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A common backstop to the Single Resolution Fund

Florian Brandt & Matthias Wohlfahrt


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Abstract

During the establishment of the Single Resolution Fund, it has been agreed to develop a common backstop to the Single Resolution Fund. This article discusses the implications of the common backstop for the Single Resolution Fund and the implications for the Single Resolution Board. The article also discusses the implications for the Single Resolution Board and the implications for the Single Resolution Fund. The article also discusses the implications for the Single Resolution Board and the implications for the Single Resolution Fund.

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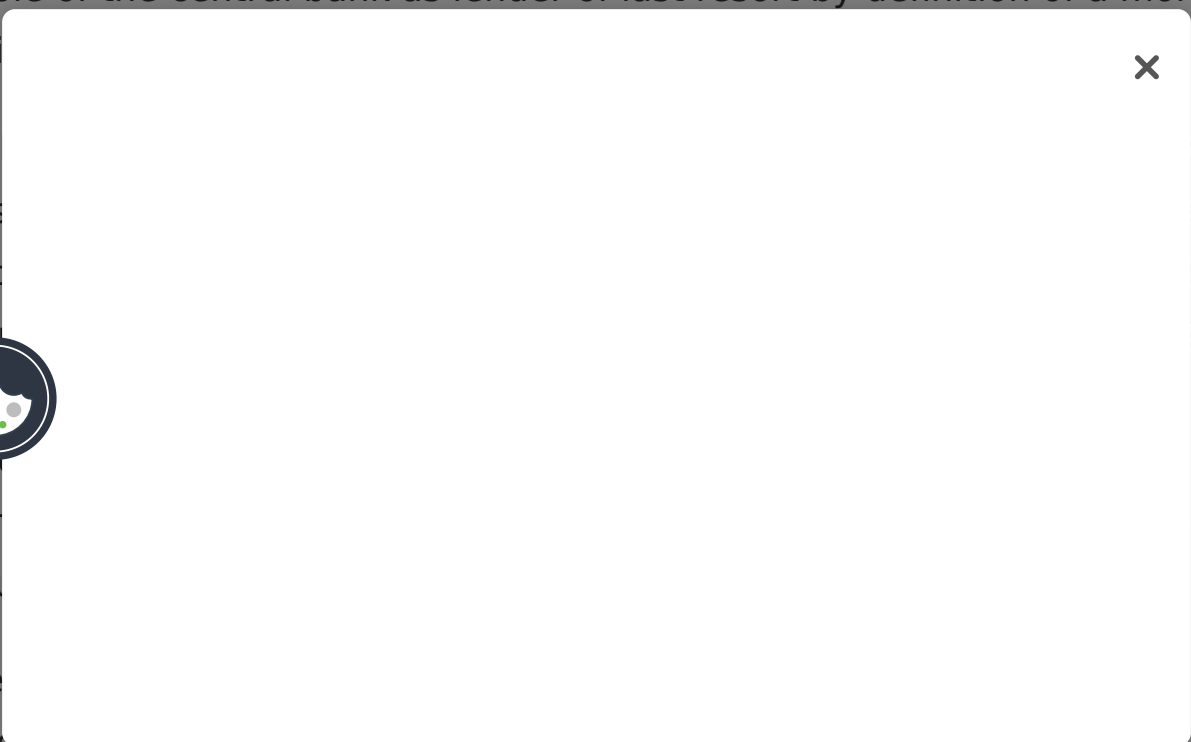


Disclosure statement

No potential conflict of interest was reported by the authors.

Notes

1. 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.
2. The 2017 contribution data published by the SRB ([2017](#)) refers to a total amount of covered deposits of around EUR 5,46 trillion in the Banking Union.
3. See also Howarth and Quaglia ([2016](#)) on role of the European Stability Mechanism as a fiscal backstop for sovereigns in the euro area.
4. The role of the central bank as lender of last resort by definition of a monetary system is...
5. See a... progressive mutualis... e... "Special Period" SRF to its (however (no. 37) ed its Target
6. Agree... le Resolution Fund, ECU... 342, 3437/14 of 14 May 2014.



7. The availability of the LFA amounts is subject to the so-called “IGA waterfall”, i.e. the currently available non-mutualised and mutualised means in the respective national compartment. In this respect, the SRB and the European Commission services reached a mutual understanding on the detailed interpretation of Article 5(1) of the IGA in February 2017, which was subsequently endorsed by the signatories of the IGA (Council [2017](#), Annex).

8. The LFAs of the Banking Union can further be considered a material improvement compared to the sole national framework under Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 (“BRRD”). According to Article 102(1) BRRD, in Member States not participating in the Banking Union, the target level of national resolutions funds (1% of covered deposits of the domestic banking sector) will become fully available only after the end of a ten-year build-up period.

9. The steady state refers to the time as of 1 January 2024, directly after the Transitional Period has ended.

10. Technical discussions of the Economic and Financial Committee (“EFC”) on the common backstop are in part delegated to the Task Force on Coordinated Action (“TFCA”; see, e.g., European Commission [2017a](#), 13–15). The start of the work was subject only to the full implementation of the BRRD in all Member States and the completion of the signing process of the LFAs (Presidency of the Council of the EU [2016a](#), 23).

11. See in particular Articles 76(3) and 27 (6)-(12) SRMR on the bail-in requirements and limits.

12. For details on the SRB (Signatories) in 2017, see the SRB (Signatories) in 2017. The SRB (Signatories) in 2017 consists of three members, with a maximum amount of up to 100 billion EUR.

13. The SRB (Signatories) in 2017 consists of three members, with a maximum amount of up to 100 billion EUR. In this respect for individual members, the SRB (Signatories) in 2017 consists of three members, with a maximum amount of up to 100 billion EUR.

14. In accordance with Directive 2014/59/EU on the prudential supervision of credit institutions, depositors of credit institutions that guarantee their deposits under a deposit guarantee scheme would have suffered in case of winding-up under normal insolvency proceedings. In this



respect the actual contributions by the DGS takes into account its preferred claim on the proceeds in accordance with Article 9(2) DGSD) which depends significantly on the respective national insolvency laws. Further, such contribution is capped at a maximum of 50% of the national DGS's target level.

15. Paragraphs (8) and (9) of Article 27 SRMR distinguish between alternative funding means in accordance with Articles 73 and 74 SRMR in order to finance the 5% contributions by the Fund and alternative financing sources after that Fund's contribution. The use of the latter is conditional on a full conversion and write-down of all unsecured, non-preferred liabilities (except for eligible deposits). However, in the corresponding Article 44(6) and (7) of the BRRD seems less consistent in that distinction.

16. See also Recital 17 IGA linking the principles for the use of the SRF to the general principles governing resolution.

17. With regard to the LFAs, the ECOFIN statement 2015 defines last resort as "after having exhausted all other financing sources, including bail-in requirements under BRRD as well as [...] the SRB's external borrowing capacity".

18. A Member State is theoretically not excluded from the concept of a "third party". However, it can be assumed that Article 73 SRMR relates primarily to private borrowings either in the form of loans or issuance of debt instruments in markets.

19. Hence, Article 74 SRMR does not rank per se as a funding source of last resort in the SRMR

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the avai ... l that "non-
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22. If the ... s in
markets, such design could in principle be comparable with the European financial



Stability Facility (“EFSF”), which issued securities in the market guaranteed by the euro area Member States.

23. The SRB’s attractiveness further depends on the regulatory treatment of its exposures under the standardised approach in accordance with Regulation (EU) 575/2013 (CRR) and the eligibility of its debt according to the Eurosystem collateral framework.

24. See also Article 76(1)(a) and (b) SRMR, Article 50(1)(c) SRMR and Recital 33 SRMR.

25. The lack of a clear definition of liquidity support by the Fund (i.e. duration and collateral requirements) leaves room for interpretation when using the Fund. De Groen and Gros ([2015](#)) state that during the last crisis liquidity support was provided to banks in the euro area in an amount of ca. EUR 1.4 trillion loans, partly in the form of ELA. Against that background they consider this a task for monetary authorities and governments. Also Schoenmaker ([2016](#)) recommends the European Central Bank as provider of emergency liquidity as a last resort for “properly resolved banks”.

26. Cf. Euro Area Loan Facility Act 2010.

27. Such bargaining could further be complicated depending on the impact of the Brexit on the future EU budget.

28. While the decision on the resolution scheme including bail-in and the use of the SRF is taken by the SRB, only the ESM Member can request direct recapitalisation from the ESM.

29. The  used on Article 3  Council and consent

30. The  the Total Loss Absorption  of the Minimum  non approach  a leverage ratio of a  RDIV- framework  solvency laws also  sectors (Council of the European Union [2019](#)). The Commission has made accompanying legislative

proposals in 2016 for amendments of the capital requirements and resolution framework (cf. European Commission [2017a](#)).

31. In October 2017 the Commission ([2017a](#)) presented a compromise suggestion on its November 2015 legislative proposal on a European Deposit Insurance System (EDIS). The compromise provides for a more gradual mutualisation than originally envisaged. Such step was deemed necessary to revive the process since the negotiations among the EU co-legislators got stuck due to significantly diverging views and no further progress was expected.

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