

On 29 January 2014, the Commission has adopted a proposal for a regulation relating to structural separation of credit institutions COM (2014)43.

The proposed regulation targets large credit institutions and provides for: a prohibition of proprietary trading, a potential separation certain trading activities transferred to a distinct trading entity, a derogation from the separation requirement for credit institutions covered by a national legislation having an equivalent effect and adopted before 29 January 2014.

The French Senate supports any legislative proposal aiming at enhancing the financial stability within the Union and better integrating financial markets. **The commission for European affairs of the French Senate has concluded to breaches with the subsidiarity principle of the proposed regulation COM (2014)43 on the following grounds:**

1. **A thorough impact assessment is necessary** to justify the conformity of a proposed regulation regarding subsidiarity and proportionality. It is all the more important bearing in mind that the prohibition of proprietary trading and the separation of certain trading activities **may affect the freedom to conduct a business as well as the property rights of shareholders**. It is therefore crucial to demonstrate that the requirements of the proposed regulation lead to the financial stability and the good functioning of the financial market in the public interest.

The impact assessment doesn't provide for this demonstration and doesn't give thorough answers on the consequences on the financing of the economy, the risk of migration of banned activities to the shadow banking sector, the interaction with the resolution framework.

2. **The derogation provided for in the proposed regulation leads to a breach of equality between the member states and threatens the integration of the European financial market.** Allowing for such derogation is contrary to the principle of a single rule book that has been so far a fundamental feature of the financial legislation. As such the proposed regulation is not adapted to the objectives.
3. The proposed regulation allows **for numerous delegated acts (9 out of 36 articles) that deal with essential aspect of the proposal.**