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AmCham EU's proposed amendments to the proposal for a Council Regulation conferring specific tasks on the European Central Bank

The American Chamber of Commerce to the European Union (AmCham EU) supports the EU institutions and the eurozone Member States in their efforts to develop a long-term strategy for Economic and Monetary Union. Such a vision for the long-term, with banking, fiscal, economic, and political pillars, has the potential to make an important contribution to restoring investor confidence in the short term, restoring the long term financial stability that is essential to growth, and re-engaging citizens with the single currency and with the EU.

As representatives of businesses with significant investments in the European Union, employing hundreds of thousands of its citizens, we have a strong interest in the success of this new supervisory regime and of the single currency more broadly.

In September this year, AmCham EU set out the four principles against which we would assess the Single Supervisory Mechanism. In our view it must:

1. deliver *high-quality* supervision of those banks that are within its remit
2. *preserve and deepen* the EU single market
3. contribute to *global convergence* in financial regulation
4. contribute to the restoration of *confidence* in the eurozone

In this paper we identify the specific amendments to the ECB Regulation that we believe are necessary to meet the second and third of those principles.

A. Preserve and Deepen the Single Market

AmCham EU believes that the preservation and deepening of the wider single market should be an explicit objective of the new regime, to ensure that supervision takes appropriate account of the need to facilitate banking activity that flows across the 27 Member States.

We are therefore encouraged by the various references in the ECB Regulation to the importance of the “internal market”.

While we support **recitals 2 and 9**, we believe that these are inadequate to convey fully the importance of ensuring that the SSM operates in a manner that protects and promotes the internal market. These recitals should be complemented by the following additions:

American Chamber of Commerce to the European Union
Avenue des Arts/Kunstlaan 53, 1000 Brussels, Belgium
Telephone 32-2-513 68 92 Fax 32-2-513 79 28
Email: info@amchameu.eu

Secretariat Point of Contact: Leah Charpentier ; leah.charpentier@amchameu.eu +32 2 289 1015



- **recital 24:** this recital should be amended as follows:

*“The conferral of supervisory tasks on the ECB for some of the Member States should be consistent with the framework of the European System of Financial Supervision (ESFS) set up in 2010 and its underlying objective to develop the single rulebook and enhance convergence of supervisory practice across the whole Union, **and with the unity and integrity of the internal market**”*

Rationale: language taken from Article 1; makes clear that the SSM needs to be consistent with the broader internal market.

- **recital 26:** an addition should be made to this recital, which would read:

“In order to ensure the unity and integrity of the internal market, the ECB should carry out its tasks subject to and in compliance with...”

Rationale: this recital notes that the ECB should act in a manner consistent with the requirements of EU law. By so doing the internal market should be protected, but this point should be made explicitly.

Article 1

We are encouraged by the reference in Article 1 of the Regulation to the internal market, but we believe that this should be strengthened. The requirement for the ECB / SSM to only have “*due regard*” to the internal market does not sufficiently convey the importance of this issue.

We believe that Article 1 should be amended to read:

*“This Regulation confers on the ECB specific tasks concerning policies relating to the prudential supervision of credit institutions, with a view to promoting the safety and soundness of credit institutions, ~~and~~ the stability of the financial system, **and the unity and integrity of the internal market.**”*

Rationale: the preservation of the internal market should be regarded as being of equivalent weight to the promotion of ‘safety and soundness of credit institutions’ and ‘stability of the financial system’.

Article 26

We welcome the requirement in this Article for the Commission to produce a report evaluating the Regulation. We feel that this report should explicitly be required to consider the implications of the SSM for the internal market, and would propose the following addition:

“(e) the implications that this Regulation has had for the unity and integrity of the internal market”

Rationale: although the existing indents do not define the scope of the report exhaustively, we nevertheless believe that the Commission should be specifically tasked with evaluating the impacts that the SSM has had on the internal market.

B. contribute to global convergence in financial regulation

The granting of certain supervisory powers to the ECB is an opportunity to demonstrate the EU's commitment to global regulatory and supervisory convergence. AmCham EU strongly supports the G20 process, which has proved successful in identifying a global agenda for regulatory reform.

But this global agenda also needs international collaboration on the development of detailed standards needed for implementation, a clear commitment to abide by those standards, and close supervisory cooperation in relation to individual entities.

Recital 41

We strongly support **recital 41**. This recital sets out clearly and explicitly the importance of the ECB acting in a manner that “*respects international standards*” and we would encourage the retention of this language.

Article 7

We believe, however, that the language in this recital also needs to find a clearer expression in the main body of the Regulation. Article 7 would be an appropriate place for this, and we would propose its amendment as follows:

“Article 7

International relations and convergence

In order to facilitate the ECB to respect international standards, and without prejudice to the respective competences of the Member States and the other Union institutions, in relation to the tasks conferred on the ECB by this Regulation, the ECB ~~may~~ shall develop contacts and enter into [etc etc]”

Rationale: there should be an explicit statement in this article highlighting the importance of international standards. We believe that it is essential that the ECB develop these contacts, and that the Regulation should therefore give a stronger indication of this (by replacing ‘may’ with ‘shall’).

Conclusion

The internal market for financial services is a major achievement of EU economic policy and its preservation and deepening must remain a high priority for all Member States, whether within the euro area or outside.

But as markets for financial services - as for other goods and services – become increasingly global, it is also essential that EU regulators and supervisors look outwards and take an international perspective.

The delivery of the objectives of the Single Supervisory Mechanism – to break the link between domestic banks and their sovereign; to promote financial stability – will only be enhanced by a strong EU internal market and by high global standards applied consistently across financial institutions, including those supervised by the ECB.

The amendments that AmCham EU is proposing to the ECB Regulation will help to ensure that this happens.

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AmCham EU speaks for American companies committed to Europe on trade, investment and competitiveness issues. It aims to ensure a growth-orientated business and investment climate in Europe. AmCham EU facilitates the resolution of transatlantic issues that impact business and plays a role in creating better understanding of EU and US positions on business matters. Aggregate U.S. investment in Europe totaled \$2.2 trillion in 2010 and directly supports more than 4.2 million jobs in Europe.

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