

Recovery and resolution framework for non-bank institutions

2013/2047(INI) - 10/12/2013 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution on recovery and resolution framework for non-bank institutions.

Parliament recalls that effective recovery plans and resolution tools are **crucial for improving the stability of the non-bank financial sector globally**.

While [Regulation \(EU\) No 648/2012](#) on OTC derivatives, central counterparties and trade repositories (EMIR) and the Regulation on improving securities settlement in the European Union and on central securities depositories (CSDs) aim to reduce systemic risk through well-regulated market infrastructure, there is a possibility of unintended consequences.

Mandatory central clearing contributes positively to decreasing the overall systemic risk of financial markets, it has also increased the concentration of systemic risk in CCPs.

On the basis of the 2013 International Association of Insurance Supervisors (IAIS) report, the Financial Stability Board (FSB) has identified nine large insurers as being systemic, of which five are headquartered in the Union.

In this context, Parliament called on the Commission to **prioritise recovery and resolution of Central Counterparties (CCPs) and of those Central Securities Depositories (CSDs)** which are exposed to credit risk, and, give due consideration to those which have the potential to pose systemic risks to the economy. It:

- emphasised the importance of **EU legislation following internationally agreed principles**, as agreed in the Committee on Payment and Settlement Systems (CPSS) and the International Organisation of Securities Commissions (IOSCO), the Financial Stability Board (FSB) and the International Association of Insurance Supervisors (IAIS);
- stressed the importance of clear provisions for a **'ladder of intervention'** in any recovery provisions for non-bank financial institutions under which **competent authorities monitor appropriately designed indicators of financial health and have the power to intervene early** in cases of financial stress of an entity and require it to take corrective measures according to a pre-approved recovery plan.

In addition, non-bank financial institutions themselves should develop comprehensive and substantive recovery plans.

Central Counterparties (CCPs): a CCP stands between two counterparties so as to provide a way to manage the risk of default of a counterparty. The resolution stated that **if a CCP is to mutualise the risk in the financial system, good governance is paramount**.

The Commission is called upon to:

- ensure that CCPs have a **default management strategy** for all products that are cleared by the CCP as part of a wider recovery plan approved by the supervisor;
- ensure that CCPs act in the **general public interest** and adopt their business strategies accordingly;

- propose further measures in order to **minimise the contagion risk**;
- ensure that sound principles are established to govern **contractual arrangements between a CCP and its clearing members**, as well as how clearing members pass on losses to their clients.

According to Members, all CCPs should have in place **comprehensive recovery arrangements** which provide protection over and above the funds and resources required by the European Market Infrastructure Regulation (EMIR). These plans should provide protection against all foreseeable circumstances, and should be included and published as part of the CCP's rules.

They also asserted that the dividing-line between recovery and resolution in the case of CCPs is when the **default waterfall** is exhausted, and the loss absorption capacity of the CCP has been depleted. At this point the supervisor should actively consider the option of removing the CCP's management board and whether to transfer critical services of the CCP or hand over operational control of the CCP to another provider.

CSDs: it is the responsibility of a CSD to ensure that its recovery plan clearly provides for operational continuity in reasonable crisis scenarios. Parliament called, if no separate legislative proposal is imminent, for inclusion in the **Central Securities Depositories** Regulation of a requirement for national competent authorities to ensure the **establishment of appropriate recovery and resolution plans** in line with FSB and CPSS-IOSCO international standards for all CSDs.

It called on the Member States, in the absence of Securities Law Legislation, to develop and coordinate their existing special administration regimes for CSDs in order to improve certainty as to how operational continuity will be maintained in a crisis.

Insurance undertakings: the resolution invited the Commission to:

- closely take into account the IAIS's work on recovery and resolution of insurers, and to consider it within the context of level two of Solvency II, Financial Conglomerates legislation, and the Insurance Mediation Directive;
- work with international partners to follow the timetable established by the FSB to **implement the policy recommendations** including requiring systemic insurers to have recovery and resolution plans as well as resolvability assessments in place, enhanced group supervision and higher loss absorbency requirements.

Asset management: Members called on the Commission to assess carefully whether any asset managers should be designated as systemically important, taking into account the scope of their activity and using a comprehensive set of indicators such as: size, business model, geographical scope, risk profile, creditworthiness, etc.

Payment systems: the Commission is called upon to engage with the relevant international financial supervisors and authorities in order to identify any weaknesses in globally systemically important payment systems and the arrangements in place to ensure continuity of service in the event of failure.