the single market as a whole, as the impact of such requirements is felt by all Member States. Financial stability can only be achieved by the EU acting together; not by each Member State on its own. We need to set the level of capital at a level that is appropriate for the EU as a whole.*

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1 Directive 2006(48)EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions

*The need for a single rule book was explicitly recognized by the European Council at the height of the financial crisis in June 2009.*

*The financial crisis has highlighted that all Member States are affected irrespective of the size of the domestic industry, which is not surprising given the interconnected and cross-border nature of the financial sector. The crisis has furthermore highlighted that while more and better capital is an essential part of the tool-box of instruments to improve the resilience of the EU banking system, it is not a panacea. Many of the firms that failed during the crisis had ample capital (e.g. Lehman Brothers), which did not prevent their failure.*

*That said, the Commission fully recognizes that national flexibility is necessary to address specificities of the national banking sectors. Supervisory authorities will thus, under the Commission's Proposal, be able to apply capital requirements that go beyond those laid down in the Regulation in the following cases:*

- *for the purposes of addressing risks that apply to an individual institution or group of institutions, taking into account the geographical location of an institution's exposures, the systemic risk it poses and its business model;*

- *to address excessive credit growth - or to protect the economy/banking sector from any other structural variables (e.g. a larger than average financial sector) or the exposure of the banking sector to other risk factors related to risks to financial stability - through the holding of a Countercyclical Buffer; and*

- *to address risks arising from real estate markets, reflecting the significance and heterogeneity of those markets in the EU.*

*In addition, under the new proposal, the Commission may raise own funds requirements, or strengthen further the definition of own funds, temporarily in order to address prudential risks.*

*As a result of these measures, Member States and the Commission will have the flexibility required to ensure that prudential requirements remain flexible and appropriate both for the effective functioning of the Single Market and to safeguard financial stability at the national level.*

*As you may be aware, the matter of national flexibility is one of the key issues that will be discussed in the forthcoming trilogue negotiations between the Commission, the Council and the European Parliament. The Commission remains convinced that a pragmatic compromise can be found on this important matter.*

*I hope these clarifications serve to address the concerns raised in your reasoned opinion and I look forward to continuing the political dialogue with the Riksdag in the future.*

*Yours faithfully,*

*Maroš Šefčovič*
*Vice-President*