EUROPEAN COMMISSION
Impact Assessment Board

Brussels,
D(2013)

Opinion

Title **DG MARKT - Impact Assessment on a Regulation on the reform of the structure of EU banks**

(draft version of 19 December 2013)*

(A) Context

Since the start of the financial crisis, the EU and its Member States have engaged in a fundamental overhaul of bank regulation and supervision. This exercise has to a large extent been based on the reforms to strengthen global financial markets, agreed upon at the G20 and implemented in cooperation with the Financial Stability Board and the Basel Committee of Banking Supervisors. Several Member States as well as third countries (the US) have introduced, or are in the process of introducing, structural reforms of their banking sectors to address concerns related to too-big-to-fail (TBTF) financial institutions.

On 3 July 2013, the European Parliament adopted, with a large majority, an own initiative report called "Reforming the structure of the EU banking sector". It welcomes the Commission’s intention to bring forward a proposal for structural reform to tackle problems arising from banks being TBTF in order to provide greater resilience against potential financial crises, restore trust and confidence in banks, remove risks to public finances and deliver a change in banking culture.

(B) Overall opinion: POSITIVE

Although the report has been amended along the lines of the Board recommendations, it still needs to be improved in a number of respects, particularly with respect to the justification, alternatives and impacts of newly introduced transparency measures. In addition, the reform options section should still be enhanced by further clarifying the differences between options and by explaining why other reform approaches have not been considered. The report should also better demonstrate the effectiveness of the retained measures in tackling the identified risks to financial stability and to public budgets. Examples of possible solutions to mitigate divergent implementation at national level need also to be provided. In addition, the report should describe in greater detail the impacts on, and the views of, Member States (particularly those most affected).

(C) Main recommendations for improvements

(1) Significantly strengthen the analysis of the rationale, options and impacts of the additional transparency measures. Section 4.2 of the revised impact assessment now briefly refers to transparency measures that 'must necessarily' accompany the reform

* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted.

options. New annex 13 analyses them in some detail. However, unless such transparency measures are to be covered by a subsequent legislative proposal accompanied by a full impact assessment, their analysis should be given a more prominent place in the main text and be strengthened in a number of respects. First, the justification for the new measures should be better established and the links and synergies with the other reform options further explained. In addition, the analysis of the underlying issues should more clearly differentiate the drivers from the resulting problems, focussing in particular, on the underlying market and regulatory failures. Furthermore, the baseline scenario should describe what Member States or third relevant countries (e.g. the US) are doing in the area. Alternative options need to be identified with regard to investment funds and rehypothecation. The analysis of the options needs also to be reinforced (notably for the investment funds options). Impacts on competitiveness, Member States, administrative burden, as well as the consolidated impacts of the retained package need to be analysed and stakeholders' views properly reported. Finally, corresponding objectives and monitoring indicators need to be defined.

(2) Further improve the presentation of the reform options. The set of reform options has been streamlined and reviewed but the report should better explain why options considering a different approach (e.g. ring-fencing core retail banking activities) have not been taken into account. Moreover, greater clarity is still needed on the concrete improvements that the specific options will seek to achieve. In so doing, the report should better explain the difference between the new option 'C+ ex ante' and option F.

(3) Better assess impacts and better demonstrate the effectiveness of the retained reform options. The report still needs to assess the possibility that the size of the resulting entities would continue to pose serious risks from the point of view of financial stability and of public finances capacity. The report should also better explain how the risk of divergent implementation at national level is going to be tackled. In particular, it should provide concrete examples of the possible 'ways of reducing the arbitrage risks associated with differing supervisory judgements' (p. 61). Furthermore, greater detail is needed on the impact of the proposed measures on the different Member States (particularly those hosting the concerned banking groups and/or those that have already introduced measures in this area). Finally, the report should clarify the views of Member States on the retained options.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report

(D) Procedure and presentation

The 'procedural aspects' chapter should describe which the Board's opinions main recommendations were and what changes have accordingly been done.

(E) IAB scrutiny process	
Reference number	2013/MARKT/050
External expertise used	No
Date of IAB meeting	Written procedure An earlier version of this report was submitted to the IAB in September 2013, for which the Board issued an opinion on 6 October 2013.