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OPINION of the European Central Bank (ECB) on revisions to the Union crisis management framework.

The ECB welcomes the proposed amending regulations and directive, which aim to implement the total loss-absorbing capacity (TLAC) standard of the Financial Stability Board (FSB) for global systemically important institutions (G-SIIs) established in the Union.

Amendments to the minimum requirement for own funds and eligible liabilities (MREL): the proposed amendments to the Bank Recovery and Resolution Directive (BRRD) and to the Single Resolution Mechanism Regulation (SRMR) provide the possibility for the resolution authority to adjust the MREL recapitalisation amount in order to adequately reflect risks resulting from the business model, funding model and overall risk.

In addition, the ECB considers that the resolution authority should be allowed, after consultation with the competent authority, to adjust the MREL recapitalisation amount upwards to provide for a safety margin. The amount of such a safety margin should be established on a case-by-case basis, dependent on the resolution plan for the credit institution.

The proposed amendments allow a resolution authority to give guidance to an entity on having own funds and eligible liabilities in excess of the MREL, in order to cover the entity's potential additional losses and to ensure market confidence in resolution. The ECB recommends that the proposed MREL guidance is eliminated as it adds complexity to the framework without providing clear benefits.

The ECB also recommends:

- amending the process of addressing or removing impediments to resolvability due to a breach of buffers stacked on top of the MREL to include consultation of the competent authority, as is already provided for in relation to other impediments;
- ensuring that the resolution authorities have more flexibility regarding deadlines in order to ensure that the credit institution has sufficient time, if necessary, to develop the most appropriate strategy to address the breach of buffers;
- clarifying that resolution authorities have the task of monitoring the levels of available MREL eligible instruments and the MREL ratio itself, taking account of all the calculations on deductions.

Transitional arrangements for MREL: one key factor in the implementation of an entity-specific MREL is the determination of an adequate transition period.

The ECB proposes that an adequate minimum transition period across credit institutions should be introduced, which should be no shorter than the period applicable to G-SIIs set out in the TLAC term sheet. In addition, the resolution authority should be given the flexibility to determine, on a case-by-case basis, a final period for compliance that is longer than this harmonised minimum.

Early intervention measures: there is a significant overlap between supervisory measures under the CRD, the SSM Regulation (SSMR) and early intervention measures provided for in the BRRD, both in terms of content as well as the conditions for their application.

The ECB recommends removing from the BRRD those early intervention measures that are already available in the CRD and the SSMR and amending the SRMR to provide a legal basis in a regulation for the ECB's early intervention powers in order to facilitate their consistent application.

Failing or likely to fail assessment regarding less significant credit institutions under the direct responsibility of the Single Resolution Board (SRB): although the Commission's proposed amendments to the SRMR do not address this, the resolution procedure established in the SRMR requires urgent attention.

The ECB recommends that the proposed amendments to the SRMR are extended to provide explicitly that the respective national competent authority is responsible for the failing or likely to fail assessment for a less significant credit institution under the remit of the SRB.