European Commission's call for feedback on its legislative package on CMDI

High-level position paper – Executive summary

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The European Savings and Retail Banking Group (ESBG) welcomes the opportunity provided by the European Commission to share feedback on its legislative package which aims to review the Crisis Management and Deposit Insurance (CMDI) framework, including four legislative texts (SRMR, BRRD, DGSD and the Daisy Chain proposal). Although ESBG members recognize the need to enhance and to strengthen the current framework, they oppose the review overall for the following reasons.

Resolution scope: The EU Commission proposed to extend the resolution scope through a revision of the Public Interest Assessment (PIA) to ensure that resolution tools can also be applied to small and medium sized banks. The EU Commission aims for a fundamental shift, as resolution was once conceived as a response to "too big to fail", not a concept for small and medium-sized savings and retail banks. The Commission's proposal increases the administrative burden for those institutions, which were classified as "liquidation entities" up until now. In addition, the associated increase in capital requirements (MREL) could also have a negative impact on lending opportunities on a local scale. That is why ESBG rejects the reference to "regional level" within the definition of critical functions, as well as the reversal of the principle after that, liquidation will only be allowed if winding up under insolvency proceedings meets the resolution objectives more effectively. Moreover, the PIA should be more transparent and fully compliant with harmonized EU policies.

Funding in resolution: ESBG disagrees with the EU Commission's proposal to strengthen funding in resolution by complementing the internal loss-absorbing capacity of institutions, with the use of DGS funds in order to facilitate the access to the Single Resolution Fund (SRF). The main purpose of a DGS should remain the protection of the covered deposits and not the funding of resolution cases, which should rely on the existing SRF as long as the 8% TLOF bail-in condition is met. ESBG members fear that the potentially wider used industry-funded safety nets (DGS and resolution funds) and the extension of the deposit protection (public entities, client funds held by non-bank financial institutions) would cause disproportionate additional contributions which could threaten the profitability of the European banks compared to their international peers. ESBG asks for more predictability and continue to be critical regarding the SRF target level which is to be understood as dynamic after the end of the transition period in 2023 (1% of the covered deposits).

Liquidity in resolution: considering that the current safety nets might not be able to provide sufficient liquidity in resolution if several banks or a G-SIB faced liquidity crisis, they could usefully be complemented with a liquidity-in-resolution tool. Such a tool, would contribute to ensure an effective and credible overall EU crisis management framework, avoiding unwarranted or increasing ex-ante contributions to existing resources. The liquidity-in-resolution tool would provide short-term "gone concern" liquidity support to the resolution process. The liquidity-in-resolution tool is usually implemented by central banks, which have vast experience in providing collateralized funding under diverse circumstances. The existing ELA is too discretionary and not sufficiently operational in practice to provide liquidity assistance during resolution.

DSG alternative and preventive measures: although they are maintained in the amended framework, the new requirements are very time-consuming, especially for the preventive measures which are neither credibly, functional nor feasible in the future: coordination processes with supervisory and resolution authorities, definition of a strict timetable in advance for the repayment of liquidity protection measures, implementation of a Least-Cost Test which will be harmonized for all types of DGS interventions. ESBG cannot understand why proven preventive measures should be restricted in the future.

General depositor preference: regarding the Commission's proposal to amend the hierarchy of claims with the introduction a single tiered ranking of all deposits, ESBG emphasizes that unsecured creditors in resolution/liquidation may bear losses before corporate deposits, compared to today when both bear losses at the same time. This may affect rating agencies' assessment of senior-preferred risk and result in lower credit ratings, or lead to the need for banks to issue larger volumes of senior preferred and senior non-preferred debt to counteract such rating decisions.

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