

Legislative proposal

PURPOSE: to establish a single European framework of resolution rules for credit establishments and to ensure the consistent application of these resolution rules.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the need to rapidly achieve the Banking Union to ensure financial stability and growth in the euro area as well as throughout the single market was underlined by the Commission in its communications entitled [A Roadmap towards a Banking Union](#) (September 2012) and [A blueprint for a deep and genuine economic and monetary union: Launching a European Debate](#) (November 2012).

In March 2013, the European Council committed to complete the Banking Union via the following steps.

- the remaining legislative procedures to set up the [Single Supervisory Mechanism \(SSM\)](#) conferring powers on the ECB to supervise Euro Area banks should be concluded as a priority;
- agreement should be reached in the summer of 2013 on how the European Stability Mechanism (ESM) could, following the establishment of the SSM and a review of bank balance sheets including the definition of legacy assets, recapitalise banks directly;
- likewise, in summer 2013, agreement should be reached on the Commissions [proposal for a Directive](#) of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms;
- lastly, the Commissions proposal for a Single Resolution Mechanism (SRM) together with appropriate and effective backstop arrangements should be examined as a matter of priority with the intention of adopting them during the current parliamentary cycle.

It was agreed that the Banking Union would cover all Euro Area Member States and those non-Euro Area Member States that choose to join.

As recognised by the European Council, in the Banking Union, bank supervision and resolution need to be exercised by the same level of authority. The same EU-wide single rulebook of prudential requirements⁶ and rules on bank resolution will apply within the Banking Union and in all other Member States.

The swift agreement on a Single Supervisory Mechanism in April 2012 has laid the ground for a Banking Union, as integral part of the Economic and Monetary Union. The Single Supervisory Mechanism is set to enter into force in mid-2014. The ECB will assume ultimate responsibility for the supervision of all Euro Area banks. The Single Resolution Mechanism meanwhile should commence operations in January 2015, when the Directive which will provide the rulebook governing bank resolution across the internal market is set to enter into force.

IMPACT ASSESSMENT: the Commission has taken into account the analysis carried out in the Impact Assessment conducted for the adoption of the proposal for Directive establishing a framework for the recovery and resolution of credit institutions and investment firms which assessed operational and legal aspects relevant to the establishment of a single resolution mechanism (SRM).

With regard to the ability of the SRM to produce efficient decisions, it is considered that a central decision-making level will contribute to minimizing the costs of resolution both since it can attain significant advantages in terms of economies of scale over a network, and because it is instrumental to the enforceability and optimality of the resolution decision.

LEGAL BASIS: Article 114 of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the proposal aims to preserve the integrity of the Member States banking markets participating in the Single Supervisory Mechanism (SSM) by the putting in place of a Single Resolution Mechanism (SRM) to deal with failing banks.

The SRM would permit the application of uniform rules to any bank in difficulty in a participating Member State and to proceed effectively towards the resolution of bank failures in such a way as to minimise the cost for the taxpayer and for the real economy.

Structure of the SRM: the composition of the SRM ensures that its decision-making structures are legally sound and effective, including in times of crisis. The decision-making structures of the Single Resolution Mechanism include the Single Resolution Board, the national resolution authorities of participating Member States and the European Commission. The tasks of the SRM are shared between Single Resolution Board and the national resolution authorities.

The European Commission will participate in the SRM only in so far as needed to perform specific tasks provided for in this proposed Regulation and in relation to State aid scrutiny under the Treaty.

Resolution - operation and procedure: to ensure that all participating Member States have full confidence in the quality and impartiality of the bank resolution process, resolution decisions will be prepared and monitored centrally by a Single Resolution Board to ensure a coherent and uniform approach is applied.

The objective of resolution is to ensure the continuity of the banks critical functions, to protect financial stability, to minimise reliance on taxpayers money, and to protect depositors.

Resolution is triggered by means of the following process:

- the ECB, as bank supervisor, notifies that a bank is failing to Commission, to the Resolution Board and to the relevant national authorities and ministries;
- the Resolution Board assesses if there is a systemic threat and no private sector solution and, if so, the Resolution Board recommends to the Commission to initiate resolution;
- on the basis of the Resolution Boards recommendations, or of its own initiative, the Commission will have the power to initiate the resolution procedure; in this case, it would also indicate to the Resolution Board the framework of the resolution tools that will be

- applied in each case and on the use of the Fund;
- the national resolution authorities execute the resolution measures decided by the Board according to the national law. If the national resolution authorities do not comply with the decisions of the Board, the Board has the power to supersede the national resolution authorities and address certain decisions for the implementation of the resolution measures directly to the banks.

Single Bank Resolution Fund: to support the resolution process and enhance its effectiveness, the proposed Regulation establishes a Single Bank Resolution Fund. This Fund will be able to pool significant resources from bank contributions and therefore protect taxpayers more effectively than national funds, while at the same time providing a level playing field for banks across participating Member States.

The primary objective of the Single Resolution Fund is to ensure financial stability, rather than to absorb losses or provide capital to an institution under resolution. The Fund should not be considered as a bailout fund.

On the basis of 2011 data on banks and an estimated amount of covered deposits held in banks in the euro-area, the 1% target level for the Single Resolution Fund would correspond to around EUR 55 billion. A transitional period of 10 years is foreseen before the Fund reaches its full target level.

If no disbursements are made from the Fund during the initial build-up phase, the banking industry would annually contribute around one tenth of the target amount or in absolute terms around EUR 5.5 billion.

BUDGETARY IMPLICATION: the Resolution Board will be fully financed from contributions from the financial institutions. Around 6 000 Eurozone banks, in addition to their annual contributions to the Single Bank Resolution Fund, will pay a fixed pro rata of this amount to fully cover the Boards budgetary expenses. However, there will be some minor implications on the Unions budget in the start-up phase of the Board.

The incidence on the Commissions administrative expenditure is estimated at EUR 10.575 million for the period 2014-2020.

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union.