

Single Resolution Board consultation on the Expectations for Banks

General Questions

1. Do you agree with the proposed scope of the SRB's 'Expectations for Banks', as set out in Chapter 1.2?

- Yes
 No

Comments, if any (5000 characters maximum):

Additional or complementary guidance would be appreciated considering the expectations, the dimensions including the necessary steps and initiatives needed to ensure resolvability e.g. operational continuity.
In addition, some of the resolvability dimensions seem to overlap with the conditions included in the MPE action plan and the resolvability progress report provided to the IRT.

2. Are there any additional impediments that will need to be removed in order for banks to become resolvable?

- Yes
 No

Comments, if any (5000 characters maximum):





3. The SRB will apply the expectations in a proportionate manner. Are there any specific areas where the implementation of the expectations would be difficult to implement?

- Yes
- No

Comments, if any (5000 characters maximum):

In our opinion the SRB's expectations for banks follow a maximum approach of the best practices that banks are expected to put into place to demonstrate their resolvability and preparation for crisis management. Therefore, we welcome the mention made by the SRB in Chapter 1.5 regarding the application of the proportionality principle. In our opinion a cost/benefit assessment has to be made in advance requiring banks to comply with each expectation.

In the area of operational continuity and the access to FMIs, the SRB together with the NRAs should increase the awareness level in case of resolution in order to ensure continuity of access to FMI services.

4. Which capabilities deployed in recovery planning are most relevant to address the "Expectations for Banks"?

5000 characters maximum:

The most relevant topics addressing the "Expectations for Banks", which are covered in the recovery plan are the core business lines, the critical functions and services, the Group relevant entities as well as elements in the internal and external interconnectedness. These topics are mostly part of the operational continuity resolvability dimension.

Additionally, the communication plan included in the recovery plan shall also be in line with the resolution planning and take into account the relevant stakeholders.



Section-specific questions

Dimension 1: Governance

5. Do you agree with the expected actions and capabilities set out in this section?

- Yes
 No

Comments, if any (5000 characters maximum):

- First of all, we consider that the definition used in the Governance dimension has to be clarify since there is some kind of confusion among the different levels of management (e.g. management body, senior management, board of directors, supervisory board...). Given the terms used in the wording, it seems that in certain way the expectations are referring to the board of directors, when our understanding is that it should be the senior management the principal actor on this regard. As it is generally agreed, senior management covers persons accountable to the management body that exercise executive functions and are responsible for the day-today management of the institution, including people at hierarchical level immediately below that of the management body. (Single Rule Book EBA, Question ID: 2018_4286). In our opinion the concept of senior management is flexible enough and is applicable to one-tier and two- tier systems.
We believe that the document should take into account both the unitary and dual board structure, adapting the expectations to institutions with an unitary board structure. Therefore, for these institutions the expectations on governance should be applied at the level of senior management instead of the board of directors.
- The SRB could use only two "designations": the senior management, which reports to the board of directors
- Regarding the internal audit review mentioned in Principle 1.3, we believe that in any case it should be carried out ex post.
- As mentioned in Principle 1.4 "Testing and operationalization of the strategy", the operational aspects of the resolution strategy are linked to the tool to be used



Dimension 2: Loss absorption and recapitalisation capacity

(Please note: A separate dedicated consultation on the 2020 SRB MREL Policy will be carried out)

6. Do you see the need for additional safeguards/measures to ensure that the Loss Transfer Mechanisms, beyond internal MREL, are effective and executable at all times, if needed?

- Yes
 No

Comments, if any (5000 characters maximum):

7. Do you agree with the components, steps and measures to ensure that the bail-in playbook supports the effective execution of the bail-in tool?

- Yes
 NoComments, if any (5000 characters maximum):

SRB should take into account that the bail-in is not a “BAU process and, as such, it will take time to develop the processes needed.

8. Which areas deserve closer consideration from the SRB and why?

5000 characters maximum:

An area which deserves closer consideration is the external execution including the communication with external stakeholders. For example information for an external counterparty could be collected directly via the CSDs or the custodians.



Dimension 3: Liquidity

9. Do you agree with the expected actions and capabilities set out in this section?

- Yes
 No

Comments, if any (5000 characters maximum):

Under this dimension, SRB aims to achieve 3 main objectives, namely:

1. Estimate the liquidity and funding needs for the implementation of the resolution strategy
2. Measure and report the liquidity situation in resolution
3. Identify and mobilize collateral that can be used to obtain funding during and after resolution

While we can well understand the need to achieve Objective 2 above, we see Objectives 1 and 3 as inappropriate.

Objective 1 & Principle 3.1: Already now banks have their internal stress scenarios, which simulate liquidity outflows due to a market, idiosyncratic or a combination of both liquidity crisis. In addition, recovery plan stress scenarios and their impact on liquidity are also simulated. Given the rather digital nature of liquidity risk (either you survive or not), we see it as an unnecessary burden to require banks to simulate ex-ante the impact on liquidity or funding needed to implement the resolution strategy.

The reason is simple:

- a) if the resolution trigger is capital-driven (i.e. losses), then the institution will have enough liquidity to meet its obligations as they fall due during and after resolution. Especially banks, where the preferred resolution tool is bail-in, will see a benefit from the conversion of bail-inable instruments into equity in their liquidity ratios since equity can be seen as the most stable funding source (with perpetual maturity).
- b) if the resolution trigger is liquidity-driven, then most likely the institution will have used all its available liquidity sources, including its regulatory and internal liquidity buffer (thereby also considering non-HQLA assets, credit claims, and other central bank eligible securities). In that situation, the bank under resolution is left with no other option, but to seek extraordinary liquidity support from SRB, ECB, ESM or any other public source.

Objective 3 & Principle 3.3: Competent authorities require banks to identify and be able to mobilize collateral (especially non-HQLA and non-central bank eligible) in liquidity stress situations as part of their internal liquidity buffers, contingency liquidity and recovery plans. Therefore, this objective can be considered already now fulfilled. The purpose of the objective, namely recovery or resolution, is completely irrelevant as the amount of identified collateral will be identical no matter if the purpose is to identify those assets to reach recovery or resolution objectives.

Principle 3.2: we understand the requirement to provide standard liquidity reports at the level of the resolution group. Implementation of such sub-consolidation group reports would require additional effort for banks, so far sub-consolidated reports are not part of neither external nor internal reporting framework. On solo entity level reporting requirement might be overshooting, especially if several legal entities are part of one and the same resolution group. Reporting shall use existing standards, otherwise additional burden of implementation of similar but somehow different reports has to be taken by the industry. To consider implementation time an appropriate transition period shall be given for banks, where the resolution group itself does not represent a legal entity itself and is not subject to a SREP.



Dimension 4: Operational continuity and access to FMIs

10. Do you consider that the preparatory measures and mitigation actions set out in Principle 4.3 are sufficiently comprehensive and appropriately targeted to effectively support operational continuity? What additional or alternative measures should be suggested and why?

5000 characters maximum:

Resolution resilient contracts as stated in Principle 4.3 ii b) 1.-4. with Target2, CS.A and EBA STEP2 should be provided by the resp. FMIs
No additional measures necessary.

11. What challenges do you see for including essential and other relevant services within operational continuity arrangements?

We see difficulties in mapping critical and essential services to critical functions given that, usually, critical and essential services are related to various critical functions at once, difficulting one single relationship.

Moreover, we would welcome guidance on how to map operational assets to contracts.

Also the continuation of Target2 will be essential as basis for other service providers e.g. EBA STEP2

With regard to the definition of the critical, essential and other relevant services for resolution we would like as a reference a more detailed definition and concrete examples on how to identify and define these services.

For instance, how would a service in HR such payroll would be properly flagged either critical or essential or other relevant for resolution service?

Additionally how the core business lines should be defined properly for a bank in order to correctly link them with the essential services?

5000 characters maximum:



12. Do you see any particular issues in ensuring the financial resilience of service providers in the event of resolution (Principle 4.3 (v))?

- Yes
 No

Comments, if any (5000 characters maximum):

Principle 4.3; p. 29

Adequate documentation of relevant services

The legal basis for the requirement to document in a suitable format the information needed to quickly draw up Transitional Service Agreements (TSA) in cases where the provision of critical services is carried out by units/divisions within the same entity (intra-entity services).

Resolution-resilient features - regarding continued service provision to a divested group entity, we usually include in our contract 12 months-period, not 24 months-period and do not limit the support on a transfer.

Principle 4.3.; p. 31

Enhancing financial resilience of service providers

“Where relevant services are provided by a group provider, banks receiving the services are expected to:

....

- use for this purpose assets that qualify as liquid assets under Delegated Regulation 2015/61. Where other kinds of assets are used, banks are expected to demonstrate that those assets may be quickly converted into cash with minimal loss of value.”

We would suggest to amend the text to include any assets that qualify as liquid assets under Delegated Regulation 2015/61 or are considered eligible for standard monetary operations by any central bank domiciled in the EAA, because this will enrich the universe of liquid assets that institutions can pledge, without compromising on the liquidity characteristics of those assets.

13. What main challenges do you see in implementing resolution-resilient contract features?

5000 characters maximum:

Target2, CS.A and EBA STEP2 contracts are standard contracts which are valid for all participating banks. As stated in question 10 those contracts are not resolution resilient and should therefore be adapted accordingly by the FMIs

In addition:

- a) it will take time to go through all relevant critical service contracts in order to check if they can be considered resolution-resilient;
- b) with regard to external third party service providers, it might be the case that these are not willing to have the respective clauses included in their contracts both for existing contracts and for any future contracts. In such context, we will probably have to find individual solutions if there is no economical realistic/feasible way around using such service providers. The main critical points here are the required applicable law and jurisdiction clauses, especially re. service providers in the UK and in the US and transferability of contracts, which service providers often oppose to.



14. Which challenges do you face in assessing the financial and operational requirements that FMIs may require in the event of resolution? Does this require engagement with FMI service providers?

Banks are facing difficulties in their individual communications with some FMIs to comply with the requirement made by the IRT relating to development of a contingency plan for the access to FMIs. Therefore, we consider that it will be desirable that resolution authorities get involve more actively and get in touch with FMIs and require them a resolution procedure in order to facilitate banks the compliance with the impact assessment of discontinued or degraded access to critical and essential FMI services and the development of contingency plans to support continued access to those FMI services.

See also quest. 10 and 13

CS.A contract: participation licence can be revoked in case of resolution

Target2: participation licence can be revoked according Art. 33 par. 3 – We can recommend that the recovery and resolution board establishes general letter of understanding with the national bank upon the conditions and treatment of a bank under recovery and resolution regime, so unplanned interpretations are limited. This can be done only by the resolution board.

EBA STEP2: also affected if Target2 participation licence would be revoked

Additional comments:

- Regarding principle 4.6, what “trading venues” are expected to be included apart from FMI service providers?
- Regarding principle 4.12, banks will be grateful if the SRB explains why it only refers to CSDs and CCPs and not to other FMIs.

The principle refers only to entities that act as clearing member and it does not refer to CSD member. Is it possible to concrete if these requirements arise from the fact of being a member of a CCP or a CSD?

5000 characters maximum



Dimension 5: Information systems and data requirements

15. Are there any areas where you think more clarity would be needed on the valuation capabilities that banks need to achieve to become resolvable?

- Yes
 No

Comments, if any (5000 characters maximum):

We consider that the expectations regarding to the management information system and valuation capabilities are too ambitious. Obtaining the information required in a very short period of time will be a burden of works for banks since significant system developments should be carried out.

Regarding valuation: not listed stakes are periodically valued, insolvency provisions are calculated only at closed month

It is expected that banks demonstrate MIS capabilities via periodic testing. It has to be noted that a more frequent testing than the annual review during YE closure for annual reporting is not proportionate.

A dry-run might be feasible, but a more frequent testing would not provide added value and is effort consuming.

Resolution relevant reporting (e.g. LDR, ALR) are not proper tools for ad-hoc valuation or bail-in.

The banks would need more clarity on data format and relevant fields that have to be provided to independent valuer.

It has to be noted however, that the relevant data points (partially in consultation) have to be proportionate and usefull (e.g. not 200 datafields per Retail loans).

Regular testing and data provision of data relevant for valuation should be disregarded as ad-hoc valuation should not happen frequently in business as usual and a regular reporting causes slow down of business processes and operation.

Furthermore existing statutory reports like Anacredit should be taken into consideration.



Dimension 6: Communication

16. Do the actions and capabilities laid down under principles 6.1 and 6.2 provide sufficient clarity on what is expected? If not, on which areas would additional guidance be useful?

5000 characters maximum:

Yes. In principle 6.1, concerning the point of drafting the pre-defined messages, it is very challenging to estimate the content or the consequences of the resolution event and at the same time covering all legal perspectives. General statements could be prepared but our understanding is also that the content of the predined messages will be aligned with the resolution authorities to ensure consistency.

Dimension 7: Separability and Restructuring

17. Do the actions and capabilities laid down under principles 7.1 to 7.3 on separability and restructuring provide sufficient clarity on what is expected? If not, on which areas would additional guidance be useful?

5000 characters maximum:

Separability is seen to prepare partial transfer strategy. If bail-in is the preferred resolution tool without any variant strategy, why are banks requested to prepare for “asset separation” or separability of critical functions and core business lines.
Furthermore the concept of core business lines is treated different among countries and banks. We would need more clarity on the definition of a core business line.
Banks need more clarity on business reorganization plans and the difference between the tools “sale of business”, “asset separation and separability”.