



**Mr. Michel Barnier**  
Commissioner for Internal Market  
and Services  
European Commission  
Rue de la Loi 200  
B-1049 Bruxelles

19 March 2014

Dear Commissioner,

I write to you regarding the EBA regulatory technical standard on own funds and the related Delegated Regulation which implements the capital requirements rules (CRD IV/CRR) in this area and the recommendations on liquid assets which EBA provided for the purpose of the forthcoming delegated act in this area.

The capital requirement rules are fundamental for financial market stability in the EU but also have the potential to have a significant impact on access to financing for European companies and therefore long-term growth and investment. We would like to draw your attention to the following points which are of particular concern to us.

According to Art 17/1/b of the Delegated Regulation, investments in industrial holdings (when qualified as 'financial institutions' in accordance with Art. 4/1/26 CRR) are subject to the deduction regime set out in Art. 36 CRR. Accordingly, the bank must either (i) consolidate an industrial investment (where it has a majority holding), or ii) deduct it from its own funds (in the case of a minority holding).

Banks often have shareholdings in undertakings, including industrial groups. Such groups are regularly controlled by a (publicly quoted) holding company. Such industrial holdings generate little income from their own operational activities, but mainly investment income. The group as a whole, however, focuses predominantly on operative business, as opposed to financing activities or the purchase/sale of investments. Bank investments in industrial holdings underpin long-term engagement and support the real economy. This has a stabilising impact on the economy as a whole.

If "industrial holdings" were qualified as "financial institutions", banks would divest participations in industrial groups as these investments would become less attractive. This would affect the financing of the real economy.

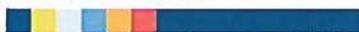


BUSINESSEUROPE therefore suggests to clarify that there should be no deduction obligation in respect of industrial holdings or to restrict the interpretation of the "financial institutions" concept to the primary activity of "acquisition" of participations (as set out in the CRR), while excluding holdings that are predominantly linked to the steering and managing of operationally active subsidiaries. In addition, the interpretation of "industrial holdings" should be restricted by focusing on the consolidated view of the group to avoid discriminatory treatment based on group structures. The regulatory approach taken in the US may provide a model for the EBA's rules. US Basel 3 implementation defines financial institutions as entities "predominantly engaged" in financial activities, which is the case when either (i) 85% or more of total annual revenues arise from financial activities or (ii) 85% or more of the total assets are for financial activities. Such clarification will also resolve current distortion and legal uncertainty as national authorities do interpret these provisions differently.

Regarding the proposed definition of high quality liquid assets within the meaning of the liquidity coverage ratio (LCR), this definition would negatively affect securitisations related to autos, trade and leasing receivables. Corporates using these instruments for their funding needs would have to bear the higher costs. Consequently, financial institutions would find it far more difficult to invest in such products or to maintain corresponding platforms for the securitisation of trade and leasing receivables. BUSINESSEUROPE believes that viewed in the light of risk history, this makes little sense and urges that these high quality securitisations, especially Auto-ABS, are included as high quality liquid assets in the LCR. Furthermore, liquidity facilities provided by banks for asset-backed commercial paper programmes (ABCP programmes) should have a similar LCR-treatment as the direct credit facilities granted by banks to non-financial customers.

Reviving securitisation markets would be an important contribution to strengthening real economy financing. The image of securitisation has suffered due to the lack of transparency of some financial products in the wake of the financial crisis, despite European assets performing very well from a credit and secondary market standpoint.

This will also require changes in prudential regulation that now clearly discourages investment in these asset classes through higher capital cost, such as Solvency II for insurance companies and the proposed "Revisions to the Basel Securitisation Framework" for banks. In this context, BUSINESSEUROPE is pleased that both EIOPA and the Basel Committee have made proposals to soften some capital requirements for securitisation but more needs to be done to avoid unnecessary negative economic impacts for the real economy when using such instruments for its funding needs.



We need a balanced evidence-based approach to securitisation that takes account of the credit and price performance of high quality securitisations. In addition, higher product transparency, strict quality criteria and an improved risk management of securitisation should also be taken into account. Positive examples are the PCS initiative (Prime Collateralised Securities) based on clearly defined rules for transparency, disclosure, lending, and credit processing, the standard developed for Dutch RMBS by the Dutch Securitisation Association and TSI in Germany for car loan securitisations. Another positive example is the loan level initiative of the ECB and the establishment of a central European Datawarehouse for securitisation transactions under the surveillance of the ECB.

We hope that you share these concerns and will be able to ensure that CRD IV/CRR will function effectively, encourage growth and prevent damage to businesses in the wider economy. We remain at your disposal should you wish to discuss this subject further.

Yours sincerely,

Markus J. Beyrer