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The voice of banking

Mr Frans Timmermans
First Vice-President
Better Regulation, Interinstitutional Relations,
the Rule of Law and Charter of
Fundamental Rights
European Commission
Rue de la Loi 200
1049 Bruxelles

November 13, 2014

Dear First Vice-President,

EU Structural Reform: Better Regulation

The British Bankers' Association and the Fédération Bancaire Française are both members of the Anglo-French Committee, a forum established to engender a dialogue on issues of common interest between the City of London and Paris Europlace. We believe there to be strong grounds, outlined below, for looking afresh at the proposal made by the previous Commission on the structural reform of banks and see this as relevant to the Better Regulation initiative.

1. The combined AQR and stress tests exercise proved that this proposal on the structure of banks is not necessary

We would like to draw your attention to the recently published results of the Asset Quality Review and stress-tests, coordinated by the ECB and the EBA. These results were welcomed by the previous Commission. As you will know, the results showed that the larger banks, and especially the Global Systemically Important Banks (GSIBs), are now safer than before the financial crisis and the prospect of future failure is a remote prospect. Indeed:

- No European GSIBs failed the assessment or as a result need to raise further capital;
- According to the stress-tests, trading assets are not a source of excessive risks taken by the 130 banks supervised by the ECB. Impairment on financial assets account for only €12 billion[1] compared to a global capital depletion of €182 billion in the adverse scenario. One of the key risk drivers of the CET1 ratio impact is the increase in loan losses (-4.5 percentage points or -€ 378 billion);
- Among the 9 banks with capital shortfalls required to submit a capital plan, only one (Banca Monte dei Paschi di Siena) would have come under the scope (Article 3) of the proposal.

2. Adopting this proposal would have a highly negative impact on the European economy and would endanger the Capital Markets Union

We remain firmly of the view that the European Commission has not answered the concerns held by many about the damage that would be done to the ability of banks to service customers in the event of the structural reform measures being imposed as currently drafted. Universal banking is a strength of the European banking system in particular and research undertaken by the European Central Bank has shown that the income diversification arising

[1] Join-up CET1 impact

from it places broad-based universal banks in a better position to support their corporate and SME customer base during an economic downturn than banks with less diverse income streams. We see a need for much more careful consideration to be given to the consequences of interfering in this structure in the way proposed by the Commission. This is all the more important given that Europe is struggling to find the means by which to return to even relatively modest rates of economic growth.

There is a serious risk that the structural reform measures, as currently proposed, would constitute a considerable handicap in financing European companies, thus running counter to the European Union's efforts to restore growth and improve employment.

Moreover, the proposal will run counter to the Capital Markets Union since the market making of convertible bonds, which is an important way for firms to raise capital in Europe ($17.3bn was raised prior to July 2014), would need to be undertaken in a separate entity.

3. National laws already exist

National legislation addressing the aim of the Commission's proposal is already in place in the UK and France. After significant consideration of the implications, the Commission's proposals introduce substantial uncertainty to the implementation of these national regimes without presenting an adequate case for the incremental benefits that would arise when compared to the delay to implementation, which would inevitably arise due to a change in course. While the Commission's proposal may have a short deadline, we are not convinced that this is compatible with the further legislative and regulatory processes necessary.

Our respective national Parliaments are of the view that national measures have been completed in the public interest within the principle of subsidiarity as defined in Article 5 of the Treaty of the Union. The French Senate publicly announced in a recent resolution that the European proposal does not respect the principle of subsidiarity and the UK Parliament is known to be strongly supportive of the ring-fencing approach recommended by the UK Independent Commission on Banking under the chairmanship of Sir John Vickers over two years ago and since fully enacted into national law.

4. The Commission's Impact Assessment for its EU Structural Reform proposal is not relevant

The data used by the Commission to draft its impact assessment date back 2010. As so it no longer corresponds to the current situation of European banks, which significantly diminishes its relevance. Since this date:

(a) the financial crisis has significantly modified banks' business models, and

(b) regulations have considerably improved the level, organization and structures of European banks, in order to facilitate their resolution.

Indeed, substantial reforms measures have been placed on the European statute book in light of the financial crisis. This includes not only the landmark capital, leverage and liquidity package – principally through Capital Requirements Directive IV (CRD IV) and the associated regulation – but also the Bank Recovery and Resolution Directive (BRRD) which, alongside safeguarding depositors in the event of a bank failure, already provides the power to bank regulators to alter a bank's structure. Furthermore, the proposed adoption of measures for Total Loss Absorbing Capacity following scheduled G20 endorsement will strengthen this set of reforms.

There has also been a marked shift in the approach taken to banking supervision since the financial crisis, with supervision becoming more intensive and effective, backed by the authorities being willing to take firm enforcement action.

It is disappointing that in presenting its proposals for EU Structural Reform the supporting Impact Assessment makes no attempt to quantify and factor into its equation the benefits of these and other reform measures enacted but still in the process of implementation. It is equally disappointing that the Impact Assessment does not build in a thorough consideration of the potential negative effect on the supply and cost of credit if bank treasury operations are unduly constrained and market liquidity impacted.

For the reasons outlined in this letter we believe there to be grounds for considering, as part of your Better Regulation review, whether the case for structural reform at a European level has been proven and whether the proposal can be said to pass your test of subsidiarity. We write in part because it is not immediately evident that your review will automatically cover measures proposed by the outgoing Commission not yet on the statute book. We believe that it should, and we would be grateful for your confirmation that the EU Structural Reform proposal will either be brought within the scope of the Better Regulation exercise or considered afresh through a Better Regulation lens.

We would be pleased to meet with you to expand upon the issues raised in this letter in further detail.

Yours sincerely,

Marie-Anne Barbat-Layani
CEO
French Banking Federation

Anthony Browne
Chief Executive
British Bankers Association

cc: Vice-President Jyrki Katainen, Commissioner for Jobs, Growth, Investment and Competitiveness

Jonathan Hill, Commissioner for Financial Stability, Financial Services and Capital Markets Union

Pierre Moscovici, Commissioner for Economic and Financial Affairs, Taxation and Customs

Gunnar Hökmark MEP, ECON Rapporteur

Italian Presidency of the European Council
Latvian Presidency of the European Council