



EUROPEAN
COMMISSION

Brussels, **XXX**
[...] (2014) **XXX** draft

COMMISSION IMPLEMENTING DECISION

of XXX

**on stricter large exposure limits notified by the French Republic pursuant to Article 395
of Regulation (EU) No 575/2013 of the European Parliament and of the Council**

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012¹, and in particular Article 395(8) thereof,

Having regard to the opinion of the European Banking Authority,

Whereas:

- (1) In accordance with Article 395(7) of Regulation (EU) No 575/2013, on 13 June 2014 the French Republic notified the Council, the Commission and the European Banking Authority (“EBA”) of its intention to adopt measures imposing stricter large exposure limits. By letter of 8 July 2014, the French Republic provided an update of the notification by removing trading subsidiaries from the scope of the notification. The update neither affected the justification of the measures nor the assessment of their impact on the internal market as far as the deposit taking entities were concerned.
- (2) On 17 July 2014, the EBA issued its opinion in accordance with Article 395(8) of Regulation (EU) No 575/2013.
- (3) The national legislation, Law 2013-672 of 26 July 2013 on separation and regulation of banking activities, which entered into force on 1 July 2014, introduced new obligations on credit institutions with a view to restrict the exercise of speculative activities and to provide banking and market supervisory authorities with new control powers. The legislation empowers national authorities to restrict the size of speculative activities which pose a risk to financial stability and provides that credit institutions have to segregate their proprietary trading activities in a dedicated subsidiary.
- (4) The notified measures aim at implementing the segregation of activities. In particular, Article 8 of the draft order setting out the notified measures states that when proprietary trading activities are segregated in a dedicated subsidiary, the group's large exposure limit to this segregated entity is reduced to 15% until 30 June 2015 and to 10% as of 1 July 2015.
- (5) Such modification of the large exposure regime falls within the notion of structural measures referred to Article 395(6) of Regulation (EU) No 575/2013. Accordingly, Member States, aiming at protecting depositors and preserving financial stability, are permitted to adopt structural measures that require credit institutions authorised in that Member State to reduce their exposures to different legal entities depending on their activities, irrespective of where those activities are located. Since such measures could fragment the internal market, they are only approved subject to strict conditions

¹ OJ L 176, 27.6.2013, p.1.

pending the entry into force of a future Union legislation explicitly harmonising such measures..

- (6) The purpose of the draft order relating to the limitation of the exposures between a segregated entity engaged in proprietary trading and the other group entities, is to reduce the group risk profile.
- (7) With regard to the requirements of Article 395(7) of Regulation (EU) No 575/2013, that the competent authorities submit quantitative or qualitative evidence of the scope of activities that are subject to the structural measures, the notification indicates that institutions supervised on a consolidated basis in the French Republic which have more than 7.5% of their balance sheet assets on fair value through profit and losses will be required to segregate their proprietary trading activities in separate subsidiaries. According to the national legislation, proprietary trading excludes investment services provided to customers, clearing of financial instruments, hedging, market making, sound and prudent cash management and group investments.
- (8) Further, the competent authorities are also required to submit relevant quantitative or qualitative evidence explaining why such draft measures are deemed to be suitable, effective and proportionate to protect depositors. The notification supports the suitability of the measure because the measure will reduce the risk exposure of the parent company by limiting its exposure to this separate subsidiary to 10% of its eligible capital. At the same time, such activities are maintained in the scope of banking supervision rather than being externalised to the shadow banking sector.
- (9) Additionally, the competent authorities underline that the groups' exposure to proprietary trading activities, which represented an average of 15% of French banking groups' net banking profit (NBP) in 2006 (and 15% to 20% of the NBP of major French banking group investment banking activities) has significantly reduced to an average of 3% to 5% of the NBP. In order to prevent a new rise of such activities that could endanger the solvency of a banking group and its depositors in general, this set of structural measures establishes limitations to their funding from within a single banking group. These elements provide satisfactory quantitative evidence about the suitability, effectiveness and proportionality of the measure related to the protection of depositors.
- (10) Finally, the competent authorities have to provide relevant quantitative or qualitative evidence to assess the likely positive or negative impact of the measures on the internal market based on information which is available to the Member State. The competent authorities consider that the increased monitoring of market activities implied by the draft order will reduce risks carried by large banking groups with significant proprietary trading activities and will increase financial stability in general. Moreover, according to the competent authorities, such effect would have a positive impact on the internal market since the banking groups involved have a stake in several Member States. Lastly, the competent authorities remark that this measure would not discriminate against other Member States since it aims at a specific type of activities considered more dangerous, regardless of its geographical location.
- (11) EBA concludes that it has no specific objection to raise.
- (12) In view of the facts set out in recitals 1 to 11, the Commission considers that the proposed national measures entail no disproportionate adverse effects on the whole or parts of the financial system in other Member States or in the Union as a whole, thus forming or creating an obstacle to the functioning of the internal market or the free

movement of capital in accordance with the provisions of the TFEU. Moreover, there is no reason to consider that the measures are inconsistent with the internal market or would be likely to have a negative impact on the internal market.

- (13) Following an assessment of all the elements provided by the national authorities and considering the EBA's opinion, the Commission should accept the measures of stricter large exposure limits notified pursuant to Article 395 of Regulation (EU) No 575/2013.
- (14) In accordance with Article 395(8) of Regulation (EU) No 575/2013 those national measures should be initially accepted only for a period of two years from the date of notification of this decision to the French Republic.
- (15) The measures provided for in this Decision are in accordance with the opinion of the European Banking Committee,

HAS ADOPTED THIS DECISION:

Article 1

The measures of stricter large exposure limits notified by the French Republic on 13 June 2014 and updated by a letter of 8 July 2014 are accepted.

Those national measures shall apply for a period of 2 years from the date of notification of this decision to the French Republic.

Article 2

This Decision is addressed to the French Republic.

Done at Brussels,

For the Commission
The President
Jose Manuel Barroso