AVIS DU COMITE D'EXAMEN DE LA REGLEMENTATION

Proposition de règlement du Parlement européen et du Conseil modifiant le règlement (UE) n° 575/2013 en ce qui concerne les expositions sous forme d'obligations garanties

Proposition de directive du Parlement européen et du Conseil concernant l'émission d'obligations garanties et la surveillance publique des obligations garanties et modifiant la directive 2009/65/CE et la directive 2014/59/UE

{COM(2018)93final}
{COM(2018)94final}
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{SWD(2018)51final}
Title: Impact Assessment / EU covered bond framework

Overall opinion: POSITIVE

(A) Context

Banks in some EU Member States can borrow money by issuing a type of security known as a covered bond (CB). CBs have certain features which make them safer than other forms of debt and can make borrowing less expensive. In principle, better bank access to inexpensive long-term financing would pass through to the broader economy, for example via more and cheaper mortgage loans. Bank access to funding from more sources also can make banks more stable.

CB markets require some regulatory infrastructure to work. Markets are large and developed in some Member States, which have well-established regulatory structures at the national level. In other Member States, CB markets are less developed or do not yet exist. While CBs receive preferential prudential and regulatory treatment because of their lower risks, CBs are currently only partly covered by EU law.

This initiative considers ways to develop CB markets in Europe. It seeks to promote CB markets in Member States where they do not currently exist or are under-developed. It intends to provide opportunities for regulatory convergence across Member States. In addition, the initiative addresses prudential concerns. It would define necessary features of covered bonds to better ensure that EU law does not treat as low risk those CBs which do not share certain key characteristics. A standard definition for regulatory purposes might also help to diversify the base of investors who would buy these securities. In particular, it might stimulate cross-border investment within the EU and attract investors from third countries.

(B) Main considerations

The Board acknowledges and commends the comprehensive and well-structured nature of the report. The report applies its intervention logic systematically and contains a high degree of quantification to substantiate the findings.

The Board gives a positive opinion, with a recommendation to further improve the report with respect to the following key aspects:

(1) The reasons for considering the 29th regime unattractive are unclear and seem to overstate its disadvantages.
(2) The report does not set out clearly the main elements of the minimum harmonisation approach.

(C) Further considerations and recommendations for improvement

(1) While larger CB markets are described in quite some detail, the report could give a better overview of approaches in other Member States with limited experience in CBs. It could explain their current mortgage financing practices and their limitations to better grasp the potential of CB in those markets, including how CBs can help banks to comply with liquidity requirements. The report could also better illustrate how CBs can supplement other types of financing both when conditions are normal and when markets are under stress.

(2) The single market dimension is rather weak. The report could better describe the current extent of cross border activities. It could also do more to explain the potential of a better harmonised internal market, including the attractiveness of CBs in the internal market as well as for third country investors. The report could discuss more broadly the potential for further cross-border activity and market integration.

(3) The report makes a clearer case for tightening prudential regulation, but it should explain better why it does not explore the option of only amending prudential regulation of CBs. The report should explain the reasons for discarding this option or not integrating it into the baseline as a possible development. The report should explain why risks of disruption might be higher through adoption of prudential rules than through minimum harmonisation of covered bonds legislation.

(4) The report could better qualify the financial stability aspects of CBs as compared to alternative mortgage financing instruments, listing pros and cons under normal market conditions and during times of market stress.

(5) The report should be more specific on how cost savings from CBs are expected to pass through to retail creditors, especially when markets are concentrated. While the report refers to general results of economic studies, such results may be sensitive to local market conditions. In the absence of significant cross border competition, the risk that cost savings will not be passed on could be larger. The report should demonstrate how advocated impacts on the real economy will translate into lower costs for bank clients.

(6) The report does not consider the 29th regime option in a convincing manner, in particular as regards issuance and administrative costs. The need to limit the prudential preferential treatment to the 29th regime needs to be justified. The report will need to justify better why the 29th regime option is not pursued, in particular since this type of option has been the preferred one when developing other EU financial products.

(7) The report should better set out the main elements of the minimum harmonisation intervention. It should also explain how Member States would adapt to this harmonisation without triggering disruptions, since many come from very different starting points. The report should explain to what extent its proposed minimum harmonisation would deviate from the EBA advice, if at all.

(8) The report should better explain why European Secured Notes (ESNs) are not included in the current initiative and how this matter may eventually be considered, taking into account the views expressed by the European Parliament in this respect.

Some more technical comments have been transmitted directly to the author DG.
(D) RSB scrutiny process

The lead DG shall ensure that the recommendations of the Board are taken into account in the report prior to launching the interservice consultation.

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<td>Full title</td>
<td>Proposal for a directive of the European parliament and of the Council on an EU covered bond framework</td>
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<tr>
<td>Reference number</td>
<td>2015/FISMA/030</td>
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<td>Date of RSB meeting</td>
<td>15/11 2017</td>
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