Europäische Bausparkassenvereinigung
Fédération Européenne d'Epargne et de Crédit pour le Logement
European Federation of Building Societies

Mailing list Supervision/ Accounting/ Money Laundering

Brussels, 30 January 2014
JP

Proposal for a regulation on structural measures improving the resilience of EU credit institutions

Dear Madam or Sir,

On 29 January 2014 the European Commission has published its "Proposal for a regulation on structural measures improving the resilience of EU credit institutions". The proposal refers to the Liikanen Report, published on 2 October 2012, as well as to the results of the public consultation and the own-initiative report "Reforming the structure of the EU banking sector", published by the European Parliament on 3 June 2013.

The main focus of the Commission's proposal is on the prohibition of proprietary trading and the separation of certain trading activities. Topics referring to the transparency of securities financing transactions have been published in a separate proposal ("Proposal for a regulation on reporting and transparency of securities financing transactions").

1. Scope of the prohibition of proprietary trading and the separation of certain trading activities

The proposal for a regulation targets large, complex and interconnected credit institutions of the European Union, including all branches and subsidiaries even though they are located in third countries.
The proposal applies to any credit institution that is identified as a global systemically important institution as well as to any credit institution that for a period of three consecutive years has total assets amounting at least to EUR 30 billion and that has trading activities amounting at least to EUR 70 billion or 10 per cent of its total assets.

2. Prohibition of proprietary trading

One of the core elements of the proposal is the prohibition of proprietary trading for credit institutions, their EU parents and their branches and subsidiaries (Article 6(1a). Proprietary trading is thereby defined as "using own capital or borrowed money […] for the sole purpose of making a profit for own account, and without any connection to actual or anticipated client activity" (Article 5(4). The task to make sure that a credit institution complies with the rules set out in Article 6 lies in the responsibility of the management body of each credit institute (Article 6 (4)).

Furthermore, the proposal regulates that the remuneration policy of a credit institution shall be designed in such a way that it does not, directly or indirectly, encourage or reward the engagement in proprietary trading (Article 7).

3. Separation of certain trading activities

The second core element of the proposal deals with the separation of certain trading activities. The scope of the activities affected is defined negatively as all activities not mentioned in Article 8(1). Taking deposits, for example, is listed in Article 8(1) as activity which has not to be separated.

Trading in Member States' government bonds does not account for a certain trading activity in the sense of Article 8 and therefore does not have to be separated, neither.

Article 9 describes the assessment of the trading activities by the competent authority and the metrics used in this process. Attention has to be paid in particular to trading activities like market making, investments in and acting as a sponsor for securitisation, and trading in derivatives. To specify the metrics used, the European Banking Authority shall develop draft regulatory technical standards and the Commission is empowered to adopt them by delegated acts (Article 9(4)).

When the competent authority considers that trading activities carried out by a credit institution compromise any of the objectives referred to in Article 1, or pose a threat to the financial stability of the credit institution or to the financial system as a whole, it may require the credit institution not to carry out certain or any of those activities (Article 10(1)).

The power to decide on the separation of certain trading activities lies obviously with the competent authority. Thereby, the proposal of the Commission differs from the Liikanen Report that was pushing for a general by law separation of investment banking activities from retail activities for big credit institutions.

4. Entry into force and date of application

The Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union and shall apply from the date of entry into force. The prohibition of proprietary trading (Article 6) shall apply only 18 month after the publication in the Official Journal of the European Union. Furthermore, Articles 13, 18 and 20 shall apply only 36 month after the publication in the Official Journal of the European Union.

If you have further questions, please contact us at any time.

Yours sincerely,

Andreas J. Zehnder
Managing Director
European Federation of Building Societies

Annexes

- Proposal for a regulation on structural measures improving the resilience of EU credit institutions
- Proposal for a regulation on reporting and transparency of securities financing transactions
- Annex of the Proposal for a regulation on reporting and transparency of securities financing transactions

European Federation of Building Societies, Rue Jacques de Lalaing 28, 1040 Brussels
Tel.: +32 (0) 2 231 03 71, Fax: +32 (0)2 230 82 45, E-mail: info@efbs.org