19 May, 2011

Commissioner Michel Barnier
Commissioner for Internal Market and Services
European Commission
B-1049 Brussels

Commissioner Olli Rehn
Commissioner for Economic and Monetary Affairs
European Commission
B-1049 Brussels

Dear Commissioners Barnier and Rehn,

Our governments welcome the draft proposal on CRD IV and take note of the intensive work carried out by the Commission in setting up a single rulebook for capital, liquidity and leverage requirements in the EU. By fully implementing the agreement from the Basel Committee on Banking Supervision (BCBS), the EU will boost investor confidence in its banks and financial sector and allow its financial institutions to be more internationally competitive and prudentially sound.

As you already know, the Basel III agreement has been fully endorsed by the G20. Our opinion is that weakening Basel III principles in the EU legislation should be avoided. Indeed, any such deviation or any substantial delays concerning the phasing-in arrangements, would be unacceptable as it would jeopardise financial stability and send negative signals to other jurisdictions regarding the EU's commitment to implementing international agreements. In short, it would be counterproductive to international efforts to strengthen global financial stability. Furthermore, we do not consider it appropriate to constrain the ability of Member States to go further in implementing prudential standards where it is appropriate for their jurisdiction or necessary for macro-prudential reasons.

We therefore request that the Commission, in finalising its proposals, reconsiders parts of its indicative Capital Requirements Directive text to fully take account of the comments made in our attached note. We are convinced that a revised text will result in much stronger and more effective legislation, which, when implemented, will ensure an EU financial sector that is competitive, sound and will retain the confidence of investors worldwide.

Sincerely,

Simeon Djankov
Minister for Finance, Bulgaria

Jürgen Ligi
Minister for Finance, Estonia

Ingrida Šimonytė
Minister for Finance, Lithuania

/S/

Ivan Mikloš
Minister for Finance, Slovakia

Elena Salgado
Minister for Finance, Spain

Anders Borg
Minister for Finance, Sweden

Peter Norman
Minister for Financial Markets, Sweden

George Osborne
Chancellor of the Exchequer, United Kingdom

Complementary note attached to the letter addressed to EU Commissioners Michel Barnier and Olli Rehn, 16 May, 2011

Comments on the Commission Service's March 2011 draft version of the CRD IV

The Basel III agreement has been fully endorsed by the G20. We strongly agree with this endorsement and hence, we are of the opinion that any deviations from Basel III in the EU legislation should be avoided. It should be remembered that the final Basel III agreement was a compromise and considerable concessions were made to those party to the agreement from BCBS's initial more stringent proposals.

In this context, we believe that it is unfortunate that there are key differences between the CRD IV draft and the Basel III agreement. These deviations relate to some of the key elements of the Basel III agreement, such as the prescribed levels of capital and liquidity being minimum rather than maximum levels and the transition period in the Basel III agreement not being a binding timetable. Furthermore, we do not share the Commission service's intentions stated in its indicative draft proposal to allow jurisdictions to continue to use the Financial Conglomerates Directive approach in relation to the deduction of material holdings in insurance entities.

In short, in these areas, among others, the draft proposal risks weakening the minimum level of Basel and making this the standard level for the EU. This would be damaging to the European financial stability and the EU's international credibility on these issues.

Minimum capital and liquidity requirements

We welcome the ambition to ensure that the new rules are applied across Member States in a uniform and timely manner and therefore acknowledge that there could be some potential benefits from recasting the CRD as a regulation in ensuring a swift and consistent implementation across Member States.

However, recasting the CRD as a regulation would prevent Member States from increasing or varying Pillar 1 requirements such as capital levels or risk weights even when a specific situation justifies it. This is clearly not the intention of the Basel III agreement, nor is it acceptable from our point of view. Indeed, the Basel agreements have always been aimed at setting minimum capital requirements and not setting maximum levels. This view has been confirmed by Mr Nout Wellink, the Chair of the Basel Committee, who has said that '*Some countries may choose to implement higher standards to address risks particular to their national contexts, examples of which so far are Switzerland and Sweden. This has always been an option under Basel I and II, and it will remain the case under Basel III.*' (Speech at the ING Basel III Financing Conference, Amsterdam, 14 April 2011.)

There are many sound arguments against curtailing the ability of national authorities to set higher standards. For instance, the different level of importance of the financial sector to the national economy, or the size of the banking sector relative to GDP across EU members varies, meaning that some Member States may need to retain the ability to set higher capital requirements than the minimum levels of Basel III in specific circumstances in order to protect financial stability. Consequently, it is not acceptable to have a regulation that prohibits Member States from requiring their banks to hold more capital or enforce other requirements such as varying risk weights, if such measures are needed to maintain financial stability and consumer protection. It is therefore imperative that Member States can themselves decide on whether to require higher loss absorbing capacity in their banking system since, as a matter of fact, it is the Member States' public finances that might bear the considerable costs of instability.

In addition to this, another reason for not restricting national authorities' ability to set higher standards is the need to develop a macro-prudential approach for the regulation of the financial system. Indeed, applying macro-prudential policies requires national authorities to retain the ability to increase levels of capital and liquidity requirements, or vary risk weights to address emerging financial risks.

Consequently, we strongly support the ability of Member States to meet financial risks and challenges to financial stability in a more effective manner than the current drafting of the CRD IV would allow and strongly urge that the new regulatory framework for capital and liquidity requirements in the EU should allow the flexibility to achieve this.

Finally, we would like to point out that there are potential negative consequences of using a regulation. For instance, the lack of a national transposition process might harm the level of clarity afforded to firms. The choice of the legislative instrument should thus be reconsidered.

Phasing in arrangements and application of buffer requirements

The Basel III phasing-in arrangements are meant to be deadlines, but are not intended to prohibit countries from implementing the new requirements earlier, if necessary. Whilst not all of us wish to apply the Basel standards at an enhanced pace, we think that if a Member States wishes to implement at the national level the full Basel III agreement at an earlier stage than is foreseen in your draft proposal then their intention to do so should be respected.

If not, unintended consequences could arise. For example, it would be very unfortunate if some EU banks reduced their capital after 1 Jan, 2013 and then are required to gradually increase it again to meet the 1 Jan, 2019 requirements, without Member States being able to prohibit this ill-judged behaviour through national legislation.

Enhancing the transparency of financial institutions

We understand that enhancing the transparency of financial markets is a key objective of the Commission. We fully support this intention and feel that more can be done to improve the transparency of financial institutions to enhance market discipline and investor confidence.