

# The European Commission Proposal for a Regulation on Banks' Structural Reform (BSR)

EFMLG  
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# Proposal for BSR Regulation – Objectives, Scope, Prohibited Activities

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## Objectives

- Response to the too-big-to-fail (TBTF) dilemma
- Addressing residual unmanaged risks – complementing the BRRD
- Strengthen financial stability – avoid contributions from taxpayers
- Need for coordinated action at the EU level – level playing field (UK, BE, DE, FR, US)

## Scope (Art. 3)

- EU G-SIBs/G-SIIs
- EU banks with total activities > €30 bn total assets and total trading assets and liabilities > €70 billion or 10% of total activities. Thresholds must be surpassed for 3 consecutive years

## Exclusions (Art. 4)

- Branches and subsidiaries in third countries with equivalent separation rules
- Banks not subject to CRD IV/CRR
- Banks with specific resolution strategy ( e.g. MPE) following authorisation from supervisor

## Prohibited activities: Prop Trading (Art. 6)

- Proprietary Trading (PT) activities («narrow definition» art. 5.4): own account, own money, to make profit, dedicated desks plus financial instruments and physical commodities
- Links with hedge funds: extension of PT concept, cannot own/invest in hedge funds
- Exemptions: EU sovereign debt, cash management, operations in connection of actual or anticipated client activity, hedging

# Proposal for BSR Regulation – Separation of Activities and Structural Reform

## Separation of Trading Activities

- Trading activities posing risks to financial stability of the bank or of the EU
- Particular focus on: market makers, OTC derivatives, securitisation
- Thresholds and metrics to be developed by the Commission (size, leverage, counterparty risk, complexity, interconnection, etc.)
- Based on review and final decision of the supervisor
- Exemption: Trading on EU sovereign debt

## Trading Entity

- Legally, economically and operationally separated
- Carries out separated trading activities
- Prohibition to take deposits eligible for (EU) deposit insurance and provide related payment services, which remain under the remittance of the Core Credit Institution
- Individual CRR Requirements: Own Funds, Capital Requirements, Large Exposures, Liquidity, Leverage, Disclosure.
- Cross-ownership restrictions; separate funding; arm's length transactions; distinct name; directorship restrictions;
- Large exposures: intra-group transactions (25% equity); extra-group: limit for the Core Credit Institution in exposures to financial entities (200% equity)

## Derogation

- Derogation from separation of trading activities available (upon request) for EU Member States with equivalent system in force before 29 January 2014 (UK)
- Third countries with equivalent system

## Timeline

- Entry into force: July 2015
- Publication of banks in scope: July 2016
- Ban on Proprietary Trading: January 2017
- Separation : July 2018

# Comparison with other proposals – Separation of Activities and Trading Entity Activities

Separation of Trading Activities/Ring Fencing	US	Swaps pushout: banks benefiting from Federal assistance cannot be registered as swap dealers. Swap dealing activities need to be separated into a non-bank affiliate
	UK	Mandatory ring-fencing relate to retail banking activity and payments infrastructure that needs to be carried out in a separately capitalised entity. It applies to EEA activities of UK authorised financial institutions with more than GBP 25 billion in retail & SME deposits
	FR	The French regulator may issue individual prohibition and separation orders in relation to market-making activities and other activities perceived as particularly risky to any deposit-taking bank on a case by case basis irrespective of the size of the bank and of the business to be separated
	DE	The German regulator may issue individual prohibition and separation orders in relation to market-making and other activities perceived as particularly risky to any deposit-taking bank on a case by case basis irrespective of the size of the bank and of the business to be separated
Trading Entity/Limits on core activities and corporate clients	US	<ul style="list-style-type: none"> <li>• Broad universal/investment bank, corporate and investment banking activities can be in the same entity.</li> <li>• Cannot be a swaps dealer but otherwise can engage in wide range of activities including market-making and hedging transactions in support of its client base</li> </ul>
	UK	<ul style="list-style-type: none"> <li>• Narrow or broad trading entity available. Bank can decide where to place corporate, wealth and custody businesses, either in or outside the ring-fence</li> <li>• The core bank is significantly restrained in providing hedging and CM services to its corporate client base. However, banks can choose to align corporate bank with the investment bank to avoid a reduction in product offering. Restrictions apply to SME products within the core bank</li> </ul>
	FR	<ul style="list-style-type: none"> <li>• No direct limitations to business structures relating to client activities. Bank can decide how to align corporate, wealth and custody businesses</li> <li>• No restrictions to any other banking activity and where it resides apart from proprietary trading and transactions that result in unsecured counterparty risk to leveraged funds</li> </ul>
	DE	<ul style="list-style-type: none"> <li>• No direct limitations to business structures relating to client activities. Bank can decide how to align corporate, wealth and custody businesses</li> <li>• No direct limitations to business structures relating to client activities. Bank can decide how to align corporate, wealth and custody businesses</li> </ul>