EBF-Banking Committee for European Social Affairs’ answer to the
Commission’s public consultation on:
“Restructuring and anticipation of change: what lessons learned from recent experience?”

Launched in 1960, the European Banking Federation (EBF) is the voice of the European banking sector from the European Union and European Free Trade Association countries. The EBF represents the interests of almost 5000 banks, large and small, wholesale and retail, local and cross-border financial institutions. Together, these banks account for over 80% of the total assets and deposits and some 80% of all bank loans in the EU only. Within the EBF a dedicated Committee on European Social affairs (EBF-BCESA) has been set up. The Banking Committee for European Social Affairs (the Committee) is the unique body in charge of the industrial relations linked to the EU treaty and related to the European business banks. Its activities are based on the statutes approved on 20 September 2004. According to its statutes, the EBF-BCESA formulates the general labour market policy in the European banking industry, responds to hearings from the European Commission, participates in the social dialogue with the Commission and European employees' organisations when necessary, maintains contact with other European employers' organisations, and in general, follows all business related to this policy.

Commission questions:

1 & 2. Are the policy measures and practices outlined above in relation to restructuring, with special reference to short-time working schemes during the crisis appropriate? In what specific contexts?

In Germany state subsidies have proved very effective help in to mitigate detrimental effects of the crisis on liquidity of employers. As a result it was possible for them to continue to employ people who were affected. This prevents unemployment on the employee side as well as loss of relevant expertise for the enterprises.

3. Are they able to cope with persistently weak demand?

They are able to cope with persistently weak demand if it is a situation that does not require a new market strategy or product portfolio on the employer side. The short time working schemes are most effective in the situation where products, skills of the employee and, or, services of the enterprise still have a market and the corresponding demand from customers.

4. Finally, what can Member States, the Commission or the social partners do to exchange, disseminate and encourage wider application of the best practices in this domain?
The Commission could hold a conference where the systems of the different Member States are explained, and where enterprises of these Member States from different sectors (i.e. products, services) present their reactions. National social partners could be invited to participate and introduce respective sectoral national agreements and explain the role that social partners play. Moreover, sectoral social partners on the European Level can inform each other about relevant sectoral practices in the Member States and possibly assess whether sector specific frameworks can be derived from these national experiences.

5. What types of framework conditions are most appropriate in order to enable successful industrial adjustment?

Most important next to functioning labour markets as well as sectoral and geographical mobility is the concept of flexicurity which could show its strength by facilitating mobility through measures of Lifelong learning and skills’ enhancement. Lesser burdens in the dismissal of employees while at the same time providing social security during the transition period between jobs. The challenges will be best met if all systems are ready to change the policy from securing the job to securing a job. In addition to lesser burdens, Member States should be encouraged to create further incentives for companies to maintain and enhance employee’s employability. For instance, tax incentives for skills’ enhancement or for providing outplacement in connection with dismissals.

6. What existing measures on access to finance to accompany structural adjustment constitute good practice?

Member States must ensure appropriate access to the different kinds of enterprise finances. In particular, especially, but not limited to, adequate access to loans and credit services, functioning capital market to allow the placement of enterprises bonds, as well as access to different forms of equity be it shares, mezzanine capital, and the like.

7. What further measures need to be taken to improve bankruptcy proceedings?

In bankruptcy proceedings, the priority should be on restructuring, instead of closing the enterprise, and disseminating its assets. Focus should be put on public programmes to ensure skills’ enhancement and preparation of workers risking job loss for other types of employment.

8. Is the anticipative approach feasible with regard to management of change and restructuring?

Yes, it is feasible because it allows early adjustments and correct management of change rather than being managed by change. As a result, the dissemination of practices regarding the anticipation of changes would be welcome including successful examples as a result of existing legislation. (i.e. France).
9. How can the existing orientations and guidelines on restructuring be improved in light of the lessons learned from the crisis and the new economic and social challenges?

Different sectors have reacted with different means to the crisis. Several collective agreements exist to manage and mitigate effects of restructuring. As a result, we do not see a “one size fit all” approach, let alone a one-size-fits-all solution, but favour generic developments and adjustments that are in line with the experiences and measures already taken by the different sectors.

10. How can the lessons from the crisis be disseminated and implemented?

Implementation and dissemination of such experience can best be achieved by providing a possibility to exchange such practices (i.e.: conferences with relevant stakeholders Commission, social partners, Member States, enterprises).

11. What could be done to encourage strategic long-term and innovative approaches to the management of change, including employment and skills issues, be encouraged?

Sectoral social dialogue can play an important role in identifying current practices and room for improvements for strategic long-term and innovative approaches to management of change. The Banking sector for example has common positions regarding Lifelong learning, CSR and IT Employability. Moreover, the Commission and the Member States can facilitate change by consequently promoting and implementing the flexicurity concept allowing enterprises the inevitable adjustment in the work force and skills while at the same time promoting employability of employees.

12. How can synergy be improved between companies, local authorities and other local actors?

Enterprises depend on highly skilled consultants within the respective social security system in order to have access to specific and appropriate support programmes established at EU and Member State level. In particular, access to the ESF should be facilitated and measures taken to promote awareness of this support.

13. How should specific responsibilities and roles be distributed among companies, social partners and public authorities in this field?

From an enterprise point of view, it is vital to have a “one shop process”, since the necessity to approach different actors prevents not only fast help in a critical situation but also leads to less than optimal combination of programmes at different levels. As a result, national social security authorities should provide a special squad of consultants that enterprises can turn to in order to use applicable programmes every from level (local, national, EU).

14. How can effective practices for anticipating employment and skills needs within
companies be further encouraged? See above

15. How can training be developed as a permanent feature of human resources management?

Generally, enterprises already have training programmes and Human Resources measures in place, to ensure the adequate professional developments of employees, qualified and willing to participate. Further developments will be influenced by adequate measures taken, and methodology for anticipating change. The promotion of which can be best achieved by exchange of practices through conferences and the like.

16. How can synergy between action taken by companies and public sector initiatives be promoted to facilitate appropriate employment and skills policies?

Synergy can be best achieved by using consultants provided by national social security organisations, because they can guarantee a permanent link between enterprises and employees’ needs on the one hand, and public employment agency skills’ initiatives on the other hand.

17. How can companies and their workforces be encouraged to engage in early and adequate preparation of restructuring processes favoring acceptance of change? What best practices exist in this field?

An adequate concept of flexicurity leads to the necessary mind set of both employers and employees. The change of skills and jobs is a normal and common situation. Both parties of the employment relationship have to cope with this, and face its effects. As a result, adequate lifelong learning policies together with skills development programmes, and public sector social security funding during the transitional period between employments, are of utmost importance to favour acceptance of change.

18. To what extent can mutual trust and shared diagnosis play a role in good management of restructuring? How can this be promoted within companies and in broader contexts?

Many programmes are in places in various enterprises. The social partners in the banking sector have issued a common declaration on Lifelong learning, on IT employability as well as some employment aspects of CSR.

19. What can companies and employees do to minimise the employment and social impact of restructuring operations? What role can public policies play in facilitating these changes?

See above
20. What can companies, local authorities and all the other stakeholders usefully do to minimise the regional impacts of restructuring?

A key concept is the promotion of sectoral and geographical mobility of employees. Together with a culture of flexicurity and Lifelong learning, employability can be kept at high-level. The promotion of job creation in areas relevant for future society and providing services in local market will become a high priority. This includes elderly care, families, services etc. Also the concept of temporary agency work can mitigate the regional impact of restructuring.

21. How can companies affected as a result of the restructuring of another company be supported in their own adjustment process?

Widely implemented, the concept of flexicurity facilitates change of job, and it will best promote long-term employment opportunities and therefore also the basis for personal development of employees even if they are in different jobs in different companies or SMEs.

22. In particular, how can SMEs be better informed and assisted in the restructuring process?

N/A

23. What role can evaluation and reporting of past restructuring operations play in increasing knowledge and improving stakeholders’ practices?

Reporting of past related restructuring operations can provide a relevant base for assessment of the success of measures taken. Furthermore, the chairing among stakeholders could improve future reactions and measures.

24. What role social dialogue could play in better disseminating and encouraging best practices for the anticipation and management of restructuring?

The sectoral social dialogue plays a role in disseminating past practices and intensifying successful management of change. It can function as a platform and network to analyse sector specific situation and the measures taken, including the short term and long term effects on skills. The analysis could provide ideas and knowledge to enterprises currently facing a situation of change and allow continuing improvement of the process. In 2003, The EU social partners issued guidelines for employers and employees on restructuring under the title “orientation for reference in managing change and its social consequences”. This document should not be circumvented by a legislative proposal since it is the result of many rounds of social partners’ negotiations.
25. While fully taking into account the huge differences between Member States in this regard, the Commission would like to hear the views of stakeholders (in particular national authorities and social partners’ organisations) on whether some aspects of the employment protection systems need to be reviewed in the light of this intended transition towards anticipation and proactive protection of employment.

The concept of flexicurity is the vital policy to ensure transition towards anticipation of change, resulting from non-proactive protection of employment. The shift away from the protection of the current job towards the direction of ensuring employability, resulting in new job opportunities, is a major tool to encourage an active anticipation and management of change. Proactive protection of employment is a concept that cannot focus on the current job performed (change is inevitable) but in the prevention of longer unemployment as a result of change.

Consequently, concepts that mitigate effects of unemployment while at the same time promoting education of the employee to secure employability are key. A strong employment protection however leads to diminished protection of an employee in a strategic way, given that such policies provide incentives to employees to withstand necessary change until the last minute. As a result, protection against dismissal in a situation of adjustment to change has to give way to instruments that ensure employability outside the current employment relationship. In some Member States the notion of communicating securities (i.e. high protection in the transitional period of job but lesser in the current employment relationship, e.g. Denmark) is a true system with incentives on the employees side to keep up employability and at the same time supplying enterprises with the measures to take action in due time if their programs for anticipation of change show a need to start a process of development.

Here the individual protection of an employment contract has to be re-thought in order to give enterprises the instruments to anticipate change.

26. How can a supporting role be encouraged for public authorities, particularly at regional level, in anticipation processes, as well as in particular restructuring events, taking into account differing national traditions regarding the involvement of public authorities in company-level processes?

As already mentioned, social security consultants can play a vital role in providing access to governments programmes at all levels (local / national / EU) to mitigate the effects of change.