

EUROPEAN COMMISSION

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Dear Lord Boswell,

The Commission would like to thank the House of Lords for its Opinion “European Banking Union: Key issues and challenges” and apologises for the delay in replying.

The Commission welcomes the broad support of the House of Lords for the creation of a banking union and agrees that the establishment of the Single Supervisory Mechanism (SSM) is only one of the elements of the Banking Union, which should be built on a true single rulebook and combined with a common framework for bank resolution. The Commission welcomes the political agreement reached on the new rules on prudential and capital requirements and is fully committed to work with the co-legislators in view of reaching a swift agreement also on the outstanding proposals on recovery and resolution, and on deposit guarantees, to establish the single rulebook for all 27 Member States.

Concerning the SSM, the Commission shares most of the views expressed in the Opinion and underlines that the issues raised by the House of Lords have been carefully analysed during the negotiation and fully addressed in the Council compromise unanimously agreed on 12-13 December 2012 as well as in the comprehensive compromise texts on the proposals following negotiations with the European Parliament on the proposal amending the Regulation establishing the European Banking Authority (EBA) and the consultation of the European Parliament on the proposal establishing the SSM. The Commission firmly believes that an effective mechanism can be designed within the existing Treaty provisions.

The Commission welcomes the opinion of the House of Lords that the ECB is best placed to take on supervisory responsibilities within the banking union. It also fully agrees that the ECB governance structure must ensure full separation between its supervisory and monetary tasks. The comprehensive compromise text ensures the separation between the two functions by clearly defining the governance structure, including the role of the Governing Council, and the decision making process, as suggested in the Opinion of the House of Lords. In particular, the Supervisory Board would carry out full preparatory work and propose complete draft decisions to the Governing Council which will be deemed adopted unless the Governing Council objects in a duly justified manner. In

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addition, a mediation panel will be created to resolve differences of views expressed by national supervisors on an objection of the Governing Council to a decision proposed by the Supervisory Board.

The Commission also shares the view that the ECB could not engage in intensive supervision of all euro area banks but that all those banks nonetheless have to be supervised within the SSM since each of them can pose a threat to financial stability. The comprehensive compromise text addresses this issue effectively: the ECB will be responsible for the direct supervision of more significant banks, identified on the basis of objective criteria (assets of more than EUR 30 billion or 20% of national GDP, public financial assistance) while national supervisors will have responsibility for less significant banks within the framework established by the ECB. The ECB will be able to take over the direct supervision of any bank in participating Member States when necessary to ensure consistent application of high supervisory standards and it will remain responsible for the functioning of the SSM.

Concerning the remarks on the weakness of the accountability arrangements provided for in the Commission proposal, the Commission would like to underline that the comprehensive compromise text reinforces these arrangements, in particular by granting rights to national Parliaments thus allowing them to obtain explanations and express their views on issues relevant for their national credit institutions. The creation of an appeal mechanism within the ECB suggested in the report of the UK House of Lords has also been taken into consideration to the extent this is compatible with the Treaty rules on judicial review before the Court of Justice. The comprehensive compromise text provides for an internal review mechanism which will ensure a first review of the ECB decisions and provide for quick solutions.

The Commission also agrees on the need to ensure equal treatment of non-euro area Member States who wish to participate in the SSM. The comprehensive compromise text provides for extensive safeguards which go as far as legally possible to counterbalance the fact that those Member States are not represented in the Governing Council. The Commission believes that these safeguards make the SSM sufficiently attractive for non-Euro area Member States interested in joining the banking union.

Moreover, the comprehensive compromise text addresses the concern raised in the Opinion as regards the timetable. It provides that the ECB will assume the tasks conferred upon it 12 months after the entry into force of the SSM Regulation, and allows the ECB some flexibility on the transitional arrangements in order to ensure a smooth phasing-in.

The Commission does not share the concern that the SSM will seriously undermine the role of the European Banking Authority (EBA). The creation of the SSM will preserve EBA's prerogatives in the development of the single rulebook and its important role in promoting consistency of supervisory practices in the whole EU. In relation to the latter the single rulebook will be complemented by a European supervisory handbook drawn up by the EBA in consultation with national competent authorities. As to its relation with the ECB, according to the comprehensive compromise text, the ECB will be subject to the same procedure of binding mediation as any other supervisor, in line with what is suggested in the Opinion. Moreover, voting modalities have been adjusted to ensure that the interests of all Member States are adequately taken into account and to allow for the proper functioning of the EBA after the establishment of the SSM.

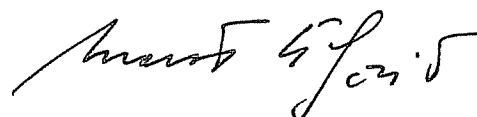
Finally, the Commission confirms that the potential impact of the SSM on the activity of the European Systemic Risk Board will be taken into account in the review of the European System of Financial Supervision.

Concerning the Single Resolution Mechanism (SRM), the Commission agrees with the need for further steps towards effective banking union in the form of a SRM in line with the European Council conclusions of December 2012 and March 2013. The SRM would complement the SSM and be its resolution counterpart. It reflects the need for a more centralised crisis management capacity to tackle the failure of banks. In accordance with the Opinion of the UK House of Lords, the Commission agrees that this is essential to reverse the process of fragmentation and to ensure the smooth functioning of EMU, breaking the link between sovereigns and their banks, and preserving the integrity of the single market.

The single rulebook, which will be completed by the rules recovery and resolution and on deposit guarantee schemes currently under negotiation, will establish the bulk of the substantive rules which will govern the functioning of the SSM and ensure a harmonised pan-EU framework applicable across the single market. Member States which do not participate in the banking union and its institutions will be subject to the same rulebook. This will secure the integrity of the single market and avoid disadvantaging Member States outside the banking union.

The Commission hopes that these clarifications address the issues raised by the House of Lords and looks forward to continuing our political dialogue in the future.

Yours sincerely,



*Maroš Šefčovič
Vice-President*