

EXPECTATIONS FOR BANKS 2019



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ABBREVIATIONS

AMV	Asset Management Vehicle
AST	Asset Separation Tool
BAU	Business as usual
BI	Bridge Institution
BRRD	Bank Recovery and Resolution Directive
BU	Banking Union
CCP	Central Counterparty
CBL	Core Business Lines
CLS	Continuous Linked Settlement
CRD	Capital Requirements Directive
CRR	Capital Requirements Regulation
CSD	Central Securities Depository
DGS	Deposit Guarantee Scheme
DGSD	Deposit Guarantee Schemes Directive
DR	Delegated Regulation
EBA	European Banking Authority
EC	European Commission
ECB	European Central Bank
EU	European Union
FMI	Financial Market Infrastructures
FOLTF	Failing Or Likely To Fail
FSB	Financial Stability Board
GL	Guidelines

G-SII	Global Systemically Important Institution
HoldCo	Holding Company
HQLA	High-Quality Liquid Assets
IR	Implementing Regulation
IRT	Internal Resolution Team
ISDA	International Swaps and Derivatives Association
LDR	Liability Data Report
MIS	Management Information Systems
MPE	Multiple Points of Entry
MREL	Minimum Requirement for Own Funds and Eligible Liabilities
MS	Member States
NCA	National Competent Authorities
NCWO	No Creditor Worse Off
NRA	National Resolution Authority
PoE	Point of Entry
PRS	Preferred Resolution Strategy
SLA	Service Level Agreement
SoB	Sale of Business
SPE	Single Point of Entry
SRB	Single Resolution Board
SRM	Single Resolution Mechanism
SRMR	Single Resolution Mechanism Regulation
SSM	Single Supervisory Mechanism
SSS	Securities Settlement Systems
SWD	Solvent Wind Down

TSA Transitional Service agreement

WDCCI Write-Down or Conversion of Capital Instruments

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1 Introduction

The SRB is the central resolution authority within the Banking Union (BU). Together with the national resolution authorities (NRAs) of participating Member States (MS), it forms the Single Resolution Mechanism (SRM).

Its mission is to ensure an orderly resolution of failing banks with minimum impact on the real economy, the financial system, and the public finances of the participating Member States and beyond. The role of the SRB is proactive: rather than waiting for resolution cases to manage, the SRB focuses on resolution planning and enhancing resolvability, to avoid the potential negative impacts of a bank failure on the economy and financial stability.

The SRM and the SRB were established through the Single Resolution Mechanism Regulation (SRMR¹) and operate within the Single Rulebook. The Rulebook is composed of a wide set of harmonised prudential rules which institutions throughout the EU must respect, including: prudential requirements for banks (Capital Requirements Regulation, CRR², and Capital Requirements Directive, CRD³), rules on the potential failure of banks (the Bank Recovery and Resolution Directive, BRRD⁴) and a Directive on national deposit guarantee schemes (DGSD⁵), with all related level-2 and level-3 regulation. The regulatory context within which the SRB operates is evolving, with the recent adoption of revised CRR⁶, CRD⁷, BRRD⁸ and SRMR⁹, and the upcoming related level-2 acts and level-3 guidance.

1.1 ROLE OF THE SRB AND BANKS IN RESPECT OF RESOLVABILITY

1.1.1 Role of the SRB

The SRB is the resolution authority for:

- the entities¹⁰ and groups directly supervised by the European Central Bank; and
- other cross-border groups, i.e. groups that have entities established in more than one participating Member State

hereinafter referred to as “banks”.

As mentioned above, the SRB in cooperation with the national resolution authorities is mainly responsible for the resolution planning of these banks and, should they fail, their orderly resolution.

A key aspect of resolution planning is the assessment of resolvability aiming at achieving the banks' preparedness for their potential failure.

¹ Regulation (EU) No 806/2014 of 15 July 2014.

² Regulation (EU) No 575/2013 of 26 June 2013.

³ Directive 2013/36/EU of 26 June 2013.

⁴ Directive 2014/59/EU of 15 May 2014.

⁵ Directive 2014/49/EU of 16 April 2014.

⁶ Regulation (EU) 2019/876 of 20 May 2019, amending Regulation (EU) 575/2013.

⁷ Directive (EU) 2019/878 of 20 May 2019, amending Directive 2013/36/EU.

⁸ Directive (EU) 2019/879 of 20 May 2019, amending Directive 2014/59/EU.

⁹ Regulation (EU) 2019/877 of 20 May 2019, amending Regulation (EU) 806/2014.

¹⁰ For the purpose of this document, the term “entities” shall be considered as referring to entities falling within the scope of the SRMR and the term “group” means a parent undertaking and its subsidiaries that are entities falling within the scope of the SRMR.

To this end, the SRB works proactively on resolution planning and ensuring banks are resolvable.

When drafting a resolution plan, the SRB shall assess the extent to which a bank is resolvable by considering if it is feasible and credible to either wind-up (liquidate) the bank under normal insolvency proceedings or to resolve it by applying resolution tools to it while avoiding any significant adverse consequences for the financial system and the real economy¹¹.

Indeed, the SRB shall assess whether it is feasible to apply the selected resolution strategy effectively in an appropriate timeframe and shall identify potential impediments to the implementation of the strategy¹². The SRB shall also assess the credibility of the resolution strategy, taking into consideration the likely impact of resolution on the financial system and real economy of any Member State or of the Union, with a view to ensuring the continuity of critical functions carried out by the banks¹³.

In this context, the SRB has the power to instruct the national resolution authorities to require banks to take proportionate and targeted measures to remove substantive impediments¹⁴. The measures range from additional information requirements to changes to the structure to the cessation of activities¹⁵.

In the annual work programme 2019 and the multi-annual programme 2018-2020, the SRB sets out a clear roadmap to achieve resolvability, but it is banks themselves that have to operationalise requirements. In this context, banks are expected to play an active role in the process of identifying and removing impediments – this is the most efficient way to progress towards resolvability. It is the SRB's task to set the direction and to ensure it actually happens. Only where this proves unsuccessful, the SRB will use its authority to set in motion formal procedures to remove substantive impediments.

1.1.2 Role of banks in achieving resolvability

“Working together” is crucial for building resolvability.

The legal framework acknowledges the important role of banks in the context of resolution planning and crisis management. According to Art. 8 (8) SRMR, the SRB may require banks to assist it in the drawing up and updating of resolution plans.

Provision of information and reporting

The provision of information for resolution planning and crisis management is one important aspect. Banks are required to deliver information according to the SRMR, BRRD and Commission Implementing Regulations:

- According to Art. 34 (1) SRMR, the SRB may require banks to provide all of the information necessary to perform the tasks conferred on it by the SRMR. The SRB, in cooperation with the national resolution authorities, has the authority to collect from banks information for drawing up and implementing resolution plans, among others, information and analysis specified in Section B of the BRRD Annex¹⁶.

¹¹ For further details see Art. 10 (3) SRMR.

¹² Art. 26 (1) Commission Delegated Regulation (EU) 2016/1075 of 23 March 2016 (DR 2016/1075).

¹³ Art. 32 (1) DR 2016/1075.

¹⁴ Art. 10 (10) SRMR.

¹⁵ See Art. 10 (11) SRMR as well as the EBA Guidelines (GL) on the specification of measures to reduce or remove impediments to resolvability and the circumstances in which each measure may be applied under BRRD (EBA/ GL/2014/11) (EBA Guidelines on Impediments to Resolvability) for further details.

¹⁶ Pursuant to Art. 8 (4) SRMR, Art 11 (1) BRRD and Annex Section B of BRRD.

- Commission IR (EU) 2018/1624 provides for a minimum set of standard templates¹⁷ for the provision of core information by institutions to resolution authorities on a regular basis. However, this does not prevent the resolution authority from collecting any additional information it deems necessary. The SRB can ask banks to provide additional information that is either necessary for the purposes of drawing up and implementing resolution plans but not covered by any template¹⁸ or where the format in which this information is provided by the competent authority pursuant to Art. 8(2) Commission IR (EU) 2018/1624 is not suitable¹⁹.
- The SRB will closely cooperate with competent authorities²⁰ to obtain the information²¹ that is already available to these authorities. In particular recovery plans are one of the main inputs for the drawing up of resolution plans and are subject to a yearly SRB examination for assessing banks' resolvability²²; so the quality of information they contain is key and assessed as part of the yearly SRB examination.

Proposal of measures to address or remove impediments

When drafting and updating resolution plans the SRB assesses the extent to which banks are resolvable²³. The conclusion of the assessment of resolvability includes a description of any impediments to resolvability²⁴. As outlined above, banks are expected to play an active role in the process of identifying and removing impediments.

In general, in cases where banks do not meet certain expectations, this might be interpreted by the SRB as substantive impediment(s) and, therefore, may trigger the procedure of addressing substantive impediments under Art. 10 SRMR (Chapter 4).

In the case of substantive impediments, banks will receive a report from the SRB outlining those impediments and recommending measures to remove them. Within four months from the date of receipt of the report, banks shall propose possible measures to address or remove the substantive impediments identified in the report²⁵ to the SRB.

1.2 PURPOSE AND SCOPE

This document sets out the SRB's expectations for banks in the resolution planning phase, to demonstrate that they are resolvable and prepared for crisis management, i.e. the *Expectations for Banks* is a guidance on the actions banks under SRB's remit should undertake to ensure an appropriate level of resolvability.

The work on resolvability is an iterative process between the SRB and banks. The banks themselves are the first line of defence toward resolvability and they should work on making themselves resolvable.

The SRB will support and guide banks in this process in form of (i) the *Expectations for Banks*, (ii) additional operational guidances and (iii) the cooperation between the IRTs and individual banks.

The expectations in Chapter 2 describe the necessary steps and initiatives banks have to take towards being resolvable. The *Expectations for Banks* represents a common approach to ensure consistency and

¹⁷ E.g. Liability Data Report, Critical Functions Report and FMI Report.

¹⁸ See Annex 1 IR 2018/1624 for further details.

¹⁹ Art. 7 IR 2018/1624.

²⁰ Art. 11 (2) BRRD, Art. 34 SRMR.

²¹ Also see MoU between the SRB and the ECB in respect of cooperation and information exchange.

²² Art. 10(2) SRMR.

²³ Art. 10 (1) and (3) SRMR.

²⁴ Art. 22 (7) DR 2016/1075.

²⁵ Art. 10 (9) SRMR.

a level playing field within the Banking Union and, therefore, was developed for all banks under the SRB's remit. While the expectations are general in nature, their application to each bank will have to be tailored, taking into account proportionality principles based on a dialogue between each bank and its IRT. The expectations included in the following chapters are not exhaustive and do not prejudice the content of further SRB communications related to resolvability requirements for banks. In this context, IRTs may go beyond what is described in the *Expectations for Banks* by requesting additional information and analyses on specific topics throughout the respective resolution planning cycle that are relevant to progress in resolution planning and to improve the resolvability of the respective bank. Taking proportionality considerations (see 1.5) into account when applying the expectations, IRTs might also deviate from some of the expectations, provided this is considered appropriate and proportionate in light of the bank-specific characteristics.

Banks are expected to work towards resolvability having regard to the principles set out in this document as of the date of its publication.

The SRB will update the *Expectations for Banks* following advancements in policies made and changes as required. Therefore, banks are invited to take into account any additional guidance for implementing the expectations²⁶.

1.3 DEFINITION OF RESOLVABILITY

The purpose of the resolvability assessment is to enhance banks' resolvability preparedness in the case of failing or likely to fail by addressing any impediments to resolution.

The resolvability assessment is predicated on the legal framework and SRB policies operationalising the former.

Pursuant to Art. 10 (3) SRMR an entity shall be deemed to be resolvable, if it is feasible and credible to either liquidate it under normal insolvency proceedings or to resolve it by applying to it resolution tools and exercising resolution powers while avoiding, to the maximum extent possible, any significant adverse consequences for financial systems, including circumstances of broader financial instability or system-wide events, of the Member State in which the entity is situated, or other Member States, or the Union and with a view to ensuring the continuity of critical functions carried out by the entity²⁷.

This document only focusses on the resolvability of banks for which the strategy is resolution²⁸.

A strategy is feasible (i) when it is effectively applicable in an appropriate time frame, (ii) potential impediments to the implementation of the selected resolution strategy, including impediments to the short-term stabilisation of the institution or group, have been identified, and (iii) any foreseeable impediments to a business reorganisation which is required pursuant to Art. 52 BRRD or otherwise likely to be required if the resolution strategy envisages all or part of the institution or group being restored to long-term viability have been considered²⁹.

The SRB resolvability assessment focusses on seven dimensions, i.e. areas that are of particular relevance when assessing the resolvability of banks.

The *Expectations for Banks* is also structured along seven Dimensions, namely

- Governance;

²⁶ I.e. the SRB Expectations for banks in the context of Brexit: <https://srb.europa.eu/en/node/743>.

²⁷ For the resolvability assessment for groups, please refer to Art. 10 (4) SRMR.

²⁸ The present document does not cover normal insolvency proceedings which are carried out at national level.

²⁹ Pursuant to Art. 26 (1) and (2) DR 2016/1075.

- Loss absorption and recapitalisation capacity;
- Liquidity and funding in resolution;
- Operational continuity and access to FMIs;
- Information systems and data requirements;
- Communication; and
- Separability and restructuring.

These Dimensions are underpinned by Objectives, Principles and Expectations, which banks are expected to meet, in principle, to be considered resolvable.

Notwithstanding the above, the business model, structure and complexity or other areas might have to be addressed to achieve the banks' resolvability.

The Objectives (the first layer) describe a steady state and the steps banks, in principle, have to take towards resolvability. The Objectives are the following:

1) Governance

Banks have in place robust governance processes that facilitate the preparation as well as the implementation of the resolution strategy. Robust governance arrangements ensure (i) a timely and accurate provision of relevant information on a regular and ad hoc basis, (ii) effective oversight during resolution planning and in crisis and (iii) efficient decision making at the time of resolution.

2) Loss absorption and recapitalisation capacity

Banks have available sufficient loss absorption and, if applicable, recapitalisation capacity at the point of entry to absorb losses in resolution, to comply with the conditions for authorisation and to regain market confidence post-resolution, allowing, among other things, the continued performance of critical functions during and after resolution. Banks also maintain loss absorption and recapitalisation capacity at subsidiary level and set up a credible and feasible internal loss transfer and recapitalisation mechanism within resolution groups, if applicable.

3) Liquidity and funding in resolution

Banks have established processes and developed capabilities to (i) estimate the liquidity and funding needs for the implementation of the resolution strategy³⁰, (ii) measure and report the liquidity situation in resolution³¹ and (iii) identify and mobilise available collateral that can be used to obtain funding during and after resolution.

4) Operational continuity and access to FMIs

Banks have in place adequate operational arrangements to ensure the continuity of the services, and of the access to operational assets and staff that are necessary for preserving critical functions and supporting the achievement of the other resolution objectives³² upon entry into resolution and to allow post-resolution restructuring.

³⁰ Art. 10 (7) (i), 12 (3) (ii), 15 (1), 16 (1) and Section C (3) of the Annex to the BRRD.

³¹ Art. 22 SRMR.

³² Art. 14 (2) SRMR, Art. 31 (2) BRRD.

Banks have established the necessary processes and arrangements to maximise the likelihood of maintaining access, ahead of, during and after resolution, to FMIs and to payment, clearing, settlement and custody services provided by intermediaries.

5) Information systems and data requirements

Banks have in place adequate Management Information Systems (MIS)³³, valuation capabilities and technological infrastructure to provide the information necessary for (i) the development and maintenance of resolution plans³⁴, (ii) the execution of a fair, prudent and realistic valuation³⁵ and (iii) the effective application of resolution actions³⁶, also under rapidly changing conditions³⁷.

6) Communication

Banks have in place communication plans to ensure timely, robust and consistent communication to relevant stakeholders supporting the implementation of the resolution strategy and governance arrangements to ensure an effective execution of the communication plan.

7) Separability and restructuring

Banks' structure, complexity and interdependencies do not present obstacles to, and ideally support, the operational implementation of the resolution strategy.

Each Objective is further substantiated by Principles (second layer).

In order to operationalise the Principles, the document sets out the expectations banks have to meet to be resolvable (third layer) for each one.

1.4 PHASES

This section aims to shed more light on the different resolution stages banks are expected to prepare for as part of the resolution planning phase. It also provides an overview of activities covered under the resolution planning and the crisis management phases, to allow banks to develop a better understanding for what purpose the SRB expects them to develop particular capabilities.

The crisis management phase covers activities from the enhanced monitoring of ailing banks to the drafting of resolution decisions and the monitoring of their execution. It is subdivided into three phases, namely (i) the preparation for resolution, (ii) the resolution weekend and the implementation of the resolution scheme and (iii) the closing of the resolution (see subsections 1.4.2 to 1.4.4).

1.4.1 Resolution planning

Resolution planning includes the analysis of the banks' legal, financial and operational structures, the identification of critical functions and services, the analyses of the banks' capital and funding structures and the designing and operationalisation of resolution strategies including the choice of the relevant tool(s), as well as the determination of the minimum requirement for own funds and eligible liabilities that banks will be required to maintain at all times. Moreover, resolution planning includes an

³³ Annex Section C (8) (9) (10) (11) BRRD.

³⁴ Art. 11, Annex Section B BRRD; Art. 8 (4), 22 SRMR.

³⁵ Art. 27 (1) (h), 36, 46 (4) BRRD; Art. 20 (14) SRMR.

³⁶ Art. 63 (1), Annex Section C (9) BRRD.

³⁷ Art. 27, Annex Section C (9) BRRD.

assessment as to what extent banks are resolvable and prepared for the execution of the resolution strategy. It includes an identification of potential impediments to their resolvability and, where necessary, the preparation of action plans to address such impediments. Banks are expected to report any relevant information to review or update the plans as appropriate³⁸.

1.4.2 Preparation for resolution

During this phase, the SRB prepares for the adoption of the resolution scheme. Valuations are performed to (i) inform the determination of whether or not the conditions for resolution, the write-down or conversion of capital instruments are met (Valuation 1); and (ii) where the SRB determines that a bank meets the conditions for resolution, inform the decision about the implementation of resolution tools (Valuation 2).

The ability of the banks' MIS to provide accurate and timely information in the context of resolution preparedness is crucial for the reliability and robustness of these valuations. The availability of data in an accessible format and the reliability of the data are fundamental prerequisites for the performance of valuation work. Banks are expected to demonstrate these capabilities in the resolution planning phase; the SRB cannot wait for a resolution scenario to approach to ascertain that this is so. For a better understanding of the valuation process and to increase the preparedness for valuation, refer to the SRB Framework for Valuation³⁹.

1.4.3 Resolution “weekend” and implementation of the resolution scheme

The resolution “weekend” starts with the determination that an entity is failing or is likely to fail. Although this phase refers to a weekend, the phase could start any time and includes all internal processes needed for the adoption of the scheme.

Following the resolution weekend, the decision to adopt a resolution scheme must be implemented by the competent NRA. The weekend ends the next business day when relevant markets open. Depending on the tool(s) used, the possible business restructuring phase only starts thereafter. In case the open bank bail-in is applied to a bank in resolution, the bank shall prepare a business reorganisation plan that must be approved by the SRB, in agreement with the competent authority⁴⁰.

In this phase of the resolution, in particular for an efficient and effective implementation of the resolution strategy banks need to have in place adequate governance arrangements, communication plans and MIS. Furthermore, banks will also have to make available necessary information for Valuation 3 (see section below)⁴¹. All this needs to be prepared for in the planning phase.

1.4.4 Closing resolution

The SRB shall ensure that a valuation is carried out by an independent valuer as soon as possible after the resolution action or actions have been effected, with the aim to assess whether affected shareholders and creditors would have received better treatment had the bank entered into normal insolvency

³⁸ Art. 8(12) SRMR.

³⁹ For further details, please see the SRB Framework for Valuation: https://srb.europa.eu/sites/srbsite/files/framework_for_valuation_feb_2019_web_0.pdf. The SRB Dataset for Valuation, complementing the SRB Valuation Framework, is under development in close collaboration with the EBA to ensure consistent implementation of the EBA Valuation Handbook (February 2019) and related Data Dictionary for Valuation (work in progress).

⁴⁰ Preparatory work for the business reorganisation plan will already have been done during the resolution planning phase. Moreover, for transfer strategies the analyses of separability has to be performed during resolution planning to ensure the implementability of the transfer tool.

⁴¹ While the valuation for the NCWO analysis supporting the resolution scheme is prepared as of the date as close as possible before the expected date of a decision by the resolution authority, the valuation date of Valuation 3 will be the resolution date.

proceedings (Valuation 3)⁴². The SRB will have to take a decision on whether or not to compensate affected shareholders and creditors, based on the above valuation.

For reasons of simplicity the following chapters will only refer to “resolution planning” and “before, during and after the resolution event” without specifying the aforementioned crisis management phases.

1.5 PROPORTIONALITY

The SRB shall take into account the principle of proportionality when applying the measures of Art. 10 (11) SRMR to remove any impediments identified.

Pursuant to paragraph 5 of the EBA Guidelines on Impediments to Resolvability, each of the measures listed in Art. 17 (5) BRRD (Art. 10 (11) SRMR) are applied if they are (i) suitable, (ii) necessary and (iii) proportionate to reduce or remove the impediments to the implementation of a certain resolution strategy⁴³.

- A measure is **suitable** if it is able to materially reduce or remove the relevant impediment in a timely manner.
- A measure is **necessary** if it is required to remove or materially reduce a substantive impediment to the feasible or credible implementation of the relevant resolution strategy, and if there are no less intrusive measures which are able to achieve the same objective to the same extent⁴⁴.
- A measure is **proportionate** to the threat that those impediments pose to financial stability in the event of a failure of the institution. The assessment should consider whether the overall benefits of such a measure to make resolution of the institution feasible and credible outweigh the overall costs and negative effects of removing the impediments to resolvability. Resolution authorities should also consider less intrusive measures when assessing proportionality.

Proportionality considerations will be taken into account when IRTs apply the expectations included in this document, tailored for each bank based on a dialogue between banks and IRTs.

⁴² Art. 20 (16-18) SRMR.

⁴³ See also Art. 10 (7) (second sentence), (10) (third subparagraph) and (13) (b) SRMR.

⁴⁴ Intrusiveness shall be assessed by costs and negative effects on the institution and its owners and their right to conduct business, and on the soundness and stability of the ongoing business of the institution.

2 Seven dimensions of resolvability

2.1 GOVERNANCE

2.1.1 Objective

Banks have in place robust governance processes that facilitate the preparation as well as the implementation of the resolution strategy. Robust governance arrangements ensure (i) timely and accurate provision of relevant information on regular and ad hoc basis, (ii) effective oversight during resolution planning and in crisis and (iii) efficient decision making at the time of resolution.

2.1.2 Background

A precondition of an effective and timely implementation of the resolution strategy by the SRM requires the banks' governance procedures to support timely decision making in resolution. In this context, key roles must be adequately staffed to support the resolution planning and governance arrangements must provide effective oversight and decision making. This includes clear responsibilities of business units, senior managers up to and including board members, and identifying a member of the management body responsible for ensuring the bank is and remains in compliance with resolution planning requirements and for ensuring that resolution planning is integrated into the bank's overall governance processes. In addition, banks should ensure there is an appropriate level of oversight by their board and senior management over the staff responsible for the implementation of the principles below.

For an effective and timely execution, banks therefore must establish appropriate governance, business-as-usual procedures and controls to ensure that the banks' assessment is updated by the bank on a timely basis, provided that there are any material changes or where evidence suggests that the assessment is no longer accurate.

Dry runs and playbooks can be used to refine these governance processes and the actions to be taken by the board and/or by the management body before, during and after the resolution event.

2.1.3 Principles

[Principle 1.1] Active involvement of management body and senior management

The management body and the senior management shall provide all necessary assistance for the achievement of the resolution objectives and the operationalisation of a bank's resolution strategy.

The management body is actively involved in resolution planning and has identified a member of the management body as well as an experienced senior-level executive to manage the bank's resolution-related activities.

1) Banks are expected to appoint a member of the management body that is responsible for the (internal) work on resolution planning and the implementation of the resolvability work programme ⁴⁵.

This member:

⁴⁵ The appointed member of the management body may be supported by a dedicated committee.

- is ultimately responsible for the provision of the information necessary to prepare the bank's resolution plan as well as those responsible, if different, for the different legal persons, critical operations and core business lines;
- is responsible for ensuring that the bank is and remains in compliance with resolution planning requirements;
- ensures that resolution planning is integrated into the bank's overall governance processes⁴⁶;
- is responsible for amending existing committees or establishing new committees to support the resolution activities, where needed;
- signs off on the main deliverables, i.a. the resolution reporting templates, and ensures the adequate control framework;
- updates on a regular basis the other members of the management body and of the supervisory body on the state of resolution planning activities and the resolvability of the banks. This is documented by means of minutes;
- ensures adequate budgeting of and staffing for resolution activities. In particular in, but not limited to, the case of a BU entity of groups headquartered in a third country: ensures employment of staff knowledgeable of local circumstances and dedicated resolution planning staff that is actively involved in and contributes to the overall group resolution planning activities, with the ability to provide effective support in a group resolution scenario; and
- identifies a senior-level executive heading and/or coordinating the resolution planning activities.

2) Banks are expected to appoint an experienced senior-level executive who is responsible for managing and coordinating the (internal) resolution planning/resolvability work programme⁴⁷.

The experienced senior-level executive:

- coordinates and manages resolution activities (e.g. preparation of workshops, completion of questionnaires and other IRT requests);
- with their team serves as the main point of contact for the IRT to ensure a coordinated approach for resolution planning and for the implementation of the resolution strategy across the group;
- avoids parallel and/or inconsistent communication with resolution authorities;
- coordinates the operationalisation of the resolution strategy (preparation and testing of the relevant steps for the implementation of the strategy in the context of resolution planning) and participates in dry runs to test and evaluate the operational readiness of the bank⁴⁸; and
- where necessary, establishes dedicated work streams to address resolution topics.

[Principle 1.2] Governance for resolution activities

The governance processes and arrangements ensure that resolution planning is integrated into the overall management framework of banks and support the preparation and implementation of the resolution strategy.

Banks are expected to:

⁴⁶ For further details, please see Principle 1.2.

⁴⁷ This executive might be supported by a team of experts (project team, task force, the set-up of a unit for resolution activities, etc.).

⁴⁸ For further details, please see Principle 5.1.

- ensure that the resolution governance function is adequately staffed to ensure that decisions in the context of resolution before, during and after a resolution event can be made in a timely manner;
- establish clear lines of responsibility, including reporting lines and escalation procedures up to and including board members and approval processes for both resolution planning and crisis management (e.g. the implementation of the resolution decision, communication with relevant stakeholder groups⁴⁹, etc.), all of which is documented in dedicated policies;
- ensure that strategic decisions take into account resolution-related interconnections impacting on resolvability (e.g. M&A activities, legal entity restructuring, changes to the booking model, use of intra-group guarantees, and changes to the IT environment);
- inform resolution authorities without undue delay on material changes planned to elements such as the business model, the structure, the operational set-up (e.g. changes to the IT infrastructure) and the governance having an impact on resolution planning activities or the implementation of the preferred resolution strategy and resolvability;
- ensure an efficient flow of information on resolution matters between the management board, the senior level executive and all other relevant staff, enabling them to perform their respective roles before, during and after the resolution event; and
- in the case of a group headquartered in a third country, ensure that the BU entity is well staffed and the BU entity's management is well informed about the group resolution strategy, including the decision-making processes/ procedures in a crisis and is able to balance decision taking by the group headquartered in a third country in going-concern, by taking into account the resolvability of local entities.

[Principle 1.3] Quality assurance and internal audit

Banks have established a quality assurance process to ensure the completeness and accuracy of information sent to resolution authorities for resolution planning purposes. Resolution-relevant information is also regularly reviewed by internal audit.

Banks are expected to:

- establish a quality assurance process for resolution-related information;
- have arrangements that ensure the completeness and accuracy of data;
- ensure that resolution-relevant information is regularly reviewed by internal audit (resolution planning activities are part of the annual audit plan); and
- ensure that the audit committee or another body periodically reviews these arrangements.

[Principle 1.4] Testing and operationalisation of the strategy

Banks describe all operational aspects of the resolution strategy in playbooks (including responsibilities and escalation procedures) and regularly evaluate and test those aspects by means of dry runs.

Since operational aspects of the resolution strategy are mostly linked to the tool to be used, and touch upon several expectations outlined in the following chapters, banks are expected to demonstrate testing and operationalisation capabilities as further described in the below principles and in accordance with any other tailored requests from IRTs. Loss absorption and recapitalisation capacity

⁴⁹ Please refer to the Principles for Communication (2.6) for further details.

2.2 LOSS ABSORBING AND RECAPITALISATION CAPACITY

2.2.1 Objective

Banks have available sufficient loss absorption and, if applicable, recapitalisation capacity at the point of entry to absorb losses in resolution, to comply with the conditions for authorisation and to regain market confidence post-resolution, allowing the continued performance of critical functions during and after resolution. Banks also maintain loss absorption and recapitalisation capacity at subsidiary level and set up a credible and feasible internal loss transfer and recapitalisation mechanism within resolution groups, if applicable.

2.2.2 Background

Resolution authorities must have the necessary flexibility to allocate losses to creditors in a range of circumstances⁵⁰. For this purpose, it is desirable that the power of write-down and conversion and the bail-in tool can be applied, in line with the appropriate resolution strategy, to as wide a range of the unsecured liabilities of a failing institution as possible, subject to the mandatory exclusions provided in the legal framework⁵¹. Moreover, the resolution authority may decide at its discretion to exclude or partially exclude certain liabilities, linked to the feasibility of the operationalisation of the tool and the effectiveness of this action to meet resolution objectives⁵². To meet this goal, banks need to implement adequate internal processes, governance arrangements and MIS capabilities to identify liabilities, notably those which are mandatorily excluded from bail-in, support the resolution authorities' assessment for the adoption of discretionary exclusions, and support the execution of the resolution tools.

Minimum requirement for own funds and eligible liabilities (MREL) is a requirement set by resolution authorities in order to ensure that banks maintain at all times a minimum amount of own funds and eligible liabilities and to facilitate the implementation of the preferred and, where applicable, variant resolution strategies. MREL is set at consolidated resolution group level with requirements to be met with externally-issued eligible liabilities at the level of the resolution entity and own funds at the level of the resolution group, and for subsidiaries at individual level in view of enforcing an effective loss-transfer mechanism to the resolution entity.

Building up and maintaining MREL capacity by focusing on quantity, quality, governing law and appropriate location of MREL instruments plays a key role in improving the banks' resolvability, by underpinning the credibility and feasibility of the preferred resolution strategies and by giving resolution authorities greater flexibility and confidence. In particular, subordination requirements set by the SRB improve resolvability by reducing the risk of breaching the no-creditor-worse-off (NCWO) principle, while an adequate location of eligible instruments issued in enforceable jurisdictions is instrumental for supporting the implementation of the resolution strategy.

Close engagement with banks and effective communication towards all stakeholders are critical for the implementation of the MREL policy. Banks need to be closely involved in order to provide bank-specific information necessary for MREL determination, to monitor the build-up of MREL and to ensure the compliance with the requirements.

⁵⁰ Recital (68) BRRD.

⁵¹ Recital (70) BRRD.

⁵² Recital (72) BRRD.

2.2.3 Principles – Loss absorption and recapitalisation capacity and cross-border recognition of resolution actions

[Principle 2.1] Sufficient level of loss absorption and recapitalisation capacity

Banks have a sufficient level of loss absorption and recapitalisation capacity to allow the allocation of losses to as wide a range of liabilities as possible⁵³ and to ensure the effective application of the resolution strategy⁵⁴.

In particular, banks are expected to identify and quantify, subject to specific guidance, where appropriate, in a timely and reliable manner⁵⁵:

- the amount of liabilities which are likely, under the preferred resolution strategy, to contribute to loss absorption or recapitalisation;
- the amount of liabilities which are mandatorily excluded from write-down and conversion⁵⁶; and
- the amount of liabilities which are not likely to contribute to loss absorption or recapitalisation, if applicable, considering at a minimum the following factors⁵⁷:
 - ▶ maturity;
 - ▶ subordination ranking;
 - ▶ the types of holders of the instrument, or the instrument's transferability;
 - ▶ legal impediments to loss absorbency such as lack of recognition of resolution tools under foreign law or existence of set-off rights;
 - ▶ other factors creating risk that the liabilities would be exempted from absorbing losses in resolution; and
 - ▶ the amount and issuing legal entities of qualifying eligible liabilities or other liabilities which would absorb losses.

The set of liabilities not excluded from bail-in is broken down by classes of creditors in the institution, in accordance with the applicable hierarchy of claims⁵⁸. Additionally, the banks must be able to provide all relevant information needed to estimate the treatment that each class of shareholders and creditors would be expected to receive if the institution were wound up under normal insolvency proceedings⁵⁹, in order to ensure the application of the 'no creditor worse off' principle and to respect the *pari passu* principle.

[Principle 2.2] Cross-border recognition of resolution actions

Banks have adequate arrangements in place to ensure the cross-border recognition and effectiveness of resolution actions.

For agreements governed by the laws of a third country, banks are expected to include contractual terms that are effective and enforceable in that third country to:

⁵³ Also recital (70) BRRD.

⁵⁴ DR 2016/1075 25(3)(b).

⁵⁵ Art. 20 (14) SRMR.

⁵⁶ Art. 27 (3) SRMR.

⁵⁷ DR 2016/1075(28)(2).

⁵⁸ See SRB publication on insolvency ranking: https://srb.europa.eu/sites/srbsite/files/ldr_-_annex_on_insolvency_ranking_2019_clean_v2_v1.1.pdf.

⁵⁹ Art. 20 (16-18) SRMR.

- ensure that the write-down and conversion of liabilities would be effective and enforceable in that third country, in line with Art. 55 BRRD⁶⁰. For derivatives transactions executed under an ISDA Master agreement (or another Protocol-covered agreement), adherence by all parties to the relevant ISDA bail-in protocol is one suitable way to achieve such bail-in recognition; and
- bind the counterparty of a financial contract to the restrictions of Art. 68 BRRD, so that crisis prevention measures or crisis management measures including any directly linked events (such as e.g. change of control) shall not entitle the counterparty to terminate, suspend, modify, net or set-off contracts or to enforce security rights, including in cross-default constellations and ensure that the contract may be subject to the exercise of suspension powers (“resolution stays”) under Art. 69-71 BRRD. Adherence by all parties to a covered agreement to the ISDA 2015 Universal Resolution Stay Protocol and/or the relevant modules under the ISDA 2016 Jurisdictional Modular Protocol can be one suitable way to achieve such resolution stay recognition for derivatives or securities financing transactions executed under a Master Agreement covered by the Protocols.

In addition to ISDA Protocols, national initiatives might be available or bilateral contract clauses may be inserted to achieve recognition of resolution actions.

These expectations apply to contracts that create a new obligation, or materially amend an existing obligation after the publication of these expectations.

Banks are expected to regularly inform the IRT on their progress with regard to achieving cross-border recognition (e.g. through the Liability Data Report).

[Principle 2.3] Operationalisation of write-down and conversion

Banks have in place adequate governance arrangements, internal processes and MIS capabilities to support the operational execution of the write-down and conversion, both internally and by third parties, and regularly evaluate and test their effectiveness.

Banks have processes and infrastructure in place to provide resolution authorities with a complete set of data regarding the loss absorption capacity of a wide range of liabilities, in a very short timeframe, upon request.

Banks are expected to develop a bail-in playbook, which should outline:

- (i) all governance arrangements, actions and processes to be undertaken by or on behalf of the banks to effectively execute write-down and conversion;
- (ii) the sequence of events based on the expected timeline for the drafting and adoption of the Resolution Scheme, the legal, operational, accounting and tax considerations relevant for each type of eligible instrument in the execution of bail-in and the governance arrangements applying to each stage of the sequence (i.e. task-owning units and their respective responsibilities);
- (iii) arrangements for the external execution of write-downs and conversions, including communication arrangements with external stakeholders important for execution (CSDs, exchanges, etc.). Banks have systems and resources in place to generate rapidly – e.g. within a few hours – up-to-date information on (a) Securities within the scope of bail-in, including name of the issuance and ISIN or other relevant identification code; (b) Central Securities Depositories in which the securities were issued and are safekept. Banks have the capabilities in place to

⁶⁰ This applies unless and until the SRB determines that write-down and conversion powers by the resolution authority of a Member State are recognised pursuant to the law of the relevant third country or pursuant to a binding agreement concluded with that third country.

- identify a paying agent for executing the write down and conversion on time if and when this becomes necessary;
- (iv) mechanisms allowing for the upstreaming of losses from the subsidiaries within the resolution group to the resolution entity and for the downstreaming of own funds from the resolution entity to the subsidiaries where relevant;
 - (v) arrangements to ensure that the information delivered to the resolution authorities for the operationalisation of bail-in is complete, accurate and has been subject to a quality-assurance process. The playbook documents the readiness of the group's Management Information Systems (MIS) on data provision for timely, accurate and complete information in order to implement and operationalise bail-in. Chapter 2.5 outlines the detailed expectations related to the management of information and the arrangements to ensure that the information delivered to the resolution authorities for the operationalisation of bail-in is complete, accurate and has been subject to a quality-assurance process; and
 - (vi) arrangements to address cross-border issues, such as contractual stays and the use of stay powers⁶¹.

The banks' senior management approves bail-in playbooks.

2.2.4 Principles – Minimum requirement for own funds and eligible liabilities (MREL)

[Principle 2.4] Sufficient level of instruments eligible for the Minimum requirement for own funds and eligible liabilities

Banks maintain a sufficient amount of instruments eligible for the MREL, set by the SRB in line with the bank's resolution strategy, business model, funding model, risk profile and resolvability assessment.

Banks are expected to:

- be able to provide, at all times, in a timely and reliable manner, all information necessary to enable the SRB to determine MREL, including bank-specific adjustments to the requirement; and
- meet at all times the MREL requirement communicated by means of the NRA national act implementing the relevant SRB MREL determination, in particular to ensure that the requirement is met taking into account all bank-specific adjustments applicable as set out in the relevant national act.

[Principle 2.5] High quality of eligible instruments

Banks maintain eligible instruments that can credibly and feasibly be used to absorb losses and recapitalise the banks in resolution, including a minimum amount of subordinated instruments, set by the SRB in line with the bank's resolution strategy, business model, funding model, risk profile and resolvability assessment.

In this context, banks are expected to:

- be able to provide, at all times, in a timely and reliable manner, all information including, where appropriate, legal opinions, necessary to justify the eligibility of own funds and liabilities where needed;

⁶¹ Art. 86 (3) BRRD.

- ensure that subordination requirements, complemented by any NCWO add-on, are met with appropriate eligible liabilities;
- insert, where applicable, contractual bail-in recognition clauses for eligible liabilities governed by the law of third countries (including the United Kingdom in case its exit from the European Union materialises with no agreement related to the resolution framework) by which holders explicitly recognise that the liability may be subject to the write-down and conversion powers and other relevant powers of EU resolution authorities and be prepared to demonstrate⁶² that any decision of a resolution authority would be effective; or consider issuing instruments, which are intended to be eligible to meet the MREL target, under the governing law of one of the EU Member States, to achieve legal certainty with regards to their loss absorption and recapitalisation capacity, if applicable;
- decrease the potentially excessive reliance on issuances of senior and subordinated eligible instruments towards retail investors, and be able to provide all necessary information to enable the SRB to identify potential impediments to resolvability related thereto;
- decrease the potential reliance on issuances of instruments via special purpose vehicles and other similar funding arrangements that could hamper their MREL eligibility, and be able to provide all necessary information to justify that the specific features of the funding structure do not impair the credibility and feasibility of the resolution strategy;
- for banking groups identified as G-SIIs, identify direct, indirect and synthetic holdings of MREL-eligible instruments issued by the G-SII itself, or other G-SIIs in view of their deduction from the stock of eligible liabilities;
- banking groups subject to a MPE strategy should not rely on issuances of eligible instruments, beyond equity participations, purchased by other resolution groups of the same banking group, acknowledging that limited interconnections and interdependencies for operational or financial reasons in order to maintain the group efficiency and compliance with regulatory constraints may exist. Contagion risk shall be deemed minimised insofar as the resolution groups subject to the MPE strategy can be resolved without causing immediate MREL shortfalls in other resolution group(s). Banks are expected to be able to provide all necessary information to enable the SRB to identify potential impediments to resolvability; and
- submit any relevant documentation prior to call, redeem, repay or repurchase eligible liabilities instruments covered by the permissions regime, including those with residual maturity of less than one year, before they reach their contractual maturity, in line with the operational provisions specified by the SRB⁶³.

[Principle 2.6] Adequate location of eligible instruments in line with the resolution strategy

Banks issue eligible instruments for consolidated loss-absorption and recapitalisation requirements predominantly at the level of the point of entry.

More precisely, banks are expected to:

- ensure that MREL-eligible instruments are issued from the resolution entity in accordance with the resolution strategy determined and communicated by the SRB, and, to a lesser extent, via

⁶² Art.45 (5) BRRD.

⁶³ https://srb.europa.eu/sites/srbsite/files/crr_addendum_to_the_2018_srb_mrel_policy.pdf.

non-resolution entities where applicable under the relevant policy and legal provisions⁶⁴. If necessary, banks adjust the funding structure to allow compliance with MREL requirements; and

- where relevant, for banking groups under a cooperative structure⁶⁵, subject to bank-specific characteristics and the applicable resolution strategy, consider issuing MREL-eligible instruments from the central body in order to ease the operationalisation of bail-in.

[Principle 2.7] Effective internal loss transfer and recapitalisation mechanism

Banks set up and maintain at all times a credible and feasible internal loss transfer and recapitalisation mechanism within resolution groups, in order to properly upstream losses and downstream capital in resolution⁶⁶.

Banks are expected to:

- be able to provide, at all times, in a timely and reliable manner, all necessary information to enable the SRB to determine MREL on an individual basis, including bank-specific adjustments to the requirement;
- ensure that, beyond the compliance with individual MREL requirements, an effective internal loss transfer and recapitalisation mechanism is implemented from subsidiaries to resolution entities in a resolution group, taking into account the nature of the holder of the instruments and the need for appropriate subordination;
- when material impediments to the application of the resolution tools have been identified, simplify their organisational and financial structure with a view to enhancing internal loss-transfer and recapitalisation mechanisms, in particular with respect to the preservation of the ownership structure of subsidiaries partly owned by third parties after the write-down and conversion of eligible instruments;
- for banking groups established under a holding company structure, and where the holding company is identified as point of entry, ensure that individual MREL issuances from the operating company to the holding company allow for an adequate upstream of losses;
- where applicable, provide all necessary information to enable the SRB to assess potential requests for waivers of individual requirements;
- implement an internal loss absorption and, where relevant, recapitalisation mechanism beyond the scope of entities subject to binding MREL determinations at individual level in accordance with the progressive broadening of the scope of entities subject to such determinations followed by the SRB when setting binding requirements at individual level; and
- meet at all times the individual requirement for loss absorption and recapitalisation capacity communicated by means of the NRA national act implementing the relevant SRB MREL determination, in particular ensuring that the requirement is met at individual or, where appropriate, sub-consolidated level, taking into account all bank-specific adjustments applicable as set out in the relevant national act.

⁶⁴ In accordance with the SRB MREL policy.

⁶⁵ Irrespective of the assessment of the SRB regarding the perimeter of the loss-absorption and recapitalisation requirements.

⁶⁶ This expectation should be read in conjunction with the applicable legislation that provides for internal MREL requirements in accordance with the provisions introduced in BRRD2 and SRMR2, becoming applicable from 28 December 2020, and will be reflected in SRB's bank-specific decisions on MREL.

2.3 LIQUIDITY AND FUNDING IN RESOLUTION

2.3.1 Objective

Banks have established processes and developed capabilities to (i) estimate the liquidity and funding needs for the implementation of the resolution strategy⁶⁷, (ii) measure and report the liquidity situation in resolution⁶⁸ and (iii) identify and mobilise available collateral that can be used to obtain funding during and after resolution.

2.3.2 Background

Banks are likely to remain under liquidity stress for some time after resolution due to an asymmetry of information regarding their viability and the sustainability of the business model. Nevertheless, banks need to ensure that they continue to meet their obligations as they fall due during and after resolution.

Against this background, banks are expected to estimate ex-ante, under different assumptions, the liquidity and funding needed for the implementation of the resolution strategy. Banks are expected to develop capabilities to identify the unencumbered assets that could be rapidly mobilised as collateral and describe operationally how to mobilise those assets and address any legal, regulatory and/or operational obstacle to their mobilisation under stressed conditions.

2.3.3 Principles

[Principle 3.1] Estimation of liquidity and funding needs in resolution

Banks have in place and apply robust methodologies to estimate ex-ante, under different assumptions, the liquidity and funding needed for the implementation of the resolution strategy and have identified possible liquidity sources supporting resolution.

Banks are expected to identify key liquidity drivers in case of resolution at the level of the resolution group and at the level of each material legal entity in the perimeter of the resolution group.

In the analysis of their liquidity drivers in resolution, banks are expected to consider crises of different nature (e.g. sudden/slow-developing crisis, solvency/pure liquidity crisis, etc.) and to identify drivers of liquidity risks relevant to them (e.g. deposits outflows, FMI liquidity needs, etc.).

Banks are expected to develop methodologies to simulate, under different resolution scenarios, the cash flows arising from assets, liabilities and off-balance sheet items as well as the evolution of the counterbalancing capacity across time buckets.

Simulations need to include:

- contractual cash inflows and outflows;
- behavioural cash inflows and outflows; and
- evolution of the counterbalancing capacity and its liquidity value after presumed haircuts.

These cash flows and the counterbalancing capacity shall be simulated:

- for the resolution group and for each material legal entity or branch in the perimeter of the resolution group on an individual basis;
- at aggregated level in the reporting currency and at the level of each material currency; and

⁶⁷ Art. 10 (7) (i), 12 (3) (ii), 15 (1), 16 (1) and Section C (3) of the Annex to the BRRD.

⁶⁸ Art. 22 SRMR.

- over an appropriate series of time periods, from overnight to a sufficient time horizon (e.g. six months) after the resolution event.

When estimating the liquidity and funding needed to implement the resolution strategy, banks are expected to take a conservative approach and to pay particular attention to:

- legal, regulatory and operational obstacles to the transferability of liquidity, especially between resolution group entities;
- obligations related to payment, clearing and settlement activities, including potential liquidity effects of adverse actions by FMI intermediaries;
- counterparty/collateral requirements, including requirements stemming from direct and indirect membership of CCPs and other FMIs, such as increased initial or variation margin requirements for financial instruments during and after the resolution event;
- contractual suspension, termination and netting/set-off rights that counterparties may exercise upon the banks' resolution;
- liquidity flows between the resolution group and group entities which are not part of the resolution group;
- legal and operational obstacles to pledge available collateral in a timely manner;
- specific "peak" intraday liquidity needs on top of other elements mentioned above; and
- available central bank liquidity facilities and their terms and conditions for access and repayment (e.g. eligible collateral, hair-cuts and time frame).

Banks are expected to explain the underlying assumptions (e.g. haircuts, rollover rates, runoff rates) in a dedicated document.

Banks are also expected to take into account the outcome of the above analysis in the liquidity risk strategy in resolution and in the respective funding plan. Where relevant, banks are expected to demonstrate how potential shortfalls, in particular in material currencies, could be addressed.⁶⁹

[Principle 3.2] Measurement and reporting of the liquidity situation in resolution

Banks have established processes and developed capabilities to measure and report their liquidity and funding needs in case of resolution, as well as the liquidity sources that are available, at the level of the resolution group and at the level of material legal entities in the perimeter of the resolution group.

Banks are expected to demonstrate that they are able to measure and report their liquidity position at short notice. Moreover, banks are expected to be able to forecast their net liquidity position across time periods (including intraday) by reporting:

- cash inflows and outflows (differentiating between contractual and behavioural flows); and
- the counterbalancing capacity and its liquidity value after presumed haircuts.

Banks are expected to be able to report the metrics above at the level of the resolution group as well as for each material legal entity or branch in the perimeter of the resolution group, in aggregate, on an individual basis, and by material currency.

Banks are also expected to detail the assumptions applied to forecast the evolution of the liquidity value of the counterbalancing capacity after presumed haircuts.

⁶⁹ Please also refer to Chapters: 2.4 on maintaining access to FMIs; and 2.5 which outlines the overall expectations related to the management of information of importance for resolution purposes.

[Principle 3.3] Identification and mobilisation of collateral during and after resolution

Banks have established processes and developed capabilities to identify and mobilise assets that can be used as collateral to obtain funding during and after resolution. In order to ensure an effective and efficient deployment of the collateral that is available in resolution, banks have identified the time needed to mobilise it for refinancing operations and anticipated the steps needed to make it acceptable to counterparties.

To that end, banks are expected to:

- Identify available collateral and
 - ▶ identify all assets that could potentially qualify as collateral eligible to support funding in resolution (i.e. HQLA but especially non-HQLA);
 - ▶ differentiate between encumbered and unencumbered assets, and determine legal rights to all collateral (pledged or not pledged);
 - ▶ monitor the unencumbered/available collateral at the level of the resolution group, and at the level of each material legal entity or branch in the perimeter of the resolution group on an individual basis, for each material currency;
 - ▶ develop the capacity to report information on the available collateral at a granular level (e.g. central bank eligibility, currency, type of assets, location, credit quality etc.), even under rapidly changing conditions;
- Operationalise mobilisation of collateral and
 - ▶ develop and document all necessary operational steps (including the time horizon and governance processes) to mobilise collateral also located in non-Eurozone subsidiaries/branches;
 - ▶ focus in particular on less marketable assets (e.g. credit claims); and
- Assess mobilisation of collateral and regularly (at least annually) evaluate and test the operational robustness and the effectiveness of the mobilisation of the available collateral (e.g. the ability to sell, repo or borrow against certain assets).

2.4 OPERATIONAL CONTINUITY AND ACCESS TO FMIs

2.4.1 Objective

Banks have in place adequate operational arrangements to ensure the continuity of the services, and of the access to operational assets and staff that are necessary for preserving critical functions and supporting the achievement of the other resolution objectives⁷⁰ upon entry into resolution and to allow post-resolution restructuring.

Banks have established the necessary processes and arrangements to maximise the likelihood of maintaining access, ahead of, during and after resolution, to FMIs and to payment, clearing, settlement and custody services provided by intermediaries.

⁷⁰ Art. 14 (2) SRMR, Art. 31 (2) BRRD.

2.4.2 Background

Banks need to put in place operational arrangements that enable continuity of all services which underpin:

- (i) their critical functions to the economy (critical services);
- (ii) core business lines (essential services), and
- (iii) support the execution of their resolution strategies (other relevant services).

Together all these services are referred to as relevant services.

Banks are also expected to establish the necessary processes to maximise the likelihood of maintaining access, ahead of and during resolution, to FMI service providers.

Addressing risks to service continuity in resolution requires banks to:

- develop reliable information systems, which need to be kept up-to-date at all times, that allow the identification and mapping of all relevant services, including the operational assets and staff on which they rely and the related contractual arrangements; and
- put in place appropriate operational arrangements, such as contractual agreements that remain valid and enforceable in resolution and ensure the financial resilience of service providers throughout the resolution process.

Moreover, banks are expected to develop the capabilities needed to support the implementation of the preferred resolution strategy (PRS) and any variant strategy from an operational continuity perspective. This implies that:

- where the resolution strategy involves the transfer of assets and liabilities to a bridge institution, an asset management vehicle or to an independent third party, the arrangements need to be in place to ensure service continuity in order to allow the recipient to continue the performance of critical functions and core business lines and/or manage the assets and liabilities transferred; and
- where the resolution strategy involves an open bank bail-in, banks will need to demonstrate how their operational continuity arrangements are able to support a rapid restructuring under a business reorganisation plan.

In both cases banks need to be able to provide transparency about the costs at which relevant services will continue to be provided in resolution, either to facilitate a separation of the banks' critical functions and core business lines in resolution or to allow new management/resolution authorities to quickly conduct an analysis about the viability of restructuring options under a reorganisation plan.

Adequate operational continuity arrangements may differ depending on the service delivery model and the PRS and variant strategy. Moreover, the resolution strategy and tools and the governing law/jurisdiction of relevant contracts may have an impact on the prioritisation for implementing certain arrangements.

The need to maintain access to critical and essential services ahead of and during resolution also applies to FMI services, i.e. payment, clearing, settlement and custody services provided either by an FMI or by an intermediary. Without access to such services, banks would not be in a position to continue operating, which would hamper the stabilisation of the institution and prevent the continued performance of critical functions.

To support continued access to FMI services, banks need to have a clear overview of their use of such services, as well as of the necessary conditions for maintaining access to such services, including potential heightened requirements ahead of and during resolution. The SRB expects banks to prepare dedicated

FMI contingency plans, outlining the steps that banks could take to maximise the likelihood of maintaining continued access to FMI services ahead of and during resolution.

2.4.3 Principles – Operational Continuity

[Principle 4.1] Identification and mapping interconnectedness for operational continuity

Banks have identified all critical and essential services, as well as operational assets and staff, necessary for the continuity of critical functions and core business lines upon entry into resolution and to allow post-resolution restructuring, and mapped them to legal entities, critical functions, core business lines and related contractual arrangements.

Banks have identified any other relevant services (and assets and staff) necessary to support the execution of their resolution strategies, and mapped them in line with the mapping of critical/essential services.

Banks are expected to:

- undertake and maintain a comprehensive identification of the relevant services (provided within the group or by third parties), operational assets and staff, based on the respective definitions (see Chapter 4)⁷¹. Services are not considered as relevant where (i) their disruption have no material impact on the bank’s ability to continue to provide critical functions and core business lines (and to execute their resolution strategies) or (ii) they can be provided by another provider within a reasonable timeframe to a comparable extent as regards object, quality and cost;
- undertake and maintain a comprehensive mapping of all critical and essential services to critical functions, core business lines and legal entities (providing and receiving the services), as well as critical and essential operational assets and staff and their location (within the group and physically). The mapping should capture, at a granular level, the individual dependencies of the bank’s critical functions and core business lines on critical and essential services, operational assets and staff. These operational interconnections should also include services provided between critical service providers, if relevant (e.g. an intra-group service provider sub-contracting with a third party service provider);
- where identified, undertake and maintain a comprehensive mapping of other relevant services (including operational assets and staff) to legal entities (providing and receiving the services) in line with the mapping of critical/essential services above;
- undertake and maintain a mapping of relevant services, operational assets and staff to the contracts/arrangements governing them; and
- develop and maintain a searchable database (“service catalogue”) in which all the above information mapped by the Banks is gathered and can be accessed reliably, including in a stressed situation for resolution planning or execution purposes.

[Principle 4.2] Assessment of operational continuity risk

Banks have comprehensively assessed risks to operational continuity in resolution, such as the interruption of relevant services, loss of access to relevant operational assets and unavailability of relevant staff. As a result of this risk analysis, banks have a good understanding of how their

⁷¹ Banks can use the high-level list of services in EBA/GL/2015/06 (EBA Guidelines on the minimum list of services or facilities that are necessary to enable a recipient to operate a business transferred to it under Art. 65 (5)BRRD) and the FSB 2013 Guidance on Critical Functions as a starting point, but are expected to identify services in a much more detailed and targeted way in order to allow the mapping exercise at granular level to reflect accurately how the bank is structured to provide services to critical functions and core business lines.

operational arrangements would facilitate resolution and separability, and post-resolution restructuring.

Once relevant services, assets and staff are identified and mapped, banks are expected to assess the risk of the interruption or discontinuance of these in resolution, in order to identify what mitigating actions are required (see Principle 4.3). Banks are expected to carry out a comprehensive risk analysis based on a preliminary identification of all potential events (risk drivers⁷²) that may result in disruption or discontinuance of the relevant operational dependencies (see Principle 4.1). As part of this risk analysis, banks are also expected to assess whether (i) relevant contracts are adequately documented, (ii) cost and pricing structures are transparent and set on an arm's length basis, and (iii) intra-group service providers have sufficient financial resources to allow the continuity of provision of relevant services during and after resolution (see Principle 4.3).

The risk analysis needs to take into account elements such as

- the banks' PRS and variant strategy, and related resolution tools;
- the banks' service delivery model;
- the law or jurisdiction applicable to the relevant contracts; and
- the location and legal status of relevant assets and staff.

[Principle 4.3] Actions to mitigate risks to operational continuity and measures to improve preparedness for resolution

Banks have implemented appropriate mitigating actions to address the identified risks to operational continuity in resolution, and have taken measures to improve preparedness for resolution and to facilitate separation of critical functions and core business lines, and restructuring⁷³.

- (i) Banks have adequately documented relevant services.
- (ii) Banks have ensured that relevant contracts of services provided by intra-group and third party providers are resolution-resilient.
- (iii) Banks have implemented effective alternative mitigating actions for relevant contracts where full resolution-resilience could not be achieved.
- (iv) Banks have cost and pricing structures for relevant services that are transparent, predictable and set on an arm's length basis.
- (v) Banks have ensured that relevant intra-group and third party service providers are financially resilient to the resolution or failure of any group entity.
- (vi) Banks have arrangements in place to ensure the continued access to relevant operational assets in resolution.
- (vii) Banks have arrangements in place to retain, substitute or transfer relevant staff in resolution.

Banks are expected to implement adequate measures to improve preparedness for resolution, separation and restructuring, and mitigating actions to increase the likelihood of achieving the operational continuity objective. Mitigating actions outlined below are not exhaustive and banks are expected to put in place other mitigating actions where relevant to achieve this objective.

⁷² Risk drivers are therefore those potential events that may lead to materialisation of operational continuity risks in resolution (e.g. unilateral termination of critical services by the provider when the bank is put in resolution).

⁷³ Please also refer to Chapter 2.7 on separability and restructuring.

(i) Adequate documentation of relevant services

Banks are expected to ensure that relevant contractual arrangements⁷⁴ with both third party and intra-group entities are well documented and include all the information that enable resolution authorities to take the appropriate decisions and apply resolution powers to them (e.g. transfer of the service provision).

Banks are expected to include in the relevant contractual arrangements the below minimum information:

- A detailed description of the nature of service;
- clear parameters (quantitative/qualitative performance targets);
- details of the provider(s) and recipient(s) of the service (and contracting counterparties if different), including any onward provision to other entities or sub-contracting to third party providers, as well as relevant contact persons for the purposes of contractual notifications;
- pricing structure;
- associated licences (where relevant); and
- substantive obligations under the contract (e.g. payment/delivery).

When the provision of critical services is carried out by units/divisions within the same entity (intra-entity services), banks are expected to document in a suitable format⁷⁵ the information needed to quickly draw up Transitional Service Agreements (TSA), should this be required in resolution. Minimum information expected for this purpose is:

- a detailed description of the nature of service;
- details of the business unit(s)/division(s) providing and receiving the services;
- the cost structure of the services;
- parameters (e.g. performance targets), where relevant; and
- licences that would need to be associated, where relevant.

(ii) Resolution-resilient features

Resolution-resilient features are necessary for a service contract to be considered resolution resilient. Contracts for intra-group or third party provided relevant services should achieve resolution resilience either through explicit clauses or by application of law or jurisdiction.

In other words, as long as substantive obligations continue to be met:

a) service providers cannot trigger early termination, or amend or suspend the provision of relevant services, on the basis of the application of a crisis prevention⁷⁶ or crisis management measure⁷⁷ or the post-stabilisation restructuring of a group under a business reorganisation plan (resolution/restructuring); and

b) services can be transferred and providers will support transfers as necessary.

Resolution-resilient features include the following:

⁷⁴ E.g., contracts for service provision, service level agreements with other group entities, software licence agreements and property leases.

⁷⁵ This can be in the Management Information Systems or simply in a searchable table.

⁷⁶ Art. 2 (1) (101) BRRD.

⁷⁷ Art. 2 (1) (102) BRRD.

1. **Non-termination, suspension or modification:** service providers may not terminate, suspend or amend terms and conditions of service provision on the grounds of resolution/restructuring, provided that the substantive obligations under the contract continue to be performed;
2. **Transferability of the service provision:** services can be transferred or assigned to a new recipient by the service recipient or the resolution authority because of resolution/restructuring;
3. **Support in transfer or termination:** in the case of transfer of the service provision because of resolution/restructuring, the current provider should ensure the orderly transition of service provision to a new provider or to a new recipient, provided that the substantive obligations under the contract continue to be performed. Where required, including in the case of termination during resolution/restructuring, the provider should ensure continuity of service provision on the same terms and conditions for a reasonable period, e.g. 24 months; and
4. **Continued service provision to a divested group entity:** services can continue to be provided by the current group provider to entities divested from the group as part of resolution/restructuring. Service provision should continue for a reasonable period following the divestment of the group entity, e.g. 24 months, provided that the substantive obligations under the contract continue to be performed.

Banks are expected to:

- identify existing contracts governing relevant services that are not fully resolution resilient according to the above features and amend them accordingly. In particular, contracts to which the law or jurisdiction of an EU Member State does not apply may need to be amended as necessary to fully reflect all resolution-resilient features as powers granted to resolution authorities under the BRRD may not be effective in this case. Even for contracts to which the law or jurisdiction of an EU Member State applies, amendments in line with the resolution-resilient features may be necessary, so that all situations that could prevent an effective resolution or restructuring are addressed;
- ensure that all new contracts governing relevant services are consistent with the above resolution-resilient features; and
- demonstrate, where not explicit in the contract, that the respective providers have been made aware of the applicable powers⁷⁸.

(iii) Alternative mitigating actions

Where banks are genuinely unable to achieve resolution-resilient contracts, they are expected to:

- provide to the IRT sufficient justification on the reasons why certain contracts could not be amended;
- demonstrate that the respective providers have been made aware of the applicable powers of resolution authorities⁷⁹ and the possible impact of those powers on the contractual relationship. Banks should emphasise that powers to prevent termination, suspension, and modification are subject to continued payment and delivery obligations; and
- where the third party non-resolution-resilient contract is governed by third country law, banks may also be expected to:

⁷⁸ Chapter VI Title IV BRRD. This addresses the operational risk that some third party providers may be unaware of relevant provisions of the BRRD (e.g. an IT company).

⁷⁹ Chapter VI Title IV BRRD.

- ▶ seek alternative strategies, for example moving to providers who will allow for the inclusion of resolution-resilient terms within the contract; or
- ▶ maintain sufficient liquidity resources to pre-fund the contract costs of the related service for a reasonable period of time (minimum six months) once a crisis management measure⁸⁰ is applied (liquidity resources must be segregated from other group assets for that specific purpose).

(iv) Arm's length charging structures

Banks are expected to ensure that:

- intra-group providers are financially viable on a standalone basis; and
- relevant services provided within the group can realistically be transferred to a third party at short notice if necessary.

To this end, banks are expected to have in place charging structures for relevant services which are predictable, transparent and set on arm's length terms.

(v) Enhancing financial resilience of service providers

Banks are expected to ensure that relevant service providers are financially resilient in resolution. The method by which banks are expected to ensure that relevant service providers are financially resilient varies depending on whether the services are provided from within or outside the group.

Where relevant services are provided by a group provider, banks receiving the services are expected to:

- determine the adequate level of liquid resources that relevant intra-group service providers may need in order to manage the risks they are exposed to in stress or in a resolution event of any group entity. In this regard, recipient entities are expected to ensure that relevant intra-group service providers are supported by liquid resources at least equivalent to 50% of annual fixed overheads of the relevant services provided by those intra-group providers. Annual fixed overheads should be calculated based on the method set out in Article 1 of Delegated Regulation 2015/488⁸¹;
- demonstrate that liquid resources can be made available to the intra-group service provider regardless of the failure or the resolution of any other group entity. Therefore, they need to be segregated from other group assets and this may imply:
 - ▶ holding liquid assets or making deposits with third parties; and
 - ▶ holding liquid assets as custody assets within another group entity;
- use for this purpose assets that qualify as liquid assets under Delegated Regulation 2015/61⁸². Where other kinds of assets are used, banks are expected to demonstrate that those assets may be quickly converted into cash with minimal loss of value.

Where relevant services are provided by a non-group provider, banks are expected to comply with the "EBA Guidelines on outsourcing arrangements" by undertaking adequate due diligence of the financial resilience of relevant third party providers⁸³.

⁸⁰ As defined in Art. 2(1) (102) BRRD.

⁸¹ Commission DR (EU) 2015/488/EU as regards own funds requirements for firms based on fixed overheads.

⁸² Commission DR (EU) 2015/61/EU with regard to liquidity coverage requirement for Credit Institutions.

⁸³ Section 12.3 EBA Guidelines on outsourcing arrangements (EBA/GL/2019/02).

(vi) Mitigating actions to address risks of losing access to relevant operational assets

Banks are expected to:

- document contracts and arrangements related to relevant operational assets analogously to services (see above);
- apply the below mitigating actions for relevant operational assets where it is necessary to ensure continued access to them in resolution (where the asset type in question is not mentioned in the list below, the mitigating actions are to be applied analogously);
 - ▶ **Real estate:** ensure that leases and contracts for real estate contain resolution-resilient features (adapted as necessary) where the physical asset is not directly owned by the service-providing entity;
 - ▶ **Software licences:** ensure that licensing and usage arrangements include resolution-resilient features (adapted as necessary);
 - ▶ **Regulatory licences:** ensure that relevant intra-group service providers are not at risk of losing their regulatory licences because of resolution actions; and
 - ▶ Ensure that **usage arrangements** allow all relevant parties to access the asset in resolution where multiple group entities or businesses use the same asset.

Where banks cannot ensure access through the above mitigating actions, banks may be expected to arrange that the relevant operational assets are owned or leased by the service provider or recipient.

(vii) Mitigating actions to address risks of losing access to relevant staff

Banks are expected to:

- put in place or adapt existing measures to retain, substitute, or transfer relevant staff to avoid interruptions of relevant services in resolution. Suitable measures are:
 - ▶ retention plan to cope with expected increased attrition of staff in resolution. As a minimum, the plan should cover the following elements:
 - different labour law or related legislation at different geographic locations⁸⁴;
 - time horizon of retention agreements (e.g. 18 months);
 - compensation and retention costs; and
 - governance and processes to execute the retention plan.
 - ▶ contingency plans if relevant staff depart, such as succession plans that determine appropriately trained substitutes for key positions in resolution. The scope of succession plans should include relevant staff at any relevant level; and
 - ▶ identify relevant “dual hatted”⁸⁵ staff and put in place an adequate mitigation strategy⁸⁶.

[Principle 4.4] Adequate management information systems (MIS)/database and annual reporting
Chapter 2.5 outlines the expectations related to management information systems, database and reporting capabilities in support of the bank’s operational continuity arrangements.

⁸⁴ For example, national legislation affecting possible retention awards.

⁸⁵ “Dual hatting” describes situations where an employee paid by one legal entity provides functions in one or more to different legal entities within the group.

⁸⁶ For example, where a relevant staff member is in multiple roles at multiple entities, an agreement that allows the entities to access functions provided by the staff member in the event of resolution.

[Principle 4.5] Adequate governance arrangements

Banks have ensured that intra-group relevant service providers have their own governance structure and clearly defined reporting lines, and do not rely excessively on management employed by other group entities.

The provision of relevant services within the group has been structured in a way that there is no preferential treatment of other serviced entities upon the failure or resolution of a group entity.

Banks have appropriate and effective governance arrangements in place that ensures continuous compliance with operational continuity expectations.

Banks are expected to

- ensure that intra-group relevant service providers meet the following criteria:
 - ▶ governance structure with clearly specified tasks, responsibilities, and reporting lines;
 - ▶ management of sufficient seniority;
 - ▶ where senior staff hold multiple roles, the roles regarding relevant services must be prioritised in case of resolution;
 - ▶ no over-reliance on staff employed by other group entities;
 - ▶ sufficient resources, capacity and contingency arrangements to ensure that relevant services would continue to be provided in resolution; and
 - ▶ the service provider is not subject to any internal or group arrangements that would prioritise resources, ahead of and during resolution, in favour of other group entities.
- demonstrate that they have put in place or adapted existing governance arrangements to ensure the continuous compliance with the operational continuity expectations, including communication with key stakeholders and providers.

2.4.4 Principles – access to FMIs

[Principle 4.6] Identifying and mapping dependencies on FMI service providers⁸⁷

Banks have identified all critical and essential FMI service providers (FMIs and FMI intermediaries) and mapped such providers to legal entities, critical functions and core business lines (CBL)⁸⁸.

Banks are expected to:

- identify all FMI service providers that they are using, as well as trading venues. FMI service providers may be FMIs, i.e. payment and settlement systems, central counterparties or trade repositories. They may also be FMI intermediaries, such as banks offering payment, clearing, settlement or custody services;
- implement a process for maintaining the list of FMI service providers complete and up-to-date;
- identify which of the related FMI services are necessary for the continuity of critical functions (“critical FMI services”) and core business lines (“essential FMI services”). See Principle 4.3 for further details on this point; and

⁸⁷ FMIs and FMI intermediaries are referred to as ‘FMI service providers’. CPMI-IOSCO’s definition of FMIs refers to payment systems, Central Securities Depositories (CSDs), Securities Settlement Systems (SSS), Central Counterparties (CCPs), and Trade Repositories (TRs).

⁸⁸ Art. 8 (9) (k) SRMR and Annex Section B (11) and (12) BRRD, Art. 22 (4) (b) DR 2016/1075/EU; CIR 2018/1624.

- map those critical or essential FMI services to each legal entity and to the related critical functions and CBL.

Banks are expected to provide this information (the list of FMI service providers they are using, the mapping to legal entities critical functions and CBL) in the FMI report⁸⁹. They are also expected to be able to rapidly generate an up-to-date list of FMI service providers upon request.

[Principle 4.7] Monitoring, reporting and MIS capabilities

Chapter 2.5 outlines the expectations for banks related to management information systems, database and reporting capabilities supporting their usage and monitoring of critical and essential FMI services.

[Principle 4.8] Assessing the impact of discontinuation or degraded access

Banks have assessed the impact of discontinued or degraded access to critical and essential FMI services on their ability to continue performing critical functions and operating CBL. They have also assessed the impact on client institutions for which they act as providers of indirect access to one or several FMIs⁹⁰.

Banks are expected to:

- consider the impact of discontinued access to FMI services due to termination or suspension, on their critical functions and core business lines. This will support the conclusion as to whether an FMI service is critical and/or essential (see Principle 4.6);
- identify relevant legal entities that act as intermediaries delivering FMI services to other institutions. This will contribute to an adequate identification of the banks' critical functions. To the extent feasible, banks are also expected to consider the impact of discontinued access to FMI services due to termination or suspension on the business of customers for which they facilitate indirect access to FMIs or to which they provide payment, clearing, settlement or custody services;
- consider the consequences of degraded access, for example in case the FMI or intermediary does not accept new trades (whilst continuing to service outstanding trades), reduces intraday credit provision or limits usage of certain dedicated services (e.g. securities lending, collateral management, etc.), as appropriate; and
- identify possible substitutes for the FMI services that they are using, if any, and their respective jurisdictions. The SRB acknowledges that such substitution may not be realistically achievable during the resolution weekend. Nevertheless, it may play an important role in the reorganisation phase, e.g. through rationalisation of FMI participations or memberships. Only alternative providers with whom banks have an established contractual relationship may be considered as potentially credible substitutes. Banks may be expected to set up alternative arrangements if this is necessary for the feasibility of the resolution strategy.

[Principle 4.9] Understanding and meeting the requirements for continued access

Banks have a clear understanding of the conditions for continued access to critical and essential FMI services. They have identified substantive obligations under FMI rulebooks, as well as in contracts

⁸⁹ Banks have been requested to complete the FMI report since 2017: <https://srb.europa.eu/en/content/fmi-report>. This page also contains guidance for banks on how to complete the FMIR.

⁹⁰ Annex Section B (11) and (12) BRRD, Art. 22 (4) (b) DR 2016/1075/EU.

with FMI intermediaries or other service providers whose services are necessary for using the services of FMIs⁹¹.

Banks are expected to identify the substantive obligations under FMI rulebooks and contracts with FMI intermediaries, and consider which obligations the successor entity may have difficulties in meeting post-resolution (for example as a consequence of difficulties the bank may face in mobilising the necessary liquidity). Similarly, they are expected to identify the substantive obligations under their contracts with other service providers, whose services are necessary for using the services of FMIs⁹².

Where banks have found that their contracts with intermediaries or with other service providers necessary for maintaining access to FMIs are not resolution-resilient, they are expected to make these bilateral contracts resolution resilient, where appropriate and feasible. Please refer to Chapter 2.4.3 for an overview of resolution-resilient features and the steps that banks may be asked to undertake to ensure resolution resilience to the greatest extent possible.

Banks have documented and assessed potential financial and operational requirements that FMIs and FMI intermediaries may impose ahead of, and during resolution and how they would meet such requirements⁹³.

Banks are expected to consider the actions that FMIs and FMI intermediaries would be likely to take, such as increased margin requirements or reductions in outstanding credit lines, in which circumstances these actions might be taken and within which timeline (e.g. intraday, or within a few days). They may do so based on their understanding of rulebooks and contracts, on past experience related to their relationship with FMI service providers or in the context of recent engagement with such providers.

Banks are expected to provide relevant data on credit lines and credit line usage, as well as the historical peak of (intraday) liquidity or collateral usage over a given time horizon in the FMI report. They are also expected to consider the liquidity requirements they may face under different stress scenarios and provide a reasonable estimate in the FMI report.

Banks are expected to explain in their FMI contingency plan the methodology underpinning their estimates of liquidity requirements under stress, including any assumptions related to the expected volume of business activity (see Principle 4.10 below). Banks are also expected to include additional information on potential requirements (e.g. fees) that other service providers necessary for access to FMIs may impose, whenever this is relevant.

Finally, banks are expected to consider credible options to maximise the likelihood that liquidity would be available to fulfil their obligations vis-à-vis critical and essential FMI service providers⁹⁴ in the event of resolution.⁹⁵

[Principle 4.10] Contingency planning

Banks have developed FMI contingency plans to support continued access to critical and essential FMI services⁹⁶.

Banks are expected to prepare and maintain an FMI contingency plan. This is an operational playbook explaining, among others, for each critical and essential FMI or intermediary, how the banks would fulfil the expectations mentioned above, including:

⁹¹ Art. 68 (1) (3) and 94 (4) (d) BRRD.

⁹² Such as communication service providers (for example SWIFT), liquidity service providers (for ensuring continued access to the services of the foreign-exchange settlement system CLS) or IT service providers (for example where usage of particular software is necessary to access an FMI).

⁹³ Art. 8 (9) (I) SRMR and Annex Section C (7) BRRD, Art. 22 (4) (c) DR 2016/1075/EU.

⁹⁴ This implies having sufficient amounts of funds or collateral at the right place, at the right time and in the right currency.

⁹⁵ Please also refer to Chapter 2.3, as banks are expected to take into account potential liquidity requirements related to their participation in FMIs when assessing their overall liquidity needs ahead of and during resolution and collateral eligible in FMIs when assessing the adequacy of liquid resources.

⁹⁶ Art. 8 (9) (I) SRMR and Annex Section C (3) and (7) BRRD, Art. 22 (4) (c) DR 2016/1075/EU, Art. 13 (g) EBA/GL/2014/11.

- the identification and description of the mitigation actions that the FMI service provider would be expected to take ahead of and during resolution;
- the technology, processes and operational arrangements that the banks have put in place to ensure it continues to satisfy the substantive obligations included in FMI rulebooks and contracts with FMI intermediaries, so as to preserve the access, at a minimum, to all critical and essential FMI services. This should rest on a thorough identification of key systems and personnel required to maintain access to FMI services, and arrangements to ensure they remain available or can credibly be replaced in a crisis. For banks that have developed a SWD plan, this should also take into account relevant elements of that plan (including the timeline for its implementation); and
- the actions the banks would undertake to mitigate the impact of discontinued or degraded access on the performance of its critical functions and CBL, for example, through credible ex-ante alternative arrangements or the active management of exposures or the pre-funding of obligations.

[Principle 4.11] Governance and communication

Banks have appropriate and effective governance arrangements in place to support continuity of access to FMI services. These arrangements ensure adequate preparedness during the resolution planning phase. They also ensure that key organisational areas are mobilised swiftly ahead of and during resolution, and have access to adequate information and resources to execute the resolution strategy.

In the resolution planning phase, banks are expected to have established appropriate and effective governance arrangements for ensuring compliance with the expectations related to access to FMIs outlined in this document. These arrangements should encompass the preparation of the FMI contingency plans and of the FMI report. In that respect, banks are expected to document in their FMI contingency plans the processes for preparing and submitting FMI reports and FMI contingency plans, including: data gathering, consolidation of data, quality checks, updates and approval by the appropriate level of management. They should also encompass the day-to-day monitoring and managing of risks related to their relationships with FMI service providers, including escalation processes, triggers and timelines.

Banks are also expected to have established appropriate and effective governance arrangements that would be activated in case of crisis and would remain operational if and when they fail. With a view to ensuring access to FMI services across group entities, all relevant areas of the business are expected to be involved: the Treasury function, Risk Management function, Operations, and any other areas necessary for monitoring and meeting FMIs' and FMI intermediaries' expectations and for maintaining the relationship with FMI service providers. The involvement of the appropriate level of management should support effective and timely decision-making. Crisis governance arrangements should rely on readily available data and information (cf. Principle 2.5), a clear overview of key personnel necessary for maintaining continuity of access to FMI services (including crisis contact lists), and should be embedded in the overall crisis response structure and/or business continuity plan of the banks.⁹⁷

Banks have an up-to-date list of contacts for each critical and essential FMI and FMI intermediary and a communication plan for providing timely information to these FMI service providers in case of resolution.

⁹⁷ Please also refer to Chapter 2.1 Governance, as governance arrangements related to access to FMI services should be consistent with the banks' overall governance for resolution purposes.

Banks are expected to maintain relevant contact details for each FMI service they are using. They are expected to share these contact details with the SRB in the FMI report, the FMI contingency plans and/or in its communication plan for resolution purposes.

Banks are expected to have a communication plan in place, based on pre-established communication protocols and taking into account the specificities of the FMIs and intermediaries they are using. For example, different timelines may be relevant for different FMIs, and the information that CCPs would need to receive would likely differ from the information requested by payment systems. This should be aligned with and may be included in their overall communication plan for resolution purposes.

Banks are expected to consider how and when they would communicate to their own clients, including other banks for which they may act as intermediaries, any measures they might take, ahead of, and during resolution that may impact such clients (such as reducing intraday credit lines provided to clients).

Please also refer to Chapter 2.6 Communication, as banks are expected to consider communication planning in respect of FMI service providers within the context of their overall comprehensive communication plan for the purposes of resolution.

[Principle 4.12] Customer portability

Banks have identified the requirements for customer portability across all relevant services and are able to support customer portability, in line with the relevant FMI's processes and procedures⁹⁸.

Banks are expected to provide sufficient information with regard to client portability⁹⁹ at central counterparties, per CCP and per segment in which they are acting as clearing member, including:

- the segregation regime and type of client accounts, and the number of clients under different account structures in the FMI report; and
- where available, a list of clearing members offering similar services, as required under the clearing rules that may be able and willing to take over the client accounts, and potential pre-agreement between the clients and back-up clearing members.

Banks are expected to have the resources and systems in place to maintain up-to-date information, which could be provided rapidly in resolution to ensure that client positions at CCPs are transferred smoothly, including the:

- list of clients for each omnibus account;
- list of individual client trades and of assets received as collateral; and
- list of client positions and margins that may be transferred to potential alternative clearing members.

Banks are expected to have the resources and systems in place to maintain up-to-date information, which could be provided rapidly in resolution to ensure that client assets in CSDs are transferred smoothly, including the

- list of clients for each omnibus account; and
- list of individual client assets held at the CSD.

⁹⁸ Art. 8 (9) (I) SRMR and Art. 22 (4) (c) DR 2016/1075.

⁹⁹ In particular Art. 39 and 48 European Market Infrastructure Regulation (EMIR, Regulation (EU) No 648/2012 of 4 July 2012).

2.5 INFORMATION SYSTEMS AND DATA REQUIREMENTS

2.5.1 Objective

Banks have in place adequate MIS¹⁰⁰, valuation capabilities and technological infrastructure to provide the information necessary for (i) the development and maintenance of resolution plans¹⁰¹, (ii) the execution of a fair, prudent and realistic valuation¹⁰² and (iii) the effective application of resolution actions¹⁰³, also under rapidly changing conditions¹⁰⁴.

2.5.2 Background

Banks are requested to provide the SRB with all of the information necessary for the preparation, update¹⁰⁵ and implementation of resolution plans and, to this end, to cooperate as much as necessary with the SRB.

In this context, and as part of its annual resolvability assessment¹⁰⁶, the SRB will assess the capacity of banks to collect and timely provide said information to resolution authorities and/or valuers.

In order to obtain the necessary information and to conduct related assessments, the SRB will closely cooperate with competent authorities¹⁰⁷, taking into account information that is already available as well as assessments performed under supervisory tasks (e.g. on-site inspections).

In this section, MIS, valuation capabilities and technological infrastructure are referred to as “MIS capabilities”.

2.5.3 Principles

Overarching expectations

Banks are expected to establish adequate governance, quality assurance and continuity arrangements to ensure that their MIS capabilities satisfy the below principles before and during the resolution event.

As part of their resolution governance arrangements (referred to in Chapter 2.1), banks are expected to establish, under the direct responsibility of the management body, effective governance arrangements to ensure that their MIS are able to provide the information necessary for resolution planning and execution on a timely basis and taking into consideration the principles laid down below.

In particular, banks are expected to demonstrate that their governance arrangements adequately address:

- the processes for the consistent data collection and aggregation across the different areas of the bank and group entities and for their timely delivery;
- the processes, communication channels and clear allocation of responsibilities for the efficient coordination of the information exchange between the banks, the resolution authorities, the competent authorities, the valuer as well as other relevant authorities and stakeholders; and

¹⁰⁰ Annex Section C (8) (9) (10) (11) BRRD.

¹⁰¹ Art. 11, Annex Section B BRRD; Art. 8 (4), 22 SRMR.

¹⁰² Art. 27 (1) (h), 36, 46 (4) BRRD; Art. 20 (14) SRMR.

¹⁰³ Art. 63 (1), Annex Section C (9) BRRD.

¹⁰⁴ Art. 27, Annex Section C (9) BRRD.

¹⁰⁵ Art. 27 BRRD.

¹⁰⁶ Annex Section C BRRD.

¹⁰⁷ Art. 11 (2), 27, 90; Recital 93, Art. 31, 34 SRMR.

- the framework and processes for quality assurance and the continuity of MIS capabilities.

Banks are expected to demonstrate that they have quality assurance arrangement¹⁰⁸ in place and ensure that their MIS capabilities achieve preparedness for resolution. More specifically, banks are expected to demonstrate the periodic testing and upgrading of their MIS capabilities both in normal times and under stress scenarios as defined by the resolution authority¹⁰⁹. The testing exercises aim to assess and validate that MIS capabilities comply with the below principles, and notably cover:

- the swift provision of data and information to the SRB, competent authorities, the valuer and other relevant stakeholders;
- the consistent aggregation of data across the different areas of the bank and group entities, also in compliance with any additional SRB guidance; and
- the sensitivity and flexibility of their internal valuation models.

Banks are expected to report the results of the validation exercise to the management body and to the SRB. Validation reports should identify possible shortcomings and remedial actions. Any relevant internal or external audit reports, or reports from supervisory¹¹⁰ and/or resolution authorities in relation to the MIS and valuation capabilities¹¹¹ of the banks, may also be requested.

Banks are also expected to maintain up-to-date documentation describing how these capabilities can be relied upon to satisfy the principles laid down below. The documentation describes the source systems used for the production of the data and how the systems operate, the controls in place and the stakeholders involved in the preparation and validation of the data.

Having regard to the principles laid down in Chapter 2.4, banks are expected to make arrangements ensuring the continuity of their critical MIS capabilities during and after the resolution event, both for transferred and remaining activities. These arrangements shall be considered as part of the bank's contingency planning.

[Principle 5.1] MIS capabilities to provide information necessary for the preparation and update of resolution plans

Banks have in place adequate MIS capabilities to produce information necessary for resolution planning.

Inter alia, banks are expected to demonstrate the following capabilities:

- report on the resolution planning standard forms and templates¹¹² in a sufficiently accurate and complete manner, and at a sufficiently granular level, as part of the annual resolution planning exercise; and
- produce information referred to under Principles 5.2 and 5.3 below, in the course of ad-hoc dry-run exercises.

Banks are also expected to provide a detailed description of the arrangements in place, ensuring that the information required to draw up resolution plans is up-to-date and at the disposal of the resolution authorities at all times¹¹³.

¹⁰⁸ See also Chapter 2.1.

¹⁰⁹ Annex Section C (10) BRRD.

¹¹⁰ Also see Fn 21- MoU between the SRB and the ECB.

¹¹¹ E.g. regarding the banks' internal valuation models.

¹¹² Art. 11 (3) BRRD, IR 2018/1624/EU resolution reporting templates and the additional templates developed by the SRB for reporting information on critical functions, liability data, and FMIs.

¹¹³ Art. 10 (7) (h) BRRD, Art. 8 (9) (h) SRMR.

In particular, specific MIS, database and reporting capabilities supporting their **operational continuity arrangements**, banks are expected to:

- have comprehensive searchable MIS/databases containing the necessary information, and enabling the mapping of interconnectedness for operational continuity and customised reporting without delay to support resolution and restructuring post bail-in, if needs be. This entails MIS/databases that allow for timely customised reporting of up-to-date information, including
 - ▶ the service catalogue described in Principle 4.1;
 - ▶ a repository of relevant service contracts in a searchable format; and
 - ▶ a breakdown of the costs of relevant services.

These MIS/databases enable successful navigation through a resolution and provide support to resolution authorities with respect to:

- ▶ continuing or transferring relevant service contracts, including drafting TSAs, if necessary; and
- ▶ continuing access to relevant assets and staff.
- demonstrate the information in MIS/databases is adequately maintained and up-to-date, and banks have processes in place to ensure this.
- complete the annual reporting requirements in a timely manner and ensure the data provided meets the expected quality standards.

In respect of specific MIS, database and reporting capabilities related to their usage and monitoring of **critical and essential FMI services**, banks are expected to:

- provide the necessary information on their usage of critical and essential FMI services in a timely manner, and to monitor and report key metrics, distinguishing between proprietary and client activity¹¹⁴.

In addition, banks are expected to have systems and resources in place to generate rapidly up-to-date information on the:

- types of collateral accepted by each FMI;
- outstanding collateral pledged with each FMI; and
- material upcoming settlement and delivery obligations by value and type of asset, including time-critical obligations.

Banks are expected to demonstrate the capability to:

- anticipate and manage liquidity and collateral requirements accurately on a forward-looking basis;
- monitor available liquidity and collateral at each FMI service provider in real time; and
- mobilise collateral and transfer it to all relevant locations and currencies.

Banks are expected to take into account potential liquidity requirements (Chapter 2.3) related to their participation in FMIs when assessing their overall liquidity needs ahead of and during resolution.

¹¹⁴ Annex Section C (8), (9) and (28) BRRD.

[Principle 5.2] MIS capabilities to produce necessary information for the execution of a fair, prudent and realistic valuation

Banks have in place MIS capabilities to produce information that is as up to date and complete as reasonably possible¹¹⁵, to ensure a fair, prudent and realistic valuation¹¹⁶.

Banks are expected to

- self-assess the availability of data and their data aggregation capabilities during the resolution planning phase, as defined in the SRB Dataset for Valuation¹¹⁷ complementing the SRB Framework for Valuation. Banks are also expected to submit a report with the conclusions of such analysis and, if needed, to engage in dialogue with the SRB to discuss any remedial actions to fill potential gaps or enhance data aggregation capabilities;
- perform dry-run exercises to test the bank's capacity to produce, within a timeframe defined by the SRB, the whole or part of the relevant dataset (i.e. SRB Dataset for Valuation) that is needed to conduct an economic valuation¹¹⁸ or financial due diligence; and
- explain and clearly justify the underlying data sources, assumptions and methodologies of each of their internal valuation models.

[Principle 5.3] MIS capabilities to produce necessary information for the effective application of resolution actions

Banks have in place MIS capabilities to produce the necessary information¹¹⁹ for the implementation of the resolution tools at all times, even under rapidly changing conditions¹²⁰.

Banks are expected to demonstrate the following:

- the ability to (i) adequately assess the level of their loss absorption capacity¹²¹; (ii) provide information needed to execute the bail-in tool, taking into account national provisions. In this respect, banks are expected to have established:
 - ▶ a repository that includes a list of minimum information about each capital instrument and every other security issued by any group entity in scope of BRRD2;
 - ▶ a process for maintaining this information up-to-date; and
 - ▶ an analysis that determines which of these securities meet the CRR2 conditions for a) own funds instruments on either individual level of the resolution entity or only at consolidated level of the resolution entity; or for b) eligible liabilities for the resolution entity.
- the maintenance of detailed records of financial contracts¹²²;
- when transfer tools are envisaged, for all assets and liabilities identified to be transferred (i) the ability to readily provide available information necessary for the relevant Valuations and (ii) the ability to give easy and swift access to necessary data to all relevant stakeholders, e.g. through the set-up and population of a Virtual Data Room (VDR) in view of a due diligence; and

¹¹⁵ Art. 46 (4) BRRD; Art. 20 (14) SRMR.

¹¹⁶ Art. 27 (1) (h), 36, 46 (4) BRRD; Art. 20 (14) SRMR.

¹¹⁷ The SRB dataset for Valuation is currently under development.

¹¹⁸ Delegated Regulations No 2018/344-345/EU.

¹¹⁹ The set of information to apply the resolution tools includes, but is not limited to, the information and data as defined in the SRB Dataset for Valuation, currently under development.

¹²⁰ Annex Section C (9) BRRD.

¹²¹ Also refer to Principles 2.1 and 2.4 in this respect.

¹²² Commission Delegated Regulation 2016/1712.

- the ability to simultaneously produce multiple data, for instance relating to liquidity management (see Chapter 2.3) and valuation, under time pressure or financial stress conditions defined by the SRB.

2.6 COMMUNICATION

2.6.1 Objective

Banks have in place communication plans to ensure timely, robust and consistent communication to relevant stakeholders supporting the implementation of the resolution strategy and governance arrangements to ensure an effective execution of the communication plan.

2.6.2 Background

The resolution of a bank is expected to generate high interest from numerous stakeholders and a lack of adequate communication could compromise the success of resolution. Effective communication will be crucial to promote confidence and reduce uncertainty before, during and after the resolution event.

The coordinated provision of information to stakeholders in the event of resolution has, inter alia, the following objectives:

- ensuring that shareholders and creditors are informed about the resolution decision;
- ensuring that covered deposit holders, and potentially other protected creditors, are informed about their protected status;
- ensuring that employees, clients, suppliers, FMI service providers, and other affected parties are informed about the resolution decision; and
- instilling confidence in the markets in which the institution operates and avoiding actions being taken by other parties that could impede the resolution process.

2.6.3 Principles

[Principle 6.1] Communication Plan

Banks have developed a comprehensive communication plan (aligned with the communication plan of the SRB and potential resolution action the SRB might take) informing relevant stakeholders of the implications of the resolution, with the aim of limiting contagion and avoiding uncertainty.

More precisely, banks are expected to

- identify critical external and internal stakeholder groups, which need to be informed before, during and after the resolution event; including the stakeholder groups set out in Article 22(6) Commission DR (EU) 2016/1075 as well as relevant providers of services or operational assets;
- prepare and maintain an up-to-date list of the critical external and internal stakeholders;
- share with the SRB a list of the identified stakeholder groups included in the communication plan;

- draft a targeted communication strategy for the identified stakeholder groups with pre-defined messages¹²³ tailored to the resolution strategy determined by the SRB, anticipating confidentiality considerations¹²⁴. For each identified stakeholder group, the communication plan:
 - ▶ formulates robust, consistent and easily understandable messages;
 - ▶ contains the key messages (and the level of detail of those messages) to be communicated to promote confidence in the bank throughout resolution, among others:
 - a general statement outlining that resolution actions have been taken; and
 - clear information about the concrete consequences of the resolution for the respective stakeholder group, in order to promote certainty and predictability.
 - ▶ determines when communication with the identified stakeholders is necessary;
 - ▶ identifies the owner of the communication (unit/function responsible for defining the message) and, if different, the unit/function responsible for disseminating the message; and
 - ▶ identifies effective communication channels and the infrastructure that will be needed and used to implement the communication strategy and disseminate relevant messages;
- supplement the key messages through the development of template documents and emails, frequently asked questions and other tools (e.g. establishment of call centres on an ad-hoc basis) to be used at key stages before, during and after resolution; and
- identify any communications to market participants that may be required under applicable national legal disclosure regimes.

[Principle 6.2] Communication Governance

Banks have in place governance arrangements to ensure an effective execution of the communication plan in close coordination with the SRB before, during and after resolution.

Banks are expected to:

- ensure that the expectations set out under Principle 6.1 are enshrined in the governance arrangements;
- determine responsibilities for the drafting and the execution of the communication plan before, during and after resolution (i.e. unit/function responsible);
- define an approval process that covers all dimensions of the communication plan before, during and after resolution including ultimate sign off to ensure that uniform messages are disseminated;
- ensure that relevant employees are aware of their roles in terms of communication with identified stakeholder groups in crisis situations, in coordination with resolution authorities;
- have arrangements in place that ensure the aforementioned confidentiality requirements;
- ensure that sufficient infrastructure and resources are available to effectively communicate with the identified stakeholder groups. This may include infrastructure that is available in business-

¹²³ Pre-defined messages may be drafted in different languages (national language, English, and, where relevant, in the languages of the countries where the bank operates).

¹²⁴ What information can be made public and when.

as-usual as well as additional infrastructure arranged in the lead up to resolution (e.g. public relations firms, additional call centre capacities to deal with an increased volume of calls);

- where relevant, identify major external collaborators (i.e. PR firms, IT firms specialising in communication) and their roles;
- put processes in place to ensure that potential disclosures requirements according to the national law are met;
- proactively inform the SRB where disclosure requirements may unduly impact the implementation of the resolution strategy;
- where relevant, have in place governance arrangements which allow for a consistent, efficient and effective execution of the communication plan in different jurisdictions, taking into account, inter alia, local language, disclosure requirements and time differences; and
- put in place processes to monitor the execution of the communication.

2.7 SEPARABILITY AND RESTRUCTURING

2.7.1 Objective

Banks' structure, complexity and interdependencies do not present obstacles to, and ideally support, the operational implementation of the resolution strategy and the achievement of the resolution objectives.

2.7.2 Background

To ensure that the banks' structure, complexity and interdependencies do not present obstacles to resolvability the resolvability assessment includes an assessment of the following¹²⁵:

- **The banks' structure**, and notably the extent to which the legal structure inhibits the application of the resolution tools as a result of the number of legal persons, the complexity of the group structure or the difficulty in aligning business lines to group entities¹²⁶. On the basis of their resolvability assessment, resolution authorities have the power to require changes to the structure and organisation of banks, if these measures are necessary and proportionate to reduce or remove substantive impediments to the application of resolution tools and to ensure and improve the resolvability of the banks.
- **Separability**, in particular, the extent to which the separation of critical functions or core business lines can be achieved under appropriate continuity arrangements¹²⁷, with particular regard to the substitutability of those activities¹²⁸. The separability assessment is a pre-requisite for the preparation of a partial transfer strategy as it supports the transfer strategy's feasibility assessment. The separability assessment aims at assessing the interconnections between assets and liabilities as well as related services, staff, and supporting infrastructure, as well as financial, legal and IT related interconnections and informs the choice of transfer perimeters¹²⁹. The

¹²⁵ Art. 10 (6) SRMR, Section C of the Annex to the BRRD.

¹²⁶ Section C (16) of the Annex to the BRRD.

¹²⁷ Art. 8(9)(c) SRMR, Section C (1-9), (11), (19) of the Annex to the BRRD.

¹²⁸ Art. 2 (35), 64 BRRD.

¹²⁹ Please also refer to Chapter 2.4 for further details.

separability assessment is closely linked to the analyses needed for operational continuity, but it extends to critical, essential and other relevant liabilities and non-operational assets to ensure the continuity of new perimeters (see Principle 7.2). The initial separability analyses performed by the banks and provided in the resolution planning phase form a substantial and essential element, which is considered by the respective IRT when conducting its own separability assessment of the bank.

- **Business reorganisation plan** measures, notably the extent to which they are comprehensive and could feasibly restore an institution's viability when the bail-in tool is used¹³⁰. Key elements of a potential business reorganisation assessment need to be prepared in going concern (i.e. in the resolution planning phase). The aforementioned separability analyses might serve as a starting point for the business reorganisation plan.

2.7.3 Principles

[Principle 7.1] Structure, complexity and interdependencies

Banks have identified, reduced and, where necessary, removed sources of undue complexity in their structure, which pose a risk to the implementation of the resolution strategy.

Banks are expected, where proportionate, to:

- consider implementing measures to arrive at operationally independent material legal entities to support the envisaged resolution strategy, in particular where the resolution strategy envisages a break up or restructuring¹³¹;
- limit complex practices related to how trading or hedging operations are marketed, booked (their location within the group), funded and risk-managed¹³²;
- reduce the complexity and size of the trading book if this is necessary to apply the resolution tools¹³³;
- ensure that the legal, financial and operational structure is not too complex and interconnected to maintain and ensure continuity of access to critical functions in resolution. Where necessary, banks are expected to take measures to reduce the complexity and/or to simplify the legal entity structure¹³⁴;
- where relevant, align the legal corporate structures of the group with Core Business Lines and critical functions¹³⁵;
- where relevant, ensure that the number of legal persons and the complexity of the group structure do not inhibit the application of the envisaged resolution tools¹³⁶;
- put in place a legal entity structure and intragroup funding arrangements which facilitate the implementation of the resolution strategy¹³⁷; and

¹³⁰ Art. 27 (16) SRMR, Art. 52 BRRD, Annex 23 (2) DR2016/1075.

¹³¹ Title III 7(c) EBA/GL/2014/11.

¹³² Title III 11(a) EBA/GL/2014/11.

¹³³ Title III 13(n) EBA/GL/2014/11.

¹³⁴ Title III 13(a) EBA/GL/2014/11.

¹³⁵ Title III 13(b), (e) EBA/GL/2014/11.

¹³⁶ Title III 13 (a) EBA/GL/2014/11.

¹³⁷ Title III 13 (j) EBA/GL/2014/11.

- in case of mixed activities (e.g. insurance operations), ensure that (i) these activities are independent from the banking operations and/or (ii) a disruption and/or a discontinuation of the banking activities would not severely affect third parties through the non-banking activities. This implies that the resolution of resolution groups would not have a significant negative impact on non-banking operations that are not part of a resolution group. In this context, banks are expected to demonstrate the independency and resilience of material non-banking operations¹³⁸.

[Principle 7.2] Separability analyses for partial transfer tools

Banks for which IRTs envisage the application of a partial transfer tool¹³⁹ have conducted a separability analysis to prepare for partial transfer strategies.

Banks are expected to conduct an initial separability analysis¹⁴⁰. This analysis has to be performed (i) for the current structure¹⁴¹ and (ii) for the structure after the implementation of recovery measures¹⁴². In this context regulatory, legal, contractual and economic safeguards should be considered.

The analysis should include:

- a description of the sets of closely interrelated activities (as well as associated services) which could be separated from the rest of the group without undue delay and disproportionately high costs;
- an assessment whether critical, essential, other relevant
 - ▶ assets;
 - ▶ liabilities;
 - ▶ services;
 - ▶ staff; and
 - ▶ where relevant, other supporting infrastructure, which are part of possible transfer perimeters could be transferred to third parties¹⁴³;
- an assessment of whether assets and liabilities which are neither critical, essential nor “other relevant”, but earmarked for a possible transfer perimeter can be transferred;
- a description, in which perimeter clearing and settlement activities are located (transferred perimeter or liquidated perimeter);
- a description of the IT systems and licence ownerships, people and critical shared services, that are necessary to support the new perimeter(s);
- a self-assessment of potential constraints to separability;
- a description of operational efforts and of the expected time necessary for the delivery of the information and of the relevant assessments;
- a description of the costs when applying the aforementioned transfer perimeters, and

¹³⁸ Art. 10 (11) SRMR, Art. 17 (5) (h) and (k) BRRD, Section C (18) of the Annex to the BRRD, Title III 17 EBA/GL/2014/11.

¹³⁹ I.e. cases of a Sale of Business, Bridge Institution tool or Asset Separation tool.

¹⁴⁰ Title III 7(c) and 13(e), (i), (k) EBA/GL/2014/11.

¹⁴¹ I.e. the structure at year end and based on financial information at year end, unless indicated otherwise by the IRT.

¹⁴² I.e. how the implementation of recovery measures would affect the outcome of the separability analyses.

¹⁴³ Art. 76 et seq BRRD safeguards to be considered.

- a description of the liquidity and funding needs for the new transfer perimeters as well as a description of potential sources of funding (after separation).

[Principle 7.3] Business reorganisation plan after the open bank bail-in

Banks for which IRTs envisage the application of the open bank bail-in tool as part of the resolution strategy have conducted an analysis of the measures available to restore their long-term viability post open bank bail-in and detailed the measures that would be considered in a business reorganisation plan.

The SRB expects banks to prepare ex ante key elements of a business reorganisation plans to ensure resolution readiness. To that end, banks are expected to, inter alia, (i) identify and describe potential measures aiming to restore the long-term viability of the bank, (ii) indicate timelines for the proposed measures and (iii) elaborate on the underlying assumptions, in their analyses.

When identifying key elements of a business reorganisation plan banks are strongly advised to take into account Art. 27 (16) SRMR, Art. 52 BRRD and the Commission Delegated Regulation (EU) 2016/1400 and the EBA Guidelines on the minimum criteria to be fulfilled by a business reorganisation plan (EBA/GL/2015/21).

More specifically, banks are expected to:

- conduct an analysis of measures potentially available to restore long-term viability and identify measures that could be implemented post open bank bail-in by means of a business reorganisation plan.

Potential reorganisation measures may include, but are not limited to¹⁴⁴:

- the reorganisation of the activities;
- the changes to the operational systems and infrastructure;
- the withdrawal from loss-making activities;
- the restructuring of existing activities that can be made competitive;
- the sale of assets or of business lines; and
- measures previously identified in the recovery plan or in the resolution plan¹⁴⁵.

If a wind-down and/or sale of parts of the group is envisaged as a potential business restructuring measure, banks are expected to identify:

- ▶ the relevant entity or business line, the method for the winding down or sale, including the underlying assumptions, any expected losses and liquidity needs;
- ▶ any financing or services provided by or to the remainder; and
- ▶ products and services to be discontinued because they don't support the achievement of the resolution objectives or the use of the resolution tool(s);
- calculate any proceeds from the divestment of assets, entities or business lines envisaged by the business reorganisation plan prudently;
- demonstrate how long-term viability could be restored through the proposed measures¹⁴⁶, outlining in particular

¹⁴⁴ Art. 27 (16) SRMR, Art. 52 (5) BRRD.

¹⁴⁵ Art. 2 (6) DR 2016/1400/EU.

¹⁴⁶ Art. 3 (1) (a) and (b) DR 2016/1400/EU.

- ▶ the costs and the impact of the business reorganisation on the profit and loss statement and the balance sheet; and
- ▶ a description of the funding requirements during the reorganisation period and potential sources of funding;
- indicate preparatory steps as well as an expected timescale for the implementation of the proposed measures; and
- conduct the business reorganisation plan assessment on the basis of the following assumption(s):
 - ▶ The analyses are performed (i) for the current structure¹⁴⁷ and (ii) for the structure after the implementation of recovery measures¹⁴⁸.
 - ▶ Where State aid rules are applicable, the proposed measures must be compatible with the requirement stated in the restructuring plan, which aims to restore the institution's or entity's long-term viability at minimum cost to the State and which also aims to mitigate potential distortions to competition¹⁴⁹.

The analyses should be underpinned by necessary information to allow IRTs to assess the impact of the business reorganisation on critical functions and financial stability, e.g. by (i) stating the underlying assumption, such as key macroeconomic variables; (ii) projecting the impact on/evolution of the profit and loss statement and the balance sheet; and (iii) describing the evolution of the key financial metrics.

¹⁴⁷ I.e. the structure at year end and based on financial information at year end, unless indicated otherwise by the IRT.

¹⁴⁸ I.e. how the implementation of recovery measures would affect the outcome of the separability analyses.

¹⁴⁹ (69), Art. 43 (2a), 52 (1) BRRD.

3 Dialogue with banks in case of impediments

3.1 BACKGROUND

In the context of the resolvability assessment, IRTs engage with banks to conclude whether they are currently resolvable¹⁵⁰ or to define the steps to become resolvable.

If the SRB identifies substantive impediments to resolvability and assesses, after consulting the competent authorities, that the measures proposed by the bank do not effectively reduce or remove them, it instructs the relevant national resolution authority to require the bank to take relevant measures of those listed under Art. 10 (11) SRMR¹⁵¹.

3.2 DIALOGUE WITH BANKS ON IDENTIFIED IMPEDIMENTS

3.2.1 Start of the discussion on identified impediments

Potential impediments to resolvability are discussed between IRTs and banks on an ongoing basis, e.g. by means of workshops, TelCos etc. The discussion is, in particular, expected to focus on the expectations outlined in Chapter 2 and any specific working priorities communicated by the IRT, in light of the specific characteristics of the banks.

In this context, banks are expected to draft a comprehensive Resolvability Work Programme. The programme should, inter alia, outline how the potential impediments are addressed through (i) concrete deliverables, (ii) timelines and (iii) milestones (“Operational Plan”).

3.2.2 Proposal of banks on how to address impediments

In their Resolvability Work Programme, banks should in particular propose measures to address the abovementioned potential impediments to resolvability identified by the IRT.

Proposals to address those impediments have to be:

- specific, i.e. the measure addresses the identified impediment;
- measurable, i.e. the envisaged reduction/elimination of the impediment can be clearly ascribed to the measure and can be properly assessed
- achievable, i.e. sufficient resources are devoted to the implementation of the measure; and
- realistic, i.e. the measure can be feasibly implemented within the proposed timeframe.

They also need to be (i) credible, (ii) underpinned by a clear Operational Plan, with deliverables along explicit timelines and milestones, and (iii) endorsed by the banks’ management bodies. This will allow the SRB to assess whether the proposed measures are adequate to achieve/improve resolvability.

¹⁵⁰ Art. 22 (7) (a) DR 2016/1075/EU.

¹⁵¹ Substantive impediment under Art. 10 SRMR (henceforth “the substantive impediments procedure”).

3.2.3 Update on progress (“Resolvability Progress Report”)

Banks are expected to submit to the SRB at least semi-annually a Resolvability Progress Report that is signed off by the management body, unless indicated otherwise. This report should document the progress made, flag the remaining gaps and suggest priorities for the next resolution cycle. Banks can choose the format in which information is presented. The report, however, should be sufficiently detailed to allow the SRB (i) to assess the banks’ deliverables against milestones, and (ii) to update the resolvability assessment at the end of each resolution planning cycle. If the SRB is not able to draw the required information from the progress reports, the SRB will request the banks to provide with further information.

3.2.4 IRT assessment of the proposed measures and the progress

IRTs may schedule dedicated workshops with banks to discuss (i) the proposed measures, (ii) the implementing timeline, (iii) the key milestones and (iv) the progress made. In cases where the IRT is unable to ascertain that the banks’ Operational Plans are appropriate, on-site inspections under Art. 36 SRMR might be envisaged.

3.3 FORMAL SUBSTANTIVE IMPEDIMENT PROCEDURE

When the SRB, taking into account the discussions with the banks, determines that there are substantive impediments to resolvability, it will follow the formal substantive impediment procedure. When drafting its report in accordance with Art. 10 (7) SRMR, the SRB will take into consideration the discussions with the bank, including any measures proposed in the bank’s resolvability work programme but not yet implemented.

3.3.1 General

When any substantive impediments are identified¹⁵², the process for the drawing-up of the resolution plan is suspended¹⁵³; and a formal substantive impediments procedure is triggered¹⁵⁴.

3.3.2 Steps

Step 1: Notification of the banks¹⁵⁵

The banks will receive an SRB report, drawn up in consultation with the competent authorities, outlining the identified substantive impediments (Art. 10 (7) of SRMR).

The report will:

- contain a reasoned assessment of substantive impediments to the effective application of resolution tools and the exercise of resolution powers; and

¹⁵² The Board, after consulting the competent authorities, determines that there are substantive impediments to the resolvability of an entity or group according to Art. 10 (7) SRMR.

¹⁵³ Art. 17 (2) BRRD. In the case of a Resolution College bank the joint decision process for adopting group resolution plan and resolvability assessment is suspended, Art. 17 (2) BRRD, Art. 69 (4) and Art. 76 (1) DR 2016/1075/EU.

¹⁵⁴ The process on the resolution plan resumes once the process referred to in Art. 17 BRRD on measures to address or remove substantive impediments to resolvability has been completed. In the case of a Resolution College bank it triggers a joint decision process for measures to address substantive impediments; this process is also outlined in DR 2016/1075.

¹⁵⁵ Art. 10 (7-9) SRMR, Art 18 (2), Annex Section C BRRD.

- consider the impact on the banks' business model and recommend any proportionate and targeted measures that, in the view of the SRB are necessary or appropriate to remove those impediments.

From the date of receipt of the report, the banks have four months to propose possible measures to address or remove the substantive impediments identified in the report.

Step 2: SRB Assessment of proposed measures and Decision (Art. 10 (10)-(11), (13) SRMR)

The SRB in consultation with the competent authorities will assess the proposal of the banks:

- if the SRB concludes that the proposed measures effectively reduce or remove the substantive impediments, the SRB will accept the proposal and adopt the resolution plan (i.e. the suspension is lifted and the cycle resumes).
- if the SRB concludes that the proposed measures do not effectively reduce or remove the substantive impediments to resolvability, the SRB will:
 - ▶ demonstrate that the proposed measures are not sufficient and that the alternative measures are proportionate in removing impediments¹⁵⁶; and
 - ▶ take a decision on measures to address or remove substantive impediments to resolvability, taking into account, where appropriate, the views provided by the banks.¹⁵⁷

Competent authorities will be consulted in this process.

Step 3: Implementation of SRB Decision (Art. 10 (12) SRMR) and Monitoring

The NRA(s) will implement the SRB Decision. In order to monitor the implementation of the measures to address impediments to resolvability, the bank will have to provide progress reports on a regular basis.

¹⁵⁶ Before taking any decision on alternative measures, it shall consult with the supervisor and if appropriate the macro prudential authority (Art. 10 (10) SRRM).

¹⁵⁷ In case of Resolution College banks: when no joint decision of the respective RAs in the resolution college might be reached within four months and when a RA referred to EBA, the EBA shall take a decision within one month (Art. 18 (4), (6), (7) BRRD).

4 Glossary

Asset Separation Tool (AST)	As defined in the Art. 3 (32) SRMR.
Arrangement	An arrangement is any agreement, contract, policy, procedure, guideline or practice governing the provision of a service.
Back-to-back transaction	booking A pair of legally separate transactions, but with the same terms of trade and involving three parties. One party is the intermediary, as the buyer in one transaction and the seller in the second transaction. This allows institutions to book the transaction in a different place to the original business.
Bail-in	As defined in Art. 3 (33) SRMR.
Bridge Institution (BI)	As defined in Art. 3 (31) SRMR.
Business Lines	A structured set of activities, processes and operations that are developed by the institution for third parties to achieve the organisation's goals ¹⁵⁸ .
Business Reorganisation Plan	The restructuring post bail-in should be achieved through the implementation of a business reorganisation plan. Where applicable, such plans should be compatible with the restructuring plan that the entity is required to submit to the Commission under the Union State aid framework. In particular, in addition to measures aiming at restoring the long term viability of the entity, the plan should include measures limiting the aid to the minimum burden sharing, and measures limiting distortions of competition (Art. 27 (16) SRMR and Art.52 (12), (13) BRRD)
Capital Requirements Directive (CRD)	Directive 2013/36/EU.
Central counterparty	An entity that places itself, in one or more markets, between the counterparties to the contracts traded, becoming the buyer to every seller and the seller to every buyer and thereby guaranteeing the performance of open contracts ¹⁵⁹ .
Central Securities Depository (CSD)	An entity that 1) enables securities transactions to be processed and settled by book entry; 2) provides custodial services (e.g. the administration of corporate actions and redemptions); and 3) plays an active role in ensuring the integrity of securities issues [ECB Glossary of terms related to payment, clearing and settlement systems, December 2009] ¹⁶⁰ .

¹⁵⁸ Commission Delegated Regulation (EU) 2016/778 of 2. February 2016 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to the circumstances and conditions under which the payment of extraordinary ex-post contributions may be partially or entirely deferred, and on the criteria for the determination of the activities, services and operations with regard to critical functions, and for the determination of the business lines and associated services with regard to core business lines, OJ L131, 20.5.2016, 41.

¹⁵⁹ ECB Glossary of terms related to payment, clearing and settlement systems, December 2009.

¹⁶⁰ ECB Glossary of terms related to payment, clearing and settlement systems, December 2009.

Clearing	The process of transmitting, reconciling and, in some cases, confirming transfer orders prior to settlement, potentially including the netting of orders and the establishment of final positions for settlement. Sometimes this term is also used (imprecisely) to cover settlement. For the clearing of futures and options, this term also refers to the daily balancing of profits and losses and the daily calculation of collateral requirements ¹⁶¹ .
College Banks	Banks for which a college in accordance with Art. 88 BRRD has been established.
Combined Buffer Requirement (CBR)	Total CET1 capital required to meet the requirements for the capital conservation buffer ¹⁶² .
Core Business Lines	Business lines and associated services that represent material sources of revenue, profit, or franchise value for an institution or for a group of which an institution forms part ¹⁶³ .
Critical Financial Market Infrastructure (FMI services)	Payment, clearing, settlement or custody services, provided by an FMI or by an intermediary, which are necessary for the continuity of one or several critical functions.
Critical functions	Activities, services or operations the discontinuance of which is likely in one or more Member States, to lead to the disruption of services that are essential to the real economy or to disrupt financial stability due to the size, market share, external and internal interconnectedness, complexity or cross-border activities of an institution or group, with particular regard to the substitutability of those activities, services or operations ¹⁶⁴ .
Critical functions Report	An SRB reporting requirement for banks to provide information on their self-assessment of critical functions: https://srb.europa.eu/en/content/critical-functions-report
Critical services	Services, which are necessary for one or more critical functions, that are performed for group business units or entities and whose discontinuity would seriously impede or prevent the performance of those critical functions ¹⁶⁵ .
Dual-hatting	Describes situations where an employee paid by one legal entity provides services to another entity within the group.
Essential services	Services whose continuity is necessary to continue core business lines ¹⁶⁶ .

¹⁶¹ ECB Glossary of terms related to payment, clearing and settlement systems, December 2009.

¹⁶² Directive 2013/36/EU 128.

¹⁶³ Art. 2 (1) (36) BRRD.

¹⁶⁴ Art. 2 (1), (31) BRRD.

¹⁶⁵ Art. 6(4) DR 2016/778.

¹⁶⁶ Art. 7 DR 2016/778/EU.

Essential FMI services	Payment, clearing, settlement or custody services, provided by an FMI or by an intermediary, which are necessary for the continuity of one or several core business lines.
FMI Intermediaries	FMI service providers other than FMIs. More often than not, these will be other institutions offering payment, clearing and settlement services, including by way of facilitating indirect access to an FMI.
FMI report	An SRB reporting requirement for banks to provide information on participation in or membership of FMIs and use of FMI intermediaries for payment, clearing, settlement and custody services: https://srb.europa.eu/en/content/fmi-report
Group entities	Each legal entity that is part of a group ¹⁶⁷ .
Indirect holding	In accordance with the Art. 1 (114) CRR.
Institution	A credit institution or investment firm ¹⁶⁸ .
Material legal entities	Subset of group entities. The parent institution must always be included. Material group entities are the most significant entities within the group, whether that be due to the provision of critical funds or through generating a significant portion of the institution's revenue.
No Creditor Worse Off (NCWO)	The No Creditor Worse Off principle states that no creditor of an institution should incur greater losses in resolution than they would have incurred under normal insolvency proceedings ¹⁶⁹ .
Open bank bail-in	In accordance with Art. 27 (1) (a) SRMR.
Operational Plan	Part of the Resolvability Work Programme that operationalises the programme through (i) concrete deliverables, (ii) timelines and (iii) milestones.
Operational asset	Assets that are not financial assets and that are required to perform services, such as real estate, intellectual property including trademarks, patents and software, hardware, IT systems and applications, data warehouses. Operational assets are critical/essential/otherwise relevant where access to them is required in order to perform a critical/essential/other relevant service.
Other relevant services	Services which, while not defined as critical or essential, are necessary for a successful implementation of the preferred resolution strategy or variant strategy.
<i>Pari passu</i>	The situation where two or more assets, securities, creditors, or obligations are treated equally and managed without preference.

¹⁶⁷ Art. 1 (2), (31) BRRD.

¹⁶⁸ Art. 2 (1), (23) BRRD.

¹⁶⁹ Described in Art. 73 BRRD; Art. 15 SRMR.

Preferred resolution strategy (PRS)	Defined as in Art. 2 (3) Delegated Regulation 2016/1075.
Relevant Services	All critical, essential or other relevant services. This applies analogously to operational assets and staff.
Resolution entity	A resolution entity means an entity established in the Union, which is identified by the resolution authority as an entity in respect of which the resolution plan provides for resolution action.
Resolution Group	A resolution entity and its subsidiaries that are not i) resolution entities themselves, or ii) subsidiaries of other resolution entities, or iii) entities established in a third country that are not included in the resolution group in accordance with the resolution plan and their subsidiaries ¹⁷⁰ .
Resolution Reporting Requirements	Pursuant to Art. 11 (1) BRRD and Section B of BRRD Annex, as well as Art. 8 (4) SRMR, the SRB collects information for drawing up and implementing resolution plans for banks under its remit. The SRB resolution reporting requirements (Liability Data Report, Critical Functions Report and FMI Report) cover the minimum information required by European Commission Implementing Regulation (EU) 2018/1624 of 23 October 2018 as well as further details required for the respective area. https://srb.europa.eu/en/content/reporting
Resolvability Progress Report	A document reflecting the progress made by the banks in addressing impediments, based on the Resolvability Work Programme. The report should (i) give sufficient details on the banks' deliverables against milestones, and (ii) help IRTs to update the resolvability assessment at the end of each resolution planning cycle.
Sale of Business (SoB)	As defined in Art. 3 (1) (30) SRMR.
Securities Settlement System (SSS)	A system that allows the transfer of securities, either free of payment or against payment (delivery-versus-payment). ¹⁷¹
Significant Institution	In accordance with Art. 6 (4) of Regulation (EU) No 1024/2013.
Staff	Employees of the parent or any group entity of the institution. Staff are critical/essential/otherwise relevant where they are required in order to perform a critical/essential/other relevant service.
Substantive Impediment Process	The procedure described under Art. 10 SRMR.
Synthetic Holding	In accordance with Art. 1 (126) CRR.
Third-country	A non-EU country.

¹⁷⁰ Art. 2 (1) (83b) (a) BRRD, Art. 23 (1) (24b) (a) SRMR.

¹⁷¹ ECB Glossary.

Transitional Agreement	Service	An agreement that determines the scope of services one company should provide to another when there is a change of ownership.
Valuation 1		Valuation 1 is the valuation required under Art. 20 (45) (a) SRRM to assess whether the conditions for resolution or for write-down or conversion of capital instruments are met.
Valuation 2		Valuation 2 informs the decision on the appropriate resolution action to be taken and, depending on that action, the decisions on the extent of the cancellation or dilution of instruments of ownership, the extent of the write-down or conversion of relevant capital instruments and eligible liabilities, the assets, rights, liabilities or instruments of ownership to be transferred, and the value of any consideration to be paid and ensures that any losses on the assets of the entity are fully recognised. ¹⁷² Valuation 2 should include an estimate of the treatment that each class of shareholders and creditors would have been expected to receive if an entity were wound up under normal insolvency proceedings ¹⁷³ .
Valuation 3		Valuation 3 aims at determining whether or not shareholders and creditors would have received better treatment if the institution under resolution had entered into normal insolvency proceedings. In other terms, Valuation 3 aims at assessing any possible breach of the NCWO principle ¹⁷⁴ .
VDR		Virtual Data Room: a virtual data room is generally intended to be an on-line facility where documents and information to perform a due diligence are uploaded.

¹⁷² Art. 20 (5) (b)-(g) SRMR

¹⁷³ Art. 20 (9) SRMR.

¹⁷⁴ Art. 20 (16-18) SRMR.