

D. Resolution

The Bank's main responsibility in its capacity as national resolution authority is contributing to improve the ability of the Belgian and European authorities to resolve any problems resulting from the failure of a credit institution or stockbroking firm under Belgian law, on the one hand by preventing any adverse effects on financial stability and maintaining the functions performed by those institutions which are critical to the real economy, and on the other hand by protecting the State's resources, the depositors and investors covered by a guarantee system, and in general, the funds and assets of those institutions' clients.

This task falls within the broader context of the single resolution mechanism (SRM), which forms the second pillar of the Banking Union, with the Single Resolution Board (SRB) at its centre. The joint action of the SRB and the national resolution authorities of the participating Member States has enabled the development of a common basis for implementation in the Banking Union of the European resolution framework set up by the Bank Recovery and Resolution Directive (BRRD)¹ and the Single Resolution Mechanism Regulation (SRMR)².

In carrying out its mandate as national resolution authority, the Bank has to adopt a proactive approach based on sound preparation, in cooperation with the various institutions included in the scope of the resolution legislation. The Bank's activities, which include the preparation of a resolution plan specific to each group, aims to facilitate the use of the resolution instruments, to identify any impediments to their implementation, and to ensure the availability of sufficient loss-absorbing and recapitalisation capacity.

In accordance with the Royal Decree determining the rules on its organisation and operation³, the Bank's Resolution College adopted an action plan for 2019. That plan supports the work under the SRM and is structured around four main objectives, namely (i) ensuring that a robust legislative and regulatory framework for dealing with default scenarios is developed; (ii) improving the resolvability of Belgian credit institutions and stockbroking firms; (iii) establishing a crisis management capacity and operationalising the resolution tools; and (iv) supporting resolution funding arrangements.

¹ 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.

² 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.

³ Royal Decree of 22 February 2015 determining the rules on the organisation and operation of the Resolution College, the conditions relating to the exchange of information by the Resolution College with third parties, and the measures to prevent conflicts of interest.

1. Legal and regulatory framework

The legislative framework concerning resolution was supplemented during the year under review following the adoption by the European co-legislators of the BRRD2¹, amending the BRRD, and the SRMR2², amending the SRMR. These two texts, which both form part of the banking package (see section C.1), supplement in particular the rules on the Minimum Requirement for Own Funds and Eligible Liabilities (MREL). They establish, among other things, a subordination requirement directly applicable to global systemically important banks, institutions with total assets exceeding € 100 billion, and institutions whose national resolution authority considers likely to reasonably pose a systemic risk in the event of failure. The EU Member States are required to transpose the BRRD2 into national law and apply its provisions by no later than 28 December 2020, with the exception of certain provisions relating to the MREL, which only apply from 1 January 2024.

Under the SRM, the Bank has contributed to defining the practical arrangements for applying the resolution framework by taking part in the work of the both the European Banking Authority and the SRB.

The SRB's work led to the publication, in November 2019, of a consultation document setting out the SRM's expectations regarding resolvability. That document outlines the requirements concerning the development of resolution plans for institutions directly under the SRB's remit. Those requirements are structured around 7 main dimensions, namely (i) governance, (ii) loss absorption and recapitalisation capability, (iii) liquidity and funding in resolution, (iv) operational continuity and access to financial market infrastructures (v) requirements concerning information systems and data reporting, (vi) communication, and (vii) separability and restructuring.

¹ Directive (EU) 2019/879 of the European Parliament and of the Council of 20 May 2019 amending Directive 2014/59/EU as regards the loss-absorbing and recapitalisation capacity of credit institutions and investment firms and Directive 98/26/EC.

² Regulation (EU) 2019/877 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No. 806/2014 as regards the loss-absorbing and recapitalisation capacity of credit institutions and investment firms.

As stated in previous years, in performing its tasks and in its relations with the various European players, the Bank defends the use of a robust resolution model based partly on the creation of appropriate liability buffers via an MREL requirement which is satisfactory in terms of both quantity and quality, and partly on the development of resolution strategies which adequately safeguard the corporate interests of the various entities making up the banking group, taking account of the existing legal constraints. In this context, the Bank is also open to ideas on how best to safeguard those corporate interests in the future, either by leaving the legal framework unchanged or by including new mechanisms offering equivalent protection in European legislation.

2. Resolvability of credit institutions and stockbroking firms

The rules introduced by the BRRD2 have to be transposed into Belgian law before they can become applicable. During the year under review, it was therefore not possible to base any MREL decisions on the new legislative framework. It is only with effect from the 2020 resolution planning cycle that the new framework set up by the BRRD2 and the SRMR2 will form the basis of MREL decisions adopted by the SRB within the Banking Union, or by the Bank for institutions within its remit.

During the course of 2019, the SRB finalised its 2018 resolution planning cycle. This led to the adoption of eleven MREL decisions for Belgian credit institutions by the SRB, including four decisions relating to the external MREL and seven concerning the internal MREL, i.e. the MREL that must be met by a subsidiary which is subject to a single point of entry resolution strategy. It falls to the Bank, as the national resolution authority to which the SRB's decisions are addressed, to implement those decisions and notify them to the credit institutions concerned.

At the same time, the Bank also finalised its 2018 resolution planning cycle relating to credit institutions under its competence. The general philosophy underlying the development of resolution plans for less significant banks and determining their MREL



requirement is described in last year's annual report. In accordance with the banking law, those plans distinguish between purely idiosyncratic crises and systemic crises. The measures to be taken in each of those scenarios may vary.

In December 2018, the Bank had launched a consultation on the resolution plans for less significant institutions. The responses it received from the competent authority and the macroprudential authority in February 2019, and from the SRB in July 2019, enabled it to finalise the resolution planning cycle by arranging the procedure concerning the right to be heard for each of the less significant credit institutions for which a binding MREL decision was adopted. During 2019, the Bank thus adopted a binding MREL requirement for eleven less significant institutions, granting a transition period to facilitate the implementation of

The Bank defined a binding MREL requirement for eleven less significant institutions

this new requirement where appropriate. These requirements will be reviewed during the 2020 resolution planning cycle, taking into account the new provisions introduced by the BRRD2.

Finally, during the year under review, the Bank also launched discussions on the resolution plans for stockbroking firms falling under its competence. In this context, the Bank adopted a draft resolution plan and a draft MREL decision for two investment firms. Adoption of these draft plans and draft MREL decisions opened the way to the consultations with the supervisory authority and the macroprudential authority required by the legal framework. Following that consultation, the Bank will initiate a procedure for each of these stockbroking firms giving them the right to be heard, after which it will adopt its final MREL decision.

3. Development of crisis management capability and operationalisation of the resolution tools

Responsibility for implementing the resolution tools rests with the national resolution authorities, regardless of whether the crisis to be resolved concerns an institution under the SRB's competence or one which comes under the competence of the national authorities. In this regard, and on the initiative of the SRB, the Bank has enlarged its national handbook on the implementation of the resolution tools. The national handbook is intended to supplement the specific analyses requested by the SRB and conducted by each Belgian banking group in developing their resolution plans (playbooks). There is therefore a symmetry between the Bank's work of facilitating the execution of a resolution procedure and the work undertaken by each banking group in developing its own resolution plan.

The national handbook describes all the steps that the national resolution authority will need to take when using a resolution tool. The objective of the national handbook is twofold: first, it sets out a procedure to be followed and then it identifies the obstacles to implementation of the resolution tools and the points on which preparatory work is necessary or desirable. On this subject, the handbook is more of a starting point for steering the future work of the resolution authority, rather than the culmination of a process. The national handbook is therefore considered to be a living document.

During 2018, the Bank drew up the first chapter dealing with implementation of the bail-in tool. A second chapter was added during the year under review, specifically describing the steps to be taken and the stages involved in applying the sale-of-business tool. This chapter makes a clear distinction between the use of this tool via the sale of shares (share deal) and its application in the context of a transaction concerning part of the institution's rights, assets or liabilities (asset deal). In order to cover the whole spectrum of resolution, this handbook will need to be supplemented for the other two resolution tools, namely the asset separation tool and the bridge institution tool.

Finally, in order to test its crisis management capability as a resolution authority, the Bank agreed to take part in a crisis simulation exercise organised by the SRB. Apart from the Bank, the SRB, the ECB, the European Commission, the EBA and the Austrian and Luxembourg national resolution authorities also took part in this crisis exercise, which aimed to test the resolution processes, their governance, the exchange of information between authorities, and internal and external communication. The crisis simulation exercise, which was held in early December, did not only enable the Bank to test its crisis management capability, and to demonstrate that it can incorporate a resolution scheme adopted by the SRB into its national jurisdiction, but it also confirmed the relevance of a number of concerns already raised in the past, such as the possible limitations inherent in the application of the single point of entry strategy to banking groups.

4. Resolution financing arrangements

During 2019, the SRB collected € 7.8 billion from all credit institutions in the Banking Union. This increased the size of the Single Resolution Fund (SRF) to € 33 billion. The target figure to be achieved by the end of the initial 8-year period, i.e. by 31 December 2023, is 1% of the total covered deposits of all credit institutions authorised in the Banking Union; on the basis of the current amount of deposits covered, that can be estimated at € 58 billion. The 33 Belgian credit institutions obliged to contribute paid a total of € 270 million into the SRF, compared to € 285 million in 2018.

Institutions not covered by the SRF, namely Belgium-based branches of third-country credit institutions or investment firms, and stockbroking firms governed by Belgian law which do not fall under the ECB's consolidated supervision of their parent company, have to pay a contribution to the national resolution fund. The methodology for determining the amount of the contributions due is defined in a Bank Circular¹. As a result of a

The national handbook identifies the points requiring preparatory work

¹ Circular NBB_2019_26/Circular of the Resolution College of the National Bank of Belgium on the calculation and collection of contributions to the Resolution Fund.

number of minor changes in the law, that Circular had to undergo some modest adjustments during the year under review, though they did not alter the calculation methodology already applicable. Following the payment of the contributions to the

national resolution fund in 2019, its reserves came to just over € 1.6 million. In 2023, the reserves of the national resolution fund should amount to € 3.2 million, the current target figure.