Early intervention measures, conditions for resolution and funding of resolution action (SRMR3)

2023/0111(COD) - 18/04/2023 - Legislative proposal

PURPOSE: to improve the effectiveness and efficiency of the recovery and resolution framework for institutions and entities.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the Union resolution framework consists of Directive 2014/59/EU of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms and Regulation (EU) No 806/2014 of the European Parliament and of the Council establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism (SRMR) and a Single Resolution Fund. It was established in the aftermath of the 2008-2009 global financial crisis and aims to deal in an orderly manner with the failure of institutions and entities by preserving institutions and entities' critical functions and avoiding threats to financial stability, and at the same time protecting depositors and public funds. In addition, the Union resolution framework intends to foster the development of the internal market in banking by creating a harmonised regime to address cross-border crises in a coordinated way and by avoiding level playing field issues.

However, experience over the past years has shown that when medium-sized and smaller banks fail in the EU, authorities have found solutions outside the EU's harmonised resolution framework. This has often involved the use of taxpayers' money instead of the bank's required internal resources or private, industry-funded safety nets.

While the existing rules already enable authorities to deal with failing banks in an effective manner, further progress is needed to make the rules even more effective in ensuring that European banks keep supporting Europe's economy and do not burden public finances when they fail.

CONTENT: the proposal amends an existing regulation, the SRMR, in particular as regards the improved application of the tools that are already available in the bank resolution framework, clarifying the conditions for resolution, facilitating access to safety nets the event of bank failure and improving the clarity and consistency of funding rules.

The proposed amendments are part of the **Crisis Management and Deposit Insurance (CMDI) legislative package**, which also includes amendments to Directive 2014/59/EU (Bank Recovery and Resolution Directive or BRRD) and Directive 2014/49/EU (Deposit Guarantee Schemes Directive or DSGD).

By establishing harmonised requirements for applying the CMDI framework to banks in the internal market, the proposal considerably reduces the risk of divergent national rules in Member States, which could distort competition in the internal market.

The proposal will allow authorities to organise the orderly exit of a failing bank, regardless of its size and business model, using a wide range of tools. It will further safeguard financial stability, protect taxpayers and depositors and support the real economy and its competitiveness. The proposed rules will allow authorities to fully exploit the many benefits of resolution as a key element of the crisis management toolbox.

The amendments included in the CMDI package cover a range of policy aspects:

- **expanding the scope** of resolution by reviewing the public interest assessment, when this achieves the objectives of the framework, e.g. protecting financial stability, taxpayer money and depositor confidence better than national insolvency proceedings;

- **strengthening the funding** in resolution by complementing the internal loss-absorbing capacity of institutions, which remains the first line of defence, with the use of DGS funds in resolution to help access resolution funds without imposing losses on depositors where appropriate, subject to conditions and safeguards;

- clarifying the **early intervention** framework by removing overlaps between early intervention and supervisory measures, providing legal certainty on the applicable conditions and facilitating cooperation between competent and resolution authorities;

- ensuring a **timely triggering** of resolution.