



Press Release

Frequently Asked Questions: Valuation 3 and way forward

MEMO

What is the no creditor worse off principle?

Resolution action aims to ensure financial stability and preserve services of banks that are critical to the economy. When a bank fails and when taking resolution action is necessary, the implementation of the resolution scheme may affect the rights of shareholders and creditors.

In this respect, the EU resolution framework provides appropriate safeguards to ensure that the affected shareholders and creditors will not be worse off than in case the bank had entered into normal insolvency proceedings. This is known as the no creditor worse off (NCWO) principle.

In order to implement the NCWO principle, the treatment that creditors and shareholders received in resolution has to be compared with the treatment that they would have received in a hypothetical insolvency procedure of the bank. This comparison is made by an independent valuer. When it is assessed that creditors and shareholders are worse off in resolution than they would have been under normal insolvency proceedings, they are entitled to the payment of the difference.

Before the Single Resolution Board (SRB) takes a final decision in this regard, concerned creditors and shareholders are invited to express their views. This is known as the 'right to be heard'. The main elements of this process are further explained below.

What is 'Valuation 3'?

The EU Resolution framework provides for independent valuations to be carried out to inform the decisions of the resolution authorities. These valuations are required for specific distinct purposes.

One of those valuations is the so-called 'Valuation 3' which ensures the respect of the NCWO principle. This valuation has to be carried out by an independent person as soon as possible after the resolution actions have taken effect. It determines whether, in the independent valuer's opinion,



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the affected shareholders and creditors would have received better treatment if the institution had been wound up under normal insolvency proceedings, than they actually received in resolution.

What are the steps to be taken after the SRB receives the Valuation 3 report?

Firstly, a non-confidential version of the Valuation 3 report needs to be prepared. This is considered necessary, notably to ensure that there are no financial stability concerns and that the commercial interests of the concerned bank are not undermined by the disclosure of any sensitive information.

The SRB's preliminary stance on whether compensation needs to be paid to the affected shareholders and creditors, together with the non-confidential Valuation 3 report, is subsequently subject to the right to be heard process (*please see below for more*).

Following the review of the comments submitted by the affected shareholders and creditors, the SRB adopts a final decision on whether compensation needs to be paid to the affected shareholders and creditors.

Why are the concerned shareholders and creditors granted the right to be heard?

The right to be heard is a fundamental right under EU law. Such a right is granted to persons whose legitimate interests are affected by an individual measure of an EU body.

The EU resolution framework does not explicitly provide for the right to be heard with regard to the SRB's decision on whether to compensate the affected shareholders and creditors on the basis of the Valuation 3 report. However, in compliance with the EU principle of good administration, the SRB gives the opportunity to affected shareholders and creditors to express their views before the SRB adopts its final decision.

How will the right to be heard be applied in the Banco Popular Español case?



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The SRB expects to announce further details on the 'right to be heard' procedure by mid-July, with the publication of the SRB's preliminary decision and the Valuation 3 report to follow soon after.

Media Contact details:

E-mail: Camille.De-Rede@srb.europa.eu

Phone number: +32 2 490 3530

Switchboard: +32 2 490 3000

Mobile phone: +32 460 766 704


E-mail: Sean.DE-BURCA@srb.europa.eu

Phone number: +3224903710

Switchboard: +32 2 490 3000

Mobile phone: +32477028710

 Website: <http://srb.europa.eu/>

 Twitter: [@EU_SRB](https://twitter.com/EU_SRB)