

**Follow-up to the European Parliament non-legislative resolution on
Banking Union - annual report 2020**

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- 2. Reference number:** 2020/2122 (INI)/ A9-0256/2021 / P9_TA PROV(2021)0415
- 3. Date of adoption of the resolution:** 7 October 2021
- 4. Competent Parliamentary Committee:** Committee on Economic and Monetary Affairs (ECON)
- 5. Brief analysis/assessment of the resolution and requests made in it:**

With this resolution, the European Parliament adopts its sixth Annual Report on the Banking Union. The resolution is divided into four main sections. The first two sections cover a wide series of issues related to the financial sector. The last two sections focus on the core issues relevant to the completion of the Banking Union.

The main topics addressed in the resolution are:

- in Sections 1 and 2, the completion of the Banking Union and the Capital Markets Union, digital finance and digital euro, finalisation of Basel III, gender balance in EU financial institutions and bodies, regulatory and supervisory response to the COVID19 pandemic, non-performing loans and credit risk management, consumer protection, banking consolidation and home/host issues, NextGenerationEU and bank's exposures to sovereign debts, climate-related and environmental risks, anti-money laundering, UK withdrawal consequences;
- in Sections 3 and 4, crisis management and resolution/insolvency framework, deposit guarantee schemes and the European Deposit Insurance Scheme (EDIS).

In Sections 1 "General considerations" and 2 "Supervision", the European Parliament largely welcomes a number of actions already undertaken by the Commission, the European Supervisory Authorities (ESAs), the Single Supervisory Mechanism (SSM) and the banking sector, and expresses broad support for a number of important Commission initiatives (as the possible revision of the resolution framework and the completion of the Banking Union, the deepening of the CMU with particular focus on sustainable finance, the implementation of the Digital Finance Strategy, the finalisation of Basel III, the Action Plan on tackling non-performing loans, the development of the Next Generation EU, or the implementation of the Anti-Money Laundering Action Plan), while at the same time calling on the Commission to pay close attention to a number of specific aspects in completing the work remaining in these areas.

In Sections 3 "Resolution" and 4 "Deposit Insurance", the European Parliament calls for Commission initiatives in several areas:

- notably removing the overlaps between early intervention measures and standard supervisory powers, clarifying the use of Deposit Guarantee Schemes to facilitate the market exit of failing banks, promoting the further harmonisation of specific aspects of existing national insolvency laws, making resolution work for more banks, including for smaller and mid-sized banks, irrespective of their business model, revisiting the State aid rules and the 2013 Banking Communication, considering the role of group

recovery and resolution plans;

- the European Parliament also stresses the importance of depositors across the Banking Union enjoying the same level of protection, recognises the importance of the EDIS in contributing to helping to reduce the link between sovereigns and banks, draws attention to the strong interlinkages between crisis management and the EDIS and the need to address them jointly, calls on the Commission to take further steps to relaunch the negotiations on the EDIS through a roadmap-based work plan, commits to working towards an agreement on the EDIS, taking note of a possible compromise that is limited to liquidity provision as a first step towards the full completion of EDIS, and calls on the Commission to duly take into account the role of institutional protection schemes in protecting and stabilising member institutions.

6. Response to requests and overview of action taken, or intended to be taken, by the Commission:

On the “General Considerations”:

The Commission welcomes the Parliament's stance that the **completion of the Banking Union** (paragraph 4), in particular the establishment of a European Deposit Insurance Scheme (EDIS), remains a priority and its commitment on working towards an agreement on EDIS. The Commission welcomes the Parliament's views on the need for targeted specific amendments to insolvency laws, particularly with respect to the need to ensure market exit for institutions falling outside of resolution.

The Commission concurs with the European Parliament on the importance of the **Capital Market Union** (CMU) (paragraphs 7 and 8) and presented legislative proposals to advance on CMU in 25 November 2021; it calls on the European Parliament to deal with them at corresponding priority in its legislative deliberations. The European Parliament's focus on the protection of consumer rights is consistent with the CMU objective to make the EU an even safer place for individuals to save and invest long-term.

The Commission fully shares the Parliament's view (paragraphs 17 and 49) that **digitalisation in the banking sector** should be pursued with full respect for consumers' rights and should preserve financial inclusion, especially for vulnerable groups with low digital or financial literacy levels. These considerations are and will continue to be taken fully into account when designing policy.

The Commission is cooperating closely with the European Central Bank (ECB) in investigating and trying to assess the impact and design features of the **digital euro** (paragraph 19). The Commission notes the digital euro project could not only foster the digitalisation of the EU financial sector, but also contribute to the open strategic autonomy of the EU.

The Commission table on 27 October a proposal implementing the **outstanding elements of the Basel III reform** in EU law (paragraph 20), in line with its international commitments. The proposal promotes the continued strength and soundness of EU banks, while not significantly increasing capital requirements for the EU banking sector overall. The proposal also takes into account the specificities of the EU banking sector and the EU economy, and respects the principle of proportionality.

On “Supervision”:

The Commission has been very active in encouraging **relief for households and businesses during the COVID-19 pandemic** (paragraphs 10, 12 and 30). It has in particular successfully

encouraged, during the peak of the pandemic, the banking sector to find appropriate solutions with creditors. This succeeded for instance through moratoriums for the repayment of loans. The Commission will monitor any risks to financial stability and the impact of non-performing loans (NPLs) on the banks' balance sheets.

The Commission agrees that it is important to provide a clear perspective to banks on the pathway and timeline for a **return to pre-Covid capital requirements**, ensuring that banks have sufficient lending capacity to support the recovery while maintaining prudent capital ratios in the face of still high economic uncertainties and vulnerabilities in the financial sector (paragraphs 6, 11, 14 and 25).

The Commission fully shares the importance of **protecting consumer rights** (paragraphs 16, 30 and 35), guaranteed in many pieces of EU legislation, some of which being under review (Mortgage Credit Directive, Payments Accounts Directive, etc.).

In order to address the **issues of selling certain instruments** that are eligible for the minimum requirements for own funds and eligible liabilities (MREL) to retail clients (paragraph 37), the second Banking Recovery and Resolution Directive (BRRD2) package includes rules limiting the exposure of retail clients to subordinated MREL instruments. Member States had the obligation to transpose the amendments of the BRRD2 package¹ in national law by 28 December 2020. The Commission has addressed Reasoned Opinions to the Member States that have not fulfilled this obligation. The Commission will assess the implementation of these provisions.

In relation to **banking consolidation** (paragraph 38), the Commission recalls the benefits from more diversified sectoral and geographical exposures in a more integrated single market. In addition, risks related to further consolidation have been reduced: the Commission agrees that systemically important banks entered the Covid-19 crisis much more resilient than they were before the 2007-2008 global financial crisis and that significant progress has indeed been made in establishing a credible and effective resolution regime in the EU. The Commission supports work to close the gaps identified in the Financial Stability Board report, taking into account lessons learnt from the Covid-19 crisis.

Regarding **home-host issues** (paragraph 39), the Commission acknowledges the benefits that greater market integration would have on the single market in terms of more efficient central management of resources such as liquidity and capital. The right balance needs to be found between increasing market integration and protecting financial stability in all Member States and could be underpinned by credible safeguards for host Member States proportionate to financial stability concerns.

The Commission emphasises that the **support measures to counter the COVID-19 crisis** were pivotal to limit the damage on the real economy. However, the Commission recalls that the support measures have to target only (currently and in the future) viable enterprises, in order to support economic growth and to limit public expenditures (paragraph 33).

The Commission takes note of the call for further harmonisation of the **“fit and proper”** area (paragraph 43) and of the Parliament's view that the fit and proper assessments by the competent authorities should always be conducted ex-ante. Having a consistent “fit-and-proper” framework for assessing the suitability of members of the management body is a crucial factor to ensure that institutions are adequately run and their risks appropriately

¹ Directive (EU) 2019/879 of the European Parliament and of the Council of 20 May 2019 amending Directive 2014/59/EU as regards the loss-absorbing and recapitalisation capacity of credit institutions and investment firms and Directive 98/26/EC ([OJ L 150, 7.6.2019, p. 296](#))

managed. The Commission tabled on 27 October a more robust framework on “fit and proper” as part of its proposal on the revision of the Capital Requirements Directive.

The Commission welcomes the support for a comprehensive approach to tackling **climate-related and environmental risks** (paragraphs 8 and 45), which resonates with applying the concept of double materiality outlined in the “Strategy for Financing the Transition to a Sustainable Economy” adopted on 6 July 2021. In this strategy, the Commission outlined steps to improve the integration of environmental, social and governance (ESG) risks in risk management of banks and insurance companies and in the annual supervisory review processes.

The Commission welcomes the support from the European Parliament for its 2020 **Action Plan preventing money laundering and terrorist financing** (paragraph 47). On 20 July 2021, the Commission adopted its anti-money laundering (AML) package consisting of 4 legislative proposals: a) an AML Regulation (containing rules applicable to private sector entities previously in the AML Directive, with more harmonisation, extending the scope to new entities such as crypto asset service providers and including a ban on cash operations above EUR 10 000 and a prohibition of anonymous crypto wallets); b) a new AML Directive (with rules related to, for example supervision, Financial Intelligence Units (FIUs), and including a legal basis for cross-border AML supervisory colleges); c) a recast of the 2015 Regulation on transfers of funds (extending its scope to crypto assets, thus obliging transfers of crypto to contain details of the sender and beneficiary); and d) a Regulation proposing to create an EU AML Authority, to be a supervisor of the riskiest cross-border entities in the EU and to coordinate national supervisors for other entities. The latter also includes an EU level coordination and support mechanism for EU FIUs.

Regarding the **UK’s withdrawal from the EU** (paragraphs 50 and 51), the Commission agrees with the need to maintain a level playing field in financial services and with the Parliament’s view that, in the context of the relocation of business to the EU, empty-shell institutions are not acceptable. The Commission also considers that regulatory and supervisory cooperation in the field of financial services is important. To that effect, a framework for voluntary regulatory cooperation on financial services should be put in place, pending broader political developments on EU/UK relations.

On “Resolution and deposit insurance”:

The Commission welcomes the Parliament’s acknowledgement (paragraphs 53 and 55) of the progress with respect to the **common backstop to the Single Resolution Fund, the relief measures adopted by the SRB** during 2020, including the monitoring of vulnerabilities in close cooperation with the supervisory authorities and the European Banking Authority, and the respective **resolution policies, guidance and technical standards** to advance the implementation of the second (Banking Recovery and Resolution Directive and the fifth Capital Requirements Directive (BRRD2/CRD5) package².

The Commission welcomes the Parliament’s support (paragraphs 57, 62 and 65) for the Commission’s efforts to complete the missing elements of the Banking Union, which should include a credible public mechanism to provide sufficient **liquidity in resolution** and the **introduction of EDIS** to enhance depositor safety and minimise the risk of shortfalls and reliance on taxpayers.

² Directive (EU) 2019/878 of the European Parliament and of the Council of 20 May 2019 amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures ([OJ L 150, 7.6.2019, p. 253](#))

The Commission takes note of the Parliament's constructive input on the **shortcomings of the current crisis management and deposit insurance (CMDI) framework and the importance of its reform** (paragraphs 56, 57, 58 and, 59). It is an important element for the Commission's consultation on the current framework. The Commission remains committed to working closely with the Parliament and the Council so that the framework ensures a consistent and effective overall crisis management of credit institutions irrespective of their size or business model, while delivering on the objectives of the protection of taxpayers and financial stability.

The Commission takes note of the Parliament's view on the **interlinkages between the crisis management and deposit insurance framework** (paragraph 64) and welcomes the interest on how to achieve the above objectives. The Commission also takes note of the Parliament's view (paragraph 60) on the need to ensure consistency with the State aid rules. Given the many interdependencies, the review of the State aid framework and of the bank resolution and deposit insurance framework should follow a holistic approach to achieve an effective and coherent management of failing banks in the EU. To pave the way for the review of the 2013 Banking Communication and other State aid crisis communications, the Commission intends to launch an evaluation of the State aid rules for banks in the first quarter of 2022.

With respect to **managing difficulties in cross-border banking** (paragraph 61), the Commission believes that the implementation of measures already agreed by the co-legislators such as cross-border liquidity waivers should be pursued, including through the implementation of intragroup financial support agreements via recovery plans whereby sufficient certainty for the cross-border transfer of resources could be assured through enhanced supervisory powers.

The Commission also welcomes the Parliament's input (paragraphs 57, 61, 63 and 66) on the need to ensure the level playing field in terms of **risk-based contributions** into the European safety nets, such as the Single Resolution Fund (SRF), deposit guarantee schemes (DGS) and EDIS, the **least-cost test** for the use of DGS as well as the role of the **institutional protection schemes**.