

ROADMAP

Title of the initiative: **Directive amending several financial services directives specifying the competences of European Supervisory Authorities ("Omnibus II" Directive)**
Type of initiative (CWP/Catalogue/Comitology): **CWP (Non- Strategic)**
Lead DG/contact person/details: **DG MARKT/G1/**
Expected date of adoption of the initiative (month/year): **September/2010**
Date of modification:
Version No:

Initial IA screening & planning of further work

A. Context and problem definition

(i) What is the political context of the initiative? (ii) How does this initiative relate to past and possible future initiatives, and to other EU policies?

The Commission has proposed in 2009, in particular in light of the financial crisis, regulations establishing three new European Supervisory Authorities. The co-decision process is on-going, and it is hoped that the new Authorities will start operating in 2011.

In order to empower them to carry out specific tasks in relation to existing sectoral financial services legislation, that legislation requires amendments. A first set of amendments was proposed by the Commission in 2009 (omnibus 1), and is being discussed in Council and Parliament. A second set of amendments (omnibus 2) is necessary, in order notably to grant powers to the Authority that will be responsible for insurance issues. These proposed amendments could not be included in the first directive because the relevant basic legislation (the Solvency 2 directive) had not yet entered into force at that time.

What are the main problems identified?

Sectoral legislation on financial services needs to be adapted to the setting up of the European Banking Authority, the European Insurance and Occupational Pensions Authority, and the European Securities and Markets Authority. Omnibus II should include such adaptations mainly for the insurance and securities sectors (Omnibus I covered other issues such as banking and asset management). Without adequate amendments to sectoral legislation, the new Authorities will not be able to develop technical standards nor to settle disputes between national supervisors in an efficient way.

Who is affected?

Financial supervisors who will be empowered by the new legislation. Indirectly, insurance companies, listed companies and investors.

(i) Is EU action justified on grounds of subsidiarity? (ii) Why can the objectives of the proposed action not be achieved sufficiently by Member States (necessity test)? (iii) As a result of this, can objectives be better achieved by action by the Community (test of EU Value Added)?

Amendments to EU legislation can only be done through EU legislation.

B. Objectives of EU initiative

What are the main policy objectives?

It is proposed to amend legislation falling within the scope of the three Authorities, to (i) incorporate empowerments for the development of technical standards by the Authorities, (ii) adjust joint decision making procedures to integrate the powers of the three Authorities to settle

disagreements, and (iii) make further technical adjustments, e.g. to allow national supervisors to share information with the Authorities.

For further details see Impact Assessment accompanying the proposals for the three regulations establishing the three new Authorities (documents SEC/2009/1234 final and SEC/2009/1265 final.

Do the objectives imply developing EU policy in new areas or in areas of strategic importance?

It implies developing EU policy in an area of strategic importance (financial services), not in a new area.

C. Options

(i) What are the policy options? (ii) What legislative or 'soft law' instruments could be considered?

(iii) Would any legislative initiatives go beyond routine up-date of existing legislation?

(i) The policy options are either to do nothing or to amend EU legislation. (ii) The only instrument that can be considered is a directive. (iii) Yes.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

No.

Explain how the options respect the proportionality principle.

A directive is the only instrument that can be used to modify existing directives. The principle of proportionality is therefore respected.

D. Initial assessment of impacts

What are the significant impacts likely to result from each policy option (cf. list of impacts in the Impact Assessment Guidelines pages 32-37), even if these impacts would materialise only after subsequent Commission initiatives?

The positive impacts would be the following: greater convergence and quality of the rules applied by national supervisors and better supervision of cross-border institutions/markets.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No.

Could the options have significant impacts on (i) simplification, (ii) administrative burden or on (iii) relations with third countries?

(i) and (iii) No.

(ii) The administrative burden falling on cross-border financial institutions could be reduced through the streamlining and harmonisation of detailed technical rules and practices. A slight increase in the burden falling on financial institutions in general could take place through the adoption of new standards with which institutions would have to comply. This would however be justified by the objective of achieving greater financial stability and protection for the users of financial products.

E. Planning of further impact assessment work

When will the impact assessment work start?

No impact assessment needed.

In the same way as for Omnibus I, the impact of this initiative has been assessed in the impact assessment concerning the powers to be conferred on the new Authorities was already carried out in the framework of the Impact Assessment accompanying the proposals for the three regulations establishing the three new Authorities (documents SEC/2009/1234 final and SEC/2009/1265 final; accompanied the document MARKT/2009/80052 - G1/European Banking A COM(2009)501 PO/2009/7035 which was adopted by oral procedure on 23 September). It had therefore been decided at the time that no separate impact assessment was necessary for Omnibus I. This was also confirmed in the explanatory memo of Omnibus I:

The May Commission Communication on Financial Supervision in Europe was accompanied by an impact assessment analysing the main policy options for establishing the ESFS and ESRB. A second impact assessment accompanied the legislative proposals, examining the options in more detail. The second impact assessment analysed the options for the appropriate powers for the Authority to work towards achieving a single set of harmonised rules and concluded that this capacity would be rightly limited to those areas to be defined in forthcoming sectoral legislation, and identified such potential areas. Additionally, in developing the draft technical standards themselves, the Authorities should undertake appropriate analysis of potential related costs and benefits and consult stakeholders before submitting them to the Commission.

(i) What information and data are already available? (ii) Will this impact assessment build on already existing impact assessment work or evaluations carried out? (iii) What further information needs to be gathered? (iv) How will this be done (e.g. internally or by an external contractor) and by when? (v) What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

See above.

Which stakeholders & experts have been/will be consulted, how and at what stage?

See above.