

No 99
FRENCH SENATE

ORDINARY SESSION - 2013-2014

16 April 2014

ATTENTION: PROVISIONAL DOCUMENT

Only the final published version is binding

EUROPEAN RESOLUTION

SETTING OUT A REASONED OPINION

*on the compliance of the Proposal for a Regulation of the European Parliament and of the Council on **structural measures improving the resilience of EU credit institutions** [COM(2014)43] with the principle of subsidiarity.*

In accordance with paragraphs 4 and 5 of Rule 73g of the Rules of Procedure of the Senate, the resolution of the finance committee has been adopted as a resolution of the Senate, as follows:

See issues: Senate: 420 (2013-2014).

The Proposal for a Regulation of the European Parliament and of the Council on structural measures improving the resilience of EU credit institutions [COM(2014) 43] seeks to ban large European credit institutions from proprietary trading and to require them to separate certain trading activities.

The Senate supports the spirit of the European Commission's measure, which seeks to enhance financial stability and integrate financial markets within the European Union.

Having regard to Article 88-6 of the Constitution,

The Senate raises the following points:

According to Article 5 of the Protocol on the application of the principles of subsidiarity and proportionality "*[d]raft legislative acts shall be justified with regard to the principles of subsidiarity and proportionality*".

However, the impact assessment accompanying the proposal for a regulation is not sufficiently developed in the following respects:

- the necessity and suitability of the proposed measures with regard to the objectives of financial stability;
- the necessity of the proposed measures and their coordination with reforms that have been adopted or are due to be adopted;
- the consequences of the proposal with respect to the financing of the European economy, the drift of the banned or separated activities towards the unregulated financial sector and the competitiveness of the European banking sector.

Due to the inadequacy of the study, it is impossible to ascertain whether the European Commission has correctly identified the appropriate level of action, in compliance with the principles of subsidiarity and proportionality.

The derogations from the separation requirements, as set out in Article 21 of the proposal for a regulation, result in unequal treatment between Member States and are liable to undermine the integration of the European financial market.

According to Article 290 of the Treaty on the Functioning of the European Union, delegated acts "*supplement or amend certain non-essential elements of the legislative act*".

However, the proposal for a regulation sets out a large number of delegated acts, some of which concern essential elements of the measure.

The unjustified number of delegated acts and the areas covered go beyond the provisions of Article 290 of the Treaty on the Functioning of the European Union and therefore breach the subsidiarity principle.

As a result, the Senate deems the proposal for a regulation [COM(2014) 43 final], as currently worded, to be in breach of the subsidiarity principle.

Adopted as a resolution of the Senate on 16 April 2014.

The President,

Signed: Jean-Pierre Bel