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REPORT

on corporate governance in financial institutions
(2010/2303(INI))

Committee on Economic and Monetary Affairs

Rapporteur: Ashley Fox

Rapporteur for the opinion (*): Alexandra Thein, Committee on Legal Affairs

(*) Associated committee - Rule 50 of the Rules of Procedure

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on corporate governance in financial institutions
(2010/2303(INI))

The European Parliament,

– having regard to Rule 48 of its Rules of Procedure,

– having regard to Directive 2010/76/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 2006/48/EC and 2006/49/EC as regards capital requirements for the trading book and for re-securitisations, and the supervisory review of remuneration policies[1],

– having regard to the report of the Committee on Economic and Monetary Affairs and the opinions of the Committee on Legal Affairs and of the Committee on the Internal Market and Consumer Protection (A7-0074/2011),

Approach

1. Welcomes the Commission's Green Paper and the opportunity to improve corporate governance structures throughout the EU;

2. Emphasises that the proper functioning of the internal market depends on the stability of the financial system and, related to this, on the trust put by European citizens and consumers in financial institutions and transactions; notes that the remuneration systems used to date have led to inappropriate structures;

3. Is aware that in the wake of the financial crisis it has become clear that the quality of consumer protection and safeguards in the financial services sector requires tangible and strong improvement, particularly as regards the monitoring and supervisory aspects;

4. Believes that the financial sector should meet the needs of the real economy, help to promote sustainable growth and display the greatest possible degree of social responsibility;

5. Notes that during the recent financial crisis many financial institutions around the world failed at great cost to the taxpayer; believes that the Commission is right to examine every possible cause of failure in financial institutions in order to prevent another crisis occurring;

6. Notes a lack of values and ethics in the behaviour of some actors in financial markets and institutions; underlines that financial markets and institutions have to take into account, as part of their corporate social responsibility, the interests of all parties involved, including clients, shareholders and employees;

7. Notes that the US Sarbanes-Oxley Act was ineffective in protecting US institutions during

[1] OJ L 329, 14.12.2010, p. 3.

the financial crisis, whilst at the same time increasing compliance costs for all listed companies, in particular SMEs, reducing competitiveness and hampering the creation of new listed companies; emphasises that present economic circumstances and the need for growth make it imperative to avoid an EU 'Sarbanes-Oxley' effect;

8. Notes the diversity of corporate governance structures throughout the European Union and the diversity of approaches that Member States take in regulating these structures; recognises that a ‘one size fits all’ approach would be inappropriate and damaging to the competitiveness of financial institutions; observes that national supervisors have an understanding of these diverse approaches and are in many instances best placed to take decisions following EU principles; stresses nonetheless that strong minimum standards are required to ensure good governance across the financial sector in the EU;

9. Recognises that the area of corporate governance is constantly evolving; believes that a proportionate approach combining both targeted principle-based regulations and flexible 'comply or explain' codes of best practice on an equal footing is appropriate; stresses that it must be complemented by regular external evaluation and appropriate regulatory oversight;

10. Believes that in other areas a procedure of enhanced ‘comply or explain’ with scrutiny may nevertheless be more appropriate with specific legislative requirements and more intrusive checks into compliance or variation, and that both qualitative and quantitative assessment is required so that compliance does not degenerate into a box-ticking exercise;

11. Requests that the Commission subject every proposal it considers to improve corporate governance to a cost-benefit impact assessment which focuses on the need to keep financial institutions strong, stable and competitive so that they can help deliver economic growth, whilst also taking into account the impact of not regulating on financial stability and the real economy;

Risk

12. Notes the failure of some financial institutions and supervisors to appreciate that the nature**,** scale and complexity of the risk they had incurred contributed to the financial crisis; believes that effective risk governance is ***a*** major essential element in preventing future crises;

13. Calls for the establishment in all financial institutions of an effective governance system, with adequate risk management, compliance, internal audit functions (and, in the case of insurers, actuarial functions), strategies, policies, processes and procedures;

14. Stresses that risk is intrinsic and necessary in the financial sector in the interests of providing liquidity, fostering competitiveness and helping deliver economic growth and jobs; a thorough understanding and appreciation of risk on the part of boards is absolutely vital in order to avoid a future financial crisis;

15. Calls for the establishment of mandatory risk committees or equivalent arrangements at board level for all economically significant financial institutions and at parent company board level for all economically significant financial groups; EU supervisors in

consultation with the relevant national authorities should establish ‘fit and proper persons’ criteria and processes for senior officers and all material risk takers to be implemented by the financial institution, and national authorities should ensure compliance with these criteria;

16. Believes that the risk committee or other equivalent body should have responsibility for oversight and for advising the board on the current risk exposures of the financial institution concerned and should advise on future risk strategy, including strategy for capital and liquidity management, taking into account financial stability assessments developed by supervisors and national banks;

17. Stresses that ultimate responsibility for risk governance lies with the board, which must also take responsibility for demonstrating compliance and the formulation of recovery plans;

18. Emphasises that the loyalty to the institution of members of its board constitutes a long-term and sustainable business strategy that should not allow the running of any disproportionate risks;

19. Believes that firms should establish an internal procedure, reviewed by the supervisor, to address conflicts which may arise between their risk management and operational units; in addition, there should be an obligation for the board of directors to inform the supervisory authorities of any material risks they are aware of;

20. Is in favour of establishing paths to channel information on internal conflicts or inappropriate practices in a company to the risk committee or external supervisors, recognising also that practices sometimes differ from policies and management is not always aware of real practices;

21. Points out that the communication system between the risk management function and the board of directors should be improved by setting up a procedure for referring conflicts/problems to the hierarchy for resolution;

22. Underlines that the CRO should have direct access to the board of the company; in order to ensure his independence and objectivity is not compromised, his appointment and dismissal will be decided by the whole board;

23. Suggests also that procedures should be established for recording when the risk committee is over-ruled and the records provided to auditors and supervisors;

24. Notes the Transparency Directive, which requires institutions to disclose principal risks in their business review, and the Fourth Company Law Directive, which requires institutions to describe their internal control systems relating to financial reporting risks; observes that financial institutions should be required to disclose recovery planning and supervisory reports thereon;

25. Takes the view that it should be mandatory for financial institutions to draft an annual report – involving as little bureaucracy as possible – on the adequacy and effectiveness of their internal control systems and for their board of directors to adopt that report; takes the

view, further, that it should likewise be mandatory for the annual report drawn up by a financial institution's external auditors to contain a similar assessment; stresses, however, that a 'Sarbanes-Oxley effect' must be avoided in the EU;

26. Takes the view that closer attention should be paid to the implementation of measures to raise risk awareness in financial institutions, as increased awareness of risk at all levels of the institution – and amongst its employees – is a decisive factor in improving risk management;

27. Agrees that it is necessary to strengthen measures at EU level to prevent conflicts of interest in order to safeguard the objectivity and independence of judgement of board members across the banking, securities and insurance sectors;

Boards of directors

28. Calls on EU supervisors in consultation with the relevant national authorities to develop competence criteria for a 'fit and proper person' test, by which to assess the suitability of individuals for controlled functions, taking into account the nature, complexity and size of the financial institution; supervisors must perform their assessments and approvals procedure in a timely and efficient manner with due regard for the judgement of regulated firms; for major and systemically relevant financial institutions, supervisors should perform intrusive checks as to the fitness, expertise and diversity of directors both individually and collectively and their suitability in relation to the appointment, and for directors the wider composition of the governing body and their time commitment, taking into account their other activities;

29. Calls on the Commission to develop legislation requiring large financial institutions to submit their boards to regular external evaluation aimed at ensuring not only high standards of contributions by individual directors, but also that the board as a whole and its committees are in a position to deliver on the institution's strategic objectives and management of the risk; requires large financial institutions to confirm in their annual reports that they have undertaken such an evaluation, the name of the external evaluator, a description of the scope of the evaluation and that they have acted on the latter's recommendations; calls on ESMA to develop guidance on the scope of such evaluations in consultation with the industry, shareholders and regulators;

30. Suggests that financial institutions may voluntarily opt for an evaluation of the functioning of the board of directors, carried out by an external evaluator;

31. Believes the role of the CEO and Chairman should be separated, but notes that there are circumstances when a combined role could be necessary in the short term; emphasises also that corporate management and remuneration policies must comply with and foster the principles of wage parity and equal treatment of women and men established by the Treaties and by EU directives;

32. Believes that all members of unitary or supervisory boards should possess recent and relevant professional qualifications, knowledge and experience, including financial, for jointly piloting the financial undertaking; requires all economically significant financial institutions to have non-executive board members; believes, however, that every financial

institution should have a board with a diversity of experience, expertise and character so as to provide sound and prudent management and that appointments should be made on merit;

33. Emphasises that greater diversity among the members of boards of directors will reduce the financial sector's vulnerability to crises and contribute to economic stability; calls on the Commission to submit a plan to bring about phased increases in gender diversity with the aim of achieving at least 40% representation for each gender on the boards of directors of financial institutions, to ensure that this target is met within a foreseeable period and to consider measures to strengthen diversity in terms of professional, social and cultural background;

34. Emphasises that greater diversity among the members of boards is likely to improve the quality of debate and decision-making;

35. Emphasises the importance of employee representatives being on the board of directors, in particular in view of their long-term interest in the sustainable management of the institution and because of their experience and knowledge of its internal structures;

36. Considers that publicly owned financial institutions and financial authorities must ensure open and independent appointment processes;

37. Stresses that directors must devote sufficient time to the performance of their duties, the guidelines for which should be developed by EU supervisory bodies and be monitored by the board and national supervisory bodies;

38. Believes that there should be a presumption against any person serving on an excessive number of boards of directors of different financial groups;

39. Calls for efficient implementation of the rules on consultation and employee participation systems opted for in the context of Directive 2001/86/EC supplementing the Statute for a European Company;

40. Is of the opinion that both senior management and the board of directors should be actually and personally accountable and liable for the setting up and application of corporate governance principles at all levels of the company/corporation;

41. Regards a clearly defined European minimum standard for the accountability of the members of the boards of directors of financial institutions as necessary;

42. Notes that the European Central Bank, the European Investment Bank, the European Investment Fund and the central banks of all Member States are led by male governors; notes that only very few women are currently represented in governing positions within the central banks of the Member States and of the financial institutions;

43. Believes that directors should have a general duty of care and be obliged to report material risks to supervisors;

44. Invites the Commission and Member States to take gender-balanced measures as regards

the appointment of governors within the financial institutions and bodies of the European Union;

45. Encourages the Commission to promote policies which can help companies in the financial sector in today's economic environment to value and manage a more balanced representation of men and women in the decision-making bodies;

46. Emphasises that corporate management and remuneration policies must comply with and foster the principles of wage parity and equal treatment of women and men established by the Treaties and by EU directives;

Remuneration

47. Believes that remuneration policies must be based on the long-term performance of the individual and their firm to ensure remuneration policies do not contribute to excessive risk-taking, and that remuneration policies or payments should never undermine the stability of a firm;

48. Welcomes the changes to remuneration policy that have already been introduced by financial institutions, whereby bonuses are linked to the long-term success of the business and only paid out after three years at the earliest; also welcomes the fact that it is possible to demand repayment of bonuses if economic objectives have not been met;

49. Stresses that all share options must be properly disclosed and have vesting periods of at least three years; considers that greater use should be made of contingent capital instruments rather than shares, as they have less conflict of interest in inducing short termism;

50. Notes that the issue of remuneration in financial institutions has been dealt with in CRD III;

51. Stresses the importance of a strict remuneration policy as foreseen in the Capital Requirements Directive (CRD III) and Solvency II; expects these and other existing legislative measures to be rapidly implemented from January 2011; calls upon the Commission to publish an evaluation report in 2014;

52. Acknowledges that structural approaches differ among Member States; encourages practices which strengthen corporate governance according to the legal form, size, nature, complexity and business model of the financial institution;

53. Notes that the application of existing recommendations for the remuneration of directors of listed companies is neither uniform nor satisfactory; calls therefore on the Commission to come forward with legislation at EU level on remuneration for directors of listed companies in order to ensure that the structure of remuneration in listed companies does not encourage excessive risk-taking, as well as to ensure a level playing field in the EU;

54. Highlights in particular concerns that shareholders cannot and do not currently exercise due control over remuneration policies in financial institutions;

55. Insists that full transparency is necessary for shareholders to be able to conduct proper oversight of remuneration policies, and calls in particular for the publication of the number of staff in each institution receiving total remuneration greater than EUR 500 000, in bands of at least EUR 500 000;

56. Is of the opinion that shareholders should help determine sustainable remuneration policies and should be given the opportunity to express their views on the remuneration policies, with the right to reject the remuneration policy defined by the remuneration committee at the general meeting;

Supervisors, auditors and institutions

57. Believes that an enhanced three-way dialogue between supervisors, auditors (both internal and external) and institutions would improve the likelihood of substantial or systemic risk being detected at an early stage; encourages supervisors, the European Systemic Risk Board, auditors and institutions to engage in open discussions and to increase the frequency of meetings in order to facilitate prudential supervision; further recommends that bilateral meetings take place between auditors and supervisors of major financial institutions; believes that it is the board and Internal Auditor's responsibility to ensure that necessary internal controls are in place to detect systemic risks and to establish a procedure for informing the board and supervisors of these risks in order to avoid negative consequences;

58. Stresses that the primary role of auditors should not be unduly compromised by the burden of extra duties, such as an examination and assessment of non-audit information that falls outside their area of expertise; believes auditors should report directly to supervisors when aware of something of material concern to supervision and should participate in pan-industry assessments of specific controls;

59. Insists that public authorities, including ESAs and national supervisors, must adhere to high standards of independence and corporate governance equivalents;

Shareholders and the AGM

60. Encourages institutional shareholders to take a more active role in holding the board and its strategy to account in an appropriate way and to reflect the long-term interests of their beneficiaries;

61. Calls for legislation requiring all those authorised to manage investments on behalf of third parties in the EU to state publicly whether or not they apply and disclose against a stewardship code; if so, which one and why, and if not why not;

62. Believes that significant transactions above a defined and proportionate size should require specific shareholder approval or be subject to an obligation to inform shareholders before the transaction can take effect, provided that involvement of the shareholders is feasible, the principle of confidentiality is met and the daily business of the financial institution is not undermined; ESMA may issue guidelines concerning the appropriate benchmark in consultation with the relevant national authorities;

63. Recognises that transparency is necessary with regard to related party transactions and that significant transactions which involve a related party should be notified to the listing authority and be accompanied by a letter from an independent adviser confirming that the transaction is fair and reasonable, or should be subject to a vote of shareholders with the related party being excluded from this vote; ESMA may issue guidelines concerning the appropriate benchmark in consultation with the relevant national authorities;

64. Calls for mandatory annual elections of each member of the board, for mandatory annual requests for approval of the board's policy or for discharge of the board at the AGM, with a view to making the board more accountable and encouraging a culture of greater responsibility;

65. Calls for an investigation of the inhibition on effective shareholder controls and for the removal of regulatory impediments to reasonable collaboration;

66. Calls for an electronic vote to be introduced in order to encourage shareholders to engage in the corporate governance of financial institutions;

67. Takes the view that all limited partnerships should be free to stipulate in their statutes whether their partners may remain anonymous or must be named and that, in the latter case, a law must be enacted to guarantee that their identities are in fact made public;

68. Instructs its President to forward this resolution to the Council and the Commission.

1.3.2011

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS

for the Committee on Economic and Monetary Affairs

on Corporate governance in financial institutions
(2010/2303(INI))

Rapporteur(*): Alexandra Thein

(*) Associated committee – Rule 50 of the Rules of Procedure

SHORT JUSTIFICATION

Background

The aim of the Green Paper under consideration here is to draw conclusions from the global financial crisis triggered by the bankruptcy of the Lehman Brothers bank in autumn 2008 following the inappropriate securitisation of US subprime mortgages. In the light of the development of new financial instruments in a globalised world, the Green Paper takes a critical look at the soundness of financial institutions and of the financial system as a whole, and at the regulation and supervision of the system, with a view to preventing any repeat of the crisis in the future. The Commission regards the strengthening of corporate governance as central to its financial market reform and crisis prevention programme. In that connection, the Commission notes in particular that in the financial services sector corporate governance must take account of the interests of other stakeholders (depositors, savers, life insurance policy holders, etc.) and of the stability of the financial system, owing to the systemic nature of many of the players involved.

The options outlined in the Green Paper are intended to accompany and supplement the legal provisions implemented or planned for the purpose of strengthening the financial system, in particular in the context of the reform of the European supervisory architecture, the Capital Requirements Directive (CRD III), the Solvency II Directive for insurance companies, the reform of the UCITS system and the regulation of Alternative Investment Fund Managers (AIFM). The Green Paper focuses on a narrow definition of corporate governance which incorporates the role of external auditors. Important, further-reaching aspects of governance – such as the separation of roles within financial undertakings, the internal audit function and accounting independence – are not dealt with.

Rapporteur's standpoint

Financial risk-taking is a quintessential aspect of the financial sector and fundamental to its success in business terms and to the functions it performs for the economy as a whole. It is in the public interest that these functions should not be restricted to a degree beyond that needed to prevent systemic crisis. To illustrate this point further, it must be possible for a financial institution to opt for orderly bankruptcy, provided that this does not pose a systemic risk and would not lead to a domino effect on the market as a result of interdependencies within the financial system.

Your rapporteur regards the development of a more comprehensive system and culture of sustainable risk management and risk monitoring in financial institutions as a key task.

This challenge, as important as it is complex, can be met by means of a package of measures which will have either a direct or indirect impact. Many of the measures concerned were already taken last year at European and Member State level, in particular in the area of management remuneration. In addition, academic studies suggest that measures to professionalise boards of directors and ensure that their members come from very diverse backgrounds would be both well advised and likely to bring about improvements. The accountability and liability of members of boards of directors must be clearly defined, but care must be taken when determining precisely what form that accountability and liability should take, in order not to jeopardise financial institutions' willingness to seize business opportunities, a desirable aspect of their work, or the quality of board members.

Your rapporteur regards the elimination, or at least the attenuation, of the impact which all issues relating to conflicts of interest have as contributory factors in financial crises as a further key task.

As regards the conflicts between the twin roles of financial institutions as providers of credit and investment banks, a mandatory legal requirement that individual financial institutions should be allowed to perform only one of these roles is worthy of consideration, but would in practice be unfeasible, given the potential losses of efficiency and the need for the European financial sector to remain globally competitive. What certainly are needed, however, are uncompromising measures to rule out conflicts of interest involving the individuals who play a decisive role in risk supervision, namely the members of boards of directors.

The UK's Stewardship Code can be regarded as a suitable model for a uniform EU code for institutional investors.

SUGGESTIONS

The Committee on Legal Affairs calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Takes the view that the number of boards on which directors of financial institutions may

sit at the same time should be limited to three, in which connection membership of the boards of several companies within the same financial group should count as one directorship; this limitation should not be applied to the member who is the owner of at least one fifth of the share capital of the financial institution;

2. Emphasises that greater diversity among the members of boards of directors will reduce the financial sector's vulnerability to crises and contribute to economic stability; calls on the Commission to submit a plan to bring about phased increases in gender diversity with the aim of achieving at least 40% representation for each gender on the boards of directors of financial institutions, to ensure that this target is met within a foreseeable period and to consider measures to strengthen diversity in terms of professional, social and cultural background;

3. Emphasises the importance of employee representatives being on the board of directors, in particular in view of their long-term interest in the sustainable management of the institution and because of their experience and knowledge of its internal structures;

4. Emphasises that greater diversity among the members of boards is likely to improve the quality of debate and decision-making;

5. Points out that there should be a presumption in financial institutions that the functions of chairman of the board of directors and chief executive officer be separate, though there may be occasions where combining the two functions is necessary as a short-term measure;

6. Suggests that financial institutions may voluntarily opt for an evaluation of the functioning of the board of directors, carried out by an external evaluator;

7. Believes that making it compulsory for one or more members of the audit committee to be part of the risk committee and vice versa could lead to a dissolution of competence and lack of focus on just one job;

8. Emphasises that the loyalty to the institution of members of its board constitutes a long-term and sustainable business strategy that should not allow the running of any disproportionate risks;

9. Notes that the chairman of the risk committee should report to the general meeting, or in any event that he/she should not be able to be fired by the Executive or the board of directors;

10. Takes the view that it should be mandatory for financial institutions to draft an annual report – involving as little bureaucracy as possible – on the adequacy and effectiveness of their internal control systems and for their board of directors to adopt that report; takes the view, further, that it should likewise be mandatory for the annual report drawn up by a financial institution's external auditors to contain a similar assessment; stresses, however, that a 'Sarbanes-Oxley effect' must be avoided in the EU;

11. Takes the view that a high-performance IT infrastructure guaranteeing the rapid flow of information on risk right up to board-of-directors level is important; considers that the

decision on implementing technical measures to improve the quality and speed of transmission of information to the board of directors should be left to the financial institutions, and thus to the board of directors thereof, so as to allow arrangements to be made that are tailored to each institution and to its specific requirements;

12. Takes the view that closer attention should be paid to the implementation of measures to raise risk awareness in financial institutions, as increased awareness of risk at all levels of the institution – and amongst its employees – is a decisive factor in improving risk management;

13. Is in favour of establishing paths to channel information on internal conflicts or inappropriate practices in a company to the risk committee or external supervisors, also recognising that practices sometimes differ from policies, and management is not always aware of real practices;

14. Takes the view that chief risk officers should have the same status in a financial institution as the chief financial officer and should be able to report directly to the board; considers that a risk committee should be established at board level to deal with risk issues and monitor correct implementation of the risk strategy throughout the financial institution; calls for the introduction of European standards governing the qualifications of chief risk officers and members of risk committees, with a view to enhancing their status within financial institutions;

15. Points out that the communication system between the risk management function and the board of directors should be improved by setting up a procedure for referring conflicts/problems to the hierarchy for resolution;

16. Takes the view that the external auditors in financial institutions should be required to inform the board of directors and the competent supervisory bodies immediately if their audit brings to light facts which could jeopardise the future of the institution or seriously hamper its development or which point to a serious breach of the licensing requirements or the rules governing the performance of duties;

17. Does not regard it as appropriate to require investors to make public the details of actual or alleged voting strategies in annual general meetings;

18. Takes the view that institutional investors should be required formally and publicly to explain any actions which breach the uniform EU code for institutional investors (‘comply or explain’), which needs to be established; points out, however, that such breaches are often not explained or explained only inadequately, and that in such cases compliance should be enforced by means of sanctions;

19. Takes the view that the identification of shareholders should be facilitated in order to encourage dialogue between companies and their shareholders and to reduce the risk of abuse connected to ‘empty voting’;

20. Calls for the establishment of the electronic vote in order to encourage shareholders to engage in financial institutions’ corporate governance;

21. Takes the view that all limited partnerships should be free to stipulate in their statutes whether their partners may remain anonymous or must be named and that, in the latter case, a law must be enacted to guarantee that their identities are in fact made public;

22. Regards a clearly defined European minimum standard for the accountability of the members of the boards of directors of financial institutions as necessary;

23. Draws attention, with reference to remuneration and remuneration policies in financial institutions, to the legislative action which has already been taken, in particular the EU Capital Requirement Directive (CRD III), which came into force on 1 January 2011, and the Directive on the taking-up and pursuit of the business of insurance and reinsurance (Solvency II); calls on all Member States to implement this legislation with oversight from the Commission and the European Supervisory Authorities and recommends that the next step should be to assess their effectiveness; takes the view that the level and composition of the components of remuneration have to be linked to sustainable and long-term commercial success;

24. Notes that during discussions on CRD III the Commission and Council agreed that further proposals raised by the European Parliament should be addressed as part of the corporate governance package, and highlights in particular Parliament's concern that shareholders currently cannot and do not exercise due control over remuneration policies in financial institutions;

25. Insists that full transparency is necessary for shareholders to be able to conduct proper oversight of remuneration policies, including the publication of the number of staff receiving more than EUR 500 000, in bands of at least EUR 500 000;

26. Takes the view that members of the board of directors should be strictly prohibited from engaging in any other form of business dealings, in particular consultancies, with the financial concern in question; external auditors should be prohibited from obtaining any payment – other than their fees for the audit they perform – from the financial institution for a service which would be a breach of applicable independence or other ethics requirements;

27. Takes the view that details of a conflict of interest policy covering the various areas of banking activity should form a mandatory part of the annual report of financial institutions and calls for consideration to be given to developing a corresponding EU code of conduct;

28. Takes the view that, while taking into account the different existing legal and economic models, it is necessary to harmonise the content and detail of Community rules on conflicts of interest in order to ensure that the various kinds of financial institutions are subject to similar rules, under which they must apply the provisions of MiFID, the CRD, the UCITS Directive or Solvency II.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	28.2.2011
Result of final vote	+: 19 –: 0 0: 0
Members present for the final vote	Raffaele Baldassarre, Sebastian Valentin Bodu, Françoise Castex, Christian Engström, Klaus-Heiner Lehne, Antonio Masip Hidalgo, Alajos Mészáros, Bernhard Rapkay, Evelyn Regner, Francesco Enrico Speroni, Alexandra Thein, Cecilia Wikström, Zbigniew Ziobro, Tadeusz Zwiefka
Substitute(s) present for the final vote	Piotr Borys, Sergio Gaetano Cofferati, Sajjad Karim, Eva Lichtenberger, Toine Manders

1.3.2011

OPINION OF THE COMMITTEE ON THE INTERNAL MARKET AND CONSUMER PROTECTION

for the Committee on Economic and Monetary Affairs

on corporate governance in financial institutions
(2010/2303(INI))

Rapporteur: Othmar Karas

SUGGESTIONS

The Committee on the Internal Market and Consumer Protection calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Emphasises that the proper functioning of the internal market depends on the stability of the financial system and, related to this, on the trust put by European citizens and consumers in financial institutions and transactions; notes that the remuneration systems used to date have led to inappropriate structures;

2. Recognises that the financial crisis has revealed the lack of effectiveness of existing corporate governance principles based on a 'comply or explain' approach; believes that practicable, legally binding corporate governance provisions are needed;

3. Is aware that in the wake of the financial crisis it has become clear that the quality of consumer protection and safeguards in the financial services sector requires tangible and strong improvement, particularly as regards the monitoring and supervisory aspects;

4. Stresses, in view of the fact that the financial sector, because of its particular role in the economy and its general social responsibility, also has a particular responsibility for serious, sustainable business strategies and must therefore be appropriately remunerated, that bonus payments should encourage long-term performance and discourage short-term thinking in order to prevent risky business practices;

5. Believes that the financial sector should meet the needs of the real economy, help to promote sustainable growth and display the greatest possible degree of social

responsibility;

6. Supports the Commission’s aim of changing the remuneration policy of financial institutions with a view to restraining excessive risk-taking,

7. Acknowledges that structural approaches differ among Member States; encourages practices which strengthen corporate governance according to the legal form, size, nature, complexity and business model of the financial institution;

8. Stresses that a well-governed company should be accountable and transparent to its employees, its shareholders and other stakeholders; reaffirms that directors of financial institutions have to take account of their institution’s, as well as of consumers’ and employees’, long-term interests when taking decisions, in order to minimise risks; this can be accomplished by a legislative requirement for every regulated financial institution in the European Union to describe its business model in its annual report with an explanation of the board’s risk appetite and its understanding of the risk inherent in delivery of the business model; the report should further include a description of the steps the board has taken to ensure that these risks are overseen and managed, and of how remuneration policy is aligned to the delivery of the business model and the management by executives of the risk involved;

9. Emphasises that corporate management and remuneration policies must comply with and foster the principles of wage parity and equal treatment of women and men established by the Treaties and by EU directives;

10. Agrees that it is necessary to strengthen measures at EU level to prevent conflicts of interest in order to safeguard the objectivity and independence of judgement of board members across the banking, securities and insurance sectors;

11. Is of the opinion that both senior management and the board of directors should be actually and personally accountable and liable for the setting up and application of corporate governance principles at all levels of the company/corporation;

12. Stresses that risk is intrinsic and necessary in the financial sector in the interests of providing liquidity, fostering competitiveness and helping deliver economic growth and jobs; a thorough understanding and appreciation of risk on the part of boards is absolutely vital in order to avoid a future financial crisis;

13. Welcomes the changes to remuneration policy that have already been introduced by financial institutions, whereby bonuses are linked to the long-term success of the business and only paid out after three years at the earliest; also welcomes the fact that it is possible to demand repayment of bonuses if economic objectives have not been met;

14. Calls upon the Commission to propose legislation concerning mandatory board risk committees or equivalent arrangements, and rules on their composition and function; takes the view that members of risk committees should devote enough time to this duty to be in a position to assess properly the risks associated with complex financial instruments;

15. Urges the Commission to propose sector-specific amendments to financial services

legislation in order to ensure consistency between banking and non-banking institutions in remuneration policy; furthermore, calls on the Commission to bring forward legislative proposals in the field of company law to help address corporate governance issues and ensure consistency in remuneration policy for all types of companies;

16. Encourages institutional shareholders to engage in a dialogue with financial institutions on improving corporate governance and risk management with a view to the long-term viability of the financial institution; believes that 'comply or explain' approaches in the form of guidelines have failed as a useful means of avoiding financial crises and have proved to be ineffective, and that binding rules need to be at the core of corporate governance regulation, complemented by soft regulation such as an international code of best practice;

17. Stresses the importance of a strict remuneration policy as foreseen in the Capital Requirements Directive (CRD III)[1]and Solvency II; and expects these and other existing legislative measures to be rapidly implemented from January 2011; calls upon the Commission to publish an evaluation report in 2014;

18. Calls upon Member States to put in place specific initiatives to ensure better representation of women on boards of directors;

19. Calls for efficient implementation of the rules on consultation and employee participation systems opted for in the context of Directive 2001/86/EC[2]supplementing the Statute for a European Company.

[1] Directive 2010/76/EU, OJ L 329, 14.12.2010, p. 3.

[2] OJ L 294, 10.11.2001, p. 22

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	28.2.2011
Result of final vote	+: 30 –: 0 0: 0
Members present for the final vote	Pablo Arias Echeverría, Cristian Silviu Buşoi, Anna Maria Corazza Bildt, António Fernando Correia De Campos, Jürgen Creutzmann, Christian Engström, Louis Grech, Małgorzata Handzlik, Philippe Juvin, Eija-Riitta Korhola, Mitro Repo, Robert Rochefort, Zuzana Roithová, Heide Rühle, Christel Schaldemose, Andreas Schwab, Catherine Stihler, Kyriacos Triantaphyllides, Bernadette Vergnaud, Barbara Weiler
Substitute(s) present for the final vote	Damien Abad, Cornelis de Jong, María Irigoyen Pérez, Constance Le Grip, Emma McClarkin, Antonyia Parvanova, Konstantinos Poupakis, Sylvana Rapti, Olga Sehnalová, Wim van de Camp

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	16.3.2011
Result of final vote	+: 37 –: 3 0: 2
Members present for the final vote	Burkhard Balz, Sharon Bowles, Udo Bullmann, Pascal Canfin, Nikolaos Chountis, George Sabin Cutaş, Rachida Dati, Leonardo Domenici, Derk Jan Eppink, Diogo Feio, Vicky Ford, Ildikó Gáll-Pelcz, José Manuel García-Margallo y Marfil, Jean-Paul Gauzès, Sven Giegold, Sylvie Goulard, Liem Hoang Ngoc, Wolf Klinz, Philippe Lamberts, Astrid Lulling, Hans-Peter Martin, Íñigo Méndez de Vigo, Ivari Padar, Antolín Sánchez Presedo, Olle Schmidt, Edward Scicluna, Peter Simon, Peter Skinner, Theodor Dumitru Stolojan, Ivo Strejček, Marianne Thyssen, Corien Wortmann-Kool
Substitute(s) present for the final vote	Sophie Auconie, Elena Băsescu, Saïd El Khadraoui, Ashley Fox, Danuta Jazłowiecka, Olle Ludvigsson, Thomas Mann, Miguel Portas, Catherine Stihler
Substitute(s) under Rule 187(2) present for the final vote	David Campbell Bannerman