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From: CAB JUNCKER ARCHIVES
Sent: 21 December 2015 10:48
To: CAB JUNCKER ARCHIVES
Subject: FW: Letter on Banking Structural Reform Proposal
Attachments: EBF_018327C - Letter on Bank Structural Reform December 2015.pdf

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From: Wim Mijs [mailto:W.Mijs@ebf-fbe.eu]
Sent: Friday, December 18, 2015 10:02 AM
To: CAB PRESIDENT ELECT
Cc: HILL Jonathan (CAB-HILL); Robert Priester; '[redacted]@socgen.com'; [redacted]socgen.com'; '[redacted]
Subject: Letter on Banking Structural Reform Proposal

Dear President Juncker,

Please find enclosed a letter from the President of the EBF, Frédéric Oudéa, and myself regarding the BSR proposal.

We would be extremely interested to have an in depth discussion with you on this subject, and would like to propose either 3rd or 17th February for a meeting.

Yours sincerely,

Wim Mijs

Wim Mijs
Chief Executive

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European Banking Federation

President

EBF_018327C

8 December 2015

Mr Jean-Claude JUNCKER
President
European Commission
200 rue de la Loi
B-1049 Brussels

Subject: A clear political signal is now needed on Banking Structural Reform

Dear President Juncker,

Against the backdrop of recent reports of deteriorating market liquidity and the diminishing competitiveness of European banks vis-a-vis their international competitors, the European Banking Federation (EBF) needs to raise again its grave concerns with regard to the European Commission proposal for a *Regulation on structural measures improving the resilience of EU credit institutions* and its unintended consequences.[1] We fear that the continued political division on this proposal risks leaving the European banking industry in an unwarranted state of uncertainty over its future at a time when clear signalling is needed to regain trust in financial services and boost market confidence.

We therefore urge policymakers to carefully reflect again on the need of the Banking Structural Reform (BSR) proposal given current and future regulatory measures in Europe and individual Member States. The Commission, in finalising its financial reform package, must now very cautiously balance the need for financial stability and a globally competitive European banking sector that can deliver on financing the European economy. Having achieved a high degree of financial stability, it is now more than ever of crucial importance to agree on what banking models are right for Europe to deliver sustainable long term economic growth as well as the strategic goals of the Commission.

We feel that the discussions need to be supported by a better understanding of the overall impact and interplay of the BSR proposal with other existing and pending financial rules. We thus summarise hereafter the most prominent concerns we have:

BSR is harmful to market making activities which support economic growth

Given the continued discussion on these proposals there is a clear risk that the Commission's proposal leads to an automatic separation of market making activities within Europe's universal banks with significant adverse effects on market liquidity, which will further amplify price volatility or to an automatic capital add-on for the banks, which may also lead to banks withdrawing from some trading activities, notably the market-making. Universal banks play a pivotal role as market makers to provide liquidity and price stability for investments in Europe. If these banks would no longer be able to engage in this activity or only by means of a separated entity with a higher cost basis, the price of financing will have to increase. This risks severely restricting the access to investment and financing at competitive rates for businesses in Europe precisely at a time when your Commission's investment plan and Capital Markets Union aim to resuscitate long-term financing. Both the opinion of the European Central Bank[2]

[1] http://ec.europa.eu/finance/bank/structural-reform/index_en.htm

[2] http://www.ecb.europa.eu/ecb/legal/pdf/en_con_2014_83_f_sign.pdf

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and the impact assessment by the European Banking Authority[3] have articulated these concerns on market liquidity already last year. In fact, the ECB notes that "...certain banks may determine that a separate trading entity does not have sufficient scale to be economically viable. This determination may lead them to dispense with all their trading activities, which could possibly result in a concentration of these trading activities at the larger banks, making them even larger. This result is inconsistent with the aim of reducing the too-big-to-fail problem. Alternatively, those trading activities may be shifted to the shadow banking sector." In this respect the EBF urges policymakers to consider the competitiveness of EU banks vis-à-vis non-EU banks going forward.

BSR restricts the provision of vital risk management tools to businesses and own risk

The legislation as proposed would also impose on affected banks a prohibition on the provision of certain risk management services to businesses and their own risk management. Businesses rely on 'over-the-counter' (OTC) derivatives to mitigate business risks which are not eligible for clearing because they are neither standardised nor liquid. It is crucial that new financial legislation does not impede end-users from accessing such risk management products by limiting banks' ability to provide these instruments or by forcing companies to obtain these products at higher prices via trading entities.

Too-Big-to-Fail is already addressed with BRRD and TLAC

The original intention of the Commission's proposal to address 'too-big-to-fail' and end any implicit subsidy of systemically important banks has now clearly been superseded by the agreement on a Total Loss Absorbing Capacity (TLAC) for Global Systemically Important Banks (G-SIBs). The global TLAC standard, adopted at the recent G20 summit in Antalya (15-16 November), effectively minimises systemic risk by ensuring that large banks will maintain adequate capital resources within their group structure so that these banks can fail and be resolved irrespective of their global footprint, limiting the need for recourse to taxpayer monies. The Commission on 24 November announced in its "Towards the completion of the Banking Union" Communication the intention to deliver a proposal to implement TLAC in 2016.[4] Meanwhile, the Single Resolution Board and other national resolution authorities, as a matter of priority, are in the process of individually scrutinising the resolvability of the most significant banks in the Banking Union and Europe. Policymakers should take account of the new TLAC standard being implemented in Europe as well as the outcome of the resolvability assessments of G-SIBs in a new impact assessment.

Excessive Trading Risk will be addressed via a revised Basel Standard

The Council's General Approach on BSR modifies the proposal to a risk-based assessment of trading activities and thus introduces a framed supervisory discretion to separate trading activities or impose capital increases where there is excessive risk-taking identified. While this is appreciated as a step in the right direction, given the work underway in Basel on the "Fundamental Review of the Trading Book" (FRTB), this could lead to significant, duplicative and potentially inconsistent measures to address the same risks. The Council's General Approach which aims at tackling excessive risk taking should be carefully weighed against the Basel Committee's plans to overhaul its prudential treatment of trading activities to ensure the most appropriate and internationally aligned policy option is chosen going forward.

Need for a fundamental rethink on BSR in light of what has already been achieved

We are pleased that the Commission in its recent Communication on European Deposit Insurance Scheme acknowledged the significant improvement of the European banking sector's health. The referenced 2014 Comprehensive Assessment indeed shows that balance sheets of the largest banks in

[3] http://www.eba.europa.eu/documents/10180/974844/Report+-+Overview+of+the+potential+implications+of+regulatory+measures+for+business+models.pdf/fd839715-ce6d-4f48-aa8d-0396ffc146b9
[4] http://ec.europa.eu/finance/general-policy/docs/banking-union/european-deposit-insurance-scheme/151124-communication_en.pdf

the Banking Union are now sufficiently resilient even when tested against significant economic and financial stress scenarios.

Given what has already been achieved to safeguard financial stability we suggest at least the reassessment of the need for such Commission's proposal on BSR. Indeed, it is crucial to ensure it does not run counter to the new Commission's jobs and growth agenda and the principles of better regulation.

We look forward to having an opportunity to discuss this important issue further with you.

Yours sincerely,

[redacted] [redacted]

Frédéric OUDEA
President

Wim MIJS
Chief Executive Officer

Cc.: Commissioner Jonathan Hill