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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

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CONTENTS

Page

MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

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(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[1],

– having regard to the report of 25 February 2009 by the High-Level Group on Financial Supervision in the EU, chaired by Jacques de Larosière,

– having regard to the Basel Committee on Banking Supervision's Report on the impact and accountability of banking supervision of July 2015,

– 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(2015)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[2] 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[3],

– 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

[1] Texts adopted, P8_TA(2015)0268.
[2] http://www.europarl.europa.eu/document/activities/cont/201402/20140210ATT79138/20140210ATT79138EN.pdf.
[3] Texts adopted, P7_TA(2014)0202.

Authorities (ESAs) and the European System of Financial Supervision (ESFS) (COM(2014)0509),

– having regard to its resolution of 26 February 2014 on long-term financing of the European economy[1],

– 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[2],

– having regard to the UK Parliamentary Commission for Banking Standards' final report 'Changing banking for good',

– 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 opinion of the Committee on Industry, Research and Energy (A8-0360/2015),

A. whereas the financial crisis of 2007-2008 and its widespread negative impact were caused, inter alia, by a lack of application of appropriate, high-quality financial services regulation for increasingly complex markets and products; 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, limit risks to taxpayers and better serve the needs of investors and the funding needs of the real economy; whereas, while the outlook for growth in Europe has improved, full recovery has not yet been achieved;

B. whereas profound changes have occurred, and are still ongoing, 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 a number of important reforms still due and many delegated and implementing acts in particular still to be finalised; whereas the situation in the banking and insurance sectors and the financial markets is marked by continual change and innovation, which means that the regulations governing these sectors have to undergo permanent evaluation with a view to ensuring proportionality and effectiveness and consequently continual adaptation of those regulations;

[1] Texts adopted, P7_TA(2014)0161.

[2] http://www.esrb.europa.eu/pub/pdf/other/esrbreportregulatorytreatmentsovereignexposures032015.en.pdf?29664e3495a886d806863aac942fcdae.

D. whereas the capital market in the Union remains fragmented; whereas the Capital Markets Union (CMU) potentially offers a valuable framework to safeguard equal access to finance for SMEs throughout the EU and to promote innovative venues for market-based funding; whereas specific shortages of credit to SMEs and micro enterprises derive also from economic instability and a lack of targeted solutions for the real economy; whereas the capital-market-based context in the United States is often cited, but fundamentally differs from the banking-based EU context, and should not be copied or used as a template; whereas the CMU is a chance to strengthen capital markets in the EU as a complement to banking-based finance; whereas in the US, following the financial crisis, bank lending to corporates has developed stronger than capital markets based financing;

Stocktaking and challenges for the current framework

1. Notes that the Commission communication entitled 'A reformed financial sector for Europe' provides a first stocktake of the financial sector reforms but does not provide a full assessment and quantitative analysis of the overall effects and the interaction of the individual measures;

2. Welcomes the Commission's Investment Package, including the CMU; underlines the need for complementary non-bank financing of companies and furthermore that a core principle for building a CMU must be to place greater focus on the end-users of capital markets, i.e. companies and investors; stresses that an efficient and effective financial services framework ensuring financial stability is a prerequisite for increasing (long-term) investment and fostering growth in a competitive European economy; underlines the link between economic and financial stability; stresses further that reliable economic policies, effective structural reforms and sound budget policies pave the way for the health and growth potential of the real economy in the Member States and in the EU; acknowledges the important role that capital markets can play in addressing the financing needs of Member State economies;

3. Acknowledges the fact that the ongoing financial and debt crisis has led to unprecedented negative consequences, in particular for the real economy and taxpayers' money; recognises, in this context, the financial regulation agreed by the European institutions in the last five years, which has strengthened Europe's financial architecture for future crises; welcomes the Commission's CMU action plan; welcomes the Commission's inclusion of an effective level of consumer and investor protection as one of the principles underpinning the CMU;

4. Recognises the achievements of financial regulation in responding to the ramifications of the financial crisis; notes concerns about the increased complexity, reflected in the greater amount, detail and number of layers of regulation and supervision with requirements at international, European and national level; notes that complex regulation also reflects complex financial markets, including financial instruments, market infrastructure and institutions; underlines that overly complex regulation and tighter preconditions can affect investments negatively; believes that the complexity of regulation must also be addressed regarding its application to non-financial end-users of financial products; stresses the need for international regulatory cooperation in a global framework with improved cooperation and increased accountability;

5. Notes that a sound and robust CMU has to acknowledge the interdependencies with other financial sectors, explore additional market-based sources of funding for the real economy and be based first and foremost on well-established existing structures; stresses the need for a holistic view of EU financial services regulation in which the CMU contributes to complementing banking financing; calls for the CMU to reflect the perspective of consumers and investors, besides its orientation towards the financing of companies; to that end, the Commission should work closely with the ESRB, ESAs and National Competent Authorities to resolve any mismatches in approach that could risk undermining the objectives of the CMU; asks the Commission to use well-functioning best practices in order to develop a capital market for the whole Union;

6. Considers that legislation is not always the most appropriate policy response and that non-legislative and market-based approaches should be duly taken into account;

7. Calls on the Commission to pursue an integrated approach in the CMU and pay attention to other policy agendas, such as the development of a digital single market and ongoing reforms in the field of company law and corporate governance; believes further that the Commission should take account of the latest technological developments; raises concerns, in this connection, of threats to cyber security and asks the Commission to ensure that this is an integrated dimension of the EU strategy;

8. Believes that effective and efficient EU financial services regulation should be coherent, consistent (also on a cross-sectoral basis), proportionate, non-duplicative and free of superfluous complexity and prevent legal uncertainty, regulatory arbitrage and high transaction costs; believes further that it should enable intermediaries to fulfil their role in channelling funding to the real economy, thereby facilitating its financing, serve savers and investors and effectively address risks to financial stability and to the taxpayer, preventing financial crises from reoccurring and acting as a shield against systemic risks; considers that it should support the deepening of the single market and focus on tangible goals that can be achieved better at European level, while leaving space for innovative financing with a local focus;

9. Expresses concern at the persistent problems concerning IBAN codes, which are still not considered valid for making direct debits from bank accounts domiciled in Member States other than that of the beneficiary;

10. Underlines the need to take stock of the financial services framework using a both quantitative and qualitative approach; notes that similar exercises are being undertaken in other jurisdictions, notably in the US; stresses that this stocktaking exercise should contribute to building better functioning financial markets serving the financing needs of the real economy, including by addressing loopholes, gaps, inconsistencies, incoherence and disproportionality, should not undermine the legislative achievements obtained so far, bearing in mind the requests made in review clauses as adopted in each specific legislative act, and without anticipating results should not be seen as an exercise leading to deregulation;

11. Believes that a single market for financial services serves businesses, but ultimately has to benefit customers and investors; insists that numerous barriers and obstacles to cross-border access, marketing and investment remain and have to be analysed, addressed and

overcome while maintaining the highest level of investor protection; recalls that reduced barriers to capital flows can only be safely predicted to enhance long-term growth prospects if the overall incentives for companies are set right; considers further the importance of a well-developed local ecosystem that enables smaller companies to attract capital for growth;

12. Believes that consumer protection does not necessarily entail large volumes of information and that the focus should rather be on the quality and comprehensibility of information enabling proper decision-making – information must be relevant, accurate, comparable, user-friendly, reliable and timely; is concerned that the multiplicity and complexity of customer information might not ultimately serve real customer needs; argues for a balance to be struck to provide consumers with the information they need to make informed choices, and to understand the risks involved, while not unnecessarily burdening businesses, especially SMEs; encourages further digitalisation of information; stresses that financial advisers and employees providing consumer advice at financial institutions should be given the training and time necessary to be able to serve customers in an accurate way; notes the importance of effective supervisory powers to intervene in the marketing of products where necessary; points to the need for a European initiative for more and better financial education by no later than the end of 2016, taking account of the specific needs of each Member State, also to ensure full awareness of the advantages and disadvantages of capital market investments; underlines also that financial education should be targeted towards SMEs, teaching them how to use capital markets; believes in the benefit of better transparency in order to enable companies, investors and consumers to understand the comparative costs and benefits of different services provided by market participants, but also notes that more transparency has to come with added value for customers or competent supervisors and be targeted towards the practical use of the information and data;

13. Highlights the benefits of asset diversification, both in terms of asset classes and asset origin, for allowing better risk diversification and matching investors' needs; 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, and which is complemented by other standardised measures; believes that a more granular categorisation of asset classes is appropriate, in particular by establishing categories such as infrastructure; recognises that infrastructure projects are not less risky per se and calls for appropriate prudential regulation; supports further research concerning risks and benefits of infrastructure, including the disclosure of the applied methodology, to be able to draw evidence-based conclusions;

14. Stresses the need for consistency in the risk-based approach, and thus also for reduced opportunities for regulatory arbitrage; stresses the need to break the link between sovereigns and banks at national level through full and consistent national implementation of the Bank Recovery and Resolution Directive (BRRD) and the Single Resolution Mechanism (SRM) and Single Resolution Fund (SRF) provisions; takes note of the contributions of the Basel Committee on Banking Supervision (BCBS) and the European Systemic Risk Board (ESRB) on sovereign debt exposure of banks, which include careful consideration of the next steps; stresses that policies should explicitly take into account the interactions between both individual and endogenous risk, in particular when financial institutions use the same regulator-approved standard risk

models;

15. Notes the possible unintended consequences of multiple capital, liquidity and leverage requirements on maturity transformation, the provision of long-term financing and market- and liquidity making, while recalling that the requirements were put in place as a response to the financial crisis; is concerned that the disproportionality of requirements might endanger the business model of small- and medium-sized banks and therefore have unintended consequences for the structure of the financial industry; calls on the Commission, in cooperation with the supervisors, to analyse these consequences for banking and insurance and possible complementarities as a matter of priority;

16. Expresses concern about the interaction between markets legislation and capital requirements where new entities have been brought into scope as regulated entities in the review of the Markets in Financial Instruments Directive (MiFID) but the Capital Requirements Regulation has not been calibrated to reflect more diverse types of firms;

17. Expresses concern that valid exemptions in the European Market Infrastructure Regulation (EMIR) for non-financial companies have been partly undone in the Capital Requirements Directive and Regulation with regard to the application of the Credit Valuation Adjustment (CVA) charge; calls on the Commission to better perform its role in ensuring consistency in policy approach and outcome across different legislative proposals;

18. Considers that specialised provisions in existing regulation for non-financial companies should be extended and made more proportionate so as to limit the administrative burden and not to reduce capital available to the economy for future investment; calls on the Commission, when reviewing EMIR, to respond to difficulties in applying complex regimes by simplifying procedures, but to continue to recognise the purpose of the exemption so as to ensure that non-financial companies are not burdened by legislation aimed at financial market participants;

19. Calls on the Commission, when reviewing EMIR, to examine the effect that lowering the quality of collateral accepted by central counterparties (CCPs) could have on the resilience of CCPs and to consider whether certain market participants such as pension funds should be permanently exempt from central clearing should their participation decrease the stability of the overall financial system due to alternative non-cash collateral being accepted;

20. Is concerned about the lack of available and attractive risk-appropriate (long-term) investments and cost-efficient and suitable savings products for consumers; reiterates the need for diversity in investor and consumer choices, as investor confidence is key to more investment; stresses that an environment must be fostered that stimulates financial product innovation, creating more diversity and benefits for the real economy and providing enhanced incentives for investments, and that may also contribute to the delivery of adequate, safe and sustainable pensions, such as, for example, the development of a Pan European Pension Product (PEPP),with a simple transparent design; calls on the ESAs to analyse and report, in compliance with their mandate, on consumer trends, in particular in relation to retail products;

21. Welcomes the diversity of business models; calls for the need to reflect this diversity in

regulation and supervision fully taking into account the nature, size, riskiness and complexity of the entities under consideration, provided that the principles of fair competition and effective supervision are met; recalls that diversity in funding means is a strength;

22. Believes that a successful CMU should enable EU companies of all sizes and at different stages of growth to access EU capital markets in a user-friendly, efficient and low-cost manner; believes that regulation should not complicate listings and should not prevent non-listed companies from becoming listed; stresses the need for a streamlined primary market regulatory regime to facilitate raising funds while ensuring appropriate levels of protection for investors; underlines the potential of innovative market-based funding, in particular the opportunities of financial technologies, including crowdfunding and peer-to-peer loans, and stresses the need to streamline the respective regulatory requirements; asks the Commission to give breathing space for the emergence of these new models and to explore and promote them, giving priority to their cross-border dimension and ensuring the reduction of market entry barriers; calls on the Commission to support those Member States with developing capital markets sectors through its Structural Reform Support Service;

23. Calls for an appropriate and clear-cut division of competences between EU and national level, bearing in mind that national supervisors have more knowledge of local market characteristics; highlights that the effectiveness of the Single Supervisory Mechanism (SSM), a level-playing field and transparency are to be ensured and that conflicts of interest between supervisory authorities and supervised entities are to be avoided; is concerned about the effect of a one-size-fits-all supervisory approach on entities that are smaller and primarily active at national level within the Single Supervisory Mechanism (SSM);

24. Notes the achievements in establishing a banking union and stresses its crucial role in addressing interdependencies between sovereign and bank risks and reducing systemic risks through joint action; takes note of the step-by-step completion of the banking union; stresses that full and timely implementation of the existing legislation is required; notes the discussions on a European Deposit Insurance Scheme (EDIS), on which Parliament will have its say as co-legislator; emphasises the aim of avoiding moral hazard, ensuring that the principle of liability remains a guiding theme; criticises the low sensitivity to risk in the calculation of contributions to the SRF; recognises the efforts to conclude the Regulation on Bank Structural Reform;

25. Underlines the need to implement and enforce the application of adopted legislation before any consideration is given to a substantial revision of this legislation; stresses that the rapid transposition into national law of Directive 2014/59/EU and the adequate funding and effectiveness of the SRM must be paramount, and therefore insists that the full implementation of these measures must be completed within the proper legislative framework; stresses in this connection the fundamental importance of cutting direct reciprocal links between state budgets and bank risks, which represent a major threat to financial stability; notes that, owing to the lack of rules for dealing with states that lose access to the financial markets through severe indebtedness, action is often taken too late, which may adversely affect financial stability;

26. Reiterates the need for a level playing field within the EU, including with regard to SSM-supervised banks and the banks of non-participating Member States, and encourages the full inclusion of non-euro Member States into the Banking Union, while recognising that certain elements currently provide for voluntary participation; calls on the Commission to ensure that the single market continues to be developed, while recognising national specificities; calls on the Commission to further pursue a strong approach, in terms of regulation and supervision, to 'parallel' or 'shadow banking' with the aim of mitigating systemic risks and improving transparency; welcomes the major steps achieved in European insurance regulation by the application of Solvency II, as of 1 January 2016, which has to be assessed and possibly developed further, while considering the international framework for global systemically important insurers;

27. Acknowledges the traditional reliance of SMEs on bank funding on account of their specific nature, different risk profiles and variety across Europe; calls on the Commission, in cooperation with the ESAs, the ECB and national authorities, to assess the sufficiency of SME funding, to analyse the obstacles to, and benefits of, the diversification of funding channels and how to enable banks and non-banks to increase SME funding, widening companies' choice among different methods of funding for different stages of their development; recalls the importance of tools such as the 'SME Supporting Factor'; suggests that the initiatives for improved SME funding should be expanded to start-ups, micro enterprises and mid-cap companies; highlights the potential of innovative and largely untapped venues for financing SMEs, including peer-to-peer lending, crowdfunding and private placement, and stresses the need to streamline the respective regulatory requirements;

28 Stresses the importance of rapidly implementing measures already adopted which accompany the objectives of the CMU; calls on the Commission and the Member States to make active use of the SME Growth Market category in future financial services regulation;

29. Believes that companies should have access to an appropriate choice of market types in the EU depending on their size, complexity and fund-raising ambitions, and stresses the need to have deeper, more integrated pan-European capital markets that are separate from, but compatible with, critically important regional local markets;

30. Welcomes the upcoming review of the Prospectus Directive; stresses that the review should be geared towards reducing costs and simplifying procedures for SMEs, while striking the right balance in terms of investor protection;

31. Recognises the ongoing efforts for establishing a more transparent securitisation market, ensuring high standards for the process, legal certainty and comparability across securitisation instruments; stresses the need to set up a data repository; emphasises that stringent requirements for underlying high-quality assets and calibrations according to the actual risk profile and the risk awareness of all participants in the securitisation markets are necessary, taking into account the riskiness of securitisation, in particular synthetic securitisation, as shown during the crisis, while recognising the differing experiences in the EU and the US; insists that retention requirements must not be lowered so as to avoid moral hazard; stresses the need to consider independent certification of compliance with qualifying criteria; calls on the Commission to conduct

a thorough assessment of the risks and benefits of securitisation for SMEs, investors and financial stability and the marketability of securitisation instruments as a matter of priority, and to report to Parliament;

32. Believes that an approach aimed at greater standardisation of products and procedures may reduce complexity but also intensify concentration risks; is concerned about the danger that market participants may run in the same direction in the event of market stress, and calls for appropriate safeguards and supervision at the competent level with regard to the development of a quality securitisation market;

33. Underlines the need to streamline the content and frequency of reporting requirements and reporting fields, including by providing entities with one point of contact, in order to avoid any duplication of requirements and reporting channels; calls on the Commission, the ESAs and SSM to examine what data are actually needed, to align templates and provide simplifications and, for SMEs, exemptions; underlines that reporting data is of best use to supervisors if it can be interrogated and is internationally consistent; considers it necessary to apply a proportionate approach in the development of the Analytical Credit Dataset (AnaCredit); believes that the scope and the level of granularity has to be further assessed as regards its costs and benefits;

34. Asks the Commission and supervisors to address the interaction between International Financial Reporting Standards (IFRS) and prudential requirements, as more coherence would serve both the economy and the prudential supervisor, and to review the impact of tax accounting on own funds; supports attempts to harmonise the definition of non-performing loans;

35. Calls for a considerable reduction in the debt-equity bias so as to enhance economic resilience and capital allocation, and to strengthen the CMU, which will make equity more attractive to issuers and investors; underlines that a transaction tax affects market liquidity, especially in the short term, while also contributing to limiting excessive speculation;

36. Stresses that, in addition to regulation and supervision, efforts towards a cultural change in the financial sector have to be pursued further; calls on all actors in the financial sector, including banks, non-banks, national central banks and the ECB, to work towards a cultural change and a culture of compliance within their organisations that puts the interest of customers first, ensures a system of liability for responsible key managers and a longer-term orientation of financial market participants, and contributes to the diversity of funding sources; stresses the benefits of a long-term partnership approach to funding and a diversified European banking sector with an important role of relationship banking for consumers and micro, small and medium-sized enterprises, in particular in terms of reducing asymmetries in information, thanks also to instruments available through new digital technologies;

37. Calls for the promotion of additional rating providers with a view to increasing competition in a highly concentrated market; recalls that the Commission is due to publish a report on the appropriateness and feasibility of supporting a European Public Rating Agency for sovereign debt and/or a European credit rating foundation for all other credit ratings by the end of 2016; criticises the high level of costs incurred by

SMEs when obtaining an external credit rating; stresses the need to further explore how SMEs can be rated in a comparable and affordable way, including the advanced internal rating-based (AIRB) approach; calls on the Commission to continue its efforts to bridge information asymmetries;

38. Calls for a stronger focus in policy-making on the global competitiveness of the EU financial sectors, while avoiding a regulatory race to the bottom and without detriment to financial stability and consumer protection; underlines that an EU-wide CMU must be seen in the context of improving the competitiveness of European business and the EU economy; emphasises that an effective financial sector is a necessary condition for efficient capital allocation and thus growth;

39. Underlines the importance of the international framework with respect to its scope, methodologies and implications for the EU framework; calls on the Member States, the Council, the Commission and ESAs to streamline the EU position, with a view to increasing its influence and promoting the legislation it has adopted through a democratic process; stresses the need to achieve consistency of new regulation, both with the European *acquis* and with international guidance, and proportionate implementation, including in scope, to avoid unnecessary divergences and duplication in legislation; believes that these are prerequisites for succeeding in the overarching goals of promoting long-term global stability, keeping Europe as an attractive place for international investors and avoiding unnecessary adverse impacts on the competitiveness of the EU financial sectors; recalls the principle of sincere cooperation between the Union and the Member States, referred to in Article 4(3) of the Treaty on European Union; believes that the ESAs should be involved in the discussions on global regulatory principles within the international standard-setting bodies; stresses that the regulatory dialogue with the US should be further strengthened; reiterates, in this context, that financial services regulatory matters should be included in international negotiations where appropriate;

40. Underlines that equivalence decisions are needed in addressing obstacles regarding market access and the respective regulatory frameworks, bearing in mind that such unilateral decisions must benefit European businesses and consumers and that equivalence with other jurisdictions has the potential to increase capital inflows and attract further investment into Europe; underlines the need to evolve towards a consistent and coherent system of sensible recognition of each other’s equal or similar standards;

41. Asks the Commission to propose a consistent, coherent, transparent and practical framework for procedures and decisions on third-country equivalence, taking into account an outcome-based analysis and international standards or agreements; calls for all equivalence decisions to be adopted by means of delegated acts; considers that the ESAs should play an appropriate role in aligning assessments of third countries for equivalence decisions;

Better EU financial services regulation

42. Believes that better financial regulation implies a robust framework and starts with Member States applying the current *acquis*; stresses that effective, efficient and

consistent implementation of the legislation is crucial and calls on the Commission for regular reports to Parliament on the state of transposition and implementation of the legislation, and where applicable, the infringement proceedings brought against Member States; urges the Member States to properly enforce the legislation; considers that gold-plating does not facilitate the functioning of the internal market and competition; considers that attracting business through the discretionary use of lower standards does not facilitate the functioning of the internal market either; asks the Commission to come up with a thorough analysis and report of all gold-plating measures taken by Member States in the field of financial legislation and to submit them to Parliament by the end of 2016;

43. Calls on the Member States to commit to respecting the deadlines set for the transposition of directives since, in addition to being a legal requirement, this is key in order to avoid undue delays in the full implementation of legislation, as well as its partial or uneven application across the Union, which might result in the absence of a level playing field for the different actors involved and in other types of distortions;

44. Highlights the need for better quality and cross-sectoral coordination in the Commission's or the ESAs' drafts and drafting processes, encompassing timing, prioritisation and the avoidance of overlaps; stresses that this should avoid any duplication of the basic act in delegated acts, but also avoid political decisions which should be resolved within the basic act from being left to the delegated acts;

45. Calls on the Commission to enable the early involvement of all relevant stakeholders, including at the level of experts groups; urges the Commission to ensure balanced participation in consultations by reflecting the diversity of stakeholders, and by facilitating and providing better conditions for the participation of small stakeholders representing business, consumers and civil society, including the way consultations are organised and questions asked;

46. Welcomes the objectives of the better regulation agenda; acknowledges the general need to examine the fitness of regulation now and in the future; however, this fitness cannot be decoupled from the functioning of the financial sector as a whole; underlines the role of REFIT in achieving efficient and effective financial services regulation that takes due account of the proportionality principle and in supporting the stocktaking exercise; calls for Parliament to have a bigger role in the decisions and assessments intrinsic to REFIT; recalls that the focus must be on improving regulation, not deregulating; stresses that ensuring transparency, simplicity, accessibility and fairness across the internal market should be part of the better regulation agenda for consumers; stresses also that the EU must not create an unintended compliance burden in the drive to bring about greater harmonisation under the CMU;

47. Believes that the ESAs and SSM have a crucial role to play in achieving the objectives of better regulation and supervision; highlights the role of the ESAs and the SSM in ensuring coherence and consistency between different pieces of legislation, in reducing uncertainty and regulatory arbitrage and in fostering mutually beneficial cooperation among market participants; stresses that the ESAs and SSM have to be adequately funded and staffed if they are to fulfil the tasks given to them by the co-legislators;

48. Highlights that the revision of the ESA regulations must reflect the accountability and transparency provisions for enhanced scrutiny by Parliament, as laid down in the SSM and SRM regulations, and must reinforce the independence of the ESAs from the Commission; considers it necessary to explore possibilities for facilitating greater ESA participation at an advisory level during the level 1 phase while respecting the prerogatives of the co-legislators;

49. Stresses the need to respect the interplay, consistency and coherence between the basic acts and delegated and implementing acts; stresses again that political decisions have to be made by the co-legislators within the basic act, and should not be left to the delegated acts, which are meant 'to supplement or amend certain non-essential elements of the legislative act' (Article 290 of the Treaty on the Functioning of the European Union); 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; regrets that in the past the supervisory authorities, in drawing up implementing acts, have not always adhered to the mandate set out by the European legislators; deplores that the coordination between the Commission (delegated acts) and the ESAs (technical standards) is insufficient and may therefore negatively affect the quality of compliance, particularly where detailed requirements are not adopted until shortly before the implementation deadline of the basic act;

50. 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;

51. Calls on the Commission to make any amendments made to the draft regulatory technical standards (RTS) and implementing technical standards (ITS) submitted by the ESAs transparent to the co-legislators and stakeholders;

52. Emphasises that an early legal review by the Commission should not reduce either the transparency of the process vis-à-vis Parliament or Parliament's right to be consulted; requests that during the drafting process the ESAs proactively provide Parliament regularly, comprehensively and without delay with provisional drafts and interim information on the progress of work and consult Parliament thereon;

53. 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;

54. Reminds the ESAs that technical standards, guidelines and recommendations are bound by the principle of proportionality; calls on the ESAs to adopt a careful 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' limited resources and the need to prioritise their tasks, whereby the practical limits of effective supervision must not be set by budgetary constraints, and asks that adequate resources be secured for ESAs so as to enable them to carry out reliable, independent and effective supervision in the performance of their mandate;

55. Calls on the ESAs to make use of the their right to request information on how basic

acts are applied by Member States and to conduct peer reviews more regularly on national competent authorities with a view to enhancing supervisory convergence across Member States;

56. Calls on the Commission and ESAs to regularly publish consolidated versions of EU financial services regulations on their websites, including a summary which can be accessed and understood by businesses, consumers, civil society organisations and others; believes that the creation of a common register that includes references to national implementation would be an option worth exploring;

The way forward

57. Calls on the Commission and ESAs to conduct regular (at least annual) coherence and consistency checks, including on a cross-sectoral basis and on every draft legislative act, and on the implementation of adopted legislation, including RTS and ITS, and to dedicate resources to this activity;

58. Calls on the Commission and ESAs to conduct regular (at least annual) proportionality and effectiveness checks, particularly with regard to the requirements applicable to small and medium-sized market participants, and on every draft legislative act, and to dedicate resources to this activity; calls on the Commission to publish a Green Paper exploring new approaches to promoting proportionality in financial regulation;

59. Stresses that the impact of individual legislative measures differs from their cumulative impact; calls on the Commission services, in cooperation with the ESAs, SSM and ESRB, to conduct a comprehensive quantitative and qualitative assessment every five years of the cumulative impact of EU financial services regulation on financial markets and its participants at EU and Member State level in order to identify shortcomings and loopholes, to assess the performance, effectiveness and efficiency of the financial services regulation and to ensure that it is not impeding fair competition and the development of the economy, and to report back to Parliament; stresses the importance of performing detailed impact assessments and cost-benefit analyses for any future legislation in order to demonstrate the added value of legislation, in particular as regards economic growth and job creation; underlines that impact assessments and cost-benefit analyses should include thorough evaluations of the impact of Level-2 measures, which form a significant part of the EU financial regulatory framework; recalls that quantifying the impact of legislative measures might be difficult, in particular given that their benefits are difficult to measure, but methods for quantification should still be used;

60. 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, relying also on independent research, 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, and on non-financial entities,

- possible gaps and loopholes, while considering the possible development of new

threats and risks as well as overlaps and unintended consequences,

- the actual and expected economic effects, as well as the competitiveness of the European financial sector in the world,

- the possibilities of benefiting the real economy, including SMEs, consumers and employment,

- the need to further improve existing, and extend complementary, funding channels, including the effect on access to finance for SMEs and mid-cap companies;

- the effects on supply and demand of long-term financing,

- the effects on the allocation and diversification of assets and risks, and on the development of equity tier 1 to total asset ratios in financial institutions,

- the effectiveness and appropriateness of the framework for retail investors, institutional investors and consumers and customers, including the framework on transparency,

- the effectiveness of removing barriers to the single market, limiting regulatory arbitrage and fostering competition,

- the overall effect on financial stability and moral hazard, including an assessment of the possible costs and risk of the lack of regulation, while taking into account the effective implementation of G20 recommendations, and the level of interconnectedness between financial firms;

- the impact on financial stability of IFRS fair value accounting compared with prudent accounting,

- the effectiveness and appropriateness of the framework for macroprudential supervision in the EU,

- the capacity of ESAs to fulfil the tasks given to them under the current legislative framework and on the steps that may be needed to improve the framework, especially the financing of ESAs in the near future,

- the interdependencies with international standards and the effects on the global competitiveness of European businesses, taking into account a comparison between the EU and other major jurisdictions in terms of existing regulation and the extent to which it is implemented ;

61. Calls on the Commission to present its findings to Parliament and the Council and to suggest measures where appropriate;

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62. 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.

14.10.2015

OPINION OF THE COMMITTEE ON INDUSTRY, RESEARCH AND ENERGY

for the Committee on Economic and Monetary Affairs

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))

Rapporteur: Janusz Lewandowski

SUGGESTIONS

The Committee on Industry, Research and Energy calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Welcomes the opening of the consultation on the Capital Markets Union (CMU) and underlines the need to learn lessons from the crises in order to enhance market stability, facilitate non-bank financing and investment in the real economy, and deliver long-term sustainable growth; believes that this initiative, by widening access to funding and unlocking investment, can be an important tool to get Europe back on track for socially and environmentally balanced sustainable economic growth;

2. Stresses the need to take into account the wider global context, in particular when it comes to the timing and substance of legislative proposals to safeguard and strengthen the international competitiveness of the EU's financial sector, improve the investment climate of and attract capital flows into the EU, and to ensure reciprocal access to international financial markets; underlines in this context the need for closer cooperation by the Commission with international bodies such as the Financial Stability Board (FSB) and the International Organisation of Securities Commissions (IOSCO);

3. Stresses that the aim of the EU Financial Services Regulation should be to serve the real economy; believes, for this reason, that the regulation should be coherent and proportionate;

4. Points out that the real economy remains heavily reliant on banks which make it vulnerable to a tightening of bank lending; believes that alternative sources of financing should be found, in particular by strengthening recourse to venture capital;

5. Welcomes the envisaged diversification of funding channels, which should be complementary to the existing ones, should promote instruments which have proved their usefulness and should take into account the specificity of the funding that is needed at different development stages by innovative businesses such as start-ups; underlines the need to reduce administrative burdens, in particular for SMEs, and foster the application of the principles of subsidiarity, proportionality, coherence, effectiveness and practicability in EU legislation, in the interests of open, efficient, liquid and cost-effective capital markets;

6. Expresses its concern at the complexity of the regulation, which is in many places multi-layered with diverging and contradicting outcomes; calls on the Commission to carry out an in-depth assessment of the compliance costs of the Financial Services Regulation, in particular for SMEs and start-ups, with a view at reducing those costs where appropriate;

7. Underlines the important role of banks as intermediaries in capital markets; highlights that financial intermediation is key in order to properly assess the risks and needs of potential investors;

8. Highlights the need for the creation of an investment-friendly environment which removes barriers that give rise to disincentives to long-term investment, for example capital requirements that discourage long-term investments in infrastructure;

9. Considers that the CMU should also ensure, by removing restrictions and barriers affecting the possible use of financial instruments such as bonds or stocks, that businesses are able to choose between types of financing;

10. Recalls that lack of information on the financial situation of SMEs is one of the major barriers to investment in this type of company; calls on the Commission to undertake an in-depth reflection on ways and means of improving investors' access to transparent and comparable data on SMEs; believes that the development of a dedicated database to collect, on a voluntary basis, financial information on SMEs and start-ups could be a useful tool for providing information to investors;

11. Welcomes the launch of consultations on the review of the Prospectus Directive and the efforts being made to remove regulatory barriers to access to securitisation; calls for a revival of the securitisation market by avoiding an overly prescriptive and detailed definition of simple, transparent and standardised (STS) securitisations; endorses the Commission's proposal for the compilation of a register of 'high-quality' securitisations; underlines, in particular, the need to open up financial markets and to broaden funding options available for SMEs and midcaps; calls in this respect for consideration to be given to creating 'SME benchmarks' enabling banks to compare and price credit; calls for improved access to long-term financing and for the development of a pan-European private placement market promoting venture capital, as well as alternative instruments such as peer-to-peer lending and crowdfunding; asks the Commission to consider the 'Funding Escalator' concept within the CMU, addressing the diversity of companies' financing needs throughout their stages of development;

12. Believes that access to finance, in particular for SMEs, is key to economic growth and job creation; points out that profitable banks as well as efficient capital markets constitute

preconditions for access to finance;

13. Calls on the Commission to take into account the specificities of individual markets and to propose changes only in those areas that require intervention in order to eliminate the existing barriers; believes that the Capital Markets Union initiative should have at its core a bottom-up approach and the sharing of national best practices, the strengthening of local capital markets and local ecosystems, with legislative harmonisation being pursued only where necessary, and measures to avoid the negative consequences of 'gold-plating';

14. Calls on the Commission to take into account the different economic and cultural structures of SMEs among Member States in its policy initiatives for the implementation of the CMU;

15. Points out that private equity and venture capital offer interesting alternatives for financing, in particular for start-ups; calls on the Commission to develop additional instruments, building on the experience acquired with the European Venture Capital Funds and the European Social Entrepreneurship Funds;

16. Underlines the importance of comprehensive and cross-sectional impact assessments, and calls on the Commission to undertake detailed consultations on matters of concern to all stakeholders and to ensure the coherence of the delegating and implementing acts;

17. Considers that legislation is not always the most appropriate policy response and that non-legislative and market-based approaches should be duly taken into account.

RESULT OF FINAL VOTE IN COMMMITTEE ASKED FOR OPINION

Date adopted	13.10.2015
Result of final vote	+: 50 –: 8 0: 6
Members present for the final vote	Zigmantas Balčytis, Nicolas Bay, David Borrelli, Jerzy Buzek, Philippe De Backer, Pilar del Castillo Vera, Christian Ehler, Peter Eriksson, Fredrick Federley, Ashley Fox, Theresa Griffin, Marek Józef Gróbarczyk, András Gyürk, Roger Helmer, Hans-Olaf Henkel, Eva Kaili, Kaja Kallas, Barbara Kappel, Krišjānis Kariņš, Seán Kelly, Jeppe Kofod, Miapetra Kumpula-Natri, Janusz Lewandowski, Ernest Maragall, Edouard Martin, Dan Nica, Angelika Niebler, Miroslav Poche, Miloslav Ransdorf, Michel Reimon, Herbert Reul, Paul Rübig, Algirdas Saudargas, Jean-Luc Schaffhauser, Neoklis Sylikiotis, Antonio Tajani, Dario Tamburrano, Patrizia Toia, Evžen Tošenovský, Claude Turmes, Vladimir Urutchev, Kathleen Van Brempt, Henna Virkkunen, Martina Werner, Flavio Zanonato, Carlos Zorrinho
Substitutes present for the final vote	Michał Boni, David Coburn, Cornelia Ernst, Francesc Gambús, Gunnar Hökmark, Benedek Jávor, Jude Kirton-Darling, Constanze Krehl, Olle Ludvigsson, Notis Marias, Marian-Jean Marinescu, Dominique Riquet, Inmaculada Rodríguez-Piñero Fernández, Sofia Sakorafa, Massimiliano Salini, Theodor Dumitru Stolojan, Pavel Telička, Cora van Nieuwenhuizen

RESULT OF FINAL VOTE IN COMMITTEE RESPONSIBLE

Date adopted	1.12.2015
Result of final vote	+: 48 –: 5 0: 5
Members present for the final vote	Gerolf Annemans, Burkhard Balz, Hugues Bayet, Pervenche Berès, Udo Bullmann, Esther de Lange, Fabio De Masi, Anneliese Dodds, Markus Ferber, Jonás Fernández, Sven Giegold, Sylvie Goulard, Roberto Gualtieri, Brian Hayes, Gunnar Hökmark, Danuta Maria Hübner, Petr Ježek, Othmar Karas, Georgios Kyrtsos, Werner Langen, Sander Loones, Bernd Lucke, Olle Ludvigsson, Ivana Maletić, Costas Mavrides, Bernard Monot, Luděk Niedermayer, Stanisław Ożóg, Dimitrios Papadimoulis, Sirpa Pietikäinen, Dariusz Rosati, Pirkko Ruohonen-Lerner, Alfred Sant, Molly Scott Cato, Peter Simon, Renato Soru, Theodor Dumitru Stolojan, Marco Valli, Tom Vandenkendelaere, Cora van Nieuwenhuizen, Jakob von Weizsäcker, Marco Zanni, Sotirios Zarianopoulos
Substitutes present for the final vote	Matt Carthy, Philippe De Backer, Ashley Fox, Doru-Claudian Frunzulică, Ildikó Gáll-Pelcz, Marian Harkin, Barbara Kappel, Verónica Lope Fontagné, Paloma López Bermejo, Thomas Mann, Alessia Maria Mosca, Michel Reimon, Maria João Rodrigues
Substitutes under Rule 200(2) present for the final vote	Anneleen Van Bossuyt, Igor Šoltes