

CALL FOR EVIDENCE FOR AN INITIATIVE (without an impact assessment)

TITLE OF THE INITIATIVE	State aid rules for banks in difficulty – revision of the rules for banks in difficulty
LEAD DG – RESPONSIBLE UNIT	COMP/D3 [State aid Financial Institutions]
LIKELY TYPE OF INITIATIVE	Commission communication
INDICATIVE TIMING	Q2-2027
ADDITIONAL INFORMATION	State aid rules for banks in difficulty

A. Political context, problem definition and subsidiarity check

Political context

Under the Treaty on the Functioning of the European Union (TFEU), Member States must notify the European Commission of any plans to grant State aid to banks in difficulty and await Commission approval before putting the aid into effect. The Commission may adopt guidelines setting out how it intends to assess the compatibility of State aid in specific circumstances or sectors. State aid rules for banks in difficulty were introduced by the Commission during the 2008 global financial crisis and were last revised in the 2013 Banking Communication. A total of six communications are currently in force¹. These rules apply *mutatis mutandis* to insurance companies.

Since 2013, the EU has adopted legislation to manage banking crises, preserve financial stability and protect depositors and taxpayers. This set of rules, known as the Crisis Management and Deposit Insurance (CMDI) framework², features bank resolution as a primary tool for tackling banking failures. On 25 June 2025, the EU legislators reached a political agreement on a recent reform of the CMDI framework focusing on smaller and medium-sized banks, which is expected to apply from the second quarter of 2028. While serious disturbances remain possible, as the recent COVID-19 pandemic has shown, the macroeconomic conditions stemming from the global financial crisis of 2008 and the EU sovereign debt crisis, which justified the introduction of State aid rules, have substantially evolved and both crises have by now ended.

The 2013 Banking Communication provided for the evaluation and review of the rules to take account of any regulatory or market changes. Such an evaluation was also requested by the EU co-legislators³ and the European Court of Auditors⁴. The Commission therefore evaluated the State aid rules for banks in difficulty applicable between 2008 and 2022. The evaluation identified areas where improvements could be made. Stakeholders who responded to the evaluation widely supported a single communication with clear links to the CMDI framework.

Following the political agreement on the revised CMDI framework (which subject to approval is expected to be published in the Official Journal in the second quarter of 2026), State aid rules should be updated in a timely manner to ensure a holistic approach to bank crisis management in the EU. The reviewed State aid rules could be adopted before all the parts of the revised CMDI framework become applicable.

¹ The [2008 Banking Communication \(repealed\)](#), the [2009 Recapitalisation Communication](#), the [2009 Impaired Assets Communication](#), the [2009 Restructuring Communication](#), the [2010 Prolongation Communication](#), the [2011 Prolongation Communication](#), and the [2013 Banking Communication](#).

² The CMDI framework consists of three EU legislative texts (the Bank Recovery and Resolution Directive (BRRD), the Single Resolution Mechanism Regulation (SRMR), and the Deposit Guarantee Schemes Directive (DGSD)).

³ See the [Eurogroup statement 2022 on the future of the Banking Union](#) and the [2022](#) and [2023](#) European Parliament Reports on the Banking Union.

⁴ [Special report: EU state aid for banks](#).

Problem the initiative aims to tackle

The evaluation report suggests that the rules could be made clearer and more coherent with other EU policies and legislation, notably with the CMDI framework.

State aid rules for banks in difficulty are scattered across six different communications adopted in response to the financial and sovereign debt crises in the EU. This piecemeal approach is no longer justified as it reduces the clarity and efficient application of the rules.

The rules are based solely on Article 107(3)(b) of the TFEU, which exceptionally considers State aid compatible with the Treaty if it remedies a serious disturbance in the economy of a Member State. Risks remain, but the specific financial crisis that underpinned the introduction of the State aid rules for banks has abated. The CMDI framework recognises and permits State aid to banks in difficulty in certain circumstances outside of periods of serious disturbance to the economy. The legal basis of the current State aid rules for banks in difficulty is therefore too narrow.

The current State aid rules for banks in difficulty which precede the CMDI framework do not take into account the CMDI framework adopted in 2014 shortly after the last review of those rules and limiting recourse to State aid to addressing bank crises (albeit without precluding it entirely). The two sets of rules (State aid rules and CMDI framework) are differently structured, use different terminology and therefore lack certain coherence. This makes the application of State aid rules for banks in difficulty unnecessarily complex, as it may not be immediately clear to institutions, Member States and authorities which compatibility requirements apply to specific CMDI interventions that could involve State aid. This in turn could lead to unnecessary delays when dealing with bank crises.

Furthermore, the current State aid rules for banks in difficulty do not reflect the updated EU institutional and regulatory structure. The CMDI framework created the Single Resolution Mechanism for the Banking Union and introduced a division of roles and responsibilities in the regulatory environment that should be taken into account when assessing State aid control in the banking sector.

The CMDI framework permits State aid to preserve or restore the viability, liquidity or solvency of banks (extraordinary public financial support) in exceptional circumstances outside of resolution (to prevent the failure of a bank), to support resolution funding and to facilitate market exit. However, the current State aid rules for banks in difficulty do not sufficiently reflect the political preference enshrined in the CMDI framework to address bank failures using harmonised EU legislation and governance that relies primarily on banks' shareholders' and creditors' loss absorption capacity and industry funding instead of taxpayer funding.

Any misalignment of the State aid rules for banks in difficulty with the CMDI framework may result in incoherent outcomes, for example regarding the confirmation of public interest that allows a bank to be resolved under the CMDI framework, or the levels of burden sharing. This creates a risk of regulatory arbitrage to the detriment of the CMDI framework and the achievement of the Banking Union objectives.

Finally, the two frameworks share some similar requirements with the same objective, such as the requirement for a return to viability after certain interventions, or the requirement for open and transparent marketing procedures when selling a bank. These and similar duplications may increase the administrative burden.

The targeted consultation launched with this call for evidence may identify additional issues that need to be addressed in the revised State aid rules for banks in difficulty.

Basis for EU action (legal basis and subsidiarity check)

Legal basis

Articles 107 and 108 TFEU constitute the legal basis for State aid rules. Article 107(3) lit (b) and (c) TFEU exceptionally allow aid 'to remedy a serious disturbance in the economy of a Member State' (lit (b)) or 'for the development of certain economic activities' (lit (c)) to be considered to be compatible with the internal market. The initiative falls within an area where the EU has exclusive powers under Article 3(1)(b) TFEU. Therefore, the subsidiarity principle does not apply.

Practical need for EU action

Banks perform essential intermediation and maturity transformation functions, which carry specific risks not comparable with those of non-financial undertakings. Banks also play a crucial role in funding across almost all sectors of the economy. Their continued capacity to finance a competitive EU economy – including small and medium-sized enterprises (SMEs), infrastructure, innovation, defence, as well as to support the green, digital and social transitions, among other policy priorities – is therefore crucial. State aid rules for banks, as distinct from the Rescue and Restructuring Guidelines for non-financial undertakings, therefore remain justified.

Case processing based on the general principles of the Treaty would mean losing the achievements of the State aid rules for banks in difficulty (harmonisation, effectiveness, efficiency, etc.), which were confirmed by the evaluation, and the know-how and experience gained by the Commission, Member States, relevant authorities and financial institutions.

EU action is needed to better align the State aid rules for banks in difficulty with a changed economic and regulatory environment. Consolidation into a single communication, clarifications of scope, the mapping of compatibility conditions onto CMDI aid scenarios, and the avoidance of duplicated requirements should facilitate the use of these rules.

As the Commission is responsible for State aid control under the Treaties, it is for the Commission to clarify its approach to State aid rules for banks in difficulty.

The CMDI framework, recognises and permits State aid in certain exceptional and exhaustively listed scenarios. Those scenarios may vary in terms of their impact on competition, and compatibility conditions may differ. A full understanding of the compatibility conditions that apply to each CMDI aid scenario requires the adoption of complementary State aid rules for banks in difficulty. Besides the CMDI aid scenarios, no other aid scenarios are permitted for undertakings in the scope of the CMDI framework.

B. What does the initiative aim to achieve and how

Taking into account the evaluation results, the responses to this call for evidence and the targeted consultation of interested stakeholders, the review aims to achieve the following objectives.

The evaluation of the State aid rules for banks in difficulty has shown that the stakeholders consulted would benefit from clearer rules. The consolidation of the six currently applicable communications into a single communication will make the rules simpler and more efficient.

State aid rules for banks in difficulty should be anchored in an additional legal basis that is unrelated to serious disturbances in the economy, i.e. in normal times outside of crises, the rules should be based primarily on Article 107(3)(c) of the TFEU (aid to facilitate the development of certain economic activities).

The evaluation has also shown that coherence with the CMDI framework should be improved. Bringing the substance of the rules into line with the objectives and preferences of the CMDI framework will ensure that incentives are consistent between the two frameworks and that the scope of resolution aid is aligned with the objective of the revised CMDI framework. Where possible, bank failures justifying public support should be tackled in resolution procedures. National solutions to address bank failures involving public support should become the exception, with State aid rules for banks in difficulty not incentivising their use.

The review will take into account the outcome of the 2025 review of the CMDI framework and will ensure that the revised rules are coherent, to the extent possible within the Commission's powers under the Treaty to minimise distortions of competition. The outcome of the public interest assessment conducted by resolution authorities under the CMDI framework should inform the Commission's assessment of whether State aid is justified by an objective of common interest. Burden-sharing requirements for banks in winding-up procedures should be at least as strict as those imposed during resolution.

Additional requirements may be imposed by State aid rules for banks in difficulty in cases where the CMDI framework pursues other objectives, e.g. to address competition distortions, or for undertakings that do not fall under the CMDI framework. Otherwise, State aid principles and objectives that are sufficiently addressed in the CMDI framework should no longer need to be duplicated in the new State aid rules for banks in difficulty. The revised CMDI framework, on which political agreement has been reached, has brought greater legal certainty from a competition perspective for some of the State aid options, on which State aid control may rely.

Clearer linkage of State aid rules for banks in difficulty to the different aid scenarios permitted by the CMDI framework would enable those applying these rules in practice to better understand the relevant compatibility requirements for the aid.

Likely impacts

The revision should make the use of State aid rules for banks in difficulty clearer, in particular as regards their form and structure, their scope and their links to the CMDI framework. This may accelerate State aid notification proceedings by Member States for the exceptional cases in which they may remain necessary. It will also make it easier for competitors and taxpayers to understand the rules, thereby enhancing transparency.

Achieving coherence with the CMDI framework will limit the use of national State aid solutions funded using taxpayers' money. This will limit taxpayers' exposure.

In principle, resolution proceedings should be the preferred option in cases where there is a public interest that justifies State aid to handle a bank's failure. Exposure to burden sharing in State aid rules should not be lighter than in counterfactual resolution proceedings. As a result, cases of wind-up aid (so far referred to as liquidation aid) should become rarer. In the few cases in which such aid is granted, the scope of shareholders and creditors

subject to burden sharing should go beyond subordinated creditors.

Ensuring that priority is given to resolution for failed banks in need of State aid supports the achievement of the global reform objectives set out in the aftermath of the global financial crisis; namely, tackling bank failures in an orderly way by using resolution tools and powers, and dissolving the sovereign bank nexus by using industry-funded safety nets instead of taxpayers' money. This reduces moral hazard and alleviates the public debt burden. In the Banking Union, the mutualised Single Resolution Fund ensures an additional disconnect from the public finances and the banking sector of the home Member State of the bank in difficulty.

Reducing taxpayer spending on banking crises will better preserve public finances which may then be used instead in pursuit of Sustainable Development Goals and EU policy priorities. Where State aid for banks in difficulty from the State budget remains necessary, the evaluation has shown that State aid rules for banks in difficulty managed to preserve financial stability and could prevent larger shocks to the real economy, thereby having a positive impact on economic growth, on 'no poverty' and on other Sustainable Development Goals that partly rely on bank funding, such as health or innovation and infrastructure.

Future monitoring

State aid implemented based on the State aid rules for banks in difficulty is transparent, as the public is informed by means of press releases and decisions are published. This ensures that competitors and taxpayers have access to relevant information about State aid and supported activities. In addition, transparency registers are publicly available at national level and at EU level (Scoreboard).

C. Better regulation

Impact assessment

An impact assessment is not necessary to support the preparation of this initiative, in line with better regulation rules, given the limited policy choices available. This is due to the changes arising directly from the evaluation conclusions, which draw attention to the need for State aid rules to be merged into a single communication, with clear links to CMDI and a coherent framework that avoids regulatory arbitrage. The revised State aid rules will therefore be aligned with the CMDI framework requirements, for which a full impact assessment has been done.

Consultation strategy

The aim of the consultations is to collect any further insights after the publication of the State aid evaluation and the revised CMDI framework into the potential scope and substance of future State aid rules for banks.

As the alignments are expected to remain technical, the main stakeholders are informed parties in Member States and their authorities (including ministries, resolution authorities, competent authorities and designated authorities for deposit guarantee schemes), the Single Resolution Board and the European Central Bank. The interested public will also be involved in the consultation process.

The following consultations will take place:

1. a four-week consultation to provide feedback on this call for evidence;
2. a targeted consultation and meeting with most relevant stakeholders including Member States, the Single Resolution Board and the European Central Bank;
3. an eight-week public consultation of interested stakeholders on the draft revised State aid communication.

The consultations will be promoted by the press release accompanying its launch. Targeted stakeholders will also be approached on a bilateral basis. A synopsis report summarising the consultation results will be drawn up.

In line with the European Commission's better regulation policy to develop initiatives informed by the best available knowledge, the consultation strategy of the Commission also invites scientific researchers, as well as academic organisations, learned societies, and scientific associations with expertise in State aid for banks in difficulty and other financial sector undertakings, to submit relevant published and pre-print scientific research, analyses and data. It is particularly interested in submissions that synthesise the current state of knowledge in relevant areas.