

Special Report

Single Resolution Board: Work on a challenging Banking Union task started, but still a long way to go

(pursuant to Article 287(4), second subparagraph, TFEU)



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Reply of the SRB

ABBREVIATIONS

BRR Directive	Bank Recovery and Resolution Directive (Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190))
DGS	Deposit guarantee scheme
DGS Directive	Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (OJ L 173, 12.6.2014, p. 149)
EBA	European Banking Authority
ECA	European Court of Auditors
ECB	European Central Bank
FOLTF	Failing or likely to fail
FTE	Full-time equivalent
MoU	Memorandum of understanding
MREL	Minimum requirement for own funds and eligible liabilities
NCA	National competent authority
NRA	National resolution authority
RC	Resolution college
SRB	Single Resolution Board
SREP	Supervisory review and evaluation process
SRF	Single Resolution Fund
SRM	Single Resolution Mechanism
SRM Regulation	Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 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 (OJ L 225, 30.7.2014, p. 1)
SSM	Single Supervisory Mechanism
TFEU	Treaty on the Functioning of the European Union
TRP	Transitional resolution plan

GLOSSARY

Bail-in tool	A resolution tool that entails reducing the liabilities of a bank, which results in the nominal value of customer deposits and bonds being forcibly reduced. Liabilities which may be subject to the bail-in tool are termed “bail-inable”.
Core business line	A bank’s key material sources of revenue or profit.
Critical functions	Bank activities, services or operations the discontinuance of which is likely to lead to the disruption of financial stability or of services that are essential to the real economy.
Deposit guarantee scheme	A deposit guarantee scheme is a scheme for the protection of depositors to ensure that they are protected up to a certain ceiling and within certain limits from losses in the event of a bank failure.
Internal resolution teams	Under Article 83 of the SRM Regulation, the Single Resolution Board may establish internal resolution teams composed of its own staff and staff of the national resolution authorities, including, where appropriate, observers from Member States outside the euro area. Internal resolution teams are key for cooperation and communication between the SRB and the NRAs on the preparation of resolution plans. These teams are set up for all banks under the SRB’s remit and are headed by coordinators appointed from the SRB's senior staff.
Minimum requirement for own funds and eligible liabilities	A requirement that banks need to comply with at all times by holding easily 'bail-inable' instruments in order to ensure that losses can be absorbed and the banks recapitalised if they get into financial difficulty and are subsequently placed in resolution.
Resolution	Resolution is the orderly winding-up of a failing bank to ensure the continuity of its essential functions and to preserve financial stability. It aims also to protect public funds by minimising reliance on extraordinary public financial support.
Resolution colleges	Bodies comprising members of multiple national resolution authorities and set up to ensure cooperation of all relevant authorities at all stages of the resolution of a cross-border banking group.
Substantive impediments	Serious obstacles that could hamper winding-up or resolution of a bank, identified by resolution authorities during assessment of banks’ resolvability. Resolution authorities have far-reaching powers to require banks to address or remove any such impediments within a given timeframe. For example, the SRB might require a bank to divest specific assets, limit its activities or change its legal or operational structures.
Supervision	Banking supervision is the act of monitoring the financial performance and operations of banks by public authorities in order to ensure that they are operating safely and soundly following rules and regulations.

EXECUTIVE SUMMARY

- I. To prevent a recurrence of the 2008 financial crisis in Europe, the EU has developed new institutional structures to ensure a safer financial sector for the single market. These include the Single Supervisory Mechanism (SSM) and the Single Resolution Mechanism (SRM). This report focuses on the Single Resolution Board (SRB), which, together with national resolution authorities (NRAs) within the euro area, form the SRM.
- II. A 'Single Rulebook' of harmonised legislation and guidelines on the resolution and supervision of banks has been established. With regard to resolution, the Single Rulebook comprises a number of elements which together guide the work of the SRB. Set up only in 2015, the SRB is still essentially in the 'start-up' phase, and has been required to take on very considerable responsibilities in a very short time span.
- III. The SRB's work should be seen as part of a system that also involves supervisors (e.g. the ECB) and regulatory bodies (such as the European Banking Authority). Supervisors are in charge of the permanent prudential supervision of banks within their remit. If recovery or intervention measures are not effective a bank is assessed as "failing or likely to fail", and the resolution authorities step in. The SRB, with the assistance of national resolution authorities, is responsible for contingency planning for the resolution of banks within its remit, and for managing bank resolution procedures as necessary and appropriate. Its remit extends to all significant banks and cross-border less significant banks in the euro area.
- IV. The TFEU allows the European Court of Auditors full access to such documentation of the auditee as is necessary for the audit. In the course of this audit, we obtained extensive documentation from the SRB's management and staff which enabled us to draw the conclusions in this report with confidence. However not all documentation requested was provided.
- V. We found that the task of setting up the SRB from scratch in a very short timeframe has posed a very significant challenge. We identified shortcomings in the SRB's preparation of resolution plans. Although these weaknesses need to be addressed, both within the SRB and in the legislative and cooperation arrangements that apply to it, they must be seen in the start-up context.

VI. The SRB has not yet completed resolution planning for the banks within its remit. Although it has worked long and hard to ensure that preliminary versions at least of resolution plans are in place for most banks, the plans adopted in 2016 did not meet a substantial number of requirements laid down in the Single Rulebook. While this problem is somewhat mitigated by the availability of additional background information, significant deficiencies remain relative to the legislative requirements.

VII. The SRB should first determine when the first resolution plan fully compliant with the Single Rulebook is to be drawn up for each bank under its remit. It should then work towards preparing those plans by prioritizing them with regard to their riskiness. Each plan should address the resolvability of the bank concerned and the feasibility and credibility of the chosen resolution strategies.

VIII. To ensure that the banking sector has enough loss-absorbing capacity, the SRB also needs to finalise a system of rules and guidance for resolution planning, including a policy for determining minimum requirements for own funds and eligible liabilities. Guidance notes and the SRB's resolution planning manual need to be developed or updated as appropriate.

IX. From the start the SRB has faced difficulties in recruiting sufficient staff with the appropriate skills. Delays in staffing have negatively impacted all areas of the SRB's activities, despite the commitment and motivation of its staff. The SRB needs to accelerate its recruitment efforts and resource the HR function appropriately to cope with the demands of recruitment, particularly where more specialised and senior posts are concerned. If staffing targets cannot be met, or if interim measures are required, the SRB should consider alternative solutions.

X. The distribution of operational tasks between national authorities and the SRB, including the division of responsibilities, is still unclear, and internal resolution teams are understaffed. The SRB urgently needs to address these issues.

XI. The SRB has amassed significant experience of putting the legislative framework into practice. In the light of this experience, the SRB should invite the legislator to make adjustments that will enhance the effectiveness of its work and systemic contribution. This should include changes affecting its remit and the availability and flow of information with

the ECB (particularly in the context of the memorandum of understanding). A moratorium tool should also be made available to the SRB.

INTRODUCTION

The Banking Union

1. To prevent a recurrence of the 2008 financial crisis in Europe, the EU has pursued a set of policies to ensure a safer financial sector for the single market. These include stronger capital and liquidity rules for banks, harmonised rules for managing failing banks and improved protection for depositors. Collectively, this new legislative base, and the accompanying bodies and authorities, form what is known as the EU Banking Union.

2. The Banking Union has two institutional pillars. The first is common supervision of banks through the Single Supervisory Mechanism (SSM). The second is a procedure for the orderly winding-up of banks¹, the Single Resolution Mechanism (SRM). A third pillar has been proposed in the form of a European deposit insurance scheme. This report focuses on the Single Resolution Board (SRB), which, together with national resolution authorities (NRAs) within the euro area, embodies the ‘centralised power of resolution’ through the SRM to deal with failing banks.

3. The SRB and the NRAs are responsible for managing bank resolution processes cooperatively. Resolution aims to allow the bank’s critical functions to continue to operate. If a bank has no critical functions and its failure would not result in a risk to financial stability, the bank will be wound up via normal insolvency procedures. The principle behind the new regulatory framework is to minimise the occurrence of destabilising and disruptive bank failures, while providing appropriate protections to creditors, within a set of EU and national rules. If implemented correctly, this will serve to limit fiscal costs as well as increasing financial stability supporting economic growth.

4. Since 2013 the EU has been developing a set of harmonised rules for the supervision and resolution of banks. These are known conceptually as the ‘Single Rulebook’. With regard to resolution (see details in ***Annex I***), the Single Rulebook mainly comprises the Single Resolution Mechanism Regulation (SRM Regulation), the Bank Recovery and Resolution

¹ The term ‘bank’ in this report refers to the entities named in Article 2 of the SRM Regulation.

Directive (BRR Directive), Commission delegated regulations and European Banking Authority (EBA) standards and guidelines.

Role of the Single Resolution Board

5. The SRB is responsible for the resolution, when necessary, of all significant banks in the euro area, as well as less significant banks operating across borders². A cross-border less significant bank consists of a parent company located in the euro area and at least one subsidiary located in a different Member State of the euro area. As of January 2017 the SRB covered 141 banks, representing over 80 % of total banking assets in the euro area. NRAs are responsible for the resolution of all other banks at national level, approximately 3 250 legal entities³.

6. The main tasks of the SRB are:

- (a) to draw up resolution plans for all banks under its remit and set the level of liabilities and own funds of types which might be bailed in in a resolution (a safety-buffer known as the minimum requirement for own funds and eligible liabilities (MREL));
- (b) to adopt resolution decisions on the action to be taken in the context of a bank resolution;
- (c) to ensure harmonisation and consistency within the SRM;
- (d) to administer the Single Resolution Fund (SRF), which financially supports the resolution processes in certain circumstances⁴.

7. Pursuant to the SRM Regulation, the SRB was set up in August 2014 and became an independent agency from January 2015. It was provisionally managed by the Commission

² Article 7(2) of SRM Regulation and <https://srb.europa.eu/en/node/44>

³ <https://www.bankingsupervision.europa.eu/banking/list/who/html/index.en.html>

⁴ The SRF is composed of contributions from banks in the euro area. To the extent that losses are passed on to the SRF it can only be used if shareholders or creditors, including bondholders, have already absorbed losses of at least 8 % of total liabilities to resolve the bank (Article 27(7) and Article 76(3) of SRM Regulation).

(for a matter of months) before its executive board members took office. It is headquartered in Brussels and had approximately 170 staff at end 2016. It is essentially still a start-up entity.

8. The SRB takes its decisions in Executive Sessions and Plenary Sessions. The first are attended by the Chair, the Vice-Chair, and four permanent members (who are not NRA representatives). The Chair (or the Vice-Chair) and the four permanent observers vote at Executive Sessions. Those which deal with a specific bank are also attended by a representative of the NRA from the particular Member State ('extended' Executive Session). Plenary Sessions are attended by a representative of each NRA and must be involved in resolution decisions if the SRF has provided support exceeding 5 billion euro (or in the case of liquidity support exceeding 10 billion euro) for the resolution in question.

The SRB's interaction with other authorities

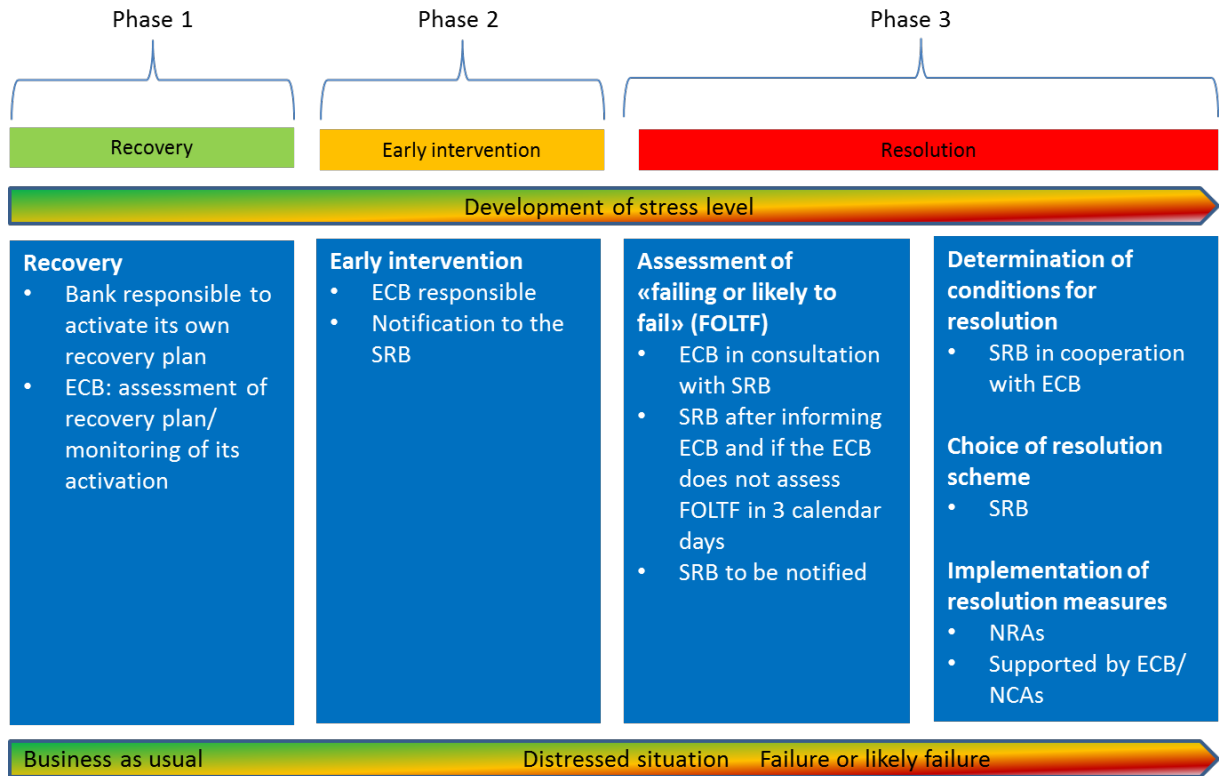
9. The procedure for dealing with a bank in financial difficulty potentially has three operative phases (see **Figure 1**) following preparation and planning. The first is the recovery phase, where the bank is required to implement actions set out in its own recovery plan. The recovery plan is assessed by the supervisor, which is the ECB for banks of significant importance in the euro area.

10. The next (more serious) phase is early intervention, where the supervisor is empowered to enforce specific measures. The SRB is not a decision-maker in the first two phases but has a shared responsibility for monitoring of the conditions of the bank and prepares potential resolution actions as mentioned in the next phase.

11. The third phase is resolution, and it is here that the role of the SRB becomes crucial. A resolution is triggered if the ECB informs the SRB that a bank under its supervision is considered to be 'failing or likely to fail' (FOLTF), or if the SRB independently makes the same assessment. The SRB may decide to place an entity under resolution only if the following conditions are also met, i.e. there are no other alternative measures available and the resolution (rather than the application of insolvency rules) is deemed to be in the public interest. Because the system involves the ECB, the SRB and various other national and

European authorities, high quality communications and mutual understanding are essential to success.

Figure 1 - From recovery to resolution



Source: ECA, adapted from the ECB.

12. The SRB can only adopt a resolution scheme involving the use of the SRF if the Commission has decided that this is permissible under State aid rules. The Commission subsequently approves the amount of the Fund provided for in the resolution scheme.

AUDIT SCOPE AND APPROACH

Audit scope and methodology

13. We examined whether the SRB is equipped to carry out bank resolutions effectively. In particular we analysed:

- (a) the quality of the SRB’s resolution planning for individual banks (see **paragraphs 24 to 83**);

(b) whether the SRB is adequately set up to comply with its statutory framework for resolution planning (see **paragraphs 84 to 102**); and

(c) whether the SRB has adequate human resources to carry out the tasks entrusted to it and whether the cooperation framework is adequate (see **paragraphs 103 to 142**).

14. This report will provide conclusions and recommendations (see **paragraphs 143 to 158**) based on this structure.

15. In relation to (a), we examined whether the SRB's resolution plans are appropriate and systematic and include assessments of resolvability and the determination of MREL.

16. For this purpose the audit population consisted of the 58 complete resolution plans which the SRB had prepared for banks up to the end of January 2017. Out of these plans, the SRB was willing to provide and we examined five key chapters (see **paragraph 26**) looking at eight examples of each chapter drawn at random from this population, with no more than two chapters from any one plan, meaning a total of 40 chapters (covering 31 different banks). The SRB removed from the selected chapters all bank-specific data and data originating with the ECB. This approach allowed the audit team to look in some detail at critical aspects of the plans and to draw important conclusions, but did not allow for a full understanding of their completeness and internal consistency, requiring us to seek additional information (see **paragraph 36**), which was provided for three banks.

17. In relation to (b), we assessed whether the SRB applies a suitable system of rules, including manuals, guidelines and frameworks for resolution planning.

18. In relation to (c), we assessed whether the SRB has engaged the right number of staff with appropriate skills and offered them further training. We also examined the effectiveness of the SRB's cooperation with NRAs and the ECB.

19. In carrying out our audit we used criteria derived from the following sources:

(a) legal requirements in the SRM Regulation and the BRR Directive;

(b) the Commission Delegated Regulation specifying the content of resolution plans;

(c) the Financial Stability Board list of key attributes of effective resolution regimes for financial institutions; and

(d) the four lines of defence model from the Financial Stability Institute⁵.

20. We carried out most of the audit field work from October 2016 to July 2017, in respect of resolution plans adopted no later than January 2017.

21. The audit evidence consists of information gathered through meetings and interviews with SRB staff, as well as the review of internal SRB documentation, publicly available data, SRB representations⁶ (where appropriate) and a survey of 20 NRAs⁷.

Access to evidence and confidentiality issues

22. The audit rights and the mandate for this performance audit come from the general provisions of Article 287 TFEU, which grants the European Court of Auditors full access to all documentation that is necessary for the audit task. In the course of the audit, the SRB argued that special confidentiality issues, arising from financial stability concerns, apply to the SRB's bank-specific data and practices (see also ***paragraph 16***). The Treaty does not provide any particular exemptions in this regard, but we were able to reach a special arrangement concerning the treatment and protection of this type of data, and we worked with SRB management to reduce any real or apparent risks while ensuring access to data necessary for the audit, including by working extensively with anonymised data, having regard to the needs of the audit.

23. The cooperation and assistance of the SRB did allow us to carry out extensive audit work and to draw with confidence the conclusions outlined in this first special report on its operations. Documentation was made extensively available, but with some significant exceptions. In particular, among other implications, the absence of certain policy documents

⁵ <http://www.bis.org/fsi/fsipapers11.htm>.

⁶ Written statements from the SRB in response to evidence requests.

⁷ Although there are 19 participating Member States in the SRM, Spain has two authorities dealing with resolution, making a survey population of 20.

(which the SRB represented as existing only in a draft form), meant that we did not fully assess whether the SRB's policies are entirely in line with the Single Rulebook, and access principally to anonymised data in relation to resolution plans meant that we did not assess their completeness and internal consistency. Nonetheless, we were able to form some well-evidenced conclusions on resolution plans, as will be evident from this report (see [Annex II](#)).

OBSERVATIONS

Resolution plans: still very much a work in progress

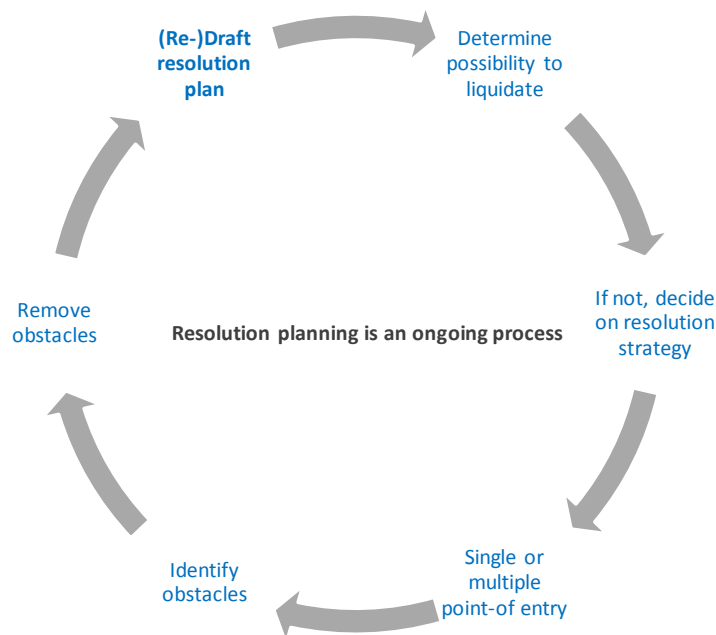
24. This section examines the key elements in resolution plans prepared by the SRB, and reports findings relating to compliance with the Single Rulebook.

Planning in progress

25. Resolution planning, the SRB's permanent operational task, applies to all of the banks under its remit, not just those regarded as being in difficulty. The resolution planning process starts with the drafting of a resolution plan. In this context the SRB needs to determine the bank's critical functions and core business lines. At the next step, the SRB assesses whether the bank can be liquidated under national insolvency proceedings; this is the default approach unless the SRB deems resolution to be in the public interest. If a public-interest decision is taken, the SRB is required to work out a resolution strategy tailored to the bank's specific circumstances. That done, it then considers the likely impediments to effective resolution of the bank⁸, as the resolution plan should address how to mitigate any such impediments. [Figure 2](#) illustrates the resolution planning process.

⁸ Article 17(5)(g) of BRR Directive.

Figure 2 - Resolution planning process⁹



Source: SRB.

26. A resolution plan contains the following key chapters¹⁰:

- (a) Strategic business analysis: determining the bank's critical functions and core business lines;
- (b) Preferred resolution strategy: this chapter assesses the feasibility and credibility of the resolution strategy;
- (c) Financial and operational continuity: an assessment of the financial and operational prerequisites for ensuring continuity in resolution;

⁹ The figure mentions single and multiple "points of entry". This term refers to the number of legal entities to which resolution actions will be applied by the SRB. A single point of entry means that only to one entity resolution actions will be applied e.g. the holding company of a banking group, while a multiple point of entry approach provides that to more than one entity resolution actions will be applied e.g. several subsidiaries.

¹⁰ Page 19 of SRB's introduction to resolution planning: <https://srb.europa.eu/en/node/163>.

- (d) Summary of the assessment of resolvability: an assessment of the existence of substantive impediments to resolvability and how they can be removed. In this chapter the SRB also determines MREL;
- (e) Management summary.

SRB's approach to resolution planning

27. The SRB prepares resolution plans in four phases. It starts with a transitional resolution plan (TRP), which it subsequently updates and expands.

- (a) TRPs (or phase one plans) focus on aspects of the strategic business analysis. They are not subject to approval by the SRB meeting in an extended Executive Session (see **paragraph 8**) and are mainly for internal use.
- (b) Phase two plans are more comprehensive than TRPs and are subject to adoption by an extended Executive Session (see **paragraph 8**). They are sent to resolution colleges for a decision but do not include a determination of substantive impediments or MREL.
- (c) Phase three plans include a determination of the MREL buffer at consolidated level.
- (d) Phase four plans include a determination of substantive impediments and MREL at consolidated and single entity level.

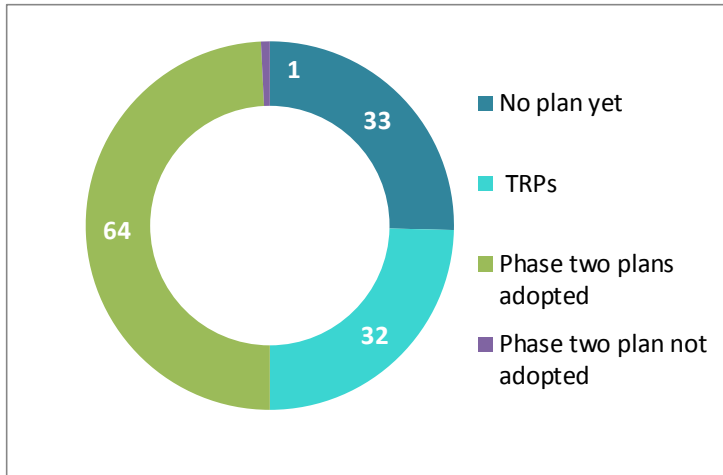
28. As of January 2017, the SRB was tasked by the legislator with adopting 130 resolution plans¹¹, with no provision in the legislation for any intermediate steps. It has so far fallen short of this target owing to a lack of resources (see **paragraphs 103 to 124**). By the end of January 2017 it had prepared 65 phase two plans, 64 of which had been adopted¹², and prepared TRPs for a further 32 banks (see **Figure 3**).

¹¹ In January 2017, 141 banks were under the SRB's remit (eight global systemically important banks, 118 other significant banks and 15 cross-border less significant banks). However, eleven were considered to be part of a group so only 130 resolution plans were required.

¹² The SRB had adopted 58 resolution plans for which it was the group-level resolution authority and six resolution plans for which another resolution authority had that role (see Article 2(1)(44) of BRR Directive).

29. The legislation¹³ requires the SRB to determine a specific date by which the first Single Rulebook-compliant resolution plans are to be drawn up, but the SRB has not done this.

Figure 3 - Status of resolution plans at end January 2017



Source: ECA based on SRB data.

30. In 2016 the SRB's internal resolution teams had started preparing comprehensive phase two plans. According to SRB representations these were detailed and ran to between 150 and 300 pages. In the second half of 2016 the SRB in Executive Session took a policy decision to prepare shorter resolution plans of approximately 40 pages. The decision was taken in order to facilitate the decision making process and make it more manageable.

31. Although banks vary hugely in complexity, this indicative limit on length applies to all plans. It means that much necessary and/or compulsory information is not included, as discussed in the next section.

32. **Figure 4** summarises the SRB's structure for resolution plans from 2017 onwards and shows to which stakeholders each part of a plan is sent. Not all stakeholders receive the same set of information from the SRB. Significantly, neither resolution colleges nor the SRB in Executive Session are supplied with the background technical notes, which include important information such as alternative resolution strategies. There is no provision for a

¹³ Article 8(12) of SRM Regulation.

limitation in sharing of relevant information with resolution college members in the legislation¹⁴.

Figure 4 - Structure and recipients of resolution plans, 2017 onwards

	Plan	Annexes	Background technical notes	Presentation slides
Content	Results and high-level summary of the required analysis	Standardised annexes such as lists (contact persons, IT systems etc.), liability data/EBA templates, resolvability assessment, reasoned MREL proposal, multiple point of entry plans, bank proposals on how to remove impediments	Technical analyses/underlying assumptions underpinning main components of the resolution plan (for example critical functions, access to financial market infrastructure, resolution tools/alternative strategies, access to short-term liquidity, asset encumbrance, operational continuity)	For presentation of the plan to resolution colleges (RCs)
Shared with ¹⁵ :	SRM, extended Executive Session, RC members	SRM, extended Executive Session, RC members	SRM, ECB	RC members, RC observers

Source: Adapted from the SRB.

33. The SRB's 2017 work plan envisaged the preparation of 27 TRPs out of the 33 plans that had not started by end-January 2017. The 32 TRPs already existing were to be taken to phase two, and the 65 existing phase two plans were to progress to phase three. The deadline was the first quarter of 2018.

34. Considering the progress made by end-July 2017, the expected workload and the SRB's current staffing, this plan seems overly optimistic (see also **paragraphs 114, 124 and 125**).

¹⁴ Article 88(3) of BRR Directive requires only that non-EU NRAs be made subject to confidentiality requirements.

¹⁵ In the context of this table, "SRM" means that resolution plans are shared with NRAs participating in the internal resolution team. RC members are defined in Article 88(2) of BRR Directive. RC observers are, for example, the resolution authorities of non-EU countries (Article 88(3) of BRR Directive) or the NRAs when the SRB participates as a RC member.

Overview of resolution plan content

35. The Single Rulebook provides guidance on the content of resolution plans. To assess the SRB's compliance, we developed a large set of criteria based on the Single Rulebook's requirements for resolution plans, and examined the sampled resolution plans. As will be shown in the following paragraphs, the resolution plans themselves did not meet more than a minority of the criteria applied.

36. The SRB told us that, although detail might be lacking in the resolution plans themselves, it had considerable additional background information to supplement nearly half of the expected total plans. While this information was not formally part of the resolution plans, it did nonetheless form an important part of the informational base underlying the SRB's understanding of and decision-making in relation to the banks within its remit. Examining this material for three banks reassured us that there were fewer gaps in the SRB's data than might be deduced from a reading of the resolution plans alone. Nonetheless, important deficiencies remain in relation to the Single Rulebook requirements.

Key elements of resolution plans still missing

37. The following paragraphs set out areas in which our assessment showed that the SRB's resolution plans did not meet the requirements of the Single Rulebook.

Strategic business analysis

38. In this area, the resolution plans fell short in a number of ways. For example, they did not adequately describe the structure of the banking groups concerned or assess business models, governance or ownership for resolution planning purposes, while the only financial information available was general and consolidated rather than specific to each material entity as requested by the resolution planning manual. These shortcomings were partly, but not fully, mitigated by the availability of further data in background information and notes.

39. Importantly, the sampled plans were incomplete with regard to critical internal and external organisational interdependencies¹⁶. While the SRB has information on material counterparties, we were unable to find any analysis of it which would identify potential contagion risk.

Critical functions

40. The strategic business analysis should assess which functions are so critical that their cessation would have an impact on financial stability or the real economy. The assessment should also consider to what degree a bank's functions could be substituted for by those of another bank or banks in the market. The SRB's rationale in making its assessments was not always clear in the sampled chapters.

41. The SRB has nonetheless made significant progress by providing guidance to internal resolution teams through a template for gathering data on critical functions, to be applied from 2017 onwards.

42. The SRB was unable to provide an overview of critical functions for every bank under its remit. Most of the sampled chapters treated deposit-taking as a critical function. Some resolution plans differentiated between retail and corporate deposits, but not all.

43. The potential need to exempt certain liabilities such as non-covered, preferred deposits from bail-in, arising from their status as part of a 'critical function', reduces the amount of liabilities available for bail-in and makes it all the more important to provide for an adequate MREL buffer. However, the resolution plans developed to date have not determined an MREL amount, which increases the probability that banks will be deemed unresolvable.

¹⁶ For example, intra-group assets and liabilities, intra-group own funds, intra-group derivatives and intra-group loss transfer agreements were often missing.

Preferred resolution strategy

Assessing the credibility and feasibility of liquidation

44. Before the SRB determines a resolution strategy it has to assess whether liquidation under normal insolvency proceedings is credible and, if so, whether it is also feasible.

45. When assessing the credibility of a liquidation, the SRB considers the likely impact on the financial system. Specifically, it needs to assess whether liquidation would achieve the objectives of resolution¹⁷, which include the protection of guaranteed deposits¹⁸.

46. In its assessment of credibility, the SRB stated in several cases that the applicable deposit guarantee scheme (DGS) was unable to meet the requirements of the DGS Directive, nor did it have sufficient funds at its disposal to handle the liquidation of a significant bank. Hence it is more difficult to achieve the objective of protecting covered deposits through liquidation.

47. To assess the feasibility of liquidation, the SRB must examine whether the bank's management information systems are capable of reporting the information required by the DGS Directive. For example, the total value of covered deposits per depositor is needed because the DGS is required to pay out the guaranteed amount of 100 000 euro per depositor within a given timeframe¹⁹.

48. We did not find any information in the sampled resolution plans regarding the amount of available DGS funding to facilitate such an assessment.

49. There is no legal obligation on the national DGSs to cooperate with the SRB. Despite this, the Delegated Regulation suggests that the SRB consults the national DGSs²⁰ although the SRB has not done so.

¹⁷ Article 24(2) of Commission Delegated Regulation (EU) 2016/1075.

¹⁸ Article 14(2) of SRM Regulation.

¹⁹ Article 8 of DGS Directive.

²⁰ Recital 20 to Commission Delegated Regulation (EU) 2016/1075.

50. While most resolution plans concluded that liquidation was not credible, we only found loosely-worded reasons for these conclusions – for example that there would be substantial adverse impacts on the national banking sector. The more specific details required by the Single Rulebook²¹ were not provided.

51. A resolution action may be taken, in the public interest, if it is necessary for the achievement of and is proportionate to the resolution objectives. It must also have been determined that liquidation would not meet the resolution objectives to the same extent. The only statements of this kind in the resolution plans were very general and lacked further detail.

52. The compulsory statement concerning how liquidation would affect the bank's reliance on extraordinary public support was also lacking²².

Identifying a preferred resolution strategy

53. By end-January 2017 the SRB has developed resolution strategies on the basis that potential impediments (which could be substantive) will be addressed at some point in the future, when MREL quotas will also have been set.

54. We found no preferred resolution strategies that also dealt with unanticipated, short-term developments. Therefore, should resolution decisions become necessary in the near future, they are likely to deviate from the plans.

55. The Single Rulebook requires a description of any alternatives considered for the preferred resolution strategy in the event that it cannot be implemented²³. We found that the vast majority of sampled chapters did not address alternatives to the preferred strategy.

²¹ Article 24(2) of Commission Delegated Regulation (EU) 2016/1075.

²² Article 24(1) of Commission Delegated Regulation (EU) 2016/1075.

²³ Recital 22 and Article 22(2)(e) of Commission Delegated Regulation (EU) 2016/1075.

56. The Single Rulebook requires the resolution strategy chapter to provide an estimated timeframe for executing all material aspects of the plan²⁴. However, none of the sampled chapters included such a timeframe.

Determining resolution tools and resolution powers

57. In the vast majority of plans, the chosen resolution tool is the open bank bail-in. In this scenario, the bank would ideally close on a Friday and open again as normal the following Monday, bail-in resolution action having been taken over the weekend.

58. Some resolution plans indicate that banks' IT systems would have problems delivering the necessary data in time for the bail-in.

59. An internal SRB review has examined a range of operational issues relating to the bail-in tool. The review concludes that further work needs to be done, in particular on the expected timeframe and the practicalities of cascading write-downs and conversions. The SRB is not scheduled to provide internal guidance on the implementation of bail-in until the fourth quarter of 2017, although the vast majority of resolution plans already provide for use of this tool.

60. Bailing in deposits and bonds in the space of 48 hours would be an immense technical challenge for most banks given the complexity of their management and IT systems. Before a bail-in plan can be executed, management systems must be able to calculate the amount available for bail-in. The SRB's current practice is not to require banks to test the potential use of the bail-in tool in order to demonstrate its feasibility.

61. In our view, a bank's loss-absorbing capacity will be overstated if it includes liabilities which cannot be bailed in within the timeframe envisaged by the resolution strategy.

62. The Commission has recently proposed introducing an EU-wide moratorium tool which could be used, for example, to suspend bank payment obligations for up to five working days. Under the proposal, although the supervisor would be required to consult the

²⁴ Article 22(2)(d) of Commission Delegated Regulation (EU) 2016/1075.

resolution authority, the latter would not itself be empowered to activate the tool²⁵. The option of a moratorium tool for use by the resolution authorities themselves could provide flexibility (not least for the bank concerned) in preparing for a bail-in.

63. The Single Rulebook requires an assessment of the enforceability of resolution tools²⁶. We did not find this information in any of the sampled resolution plans.

64. The Single Rulebook requires the SRB to mention the resolution powers it intends to make use of in resolution plans²⁷. However, we found no such mention in any of the samples. These powers may include, for example, the power to extend maturities or terminate specific contracts, rather than acting globally as in the case of moratoriums. The powers are mentioned in the resolution scheme template. However, in determining which should be used it is necessary to analyse and understand the type of liabilities to which the powers would be applied, and the sampled resolution plans did not contain such detailed information.

Assessing the feasibility and credibility of the preferred resolution strategy

65. We found no assessment of the feasibility of the selected resolution strategies in any of the sampled chapters. Consequently, the plans did not conclude as to whether the preferred resolution strategy could be applied effectively and in a timely manner, as required by the Single Rulebook²⁸.

66. Resolution authorities are also required to assess the credibility of a strategy, which means taking into consideration the likely impact of resolution on financial systems and the real economy. However, this assessment too was lacking in the sampled plans. The SRB had

²⁵ Article 29a of the Commission proposal for the amendment of the BRR Directive <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2016:0852:FIN>

²⁶ Article 25(3)(a) and (e) of Commission Delegated Regulation (EU) 2016/1075.

²⁷ Article 10(7) of BRR Directive.

²⁸ Articles 26 to 31 of Commission Delegated Regulation (EU) 2016/1075.

not assessed the potential impact of selected resolution tools (in particular the bail-in tool). Nor had it considered the impact on other financial institutions, SMEs and retail investors²⁹.

Valuation in the context of resolution

67. The Single Rulebook requires a description of the information that is necessary to implement the resolution strategy³⁰. An important part of this is the provision of information on the valuation of the bank for resolution purposes, which is a very complex and time-consuming procedure. We found no statements in this regard in any of the sampled chapters. It follows that the SRB was unable, as required, to assess the feasibility of delivering such information³¹.

Financial and operational continuity

68. The Single Rulebook states that resolution plans must include an analysis of the funding requirements implied by the resolution strategy. The plans we examined, however, did not go beyond general statements on financing in the chapter on financial continuity. Information was lacking on the means of financing branches and subsidiaries located in non-participating Member States during resolution³².

69. The plans also lacked information on the enforceability of service-level agreements in the event of a resolution. Where critical functions are separated, it is not clear whether service-level agreements continue to be enforceable. Many of the plans made no mention of any contingency arrangements, particularly in regard to payment and settlement systems.

Assessment of resolvability

70. A bank should be deemed to be resolvable if it is feasible and credible either to liquidate it under normal insolvency proceedings or to resolve it by applying resolution actions.

²⁹ Article 32 of Commission Delegated Regulation (EU) 2016/1075.

³⁰ Article 22(3)(a) of Commission Delegated Regulation (EU) 2016/1075.

³¹ Article 29(3) of Commission Delegated Regulation (EU) 2016/1075.

³² Article 22(5) and (2)(d) of Commission Delegated Regulation (EU) 2016/1075.

71. In none of the sampled documents did the SRB conclude categorically whether the bank could actually be resolved. While some chapters contained a brief summary of the assessment of resolvability, in most of them the summary was limited to a few of the identified potential impediments.

72. The SRMR requires the SRB to notify the EBA in a timely manner when a bank is deemed not to be resolvable. As of July 2017, the SRB had not sent any such notifications to the EBA.

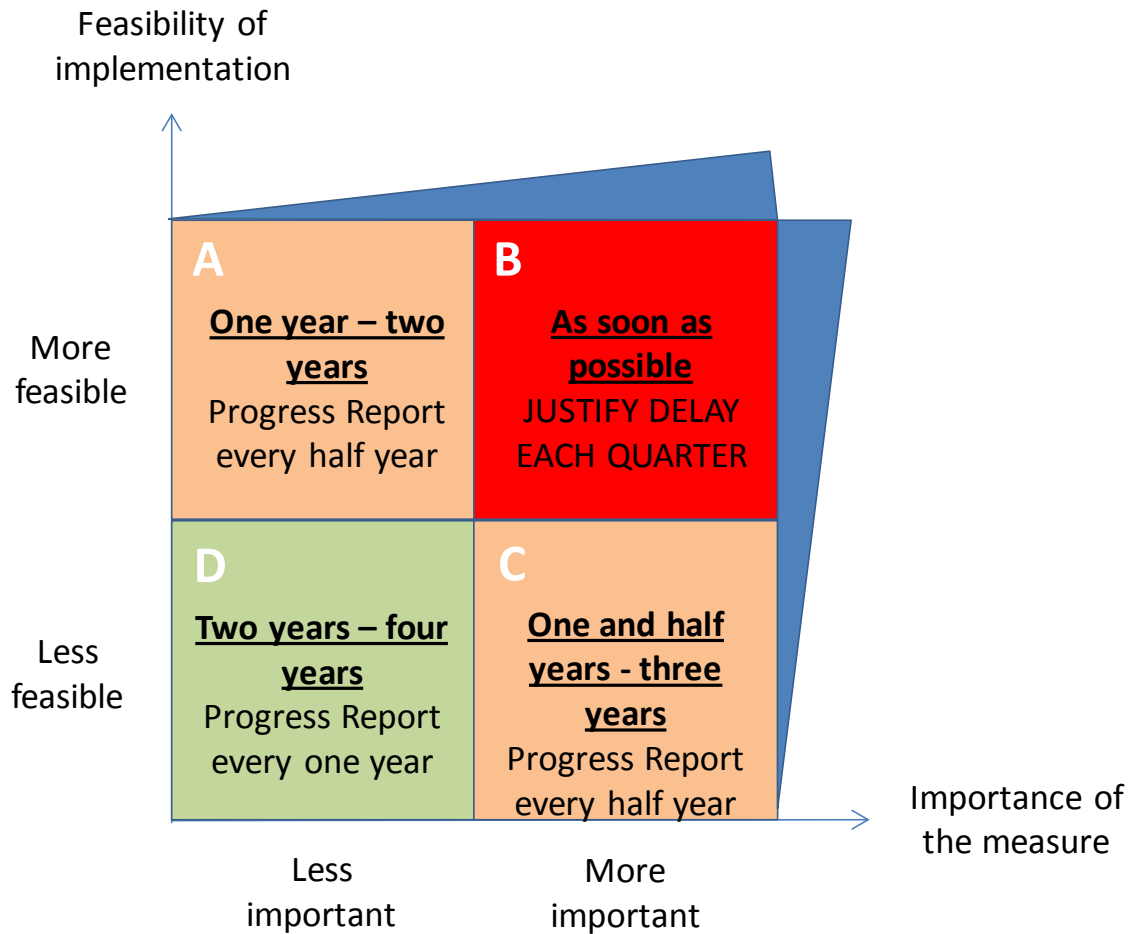
Substantive impediments

73. The Single Rulebook requires the SRB to identify and address substantive impediments to resolutions, classifying them in at least the following categories: (a) structure and operations; (b) financial resources; (c) information; (d) cross-border issues; (e) legal issues. Despite this legal obligation, the process of addressing substantive impediments has not yet begun. In its phase two plans the SRB has not gone beyond identifying potential impediments.

74. According to the SRB, the full process of determining substantive impediments, including the consultation of competent authorities and joint decisions by resolution colleges, will take around one year, and is now not expected to start until 2018.

75. **Figure 5** comes from the resolution planning manual and indicates the expected time span for the resolution of impediments, depending on the feasibility of implementation and the importance of the measure.

Figure 5 - Time span for the resolution of impediments



Source: SRB.

76. As reported in paragraph 28, only 65 phase three plans are expected to be available by the end of the first quarter of 2018. Assuming the resolution plans progress to phase four by mid-2019, banks would have time to resolve all substantive impediments by mid-2022.

Minimum requirement on eligible liabilities (MREL)

77. One of the key parts of a resolution plan is the determination of the minimum requirement for own funds and eligible liabilities (MREL). This is a calculation of the minimum amount of own funds and liabilities (including deposits) a bank needs to hold for conversion or write-down in the event of a bail-in. The SRB has not yet set MREL targets, either at the consolidated level or at that of single entities.

78. Indicative, non-binding MREL quotas calculated at the consolidated level were informally discussed with banks during workshops held in 2016, but they were not shared with resolution colleges. Bank-specific factors, such as the exclusion of certain liabilities from bail-in, substantive impediments and requirements as a result of the supervisory review and evaluation process (SREP), have not been considered so far.

79. Since no MREL requirements have yet been defined, there is no monitoring of actual MREL quotas.

Management summaries

80. The SRB must include a management summary in all resolution plans, covering a summary of items referred to in the legal framework³³. The information in the summaries which we examined falls well short of this requirement. The missing elements are listed in **Annex III**.

Disclosure of resolution plans

81. The SRB is required to disclose all significant parts of resolution plans to the banks concerned. So far banks have only received limited indicative information, such as MREL calculations at group level or possible impediments. The SRM Regulation also requires the SRB to take account of bank feedback. However, the resolution plans we examined contained no comments from the banks concerned.

82. The SRB argues that the various components of the Single Rulebook unintentionally treat the matter of disclosure in different ways. While the SRM Regulation³⁴ refers to significant elements of a resolution plan, the BRR Directive³⁵ and the Commission Delegated Regulation³⁶ only require disclosure of the management summary.

³³ Article 22(1) of Commission Delegated Regulation (EU) 2016/1075.

³⁴ Article 8(6) of SRM Regulation.

³⁵ Article 10(1) of BRR Directive.

³⁶ Article 72 of Commission Delegated Regulation (EU) 2016/1075.

Limited rulebook compliance

83. To summarise our observations in paragraphs 37 to 82, the sampled plans do not comply with the Single Rulebook. The degree of compliance improves if consideration is given to the background information mentioned in paragraph 36, although we note that this background information is not compiled for all banks.

Resolution planning guidance needs improvement

84. We audited the SRB's own system of manuals and procedures for resolution planning and found that basic guidance exists but that more work is needed.

Updates and improvements needed to manuals and templates

85. Appropriate procedures, manuals and guidelines are necessary to ensure a proper and consistent approach to resolution planning among the many actors in the process. The SRB made appropriate arrangements to lead this process by preparing a resolution planning manual, which is drafted with the help of NRAs. The SRB is currently also developing a number of internal and external policy documents.

86. The aim of the resolution planning manual is to promote a consistent approach to resolution planning at the SRB and NRAs. The SRB adopted it as a draft internal document in March 2016. Since that time internal resolution teams have been required to use it when preparing resolution plans. The resolution planning manual was frozen (not subject to updates) for one year in order to collect feedback on the internal resolution teams' first experiences of working with it.

87. In addition to the above, the SRB has developed or intends to develop reporting templates³⁷, with the objective of ensuring that all the necessary information it receives from banks is in a standard format for its resolution planning and decision-making. These

³⁷ The SRB templates cover liability data, critical functions, financial market infrastructure and core business lines (under development).

templates supplement the information already supplied by the ECB and the EBA templates³⁸. In specific cases, the SRB may also ask a bank directly for information.

88. For the reasons set out below, the resolution planning manual needs to be further developed. However, the SRB has already postponed a planned update twice, first to the end of 2017 and then to the second quarter of 2018.

89. The first reason for updating the resolution planning manual is to include policy guidance on a number of specific issues. For example, as required by the Single Rulebook the resolution planning manual deals with the determination of substantive impediments, but it does not require this to be addressed in phase two resolution plans.

90. Secondly, the resolution planning manual does not consider certain important legislative provisions. For example, although the Commission Delegated Regulation³⁹ requires resolution plans to include a management summary, the resolution planning manual does not refer to this requirement. Similarly, although the resolution planning manual requires an assessment of resolvability, the template it gives for the management summary does not provide for such a statement. Also, neither the chapter on the management summary nor the chapter on the assessment of resolvability states the requirement to notify the EBA if a bank is deemed not to be resolvable⁴⁰.

91. Thirdly, the resolution planning manual needs to be updated to take account of the policy decision in September 2016 to stop drafting comprehensive resolution plans, and instead to prepare condensed versions of approximately 40 pages (see ***paragraph 30***). However, no guidance has yet been provided on the content of condensed resolution plans. This change in the approach to resolution planning happened at a time when many TRPs and phase two plans had already been developed or were under development on the basis of an in-depth analysis. Some NRAs replied in a survey carried out by us that they had been obliged to spend valuable resources on re-drafting resolution plans.

³⁸ Commission Implementing Regulation (EU) 2016/1066.

³⁹ Article 22(2) to (8) of Commission Delegated Regulation (EU) 2016/1075.

⁴⁰ Article 10(4) and (5) of SRM Regulation.

92. The Single Rulebook⁴¹ allows for the application of simplified obligations for certain banks⁴² in the context of resolution planning. As of May 2017, the SRB had not made use of this option for any bank under its remit⁴³, and the resolution planning manual does not deal with the content of simplified resolution plans and the related eligibility criteria⁴⁴. Half of the NRAs in our survey confirmed the lack of SRB guidance in this regard. In the course of the audit we were not provided by the SRB with any policy note on that topic.

93. Besides improvements to the resolution planning manual, there is also some room for improvement to the reporting templates developed by the SRB. One of the aims of these was to obtain information not available from other sources, thus avoiding duplication of work done by banks. There are no links between the SRB and EBA templates, yet they request some parallel information. For example, in the vast majority of cases the SRB's liability data template (LDT) and the EBA's liability structure template⁴⁵ request similar information on derivatives. For 2017, to avoid overburdening banks with data requests where there is an overlap, the SRB allowed banks only to provide data in the SRB template. This shows the complexity of the system as it has been set up.

Policy notes

94. To ensure consistent application of the existing legislation and a harmonised methodology across resolution plans, the SRB has established a detailed work programme, with a number of policy notes to be developed in 2017 and in the first half of 2018. As this

⁴¹ Article 4 of BRR Directive.

⁴² EBA Guideline 2015/16.

⁴³ According to Article 4(10) BRR Directive, the SRB can only apply simplified obligations to less significant banks. Regarding less significant banks under the remit of NRAs, the survey showed that simplified obligations were planned for 2 400 less significant banks.

⁴⁴ The EBA has published a consultation paper dealing with eligibility criteria. It provides guidance when a bank qualifies for the application of simplified obligation. The EBA will publish a final regulatory technical standard after the consultation deadline (8.8.2017).

⁴⁵ Annex (i) of the LTD and Annex V of the EBA template.

provision of policy guidance on key topics is still in progress, it will be difficult to include it in 2017 resolution plans.

95. The SRB's internal timeline for the preparation of policy notes in 2017 was revised in July 2017, resulting in delays to the completion of several notes. Given that the unit responsible for this task is currently heavily understaffed (see ***paragraph 109***), the current target completion dates also appear challenging.

96. At several points in the survey, NRAs said that the SRB should put more emphasis on identifying best practices and providing uniform guidance for resolution planning.

97. The Single Rulebook⁴⁶ requires resolution plans to take into consideration relevant scenarios, including that of idiosyncratic (bank-specific) failure, or failure at a time of broader financial instability or other system-wide events. However, one SRB policy note asks that resolution plans be based only on the idiosyncratic scenario, with other scenarios used to test the credibility and feasibility of the preferred resolution strategy. We found no evidence in the sampled resolution plans that any such tests had been carried out, nor any description of the assumed scenarios for the sampled plans.

98. The SRB's own internal analysis of resolution plans shows that they do not consider sufficient relevant scenarios. The SRB has stated that further guidelines are required for consistently determining which scenario is to be used.

99. A further lack of consistent methodology was revealed in the SRB's own cross-cutting analysis on the first wave of resolution plans (those drafted in 2016). The analysis found that different interpretations of the existing legislation and the absence of a harmonised methodology had led to inconsistencies between plans and an insufficient level of detail. For example, some internal resolution teams performed assessments by business lines and not by legal entities. Several plans considered private banking or asset management services to be critical, while others, in analogous circumstances, deemed these functions non-critical.

⁴⁶ Article 8(6) of SRM Regulation and Article 10(3) of BRR Directive.

Policy on substantive impediments and MREL

100. Two other SRB policy decisions impact the compliance of resolution plans with the legislative framework. Firstly, the Single Rulebook requires resolution plans to include a determination of substantive impediments⁴⁷. This is a consultative process which requires resources, takes around one year and should give rise to follow-up actions by the SRB to resolve the identified impediments. The SRB has taken an internal policy decision to start this process in 2018. Until then (see **paragraphs 73 and 74**) the SRB will do no more than identify potential impediments on which, because they are not deemed “substantive”, it will not take formal action. In our view this interim policy does not meet the legal requirements.

101. Secondly, there is no definitive SRB policy on the calculation of MREL. The SRB has published the preliminary approach it used in 2016⁴⁸, which relied on “informative” MREL targets (see **paragraph 78**). A final policy note on MREL, with a view to setting binding targets, is not scheduled until the end of 2017. Our survey showed that NRAs are particularly keen for the SRB to move forward on this policy note and the one on substantive impediments. Action on these points is important to ensure that plans are in line with the Single Rulebook and banks have sufficient loss-absorbing capacity.

Management controls and quality assurance

102. The SRB provided us with no more than a general description of its internal control and quality assurance frameworks. The balance of findings in this report (see **paragraphs 37 to 82**) reveals weaknesses in these management controls. This is confirmed by the SRB’s own cross-cutting exercise, which found several qualitative shortcomings in resolution plans.

The SRB is seriously understaffed

103. The audit looked at human resources issues from the time of the SRB’s set-up and found a lack of prioritisation of recruitment which is necessary in the start-up phase.

⁴⁷ Article 10(7) of SRM Regulation and Article 17(1) of BRR Directive.

⁴⁸ <https://srb.europa.eu/en/node/201>.

Consistently behind staffing targets

104. The Commission originally estimated that the SRB's staff requirement would be 309 full-time equivalents (FTEs)⁴⁹. This figure was partly derived from benchmarking with the US Federal Deposit Insurance Corporation, which has a similar range of tasks in the field of resolution. The initial plan was for the SRB to reach this number by the end of 2015. In September 2016, the SRB reviewed its staffing needs and increased the original estimate to 350 FTEs, to be reached by 2017. The draft multiannual budget for 2018-2020 foresees a further increase to 410 FTEs by the end of 2019, up 33 % compared to the original estimate.

105. Actual staff numbers have consistently lagged behind target since the very beginning. The initial recruitment campaigns were organised by the Commission. When the SRB took on full responsibility for recruitment in March 2015, it had 35 staff. This number increased to 101 staff by the end of 2015 and to 171 by the end of 2016.

106. The situation is most serious in the recruitment of resolution and policy experts, the need for which was underestimated in 2015 and 2016. There is also a critical shortage of IT and secretarial staff.

107. Staff shortages in resolution planning directorates have significantly affected the resolution planning process. They have particularly impacted the workload of internal resolution team coordinators, most of whom are responsible for more than ten banks. The SRB's duties under the legislation, such as its resolution planning responsibility for cross-border less significant banks, has put additional pressure on already scarce resources.

108. The SRB's establishment plans address its staff requirement in terms of overall numbers and desired status and grades. The SRB has determined how many staff it needs to cover work depending on the size of a banking group. However, it has not assessed the expertise and other skills necessary in individual resolution planning directorates and units. Some directorates lack or are short of specific experts (for example valuation experts) and staff with relevant language skills. Some units have a high proportion of junior staff.

⁴⁹ COM 2013(520) final of 10 July 2013. This figure does not include seconded national experts or trainees.

109. Due to understaffing, important work on policies and guidelines has not been completed. At the end of March 2017, the directorate responsible for resolution strategy, processes and methodology had only one third of its target staff number. To partially compensate for this shortage, the resolution planning directorates were devoting a significant part of their time to policy work and other non-resolution topics (25 % in 2016) instead of focusing on their core business.

110. A high turnover has meant staff shortages in the IT unit, which also lacks an adequate IT system and therefore cannot efficiently support the resolution planning process. The introduction of an improved IT system for resolution planning should be part of the IT strategy which is currently being developed.

111. The SRB's staff shortages have resulted in high rates of overtime, which accounted for around 15 000 hours or 6 % of total working time in the first ten months of 2016.

112. In Europe, bank resolution is a developing field and the profession of resolution expert is still rather new. This being so, most staff recruited to resolution planning posts need to acquire knowledge on the job. Moreover, in the last two to three years the SRB has had to compete heavily with other EU bodies (the Commission and the ECB) and the banking sector for qualified staff⁵⁰. Almost 75 % of the NRAs in our survey stated that it was also difficult to recruit resolution staff to national posts.

113. The SRB has confirmed that recruitment is challenging, owing to lengthy recruitment processes, the limited number of appropriate candidates in a highly competitive labour market, and a shortage of applicants willing to join the SRB on temporary contracts.

114. The SRB has also informed us that it will miss its staffing targets for 2017, making it difficult to fully accomplish its legal mandate. Further, it expects that even in 2020 the total number of staff available to the SRB will not be commensurate with the number considered necessary for it to fully discharge its obligations.

⁵⁰ For example, according to the ECB's 2015 annual report on supervisory activities, it recruited 1074 FTEs: 769 for business areas dealing with banking supervision and 305 for shared services. The 2016 report shows that a further 160 FTEs were approved.

Under-resourced HR function impacts recruitment

115. Recruitment is especially critical for the SRB at present, in its early years, because of the duration of recruitment procedures and the large volumes of staff needed. In its 2015 annual report the SRB identified putting in place an effective HR function as one of the key priorities for its start-up phase.

116. In March 2015, when the SRB took over recruitment from the Commission, its HR team consisted of two people, one of whom worked on recruitment. At the end of 2015, the total number of HR staff had risen to seven, including only two with responsibility for recruitment. In December 2016, the HR team still had limited capacity – the team had consisted of seven staff, of whom just three worked on recruitment.

117. To advertise vacant positions, the HR team has used only limited recruitment channels, such as its own and the EU's recruitment websites, as well as social media, but not the specialised financial press. Moreover, it does not have bespoke recruitment and staff management IT tools. This has resulted in a mistake in the verification of job applications and inefficiencies in the inventory of staff files.

118. The SRB's training programme, some of which is open to NRA staff, focuses on strengthening staff knowledge of resolution basics and raising awareness of real-life resolution cases. Selected training events are examples of good practice. These include case-study presentations aimed at, among other things, developing a common resolution culture, and lunchtime seminars.

Cooperation framework with NRAs and the ECB needs improvement

119. The audit looked at the relationship between the SRB and the NRAs and the ECB, respectively, and found that better information sharing and co-operation is needed.

Lack of clarity in cooperation with NRAs

120. The SRB is required to coordinate and cooperate with the NRAs within the SRM.

121. The SRB decided to set up internal resolution teams for the resolution of all banking groups under its remit, involving a combination of SRB and NRA staff. Internal resolution

teams are always headed by SRB staff. The SRB has established a total of 75 internal resolution teams, some with responsibility for more than one group.

122. The division of tasks between SRB and NRAs is still unclear. At the end of 2016, the SRB established a task force to agree on the operational distribution of work. In our view it is difficult to estimate staff and budget needs without a clear distribution of tasks.

123. The SRMR does not specify the precise extent of the SRB's and NRAs' respective involvement in the internal resolution teams. As a consequence, the SRB does not have control over the composition, seniority, expertise or performance evaluation of the staff assigned by NRAs to work in internal resolution teams. It may only express its views on the minimum number of staff required for an internal resolution team and the level of the NRA contribution. The planned figures for 2017 give a ratio of SRB to NRA staff of 5:6. By comparison, the average ratio of ECB staff to national competent authority (NCA) staff on joint supervisory teams is 1:3⁵¹.

124. The current level of internal resolution team staffing is not sufficient for the work assigned to them. The SRB allocated approximately 60 FTEs to internal resolution teams by end-2016. This number is planned to increase to 170 by the end of 2017, although it is clear that, unless the current task allocation changes, a significant proportion of these staff will continue to be assigned to policy work and other non-resolution topics.

125. The 2017 staff targets were unrealistic, given recruitment difficulties. In 2017, NRAs were planning to assign 155 FTEs to work in internal resolution teams. Thus by the end of 2017, the SRB's average staff allocation for each bank would be 0.9 FTEs, and that of NRAs 1.1 FTEs, giving a total of only 2.0 FTEs per bank. Considering the size and complexity of many banks and the required degree of in-depth planning, this figure appears low.

126. As key coordinator within the SRM, the SRB not only issues guidance to NRAs but is also responsible for consistent application of the legislative framework. To this end the SRB is empowered to request information from NRAs on the performance of their tasks. The

⁵¹ Paragraph 110 of ECA Special Report No 29/2016 "Single Supervisory Mechanism - Good start but further improvements needed" (<http://eca.europa.eu>).

monitoring of NRAs' work on less significant banks is also important since the SRB can take over direct responsibility for c less significant banks in certain circumstances. As of May 2017, the SRB had not used its option to exercise direct power regarding less significant banks. Nor had it yet established a function for the oversight of NRAs. It therefore lacks information about the ongoing work within NRAs.

127. However, the SRB has established an early-warning system under which NRAs are required to notify it about less significant banks showing signs of serious deterioration. In addition, the ECB provides the SRB with a list of high-priority less significant banks, and had identified 93 banks in this way as of May 2017⁵².

128. To ensure consistent application of the legislative framework, the SRB may review NRA draft decisions on, for example, resolution plans, and comment as it feels necessary. In 2016, NRAs focused on significant banks and therefore prepared very few resolution plans for less significant banks. However, in the course of the audit the SRB informed us that NRAs would in future be putting more emphasis on planning for less significant banks. In its 2017 work programme, the SRB announced that it would further develop its role in the SRM by monitoring and assessing draft resolution decisions taken by NRAs on less significant banks under their remit. This would significantly increase the SRB's workload.

129. Soon after it was established, the SRB organised several dry-runs around a simulation of a bank failure, involving the ECB, the Commission, the Council and relevant UK and US authorities. However, no NRAs took part in these exercises, which covered decision-making but not the entire resolution process. Moreover, although the organisation of the SRB, including its staff and IT resources, has changed significantly since then, no further dry-runs have been conducted.

Shortcomings of the cooperation framework with the ECB

130. As the direct supervisor for most banks under the SRB's remit, the ECB should provide the SRB with a wide range of information about these banks.

⁵² <https://www.bankingsupervision.europa.eu/about/ssmexplained/html/hplsi.en.html>.

131. The SRB and the ECB have concluded a memorandum of understanding (MoU) to facilitate cooperation between them. The MoU builds on the legal obligation for the parties to cooperate. As required by the SRM Regulation⁵³, the SRB and the ECB have published the MoU on their websites, but there are four annexes which are unpublished so far.

132. We consider that the MoU and its annexes are not comprehensive enough to ensure that the SRB has all the information it requires from the ECB to perform its tasks in a timely and efficient manner. In the context of resolution preparation, certain information on liquidity and capital that would be useful for the SRB is not automatically shared by the ECB⁵⁴. Instead, the SRB is obliged to make special requests to the ECB for this information, which takes up time and resources. The audit evidence suggested that other information, such as results of on-site inspections, is only shared partially and not always promptly by the ECB. SREP assessments are not shared to the extent required by the Single Rulebook⁵⁵.

133. Furthermore, the MoU does not ensure that the SRB will receive information from the ECB's crisis management division, which would also be helpful for resolution planning. Even general information, such as a list of banks currently monitored by this division, has not been formally shared so far.

134. The MoU provides that the ECB and SRB may agree to participate in each other's on-site inspections. So far the SRB has neither conducted any on-site inspections nor participated in those of the ECB.

135. The SRB is responsible for 15 cross-border less significant banks which are directly supervised by NCAs and only indirectly by the ECB. This incongruence between the two authorities' mandates creates challenges for the SRB. For example, the ECB has some supervisory information on all banks in the euro area, part of which it receives from the NCAs. However, the ECB has not granted the SRB access to the relevant information on the

⁵³ Article 30(7) of SRM Regulation.

⁵⁴ This information is provided by the internal capital adequacy assessment and the internal liquidity adequacy assessment processes collected for SREP purposes.

⁵⁵ Article 4(1) of Delegated Regulation 2016/1450.

15 cross-border less significant banks. The SRB is therefore obliged to establish additional cooperation frameworks involving information-sharing systems with 17 national supervisors⁵⁶, and to organise the transfer of data separately with each one of them. This duplication of effort consumes the SRB's resources and is inefficient.

136. The most important part of cooperation between the SRB and the ECB is crisis management. As outlined in paragraphs 9-11, there are three phases in the procedure for dealing with a crisis bank, one of which is early intervention.

137. The Single Rulebook requires the determination of a set of triggers for the activation of early intervention measures⁵⁷. The EBA has issued a guideline to promote consistent use of these triggers. First the guideline identifies triggers based on the SREP score, which is updated at least annually. The ECB uses this trigger. Second, the guideline indicates that early intervention measures could be triggered by events of significant importance. The ECB states that it also uses this trigger, which is a discretionary approach. The third approach which could be used is to identify triggers based on key indicators. This would provide for a quantitative approach, but is currently not used by the ECB. If a trigger is breached an assessment needs to be carried out by the supervisor whether an early intervention phase should be activated. In accordance with the EBA guideline early intervention is not activated automatically, but breaches of the triggers, including the reasons for not taking a measure, should be clearly documented by the supervisor. Once the ECB has decided to apply early intervention measures it is required to notify the SRB of its decision⁵⁸.

138. An adequate early intervention phase as foreseen by the legislative framework is essential if the SRB is to be crisis-ready. The early intervention notification enables the SRB to update its resolution plan and draft a resolution scheme based on the most up-to-date information. The rules on early intervention also grant the SRB certain specific rights, such as

⁵⁶ The parent companies and subsidiaries of the 15 cross-border cross-border less significant banks are located in 17 different Member States.

⁵⁷ Article 27(1) of BRR Directive and EBA guideline GL/2015/03.

⁵⁸ Article 13(1) of SRM Regulation.

the power to require the bank to contact potential purchasers⁵⁹. However, a bank can be declared “FOLTF” even if there has been no early intervention, and this has happened in 2017.

139. During the early intervention phase, the ECB and the SRB need to cooperate closely on monitoring the bank and share all information necessary to update the resolution plan and prepare for resolution.

140. The ECB and SRB are expected to ensure consistency in all action during the early intervention phase⁶⁰. To this end, the SRB has drafted, but (as of July 2017) not yet adopted, a set of procedural steps. At present there is no formal framework or ex-ante guidance for dealing with banks in the run-up to a resolution.

141. As mentioned in paragraph 11, the SRB can carry out its own FOLTF assessment in certain circumstances⁶¹. The SRB has not yet established a framework for assessing whether a bank is failing or likely to fail. As point of information as of the end of our audit field work the SRB had not yet made a FOLTF assessment.

142. The current legislative framework gives the ECB permanent observer status at all sessions of the SRB. This status grants it the right to access important information across a wide range of policy areas. However, the SRB does not have the same status at the ECB’s Supervisory Board meetings. The ECB may invite the SRB Chair to participate as an observer in certain meetings, but is not obliged to do so. Although it is represented to us by the ECB that the SRB Chair is, in practice, invited to the meetings where matters falling under the SRB remit are discussed, it is not obliged to do so. This makes the SRB reliant on the ECB’s good will for the flow of certain information it needs for resolution preparation.

⁵⁹ Article 13(3) of SRM Regulation.

⁶⁰ Article 13(5) of SRM Regulation.

⁶¹ Article 18(1) of SRM Regulation.

CONCLUSIONS AND RECOMMENDATIONS

143. The design and setting-up of a resolution framework for banks in Europe was a complex task, as banks cannot be easily wound up in an orderly fashion. A new approach was needed, since prior to the crisis bank resolution was not part of the day-to-day business of bank regulators and supervisors. The SRB is still in its early development. Setting it up from scratch, in a very short timeframe posed a very significant challenge for its management, and the relevant legislation made little provision for a phased approach to implementation, while setting out an enormous agenda of tasks to be met. All of the weaknesses we identified must be seen in this context.

144. For various reasons, the SRB has faced difficulties in recruiting sufficient staff with the appropriate skills. At its very start in 2015 the SRB was already behind its staff target. Inefficient recruitment processes for a challenging task, combined with a highly competitive labour market, then added to the slow pace of recruitment. These staffing delays have negatively impacted all areas of the SRB's activities (in particular resolution planning and policy work) despite the commitment and motivation of its staff.

145. Our overall conclusion is that, at this relatively early stage, there are shortcomings in the SRB's preparation for its tasks, and a number of actions (see below) are needed to improve the system.

Resolution planning is a work in progress

146. The SRB has not yet completed resolution planning for the banks within its remit. While the SRB's approach is to draft plans in several phases, none have yet reached the final phase, and there is much non-compliance with the Single Rulebook (see ***paragraphs 27 and 83***).

147. Problem areas include the determination of substantive impediments and the MREL quota. The SRB has not met its obligation to set a date by which the first resolution plan for each bank is to be drawn up (see ***paragraph 29***).

148. Although the SRB has worked very hard and shown a good deal of commitment to ensuring that, at the very least, preliminary versions of resolution plans are in place for most banks, the plans it has adopted so far cannot be considered to be compliant with the Single

Rulebook. While this problem is somewhat mitigated by the availability of background information on many of the banks for which plans have been prepared, significant deficiencies remain relative to the legislative requirements.

149. The SRMR requires the SRB to notify the EBA in a timely manner when it deems a bank not to be resolvable (see [paragraph 72](#)). We found no explicit statement by the SRB in any of the sampled resolution plans that the bank could actually be resolved (see [paragraph 71](#)).

150. Resolution plans do not contain an assessment of the feasibility of the selected resolution strategies (see [paragraph 65](#)). Consequently, the plans we examined did not conclude as to whether the preferred strategy could be applied effectively and in a timely manner, as required by the Single Rulebook. Nor were there any credibility assessments of the selected strategy (see [paragraph 66](#)). Finally, the SRB does not require banks to test the application of the bail-in tool (see [paragraph 60](#)).

Recommendation 1

The SRB should complete its resolution planning for the banks under its remit as follows:

- (a) determine a date for the completion of a fully compliant resolution plan for each bank under its remit, using a prioritised approach to ensure a high level of preparedness for more risky banks, as well as an action plan for timely implementation;
- (b) include a specific statement on resolvability in all resolution plans, and inform the EBA immediately if it deems a bank not to be resolvable;

- (c) assess, in every resolution plan, the feasibility and credibility of the selected resolution strategy, taking into account whether it can be applied effectively and in a timely manner. To assess credibility, the SRB should examine the possible impact of selected resolution tools on other financial institutions, SMEs and retail investors. The SRB should require banks to conduct tests to show that liabilities can be effectively bailed in within the timeframe envisaged by the resolution plan.

Target implementation date for recommendation (a): as soon as possible
but not later than June 2018.

Target implementation date for recommendation (b) and (c): As soon as possible,
but not later than end-2018.

The system of rules for resolution planning is not yet complete

151. The SRB has not yet put in place a complete system of rules for dealing with resolution planning. Specifically, there is still insufficient or inadequate guidance in the following areas:

- (a) Despite the importance of determining MREL and substantive impediments, SRB and NRA staff have been given incomplete guidance, or none at all, on how to do this for the banks under their remit (see ***paragraph 100***).
- (b) The resolution planning manual has not been updated to reflect key policy changes and legal developments; in its current iteration it provides only limited and non-binding guidance for NRAs (see ***paragraph 88***).
- (c) The policy note on applied scenarios does not meet the requirements of the BRR Directive (see ***paragraph 97***).

Recommendation 2

The SRB should finalise its system of rules for resolution planning. Specifically, it should:

- (a) prepare clear and consistent policies on MREL and substantive impediments, taking into account the current EU regulatory framework. The policies should be applied in all resolution plans as a means of ensuring that banks under the SRB's remit have enough loss-absorbing capacity.

- (b) update the resolution planning manual at least annually to reflect major policy changes, developments in the legislative framework and experience gained, and declare the resolution planning manual binding.
- (c) include in the resolution planning manual guidance in respect of all resolution scenarios required under the BRR Directive.

Target implementation date: June 2018.

Insufficient HR resources

152. The SRB has been understaffed ever since it became operationally independent (see [paragraphs 105 to 110](#)). Despite some recent improvements, the SRB's management has not ensured that the HR function is sufficiently staffed and has not sufficiently prioritised recruitment (see [paragraph 116](#)). Until the SRB comes close to meeting its personnel requirements, staffing of the HR unit itself, to include highly qualified recruitment experts, needs to be an ongoing priority.

153. For want of staff, the SRB has been unable to fully discharge its statutory mandate of drawing up resolution plans, adopting resolution decisions and ensuring harmonisation and consistency within the SRM (see [paragraph 114](#)).

Recommendation 3

The SRB should accelerate its recruitment efforts and staff the HR function appropriately to cope with the demands of recruitment. Particular attention should be paid to engaging resolution and policy experts, including at a more senior level. If staffing targets cannot be met, or if interim measures are required, the SRB should consider alternative solutions, such as increased secondments or outsourcing.

Target implementation date: June 2018.

Cooperation framework with NRAs needs improvement

154. The distribution of operational tasks between NRAs and the SRB, including the division of responsibilities, is still unclear (see [paragraph 122](#)). The current level of internal resolution team staffing is insufficient (see [paragraphs 124 and 125](#)). The staffing of internal

resolution teams is the responsibility of both the SRB and NRAs, and the SRB does not have formal powers to influence the provision of NRA staff to internal resolution teams (see [paragraph 123](#)). There are no regular dry-runs involving NRAs to test the functioning of the resolution process (see [paragraph 129](#)).

Recommendation 4

The SRB should:

- (a) clarify the operational distribution of tasks and responsibilities with NRAs;
- (b) ensure that internal resolution teams are adequately staffed, including by urging NRAs to assign additional staff where appropriate;
- (c) regularly conduct dry-runs of a bank resolution, and should ensure that NRAs are fully involved in these.

Target implementation date for (a): as soon as possible.

Target implementation date for (b): not later than end 2018.

Target implementation date for (c): as soon as possible and then on a regular basis.

MoU with the ECB needs improvement

155. In our view, the current MoU with the ECB does not ensure that the SRB receives all information from the ECB on a consistent and timely basis (see [paragraphs 132 and 133](#)). Moreover, not all parts of the MoU are in the public domain, which is not consistent with the legislative framework (see [paragraph 131](#)). Currently ongoing negotiations between the SRB and the ECB provide opportunity to fully address these issues.

Recommendation 5

The SRB should engage with the ECB with a view to adjusting the MoU to ensure that it receives all information necessary to its resolution function. If amended, the MoU should be published as required by the legislative framework.

Target implementation date: As part of ongoing discussions with the ECB, but not later than

March 2018.

Legislative framework creates challenges for the SRB

156. The current legislative framework means an incongruence between the mandates of the SRB and the ECB respectively. While the SRB is directly responsible for the resolution planning of less significant cross-border banks, the ECB only indirectly supervises them. This places the SRB under an additional administrative burden as it has to communicate directly and separately with many NCAs (see ***paragraph 135***).

157. The current situation, where the ECB has permanent observer status at all sessions of the SRB, but not vice versa, makes the SRB fully reliant on the ECB's good will for the flow of information (see ***paragraph 142***).

158. At present the legal framework does not allow the SRB to impose an operational moratorium on a bank in resolution, and the current Commission proposal to amend the BRR Directive does not provide for such a tool in the future (see ***paragraph 62***).

Recommendation 6

In the light of its experience to date with putting the current framework into practice, the SRB should:

- (a) invite the legislator to adjust the relevant regulations in order to align the mandates of supervisor and resolution authority regarding cross-border less significant banks or otherwise to ensure a full information flow to the SRB;
- (b) invite the legislator to make the flow of information from the supervisor, on banks at risk and other ongoing developments affecting the SRB's remit, more automatic than at present;
- (c) invite the legislator to consider also making the moratorium tool available to the SRB.

Target implementation date: March 2018.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA,
Member of the Court of Auditors, in Luxembourg at its meeting of 28 November 2017.

For the Court of Auditors

Klaus-Heiner LEHNE

President

ANNEX I**OVERVIEW OF THE MOST IMPORTANT COMPONENTS OF THE SINGLE RULEBOOK**

<u>TYPE</u>	<u>Area</u>	<u>Author</u>	<u>Title</u>	<u>Link</u>
Directive	Supervision and resolution	EP, Council	BRR Directive: Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council	http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32014L0059
Regulation	Supervision and resolution	EP, Council	SRM Regulation: Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 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	http://eur-lex.europa.eu/legal-content/en/ALL/?uri=celex:32014R0806
Directive	Prudential requirements and supervision	EP, Council	CRD IV: DIRECTIVE 2013/36/EU of the European parliament and Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC	http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32013L0036
Regulation	Prudential	EP,	CRR: Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on	http://eur-lex.europa.eu/legal-

<u>TYPE</u>	<u>Area</u>	<u>Author</u>	<u>Title</u>	<u>Link</u>
	requirements	Council	prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012	content/EN/TXT/?uri=CELEX:32013R0575
Directive	Deposit guarantee schemes	EP, Council	DGS Directive: Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes	http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32014L0049
Standards, Guidelines, Recommendations and Opinions	Supervision and resolution; prudential requirements; deposit guarantee schemes	EBA, Commission	Binding Regulatory and Implementing Technical Standards; non-binding Guidelines, Recommendations and Opinions	http://www.eba.europa.eu/regulation-and-policy/single-rulebook

ANNEX II**LIST OF EVIDENCE NOT PROVIDED**

No	Document description/title	Date of request
1.	Document elaborating on the role of operational directorates	27 February 2017
2.	Information on the composition of a fully staffed resolution planning unit from the perspective of types of job posts (skills and expertise)	22 December 2016
3.	Background information (analysis) on how the various resolution-related posts were defined	27 February 2017
4.	(Draft) Crisis management manual mentioned in SRB's 2017 work programme	17 January 2017
5.	(Draft) IT strategy and business case	8 February 2017
6.	ECB liquidity information template	17 January 2017
7.	Overview of internal policy decisions	28 April 2017
8.	ECB notifications, under Article 13(1) SRMR, on early intervention or supervisory measures	10 January 2017
9.	SRB feedback to the ECB on recovery plans and related communication	10 January 2017
10.	ECB guidance on assessing resolution plans	10 January 2017
11.	Bank recovery plans	14 March 2017

ANNEX III**LIST OF ELEMENTS MISSING FROM THE SAMPLED MANAGEMENT SUMMARIES**

- Summary of core business lines and critical functions, why they are maintained and which are expected to be separated
- Summary of the resolution timeframe
- Summary of any alternatives of the resolution strategy
- Summary of any alternatives of the decision-making process for implementing the resolution strategy
- Summary of arrangements for cooperation and coordination between the relevant authorities
- Summary of information for the purpose of valuation
- Arrangements for sharing information between the relevant authorities;
- Summary if information according to Article 11 of BRR Directive is up to date
- Summary of arrangements for ensuring access to payment systems to maintain critical functions
- Summary of the assessment on the portability of client positions
- Confirmation that the resolution is not financed by extraordinary public financial support, emergency liquidity assistance or on any non-standardised central bank liquidity assistance
- Summary of measures proposed by the bank or group or required by the resolution authority to address or remove impediments

Reply of the SRB

I. Background

The Single Resolution Board (SRB) together with the National Resolution Authorities of the participating Member States of the Banking Union (NRAs) constitute the Single Resolution Mechanism (SRM), one of the pillars of the Banking Union, whose mission is to ensure an orderly resolution of failing banks and banking groups within the Banking Union, with minimum impact on the real economy and public finances. One of the key tasks of the SRB is resolution planning for the entities and groups within its remit.

As the SRB approaches the third anniversary of its inception and the second anniversary of acquiring its full set of resolution powers, it is a timely moment to take stock of the progress made so far. In that context, the SRB welcomes the European Court of Auditors' (ECA) report, which will help the SRB to make further progress in the performance of this key task.

In this regard, the SRB considers it necessary to highlight the challenges faced during the first years of its operations, the significant progress made by the SRB, together with NRAs, and the way forward to ensure the realization of its vision to become a trusted and respected resolution authority with a strong resolution capacity.

II. Audit scope and approach (paragraph IV of the Executive summary and paragraphs 13-23)

Reply to paragraph IV of the executive summary and paragraph 23

The SRB would like to positively note the harmonious cooperation between the ECA and the SRB throughout the audit. The SRB provided the ECA with extensive access to its records and staff. Any exceptions to such access were driven by the following duly justified reasons:

- requested documents were not yet in place, or only their draft version existed at the time of the audit fieldwork;
- requested documents originated from the ECB or were related to the work of the ECB. In such instances, the SRB asked the ECA to address requests directly to the ECB; and
- requested documents included highly confidential information (i.e. sensitive, bank-specific information for which the SRB is generally bound by confidentiality requirements, such as Article 88 SRMR). In that case, with a view to applying the highest confidentiality standards, the SRB provided the audit team with partial access to certain documents under strict conditions.

III. Resolution Plans (paragraphs V-VII of the Executive summary and paragraphs 24-83)

The ECA highlights that additional work needs to be done on resolution planning, including setting dates for the completion of fully compliant resolution plans.

As a general remark, the ECA examined the key elements in the resolution plans drafted by the SRB in 2016 ("2016 resolution plans") and so its findings do not reflect the progress made during the 2017 resolution planning cycle. Many of its findings have been addressed in the resolution plans which were prepared this year. Moreover, the ECA report includes some forward looking information with regard to the resolution planning cycles from 2017 onwards. The SRB's comments below aim, inter alia, to reflect the SRB's current prioritized approach. The SRB continuously prioritizes its activities. This regular cycle of prioritization is risk based, by weighing probability and potential impact of the risks, the SRB needs to address against each other, and based on the latest information the SRB's working priorities can thus be adapted in a flexible manner.

Reply to paragraph VII:

The SRB has not formally determined individual date for the completion of fully compliant resolution plans for all banks under its remit. However, in accordance with the SRB's prioritized approach, the SRB has already identified banks in light of their i) riskiness (e.g. banks with a "Supervisory Review and Evaluation Process" score (SREP score) of 4) ii) complexity and iii) size (e.g. all GSIBs) and included these in its priority banks. Such banks will be among the first ones to have a binding MREL target at consolidated level in the resolution planning cycle of this year. Moreover, these banks will be among the first wave of banks to have a fully compliant resolution plan. The identification of substantive impediments will start in 2018 and notifications to the European Banking Authority (EBA) as to bank resolvability will follow. The SRB aims to have fully compliant resolution plans for all its banks by 2020. It should be noted that once the SRB determines that any bank has a substantive impediment, scheduled also for 2019, resolution planning for that bank is suspended until that substantive impediment has been removed, as prescribed by Article 17(2) BRRD. The adoption of a fully compliant resolution plan in such case would therefore be delayed.

Reply to paragraphs 30 and 31:

In 2016, with a view to facilitating the decision making process (in and outside crisis) as well as horizontal assessments and comparability between the resolution plans, the SRB decided to include only key information within the resolution plans. These resolution plans included annexes (e.g. on identification of critical functions and core business lines, existence of financial interdependencies) and were further supported by background documents which included the underlying analysis and detailed information. The latter background documents reflect the complexity of each situation and, therefore, they greatly vary in terms of number of pages.

Reply to paragraph 32:

The resolution planning work of the SRB from 2017 onwards provides, in addition to the drafting of the resolution plans and its annexes, for the preparation of "Background Technical Notes" (BTNs). BTNs were introduced to resolution planning as bank-specific SRM internal working documents containing the technical analysis and assumptions underpinning resolution plans, while all information relevant for decision-making on

resolution planning is included either in the main text of the resolution plan or its annexes. During the 2017 resolution planning cycle, internal resolution teams (IRTs) produced BTNs on critical functions, access to financial market infrastructures and operational continuity. Alternative resolution strategies form part of the resolution plans and not the BTNs.

Reply to paragraph 33:

By the first quarter of 2018, it is anticipated that around one third out of 120 banking groups for which the SRB is the group level resolution authority will have so-called "Phase three" resolution plans (i.e. resolution plans more comprehensive than the ones adopted in 2016 and which typically include the determination of MREL target at consolidated level).

Reply to paragraph 38:

With regard to the observations of the ECA on the strategic business analysis, the SRB notes that 2016 resolution plans included the ownership structure and a description of banks' business models, including the identification of critical functions and core business lines.

While the SRB agrees that certain financial information at legal entity level is useful for resolution planning and this is why this was provided in the resolution planning manual, there is no legal requirement to include specific financial information in resolution plans.

Reply to paragraph 41:

In addition to the SRB's progress in the field of critical functions, which is already mentioned in the ECA report, the SRB would like to note that in 2017 it has also developed a policy in respect of assessing relevant data and determining critical functions, which applies from 2017 onwards.

Reply to paragraph 42:

In reply to the ECA's statement that some of the 2016 resolution plans differentiated between retail and corporate deposits, but not all, the SRB would like to note that the critical functions template referred to in paragraph 41 of the ECA's report distinguishes between household, corporate (SME and non-SME) and government deposits as potential critical functions. Therefore, this distinction is reflected in resolution plans as part of the 2017 resolution planning cycle.

Reply to paragraph 43:

The SRB would like to clarify that in accordance with the legal framework, only covered deposits (i.e. deposits up to EUR 100 000) are automatically excluded from bail-in (Article 27(3)(a) SRMR/Article 44(2)(a) BRRD). All other deposits, including preferred deposits, are, in principle, eligible to be bailed in, and may only be excluded from bail-in if the resolution authority exercises, in exceptional circumstances only, its discretion under Article 27(5) SRMR/Article 44(3) BRRD.

In the case that deposit taking is identified as critical function, this does not automatically require the exclusion of these liabilities from bail-in as the ability of the bank to continue to take deposits is not necessarily impaired by the amount of those deposits being reduced following bail in: the infrastructure remains in place to do so and the bank will continue to operate its business post-resolution. Therefore, their exclusion

could be justified only if, in exceptional circumstances, it is considered necessary based on financial stability grounds in accordance with Article 27(5)(c) SRMR/ Article 44(3)(c) BRRD.

Moreover, the SRB would like to note that, in practice, the vast majority of banks within the SRB's remit have significant levels of other types of liabilities ranking below preferred deposits (i.e. deposits of natural persons and SMEs above EUR 100 000), which must be bailed in first and in full before there is any bail-in of preferred deposits. Therefore, the need to exclude preferred deposits from bail-in is less likely to arise in practice as they are less likely to be subject to bail-in.

Lastly, it has to be noted that the SRB will determine MREL targets at consolidated level for priority banks as part of the 2017 resolution planning cycle.

Reply to paragraph 47:

It should be clarified that the resolution authorities are not required to assess a bank's ability to report the information required by a Deposit Guarantee Scheme (DGS) in all cases. Article 24 of Commission's Delegated Regulation 2016/1075 (DR 2016/1075) explains that resolution authorities shall first assess the credibility of normal insolvency proceedings. The feasibility – and hence the ability of a bank to report the necessary information to a DGS – only needs to be assessed, if normal insolvency proceedings are found to be credible. Therefore, in the vast majority of the 2016 resolution plans, such an assessment was not required since liquidation of the bank under normal insolvency proceedings was not considered to be credible.

Reply to paragraph 48:

The SRB would like to note that the legal framework does not require the SRB to include an assessment of the available DGS funding. In particular, Article 24(4) of the DR 2016/1075 requires that, when assessing the feasibility of the liquidation, the SRB has to assess only the capacity of the bank to provide the relevant information.

Moreover, the level of *ex ante* funding of the DGS does not represent the full amount of funds which are available to the DGS, since the Directive 2014/49/EU (DGS Directive or DGSD) provides for additional sources of funding, such as *ex post* funding, for the DGS.

Reply to paragraph 60:

The inadequacy of banks' information systems for all resolution purposes, including bail-in, has been identified as a potential impediment to resolution for many SRB banks. The SRB has requested its banks to improve their management information systems to address this issue and the EBA has convened a working group to provide further guidance to banks as to capacities expected of their management information systems to meet resolution authorities' requirements.

Reply to paragraph 61:

The bail-in of liabilities is legally exercised by an administrative order and therefore, takes effect at the time of that order. The subsequent implementation of the bail-in may take time, but the liabilities will not have escaped bail-in during this implementation period.

Reply to paragraph 62:

See below the reply to paragraph XI of the Executive summary (see Section VII of the present reply).

Reply to paragraph 63:

With regard to the enforceability of the resolution tools, Article 25(3)(e) of the DR 2016/1075 refers to "*the enforceability of resolution tools which would be applied, in particular in third countries*". This paragraph has to be interpreted as referring only to the enforceability of resolution tools in third countries and not in the EU, since according to Article 66 BRRD, resolution actions adopted in one Member State shall be enforced in other Member States. Therefore, there is no need to do the analysis of the enforceability when the governing law is that of an EU Member State.

Reply to paragraph 66:

The SRB would like to note that to the extent that a bank has large volumes of retail bond issuance, this has been identified as a potential impediment to successful use of the resolution tools and banks have already been encouraged to reduce the amount of such issuance going forward.

Reply to paragraph 67:

The inadequacy of banks' information systems for all resolution purposes, including valuation, has been identified as a potential impediment to resolution for many SRB banks. See the SRB's reply to paragraph 60.

Reply to paragraph 69:

The SRB would like to note that in the first half of 2017, guidance notes on operational continuity in resolution and financial market infrastructures (FMIs) have been developed and therefore the 2017 resolution plans will include more detail in this regard.

Reply to paragraph 76:

See the SRB's reply to paragraph 33.

Reply to paragraph 77:

As part of the 2017 resolution planning cycle to be implemented in 2018, the SRB will set binding MREL targets at consolidated level for the priority banks.

Reply to paragraph 78:

The SRB would like to note that the SREP score, among other factors (e.g. size, complexity), was used in determining the list of priority banks, who will be the first to have a binding consolidated MREL target as part of the 2017 resolution planning cycle.

When setting the binding consolidated MREL target, the SRB will take into account the Pillar 2 capital requirements of the bank, which reflect the supervisory assessment, as banks with higher SREP scores typically face higher Pillar 2 capital requirements. The Pillar 2 capital requirements play an integral part in calculating both the loss absorption amount and the recapitalisation amount of a bank's MREL and is used by the SRB in setting its MREL targets.

However, the SRB has historically only been provided with a bank's SREP score and a copy of the letter to banks outlining its Pillar 2 capital requirements. At this stage, the SRB has not been provided with a detailed analysis or assessment supporting a bank's SREP score, thus such analysis or assessment is not used to further inform a bank's MREL target. In the context of the revision of the MoU with the ECB, it is foreseen that the SRB will have access to the detailed SREP assessment for priority banks, being those with a SREP score of 4 or a SREP score of 3 with a sub-score of 4.

Reply to paragraph 79:

Banks were informed of indicative shortfalls in meeting their MREL targets in 2016 and workshops are being held with banks in fourth quarter of 2017, during which banks will be updated as to current shortfalls based on end of year data from 2016. The binding consolidated MREL targets to be set in 2017 will be accompanied by a transition period during which those banks will be required to fill the identified shortfall in their MREL.

Reply to paragraph 80:

Article 22(1) of DR 2016/1075 requires a "summary of the plan including a description of the institution or group and a summary of items referred to in points (2) to (8)" of the same article. It says "summary of items" and not "summary of each and every item". Art. 22(2) to (8) of DR 2016/1075 lists the categories of information to be included in the plan. Hence the requirement is a summary of the different categories.

Reply to paragraph 81:

The 2016 resolution plans were the first plans to be adopted by the SRB and so they were the first plans to be disclosed in summary to banks. Therefore, at the time of adoption of the 2016 resolution plans, no feedback had been received. The feedback so far received from banks will be reflected in subsequent iterations of the resolution plans.

IV. Resolution Planning guidance (paragraphs VIII of the Executive summary and paragraphs 84-102)

Reply to paragraphs VIII of the Executive summary and 84:

The SRB would like to highlight that it has an ambitious work programme for the preparation of guidance notes on various resolution topics, with delivery of those notes scheduled at various times over 2017 and the first half of 2018. In this regard, the SRB would like to indicatively refer to the guidance notes developed on the following topics: guidance for IRTs in respect of critical functions, access to FMIs, operational continuity and MREL. These notes have informed the drafting of resolution plans in 2017.

With regard to MREL, the SRB adopted a policy for setting MREL in October 2017 and will set binding consolidated MREL targets in 2017. The MREL policy has been shared with IRTs and will inform the drafting of resolution plans in the 2017 resolution planning cycle.

Reply to paragraph 91:

In response to the ECA's statement that "no guidance has yet been provided on the content of the condensed resolution plans", the SRB would like to note that the SRB has now prepared templates for the resolution plans to be used by the IRTs. These new templates provide guidance as to the content of the plans.

Reply to paragraph 92:

At the beginning of 2016, a special taskforce consisting of representatives of the SRB and the NRAs was created to work on the issue of simplified obligations. As a result of this work, in September 2016, the policy note on simplified obligations (SO) for less significant institutions (LSIs) was prepared and adopted by the SRB and presented to its Plenary Session.

The policy note defines the main principles to guide the application of simplified obligations for LSIs and indicates the minimum requirements for the content of the resolution plans for institutions under simplified obligations.

In the interim, ongoing work was undertaken at the EBA level in respect of draft regulatory technical standards (RTS) for the application of simplified obligations. The RTS was subject to public consultation, which concluded on 8 August 2017, and remains to be endorsed by the Commission. The RTS supersedes the SRB policy note, which will consequently be reviewed and updated once the RTS is endorsed and published in the Official Journal of the European Union.

As regards the banks under direct remit of the SRB, no decision has been made to apply simplified obligation to these banks. Given the size and complexity of the banks within the SRB's remit, it is expected that SOs will only apply to a handful of banks within the SRB's remit, if any, and so making SO determinations has not been a priority of the SRB.

Reply to paragraph 93:

In 2017, the SRB established an expert network on resolution reporting responsible for evaluating existing information sources, identifying information gaps and putting forward proposals to improve resolution reporting. The findings of this network fed into in a [new set of EBA Templates](#), developed by an EBA network of experts charged with reviewing the Implementing Technical Standards on resolution reporting (as reflected in the Commission Implementing Regulation 2016/1066). The new set of EBA templates takes into consideration the templates previously developed by the SRB (such as the LDT and the FMI and Critical Functions templates). The new set of EBA templates are now fully compatible with the existing SRB templates. It should be noted that in the 2017 reporting season, the SRB instructed banks not to complete certain EBA templates where the information to be provided in those templates was already covered by the SRB's templates.

Reply to paragraph 94:

See the SRB's reply to VIII of the Executive summary and 84.

Reply to paragraph 99:

The SRB has developed a critical functions template and guidance for banks' self-assessments, which was used for collecting data and information in the 2017 planning cycle. It has also, together with NRAs, prepared policy guidance in respect of determining critical functions in order to enhance consistency across IRTs when performing their assessment of criticality. The template and guidance have already led to improved consistency and comparability of the critical functions' assessments compared to 2016, as it aligns the methodology and indicators used for identifying critical functions. However, it should be noted that the critical functions analysis is not a 'push of the button' exercise; the final outcome relies on the expert judgement of IRTs. Given

that the different conclusions and analyses are now better comparable, it is expected that inconsistencies across IRTs and countries will be more easily detected and decrease over time. To facilitate such comparisons, the SRB has developed a benchmarking tool and used that tool to support IRTs in better informing their judgments.

Reply to paragraph 100:

While no formal action is to be taken in respect of identified potential impediments until 2018, banks are informed of these potential impediments and encouraged to take appropriate actions to remove them.

Reply to paragraph 101:

See the SRB's reply to VIII of the Executive summary and 84.

Reply to paragraph 102:

In 2017, the SRB adopted a set of 16 Internal Control Standards (ICS) which includes 96 requirements that are mainly inspired by the revised ICS for effective management issued by the European Commission in June 2014. The Internal Control Office's (ICO) 2018 workplan will provide the implementation roadmap of the ICS within SRB.

V. Adequacy of resources at the SRB (Paragraph IX of the Executive Summary and paragraphs 103-118)

Reply to paragraph IX:

See the SRB's reply to paragraphs 114 and 115

Reply to paragraph 105:

While 2016 has proved to be a difficult year in terms of filling the SRB's staffing targets, in 2017 the SRB has made a significant effort in prioritizing its recruitment campaigns, recruiting approximately 160 staff members, that are already in place or will join the SRB in the coming weeks/months.

Reply to paragraphs 106-109:

See the SRB's reply to paragraphs 114 and 115.

Reply to paragraph 110:

The staff shortages in the ICT team are currently being addressed with a number of vacancies scheduled to be advertised over the coming months. The team should be at full strength in the course of 2018. In the meantime, a number of development projects are already underway. In order to support resolution planning activities, an agreement has been reached with the ECB to customise and use the main tool for supervision, i.e. IMAS, for resolution purposes. The first release of this new system is scheduled to be rolled out throughout the SRM by the end of the first quarter of 2018.

Reply to paragraph 114:

Since the beginning of 2017, the SRB had planned and carried out a number of big selection procedures which resulted in more than 100 staff being on boarded. In short,

the SRB will have 306 staff members early 2018. The recruitment team is carrying out a number of selections which will allow the Agency to reach the target of 350 staff in 2018.

Reply to paragraph 115:

During the audit, the SRB was already in the process of selecting both AST and AD staff to reinforce the human resources team. As a result, the HR function is currently staffed with 15 people and seven of them work exclusively on recruitment. Additionally, the SRB hired a number of interim staff to support the recruitment processes during the first six months of 2017. Consequently, the SRB has been able to carry-out three big selections for resolution units, which allowed the SRB to select an additional 80 staff, who are either already in place or will join the SRB in the coming weeks/months.

VI. Cooperation with the National Resolution Authorities (NRAs) (paragraph X of the Executive Summary and paragraphs 120-129)

Reply to paragraphs X of the Executive Summary, 122 and 124:

The SRB, in its Plenary Session, has recently adopted a target operating model, which allocates roles and tasks within the SRM, including the operation of internal resolution teams. The SRB's experiences to date have demonstrated that there is now greater clarity with regard to distribution of tasks between SRB and NRAs. The obtained clarity will be reflected in the upcoming review of the cooperation framework between the SRB and the NRAs.

Regarding staffing, see the SRB's replies to paragraphs 114 and 115.

Reply to paragraphs 126 and 128:

A limited oversight function has been in operation since June 2016 when the first draft resolution measure was received from an NRA. Since then, the SRB has assessed approximately 430 draft resolution measures submitted by 9 NRAs. Despite the limited resources available to the SRB oversight function, reactive oversight is undertaken in accordance with the requirements of the SRMR.

In October 2016, the SRB also established a Taskforce on LSI Oversight dedicated to the issues related to the work of NRAs in respect of LSIs. The SRB now acquires significant information about the ongoing work within the NRAs via this Taskforce. The oversight function of the SRB does not require the supervision over the everyday activities of NRAs, rather it aims to ensure the consistent and efficient functioning of the SRM across the Banking Union.

VII. Cooperation framework with the ECB and Legislative proposals (paragraph XI of the Executive Summary and paragraphs 130-142)

Reply to paragraph XI of the Executive Summary (with regard to the legislative proposals and the moratorium tool):

The SRB has engaged with the Commission regarding possible amendments to the SRM Regulation. This has included the provision of both potential revisions to the BRRD to address technical issues, and also higher level policy issues. With regards to the moratorium proposal, the SRB has supported the Commission proposal as of November 2016, noting the potential benefits to resolution authorities. The SRB supports the availability of the moratorium tool as an exceptional measure to be used where

necessary for the effective application of resolution tools. The duration of the moratorium tool should be long enough to be effective, but should not be so long as to jeopardise financial market stability. The scope of the moratorium tool should also ensure that the moratorium can be effective, and enable the resolution authority to cover sufficient liabilities to meet the objectives of the tool. If well-tailored, the benefits of such tool could outweigh the risks.

Reply to paragraphs XI of the Executive Summary, 132 and 133:

The SRB and the ECB are in the process of updating the Memorandum of Understanding (MoU) between them in light of their two years' experience with the existing MoU. The new MoU will include greater automatic information sharing in respect of banks, particularly those banks identified as being at risk of failure (SREP score of 4 or 3, with a SREP sub-score of 4). The new MoU is scheduled to be agreed and executed the latest by the end of Q1 2018. Furthermore, institution's internal liquidity adequacy assessment process (ILAAP) and internal capital adequacy assessment process (ICAAP) reports are now shared automatically with IRTs for all banks following a decision of the Supervisory Board of the ECB.

Reply to paragraph 141:

In response to the ECA's statement that the SRB has not yet established a methodology for assessing whether a bank is failing or likely to fail, the SRB notes that it is actively preparing its policy in this area, identifying where it might potentially use this capability, with consideration of the link between Valuation 1 and FOLTF, and the need to avoid developing overlapping assessments which would lead to it acting as a shadow supervisor.

Moreover, the SRB notes that while the SRB's role with regard to the declaration of FOLTF is important as a safeguard within the system to minimize supervisory forbearance, the primary responsibility to undertake such assessment lies with the supervisor, who has best access to all relevant information.

At the time of the audit, the SRB had not yet exercised this power (in all recent crisis cases, the ECB undertook the FOLTF decision as envisaged by the SRMR).

VIII. Conclusions and Recommendations

Reply to Recommendation 1:

Recommendation is partially accepted. In particular:

- (a) While the SRB has not formally determined an individual date for the completion of fully compliant resolution plans for all banks under its remit, the SRB is already using a prioritized approach (see the SRB's replies under Section "Resolution Plans" above). According to the latter approach, riskier banks have already been identified and form part of the SRB's priority banks, which benefit from the most comprehensive of the SRB's resolution plans, i.e. "phase three" plans. The completion of fully compliant resolution plans for all SRB banks is also scheduled for 2020, with some plans reaching that level of completeness in 2019.

- (b) The identification of substantive impediments will commence in 2018 and notifications to EBA as to bank resolvability will follow as a result.
- (c) This recommendation will be followed in the 2018 resolution planning cycle.

Reply to Recommendation 2:

Recommendation is accepted save for the implementation date. In particular:

- (a) The SRB's MREL policy was adopted in October 2017 and will be implemented in the 2017 planning cycle. A policy on removal of impediments will be prepared in 2018 for implementation in the 2018 planning cycle. All SRB banks will have fully compliant resolution plans by the resolution planning cycle of 2020.
- (b) The resolution planning manual will be updated in 2018.
- (c) Guidance in respect of the resolution scenarios required under the regulatory framework to be included in the resolution plans will be included in the resolution planning manual, as updated in 2018.

Reply to Recommendation 3:

Recommendation is accepted. In particular, in light of the replies provided to paragraphs 114 and 115, the SRB would like to note that significant steps have already been taken, which will allow the target levels for both staffing in the SRB's human resources department and at the SRB overall to be reached early 2018.

Reply to Recommendation 4:

Recommendation is accepted. In particular:

- (a) With regard to the recommendation to clarify the operational distribution of tasks and responsibilities with NRAs, the SRB, in its Plenary Session, has recently adopted a target operating model, which allocates roles and tasks within the SRM, including the operation of IRTs. The greater clarity obtained due to the past experience will also be reflected in the upcoming review of the cooperation framework between the SRB and the NRAs.
- (b) While the SRB can only ensure the appropriate staffing of the internal resolution teams in terms of SRB staff, the SRB will communicate the recommendation of the ECA to the NRAs and discuss with them the possibility to assign additional staff, where considered appropriate.
- (c) The SRB would like to note that it has already planned two dry-run exercises for 2018.

Reply to Recommendation 5:

Recommendation is accepted. In particular, the SRB and the ECB are currently updating the MoU. It should be adopted at the latest in first quarter of 2018. The MoU and its annex will be published thereafter.

Reply to Recommendation 6:

Recommendation is accepted. In particular:

- (a) See the SRB's reply to paragraph XI.

- (b) The SRB has previously noted the importance of improving the information flow from the supervisor (including through the possible attendance of SRB at the Supervisory Board on an automatic basis), and will continue to highlight this issue. See also the SRB's reply to paragraphs 132 and 133.
- (c) See the SRB's reply to paragraph XI.

Event	Date
Adoption of Audit Planning Memorandum (APM) / Start of audit	8.11.2016
Official sending of draft report to the Single Resolution Board	12.10.2017
Adoption of the final report after the adversarial procedure	28.11.2017
Official replies of the Single Resolution Board received in all languages	11.12.2017

The Single Resolution Board (SRB) is based in Brussels and was established in 2014 as part of the policy response to the financial crisis. Its mission is the resolution of any of the banks within its remit which are failing. At present, there are about 140 banks in the euro area under its remit. This audit assessed the quality of the SRB's overall rules and guidance, resolution planning for individual banks, and whether the SRB is staffed adequately. We found shortcomings in all of these areas, although the set-up of the SRB from scratch was a very significant challenge and any weaknesses must be seen in this context. We make a number of recommendations relating to the preparation of resolution plans and completing its rules and guidance. We also recommend that the SRB improves its staffing levels and HR procedures.

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