

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

2013/0253(COD) - 15/07/2014 - Final act

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

LEGISLATIVE ACT: Regulation (EU) No 806/2014 of the European Parliament and of the Council establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010.

CONTENT: this Regulation establishes a single resolution mechanism (SRM) for failing banks, with a central decision-making board and a single resolution fund.

The aim is to ensure the orderly resolution of failing banks without recourse to taxpayers' money. This will involve both a systematic recourse to the bail-in of shareholders and creditors, in line with the [bank recovery and resolution directive](#), and the possible recourse to a single fund fully financed by banks.

The SRM will form one of the key elements of Europe's banking union, along with the [single supervisory mechanism](#) (SSM). It will cover all banks established in the euro area and in other member states that choose to participate.

The European Parliament, in its [resolution of 7 July 2010](#) with recommendations to the Commission on Cross-Border Crisis Management in the Banking Sector, requested the Commission to submit one or more legislative proposals relating to an EU crisis-management framework, an EU financial stability fund, and a resolution unit.

The main elements of the Regulation are as follows:

Resolution plans: upon notification by the European Central Bank (as supervisor) that a bank is failing or likely to fail, or on its own initiative after having previously informed the ECB, the board will adopt a resolution scheme placing the bank into resolution. It will determine the application of resolution tools and the use of the single resolution fund (SRF).

The board will be responsible for the planning and resolution phases of cross-border banks and those directly supervised by the ECB, while national resolution authorities will be responsible for all other banks.

Resolution objectives: the resolution objectives are the following: (i) to ensure the continuity of critical functions; (ii) to avoid significant adverse effects on financial stability, in particular by preventing contagion, including to market infrastructures, and by maintaining market discipline; (iii) to protect public funds by minimising reliance on extraordinary public financial support; (iv) to protect depositors covered by Directive 2014/49/EU and investors covered by Directive 97/9/EC; (v) to protect client funds and client assets.

Resolution procedure: this procedure, which involves the Commission and the Council, strengthens the necessary operational independence of the Board. The resolution scheme will enter into force within 24 hours of its approval by the board, unless the Council, acting by simple majority on a proposal by the Commission, objects. Within 12 hours of approval of the resolution scheme by the board, the Commission may propose to the Council to object to the resolution scheme on the grounds that it is not necessary in the public interest, or to approve or object to a material modification of the amount of funds provided for in the resolution scheme.

For cross-border banks and for banks directly supervised by the ECB which are under the responsibility of the single resolution board, national resolution authorities will be responsible for executing bank resolution schemes under the board's instructions. Should a national authority not comply with a decision of the board, the latter will be able to address executive orders directly to the troubled bank.

To guarantee Member States' budgetary sovereignty, the Regulation prohibits decisions requiring a member state to provide extraordinary public support or impinging on its budgetary sovereignty and fiscal responsibilities.

Single Resolution Board: the Board shall have an autonomous budget which is not part of the Union budget. It shall be operational from 1 January 2015. It shall consist of a chairperson, four full-time appointed members and the representatives of the national resolution authorities of all the participating Member States. The ECB and the Commission will each designate a representative as a permanent observer. The board will exercise its tasks in either a plenary or executive format.

In order to reduce political interference in decision, the plenary session will be responsible for individual resolution decisions requiring more than EUR 5 billion in capital, or twice that amount in liquidity support, from the SRF. Moreover, once the accumulated use of funds over any 12-month period reaches EUR 5 billion, the plenary will be responsible for evaluating the application of resolution tools, in particular the use of the SRF, and for giving guidance to the executive session for subsequent resolution decisions.

The Single Resolution Board shall be accountable to the European Parliament, the Council and the Commission for the implementation of this Regulation. At the request of the European Parliament, the Chair shall participate in a hearing by the competent committee of the European Parliament on the execution of the resolution tasks by the Board. A hearing shall take place at least once every calendar year. The Board may be required to reply in writing to any observations or questions submitted by the national parliaments.

Single Resolution Fund: the Single Resolution Fund is hereby established. It shall be filled in accordance with the rules on transferring the funds raised at national level towards the Single resolution fund.

By the end of an initial period of eight years from 1 January 2016, the available financial means of the Fund shall reach at least 1 % of the amount of covered deposits of all credit institutions authorised in all of the participating Member States. During the initial period, contributions to the Fund shall be spread out in time as evenly as possible until the target level is reached.

The individual contribution of each bank will be calculated pro-rata to the amount of its liabilities (excluding own funds and covered deposits) with respect to the aggregate liabilities (excluding own funds and covered deposits) of all the institutions authorised in the participating Member States. Contributions will be adjusted in proportion to the risk profile of each institution.

The Fund should be able to contract borrowings or other forms of support from institutions, financial institutions or other third parties in the event that the ex-ante and ex-post contributions are not immediately accessible or do not cover the expenses incurred by the use of the Fund in relation to resolution actions. Under no circumstances shall the Union budget or the national budgets be held liable for expenses or losses of the Fund.

From 1 January 2015, the Board shall submit a monthly report approved in its plenary session to the European Parliament, to the Council and to the Commission on whether the conditions for the transfer of contributions to the Fund have been met.

ENTRY INTO FORCE: 20.08.2014. With certain exceptions set out in Regulation, it shall be applicable from 01.01.2016.

DELEGATED ACTS: the Commission shall be empowered to adopt delegated acts in order to supplement the Regulation. The power to adopt delegated acts shall be conferred on the Commission for a

an indeterminate period. The European Parliament or the Council may raise objections to a delegated act within a period of three months from the date of notification (this may be extended by three months). If the European Parliament or Council express objections, the delegated act will not enter into force.