

Banking resolution challenges ahead in the Banking Union

This note presents the summaries of three papers requested by the ECON Committee to external authors, to give a topical assessment of the Single Resolution Board's past performance and a view on future priorities or areas that would call for increased attention.

A common theme across all three papers is the need to be mindful of developments in the State aid regime, and to ensure that the resolution regime works in harmony with the State aid regime. Furthermore, two papers point to the need to ensure that within its governance framework, the SRB retains its decision-making independence, and the need to ensure optimal coordination with other stakeholders, including National Resolution Authorities and the European Central Bank.



Nicolas Véron

In his [paper](#), Véron first describes the difficult beginning phase of the Single Resolution Mechanism (SRM) and Single Resolution Board (SRB), arguing that the SRB has nevertheless been able to learn and adapt. Looking forward, he argues that the SRB must keep building up its capabilities, even as the EU policy framework for banking union and the treatment of bank failures continues to develop. Prior reforms are still being implemented, and could be subject to more comprehensive reforms in the future. Meanwhile, future SRB activity will be shaped by developments in EU State aid controls in the banking sector, as well as policy actions by banks and other stakeholders.

Véron identifies three areas that may warrant further parliamentary scrutiny. First, the SRB needs to build an autonomous ability to determine if a bank is failing or likely to fail, while avoiding unnecessary duplication of resources or processes with the SSM, which could be supported as necessary by on-site inspections. Second, he thinks that the SRB should develop its crisis preparedness beyond the ongoing process of resolution planning. Lastly, Véron suggests that legislators should consider reforming the SRB's governance framework so as to establish it further as an authoritative, operationally independent decision-making entity.

Rosa María Lastra, Costanza A Russo, and Marco Bodellini

The [paper](#) by Lastra, Russo, and Bodellini takes a legal perspective for the analysis of the SRB's past performance and for the assessment of the challenges ahead. They argue that inconsistency and fragmentation along national lines still persist in the work of the Single Supervisory Mechanism and the Single Resolution Mechanism, and a 'multi-layered' system of litigation adds to the complexity of the existing regime.

Looking forward, Lastra, Russo, and Bodellini first recommend that more specific criteria on how to inform the choice between resolution and liquidation be developed, as well as a more coherent interpretation of the concept of 'public interest' from the perspective of financial stability. Second, they argue that the provisions of the State aid framework with the provisions of the resolution regime in relation to public



intervention should be aligned. Third, the authors echo the IMF's recommendation to introduce a financial stability exemption to the rigid application of the bail-in tool before the injection of public money can take place. Fourth, they see the need for a clear hierarchical system of claims to avoid investors resorting to a multiplicity of litigation strategies. Lastly, they recommend that the level of transparency and accountability of the SRB should be enhanced by the publication of a non-confidential version of resolution plans.

Karel Lannoo

In this [paper](#), Lannoo begins with an overview of the EU's resolution framework, and of the actions of the SRB in resolving banks thus far. It is argued that the recourse to State aid in the resolution of some banks undermines the validity of the new regime, and signals that there is no single European banking market. Lannoo then moves onto analysing the SRB's priorities, as contained in its 2019 work programme. These include: fostering a robust resolution framework through enhanced tools for the resolvability of banks; managing the Single Resolution Fund; and operational matters in practically implementing the tasks of the SRB.

Looking forward, Lannoo touches on a number of outstanding issues for the SRB. First, the SRB will need to deal with ongoing litigation regarding Banco Popular and the SRF contribution. Second, the SRB needs to ensure it is well-equipped to deal with the challenges associated with Brexit and the potential increase in new member states in the near future. Third, underfunded national deposit insurance guarantee schemes, in the context of an unfinalised EDIS, could hamper future resolutions by the SRB. Lastly, the governance structure of the SRB is identified as a potential weakness, given its lack of independence in its decision-making structures.

For an overview of Banking supervision challenges ahead in the Banking Union, please see this separate [EGOV Briefing](#).

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