



Procedure file

Basic information	
INI - Own-initiative procedure	2013/2047(INI)
Recovery and resolution framework for non-bank institutions	
Subject 2.50.03 Securities and financial markets, stock exchange, CIUTS, investments 2.50.08 Financial services, financial reporting and auditing	
Procedure completed	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	ECON Economic and Monetary Affairs		14/01/2013
		ECR SWINBURNE Kay	
		Shadow rapporteur	
		PPE HÜBNER Danuta Maria	
	S&D DOMENICI Leonardo		
	ALDE BOWLES Sharon		
		Verts/ALE BESSET Jean-Paul	
Council of the European Union	Council configuration	Meeting	Date
	Economic and Financial Affairs ECOFIN	3238	14/05/2013
European Commission	Commission DG	Commissioner	
	Financial Stability, Financial Services and Capital Markets Union	BARNIER Michel	

Key events			
14/03/2013	Committee referral announced in Parliament		
14/05/2013	Debate in Council	3238	Summary
17/10/2013	Vote in committee		
22/10/2013	Committee report tabled for plenary	A7-0343/2013	Summary
09/12/2013	Debate in Parliament		
10/12/2013	Results of vote in Parliament		
10/12/2013	Decision by Parliament	T7-0533/2013	Summary
10/12/2013	End of procedure in Parliament		

Technical information	
Procedure reference	2013/2047(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative

Other legal basis	Rules of Procedure EP 159
Stage reached in procedure	Procedure completed
Committee dossier	ECON/7/11753

Documentation gateway

Committee draft report	PE514.596	18/06/2013	EP	
Amendments tabled in committee	PE516.899	03/09/2013	EP	
Committee report tabled for plenary, single reading	A7-0343/2013	22/10/2013	EP	Summary
Text adopted by Parliament, single reading	T7-0533/2013	10/12/2013	EP	Summary
Commission response to text adopted in plenary	SP(2014)260	06/05/2014	EC	

Recovery and resolution framework for non-bank institutions

The Council discussed the proposal for a Directive establishing a framework for the recovery and resolution of credit institutions and investment firms, focusing in particular on the design of the bail-in instrument.

The Presidency concluded that to reach an agreement, a balance would have to be struck between establishing a harmonised approach to bail-in and allowing for limited national flexibility in its application. The Presidency stated its intention to re-submit the dossier to the Council at its meeting on 21 June, with the aim of reaching an agreement on the Directive.

In summarising the discussion, the Presidency noted convergence around the following points:

- general agreement on a broad scope for bail-in, with a limited list of defined exclusions;
- general agreement that the level of loss absorbing capacity must be adapted to match the scope of exclusions;
- noting that deposits under EUR 100 000 are always fully guaranteed by the deposit guarantee schemes, there was agreement amongst most Member States that the deposit guarantee schemes should also benefit from depositor preference;
- overall, considerable support for depositor preference (i.e. last category of assets to be bailed in) for deposits over EUR 100 000, with some reservations raised on giving preference to large corporate deposits.

The Presidency also recognised that some country-specific concerns should be addressed, in particular as regards euro area vs. non-euro area issues.

Recovery and resolution framework for non-bank institutions

The Committee on Economic and Monetary Affairs adopted the own-initiative report by Kay SWINBURNE (ECR, UK) on recovery and resolution framework for non-bank institutions.

The report 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).

Members 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 report 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 CCPs 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 CCPs management board and whether to transfer critical services of the CCP or hand over operational control of the CCP to another provider.

CSDs: Members 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.

They 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 report invited the Commission to:

- closely take into account the IAISs 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.

Recovery and resolution framework for non-bank institutions

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 CCPs 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 CCPs 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 IAISs 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.