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

2023/0111(COD) - 24/04/2024 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 352 votes to 213, with 67 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 806/2014 as regards early intervention measures, conditions for resolution and funding of resolution action.

The European Parliament adopted its position at first reading under the ordinary legislative procedure.

The proposed Regulation seeks to **improve the effectiveness and efficiency of the recovery and resolution framework for institutions and entities**.

The proposal amends Regulation (EU) No 806/2014 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, 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).

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 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.

The amended text stipulates that the resolution framework is meant to be applied to potentially any institution or entity, irrespective of its size and business model with a positive public interest assessment. To ensure such outcome, the criteria to apply the public interest assessment to a failing institution or entity should be specified. In that respect, it is necessary to clarify that, depending on the specific circumstances, certain functions of the institution or entity can be considered critical if their discontinuance would impact financial stability or critical services at regional level.

The assessment of whether the resolution of an institution or entity is in the public interest should also reflect, to the extent possible, the difference between, on the one hand, funding provided through industry-funded safety nets (resolution financing arrangements or deposit guarantee schemes) and, on the other hand, funding provided by Member States from taxpayers' money. Funding provided by Member States bears a higher risk of moral hazard and a lower incentive for market discipline, and should be considered only under extraordinary circumstances.

Where national insolvency and resolution frameworks achieve effectively the objectives of the framework to the same extent, preference should be given to the option that **minimises the risk for taxpayers and the economy**. That approach ensures a prudent and responsible course of action, aligned with the overarching goal of safeguarding both the interests of taxpayers and broader economic stability.

Taxpayer-funded extraordinary financial support to institutions and entities should be granted, if at all, only to remedy a serious disturbance in the economy of an exceptional and systemic nature, as it imposes a significant burden on public finances and disrupts the level playing field in the internal market.