



To the members of the  
European Federation of Building Societies

Brussels, 16 July 2013

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Dear members,

**Proposal for a regulation 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 and a Single Bank Resolution Fund**

The European Commission has published on 10 July 2013 a proposal for a regulation 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 and a Single Bank Resolution Fund.

Therefore, the Single Resolution Mechanism would consist of a resolution authority and a resolution fund. The legal basis would be art. 114 TFEU.

The resolution mechanism would be decisive for all banks established within one of the member states who participate in the Single Supervisory Mechanism. This comprises states of the eurozone and further participating EU member states. Thus, also Bausparkassen would be affected.

**1. Resolution Authority**

**a. Organisation and tasks**

The resolution authority would be presided by a single resolution board. It would be composed of the Executive director and the Deputy Executive director (both appointed by the EU Council and approved by the European Parliament) and of representatives of the European Commission, the ECB and the national resolution authorities of the participating member states. The board would take decisions by simple majority in the process of preparation and execution of the resolution decision of the European Commission. Concerning groups with cross border activities the member state in which the group level resolution authority is located should have a full vote. In contrary, the member states in which only subsidiaries are situated should only have a fraction of the vote. As a result the member states in which the subsidiaries are located would have altogether one full vote.

When subsidiaries of groups are situated in a non participating member state the board would be assigned to coordinate with them the process of resolution. When subsidiaries are in third countries the board would be able to negotiate with the authorities of the third countries a non binding agreement on the cooperation for a resolution.

**b. Resolution plan**

The resolution authority would draft according to article 7 of the proposal for a regulation a resolution plan for credit institutions which are situated in a participating member state. The national resolution authorities would deliver the necessary information to the EU resolution authority. The resolution plan would be reviewed at least yearly (article 7 (9)). According to article 9 (1) the commission proposal already provides for the opportunity of the board or upon initiative of the national resolution authorities to apply simplified obligations during the draft of the resolution plan or to even waive from the obligation to write a plan. There should be of relevance: the impact of a

failure of the credit institution on the financial system, its size, the type of business activity and the interconnectedness to other credit institutions (article 9 (3)).

### **c. Procedure of resolution**

Once the ECB as the supervisory authority determines that a bank is likely to fail it should give notice to the board (as well as the European Commission and the relevant national authorities and ministries). The board would in the follow-up test if a bank represents a systemic risk and if a funding by the private sector is excluded. If so it would prepare the resolution of the bank. It would be assisted by the national resolution authorities (also through staff). The board would present a prepared resolution for decision to the European Commission. The latter would be entitled to take the final decision on the resolution. The board would then be assigned with the execution of the resolution decision. Yet, the actual resolution will be operated by the national resolution authority whereas the board would only monitor. If one of the national resolution authorities opposes to the instructions of the board the latter would be entitled to give direct executing orders to the bank in resolution.

## **2. Resolution fund**

### **a. Organisation and tasks**

The board would also control the EU resolution fund. The financial means of the fund would secure the further operating of a bank (either in its original form, through a bridge bank or as an asset management vehicle) while it is being restructured. As also foreseen in the proposal for a directive establishing a framework for the recovery and resolution of credit institutions and investment firms, shareholders and private investors would primarily step in and cover the losses. The resolution fund should raise over the period of 10 years a sum equal to 1 % of all deposits of all banks of the participating member states. The European Commission counts on a sum of 55 bn. EUR. The EU resolution fund would exist alongside of the national resolution funds until it disposes of sufficient financial means. Then, it should replace the national resolution funds. Until then it would be entitled to request additional contributions from the banking sector or would be able to refinance itself on the capital market.

In addition, it would be able to grant loans to national deposit guarantee funds when the latter do not dispose of sufficient financial means (art. 74 (4)).

### **b. Financing of the resolution fund**

The resolution fund would be financed through ex-ante contributions of the banking sector. The size of the contributions would be adapted to the relevant banking and business models. The contributions would be calculated according to the proposal for a directive establishing a framework for the recovery and resolution of credit institutions and investment firms in the following way: pro-rata to the amount of its liabilities (excluding own funds and deposits guaranteed under Directive 94/19/EC) with respect to the total liabilities (, excluding own funds and deposits guaranteed under Directive 94/19/EC,) of all the institutions authorised in the territory of the Member State. Further, the contributions would respect the risk of the business activity of a bank. In order to prevent disadvantages for “healthy institutions” it would provide for protective mechanisms such as waivers from the obligation to contribute ex post. Ex-post contributions would be required when the basis of calculation of a bank has grown or the resolution fund has already paid out. In case disbursements would reach half of the target size of the fund it would be incumbent to all banks to save up an amount which is equal to a quarter of all covered deposits of the banks of all participating member states. A member state would be in the position to decide if the financial means of the national

resolution fund are used for the financing of the EU resolution fund. In consequence the banks could be exempted from the obligation to pay ex ante contributions to the EU resolution fund.

### **3. Time of application**

The mechanism would apply simultaneously with the directive establishing a framework for the recovery and resolution of credit institutions and investment firms from 1 January 2015 onwards.

We enclose the proposal for a regulation. We would be grateful if you would send your comments, remarks and views on the proposal to the EFBS office by **30 August 2013**.

If you have further questions, please contact us at any time.

Yours sincerely,



Andreas J. Zehnder  
Managing Director  
European Federation of Building Societies

### **Annex**

- Proposal for a regulation 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 and a Single Bank Resolution Fund