

FERMA's feedback on the proposal for a regulation establishing a framework for ensuring a secure and sustainable supply of critical raw materials aka 'the Critical Raw Materials Act (the CRMA)' -

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Summary

- The Federation of European Risk Management Associations (FERMA) shares the European Commission's aim to better equip the EU with the tools to ensure our access to a secure and sustainable supply of critical raw materials. We are therefore supportive of the European Commission's policy intervention in the form of the proposed Critical Raw Materials Act ('the CRMA') on the premise it will help to fulfil that aim.
- We do, however, foresee some risks that need to be considered when progressing the proposal through political negotiations. We focus on three main issues pertaining to the supply chain of critical raw materials:
 - *Risk monitoring and mitigation*
 - *Circularity and cyber risks*
 - *Implications for insurance coverage for businesses*
- In these areas we provide four recommendations, which are:
 - Consider having a risk management representative on the European Critical Raw Materials Board (ref. Article 35 (6))
 - Integrate traceability into the text (ref. Article 25)
 - Integrate cybersecurity risk assessments as part of the process for strategic projects, for example as part of the considerations of the 'One stop shop' (ref. Article 8)
 - The co-legislators to consider the insurance implications of the CRMA—which can be facilitated by risk management representation on the Critical Raw Materials Board.

1. Risk monitoring and mitigation

FERMA is encouraged to see an entire chapter dedicated to risk monitoring and mitigation in the proposed critical raw materials act ['the CRMA'] (i.e. Chapter 4). This is a positive and formal recognition of the important role risk management plays for organisations in and around the supply of critical raw materials.

Many businesses rely on and make use of proactive risk governance models, which use enterprise risk management (ERM) to assist with the identification, analysis and assessment of risks for the organisation. Risk management provides Boards of Directors and Senior Management with the instruments needed to anticipate and manage the effects of risks.

FERMA looks to the co-legislators to consider bringing in risk management expertise as part of the European Critical Raw Materials Board. At a practical level, the text of Article 35, paragraph 6 could be amended to even include 'risk management expertise' alongside financial institutions. Risk managers help enterprises with supply chain risks related to critical raw materials. It follows that risk management expertise would bring value at EU-level.

Recommendation 1: Consider having a risk management representative on the European Critical Raw Materials Board (ref. Article 35 (6))

2. *Circularity and cyber risks*

FERMA is happy to see recycling and circularity so central to the CRMA (e.g. Article 2a iii). Furthermore, we take the view that while there are ample reasons to push more circularity, there will also be some risks associated with the transformation. Moving beyond the likelihood that in the transition there will be a risk that the new supply may not match increase in demand at least for a period (for example for batteries), there will likely be an increase in risks to enterprises recycling more than they have before. This is certainly an area in which more research is welcomed. For organisations big and small that make use of critical raw materials in some way, a crucial enabler for more circularity in the supply chains of critical raw materials would be *traceability*. At a high-level, what we mean by traceability is the ability to trace the origin and processing of the product in question. FERMA is therefore surprised to see no mention of ‘traceability’ in the proposed CRMA. It is our assessment that this is an oversight. Our recommendation is therefore to integrate traceability into the text.

Recommendation 2: integrate traceability into the text (ref. Article 25)

FERMA also raises the issue of cyber risks stemming from the CRMA proposal. We would like to see a more cyber-sensitive look at the text in the next stages of the policymaking process. According to FERMA’s initial analysis of the CRMA proposal, cybersecurity as a theme is missing. At the same time, we recognise there is a lot happening on cybersecurity separately (NIS2, DORA, the CRA, to name but a few). Nevertheless, we believe that for overall policy coherence, it would bring some value to make a deeper or more formal reference to cybersecurity in the CRMA. The extraction and processing of critical materials might be especially susceptible to cyber risks and a cyberattack that would interfere with the supply of critical raw materials would have severe consequences. As a practical solution, FERMA foresees a role for a ‘cybersecurity risk assessments’ as part of the strategic projects process.

Recommendation 3: integrate cybersecurity risk assessments as part of the process for strategic projects, for example as part of the considerations of the ‘One stop shop’ (ref. Article 8)

3. *Implications for insurance coverage for businesses*

FERMA adds a point on insurance for the consideration of policy makers. Although the proposal aims to identify risks related to supply disruption and aims to cushion its effects (Section 4), there is no clear reference to the benefits of insurance coverage. FERMA understands from its members that enterprises currently lack insurance solutions to manage supply risks. For instance, WTW found almost 90% of enterprises surveyed think insurance for supply chain risks is mission critical or that some cover is necessary; however, almost as many (80%) said a lack of insurance solutions was among the greatest challenges to addressing their risks over the next 3-5 years.¹ While no insurance coverage can cover all the possible risks for companies involved in raw materials, it is also imperative industrial operators are able to find insurance coverage, especially for complex, global projects. FERMA’s recommendation here is to monitor the effects of the critical raw materials on the insurance market and evaluate if there might be need for intervention at a later stage. Such a recommendation could be facilitated through representation of risk managers on the European Critical Raw Materials Advisory Board, for example.

¹ WTW (2023) Global Supply Chain Survey ‘2023 Global Supply Chain Risk Report’, <https://www.wtwco.com/en-vn/insights/2023/02/2023-global-supply-chain-risk-report>

Recommendation 4: the co-legislators to consider the insurance implications of the CRMA, as well as to monitor the effects of the CRMA on the ability of organisations to purchase affordable and appropriate insurance coverage for their risks. This could be facilitated by risk management representation on the Critical Raw Materials Advisory Board, for instance.

About FERMA

The Federation of European Risk Management Associations brings together 22 national risk management associations in 21 European countries. FERMA represents the interests of nearly 5000 risk and insurance managers in Europe active in a wide range of business sectors from major industrial and commercial companies to financial institutions and local government bodies. More information can be found at www.ferma.eu