

# Single Resolution Mechanism: Main features, Oversight and Accountability

## Overview

One of the key lessons learned from the financial crisis in 2007-2008 is that in order to reduce the direct and indirect costs of bank failures for national governments, one has to have a credible framework in place to deal with banks' failures, including clear rules as to the allocation of losses and the conditions attached to the use of common resources, to provide strong incentives for taking measures of precaution in good times and minimise losses in times of crisis. To that end, Europe has put together a framework for resolving banks in difficulties. That framework is the Single Resolution Mechanism, headed by an European agency, the [Single Resolution Board](#) (SRB), based on [Regulation 806/2014](#) and comprising all national resolution authorities of the Member States participating in the [Banking Union](#).



The mission of SRB is thus to ensure that banks which can no longer fulfil the conditions to operate soundly can be resolved with minimal costs to taxpayers and the real economy. Resolution basically means a targeted intervention of the SRB to ensure that publically relevant operations of a bank can continue even though the bank has failed; without such intervention, the bank would have to be wound up under normal insolvency proceedings. The European framework for bank resolution is set out in the Banking Recovery and Resolution Directive (BRRD) and in the SRMR.

The SRB became operational on 1 January 2015 and its functioning is based on close cooperation between the national resolution authorities of participating Member States and the SRB. The framework for such cooperation was [formalised](#) on 17 December 2018. The scope of banks under [SRB remit](#) is basically aligned to the supervision of banks: the SRM automatically applies to all banks (including financial holding companies and investment firms) in the Banking Union (Euro area and Member States that have entered into a [close cooperation](#) with the European Central Bank (ECB) in its supervisory capacity).

Supervision and resolution are deemed to be two complementary aspects of the establishment of the Banking Union. In particular, in the exercise of their respective responsibilities, the SRB and the ECB have agreed to cooperate closely in resolution planning, early intervention and resolution phases of credit institutions. The specific modalities of this **cooperation**, including the exchange of confidential information in compliance with existing legislations, are laid down in a [Memorandum of Understanding](#) signed on 22 December 2015 and revised on 30 May 2018.



## Tasks

The **main tasks** of the SRB are related to:

- **Planning & prevention:** the assessment of banks' resolvability, adoption of resolution plans, setting the individual minimum requirements for own funds and eligible liabilities (MREL), which is the amount of bail-in instruments an institution must hold at any time;
- **Following up on early intervention measures:** preparatory work undertaken prior to resolution, when ECB or national competent authorities act to prevent a possible failure (exercising their powers of early intervention), so that resolution, if needed, can be swiftly executed;
- **Resolution:** the decision whether conditions for resolution are met, adoption of resolution schemes, including choice of resolution tools and potential use of the Single Resolution Fund (SRF), so that critical functions be preserved and costs minimised; and
- **Cooperation and coordination:** with national resolution authorities both within the EU and with third countries.

### Box 1: Resolution tools

When the Board adopts a resolution scheme, it will also determine which resolution tools will be applied. The four resolution tools mentioned in the regulation are:

- the sale of business tool (parts or all of a bank is sold to a suitable buyer);
- the bridge institution tool (parts or all of a bank is transferred to a transitory entity controlled by the SRB);
- the asset separation tool (some assets, rights or liabilities are transferred to one or more asset management vehicles in charge of winding them down over time);
- the bail-in tool (equity and debt must be written down or converted before any use of the SRF).

The **division of tasks** between the SRB and the national resolution authorities is similar to the system of bank supervision, in which the ECB directly supervises the most significant credit institutions whereas all other credit institutions are supervised by the national competent authorities (see [Article 6\(4\) of Regulation \(EU\) No 1024/2013](#)). The SRB has set out in a [Decision](#) dated 17 December 2018 (updating and replacing an earlier one dated 28 June 2016) a framework to organise the practical arrangements for cooperation between the SRB and the national resolution authorities<sup>1</sup>.

**National resolution authorities** are responsible for all other, less significant entities. They assist the SRB in resolution planning and the preparation of resolution decisions, provide information, and implement resolution schemes, based on instructions of the SRB. The SRB bears, in any case, ultimate responsibility for all banks in the Banking Union, and may at any time decide to exercise its powers in respect of any bank. The SRB may also be empowered by Member States, under article 7/5 of the

<sup>1</sup> This Decision addresses issues such as the language arrangements; the procedures concerning resolution responsibilities of the SRB and national resolution authorities, including procedures for cooperation, exchange of information, and the preparation and submission of draft decisions and (draft) resolution plans; the procedures relating to SRB directly exercising powers over entities under its remit; and the relationship between the SRB and national resolution authorities regarding resolution planning, including MREL determination and measures to address or remove impediments to resolvability, early intervention measures, applying simplified obligations, and demands for information from the entities and groups under their respective responsibility.

SRM regulation, to exercise all the powers and responsibilities for institutions others than those mandatorily under its remit established in their territories.

On 1 February 2018, the SRB published the [list of institutions under its remit](#), which includes (i) those that are [directly supervised by the ECB](#) and (ii) other cross-border groups. The list of banks and banking groups under SRB direct remit is regularly [updated](#).

## Structure

The SRB's executive management body is composed of a Chair, a Vice Chair, and four Board members. The Chair, supported by a secretariat, is entrusted with all aspects of day-to-day administration and staff matters.

### Box 2: Selection Procedure for the SRB

The Chair, Vice Chair and the four full-time members were to be appointed via an **open selection procedure** on the basis of their merits, in particular knowledge of banking and experience with bank resolution, with due respect to gender balance. The European Parliament was kept **duly informed** at every stage of that procedure.

The Chair, a Vice Chair, and four Board members were finally appointed, following the approval of the proposed candidates by [vote](#) of the European Parliament on 16 December 2014.

On 12 December 2017 the European Parliament voted for [renewing](#) the mandate of the SRB Chair and for appointment of new Board Members on [1 March 2018](#) and [14 March 2019](#). As set out in the SRMR, the Parliament is fully involved in the nomination procedure.

The SRB operates either in an executive session or in a plenary session:

The **executive session** is thought to deal with the SRM's day-to-day operations and standard decisions, for example related to the preparation, assessment and approval of resolution plans for significant banks, and the determination of the minimum requirements for own funds and eligible liabilities of significant banks. In its executive session, comprising the Chair, the four full-time members and the representatives from those Member States in which a troubled bank is located, the SRM may also decide on the use of the financial resources (of up to EUR 5 billion) in individual resolution cases. The SRB adopted on 29 April 2015 the [internal procedures](#) for its Executive Sessions.

In its **plenary session**, which is convened at least twice a year with representatives from national resolution authorities of all Member States participating, the SRB decides upon matters of general importance, for example the annual work programme, annual budget, internal rules and procedures, cooperation agreements with the national resolution authorities, investments, funding issues and other administrative aspects. The SRB adopted on 29 April 2015 the [internal procedures](#) for its Plenary Sessions.

In case that an individual resolution case requires financial resources exceeding EUR 5 billion, any member of the plenary session may within three hours after submission of the resolution draft call a meeting of the plenary session which would then be commissioned to take a decision on that draft.

## Main features of the Single Resolution Fund

In case that a resolution requires financial resources, the **basic principle** is that losses should be borne first by shareholders and next by creditors (via loss-absorption, i.e. "bail-in"; however, the bail-in shall in any case not lead to a situation in which a creditor is worse off than under normal insolvency proceedings). The same principle is also enshrined in the [Bank Recovery and Resolution Directive](#).

In the case of those contributions being insufficient, the resolution may draw on additional resources provided by the **Single Bank Resolution Fund** ("SRF") which is primarily financed by **ex-ante contributions** raised at national level from the banking sector.

The co-legislators empowered the Commission to set out in a Delegated Act how to calculate the precise amounts that individual financial institutions have to pay each year according to their size and risk profile. Under the [Delegated Act](#) adopted by the Commission on 21 October 2014, contributions are calculated at the level of the individual bank; to avoid double counting, intragroup liabilities are excluded from the basis for calculation. There is furthermore a special treatment for small credit institutions which only contribute with a lump-sum payment that is proportionate to their size. On 19 December 2014, the Council also adopted an [Implementing Act](#) specifying the conditions for calculating the contributions for individual institutions under the SRM regulation and the methodology for the calculation of those contributions.

All bank contributions are **pooled** at Union level in accordance with an [intergovernmental agreement](#) on the transfer of those contributions. During a transitional period lapsing until 2023, the contributions will be allocated to different compartments corresponding to each participating Member State (**national compartments**). Those compartments are subject to a progressive merger so that they will cease to exist at the end of the transitional period.

Within an initial period of eight years from 1 January 2016, the SRF shall reach a **target level** of at least 1% of the amount of deposits covered by a deposit insurance scheme of all credit institutions in all of the participating Member States, which will be roughly equal to an amount of EUR 55 billion. On [4 February 2015](#) the SRB announced that 2015 ex ante contributions had been transferred from national resolution funds to the SRF for a total amount of EUR 4.3 billion. In [July 2018](#) the Fund had reached the amount of €24,9 bn. In addition to pooling contributions from the banking industry, the Fund also benefits from harmonised credit lines ([Loan Facility Agreements](#)) granted by Member States, backing each of the national compartments to be used as a backstop in case of need.

In any case, the **pre-conditions for the use** of the SRF are that losses totalling not less than 8% of total liabilities (including own funds) have already been absorbed by shareholders and creditors. Moreover, the additional funding that can be provided by the SRF is limited to a maximum of 5% of the bank's total liabilities.

## Oversight and accountability

According to the regulation, the SRB is **accountable to the European Parliament, the Commission and the Council**. Its Chair presents in public the annual report to the Council and Parliament and a non-confidential version is published on its own website.

At the request of the European Parliament, the Chair shall participate in a **hearing** by the competent committee of the European Parliament on the performance of the resolution tasks by the SRB. [An agreement](#) has been concluded between the European Parliament and the SRB on the detailed modalities for organising such discussions, with a view to ensuring full confidentiality in accordance with the requirements of professional secrecy imposed by the applicable regulation.

Two **ordinary public hearings** on the execution of the resolution tasks are to be held annually, and the Chair of the Board may be invited to additional **ad hoc exchange of views** with the competent

committee, as well as **special confidential meetings** with the Chair and the Vice-chairs of the competent committee. Such **confidential discussions** shall be held upon request and behind closed doors, where such discussions are required for the exercise of the European Parliament's powers under the TFEU. For an overview of hearings, see [EGOV paper](#) "Single Resolution Board (SRB) Accountability arrangements and legal base for hearings in the European Parliament". For an overview of external expert papers provided in advance of the hearings during the 8th parliamentary term, please see this [EGOV paper](#).

The SRB shall furthermore reply in writing to Parliament's written questions within at most five weeks of receipt of a question. The SRB publishes the replies given to Parliament on its [website](#).

### Box 3: Regular reporting to the European Parliament

The SRB will regularly submit to the EP the following documents:

- the SRB Annual Report (7 days in advance of the relevant public hearing);
- the SRB's annual **work programme** (by 30 November);
- the annual report on budgetary and **financial management** (by 31 March);
- the SRB's **provisional accounts** (by 31 March);
- and the **final accounts** for the preceding financial year (by 1 July).

The SRB is also accountable to the national parliaments of the participating Member States. The regulation foresees that the SRB is due to reply to questions posed by a national parliament<sup>2</sup> on the exercise of its tasks under the regulation, and to participate on hearings, together with a national resolution authority, on matters pertaining to institutions established in that Member State. National parliaments also receive the SRB annual report and may address reasoned observations on that report, to which the SRB is due to reply. The SRB publishes the replies given to national parliaments on its [website](#).

## Review

As set out in the SRM regulation (article 94), by 31 December 2018, and **every three years** thereafter, the Commission shall publish a report on the functioning of the SRM, its cost efficiency, as well as the impact of its resolution activities on the interests of the Union as a whole and on the coherence and integrity of the internal market for financial services. On [30 April 2019](#), the Commission published its first of such reports, together with the report required under the Banking Recovery and Resolution Directive. Looking at transposition and implementation of both pieces of legislation, the Commission concludes that there is still limited experience in applying such frameworks and therefore refrained from presenting legislative amendments. Notwithstanding, the Commission outlines a number of shortcomings of the resolution framework it may address at a later stage.

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<sup>2</sup> The regulation foresees that national parliament own procedures will apply to requests sent to the SRB. There seems to be no such specific "own procedures" disclosed to the SRB.