



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Legal Affairs

2012/0150(COD)

25.2.2013

OPINION

of the Committee on Legal Affairs

for the Committee on Economic and Monetary Affairs

on the proposal for a directive of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directives 77/91/EEC and 82/891/EC, Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC and 2011/35/EC and Regulation (EU) No 1093/2010 (COM(2012)0280 – C7-0136/2012– 2012/0150(COD))

Rapporteur: Dimitar Stoyanov

PA_Legam

SHORT JUSTIFICATION

The proposal for a directive will establish EU rules for the recovery and resolution of credit institutions and investment firms in the event of their insolvency. The mechanism proposed to that end aims to safeguard the banking and financial system in the EU and keep costs to the taxpayer to a minimum. The Commission proposal is a reasonable one, since it aims to create a set of instruments to deal with bank insolvency which will help combat the systemic crisis in the banking sector while taking into account the need, in the interests of the market and of society, to maintain the key banking services provided by unprofitable banking institutions while limiting the cases in which insolvent banks receive state aid. The amendments proposed seek to improve certain inaccuracies and aspects of the proposal drafted by the Commission.

AMENDMENTS

The Committee on Legal Affairs calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a directive

Recital 2

Text proposed by the Commission

(2) Union financial markets are highly integrated and interconnected with many credit institutions operating extensively beyond national borders. The failure of a cross-border credit institution is likely to affect the stability of financial markets in the different Member States in which it operates. The inability of Member States to seize control of a failing credit institution and resolve it in a way that effectively prevents broader systemic damage can undermine Member States' mutual trust and ***the credibility of*** the internal market in the field of financial services. The stability of financial markets is, therefore, an essential condition for the establishment and functioning of the internal market.

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Justification

The aim of such a policy framework would be to equip the relevant authorities with common and effective tools and powers to address banking crises pre-emptively, safeguarding financial stability and minimising taxpayers' exposure to losses.

Amendment 2

Proposal for a directive Recital 18

Text proposed by the Commission

(18) Resolution planning is an essential component of effective resolution. Authorities should have all the information necessary in order to plan how the essential functions of an institution or of a cross-border group may be isolated from the rest of the business and transferred in order to ensure the preservation and continuance of essential functions. The requirement to prepare a resolution plan should, however, be *simplified, reflecting* the systemic importance of the institution or group.

Amendment

(18) Resolution planning is an essential component of effective resolution. Authorities should have all the information necessary in order to plan how the essential functions of an institution or of a cross-border group may be isolated from the rest of the business and transferred in order to ensure the preservation and continuance of essential functions. The requirement to prepare a resolution plan should, however, be *proportionate to* the systemic importance of the institution or group.

Amendment 3

Proposal for a directive Article 5 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that the institutions update their recovery plans at least annually or after change to the legal or organisational structure of the institution, its business or its financial situation, which could have a material effect on, or necessitates a change to the recovery plan. Competent authorities may require institutions to update their recovery plans more frequently.

Amendment

2. Member States shall ensure that the institutions update their recovery plans at least annually or after change to the legal or organisational structure of the institution, its business or its financial situation, which could have a material effect on, or necessitates a change to the recovery plan. Competent authorities may require institutions to update their recovery plans more frequently *should this be*

necessary for the stability of the financial markets.

Justification

The risk of competent authorities requiring credit institutions and investment firms to update their recovery plans too frequently must be avoided – save where the updating is essential to the overall stability of the financial markets – so that the institutions and firms are not needlessly burdened by red tape.

Amendment 4

**Proposal for a directive
Article 75 – paragraph 5**

Text proposed by the Commission

5. The resolution authority shall ensure that the documents providing proof of the instruments referred to in paragraph 4 are sent to the known shareholders and creditors of the institution under resolution.

Amendment

5. The resolution authority shall ensure that the documents providing proof of the instruments referred to in paragraph 4 are sent ***in good time*** to the known shareholders and creditors of the institution under resolution.

Justification

Intended to underscore the need for shareholders and creditors to be informed about the proof of the instrument by which the resolution action is taken.

Amendment 5

**Proposal for a directive
Article 76 – paragraph 1 – point d**

Text proposed by the Commission

r) employees or former employees of the authorities referred to in points (a) ***and*** (b);

Amendment

r) employees or former employees of the authorities referred to in points (a), (b) ***and*** (c);

Justification

The requirement to maintain professional secrecy should apply not only to employees and former employees of the resolution authorities, competent authorities and the EBA, but also to those of the competent ministries.

Amendment 6

Proposal for a directive Article 78 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) the decision of the resolution authority shall be immediately enforceable and shall not be subject to a suspension order issued by a court; ***deleted***

Justification

In the event of judicial review of a decision to take a resolution action, it is not appropriate to restrict the court's right to suspend the resolution action if breaches of the rules are detected.

Amendment 7

Proposal for a directive Article 103 – paragraph 5

Text proposed by the Commission

Amendment

5. A delegated act adopted pursuant to Articles 2, 4, 28, 37, 39, 43, 86, 94, 97 and 98 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of ***two*** months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

5. A delegated act adopted pursuant to Articles 2, 4, 28, 37, 39, 43, 86, 94, 97 and 98 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of ***three*** months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

Justification

The time limit for making objections needs to be increased, in order to enable Parliament and the Council to examine the delegated act in depth and to assess whether its adoption in that form is fitting and correct.

PROCEDURE

Title	Framework for the recovery and resolution of credit institutions and investment firms and amendment of Council Directives 77/91/EEC and 82/891/EC, Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC and 2011/35/EC and Regulation (EU) No 1093/2010
References	COM(2012)0280 – C7-0136/2012 – 2012/0150(COD)
Committee responsible Date announced in plenary	ECON 5.7.2012
Opinion by Date announced in plenary	JURI 5.7.2012
Rapporteur Date appointed	Dimitar Stoyanov 18.9.2012
Date adopted	21.2.2013
Result of final vote	+: 15 –: 0 0: 0
Members present for the final vote	Raffaele Baldassarre, Luigi Berlinguer, Françoise Castex, Marielle Gallo, Lidia Joanna Geringer de Oedenberg, Antonio López-Istúriz White, Bernhard Rapkay, Evelyn Regner, Francesco Enrico Speroni, Alexandra Thein, Rainer Wieland, Tadeusz Zwiefka
Substitute(s) present for the final vote	Piotr Borys, Eva Lichtenberger, József Szájer