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Ms Irene Tinagli  
Chair of the Committee on Economic and Monetary Affairs  
European Parliament  
60, rue Wiertz  
B-1047 Brussels

### **SRB response to the European Parliament's Banking Union Annual Report 2021**

Honourable Chair, dear Ms Tinagli,

I have read with keen interest the European Parliament's 2021 annual report on Banking Union, adopted as part of the Resolution on 5 July 2022 ([2021/2184\(INI\)](#)), hereafter "Report". After careful considerations, I am pleased to transmit to you further explanations and reactions regarding the implementation of the Single Resolution Mechanism Regulation (SRMR) and your expectations thereto. Our reply will be published on our website in due time.

My mandate will come to an end in just a few weeks, and I want to use this opportunity to thank you for the excellent collaboration between the Committee on Economic and Monetary Affairs and the SRB. I am confident that this fruitful relation will be maintained with the upcoming SRB Chair, the Board and SRB staff.

Yours sincerely,



Elke KÖNIG  
Chair

## **Explanations and reactions to the European Parliament resolution on Banking Union – Annual Report 2021 (2021/2184(INI))**

On 5 July 2022, the European Parliament adopted its annual stocktake on the Banking Union, highlighting its expectations on issues that are at the heart of the SRB's mandate, such as the EU bank crisis management framework, the resolution regime and the completion of the Banking Union. Given the high importance and pertinence of this Report and particularly in light of the Eurogroup mandate to review the crisis management framework, the SRB would like to provide various comments and suggestions to some of the observations in the Report. The aim is to further deepen our cooperation and accountability vis-à-vis the European Parliament, and to find common ground on some of the key reforms that the Banking Union needs in order to strengthen the oversight and regulation of the financial sector, in the interest of making it more resilient and prepared for crisis.

### Achieving resolvability.

The Report states that the key goal of the Banking Union is the security and stability of the banking system, and the prevention of bank bailouts with taxpayers' money. The SRB fully shares this goal and continues to monitor closely the financial sector in cooperation with the Single Supervisory Mechanism in order to achieve this objective. The resolution planning process led by the SRB is ultimately designed to align risks and responsibilities should banks fail. The SRB, together with the National Resolution Authorities (NRAs) updates resolution plans for all the banking groups under its remit, and checks the progress banks have done against the SRB Expectations for Banks (EfB). As it has been announced repeatedly, the SRB expects banks to meet the provisions of this key document by the end of 2023 in order to demonstrate they are resolvable. This is why 2023 will be both a decisive and transitional year, during which the SRB will shift its focus from the general EfB phase-in and preparation of the basic resolution plans to even more targeted bank monitoring. In this context, testing, dry-run exercises and deep-dives are being intensified and will play a major role to further strengthen the banks' resolvability.

In the context of enhanced transparency, the SRB published the first heatmap on the resolvability of Banking Union banks in July 2022. This is an annual exercise which will increase transparency similar to recent publications of other major jurisdictions. The heatmap shows - as correctly identified in the Report - that there has been good progress by all banks towards resolvability (paragraph 26). Yet, banks still need to continue improving their capabilities on those EfB which are yet to be phased-in, such as the ability to swiftly mobilise liquidity and collateral in resolution, further automation of management information systems for the purposes of valuation and resolution or further operationalisation of restructuring and separation capabilities post-resolution. As such, these areas are the key priorities of our 2023 Resolution Planning Cycle.

In the Report you also point out that for resolution plans to be fully compliant with the legal requirements, the SRB needs to provide a comprehensive assessment of the resolvability of each bank. While clearly committed with further transparency and while carrying out such detailed assessments internally, the SRB is at the same time bound by the legal framework which sets clear boundaries for disclosing such individual bank-specific information.

Regarding **MREL**, the SRB agrees with the Report's assessment that a proportionate approach to build MREL requirements is very important (paragraph 29). MREL decisions by the SRB are bank-specific and take into account various factors, including the preferred resolution strategy for each bank and its level of risk. This year, the SRB published an update of the [MREL policy](#), which enlarges the coverage of entities under internal MREL and implements new legal requirements, mostly related to changes to provisions of the CRR.

Let me point out that the banking sector has continuously built-up its MREL capacity over the last years, and to this date most banks already meet the final MREL target (which becomes mandatory as of 1 January 2024). In Q2 2022, the average MREL shortfall (plus combined buffer requirement (CBR)) against the final target stood at 0.4% of the total risk exposure amount (TREA), which constitutes a **reduction of the shortfall** compared to Q1 2022 as well as compared to the previous year. More detailed MREL data can be found on the [SRB quarterly dashboard](#), which has been expanded and now provides more granular breakdowns of the relevant data.

#### Single Resolution Fund (SRF) and common backstop.

The Report welcomes the **introduction of a backstop** to the SRF in 2022, two years earlier than originally envisaged. Unfortunately, and up to now, the backstop has not been introduced despite the political agreement. In this regard the SRB Board hopes that all Member States conclude their national ratification procedures of the ESM Treaty changes and the relevant Intergovernmental Agreement (IGA) as early as possible to allow for the common backstop to be put in place. The operational preparations between the ESM and the SRB have been concluded.

In this context, **the SRF continues to play a key role** as the Report rightly highlights (paragraph 27). In the course of 2022, the SRF has continued to collect ex-ante contributions, and the SRF currently stands at €66 bn, with a projected size of around €80 bn at the end of the transitional period in 2023. From 2024 onwards, ex-ante contributions will only be raised if needed to continue meeting the SRF's moving target of 1% covered deposits in the Banking Union. Furthermore, as the SRF will be completely mutualised by 2024, the Loan Facility Agreements (LFAs) will come to a factual end, as these LFAs were conceived as a "public" bridge financing for the respective compartments in the SRF, available to cover the gap in case the funding from the SRF for a particular compartment were not sufficient to cover the funding requirements for a resolution.

Once again, the SRB fully shares the view that the collection of contributions to the SRF (or Deposit Guarantee Schemes (DGS)) needs to be risk-based, to reflect the likelihood of its use (paragraph 30).

#### Review of the Crisis Management and Deposit Insurance (CMDI).

The SRB fully shares your support for the Eurogroup's renewed efforts in making progress on completing the Banking Union in order to reach an agreement on the different work streams and legislative files, including the EDIS (paragraph 35), and the update of the crisis management

framework to make it more coherent, credible and effective (paragraph 39). The main areas, mentioned in the Report, where the SRB would highly appreciate progress are, namely:

- **The public interest assessment (PIA).** You welcome in the Report the review and clarification of the PIA criteria, also pointing out that “the SRM would be applied in a more consistent and predictable manner and relying on objective thresholds” (paragraph 29). The Board agrees with the need for a consistent application of the PIA. In 2019, the SRB published its approach to the PIA providing clarity to the factors taken into account when conducting it, and explaining how it applies the criteria as set out in EU law, also in order to ensure more consistency. As of last year’s resolution planning cycle, the SRB introduced an additional component, catering for system-wide events and hence preparing more banks for resolution. This year, the SRB enhanced its approach to the assessment of DGS-related resolution objectives, while more policy enhancements are underway in the years to come. Nowadays, 82% of SRB banks, representing 97% of our remit in terms of risks weighted assets, are earmarked for resolution. The SRB has harmonised the analytical framework for the PIA, and since the policy also serves as reference for resolution planning of less significant institutions (LSIs), it further raises coherence among all Banking Union banks, no matter their size. However, the Board also considers that the current analysis could be enhanced further if the SRB had easy and timely access to some supervisory and statistical data, which is currently unavailable.
- **The use of the moratorium.** In your Report, you welcome the actions taken by the SRB with respect to Sberbank (paragraph 28). The Board also views the resolution of Sberbank in March 2022 as a second case that attests to the validity of our framework and the ability to have an orderly resolution at Banking Union level even in the most unpredictable circumstances. As a lessons learned from that case, the SRB would like to highlight the usefulness of being able to apply a moratorium. It provided the SRB with sufficient time to decide on the PIA and the resolution tool while preserving financial stability also during this decision period. However, the Board would also welcome an extension of the current maximum period of two days, which in some cases can result in periods shorter than 48 hours, to at least have the possibility to impose a moratorium for three or four days. During a resolution weekend, time is of the essence, so guaranteeing sufficient time and flexibility for the authorities are key to allow for the success of the resolution.
- **Another important point, when it comes to timing, is the need to avoid duplication of decision-making process.** As it stands, if a resolution requires the use of the SRF, two separate decisions would be necessary by the Commission. First, accordingly to Article 19 SRMR, the Commission would need to assess and approve (entailing further submissions from the SRB) from a State aid perspective the use of the SRF. Second, the Commission would at any rate need to endorse (pursuant to Article 18 SRMR) the SRB decision on the resolution scheme (which would include the use of the SRF). To avoid the potential delays and risks this double decision-making could involve, the SRB recommends removing Article 19 of SRMR and folding such Commission assessment into the Commission endorsement under Article 18 SRMR.
- **The issue of small and medium size banks.** In the Report, you point out that alternative measures under DGSs to fund deposit book transfers may have an important role to play in insolvency cases, in particular for small and medium-sized banks

(paragraph 31). The best strategy to preserve value may in most cases be a sale of business or another transfer strategy, and in this context, DGS play a key role. However, the use of transfer strategies with the related DGS role may be important not only in insolvency, but also for the resolution of those medium-sized banks that could pose a risk to financial stability. In both cases, the SRB agrees, that the conditions of use have to be the same. This is why the Board would welcome two main changes in the upcoming review of the CMDI. First, the use of DGS in resolution is currently not viable due to the strict conditions in place, one of the most important being the super-priority of DGS. The Board believes that this super-priority should be replaced by a general depositor preference rule, as is currently the case in the US. We believe, that an efficient use of transfer strategies can minimise the cost for the DGS, as their use can be less costly than a full pay-out by the DGS. Second, these tools preserves franchise value, and therefore maximise the sale price of the bank exiting the market. In order to set clear boundaries, this needs to be complemented with a review of the methodology for a least cost test (LCT), which is also mentioned in the Report (paragraph 31). The Board is of the view that the LCT needs to be amended to provide for harmonised criteria across the Banking Union, potentially taking into account also quantifiable indirect costs. Finally, we fully share your view that one possible way to fund the transfer tools would be exploring access to and combined use of SRF and the DGS. For instance one could explore enabling DGSs to step in (in lieu of deposits) and contribute to reach the 8% TLOF helping to ensure the market exit of resolved entities.

- In your Report, you call for a study on the need for the **alignment of specific aspects of insolvency law** (paragraph 29). The Board fully agrees with the European Parliament on this point and welcomes the Eurogroup statement of June 2022. In the case of Sberbank, for example, the SRB dealt with three different legal frameworks just for the Banking Union entities, creating a considerable amount of challenges. Such challenges could be amplified even further for a larger banking group. Harmonisation, even if it only targets some of the triggers and the creditor hierarchy, is thus really important and would enhance consistency of resolution planning.
- **The revision of State aid rules.** In your Report, you support the revisiting of the State aid rules including a review of the Commission's Banking Communication of 30 July 2013, to ensure their consistency with the SRM framework and to reduce discrepancies between the rules on State aid in the area of liquidation aid and the resolution regime under the Bank Recovery and Resolution Directive (BRRD) (paragraph 32). We agree that there is a need to address this misalignment, namely the provisions related to liquidation and the use of SRF in resolution. This misalignment also needs to be addressed in the CMDI framework. For liquidation aid, burden-sharing under State aid rules should cross-reference the BRRD/SRMR burden-sharing rules, to ensure that resolution does not come at a higher cost than liquidation for the banks' creditors.

### Completing the Banking Union

The SRB fully concurs with the European Parliament's view that the **EDIS is still a missing piece of the Banking Union** (paragraph 1). The Board considers that EDIS is indispensable to enhance financial stability, to overcome the sovereign-bank doom-loop and to avoid financial

fragmentation. In combination with the SRF, EDIS would also significantly increase the firepower and agility to deal with ailing banks in a consistent and efficient manner under the second pillar.

Furthermore, the Board also considers that **liquidity in resolution** continues to be another key element for a credible crisis management framework. It is natural to expect that a resolved bank – even if its solvency and viability are fully restored – can experience liquidity stress during the time needed for analysts and creditors to reassess its financial position. This is why addressing the risk of banks having insufficient liquidity after resolution action remains a crucial building block of our framework, in which the Eurosystem can offer a credible solution with sufficient firepower.