

Completing the Banking Union

The present briefing gives an overview of the state of play of the various work streams on completing the Banking Union, covering both risk sharing (European Deposit Insurance Scheme, EDIS) and risk reduction measures (see tables overleaf). This briefing is regularly updated.

I. Overview

Further to the [Five Presidents' Report](#) on the completion of the Economic and Monetary Union ('EMU'), the European Commission (EC) tabled on 24 November 2015 a [Proposal on a European Deposit Insurance Scheme \(EDIS\)](#) - presented as **the third pillar of the Banking Union** - and a [Communication 'Towards the completion of the Banking Union'](#), which identifies a number of risk reduction measures seen as counterbalancing measures to EDIS. Given the lack of consensus on a number of key aspects of these files, the EDIS proposal is still being discussed in the European Parliament (EP) and in the Council.

The Council [roadmap to complete the Banking Union](#) adopted on 17 June 2016 conditions further progress on risk sharing (EDIS and backstop to the Single Resolution Fund) on risk reduction measures (see box 2). Member States already committed to developing a common backstop in December 2013 and reiterated this objective on [8 December 2015](#). The backstop should be fully operational by the end of the transition period in 2024 but '(...) it may be decided, in line with the risk reduction measures (...) that the backstop may become operational ahead of the end of the transition'.

The [Commission Communication of 11 October 2017](#) assessed the progress towards the completion of the Banking Union against the June 2016 Council roadmap. It *inter alia* aimed to reinvigorate the EDIS negotiations and suggested to consider, for example, to **introduce EDIS in a more gradual manner**, commensurate to progress achieved with regard to risk reduction and the tackling of legacy issues, envisaging the adoption of the EDIS proposal by co-legislators by end of 2018.

Box 1: Completing the Banking Union ("BU"): milestones

22 Jun 2015	Five Presidents' Report
24 Nov 2015	EDIS proposal
24 Nov 2015	Communication 'Towards the completion of the BU'
17 Jun 2016	Council roadmap to complete the BU
4 Nov 2016	Draft EP report on EDIS
22 Nov 2016	Business insolvency proposal
23 Nov 2016	'Banking Package'
31 May 2017	Reflection paper on the deepening of the EMU
11 Oct 2017	Communication on completing the BU
29 Nov 2017	Commission's stock take on risk reduction measures
6 Dec 2017	"EMU package" (including a proposal on the establishment of a EMF)
14 Mar 2018	"NPL" legislative package Framework for "Sovereign Bond-Backed Securities" proposed by Commission
24 May 2018	Bond-Backed Securities" proposed by Commission
14 Dec 2018	Euro Summit agreement on SRF Backstop, on setting up a High Level Expert Group to continue work on EDIS and on further work on liquidity in resolution.



That Communication also called for the adoption of the **de-risking measures proposed** in the November 2016 Banking Package¹. Additional action has been suggested to address the issue of **non-performing loans** (NPLs), specifically to prevent the future build-up of new NPLs. This led to the adoption of the NPL package by the EC on 14 March 2018. One part of the Communication is dedicated to the possibility of introducing **Sovereign Bond-Backed Securities (SBBS)** in order to support further portfolio diversification in the banking sector. On 24 May 2018, the EC adopted its [proposal](#) on SBBS which provides an enabling regulatory framework for the development of SBBSs without changing the regulatory treatment of sovereign bonds.

Box 2: “Risk reduction” and “Risk sharing”

Commission: *“The Banking Union can only function if risk reduction and risk sharing go hand in hand”* (Commission’s [communication](#) on completing the Banking Union).

ECB: *“Policies that reduce risks for the banking system as a whole will also lead to larger risk-reduction for individual banks”*. [Speech](#) by Mario Draghi, President of the ECB, at the European University Institute, Florence, 11 May 2018

Council: *“[On EDIS], negotiations at political level will start as soon as sufficient further progress has been made on the measures on risk reduction”*. [On the common backstop for the Single Resolution Fund], *“it may be decided, in line with the risk reduction measures [MREL, TLAC, rules and adequate amounts for the bail-inable buffers], that the backstop may become operational ahead of the end of the transition period”* (June 2016 Council roadmap).

Parliament: *“The creation of a European Deposit Insurance Scheme (EDIS) requires the implementation of the single rulebook as well as of the first and second pillars of the BU, as well as the transposition of the BRRD and the Deposit Guarantee Schemes Directive (DGSD) by all the participating Member States and further measures to achieve a substantial reduction of risks in the European banking system”* (Banking Union [annual report](#) 2015).

That Communication furthermore underlines the EC position that the credibility of the **Single Resolution Fund (SRF)** should be further supported by a common backstop in the form of a credit line from the European Stability Mechanism (ESM). On 6 December 2017, the EC adopted its [proposal](#) establishing a European Monetary Fund (EMF) in lieu of the ESM and proposed that the European Monetary Fund should act as a backstop for the SRF. See separate [EGOV](#) briefing on ESM.

The **June 2018 Euro Summit** agreed, in light of the adoption in the Council of the Banking package, that *“adhering to all elements of the 2016 roadmap in the appropriate sequence, work should start on a roadmap for beginning political negotiations on the European Deposit Insurance Scheme”*. In relation to the common backstop to the SRF, the Euro-summit endorsed the contours of the reform outlined in a letter of the Eurogroup president (See below).

As the President of the Eurogroup put it in its [letter](#) of June 2018 to the President of the European Council ahead of the Euro Area summit, *“to advance further [in the completion of the Banking Union], an **objective assessment of the progress made in the implementation of risk reduction measures** became an important part of the discussion on the implementation of the [Council] June 2016 roadmap”*.

On the basis of a [report](#) that outlines risk reduction measures and key financial indicators for risk reduction in the Banking Union, the [Eurogroup](#) agreed at its February 2018 meeting that important progress has been made in risk reduction but recognised that there is scope for further improvement in some areas that called for a “comprehensive assessment of progress achieved”. In June 2018, the Eurogroup agreed to look at a series of indicators² that are being further worked out

¹ The Directive on the ranking of unsecured debt instruments in insolvency proceedings was approved by EP at first reading on 30 November 2017 and adopted by Council on 7 December 2017. It has been published in the Official Journal of 27 December 2017 as Directive (EU) 2017/2399.

² Capital Ratio, the Leverage Ratio, the Liquidity Coverage, the Net Stable Funding Ratio (‘NSFR’), the Non-Performing Loan (‘NPL’) ratio, the Minimum Requirement of Eligible Liabilities.

to provide for both a quantitative and qualitative assessment (See EC [non-paper](#) of November 2018). For further details, please see EGOV briefing: "[Banking Union Indicators](#)" (November 2018).

The Eurogroup set out in [July 2018](#) a detailed work programme. It agreed to work on a roadmap for beginning political discussions on the EDIS, a possible framework for liquidity in resolution and measures to enhance the organisation of anti-money laundering, whilst monitoring progress with risk reduction and keeping track of agreements reached on banking legislation and its implementation.

Following discussions at the Eurogroup between July and December, the [14 December 2018 Euro Summit](#) endorsed the Eurogroup [terms of reference of the common backstop](#) to the Single Resolution Fund (fiscally neutral in the medium-term) and mandated the Eurogroup to prepare amendments to the ESM Treaty by June 2019. Leaders also agreed to Eurogroup proposals of setting up a **High Level Working Group** to work on further steps on EDIS, with a report expected by June 2019. The Eurogroup will continue working on liquidity provision in resolution, along relevant institutions, and a report will be provided by June as well. Lastly, the [4 December Eurogroup](#) also invited the EC to propose "longer term actions to bring about improvements in the prudential and AML frameworks identified on the basis of a thorough assessment in due consultation with Member States".

II. Risk sharing

The European Deposit Insurance Scheme (EDIS)

The EC published its [proposal](#) on EDIS in November 2015. At the request of the European Parliament it complemented it by an informal analysis on the complementary effects of EDIS, which was [published on 11 October 2016](#). The EC proposal articulates the introduction of EDIS in three stages: the re-insurance phase (2017), the co-insurance phase (2020), the full insurance phase (2024).

The Council adopted a [roadmap to complete the Banking Union](#) on 17 June 2016 which conditions negotiations at political level on EDIS to sufficient progress on de-risking measures. Discussions at technical level are on-going within the Council Working Party.

The European Parliament's rapporteur (MEP E. De Lange, EPP) published [her draft report on 4 November 2016](#). The ECON Committee held a discussion on the proposed amendments to the draft report on 25 January 2017. Compared to the EC's initial text, the draft report by the rapporteur proposes only two phases (reinsurance and co-insurance). The co-insurance would only be introduced if four conditions are fulfilled: i) new TLAC/MREL implemented; ii) new framework on bank creditors hierarchy implemented; iii) new insolvency framework implemented; iv) leverage ratio in place. Amendments were tabled on 21 December 2016. The file is still pending decision.

The EP reiterated its call for a third pillar in order to complete the Banking Union, and stressed in [its annual report 2017](#) on the Banking Union that "*further efforts are needed to complete the Banking Union, as it remains incomplete as long as it lacks a fiscal backstop for the SRF and a third pillar, this being a European approach to deposit re-insurance*". Similar concerns were voiced in the [2018 EP Resolution on Banking Union](#) where the EP took positive note "(...) of the achievements and results of the Banking (...)" but "*underlines the importance of commitment to the process of completing the Banking Union and the need to ensure openness and equal treatment of all Member States participating in the Banking Union; recalls that the completion of the Banking Union, including a European Deposit Insurance Scheme and a fiscal backstop for the Single Resolution Fund, must continue as well as measures to achieve risk reduction, which contributes to further increasing financial stability and growth prospects;*".

In its [communication](#) of 11 October 2017, the EC shows its openness to various ideas in an attempt to address some of the concerns that emerged during the discussions in the EP and the Council. It is envisaged to introduce EDIS more gradually. More specifically, moving to the co-insurance phase

could be conditional on progress achieved in reducing the level of NPLs and other legacy assets through an asset quality review.

The Bulgarian [Presidency](#) discussed technical details linked to different alternatives for the initial model of EDIS. At its [7 September](#) meeting, the Eurogroup agreed that work on EDIS would be sequenced after risk reduction measures are assessed. The [Austrian Presidency](#) concentrated exploring the technical features of a "hybrid model" it presented, which combined a system of re-insurance based on ideas featured in the October 2017 Commission communication and a mandatory lending scheme and discussed as well transitional aspects in the context of the introduction of EDIS, the impact of EDIS on non-banking union member states, alternative measures and the calculation of risk-based contributions. The Eurogroup further progressed in discussing the more political aspects of EDIS and on the [4 December 2018](#) proposed to Euro Leaders to set up a High Level Working Group mandated to work on further steps and report on June 2019³. The [December Euro Summit](#) endorsed Eurogroup proposals.

In September 2018, the EC launched a [survey](#) on national optional and discretions of the DGS Directive in the context of EDIS. Considering the duration of the tender, results are not expected before late spring 2019.

The backstop to the SRF

On 6 December 2017, the EC published a roadmap on further steps towards completing the Economic and Monetary Union, including a [proposal for a Council Regulation on the establishment of a European Monetary Fund](#). According to that proposal, the European Monetary Fund (EMF) should act as a backstop for the SRF in case the latter's immediately available resources for capital or liquidity purposes deplete. The backstop in the form of a credit line or guarantees to the SRF would be fiscally neutral over time, since any funds used would be recovered from the banking sectors in the Member States participating in the Banking Union. The EC proposal specifically sets out that the provision of credit lines and guarantees to the SRB would be a totally new function for the EMF in comparison to the ESM's current objective and tasks. The combined amount of outstanding commitments for backstopping the SRF shall be subject to a ceiling of EUR 60 bn, which could be increased. The EMF's Board of Governors, in agreement with the non-euro Member States of the Banking Union, should adopt the financial terms and conditions of such support to the SRB. To ensure a swift availability, the EMF's Managing Director shall be authorised to decide on the drawdown of the credit line or the provision of guarantees on liabilities of the SRB.

In the interim, and on the basis of the EC Communication, Eurogroup further developed the main elements of an ESM credit line to backstop the SRF. The contours of such backstop were outlined in the Eurogroup President 25 June 2018 [letter](#) to the the President of the European Council. The [4 December 2018 Eurogroup](#) agreed on [terms of reference](#) detailing the main elements of the SRF backstop. The terms of reference conditions early introduction of the backstop to sufficient progress in risk reduction by 2020 "to be assessed with the aim of 5% of gross NPLs and 2,5% net NPL on all banks in the BU, and on adequate build-up of bail-inable liabilities".

The [14 December Euro Summit](#) endorsed the terms of reference and mandated Eurogroup to finalise the necessary ESM Treaty amendments by June 2019. Leaders also agreed that the backstop can be anticipated "*provided sufficient progress has been made in risk reduction, to be assessed in 2020.*".

³ "In line with the mandate from the June Euro Summit, work has started on a roadmap for beginning political negotiations on a European deposit insurance scheme (EDIS), adhering to all elements of the 2016 roadmap in the appropriate sequence. Further technical work is still needed. We will establish a High-level working group with a mandate to work on next steps. The High-level group should report back by June 2019."

Table 1: Terms of reference selected elements for the common backstop to the SRF

General characteristics	<ul style="list-style-type: none"> • The ESM will provide the common backstop, in the form of a revolving credit line. The size of the credit line will be aligned with the target level of the SRF; nominal cap to be set above the initial size and decided by the ESM Board of Governors at the latest at the time of ESM Treaty change; nominal cap can be adjusted by ESM Board of Governors • During the transition period, the size of the backstop will increase each year to remain aligned with that of the SRF • The Direct Recapitalisation Instrument be should be replaced by the common backstop • Regular review of the instrument each 3 years and comprehensive review after 10 years
Use of the backstop	<ul style="list-style-type: none"> • Backstop to cover all possible uses of the SRF, according with the current regulation, subject to adequate safeguards to be discussed in 2019
Modalities	<ul style="list-style-type: none"> • Fiscal neutrality (margin of 35bp in the initial 3 years, step up margin of additional 15bp after 3 years) • Maturities: 3 years+ possible 2 years extension, with possible upfront 5 years if SRB considers financial stability risks exist (to be decided by the ESM Board of Directors) • Equivalent treatment would be ensured with non-euro area Member States participating in the Banking Union, via parallel credit lines to the SRF
Decision making arrangements	<ul style="list-style-type: none"> • ESM BoD could take decisions on the use of the common backstop, arrangements with procedures in place for swift and efficient decision making (maximum 12 hours after SRB request, extendable to 24 hours; conditional decision to be made by Directors on the basis of all available information; ESM Executive Director may be given time-limited delegation) whilst respecting national constitutional requirements • Backstop Committee and sub-committee to be set up to ensure sharing of information and timely coordination with non-euro area Member States • Representatives of non-euro area Member States participate as observers in Board of Governors' and Directors' meetings dealing with backstop usage • Eurogroup to endeavour finding an agreement on an emergency voting procedure, whilst respecting national constitutional requirements
Early introduction	<ul style="list-style-type: none"> • Common Backstop would enter into force ahead of 2024 if sufficient progress is achieved in risk reduction measures, to be assessed by 2020. Political decision against the aim of 5%gross NPLs and 2,5% of net NPLs or adequate provisioning for all SRB banks and progress thereto; build-up of subordinated bail in buffers in line with 2024 and 2022 targets • Technical work, including on a limited revision of the IGA, to continue

Source: Eurogroup [terms of reference](#) for the common backstop to the Single Resolution Fund

In addition, the [Eurogroup](#) agreed in June 2018 to step up work on a “possible framework for liquidity in resolution, including on the possible institutional framework”. The [4 December Eurogroup](#) mandated further work on solutions, with input of relevant institutions to be done during the first half of 2019 and reporting expected by June 2019. For further background information, see EGOV [briefing](#) ‘Banking Union: towards new arrangements to finance banks under resolution?’ (July 2018).

III. Risk reduction measures

There are several on-going work streams related to the reduction of risks in the banking sector; a **detailed overview can be found in the table overleaf**, which covers **10 risk reduction measures**. **In response to the calls from both Council and EP, the EC presented on [22](#) and [23 November](#)**

2016 a number of legislative proposals aiming at reducing the risks in the banking sector (“Banking package or “Risk Reduction Measures package”). The Council adopted its [general approach](#) on 25 May 2018 and the EP voted its [report](#) on 28 June 2018. The [4 December 2018](#) Ecofin endorsed the result of negotiations with the European Parliament on the Banking Package. The Directive on the ranking of unsecured debt instruments in insolvency proceedings 2017 and a regulation on transitional arrangements to phase in the regulatory capital impact of the IFRS 9 international accounting standard were approved by EP at first reading on 30 November 2017 and adopted by Council on 7 December 2017.

The Council adopted a **European Action plan on NPLs** in July 2017, based on an [FSC report](#). On 18 January 2018, the EC presented its [first progress report](#) on the **Action Plan to tackle non-performing loans** in Europe. That report *inter alia* points out that the primary responsibility for tackling high NPL ratios remains with the affected banks and Member States, mentions that there is evidence of progress in reducing NPL ratios in Member States, due to a combination of policy actions and economic growth, but also cautions that NPLs continue to pose risks to economic growth and financial stability.

On 14 March 2018, the EC proposed a **“package” of legislative proposals addressing NPLs**: i) a proposal for a Regulation amending the Capital Requirements Regulation as regards “minimum loss coverage for non-performing exposures”. The Council adopted its [general approach](#) on 31st October; ii) a proposal for a Directive on credit servicers, credit purchasers and the recovery of collateral”. This package was accompanied by EC [second progress report](#) on the reduction of non-performing loans in Europe and a Blueprint for national Asset Management Companies (AMCs). The EC [adopted](#) its third progress report on NPL on 28 November 2018, complemented by an additional report on progress in implementing the Capital Markets Union. The EC report highlights that NPLs have further reduced and stood on an EU average for all EU banks of 3.4% (Q2 2018), down by 1.2 percentage points year-on-year.

On 7 December 2017, the Basel Committee on Banking Supervision (BCBS) published the [finalised reforms](#) of the Basel III package (see EGOV [note](#)). The EC reckoned that the implementation of these reforms would require amendments to the current Capital Requirements Regulation (CRR) that would be done separately from the current amendments of the “Banking Package”.

In its [letter](#) to the President of the European Council, the Eurogroup places a particular emphasis on risks stemming from **money laundering**. In that respect, a Council [action plan](#) for AML was discussed ahead of the December ECOFIN Meeting. This action plan draws on an EC [communication](#) adopted in September 2018 and a Commission proposal that entrusts the European Banking Authority (EBA) with specific powers in relation to AML, as part of the ESA review. The 4 December 2018 Ecofin adopted [conclusions](#) setting out a number of short-term non-legislative actions to tackle AML. These include, *inter alia*, enhanced supervisory convergence factoring in AML/CFT-related aspects into the prudential supervisory process, intensified cooperation and exchange of information among supervisors and sharing of best practices. The ESA review is being negotiated. For further background information, see EGOV [Briefing](#): “Money Laundering: recent cases from an EU banking supervisory perspective” (update February 2019).

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DE-RISKING MEASURES: DETAILED STATE OF PLAY (February 2019)

(NB: quotes in the first column in the table below are extracts from the Commission Communication of 24 November 2015: *'Towards the completion of the Banking Union'*)

RISK REDUCTION MEASURE	BODIES INVOLVED	STATE OF PLAY
<p>1. REDUCE NATIONAL OPTIONS AND DISCRETIONS</p> <p><i>'(...) There is a need to reduce national options and discretions in the application of prudential rules. (...)The Commission will work with Member States and in close coordination with the SSM to propose regulatory measures with a view to aligning, as necessary, the use of national options and discretions (...).'</i></p>	<p>SSM</p> <p>COMMISSION</p>	<p>SSM work completed; Commission action postponed</p> <p>When adopting the Basel 3 framework in the form of a Regulation (Capital Requirements Regulation) in lieu of a Directive (Capital Requirements Directive), the co-legislator already did away with a significant amount of national options and discretions in 2013</p> <p>For significant institutions (SIs) under direct ECB supervision, further harmonisation of options and discretions (O&Ds) was concluded in March 2016, when the Regulation that entered into force on 1 October 2016 and the Guide on O&Ds were published. An addendum to the Guide covering some additional O&Ds was published on 10 August 2016. A consolidated version of the Guide was published in November 2016.</p> <p>The ECB also decided to harmonise the exercise of O&Ds for the smaller banks (LSIs) that are supervised by the national competent authorities (NCAs) under ECB's oversight. The final Guidelines were published on 13 April 2017. However, O&Ds remain in the CRR/CRD IV which are exercised through national legislation as opposed to those which are in the hands of supervisors. Legislative action by policy makers is needed to reduce these remaining O&Ds. The November 2016 "banking package" does not address this issue. The EBA provides comparisons that show how some O&Ds are applied in the EU.</p>
<p>2. REVIEW OF THE MACRO-PRUDENTIAL POLICY FRAMEWORK</p> <p><i>'(...) The Commission will also consider possible revisions to the current [macro-prudential] regime, while retaining the necessary flexibility to respond to country-specific circumstances (...).'</i></p>	<p>ESRB</p> <p>EBA</p> <p>ECB</p> <p>SSM</p> <p>NATIONAL MACRO-PRUDENTIAL AUTHORITIES</p>	<p>Legislative proposal of 20 September 2017 amending the ESRB regulation</p> <p>The legislation contains review clauses (i.e. ESRB regulations, CRDIV/CRR macro-prudential tools, SSM macro-prudential competences). In 2014, the European Parliament published an own initiative report on the review of the European System of Financial Supervision, including the ESRB.</p> <p>The Commission published a review report on the ESRB. The ESRB and the EBA published their opinions on the macro-prudential toolset. The five Presidents' report mentions the necessity to strengthen macro-prudential institutions, underlying thereby the importance of macro-prudential policy in the Euro Area given the single monetary policy. On 1 August 2016, the European Commission launched a public consultation on the review of the macro-prudential framework which closed on 24 October 2016. A summary of the responses received is available on the Commission's website.</p>

	<p>COMMISSION</p>	<p>As part of the November 2016 Banking Package (see below), the Commission has clarified the respective powers of micro and macroprudential supervisors. Under this proposal, the SREP (“Pillar 2”) and corresponding supervisory requirements should be confined to a purely micro-prudential perspective. Powers of macro-prudential supervisors are being discussing in trilogues.</p> <p>On 20 September 2017, the Commission tabled amendments to the ESRB regulation, as part of the review of the European System of Financial Supervision. The proposed amendments are the following: i) The ECB President becomes the permanent Chair of the ESRB; ii) The role of the Head of the ESRB secretariat is enhanced and his/her selection procedure modified; iii) The Single Supervisory Mechanism and the Single Resolution Board become voting members in the ESRB general board; the ECB in its supervisory capacity is included as a potential addressee of the ESRB warnings and recommendations.</p> <p>Othmar Karas (EPP) and Pervenche Beres (S&D) were appointed rapporteurs on behalf of the EP. ECON voted its report on 10 January 2019.</p>
<p>3. HARMONISATION OF NATIONAL DEPOSIT GUARANTEE SCHEMES</p> <p><i>'(...) This harmonisation will be essential for EDIS to operate correctly in the full insurance stage. Despite the further harmonisation measures introduced by the 2014 DGS Directive, some important differences remain between national deposit guarantee schemes (...)'.</i></p>	<p>COMMISSION</p> <p>EBA</p> <p>NATIONAL DGS</p>	<p>To be achieved by 2024</p> <p>As regards the harmonisation of national deposit guarantee schemes, Member States must ensure that the available financial means of a DGS shall at least reach a target level of 0,8 % of the amount of covered deposits of its members by 3 July 2024 according to Directive 2014/49/EU of the EP and Council of 16 April 2014 on deposit guarantee schemes. National options exist in particular on levies, lower target amount and alternative measures. The EBA adopted guidelines on contributions and on payment commitments in May 2015, and issued draft guidelines on cooperation agreements between DGS in July 2015. Since 2016, the EBA collects and publishes data showing how much money is available in each national DGS's fund.</p> <p>In September 2018, the Commission launched a survey on national optional and discretions of the DGS Directive in the context of EDIS. Considering the duration of the tender, results are not expected before late spring 2019.</p>
<p>4. MREL/TLAC</p> <p><i>'(...) The availability of adequate 'bailinable' liabilities through the proper implementation of the minimum requirement for own funds and eligible liabilities (MREL) requirements is crucial (...) In addition, the TLAC (Total Loss Absorbing Capacity)</i></p>	<p>BASEL</p> <p>COMMITTEE</p> <p>FINANCIAL</p> <p>STABILITY</p> <p>BOARD,</p> <p>COMMISSION</p> <p>EBA</p>	<p>Legislative proposals of 23/11/2016 ('banking package')</p> <p>The objective of the proposal amending BRRD and SRMR is to incorporate the internationally agreed TLAC standard into the European norm MREL. COM proposes to introduce a minimum harmonised MREL requirement (a so-called 'pillar 1 MREL requirement') applicable to G-SII only that would be TLAC-compatible. Such pillar 1 requirement would coexist with a case-by-case bank-specific MREL requirement ('pillar 2 approach').</p> <p>The EP has appointed Gunnar Hökmark (EPP) as rapporteur.</p>

<p><i>requirement has been developed at the international level by the Financial Stability Board.</i></p>	<p>SRB</p>	<p>The Council adopted its general approach on 25 May 2018 and the EP voted its report on 25 June 2018. The 4 December 2018 Ecofin endorsed the result of negotiations with the European Parliament.</p>
<p>5. OPERATIONALIZING THE SINGLE RESOLUTION FUND</p> <p><i>'(...) The operation of the SRF should also begin smoothly, with contributions from all relevant banks flowing into the SRF on a timely and complete basis from 2016 (...).'</i></p>	<p>COUNCIL (EFC) SRB</p>	<p>Phasing-in from 1/01/2016 until 31/12/2023</p> <p>The SRF should be gradually phased-in as of 1 January 2016. After an 8-year transitional period, the SRF will be fully mutualised (target size of approximately EUR 60 billion, i.e. 1% of covered deposits of all credit institutions authorised in the Banking Union, at the end of 2023).</p> <p>By end of June 2018, the SRB had collected a total amount of EUR 24,9 billion in contributions, meaning that the SRF by then had reached more than one third of its intended target size.</p>
<p>6. CONSISTENT APPLICATION OF BAIL-IN RULES</p> <p><i>'(...) There must be a consistent application of the bail-in rules under BRRD (...) To the extent that public funds or funding from the SRF are used, the application of EU State Aid and Fund Aid rules will be essential. (...).'</i></p>	<p>COMMISSION SRB</p>	<p>Directive (EU) 2017/2399 of the EP and Council of 12 December 2017 amending Directive 2014/59/EU as regards the ranking of unsecured debt instruments in insolvency hierarchy</p> <p>The SRB is in charge of the consistent application of the BRRD bail-in rules (the SRB decisions should however be endorsed by the Commission). The EU State aid and Fund aid framework continues to apply.</p> <p>The November proposal on banks creditors' hierarchy (amending BRRD) should facilitate the application of the bail-in rule in a cross-border context. It enables banks to issue debt in a new statutory category of unsecured debt available in all Member States which would rank just below the most senior debt and other senior liabilities for the purposes of resolution (while still being part of the senior unsecured debt category). The new provision keeps the existing class of senior debt while it creates a new asset class of non-preferred senior debt that should only be bailed-in in resolution after other capital instruments but before other senior liabilities. Institutions remain free to issue debt in both classes while only the non-preferred senior class is eligible for the minimum TLAC requirement or any subordination requirement that could be imposed by resolution authorities on a case-by-case basis. The Parliament adopted a text in plenary on 30 November 2017 and the Council adopted the act on 8 December 2017. The text was published in the Official Journal of the 27 December 2017 as Directive (EU) 2017/2399 of the European Parliament and of the Council of 12 December 2017 amending Directive 2014/59/EU as regards the ranking of unsecured debt instruments in insolvency hierarchy.</p>
<p>7. INSOLVENCY LAW</p> <p><i>'(...) The Commission will consider bringing forward proposals enhancing legal</i></p>	<p>COMMISSION PARLIAMENT COUNCIL</p>	<p>Two legislative proposals have been proposed by Commission to improve the efficiency of Member States' insolvency framework. Those proposals are not banking resolution specific. For further insight into the harmonisation of insolvency law from a banking resolution perspective, see EGOV Briefing.</p> <p>1. Legislative proposal of 22/11/2016 on preventive restructuring frameworks, second chance and measures to</p>

<p><i>certainty and encouraging the timely restructuring of borrowers in financial distress (...).'</i></p>	<p>increase the efficiency of restructuring, insolvency and discharge procedures</p> <p>COM proposed a set of European rules on business insolvency. The proposed directive focuses on three key elements:</p> <ul style="list-style-type: none"> • Common principles on the use of early restructuring frameworks; • rules to allow entrepreneurs to benefit from a second chance as they will be fully discharged of their debt after a maximum period of 3 years; • Targeted measures for Member States to increase the efficiency of insolvency procedures; This should reduce the excessive lengths and cost of procedures in many Member States which result in legal uncertainty for creditors and investors and low recovery rates of unpaid debts. <p>Due to the current diversity in Member States' legal systems and numerous links to connected areas of national law, such as tax, employment and social security law, the proposal nevertheless has only a limited scope, not harmonising core aspects of insolvency such as conditions for the opening of insolvency proceedings, the definition of insolvency, and the ranking of claims.</p> <p>European Parliament's JURI Committee appointed Angelika Niebler (EPP, Germany) as rapporteur for this file. The rapporteur presented her draft report on 22 September 2017 and JURI voted the report on 2 July 2018.</p> <p>2. Legislative proposal of 14/03/2018 on credit servicers, credit purchasers and the recovery of collateral</p> <p>The proposed directive, which is part of Commission's 'NPL' package (see box 8 below), aims at preventing the excessive future build-up of NPL by increasing the efficiency of debt recovery procedures. The proposal establishes an "accelerated extrajudicial collateral enforcement procedure" ('AECE'), which are out-of-court mechanisms which enable secured creditors (i.e. banks) to recover the value from collateral swiftly and at lower cost in case a borrower does not pay back a loan. This procedure would be accessible when agreed upon in advance by both lender and borrower in the loan agreement.</p> <p>Esther de Lange (EPP) and Roberto Gualtieri (S&D) were appointed rapporteurs on behalf of the EP. Discussions are ongoing in ECON.</p> <p>The Eurogroup already discussed in 2016 insolvency frameworks across Member States. Ministers endorsed a list of key principles which should serve as guidance to improve the efficiency of national insolvency frameworks.</p>
<p>8. NON-PERFORMING LOANS</p> <p><i>'(...) In the context of the European semester the Commission will also call for increased attention from</i></p>	<p>1. European Semester (annual cycle); SSM supervision; work in the Council</p> <p>The necessity to bring down the level of NPLs was mentioned in the country specific recommendations (CSR) in 2015 (AT, BG, HU, HR, IE, IT, PT and SI), 2016 (IT, IE, PT, CY, HR and SI), 2017 (BG, IE, IT, CY, PT and SI), and 2018 (BG, CY, IT, PT, and IE).</p>

<p>Member States to settle NPLs (...)'</p>	<p>SSM COMMISSION EBA ECB/SSM COUNCIL (FSC/EFC)</p>	<p>In March 2017, the ECB published its guidance to banks on NPLs which has been completed by an addendum published in March 2018 further to a consultation launched in October 2017 (for a detailed analysis of this addendum, see EGOV briefing). It provides recommendations to banks and sets out a number of best practices that the SSM has identified and that will form its supervisory expectations going-forward. Banks with high levels of NPLs are expected to set targets that are both realistic and ambitious for reducing NPLs. This will be closely monitored by the ECB/SSM. The addendum sets out supervisory expectations for minimum levels of prudential provisioning for new NPLs. The consultation was open until 8 December 2017 and included a public hearing on 30 November 2017. More specifically, banks are expected to provide full coverage for the unsecured part of new NPLs after two years at the latest and after seven years for the secured part. In the final Addendum, a linear provisioning path is not expected during the first two years for the secured parts of NPLs, but the ECB expects a coverage of 40% after 3 years of “vintage” (i.e. the length of time an exposure has been classified as non performing), 55% after 4 years, 70% after 5 years, 85% after 6 years and a full coverage after 7 years. The new provisioning expectations should apply to all exposures newly classified as NPLs as of 1 April 2018. Concerns have emerged as to whether such draft guidance impinged on level 1 legislation. There was an exchange of letters on this point in October 2017 between the President of the EP and the SSM chair.</p> <p>The ESRB dedicated expert group on NPLs (co-chaired by a representative of the EBA and a representative of the ECB) published its report in July 2017.</p> <p>At its meeting on 11 July 2017, the Council adopted a European Action plan on NPLs, based on an FSC report. It outlines a mix of policy actions to help reduce stocks of non-performing loans and to prevent their future emergence.</p> <p>On 18 January 2018, the Commission presented its first progress report on the Action Plan to tackle non-performing loans in Europe. Its second progress report accompanied the ‘NPL’ package adopted on 14 March 2018. The Commission adopted its third progress report on 28 November 2018.</p> <p>2. ‘NPL’ legislative package</p> <p>Consistent with its October 2017 communication and in line with the Council action plan of July 2017, the Commission adopted on 14 March 2018 a package of further measures to tackle NPLs. That package consists of two legislative proposals and a staff working document providing non-binding technical guidance (a so-called “blueprint”) for how national asset management companies (AMCs) can be set up. Together, these proposals are intended to:</p> <ul style="list-style-type: none"> • enhance the prudential tools needed to effectively address NPLs; • encourage the development of secondary markets for NPLs; • provide guidance to Member States – that so wish – for the restructuring of their banks by establishing AMCs or other measures dealing with NPLs.
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	<p>COMMISSION PARLIAMENT COUNCIL</p>	<p>In addition to establishing an accelerated extrajudicial collateral enforcement procedure” (‘AECE’) to facilitate debt recovery by enhancing the protection of secured creditors in an extrajudicial proceeding (see box 7 above), the legislative proposal on credit servicers, credit purchasers and the recovery of collateral aims at encouraging the development of secondary markets for NPLs. This proposal lays down an “internal market” framework (in terms of requirements, authorisation and supervision) for third party credit servicers to which the servicing of loans is outsourced by banks or sold (credit transfer). Authorised credit servicers will benefit from an EU passport.</p> <p>In the same package, the Commission has proposed amendments to the Capital Requirements Regulation to introduce “statutory prudential backstops”. Those backstops amount to minimum levels of provisions and deductions from own funds that banks will be required to make in order to cover incurred and expected losses on newly originated loans that later turn non-performing. Those backstops aim at ensuring that credit losses on future NPLs are sufficiently covered. The Council adopted its general approach on 31st October 2018.</p> <p>As part of the NPL “package”, the “Asset Management Companies” (AMC) Blueprint sets out Commission’s practical recommendations for the design and set-up of AMCs at national level. That Blueprint is based on Member States’ best practices. AMC have been an important part of solutions to clean-up banks’ balance sheet in the wake of the financial crisis by removing banks’ troubled assets.</p>
<p>9. ADDITIONAL PRUDENTIAL MEASURES: LEVERAGE, STABLE FUNDING, COMPARABILITY OF RISK-WEIGHTED ASSETS (RWA)</p> <p><i>‘(...) measures to limit bank leverage, to assure stable bank funding and to improve the comparability of risk-weighted assets [should be put in place] (...). As a follow-up to the outcome of the discussions within the Basel Committee, the Commission intends to make proposals for amendments to the CRD IV/CRR (...).’</i></p>	<p>BASEL COMMITTEE COMMISSION EBA</p>	<p>Legislative proposals of 23/11/2016 (‘banking package’)</p> <p>Key elements of the proposal amending CRR and CRD which implements important Basel standards (leverage ratio, Net Stable Funding Ratio (NSFR), trading book):</p> <ul style="list-style-type: none"> • A binding 3 % leverage ratio; • A binding NSFR which will require financial institutions to finance their long-term activities with stable sources of funding; • Higher more risk-sensitive capital requirements for institutions that trade in securities and derivatives, following the Basel fundamental review of the trading book; • More proportionate rules for smaller and non-complex banks; • Rules facilitating lending to SMEs and funding infrastructure projects; • Clarified conditions for the application of pillar 2 capital add-ons <p>Peter Simon (S&D, Germany) was named rapporteur. The Council adopted its general approach on 25 May 2018 and the EP voted its report on 28 June 2018. The 4 December 2018 Ecofin endorsed the result of negotiations with the European Parliament.</p>
<p>10. TREATMENT OF SOVEREIGN RISK</p>		<p>1. Regulatory Treatment of Sovereign Exposures</p>

