



**2015/2106(INI)**

26.8.2015

## **DRAFT REPORT**

on stocktaking and challenges of the EU Financial Services Regulation: impact and the way forward towards a more efficient and effective EU framework for Financial Regulation and a Capital Markets Union  
(2015/2106(INI))

Committee on Economic and Monetary Affairs

Rapporteur: Burkhard Balz

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### **on stocktaking and challenges of the EU Financial Services Regulation: impact and the way forward towards a more efficient and effective EU framework for Financial Regulation and a Capital Markets Union (2015/2106(INI))**

*The European Parliament,*

- having regard to the Commission Green Paper entitled ‘Building a Capital Markets Union’ (COM(2015)0063) and to Parliament’s resolution of 9 July 2015 thereon<sup>1</sup>,
- having regard to the Commission Staff Working Document entitled ‘Initial reflections on the obstacles to the development of deep and integrated EU capital markets’ (SWD(2014)0013),
- having regard to the Council conclusions on a Capital Markets Union, adopted by the Economic and Financial Affairs Council on 19 June 2015,
- having regard to the Commission communication of 26 November 2014 entitled ‘An Investment Plan for Europe’ (COM(2014)0903),
- having regard to the informal ECON report<sup>2</sup> entitled ‘Enhancing the Coherence of EU Financial Services Legislation’, adopted in Committee on 30 January 2014,
- having regard to the Commission communication of 15 May 2014 entitled ‘A reformed financial sector for Europe’ (COM(2014)0279),
- having regard to the Commission Staff Working Document ‘Economic Review of the Financial Regulation Agenda’ (SWD(2014)0158),
- having regard to its resolution of 11 March 2014 on the European System of Financial Supervision (ESFS) Review<sup>3</sup>,
- having regard to the Commission report on the mission and organisation of the European Systemic Risk Board (ESRB) (COM(2014)0508),
- having regard to the Commission report on the operation of the European Supervisory Authorities (ESAs) and the European System of Financial Supervision (ESFS) (COM(2014)0509),

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<sup>1</sup> Texts adopted, [P8\\_TA\(2015\)0268](#).

<sup>2</sup> <http://www.europarl.europa.eu/document/activities/cont/201402/20140210ATT79138/20140210ATT79138EN.pdf>.

<sup>3</sup> Texts adopted, [P7\\_TA\(2014\)0202](#).

- having regard to its resolution of 26 February 2014 on long-term financing of the European economy<sup>1</sup>,
  - having regard to the Commission communication of 27 March 2014 on ‘Long-Term Financing of the European Economy’ (COM(2014)0168),
  - having regard to the Commission communication of 19 May 2015 entitled ‘Better regulation for better results - An EU agenda’ (COM(2015)0215),
  - having regard to the Commission communication of 19 May 2015 entitled ‘Proposal for an Interinstitutional Agreement on Better Regulation’ (COM(2015)0216),
  - having regard to the European Systemic Risk Board report on the regulatory treatment of sovereign exposures of March 2015<sup>2</sup>,
  - having regard to Rule 52 of its Rules of Procedure,
  - having regard to the report of the Committee on Economic and Monetary Affairs and the opinions of the Committee on Industry, Research and Energy and the Committee on Internal Market and Consumer Protection (A8-0000/2015),
- A. whereas in recent years an ambitious reform agenda for the EU financial sector has been launched to strengthen financial regulation and supervision, restore financial stability and make the financial system more resilient to shocks;
- B. whereas profound changes have occurred in all financial sectors, including banking, insurance, securities markets, investment funds and financial market infrastructure;
- C. whereas the transposition and implementation of the financial regulatory reform is still ongoing and not yet completed, with many delegated and implementing acts in particular still to be finalised;

### **Stocktaking and challenges for the current framework**

1. Notes that the Commission communication entitled ‘A reformed financial sector for Europe’ provides a first stocktaking of the financial sector reforms but fails to provide a full assessment of the overall effects and the interaction of the individual measures;
2. Welcomes the Commission’s Investment Package, including the Capital Markets Union (CMU); stresses that an efficient and effective financial services framework ensuring financial stability is a prerequisite in order to increase (long-term) investment and to foster growth in a competitive European economy; underlines the linkage between economic and financial stability;
3. Is concerned about the increased complexity, reflected in the greater amount, detail and number of layers of regulation and supervision with requirements at international,

<sup>1</sup> Texts adopted, [P7\\_TA\(2014\)0161](#).

<sup>2</sup> [http://www.esrb.europa.eu/pub/pdf/other/esrbreportregulatorytreatmentsovereignexposures032015\\_en.pdf?29664e3495a886d806863aac942fcdae](http://www.esrb.europa.eu/pub/pdf/other/esrbreportregulatorytreatmentsovereignexposures032015_en.pdf?29664e3495a886d806863aac942fcdae).

European and national level;

4. Notes that a sound and robust CMU has to acknowledge the interdependencies with other financial sectors and has to be based on well-established existing structures; stresses the need for a holistic view of EU financial services regulation;
5. Believes that an effective and efficient EU financial services regulation should be coherent, consistent (also on a cross-sectoral basis), proportionate, and free of superfluous complexity; believes that it should enable intermediaries to fulfil their role in funding the real economy and serve savers and investors; considers that it should contribute to the single market and focus on goals better achievable at European level;
6. Underlines the need to take stock of the financial services framework; notes that similar exercises are being undertaken in other jurisdictions, notably in the US;
7. Believes that a single market for financial services serves businesses, but ultimately has to benefit customers and investors; insists that barriers to cross-border access, marketing and investment have to be analysed and addressed;
8. Believes that consumer protection does not necessarily entail large volumes of information; is concerned that the multiplicity of customer information might not ultimately serve real customer needs; points to the necessity of a European initiative for more and better financial education;
9. Highlights the benefits of asset diversification; emphasises that the purpose of prudential regulation is not to favour certain asset classes; calls for a risk-based approach to regulation, with the same rules being applied to the same risks; believes that a more granular categorisation of asset classes is appropriate, in particular by establishing categories such as infrastructure;
10. Stresses the need for consistency in the risk-based approach, including sovereign exposures; supports the work of the BCBS and ESRB in this regard;
11. Notes the possible unintended consequences of multiple capital, liquidity and leverage requirements on maturity transformation and the provision of long-term financing; asks the Commission, in cooperation with the supervisors, to analyse these consequences for banking and insurance as a matter of priority;
12. Is concerned about the lack of available and attractive risk-appropriate (long-term) investments and savings products for consumers; reiterates the need for diversity in investor and consumer choices;
13. Welcomes the diversity of business models; calls for a differentiation in regulation and supervision regarding the nature, size, riskiness and complexity of entities;
14. Calls for an appropriate division of competences between EU and national level, bearing in mind that national supervisors have more knowledge of local market characteristics; is concerned about the effect of a one-size-fits-all supervisory approach on smaller and primarily nationally active entities within the Single Supervisory Mechanism (SSM);

15. Notes the achievements in establishing a banking union; stresses that the next step has to be its full implementation, including full capitalisation of national Deposit Guarantee Schemes (DGS) and the Single Resolution Fund (SRF); emphasises the aim of avoiding moral hazard and ensuring that risk-takers bear the costs when their risks materialise;
16. Reiterates the need for a level playing field within the EU, also with regard to SSM banks and the banks of non-participating Member States;
17. Acknowledges the traditional reliance of SMEs on bank funding due to their specific nature, different risk profiles and variety across Europe; calls on the Commission, in cooperation with the European Supervisory Authorities (ESAs) and the ECB, to analyse the obstacles to, and benefits of, the diversification of funding channels and how to enable banks to increase SME funding; suggests that the initiatives for improved SME funding should be expanded to mid-cap companies;
18. Recognises the efforts made to establish a more transparent securitisation market; emphasises that stringent requirements for underlying high-quality assets and calibrations according to the actual risk profile are necessary, bearing in mind the riskiness of securitisation as shown during the crisis; calls on the Commission to conduct a thorough assessment of the benefits of securitisation for SMEs and the marketability of securitisation instruments as a matter of priority, and to report to Parliament;
19. Underlines the need to streamline the content and frequency of reporting requirements, also by providing entities with one point of contact, in order to avoid any duplication of requirements and reporting channels; calls on the Commission, ESAs and SSM to examine which data are actually needed, to align templates and to provide simplifications and, for SMEs, exemptions;
20. Asks the Commission and supervisors to address the interaction between International Financial Reporting Standards (IFRS) and prudential requirements, and to review the impact of tax accounting on own funds;
21. Stresses that efforts for a cultural change in the financial sector have to be pursued further; acknowledges the benefits of relationship banking for consumers and SMEs;
22. Demands a stronger focus on the global competitiveness of the EU financial sectors when making policy;
23. Underlines the importance of the international framework with respect to its scope, methodologies and implications on the EU framework; calls on the Commission and ESAs to coordinate more closely with international bodies promoting EU interests;
24. Points to the importance of equivalence decisions in addressing obstacles regarding market access and the respective regulatory frameworks, bearing in mind that such unilateral decisions must benefit European businesses and consumers;
25. Asks the Commission to propose a consistent and coherent framework for decisions on third-country equivalence; demands that all equivalence decisions be adopted by means of delegated acts;

## **A better EU financial services regulation**

26. Believes that better financial regulation starts with Member States applying the current *acquis*; considers that gold-plating does not facilitate the functioning of the internal market;
27. Highlights the need for better quality and cross-sectoral co-ordination in the Commission's drafts and drafting processes, encompassing timing, prioritisation and the avoidance of overlaps, as well as any duplication of the basic act in delegated acts;
28. Calls on the Commission to ensure balanced participation in consultations by reflecting the diversity of stakeholders and providing better conditions for small stakeholders to participate;
29. Welcomes the objectives of the better regulation agenda; underlines the role of REFIT in achieving an efficient and effective financial services regulation;
30. Believes that the ESAs and SSM have a crucial role to play in achieving the objectives of better regulation and supervision;
31. Highlights that the revision of the ESA Regulations has to reflect the accountability and transparency provisions for enhanced Parliament scrutiny, as laid down in the SSM and SRM Regulations;
32. Stresses the need to respect the interplay, consistency and coherence between the basic acts and delegated and implementing acts; insists that the Commission and the ESAs, when drafting delegated and implementing acts and guidelines, stick to the empowerments laid down in the basic acts and respect the co-legislators' agreement;
33. Calls on the Commission to fully unbundle both delegated and implementing acts and to avoid package approaches in order to allow for the timely adoption of those acts;
34. Calls on the Commission to make any amendment made to the draft regulatory technical standards (RTS) and implementing technical standards (ITS) submitted by the ESAs transparent to the co-legislators;
35. Emphasises that an early legal review by the Commission should not reduce the transparency of the process vis-à-vis Parliament; requests that during the drafting process the ESAs provide Parliament with provisional drafts;
36. Calls on the Commission and the ESAs to fully respect the deadlines for submission set by the co-legislators and to immediately provide the co-legislators with an explanation when a deadline is not expected to be met;
37. Reminds the ESAs that technical standards, guidelines and recommendations are bound by the principle of proportionality; calls on the ESAs to adopt a restrictive approach to the extent and number of guidelines, particularly where they are not explicitly empowered in the basic act; notes that such a restrictive approach is also required in view of the ESAs' resources and the need to prioritise their tasks;

38. Calls on the ESAs to make use of their right to request information on how basic acts are applied by Member States;
39. Calls on the Commission and ESAs to regularly publish consolidated versions of EU financial services regulations on their websites; believes that the creation of a common register that includes references to national implementation would be an option worth exploring;

### **The way forward**

40. Calls on the Commission and ESAs to conduct regular (at least annual) coherence and consistency checks, also on a cross-sectoral basis and on every draft legislative act, and to dedicate resources to this activity;
41. Calls on the Commission and ESAs to conduct regular (at least annual) proportionality checks, particularly with regard to the requirements applicable for small and medium-sized market participants and on every draft legislative act, and to dedicate resources to this activity;
42. Stresses that the impact of individual legislative measures differs from their cumulative impact; calls on the Commission services, in corporation with the ESAs, SSM and ESRB, to conduct a comprehensive quantitative and qualitative assessment every five years of the cumulative impact of the EU financial services regulation at EU and Member State level;
43. Calls on the Commission services to complete the first assessment by the end of 2016 and to report on the overall impact and, in separate chapters, on the following:
  - the effects on the different financial sectors, including an appropriate differentiated breakdown of the market participants by size, complexity and business model,
  - possible loopholes, overlaps and unintended consequences,
  - the actual and expected economic effects,
  - the possibilities to benefit the real economy,
  - the need to further improve existing and extend complementary funding channels,
  - the effects on supply and demand of long-term financing,
  - the effects on the allocation and diversification of assets and risks,
  - the effectiveness and appropriateness of the framework for retail investors, institutional investors and consumers,
  - the interdependencies with international standards and the effects on the global competitiveness of European businesses;
44. Calls on the Commission to present its findings to the Parliament and the Council and to

suggest measures where appropriate;

45. Instructs its President to forward this resolution to the Council and the Commission.

## EXPLANATORY STATEMENT

The financial and debt crisis that emerged in 2007/2008 required comprehensive action by the European legislators and the international standard setters. Since then numerous legislative initiatives in the field of EU financial services have been launched to restore financial stability, to strengthen customer protection and to implement the lessons learnt from the crisis. Many pieces of legislation have already been successfully completed with implementation and application dates that were already met or are soon to be met.

This own initiative report is a first step to take stock of this legislative work, to address observed shortcomings in financial services law-making and to voice concerns that emerged in particular from the fact that the impact of the individual legislative measures and their interactions has not been sufficiently analysed and the accumulated impact of the overall legislation has so far not been fully evaluated.

Important new Commission initiatives such as the Investment Package and the Capital Markets Union will achieve better results when they are built on existing financial services regulation that works effectively and efficiently. The Rapporteur therefore believes that a thorough impact assessment of the financial services framework is necessary and that this should be regularly repeated. The Commission Services should be entrusted with this task in order to make the best possible use of their experience in stakeholder consultations and of their liaison with the supervisory agencies EIOPA, EBA and ESMA as well as the ESRB and SSM. The Commission should present their assessment to both co-legislators and suggest, where appropriate, improvements.

The Rapporteur is concerned about potential inconsistencies and incoherence in the present legislation and intends to follow up on the informal initiative that the Committee already took beginning 2014. Furthermore the Rapporteur would like to underline the obligation to account for proportionality in the financial services legislation which deserves much more attention also with regard to the present policy initiatives on SMEs and SME funding. The accumulated impact assessment as well as obligatory consistency and proportionality checks on a regular basis should ensure that the application of the financial services legislation is less complex, understandable for and better aligned to the needs of small and medium-sized entities. With respect to the aims of the Capital Markets Union it should also be assessed how the present financial services legislation interacts with the possibilities of the financial services actors to benefit the real economy. This should include a thorough evaluation how existing funding channels to the real economy work, how they may be extended and complemented by additional channels.

The Rapporteur believes that the present legislation needs full implementation and strong enforcement in the Member States. He considers it important that financial stability and customer protection remain the priorities of the legislators with more weight to be given to the application of a consistent risk-based approach. Moreover the Rapporteur identifies the global competitiveness of the EU legislation and the EU financial sectors as an essential challenge in the financial services regulation. He believes that the European legislators have to take more account of the interdependencies with international standards. The first accumulated impact assessment should be used for a targeted examination of the overall financial services framework, whilst avoiding a broad reopening of recent legislation.

The Rapporteur points out that the quality of financial services regulation also depends on coordination, timing and transparency in the law-making process. This report therefore gathers demands to further improve this process and to also address the essential role and the accountability of ESAs and the SSM in this regard.