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Proposal for a Single Resolution Mechanism for the Banking Union – frequently asked questions

1. Why is the Commission proposing a Single Resolution Mechanism in addition to the draft Bank Recovery and Resolution Directive?

The proposed Directive on Bank Recovery and Resolution (BRRD) (see IP/12/570) would, when adopted, determine the rules for how EU banks in difficulties were restructured, how vital functions for the real economy were maintained, and how losses and costs were allocated to the banks' shareholders and creditors. It would provide more comprehensive and effective arrangements to deal with failing banks at national level, as well as arrangements to tackle cross-border banking failures.

The draft Directive would rely on a network of national authorities and resolution funds to resolve banks. While this network would be a major step forward to minimising different national approaches and fragmentation of the Single Market, it would not be sufficient for Member States who share the common currency or are supervised by the European Central Bank (ECB) in the Banking Union.

In December 2012, the European Council recognised that in the Banking Union, bank supervision and resolution needed to be exercised by the same level of authority. They confirmed this at their meeting of 28 June 2013. Indeed, it is not possible to have a single European mechanism for the supervision of banks but to leave the resolution of banks to national authorities as tensions between the supervisor (ECB) and national resolution authorities could emerge over how to deal with ailing banks. At the same time, market expectations about Member States' ability to deal with bank failure nationally could persist, reinforcing negative feedback loops between sovereigns and banks and maintaining fragmentation and competitive distortions across the Single Market.

The recent financial crisis in Cyprus also highlighted the need for swift and decisive action backed by EU-level funding arrangements in order to avoid a situation in which bank resolution conducted at national level would have a disproportionate impact on the real economy, and to curb uncertainty and prevent bank runs and contagion of other parts of the euro area and the Single Market. A network of national authorities, even if coordinated at intergovernmental level, is not sufficiently operational in this respect.

Compared to a mere network of national resolution authorities, a Single Resolution Mechanism with a strong central decision-making body and a Single Bank Resolution Fund would provide key benefits for Member States, taxpayers, banks, and financial and economic stability in the entire EU, for example:

- Strong central decision-making would ensure that resolution decisions across participating Member States were taken effectively and quickly, avoiding uncoordinated action, minimising negative impacts on financial stability, and limiting the need for financial support.
- A central body with expertise and experience on bank resolution would be able to resolve banks more effectively, and with more limited effects on taxpayers, than individual national authorities with more limited resources and experience.
- A Single Resolution Fund would 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.

2. What is the legal basis for the proposal and why?

The legal basis for the proposal is Article 114 of the Treaty on the Functioning of the European Union (TFEU), which allows the adoption of measures for the approximation of national provisions aiming at the establishment and functioning of the Single Market.

The proposed Single Resolution Mechanism (SRM) would provide for an integrated decision-making structure aligning resolution under the SRM with supervision under the Single Supervisory Mechanism (SSM) to eliminate the competitive disadvantage that banks in the participating Member States in the SSM have compared to the non-participating Member States because of the lack of a centralised system to deal with banks in distress.

The proposal aims to preserve the integrity and enhance the functioning of the Single Market. Uniform application of a single set of resolution rules, together with access to a single European resolution fund by a central authority would restore the orderly functioning of EU banking markets, would remove potential obstacles to the exercise of free movement of capital, freedom to provide services and freedom of establishment and would avoid significant distortion of competition, at least in those Member States which share the supervision of credit institutions at European level.

Resolution decisions would be prepared and monitored centrally by a Single Resolution Board to ensure a coherent and uniform approach of the resolution rules. The Single Resolution Board would apply the Single Rulebook on bank resolution provided for in the draft Directive on Bank Recovery and Resolution to the banks in the participating Member States just as the national resolution authorities apply it in the other Member States.

3. What is the scope of the proposed Single Resolution Mechanism? What banks would be covered by it?

The Single Resolution Mechanism would be directly responsible for the resolution of all banks in Member States participating in the Single Supervisory Mechanism (about 6 000).

Unlike supervision which is an on-going activity, resolution is more sporadic: banks do not all fail at the same time. Resolution thus requires fewer human resources than supervision, meaning that the differentiated division of day-to-day supervisory responsibilities between the European Central Bank (ECB) and national supervisors under the ultimate oversight of the ECB is not applicable. On the contrary, carrying out effective resolution with minimal impact on financial stability and taxpayers depends decisively on the skills and experience of the resolution authority. A Single Mechanism covering all banks would protect financial stability and taxpayers better than a system with fragmented responsibilities assigned to numerous different authorities.

However, the fact that all banks would be covered by the SRM does not mean that no distinctions would be made according to different types of banks and their business models, for example when calculating contributions to the Single Resolution Fund (see Question 20).

4. What are the main components of the Single Resolution Mechanism and how would the mechanism work?

A Single Resolution Mechanism must be effective in times of crisis and allow decisions to be taken quickly with binding effect for all Member States. At the same time, it must involve Member States, recognising the significance of bank resolution for national economies.

A Single Resolution Board would prepare and carry out the resolution of any bank in a Member State participating in the Banking Union. It would have broad preparatory powers and be responsible for the key decisions on how a bank would be resolved.

Based on the proposal of the Single Resolution Board, the European Commission would decide if and when to place a bank into resolution.

National resolution authorities would be closely involved in the resolution process. They would assist the Single Resolution Board in preparing its actions which would draw on their expertise and experience, for example in the form of staff exchanges. Crucially, national authorities would be in charge of implementing the resolution decisions in line with national company and insolvency law. Member States would thus be integrated into the mechanism in the preparatory and implementation stage regarding banks in their jurisdiction.

The Single Resolution Board would monitor the execution by the national resolution authorities of its decisions at national level and, should a national resolution authority not comply with its decision, could directly address executive orders to the troubled banks.

A Single Bank Resolution Fund would be set up under the control of the Single Resolution Board to back its decisions and ensure the availability of medium-term funding support to enable the bank (either in its original form, through a bridge bank or as an asset management vehicle – bad bank) to continue operating while it is being restructured. A credible European resolution mechanism requires credible funding arrangements, financed *ex ante*. Otherwise the existing coordination problems in providing assistance for restructuring would persist, and the link between states and banks would not be broken. The Fund would be built up over time by contributions from the banking sector, replacing the national resolution funds of Member States participating in the Banking Union.

5. In practice what would each step involve?

A bank would be placed into resolution when it was failing or likely to fail, when no private sector arrangement could avert failure, and when resolution was in the public interest because the bank's failure would damage financial stability. In practice, the steps would be as follows:

- The ECB, as the supervisor, would signal when a bank in the euro area or established in a Member State participating in the Banking Union was in severe financial difficulties and needed to be resolved.
- A Single Resolution Board, consisting of representatives from the ECB, the European Commission and the relevant national authorities (those where the bank has its headquarters as well as branches and/or subsidiaries), would prepare the resolution of a bank. It would have broad powers to analyse and define the approach for resolving a bank: which tools to use, and how the European Resolution Fund should be involved. National resolution authorities would be closely involved in this work.
- On the basis of the Single Resolution Board's recommendation, or on its own initiative, the Commission would decide whether and when to place a bank into resolution and would set out a framework for the use of resolution tools and the fund. For legal reasons, the final say could not be with the Board.
- Under the supervision of the Single Resolution Board, national resolution authorities would be in charge of the execution of the resolution plan.
- The Single Resolution Board would oversee the resolution. It would monitor the execution at national level by the national resolution authorities and, should a national resolution authority not comply with its decision, it could directly address executive orders to the troubled banks.
- A Single Bank Resolution Fund would be set up under the control of the Single Resolution Board to ensure the availability of medium-term funding support while the bank was restructured. It would be funded by contributions from the banking sector, replacing the national resolution funds of the euro area Member States and of Member States participating in the Banking Union, as set up by the draft Bank Recovery and Resolution Directive.

6. When would the European Stability Mechanism step in?

As outlined in the Commission's Blueprint for a Deep and Genuine Economic and Monetary Union and in the Four Presidents' reports of 2012, the Banking Union needs credible backup financing arrangements at the level where supervision and resolution are carried out. While resolution aims at funding the restructuring of a bank with available private resources (absorption of losses by capital, sale of assets, bail-in of creditors, and use of resolution funds), credible public backstop arrangements are needed to ensure access to additional funds in extraordinary circumstances.

The proposed Regulation establishing the Single Resolution Mechanism would not explicitly ascribe any new role to the European Stability Mechanism. However, rules on how national or European public funds could be used in cases of bank resolution are to be laid down by the draft Bank Recovery and Resolution Directive, still under negotiation. The logic of resolution is that banks should be resolved by private means; therefore any public role for the state or the European Stability Mechanism should be implicit, possible notably in crises of systemic magnitude and subject to the parameters laid out in the proposed Bank Recovery and Resolution Directive. The intention is that any backup funding from the public would be recouped from the bank under resolution, and if this were not possible from the resolution fund, which could raise additional *ex-post* contributions from banks for these purposes. This would ensure that the backstop was fiscally neutral in the medium-term.

As banks develop stronger loss-absorbing capacity and the resolution fund builds up, this active public backstop role would progressively diminish as resolution by self-sustained private means would become the norm. It would remain only as an ultimate backstop to underpin the functioning and oversight of the banking sector in the Banking Union.

7. What other links or differences are there between the proposed Bank Recovery and Resolution Directive (BRRD) and the proposed Single Resolution Mechanism (SRM)?

Within the Single Resolution Mechanism, the Rulebook set out in the draft Bank Recovery and Resolution Directive would apply to the participating Member States as it applies within the whole Single Market. Therefore, the proposed Regulation often refers to the proposed Bank Recovery and Resolution Directive.

This proposal for a Directive is still being negotiated (report voted by the European Parliament's Economic and Monetary Affairs Committee on 20 May 2013; and a general approach of the Council approved on 26 June 2013). The proposed SRM regulation must ultimately be fully in line with the agreement on the Bank Recovery and Resolution Directive to be found between the Council and the European Parliament, hopefully this autumn.

However, as the negotiations are on-going and the proposed Directive is not yet adopted, where parts of the Bank Recovery and Resolution Directive provisions had to be reproduced within the text, this proposal refers to the Council general approach as the latest available version. This should not be construed as the Commission expressing a preference for the Council text over the European Parliament's text. It is foreseen that those provisions will be updated to reflect fully the final agreement on the Directive found between the Council and the European Parliament.

8. Why would the European Commission take the decision to trigger resolution? Why not give the role to the European Central Bank or an agency such as the European Banking Authority?

Only decisive resolution action at European level can ensure that failing banks are resolved with minimal cross-border spillovers. Under the current EU Treaty, at European level, only an EU institution (European Commission, European Central Bank, Council of the EU, European Parliament, or Court of Justice of the European Union) can take the final decision on when to trigger the resolution of a bank.

The Commission has the necessary experience on bank restructuring. It has played this role extensively during the financial crisis as a condition for approving state aid to banks. As guardian of the Treaties, the Commission is the best placed among EU institutions to ensure that final decisions fully respect the principles underpinning the functioning of the EU and are consistent and equal across the Single Market. Its role would also ensure that the overall mechanism remains fully accountable vis-à-vis the European Parliament and Member States, in accordance with the conclusions of European Council of December 2012 and June 2013.

Adding resolution powers to the ECB's monetary and supervisory roles could give rise to conflict between its tasks. However, as supervisor under the Single Supervisory Mechanism and in view of their in-depth knowledge of the banks, the ECB is set to play an important role, not least in making the proposal to trigger resolution.

As for the European Banking Authority, legally it could not take the decision to trigger resolution as only an EU institution can do so, not an Agency. Also, the main task of the European Banking Authority is to contribute to the creation of the European Single Rulebook in banking whose objective is to provide a single set of harmonised prudential rules for financial institutions throughout the EU. The European Banking Authority also plays an important role in promoting convergence of supervisory practices and is mandated to assess risks and vulnerabilities in the EU banking sector (MEMO/10/434).

9. How would the accountability of the overall mechanism and Single Resolution Board vis-à-vis the Parliament and Member States work?

The accountability arrangement established in the context of the Single Supervisory Mechanism would broadly serve as the model. The components of the Single Resolution Mechanism would be subject to strong accountability provisions.

This would ensure that the Single Resolution Board used its powers in the most effective and impartial way. The Executive Director and Deputy-Executive Director of the Board would be appointed by the EU's Council of Ministers following approval of the European Parliament. The Board would be accountable to the European Parliament and the Council for any decisions it took. The national parliaments of the participating Member States would also be informed of the activities of the Board.

10. How would the Single Resolution Board be constituted?

The Board would be composed of the Executive Director, the Deputy Executive Director, the representatives appointed by the Commission and the ECB, and the representatives of the resolution authorities of participating Member States. The Board would operate in two sessions: an executive one and a plenary one. The voting rules in each session would balance the need to take into account the interests of all Member States and to ensure effective European decisions.

In its plenary session, the Board would consist of all of the above representatives and take all decisions of general and budgetary nature. Decisions would be mostly taken by simple majority vote.

In its executive session, the Board would take the key preparatory and operational decisions for resolving individual banks including use of the resolution fund, and the decisions addressed to national authorities to implement the measures. For this session, the Board would consist of the Executive Director, the Deputy Executive Director, the representatives appointed by the Commission and the ECB, and the relevant national authorities where the troubled bank had subsidiaries. Decisions would be by simple majority.

In the case of cross-border groups, the authority of the Member State in which the group was based (home Member State) would have a full vote, and each of the authorities of other relevant Member States (host Member States) would have a fraction of a vote, so that the votes of all host Member States together accounted for a full vote. This reflects the fact that the home Member State has the biggest responsibility when a cross-border banking group fails. In addition, further safeguards are foreseen to ensure that the SRM did not affect Member States' budgetary responsibilities (see Question 19). There would be no vetoes as it is essential decisions could be taken effectively.

11. Would the role of the Commission within the SRM not be in conflict with its tasks to monitor state aid, and with potential additional tasks conferred on it under the Bank Recovery and Resolution Directive?

No. Under the Treaty, the Commission would in all cases need to act in the interest of the Union as a whole. It would apply exactly the same standards when examining whether resolution action envisaged under the SRM was compatible with state aid provisions as it would apply when examining envisaged action by national authorities.

12. When would the Single Resolution Mechanism enter into force?

At the European Council on 27-28 June this year, EU leaders set themselves the target of reaching agreement on the mechanism by the end of 2013 so that it can be adopted before the end of the current European Parliament term in 2014. This would enable it to apply from January 2015, together with the Bank Recovery and Resolution Directive which would constitute its rulebook.

13. What would happen in the transition phase before the Single Resolution Mechanism was set up?

During the transition phase before the Single Resolution Mechanism and the Bank Recovery and Resolution Directive enter into force, bank crises will continue to be managed on the basis of national regimes. However, these regimes are set to converge increasingly towards agreed principles of resolution, namely the allocation of bank losses to shareholders and creditors instead of taxpayers. This is achieved on the one hand by the revised guidelines on state aid to banks also adopted today (see IP/13/672) and on the other, the possibility of direct recapitalisation of banks by the European Stability Mechanism. Both require appropriate "burden-sharing" by private investors in a bank as a condition of public support by national and European Stability Mechanism (ESM) resources.

14. What about the transitional phase before the Single Bank Resolution Fund is sufficiently funded?

The entry into force of the Single Resolution Mechanism and the Bank Recovery and Resolution Directive would mean that the shareholders and creditors accepted the losses of an ailing bank, just as in any other failing business. Instead of a bank being bailed out by taxpayers, it would be for the private investors in a bank to be bailed in.

The resolution fund consists of contributions from the banking sector. The idea of a resolution fund is not to replace private investors in absorbing losses and in providing new capital to a bank but to give financial aid such as guarantees or loans in the short or medium term to ensure the viability of the restructured bank and namely of its functions which are critical for financial stability and the overall economy.

The resolution fund would be built up gradually to ensure that banks' lending capacity to the real economy was not negatively impacted in the short-term. Before it is sufficiently capitalised, the fund could, if necessary, levy additional funds from the banking sector. It could also borrow funds on the market. Under the draft Bank Recovery and Resolution Directive Member States would be free to decide what to do in this respect.

A public backstop could also lend money as set out in the draft Bank Recovery and Resolution Directive, notably in exceptional circumstances. This loan would be recovered from banks in the medium term to ensure that the mechanism was fiscally neutral. As the fund built up and banks' capital positions improved, the need for credit from the public backstop would decrease in corresponding fashion.

15. In the event of the resolution of a cross-border group, how would the mechanism ensure that the host Member States were adequately represented in the process of resolution?

The composition of the Single Resolution Board would take into account the interests of all affected Member States. The host Member States of a group would participate fully in the Executive Board when deciding on resolution and would have the same weight as the home Member State (see Question 10). The Board, in recommending a resolution decision to the European Commission, would consider the interests of the home and host Member States in accordance with clear principles set out in the Regulation (such as the rule according to which the interests of Member States concerned should be balanced to avoid unfairly prejudicing or unfairly protecting the interests of a participating Member State).

The Board could not discriminate between creditors in different Member States and would have to ensure that its decisions were fair and took into account the effects on the real economy in all the affected Member States.

16. What would the Single Resolution Mechanism mean for Member States which are not in the euro area?

The Banking Union is open to Member States which are not in the euro area. As a result, the Single Resolution Mechanism would apply to banks within participating Member States, whether they were euro area Member States or Member States which had joined the Banking Union. The Single Market would be preserved because the same rules provided for in in the draft Bank Recovery and Resolution Directive would apply to all Member States.

For the resolution of cross-border banks established both in participating Member States and in non-participating Member States, resolution colleges and other procedures (such as, for example, mediation by the European Banking Authority where there was disagreement between the national resolution authorities concerned) provided for under the draft Bank Recovery and Resolution Directive would continue to apply.

In a resolution college, which would continue to be governed by the rules set out in the draft Bank Recovery and Resolution Directive, the national resolution authorities of the Member States not participating in the Single Resolution Mechanism and the Single Resolution Board would represent all the national authorities of participating Member States concerned. However, the national resolution authorities of the participating Member States in the Single Resolution Mechanism could attend as observers in the resolution colleges.

In case of group resolution involving non-participating Member States in the Single Resolution Mechanism, the Board would be empowered to cooperate with the non-participating Member States at key stages of the process, for example in order to prepare comprehensive recovery and resolution plans. The proposal would also prevent any of the components of the Single Resolution Mechanism from discriminating against credit institutions, deposit holders, investors or other creditors on grounds of their nationality or place of business.

The European Banking Authority would mediate between the Single Resolution Board and the resolution authorities of non-participating Member States in line with the role conferred on it by the draft Bank Recovery and Resolution Directive.

17. How big would the resolution fund be and how much would banks contribute to it?

The total target size of the resolution fund would equal 1% of the covered deposits of all banks in Member States participating in the Banking Union. In absolute terms and based on 2011 data on banks' balance sheets, the fund would reach around €55 billion. The target size of the fund would be dynamic and increase automatically if the banking industry grew.

The fund would be built up over 10 years. This could be extended to 14 years if the fund made disbursements exceeding half of the target size of the fund. Thus, the banking industry would contribute annually around one-tenth of the target amount or in absolute terms, around €5.5 billion. The precise amount that an individual bank would contribute would be determined by a Commission delegated act taking into account the risk profile of a given bank.

After the initial phase to build up the fund, banks would be subject to additional contributions if their contribution basis grew or there were disbursements from the fund. If the available financial means of the fund became lower than half of its target size, banks would become subject to a minimum annual contribution of one quarter of the covered deposits of all banks in Member States participating in the Banking Union. In other words the banking industry would have to contribute around €14 billion per annum to the fund until it was fully replenished.

These figures are consistent with those underpinning the draft Bank Recovery and Resolution Directive, as set out in the impact assessment accompanying that proposal, revised and updated in light of developments since then.

The Single Resolution Fund would replace the national resolution financing arrangements of the Member States participating in it. Therefore, the Member States which have already established national resolution financing arrangements at the time of entry into force of this Regulation would be free to decide on the use of national financing arrangements according to their national law. For example, Member States could decide that those national resolution financing arrangements paid the contributions due to the Fund on behalf of their banks until those arrangements fully depleted.

18. Would the Single Resolution Board be financed by Member States or the EU budget?

Neither. The expenses of the Board would be covered by levies on banks. These would be annual contributions distinct from those made to the Single Bank Resolution Fund which would cover the staff costs, administrative and other related expenses of the Board.

19. Would the SRM be able to force Member States to use national taxpayers' money to bail out a bank?

No. The SRM would be constructed with the objective that resolution was carried out without recourse to national taxpayers' money. Any resolution costs would have to first be borne by a bank's shareholders and creditors. Under most scenarios this should be sufficient. If, exceptionally, additional resources were needed, the Single Bank Resolution Fund would come into play. But even where, under very exceptional circumstances, the Fund's resources were insufficient, the SRM would not be able to force a Member State to provide extraordinary public support to a bank resolution.

20. Who would contribute to the Single Resolution Fund? How would contributions be calculated?

The proposal is based on the principle that all banks within participating Member States would contribute to the fund. This reflects the fact that in integrated financial markets, any financial support to resolve a bank benefits financial stability and the health of other banks not only in the Member State concerned, but also in other Member States. Since banks throughout participating Member States would be indirect beneficiaries of such support, contributions to finance the support should not be limited to banks from a single Member State.

However, the contributions would be calculated in a way that would reflect different types of banks and their business models. First, the contributions would be calculated in line with the draft Bank Recovery and Resolution Directive on the basis of criteria taking into account the amount of liabilities minus own funds and covered deposits of each bank, and adjusted to their risk profile. This means that banks which were financed almost exclusively by deposits would in practice have very low contributions. (Of course, these banks would contribute to national deposit guarantee schemes.)

Second, contributions would be risk-based, reflecting different risks inherent in different types of banking activities.

Finally, the proposal foresees safeguards in order to avoid that levying of contributions created financial stability issues in healthy institutions, i.e. temporary exemption from the obligation to pay *ex-post* contributions.

21. How would the SRM interact with national deposit guarantee schemes?

The SRM would not further harmonise deposit guarantee schemes (see Question 22).

National deposit guarantee schemes would thus continue to fulfil the functions assigned to them in the Deposit Guarantee Schemes Directive and in the draft Bank Recovery and Resolution Directive. They could be called on to pay out to depositors in case of liquidation, or, in case of resolution, they would contribute, up to the amount of covered deposits, for the amount of losses that they would have had to bear if the bank had been wound up under normal insolvency proceedings. Those functions would not be altered by the proposed SRM.

To the extent this would lead to a depletion of national Deposit Guarantee Schemes, and in order to ensure that recourse to taxpayers was a last resort, the Single Resolution Fund would be allowed to lend to the national Deposit Guarantee Schemes under the terms and conditions provided for under Article 10 of the proposal for a revision of the Deposit Guarantee Schemes Directive (voluntary borrowing) (see IP/10/918). Any such borrowing would have to be repaid by the national Deposit Guarantee Scheme concerned.

The SRM would not affect Institutional Protection Schemes and other intra-group financing support mechanisms set up by certain groups of credit institutions. The SRM would only intervene when such private sector solutions were not successful in dealing with a bank failure.

22. Why is the Commission not proposing a single Deposit Guarantee Scheme?

The functioning of national Deposit Guarantee Schemes, protecting deposits up to €100 000, should first be improved by concluding current negotiations on the Commission's July 2010 proposal. As part of this work, appropriate lending arrangements between national schemes, as proposed by the Commission, would strengthen the overall protection of depositors across the EU. National deposit guarantee schemes would continue to contribute to finance resolution instead of covered depositors in line with their role foreseen under the proposed Bank Recovery and Resolution Directive. Where a bank was resolved, the national deposit guarantee scheme to which the bank was affiliated would contribute, up to the amount of covered deposits, to the amount of losses that it would have had to bear if the bank had been wound up under normal insolvency proceedings. The Single Bank Resolution Fund would also be able to lend money to national deposit guarantee schemes, for example to enable them to pay out to depositors.

23. How would the mechanism have mitigated the crisis in Cyprus?

The recent crisis in Cyprus underlined the need for prompt and decisive action on the basis of rules that are known in advance by the markets. Supervision by the European Central Bank based on the stricter prudential rules of the Capital Requirements Regulation and Directive, the so-called CRD IV package (MEMO/13/272) would have prevented the Cypriot banking system from taking as many risks. If serious problems had nonetheless emerged, the Single Resolution Mechanism would, based on pre-established comprehensive recovery and resolution plans, have allowed for decisive action at European level. This would have been supported by European funding from a resolution fund built up by the banking sector which would have softened the impact of bank resolution on the real economy.

24. What would the Single Resolution Mechanism mean for banking groups that operate in third countries?

As many credit institutions operate not only within the Union, but internationally, it is envisaged that support to third country authorities should be provided in accordance with the legal framework set out in Article 88 of the draft Bank Recovery and Resolution Directive. As according to the proposed SRM Regulation, the Board would be the single entity empowered to resolve failing banks in the participating Member States, the Board would be exclusively competent to conclude non-binding cooperation agreements with third country authorities, on behalf of the national authorities of the participating Member States.

25. How does the proposed approach compare with that in other parts of the world?

The Financial Stability Board's "Key Attributes of Effective Resolution Regimes" endorsed by the G20, require jurisdictions to establish frameworks for resolving large, systemically important banks. The situation in other parts of the world is not homogenous. While some jurisdictions already have resolution regimes in place, others are in the process of taking the necessary legislative action.

In the EU the adoption and implementation of the Bank Recovery and Resolution Directive will equip Member States with a broad range of powers to intervene and resolve failing banks. The SRM will equip the euro area and the other Member States who wish to join in, with a single, centralised resolution authority. This centralised authority is to a large extent comparable to other central resolution authorities in other jurisdictions (such as the Federal Deposit Insurance Corporation (FDIC) in the US).

The functions of the SRM of preserving public confidence in the EU financial system, in preventing systemic damage by ensuring the continuation of critical functions, in determining the resolution strategy for large banking groups, in managing the funding of resolution, are comparable to the functions of the FDIC. However, contrary to the FDIC, the SRM would not vest the central authority with all the responsibilities related to the management of bank failures, but would leave an important role to the national resolution authorities. This is due to the nature of the EU in which different national legal systems and traditions co-exist. The central authority would take the main resolution decisions - like which resolution tool to use, i.e. whether to sell the failing bank to a healthy bank, or to set up a bridge bank or to apply the bail-in and restructure the whole bank as a going concern - while the national resolution authorities would implement the decisions taken at central level and take all the measures necessary to apply the tools and concretely resolve banks in their jurisdictions. Neither would the central resolution authority be vested with the power, like the FDIC, to liquidate the assets of the failed bank. The role of liquidating agents would remain at national level and would be carried out on the basis of national law.

26. What are the next steps?

The proposed Regulation will be forwarded to the European Parliament and the Council for adoption. The European Council has called on the Council to agree on a position by the end of the year. Trilogues between Council and European Parliament could then take place in the first months of 2014, to ensure that the proposal could still be adopted before the end of the current European Parliament term in 2014.

In parallel, trilogues on the proposed Bank Recovery and Resolution Directive will be carried out.

It is expected that the SRM would be established and the Bank Recovery and Resolution Directive be fully implemented and applied as of 1 January 2015.

See also IP/13/674 and MEMO/13/679.