

Europe

## **Banks need fewer and simpler rules, says Dutch authority**

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The over-regulation of the banking sector is making it harder for new entrants to gain a foothold in the market, says the Netherlands' Authority for Consumers and Markets (ACM) in a report that advocates for changes to the banking system across the continent.

In a report published today, the ACM recommends reducing and simplifying the rules the Dutch Central Bank imposes on retail banks. At present, sector regulation and supervision is the same for all banks regardless of size, irrespective of the fact that the bankruptcy of a small bank is less harmful to the economy than that of a large bank.

ACM board member Henk Don says: "We are calling for more customisation in regulation and supervision. Initiatives such as credit unions have so far barely gotten off the ground because they have to meet disproportionate rules."

The recommendation is one of nine designed to improve competition in the Dutch banking sector in response to an annual report commissioned by the Ministry of Finance.

The ACM's recommendations go much further than previous years in advocating the free movement of capital within Europe, allowing foreign savings to be used to provide loans. This, it says, would require the introduction of a pan-EU guarantee for savings and the improvement of European rules designed to ensure that banks can collapse without damaging the broader economy.

On a national level, ACM suggests evaluating the licensing system for banks and making it easier for consumers to switch between providers. It also asks the government to improve the clarity on mortgage rules, as uncertainty about those rules may lead to delays in new banks entering the market, it says.

Competition in the Dutch banking sector has worsened since the financial crisis, the ACM found. The three largest banks – ABN Amro, ING and Rabobank – account for approximately 80 per cent of the market combined.

Diederik Schrijvershof at Maverick Advocaten says ACM seems to be telling the DNB to create a two-tier system for banking regulation. But this may be more complicated than it appears.

“In many ways it’s stating the obvious that more rules and regulations hinder new initiatives,” he says. “But you cannot simply abolish certain rules and regulations because you want more competition. The creation of separate regimes that ACM advocates might create even more market uncertainty.”

The ability of players to enter the banking market has been controversial since 2009, when one of the most successful new Dutch banks, DSB, went bankrupt for reasons unrelated to the crisis.

Bert Tieben, at SEO Economic Research, says the Dutch Central Bank attracted a great degree of criticism at the time for allowing the bank to operate in the first place, which led to the introduction of stricter regulation and “a lot of pressure not to allow new entrants into the banking market”.

Tieben says ACM is the first to argue that this approach poses potential risks for competition. Despite the lack of competition in the banking sector being a “well known fact”, the [central bank] has continued to describe it as “intermediate”, he says.

“It is a rare feat to see one authority criticising a colleague authority,” says Tieben, who adds that is surprised by the strength of ACM’s recommendations in general.

“Generally this periodic monitoring of the financial sector does not formulate such clear recommendations to the Dutch government, let alone to Europe,” he says. “The recommendations concerning the European deposit guarantee system are a bit surprising. This is not really the bread and butter of ACM, and is sure to raise some eyebrows.”

Marco Slotboom, at VVGB Law, says the call to reduce regulatory burdens is somewhat unsurprising, given that the ACM’s findings were largely based on views from within the industry.

“It is always good to examine whether legislation can be simplified, but it is not for nothing that regulations have become rather complicated and burdensome in the retail banking industry in particular after the financial crisis,” he says. “The same applies to the recommendation relating to uncertainty with regard to future changes of rules on mortgages. It involves difficult economic and even rather politically sensitive issues which need to be resolved before decisions can be taken and uncertainty removed.”

While the Dutch government may decide to follow ACM’s recommendations, says Slotboom, their application at a wider European level is a more unlikely proposition.

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