

**Az Európai Unió Hivatalos Lapjában (2011. január- február)  
kihirdetett jogforrások listája, illetve a pénzügyi szolgáltatások  
szektorral kapcsolatban az Európai Bizottság honlapján közzétett  
hírek és konzultációk**

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1.

MEMO/11/77

Brussels, 9 February 2011

### Consultation on counterparty credit risk - frequently asked questions

#### What is the consultation about?

The purpose of this consultation is to gather stakeholders' views on two specific issues in the area of counterparty credit risk, namely:

- Capitalisation of bank exposures to central counterparties (CCPs) and
- Treatment of incurred credit valuation adjustments (CVA).

These concepts are explained further on in the memo.

The results of this consultation will feed into the work being done to implement the Basel III reform package, setting the new prudential requirements for banks, into EU law. The European Commission will come forward with proposals before the summer.

#### Why are these issues important?

The financial crisis highlighted that banks massively underestimated the level of counterparty credit risk associated with over-the-counter (OTC) derivatives. This prompted G20 leaders at the September 2009 Pittsburgh summit to call for more OTC derivatives to be cleared through a Central Counterparty (CCP). They also asked that OTC derivatives that could not be cleared centrally be subjected to higher capital requirements in order to properly reflect the higher risks associated with them.

Following the G20 leaders' call, the Basel Committee on Banking Supervision (BCBS) started to review the regulatory capital treatment for counterparty credit risk. The BCBS identified insufficiencies<sup>1</sup> and that CCPs were not widely used to clear derivatives trades. As part of the Basel III reforms, the BCBS has changed the counterparty credit risk regime substantially<sup>2</sup>.

The new regime will strengthen the capital requirements for counterparty credit exposures arising from institutions' derivatives, repo and securities financing activities. It will create the right incentives for banks to use CCPs wherever practicable, thus helping reduce systemic risk across the financial system.

Specifically, the objective of these amendments will be:

- raise the amount of capital backing these exposures,
- reduce procyclicality, i.e. dampen the impact of economic fluctuation throughout the cycle and provide additional incentives to move OTC derivative contracts to central counterparties;
- in effect helping to reduce systemic risk across the financial system.

#### How does this relate to other Commission proposals?

The review of the treatment of counterparty credit risk in the CRD forms an integral part of the Commission's efforts to ensure efficient, safe and sound derivatives markets. It complements the Commission's other regulatory initiatives in this area, in particular the

Regulation on OTC derivatives, central counterparties and trade repositories that was adopted by the Commission last September.<sup>3</sup>

This Regulation introduces – among others - a clearing obligation for eligible OTC derivatives via CCPs and puts forward stringent rules on prudential, organisational and conduct of business standards for CCPs.

In the consultation document on counterparty credit risk, it is being suggested to base the capital treatment of bank exposures to CCPs on the compliance of the respective CCP with these standards. It is being proposed that the capital requirement for exposures to those CCPs that will meet these standards will be significantly lower than the capital requirement for OTC derivatives<sup>4</sup>. Consequently, imposing different capital requirements for centrally cleared derivatives and non-centrally cleared derivatives will provide further important incentives for banks (i.e. credit institutions and investment firms) to use CCPs more widely.

### **Why are we consulting on these two issues specifically?**

To ensure we have all the information necessary to be able to finalise the upcoming legislative proposal related to the amendments in the area of counterparty credit risk due before the summer. Between February and April 2010, the Commission services conducted a public consultation on further changes to the Capital Requirements Directive (CRD), which broadly followed the preliminary proposals put forward by the BCBS in December 2009. While the consultation did include preliminary proposals amending the treatment of counterparty credit risk in the Capital Requirements Directive, it did not set out the necessary level of detail on two issues: first, the capitalisation of bank exposures to central counterparties; and second, the treatment of incurred credit valuation adjustments.

On capitalisation of bank exposure, the measures outlined in the consultation broadly follow the preliminary proposals set out in the Basel Committee's consultative document on the same issue published on 20 December 2010<sup>5</sup>. In addition, the Committee is currently preparing an impact assessment of its own proposals. Consequently, the Commission will carefully weigh the outcomes of both consultations and the impact assessment when finalising its legislative proposal.

On incurred credit valuation, the Basel Committee specified the respective treatment of incurred credit valuation adjustments in the final rules published on 16 December 2010. This treatment is, however, subject to a final impact assessment by the Basel Committee, which should be completed in the first quarter of 2011. In finalising the policy line on this issue, and in keeping with the Better Regulation Agenda, the Commission will give due consideration to both the results of the impact assessment and to the consultation responses.

### **What are OTC derivatives?**

A derivative is a financial contract linked to the future value or status of the underlying to which it refers (e.g. the development of interest rates or of a currency value, or the possible bankruptcy of a debtor).

Over-the-Counter (OTC) derivative contracts are not traded on an exchange (for example the London Stock Exchange) but instead privately negotiated between two counterparts (for example a bank and a manufacturer). OTC derivatives account for almost 90% of the derivatives markets. In mid 2010, the notional value of outstanding OTC derivatives was around \$583 trillion or €476 trillion. At the same point in time, the notional value of derivatives traded on exchanges was roughly \$66 trillion or €54 trillion.

The OTC derivatives market comprises a wide variety of product types across several asset classes (interest rates, credit, equity, foreign exchange (FX) and commodities) with widely

differing characteristics and levels of standardisation. OTC derivatives are used in a variety of ways, including for purposes of hedging, investing, and speculating.

### **What are Central Counterparties (CCPs)?**

A CCP is an entity that interposes itself between the two counterparties to a transaction, becoming the buyer to every seller and the seller to every buyer. A CCP's main purpose is to manage the risk that could arise if one counterparty is not able to make the required payments when they are due, i.e. defaults on the deal.

CCPs are commercial firms. There are currently about a dozen CCPs, all but one located in Europe or the USA, clearing interest rates, credit, equity and commodities OTC derivatives.

For more information see [MEMO/10/410](#).

### **What is capitalisation of bank exposures to central counterparties (CCPs)?**

It is the amount of capital that banks will be required to hold against their exposures to central counterparties. According to the existing regulatory framework, banks do not have to hold capital for these exposures provided that certain conditions are met. This will change with the upcoming legislative proposal in order to reflect the fact that exposures to central counterparties are not risk free. The proposal will suggest applying different risk weights depending on the type of the exposure the bank has vis-à-vis the central counterparty.

### **What is credit valuation adjustment?**

Credit valuation adjustment (CVA) is an adjustment made by a bank to the market value of an OTC derivative contract to take into account credit risk of the counterparty, i.e. the risk that the credit quality of the counterparty deteriorates or that the counterparty in question defaults.

Specifically, it can be defined as the difference between the 'hypothetical' value of the derivative transaction assuming a risk-free counterparty and the true value of the derivative transaction that takes into account the possibility of changes in creditworthiness of the counterparty (including the possibility of the counterparty's default). As such, in accounting terms, CVA is the "market value" of credit risk.

### **Why is CVA important?**

The Basel Committee decided to introduce an explicit capital requirement for the CVA risk (i.e. a requirement for extra capital) after it was revealed that nearly two-thirds of the losses stemming from derivatives during the crisis were a direct consequence of the deterioration of the credit quality of the counterparty, and not necessarily triggered by the default of the counterparty, already covered by the existing regulatory framework.

The calibration of the capital charge for CVA risk was published by Basel in December 2010. The one outstanding issue is what to do in the event that a bank creates a valuation adjustment/provision for CVA risk (i.e. writes down some capital to take account of the risk) (i.e. "incurs CVA"), and how to recognise it in the respective capital treatment, i.e. how does the amount of the created valuation adjustment/written-off capital count towards the overall capital requirements to reflect the fact that this amount cannot be lost twice. Addressing this issue requires assessing how much credit banks should get for creating provisions for the CVA risk.

<sup>1</sup> :

*See the Committee's December 2009 consultative document "Strengthening the resilience of the banking sector", from paragraph 113. The document is available at [www.bis.org/publ/bcbs164.pdf](http://www.bis.org/publ/bcbs164.pdf).*

2 :

<http://www.bis.org/publ/bcbs189.htm>

3 :

[http://ec.europa.eu/internal\\_market/financial-markets/derivatives/index\\_en.htm#proposals](http://ec.europa.eu/internal_market/financial-markets/derivatives/index_en.htm#proposals)

4 :

In 2010, the Commission consulted on a number of measures that would considerably increase the capital requirement for bilaterally cleared derivatives.

5 :

<http://www.bis.org/publ/bcbs190.htm>

**2.**

**MEMO/11/74**

Brussels, 3 February 2011

### **Appointment of the three new Chairmen to the three new European Supervisory Bodies**

Following the vote in the European Parliament confirming the appointment of the three new Chairmen to the three new European Supervisory Bodies (Andrea Enria for the European Banking Authority, Steven Maijoor for the European Securities and Markets Authority and Gabriel Bernardino for the European Insurance and Occupational Pensions Authority), European Commissioner Michel Barnier said:

"I welcome the European Parliament's decision to confirm the Chairmen for the three new supervisory authorities. This is the final step so that the new authorities can fully assume their responsibilities.

I am confident all three Chairmen have the right experience and skills to perform their tasks to the high levels expected. And as I confirmed again to the European Parliament last night in plenary session, and again in a letter to the relevant Parliamentary Committee this morning, the Commission will also do all that is in its power to ensure the new authorities have the means, both financial and human, to fulfil their mandate.

The Chairmen will start their work in the next couple of months. The work of the new supervisory authorities is essential to allow for the proper implementation of the reforms of the financial sector that we are carrying out and to increase financial stability in the European Union.

I wish them the new Chairmen all the best. And I can confirm they can count on the full support of the European Commission to fulfil their work.

We are also in the process of selecting the executive directors and will continue to do this with the same concern for competence and independence."

For more information:

Role of the new European Supervisory authorities:

[http://ec.europa.eu/commission\\_2010-2014/barnier/headlines/speeches/2011/01/20110101\\_en.htm](http://ec.europa.eu/commission_2010-2014/barnier/headlines/speeches/2011/01/20110101_en.htm)

For further information about the new Chairmen, please contact the 3 authorities directly:

- European Banking Authority:

<http://www.eba.europa.eu/News--Communications/Press-contact.aspx>

- European Securities and Markets Authority:

<http://www.esma.europa.eu/index.php?page=contact>

- European Insurance and Occupational Pensions Authority:

<https://eiopa.europa.eu/press-room/index.html>

3.

IP/11/50

Brussels, 19 January 2011

**Commission decision lays the foundation for reinforced international cooperation on the supervision of auditors**

*The European Commission today adopted the first decision recognising the equivalence of the audit oversight systems in 10 third countries<sup>1</sup>. This decision paves the way for reinforced cooperation between Member States and third countries which have been declared equivalent, so that they can mutually rely on each others' inspections of audit firms. The decision also grants a transitional period to auditors from 20 third countries<sup>2</sup> allowing them to continue their audit activities in the EU while further assessments are carried out.*

Internal Market and Services Commissioner Michel Barnier said: "This decision comes at a time when the Commission is considering improvements within the audit market more generally, and so must be seen within this broader context. Today's decision is an important step towards closer international cooperation on the supervision of auditors and audit firms. International cooperation on auditor oversight is crucial to avoiding the overburdening of audit firms and duplicating supervisory work, and above all, to promoting a high degree of investor protection by ensuring high quality audits."

**Mutual reliance**

As the demand for companies to operate globally increases, so too does the need for their auditors to do the same. With auditing now moving beyond national borders, there is a need for effective global auditor oversight, which requires extensive international cooperation. It is for this reason that the Commission supports international mutual reliance on the supervision of auditors that is carried out by their home country audit oversight. Mutual reliance means that Member States and the third countries can rely on each others' inspections of audit firms allowing for a more effective and efficient oversight of global audit firms.

With the Commission decision now in place, Member States may choose to rely on the supervisory work of one of the 10 third country oversight systems, which have been assessed as equivalent. The extent to which a Member State will rely on and cooperate with one of these third countries is determined by the cooperative arrangements that have been signed by the Member State and the third country.

### **Transitional phase for 20 countries**

The Commission's assessments show that 20 third countries are in the process of establishing independent public oversight systems for auditors. However, further information about the overall function and rules governing such systems are required before an equivalence decision can be taken. It is for this reason that a transitional period for the activities of auditors from these 20 third countries has been granted. During this period, which lasts until 31 July 2012, auditors are allowed to perform audit activities in the EU without EU oversight and without registering with EU competent authorities. However, this transition will only be granted to third-country audit firms if they comply with minimum information requirements necessary for maintaining investor protection levels in Europe. This could include presenting the result of the last inspection or a description of the internal quality control system of the audit firm.

### **Background**

Since 2008, more than 20 third countries have established public bodies to supervise the work of auditors and at least another 10 are in the process of establishing one. In most cases such bodies are inspired by the European supervision model on auditors.

See also: [MEMO/11/30](#)

More information on the Commission decision is available at:

[http://ec.europa.eu/internal\\_market/auditing/relations/index\\_en.htm](http://ec.europa.eu/internal_market/auditing/relations/index_en.htm)

More information on the Green Paper on Audit Policy is available at:

[http://ec.europa.eu/internal\\_market/auditing/otherdocs/index\\_en.htm](http://ec.europa.eu/internal_market/auditing/otherdocs/index_en.htm)

<sup>1</sup> :

The countries assessed as equivalent are Australia, Canada, China, Croatia, Japan, Singapore, South Africa, South Korea, Switzerland and the United States of America.

<sup>2</sup> :

The countries in the transitional period are Abu Dhabi, Bermuda, Brazil, the Cayman Islands, The Dubai International Financial Centre, Egypt, Guernsey, Hong Kong, India, Indonesia, the Isle of Man, Israel, Jersey, Malaysia, Mauritius, New Zealand, Russia, Taiwan, Thailand and Turkey.

Brussels, 19 January 2011

**Financial services: additional legislative proposal to complete the framework for financial supervision in Europe**

*Following the launch of the three new European Supervisory Authorities on 1 January 2011 (MEMO/11/1), the Commission now proposes to make targeted changes to legislation in the area of insurance and securities regulation to ensure that the new Authorities can work effectively. In particular, the proposal sets out in detail the scope for the Authorities to exercise their powers, which include the possibility to develop draft technical standards and to settle disagreements between national supervisors. The proposed directive will now be sent to the Council and the European Parliament for consideration.*

Internal Market and Services Commissioner Michel Barnier said: *"The financial crisis in Europe exposed weaknesses in the supervision of financial markets, which the new EU financial supervisory structure intends to correct. Today's proposal is an important building block to ensure that the new supervisory bodies will run smoothly. By giving the new supervisors a clearly defined mandate and bringing existing legislation in line with that mandate, the Commission further delivers on the promise of creating more solid and stable markets and mitigating future crises."*

Today's proposal complements a package of legislative acts on financial supervision which were agreed on 22 September 2010 and which entered into force on 1 January 2011, creating a new architecture for supervision at European level with three new European Supervisory Authorities (ESAs). The ESAs, which replace the former European Committees for the banking, securities and insurance and occupational pensions sectors<sup>1</sup>, are the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA), and the European Securities and Markets Authority (ESMA). In cooperation and coordination with nationally-based supervisors, the ESAs are in place to ensure that rules are applied in a rigorous and consistent fashion throughout the European Union, to monitor developments within the financial system as well as to detect potential risks to financial stability.

The trio of new ESAs have taken over all of the functions of the previous committees, and in addition have certain additional competences, including the following:

- developing proposals for technical standards to better define common standards for the application of legislative acts, respecting better regulation principles;
- resolving cases of disagreement between national supervisors, where legislation requires them to cooperate or to agree;
- contributing to ensuring consistent application of existing and future technical EU rules (including through peer reviews);
- a coordination role in emergency situations.

In order for the ESAs to work effectively, changes to existing financial services Directives are necessary, laying down the precise scope for the ESAs to exercise certain of the new

powers. The areas in which amendments are necessary fall broadly into the following categories:

- definition of the appropriate areas in which the Authorities will be able to propose technical standards as an additional tool for supervisory convergence and with a view to developing a single rule book to ensure strengthened stability, equal treatment, lower compliance costs and to prevent regulatory arbitrage;
- detail how the Authorities will settle disagreements between national supervisors in a balanced way, in those areas where common decision-making processes or cooperation between national supervisors already exist in sectoral legislation; and
- general amendments which are necessary for the existing Directives in the financial services sector to operate in the context of new authorities, for example, renaming the level 3 committees as the new authorities and ensuring the appropriate gateways for the exchange of information are present.

A first set of technical amendments to 11 Directives (IP/09/1582) was agreed as part of the supervision package now in force. However, for technical reasons, those amendments did not cover the "Solvency II" Directive for the insurance sector (Directive 2009/138/EC), and parts of the Prospectus Directive (Directive 2003/71/EC).

Today's legislative proposal contains a limited set of amendments to the "Solvency II" Directive. These amendments include the provision of more specific tasks for EIOPA such as ensuring harmonised technical approaches on the use of ratings in relation to the Solvency Capital Requirements, and extending the implementation date by two months to ensure better alignment with the end of the financial year for the majority of insurance and reinsurance undertakings. The amendments will also enable the Commission to specify transitional measures in certain areas if deemed necessary to avoid market disruption and to allow a smooth transition to the new regime under "Solvency II".

**More information is available at:**

[http://ec.europa.eu/internal\\_market/finances/committees/index\\_en.htm](http://ec.europa.eu/internal_market/finances/committees/index_en.htm)

<sup>1</sup> :

Until 2010 there were three financial services committees for micro-financial supervision (supervision of individual financial institutions) at EU level, with advisory powers only: the Committee of European Banking Supervisors (CEBS), Committee of European Insurance and Occupational Pensions Committee (CEIOPS) and the Committee of European Securities Regulators (CESR).

5.

**MEMO/11/30**

Brussels, 19 January 2011

**Commission decision lays the foundation for reinforced international cooperation on the supervision of auditors – Frequently Asked Questions**

**1) Why has the Commission adopted a Decision on the reinforcement of international cooperation on the supervision of auditors?**

Companies are increasingly operating on a global basis and are listed on capital markets in different continents. To allow for effective global auditor oversight in order to protect investors, international co-operation on the supervision of auditors is necessary.

To this end, the Commission has today adopted a Decision recognising the equivalence of ten third country oversight systems for auditors. The objective of an "Equivalence Decision" is to pave the way for cooperative arrangements between the competent auditor oversight authorities of EU Member States and third countries, based on mutual reliance on each others' oversight system for auditors. This will contribute to reinforcing co-operation on auditor oversight between the competent authorities of the EU Member States and third countries which should lead to increased investor protection.

## **2) How is a third country assessed as equivalent? What does equivalence mean?**

A third country may be assessed as equivalent if its system for public auditor oversight is assessed as meeting the requirements set out in the Statutory Audit Directive (Directive 2006/43/EC) which governs public oversight, quality assurance or inspection and investigation and penalty systems of the Member States.

## **3) What is mutual reliance?**

Mutual reliance means that Member States and third countries which have been declared equivalent can agree to rely on the supervisory work of the other.

## **4) What third countries have been assessed as equivalent today?**

Ten third countries are assessed as having equivalent auditor oversight systems: Australia, Canada, China, Croatia, Japan, Singapore, South Africa, South Korea, Switzerland and the United States of America.

More countries will be assessed to determine if they have equivalent systems in the future (in particular, those included in the transitional period).

## **5) Why are cooperative arrangements necessary?**

Equivalence decisions on third country public auditor oversight systems do not provide any automatic or immediate rights to auditors from the concerned third country. After the Commission adopts an equivalence decision, it is up to Member States to decide, based on mutual reliance, to what extent they wish to rely on the public auditor oversight system of the third country concerned. The extent of this reliance and cooperation is set out in cooperative arrangements, which must be signed by both a Member State and a third country to be operational.

## **6) Why is the Equivalence Decision limited in time for the US?**

Europe supports mutual reliance on the oversight of auditors by their home country oversight system. The US is still in the process of moving towards this objective. Nonetheless, the European Commission recognises the need to have a temporary solution in place. For this reason, the decision is limited in time enabling the EU to reassess the situation in three years time.

## **7) Why does the Decision include a transitional period for some third countries?**

The Commission assessments show that 20 third countries are in the process of establishing independent public oversight systems for auditors. However, further information about the functioning and the rules governing such systems is required before a possible equivalence

decision can be taken. These countries have been included in the Decision on a transitional basis to allow for further assessments on their progress to achieve full equivalence.

**8) What are the third countries in the transitional period?**

The countries in the transitional period are: Abu Dhabi, Bermuda, Brazil, the Cayman Islands, The Dubai International Financial Centre, Egypt, Guernsey, Hong Kong, India, Indonesia, the Isle of Man, Israel, Jersey, Malaysia, Mauritius, New Zealand, Russia, Taiwan, Thailand and Turkey.

**9) What are the implications of the transitional period for third country auditors?**

During this transitional period, the auditors from these jurisdictions are allowed to perform their audit activities in the EU without being subject to EU auditor oversight or being required to register with EU competent authorities.

However, this transition is only granted if third country audit firms provide Member States with the minimum information requirements necessary for investors' protection in Europe such as an indication of the result of the last inspection of the audit firm or a description of the internal quality control system of the audit firm.

**10) Why will the transitional period be reviewed for Bermuda, the Cayman Islands, Israel and New Zealand?**

Although these third countries do not have a public oversight system for auditors like the other countries in the Decision, they have made a clear public commitment to the Commission, with a concrete action plan, to establish one. Therefore, to encourage these third countries to finalise this process in the short-term, they are being granted a transitional period. However, the Commission will review the progress made in 2011 by these third countries in enacting legislation to establish a public oversight system for auditors and assess, in the context of this review, the appropriateness of shorten the transitional period.

More information:

[http://ec.europa.eu/internal\\_market/auditing/relations/index\\_en.htm](http://ec.europa.eu/internal_market/auditing/relations/index_en.htm)

6.

IP/11/29

Brussels, 13 January 2011

**Enhancing safety of European financial markets: common rules for Central Securities Depositories (CSDs) and securities settlement**

*As part of its work in creating a more transparent and stable financial system, the European Commission Services have today launched a consultation on Central Securities Depositories (CSDs) and on the harmonisation of certain aspects of securities settlement in the European Union. The purpose of this consultation is to gather input from all stakeholders in order to inform the legislative proposals due in June 2011. The deadline for replies is 1 March 2011.*

CSDs are systemically important infrastructures in modern securities markets. They perform crucial services that allow at a minimum the registration, safekeeping, settlement of securities in exchange for cash and efficient processing of securities transactions in

financial markets. While securities markets traditionally relied on the physical exchange of paper, CSDs now assume a critical role to guarantee a safe and efficient transfer of securities that exist to a large extent only in book entry form. In many ways, they are a central point of reference for an entire market. Given the systemic importance of CSDs, there is a strong need for an appropriate regulatory framework for CSDs.

The initiative is an important part of the Commission's agenda to enhance the safety and soundness of the financial system. Together with the proposal for a Regulation on "OTC derivatives, central counterparties and trade repositories" (EMIR) adopted by the European Commission on 15th September 2010 and the Markets in Financial Instruments Directive (MiFID, currently under review), it will form a framework in which systemically important securities infrastructures (trading venues, central counterparties, trade repositories and central securities depositories) are subject to common rules on a European level.

This need for an appropriate regulatory framework for CSDs is agreed internationally. In its meeting of 20 October 2010, the Financial Stability Board re-iterated the call for updated standards for more robust core market infrastructures and asked for the revision and enhancement of existing standards for financial market infrastructures. Recommendations have been adopted by Central Banks and Securities Regulators both at global<sup>1</sup> and at European<sup>2</sup> level. While these rules are important, they remain of a high-level and non binding nature.

Due to an increase in cross border investment over the last years, the European Commission considers that the time has come to install a common and binding regulatory framework for CSDs on a European level.

Historically, securities markets in the European Union have developed along national lines. In 2001 and 2003, a High-level expert group chaired by Prof. Giovannini identified 15 barriers to an efficient market for services that are rendered after a trade has taken place (post trading) in the European Union. The report pointed out a number of barriers that render the provision of cross-border post trading services (whether performed by CSDs or other market participants) more costly and less safe than domestic transactions. These barriers have not yet been fully removed. In order to increase the safety and efficiency of the internal market for securities transactions, the European Commission intends to introduce harmonisation of key aspects of securities settlement.

- Key elements of the consultation: **Common regulatory framework for CSDs.** CSDs in the European Union should operate under a common regulatory framework that ensures the robustness of their operation. Such a framework should include common definitions of CSD services, common rules on authorisation on ongoing supervision of CSDs, high prudential standards for CSDs and rules on access and interoperability. The Consultation seeks stakeholders' comments on the proper design of such a common regulatory structure.
- **Harmonisation of key aspects of securities settlement.** The consultation also asks what measures could be taken to address concerns relating to the well-functioning of securities settlement. It seeks stakeholders' input on how to improve settlement discipline, i.e. that a transaction actually settles on the intended settlement date. This question is linked to the Proposal for a short selling regulation adopted by the Commission of 15 September 2010 which already foresees specific measures arising from patterns that factor in late settlement into a trading strategy. Another important aspect of the consultation concerns the harmonisation of settlement periods, i.e. the time between the conclusion of a transaction and settlement. Currently, European securities markets do not follow a common

settlement period (e.g. for equities, regulated markets either settle two days or three days after trade (T+2 or T+3)).

The Commission will analyse the responses to the Consultation and bring forward an appropriate legislative proposal in the Summer of 2011.

[http://ec.europa.eu/internal\\_market/consultations/2011/csd\\_en.htm](http://ec.europa.eu/internal_market/consultations/2011/csd_en.htm)

<sup>1</sup> :

Cf. the CPSS/IOSCO Recommendations for Securities Settlement Systems of November 2001, currently under review.

<sup>2</sup> :

Cf. the ESCB/CESR Recommendations for Securities Settlement Systems in the European Union of May 2009.

7.

**IP/11/10**

Brussels, 6 January 2011

### **Commission seeks views on possible EU framework to deal with future bank failures**

*Following the publication of a Communication on 20 October 2010 on a European crisis management framework for the financial sector (see [IP/10/1353](#)), the European Commission has today launched a consultation on technical details underpinning that framework. Today's consultation should be read in conjunction with that Communication. The Commission intends to come forward with a legislative proposal for a comprehensive framework for dealing with failing banks before the Summer of 2011. The deadline for contributions to this consultation is 3 March 2011.*

The possible options set out in this consultation would constitute a significant step for the EU in delivering the commitment made at the G20 summit in June 2010, by ensuring that authorities across the EU have the powers and tools to restructure or resolve (the process to allow for the managed failure of the financial institution) all types of financial institution in crisis, without taxpayers ultimately bearing the burden. They are also consistent with the principles for ensuring that resolution is a viable option for systemically important financial institutions that are being developed by the Financial Stability Board. This Consultation focuses on measures for banks and investment firms. The Commission will report by the end of 2011 on appropriate measures for other kinds of financial institution, including insurers and Central Counterparties.

Currently, there are very few rules at EU level which determine which actions can and should be taken by authorities when banks fail and, for reasons of financial stability, cannot be wound up under ordinary insolvency rules. This consultation seeks input on the technical details underpinning the policy issues identified in the Communication of 20 October 2010. These include

- *Common and effective tools and powers to deal with failing banks at an early stage*, and to minimise costs for taxpayers, for example:
- preparatory and preventative measures such as a requirement for recovery and resolution plans ('living wills') and powers for authorities to require banks to make changes to their structure or business organisation where such changes are necessary to ensure that the institution can be resolved, under the regime. These powers would be an important element in tackling banks that have been deemed too big, complex or interconnected to fail. Indeed, the objective is to ensure that the resolution tools can be used on all banks, irrespective of their size, complexity or systemic importance;
- powers for supervisors to take early action to remedy problems before they get out of hand such as the power to change the managers; and
- resolution tools which empower authorities to take the necessary action, where bank failure cannot be avoided, to manage that failure in an orderly way such as powers to transfer assets and liabilities of a failing bank to another institution or to a bridge bank, and to write down debt of a failing bank to strengthen its financial position and allow it to continue as a going concern subject to appropriate restructuring.

The overriding objective will be to ensure that banks can be resolved in ways which minimise the risks of contagion and ensure continuity of essential financial services, including continuous access to deposits for insured depositors. The framework should provide a credible alternative to the expensive bank bail-outs which have characterised the recent crisis. The consultation asks stakeholders their views on the effectiveness of these possible powers and tools.

- *Effective arrangements* which ensure that authorities coordinate and cooperate as fully as possible in order to minimise any harmful effects of a cross-border bank failure. It is suggested to build on existing supervisory colleges, expanding them to include resolution authorities for the purposes of crisis preparation and management. The Consultation seeks views from stakeholders on the most appropriate framework to ensure an effective resolution of cross border groups.
- *Fair burden sharing by means of financing mechanisms* which avoid use of taxpayer funds. This might include possible mechanisms to write down appropriate classes of the debt of a failing bank to ensure that its creditors bear losses. Any such proposals would not apply to existing bank debt currently in issue. It also includes setting up resolution funds financed by bank contributions. In particular the Consultation seeks views on how a mechanism for debt write down (or 'bail-in') might be best achieved, and on the feasibility of merging deposit guarantee funds with resolution funds.

The Commission welcomes responses to the policy objectives and the questions raised in this paper by 3 March 2011. Responses should be sent to the following email address: [markt-crisis-management@ec.europa.eu](mailto:markt-crisis-management@ec.europa.eu)

#### **Next steps:**

The technical details and the responses received will contribute significantly to the development of draft legislation for a comprehensive crisis management framework for banks and investment firms to be tabled before Summer 2011.

Finally, it's the Commission's Communication of 20 October 2010 set out a roadmap of measures which will be considered in the longer term with a view to delivering a more

integrated resolution framework better suited to integrated EU banking groups (see [MEMO/10/506](#)). Specifically, the Commission plans to examine the need for further harmonisation of bank insolvency regimes with a report by the end of 2012 and, alongside the review of the European Banking Authority in 2014, will assess how a more integrated framework for the resolution of cross-border groups might best be achieved. Those initiatives are not covered in this technical consultation, but would be subject to a separate consultation.

### **Background information:**

The financial crisis has provided clear evidence of the need for more robust bank intervention and resolution measures at national level, as well as the need to put in place arrangements better able to cater for cross-border banking failures. There have been a number of high profile banking failures during the crisis (Fortis, Lehman Brothers, Icelandic banks, Anglo Irish Bank) which have revealed serious shortcomings in the existing arrangements. In the absence of mechanisms to organise an orderly wind down, EU Member States have had no choice other than to bail out their banking sector. State aid to support banks has amounted to 13% of GDP.

### **More information is available at:**

[http://ec.europa.eu/internal\\_market/bank/crisis\\_management/index\\_en.htm](http://ec.europa.eu/internal_market/bank/crisis_management/index_en.htm)

[MEMO/11/6](#)

8.

**MEMO/11/6**

Brussels, 6 January 2011

## **Consultation on Technical Details of a Possible Crisis Management Framework for financial institutions - Frequently Asked Questions**

### **1. Why is a new banking recovery and resolution framework needed for the EU?**

The financial crisis provided clear evidence of the need for more comprehensive and effective arrangements to deal with failing banks at national level, as well as the need to put in place arrangements better able to cater for cross-border banking failures.

There has been a number of high profile banking failures during the crisis (Fortis, Lehman Brothers, Icelandic banks, Anglo Irish Bank) which have revealed serious shortcomings in the existing arrangements.

In the absence of mechanisms to organise an orderly wind down, EU Member States have had no choice other than to bail out their banking sector. State aid to support banks has amounted to 13% of GDP. The impact on taxpayers is obvious.

A new crisis management framework is essential to complement other work streams aimed at making the financial system sounder, i.e. making banks stronger with higher levels of and better quality capital, greater protection of depositors, and better supervision.

## 2. What are the main elements of the Consultation?

The Consultation seeks stakeholders' views on a comprehensive set of measures aimed at ensuring that national authorities are equipped with the necessary tools to intervene in a troubled institution at a sufficiently early stage to address developing problems; that firms and authorities make adequate preparation for crises; that national authorities have common resolution tools and powers to take rapid and effective action when bank failure cannot be avoided; and that authorities cooperate effectively when dealing with the failure of a cross-border bank. These measures include:

- **Preparatory and preventative measures**, such as a requirement for institutions and authorities to prepare recovery and resolution plans to ensure adequate planning for financial stress or failure (see also question 4), and powers for authorities, where they identify obstacles to resolvability in the course of this planning process, to require a bank to take appropriate measures to ensure that it can be resolved with the available tools in a way that does not threaten financial stability and does not involve costs to the taxpayer (see also question 5);
- **Powers to take early action to remedy problems at a sufficiently early stage**, such as powers for supervisors to require the replacement of management, to require an institution to implement a recovery plan or to divest itself of activities or business lines that pose an excessive risk to its financial soundness, or to appoint a special manager (see also question 7);
- **Resolution tools**, such as powers to effect the takeover of a failing bank or firm by sound institution, or to transfer all or part of its business to a temporary bridge bank, which enable authorities to ensure the continuity of essential services and to manage the failure in an orderly way (see also question 8). In this context, the Consultation also seeks views on mechanisms to write down or convert to equity appropriate classes of debt of failing institution ('bail in') in order to strengthen its financial position and allow it to continue as a going concern subject to appropriate restructuring (see also questions 9 and 10).
- **A framework for cooperation between national authorities** so that where a cross-border banking group fails, national authorities will coordinate resolution measures to protect financial stability in all affected Member States and achieve the most effective outcome for the group as a whole.

The overriding aim is to put in place a framework that will allow a bank to fail – whatever its size, complexity or importance for the financial system - while ensuring the continuity of essential banking services, minimising the impact of that failure on the financial system and avoiding costs to taxpayers. This is essential to avoid the 'moral hazard' that arises from the perception that some banks are too big, complex or interconnected to fail.

## 3. Why didn't the EU have this framework in place before the crisis? And what has been done since the crisis?

Until the crisis, many felt that crisis management was best dealt with at national level especially if there was a risk that there would be budgetary implications and in view of the close connection of crisis measures with national insolvency regimes. Measures in place varied greatly between Member States.

However, the crisis has strengthened the case for action at EU level, since it clearly demonstrated that the absence of European arrangements could result in ad hoc national solutions, which might be less effective in resolving the situation and ultimately prove more

costly for national taxpayers. Furthermore, the crisis highlighted there were no mechanisms in place to deal with failing banks that operate in more than one Member State.

#### **4. What sort of preparatory and preventative measures does the Commission consider necessary?**

Preventative measures will include measures designed to ensure that developing problems will be identified and addressed at an early stage, and to enhance the preparedness of firms and authorities to deal effectively with serious difficulties. These will include reinforcing supervisory powers (e.g. enhanced supervision with more intrusive assessments, more systematic on-site examinations, etc.) and introducing a requirement for firm-specific recovery and resolution plans. The recovery part would be prepared by firms, and set out measures that the firm would take to deal with funding problems in a range of conceivable stressed scenarios.

The resolution part would be prepared by authorities with the cooperation of firms, and would put in place plans as to how the firm might be resolved, and its essential functions preserved, in the event of the firm's failure.

Preparatory and preventative measures might also include powers for authorities to take measures, or require a firm to make changes to its structure or business organisation, if the authorities assess that the firm is not resolvable with the available tools (see also question 5).

#### **5. What kinds of changes to legal or operational structures would authorities be able to require?**

The Consultation seeks stakeholders' views on powers which would be available where, in the course of resolution planning, authorities identify obstacles to resolvability in individual institutions. The powers being considered would allow authorities, following an extensive dialogue with the bank involved, to require it to take appropriate measures to ensure that it can be resolved with the available tools in a way that does not threaten financial stability and does not involve costs to the taxpayer. Such measures might include requiring the bank to draw up service level agreements to cover the provision of critical economic functions, to limit exposures, to cease or limit specific activities or the development of new products or business lines, or to make structural changes to the way the bank organises its business – for example by better mapping systemic functions to legal entities. Because such powers may be intrusive, the Consultation discusses appropriate safeguards, including the requirement that any measure required must be necessary, proportionate and suitable for achieving the exclusive objective of removing the specific impediments to resolution arising from the organisation of the bank's business or its legal structure that have been identified. The Consultation also discusses procedural safeguards for banks, including a right to judicial review.

#### **6. What new early intervention measures are being considered?**

The Consultation seeks views on possible new early intervention powers for banking supervisors designed to address developing problems within individual banks and across banking groups at an early stage, to prevent them from developing further and secure recovery. Measure under consideration include powers for supervisors to prohibit payment of dividends, to require the replacement of managers or directors, to require the bank to divest itself of certain activities or business lines, the power to require implementation of a firm's recovery plan to address specific funding problems, and the power to appoint a special manager for a limited period to take over control and run the bank with the objective of addressing its problems and restoring it to financial health.

## **7. What is the function of a special manager?**

The Consultation seeks the views of stakeholders on the appointment of a special manager as one early intervention tool that might be made available to supervisors. A special manager could be appointed to replace or assist the management of a troubled institution for a limited and specified period. His or her primary function would be to restore the financial situation of the bank by implementing an appropriate recovery plan. The special manager would have all the powers of the managers of the company, and would not have any powers to override the rights of shareholders under the company statutes and company law. In particular, shareholder approval would be required for any actions taken by the special manager if the same action would require such approval if taken by the ordinary directors.

## **8. What are resolution measures?**

Resolution occurs at a point when the institution has reached a point of distress such that there are no realistic prospects of recovery over an appropriate timeframe and all other measures have been exhausted. The resolution tools considered in the Consultation include a sale of business tool (parts of the credit institution or parts of its business can be sold to one or more purchasers without the consent of shareholders); a bridge bank tool (authorities can transfer some or all of the business to a temporary bridge bank in order to preserve essential banking functions or facilitate continuous access to deposits); and an asset separation tool (to remove toxic assets to a separate vehicle). In addition, the Consultation seeks stakeholders' views on possible mechanisms to write down the debt of a failing bank, or to convert it to equity, as a means of restoring the institution's capital position ('bail in'). This would allow the bank to be restructured as a going concern or wound down in an orderly manner, and may provide an additional resolution tool that would give authorities further flexibility to deal with the failure of complex institutions.

## **9. What is the proposal to write down creditors ('bail in') and how would it work?**

The objective is to develop a mechanism for recapitalising failing institutions so that it can continue to provide essential services, without the need for bail out by public funds. Fast recapitalisation would allow the institution to continue as a going concern, avoiding the disruption to the financial system that would be caused by stopping or interrupting its critical services, and giving the authorities time to reorganise it or wind down parts of its business in an orderly manner. In the process, shareholders should be wiped out or severely diluted, and culpable management should be replaced. The consultation seeks views on two broad approaches to achieving this objective.

The first approach would involve a broad statutory power for authorities to write down or convert unsecured debt, including senior debt (subject to the possible exclusions for certain classes of senior debt that may be necessary to preserve the proper functioning of credit markets). It is not envisaged that such a power would apply to existing debt that is currently in issue, as that could be disruptive.

The second approach would require banks to issue a fixed amount of 'bail-in' debt that could be written off or converted into equity on a specified trigger linked to the failure of the bank. This requirement would be phased in over an appropriate period and, again, it is not envisaged that any existing debt already in issue would be subject to write down.

## **10. How does the 'bail in' tool relate to discussions regarding sovereign debt?**

It does not. Banks, as private companies, and Countries, are fundamentally different and the principles underpinning this consultation and the possible design features of the bail in tool,

should not be read across to the current debate around sovereign debt. Any legislative proposal for a debt-write down mechanism that might be made in the wake of this Consultation would only apply in relation to relevant classes of debt issued by banks (and the Consultation seeks stakeholders' views on what classes of bank debt should be covered). It would not apply to debt issued by governments.

### **11. How is cross-border cooperation addressed in the Consultation?**

Beyond ensuring common tools in all Member States, it is also necessary to ensure smooth cooperation both in advance of and during a crisis. The Consultation seeks views on a cross-border coordination framework based on "resolution colleges" for each cross-border bank that would include all relevant national supervisory and resolution authorities, and would build on the existing supervisory colleges (which are being established for cross-border banks under the Capital Requirements Directive (CRD 2, see [IP/08/1433](#)). These colleges would be responsible for planning (preparation of resolution plans, agreeing principles for burden sharing, etc.) and would be a forum for information exchange and coordination during a crisis. The Consultation also seeks views on a role in appropriate cases for group resolution authorities to draw up a group resolution scheme, which would then be implemented by national authorities. Finally, the Consultation seeks views on the appropriate role for the newly established European Supervisory Authorities (see [MEMO/10/434](#)) in the preparatory, preventative, early intervention and coordination parts of the new framework.

### **12. How will resolution schemes be financed?**

Financing is a key part of resolution, and the Commission believes that a coordinated approach is needed in order to improve the prospects for effective cross-border cooperation. In May 2010, the Commission set out its ideas for pre-funded bank resolution funds (see [IP/10/610](#) + [MEMO/10/214](#)) to ensure that the banking sector, and not the taxpayer, pays the costs of future bank failures. The Commission's Communication of 20 October 2010 (see [IP/10/1353](#) + [MEMO/10/506](#)) elaborates on those ideas. This Consultation suggests how those ideas might be implemented, further explores how resolution funding might be articulated with existing deposit guarantee schemes and seeks views on possible bases for contributions from financial institutions to resolution funding.

### **13. Is this work intended to solve the current crisis?**

The financial and economic crisis has called for extraordinary measures to be taken in order to avert a potential meltdown of the global financial sector. However the measures included in this Consultation are aimed at dealing with future bank failures. Early supervisory intervention should assist in averting preventable bank failures, while an EU resolution framework would equip national authorities with adequate tools to manage the consequences of failures that could not otherwise be avoided.

### **14. Resolution measures may interfere with the rights of shareholders and creditors. How is this addressed in the Consultation?**

Bank resolution tools that involve transfer of assets may interfere with the rights of creditors and shareholders, and any EU resolution framework would need to incorporate adequate safeguards to protect those interests.

For example, EU company law contains a number of mandatory requirements that confer rights on shareholders. These include pre-emption rights, and the requirements that any increase or reduction of issued share capital is approved by the shareholders' general meeting. In addition to this, any transfer of ownership or assets of an ailing bank must

comply with shareholders' right to property under the European Convention on Human Rights. A balance needs to be struck between protecting the legitimate interests of shareholders and enabling resolution authorities to intervene quickly and decisively to restructure a failing institution or group to minimise contagion and ensure the stability of the banking system in affected Member States.

The Consultation seeks views on appropriate mechanisms for redress and compensation for shareholders and creditors whose rights are affected, and on the general proposition that they should as far as possible, be no better and no worse off than they would have been had the bank under resolution been wound up under the applicable insolvency law.

The Consultation also seeks views on the possible limitation of the remedies available in judicial review to persons affected by resolution actions to financial damages, preventing courts from reversing or invalidating transfers that have already been made.

#### **15. What kinds of financial institution would be covered by an EU regime?**

The Consultation focuses on intervention and resolution measures for banks because their unique role as providers of credit, deposit-takers and payment intermediaries gives rise to particular problems and public policy objectives in the event of a bank failure. In addition, it seeks views on the inclusion of investment firms whose failure might also risk financial stability.

Beyond that, the Commission also recognises that different kinds of crisis management measures may be necessary to address the specific risks to market stability represented by other types of financial institution. It intends to carry out further work by the end of 2011 to consider which crisis management arrangements might be necessary for other types of financial institution, including insurance companies, investment firms and Central Counterparties.

#### **16. Would "living wills" be required for all banks and who would prepare them?**

There are currently no harmonised powers for supervisors to require banks to prepare recovery and resolution plans, often referred to as "living wills". These would be composed of 'recovery plans' drawn up by banks detailing how they would respond to a range of conceivable circumstances of financial stress, and 'resolution plans' prepared by authorities with a view to ensuring that authorities can act quickly and effectively in the event of a crisis. The Consultation seeks views on a general requirement for recovery and resolution plans to be maintained for all banks. However, the requirement would apply proportionately. This might mean, for example, that for smaller institutions with no cross-border operations, the resolution plan might simply specify that the institution would be wound up, accompanied by payout to depositors by the Deposit Guarantee Scheme. For systemically important cross-border financial institutions the "living wills" would be expected to be considerably more detailed, so as to facilitate, in a period of severe financial stress or instability, the continuity of its financial infrastructure services and the rapid resolution or winding down where necessary of the institution (or part of the institution).

#### **17. What is the role of the EBA in resolution and are you proposing a European banking resolution authority ?**

As a body bringing together national supervisory authorities, then newly established European Banking Authority ('EBA') could have a significant role to play in the aspects of this work involving national supervisors (in particular the supervision, preparation and early intervention aspects of this consultation). For the resolution and financing aspects, which involve other bodies at the national level, such as central banks and ministries of

finance, further detailed consideration needs to be given towards the role of the EBA. Furthermore, the Commission plans to examine the need for further harmonisation of bank insolvency regimes with a report by the end of 2012 and, alongside the review of the EBA in 2014, will assess how a more integrated framework for the resolution of cross border groups might best be achieved. The Commission is not at this time proposing a European resolution authority.

**18. How does all this relate to discussions at international level?**

The Commission is helping to shape the work of the FSB and the G20, and is also closely monitoring other international developments. The G20 summit held in Toronto in June 2010 committed to the design and implementation of systems whereby authorities have the powers and tools to restructure or resolve all types of financial institutions in crisis, without taxpayers ultimately bearing the burden. The FSB last year adopted recommendations for reducing the moral hazard posed by systemically important financial institutions (SIFIs). A substantial part of those recommendations aim to ensure that SIFI resolution is a viable option. The ideas set out in the Consultation would, if adopted, constitute a significant step for the EU in delivering resolution framework called for by the FSB.

**19. What are the main differences between what the EU is proposing and the US approach?**

In the US, the Dodd-Frank Act has established a resolution framework for systemic institutions at group level. Both the EU and the US are accordingly working to develop mechanisms which should be capable of resolving or winding down failing financial institutions. The US approach intends to address systemic banks by taking failing institutions into receivership by the Federal Deposit Insurance Corporation (FDIC), under which their business will be transferred or wound down and the failed institution will be liquidated.

The EU framework discussed in this Consultation would also allow authorities to put banks into an orderly resolution in which their essential services could be preserved while the failed institution itself was ultimately wound down. However, in the cases where an institution is too large, complex or interconnected to be wound down in an orderly manner, the Commission is also considering equipping authorities with ambitious additional tools which would under stringent conditions allow a troubled bank to continue as a going concern, through write down of its debt, in order to preserve its economically important functions and 'buy time' for authorities to sell or wind down its business in an orderly manner. In order to prevent moral hazard, there would need to be strict conditions accompanying any such approach. These would include dilution of shareholders, changes to management, haircutting of creditors and re-structuring so as to ensure that the surviving entity was viable. Such operations would also need to adhere to strict EU state aid rules.

9.

**MEMO/11/1**

Brussels, 1st January 2011

**A turning point for the European financial sector**

**Declaration by Michel Barnier on the start of three new authorities for supervision:**

"The date of 1st January 2011 marks a turning point for the European financial sector.

Today, three new European Authorities for the supervision of financial activities – for banks, markets and insurances and pensions respectively - start their work a few days after the launch of the European Systemic Risk Board.

The crisis highlighted only too clearly the limits and sometimes the failings of our supervision system in Europe. The accumulation of excessive risk was not detected. Surveillance and supervision were not effective in time. When transnational financial institutions faced problems, the coordination between national authorities was far from optimal, and this even though these institutions are more and more numerous.

Europe is learning the lessons from the crisis and that is why today, it is giving itself a new apparatus of surveillance and supervision. To detect problems early and to act in time – in a coordinated and efficient way. This new structure are the control tower and the radar screens that the financial sector needs,

The European Systemic Risk Board will monitor the entire financial sector, to identify potential problems which could contribute to a crisis in the future.

It will work in close cooperation with the new European Supervisory Authorities. These will not replace national authorities and our objective is not to transfer the control of financial institutions to the EU. Our aim is to create a network of authorities, where the national authorities are responsible for the daily surveillance, and the European authorities – using the expertise of the national authorities and working hand in hand with them – are responsible for coordination, monitoring and if need be arbitration between national authorities, and will contribute to the harmonisation of technical rules applicable to financial institutions.

With this new framework of financial supervision in Europe in place, we are putting into effect in practical terms the lessons learnt from the crisis. This framework is at the heart of the ongoing financial reforms. It is the foundation on which all other reforms are based – for example those for credit rating agencies, hedge funds, derivatives, stress tests etc. Together, these measures will enhance consumer protection. And they will contribute to ensuring the taxpayer is not again the first in line to bear the costs of a crisis.

This move forward also demonstrates that Europe is leading the way and upholding its international commitments. These new authorities will work with others across the world to ensure better global supervision.

I wish these new authorities a successful future and the European Commission commits itself to help them achieve their objectives".

### **A sajtóbejelentések elérhetőek:**

[http://europa.eu.int/rapid/searchResultAction.do?search=OK&query=markt&use\\_rname=PROF&advanced=0&guiLanguage=en](http://europa.eu.int/rapid/searchResultAction.do?search=OK&query=markt&use_rname=PROF&advanced=0&guiLanguage=en)

## **Konzultációk**

### **1. Public consultation on possible measures to strengthen bank capital requirements for counterparty credit risk**

**Period of consultation:**

From 09.02.2011 to **09.03.2011**

**Objective of the consultation:**

To gather stakeholders' views on further possible changes to the Capital Requirements Directive in the area of counterparty credit risk. Two issues are subject to this consultation:

- capitalisation of banks exposures to central counterparties and
- the treatment of incurred credit valuation adjustments.

### **2. Consultation on the Study on interest rate restrictions**

**Period of consultation:**

From 25.1.2011 to **22.3.2011**

**Objective of the consultation:**

The purpose of this consultation is to collect stakeholders' reactions to the findings of a broad study on interest rate restrictions in the European Union. The study explores the economic, financial, social and consumer protection implications of the imposition of interest rate restrictions. It had been announced in the 2007 White Paper on the integration of EU mortgage markets.

### **3. Consultation on central securities depositories (CSDs) and on the harmonisation of certain aspects of securities settlement in the European Union**

**Period of consultation:**

From 13.01.2011 to **01.03.2011**

**Objective of the consultation:**

**Common regulatory framework for CSDs.**

CSDs in the European Union should operate under a common regulatory framework that ensures the robustness of their operation. Such a framework should include common definitions of CSD services, common rules on authorisation on ongoing supervision of CSDs, high prudential standards for CSDs and rules on access and interoperability. The Consultation seeks stakeholders' comments on the proper design of such a common regulatory structure.

**Harmonisation of key aspects of securities settlement.**

The consultation also asks what measures could be taken to address concerns relating to the well-functioning of securities settlement. It seeks stakeholders' input on how to improve settlement discipline, i.e. that a transaction actually settles on the intended settlement. This question is linked to the Proposal for a short selling regulation adopted by the Commission of 15 September 2010 which already foresees specific measures arising from patterns that factor

in late settlement into a trading strategy. Another important aspect of the consultation concerns the harmonisation of settlement periods, i.e. the time between the conclusion of a transaction and settlement. Currently, European securities markets do not follow a common settlement period (e.g. for equities, regulated markets either settle two days or three days after trade (T+2 or T+3).

**A konzultációk elérhetőek:**

[http://ec.europa.eu/internal\\_market/consultations/index\\_en.htm](http://ec.europa.eu/internal_market/consultations/index_en.htm)