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FINANCIAL SECTOR ASSESSMENT PROGRAM

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TECHNICAL NOTE

FINANCIAL SECTOR SAFETY NETS

Prepared By
Monetary and Capital Markets Department

This Technical Note was prepared by IMF staff in the context of the Financial Sector Assessment Program in the euro area. It contains technical analysis and detailed information underpinning the FSAP's findings and recommendations. Further information on the FSAP can be found at http://www.imf.org/external/np/fsap/fssa.aspx

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Glossary

BRRD	Bank Recovery and Resolution Directive
BU	Banking Union
CCP	Central Counterparty
CCPRRR	CCP Recovery and Resolution Regulation
CMG	Crisis Management Group
DGS	Deposit Guarantee Scheme
DGSD	Deposit Guarantee Schemes Directive
D-SIB	Domestic Systemically Important Bank
EA	Euro Area
EAP	Emergency Action Plan
EBA	European Banking Authority
ECB	European Central Bank
EDIS	European Deposit Insurance Scheme
EfB	"Expectations for Banks"
EMIR	European Market Infrastructure Regulation
ESM	European Stability Mechanism
ESMA	European Securities and Markets Authority
EU	European Union
FOLTF	Failing or Likely to Fail
FSAP	Financial Sector Assessment Program
G-SIB	Global Systemically Important Bank
IADI	International Association of Deposit Insurers
IRT	Internal Resolution Team
JST	Joint Supervisory Team
KAs	Key Attributes of Effective Resolution Regimes for Financial Institutions
LSI	Less Significant Institution
MOU	Memorandum of Understanding
MREL	Minimum Requirement for Own Funds and Eligible Liabilities
NCA	National Competent Authority
NCB	National Central Bank
NRA	National Resolution Authority
SI	Significant Institution
SRB	Single Resolution Board
SRF	Single Resolution Fund
SRM	Single Resolution Mechanism
SRMR	Single Resolution Mechanism Regulation
SSM(R)	Single Supervisory Mechanism (Regulation)
TLAC	Total Loss-Absorbing Capacity

EXECUTIVE SUMMARY

Since the last FSAP, the Single Supervisory Mechanism (SSM) and Single Resolution Board (SRB) have become well-established. They have improved cooperation with each other, with national authorities, and with other financial sector participants, and developed detailed contingency plans for crisis situations. Industry understanding of their objectives and priorities has grown significantly and courts have largely been supportive of the Banking Union (BU) legal framework for crisis management.

The build-up of loss absorbing capacity in European banks is a major achievement, and euro area (EA) banks have weathered several major shocks. The phase-in of the Minimum Requirement for Own Funds and Eligible Liabilities (MREL) requirements is now mostly complete, with almost all banks under the SRB's remit meeting their requirements, averaging 28 percent of risk-weighted assets. This means that there is a broad and deep pool of potentially loss-absorbing liabilities, providing significant protection against losses incurring to taxpayers from bank support and buttressing the resilience of the banking system. The Single Resolution Fund has reached its target level and been fully mutualized. Brexit, the pandemic, the Russian invasion of Ukraine, rising interest rates, and the US and Swiss bank failures in 2023, all presented serious risks to the system, but have not led to significant instability.

While operational readiness is improving, reforms to the framework remain critical. The SRB is increasingly focusing on improving its and banks' operational readiness to manage crises**.** As examples, the SRB has conducted a number of dry run exercises with various counterparts, improved its and banks' data capabilities, and is working to enhance its knowledge of national legal and institutional differences between BU member states which would affect the implementation of resolution tools. Work to address concerns about third country securities law issues in bail-in, in coordination with third-country authorities, remains a high priority, however.

Remaining gaps and inflexibility in the EA financial safety net should be addressed to create a more unified crisis management regime better equipped to manage the rapid failure of potentially systemic banks. More flexibility needs to be introduced into the rules on access to the Single Resolution Fund (SRF) in a systemic crisis. The design of the regime is less flexible than in other jurisdictions where greater flexibility is afforded to resolution authorities to resolve large, complex, systemic banks. These constraints drive reliance on national options (national insolvency, voluntary industry support, state support) which provide, de facto, flexibility in the system. Since the introduction of the BU many problem banks have been handled through these approaches rather than through the Single Resolution Mechanism (SRM). Accordingly, this FSAP reiterates the recommendation from the 2018 FSAP that a financial stability exemption to some of the rules on use of the Single Resolution Fund should be introduced.

A key plank of the BU—a BU-wide system of deposit insurance—also remains missing and progress towards its introduction has stalled. A common industry-funded system including pooled loss-sharing would be better able to deal with medium or large failures, or correlated failures

of a number of small banks, be a better source of resolution financing, and reduce the risk of the authorities being unable to finance a deposit payout of an EA bank. In the interim, stronger backstop liquidity arrangements for deposit guarantee schemes (DGSs) are needed in many member states. The minimum funding targets for national DGSs should be increased, especially if reliance on national solutions remains prevalent and in the continuing absence of a European Deposit Insurance Scheme (EDIS).

Arrangements for banks' access to liquidity in resolution remain inadequate. The US and Swiss bank failures of 2023 vividly illustrated the very large scale of liquidity which may be needed to ensure the orderly failure of systemic banks. The resolution of a large EA bank, especially in a fast-burn liquidity crisis, would be quite likely to require more liquidity than the funds available through the SRF, even if the European Stability Mechanism (ESM) "backstop"—which are available both for liquidity and recapitalization-- were fully ratified.. Arrangements should urgently be put in place for guarantees provided by the SRF to be accepted to enhance the ability of a bank under resolution to access central bank liquidity including emergency liquidity assistance (ELA)—including in amounts exceeding the size of the SRF and ESM backstop—subject to adequate safeguards to protect central bank balance sheets, including if possible an EU fiscal backstop.

Governance and decision-making arrangements should be streamlined. The governance and decision-making arrangements of the SRB including for the use of the SRF, and ESM Backstop are highly complex and, notwithstanding operational preparations, dependent on rapidly reaching a high degree of consensus among national resolution authorities (NRAs) or member states.

Table 1. Euro Area: Recommendations: Crisis Management and Financial Safety Nets			
Recommendation	**Priority**	**Timeframe**[1]	**Authority**
Financing resolution			
1. Put arrangements in place for SRF to provide guarantees to support central bank liquidity including ELA (including in amounts exceeding the balance of the SRF and ESM backstop) to banks in resolution, including, if possible, with an EU fiscal backstop (¶32)	H	I	SRB/ Eurosystem /ESM/EC
2. Introduce a financial stability exemption from (i) the 8 percent mandatory bail-in for accessing the SRF and public funds, (ii) the 5 percent cap on SRF funding, and (iii) any proposed stricter state aid burden-sharing rules (¶30)	H	NT	EC
Recovery planning and supervision of weak banks			
3. Align the conditions for adopting early intervention measures with those for introducing supervisory measures and ensure that the ECB can always intervene promptly (¶10-11)	M	MT	EC/ECB
Resolution planning and readiness			
4. Complete work on bridge bank handbook(s) (¶45)	H	I	SRB/ECB
5. Provide more detailed disclosure on resolvability, including whether banks' capabilities are adequate to be considered resolvable (¶18)	M	MT	SRB/EC
6. Implement stronger contingency planning for IPSs (¶19)	M	MT	EC/SRB
Resolution execution			
7. SSM and SRM should increase engagement with potential acquirers of banks and bank assets (¶42)	H	MT	SRB/ECB
8. Prioritize work on third country securities law issues in bail-in, in coordination with third country authorities (¶42)	H	I	SRB
9. Remove the option to trigger a moratorium to enable SRB decision-making processes (¶22)	M	MT	EC
Deposit insurance			
10. Ensure DGSs can contribute to: (i) resolution financing upfront to the gross value of covered deposits (as long as cost net of recoveries is no higher than in liquidation, taking account of indirect costs of a hypothetical DGS payout, and (ii) transfers of assets, liabilities and deposit books in insolvency (¶24)	H	NT	EC
11. Require national DGSs to strengthen public sector liquidity backstops (¶26)	H	NT	EC
12. Include DGSs in contingency planning, as potential sources of resolution funding (¶61)	M	I	SRB/ECB

Table 1. Euro Area: Recommendations: Crisis Management and Financial Safety Nets (Concluded)			
13. Establish a European deposit insurance system including loss sharing and strong funding backstops (¶25)	H	MT	EC
14. Increase DGS minimum funding requirements; these should be higher if EDIS and DGS liquidity backstops are not introduced (¶27)	H	MT	EC
Consistency of the broader framework			
16. Ensure greater consistency among different failure management regimes (resolution, liquidity assistance, precautionary recapitalization) and in their interaction with state-aid rules (¶8, 13, 57)	H	NT	EC/ECB/ SRB
17. Assess and remove undue national options and discretions and other differences in implementation, and consider greater use of regulations (¶66)	M	MT	EC/ EBA
18. Ensure that government stabilization tools are available in all member states (¶35)	M	I	EC
19. Introduce an administrative liquidation tool in the SRMR, and increase harmonization of creditor hierarchies (¶68-69)	M	MT	EC
Governance and decision-making			
20. Simplify decisions on the adoption of a resolution scheme and use of the SRF (regardless of size) (¶49-51)	H	MT	EC
21. Review and streamline decision-making processes and coordination for the resolution of groups and in resolution colleges (¶52)	H	MT	EC/SRB/ EBA
22. Strengthen the SRB's autonomy (¶47))	M	LT	EC

[1] Immediate (within 1 year); NT Near Term (within 1-2 years); MT Medium Term (within 3−5 years)

INTRODUCTION[2]

1. This note sets out the analysis and detailed recommendations of the 2025 FSAP pertaining to the bank resolution and crisis management arrangements in the EA. It summarizes the findings of the mission undertaken in November 2024 to Brussels and Frankfurt, where meetings were held with officials and senior staff of the European Commission (EC), the Council, the SRB, the ECB in both its supervisory and central bank capacity, and virtual meetings with the European Banking Authority (EBA), the European Securities and Markets Authority (ESMA), the ESM, several NRAs, and industry stakeholders. This review builds on recent FSAPs in EA countries, and is informed by analysis of the relevant policy, operational, and legal arrangements.

2. The note considers developments since the 2018 EA FSAP. The EA bank resolution and crisis management arrangements were reviewed taking account of EA specific challenges, international standards, and emerging best practices. While the note does not assess compliance with any standard, it is informed by the Key Attributes of Effective Resolution Regimes for Financial Institutions (Key Attributes; KAs) adopted by the Financial Stability Board (FSB), the 2016 KAs Assessment Methodology, the International Association of Deposit Insurers (IADI) Core Principles for Deposit Insurance, and the IMF's experience in implementing bank resolution and crisis management arrangements. It aims to assist the authorities in addressing EA-specific challenges.

A. Banking Union Crisis Management Framework

3. The BU was created in 2014 and is composed of a SSM, a SRM equipped with a SRF, and a Single Rulebook for the EU. The first pillar, the SSM, has been operational since 4 November 2014. Within the SSM, the ECB and national supervisory authorities work together on the supervision of banks. The legal framework for banking supervision, which applies to the whole European Union (EU), is defined mainly by the Capital Requirements Regulation and Directive.

4. The Single Rulebook establishes a unified regulatory framework for the EU financial sector. It encompasses key legal acts such as the BRRD, the Capital Requirements Regulation and Directive and the Deposit Guarantee Schemes Directive (DGSD). Numerous delegated regulations, implementing regulations and guidelines developed by the EC and the EBA support their consistent implementation in the banking sector. Since the 2018 FSAP, authorities have reviewed and introduced new instruments under the Single Rulebook, notably the 2019 Risk Reduction Package, which includes new moratorium powers and significant changes to leverage ratios and loss-absorbing capacity requirements.

[2] This technical note was prepared by Mark Adams, Senior Financial Sector Expert from the Monetary and Capital Markets Department, and Ender Emre, Senior Legal Counsel from the Legal Department of the IMF. The on-site work supporting the findings and conclusions was conducted during November 2024. The information in this note is current as of November 2024, except to recognize certain subsequent legislative changes. The FSAP thanks the authorities for their constructive dialogue and insights. While the note does not focus on investment firms, references to banks should be read as including investment firms which are in scope of the Single Resolution Mechanism Regulation.

5. The second pillar of BU, the SRM is mandated to ensure the orderly resolution of failing banks and banking groups. The institutional arrangements for the SRM are defined in the Single Resolution Mechanism Regulation (SRMR). The SRM includes the SRB and NRAs, collaborating with each other while fulfilling their respective tasks. The SRB is entrusted with centralized resolution powers over significant institutions (Sis) and certain cross-border groups. It does not, in principle, have direct resolution powers of its own, but can issue binding 'resolution schemes'[3] instructing NRAs on the use of the resolution powers in the Bank Recovery and Resolution Directive (BRRD). The SRB manages a Single Resolution Fund (SRF), which is also intended to have access to a backstop lending facility from the ESM, although the ratification of the change to the ESM treaty to allow this has not yet been completed.[4]

6. The BU still lacks EDIS, its intended third pillar. The EC tabled a proposal in 2015 to establish EDIS, which was not adopted by co-legislators. In 2022, after progress on agreeing a roadmap for EDIS and other elements of the BU stalled, the Eurogroup asked the EC to develop a more limited package of reforms to the EU Crisis Management and Deposit Insurance (CMDI) frameworks. The EC published its proposals in April 2023. Negotiations between the European Commission and the European Parliament and Council co-legislators may result in significant changes to the proposal.

7. In relation to non-bank financial institutions (NBFIs), important steps have recently been taken to enhance the crisis management legal framework. While the BRRD also applies to investment firms, the Investment Firms Regulation and Directive has established a framework for supervising investment firms, requiring the largest firms to obtain a banking license from the ECB. A new recovery and resolution framework for central counterparties (CCPs) was implemented in August 2022, equipping resolution authorities with tools to manage the orderly failure of CCPs while preserving essential clearing functions (Box 1). The Insurance Recovery and Resolution Directive passed in late 2024 and will apply from early 2027 - it is described in the accompanying technical note on insurance supervision.

8. Some significant misalignments persist between different regimes within the broader crisis-management framework. These should be aligned once a financial stability exemption from some of the conditions for use of the resolution fund is introduced (paragraph 28). The current state aid communications[5] regarding the banking sector were initially established as a temporary measure during the global financial crisis, a time when member states lacked appropriate crisis-management tools. Since then, the state aid framework has not been updated, despite significant changes in the legal and institutional crisis-management landscape following the adoption of the BRRD, SRMR, DGSD, and the BU. This has led to misalignments between the state aid framework and the

[3] Resolution schemes become binding after endorsement by the EC or Council – see discussion on governance below.

[4] Ratification by one member state remains outstanding. The EA FSAP does not address recommendations to member states but supports speedy completion of the ratification process.

[5] In the context of the financial crisis, the EC clarified its assessment of state aid granted to banks under the Article 107(3)(b) in six Crisis Communications.

resolution regime that should be addressed. For example, the less stringent loss imposition requirements compared to the BRRD create an uneven playing field for creditors and incentivize national and European authorities to manage banking problems outside of resolution. Additionally, the relationship between the notion of a "serious disturbance in the economy" for state aid control and financial stability within the resolution framework remains ambiguous, with differing assessment standards; state aid control offers more deference to member states than the oversight provided by the ECB and SRB under the SSM and SRM. In some cases, state aid in liquidation aiming to avoid a "serious disturbance" has been permitted even though the resolution authority reached a negative public interest assessment (PIA), because liquidation would be orderly without public support. Accordingly, state aid loss sharing requirements in resolution should be aligned with those in the BRRD/SRMR but only once sufficient flexibility has been introduced in the latter. Aligning the state aid and resolution regimes would also be an opportunity to evaluate whether, and to what extent, other aspects of the state-aid regime for banks (e.g., the treatment of liquidation aid) would remain relevant outside resolution.

Box 1. CCP Recovery and Resolution Regulation

The CCP Recovery and Resolution Regulation (CCPRRR) equips resolution authorities with tools to manage the orderly failure of CCPs while preserving critical clearing functions. It establishes rules and procedures for the recovery and resolution of CCPs, aiming to ensure they have effective measures to recover from financial distress or maintain critical functions if they are failing or likely to fail, while winding down other operations through standard insolvency processes. The overarching goal is to safeguard financial stability and reduce taxpayer risks in the event of a CCP failure. Many provisions in the CCPRRR reflect a similar approach as in the BRRD, while also addressing the unique nature of CCPs, and taking into account the clearing framework under European Market Infrastructure Regulation (EMIR). The CCPRRR serves as a harmonization instrument to mitigate national differences across EU member states. Key provisions for recovery planning took effect in February 2022, with the remainder of the regulation applying from August 2022.

Member states designate one or more NRAs for CCPs, which may include national central banks or public authorities, responsible for resolution planning and implementation. A designated authority coordinates the functions assigned to various authorities under the regulation and applies penalties for breaches. In addition to CCP-specific resolution colleges, ESMA—through a dedicated CCP Resolution Committee—plays a critical role in drafting broader regulatory standards and developing methods for addressing failing CCPs. The institutional framework recognizes the strong relationship between CCPs and credit institutions which are clearing members, making the supervisory and resolution authorities of such institutions part of the coordination mechanism under the CCPRRR (e.g., resolution college and ESMA CCP Resolution Committee). When a CCP meets the conditions for resolution, the NRA of the CCP may, on their own initiative or at the request of a competent authority responsible for the supervision of a clearing member of the CCP under resolution, propose to the EC to suspend clearing obligations of a CCP under resolution for specific classes of over the counter derivative or specific types of counterparty. The ECB participates in the CCP Resolution Colleges both as the supervisor of clearing members under its remit and also as the central bank of issue for Euro. The ECB as national competent authority (NCA) of EU clearing members is also a member of ESMA's CCP Resolution Committee.

Recovery and resolution under the CCPRRR are influenced by the CCP-specific risk-management framework. EMIR requires CCPs to have a predefined sequence of loss absorption upon the default of a clearing member (the default waterfall). The recovery plan must outline actions when the default waterfall is

Box 1. CCP Recovery and Resolution Regulation (Concluded)

exhausted or when the CCP breaches its capital or regulatory requirements. CCPs are updating their clearing rules and risk management frameworks to include descriptions of their recovery options and the CCPRRR

resolution tools. The CCPRRR resolution tools include sale of business, bridge CCP, and bail-in tools similar to the BRRD, but includes CCP-specific position management and loss allocation tools. The position management tools allow the resolution authority to rematch the CCP's book and terminate contracts of defaulting clearing members after valuing each contract and updating account balances. The loss allocation tools help cover CCP losses, restore payment capabilities, and replenish resources, allowing the authority to request contributions from non-defaulting members. Failure to contribute to loss allocation may result in the member being placed in default, with their margin utilized as per EMIR.

The cross-border and often global nature of CCP activities has led to a cross-border framework in CCPRRR similar to the BRRD. This includes contractual recognition clauses related to foreign assets and liabilities, as well as a statutory recognition framework. The CCPRRR is arguably stronger than the BRRD in some respects, requiring the NRA of a CCP to consider, "to the extent possible", the impact of its decisions on the financial stability of third countries where the CCP provides its services. The NCA and NRAs of CCPs must also establish cooperation arrangements with relevant third-country authorities.

B. Supervision of Weak Banks

9. The BU's supervisory arrangements have now had a decade to become well-established and have gained experience of supervision through stressed periods. The ECB as part of the SSM has the direct responsibility for the supervision of SIs, working with staff from the relevant NCAs in a Joint Supervisory Team (JST). For other banks—less significant institutions (LSIs), NCAs are responsible, under the oversight of the ECB.[6]

10. Some weaknesses in SI's planning for liquidity crises were identified in recent thematic reviews. All EU banks are required to develop recovery plans including options they could implement to recover from financial distress. Since the last FSAP, the SSM has sought to move from a mainly compliance-based approach to assessing these plans to a more risk-based approach. Assessments focus increasingly on usability of the plans, testing, and whether they are appropriate for current key risks. They also take account of specific features of national financial systems, for instance, some banks which are members of Institutional Protection Schemes (IPS) may include support from the IPS in their estimates of "overall recovery capacity" when the IPS rules include sufficiently strong commitments to provide support. Following the very rapid runs on US and Swiss banks in 2023, recent work has focused on recovery planning for fast-burn liquidity crises, identifying that many banks have focused until now on slow-moving crises which lead to relatively small breaches of liquidity requirements, and some could only implement substantial liquidity-raising options (e.g., the mobilization of non-prepositioned collateral for central bank borrowing) with delays.

[6] The EA FSAP included a detailed assessment of the Basel Core Principles for Banking Supervision (BCP). Please refer to that document for detailed analysis and recommendations on banking supervision.

11. The SSM's escalation process for banks in crisis is governed by documented internal procedures. Escalation is triggered by material financial deterioration (or likely deterioration) of a bank, and can result in a series of measures and actions, including heightened monitoring, possible requests for strengthening of banks' recovery plans or onsite inspections, liaison with the SRB, requests for capital or liquidity restoration plans. Preparation for possible resolution decisions, including mobilization of additional staff resources, also begins.

12. The SSM has a wide range of supervisory measures available, although there is scope for further aligning the conditions for adopting supervisory and early intervention powers. The ECB may use either its supervisory powers under the Single Supervisory Mechanism Regulation (SSMR), supervisory powers under the CRD, or the "early intervention" powers in the BRRD. These include powers to require a restructuring plan; limit lending, deposit growth, or other business activities; require implementation of recovery plan options; and to dismiss management. However, early intervention powers under the BRRD have rarely been used, in part due to higher triggers for their use. There would be merit in including all supervisory and early intervention powers currently included in the SSMR and BRRD under a single framework in a directly applicable EU regulation, and aligning the conditions for their use, with a view to ensuring that the ECB can always intervene promptly. The CMDI proposal includes changes in this direction. Supervisory measures can be introduced under the SSMR when (inter alia) arrangements, strategies, processes and mechanisms implemented by the credit institution do not ensure a sound management and coverage of its risks, while the criteria for adopting early intervention measures under the BRRD are more restrictive (i.e., a bank has breached or, due to a rapidly deteriorating financial conditions, is likely to breach prudential requirements).

13. The CMDI package would improve the integration of supervisory and early intervention powers under a single legislative framework and improve the consistency of triggers for resolution, insolvency, license withdrawal and other crisis actions. As a crisis deepens, the SSM would more actively prepare for its roles in resolution. The SSM is usually responsible for assessing whether a bank is "failing or likely to fail (FOLTF)",[7] the first step in triggering resolution. This can happen, inter alia, due to capital (based on a forward-looking assessment of compliance with Pillar 1 and Pillar 2 capital requirements), balance sheet insolvency, or severe liquidity problems. The SSM has updated its methodology for this assessment and has also adopted aligned definitions of solvency for assessing whether banks receiving state support are solvent, with further harmonization proposed as part of the CMDI package.[8] In case resolution is not triggered, the SSM would also plan for entry of the bank into insolvency. The conditions to trigger insolvency and supervisors' roles in a bank insolvency vary widely across member states. To prevent banks being left in "limbo" when they have been assessed as FOLTF with a negative public interest

[7] The SRB can also make this assessment in some circumstances.

[8] State support, under BRRD Article 32, is an alternative condition to deem a bank failing or likely to fail, in order to trigger burden-sharing with holders of capital instruments and (possibly) other creditors. However, some specific types of support (liquidity support and precautionary recapitalization) to a solvent bank are exempt.

but do not meet the conditions for either license withdrawal or insolvency[9], the BRRD requires that such a bank is wound down in an orderly fashion under national law. However, some inconsistencies and uncertainties remain across member states. The CMDI proposal would strengthen the requirements that applicable national procedures should lead to the market exit of such a bank within a reasonable timeframe, enable license withdrawal solely based on the FOLTF determination, and make license withdrawal a sufficient (but not exclusive) condition to initiate without delay winding-up procedures. The CRD has also been amended to ensure that the ECB can take a license withdrawal decision if an entity is FOLTF, but resolution is not triggered. In some cases, the timing of license withdrawal would in practice depend on whether a temporary continuation of the license is necessary e.g., for parts of the bank being run off to maintain access to payment systems, if this is not possible under the relevant insolvency regime. The FSAP supports these proposals. The final CMDI legislation should also ensure that the solvency criteria for public guarantees to back liquidity provided by the ECB/Eurosystem are consistent with the relevant frameworks, such as the ECB ELA Agreement.

14. The SSM has recently sought to encourage a more common approach to handling weak LSIs. While the direct responsibility for managing crises at LSIs lies with NCAs, the SSM sets common standards and is responsible for license withdrawals. Intensified cooperation and information sharing is needed when an LSI approaches non-viability. The Joint Supervisory Standards on LSI crisis management and cooperation between the SSM and NCAs were updated in 2023 to reflect lessons from experience since the establishment of the SSM.

C. Bank Resolution Authorities, Resolution Planning, and Resolvability Assessment

15. The SRMR created a similar structure for resolution authorities in the SRM. The SRB has direct responsibility for planning for, and managing, the resolution of SIs and also LSIs which operate in multiple BU member states. Work on each SI is conducted by an Internal Resolution Team (IRT), led by an SRB staff member and including staff from the NRAs of the BU countries where the group operates. NRAs are responsible for other LSIs, but under the oversight of the SRB. The SRB can also take over direct responsibility for a specific LSI at the initiative of either the SRB or the NRA. Section H below discusses the SRM's governance structures in detail.

16. SRM resolution authorities are in aggregate adequately resourced compared to peers. The SRB itself has around 450 staff as of end-2023, of which around 270 are directly involved with resolution work, and with over 500 further staff in NRAs. By comparison in the United States, which has a banking system of similar size and complexity,[10] the FDIC has around 500 FTEs working on

[9] i.e. with a 'negative public interest assessment'

[10] The US has 4,539 FDIC-insured deposit takers, with total assets of ~$24tn, and is home to eight G-SIBs. The BU has 2,022 institutions, with total assets of ~€31tn, and is home to seven G-SIBs.

resolution-related issues,[11] and significant resources from the Federal Reserve and OCC are also engaged in crisis management work such as reviewing bank "living wills". The Bank of England's Resolution Directorate has 87 staff.[12] There are however some pressures on resourcing, in particular arising from the SRM's complex governance processes and the ability of some NRAs to cover a wide range of topics. The SRB should consider further options to redeploy staff flexibly to support IRTs or NRAs working on weak banks (both SIs and LSIs).

17. IRTs are responsible for drawing up resolution plans for SIs and assessing whether they are resolvable. Common EU requirements for resolution plans and the assessment of resolvability are described in EBA technical standards[13]. In 2020, the SRB published further guidance on how it assesses resolvability in its "Expectations for Banks" (EfB), setting out the capabilities that the SRB expects banks to demonstrate on seven dimensions of resolvability.[14] The SRB has published guidance on specific topics, such as operational continuity and liquidity in resolution. Industry participants indicated that these publications had significantly improved their understanding of the SRB's priorities and enabled them to organize their work on improving resolvability more effectively. They also noted that ensuring sufficient ownership of work on resolvability by banks' boards and senior executives can be challenging.

18. Resolution authorities should provide more detailed disclosure on whether banks have met their aim of reaching a high level of resolvability. The EfB set a goal of achieving this level of resolvability by end-2023, and the SRB has reported that banks have made good progress. The SRB publishes an annual resolvability report including information on its assessment of banks' progress in aggregate towards meeting the SRB's expectations, and its priorities for future work, but there is little disclosure from the SRB or banks themselves on bank-specific issues, due to confidentiality restrictions. SRB faces legal constraints under the SRMR that may restrict its ability to increase transparency. Absent bank consent, the SRB would need to demonstrate such bank-specific disclosure is necessary for its functions under the SRMR. Even so, it must conduct a thorough case-by-case assessment to mitigate potential unintended consequences. The SRB has powers to require banks to remove substantive impediments to resolvability, but the process for using these is lengthy[15]. During the initial implementation phase of the EfB the areas for further work were common across a large number of banks and were addressed instead through sector-wide guidance and communication. In steady-state, potential impediments are likely to be bank-specific, requiring greater use of these powers. SRB is updating its internal methodology for IRTs assessing banks' resolvability, including new or updated assessment criteria. Legal constraints in the SRMR should be

[11] 280 staff in the Complex Institutions Supervision and Resolution division, assumed to spend one third of their time on supervisory tasks, and 330 in the Resolutions and Receiverships division. Note that EU resolution planning requirements apply to a broader scope of banks than US requirements.

[12] See https://www.imf.org/-/media/Files/Publications/CR/2022/English/1GBREA2022007.ashx

[13] Commission Delegated Regulation (EU) 2016/1075

[14] Governance, loss-absorbing capacity, liquidity and funding, operational continuity, information systems and data, communications, and separability.

[15] Although there is shorter timeline for MREL-related impediments (SRMR Article 10 (9)).

removed to allow the SRB to publish a more granular assessment of resolvability by individual banks that would help further public and industry understanding of the SRB's views and increase accountability[16] for the use (or non-use) of the powers to remove impediments, taking appropriate consideration of the market sensitivity of disclosed information. Banks' own disclosures could also be expanded through common requirements.

19. Arrangements for contingency planning for cooperative bank networks and Institutional Protection Schemes (IPS) should be strengthened. There are some specific challenges relating to the resolvability of the 15 cooperative groups within the SRB's direct remit. Many are members of cooperative networks in which a central institution is owned by the other, smaller, member institutions. Most such cooperative networks include a mixture of SIs under the direct remit of the SSM and SRB, and LSIs under their indirect remits, for which NCAs and NRAs have the day-to-day responsibility. This "inverted pyramid" structure means that in a bail-in, these ownership stakes would be written down to absorb losses in the central institution, putting the network structure in doubt. The resolution of mutuals may require demutualization from the cooperative structure, which can create challenges for any post-resolution business model.[17] Many cooperatives are also members of IPS, which can provide liquidity and solvency support from their wider membership, but the crisis management framework does not provide a clear legal basis for authorities to conduct recovery or resolution planning which fully takes account of crises severe enough to affect the IPS as a whole (although the largest IPSs, which are in Germany, are now required to develop joint recovery plans).[18]

20. The SRB's current strategy includes an increased focus on improving the SRM and banks' operational readiness to implement resolution tools and testing of these capabilities. The SRB has conducted a number of dry-run and simulation exercises, including a regular program of simulation exercises with the US and UK authorities, a dry-run with NRAs of the resolution of an LSI, dry-runs with the ESM for the operational procedures around activation of a loan from the future ESM backstop to the SRF, and on activating loss transfer mechanisms within banking groups. Banks also undertake dry runs on their resolution capabilities, such as data provision. The SRB should include in its program of future simulation scenarios of resolutions with large funding needs (including the governance process for use of the full SRF and ESM backstop), to provide realistic tests of the SRF and ESM's governance processes, including all relevant actors (Section H). On operational readiness, the SRB, building on the publication of information on national bail-in execution mechanisms by NRAs, has begun a project to review national handbooks drafted by NRAs to ensure that these describe the specific legal, institutional, and procedural issues affecting the

[16] The Bank of England published its first public assessment of the resolvability of individual banks in 2022. In parallel, major UK banks were required to make additional public disclosures on resolvability.

[17] IADI discuss the preconditions which would be necessary to maintain a cooperative structure in a resolution in a 2021 Guidance Paper (IADI_GP_Resolution_FinCooperatives.pdf).

[18] See the Technical Note on Crisis management from the 2022 Germany FSAP for further discussion (Germany: Financial Sector Assessment Program-Technical Note-Crisis Management and Financial Safety Nets).

execution of resolution in each BU member state, reflecting significant national variation in the powers and plans for implementing the resolution tools.

21. More banks should be brought into the scope of resolution, but additional restrictions on alternative national solutions should be conditional on addressing inflexibility in the resolution regime (particularly access to resolution financing). Once the SSM[19] deems a bank failing or likely to fail, the SRB is responsible for assessing whether or not use of its resolution powers would be in the public interest (the PIA). At present, the SRB can trigger resolution only if it concludes that resolution is necessary for the achievement of, and proportionate to one or more resolution objectives and that winding up of the institution under national insolvency proceedings would not meet the resolution objectives to the same extent.[20] The SRB regularly performs PIAs for banks in its scope to determine whether they should be subject to detailed planning for the use of resolution tools, and updates these assessments in crisis situations. In most bank failure cases to date the SRB has taken a relatively narrow interpretation of when bank resolution is in the public interest, meaning that of the small number of bank failures since the introduction of the BU, most have been dealt with under national insolvency. Only two banks/banking groups under the SRB's direct responsibility have failed since the 2018 FSAP (Box 2). The national insolvency frameworks for banks vary widely with some including many features of an administrative resolution regime while others apply a court-based corporate insolvency regime. Some other EU member states applying the BRRD framework, such as Denmark, interpret the PIA test more broadly to allow for the application of resolution powers to a much wider range of banks. A similar approach in the SRM would increase the consistency of outcomes and provide better tools to handle bank failures, especially in member states without tailored bank insolvency regimes. The CMDI package includes proposals to make more small- and medium-sized banks subject to the harmonized EU resolution framework rather than national insolvency laws, by making changes to how resolution authorities assess whether a resolution is in the public interest. SRB staff estimate that this would bring 26 additional banks (out of 2,400 credit institutions in the BU) into the scope of resolution planning.[21] However any expansion of the scope of resolution should be made conditional on addressing the main weaknesses in the framework identified in this FSAP, in particular enhancing flexibility within the SRM, and considering how to apply requirements proportionally to these smaller banks.

22. The BRRD allows the authorities to impose a 48-hour moratorium on all liabilities including deposits while preparing for resolution; conditions for use of this power should be tightened. In a fragile financial system with other weak banks, suspending payment of deposits even briefly could trigger broader contagion. At present the BRRD allows a moratorium[22] for the

[19] Or the SRB, in certain circumstances.

[20] Continuity of critical functions, to avoid significant adverse effects on the financial system, to protect public funds by minimizing reliance on extraordinary public financial support, to protect covered depositors and investors, and to protect client funds or assets.

[21] 2023-12-15_Working-paper-series-3-CMDI_December-2023_0.pdf.

[22] BRRD includes a national option which was implemented in all but two member states, which allows resolution authorities to give depositors subject to a moratorium access to a daily amount of withdrawals.

purpose of either (i) choosing the appropriate resolution actions or ensuring the effective application of one or more resolution tools, or (ii) allowing the SRB to reach its PIA determination. Given the risk that restrictions on access to deposits can have lasting impacts on depositor confidence, the second possibility should be removed and instead PIA determinations should be reached quickly, and arrangements for liquidity in resolution strengthened.

Box 2. Failures of Banks Within the SRB's Direct Responsibility Since The 2018 FSAP

Sberbank

Sberbank Europe AG was the Austrian parent entity of the European subgroup of the Russian banking group, Sberbank. The subgroup was an SI that failed in February 2022, as the Russian invasion of Ukraine triggered reputational concerns and US sanctions, leading to a rapid run. Although the parent entity was relatively small in Austria, the SRB's advanced planning had assessed that the subgroup's resolution would be in the public interest due to the nature of the activity of its subsidiaries in Croatia and Slovenia. The subgroup also had subsidiaries outside the BU in Czechia and Hungary, and outside the EU in Bosnia and Herzegovina, Banja Luka and Serbia. At the time of failure however, partly due to concerns about the possibility of restoring the viability of the parent entity in the face of sanctions risks, the Austrian parent entity was put into insolvency while the subsidiaries were sold to other local banks through SRB led-resolution. As the resolutions took place on 1 March, a Tuesday, a moratorium on payment of liabilities including deposits was applied by the SRB and the NRAs the day before.

PNB Banka

PNB Banka was a Latvian bank which failed in August 2019. Although not an SI, the SSM and SRB had taken over direct responsibility for it at the request of the Latvian NCA in April 2019. The bank was declared FOLTF by the SSM on 15 August 2019 due to irrecoverable breaches of capital requirements, and the SRB decided not to take resolution action on the same day. However, the court procedure to declare insolvency took several weeks, with insolvency only being declared on 12 September.

D. Deposit Protection

23. Although many aspects of deposit protection are harmonized by the DGSD and BRRD, DGSs remain national. The directives set common minimum eligibility criteria for coverage, a common level of coverage (€100,000 per depositor per bank), and minimum target levels for ex ante funding (0.8 percent of covered deposits[23]), and on depositor preference in insolvency. Some differences in national implementation could complicate bank resolution or deposit insurance payout. There are differences in coverage for temporary high balances due e.g., to the sale of a house, and in the coverage of depositors in non-EU branches, which could lead to frictions with foreign authorities. One member state takes advantage of a provision allowing it to set a lower ex ante fund size than the 0.8 percent requirement, while several member states set higher targets.

24. Resolution financing is an important role for DGSs, as stressed in the international standards for both resolution and deposit insurance. The BRRD empowers resolution authorities to require DGSs to contribute to the costs of resolution, up to the costs they would have borne in a payout. The authorities should ensure that all national DGSs interpret this as allowing contributions

[23] BRRD includes a national option which was implemented in all but two member states, which allows resolution authorities to give depositors subject to a moratorium access to a daily amount of withdrawals

up to the upfront, gross value of covered deposits (plus other costs in a hypothetical payout). Subsequent recoveries for the DGS as a creditor should ensure net costs to the DGS are no more than their estimated costs in liquidation. Other arbitrary restrictions on DGS contributions that do not apply in DGS payout cases should also be removed, such as the provision limiting DGS contributions to resolution costs to 50 percent of the DGS fund's target level.[24] They should also ensure that national DGSs are operationally ready to provide such financing promptly. DGSs should also be able to finance transfers of assets, liabilities and deposit books in national insolvency proceedings, as an efficient alternative to payout—this is currently optional under the DGSD. The FSAP's view is that DGSs should only intervene to prevent failure in exceptional circumstances with strong prospects for ensuring successful rehabilitation and long-term viability. IPSs which are also recognized as DGSs under the DGSD should not rely on DGS funds for interventions to support their members, instead having segregated funds for this purpose. The CMDI package includes a number of proposed reforms to the DGSD, including clarifications to the caps on DGS contributions in resolution and to allow DGS financing to count towards the 8 percent loss absorption requirement for access to the SRF.

25. A common system of deposit insurance, as proposed by the EC in 2015 and supported by the 2018 FSAP, remains necessary, but progress towards its introduction has largely stalled. Despite widespread support from stakeholders and analysts for this objective, and repeated political calls for progress, this has remained elusive for almost a decade.[25] A common industry-funded system which allows funding burdens and losses to be spread across the whole BU banking sector rather than within a single country would be better able to deal with medium or large failures, be a better source of resolution financing, be better aligned with the unified SSM, and reduce the risk of being unable to finance a deposit payout. A version of common deposit insurance which only enabled liquidity pooling between national DGSs would achieve few of these benefits. Furthermore, a fully-fledged European deposit insurance scheme for all banks would better achieve uniform depositor protection across the BU, regardless of a bank's location. Currently, depositors might perceive the strength of a DGS to be linked to the fiscal strength of the member state it is located in. An EDIS would therefore help to tackle the bank-sovereign nexus.

26. In the near term, the authorities should address common findings from national FSAPs on weaknesses in national DGS, particularly the need for stronger backstop liquidity arrangements. Multiple national FSAPs in the EA have found that DGSs rely solely or mainly on ex post levies or market borrowing as additional sources of liquidity, despite the relevant international standard (IADI Core Principle 9, Essential Criterion 4) noting that deposit insurers should not rely solely on market borrowing for emergency funding. All DGSs should have strong pre-arranged backstop liquidity arrangements with the public sector, to ensure they can meet the large liquidity demands which payout, or the resolution of a medium- or large sized bank, might involve.

[24] Member states already have the discretion to increase this limit, which several national FSAPs have recommended.

[25] See, for example, the 2016 European Council "Roadmap to Complete the Banking Union" and Eurogroup statements (Statement of the Euro Summit, 14 December 2018 - Consilium), (Eurogroup statement on the future of the Banking Union of 16 June 2022 - Consilium).

27. The minimum funding targets for national DGSs should be increased, especially if reliance on national solutions remains prevalent and EDIS and stronger liquidity backstops for DGSs remain missing. Eight EU member states, including most non-EA member states, already set a higher target level than the harmonized 0.8 percent of covered deposits, recognizing the higher risks of funding shortfalls caused by payouts in a more fragmented system. The 0.8 percent target is also significantly lower than the FDIC's 2.0 percent long-term target for their Deposit Insurance Fund, or its current level of 1.2 percent. While this difference is reduced if the pooled 1 percent of covered deposits available through the SRF is considered, this comparison would only be appropriate if most failures are in fact financed through the common resolution regime rather than via national solutions. Modelling by the EC's Joint Research Centre[26] found that in a crisis scenario less severe than 2008, the probability of a national DGS being exhausted would be 75 percent (although a fully pooled EDIS would reduce shortfalls by approximately 80 percent).

E. Financing Bank Resolution

28. The build-up of loss-absorbing capacity by EA banks, which is now largely complete, is a significant achievement. All banks which the SRB expects to put into resolution in the event of failure have bank-specific loss absorbing capacity requirements or MREL,[27] which can be met through capital, subordinated or senior unsecured debt[28]. The default level of MREL is roughly double the prudential capital requirements, to allow a bank to emerge from resolution adequately capitalized after losses fully deplete its regulatory capital. The SRB then makes bank-specific adjustments—reductions to reflect resolution plans expected to shrink the balance sheet of the resolved bank, increases to reflect the need to provide a buffer over prudential minimum requirements and to provide confidence that the minimum loss absorption requirement to access the SRF can be met. Larger banks are subject to additional minimum quantity and quality requirements for their MREL. Global systemically important banks (G-SIBs) must have an MREL at least equal to the FSB's TLAC requirement, and banks with more than €100bn in assets or that may pose a systemic risk must meet their MREL partially through instruments subordinated to ordinary senior debt. Individual legal entities in a group are generally subject to "internal" MREL requirements.

29. These requirements mean that there is a broad and deep pool of potentially loss-absorbing liabilities in resolution for BU banks, providing significant protection against losses to taxpayers and industry-funded safety nets. The average MREL requirement for banks under the SRB's direct remit is 28 percent of bank risk-weighted assets. The phase-in of these requirements is almost complete—all but seven banks under the SRB's direct remit now comply with their final

[26] JRC Publications Repository - Quantitative analysis on selected deposits insurance issues for purposes of impact assessment.

[27] Under Minimum Requirement for own funds and eligible liabilities (MREL) the default level of MREL is equal to twice the sum of the Pillar 1 and Pillar 2 total capital requirements (or twice the leverage ratio requirement, if higher). The prudential Combined Buffer Ratio applies on top of the risk-weighted MREL requirement.

[28] And other unsecured liabilities with a residual maturity >1 year, under certain conditions.

MREL requirements, including the Combined Buffer Requirement.[29] The application of MREL requirements to the vast majority of SIs means that most banks which are potentially systemic in failure have significant amounts of loss-absorbing capacity.[30]

30. The industry-funded SRF has reached its target level and its national components have been merged, but conditions for its use remain too restrictive. The SRF, funded by levies on the banking industry, has now reached its target size of 1 percent of DGS-covered deposits (~€80bn). It can be used for purposes including guarantees for funding of a bank under resolution, loans to such a bank, asset purchases, to capitalize or fund a bridge bank, and to pay compensation. However, any use of more than €5bn[31] may require the approval of the SRB Plenary Board, potentially delaying a resolution (Section H). SRF capital support is conditional on creditors and shareholders absorbing losses of at least 8 percent of the bank's balance sheet (defined as total liabilities including own funds). While MREL requirements, at least for larger or more systemic banks, are designed to help banks to meet this requirement, a bank's MREL may have fallen by the time of entry into resolution, and the restrictive definition of shareholder losses used (including only unaudited losses since the last financial reporting date) limits this ability. In addition, as starkly demonstrated in the bank failures in spring 2023 in the US, even banks assessed as non-systemic in the planning phase may prove systemic at a time of heighted stress, and authorities may remain wary of the risks of losses to depositors or other creditors triggering contagion, creating a time consistency problem. Accordingly, introducing a financial stability exemption from the minimum loss absorption requirement and the cap on use of the SRF in systemic crises remains a key recommendation as in the 2018 FSAP.

31. The EC's CMDI proposal would, if agreed, allow DGS contributions to resolution costs to count towards the 8 percent loss absorption requirement for, aiming to "bridge" any gap. This would be limited to resolutions using a transfer strategy and which result in the market exit of the bank. To facilitate this the proposal would allow greater DGS contributions to resolution costs (which must remain below an estimate of the costs to the DGS in a hypothetical insolvency process), by removing the current "super-preference" insolvency ranking in insolvency of DGS covered deposits.[32] Instead, both covered and non-covered deposits would have a common ranking (while still being preferred to other senior creditors). However, this change to depositor preference is opposed by both the European Parliament and Council, which would limit the additional flexibility

[29] The total shortfall as of Q2 2024 was €3.7bn, corresponding to 0.05 percent of RWA, fully attributable to the CBR and to banks with extended transitional period. All banks met their minimum requirement at the reporting date.

[30] The importance of resolution planning and loss-absorbing capacity for banks systemic in failure: Public statement - Financial Stability Board.

[31] €10bn in the case of liquidity support.

[32] At present, under BRRD Article 108, both insured deposits and DGSs subrogating to their claims are preferred over the deposits which are eligible for DGS coverage but above the insurance limit; all eligible deposits are preferred to other non-secured claims.

even under a revised "least cost test".[33] Such "bridging" contributions from DGSs are less likely to be useful in systemic crises, where DGS funds may be exhausted and larger, less deposit-funded banks are likely to be affected. Additional reliance on DGS financing is also not accompanied by any increase in either their ex-ante funding or stronger access to emergency public sector funding.[34]

32. The authorities should encourage the one remaining member state to ratify the revised ESM Treaty, which would create a "backstop" facility for the SRF. Recognizing that the SRF could be too small to manage all funding needs in a large bank failure, revisions to the ESM treaty were negotiated allowing the ESM to lend to the SRF. The maximum size of this facility is currently €68bn[35]. The SRF and ESM have undertaken detailed operational preparations, joint repayment capacity modelling, and testing to ensure they would be ready to access the backstop. But ratification remains incomplete and politically controversial in one member state. In addition, while the ESM Treaty, Backstop Facility Agreement, and relevant guidelines elaborate on the criteria for decisions, use of the backstop will still require strong consensus at the ESM Board of Directors, which may not always be easy to achieve, particularly in the very short timeframe which may occur in a resolution (Section H).

33. By themselves, the SRF and ESM may not be able to meet the liquidity in resolution needs in the failure of a major systemic banking group (like Credit Suisse). The failures of Credit Suisse and three regional US banks in spring 2023, vividly illustrated the large liquidity demands that may be needed to ensure an orderly resolution of a large bank. The FDIC guaranteed loans from the Federal Reserve to the three resolved banks of a combined $273bn.[36] The Swiss National Bank provided liquidity facilities of up to CHF250bn[37] to Credit Suisse in the runup to, and in support of, its merger with UBS, which were ultimately fully repaid. The BU includes many banks much larger than these cases—for example, 17 banking groups are larger in terms of total assets than Credit Suisse at the time of its failure[38]—but the combined resources of the SRF and ESM backstop (of approximately €150bn) are smaller than the liquidity provided.

34. The European authorities should urgently agree on arrangements to provide sufficient liquidity, quickly, in resolution subject to adequate safeguards to protect central bank balance

[33] The CMDI package also includes a proposal to ensure a consistent application of the least cost test across the BU and requires both direct and indirect costs of payout be taken into account. The proposed amendments to the proposal by the Parliament and Council do include some offsetting changes to the least cost test, such as requiring assumptions on the maximum recovery rate for DGS in insolvency, but it is not clear what the quantitative impact of these would be or what form would be included in the final text.

[34] The international standards for deposit insurance, the IADI Core Principles, require emergency funding arrangements including pre-arranged and assured sources of liquidity, which are not solely market funding. Multiple IMF FSAPs for euro area member states have identified weak emergency funding arrangements (see Appendix III).

[35] Unless the ESM Board of Governors decides to increase it.

[36] See Remarks by Vice Chairman Travis Hill at the American Enterprise Institute "Reflections on Bank Regulatory and Resolution Issues" | FDIC.

[37] CHF50bn in collateralized ELA, CHF100bn backed by a Swiss government guarantee, and CHF100bn backed by a preferred creditor status in bankruptcy.

[38] Based on EBA SII statistics.

sheets. National Central Banks (NCBs) within the Eurosystem can provide significant temporary liquidity to illiquid banks through ELA, provided they comply with appropriate conditions and safeguards detailed in the ELA Agreement[39] This requires, among other conditions, that the borrowing bank is either solvent (based on its Pillar 1 capital requirements), or has a credible prospect of recapitalization—in a resolution scenario this should be assured by the resolution scheme and absorption of losses and recapitalization by MREL or other liabilities. It also requires that collateral should sufficiently protect the NCB against risks. Although EA banks preposition significant amounts of collateral with the Eurosystem to access normal central bank liquidity, given the very large potential liquidity demands on a distressed bank, a bank may have exhausted its high quality or readily mobilized collateral leading up to and through resolution. The ECB/Eurosystem already accepts guarantees on borrowing or to enhance the credit quality of collateral, from a sufficiently creditworthy guarantor. Although the SRF is currently unrated, its joint modelling with the ESM suggests it has strong repayment capacity based on its ability to levy the EA banking sector and it has the legal authority to guarantee assets or borrowing of banks in resolution.[40] Guarantees by the SRF of central bank liquidity on top of the maximum possible extent of collateral protection, are critical to help plug this substantial gap in the EA crisis management framework. Accordingly, the FSAP recommends that arrangements are put in place for the SRF to be able to provide guarantees to enhance the ability of a bank under resolution to access central bank liquidity (including ELA) in amounts exceeding the balance of the SRF (and ESM backstop once ratified and activated), subject to adequate safeguards for central bank balance sheets, including if possible an EU fiscal backstop.[41]

35. Member states should implement the BRRD government stabilization tools, as an ultimate resort in a systemic crisis. The BRRD includes the option for governments to use "stabilization tools" (public equity support or nationalization) after resolution tools have been used to the maximum extent consistent with maintaining financial stability. Many, but not all, EA member states have implemented these tools—as the need for their use in a systemic crisis cannot be ruled out, they should be implemented in all cases[42].

[39] Currently NCBs bear the risks of ELA. The systemic liquidity workstream of the FSAP will consider the allocation of responsibilities for ELA between the ECB and NCBs as well as other aspects of the Eurosystem's ELA arrangements and collateral framework.

[40] Depending in which member state the bank is, the SRF guarantee could have a higher rating than the one which would apply if the member state were to guarantee ELA on its own, reflecting that the SRF can levy the EA banking system as a whole and should have credit risk similar to the average of the banking system.

[41] The SRB's working paper on the 2023 banking turmoil proposes guarantees provided by the European Commission, backed by the EU budget (2024-07-02_Staff-Paper-4_The-2023-Banking-Turmoil.pdf). Other mechanisms may also be feasible.

[42] The BRRD also allows the possibility of a precautionary recapitalization or state guarantee by governments provided (inter alia) that: i) the bank is solvent; ii) support does not offset losses; and iii) support is limited in size and receives state aid approval from the EC.

F. Implementing Resolution Tools: Bail-in

36. Bail-in is the preferred resolution tool for most entities targeted for resolution in the BU. Around three quarters of resolution plans by the SRB envision applying this tool. The majority of NRAs intend to utilize an open-bank bail-in via direct conversion of liabilities to new CET1 instruments. Some other member states (e.g., France, Netherlands, Belgium, Portugal) have adopted variations where creditors and equity holders may receive interim instruments representing future equity claims, which are tradable. A few NRAs are open to using either approach i.e., with or without interim instruments.

37. A comprehensive set of legal, policy, and operational documents from the SRB, NRAs, and banks directs the implementation of bail-in. The SRB, in its EfB asks for banks' bail-in playbooks to detail necessary actions for each resolution group. Additionally, the SRB has provided guidance on these playbooks and clarified its responsibilities regarding bail-in. NRAs, tasked with executing the SRB's resolution scheme under national law, are expected to define and publish jurisdiction-specific bail-in mechanisms in line with EBA guidelines,[43] considering applicable domestic legislation. The SRB noted that all banks under its remit have developed their bail-in playbooks, and it will continue to monitor the extent to which playbooks meet its expectations.

38. There is a need to further enhance preparedness and awareness among stakeholders regarding bail-in. The execution of bail-in involves various actors, including central securities depositories and financial supervisory bodies, creating complexity, especially in cross-border contexts. The EBA's recent report[44] suggests there is scope to enhance preparedness levels among these stakeholders, with NRAs tackling the issue by initiating further discussions and simulation exercises. Authorities should ensure all NRAs publish their bail-in mechanisms, as required by EBA Guidelines as a few are lagging. A review of existing bail-in documents could identify best practices to improve their quality.

39. Good coordination between resolution authorities and market authorities is needed for bail-in execution.[45] Some provisions in the EU framework recognize this interaction, and the SRB are working with resolution and market authorities, both inside and outside the Banking Union, as needed to improve coordination. Selected issues requiring coordination include:

[43] EBA Guidelines on the publication of the write-down and conversion and bail-in exchange mechanic' which requires this publication and sets the minimum level of information required (EBA/GL/2023/01 published 13/02/2023). In addition, the EBA has a repository on its website of published national bail-in mechanics.

[44] EREP 2024 convergence report (EBA-Rep-2024-19).pdf

[45] See FSB Key Attributes (3 and 11), the TLAC Term Sheet and the Principles on Bail-in Execution for guidance for the effective execution of the bail-in tool for G-SIBs. Principles 11 and 12 refer to potential securities law and securities exchange requirements, together with disclosure and listing requirements, during the bail-in period.

- ***Suspension of trading****:* Member states use different mechanisms to suspend the trading of instruments subject to bail-in.[46] However, complications may arise when the resolution authority and the relevant market authority are in different member states, or one is in a third country state. The EBA report notes that EU resolution authorities have no powers to suspend trading in third country venues and would need to rely on the issuer requesting suspension or trading venues voluntarily halting trading. However, NRAs would still benefit from clearer guidelines regarding the timing and process for suspending trading of instruments subject to their bail-in authority in another member state and particularly in third countries.

- ***Prospectus requirements:*** The authorities expect that the mandatory conversion of bailed in liabilities does not constitute an "offer" of securities under the EU framework and therefore would not be subject to prospectus requirements.[47] This is because such conversion does not involve an element of individual choice by the holder. Subject to further FSB guidance on bail in execution and interaction with securities law, the authorities will assess any need to add additional resolution specific exemptions into the legal framework, in case bail-in strategy involves an element of choice (e.g., bondholders are offered a choice between cash and securities).

- ***Disclosure requirements:*** In general, ad hoc, periodic and ongoing disclosure requirements continue to apply to the extent the failed bank continues to have its securities listed on a regulated market. The authorities consider that the amendments in the EU Listing Act Package to the legal framework governing the disclosure of inside information would allow banks to make disclosure only after the final event in a protracted process, alleviating the pressure of immediate disclosure of insider information when they activate their recovery plan or requested to take an early intervention measure. A delegated regulation will set-out an indicative list of final events or final circumstances in protracted processes which could trigger disclosure requirement. The authorities are considering adding resolution and insolvency-related events to this list and should leverage this regulation to provide further clarity on disclosure issues in a crisis-management context.

40. Contractual mechanisms are in place to support the bail-in of liabilities governed by third country law. The BRRD requires banks to include contractual terms in these liabilities to facilitate write-down and conversion and temporary stays, except in cases where SRB/NRAs are satisfied that the third country provides adequate recognition mechanisms for bail-in and banks confirm the enforceability of these clauses with independent legal opinions. While the authorities' approach follows good practices, they should continue monitoring of any potential risks that could

[46] (i) The RA directly orders the suspension in the resolution decision; (ii) the resolution authority is empowered to request, and the market authority is authorized to impose suspension; and (iii) the market authority suspends trading on its own but coordinates with the RA.

[47] Prospectus Regulation (EU) 2017/1129 separately provides an exemption from prospectus requirements when securities, resulting from the conversion or exchange of other securities, own funds or eligible liabilities as a result of the exercise of bail in powers are admitted to trading on an EU regulated market ((Article 1(5)). Outside new issuances, any debt instruments which have been written down can be relisted or readmitted without a prospectus.

affect the enforceability of these clauses, as their true value will be tested when creditors challenge the effect of bail-in before foreign courts.

41. A lesson learned from the Credit Suisse case, is that a better understanding of the interaction between bail-in execution and applicable foreign securities laws is needed.[48] The FSB Principles of Bail-in Execution (2018) require RAs to identify all applicable securities laws and prepare for how to comply with them as part of their resolution planning. The FSB's post-mortem report on the 2023 bank failures[49] underscored the need to ensure that the exercise of bail-in powers on a cross-border basis will be effective and enforceable in all relevant jurisdictions. For instance, if a foreign jurisdiction's registration or prospectus requirements apply during an open bank bail in, resolution authorities would need to comply with these requirements, or requirements for any applicable exemption. Similarly, depending on their applicability and the scope, applicable disclosure requirements under foreign securities laws need to be observed during a resolution weekend. These highlight the importance of advance preparations to navigate the securities law of a foreign jurisdiction.

42. The BU authorities should continue to prioritize work on potential challenges to cross-border bail-in, in cooperation with international peers. To that end, they are actively collaborating with market authorities both in international fora and bilaterally to assess risks for compliance with foreign securities regulations during an open bank bail-in. Most third country MREL is issued in either the US or UK. So far, the authorities do not see major risks for compliance with UK securities laws, largely due to greater alignment between UK and EU securities laws. They are seeking more legal certainty on compliance with US securities laws, which is imperative for the viability of bail-in strategies. The SRB, together with the EC and the ECB, participates in the FSB's workstream on bail-in execution, aiming to expand jurisdictions' understanding of third country securities law issues. They continue to engage with US authorities (including the Securities and Exchange Commission) with a view to ensuring that an EU bank in resolution could continue to satisfy applicable US securities rules and avail of potentially available exemptions and safe harbors from certain rules. In addition, the SRB should continue to gather information from banks on potential cross-border bail-in execution risks, irrespective of the governing law. Should third country risks significantly impact the planned bail-in mechanisms, it will be critical to develop alternative approaches, such as adjustments in bail in mechanisms if necessary or in the context of improving resolvability.

[48] Report of the Expert Group on Banking Stability, The need for reform after the demise of Credit Suisse, 2023, available at https://www.admin.ch/gov/en/start/documentation/media-releases.msg-id-97593.html.

[49] 2023 Bank Failures: Preliminary lessons learnt for resolution. In the context of the CS case, this report notes that according to Securities and Exchange Commission staff, mandatory conversion of bail-in bonds held by US persons into equity would be deemed a 'sale,' thus requiring either a registration (requiring a prospectus) or qualification for an exemption.

G. Implementing Resolution Tools: Sale of Business and Bridge Bank

43. The SRB has stepped up planning for the use of transfer strategies—the transfer of all or part of a bank's business to an acquirer or to a temporary publicly owned bridge bank. Although bail-in remains the preferred resolution strategy for most SRB banks, internationally, such transfer strategies have long been the most common way of resolving failing banks[50] and all SRB resolution cases so far have involved the sale of the failing bank. The SRB has increased both its internal preparations and its expectations for banks in their resolution planning. In particular, banks with a primary resolution strategy of bail-in have been asked to increase their readiness to execute a "variant resolution strategy" involving a transfer. Although the requirement to plan for variant strategies in case the primary strategy is infeasible has always been part of the BRRD and EBA Technical Standards on resolution planning, this has become an area of greater focus for the SRB. The SRB has developed internal guidance for IRTs and guidance for banks on separability analysis—intended to identify parts of the bank which could be sold independently, and analysis on national legal issues limiting transferability (e.g., German covered bonds can only be transferred to BaFin-authorized acquirers; the depth of markets for impaired loans varies greatly between countries). Operational preparations to facilitate buyer due diligence (e.g., rapid population of data rooms) are also underway.

44. Matching failing banks or their assets with as wide as possible a pool of interested acquirers is key to successful use of transfer powers in resolution and to limiting costs. Resolution plans for banks with possible transfer strategies seek to identify potential acquirers, both domestic and international and including non-banks, with a track record of bank investments. However, in crisis cases to date, identification of buyers has relied mostly on NRAs/NCAs knowledge of their local markets. Greater outreach by the SRB to potential acquirers could help to broaden the pool of bidders and foster a European market for failing banks or their assets, particularly as bank valuations and merger activity have picked up. In parallel the SRB should continue to identify possible legal and other obstacles to transfers and try to remove or mitigate them.

45. Preparations to establish bridge banks have also been stepped up. If a buyer cannot be found immediately, or to allow time to complete restructuring as part of a bail-in strategy, it may be necessary for all or part of a bank's business to be transferred to temporary publicly owned bridge bank. In most cases it is expected that the bridge bank would be owned by the SRB, which could also provide capital to the bridge bank through the SRF. Unlike in some jurisdictions such as the US, a bridge bank must comply with capital and other prudential requirements, such as the approval of management. The SSM and SRB are working together on the processes to set and meet these promptly and identify for which requirements temporary waivers (as permitted by the BRRD) can be granted. The SRB is also working with NRAs to document governance requirements in national corporate law which the bridge bank would have to meet, and to identify potential bridge bank management.

[50] For example, of 489 FDIC-led bank resolutions in the USA in 2008-13, 463 were "purchase and assumption" transactions. See Table 6.3 in (Crisis and Response: An FDIC History, 2008–2013 | FDIC).

H. Governance and Decision-Making

46. The SRB's operational autonomy is constrained.[51] Unlike the ECB, which is an independent EU institution established in the Treaty, the SRB is an EU agency. Under EU law, powers delegated to an agency cannot involve a wide degree of discretion allowing it to execute actual economic policy.[52] While the SRB can carry out preparatory tasks (e.g., resolution planning, and resolvability) under its own discretion, a resolution scheme takes effect only after the EC or the Council,[53] endorses the scheme. As confirmed by the Court of Justice of the European Union, the EC and Council can substitute their own assessment with that of the SRB in all discretionary aspects of the scheme, including whether to resolve a bank or not and the selection of resolution tool, even if no public funds are used. In the rare examples of resolution so far, the EC gave its endorsement to the scheme, but in these cases all stakeholders were aligned, a private sector solution was available, and no access to the SRF was needed. The EC and Council's decisive control over resolution decisions is not in line with good practices concerning the operational autonomy of resolution authorities, and increases the risk of political influence in more challenging circumstances.

47. The EC should explore avenues to enhance the SRB's autonomy. The legal status and governance of the SRB were politically challenging topics during the establishment of the SRM. The SRMR mandates the EC to review and publish triennial reports on the functioning of the SRM, including whether an "independent EU institution" is needed to execute the responsibilities of the SRB, EC, and Council under the SRM, as well as the appropriateness of the SRB's governance arrangements. The EC's 2019 report[54] concluded it was premature to assess this aspect. The EC should capitalize on the next mandated review of the SRMR[55] and advocate for a more autonomous SRB. One option is establishing the SRB as a Treaty institution in the long run, which would require Treaty changes. As well as strengthening the SRB's autonomy, this option would reduce the complexities associated with the current governance and decision-making structure. More limited

[51] FSB Key Attribute 2.5, "The resolution authority should have operational independence consistent with its statutory responsibilities".

[52] This doctrine is known as the Meroni doctrine, and a recent ruling of the C.J.E.U. confirmed its relevance to resolution decisions under the SRM—Judgment of the Court in Case nr. C-551/22 P of 18 June 2024. The Court also clarified that it is the EC that should be accountable before judiciary in challenges concerning the scheme.

[53] The Council is involved in cases where the EC proposes to the Council that either the PIA is not met and or that the SRB's proposal on use of the SRF should be significantly modified. The authorities' common interpretation is that Council can only accept or reject the EC proposal to object to the resolution on the grounds proposed by the EC.

[54] EC, Report on the application and review of the bank recovery and resolution directive and the single resolution mechanism regulation, 2019.

[55] SRMR Article 94 requires the Commission to report every three years on the functioning of the SRMR, including on whether the functions of the SRB, EC, and the Council should be exercised by an independent EU institution.

options would require examining ways to remove or limit EC and Council involvement in resolution decisions under the SRB's current status within the bounds of permissible delegation under EU law.[56]

48. The SRB has a unique and complex decision-making structure, with three distinct board compositions, depending on the specific issues at hand. The Executive Session comprises the Chair and four full-time members (together the 'permanent members'), selected via an open process involving the EC, the European Parliament, and Council. For matters concerning a particular bank, the Executive Session is expanded—termed the "Extended" Executive Session—to incorporate board members representing the relevant NRAs. Meanwhile, the Plenary Session consists of the Chair, the other permanent Board Members, and representatives from all NRAs, totaling 26 voting members. The SRB Vice Chair joins in all these compositions, although not as a voting member.[57] Importantly, there is no hierarchical relationship among these sessions.

49. The SRB's decision-making arrangements pose challenges, especially for resolution financing, and should be simplified. The Board and NRAs are required to act independently and in the general interest. However, while the permanent members are mandated to act in the interest of the Union as a whole, NRA representatives are not subject to the same obligation, raising potential questions about the ability of the SRB's governance to balance national and Union interests.[58] As a safeguard, during Extended Executive Sessions, the permanent members may take bank-specific decisions by simple majority if consensus with NRA representatives is not achieved. However, it remains unclear whether the permanent members would have adequate incentives to proceed without consensus at the moment of failure and propose a resolution scheme. Stringent requirements to access to the SRF (e.g., the 8 percent bail-in requirement) could mean loss imposition on uncovered depositors, particularly for small and medium size banks. The SRB could, in cases where the use of resolution tools would depend on use of the SRF, have incentives to reach a negative PIA and refer the case to national authorities. An additional challenge is that if a resolution scheme adopted by the Extended Executive Session involves the use of more than €5 billion of funding from the SRF,[59] it may need to be approved by the Plenary Session, with a majority representing at least 30 percent of contributions. NRA representatives not directly involved in

[56] For instance, where the law provides a "significant number of factors" that define the parameters of discretion and "precisely delineate" the agency's power, the exercise such power would be a permissible delegation and compatible with the Meroni doctrine. See Case C-270/12, Judgment of the Court (Grand Chamber), 22 January 2014.

[57] Under the CMDI proposal, if adopted, the Vice Chair will also be a voting member.

[58] In the case of ECB Supervisory Board, NCA representatives are required to act also in the interest of the Union as a whole (see Art. 19 of the SSMR).

[59] Liquidity support is weighted at 50 percent of the nominal amount.

preparation for the resolution or with national interests at stake in the failing banking group could potentially outvote the permanent members,[60] which could deter the SRB from acting decisively.

50. Requirements for decision making by other authorities add further complexity. As well as the ECB and SRB's assessment of the triggers for resolution, the EC or Council's endorsement of the resolution is required. Within the EC, in addition to DG FISMA's role in assessing the application of the resolution framework and DG ECFIN's contribution to assessing any impacts on public funds, the Directorate-General for Competition (DG COMP) must assess whether any use of public or SRF funds complies with EU State Aid rules. Enhancements to cooperation since the last FSAP have bolstered the authorities' ability to respond to urgent situations, such the rapid failure of Sberbank. However, the feasibility of decision-making timelines can be challenged in the failure of more complex and large groups (Appendix I). In such cases, additional coordination layers are highly likely to arise, such as coordination with non-participating member states in a resolution college[61] (ideally to reach a joint decision on a group resolution scheme), with the ESM for the SRF backstop, and with other relevant authorities. Notwithstanding advanced preparations and testing of timelines and operational arrangements (see paragraph 32),[62] decisions by the ESM on use of the SRF backstop (if ratified) directly involve representatives of national governments on the ESM board and as such are inherently more open to decision-making based on national interests. Under the emergency decision-making procedure, strong consensus is required from members representing an 85 percent of contributions.[63] Some ESM members also need to involve national parliaments prior to taking decisions[64].

51. A more centralized and streamlined approach to decision-making should be pursued. The CMDI proposal would streamline the EC's resolution and state-aid assessments.[65] This would be a welcome step, but more reforms should be pursued to pare back state aid oversight procedures (or establishing a presumption of clearance) for utilizing the SRF. The SRF is not legally controlled by a member state, used to promote financial stability, and the risk of competitive distortions is lower because the availability of funds does not depend on the financial strength of the member State. In the context of the review of SRB governance, the role of the Plenary Session for the use of the SRF

[60] The EC's CMDI proposal would increase the role of national DGSs in resolution financing, but absent EDIS, this would still affect national interests, plus to the extent that SRF is needed, the above problem persists.

[61] Resolution colleges coordinate resolution work for an EU parent with subsidiaries or a significant branch in other member states. Their composition includes resolution authorities, supervisory authorities, the EBA, competent ministries, central banks, authorities responsible for the DGSs from relevant members.

[62] The agreed timelines can be extended by the ESM managing director in the case of complex resolutions and/or when extra time is needed to complete national procedures.

[63] Meaning the three largest member states could each individually block use of the backstop.

[64] [65] It is proposed that the EC adopt the decision on compatibility with State aid or of Fund aid at the latest when it endorses or objects to the resolution scheme, or when the period of 24 hours referred to in Article 18(7) SRMR expires, whichever is earlier.

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could also be reconsidered. This process may have been logical when contributions were allocated to national compartments; however, SRF contributions are now fully mutualized.[66] Furthermore, the EC and the Council, where member states are represented at the highest level, will eventually evaluate discretionary elements of the scheme, including the use of the SRF, while balancing diverse objectives and interests, and respecting the budgetary sovereignty of the member states. Instead of requiring Plenary Session approval, as an intermediate step, a consultation process with the Plenary Session by the Extended Executive Session, supported by the Plenary Session's broader oversight role, would provide a more streamlined approach. In case of ratification and activation of the ESM backstop, there is some flexibility as the Board of Directors can delegate to the Managing Director decisions on backstop loans and disbursements. But this is subject to unanimous voting, and it is yet to be seen whether it will be used in practice.

52. Decision-making process and coordination at resolution colleges should also be improved. The authorities should review and where possible streamline the timelines and steps defined in the framework on the functioning of resolution colleges during a crisis situation. In addition to improved planning, the capability of colleges to respond to crisis scenarios should be tested during normal times. The EBA has already identified various issues concerning the functioning of resolution colleges, and is in the process of reviewing the delegated regulation on their functioning.

53. Some aspects of the SRB's accountability should be clarified. Beyond its accountability to the EC, the SRB is also responsible to the European Parliament and the Council. However, the precise scope of the SRB's accountability to these bodies remains ambiguous, particularly since the EC or the Council has the final authority over discretionary elements of resolution schemes. The SRB Board also operates in several configurations. The SRB exercises decision-making competences transferred from the NRAs. The NRAs participate in bank-specific decisions during the Extended Executive Session and deliberate on broader issues in the Plenary Session; however, other responsibilities, including day-to-day management and policy making, rest with the Chair and other permanent members. There is an established practice of consulting the Plenary Session before the adoption of policies, while the NRAs can now participate in relevant SRB Internal Technical Networks developing policies. In addition, the (restricted) Executive Session regularly informs the Plenary Session about its decisions. These arrangements appear broadly adequate and enable the Plenary Session to have oversight of the work of the SRB. However if the Plenary Session's role in approving use of the SRF were reduced (paragraph 51), its oversight role on the use of the SRF would need to be clarified to ensure balance.[67]

54. Judicial accountability has enhanced legal certainty and aided the SRB and ECB in managing litigation risks. The SRB's Appeal Panel reviews specific decisions (e.g., on public access to documents), as a step that needs to be exhausted prior to a challenge before courts. It is a quasi-

[66] See Art. 7(3) of the Intergovernmental Agreement on the transfer and mutualization of contributions to the SRF, requiring Plenary Session decision for the temporary transfer of financial means between compartments.

[67] While not explicitly assigned with an oversight mandate, the Plenary Session's tasks (including approving the work plan, budget, financial rules, annual activities, and organizational structure) effectively imply such a role.

judicial body and conducts a legality check, and can remit matters back to the SRB. The authorities see the role of the Panel overall as a positive one.[68] For other SRB decisions, interested parties may seek direct judicial review from EU courts (Articles 85 and 86 of the SRMR). Litigation concerning the SRM has until now primarily fallen into three categories: the resolution framework, challenges to the calculation of MREL, and challenges to the calculation of ex-ante contributions to the SRF. Notably, no resolution-related decision by the SRB has been overturned. While the SRB has faced negative outcomes in a few cases concerning SRF contributions, it has addressed deficiencies and re-adopted annulled decisions. EU courts have confirmed the legality of the SRMR framework and clarified various procedural and substantive issues, demonstrating an understanding of the financial stability objectives in the framework's design.[69] Additionally, the EU courts have limited their review to legal questions, respecting the authorities' discretion based on complex economic assessments. They have established that decisions from EU institutions and agencies should be subject to a single judicial review process conducted by EU courts, reducing the risk of multiple litigations at both EU and national levels. Consequently, NRA actions implementing SRB decisions cannot be challenged before national courts, unless the NRA exercises some discretion in implementation. When the outcome of national proceedings hinges on the validity of an SRB decision, the national court may refer questions to EU courts for a preliminary ruling. Notwithstanding these clarifications, however, the complex interaction between supranational instruments and different national laws transposing the former continues to be a source of litigation, absent greater harmonization (paragraph 66).

55. The SRB has enhanced its transparency alongside increasing operational capacity and is committed to further openness towards the industry and the public. The SRB has published essential policies and guidance to assist banks in developing their resolvability in line with the Expectations for Banks, following a comprehensive consultation process that incorporates industry feedback. The SRB utilizes a heatmap methodology to provide clarity on its resolvability assessments and publishes an Annual Work Program that outlines its objectives and priorities. Additionally, the SRB has taken significant steps to raise public awareness through various progress reports related to its resolution work. In the case of bank-specific actions, the legal accountability mechanisms discussed above helped the SRB develop practices contributing to ex-post transparency.[70] The SRB's Vision 2028 strategy aims to bolster transparency, particularly towards the industry, by increasing communication efforts.

I. Inter-Agency Cooperation

Horizontal cooperation between EU bodies

[68] In a few cases related to MREL targets, the Appeal Panel remitted the decisions to the SRB due to insufficient reasoning, after which the SRB re-adopted decisions by further motivation.

[69] For instance, courts clarified the respective roles of the ECB and SRB when initiating resolution; that proportionality is already embedded in the design of resolution framework, and how resolution considerations override some requirements relate to investor protection. See a report submitted to European Parliament; 10 years of Banking Union's case-law: How did European courts shape supervision and resolution practice in the Banking Union?

[70] It publishes non-confidential versions of its resolution decisions and valuation reports and has mechanisms for shareholders and creditors exercise their right to be heard for compensation purposes.

56. Cooperation between the ECB and SRB is underpinned by an appropriate legal framework. The SSMR (Article 3 (4)) and the SRMR (Article 30(2), (4) and (7)) defines the general terms for SRB-ECB cooperation, and legal gateways to exchange confidential information are in place. The SRB and ECB have two MoUs describing how they will cooperate, one signed by the ECB as a prudential authority, and the other one for the sharing of confidential statistical information that the ECB collects. This is complemented by specific procedures for consultation, information sharing, notification, and cooperation between the SRB and ECB for early intervention measures, recovery and resolution plans, resolvability assessment and addressing resolvability impediments, setting of MREL requirements, resolution initiation, and calculation of ex-ante and ex-post contributions to the SRF. Obstacles to sharing confidential information collected by the ECB's central banking side (e.g., Securities Holding Statistics, the AnaCredit credit register) with NRA members of IRTs and valuers have also been addressed. In addition, the ECB is a permanent observer at the SRB's Executive and Plenary Sessions, while the Chair of the SRB participates in the ECB Supervisory Board as an observer for discussions relevant for the SRB. Finally, SRB and ECB coordination also take place between SSM and SRB horizontal functions, between JSTs and IRTs, and within supervisory colleges and resolution colleges.

57. Efforts to streamline the EC's resolution endorsement and state aid decision-making in a crisis should continue. Both the EC and SRB are under a duty to cooperate with each other under SRMR, with an MoU signed in 2019 specifying practical arrangements. DG FISMA is a permanent observer at the SRB's Executive and Plenary sessions. Regular meetings are held at staff level as well as between the SRB Chair and the Director-General of DG FISMA. DG COMP is responsible for the assessment of any use of the SRF and any state aid potentially involved in a resolution case. Due to compressed timeline for the adoption of a resolution scheme and for the assessment of state aid, the SRB seeks to engage with the EC on a timely basis on resolution cases. The CMDI proposal seeks to streamline this process, in particular by requiring the state aid assessment to be decided by the time the EC endorses or objects to the resolution scheme, which is recommended by the FSAP.[71] The SRB and ESM have developed detailed joint operational preparations for the use of the ESM backstop to lend funds to the SRF once activated following ratification of the amendment to the ESM treaty. These include modelling of the SRF's repayment capacity, agreement on loan documentation, and dry runs of loan requests.

Cooperation between the SRB and NRAs

58. Effective functioning of the SRM is dependent on close collaboration between the SRB and NRAs. NRAs are integrated into the SRB's decision-making processes, including in relation to resolution planning, MREL, and resolution initiation. NRAs implement the SRB's decisions. Notably, the SRB's resolution scheme instructs the NRAs to take all steps necessary under their national law for implementation. At a more operational level, for each bank under the direct remit of the SRB, an IRT is established and includes staff from the SRB and the NRAs. Each IRT is led by a senior resolution expert from the SRB that acts as internal resolution team coordinator. They also

[71] Or when the 24-hour period to object in Article 18(7) SRMR ends, whichever comes first.

cooperate with non-BU member states in resolution colleges, where the SRB participates when the institution is under the SRB's direct remit (with NRAs participating as observers). The SRB is mandated to ensure a consistent approach among all NRAs in respect of LSIs, adhering to high resolution standards. For this, the SRB reviews draft decisions from NRAs, offering feedback on any aspects that do not align with the SRMR or the SRB's instructions. The SRB issues guidelines and general instructions to NRAs on how to perform their tasks and make resolution decisions, and seeks to promote common practices and understanding.

59. Practical aspects of cooperation between the SRB and NRAs are outlined in the Cooperation Framework. This framework includes cooperation arrangements regarding the adoption of legal instruments, consultation issues, implementation of SRB decisions, and the allocation of responsibilities between the SRB and NRAs. NRAs should pro-actively notify the SRB of any LSI that show early signs of financial distress or demonstrate suspicious behavior. The SRB monitors the progress of the NRAs in the improvement of resolution preparedness for banks under their remit, by ensuring their resolvability. It also addresses the staffing of IRTs, coordination for early interventions, and cooperation in the context of resolution colleges. The SRB carried out a dry-run simulation of an LSI resolution in 2024. Enhanced cooperation with and inclusion of NRAs in the work of the SRB, such as policy development, is foreseen in the SRM's "Vision 2028" strategy statement and has begun to be implemented**.** The ECB and SRB have established cooperation arrangements with their counterparties in non-BU member states. They have concluded MoUs with six non-participating EU member states. Resolution colleges facilitate cooperation between member states where cross-border banking groups operate in both the BU and in the rest of the European Economic Area (EEA). The SRB replaces NRAs in these colleges, depending on whether the NRA is a member or the Group Level Resolution Authority.

60. As the ECB and SRB's remits do not entirely overlap, the SRB should seek to define the practical aspects of its cooperation through MoUs with certain NCAs. A banking group may be an LSI (and thus not subject to direct ECB supervision) but may fall under the competence of the SRB by virtue of its cross-border operations. As identified in the Luxembourg FSAP,[72] this raises an ambiguity as to who—the ECB or the NCA—will be involved in resolution initiation, since SRMR defines resolution initiation as a composite process between the ECB and the SRB. While the CMDI proposal would clarify this ambiguity which the FSAP recommends, the SRB and NCAs need to cooperate in respect of such banks, in the same areas the SRB and ECB cooperate (e.g., early intervention, recovery resolution planning and MREL). Building on existing practice, the SRB and relevant NCAs should establish structured coordination arrangements through an MoU.

61. Coordination with DGSs outside the immediate context of a possible payout should be strengthened.[73] The SSM or NCA is required to inform the DGS in case of an FOLTF determination. A DGS must consult the resolution authority and competent authority on preventive

[72] https://www.imf.org/-/media/Files/Publications/CR/2017/cr17259.ashx.

[73] The CMDI proposal includes some enhancements, for example requiring summaries of resolution plans to be shared with DGSs, which the FSAP supports.

and alternative measures prior to the point of FOLTF. While the DGS is a member of the resolution college for groups established in two or more member states, resolution colleges do not apply to banks operating solely within the BU (since the SRB replaces the NRAs). The Cooperation Framework states that for entities and groups under direct SRB responsibility, NRAs shall be responsible for maintaining day-to-day relations with other relevant national authorities, including DGSs within the same participating member state, keeping the SRB informed in a timely manner. While a practical solution, this arrangement makes the SRB more dependent on the level of cooperation between the NRA and DGS. In practice, contact between the SRB and DGSs is infrequent and DGSs are not well integrated into contingency planning arrangements.[74] The SRB, should develop its practical cooperation with DGSs for crisis-preparation and management, and work with the EBA and EC to identify any legislative or regulatory changes needed to support this cooperation.

J. Cross-Border Cooperation

62. MoUs and institution specific arrangements facilitate the SRB and ECB's cooperation with third country authorities on crisis management issues and should continue to be expanded. The SRB has established 18 bilateral MoUs with authorities from 16 countries, including those home to G-SIBs operating in the BU and/or hosting BU G-SIBs. The ECB has similarly expanded its MoUs (currently 35) with third-country authorities, while negotiating new ones. The SRB leads crisis management groups (CMGs) for 7 G-SIBs headquartered in the BU and has joined as a host authority 10 CMGs of foreign G-SIBs. Resolution colleges and European resolution colleges[75] involve resolution authorities of non-BU EU members, as well as third country resolution authorities as observers. The SRB has a regular program of trilateral work with the US and UK authorities, including simulation exercises, to test and strengthen the cooperation in case of a G-SIB resolution. Finally, the SRB and ECB are active members of international fora, notably the FSB and BCBS. Building on this positive track-record, the SRB's resolution efforts could benefit from new MoUs with other relevant third countries (e.g., Hong Kong SAR, Singapore).

63. The EBA's mandate should formally be expanded to better support the SRB's and the NRA's coordination efforts, especially in relation to the assessment of third country confidentiality regimes. While the EBA provides guidance and determines the equivalence of confidentiality regimes of third-country supervisory authorities, it has in practice expanded the scope of confidentiality assessments of third country supervisors to include BRRD since 2019. However, it is not yet legally mandated to provide similar guidance and equivalence assessment on third-country resolution authorities. Engagement with foreign authorities should also continue to pay attention to cooperation with non-CMG jurisdictions. The SRB is supporting further work on this at international level, within the FSB. The SRB should seek proactive engagement with home

[74] In some member states, the presence of private sector bankers on the decision-making bodies of DGSs is a barrier to sharing confidential information.

[75] Unlike resolution colleges for coordination concerning EU groups that operate across member states, "European Resolution Colleges" are a mechanism to facilitate intra-EU coordination with respect to EU branches and subsidiaries of third-country banks.

authorities where the SRB/ECB are not members of a CMG, and remain ready to engage with third countries that are not a member of a CMG led by them.

64. While the SRB is empowered to coordinate with third country authorities, a stronger mandate would help to overcome the potential misalignment of incentives for cooperation. The legal framework requires the SRB and NRAs to give due consideration to the potential impact of their decisions in other EU member states. However, a principle-based statement that asks the SRB/NRAs to consider on a best-efforts basis the implications of resolution actions on the financial stability of third countries more broadly should be adopted in alignment with the international standards, for instance, in case of third countries not involved in above arrangements. The CCP Recovery and Resolution Regulation (Article 12) for example requires that when assessing the impact of the implementation of a CCP resolution plan, the authorities also consider such impact "*to the extent possible—in third countries where the CCP provides services"*. Under the BRRD, deposits from individuals and small enterprises in EU banks' foreign branches are ranked below covered deposits. This preferential treatment of EU deposits may lead third country host authorities to prioritize local depositors over cooperative solutions and should be eliminated.

65. The framework for the recognition and enforcement of third country resolution proceedings needs further clarification. Absent any international agreement on recognition, the SRB issues recommendations to the NRAs—on a comply or explain basis—if a foreign authority requests recognition and enforcement of its resolution proceedings over subsidiaries or other assets, rights or liabilities located in the BU.[76] There is a legal presumption in favor of recognition, with limited grounds for negative recommendations, primarily focused on financial stability and equitable treatment of creditors. However, one ground requires refusal if the effects of recognition or enforcement would be "contrary to the national law". The authorities consider this ground limited to possible breaches of fundamental rights enshrined in national laws, but this interpretation is not formalized, and the preparatory acts of the BRRD do not sufficiently explain the purpose and meaning of this provision. Absent clarity on its meaning, the provision is open to different interpretations, including before the courts, and may offer a broader basis for refusal than the "contravention to public policy" ground, recommended by the FSB.[77] The authorities should apply a threshold that would not unduly constrain the SRB/NRA's capacity to give effect to foreign resolution measures. To date, the SRB has not received any applications for the recognition of foreign resolution proceedings. While prompt recognition can be facilitated by ongoing dialogue, especially within CMGs, resolution colleges, and European resolution colleges, the SRB should

[76] In case of foreign groups with establishments both in the BU and non-participating member states, decision to recognize a proceeding should be taken jointly within a European resolution college, where the SRB represents BU NRAs. In the absence of a joint decision or of a European resolution college, each NRA must take their own decision.

[77] See FSB KA 7.5, KA Assessment Methodology 7(g), and Principle 3 of FSB Principles for Cross-border Effectiveness of Resolution Actions. Under private international law and cross-border insolvency frameworks, the "public policy" test sets a high bar, such as contraventions to fundamental principles of law, for the denial of recognition. While not clarifying the meaning of "contravention to public policy", examples provided in the FSB Principles refers to inequitable treatment, lack of due process.

publish guidance to inform foreign authorities more broadly about its recognition regime, the process, expectation on documentation and timelines.

K. Mitigating National Legal Differences

66. Achieving deeper harmonization is essential to mitigate unwarranted national differences that complicate crisis management.[78] The BRRD and DGSD provide member states with various national options and discretions, with the DGSD including 20 national options and discretions, many of which have rarely been utilized in practice. The EC's CMDI package proposes positive steps to streamline these, but further action is warranted. For example, all DGSs should be able to finance business transfers during insolvencies. The varying transpositions of directives into national law can also lead to inconsistencies, and while NCAs and NRAs contribute valuable jurisdiction-specific information, significant divergences can complicate effective crisis responses, particularly for cross-border groups. Under the BU, the need for deeper harmonization is underscored by the direct application of national law by the ECB, and potentially the SRB in case it decides to exercise directly all of the relevant powers under SRMR.[79] . A recent EU Court ruling illustrates how differing transpositions of the BRRD can affect the authorities' powers.[80] Greater reliance on regulations to harmonize the crisis management framework should be pursued (e.g., on early intervention), while retaining flexibility at the BU level for the ECB and SRB to adapt to varying circumstances. Additionally, Level 1 instruments that are overly prescriptive in some areas (e.g., on colleges) and restrict adjustments through secondary instruments. Complications also arise when member states transpose BRRD provisions verbatim, without providing further clarity on the implementation of high-level provisions.[81] EU and national authorities should be required to consult the SRB when adopting laws that impact its mandate. The ECB and SRB should be made voting members of the EBA Board of Supervisors and the EBA Resolution Committee, which develops Level 2 and 3 instruments.

67. National insolvency regimes for banks within the BU exhibit significant variations, with harmonization largely limited to cross-border cooperation through a mutual recognition system. The BRRD addresses specific areas relevant for resolution, such as seeking to prevent "limbo" situations, ensuring continuity of critical services post-insolvency in cases where a partial transfer resolution tool has been used, and certain aspects of the creditor hierarchy. However, member states maintain substantial flexibility in designing their national insolvency frameworks, resulting in diverse legal structures, institutional models (court-based vs. administrative system),

[78] Within their mandate, the EC and EBA have taken steps that seek to promote consistent application of the framework. In addition to Level 2 and Level 3 instruments, they address stakeholder inquiries regarding the BRRD and DGSD through the EBA's Interactive Single Rulebook.

[79] Based on Article 7(4)(b) of the SRMR.

[80] While currently under appeal, the General Court ruling in Francesca Corneli v ECB (T-502/19) concerns the relationship between EU law and national law. The Court ruled that that the ECB's efforts to interpret national law in conformity with EU law cannot run counter to the wording used in the national provision.

[81] For instance, where national transposition only repeats BRRD articles verbatim e.g., Article 63(2) BRRD, different interpretations may rise about the extent to which the resolution action derogates from national corporate law.

objectives, creditor hierarchies (outside of deposits), and tools available during insolvency proceedings, including business transfers. While European legal texts relevant to crisis management often distinguish between resolution and national insolvency regimes, this distinction is not clear-cut; the KAs include liquidation as part of the resolution toolkit, while national insolvency regimes for banks in some member states include a wide range of tools similar to those available in resolution. This fragmentation presents significant challenges to the completion of the BU. One major impact is on the effectiveness of resolution planning and implementation, particularly for cross-border groups. The PIA test for initiating resolution assesses potential outcomes within diverse national insolvency frameworks, leading to varying results based on the bank's home country. Despite some harmonization, discrepancies in creditor hierarchies complicate the assessment of creditors' rights to compensation in resolution if they are made worse off than in an insolvency counterfactual. Past cases have demonstrated the difficulty of accounting for differences in creditor hierarchy such as the treatment of post-default interest and intragroup claims when assessing this. This lack of harmonization diminishes the efficiency of resolution proceedings and creates an uneven playing field for similarly situated creditors in the EA, including depositors and DGSs, both in resolution and liquidation.

68. The medium-term objective should be to introduce an administrative liquidation tool within the SRB's toolkit. This tool would be applicable to all banks under the SRB's remit and for banks that are deemed systemic at the time of failure, functioning as either a standalone instrument or in conjunction with other resolution tools (such as bail-in or business transfers), and would be supported by a harmonized creditor hierarchy and funding arrangements for transferring covered deposits. Such an approach would facilitate effective and coherent management of SRB bank failures, irrespective of the PIA. Variations of this proposal have garnered support from both the ECB and SRB, recognizing them as a measure that would also strengthen EDIS.[82] A report submitted to the EC regarding the potential harmonization of national insolvency laws proposed a version of such a framework.[83] In the recent CMDI proposal, the EC considered a "*harmonized national administrative liquidation procedure*" governed at the national level but ultimately deemed it challenging due to legal and political issues. However, reiterating the prior FSAP recommendation, the goal should still be an administrative liquidation as a "*supranational*" tool under the SRMR. NRAs can be allowed to implement a similar administrative liquidation mechanism at the national level for LSIs, not deemed systemic at the point of failure.

69. Further harmonization of the creditor hierarchy is recommended. Despite progress in aligning the ranking of covered deposits, eligible deposits of individuals and SMEs above the coverage limit, and own funds instruments, substantial differences persist. The prioritization of other deposits relative to other claims is determined by national law, while some member states also grant

[82] ECB contribution to the European Commission's targeted consultation on the review of the crisis management and deposit insurance framework; and Elke König - A centralized administrative liquidation tool for banks | Zagreb, April 2020 | Single Resolution Board.

[83] Study on the differences between bank insolvency laws and on their potential harmonization - EC.

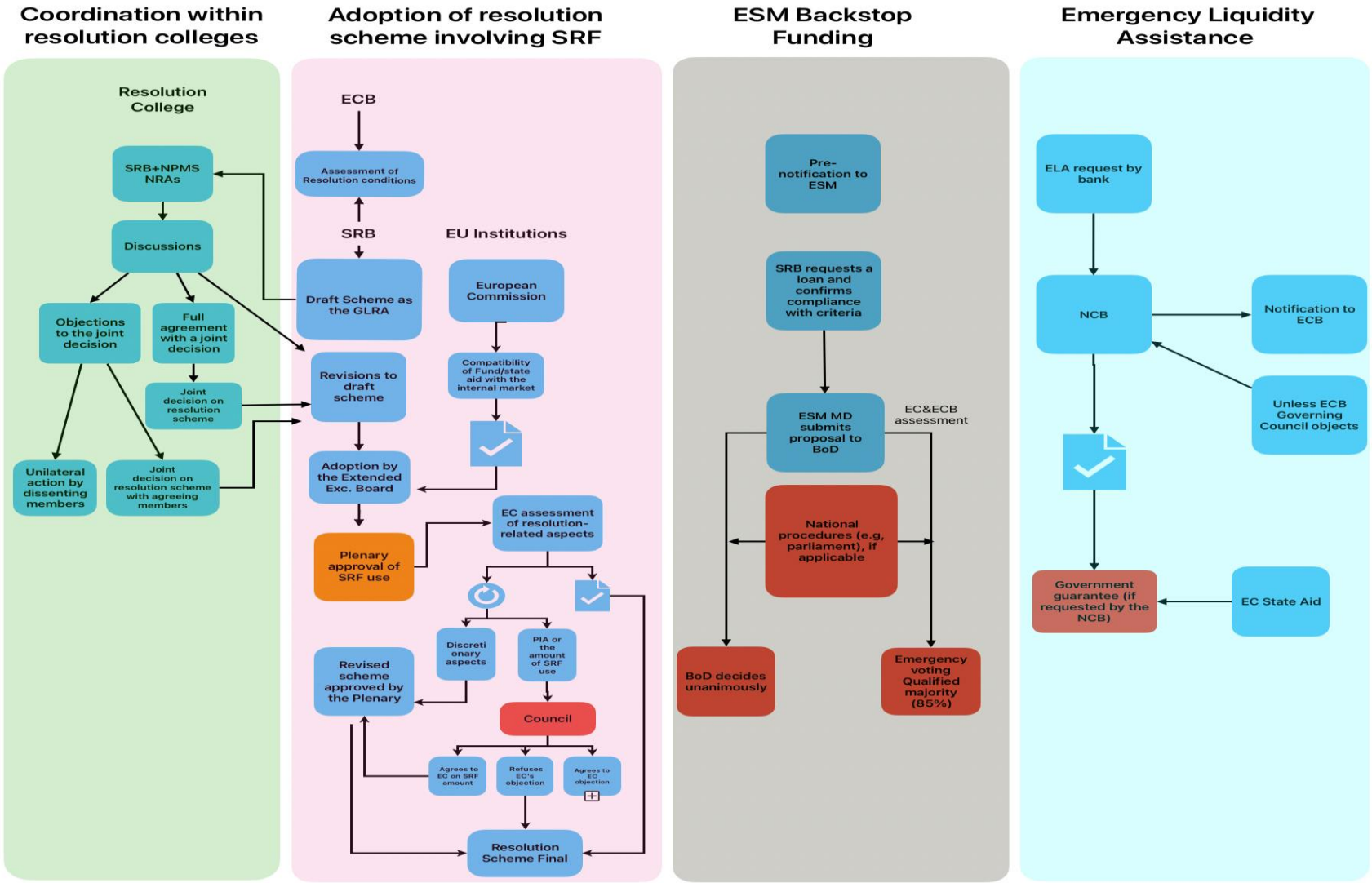
priority to liabilities that are statutorily excluded from bail-in. Further harmonization is recommended in the following areas:

- Adopting a consistent approach for new financing in the immediate aftermath of resolution or during insolvency would promote the availability of private funding. Various corporate insolvency best practices support favorable treatment for new financing while protecting the interests of existing secured creditors.

- Depending on the national framework, interest on unsecured debts may cease upon liquidation or continue to accrue but rank below unsecured creditors. Post-default interest rates also vary significantly, which can result in large differences in recovery rates. Although unsecured creditors generally cannot enforce their interest claims during the process, the size of claims on the liquidation estate may increase as interest accumulates on unliquidated loans. In some cases, this situation could enable full repayment to subordinated creditors, while part of the claims of senior non-preferred creditors might only receive interest after liquidation ends.

- Intragroup claims are treated very differently within creditor hierarchies across member states. In some jurisdictions, these claims are statutorily subordinated, though the scope of affected related parties can vary. In others, subordination may occur on a case-by-case basis, depending on the integrity of the underlying transaction. Often, intragroup claims rank pari passu with other unsecured claims unless classified as secured. While the resolution process was successful, the Banco Popular case highlighted the potential risk to the 'no creditor worse off' safeguard arising from mismatches between the ranking of intragroup claims and the sequence in which liabilities are bailed in under the BRRD. A more uniform approach is needed to balance the risks and benefits of intragroup transactions during financial distress.

* This is a simplified representation of a complex set of governance arrangements and is not intended to be comprehensive. It concerns a hypothetical case involving the use of SRF (above 5bn Euro threshold), ESM backstop, and ELA for a bank under SRB remit and with presence in one or more member states not participating in the BU. In case of ESM backstop, any applicable national procedure can also be commenced prior to the MD submitting its proposal to the BoD.



Appendix II. Timeline of Selected Crisis Management Events and Reform Proposals

2007-2008 – Global Financial Crisis, including sovereign support for banks in several Euro area member states

2010-2011 – Greece, Ireland and Portugal request support from the IMF and European Union

October 2011 – Financial Stability Board's *Key Attributes of Effective Resolution Regimes* published

June 2012 – "Four Presidents' Report" proposes creation of Banking Union.

July 2012 – Spain requests support from the ESM.

November 2012 – Euro area leaders agree to establish the SRB**.**

October 2013 – SSM Regulation passed.

July 2014 – SRM Regulation passed.

November 2014 – SSM becomes operational.

February 2015 – SRB becomes operational.

June 2015 – "Five Presidents Report" calls for completion of Banking Union, including agreement on a European Deposit Insurance Scheme (EDIS) and integration of SRF into EU legal framework, by June 2017.

November 2015 – EC proposal on EDIS published.

December 2018 – Eurogroup agrees terms of reference for ESM backstop to the SRF, agrees to develop a roadmap for EDIS and to work on solutions to limitations in the framework for liquidity provision in resolution

June 2022 – Eurogroup delays further work on EDIS, requests EC to propose targeted amendments to the Crisis Management and Deposit Insurance (CMDI) framework.

April 2023 –EC's CMDI proposal published. European Parliament and Council negotiating positions agreed in April and June 2024 and Trilogue negotiations started in late 2024.

Appendix III. Selected Crisis Management Recommendations from National FSAPs in the EA (2018-24)[1]

Netherlands (2024)

- Identify and operationalize national sources for the provision of liquidity in resolution, such as by relying on the existing ELA framework and setting up and testing cross-border cooperation arrangements.

Belgium (2023)

- Develop policies to assess the prospective solvency of banks subject to resolution action and document the lines of action and responsibility of each actor, as well as the eventual engagement with the MoF and supranational bodies in the event of ELA in resolution, subject to a credible resolution strategy.
- Formalize in an internal operational document the procedure to swiftly activate, when needed, the credit line from the Treasury to the Guarantee Fund within the MoF.
- Segregate the deposit insurance fund from the national budget and increase its target level.

Finland (2023)

- Provide backstop Government stabilization tools, including temporary public ownership as last resort options, if legally possible, to only be used where all other resolution actions have failed.
- Ensure that ELA processes, procedures and operational capabilities are sufficient to support a rapid provision of temporary collateralized liquidity for FIs in resolution, tested internally and with external counterparties annually.
- Ensure that the DGS has sufficient funds on an ongoing basis under its direct control and investment to ensure its financial autonomy and minimize its dependency on borrowing from banks to payout.

Germany (2022)

- Increase coordination with DGSs and IPSs and their involvement in the program of crisis-simulation exercises.
- Reduce the use of moratorium powers, shorten moratorium periods, and reduce lags between decisions on moratoria, FOLTF assessments, DGS compensation, and triggering of insolvency.
- Ensure that IPS recovery plans are assessed to the same standards as the most systemically important banks.

[1] Sources: *The Role for Deposit Insurance in Dealing with Failing Banks in the European Union (IMF, 2020)*; published national FSAP Technical Notes on crisis management and Financial System Stability Assessments

- Ensure resolution plans for IPS members are appropriate for scenarios where a large share of members of an IPS, or the IPS itself, are in distress, promoting review of EU legislation, if necessary.
- Review implementing the BRRD government stabilization tools.
- Ensure that the mandatory DGSs have access to a robust public sector liquidity backstop.

Ireland (2022)

- Consider how restrictions on use of the SRF may impede resolution action and how to mitigate those impediments.
- Develop policies and procedures for assessing the prospective solvency of a bank entering into or undergoing resolution to determine its eligibility for ELA.
- Agree a written policy addressing potential use of Central Bank funds to supplement the DGS fund and the DoF's contingent liability to repay those funds to the Central Bank.
- Develop policies and procedures for alternative uses of the DGS fund, including avoiding its use for failure prevention.

Austria (2020)

- Explicitly provide for purchase and assumption transactions in the bankruptcy regime.
- Consider the provision of ELA and continue to engage the SRB on policies and procedures for use of the SRF as a source of liquidity funding in resolution.
- Seek legislation for standing authority to implement government stabilization measures.
- Explore mechanisms under which a MOF guarantee could be prepositioned to support borrowing by either deposit insurance systems.
- Assign a senior-level interagency body the mandate to ensure adequate contingency planning and testing of plans at the individual authority and national level.

Italy (2020)

- Avoid the use of DIF resources for failure prevention outside of resolution or liquidation as much as possible, only using it in exceptional circumstances with strong prospects for ensuring successful rehabilitation and long-term viability.
- Review the adequacy of funding targets for deposit insurance, strengthen backstop arrangements, and shorten the statutory payout period for the Fondo di Garanzia dei Depositanti del Credito Cooperativo.
- Remove active bankers from the boards of the deposit insurers and extend legal protection to their board members and staff, as well as directors and officers of entities in resolution.
- Operationalize an inter-agency forum for crisis management and strengthen the deposit insurers' role in the financial safety net coordination arrangements.
- Clarify mechanisms for providing liquidity as part of resolution planning for LSI whose failure could present systemic risks.
- Promote a review of Eurosystem policy guidance for (re)confirming bank solvency and viability immediately upon receipt of an ELA request (¶81); as well as disclosure practices for ELA operations.

- Strengthen role of DGS in the financial safety net's coordination arrangements.

France (2019)

- Remove active financial sector executives from the Board of the Fonds de Garantie des Dépôts et de Résolution, which should only include independent members.

Malta (2019)

- Ensure an explicit statutory basis for transferring selected assets/liabilities in insolvency.
- Clarify in writing the deposit insurer's interpretation of current laws and policies on its ability to finance the transfer of assets and liabilities in insolvency, and to finance the use of resolution measures.
- Ensure a legal basis for replenishing the DIF, and additional funding sources, ideally from commercial banks but, as a last resort, a borrowing facility from the government; clarify that the Minister of Finance has the authority to lend to the DIF.