



European Commission  
Internal Market and Services DG,  
Unit H.1 – Banks and Financial Conglomerates  
[MARKT-HLEG@ec.europa.eu](mailto:MARKT-HLEG@ec.europa.eu)  
B-1049 Bruxelles

MINISTER FOR BUSINESS AND  
GROWTH

## **Danish response to the European Commission's Consultation on the recommendations of the High-level Expert Group on reforming the structure of the EU banking sector**

MINISTRY OF BUSINESS AND  
GROWTH  
Slotsholmsgade 10-12  
DK-1216 Copenhagen K

### **General remarks**

Denmark welcomes the analysis made by the High-level Expert Group and would like to thank the European Commission for the opportunity to comment on its report.

Tel. +45 33 92 33 50  
Fax +45 33 12 37 78  
CVR no. 10 09 24 85  
evm@evm.dk  
www.evm.dk

In our view high priority should be given to finalize the negotiations on CRD IV, Banking Union, Banking Recovery and Resolution Directive, Deposit Guarantee Scheme Directive and the revision of MiFID.

### **The structure and business areas of banks**

The proposal of the High-level Expert Group as to mandatory legal separation of proprietary trading and other significant trading activities should be further reflected upon. However, there is a need for more in depth analysis of the possible effects, before concrete initiatives are proposed.

Denmark acknowledges that a substantial amount of trading activities increases the risk of losses in a crisis situation. The Danish experience from the financial crisis shows that not only trading activities could potentially increase the risk of loss. Credit risk is still considered to be the primary trigger of losses.

### **The link to Banking Recovery and Resolution Directive**

The second recommendation from the High-level Expert Group is to emphasise the need for banks to draw up and maintain effective and realistic recovery and resolution plans as proposed in the Commission's Bank Recovery and Resolution Directive (BRR).

The High-level Expert Group finds that the resolution authority should request wider separation than considered mandatory above, if this is deemed necessary to ensure resolvability and operational continuity of critical functions.

In that regard Denmark agrees that effective and credible recovery and resolution plans (RRP) may include separation and that the scope of the separation in relation to a RRP might be wider than the proposed scope for mandatory separation.

The High-level Expert Group supports the BRR provision where the EBA is to play an important role in ensuring that RRP and the integral resolvability assessments are applied uniformly across Member States and that EBA is responsible for setting harmonized standards for the assessment of the systemic impact of RRP; as well as the issues to be examined in order to assess the resolvability of a bank and the trigger elements that would cause a rejection of the plans.

We support that EBA plays an important role in relation to the BRR in general and the use of RRP specifically.

Furthermore the High-level Expert Group strongly supports the use of designated bail-in instruments within the scope of the BRR as it improves the loss-absorbency capacity of a bank. The power to write down claims of unsecured creditors or convert debt claims to equity in a bank resolution process is crucial to ensure investor involvement in covering the cost of recapitalization and potential compensation of depositors. It also reduces the implicit subsidy inherent in debt financing. This additionally improves the incentives of creditors to monitor the credit risk of the bank.

Denmark overall strongly supports the BRR proposal and especially the introduction of the bail-in tool in the proposal. Denmark furthermore supports that the bail-in power is statutory and that it covers a broad scope of unsecured liabilities and that the creditor hierarchy in resolution is as close as possible to the creditor hierarchy in insolvency procedures. The “no creditor worse off principle” should apply.

The High-level Expert Group finds that banks should build up a sufficiently large layer of “bail-in-able” debt that should be clearly defined so that its position within the hierarchy of debt commitments in a bank’s balance sheet is clear and investors understand the eventual treatment in case of resolution. The High-level Expert Group finds that such debt (or an equivalent amount of equity) would increase overall loss absorptive capacity, decrease risk-taking incentives, and improve transparency and pricing of risk.

If designated bail-in instruments should be used, Denmark finds that these instruments should be considered a first step in a resolution plan before a possible statutory bail-in tool is used.

#### **Loan-to-Value (LTV) and Loan-to-Income (LTI)**

In the Danish national legislation the LTV-requirements are higher than recommended by the High-level Expert Group. Since the real estate mar-

kets and regulation is very different across member states, there is a need for some flexibility in this regard.

Regarding the LTI-requirements, we find that this concept is too narrow to measure the creditworthiness of customers, for example capital management, asset composition, real estate value and customer behaviour. Generally banks make an assessment of individual customers based on a number of criteria and subject to supervision and LTI-requirements would be a simplified approach in comparison. Therefore, Denmark does not agree on the LTI approach as outlined in the report.