

Single Resolution Mechanism and Single Resolution Fund: uniform rules and procedure for the resolution of credit institutions and certain investment firms

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The Commission presents its report on the application and review of [Directive 2014/59/EU](#) (Bank Recovery and Resolution Directive - BRRD) and Regulation 806/2014 (Single Resolution Mechanism Regulation - SRMR).

Under the Directive and the Regulation, the Commission is required to review the application of the resolution framework and to submit a Report to the European Parliament and the Council.

The reports on the application of these legal instruments were due by June and December 2018 respectively. Due to the close links between these instruments, which jointly establish the EU resolution framework, it is appropriate to carry out the review jointly for both of them.

Functioning of the Single Resolution Mechanism (SRM) and Single Resolution Board (SRB)

The SRMR review clause provides that the Commission should carry out an assessment of several aspects related to the governance and functioning of the Single Resolution Mechanism (SRM) and the SRB.

The items listed for review include:

- assessing the interactions of the SRB (and the SRM in general) with other actors in the resolution process as well as the EBA, the European Securities and Market Authority (ESMA), and the European insurance and Occupational Pensions Authority (EIOPA);
- assessing whether the target level or the reference point of the SRF should be revised;
- assessing the internal governance arrangements of the SRB and other operational issues, and particularly the investment portfolio of the SRB;
- assessing the legal status of the Board as an agency of the Union.

As a preliminary remark, the Commission notes that the SRB assumed full resolution powers in 2016 and it needed time to establish its internal functioning and reach full staffing. There is not, therefore, a sufficient amount of information or experience to carry out an in-depth review.

The SRB has worked with national authorities, in accordance with the procedures set out in the framework. In the 2017 resolution planning cycle, the SRB set binding MREL targets at consolidated level for the majority of the largest banking groups within the SRB's remit, and the SRB intends to set binding targets for all groups within its remit by 2020.

Concerning the European Banking Authority (EBA), on 27 November 2017, the Commission published a Report on the role of the EBA with respect to mediation procedures in resolution. The Report addressed some issues that the EBA brought to the Commission's attention. All these issues concern provisions of the EBA founding regulation, which is being amended in the context of ESAs review.

Governance of the SRB

With respect to the issue of the governance of the SRB and the change of its legal status from agency to EU institution, given its recent creation and the limited practical experience gathered so far, there are not sufficient elements at this stage to suggest changes to the current provisions. In this respect, the Commission underlines that such a change of legal status would require a modification of the Treaty on the Functioning of the European Union (TFEU).

Finally, in view of the potential accession to the Banking Union of non-participating Member States, there may be scope to reflect on the modalities for an acceding Member State to participate in the SRM.

Conclusion

The Commission takes stock of the issues discussed above, which are based on the limited experience the Commission gained from the application of the resolution framework so far.

The framework has been applied only in a limited number of cases. Out of those, only one case concerned the resolution of an institution under SRMR. It is also worth noticing that a number of these cases dealt with "legacy issues" which accumulated during the financial crisis or before.

In addition, the provisions concerning the bail-in tool and the establishment of the Single Resolution Board became applicable only as of 1 January 2016. Other elements - such as resolution planning for larger and complex institutions and the provisions concerning Minimum Requirement of Eligible Liabilities (MREL) – require a phasing in to be fully implemented.

In light of this, it is premature to design and adopt legislative proposals at this stage.

The Commission will, however, continue monitoring the application of the resolution framework and further assess the issues identified above, also in light of additional elements provided by the recently launched study on the harmonisation of national insolvency laws and experience stemming from possible future application of the resolution framework.

To this end the Commission will also engage in a comprehensive discussion of the topics identified in this report with respect to BRRD/SRMR (as well as issues that may emerge from application of the resolution framework) with experts appointed by the European Parliament, Member States and all relevant stakeholders.

In this context the Commission will also take into account the interaction with policy developments in relation to deposit insurance, including the work of the High Level Group established by the Eurogroup, and the review of the Deposit Guarantee Scheme Directive.