

Credit institutions and investment firms: framework for recovery and resolution

2012/0150(COD) - 30/04/2019

The Commission presents its report on the application and review of Directive 2014/59/EU (Bank Recovery and Resolution Directive - BRRD) and [Regulation 806/2014](#) (Single Resolution Mechanism Regulation - SRMR).

Under the Directive and the Regulation, the Commission is required to review the application of the resolution framework and to submit a Report to the European Parliament and the Council.

The reports on the application of these legal instruments were due by June and December 2018 respectively. Due to the close links between these instruments, which jointly establish the EU resolution framework, it is appropriate to carry out the review jointly for both of them.

State of play of transposition of BRRD

The transposition deadline for the BRRD was set on 31 December 2014. Only two Member States notified complete transposition of the BRRD within that deadline so that infringement cases for non-communication against the remaining ones were opened. To date, all Member States have notified complete transposition. The Commission has verified that the BRRD is fully transposed in all Member States and has closed the respective non-communication infringement cases.

The Commission is currently verifying the correctness of national transposition measures.

State of play of the implementation of the resolution framework by resolution authorities

The implementation of BRRD is ongoing in the EU. A number of Member States have set resolution strategies and MREL targets for all the banks under their direct remit. This has allowed banks to start removing impediments to these strategies and build-up MREL resources. Since the introduction of BRRD, a number of resolution colleges have been set up aiming to agree resolution plans, resolvability assessments and MREL between home and host authorities in charge of resolving banking groups in the EU.

In the Banking Union, the Single Resolution Board (SRB) is carrying out the process for the preparation of resolution plans for banks under its remit. In addition, the SRB has developed guidance on critical functions and the operationalisation of bail-in and it is still working on a number of topics, in particular on operational continuity and management information systems.

With respect to Minimum Requirement of Eligible Liabilities (MREL), the SRB approach has evolved from being based on informative targets in 2016, to the inclusion in 2017 of binding requirements for the largest and most complex banks, as well as bank-specific adjustments addressing both quality and quantity of the MREL. The 2018 MREL guidance on the application by the SRB of the legislative provisions on MREL, was issued by the SRB at the end of 2018. Overall, banks are in a transitional phase and, while some banks at present still face MREL shortfalls, they are on their path towards fulfilling the objectives within the timeframes specified by SRB.

Conclusion

The Commission takes stock of the issues discussed above, which are based on the limited experience the Commission gained from the application of the resolution framework so far.

The framework has been applied only in a limited number of cases. Out of those, only one case concerned the resolution of an institution under SRMR. It is also worth noticing that a number of these cases dealt with “legacy issues” which accumulated during the financial crisis or before.

In addition, the provisions concerning the bail-in tool and the establishment of the Single Resolution Board became applicable only as of 1 January 2016. Other elements - such as resolution planning for larger and complex institutions and the provisions concerning Minimum Requirement of Eligible Liabilities (MREL) – require a phasing in to be fully implemented.

In light of this, it is premature to design and adopt legislative proposals at this stage.

The Commission will, however, continue monitoring the application of the resolution framework and further assess the issues identified above, also in light of additional elements provided by the recently launched study on the harmonisation of national insolvency laws and experience stemming from possible future application of the resolution framework.

To this end the Commission will also engage in a comprehensive discussion of the topics identified in this report with respect to BRRD/SRMR (as well as issues that may emerge from application of the resolution framework) with experts appointed by the European Parliament, Member States and all relevant stakeholders.

In this context the Commission will also take into account the interaction with policy developments in relation to deposit insurance, including the work of the High Level Group established by the Eurogroup, and the review of the Deposit Guarantee Scheme Directive.