MAROŠ ŠEFČOVIČ
VICE-PRESIDENT OF THE EUROPEAN COMMISSION

B-1049 BRUSSELS

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Dear Chairman,

The Commission would like to thank the European Scrutiny Committee of the House of Commons for its opinion of 13 October 2010 concerning Commission proposal COM(2010)368 on Deposit Guarantee Schemes (DGS). It takes note that the House of Commons considers that parts of the proposal do not comply with the principle of subsidiarity. In response to this opinion and within the framework of the political dialogue between the European Commission and National Parliaments, the Commission would like to provide the following comments.

First, it should be noted that only EU action can ensure that banks operating in more than one Member State are subject to similar requirements concerning DGS, ensure a level playing field, avoid unwarranted compliance costs for cross-border activities and thereby promote further Single Market integration. Harmonisation in many areas (e.g. coverage, payout, funding) cannot be achieved by Member States alone because it requires the harmonisation of many different rules existing in the national legal systems. This has been acknowledged by the recitals of Directives 1994/19/EEC and Directive 2009/14/EC, amending Directive 1994/19/EEC.

The need for common, EU action as regards Deposit Guarantee Schemes became clear in the crisis, following a bank run in one Member State and the failure of several banks and the guarantee scheme in one of the EEA-States that participates in the Internal Market.

Directive 2009/14/EC, adopted after the failure of the investment bank Lehman Brothers in 2008, requires a thorough revision of the Directive on Deposit Guarantee Schemes, including the issue of the financing of schemes. Consequently, the Commission has proposed a four-step approach in order to reach this objective within a decade. First, a significant proportion of the funds should be pre-financed; second, additional extraordinary funding should be made available, if necessary; third, a mutual borrowing facility between schemes should be put in place; and, fourth, alternative means of financing should be explored. This mutual borrowing facility between schemes would further reduce the need for recourse to taxpayers' money for the reimbursement of depositors.

By its very nature, a mutual borrowing facility between schemes in different Member States can only be set up by an initiative at EU level. The alternatives – bilateral arrangements between schemes or a voluntary borrowing facility – would not reach the objective as effectively since a multitude of different agreements between 40 schemes in 27 Member States would be necessary. Moreover, a voluntary mechanism could not automatically be relied upon in case of need.

Mr William CASH
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In particular, the current proposal of a mutual borrowing facility between schemes prevents moral hazard. It creates no incentive for schemes to rely only on the borrowing facility instead of being properly equipped with the necessary funds. The maximum amount that can be borrowed is equivalent to the additional extraordinary funding by banks and only corresponds to 20 per cent of the total amount of funding.

Finally, the proposal sets out several important safeguards avoiding moral hazard. First, the conditions for activating the borrowing facility are strict and clearly defined. Second, a scheme still repaying its loan cannot borrow again in order to avoid that one single scheme drains liquidity from the others. Third, the loans have a maximum maturity of five years and a pre-defined interest rate applies.

In light of the above, the Commission remains of the view that the proposal respects the principle of subsidiarity and hopes that the comments above respond in a satisfactory manner to the main questions and concerns raised in the opinion of the European Scrutiny Committee of the House of Commons.

Yours faithfully,