Basic information

2013/0253(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Single Resolution Mechanism and Single Resolution Fund: uniform rules and procedure for the resolution of credit institutions and certain investment firms Amending Regulation (EU) No 1093/2010 2009/0142(COD) Amended by 2016/0361(COD) Amended by 2023/0111(COD) Amended by 2023/0113(COD) **Subject** 2.50.03 Securities and financial markets, stock exchange, CIUTS, investments 2.50.04 Banks and credit 2.50.10 Financial supervision 2.80 Cooperation between administrations 5.20.02 Single currency, euro, euro area 5.20.03 European Central Bank (ECB), ESCB 8.40.08 Agencies and bodies of the EU	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ECON Economic and Monetary Affairs	FERREIRA Elisa (S&D)	02/07/2013
	Shadow rapporteur WORTMANN-KOOL Corien (PPE) GOULARD Sylvie (ALDE) GIEGOLD Sven (Verts/ALE) LAMBERTS Philippe (Verts /ALE) FORD Vicky (ECR) HÄNDEL Thomas (GUE /NGL)	

Committee for opinion	Rapporteur for opinion	Appointed
BUDG Budgets	The committee decided not to give an opinion.	
CONT Budgetary Control	The committee decided not to give an opinion.	

	JURI Legal Affairs	STOYANOV Dimitar (NI)	17/09/2013
	AFCO Constitutional Affairs	LE GRIP Constance (PPE)	14/10/2013

Council of the European Union

Council configuration	Meetings	Date
Economic and Financial Affairs ECOFIN	3302	2014-03-11
Economic and Financial Affairs ECOFIN	3290	2014-01-28
Economic and Financial Affairs ECOFIN	3294	2014-02-18
Economic and Financial Affairs ECOFIN	3281	2013-12-18
Economic and Financial Affairs ECOFIN	3271	2013-11-15
Agriculture and Fisheries	3328	2014-07-14

European Commission

Commission DG	Commissioner
Financial Stability, Financial Services and Capital Markets Union	BARNIER Michel

European Economic and Social Committee

Key events

Date	Event	Reference	Summary
10/07/2013	Legislative proposal published	COM(2013)0520	Summary
10/09/2013	Committee referral announced in Parliament, 1st reading		
15/11/2013	Debate in Council		Summary
17/12/2013	Vote in committee, 1st reading		
08/01/2014	Committee report tabled for plenary, 1st reading	A7-0478/2013	Summary
28/01/2014	Debate in Council		
04/02/2014	Debate in Parliament		
06/02/2014	Decision by Parliament, 1st reading	T7-0095/2014	Summary
06/02/2014	Results of vote in Parliament		
06/02/2014	Debate in Parliament		
18/02/2014	Debate in Council		Summary
11/03/2014	Debate in Council		
15/04/2014	Decision by Parliament, 1st reading	T7-0341/2014	Summary
15/04/2014	Results of vote in Parliament		

14/07/2014	Act adopted by Council after Parliament's 1st reading		
15/07/2014	Final act signed		
15/07/2014	End of procedure in Parliament		
30/07/2014	Final act published in Official Journal		

Technical information

Procedure reference	2013/0253(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Amending Regulation (EU) No 1093/2010 2009/0142(COD) Amended by 2016/0361(COD) Amended by 2023/0111(COD) Amended by 2023/0113(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 114
Other legal basis	Rules of Procedure EP 165
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Procedure completed
Committee dossier	ECON/7/13435

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE519.706	25/09/2013	
Amendments tabled in committee		PE521.747	21/10/2013	
Amendments tabled in committee		PE521.793	22/10/2013	
Amendments tabled in committee		PE521.797	22/10/2013	
Committee opinion	JURI	PE521.523	07/11/2013	
Committee opinion	AFCO	PE519.819	12/12/2013	
Committee report tabled for plenary, 1st reading/single reading		A7-0478/2013	08/01/2014	Summary
Text adopted by Parliament, partial vote at 1st reading /single reading		T7-0095/2014	06/02/2014	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0341/2014	15/04/2014	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00088/2014/LEX	15/07/2014	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2013)0520	10/07/2013	Summary
Commission response to text adopted in plenary	SP(2014)471	09/07/2014	
Document attached to the procedure	COM(2014)0710	24/11/2014	
Follow-up document	COM(2019)0213	30/04/2019	Summary

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	PT_PARLIAMENT	COM(2013)0520	17/10/2013	
Contribution	ES_PARLIAMENT	COM(2013)0520	25/10/2013	
Contribution	DK_PARLIAMENT	COM(2013)0520	11/11/2013	
Contribution	CZ_SENATE	COM(2013)0520	06/01/2014	
Contribution	RO_CHAMBER	COM(2013)0520	22/02/2014	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES5008/2013	17/10/2013	
ECB	European Central Bank: opinion, guideline, report	CON/2014/0076 OJ C 109 11.04.2014, p. 0002	06/11/2013	Summary
EU	For information	32015Q1224 OJ L 339 24.12.2015, p. 0058	16/12/2015	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Regulation 2014/0806
OJ L 225 30.07.2014, p. 0001 Summary

Delegated acts	
Reference	Subject
2014/2882(DEA)	Examination of delegated act
2015/3039(DEA)	Examination of delegated act
2015/3036(DEA)	Examination of delegated act
2017/2851(DEA)	Examination of delegated act
2021/2562(DEA)	Examination of delegated act

Single Resolution Mechanism and Single Resolution Fund: uniform rules and procedure for the resolution of credit institutions and certain investment firms

2013/0253(COD) - 10/07/2013 - Legislative proposal

PURPOSE: to establish a single European framework of resolution rules for credit establishments and to ensure the consistent application of these resolution rules.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the need to rapidly achieve the Banking Union to ensure financial stability and growth in the euro area as well as throughout the single market was underlined by the Commission in its communications entitled "A Roadmap towards a Banking Union" (September 2012) and "A blueprint for a deep and genuine economic and monetary union: Launching a European Debate" (November 2012).

In March 2013, **the European Council committed to complete the Banking Union** via the following steps.

- the remaining legislative procedures to set up the Single Supervisory Mechanism (SSM) conferring powers on the ECB to supervise Euro Area banks should be concluded as a priority;
- agreement should be reached in the summer of 2013 on how the European Stability Mechanism (ESM) could, following the establishment of the SSM and a review of bank balance sheets including the definition of "legacy assets", recapitalise banks directly;
- likewise, in summer 2013, agreement should be reached on the Commission's proposal for a Directive of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms;
- lastly, the Commission's proposal for a Single Resolution Mechanism (SRM) together with appropriate and effective backstop arrangements should be examined as a matter of priority with the intention of adopting them during the current parliamentary cycle.

It was agreed that the Banking Union would cover **all Euro Area Member States and those non-Euro Area Member States that choose to join**.

As recognised by the European Council, in the Banking Union, **bank supervision and resolution need to be exercised by the same level of authority**. The same EU-wide single rulebook of prudential requirements6 and rules on bank resolution will apply within the Banking Union and in all other Member States.

The swift agreement on a Single Supervisory Mechanism in April 2012 has laid the ground for a Banking Union, as integral part of the Economic and Monetary Union. The Single Supervisory Mechanism is set to enter into force in mid-2014. The ECB will assume ultimate responsibility for the supervision of all Euro Area banks. The Single Resolution Mechanism meanwhile should commence operations in January 2015, when the Directive which will provide the rulebook governing bank resolution across the internal market is set to enter into force

IMPACT ASSESSMENT: the Commission has taken into account the analysis carried out in the Impact Assessment conducted for the adoption of the proposal for Directive establishing a framework for the recovery and resolution of credit institutions and investment firms which assessed operational and legal aspects relevant to the establishment of a single resolution mechanism (SRM).

With regard to the **ability of the SRM to produce efficient decisions**, it is considered that a central decision-making level will contribute to minimizing the costs of resolution both since it can attain significant advantages in terms of economies of scale over a network, and because it is instrumental to the enforceability and optimality of the resolution decision.

LEGAL BASIS: Article 114 of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the proposal aims to preserve the integrity of the Member States banking markets participating in the Single Supervisory Mechanism (SSM) by the putting in place of a **Single Resolution Mechanism (SRM) to deal with failing banks**.

The SRM would permit the application of uniform rules to any bank in difficulty in a participating Member State and to proceed effectively towards the resolution of bank failures in such a way as to minimise the cost for the taxpayer and for the real economy.

Structure of the SRM: the composition of the SRM ensures that its decision-making structures are legally sound and effective, including in times of crisis. The decision-making structures of the Single Resolution Mechanism include the Single Resolution Board, the national resolution authorities of participating Member States and the European Commission. The tasks of the SRM are shared between Single Resolution Board and the national resolution authorities.

The European Commission will participate in the SRM only in so far as needed to perform specific tasks provided for in this proposed Regulation and in relation to State aid scrutiny under the Treaty.

Resolution - operation and procedure: to ensure that all participating Member States have full confidence in the quality and impartiality of the bank resolution process, **resolution decisions will be prepared and monitored centrally by a Single Resolution Board** to ensure a coherent and uniform approach is applied.

The objective of resolution is to ensure the continuity of the bank's critical functions, to protect financial stability, to minimise reliance on taxpayers' money, and to protect depositors.

Resolution is triggered by means of the following process:

- the ECB, as bank supervisor, notifies that a bank is failing to Commission, to the Resolution Board and to the relevant national authorities and ministries;
- the Resolution Board assesses if there is a systemic threat and no private sector solution and, if so, the Resolution Board recommends to the Commission to initiate resolution;
- on the basis of the Resolution Board's recommendations, or of its own initiative, the Commission will have the power to initiate the resolution procedure; in this case, it would also indicate to the Resolution Board the framework of the resolution tools that will be applied in each case and on the use of the Fund;
- the national resolution authorities execute the resolution measures decided by the Board according to the national law. If the national resolution authorities do not comply with the decisions of the Board, the Board has the power to supersede the national resolution authorities and address certain decisions for the implementation of the resolution measures directly to the banks.

Single Bank Resolution Fund: to support the resolution process and enhance its effectiveness, the proposed Regulation establishes a Single Bank Resolution Fund. This Fund will be able to pool significant resources from bank contributions and therefore protect taxpayers more effectively than national funds, while at the same time providing a level playing field for banks across participating Member States.

The **primary objective of the Single Resolution Fund is to ensure financial stability**, rather than to absorb losses or provide capital to an institution under resolution. The Fund should not be considered as a bailout fund.

On the basis of 2011 data on banks and an estimated amount of covered deposits held in banks in the euro-area, **the 1% target level for the Single Resolution Fund would correspond to around EUR 55 billion**. A transitional period of 10 years is foreseen before the Fund reaches its full target level.

If no disbursements are made from the Fund during the initial build-up phase, the banking industry would annually contribute around one tenth of the target amount or in absolute terms around EUR 5.5 billion.

BUDGETARY IMPLICATION: the Resolution Board will be **fully financed from contributions from the financial institutions**. Around 6 000 Eurozone banks, in addition to their annual contributions to the Single Bank Resolution Fund, will pay a fixed *pro rata* of this amount to fully cover the Boards' budgetary expenses. However, there will be some minor implications on the Union's budget in the start-up phase of the Board.

The incidence on the Commission's administrative expenditure is estimated at **EUR 10.575 million for the period 2014-2020**.

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union.

Single Resolution Mechanism and Single Resolution Fund: uniform rules and procedure for the resolution of credit institutions and certain investment firms

2013/0253(COD) - 15/11/2013

The Council discussed a draft regulation aimed at establishing a single decision-making authority and a single fund for the resolution of failing banks.

The presidency instructed the Council's working group to continue work so as to enable it to prepare a final compromise proposal for the Council's meeting on **10 December 2013**.

The presidency identified issues for consideration by the working group in the following terms:

- **Scope of the single resolution mechanism (SRM)**: the point of departure must be that the SRM covers all banks authorised in the participating member states. The working group will however, examine options for enhancing the role of national resolution authorities, bearing in mind the role that national supervisory authorities have in the supervision of less significant banks in the SSM.
- **Decision-making authority**: a large degree of support for the governance structure laid out in the presidency compromise proposal was observed, but an agreement has yet to be found. The voting modalities and the possibilities for involving the Council shall be explored. Any mechanism should enable swift, robust and effective decision-making.
- **Structure of the single resolution fund**: work should continue on the premise that there will be a **single fund**. Beyond that, the working group shall explore possibilities as regards the structure and the build-up of the fund. It will consider how the fund can be constructed in a transitional period.
- **Non-contractual liability and equality of treatment of participating and non-participating member states**: options will be considered to resolve these issues in a reasonable and fair manner.

It should be noted that the Parliament and the Council are currently negotiating a directive on bank recovery and resolution, which is aimed at harmonising EU rules for the orderly resolution of banks.

Single Resolution Mechanism and Single Resolution Fund: uniform rules and procedure for the resolution of credit institutions and certain investment firms

2013/0253(COD) - 08/01/2014 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Economic and Monetary Affairs adopted the report by Elisa FERREIRA (S&D, PT) on the proposal for a regulation of the European Parliament and of the Council establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Bank Resolution Fund and amending Regulation (EU) No 1093/2010 of the European Parliament and of the Council.

The parliamentary committee recommended that Parliament's position at first reading under the ordinary legislative procedure should amend the Commission's proposal as follows:

Purpose: uniform rules and procedure should be applied by the **Single Resolution Board (SRB)**, jointly with the Commission and the resolution authorities of the participating Member States, in the framework of a single resolution mechanism laid down by the regulation. The resolution mechanism would underpin the Single Bank Resolution Fund.

General principles: Parliament added that:

- every action, proposal or policy of the Board, the Commission or of a national resolution authority in the framework of the SRM should be undertaken with a view to **promoting the stability of the financial system within the Union and within each participating Member State;**
- decisions should neither require Member States to provide extraordinary public financial support **nor directly impinge on the fiscal responsibilities of the Member States**;
- the Board should ensure that the **representatives of the employees** of the entities concerned are informed and, where appropriate, consulted;
- all actions should respect the **principle of non-discrimination with regard to any Member State** or group of Member States;
- **the Commission should act independently**, strictly in accordance with the objectives and principles set out in the Regulation and in the Directive laying down a framework for recovery and resolution of credit institutions and investment firms [BRRD]. The separation of tasks should be guaranteed through appropriate organisational adjustments.

Resolution procedure: Parliament introduced amendments to the decision-making procedure.

Where **the ECB** assesses that a bank is in a situation of known or likely default, it shall notify that assessment without delay to the Commission and the Board.

When it considers that all the conditions are met, **the Board should transmit to the Commission a draft decision** to place the institution under resolution. **The Commission would then decide whether it adopts the Board's draft decision** and would propose a framework of the resolution tools to be applied to the bank in question and, where applicable, of the use of the Fund.

Where the Commission intends not to adopt the draft decision submitted by the Board or to adopt it with amendments, it should **send the draft decision back to the Board**, explaining why it does not intend to adopt it or, as the case may be, explaining the reasons for its intended amendments, and requesting its revision.

The Commission may establish a deadline within which the Board may amend its initial draft decision on the basis of the Commission's proposed amendments and resubmit it to the Commission. Except in duly justified cases of emergency, the Board shall have at least five working days to revise the draft decision following a request by the Commission.

The Single Resolution Board: the Single Resolution Board would be **accountable to the European Parliament and to the Council**. The Board should act independently and its members should have the necessary expertise on bank restructuring and insolvency. It should have the capacity to deal with

large banking groups and have the capacity to act swiftly and impartially. It should ensure that appropriate account is taken of national financial stability, financial stability of the Union and the internal market.

The appointment of the Executive Director and the Deputy Executive Director is subject to **the European Parliament's approval**.

Upon request, the Executive Director shall hold confidential oral discussions behind closed doors with the Chair and Vice-Chairs of the competent committee of the European Parliament where such discussions are required for the exercise of the European Parliament's powers under the Treaty.

Rules on **transparency and access to documents** would also be based on those laid down for the ECB's banking supervisor.

Members also increased the role of **national parliaments** in the system.

Single Resolution Fund: with a view to breaking the link between sovereigns and banks and ensuring the **efficiency and the credibility of the SRM**, in particular while the Fund is not entirely funded, Parliament suggested that the SRB should endeavour to contract for the Fund **a loan facility, preferably utilising a European public instrument**, to ensure the immediate availability of adequate financial means to be used where the amounts raised or available are not sufficient. Any loan from that loan facility should be reimbursed by the Fund within an agreed timeframe.

Any expenses incurred by the use of the borrowings have to be borne by the Board itself and not by the Union budget or the participating Member States.

Single Resolution Mechanism and Single Resolution Fund: uniform rules and procedure for the resolution of credit institutions and certain investment firms

2013/0253(COD) - 06/02/2014 - Text adopted by Parliament, partial vote at 1st reading/single reading

The European Parliament adopted **amendments** (441 votes to 141, with 17 abstentions) to the proposal for a regulation of the European Parliament and of the Council establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Bank Resolution Fund and amending Regulation (EU) No 1093/2010 of the European Parliament and of the Council.

The matter was **referred back to the committee responsible for reconsideration**. The vote was postponed until a later session.

The main amendments adopted in plenary are as follows :

Purpose: Parliament stipulated that the uniform rules and the uniform banking resolution procedure should be applied by the **Single Resolution Board (SRB)**, jointly with the Commission and the resolution authorities of the participating Member States, in the framework of a single resolution mechanism laid down in the Regulation. The resolution mechanism would underpin the Single Bank Resolution Fund.

General principles: Parliament added that:

- every action, proposal or policy of the Board, the Commission or of a national resolution authority in the framework of the SRM should be undertaken with a view to **promoting the stability of the financial system within the Union and within each participating Member State** with full regard and duty of care for the unity and integrity of the internal market;
- decisions or actions of the Board or of the Commission should neither require Member States to provide extraordinary public financial support **nor directly impinge on the fiscal responsibilities of the Member States**;
- when making decisions or taking actions, the Board should ensure that the **representatives of the employees** of the entities concerned are informed and, where appropriate, consulted;
- actions, proposals and policies of the Commission, the Board and national resolution authorities should respect the **principle of non-discrimination with regard to any Member State** or group of Member States;
- **the Commission should act independently**, separately from its other tasks, and strictly in accordance with the objectives and principles set out in the Regulation and in the Directive laying down a framework for recovery and resolution of credit institutions and investment firms [BRRD]. The separation of tasks should be guaranteed through appropriate organisational adjustments.

Resolution procedure: Parliament introduced amendments to the decision-making procedure.

Where **the ECB**, on its own initiative or following a communication from a national competent authority of a participating Member State, assesses that a bank is in a situation of known or likely default, it shall notify that assessment without delay to the Commission and the Board.

When it considers that all the conditions are met, **the Board should transmit to the Commission a draft decision** to place the institution under resolution. **The Commission would then decide whether it adopts the Board's draft decision** and would propose a framework of the resolution tools to be applied to the bank in question and, where applicable, of the use of the Fund.

Where the Commission intends not to adopt the draft decision submitted by the Board or to adopt it with amendments, it should **send the draft decision back to the Board**, explaining why it does not intend to adopt it or, as the case may be, explaining the reasons for its intended amendments, and requesting its revision.

The Commission may establish a deadline within which the Board may amend its initial draft decision on the basis of the Commission's proposed amendments and resubmit it to the Commission. Except in duly justified cases of emergency, the Board shall have at least five working days to revise the draft decision following a request by the Commission.

The Single Resolution Board: the Single Resolution Board would consist of (i) the Executive Director, (ii) the Deputy Executive Director, (iii) a representative appointed by the Commission, (iv) a representative appointed by the ECB, and (v) members appointed by each participating Member State, representing the national resolution authorities, **each of whom would have voting rights**.The European Banking Authority (EBA) should attend the meetings of the Board as an observer. The Board should be **accountable to the European Parliament and to the Council**. The Board should act independently and its members should have the necessary expertise on bank restructuring and insolvency. It should have the capacity to deal with large banking groups and have the capacity to act swiftly and impartially. It should ensure that appropriate account is taken of national financial stability, financial stability of the Union and the internal market.

The appointment of the Executive Director and the Deputy Executive Director is subject to **the European Parliament's approval**.

Upon request, the Executive Director shall hold confidential oral discussions behind closed doors with the Chair and Vice-Chairs of the competent committee of the European Parliament where such discussions are required for the exercise of the European Parliament’s powers under the Treaty.

Rules on **transparency and access to documents** would also be based on those laid down for the ECB’s banking supervisor.

Members also increased the role of **national parliaments** in the system.

Single Resolution Fund: the proposed Regulation provides that in 10 years a European resolution fund should be operational, financed by the banks’ contributions and representing 1% of deposits covered.

With a view to breaking the link between sovereigns and banks and ensuring the **efficiency and the credibility of the SRM**, in particular while the Fund is not entirely funded, Parliament suggested that the SRB should endeavour to contract for the Fund **a loan facility, preferably utilising a European public instrument**, to ensure the immediate availability of adequate financial means to be used where the amounts raised or available are not sufficient. Any loan from that loan facility should be reimbursed by the Fund within an agreed timeframe.

Any expenses incurred by the use of the borrowings have to be borne by the Board itself and not by the Union budget or the participating Member States.

Single Resolution Mechanism and Single Resolution Fund: uniform rules and procedure for the resolution of credit institutions and certain investment firms

2013/0253(COD) - 18/02/2014

The Council discussed possible adjustments to its general approach on the establishment of a single resolution mechanism (SRM) for banks, with a view to giving more flexibility to the presidency in its forthcoming “trilogue” negotiations with the European Parliament.

The Council reiterated its firm commitment to **reach an agreement acceptable to all parties on the SRM within the deadline set by the European Council, enabling a vote by the European Parliament before the end of its current term**. The discussion showed that ministers recognise the need for **compromises and flexibility towards the Parliament's position**.

The presidency summarised the scope of such ideas as follows:

- the framing of the role of the plenary session of the single resolution board (SRB);
- a review of the thresholds for the involvement of the plenary, and of voting modalities, especially during the initial transitional phase of the single resolution fund (SRF), to have a balanced solution for the use of the SRF;
- a possibly better framing of the Council's role in order to limit its discretion and the grounds on which it can raise objections to the SRB's decisions, as well as a simplification and, if possible, shortening of the decision-making process;
- a more framed oversight of the SRB over national resolution authorities;
- a central role for the European Central Bank in determining whether a banking institution is failing or likely to fail, while the SRB should ultimately maintain a possibility to effectively influence that function too;
- agreement that bail-in and not bail-out is the main guiding principle for bank resolution.

The presidency also acknowledged calls from many ministers:

- to increase the pace of mutualisation of national contributions to the SRF;
- to enhance the capacity of the SRF to borrow in the markets during the transitional period in order to reinforce the credibility of the system;
- to continue work on the method for calculating individual contributions to the SRF in order to provide as much clarity on this issue as possible.

The presidency noted that the outcome of the trilogue negotiations would be the result of a **global deal** covering discussions on both the SRM regulation and the intergovernmental agreement (IGA).

Single Resolution Mechanism and Single Resolution Fund: uniform rules and procedure for the resolution of credit institutions and certain investment firms

2013/0253(COD) - 15/04/2014 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 570 votes to 88 with 13 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Bank Resolution Fund and amending Regulation (EU) No 1093/2010 of the European Parliament and of the Council.

The matter had been referred back to the committee responsible during the plenary session of 6 February 2014.

Parliament adopted its position in first reading following the ordinary legislative procedure. The amendments adopted in plenary were the result of a compromise agreement between Parliament and Council. They amend the proposal as follows :

Purpose: the regulation would establish **uniform rules and a uniform procedure for the resolution of banks** that are established in participating Member States, meaning Member States whose currency is the euro or Member States whose currency is not the euro which have established a close cooperation in accordance with Council Regulation on the single supervisory mechanism (SSM).

Parliament and Council agreed that the uniform rules and the uniform banking resolution procedure should be **applied by the Single Resolution Board (SRB),** jointly with the Commission and the Council, in the framework of a **single resolution mechanism** laid down in the Regulation. The resolution mechanism would underpin the **Single Bank Resolution Fund.**

It is stipulated that the use of the Fund shall be contingent upon the entry into force of an agreement among the participating Member States on **transferring the funds raised at national level towards the Fund** as well as on a progressive merger of the different funds raised at national level to be allocated to national compartments of the Fund.

General principles: Parliament added that:

- every action, proposal or policy of the SRB , the Commission or of a national resolution authority in the framework of the SRM should be undertaken with a view for the unity and integrity of the internal market;
- decisions or actions of the SRB or of the Commission or Council **should not directly impinge on the fiscal responsibilities of the Member States;**
- where the Board takes a decision that is addressed to a national resolution authority, the national resolution authority shall have the right to specify further the measures to be taken.

In order to ensure equitable conditions within the internal market as a whole, the regulation should be compatible with the directive on the recovery and resolution of banks.

Resolution procedure: the SRB shall be responsible for drawing up and adopting the resolutions plans and may require national resolution authorities to prepare and submit to the Board draft resolution plans.

The resolution plan **shall not assume any of the following**: (i) extraordinary public financial support besides the use of the Fund, (ii) any central bank emergency liquidity assistance, (iii) any central bank liquidity assistance provided under non-standard collateralisation, tenor and interest rate terms.

Group resolution plans shall include a plan for the resolution of the group, headed by the EU parent undertaking established in a participating Member State, as a whole, either through resolution at the level of the EU parent undertaking or through break up and resolution of the subsidiaries.

Resolution objectives: the resolution objectives are the following, inter alia: (i) to avoid significant adverse effects on financial stability in the Union and Member States concerned, in particular by preventing contagion, including to market infrastructures, and by maintaining market discipline; (ii) **to protect client funds and client assets**.

Resolution procedure: the Council of Ministers will be involved in validating the way in which a troubled bank is to be dealt with (resolution scheme) only at the European Commission's express request. The procedure takes place in three phases:

Phase 1: the Board considers the adoption of a resolution scheme if:

- **the entity is failing or likely to fail**;
- there is no reasonable prospect that any alternative measures (early intervention, conversion of capital etc.) would prevent its failure within a reasonable timeframe;
- a resolution action is necessary **in the public interest**.

Phase 2: immediately after its adoption, the SRB transmits the resolution scheme to the Commission:

- if no objections **within 24 hours** after its transmission, the resolution scheme enters into force;
- within **first 1**2 of these 24 hours, the Commission can request the Council (with a simple majority) to: (i) object to the scheme on the ground that the scheme adopted by the SRB does not fulfil the public interest criterion; (ii) approve or object the Commission's proposal to use a higher or lower amount of the Fund than the Board suggested in the scheme.
- where the Council has approved the proposal of the Commission for modification of the resolution scheme on the ground that it does not satisfy the public interest criterion or the Commission has objected, the Board shall, **within 8 hours** modify the resolution scheme in accordance with the reasons expressed.;
- where the Council objects to the placing of an institution under resolution on the ground that the public interest criterion is not fulfilled, the relevant entity shall be orderly wound up in accordance with the applicable national law.

Phase 3: once agreed, the scheme is transmitted to the National Resolution Authority(ies) for implementation.

Single Resolution Board: the Board shall be **accountable to the European Parliament, the Council and the Commission** for the implementation of this Regulation. At the request of the European Parliament, the Chair shall participate in a hearing by the competent committee of the European Parliament on the execution of the resolution tasks by the Board. A hearing shall take place at least once every calendar year. The Board may be required to reply in writing to any observations or questions submitted by the **national parliaments**.

Neither Member States, the Union's institutions or bodies, nor any other public or private body shall seek to influence the Chair, the Vice-Chair or the members of the Board.

Parliament sought to reduce political interference on the decisions. In order to ensure a corresponding decision-making by the Board, when resolution action is required above the **threshold of EUR 5 billion**, any member of the plenary may, in accordance with a strict deadline, request the plenary session to decide.

Single resolution fund: the Single Bank Resolution Fund should be established. It should be filled in accordance with the rules on transferring the funds raised at national level towards the Fund as laid down in the agreement.

Eight years as from 1 January 2016, the available financial means of the Fund shall reach at least 1% of the amount of covered deposits of all credit institutions authorised in all the participating Member States.

During the initial period of time, contributions to the Fund should be spread out in time as evenly as possible until the target level is reached but with due account of the phase of a business cycle and the impact pro-cyclical contributions may have on the financial position of contributing institutions.

Parliament should also strengthen the borrowing capacity of the funds.

Under no circumstances shall the Union budget nor the national budgets be held liable for expenses or losses of the Fund.

Single Resolution Mechanism and Single Resolution Fund: uniform rules and procedure for the resolution of credit institutions and certain investment firms

2013/0253(COD) - 06/11/2013 - European Central Bank: opinion, guideline, report

Opinion of the European Central Bank on a proposal for a Regulation of the European Parliament and of the Council establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Bank Resolution.

The European Central Bank, consulted on 3 September 2013 by the Council, **fully supports the establishment of a Single Resolution Mechanism (SRM),** which will contribute as a necessary complement to the Single Supervisory Mechanism, to strengthening the architecture and stability of the economic and monetary union.

The ECB is of the view that the general principles set out below are of key importance for the SRM to be effective, and welcomes that they are largely reflected in the proposed regulation:

the SRM's scope should encompass all credit institutions established in Member States participating in the SSM;

- a strong and independent single resolution authority (SRA) should be at the centre of the SRM, with sufficient decision-making authority to take resolution action in the interest of stability within the euro area and of the Union as a whole;
- the decision-making process should allow for timely and efficient decision-making, if necessary, within a very short time, such as a few days or, where necessary, a few hours. It should be based on adequate resolution planning;
- the SRA should have adequate powers, tools and financial resources to resolve institutions as provided for in the forthcoming Bank Recovery and Resolution Directive (BRRD);
- the SRA should have adequate powers, tools and financial resources to resolve institutions;

- the envisaged framework for the SRM should provide for close coordination between the SRM's resolution function and the SSM's supervisory function, while adhering to and respecting the respective institutional responsibilities.

The ECB strongly supports the envisaged timeline for the SRM. Under this timeline, the SRM would enter into force by the middle of 2014 and would become fully operational by 1 January 2015.

The ECBs **specific observations** concern the following issues:

Governance and accountability of the Single Resolution Board: the responsibilities of authorities involved in the resolution process should be more precisely defined to avoid any duplication or overlap of powers. With regard to the Resolution Board's powers, a fuller description of how these powers will be executed would ensure, at the same time, that there is sufficient flexibility to deal with each individual resolution case. The proposed regulation has to ensure that any actual resolution decision by the Commission is taken as prompt as necessary.

Cooperation between resolution and supervisory authorities: the ECB considers it crucial that the respective roles and responsibilities of resolution authorities and supervisory authorities are **kept distinct** before any crisis is envisaged, and at the first stage of a crisis, where the supervisor may apply early intervention measures to a credit institution, and when assessing the conditions for resolution and the write down of capital instruments.

The ECB's participation in the Resolution Board and general involvement of central banks: the ECB recommends that the ECB will have an open invitation to observe in all (plenary and executive) meetings of the Resolution Board.

Resolvability assessment and the minimum requirement for own funds and eligible liabilities (MREL): while consultation with the supervisor is sufficient regarding the assessment itself, measures to remove impediments to resolvability should be **jointly** determined and implemented in cooperation with the supervisor. This assessment should not assume any financial support by the SBRF, other than for the provision of temporary liquidity. The MREL should therefore be determined by the Resolution Board 'in cooperation' with the competent authorities.

Bail-in: the proposed regulation provides that the bail-in provisions shall apply from 1 January 2018. This means that from 2015 until 2018, the SRM may need to resolve banks without this resolution tool.

In the light of this, **the ECB supports implementing the bail-in tool earlier than 2018**. Furthermore, having the bail-in tool in place would contribute towards legal certainty, consistency and predictability, thus avoiding ad hoc solutions.

Covered deposits should have a '**super priority'**, while eligible deposits from natural persons and small- and medium-sized enterprises should take priority over other senior unsecured claims.

Single bank resolution fund: the proposed regulation provides for a target level of at least 1% of covered deposits for the SBRF. The ECB is of the view that covered deposits are not the most appropriate benchmark, given that they do not entirely reflect possible funding costs in resolution. This benchmark should therefore be **complemented by a reference value relating to total liabilities**, which should be adequately calibrated by the Resolution Board, while keeping the 1 % of covered deposits as a floor.

Backstop arrangements: the ECB notes that the proposed regulation remains vague on the envisaged design of the additional backstop arrangements. In particular, while the proposed regulation provides for the possibility of borrowing from third parties, it does not specify whether the additional backstop arrangements would also include temporary access to public funds or would solely draw on borrowing from the private sector.

Against this background, the ECB considers it important that participating Member States cater for a **joint and solid public backstop** to be available upon the entry into force of the proposed regulation.

This public backstop could comprise a credit line granting the SRM access to joint fiscal resources from the participating Member States. To satisfy the principle of fiscal neutrality, the credit line would have to be fully recouped in case it were to be activated.

Relation with the State aid framework: more analysis may be warranted in the future regarding the application of State aid rules by analogy and with regard to the interplay between the State aid considerations and financial stability considerations in the context of resolution.

Single Resolution Mechanism and Single Resolution Fund: uniform rules and procedure for the resolution of credit institutions and certain investment firms

2013/0253(COD) - 15/07/2014 - Final act

PURPOSE: to establish a single European framework of resolution rules for credit establishments and to ensure the consistent application of these resolution rules.

LEGISLATIVE ACT: Regulation (EU) No 806/2014 of the European Parliament and of the Council establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010.

CONTENT: this Regulation establishes a **single resolution mechanism (SRM) for failing banks**, with a central decision-making board and a single resolution fund.

The aim is to ensure the orderly resolution of failing banks without recourse to taxpayers' money. This will involve both a systematic recourse to the bail-in of shareholders and creditors, in line with the bank recovery and resolution directive, and the possible recourse to a single fund fully financed by banks.

The SRM will form **one of the key elements of Europe's banking union**, along with the single supervisory mechanism (SSM). It will cover all banks established in the euro area and in other member states that choose to participate.

The European Parliament, in its resolution of 7 July 2010 with recommendations to the Commission on Cross- Border Crisis Management in the Banking Sector, requested the Commission to submit one or more legislative proposals relating to an EU crisis-management framework, an EU financial stability fund, and a resolution unit'.

The main elements of the Regulation are as follows:

Resolution plans: upon notification by the European Central Bank (as supervisor) that a bank is failing or likely to fail, or on its own initiative after having previously informed the ECB, the board will adopt a resolution scheme placing the bank into resolution. It will determine the application of resolution tools and the use of the single resolution fund (SRF).

The board will be responsible for the planning and resolution phases of cross-border banks and those directly supervised by the ECB, while national resolution authorities will be responsible for all other banks.

Resolution objectives: the resolution objectives are the following: (i) to ensure the continuity of critical functions; (ii) to avoid significant adverse effects on financial stability, in particular by preventing contagion, including to market infrastructures, and by maintaining market discipline; (iii) to protect public funds by minimising reliance on extraordinary public financial support; (iv) to protect depositors covered by Directive 2014/49/EU and investors covered by Directive 97/9/EC; (v) to protect client funds and client assets.

Resolution procedure: this procedure, which involves the Commission and the Council, strengthens the necessary operational independence of the Board. The resolution scheme will **enter into force within 24 hours of its approval by the board**, unless the Council, acting by simple majority on a proposal by the Commission, objects. Within 12 hours of approval of the resolution scheme by the board, the Commission may propose to the Council to object to the resolution scheme on the grounds that it is not necessary in the public interest, or to approve or object to a material modification of the amount of funds provided for in the resolution scheme.

For cross-border banks and for banks directly supervised by the ECB which are under the responsibility of the single resolution board, national resolution authorities will be responsible for executing bank resolution schemes under the board's instructions. Should a national authority not comply with a decision of the board, the latter will be able to address executive orders directly to the troubled bank.

To guarantee Member States' budgetary sovereignty, the Regulation prohibits decisions requiring a member state to provide extraordinary public support or impinging on its budgetary sovereignty and fiscal responsibilities.

Single Resolution Board: the Board shall have an autonomous budget which is not part of the Union budget. **It shall be operational from 1 January 2015** . It shall consist of a chairperson, four full-time appointed members and the representatives of the national resolution authorities of all the participating Member States. The ECB and the Commission will each designate a representative as a permanent observer. The board will exercise its tasks in either a plenary or executive format.

In order to reduce political interference in decision, the plenary session will be responsible for individual resolution decisions requiring **more than EUR 5 billion in capital**, or twice that amount in liquidity support, from the SRF. Moreover, once the accumulated use of funds over any 12-month period reaches EUR 5 billion, the plenary will be responsible for evaluating the application of resolution tools, in particular the use of the SRF, and for giving guidance to the executive session for subsequent resolution decisions.

The Single Resolution Board shall be **accountable to the European Parliament, the Council and the Commission** for the implementation of this Regulation. At the request of the European Parliament, the Chair shall participate in a hearing by the competent committee of the European Parliament on the execution of the resolution tasks by the Board. A hearing shall take place at least once every calendar year. The Board may be required to reply in writing to any observations or questions submitted by the national parliaments.

Single Resolution Fund: the Single Resolution Fund is hereby established. It shall be filled in accordance with the rules on **transferring the funds raised at national level** towards the Single resolution fund.

By the end of an initial period of eight years from 1 January 2016, the available financial means of **the Fund shall reach at least 1 % of the amount of covered deposits of all credit institutions authorised in all of the participating Member States**. During the initial period, contributions to the Fund shall be spread out in time as evenly as possible until the target level is reached.

The **individual contribution** of each bank will be calculated pro-rata to the amount of its liabilities (excluding own funds and covered deposits) with respect to the aggregate liabilities (excluding own funds and covered deposits) of all the institutions authorised in the participating Member States. Contributions will be adjusted in proportion to the risk profile of each institution.

The Fund should be able to contract **borrowings** or other forms of support from institutions, financial institutions or other third parties in the event that the ex-ante and ex-post contributions are not immediately accessible or do not cover the expenses incurred by the use of the Fund in relation to resolution actions. Under no circumstances shall the Union budget or the national budgets be held liable for expenses or losses of the Fund.

From 1 January 2015, the Board shall submit a monthly report approved in its plenary session to the European Parliament, to the Council and to the Commission on whether the conditions for the transfer of contributions to the Fund have been met.

ENTRY INTO FORCE: 20.08.2014. With certain exceptions set out in Regulation, it shall be applicable from 01.01.2016.

DELEGATED ACTS: the Commission shall be empowered to adopt delegated acts in order to supplement the Regulation. The power to adopt delegated acts shall be conferred on the Commission for a

an **indeterminate period**. The European Parliament or the Council may raise objections to a delegated act within a period of **three months** from the date of notification (this may be extended by three months). If the European Parliament or Council express objections, the delegated act will not enter into force.

Single Resolution Mechanism and Single Resolution Fund: uniform rules and procedure for the resolution of credit institutions and certain investment firms

2013/0253(COD) - 30/04/2019 - Follow-up document

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.

Functioning of the Single Resolution Mechanism (SRM) and Single Resolution Board (SRB)

The SRMR review clause provides that the Commission should carry out an assessment of several aspects related to the governance and functioning of the Single Resolution Mechanism (SRM) and the SRB.

The items listed for review include:

- assessing the interactions of the SRB (and the SRM in general) with other actors in the resolution process as well as the EBA, the European Securities and Market Authority (ESMA), and the European insurance and Occupational Pensions Authority (EIOPA);

- assessing whether the target level or the reference point of the SRF should be revised;

- assessing the internal governance arrangements of the SRB and other operational issues, and particularly the investment portfolio of the SRB;

- assessing the legal status of the Board as an agency of the Union.

As a preliminary remark, the Commission notes that the SRB assumed full resolution powers in 2016 and it needed time to establish its internal functioning and reach full staffing. There is not, therefore, a sufficient amount of information or experience to carry out an in-depth review.

The SRB has worked with national authorities, in accordance with the procedures set out in the framework. In the 2017 resolution planning cycle, the SRB set binding MREL targets at consolidated level for the majority of the largest banking groups within the SRB's remit, and the SRB intends to set binding targets for all groups within its remit by 2020.

Concerning the European Banking Authority (EBA), on 27 November 2017, the Commission published a Report on the role of the EBA with respect to mediation procedures in resolution. The Report addressed some issues that the EBA brought to the Commission's attention. All these issues concern provisions of the EBA founding regulation, which is being amended in the context of ESAs review.

Governance of the SRB

With respect to the issue of the governance of the SRB and the change of its legal status from agency to EU institution, given its recent creation and the limited practical experience gathered so far, there are not sufficient elements at this stage to suggest changes to the current provisions. In this respect, the Commission underlines that such a change of legal status would require a modification of the Treaty on the Functioning of the European Union (TFEU).

Finally, in view of the potential accession to the Banking Union of non-participating Member States, there may be scope to reflect on the modalities for an acceding Member State to participate in the SRM.

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.