Single Resolution Board

Brussels, 17 April 2018
SRB/CM/ARES(2018)2178963

Mr Sven Giegold
Member of the European Parliament
60, Rue Wiertz/ Wiertzstraat 60
B-1047 Brussels

Re: Question for written answer Z-025/2018

Dear Mr Giegold,

Thank you for your question Z-025/2018, which was transmitted to me by Mr Roberto Gualteri, Chairman of the Committee on Economic and Monetary Affairs, on 26 March 2018.

In the case of ABLV Bank, AS (ABLV Latvia) and ABLV Bank Luxembourg S.A. (ABLV Luxembourg), the decision that these banks were failing or likely to fail was made by the ECB. The determination was based on the acute liquidity pressures and lack of access to US dollar funding experienced by both banks as a result of the announcement by the US Financial Crimes Enforcement Network identifying ABLV Bank as a "foreign bank of primary money laundering concern".

In light of the abrupt wave of withdrawal of deposits experienced following the US announcement, the ECB instructed the Latvian supervisory authority, the Financial and Capital Markets Commission, to impose a moratorium on ABLV Latvia to give time to the bank to stabilise its situation. However, even under the moratorium, the bank was unable to restore its liquidity position in sufficient time leading to the ECB's failing or likely to fail decision. A moratorium was also imposed by the Luxembourgish authorities for ABLV Luxembourg.

The ECB had promptly alerted the SRB to the difficulties faced by the banks in light of the US authorities' announcement, with the SRB subsequently alerting the relevant national resolution authorities (NRAs). Close contact was maintained between the ECB, SRB, NRAs, NCAs and the European Commission over the following days and was effective throughout the period.

Once the ECB deemed both institutions to be failing or likely to fail, the SRB determined that resolution action for these two banks was not in the public interest. As a result of the SRB's decision, it is for the relevant national authorities to effect the winding up the banks under national law.

However, the case has evidenced the importance of having harmonised insolvency proceedings across the Union. Inter alia, this is necessary to align insolvency procedures with the circumstances under which an institution should be considered failing or likely to

fail (FOLTF). The FOLTF assessment, as under the EBA guidelines, required analysis of both the capital and liquidity position of a bank (inter alia), and is forward looking. National insolvency regime can vary widely and, in some cases, look exclusively at the capital position of banks.

In addition, in the meantime, it is crucial to have an advanced knowledge and understanding of the concept and procedures of 'normal insolvency proceedings' applicable in each Member State in the Banking Union in different circumstances of failure to facilitate the smooth transition into national proceedings where resolution action is not assessed to be in the public interest.

The SRB has therefore requested the NRA to elaborate on National Handbooks, first to define how to implement resolution schemes in each country, but also looking at the steps which will be taken under national law in case of a negative public interest assessment in respect of a failing institution, as in the case of ABLV. This is a very complex work, which requires the utmost cooperation by NRAs. It will anyway not be comparable to a harmonisation of national insolvency proceedings.

Yours sincerely,

[signed]

Elke König