



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 September 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 EU Member States (Germany, France and the UK) as well as third countries (the US) have taken a step further and introduced, or are in the process of introducing, structural reforms of their respective banking sectors to address concerns related to financial institutions that are too-big-to-fail ("TBTF").

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: NEGATIVE

The report needs to be improved in a number of important respects. First, the problem definition should be strengthened with additional evidence and examples (e.g. of banks rescued during the crisis) demonstrating, in particular, the scale of the issues to be addressed and why they need to be addressed despite the measures already put forward, including the ones by Member States. Additionally, the presentation of the options should be streamlined by focussing more on the most feasible options (such as the retained B+, C+ and E- options) and by more clearly describing what the options imply, and what the main differences between them are. Moreover, the report should better describe the impacts on the different stakeholders (banks, banks' clients, regulators/supervisors, taxpayers, etc.) and more clearly differentiate between economic and social impacts. Given the implementation challenges identified, and the degree of discretion left to national authorities, the report should also critically assess the effectiveness of the retained options. Finally, the views of Member States should be described and stakeholders' concerns more openly reported and discussed.

Given the nature of these concerns, the IAB requests DG MARKT to submit a revised version of the IA report on which it will issue a new opinion.

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

(C) Main recommendations for improvements

(1) Improve the problem description and baseline scenario. The report should focus on the exact problems that the initiative aims to address and describe them with relevant data and examples. The revised description should in particular, give an idea of the scale of the problems singled out and demonstrate that they cannot be fully addressed without a structural reform despite the measures already taken and the competences of the European Banking Authority. It should also provide greater detail on the size of the concerned trading activities (e.g. proprietary trading and market making) and a clearer idea as to what extent banks' core activities relate to trading activities. In addition, the baseline scenario should be developed by explaining what part of the financial sector reform agenda is considered in it and why the steps taken so far are not sufficient. The risk of market fragmentation resulting from related measures at Member State level and its consequences should also be described in greater detail.

(2) Better present and describe the options. The presentation of the options should be streamlined by discarding up-front those options with little added value vis-à-vis the status quo, and by focussing on the most feasible and relevant options. In particular, the report should describe in a simplified manner (and later assess) the variants of the retained solutions (i.e. B+, C+ and E-). It should also more clearly explain what the considered options would concretely imply and clarify their main differences. For example, the different implications of functional separation vis-à-vis ownership separation should be described in greater detail. The report should also explain why options considering a different approach, e.g. ring-fencing retail banking activities (or those more crucial to the economy) from the other activities, have not been explored.

(3) Better assess impacts and better demonstrate the effectiveness of the retained options. On the basis of a streamlined set of options, the report should more clearly describe the expected impacts on the different stakeholders (banks, banks' clients, regulators/supervisors, taxpayers, etc.). The impact analysis should also better differentiate between social impacts and impacts for the society as a whole, and explore in greater detail true social impacts, notably on the labour market. Other impacts, such as on the different Member States and on markets' liquidity need also to be analysed. In addition, the report should critically assess the effectiveness of the retained options in addressing the TBTF problem (notably for options favouring a narrow trading entity) and explain why the focus is on proprietary trading and not also on market making. It should therefore clarify how big the resulting entities would be and whether they would not continue to pose serious risks, from the point of view of financial stability and of public finances capacity. It should also better explain why fairly close options (e.g. B and C) are ranked differently in terms of effectiveness. The report should furthermore explain what solutions or approaches will be followed to ensure that the identified implementation challenges and the degree of discretion left to national authorities do not compromise the effectiveness of the retained options.

(4) Better present stakeholders views. The report should improve the presentation of consultation results and better explain how stakeholders' concerns have been addressed. In particular, the views of the different Member States need to be clearly explained.

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

Readability should be improved, for example, by including a glossary annex explaining certain technical terms (e.g. bail in, shadow banks) and by always spelling acronyms in full the first time they are used (e.g. DFA, FRB, ICB). In addition, the report considerably exceeds the recommended page limit and should strive to reduce its length by deleting or moving to an annex less important information.

(E) IAB scrutiny process

Reference number	2013/MARKT/050
External expertise used	No
Date of IAB meeting	16 October 2013