

ROADMAP

Title of the initiative: **Communication on effective and efficient crisis prevention and crisis management framework**

Type of initiative (CWP/Catalogue/Comitology): **CWP (Strategic)**

Lead DG/contact person/details: **DG MARKT**

Expected date of adoption of the initiative (month/year): **End October 2010**

Date of modification: 25 March 2010

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?

As outlined in the Commission's Communication on an EU framework for cross-border crisis management in the Banking Sector, published on 20 October 2009, the crisis has revealed a significant gap in the EU crisis management framework for banks. Putting in place a new EU supervisory architecture to complement the existing regulatory framework should strengthen arrangements to prevent a future crisis, and initiatives are underway to adapt and strengthen prudential rules as a means to prevent future crises. However, it is essential to complement this work with effective crisis management arrangements.

What are the main problems identified? See the October 2009 [Communication](#) Absence of common tools, coordination, burden sharing, misaligned incentives between authorities to cooperate, difficulty to deal effectively with ailing cross-border banking groups

Who is affected? Banking sector, taxpayers, Member State authorities, shareholders and bank creditors (including depositors).

(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)?

During the crisis, the absence of any EU framework for crisis prevention and management in a highly integrated banking sector characterised by substantial cross-border activities was at the root of the problems identified above. There is a clear justification to address the issues at the EU level (see [impact assessment](#) for the October Communication). The actual necessity and value added of different possible EU measures will be established in each individual case.

B. Objectives of EU initiative

What are the main policy objectives?

The main expected outcome is to equip authorities with the tools necessary to effectively resolve cross-border bank crisis, improving efficiency and thereby reducing costs to the taxpayer. New tools, conditions for their use, and an accompanying coordination framework should improve legal certainty and reduce the risk of legal challenge.

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

Yes. There is currently no legal framework at EU level setting out arrangements for crisis management between EU Member State authorities – in contrast to ongoing supervision where EU legislation is already well developed. This initiative forms a part of the Europe 2020 strategy, which favours the implementation of policies to prevent future economic crises, and manage them if they do occur.

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?

The October 2009 Communication was open-ended and consultative. Based on the results of the consultation, the Commission will in this next stage set out the list of crisis management tools and conditions for their use.

Building upon this, a Commission legislative proposal is planned for Spring 2011 with the aim of ensuring compatibility of rules (crisis management tools and the conditions for their use) so that actions to deal with an ailing cross-border bank can be dealt with under a framework based around coordination. .

Further stages will look into whether a harmonised insolvency regime or administrative liquidation would be needed to best underpin a cross-border crisis management framework – with a view, ultimately to move towards an integrated crisis management framework capable of handling the failure of a cross-border banking group under a single procedure carried out by a single authority.

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

Yes – this work cuts across many areas and requires coordination with a number of Commission departments, e.g.: company law, clearing and settlement, insolvency law, financing, state aid, supervisory architecture, etc.

Explain how the options respect the proportionality principle.

Clear evidence during the crisis that isolated national actions to deal with problems in a cross-border banking group gives rise to suboptimal and non-cooperative actions. Specific options will be designed so as to respect the principle of proportionality.

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 primary impact will be the clarification of the logical sequence to be followed in the management of an institution in distress (what are the possible tools and at which stage should they be used?). The ultimate impact is to facilitate crisis prevention and resolution in a cross-border environment

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?

There should be no implications for the EU Budget.

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

The areas to be addressed will result in legislation touching areas not hitherto addressed by EU law, and also require modification to existing EU laws. To the extent that national laws will be harmonised, this should entail simplification of legislation and a shift from 27 different laws to a coherent EU framework. There is considerable interest and discussion about crisis management at an international level.

E. Planning of further impact assessment work

When will the impact assessment work start?

An Impact Assessment was made for the initial communication and new one will be carried out in the context of preparation of any legislative texts due in Spring 2011.

(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)?

N/a.

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

Stakeholder consultation closed on 20 January. A public hearing on the construction of a new crisis management framework in the banking sector took place on 19 March. Further consultation with various sets of experts (insolvency practitioners, finance ministries, company law experts, industry representatives, Committee of European Banking Supervisors CEBS) will secure additional views on appropriate policy responses.