

*The European Banking Union –  
a general overview*

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## **A. Introductory remarks**

## A. Introductory remarks

The current fiscal crisis in the euro area triggered a new debate on the need to set up supranational supervisory authorities for the European financial system. The debate has taken on a broader focus, with a view to creating a ‘**European Banking Union**’, which would lead to setting up at Union level:

- a **Single Supervisory Authority** exclusively for the banking sector, under the auspices of the ECB, in the framework of a **Single Supervisory Mechanism**,
- a **Single Resolution Authority** for unviable credit institutions in the framework of a **Single Resolution Mechanism** as well as a **Single Resolution Fund**,
- a **Single Deposit Guarantee Scheme**, and
- a **Single Rulebook** that will cover all the above aspects, on the basis of a ‘harmonisation approach’.

## A. Introductory remarks (cont.)

- At the 29 June 2012 Euro Area Summit, the euro area Heads of State or Government asked the European Commission to present specific legislative proposals on the establishment of a single supervisory mechanism over credit institutions, in the context of a wider political initiative to create a ‘European Banking Union’. More particularly, it was declared that:

*“we affirm that it is imperative to break the vicious circle between banks and sovereigns”.*

- *This initiative aimed at establishing a European Banking Union without amending the European Treaties (thus far achieved).*

# The main legal sources of the European Banking Union

	Prudential supervision and prudential regulation of credit institutions	Resolution of unviable credit institutions	Operation of deposit guarantee schemes
<b>European bodies</b>	<p><b>Single Supervisory Mechanism</b></p> <ul style="list-style-type: none"> <li>• Council Regulation 1024/2013</li> <li>• ECB Framework Regulation (25 April 2014)</li> </ul>	<p><b>Single Resolution Mechanism and Single Bank Resolution Fund</b></p> <ul style="list-style-type: none"> <li>• Regulation of the European Parliament and of the Council - adopted in April 2014</li> <li>• Inter-Governmental Agreement on the transfer and mutualisation of contributions to the Single Resolution Fund</li> </ul>	<p><i>No legislative proposal yet</i></p>
<b>Harmonisation of rules – Single Rulebook</b>	<ul style="list-style-type: none"> <li>• Regulation 575/2013 of the European Parliament and of the Council (<b>CRR</b>)</li> <li>• Directive 2013/36/EU of the European Parliament and of the Council (<b>CRD IV</b>)</li> <li>• EBA Technical Standards adopted by the Commission - Delegated and Implementing Regulations</li> </ul>	<ul style="list-style-type: none"> <li>• Directive of the European Parliament and of the Council (<b>BRRD</b>) - adopted in April 2014</li> <li>• EBA Technical Standards adopted by the Commission - Delegated and Implementing Regulations</li> </ul>	<ul style="list-style-type: none"> <li>• Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 (<b>DGSD</b>)</li> <li>• EBA Technical Standards adopted by the Commission - Delegated Regulations</li> </ul>

## European Banking Law: Elements of change and continuity *(italics denote new or potentially new elements since 2013)*

Financial policy instruments	Authorities/rules
Authorisation and micro-prudential supervision of credit institutions	<i>Single Supervisory Mechanism</i> <i>Harmonisation of rules - Single Rulebook</i>
Micro- and macro-prudential regulation of credit institutions	<i>Harmonisation of rules - Single Rulebook</i>
Macro-prudential oversight of the financial system	European Systemic Risk Board
Reorganisation and winding-up of credit institutions	National authorities and mutual recognition between Member States
Resolution of credit institutions	<i>Single Resolution Mechanism</i> <i>Single Resolution Fund</i> <i>Harmonisation of rules - Single Rulebook</i>
Operation of deposit guarantee schemes	<i>Single European Deposit Guarantee Scheme</i> <i>(pending)</i> <i>Harmonisation of rules - Single Rulebook</i>
Last resort lending	Emergency Liquidity Assistance (ELA): national central banks <i>or the ECB?</i>
Recapitalisation of systemically important institutions by public funds	National governments - <i>Potentially the ESM</i>

## **B. First Pillar of the EBU**

**Prudential supervision and prudential  
regulation of credit institutions**



**B.1. European Body:  
Single Supervisory Mechanism  
-SSM-**

## B.1. The Single Supervisory Mechanism

On 29 October 2013, the following Regulations were published:

■ **Council Regulation (EU) No. 1024/2013** conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions, and

■ **Regulation (EU) No. 1022/2013** of the European Parliament and of the Council amending Regulation (EU) No 1093/2010 establishing a European Supervisory Authority (European Banking Authority) as regards the conferral of specific tasks on the European Central Bank pursuant to Council Regulation (EU) No 1024/2013

## B. 1. The Single Supervisory Mechanism

### 1. Main features

#### Two Pillars

- European Central Bank (hereinafter the ‘ECB’), and
- National Competent Authorities
  
- The ECB will supervise directly the **systemically important credit institutions** incorporated in:
  - euro area Member States (128 credit institutions covering 85% of euro area bank assets),
  - Member States with a derogation, which will establish a ‘close cooperation’ between the ECB and the national competent authority

## B. 1. The Single Supervisory Mechanism

### 2. Systemically important credit institutions

- (a) Credit institutions, financial holding companies, mixed financial holding companies on a consolidated basis or branches of credit institutions established in non-participating Member States that meet any of the following conditions:
- the total value of their assets exceeds **€30 billion**
  - the ratio of their total assets over the GDP of the participating Member State of establishment exceeds **20%**, unless the total value of their assets is below **€5 billion**

## B. 1. The Single Supervisory Mechanism

### 2. Systemically important credit institutions (cont.)

- (b) Those for which public financial assistance has been requested or received **directly** from the **EFSM** or the **ESM**
- (c) Following a notification by a national competent authority
- (d) In any case, the three most significant credit institutions in each Member State
- (e) The ECB may also, consider an institution to be of significant relevance where its cross-border activity is substantial

## B. 1. The Single Supervisory Mechanism

ECB's tasks following the adoption of the Regulation 1024/2013			
Category of ECB tasks	Legal basis	Implementation in euro area Member States	Implementation in Member States with a derogation
1. <i>Basic</i> tasks	Article 127 par. 2 TFEU	Yes	No
2. <i>Other</i> tasks	Several TFEU articles	Yes	As a rule, no
3. <i>Specific</i> tasks on macro-prudential oversight over the European financial system	Council Regulation 1096/2010 (based on Article 127, par. 6 of the TFEU)	Yes	Yes
4. <i>Specific</i> tasks on micro-prudential supervision of credit institutions ( <i>new</i> )	Council Regulation 1024/2013 (based on Article 127, par. 6 of the TFEU)	Yes	Under the conditions of the 'close cooperation procedure'

## **B. 1. The Single Supervisory Mechanism**

### **3. ECB's specific tasks**

- Granting and withdrawal of authorization of credit institutions
- Performance of tasks which would fall upon the competent authority of the home Member State under the relevant Union law for credit institutions established in a participating Member State, which are willing to establish a branch or provide cross-border services in a non-participating Member State
- Assessment of applications for the acquisition and disposal of 'qualifying holdings' in credit institutions
- Conduct of micro-prudential supervision

## B. 1. The Single Supervisory Mechanism

### 3. ECB's specific tasks (cont.)

- Ensuring compliance of credit institutions with the requirements to have in place robust governance arrangements
- Participation in colleges of supervisors
- Conduct of stress-tests
- Ad hoc imposition on credit institutions of specific additional own funds requirements, disclosure obligations and liquidity requirements ('Pillar 2')
- Supplementary supervision of financial conglomerates
- Carrying out supervisory tasks in relation to recovery plans and early intervention, when a credit institution does not meet or is likely to breach the applicable micro-prudential supervision requirements



## **B. 1. The Single Supervisory Mechanism**

### **4. National Competent Authorities' tasks**

- Receiving notifications from credit institutions in relation to the right of establishment and the free provision of services
- Conduct of macro-prudential regulation
- Protection of the economic interests of consumers transacting with financial service providers
- Prevention of the use of the financial system for the purposes of money laundering and terrorist financing
- Conduct of micro-prudential supervision of credit institutions from third countries establishing a branch or providing cross-border services in the Union
- Oversight of payment systems
- Carrying out the function of competent authorities over credit institutions in relation to markets in financial instruments

## B. 1. The Single Supervisory Mechanism

### 5. Applicable law

- For the purpose of carrying out its supervisory tasks, ECB shall apply:
  - where Union law is composed of **Directives**, the national legislation transposing those Directives,
  - where Union law is composed of **Regulations** and where currently those Regulations explicitly grant options for Member States, the ECB shall apply the relevant national legislation
- ECB may adopt **Guidelines** and **Recommendations** and take **Decisions** subject to and in compliance with the relevant Union law and in particular any legislative and non-legislative act, including those referred to in Articles 290 and 291 TFEU (**RTS/ITS**)
- ECB may also adopt **Regulations** only to the extent necessary to organise or specify the arrangements for the carrying out of the supervisory tasks

# B. 1. The Single Supervisory Mechanism

## Macroprudential tasks and tools

10 working days prior to taking a decision concerning the application of the following instruments, NCA or NDA notifies its intention to the ECB:

- Countercyclical capital buffer (*CRD 130.135-140*)
- Systemically important institution buffer (*CRD IV131*)
- Systemic risk buffer (*CRD IV 133-134*)
- Higher requirements on capital/ liquidity/ large exposures / risk weights (*CRR 458*)
- Higher real estate risk weights and stricter lending criteria (*CRR 124*)
- Higher minimum exposure-weighted average LGDs (*CRR 164*) Liquidity requirements under Pillar II (*CRD IV 105*)
- Other macroprudential use of Pillar II (*CRD IV 103*)

The ECB may, on the proposal of an NCA or an NDA or on its own initiative, apply higher requirements for capital buffers or more stringent measures aimed at addressing systemic or macroprudential risks

NCA or NDA is sole responsible for the application of macro prudential instruments not covered by the scope of the EU legislation:

- Loan-to-Value
- Loan-to-Income
- Debt-service-to-income
- Loan-to-deposit limits

### Scope of application

**Credit institutions incorporated in Member States participating in Banking Union**

Credit institutions directly supervised by the **ECB**

Credit institutions directly supervised by an **NCA**

## **B.1. The Single Supervisory Mechanism**

### **6. Supervision of non-systemically important credit institutions**

- The ECB issues Regulations, Guidelines or general instructions to national competent authorities, according to which the supervisory tasks (excluding granting and withdrawal of authorisation of credit institutions and the assessment of applications for the acquisition and disposal of ‘qualifying holdings’ in credit institutions) are performed and supervisory decisions are adopted by national competent authorities
- The ECB may at any time, on its own initiative after consulting with national competent authorities or upon request by a national competent authority, decide to exercise directly itself all the relevant powers

## **B.1. The Single Supervisory Mechanism**

### **6. Supervision of non-systemically important credit institutions (cont.)**

- The ECB may at any time make use of the following powers:
  - Request information
  - Conduct general investigations
  - Conduct on-site inspections
  - Request authorization by a judicial authority
  
- The ECB may also request, on an ad hoc or continuous basis, information from the national competent authorities on the performance of their tasks

## B.1. The Single Supervisory Mechanism

### 7. Governance

#### 1. Governing Council

- The ECB's main decision-making body will adopt or object to decisions proposed by the Supervisory Board

#### 2. Supervisory Board

- The planning and execution of the tasks conferred upon the ECB will be fully undertaken by an **internal body**, the Supervisory Board. It will propose to the Governing Council of the ECB complete draft decisions to be adopted by the latter. The Supervisory Board is composed of:
  - Danièle Nouy, Chair, appointed for a non-renewable term of five years
  - Sabine Lautenschläger, Vice Chair, chosen among the members of the Executive Board of the ECB
  - four (4) representatives of the ECB (Sirikka Hämäläinen, Julie Dickson and Ignazio Angeloni), and
  - one (1) representative of the national competent authority in each participating Member State

## **B.1. Single Supervisory Mechanism**

### **7. Governance**

#### **3. Mediation Panel**

- One member per participating EU Member State, chosen from among the members of the Governing Council and the Supervisory Board
- Resolves differences of views in cases where a competent authority objects to an objection to a draft decision of the Supervisory Board by the Governing Council

#### **4. Administrative Board of Review**

- Composed of five (5) individuals of high repute from Member States (appointed for a term of five years, which may be extended once)
- Any natural or legal person may request a review of a decision by the ECB which is addressed to that person, or is of a direct and individual concern to that person

## **B.1. The Single Supervisory Mechanism**

### **8. Powers of the ECB**

#### **Investigatory powers**

- Request for information
- Conduct of general investigations
- Conduct of on-site inspections
- Request of authorization by judicial authorities

#### **Specific supervisory powers**

- Granting and withdrawal of authorisation
- Assessment of acquisitions of qualifying holdings
- Supervisory powers
- Powers of host authorities and cooperation on supervision on a consolidated basis
- Administrative penalties



## Administrative penalties

### Allocation of competences between the ECB and NCAs

#### Breach of directly applicable law

**Significant Supervised Entities**

Within the scope of the tasks conferred on the ECB, the ECB has the exclusive competence to open infringement proceedings against and impose administrative penalties on Significant Supervised Entities

**Less Significant Supervised Entities**

NCAs have the exclusive competence to open infringement proceedings against and impose administrative penalties on Less Significant Supervised Entities

#### Breach of national law (including a national law transposing a directive)

**Significant Supervised Entities**

ECB cannot impose administrative pecuniary penalties, but is exclusively competent to require NCAs to open proceedings against Significant Supervised Entities that may lead to the imposition of sanctions

**Less Significant Supervised Entities**

NCAs are competent to open infringement proceedings against and impose administrative penalties on Less Significant Supervised Entities

#### Breach of ECB Regulations and Decisions

**Significant Supervised Entities**

ECB applies the relevant sanctions in the cases where an ECB regulation or decision is breached in relation to the tasks conferred upon the ECB

**Less Significant Supervised Entities**

To the extent that an ECB regulation or decision imposes obligations upon Less Significant Supervised Entities, the ECB remains exclusively competent to apply the relevant sanctions on those entities

## **B.1. The Single Supervisory Mechanism**

### **9. Separation from monetary policy function**

- The staff involved in carrying out the tasks conferred on the ECB by this Regulation shall be organisationally separated from, and subject to separate reporting lines from the staff involved in carrying out other tasks conferred on the ECB
- The operation of the Governing Council is completely differentiated as regards monetary and supervisory functions (such differentiation shall include strictly separated meetings and agendas)

## B.1. The Single Supervisory Mechanism

### 9. Other issues

- Institutional independence of the ECB with regard to the specific tasks conferred upon it
- Accountability of the ECB before the European Parliament, national Parliaments, and the Council (Interinstitutional Agreement between the European Parliament and the ECB)
- Professional secrecy of the members of the Supervisory Board and of the ECB staff
- Reporting of violations
- ECB's power to roll the cost of micro-prudential supervision over to credit institutions subject to supervision ('supervisory fees')

## B.1. The Single Supervisory Mechanism

### 10. Entry into force

- The ECB shall assume the supervisory tasks conferred upon it on 4 November 2014
- Without prejudice to the exercise of investigatory powers conferred on it, from 3 November 2013, the ECB may start carrying out the supervisory tasks conferred on it other than adopting supervisory decisions in respect of any credit institution, financial holding company or mixed financial holding company and following a decision addressed to the entities concerned and to the national competent authorities concerned

## B.1. The Single Supervisory Mechanism

### 11. Framework Regulation

On 25 April 2014, the ECB published the **SSM Framework Regulation**, which describes the rules and procedures governing, *inter alia*, the following aspects:

- the assessment of a bank's significance, to determine whether it falls under the ECB's direct or indirect supervision,
- the ECB's oversight of the whole system,
- cooperation between the ECB and the NCAs with a view to ensuring a smooth functioning of the SSM,
- the general principles for the conduct of supervisory procedures by the ECB,
- procedures relating to the SSM's micro-prudential and macro-prudential tasks, and
- administrative penalties for breaches of the relevant law.

## B.1. The Single Supervisory Mechanism

### 12. Comprehensive Assessment

The ECB conducts, currently, cooperating with the NCAs and with the company Oliver Wyman, a Comprehensive Assessment of the credit institutions to be supervised directly by the ECB. The Assessment consists of three (3) elements:

- a **Supervisory Risk Assessment** to review, quantitatively and qualitatively, key risks, including liquidity, leverage and funding of the credit institutions
- an **Asset Quality Review (AQR)** to enhance the transparency of bank exposures by reviewing the quality of banks' assets, including the adequacy of asset and collateral valuation and related provisions
- a **stress-test** to examine the resilience of credit institutions' balance sheet to stress scenarios, conducted jointly by the ECB and the EBA

## **B.2. Harmonisation of rules: CRD IV/CRR**

## B.2. CRD IV / CRR

On 26 June 2013 the following acts were published:

- the **Directive 2013/36/EU** of the European Parliament and of the Council 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, known as “**CRD IV**”, and
- the **Regulation (EU) 575/2013** of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012, known as “**CRR**”



## The European Supervisory Architecture: from informal fora to "European (quasi-)supervisory authorities"

	Banking	Securities and Markets	Insurance, Reinsurance and Pension Funds
before adoption of the Lamfalussy process: informal (except BSC)	<b>GdC</b> (Group de Contact, 1972), and <b>BSC</b> (Banking Supervision Committee, European Central Bank, 1998) (*)	<b>HLSSC</b> (High Level Securities Supervisors Committee", 1985) <b>FESCO</b> (Forum of European Securities Commissions, 1997)	<b>CIS</b> (Conference of Insurance Supervisors, 1957)
after adoption of the Lamfalussy process: institutionalised	<b>CEBS</b> (Committee of European Banking Supervisors, 2004), and <b>BSC</b> (*)	<b>CESR</b> (Committee of European Securities Regulators, 2001)	<b>CEIOPS</b> (Committee of European Insurance and Occupational Pensions Supervisors, 2004)
after establishment of the ESFS: institutionalised	<b>EBA</b> (European Banking Authority, 2011), and <b>BSC</b> (*)	<b>ESMA</b> (European Securities and Markets Authority, 2011)	<b>EIOPA</b> (European Insurance and Occupational Pensions Authority, 2011)

(\*) within the context of the ESCB, with the representation of all member states' national central banks (with the euro as the currency or with a derogation)

## B.2. CRD IV / CRR

### CRR

The Regulation (EU) 575/2013 includes provisions on micro-prudential regulation that aim to:

- improve the banking sector's ability to absorb shocks arising from financial and economic stress,
- introduce innovative instruments on micro-prudential regulation
  - Liquidity Coverage Ratio
  - Net Stable Funding Ratio
  - Leverage Ratio
- promote the clearing of OTC derivatives through central counterparties
- strengthen banks' transparency and disclosures

The provisions contained in the Regulation 575/2013 gradually apply as of 1 January 2014

## B.2. CRD IV / CRR

### CRD IV

The Directive 2013/36/EU includes provisions on:

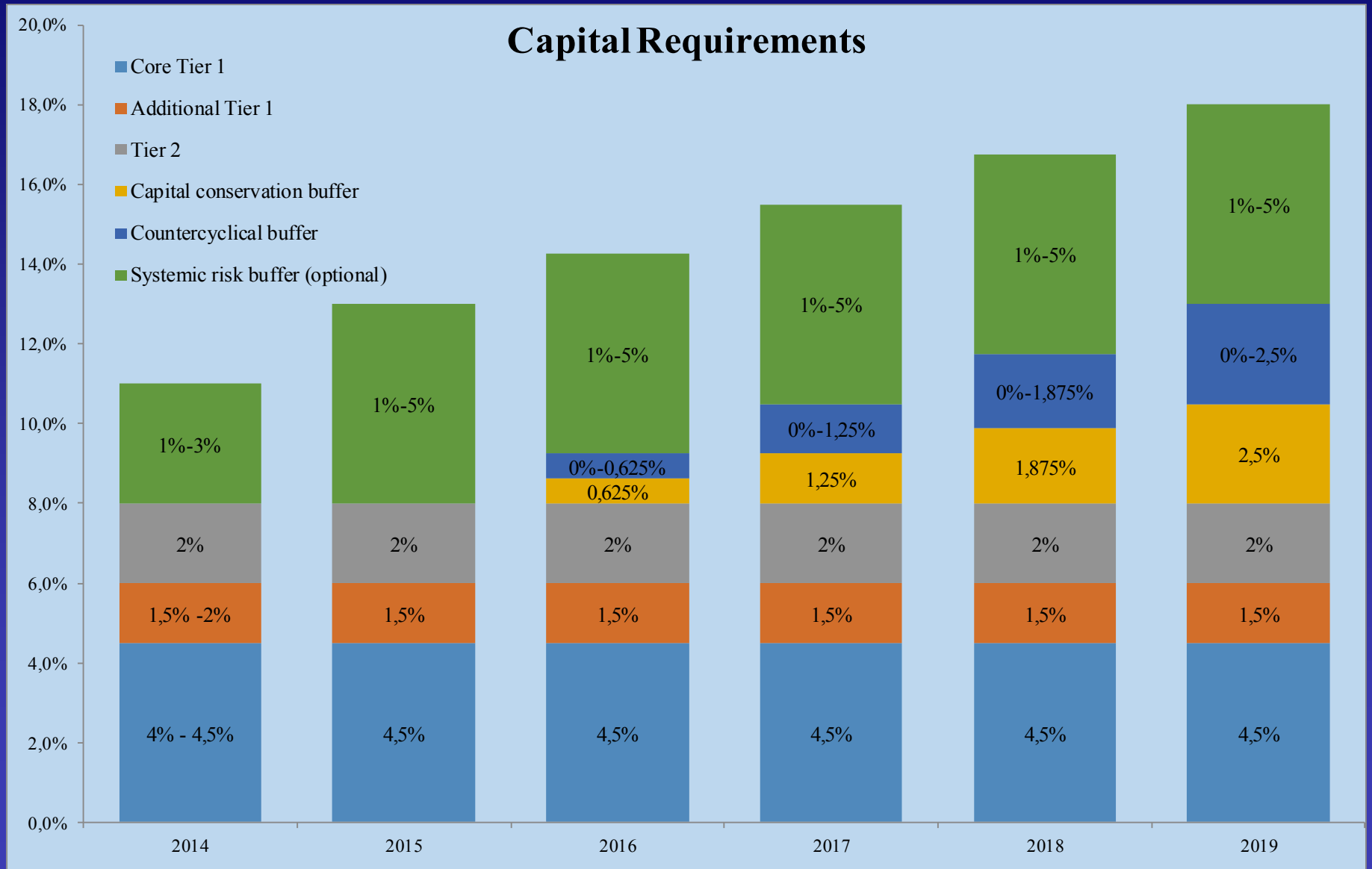
- the freedom to establish and provide services by credit institutions,
- the micro-prudential supervision of credit institutions,
- corporate governance,
- remuneration policies, and
- capital buffers.

The Directive 2013/36/EU gradually applies as of **1 January 2014**

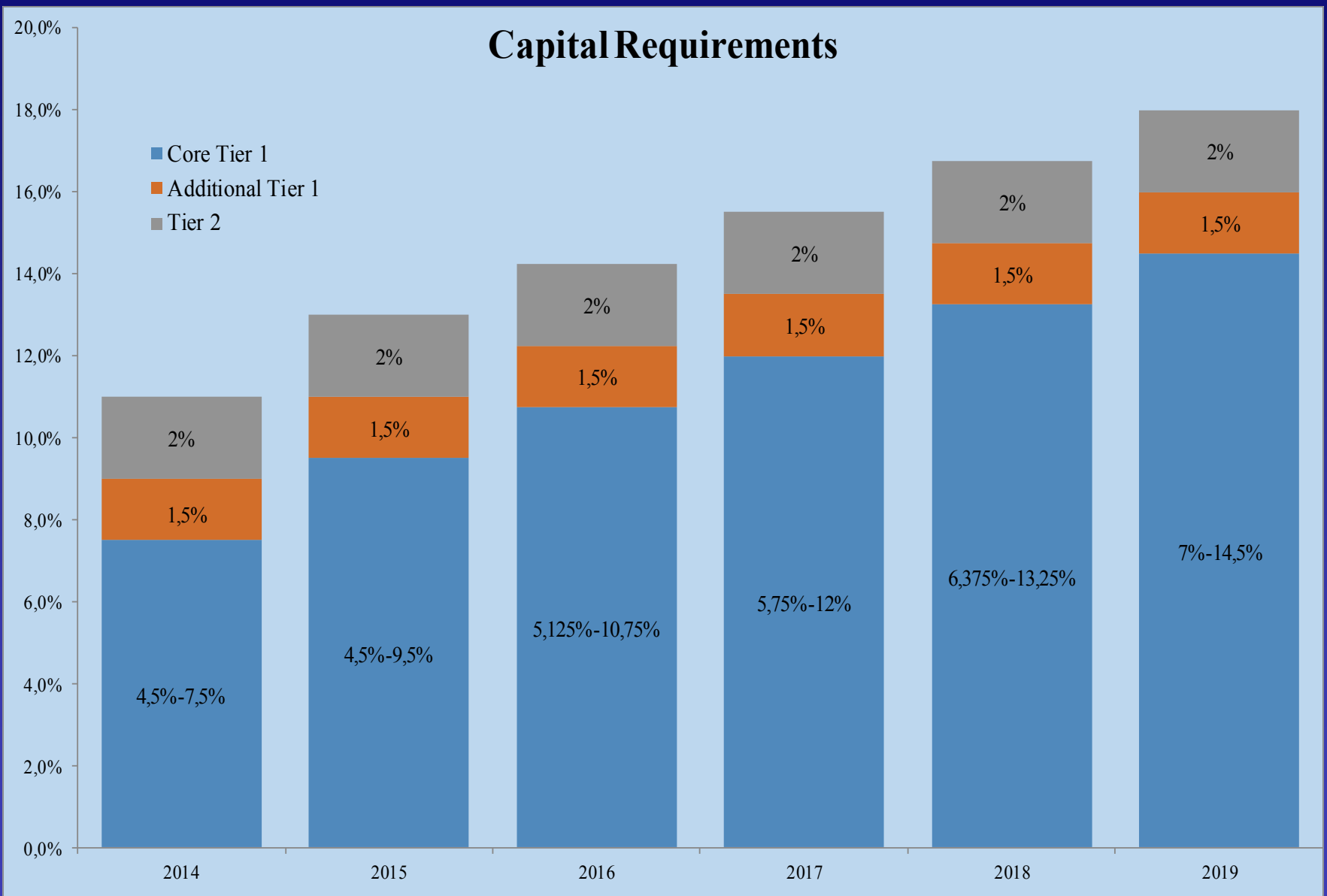
## B.2. CRD IV / CRR

Own Funds		
<b>Tier 1 capital</b>		<b>Tier 2 capital</b>
<i>Common Equity Tier 1 capital</i>	<i>Additional Tier 1 capital</i>	
common shares	preference shares and debt instruments that meet certain requirements	preference shares and debt instruments meeting certain requirements
share premium accounts related to the common shares	share premium accounts related to the above-mentioned instruments	share premium accounts related to above-mentioned instruments
retained earnings		general credit risk adjustments, gross of tax effects, of up to 1,25% of risk-weighted exposure amounts (standardised approach)
accumulated other comprehensive income		positive amounts, gross of tax effects, resulting from the calculation laid down in Articles 158 and 159 (expected loss amounts) up to 0,6 % of risk weighted exposure amounts (IRB approach)
other reserves		
funds for general banking risk		

## B.2. CRD IV / CRR



## B.2. CRD IV / CRR



## B.2. CRD IV / CRR

Capital buffers under the CRD IV					
	Capital conservation buffer	Institution-specific countercyclical capital buffer	Global systemically important institutions buffer	Other systemically important institutions buffer	Systemic risk buffer
<b>Scope of application</b>	On all institutions On an individual and consolidated basis	On all institutions On an individual and consolidated basis	On G-SIIs On a consolidated basis	On O-SIIs On an individual, sub-consolidated or consolidated basis	On all or a subset of institutions On an individual, sub-consolidated or consolidated basis
<b>Size</b>	2,5% CET1	0-2,5% CET1	1-2,5% CET1	0-2% CET1	2014 (1-3%) 2015 (1-5%, under conditions above 5%)
<b>Timeline</b>	2016-2019 (0,625-2,5%)	2016-2019 (0,625-2,5%)	2016	2016	
	NCAs may adopt shorter transitional period and implement these buffers as of 01/01/2014 [CRD IV 160(6)]				

# Procedures relevant to the Systemic Risk Buffer

	1-3% Until 31/12/2014	Above 3% Until 31/12/2014	3-5% 01/01/2015	Above 5% 01/01/2015
<b>Domestic exposures and exposures to third countries</b>	<ul style="list-style-type: none"> <li>Notification to the Commission, the ESRB, the EBA and the authorities of the Member States and third countries concerned [CRD IV 133 (11)]</li> </ul>	<ul style="list-style-type: none"> <li>Notification to the Commission, the ESRB, the EBA and the NCAs/NDAs of the Member States and third countries concerned [CRD IV 133 (12-13)]</li> <li>Opinion from the ESRB (and perhaps the EBA) to the Commission [CRD IV 133 (15)]</li> <li>The Commission, within 2 months of notification, adopts implementing act authorizing the NCA/NDA to apply the SRB [CRD IV 133 (15)]</li> </ul> <p>Where the entity is a subsidiary whose parent is established in another Member State:</p> <ul style="list-style-type: none"> <li>Commission and ESRB issue recommendation</li> <li>if NCAs/NDAs of concerned Member States disagree and if both recommendations are negative, can request EBA binding mediation [CRD IV 133 (14)]</li> </ul>	<ul style="list-style-type: none"> <li>Notification to the Commission, the ESRB, the EBA [CRD IV 133 (13)]</li> <li>NCA/NDA awaits the Opinion of the Commission [CRD IV 133 (14)]</li> <li>Where the Opinion of the Commission is negative, NCA/NDA “complies or explains” [CRD IV 133 (14)]</li> </ul>	<ul style="list-style-type: none"> <li>Notification to the Commission, the ESRB, the EBA and the NCAs/NDAs of the Member States and third countries concerned [CRD IV 133 (12-13)]</li> <li>Opinion from the ESRB (and perhaps the EBA) to the Commission [CRD IV 133 (15)]</li> <li>The Commission, within 2 months of notification, adopts implementing act authorizing the NCA/NDA to apply the SRB [CRD IV 133 (15)]</li> </ul>
<b>Exposures to other Member States</b>			<ul style="list-style-type: none"> <li>Notification to the Commission, the ESRB, the EBA and the NCAs/NDAs of the Member States and third countries concerned [CRD IV 133 (12-13)]</li> <li>Opinion from the ESRB (and perhaps the EBA) to the Commission [CRD IV 133 (15)]</li> <li>The Commission, within 2 months of notification, adopts implementing act authorizing the NCA/NDA to apply the SRB [CRD IV 133 (15)]</li> </ul>	



## Instruments under the CRD / CRR for macroprudential use

### Instruments under the CRD IV

Countercyclical capital buffer	Global Systemically important institution (G-SII) buffer	Other Systemically Important Institution (O-SII) buffer	Systemic risk buffer (SRB)	Liquidity requirements under Pillar 2	Other macroprudential use of Pillar 2
mandatory	mandatory	optional	optional	optional	optional
<i>CRD 130, 135-140</i>	<i>CRD 131</i>		<i>CRD 133, 134</i>	<i>CRD 105</i>	<i>CRD 103</i>

### Instruments under the CRR

Higher requirements on capital / liquidity/ large exposures / risk weights	Higher real estate risk weights and stricter lending criteria	Higher minimum exposure – weighted average LGDs
optional	optional	optional
<i>CRR 458</i>	<i>CRR 124</i>	<i>CRR 164</i>

### Other

**Loan-to-value (LTV), Loan-to-income (LTI), Debt-service-to-income (DSTI), Loan-to-deposit limits (LTD limits) and a leverage ratio**

optional

Member States can assign macroprudential instruments that are not covered by the scope of the EU legislation

*National legal framework*

## B.2. CRD IV / CRR

### Timetable for the implementation of the innovative prudential regulation tools

	2014		2015	2016		2017	2018
<b>Liquidity Coverage Ratio</b>	Supervisory reporting ( <i>CRR 415</i> )	Commission adopts delegated act to specify in detail the requirement regarding LCR ( <i>CRR 460</i> )	60%	70%		80%	100%
<b>Net Stable Funding Ratio</b>	Supervisory reporting ( <i>CRR 415</i> )		General obligation on institutions to ensure that long-term obligations are adequately met with a diversity of stable funding instruments ( <i>CRR 521</i> )		Commission submits a legislative proposal to the EP and the Council concerning specific requirement on NSFR ( <i>CRR 510</i> )	Implementation (Pillar I) ( <i>Basel III</i> )	
<b>Leverage Ratio</b>	Supervisory reporting ( <i>CRR 430</i> )	Disclosure (Pillar III) ( <i>CRR 521</i> )	Commission submits a legislative proposal to the EP and the Council		Implementation (Pillar I) ( <i>Basel III</i> )		

## B.2. CRD IV / CRR

### Liquidity coverage ratio

**LCR:** a 30 day, stressed metric which improves the short-term resilience of financial institutions to liquidity shocks

$$\text{LCR} = \frac{\text{High Quality Liquid Assets}}{\text{Total net cash outflows over the next 30 calendar days}}$$

- The European Banking Authority (EBA) published two Reports on liquidity, namely:
  - i. on the impact assessment for liquidity coverage requirements, and
  - ii. on appropriate uniform definitions of extremely high quality liquid assets (extremely HQLA) and high quality liquid assets (HQLA) and on operational requirements for liquid assets
- These two reports provide the European Commission with specific **recommendations** for the purpose of its forthcoming delegated act
- The Commission shall adopt a delegated act to specify in detail the liquidity coverage requirement concerning LCR by 30 June 2014

## B.2. CRD IV / CRR

### Liquidity Coverage Ratio EBA Recommendations

#### High Quality Liquid Assets (HQLA)

Level 1	Level 2	Not HQLA
All bonds issued or guaranteed by <b>EU sovereigns</b> (irrespective of the credit quality)	<b>Covered bonds</b> , with minimum ECAI 1 and minimum issue size €250 m	<b>Gold</b>
All bonds issues or guaranteed by <b>EU central banks</b> (irrespective of the credit quality)	<b>Corporate bonds</b> , with minimum ECAI 4, of minimum issue size €250 m and maximum time to maturity 10 years	<b>ABS</b> backed by residential mortgages
All bonds issued or guaranteed by <b>supranational institutions</b> (irrespective of the credit quality): <b>BIS, IMF, EC, ESM, EFSF</b>	<b>RMBS</b> , with min ECAI 1, of minimum issue size €100m and maximum time to maturity 5 years (+ add. requirements)	<b>Credit claims</b>
	Bonds issued by <b>local governments institutions</b> , with minimum ECAI 2, of minimum issue size €250m and maximum time to maturity 10 years	Securities issued by <b>financial institutions</b> (unless they are guaranteed by sovereigns)
	<b>Common equity shares</b> (Basel III criteria)	Bonds issued by <b>promotional banks</b>

## B.2. CRD IV / CRR

### Leverage ratio

- Leverage ratio aims at:
  1. constraining the build-up of leverage in the banking sector, and
  2. acting as a backstop to risk-based capital requirements

- $$\text{Leverage ratio} = \frac{\textit{Tier 1 capital}}{\textit{Total exposure amount}}$$

### Requirements on leverage

- **Pillar I:** no obligation to comply with leverage ratio until 2018
- **Pillar II:** institutions shall identify, monitor and manage the risk of excessive leverage risk (CRD IV 87)
- **Pillar III:** disclosure requirement (CRR 451)

## **B.2. CRD IV / CRR**

### **Supervisory reporting**

- Reporting on own funds and own funds requirements – CoRep [CRR 99(5)]
- Reporting financial information [CRR 99(6)], including information regarding non-performing and forborne exposures
- Reporting on losses stemming from lending collateralised by immovable property [CRR 104(1)]
- Reporting large exposures and concentration risk [CRR 394(4)]
- Reporting on leverage [CRR 430(2)]
- Reporting on liquidity (LCR and NSFR) (CRR 415)
- Reporting repurchase agreements, securities lending and all forms of encumbrance of assets (CRR 100)

## B.2. CRD IV / CRR

### Disclosure by institutions

**Frequency of disclosure (CRR 433):** Institutions shall publish the disclosures at least on an annual basis. Annual disclosures shall be published in conjunction with the date of publication of the financial statements.

**Specific publication requirements (CRD IV 106):** Member States shall empower the competent authorities to require institutions to publish information more than once per year

#### Disclosure requirements

CRR		CRR	
437	Own funds	447	Exposures in equities not included in the trading book
438	Capital requirements	448	Exposure to interest rate risk on positions not included in the trading book
439	Exposure to counterparty credit risk	449	Exposure to securitisation positions
440	Capital buffers	450	Remuneration policy
441	Indicators of global systemic importance	451	Leverage
442	Credit risk adjustments	452	Use of the IRB Approach to credit risk
443	Unencumbered assets	453	Use of credit risk mitigation techniques
444	Use of ECAIs	454	Use of the Advanced Measurement Approaches to operational risk <span style="float: right;">47</span>
446	Operational risk	455	Use of Internal Market Risk Models

## **B.2. CRD IV / CRR**

### **Disclosure by institutions**

#### **Country-by-country reporting (CRD IV 89)**

- Each institution shall disclose annually, specifying by member states and by third country in which it has an establishment, the following information on a consolidated basis for the financial year:
  - a) name(s), nature of activities and geographical location
  - b) turnover
  - c) number of employees on a full time equivalent basis
  - d) profit or loss before tax
  - e) tax on profit or loss
  - f) public subsidies received

#### **Public disclosure of return on assets (CRD IV 90)**

Institutions shall disclose in their annual report among the key indicators their return on assets, calculated as their net profit divided by their total balance sheet.



## **C. Second Pillar of the EBU**

### **Resolution of unviable credit institutions**

**C.1. European body:  
Single Resolution Mechanism  
-SRM-**

## C.1. The Single Resolution Mechanism

### 1. State of play

#### July 2013

- Proposal for a Regulation of the European Parliament and of the Council 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 Bank Resolution Fund (**SRM Regulation proposal**)

#### December 2013

- **Ecofin**: General Approach on the SRM Regulation proposal
  - Decision to regulate some elements of the single resolution fund through a separate intergovernmental agreement (IGA)

#### March 2014

The Council reached a provisional agreement with the European Parliament on the SRM Regulation

#### 15 April 2014

Adoption of the SRM Regulation by the EU Parliament Plenary

# **C.1. The Single Resolution Mechanism**

## **2. Scope of application**

### **i. Geographical scope of application**

- euro area Member States, and
- Member States whose currency is not the euro and have established a close cooperation with the ECB according to article 7 of the SSM Regulation

### **ii. Types of financial institutions covered by the SRM Regulation**

- credit institutions,
- parent undertakings, including (mixed) financial holding companies, under ECB supervision,
- investment firms and financial institutions when covered by the consolidated supervision of the parent undertaking carried out by the ECB

## C.1. The Single Resolution Mechanism

### 3. Organizational principles

The SRM is composed of:

- the **Single Resolution Board** established under Article 38 of the SRM Regulation,
- national resolution authorities of participating Member States,
- the European Commission and the Council (ECOFIN) which are awarded *specific and time-restricted powers of approval or objection* regarding the Board's decisions.

## C.1. The Single Resolution Mechanism

### The Single Resolution Board

- i. Composition:
  - the Executive Director,
  - four additional full-time members,
  - a member appointed by each participating Member State, representing the national resolution authorities
  - a *designated representative with permanent observer status* by the ECB and the Commission respectively
  
- ii. Each member has one vote

## C.1. The Single Resolution Mechanism

### The Single Resolution Board

#### iii. Accountability:

- The Board acts in compliance with Union Law and is accountable to the EU Parliament, the Council and the Commission.
- Yearly submission of reports to national parliaments on the execution of its tasks.

#### iv. Plenary and Executive Session

## C.1. The Single Resolution Mechanism

### *Division of tasks within the SRM*

- i. The **Single Resolution Board** has competence in principle over all SSM credit institutions.
- ii. In practice, however, **national resolution authorities** will remain responsible for the resolution of all credit institutions established in their respective Member State, **expect for**:
  - the **128 credit institutions directly supervised by the ECB**,
  - credit institutions that **operate cross-border** within the SSM, and
  - credit institutions, whose resolution **requires recourse to the Single Resolution Fund's available financial means**.

National resolution authorities are required to inform the Board in advance of the measures to be taken and closely coordinate their actions.

- iii. Member States may opt to cede competence to the Board regarding the resolution of **all** institutions established in their territory.



## C.1. The Single Resolution Mechanism

### 4. Resolution procedure

#### *(a) The ECB triggers the procedure*

The ECB, as a supervisory authority, *or the Supervisory Board on its own initiative if the ECB declines to act*, shall conduct an assessment of whether the following conditions are met:

- i. the credit institution is failing or is likely to fail,
- ii. having regard to timing and other relevant circumstances, there is no reasonable prospect that any alternative private sector or supervisory action (including early intervention measures or the write down or conversion of capital instruments), taken in respect of the credit institution, would prevent its failure within a reasonable timeframe
- iii. a resolution action is necessary in the public interest

The ECB's assessment is notified to the Board, the Commission, and the relevant national resolution authorities.

## C.1. The Single Resolution Mechanism

### 4. Resolution procedure (cont.)

#### *(b) The Single Resolution Board adopts a resolution scheme*

The Single Resolution Board would then assess whether there is a systemic threat and if any private sector solutions are feasible. If not, it **adopts a resolution scheme.**

The resolution scheme shall:

- i. place the credit institution under resolution,
- ii. determine the application of specific resolution tools to the institution,
- iii. determine the use of the Single Resolution Bank Fund to support the resolution action.

## C.1. The Single Resolution Mechanism

### 4. Resolution procedure (cont.)

#### *(c) The Commission and the Council endorse the scheme or object*

Within 12 hours from the transmission of the resolution scheme by the Board, the Commission **may** propose to the Council:

1. to object to the resolution scheme on the ground that the resolution scheme adopted by the Board does **not fulfil the criterion of public interest**,
2. to approve or object to a **material modification** (of at least 5% compared to the original proposal) of the amount of the Fund provided for in the resolution scheme of the Board.

*The resolution scheme **may enter into force only if no objection** has been expressed by the Council (decides by simple majority) or by the Commission **within a period of 24 hours after its adoption** by the Board. Otherwise, the Board will have to amend the resolution scheme.*

## C.1. The Single Resolution Mechanism

### 4. Resolution procedure (cont.)

#### *(d) Implementation of resolution actions*

- The agreed-upon resolution actions will then be implemented by the national resolution authorities.
- If resolution entails State aid, the Commission would have to approve the aid prior to the adoption by the Board of the resolution scheme.

## C.1. The Single Resolution Mechanism

### 5. Single Resolution Board

#### *Powers*

The Single Resolution Board will be empowered to:

- draw up resolution plans for credit institutions,
- assess the resolvability of credit institutions, and take measures aimed at removing impediments to resolvability, if any,
- require national resolution authorities to apply such appropriate measures designed to remove impediments to resolvability in order to ensure consistency and the resolvability of the institutions concerned,

## C.1. The Single Resolution Mechanism

### 5. Single Resolution Board

#### *Powers*

The Single Resolution Board will be empowered to (cont.):

- require changes to the structure and organization of institutions or groups in order to remove practical impediments to the application of resolution tools and ensure the resolvability of the entities concerned,
- choose the appropriate resolution tool,
- administer and use the Single Resolution Bank Fund

## C.1. The Single Resolution Mechanism

### 5. Single Resolution Board - *Formats*

#### A. Plenary Session

- Executive Director and 4 full-time members,
- ECB and Commission designated permanent observers, and
- a member appointed by each Member State, representing the national resolution authorities

#### B. Executive Session

Same as above with the addition of:

- any additional ad hoc observers (including by the EBA) invited at Board's discretion, and
- *representatives of only those Members States where subsidiaries and any significant branches of the failing institution are established.*

## C.1. The Single Resolution Mechanism

### 5. Single Resolution Board - *Plenary Decisions*

- a) all decisions of a general nature,
- b) individual resolution decisions requiring more than €5bn in capital, or twice that amount in liquidity support, from the SRF, and
- c) once the accumulated use of funds over any 12-month period reaches €5bn, the plenary will be responsible for evaluating the use of the SRF, and to give guidance to the executive session for subsequent resolution decisions.

*- Decisions involving the use of funds available in the SRF above these thresholds will always require a simple majority in the plenary session representing at least 30% of contributions to the SRF-*



## C.1. The Single Resolution Mechanism

### 5. Single Resolution Board - *Plenary Decisions (cont.)*

- d) decisions authorizing the SRF to borrow and to raise extraordinary ex-post contributions,
- e) financing arrangements in the event of the resolution of a group with institutions in both SRM-participating and non-participating EU countries

#### *Executive session decisions*

In its executive session, the Single Resolution Board will take decisions in respect of individual entities or banking groups where the use of the Single Resolution Fund remains below the above mentioned €5bn threshold.

## C.1. The Single Resolution Mechanism

### 6. Single Bank Resolution Fund

- It will be built up over a period of 8 years to reach a target level of at least 1% of the amount of covered deposits of all credit institutions authorised in all the participating member states. It is estimated that this will amount to about €55bn.
  
- It will be funded by annual contributions of credit institutions established in the participating Member States, calculated:
  - i. pro-rata to the amount of their liabilities (excluding own funds and covered deposits) with respect to the aggregate liabilities (excluding own funds and covered deposits) of all the institutions authorized in the participating member states, and
  - ii. adjusted in proportion to their risk profile.

## C.1. The Single Resolution Mechanism

### 6. Single Bank Resolution Fund (cont.)

(a) In parallel to the adoption of the SRM regulation, an intergovernmental agreement (IGA) on the transfer and mutualisation of contributions to the single resolution fund will also be signed.

(b) Under the IGA, contributions by credit institutions raised at national level will be transferred to the SRF, which will initially consist of national compartments. These will be gradually merged over an eight-year transitional phase.

(c) The mutualisation of paid-in funds will evolve as follows:

- 40% in the first year,
- a further 20% in the second year,
- and continuously increasing by equal amounts over the subsequent six years.

## C.1. The Single Resolution Mechanism

### 8. Entry into force

The SRM will be applicable as follows:

- Provisions on the preparation of resolution planning, the collection of information and cooperation with national resolution authorities will apply *as of 1 January 2015*
- Provisions relating to resolution planning, early intervention, resolution actions and resolution instruments, including the bail-in of shareholders and creditors, will apply *as of 1 January 2016, provided* that the conditions for the transfer of contributions to the SRF have been met
- The *intergovernmental agreement* will enter into force once ratified by member states participating in the SSM/SRM that represent 90% of the aggregate of the weighted votes of all participating member states.

## **C.2. Harmonisation of rules: BRRD**

## C.2. BRRD

### 1. The Directive

On 12 December 2013 the European Parliament and the Council reached an agreement on the Directive of the European Parliament and of the Council establishing a framework for the recovery and resolution of credit institutions and investment firms (**Bank Recovery and Resolution Directive - BRRD**)

The BRRD was formally adopted by the EU Parliament Plenary at first reading in its session of 15 April 2014

## C.2. BRRD

### 2. Resolution of unviable credit institutions:

■ The BRRD lays down a complete framework that allows authorities to cope with unsound or failing credit institutions. The framework provides, in particular, the **necessary tools and powers** needed to prevent insolvency or, when insolvency occurs, to minimize negative repercussions through the preservation of the systemically important functions of the institution concerned

■ National resolution authorities are equipped with a common framework for the recovery and resolution of credit institutions and investment firms in order to achieve the **resolution in an orderly manner** of the failing financial institutions, safeguarding the financial stability and **minimizing the public expenditure**

## C.2. BRRD

### 2. Scope

- credit institutions and investment firms established in the Union,
- financial institutions established in the Union, when the financial institution is a subsidiary of a credit institution or investment firm,
- financial holding companies, mixed financial holding companies and mixed-activity holding companies that are established in the Union,
- parent financial holding companies in a Member State, Union parent financial holding companies, parent mixed financial holding companies in a Member State, Union parent mixed financial holding companies, and
- branches of institutions established outside the Union



## **C.2. BRRD**

The prevention and crisis management continuum comprises measures falling under the following three (3) stages:

**a. preparation,**

**b. early intervention, and**

**c. resolution**

## C.2. BRRD

### (a) Preparation

This stage comprises the following:

- the credit institutions' obligation to draw up recovery and resolution plans,
- the assessment of credit institutions' resolvability: an institution shall be deemed resolvable if it is feasible and credible for the resolution authority to either liquidate it under normal insolvency proceedings or to resolve it by applying the different resolution tools and powers,
- the provision of Intra Group Financial Support through a voluntary agreement between the parent entity and the subsidiaries of a group that should be authorized by the competent authorities and approved by the shareholders of every group entity concerned

## C.2. BRRD

### **(b) Early intervention**

Where an institution is in breach of or, due inter alia to a rapidly deteriorating financial condition, including deteriorating liquidity situation, increasing level of leverage, non-performing loans or concentration of exposures, is likely in the near future to be in breach of any of the requirements of CRR, the NCAs require the management body of the institution to:

- implement one or more of the arrangements and measures set out in the recovery plan,
- examine the situation, identify measures to overcome any problems identified and draw up an action program to overcome those problems and a timetable for its implementation

## C.2. BRRD

### **(b) Early intervention (cont.)**

Where an institution is in breach of or, due inter alia to a rapidly deteriorating financial condition, the NCAs require the management body of the institution to:

- convene, or if the management body fails to comply with this requirement convene directly, a meeting of shareholders of the institution, and in both cases set the agenda and require certain decisions to be considered for adoption by the shareholders,
- one or more members of the management body or senior management to be removed or replaced if these persons are found unfit to perform their duties,

## C.2. BRRD

### **(b) Early intervention (cont.)**

Where an institution is in breach of or, due inter alia to a rapidly deteriorating financial condition, the NCAs require:

- the management body of the institution to draw up a plan for negotiation on restructuring of debt with some or all of its creditors according to the recovery plan, where applicable,
- changes to the institution's business strategy or to the legal or operational structures of the institution; and
- to acquire all the information necessary in order to update the resolution plan and prepare for the possible resolution of the institution and for valuation of the assets and liabilities of the institution

## C.2. BRRD

### (c) Resolution

#### *Principles*

- covered deposits (€100.000) are fully protected,
- losses should be borne first by shareholders and next by creditors of the institution under resolution in order of preference,
- no creditor should incur greater losses than under normal insolvency proceedings, in accordance with the no creditor worse off principle,
- equal treatment of creditors in the same class,
- management of institution to be replaced, and
- accountability of those responsible for the institution's failure

## C.2. BRRD

### (c) Resolution (cont.)

#### *Resolution tools*

- the **sale of business** – as a whole or in parts (assets),
- the **bridge institution** - created by public authorities for a limited period of time,
- the **asset separation** tool (good bank/bad bank) - transfer of assets to an asset management vehicle, and
- **bail-in and write-down** of capital instruments

## C.2. BRRD

### *Write-Down of capital instruments and Bail-in: functions*

- The recapitalization of institutions under resolution
- The conversion to equity or reduction of the principal amount of claims or debt instruments that are transferred to:
  - a bridge institution with a view to providing capital for that institution, or
  - under the sale of business or the asset separation tool

### *Bail-in actions*

- cancellation of shares or other instruments of ownership or transfer of these to bailed-in creditors, and
- conversion of debt instruments issued by the institution or of eligible liabilities into shares or other instruments of ownership.



## C.2. BRRD

### *Write-Down of capital instruments and Bail-in: Scope*

Bail-in may be applied to all liabilities of an institution that are not excluded from its scope.

**Excluded liabilities** comprise, *inter alia*, the following assets:

- covered deposits,
- secured liabilities, including covered bonds, and similar liabilities used for hedging purposes (under national law),
- client assets and money held on behalf of protected clients (under national insolvency law),
- contributions owed to the DGS, and
- liabilities to employees and towards tax and social authorities.

## C.2. BRRD

### *Write-Down of capital instruments and Bail-in: Implementation*

- (a) Minimum Requirement for own funds and eligible liabilities (MREL): NRAs shall ensure that institutions **meet at all times** a minimum requirement for own funds and eligible liabilities that shall be expressed as a **percentage to be defined ad hoc** for each institution by the competent resolution authority:

$$\frac{\textit{amount of own funds \& eligible liabilities}}{\textit{total liabilities \& own funds of the institution}}$$

Assessment criteria for the application of the MREL will be specified by the EBA within twelve months from the entry into force of the BRRD through Regulatory Technical Standards. These criteria will take into account, among other things, the credit institution's size, risk and business model.

Member States may provide for additional criteria.

## C.2. BRRD

### *Write-Down of capital instruments and Bail-in: Implementation (cont.)*

#### (b) Sequence of loss distribution

1. Common Equity Tier 1
2. If not enough, Additional Tier 1 are reduced to the extent required
3. If not enough, Tier 2 instruments are reduced to the extent required
4. If not enough, subordinated debt is reduced in accordance with the hierarchy of claims in normal insolvency proceedings
5. If not enough, the remaining eligible liabilities are reduced in accordance with the hierarchy of claims in normal insolvency proceedings

## C.2. BRRD

### Entry into force

Member States shall apply the provisions of the Directive as of **1 January 2015**, except for the provisions concerning **bail-in** which shall apply at the latest from **1 January 2016**

# Third Pillar of the EBU

## Deposit Guarantee

**D. European body: no development**  
**Harmonisation of rules: DGSD**

## D. Directive on Deposit Guarantee Schemes

### 1. The Directive

On 3 March 2014, the Council adopted its position at first reading on the Directive on Deposit Guarantee Schemes

On 15 April 2014 the European Parliament adopted the Directive 2014/49/EU on Deposit Guarantee Schemes

## **D. Directive on Deposit Guarantee Schemes**

### **2. Eligibility of deposits**

The following shall be excluded from any repayment by DGS:

- a. deposits made by other credit institutions on their own behalf and for their own account,
- b. all instruments which would fall within the definition of ‘own funds’,
- c. deposits arising out of transactions in connection with which there has been a criminal conviction for money laundering,
- d. deposits by financial institutions,

## **D. Directive on Deposit Guarantee Schemes**

### **2. Eligibility of deposits (cont.)**

The following shall be excluded from any repayment by DGS:

- e. deposits by investment firms,
- f. deposits by insurance undertakings,
- g. deposits by collective investment undertakings,
- i. deposits by pension and retirement funds,
- j. deposits by public authorities, and
- k. debt securities issued by a credit institution and liabilities arising out of own acceptances and promissory notes



## **D. Directive on Deposit Guarantee Schemes**

### **2. Eligibility of deposits (cont.)**

By way of derogation from the abovementioned, Member States may ensure that the following are included up to the coverage level:

- a. deposits held in personal pension schemes and occupational pension schemes of small or medium sizes enterprises
- b. deposits by local authorities with a yearly budget not higher than €500.000
- c. deposits that can be released in accordance with national law only to pay off a loan on a private property towards the credit institution or another institution

## D. Directive on Deposit Guarantee Schemes

**3. Coverage level:** for the aggregate deposits of each depositor, shall be **€100.000** per credit institution

The following deposits are protected above €100.000 for at least 3 months and no longer than 12 months after the amount has been credited or from the moment when such deposits become legally transferable:

- deposits resulting from real estate transactions relating to private residential properties,
- deposits that serve social purposes defined in national law and are linked to particular life events such as marriage, divorce, retirement, dismissal, redundancy, invalidity or death of a depositor, and
- deposits that are based on the payment of insurance benefits or compensation for criminal injuries or wrongful conviction

## D. Directive on Deposit Guarantee Schemes

### 4. Repayment

Repayment deadlines will be gradually reduced **from currently 20 working days to 7 working days**. During the transitional period, where DGSs cannot make the repayable amount available within 7 working days they shall ensure that depositors have access to an appropriate amount of their covered deposits to cover the cost of living within 5 working days of a request.

Member States may for a transitional period until 31 December 2023 establish the following repayment periods:

- 15 working days from 1 January 2019,
- 10 working days from 1 January 2021, and
- 7 working days from 1 January 2024

## D. Directive on Deposit Guarantee Schemes

### 5. Financing of Deposit Guarantee Schemes

- In a period no longer than 10 years after the entry into force of the Directive, the available financial means of a DGS shall at least reach a target level of 0,8% of the amount of the covered deposits of its members
- The available financial means to be taken into account in order to reach the target level may include **payment commitments**. The total share of payment commitments shall not exceed 30% of the total amount of available financial means
- Where the financing capacity falls short of the target level, the payment of contributions shall resume at least until the target level is reached again

## D. Directive on Deposit Guarantee Schemes

### 5. Financing of Deposit Guarantee Schemes (cont.)

- Member States, upon approval of the Commission, if duly justified, may authorise a minimum target level lower than the target level specified (0,8%), provided that the following conditions are met:
  - the reduction is based on the assumption that it is unlikely that a significant share of available means will be used for measures to protect covered depositors, other than defined in Art. 11 par. 2 (resolution) and 4 (transfer of assets and liabilities and deposit book transfer, in the context of national insolvency proceedings)
  - the banking sector in which the credit institutions affiliated to the DGS operate is **highly concentrated** with a large quantity of assets held by a small number of credit institutions or banking groups, subject to supervision on a consolidated basis which, given their size, are likely in case of failure to be subject to the resolution proceedings
- **The revised target level shall not be lower than 0,5% of covered deposits**

## **D. Directive on Deposit Guarantee Schemes**

### **6. Calculation of contributions DGS**

- The contributions shall be based on:
  - the amount of covered deposits, and
  - the degree of risk incurred by the respective member
- DGS may use their own risk-based methods for determining and calculating the risk-based contributions by their members. The calculation of contributions shall be proportional to the risk of the members and shall take due account of the risk profiles of the various business models. This method may also take into account the asset side of the balance sheet and risk indicators, such as capital adequacy, asset quality and liquidity.
- EBA shall issue guidelines to specify methods for calculating the contributions to DGS

## **D. Directive on Deposit Guarantee Schemes**

### **7. Cooperation within the Union**

- DGS shall cover the depositors at branches set up by credit institutions in other Member States
- Depositors at branches set up by credit features in another Member State shall be repaid by a DGS in the host Member State on behalf of the DGS in the home Member State
- The DGS of the host Member State shall make repayments in accordance with the instructions of the DGS of the home Member State. The DGS of the host Member State shall not bear any liability with regard to acts done in accordance with the instructions given by DGS of the home Member State. The DGS of the home Member State shall provide the necessary funding prior to payout and shall compensate the DGS of the host Member State for the costs incurred.

## **D. Directive on Deposit Guarantee Schemes**

### **8. Depositor information**

- Member States shall ensure that credit institutions make available to actual and intending depositors the information necessary for the identification of the DGS of which the institution and its branches are members within the Union. Member States shall ensure that credit institutions inform actual and intending depositors of the exclusions from DGS protection which apply
- Before entering into a contract on deposit-taking, depositors shall be provided with the abovementioned information
- Confirmation that the deposits are eligible deposits shall be provided to depositors on their statements of account



## D. Directive on Deposit Guarantee Schemes

### 8. Depositor information (cont.)

- In case of merger, conversion of subsidiaries into branches or similar operations, depositors shall be informed of the merger or conversion at least one month before it takes legal effect unless the competent authority allows a shorter deadline on the grounds of commercial secrecy or financial stability
- Depositors shall be given a **three-month period** following notification of the merger or conversion in order to give them the opportunity to withdraw or transfer to another bank, without incurring any penalty fees, their deposits including all accrued interest and benefits in so far as they exceed the coverage level but not higher than before the operation