



EUROPEAN COMMISSION

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Dear President,

The Commission would like to thank the Riksdag for its reasoned Opinion on the Proposal for a Directive establishing a framework for the recovery and resolution of credit institutions and investment firms {COM(2012) 280 final}

The main aim of a harmonised framework for the recovery and resolution of credit institutions and investment firms is to safeguard financial stability within the Internal Market and to facilitate cooperation between national authorities when dealing with the failure of banking groups or investment firms operating across borders.

The Commission is convinced that, by preventing reliance on public financial support to failing banks or investment firms, excessive risk taking should be in fact discouraged. Indeed, the framework is set to provide public authorities with powers of intervention which would make it possible for any firm – irrespective of its size and interconnectedness – to exit the market without causing systemic disruption (i.e. without causing interruption in essential service provision). Within the proposed framework, credit institutions and investment firms should no longer expect that taxpayers' money will be used to avoid their exit from the market.

The Commission has proposed a minimum harmonised set of tools and powers, so that Member States would be able to introduce additional ones, adapted to their specific situation, as long as they are compatible with the rules set at EU level, and in particular with the principles and objectives established in the proposed Directive. For instance, the possibility for a temporary state ownership would have to be provided under the conditions foreseen in the Directive (through the creation of a bridge bank or together with a haircut to the creditors as the case may be).

The Commission would like to underline that although the proposal aims at avoiding as much as possible the use of taxpayers' money, the framework would not prohibit the use of public funds to finance bank resolution. However, the granting of such aid has to comply with EU State Aid rules. The proposal on bank resolution does not prejudice these rules, and they will continue to apply whenever a form of financing is supplied that qualifies as State aid in the context of bank resolution.

*Mr Per WESTERBERG
President of the Riksdag
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The Commission would like to point out that the appointment of a special administrator proved to be helpful in certain Member States as an element of discipline for the management and shareholders and as a means to foster private solutions to a crisis at an early stage. In any case, according to the Proposal, the responsible national authorities would be able to choose whether to resort to this tool or not.

The Commission has taken due note of the Riksdag's opinion that the proposal on a compulsory borrowing mechanism between the national financing arrangements for resolution costs is not compliant with the principle of subsidiarity.

The Commission believes that only EU action can ensure that credit institutions and investment firms operating in more than one Member State are subject to similar requirements concerning recovery and resolution, guarantee a level playing field, avoid unwarranted compliance costs for cross-border activities and thereby promote further Single Market integration.

The need for common, EU action as regards recovery and resolution frameworks became clear in the crisis, including the need for a compulsory borrowing mechanism between the national financing arrangements for resolution costs. The Commission has proposed the following approach: first, a certain amount of the funds should be pre-financed (Target funding level); second, additional extraordinary funding should be made available, if necessary (Extraordinary ex post contributions); third, alternative funding means should be available at the national level; and fourth, borrowing between financial arrangements should be mandatory. Indeed, this borrowing facility between national financing arrangements would further reduce the need to recourse to taxpayers' money.

By its very nature, a borrowing facility between financing arrangements in different Member States can only be set up by an EU-initiative. The alternatives – bilateral arrangements or a voluntary borrowing facility – would not reach the objective as effectively. Moreover, a voluntary mechanism could not automatically be relied upon in case of need. In particular, the current proposal of a mutual borrowing facility between financing arrangements prevents moral hazard. It creates no incentive for financing arrangements to rely only on the borrowing facility instead of being properly equipped with the necessary funds. The proposal and the conferral of delegated powers set out important safeguards in that respect.

The Commission hopes that these clarifications address the comments and concerns raised in the reasoned Opinion of the Riksdag and looks forward to continuing our political dialogue in the future.

Yours faithfully,

*Maroš Šefčovič
Vice-President*