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DRAFT REPORT

on reforming the structure of the EU's banking sector
(2013/2021(INI))

Committee on Economic and Monetary Affairs

Rapporteur: Arlene McCarthy

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on reforming the structure of the EU's banking sector (2013/2021(INI))

The European Parliament,

- having regard to Rule 120 of its Rules of Procedure,
- having regard to the report of 2 October 2012 of the High-level Expert Group on Reforming the Structure of the EU Banking Sector (HLEG)¹,
- having regard to the conclusions of the G20 meetings held in London in 2009, in Cannes in 2011 and in Moscow in 2013,
- having regard to Directive 2009/111/EC of the European Parliament and of the Council of 16 September 2009 amending Directives 2006/48/EC, 2006/49/EC and 2007/64/EC as regards banks affiliated to central institutions, certain own funds items, large exposures, supervisory arrangements, and crisis management, and to the proposals of 20 July 2011 for a directive of the European Parliament and of the Council on the access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms (COM(2011)0453) and for a regulation of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms (COM(2011)0452), respectively,
- having regard to the European Council conclusions of 13 and 14 December 2012,
- having regard to the Financial Stability Board recommendations of October 2011 on ‘Key Attributes of Effective Resolution Regimes for Financial Institutions’ and of November 2010 on ‘Intensity and Effectiveness of SIFI Supervision’,
- having regard to the consultative document of the Basel Committee on Banking Supervision of November 2011 entitled ‘Global systemically important Banks: assessment methodology and the additional loss absorbency requirement’,
- having regard to Member State and international initiatives for structural reform of the banking sector, including the French *Loi de séparation et de régulation des activités bancaires*, the German *Trennbankengesetz*, the report of the Independent Commission on Banking and the Vickers reforms in the UK, and the Volcker rules in the United States,
- having regard to the 2012 report of the Organisation for Economic Cooperation and Development (OECD) entitled ‘Implicit Guarantees for Bank Debt: Where Do We Stand?’²,
- having regard to its resolution of 20 November 2012 on Shadow Banking³,

¹ http://ec.europa.eu/internal_market/bank/docs/high-level_expert_group/report_en.pdf

² <http://www.oecd.org/finance/financial-markets/Implicit-Guarantees-for-bank-debt.pdf>

³ Texts adopted, P7_TA(2012)0427.

- having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A7-0000/2013),
- A. whereas the Commission estimates that the financial crisis cost EU governments around EUR 1.6 trillion (13 % of EU GDP) in state aid through bailouts of the financial sector¹;
 - B. whereas in the five years since the 2008 global economic and financial crisis, the EU economy has remained in a state of recession, with Member States providing subsidies and implicit guarantees to banks;
 - C. whereas excessive risk-taking, excessive leverage, inadequate capital and liquidity requirements and the excessive complexity of the overall banking system were at the root of the financial crisis;
 - D. whereas the current post-crisis weakness in the structure of EU banks demonstrates the need for reform in order to serve the wider needs of the economy;
 - E. whereas the eighth (December 2012) edition of the Commission's Consumer Markets Scoreboard clearly indicates that consumer trust in the EU banking sector is at an all-time low and that the industry has high levels of noncompliance with consumer protection legislation²;
 - F. whereas research by the Bank of International Settlements (BIS) suggests that once bank assets exceed a country's GDP, its financial sector has a negative impact on economic growth, as human and financial resources are drained from other areas of economic activity³;
 - G. whereas the financial crisis demonstrated the problem of cross-contamination between banks' retail and investment activities;
 - H. whereas the Commission proposal should provide for a strong, stable and resilient banking sector for the internal market while respecting the diversity of the Member States' banking sectors;
 - I. whereas, since it is neither feasible nor desirable to effect a bank separation post-failure, an effective recovery and resolution regime is needed in order to provide authorities with a credible set of tools, including a bridge bank, so that they can intervene sufficiently early and quickly in an unsound or failing bank to enable its essential financial and economic functions to continue, while minimising the impact on financial stability and ensuring that appropriate losses are imposed on the shareholders and creditors who bore the risk of investing in the institution in question, and not by taxpayers or depositors;

¹ Some Member States, such as the UK, used up to two thirds of their GDP on account of the size of their financial sectors.

² http://ec.europa.eu/consumers/consumer_research/editions/docs/8th_edition_scoreboard_en.pdf

³ 'Reassessing the impact of finance on growth', by Stephen G. Cecchetti and Enisse Kharroubi, Monetary and Economic Department of the Bank of International Settlements, July 2012: www.bis.org/publ/work381.pdf

- J. whereas the EU banking sector remains highly concentrated: 14 European banking groups are global systemically important financial institutions (SIFIs), and 15 European banks own 43 % of the market (in terms of asset size) and represent 150 % of EU-27 GDP, with individual Member States citing even higher ratios; whereas the ratio of bank size to GDP has tripled since 2000;
1. Welcomes the HLEG's analysis and recommendations on banking reform and considers them a sound basis for initiating reforms;
 2. Takes the view that while current proposals for reforms of EU banking sector rules (including the Capital Requirements Directive and Regulation, the Recovery and Resolution Directive, the Single Supervisory Mechanism, the Deposit Guarantee Schemes Directive and shadow banking initiatives) are vital, a more fundamental reform of the banking structure is essential, and complementary to the other proposals;
 3. Insists that the Commission's impact assessment include a thorough assessment of the cost to both public finances and financial stability of the failure of an EU-based bank during the current crisis, together with information on the nature of the EU's current universal banking model, including the size and balance sheets of the retail and investment activities of all universal banks operating in the EU, broken down by individual bank and country;
 4. Reminds the Commission of the warning issued by the European Banking Authority and the European Central Bank (ECB) that financial innovation can undermine the objectives of structural reforms, and insists that structural reforms be subject to periodic review¹;
 5. Urges the Commission to ensure that the core principles of reform detailed in paragraph 7 also apply to the shadow banking sector and unregulated areas of the financial services sector;

A. Principles for structural reform

6. Considers that the core principle of banking reform must be to deliver a safe, stable and efficient banking system that serves the needs of the real economy, customers and consumers; takes the view that structural reform must stimulate economic growth by supporting the provision of credit to the economy, in particular to SMEs and start-ups, provide greater resilience against potential financial crises, restore trust and confidence in banks and remove risks to public finances;
7. Considers that an effective banking system must deliver a change in banking culture in order to reduce complexity, enhance competition, limit interconnectedness between risky and commercial activities, improve corporate governance, create a responsible remuneration system, allow effective bank resolution and recovery, reinforce bank capital and deliver credit to the real economy;

¹ <http://www.eba.europa.eu/cebs/media/Publications/Other%20Publications/Opinions/EBA-BS-2012-219--opinion-on-HLG-Liikanen-report--2-.pdf> and http://www.ecb.int/pub/pdf/other/120128_eurosystem_contributionen.pdf

B. Key elements of structural reform

8. Urges the Commission to come forward with a proposal for mandatory separation of banks' retail and investment activities;
9. Urges the Commission to come forward with a proposal for such mandatory separation through the establishment of a thorough, transparent and credible 'ring fence' around bank activities that are vital for the real economy, such as those relating to credit functions, payment systems and deposits; takes the view that in the event of a bank failure, the ring fence must ensure that the retail entity continues business unaffected by operational problems, financial losses, funding shortages or reputational damage resulting from the resolution or insolvency of the investment entity;
10. Urges the Commission to ensure that trading activities do not benefit from implicit guarantees, the use of insured deposits or taxpayer bailouts and that these activities do not pose a risk to the delivery of ring-fenced retail services;
11. Urges the Commission to ensure that where banks undertake trading activities, the risks and costs associated with those activities are borne by their trading arm and not by their ring-fenced retail arm;
12. Urges the Commission to ensure that separation results in:
 - (a) separate legal entities, with separate sources of funding for the bank's retail and investment entities;
 - (b) limits on the extent to which the two entities are reliant on each other for funding and/or resources; in particular, there should be no legal basis for shifting capital and liquidity from ring-fenced entities to other entities in the group;
 - (c) the application of adequate, thorough and separate capital, leverage and liquidity rules to each entity, including separate balance sheets;
 - (d) net and gross large exposure limits for intra-group transactions between ring-fenced and non-ring-fenced activities, which are at least as strict as those for third-party exposure, including strict limits on the exposure of ring-fenced activities to the investment entity's riskier activities;
13. Urges the Commission to take into account the ECB's proposal to establish clear and enforceable criteria for separation¹;
14. Underlines the necessity of assessing the systemic risk presented by both the retail and investment entities, as well as by the group as a whole, with a view to the application of appropriate capital buffers and liquidity requirements for each entity;
15. Urges the Commission to ensure that the retail entity has sufficient capital and liquid assets to enable it, in the event of the bank's failure, to maintain depositors' access to funds, to protect the essential services of the ring-fenced arm from the risk of disorderly

¹ http://www.ecb.int/pub/pdf/other/120128_eurosystem_contributionen.pdf, p. 2.

failure and to prioritise paying out depositors in a timely fashion;

16. Urges the Commission to ensure that adequate differentiation exists in terms of capital, leverage and liquidity requirements between the investment and retail entities, with an emphasis on higher capital requirements for the investment entity;

C. Corporate governance

17. Calls on the Commission to implement the proposals set out in the HLEG's report in the area of corporate governance of separated banks, including a) governance and control mechanisms, b) risk management, c) incentive schemes, d) risk disclosure and e) sanctions;
18. Calls on the Commission to implement the proposals and recommendations set out in Parliament's resolution of 11 May 2011 on corporate governance in financial institutions¹;
19. Urges the Commission to ensure that separation delivers independent decision-making and governance for each entity, with separate executive and non-executive board members and whereby neither side of the ring fence is owned by or reports to the other;
20. Calls on the Commission to include provisions establishing an obligation for all board members of the retail entity, both executive and non-executive, and all levels of management and risk-takers to originate from, and only have responsibility for, the retail entity and not the investment entity;
21. Urges the Commission to include provisions introducing personal accountability and liability for board members on both sides of the ring fence and at group level;
22. Urges the Commission to continue the reform of banks' compensation and remuneration culture by prioritising long-term incentives for variable remuneration with larger deferral periods up to retirement;
23. Urges the Commission to ensure that remuneration systems prioritise the use of instruments such as bonds subject to bail-in, and shares, rather than cash;
24. Urges the Commission to ensure that compensation and remuneration systems at all levels of a bank reflect its overall performance and are focused on quality customer service and long-term financial stability rather than short-term profits;
25. Urges the Commission to make provision for effective, dissuasive and proportionate sanctioning regimes for legal and natural persons, and for the publication of sanction levels and of information on those in breach of the rules;
26. Urges the Commission to make provision for national supervisors to have the power to implement full and legal separation of banks;
27. Asks the Commission to propose that adequate resources and powers be allocated to national supervisors;

¹ OJ C 377 E, 7.12.2012, p. 7.

D. Enhancing competition

28. Stresses that effective competition is necessary in order to ensure a well-functioning and efficient banking sector which funds the real economy by reducing the cost of banking services;
 29. Urges the Commission and the Member States to work together to promote greater diversification of the EU's banking sector by encouraging and facilitating more consumer-oriented banking, for example through cooperative, building society, peer-to-peer lending and saving bank models;
 30. Urges the Member States to ensure that their national supervisors have the clear objective of promoting effective competition in their banking sectors;
 31. Asks the Commission to bring forward measures to facilitate consumer switching between banks and assist in improving consumer choice in the banking sector by reducing the barriers to entry and exit and applying proportionate rules to new entrants to the market;
 32. Calls on the Commission to bring forward the necessary structural reforms outlined in this report, which, while maintaining the integrity of the internal market, respect the diversity of national banking systems and ensure Member States' ability to reinforce them where appropriate;
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33. Instructs its President to forward this resolution to the Council and the Commission.

EXPLANATORY STATEMENT

In February 2012, the Commission established a High Level Expert Group (HLEG) tasked with addressing the issue of whether additional reforms of the structure of the EU banking sector would reduce the probability and the impact of bank failure and ensure the continuation of vital economic functions upon failure in order to better protect retail clients.

The HLEG's report found that excessive risk-taking, excessive leverage, inadequate capital and liquidity requirements and excessive complexity of the overall banking system was at the root of the financial crisis. While regulatory reforms are tackling these weaknesses, the Group came to the conclusion that further structural reforms are necessary, in particular the legal separation of certain risky financial activities from deposit-taking banks within a banking group. The objective of separation is to make the most socially vital parts safer and less connected to high-risk trading activities and limit taxpayer bailouts.

The HLEG argue that separation is the most effective way to make banking structures simpler, more transparent and to better facilitate recovery and resolution and supervision.

While banking must deliver greater resilience against potential financial crises and remove risks and costs from banking activities to public finances, it is essential that reform of the EU's banking structure delivers a safe, stable and efficient banking system that serves the needs of the real economy, customers and consumers and supports the provision of credit to the economy, in particular to SMEs and start-ups.

This own initiative report sets out several core principles namely, reducing complexity, enhancing competition, limiting interconnectedness between risky and commercial activities, improving corporate governance, creating a responsible remuneration system, enabling effective bank resolution and recovery, reinforcing bank capital and providing credit to the real economy which, are essential to deliver a change in banking culture.

With the Commission's December 2012 8th edition of the Consumer Markets Scoreboard indicating that consumer trust in the EU banking sector is at an all time low, the HLEG report is a sound and welcome basis for structural reform.