EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
D(2016)

Opinion

Title **DG FISMA – Proposal amending Regulation (EU) 575/2013 on prudential requirements for credit institutions and investment firms, Directive 2013/36/EU on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms and Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms.**

(resubmitted version of 19 September 2016)[*]

(A) Context

The Commission announced in a 2015 Communication that it would bring forward proposals to amend the capital requirements regulation (CRR) and the capital requirements directive (CRD). A main purpose was to incorporate into EU law the remaining elements of the regulatory framework agreed by the Basel Committee on Banking Supervision (BCBS). Further, the Communication envisaged development of a proposal on total loss absorption capacity (TLAC) to be implemented by 2019.

Within the broader context of ensuring appropriate prudential requirements and the findings of the call for evidence, this impact assessment considers several amendments to the CRR and the CRD aiming to provide legal certainty and to discourage regulatory arbitrage. It also considers a number of other issues, including the recalibration of capital requirements for exposures to SMEs, the remuneration of bank staff and resolution issues relating to the BRRD (framework for recovery and resolution of credit institutions).

(B) Overall opinion: POSITIVE

The Board recognises that the report has been improved in line with earlier comments. In particular, the report now provides in one place an overview of the 21 problem definitions, the proposed solutions and where legislation would be amended. The report also provides more evidence and presents stakeholder views in a more transparent and consistent way. The report does a better job of describing expected overall impacts, and contains a full section on administrative costs.

Some remaining shortcomings in the report should still be addressed. The Board gives its positive opinion on the understanding that the revised impact assessment report will be further improved, particularly with respect to the recommendations in this opinion.

The lead DG shall ensure that these recommendations are duly taken into account in the report prior to launching the inter-service consultation.

[*] Note that this opinion concerns a draft impact assessment report which may differ from the one adopted

Main recommendations for improvement:

- The origin and relative importance of each of the many issues should be made clear to the reader. To this end, the overall policy context should more succinctly present the many different policy problems. Annex 6 should also include the origin of each policy issue (BCBS, EDIS, CfE, etc.).

- The section on administrative costs should assess expected administrative and compliance costs for large and small banks respectively. It should clearly state whether these are likely to increase or decrease.

- The section on subsidiarity should better explain the trade-offs between ensuring a level EU playing field and allowing national regulatory flexibility. It should explain how the proposals strike an appropriate balance between the two.

- The report should make more use of the technical analysis in Annex 5 when assessing the policy options. The results and outcomes should be brought out more clearly.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

(C) Procedure and presentation

Both the report and the Executive Summary need proofreading to correct mistakes in language and punctuation.

The glossary of acronyms and abbreviations still needs to be completed and added.

Removing overlaps and repetition would reduce the length of the report.

(D) RSB scrutiny process	
Reference number	2016/FISMA/014, 2016/FISMA/06
External expertise used	No
Date of RSB meeting	7 September 2016