



Press Release

Luxembourg, 21 December 2018

Auditors publish report on SRB's, Commission's and Council's contingent liabilities

The Single Resolution Board (SRB) and the European Commission should continuously assess their financial risks and accounting thereof, arising from contingent liabilities related to bank-resolution lawsuits as from their 2018 accounts, according to a new report by the European Court of Auditors. The auditors reviewed the possible obligations of the SRB, Commission and Council arising from pending litigation against their actions in resolving failing or likely-to-fail banks in the euro area. They call for improved management of financial risks deriving from these litigation since the number of court cases could increase further.

When a bank in the euro area fails, the Single Resolution Mechanism (SRM) aims to manage its resolution with no negative impact on the economy or the taxpayer. Under this mechanism, the SRB is the resolution authority for all the major banks in the euro area and smaller cross-border banking groups.

In June 2017, the SRB took its first decision, regarding the resolution of Banco Popular. By May 2018, 103 legal cases had been brought before the General Court of the EU against this decision, with 30 cases also being filed against the Commission and one against the Council. In accounting terms, any possible future payment that may be due because of these legal cases must be disclosed as a "contingent liability", unless its probability is assessed as remote.

The auditors acknowledge that the SRB correctly disclosed information about the nature and timeframe of pending litigation. They note, however, that the SRB was not in a position to predict their possible consequences, as it was difficult to predict the outcome of these cases at this stage due to the complex, specific and unprecedented legal system created by the new resolution legal framework. They also warn that more litigation may arise over the next few years.

"An adequate knowledge of the financial risks to which the SRB is exposed is essential to ensure risk management and accountability", said Ildikó Gáll-Pelcz, the Member of the ECA responsible for the report.

In addition, the auditors reviewed the contingent liabilities related to ex-ante contributions by banks in the euro area to the Single Resolution Fund. They note a high number of appeals and lawsuits

The purpose of this press release is to convey the main messages of the European Court of Auditors' report.

The full report is available at www.eca.europa.eu.

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before national courts against ex-ante contributions. The SRB disclosed in its 2017 accounts €1.4 billion of contingent liabilities for ex-ante contributions, which could further increase by €558 million due to new claims for 2018. The auditors warn that in some cases, based on the legislation, the SRB may have to compensate national resolution authorities (NRAs) for litigation lost at national level.

The Commission decided not to disclose any contingent liabilities as it considered all claims for damages premature and assessed the possibility of a potential future payment as remote, whereas the case against the Council was declared inadmissible.

The auditors recommend:

- the SRB should finalise and approve its draft accounting guidance and apply it in full for its 2018 accounts, including the provisioning or disclosure of legal costs;
- the SRB and the Commission should thoroughly re-assess the situation for their 2018 accounts based on available data such as quantifiable claims, court rulings and historical data in line with relevant accounting rules;
- the SRB should establish adequate procedures and controls to ensure the accuracy, completeness and timeliness of information received from NRAs, and ensure an adequate audit trail.

Notes to Editors

The SRB and the SRF are entirely financed by the banking sector.

The process leading to the decision to place an entity under resolution involves the ECB, SRB, Commission and, possibly, the Council.

The auditors reviewed the SRB's, Commission's and Council's contingent liabilities arising from the performance of their tasks under the regulation governing the SRM (Regulation (EU) No 806/2014) for the financial year 2017. The report is available on the ECA website eca.europa.eu in 23 EU languages.