

SRB Bi-annual reporting note to Eurogroup – November 2024

This note is aimed at reporting to the Eurogroup of 4 November 2024 on: 1) Progress on resolvability in the Banking Union; 2) Implementation of the Vision 2028 Strategy; 3) Important legislative files; 4) Liquidity in resolution and 5) Recent litigation cases.

1. Progress on resolvability in the Banking Union

a. Minimum requirement for own funds and eligible liabilities (MREL)

All entities under direct SRB remit – the significant institutions - with external and internal targets which had to comply with their final MREL targets as of 1 January 2024 met their requirements. This is also true for less-significant institutions, under the direct remit of National Resolution Authorities (NRAs) that are earmarked for resolution and, thus, have been assigned an MREL target.

The MREL shortfall for significant institutions at Q2.2024 (the most recently available datapoint) amounted to EUR 3.7 bn (corresponding to 0.05% of total risk weighted assets) down from EUR 4.5bn of Q1.2024. The shortfall is attributed solely to banks with transitional periods going beyond 1 January 2024¹.

b. Progress in other resolvability dimensions

The large banks in the Union, the so-called significant institutions, are steadily advancing in all resolvability dimensions, thus building capabilities that can also help in increasing their resilience—through, for instance, funding diversification, better governance and data management.

The [2023 resolvability assessment report](#) for significant institutions showed that banks had made substantial progress on the resolvability conditions prioritised since 2021, mainly related to the execution of the bail-in tool. In the meantime, the SRB prioritised work on capabilities related to liquidity in resolution, MIS, separability and restructuring. In particular, banks have worked in a timely manner on the estimation of liquidity needs in resolution and identification of sources of collateral, the generation of the valuation dataset and preparation for a sale of business and a restructuring post bail-in. Also in 2024, the preliminary results show further improvement in each of these areas, as the SRB has continued to monitor that banks are closing the remaining gaps on the [Expectations for Banks](#), and asked banks to increase the testing, notably in the areas of bail-in execution, liquidity and MIS for valuation.

The SRB published its [second less-significant institutions' \(LSIs\) report](#). The report examines key developments in the sector, details the NRAs' resolution planning and crisis management activities in 2023-2024, and explains the SRB's role in LSI oversight in the Banking Union. It focuses on the 2023 resolution planning cycle (RPC), and progress made by LSIs in terms of meeting their MREL requirements and building up their resolvability capabilities. NRAs continue to phase in and proportionately implement the SRB's Expectations for Banks, including its resolvability assessment (heatmap) approach. **At this stage, LSIs show good progress on the resolvability capabilities prioritised by their respective NRAs in 2022-2023.**

¹ Extensions of the final target deadline beyond 1 January 2024 are determined in on a case-by-case basis exceptionally, where justified and appropriate based on the criteria set in the law. The SRB is committed to ensuring banks under transition period make the necessary steps to comply with their MREL target deadline. In addition, as stated in the SRB MREL public policy, those banks should enhance efforts even further to progress in other resolvability dimensions.

The SRB is also working on revising its resolvability assessment, based on an enhanced methodology and the systematic testing of banks' capabilities. We aim to ensure a consistent 'steady-state' approach, now that Expectations for Banks have been fully phased-in, and to incorporate lessons learned from past crisis cases. The industry will be consulted on this methodology at the end of the year.

2. SRM Vision 2028 strategy implementation

In 2023, the SRB has launched a strategic review to define its long-term goals. This review culminated in the publication of the [SRM Vision 2028 strategy](#) in February of this year². The implementation of this strategy started right away, and is proceeding at a good pace. At the same time, it is a long-term project that will take a time to be fully executed.

Actions under way include:

- **Simplification:** The SRB is working closely with the NRAs to simplify and further operationalise the resolution plans. Today, given the progress achieved, plans can be very detailed. This is why, the SRB is working on streamlining them to make them more operational. These initiatives will allow us to allocate more resources to the most important topics using a risk-based approach.
- **Deep dives / Testing:** The SRB plans to increase its reliance on more intrusive methods to assess banks resolvability, particularly bank-led tests and deep-dives. In 2022, the SRB started requiring banks to test specific areas of resolvability, and, since then, has been increasing the scope of testing. In 2025, following a public consultation, the SRB will publish operational guidance for bank-led tests. This document will cover expectations regarding governance, ICT and testing methods and deliverables, among others.

In line with the EBA guidelines on improving resolvability, the SRB will set three-year multiannual testing programmes, updated annually on a rolling basis, which banking groups will have to implement. In addition to bank-led tests, the SRB also has an ambitious deep-dive programme. The SRB plans to review and enhance its deep-dive internal guidance and methodology in 2025, to take into account experience gathered over the years. Until 2028, the SRB will use bank-led tests and deep-dives to ensure a high the level of resolvability from an operational perspective.

- **On-site inspections:** The SRB recently set-up a dedicated team in charge of on-site inspections, which has adopted a methodology to drive the inspections the SRB will perform in the future. A few on-site inspections have been planned. In parallel, planning for the next years is currently being prepared, with an increasing number of inspections in order to test the banks resolvability arrangements on-site.
- **Digitalisation / cyber risk:** In June 2024, the SRB, in its drive towards digitalisation, has established a new unit in charge of data and digital transformation in cooperation with the ICT unit. In addition, work is ongoing to start using artificial intelligence solutions for the SRB's day-to-day work. The SRB is increasing cooperation on these matters with other authorities of the Banking Union – including the NRAs, the European Commission and the European Central Bank. Finally, work is ongoing for assessing the potential impacts of a major ICT incident on resolution planning work and crisis preparedness.

3. Important legislative files

There are a number of legislative files, some quite advanced while others not yet tabled for discussion, that have the potential to enrich the crisis management toolkit and improve our framework. If, and when, adopted, they will help us to deal with constantly evolving risks.

² See also the previous SRB's [Eurogroup reporting note](#)

a. Crisis Management and Deposit Insurance proposal (CMDI)

The ongoing review of the Crisis Management and Deposit Insurance (CMDI) framework could deliver pragmatic improvements to the crisis management continuum in the EU, and expand the resolution toolkit, ultimately reducing the risk of using public funds.

To do so, **the CMDI review should deliver sufficient certainty on how to finance the resolution of smaller and medium-sized banks.** This will be first and foremost achieved through MREL, but there may be scenarios where the resolution authority is faced with the question of whether or not to bail in uninsured deposits. While these deposits are indeed legally bailinable, the possibility to exclude them, with deposit guarantee schemes (DGS) stepping in instead – where this is duly justified to preserve financial stability – is a positive addition to the toolkit.

The more ex-ante restrictions are imposed on the use of DGS (for instance as a “bridge” to the Single Resolution Fund) the less options and flexibility are given to crisis management. In this respect, some of the proposed caps to the DGS contribution would substantially limit their availability in a crisis. Moreover, having additional conditionality within the SRMR compared to the BRRD constrains the Banking Union crisis toolkit and can make resolution decisions more vulnerable. As the central agency tasked to implement, together with NRAs the CMDI toolkit, the SRB will at any rate implement the new rules, once agreed, and meanwhile stands available to provide its technical support to the legislators.

b. European Deposit Insurance Scheme (EDIS)

Beyond the CMDI review, it would be important that the Council re-starts the debate on the completion of the Banking Union, now that risk reduction has advanced well.

In this sense, the SRB welcomes the renewed efforts of the European Parliament’s ECON committee on EDIS, although this proposal is not as ambitious as the SRB would like. The SRB hopes that, as soon as an agreement on CMDI is reached, the Council restarts discussions on EDIS. A common depositor protection is key to achieve an integrated and competitive Banking Union. Pooling resources together, even if just starting with liquidity support, can contribute to deepen the single market and support cross-border consolidation.

4. Liquidity in resolution

a. The Single Resolution Fund

The Single Resolution Fund (SRF) is now fully funded and mutualised, standing at EUR 79 billion at 28 June 2024, and therefore slightly above the target level of at least 1% of covered deposits held in the Member States participating in the Single Resolution Mechanism. Reaching the target level for the Single Resolution Fund is a major achievement for the Single Resolution Mechanism and European banks, providing a substantial crisis fund to use should it be needed. **The SRF is available to support the efficient application of resolution tools together with the loss absorption and recapitalisation guaranteed by the build-up of MREL.**

b. Liquidity and resolution planning

On the liquidity side however, work remains to be done. Through resolution planning, we are working with banks to increase their capacity to generate liquidity in resolution, in particular through a better mobilisation of collateral and estimations of the funding needs under a resolution scenario. **Even if banks are very well**

prepared, we cannot rule out that their liquidity will not be enough in time of crisis. Our SRF stands ready to provide liquidity, but the funds available might not be enough in times of severe liquidity crisis.

c. Additional sources of liquidity

To limit this risk, the SRB continues to call for ratification of the ESM treaty so that the Common Backstop to the SRF can provide further confidence to the market in a time of turmoil. The Common Backstop would almost double the firepower of the SRF when introduced and adding confidence at a time of crisis which would reduce the need to actually use it.

The March 23 turmoil, as well as studies and recommendations from international bodies, has shown that the liquidity needs of a bank in crisis can be very substantial. Even with the Common Backstop in place, it would be important to restart the discussions on additional liquidity sources for banks in crisis

5. Recent litigation cases

Generally, the SRB, like any other resolution authority, is bound to face multiple legal challenges. On the litigation side, there have been important developments in 2024.

For the cases concerning ex-ante contributions to the SRF, the General Court has adjudicated a large number of cases across the different contribution cycles. The SRB welcomes the fact that the General Court has overall confirmed the SRB's application of the legal framework and rejected the vast majority of pleas brought by the applicants. However, the General Court has also annulled ex-ante decisions based on procedural and on a few substantive grounds. Where the annulment concerns only the reasoning of the decision, the SRB has decided to implement the General Court's findings and has re-adopted these decisions.

However, where the General Court annulled the ex-ante decisions based on substantive grounds, the SRB disagrees with the findings of the General Court and has appealed the judgments before the Court of Justice. This concerns, for instance, the General Court's judgments in cases T-411/22 (Dexia) and T-395/22 (Hypo Vorarlberg Bank). In both cases, the SRB has argued that the General Court made an error in law by failing to reconcile different rules within the legislative framework. The Council, Parliament and Commission have decided to support the SRB either by filing their own appeals or by intervening on the side of the SRB. The SRB is confident that the judicial guidance provided by the Court of Justice will significantly reduce the fairly high number of cases in this field.

On the side of the resolution related litigation, the Court of Justice has clarified that in case of a resolution, only the Commission Endorsement decision, and not the SRB Resolution scheme, is capable of producing legal effects. The Court of Justice has therefore dismissed an appeal brought by a shareholder of Banco Popular against the SRB Resolution scheme only. It is expected that, in a similar manner, the General Court will now dismiss all other pending actions taken exclusively against the SRB in the context of the BPE resolution (or any other resolution action for that matter). The impact that this development will have on damages actions taken against the SRB remains unknown at this point, although it is reasonable to assume that, going forward, the Court would dismiss any such actions where they are predicated exclusively upon the SRB Resolution scheme.

6. Conclusions

Despite these legal challenges, the progress on resolvability that the SRM and the banks within its remit have achieved is a clear indication of a more resilient financial sector.

In a large bank crisis, 16 years ago, governments had the impossible choice between imposing losses on depositors and a huge strain on other bank services or bailing out banks at the expense of generations of taxpayers. This is no longer the case. Resolution authorities are operational, MREL is in place and resolution plans are detailed and ready to be used, if need be. In that sense, we have a strong framework. We have been implementing it thoroughly for a decade and the progress is tangible.

Of course, we should not be complacent and aim for more resilient banks and a crisis management toolkit that is as complete (if not more) than our peers. Crises are inevitable in a market economy. Lighter and shorter ones will keep the European economy competitive in the long run.