Follow-up to the European Parliament non-legislative resolution on Banking Union - annual report 2021

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3. **Date of adoption of the resolution:** 5 July-2022

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 seventh Annual Report on the Banking Union. The resolution is divided into four main sections. The first two sections (General considerations and Supervision) cover a wide series of issues related to the financial sector. The last two sections (Resolution and Deposit Insurance) are focused 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 (CMU), the Russian invasion of Ukraine and its economic consequences, the regulatory and supervisory response to the COVID19 pandemic, the implementation of the Basel III rules, the challenges and opportunities of digitalisation, the UK withdrawal consequences, the gender balance in EU financial institutions and bodies, the management of non-performing loans, the regulatory treatment of sovereign debt, the transition to a carbon-neutral economy, the protection of consumers and removal of cross-border barriers, the trend towards increased banking consolidation and related home-host issues, the importance of a strong Anti-money laundering (AML) framework;
- in Sections 3 and 4, the crisis management and resolution/insolvency framework, the 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, the Single Supervisory Mechanism, the Single Resolution Board and the banking sector. The Parliament expresses broad support for a number of important Commission initiatives (such as the completion of the Banking Union and the deepening of the CMU, the banking package on Basel III, the digital operational resilience for the financial sector (DORA) proposal, the sustainable finance initiatives and the AML package). At the same time, the resolution calls 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 on the Commission to take initiatives in several areas:

- by underlining the need for a swift and adequate response in the event of a significant risk to the EU banking sector and financial stability caused by the consequences of Russia's aggression against Ukraine, supporting the review and clarification of the public interest assessment criteria so that the Single Resolution Mechanism (SRM) is applied in a more consistent and predictable manner and calling for a study on the need for the alignment of specific aspects of insolvency law, supporting the idea of considering the role of group recovery and resolution plans in the crisis management framework, acknowledging that alternative measures under deposit guarantee schemes (DGSs) to fund deposit book transfers may have an important role to play in insolvency cases and calling on the Commission to bring more clarity to the least-cost principle and to the conditions for the use of DGS funds, supporting the revisiting of State aid rules, including a review of the Commission's Banking Communication of 30 July 2013, and highlighting that the envisaged targeted adjustments to the crisis management regime should make it more coherent, credible and effective;

- The European Parliament also stresses that EDIS would improve protection for depositors in the EU and their trust in the banking sector and help to strengthen the Banking Union by reducing the link between sovereigns and banks, recalls that Parliament is a co-legislator for the EDIS legislation and that Parliament's position on this matter should be taken into account and reiterates Parliament's commitment to working towards an agreement on the EDIS, asks to be kept informed of the discussions at the level of the Eurogroup and of the High-Level Working Group on the EDIS, emphasises that contributions to a future EDIS must be proportional to risk and reiterates the need for all members of the Banking Union to transpose the Bank Recovery and Resolution Directive (BRRD) and the Deposit Guarantee Schemes Directive (DGSD), and points out that any further harmonisation of deposit insurance schemes should strengthen the financial stability of the EU banking system.

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

On the "General Considerations":

The Commission shares the European Parliament's views on the benefits of the work undertaken to create the **Banking Union** on the resilience and competitiveness of the EU banking system and welcomes the Parliament's stance on the need to strengthen and complete the Banking Union (*paragraphs 1, 2 and 3*).

The Commission concurs with the Parliament's stance that EU banks play a pivotal role in ensuring the implementation of - and compliance with - the **sanctions** imposed by the EU against Russia and Belarus in response to the invasion, and that Union and national competent authorities should cooperate to ensure that the sanctioning framework is effective (*paragraph 4*).

The Commission is working with the co-legislators to finalise the implementation of the **Basel III** standards in the EU (*paragraphs 2, 5 and 10*). In this regard, the Commission shares the view of the Parliament that as the Union emerges from the COVID-19 pandemic, it must maintain high standards for capital requirements and risk management practices, to ensure the resilience of the banking sector and its ability to face future crisis scenarios. At the same time, the Commission fully agrees that any newly introduced measure should be proportionate and, where appropriate, take into account the specificities and diversity of the EU banking sector.

The Commission agrees with the European Parliament that a **strong CMU** (*paragraph 8*) will help deliver better conditions for the financing of the European economy and increase investment opportunities for citizens to enable them to better plan for their retirement. To improve conditions for companies' access to market-based finance and to public markets in particular, the Commission will adapt the rules on listing, reducing the administrative burden in particular for smaller listed companies. To improve value recovery for creditors, especially cross-border, in insolvent companies and hence enhance the provision of funding across Member States, the Commission will put forward a proposal harmonising targeted elements of insolvency rules at EU level. The Commission invites the European Parliament to come to a swift political agreement on the legislative proposals presented on 25 November 2021.

Regarding the **shadow banking sector** (*paragraph 8*), the Commission will continue to actively monitor the evolution of the non-bank financial intermediation (NBFI) in Europe and to be involved in the Financial Stability Board (FSB) and European Systemic Risk Board (ESRB) work streams that establish recommendations in this area. This is in line with regulatory efforts undertaken at EU level over the past years to address financial stability issues linked to NBFI, for example the November 2021 Commission proposal to introduce common rules for Alternative Investment Fund Managers (AIFMs) managing loan-originating Alternative Investment Funds (AIFs).

The Commission agrees with the Parliament's assessment regarding the different pillars of the digital finance strategy (*paragraph 11*). The successful conclusion throughout 2022 of negotiations on the Digital Operational resilience Act (DORA) and on the revised NIS Directive (the Union horizontal cybersecurity act) has laid down a strong foundation allowing the financial ecosystem to be safeguarded against cyber risk. About to enter the next phase, involving transposition and adoption of Level 2 acts, the Commission and the European Supervisory Authorities will step up efforts in completing the resilience framework, in particular with the establishment of a functional oversight of critical ICT third-party providers, thereby addressing ICT third-party dependency in finance. As regards other initiatives of the digital finance strategy still to be designed the Commission very much welcomes the interest of the European Parliament into the work on the digital euro and its impact.

The Commission agrees with the European Parliament's view that more **central clearing** in the EU (*paragraph 12*) should be facilitated in the medium term and is currently preparing measures to reach that aim.

The Commission recalls that the Women on Board directive (COM(2012) 614 final), which was agreed upon by the co-legislators on 7 June 2022, will ensure that **gender balance** in corporate boards of largest listed companies is sought across the EU (*paragraph 13*). The directive sets a target for EU companies listed on the EU stock exchanges to accelerate the reach of better gender balance. It sets a share of 40% of the underrepresented sex among non-executive directors and 33% among all directors. These companies must ensure that board appointments procedures are clear and transparent, and that applicants are assessed objectively based on their individual merits, irrespective of gender. Member States have now two years to transpose the directive into national law.

On "Supervision":

The Commission fully shares the Parliament's view on the progress made by banks in reducing the stock of **non-performing loans (NPLs)** (*paragraphs 5 and 15*). Notwithstanding the fact that the aggregate NPL ratio decreased further in the third quarter of 2021, the Commission believes that the vigilance should remain high given that in some Member States, the absolute NPL volume remains high and that the current geopolitical situation may have an impact on the general positive trend.

The Commission welcomes the European Parliament's views as regards the importance of the **Taxonomy Regulation** (*paragraph 17*) for the financing of the transition to a carbon-neutral economy and the fight against greenwashing. The Commission continues its work on the

Taxonomy as well as on a dedicated guidance such as FAQs (Frequently Asked Questions) to further support the implementation of the Taxonomy Regulation.

The Commission agrees with the European Parliament on the importance of **properly assessing climate-related risks on banks' balance sheets** (*paragraph 17*) to ensure the robustness of the banking sector. This is consistent with the Commission's proposed amendments to the prudential framework for banks in order to reflect relevant risks in the risk management systems of banks as set out in the 'Strategy for Financing the Transition to a Sustainable Economy' adopted on 6 July 2021 and the proposal for amendments to the Capital Requirements Regulation (CRR)/Capital Requirements Directive (CRD) from October 2021.

The Commission supports the European Parliament's opinion on the **early identification of assets subject to transition risks** (*paragraph 17*). Stress testing and scenario analysis by supervisors and supervised institutions are crucial in this respect, which is why the Commission has included a mandate to the Joint Committee for guidelines on supervisory stress testing and a reference to bank internal stress testing as part of the internal capital adequacy assessment process (ICAAP).

The Commission supports the European Parliament's opinion as regards ensuring the **incorporation of environmental and transition risks into credit rating models** (*paragraph 17*) given the importance of credit ratings for investors. Following the 'Strategy for Financing the Transition to a Sustainable Economy' adopted on 6 July 2021, the Commission is assessing what the most effective action is to ensure that relevant risks are reflected in credit ratings and rating outlooks in a transparent manner.

The Commission also supports the European Parliament's opinion on **transition planning** (*paragraph 17*), which is in line with the proposal for a requirement for banks to adopt plans to manage risks potentially emerging from a misalignment of the business strategy with the EU's sustainability policy objectives. This complements the proposed behavioural and disclosure obligations for corporate transition plans under the Corporate Sustainability Due Diligence Directive and the Corporate Sustainability Reporting Directive, which would affect larger credit institutions under the scope of these directives.

The Commission also supports the European Parliament's opinion on clear legislation regarding **greenwashing** (*paragraph 17*). The disclosure requirements set by the Taxonomy Regulation and the Sustainable Finance Disclosure Regulation are currently being implemented and will contribute substantially to an increase in transparency and substantiation of sustainability claims in the financial sector. Those will also be complemented by requirements applicable to corporates under the Corporate Sustainability Disclosure Regulation once it enters into force. In parallel, the Commission has requested the European Supervisory Authorities to report on greenwashing risks and cases in the financial market as well as its views on the need to strengthen supervisory powers to address greenwashing in the financial sector.

The Commission concurs with the Parliament that **banking consolidation** can bring benefits but also risks (*paragraph 20*). The Commission acknowledges that greater market integration would have an increasingly positive impact on the functioning of the single market in terms of more efficient central management of resources such as liquidity and capital. **Market integration**, including cross-border, would also strengthen the single market and allow a greater diversification of banks' balance sheet across various exposures (geographical and sectoral) and ultimately contribute to a greater resilience to shocks, making our Banking Union, our single currency in the Euro Area and the EU single market more resilient (*paragraph 21*). At the same time, it is important that bank consolidation does not lead to a reduction in funding to the economy in local markets, especially smaller ones.

The Commission takes note of the Parliament's view on the need to develop further the single market for **retail financial services** (*paragraph 22*). The Commission regularly reviews financial services legislation with a view to further developing the single market. The Commission is assessing possible regulatory obstacles that hinder consumers' ability to benefit from the single market when contracting mortgage loans.

The Commission agrees with the Parliament that **transparency** brings benefit in banking supervision, especially when it allows the market and investors access to comparable information on banks (*paragraph 24*). In that respect, the Commission praises exercises such as the EU-wide stress test jointly coordinated by the European Banking Authority and the European Central Bank.

The Commission takes note of the Parliament's view that the requirements for the **fit and proper** assessment of members of the management body of credit institutions are not implemented uniformly across Member States (*paragraph 24*). A consistent and robust "fit-and-proper" framework for assessing the suitability of members of the management body plays a pivotal role to ensure that institutions are adequately run and their risks appropriately managed. The Commission proposed to revise the fit and proper requirements to achieve more consistency and robustness as part of the current revision of the Capital Requirement Directive.

The Commission agrees with the need to ensure that consumers and businesses should be the ultimate beneficiaries of the Banking Union and that **investors and consumers need to be protected** (*paragraph 25*) against abuse, harmful practices and products. The forthcoming Retail Investment Strategy will aim to ensure that the current framework sufficiently empowers consumers, helps them ensure improved and fairer market outcomes and ultimately creates the necessary conditions to grow retail investor participation in the capital markets.

On "Resolution and deposit insurance":

The Commission welcomes the European Parliament's input on the **shortcomings of the current crisis management and deposit insurance framework and the importance of its reform** (*paragraphs 29, 30 and 31*). The Commission is working on legislative proposals to review the existing framework, with the goal of ensuring more consistent approaches across all Member States, including facilitating market exit of failing banks, to the benefit of financial stability, taxpayers' protection and depositors' confidence. The Commission remains committed to working closely with the European Parliament and the Council on these topics. In addition, the Commission has launched an **evaluation of the State aid rules for banks in difficulty** (including the 2013 Banking Communication) to assess to which extent the rules have achieved their objective of preserving financial stability while ensuring a level playing field and to which extent they are still fit for purpose. A decision on a possible revision of the State aid guidelines for banks in difficulty will be taken after the evaluation is concluded, also in light of the state-of-play of the review of the crisis management and deposit insurance framework.

With respect to the call on the Commission to bring more clarity to the **least-cost principle** and to the **conditions for the use of DGS funds** (*paragraph 31*), the Commission confirms that this issue is being considered for the upcoming review of the crisis management and deposit insurance framework.

The Commission shares the view of the European Parliament that **EDIS would strengthen the European reply to potential future crises in the banking sector** (*paragraph 34*). It would mitigate the impact of insufficient available financial means in national DGSs and the risk of recourse to public funds. The Commission hopes that the upcoming review of the Crisis Management and Deposit Insurance framework will pave the way for further progress on Banking Union completion in the next co-legislative cycle.