

# Preparation for resolution of medium-sized and small banks in the euro area

Results of a parallel audit  
of supreme audit institutions  
on banking resolution

December 2020



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## Management Summary

During the financial and economic crisis that followed the fall of Lehman Brothers in September 2008, many governments of EU Member States stepped in with financial support. Different (often ad hoc) approaches were created to deal with failing banks. Often, this included public bailouts, which meant that taxpayers and national economies were affected. It became clear that an orderly and unified banking supervision framework was needed. In 2012, the European Union (EU) decided to set up a *European Banking Union* for the euro area.

The Banking Union consists of three pillars, two of which are operational in 2020. The Single Supervisory Mechanism (SSM, effective in 2014) aims to ensure the soundness of supervision on financial institutions, and the Single Resolution Mechanism (SRM, effective in 2016) aims to ensure the efficient resolution of failing financial institutions at minimum costs for taxpayers and the real economy. The SRM Regulation (SRM-R) sets out rules, introduces new policy instruments and establishes a European *Single Resolution Board* (SRB) to prepare for resolution. The Member States established the National Resolution Authorities (NRA) based on the EU's *Bank Recovery and Resolution Directive* (BRRD). A general aim of the Banking Union is to ensure that the EU rules for supervision and resolution are implemented effectively and consistently across the euro area and in other participating countries<sup>1</sup>. A properly functioning Banking Union is also important to mitigate the impact of the current COVID-19 crisis on national and European financial markets.

In 2018, the Contact Committee of the heads of Supreme Audit Institutions (SAIs) in the EU mandated a group of SAIs united in the Task Force Banking Union to initiate a parallel audit. The audit was carried out by most SAIs in 2018-2019. The theme of the audit is the functioning of the SRM in the preparatory activities for the resolution of medium-sized and small banks – or Less Significant Institutions (LSIs) – under the remit of NRAs in selected countries in the euro area. This report is addressed to national governments and parliaments of euro area countries, as well as relevant European institutions. It aims to provide insight into the way the SRM is set

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<sup>1</sup> <https://www.bankingsupervision.europa.eu/about/bankingunion/html/index.en.html>



up and carried out for LSIs in different euro area countries, and what potential risks are involved. The second aim is to identify to what extent SAIs are actually able to exercise their audit mandates and obtain full access to documents required. The SAIs of Austria, Estonia, Finland, Germany, the Netherlands, Portugal and Spain participated in the parallel audit. This report combines the findings of the national audit activities and reports of the seven participating SAIs.

For the parallel audit, three main research questions were devised:

1. Are NRAs adequately equipped and prepared to carry out the resolution task regarding medium-sized and small banks?
2. How is the preparation for resolution activities regarding medium-sized and small banks being carried out in practice by the NRA?
3. Do SAIs face any barriers in auditing banking resolution and obtaining access to relevant documents?

The following main conclusions are drawn on the results on the parallel audit:

- Most NRA data on budget and staff do not distinguish between resolution activities for SIs and LSIs, and the data do not show the “cost” of their various other tasks. Because there is a variety in how NRAs report on budget and staff, we cannot determine how well equipped NRAs are to carry out the resolution task.
- The preparation for resolution activities of LSIs is under way, but the process and content of resolution planning for LSIs differs between countries. Some topics are addressed to a limited extent in resolution plans.
- Due to conditions set by the SRB, internal SRB guidance for resolution planning for LSIs could not be fully taken into account by SAIs.

Overall, two issues stand out. First, resolution planning is *work in progress*. At this moment in time, four years into the SRM, we have determined that the NRAs have been set up in different institutional settings in different countries. The national resolution planning processes of the NRAs for LSIs, in coordination with the SRB, are functioning to a large degree.



The aim of the Banking Union to ensure that the rules are implemented consistently and in a harmonised way across the countries of the euro area is not met for LSIs. Between countries, there are many differences in set-up and practice of LSI resolution planning, both substantively and in process. According to the NRAs, and for the audit period, this was at least in part due to the absence of clear and full SRB guidance for resolution planning for LSIs<sup>2</sup>. Certain topics have been included in a limited way in resolution plans, such as the analysis of Management Information Systems (MSI) of LSIs. Some of these topics will be included in operational ‘playbooks’ (LSI-playbooks), which are currently not formally notified to the SRB, the organisation responsible for the effective and consistent functioning of the SRM for LSIs, for consultation. The LSI-playbooks are set up by NRAs and LSIs together, and contain measures to prepare for and procedures to follow during a crisis of an institute.

Second, during the audit, most NRAs offered full cooperation to the SAIs as required in the respective national laws. The SRB placed conditions on access of the independent SAIs to SRB documentation for the purpose of this audit. Therefore, the degree to which resolution planning by NRAs for LSIs was informed by the SRB could not be independently examined across all countries in this audit. The Task Force considers this a serious audit gap, which needs to be fixed shortly.

Our recommendations are listed in full in paragraph 5.3. Here we suffice with this selection:

- We recommend that NRAs register what resources, in terms of budget and staff, are devoted separately to resolution planning for SIs, LSIs, and other tasks.
- Due to the by NRAs perceived lack of specific SRB guidance for resolution planning for LSIs during our audit period, NRAs have developed their own internal guidance. This may lead to different approaches and can result in different resolution execution in similar cases in different countries. The NRAs, together with the SRB, should develop resolution planning guidance for LSIs in the euro area.

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<sup>2</sup> It was brought to our attention that in August 2020 the SRB approved a LSI guideline. This is after our audit was finalized, and we have not been able to independently verify its content.



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- The resolution plans for LSIs should also include operational elements that are now described in playbooks to ensure insight in and comparability of this information.
  - The SAIs that have the mandate to audit the national resolution authorities should receive unconditional and full access to the SRB documents the SAIs find relevant for their audit work.



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# 1 Introduction

## 1.1 Background

The fall of Lehman Brothers in the United States in September 2008 triggered a worldwide financial and economic crisis. 'Bad loans' brought banks across the world close to the abyss and national governments often stepped in with financial support to prevent further economic and financial collapses. Often, this included public bailouts, which meant that in the end the taxpayers and national economies were affected.

Within the European Union (EU), different countries used different and ad hoc approaches to deal with failing banks. This created an uneven playing field in the financial sector. To ensure a more orderly and unified approach, the European Council decided in 2012 to set up a *European Banking Union* consisting of three pillars:

1. The Single Supervisory Mechanism (SSM, effective in 2014) which ensures the soundness of supervision on financial institutions by introducing a harmonised set of rules and harmonised supervision.
2. The Single Resolution Mechanism (SRM, effective in 2016) which aims to ensure the efficient resolution of failing financial institutions at minimum costs for taxpayers and the real economy.
3. A European Deposit Insurance Scheme (EDIS, proposed in 2015, not yet finalised<sup>3</sup>) which replaces national deposit guarantee schemes and thereby prevents a potential mass withdrawal of deposits in case of bank failure.

A general aim of the Banking Union is to ensure that the EU rules for supervision and resolution are implemented consistently across the euro area and in other participating countries. The current COVID-19 crisis underlines the importance of an effective functioning of

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<sup>3</sup> In the meantime, national deposit guarantee schemes in all EU Member States have been established that guarantee a harmonised amount of €100 000 per deposit.





the European Banking Union. The EU and national governments, as well as the European Central Bank (ECB), seek to avoid a new financial crisis with large-scale relief packages, partly aimed at the financial sector. An effective and structured European approach to oversight and banking supervision, as well as having preparations in place for banking resolution to prevent distortions of and imbalances in national and European financial markets, can be key elements to help keeping the financial effects of the COVID-19 crisis as limited as possible.

In December 2017, a group of national Supreme Audit Institutions (SAIs) united in the Task Force on European Banking Union published a report on national supervision on medium-sized and smaller banks – or “Less Significant Institutions” (LSIs<sup>4</sup>) – under the SSM<sup>5</sup>. The two main findings are:

- The way in which the new banking legislation is transposed, and how banking supervision of LSIs is designed and conducted within the context of the SSM, varies across different EU Member States. There are differences in institutional design for prudential supervision, and there are significant differences in the way supervision is carried out in practice;
- There are gaps in SAIs’ ability to audit banking supervision. The audit mandate of the European Court of Auditors (ECA) with respect to the supervisory activities of the ECB is too narrowly defined. With respect to the mandate of national SAIs to audit the supervision of LSIs, ten SAIs had a limited or no mandate, and those who did have a mandate faced difficulties in accessing relevant information.

These results paved the way for the new audit of the Task Force. This time on the second pillar of the Banking Union, the SRM. The aim of the SRM is to ensure that if a bank fails, it can be

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<sup>4</sup> Within the Banking Union, a number of large banks have been defined as ‘significant institutions’. They qualify as such on the basis of their size, their importance to the economy of a specific euro area country or the EU as a whole, and the significance of their cross-border activities. The supervision of these banks falls directly under the remit of the ECB. Other banks, generally medium-sized and small banks with total assets that do not exceed €30 billion, are defined as ‘less significant institutions’. Their supervision falls under the remit of National Competent Authorities. In this report, we may use the term medium-sized and small banks as equivalent for Less Significant Institutions (LSIs).

<sup>5</sup> The [report](#) was based on a parallel audit undertaken by five Member State SAIs (Austria, Cyprus, Finland, Germany, the Netherlands), under the chairmanship of the SAIs of the Netherlands and Germany.



resolved with minimal costs to taxpayers and the real economy. In most cases, normal insolvency proceedings will provide sufficient guarantees. In some other cases, however, the insolvency of a bank could create risks for the stability of the financial system or threaten the continuity of critical functions in this system. In these cases, 'resolution' can be applied, which refers to "the orderly restructuring of a bank by a resolution authority when the bank is failing or likely to fail"<sup>6</sup>. The SRM regulation sets out rules, introduces new policy instruments and establishes a European *Single Resolution Board* (SRB) to prepare for resolution. The EU's *Bank Recovery and Resolution Directive* (BRRD) establishes National Resolution Authorities (NRA) and formulates resolution objectives, which function as a yardstick to determine whether the resolution of a bank meets the public interest, and is therefore preferred over insolvency.

## 1.2 Mandate for a parallel audit by the Contact Committee

The Contact Committee is an autonomous, independent and non-political assembly of the heads of SAIs of EU Member States and the ECA. In October 2018, at its annual meeting, the Contact Committee adopted an updated statement on deficiencies in the accountability and audit arrangements of the supervisory mechanism for banks in the euro area<sup>7</sup>. During this meeting, the Task Force Banking Union presented the results of a mapping survey on the audit mandates of SAIs in the field of banking resolution, as well as areas of focus for a possible parallel audit on resolution planning in euro area countries.

The mapping survey showed, among other things, that the number of resolution plans that the NRAs had drawn up by mid-2018 was limited, and that a majority of 11 SAIs in the euro area have a legal mandate to audit the performance of NRAs. Moreover, 5 SAIs indicated in the survey that they intended to audit their NRA in the coming years. Consequently, the Contact Committee mandated the Task Force Banking Union to initiate a parallel audit on European

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<sup>6</sup> [https://ec.europa.eu/info/business-economy-euro/banking-and-finance/banking-union/single-resolution-mechanism\\_en#documents](https://ec.europa.eu/info/business-economy-euro/banking-and-finance/banking-union/single-resolution-mechanism_en#documents)

<sup>7</sup> [https://www.eca.europa.eu/sites/cc/Lists/CCDocuments/CC\\_STATEMENT\\_2018/CC-STATEMENT-SSM-DEFICIENCIES-EN.pdf](https://www.eca.europa.eu/sites/cc/Lists/CCDocuments/CC_STATEMENT_2018/CC-STATEMENT-SSM-DEFICIENCIES-EN.pdf)



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and national activities preparing for the resolution of banks under the remit of the NRAs in selected countries in the euro area.

### 1.3 Objectives of the parallel audit

With the parallel audit, first of all, we aim to provide national governments and parliaments of euro area countries, as well as relevant European institutions (Council, European Parliament, European Commission) and the SRB, with insight into the way the Single Resolution Mechanism (SRM) is set up and carried out for LSIs in different euro area countries in the period 2018-2019, and what potential risks are involved. The second aim of the parallel audit is to identify to what extent SAIs are actually able to exercise their audit mandates and obtain full access to documents required. In other words, do the audit gaps identified in the first pillar of the Banking Union extend into the second pillar?

### 1.4 Audit approach, audit questions and audit scope

The scope of this parallel audit is restricted to resolution planning for medium-sized and small banks. Three research questions were devised for this audit:

1. Are NRAs adequately equipped and prepared to carry out the resolution task regarding medium-sized and small banks?
2. How is the preparation for resolution activities regarding medium-sized and small banks being carried out in practice by the NRAs?
3. Do SAIs face any barriers in auditing banking resolution and obtaining access to relevant documents?

If SAIs wished to take the role of their Ministers of Finance into account, the relevant audit question was the following<sup>8</sup>:

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<sup>8</sup> In this report, this question is addressed in chapter 2 that describes the organisational set-up of NRAs.



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4. How do Ministers of Finance comply with their responsibilities for the functioning of the resolution mechanism? Do they comply with them adequately in practice, including accountability to parliament?

The national SAIs of Austria, Estonia, Finland, Germany, the Netherlands, Portugal and Spain participated in the parallel audit<sup>9</sup>. The audit has been performed in line with audit mandates and practices of each SAI, mostly in 2018-2019. Because of this, not all research steps and activities could be carried out by all SAIs in an equal manner and at the same time. To ensure the comparability of the results, a common research framework was used. More information on the audit approach and methods is included in **Annex I**. This annex also gives an overview of the topics and audit criteria that guided our audit work.

The European Court of Auditors (ECA) plans to publish in January 2021 a special report on the SRB's policy framework, the preparation of resolution plans for significant and less significant banks as well as the organisational set-up of the SRM. The audits of the Taskforce Banking Union and the ECA have a different scope, method and audit period, and have been carried out independently from each other.

## 1.5 Confidentiality of information and disclaimer

The SAIs that carried out audit work with regard to question 2 (practical application of resolution planning) obtained access to sensitive and/or confidential banking data. The auditors live up to the same disclosure requirements on confidentiality and professional secrecy standards as are applicable to the auditee (the NRAs). Depending on the level of confidentiality, the SAIs took appropriate steps to safeguard the information against unauthorised access and disclosure. These confidentiality and professional secrecy standards as well as compliance measures also apply to the Task Force as a whole. Therefore, the final report shows results mostly on an aggregate level, and anonymised where needed. Sensitive

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<sup>9</sup> The 2018 mapping survey on SAI audit mandates and potential research questions in the field of banking resolution carried out by the Task Force on Banking Union in 2018 is not formally part of the parallel audit, but results have been included in this report to sketch relevant background characteristics. The activities of the Task Force have been carried out in close cooperation and coordination with the ECA.



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and/or confidential information about the resolution planning process and resolution plans is not disclosed.

The audit was carried out in a period when the NRAs of the seven countries involved were still in the process of building up their activities. In some countries, the NRAs have progressed further in that process than in other countries. On the one hand, this means that the results come at a time that they can have an added value. On the other hand, it also means that the comparability of the audit results between the seven countries is not always optimal, and that as such the findings presented in this report are often descriptive and not evaluating.

## 1.6 Set-up of the report

In the next chapter, we will present and discuss the way resolution authorities have been set up in the various Member States, and how they fulfil their resolution task. In the third chapter, we will examine the state of resolution planning and how the process functions at the different resolution authorities. In chapter 4, we will come back to the issue of (potential) audit gaps. In the fifth chapter, we will present our main findings, conclusions and recommendations.



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## 2 Organisational set-up of NRAs

### 2.1 Audit question and main findings

The main question for this chapter guiding the parallel audit was: *Are National Resolution Authorities adequately equipped and prepared to carry out the resolution task regarding medium-sized and small banks?*

Based on the aggregated results of the parallel audit, our main findings are the following:

- NRAs have been established as planned since the introduction of the SRM, although in different organisational settings. In some countries, the NRA is part of the central bank, in other countries, it is part of a separate institution which is also responsible for banking supervision. In yet another country, it is an unaffiliated institution.
- Most NRAs work organisationally independently of, but at the same time in close cooperation with, the National Competent Authorities that are responsible for prudential supervision of LSIs. The involvement of the Ministries of Finance differs per country, especially regarding content and level of formalisation of information exchange with the NRA.
- Data from most of the NRAs do not show exactly what resources, in terms of budget, realised budget and staff, are devoted to resolution planning for LSIs. With the exception of Portugal, the data do not distinguish between resolution activities for SIs and LSIs, nor do they break down the figures according to the various other tasks most NRAs perform besides the resolution function. Because of this we were not able to express an opinion on how well equipped NRAs are to carry out the resolution task.
- All NRAs have organised key operational aspects, such as IT systems, and made provisions for quality control, albeit often in different ways.
- All NRAs are subject to forms of ministerial and/or public accountability, albeit in different ways.



In relation to the audit question, we conclude that most NRA data on budget and staff do not distinguish between resolution activities for SIs and LSIs, and the data do not show the “cost” of their various other tasks. Because there is a variety in how NRAs report on budget and staff, we were not able to determine how well equipped NRAs are to carry out the resolution task.

In this chapter, we will first elaborate on what the resolution task entails (paragraph 2.2). We then discuss our main findings regarding the organisational set up-of NRAs in more detail (paragraph 2.3).

## 2.2 Overview: The resolution task

In 2014, the European BRRD came into force<sup>10</sup>. This directive aims to provide authorities with a credible set of resolution tools and powers to intervene in order to ensure the continuity of a bank’s critical financial and economic functions, while minimising the impact of a bank’s failure on the economy and financial system. Deposits that are covered by a Deposit Guarantee Scheme (DGS) are protected and public financial support is supposed to be an instrument of last resort in extreme cases. The DGS guarantees deposits up to €100 000 in case of a bank failure. Currently, pay-outs must take place within 20 working days, in the near future this will be shortened to 7 working days. Resources are collected in national Deposit Guarantee Funds (DGF), which should comprise 0.8 % of DGS-covered deposits in 2024.

The BRRD applies to all Member States of the EU. It stipulates, among others, the designation of one or more NRAs by each Member State. These are to be empowered to apply the resolution tools and exercise the resolution powers<sup>11</sup>. Member States must ensure that each resolution authority has the expertise, resources and operational capacity to apply resolution actions, and is able to exercise their powers with the speed and flexibility that are necessary to achieve the resolution objectives.

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<sup>10</sup> Directive 2014/59/EU of the European parliament and the Council of 15 May 2014, establishing a framework for the recovery and resolution of credit institutions and investment firms.

<sup>11</sup> For the members of the Banking Union, the set of resolution tools is provided by the SRM-Regulation.



### The five resolution objectives are:

- (1) to ensure the continuity of critical functions;
- (2) to avoid a significant adverse effect on the financial system, in particular by preventing contagion, including to market infrastructures, and by maintaining market discipline;
- (3) to protect public funds by minimising reliance on extraordinary public financial support;
- (4) to protect depositors that are covered under deposit guarantee schemes;
- (5) to protect client funds and client assets.

NRAs are tasked to assess whether these five resolution objectives are jeopardised by the failure of any bank under their remit. If a hypothetical bank failure is expected to disrupt critical functions or have a profound negative effect on financial stability – the first two resolution objectives – or undermine the protection of public funds, DGS-covered deposits or client assets – the last three resolution objectives –, resolution authorities should prepare for the ‘resolution’ of that bank in ‘resolution plans’.

In other cases, ‘plans with the preferred strategy of insolvency’ will be prepared. In short, the drafting of these plans has three objectives:

- to gain an understanding of how the bank operates, which critical functions it provides and what its systemic relevance is;
- to identify any obstacles to the bank’s resolvability and remove these;
- to ensure an effective and timely application of resolution measures if needed.

In resolution plans, NRAs may invoke ‘resolution tools’ and powers to resolve the bank. Four of these tools are provided for in the BRRD, and afterwards transposed into national law; for the euro-area the SRM-R established the tools.





### The four resolution tools:

- (1) the sale of business tool (the whole bank or parts of it are sold to an interested market party);
- (2) the bridge institution tool (the whole bank or parts of it are transferred to a temporary entity that is partly or wholly publicly owned);
- (3) the asset separation tool (assets, rights or liabilities of the bank are transferred to an asset management vehicle that is partly or wholly publicly owned);
- (4) the bail-in tool (equity of shareholders and debt of creditors, or part of it, are written down or converted. To that aim, resolution authorities shall establish a *Minimum Requirement for own funds and Eligible Liabilities, or MREL<sup>12</sup>*).

In resolution plans, NRAs anticipate and plan for possible bank failures. However, the final decision on the implementation of resolution tools and powers is taken when the bank is actually “*failing or likely to fail*” (FOLTF). This is because the effectiveness of the resolution strategy depends upon the specific context in which the problems have arisen, the nature and extent of these problems and the (market) conditions at that specific moment in time. Thus, the determination of the moment at which a bank is “*failing or likely to fail*” is an important step in resolution planning. This FOLTF moment is determined by the supervisor or the resolution authority based on a number of prerequisites<sup>13</sup>. When a bank is declared FOLTF, the national resolution authority assesses whether the bank meets the remaining conditions for resolution. The final decision to actually proceed with resolution action is based on a set of cumulative conditions laid down in the BRRD: there should be no alternative private sector measures to prevent the failure, and resolution action should be in the public interest.

<sup>12</sup> The MREL consists of own funds and part of a bank’s liabilities. If a bank fails and goes into resolution, the MREL acts as a buffer to absorb losses and to provide new capital to the bank. This ensures that the costs of failure of a bank will as much as possible be borne by the bank’s investors, i.e. its shareholders and creditors. Source, DNB.

<sup>13</sup> There are four prerequisites: (1) the liabilities exceed the assets; (2) the bank infringes the requirements for continuing authorisation in a way that would justify the withdrawal of the authorisation; (3) the bank is unable to pay its debts as they fall due (illiquidity or ‘cash flow insolvency’); (4) extraordinary public financial support is required. These prerequisites enable the supervisor to intervene early enough, that is, before the bank reaches the point of the (assumed) non-viability.



For the euro area provisions were laid down in the *Single Resolution Mechanism Regulation* (SRM-R) that aims for the uniform application of the resolution regime in the participating Member States<sup>14</sup>. The SRM-R has established the SRB that is responsible for the ‘effective and consistent functioning of the SRM’<sup>15</sup>. The SRB is *directly* responsible for the resolution planning for SIs and *indirectly* responsible for the resolution planning for LSIs. Directly responsible means that the SRB is responsible for the (process of) drafting resolution plans. Indirectly responsible means that the SRB should ensure the effective and consistent functioning of the SRM for LSIs that are under the remit of NRAs. To do so, the SRB can issue guidance to NRAs, which may be more or less binding in nature. The guidance the SRB offered to NRAs during the audit period concentrated on resolution planning for SIs. However, this guidance serves as a model for resolution planning for LSIs<sup>16</sup>.

The SRB works in close cooperation with the NRAs. Their mutual relationship is codified in the ‘cooperation framework agreement’ (COFRA) between the SRB and the NRAs<sup>17</sup>. NRA’s contribute to the development of SRB guidance through their representation in the SRB Plenary Session<sup>18</sup>. Credit institutions pay to the Single Resolution Fund (administered by the SRB) and/or national resolution funds. These funds can be used to support the application of resolution tools and the exercise of the resolution powers.

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<sup>14</sup> Regulation (EU) 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, consideration 11.

<sup>15</sup> SRM-R, Article 7(1). Article 1 of the SRM-R puts more emphasis on the uniformity. It states that “This Regulation establishes uniform rules and a uniform procedure” for resolution and that “those uniform rules and that uniform procedure shall be applied by the Single Resolution Board”.

<sup>16</sup> It was brought to our attention that in August 2020 the SRB approved a LSI guideline. This is after our audit was finalized, and we have not been able to independently verify its content.

<sup>17</sup> Single Resolution Board (2018). Decision of the Single Resolution Board of 17 December 2018 establishing the framework for the practical arrangements for the cooperation within the Single Resolution Mechanism between the Single Resolution Board and National Resolution Authorities (SRB/PS/2018/15).

<sup>18</sup> The SRB Plenary Session is composed of the Chair, the four other full-time Board Members and the Board Members representing all NRAs. The SRB can meet in an Executive Session. The ‘restricted’ Executive Session is composed of the Chair and the four full-time Board Members. When the Executive Session deliberates on a specific bank, the Executive Session is extended (‘extended’ Executive Session) to include the Board Members that represent relevant NRAs. Source: <https://srb.europa.eu/en/content/governing-bodies>



## 2.3 Audit findings

Below, we present the audit findings related to the set-up and organisational aspects of NRAs in different national settings. In subsequent paragraphs, we discuss the set-up and tasks of the NRAs (paragraph 2.3.1), the cooperation between the NRAs and the National Competent Authorities and Ministries of Finance (paragraph 2.3.2), budget and staffing of the NRAs (paragraph 2.3.3), operational aspects at the NRAs (paragraph 2.3.4) and the organisation of accountability (paragraph 2.3.5).

### 2.3.1 Set-up and tasks of NRAs

The national set-up of NRAs varies significantly across the different countries. From our survey of 2018, we learned that of the 15 NRAs on which we received information concerning the set-up of the NRA, 13 are positioned within the National Central Bank (NCB) and/or the National Competent Authority (NCA) for the supervision of banks. Two NRAs are stand-alone organisations. Also, NRAs have been designated with different tasks. In addition to the responsibilities for resolution planning and execution, in some cases, responsibilities for setting up the DGS and the DGF, for collecting premiums for European and national resolution funds, and for administering these funds have also been placed at the NRA.

In Finland, the NRA is a separate institution (*Rahoitusvakausvirasto – RVV*). Also, the DGS and the DGF fall under the remit of the Finnish NRA. In the Netherlands, the NRA is part of the Dutch Central Bank (*De Nederlandsche Bank – DNB*) which is also the national competent authority for the supervision of banks. DNB is also responsible for administering the DGS. In Portugal, the national central bank (*Banco de Portugal – BdP*) is in charge of the NRA function. Portugal has the DGF, which is a legal person governed by public law that has administrative and financial autonomy and operates close to the BdP. In Spain, there are two institutions responsible for banking resolution. The national central bank (*Banco de España – BdE*), which is also the national competent authority for banking supervision, is responsible for drafting resolution plans. The Spanish Executive Resolution Authority (FROB) is responsible for the operational aspects of resolution preparedness and implementation. Responsibilities for the DGS are allocated to a separate DGF. In Austria (*Finanzmarktaufsicht – FMA*), Germany (*Bundesanstalt für Finanzdienstleistungsaufsicht – BaFin*) and Estonia (*Finantsinspektioon – FI*),



the resolution authority is part of a separate institution which is also responsible for banking supervision. In these countries, the DGS and DGF are separate institutions. In Estonia, however, the head of the resolution department is at the same time the only board member of the DGF.

The table below summarises the national set-up of the NRAs and the distribution of tasks over these NRAs.

**Table 1 – Different responsibilities of the various NRAs**

| Country     | NRA                        | Implementation of resolution | NCA in same organisation | Responsible for national bank resolution fund | Responsible for DGS | Responsible for DGF |
|-------------|----------------------------|------------------------------|--------------------------|---|---------------------|---------------------|
| Austria     | FMA                        | X                            | X                        |   | 5                   |                     |
| Estonia     | FI                         | X                            | X                        |   |                     |                     |
| Finland     | RVV                        | X                            |                          | X   | X                   | X                   |
| Germany     | BaFin / FMMSA <sup>1</sup> | X                            | X                        |   | 2                   |                     |
| Netherlands | DNB                        | X                            | X                        |   | X                   | X                   |
| Portugal    | BdP                        | X                            | X                        | 3   | 4                   | 3                   |
| Spain       | FROB                       | X                            |                          | X   |                     |                     |
|             | BdE                        |                              | X                        |   |                     |                     |

<sup>1</sup> Until the end of 2017, the resolution task was carried out by the *Bundesanstalt für Finanzmarktstabilisierung* (FMSA).

<sup>2</sup> BaFin NCA supervises the DGS.

<sup>3</sup> Despite being an institution with administrative and financial autonomy and own assets, technical and administrative services essential to the functioning of the DGF and the Resolution Fund, including the functioning of their Directive Councils, are provided by BdP. Pursuant to a legislative amendment in 2019, the «Guarantee Fund of the Crédito Agrícola Mútuo (FGCAM)» was transferred to the DGF. Thus, since 1 January 2020, the DGF has become the sole relevant fund in Portugal.

<sup>4</sup> DGS in Portugal is allocated to a DGF.

<sup>5</sup> FMA supervises the DGS in its authority as NCA.



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### 2.3.2 Cooperation of NRA with NCA and Ministry of Finance

The NCA is responsible for the bank's supervision. Simultaneously, the NRA drafts a resolution plan for each bank. When a bank is declared FOLTF, the NRA assesses whether the bank meets the remaining conditions for resolution. Against this background, close cooperation between NRA and NCA is required.

Most countries have regulations in place governing this cooperation. Although these regulations vary across the different Member States, most of them ensure that banking resolution and banking supervision are separated. Where the NRA is not a separate institution but part of another institution, the NRA is always set up as a separate organisational unit. In that case, the NRA is subordinate to a leadership member of the hosting institution. This member is not responsible for banking supervision<sup>19</sup>.

In most Member States, the NRA and the NCA cooperate and regularly exchange information. We note that in all countries the role of the NCA has been integrated into the internal resolution planning process. In Finland, the NCA provides an official statement on the draft resolution plan and in the Netherlands, the NCA endorses resolution strategies and resolution plans through its representation in the "Board". The preparatory "Resolution Council" contains also a representative of the NCA, as well as representatives of the Legal Service and the Financial Stability Department of the Dutch Central Bank. In Portugal, there is no clear governance model for the major management processes of the resolution function, its operational process and the involvement of other parties (inter alia the NCA). In Austria and Germany, the NCA is involved in different stages of the process of drafting resolution plans. In Spain, both the executive resolution authority and the NCA have the opportunity to comment on the resolution plan.

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<sup>19</sup> In Portugal, the member of the Central Bank responsible for the resolution department is also responsible for other departments (behavioral supervision, legal services and investigation and sanctioning action). The Portuguese Court of Auditors is of the opinion that operational independence is a requirement which implies an independence at all levels in the resolution procedure, including decision level.



In none of the countries, NRAs require formal authorisation by the Ministry of Finance to carry out resolution activities. However, in many cases, arrangements are in place to ensure that the Ministry of Finance is promptly informed when resolution decisions have been taken and are to be implemented by the NRA – a requirement to inform the competent ministry also laid down in the BRRD. In Austria and Germany, close coordination between the Ministry of Finance and the NRA is required in the event of bank failure. In Austria, the Ministry of Finance reports quarterly on the development of state support measures for Austrian banks. These reports also include information on the resolution and monitoring of Austrian *wind-down entities*<sup>20</sup>. In Portugal, currently no prior information of the Ministry of Finance is formally envisaged (nor legally established). In Finland, information exchange and cooperation between Ministry of Finance and NRA in case of crisis are governed by legislation. In Estonia there is an agreement in place between NRA, *Eesti Pank* (Estonia’s central bank) and the Ministry of Finance on how to proceed in case of bank resolution. This is also the case in the Netherlands. In Portugal, BdP, and in Spain, BdE, inform the competent government representative when it has decided to start resolution activities.

### 2.3.3 Budget and staffing of NRAs

The funding of NRAs is organised differently. In Austria, Germany, the Netherlands and Spain, NRAs are funded by levies. In Estonia and Finland, funding is ensured by fees<sup>21</sup>. In Spain, costs of the central bank are borne by the central bank itself and costs of the FROB (executive agency) are funded by levies. In Portugal, NRA funding is ensured by the central bank’s own financial resources .

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<sup>20</sup> A “wind-down entity” means an entity, whether privately or publicly owned, that (a) has as its main purpose the gradual divestment of its assets and the cessation of its business; or (b) is an asset management or divestment entity established to support financial sector restructuring and/or resolution, including asset management vehicles resulting from a resolution action in the form of the application of an asset separation tool (Guideline (EU) 2017/1362 of the European Central Bank of 18 May 2017).

<sup>21</sup> Fees are payment in exchange for certain advise or service acts. Levies are payment to meet part of the total costs of an institution.



The 2018 mapping survey of the Task Force Banking Union gave some first indication that NRAs' resources – both financial and staff – vary widely across the euro area. This parallel audit has focused on gaining deeper insight into the findings of the mapping survey on the basis of information provided by seven participating SAs. We scrutinised (i) how NRAs are funded, (ii) the budgets available and (iii) the number of staff. This, however, proved rather difficult.

### Budget of NRAs

For 2016, 2017 and 2018, we examined both budget estimates and budgets realised. For 2019, we assessed the budget estimates. The purpose was to draw conclusions for the audited countries on the basis of budget amounts and budget trends. The following table shows the figures reported by the countries. These data on budgets and costs allow a rough cross-country comparison.

**Table 2 – Budget for resolution task or budget for NRA**

| In million euros         | NRA                       | 2016   |          | 2017   |          | 2018   |          | 2019   |          |
|--------------------------|---------------------------|--------|----------|--------|----------|--------|----------|--------|----------|
|                          |                           | Budget | Realised | Budget | Realised | Budget | Realised | Budget | Realised |
| Austria <sup>2</sup>     | FMA                       |        | 7.9      |        | 6.3      |        | 6.       |        |          |
|                          | NCB <sup>3</sup>          |        | 1.9      |        | 1.8      |        | 2.0      |        |          |
| Estonia                  | FI                        |        |          |        |          |        |          |        |          |
| Finland <sup>1</sup>     | RVV                       |        | 1.8      |        | 2.3      |        | 3.2      | 3.3    |          |
| Germany <sup>1</sup>     | BaFin / FMSA <sup>4</sup> | 48.7   |          | 42.9   |          | +/- 60 |          |        |          |
| Netherlands <sup>2</sup> | DNB                       | 5.1    | 4.6      | 6.8    | 5.2      | 6.7    | 6.0      | 6.9    |          |
| Portugal <sup>2</sup>    | BdP                       |        | 2.6      |        | 2.3      |        | 3.0      |        | 3.1      |
| Spain                    | FROB                      | -      | 7.4      | -      | 8.7      | -      | 7.0      | -      |          |
|                          | BdE                       | -      | -        | -      | -        | -      | -        | -      |          |

<sup>1</sup> NRA budget.

<sup>2</sup> Resolution budget and realised costs of resolution is for total resolution task: direct costs and imputed cost of resolution (LSI and SI).

<sup>3</sup> In Austria, the NRA is supported by an organisational unit of the Austrian NCB.

<sup>4</sup> Until the end of 2017, the resolution task was carried out by the FMSA.



There is a wide variety in budget available. In 2018, it ranged from €3.2 million in Finland to about €60 million in Germany<sup>22</sup>. Budget trends in some countries show – despite some incomplete data provided – a general rise for the 2016-2019 period<sup>23</sup>.

However, comparing these figures is difficult. NRAs operate in very different national banking landscapes<sup>24</sup> and – to various extents – also perform other tasks than resolution functions. The parallel audit also revealed differences in the way budgets were calculated. Therefore, it was not always possible to obtain separate budget and cost figures attributable to the resolution function only.

### Staffing at the NRAs

The NRAs were requested by the SAIs to provide data on both planned and actual staff (in full-time equivalents (FTEs)) for the years 2016, 2017 and 2018. For 2019, only planned staff had to be reported. The information thus provided reflects the situation in the individual countries as to the total number of total staff and staffing trends during the period reported.

These figures, however, cannot be compared without caveats due to a number of other factors<sup>25</sup>.

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<sup>22</sup> Indicated in the draft budget estimates. Estonia could not provide any budget data, as the SAI has no audit mandate in this field.

<sup>23</sup> Based on the information provided by Finland, the Netherlands and Portugal, and – with reservations – Germany.

<sup>24</sup> Number of banks per country, size of banks per country, business model of banks in the countries as well as the surrounding legal system and economic structure in the countries.

<sup>25</sup> The staffing needs of an NRA are subject to a number of factors, e.g. the legal system in a Member State and the number of institutes to be resolved. For example, in some countries the NRAs carry out additional tasks, such as the management of DGS and the resolution of insurances companies (the Netherlands), or since 2018, the identification of unauthorised bank transactions (Germany) or the operational and technical support of the national resolution fund and the national deposit guarantee fund (Portugal).





Table 3 – Total staffing of NRA

|  |   | 2016   |                 | 2017   |                   | 2018              |                   | 2019   |          |
|--|---|--------|-----------------|--------|-------------------|-------------------|-------------------|--------|----------|
|  |   | Budget | Realised        | Budget | Realised          | Budget            | Realised          | Budget | Realised |
| Austria                                    | FMA                                       | 25.0   | 22.4            | 25.0   | 20.9              | 24.0              | 22.3              |        |          |
|  | NCB <sup>1</sup>                          | 8.5    | 8.5             | 8.5    | 8.5               | 8.5               | 7.5               |        |          |
| Estonia                                    | FI <sup>2</sup><br>(Resolution planning)  | 3      | 3               | 4      | 4                 |                   | 4                 |        |          |
| Finland                                    | RVV <sup>3</sup>                          |        | 12.5            |        | 14.5              |                   | 17.6              | 17.8   |          |
| Germany<br>(2015-2017)<br><br>(Since 2018) | FMSA <sup>4</sup>                         | 76     | 64              | 94     | 75                |                   |                   |        |          |
|  | BaFin <sup>5</sup>                        |        |                 |        |                   | 104               | 93                | 104    |          |
| Netherlands <sup>2</sup>                   | DNB<br>(Resolution planning) <sup>3</sup> |        |                 | 35.9   | 30.8              | 35.8 <sup>5</sup> | 44.4 <sup>6</sup> |        |          |
| Portugal <sup>2</sup>                      | BdP <sup>8</sup><br>(Resolution planning) |        | 21 <sup>7</sup> |        | 23.5 <sup>7</sup> | 32                | 27.6 <sup>7</sup> | 32     | 28.8     |
| Spain                                      | BdE                                       |        | 11              |        | 18                |                   | 31                | 31     |          |
|  | FROB                                      | 45     | 45              | 45     | 45                | 45                | 45                | 45     |          |

<sup>1</sup> In Austria, the NRA is supported by an organisational unit of the Austrian NCB.

<sup>2</sup> 2016-2017 numbers from survey and 2018 number is according to NRA 2018 annual report.

<sup>3</sup> Total FTE staff costs per NRA include activities for the resolution task and DGS task.

<sup>4</sup> Staff numbers in 2016 and 2017 generally do not include horizontal functions of the FMSA such as commissioning, personnel, IT, accounting and communication.

<sup>5</sup> Staff of Directorate "Resolution Policy, Legal Affairs, Committee" and Directorate "Resolution Measures and Methodology" are not included in this figure, because there is no separate staff allocation to LSI tasks in these units.

<sup>6</sup> For 2018, this also includes the preparatory activities for the resolution task for insurance companies.

<sup>7</sup> Simple sums of the FTE proportion that each collaborator spent in each year on the resolution tasks.

<sup>8</sup> Total FTE staff costs per NRA include activities for the resolution task and do not include horizontal functions of the Central Bank such as personnel, IT, accounting and communication.



Our findings show a large variety in staffing of NRAs, ranging from Estonia where in 2018 4 FTEs were working to Germany where 93 FTEs were employed. Differences in banking landscape will be a basic reason for this scope. During the 2016-2019<sup>26</sup> period, staff figures (FTEs) in some countries show a steady increase<sup>27</sup>.

### 2.3.4 Organisation of operational aspects

In this section, we examine a number of key operational aspects of NRAs: IT systems and provisions for quality control.

#### IT systems

The BRRD calls on NRAs and NCAs to actively and closely cooperate in information sharing. However, to avoid any conflicts of interest, it is also important that they are operational independent. IT systems used by the NRAs should make provisions for this. The Directive states: "Where a Member State designates the authority responsible for the prudential supervision of institutions (competent authority) as a resolution authority, adequate structural arrangements should be put in place to separate the supervisory and resolution functions. That separation should not prevent the resolution function from having access to any information available to the supervisory function<sup>28</sup>." The NRAs of Germany, Portugal, the Netherlands and Spain explicitly addressed this issue and developed country-specific solutions.

NRAs also have to communicate with the SRB about resolution proposals and plans. Because this communication may contain sensitive information, it is important that secured software is used. In Finland, Portugal and Spain the NRAs used the IMAS and DARWIN programmes for this communication. Both programmes are taken from the supervisory sector but have then been

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<sup>26</sup> 2019 is based on target figures.

<sup>27</sup> According to information provided by Germany, Spain, Finland, Portugal and the Netherlands.

<sup>28</sup> 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, No 15.



adjusted to the needs of banking resolution. These NRAs only used the two programmes in exchanging information with the SRB. Germany and Austria used IMAS only, also limited to said communication with SRB.

### Quality assurance

In order to safeguard the quality of the activities of the NRA, all countries – except Finland – introduced a quality assurance system. Usually, a *Three Lines of Defence* model<sup>29</sup> is used, which applies to all activities of the NRA, including the resolution planning process. The various NRAs designed their models differently. Some have organised their quality assurance process hierarchically, for example, starting with quality checks within the resolution unit, then within the department, and finally at organisational level. Others have combined this with different substantive scopes of the quality checks, varying from operational to legal to accounting aspects.

### 2.3.5 National accountability arrangements

In the table below, we have summarised the main accountability arrangements for resolution planning. Accountability practices in actual cases of resolution between NRAs and Ministries of Finance are discussed in paragraph 2.3.2 above. For each NRA, the table shows (a) in what form accountability is given (separate or integrated annual report), (b) to whom account is given (i.e. who may also pass judgement on these accounts) and (c) the scope of this accountability (what topics are included), and (d) the extent to which NRA accounts are publicly accessible.

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<sup>29</sup> In the *Three Lines of Defence* model, the first line consists of the functions that own and manage risks, the second line are the functions that oversee risks, and the third line are the functions that provide independent assurance.



**Table 4 – National accountability arrangements**

| Country     | NRA   | Form                                       | To whom  | About what   | Accessibility   |
|-------------|-------|--|--|--|---|
| Austria     | FMA   | FMA annual report                          | Minister of Finance and the Finance Committee of the Austrian Parliament | Annual report of FMA includes activities on banking resolution     | Public  |
| Estonia     | FI    | Integrated NRA-NCA annual report           | Parliament   | Integrated NRA-NCA financial account, activity on resolution tasks | Public  |
| Finland     | RVV   | NRA annual report                          | Minister of Finance  | Financial account and activity report on resolution tasks          | Public  |
| Germany     | BaFin | Integrated in BaFin annual report          | Minister of Finance for approval   | Financial account and activity report on resolution tasks          | Public  |
|             | Bafin | Monthly reports                            | Minister of Finance  | Activity report on resolution tasks                                | Restricted to MoF   |
| Netherlands | DNB   | Separate DNB annual report for NRA and NCA | Minister of Finance for approval   | Financial accounts and activity report on resolution tasks         | Public  |
| Portugal    | BdP   | Integrated in BdP annual report            | Minister of Finance for approval   | Integrated financial account of central bank                       | Public  |
| Spain       | FROB  | Quarterly report                           | Minister of Finance sends to Economy and Business Committee              | Activity report, including economic and budgetary actions          | Restricted to Minister of Finance and parliamentary committee |
|             | FROB  | General State Budget                       | Parliament for approval  | FROB budget is integrated in General State Budget                  | Public  |

In addition, in many cases, information on the performance of the NRA is also exchanged between the NRA and the Ministry of Finance in meeting and consultation structures. It is the responsibility of the minister to adequately inform the parliament. For example, in the Netherlands and Germany, the national parliament is provided with NRA budgetary information, and on request with other information.



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In Spain, the chairman of FROB visits the Economy and Competitiveness Commission of the Spanish parliament at least every six months to report on resolution activities. In Finland, the Ministry of Finance does not report on NRA activities in the Government's annual report to parliament, but it does on the resolution fund.

Finally, all NRAs are subject to reporting duties vis-à-vis the European Banking Authority i.e., if a bank is deemed not resolvable<sup>30</sup>, application of the minimum requirement (MREL)<sup>31</sup> and procedural obligations of resolution authorities<sup>32</sup>.

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<sup>30</sup> Article 15 (1) BRRD and Art. 10 (3) SRM-R.

<sup>31</sup> Article 45 (16) BRRD and Art. 12 (15) SRM-R.

<sup>32</sup> Article 82 (2-4) BRRD and Art. 5 (1) SRM-R.



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## 3 State of resolution planning

### 3.1 Audit question and main findings

The main question guiding the parallel audit for this chapter was: *How is the preparation for resolution activities regarding medium-sized and small banks being carried out in practice by the NRAs?*

Based on the aggregated results of the parallel audit, our main findings related to the resolution planning process during our audit period are as follows:

- In some countries, all (or almost all) resolution plans were finalised at the end of the auditing period, while in other countries, that was not yet the case. In all countries, the resolution planning for SIs took precedence over LSIs. However, the criteria for prioritising LSIs in the resolution planning process differed between countries.
- The SRB is expected to offer guidance regarding the resolution of SIs and LSIs in order to safeguard consistency within the SRM. Our audit established that during the audit period NRAs experienced an absence of clear and full SRB guidance for LSI resolution planning, NRAs have developed their own, internal guidelines and methods to operationalise the single resolution framework, for example, with regard to policies to decide which banks qualify for resolution plans under simplified obligations (SO). Each NRA does this within its own institutional context and with regard to its own banking landscape, which differs vastly between the countries.

Our main audit findings regarding resolution plans are the following:

- In most countries, the content of plans generally complies with the legal requirements set out in the BRRD, SRM-R and EC Regulations, and expectations of the SRB (as stated in the public resolution manual). At the same time, in our parallel audit of the content of fully-fledged resolution plans and SO plans in different national settings, we identified a number of notable similarities and differences.



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- Across all NRAs, certain topics have been included in a limited way in the plans, such as the analysis of Management Information Systems (MIS) of LSIs. This assessment is crucial, however, because DGS-covered deposits need to be paid out in a certain pre-determined time period after a bank goes into insolvency. This can only be done if the IT systems of the banks are equipped to handle this. In most fully-fledged resolution plans, the analysis of MIS stays limited. In addition, there are other parts that need to be developed further, such as the information and communication plan, or how different resolution tools and impediments to resolution have been examined.
  - Relatedly, we note that fully-fledged resolution plans have become more concise over time. In particular, descriptions related to the provision of information for a timely, up to date and accurate valuation of the bank's assets and liabilities, and descriptions related to information and communication strategies – both needed to safeguard the operational continuity of critical functions during resolution – are limited. Supported by the SRB, NRAs develop playbooks together with LSIs that contain measures to prepare for and procedures to follow during a crisis. However, these playbooks are not formally notified to the SRB, the organisation responsible for the effective and consistent functioning of the SRM for LSIs, for consultation. This can lead to differences in resolution practice between countries.
  - In addition, we note that crucial elements in the plans are organised and examined in different ways in different countries, such as:
    - Carrying out the Public Interest Assessment, which seeks to answer whether an LSI can be a viable candidate for resolution.
    - Consideration of alternative crisis scenarios.
    - The way in which SO plans are drawn up, and the degree to which critical functions are assessed.



On the basis of these findings, the answer to the audit question is that preparation for resolution activities of LSIs is under way, but the process and content of resolution planning for LSIs differs between the seven countries audited. Furthermore, some topics are narrowly addressed in resolution plans.

In this chapter, we first introduce the resolution planning process (paragraph 3.2). Subsequently, we describe our audit findings regarding the resolution planning process (paragraph 3.3), regarding fully-fledged resolution plans (paragraph 3.4) and plans drawn up under 'simplified obligations' or SO plans (paragraph 3.5).

## 3.2 Overview: Resolution planning

### 3.2.1 Technical requirements for resolution plans

In their resolution planning process, NRAs are required to draw up an individual resolution plan for each LSI under their remit. Each bank is required to provide their national resolution authority with all information necessary to design and implement these plans.

The default option is insolvency. When the hypothetical failure of a bank is not expected to lead to the interruption of critical functions or does not have profound financial stability effects, resolution authorities should prepare plans with insolvency proceedings as the preferred strategy. For banks deemed too important to fail, plans with a 'resolution strategy' should be developed.





In developing resolution plans for LSIs under their remit, NRAs have to meet the requirements and follow the guidance laid down in the following European regulatory instruments: The Bank Recovery and Resolution Directive (BRRD), the Single Resolution Mechanism (SRM) Regulation<sup>33</sup>, EBA Guidelines<sup>34</sup> and SRB instructions. During our audit period NRAs indicated that SRB guidance was only available for SIs and cross-border banks<sup>35</sup>.

The BRRD contains a list of topics that all resolution plans should address, such as a 'strategic business analysis' mapping out the organisational, financial, and IT structures of the bank. It should also contain a description of the critical functions performed by the bank and an analysis of the separability of the units involved with supplying these critical functions. Each resolution plan should take into consideration a range of different crisis scenarios and set out preferred resolution strategies for these scenarios. NRAs must explain how financial and operational continuity is ensured during and after resolution, including access to critical IT systems. A clear statement on resolvability must be determined and measures to overcome impediments should be described. In addition, an appropriate MREL should be set so that the remainder of the bank will have sufficient capital after the resolution. Resolution plans should also contain an information and communication plan which outlines procedures for the evaluation of assets and liabilities, emergency contacts and provisions for public outreach.

The BRRD makes a distinction between 'fully-fledged' resolution plans versus resolution plans under 'simplified obligations' (SO). A simplified plan may suffice "*if the failure of the institution or group is not likely to have significant adverse consequences for the financial system or be a threat to financial stability*" (SRM-R 11(3), BRRD (Art. 4)). In most cases, this means that

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<sup>33</sup> 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.

<sup>34</sup> European Banking Authority: Guidelines on the types of tests, reviews or exercises that may lead to support measures under Article 32(4)(d)(iii) of the Bank Recovery and Resolution Directive. EBA/GL/2014/09. 22 September 2014. European Banking Authority: Guidelines on the application of simplified obligations under Article 4(5) of Directive 2014/59/EU. Guidelines on the application of simplified obligations under Article 4(5) of Directive 2014/59/EU.

<sup>35</sup> It was brought to our attention that in August 2020 the SRB approved a LSI guideline. This is after our audit was finalized, and we have not been able to independently verify its content.



insolvency will be the preferred strategy<sup>36</sup>. The BRRD also lists the topics SO plans should address. In general, less strict requirements are set on the content and level of detail of the information included in SO plans.

The SRB drafts guidance governing the resolution planning of SIs and LSIs. In the period up to and during our parallel audit, NRAs intensively contributed to the development of SRB guidance for SIs. The SRB also relied on NRA staff to fulfil its task of developing guidance regarding the resolution of LSIs. According to the NRAs, this latter task was not fully performed by the end of our audit period.

### 3.2.2 The resolution planning process

The BRRD, the SRM-R and subsequent EC regulations together stipulate a certain order in which resolution planning should take place. Most evidently, this is elaborated in EC Delegated Regulation 2016/1075, Art. 23(1). This regulation distinguishes different 'consecutive stages' in the resolution planning process through which NRAs should assess the 'resolvability' of a bank:

1. Assessment whether, in principle, liquidation under normal insolvency procedures is a feasible and credible option. This is, amongst others, determined on the basis of the potential systemic impact of the bank's potential liquidation including the availability of critical functions.
2. Next, through the Public Interest Assessment (PIA), NRAs determine whether resolution is in the public interest. NRAs scrutinise whether liquidation would infringe on the five resolution objectives<sup>37</sup> formulated in the BRRD, or reversely, whether resolution meets these objectives better than a liquidation scenario.
3. For banks that can be wound up under normal insolvency proceedings, the BRRD requires no resolution action. In all other cases, a preferred resolution strategy must be formulated: NRAs should indicate the preferred (mix of) resolution tools that will be applied in case a bank is failing or likely to fail, considering different possible crisis

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<sup>36</sup> [https://srb.europa.eu/sites/srbsite/files/2019-06-28\\_draft\\_pia\\_paper\\_v12.pdf](https://srb.europa.eu/sites/srbsite/files/2019-06-28_draft_pia_paper_v12.pdf)

<sup>37</sup> See box "The 5 resolution objectives", see 2.2.



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scenarios including that of idiosyncratic (bank-specific) failure, failure at a time of broader financial instability or other system-wide events.

4. As a last step, NRAs should assess the credibility and feasibility of the preferred resolution strategy or strategies.

NRAs are required to periodically (in principle at least annually) re-assess these steps. If needed, resolution plans need to be updated. In case of SO plans, the updating frequency of resolution plans may be lower, i.e. every two years.

The EBA developed an assessment framework to determine the eligibility of a bank to SO<sup>38</sup>. This assessment scheme consists of a two-stage analysis: a quantitative and a qualitative analysis. The quantitative analysis focuses on criteria such as size, interconnectedness, and scope and complexity of activities. Each criterion should be scored by the NRA. A credit institution with a total quantitative score equal to or higher than an explicit threshold, i.e. 25 basis points, shall be regarded as an institution whose failure is likely to have a significant negative effect on financial markets, other institutions or funding conditions. Resolution authorities may raise or lower this threshold within the range of 0 to 105 basis points. If the scoring lies below or equals this threshold, NRAs should proceed to a next step entailing a “qualitative” analysis to determine the final eligibility of the bank to SO.

In addition to the definition of the SO threshold, NRAs have flexibility in other domains of resolution planning for LSIs. For example, NRAs can complement the criteria of the EBA’s quantitative analysis with their own criteria. This flexibility in resolution planning is also visible in the guidance that is issued by the SRB and the EBA. This guidance primarily focuses on SIs but NRAs may adapt these guidelines to the context and structure of their national banking landscapes.

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<sup>38</sup> See Commission Delegated Regulation (EU) [2019/348](#) of 25 October 2018 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the criteria for assessing the impact of an institution’s failure on financial markets, on other institutions and on funding conditions. This regulation is based on the EBA [Draft Regulatory Technical Standards](#) on Simplified Obligations under Article 4(6) of Directive 2014/59/EU, EBA/RTS/2017/11.



As an example of this flexibility, the German NRA decided to apply two levels of simplification. At simplification level 1 (SO1 plan), the resolution strategy can be either insolvency or resolution. At simplification level 2 (SO2 plan), designed for numerous small banks in Germany, the strategy can only be insolvency. In Portugal, a similar system exists, with simplification level 1 and simplification level 2, in which the latter category refers to strongly simplified plans. In Austria, the SO plans include “deposit-focused plans” and “harmonised plans”. In deposit-focused plans, the strategy is insolvency in an idiosyncratic crisis and a transfer of deposits in a systemic crisis. In harmonised plans, the strategy is insolvency regardless of the type of crisis.

All resolution plans for LSIs should be notified to the SRB. The SRB assesses these plans and can express its views, based on its responsibility as laid down in the SRM-R. While the SRB has no formal decision-making power on resolution plans for LSIs, in extreme cases of negligence on behalf of an NRA, it has the power to take over decision-making competences from the NRA<sup>39</sup>.

### 3.3 Audit findings: Resolution planning process

#### 3.3.1 Guidance for resolution planning for LSIs

Most NRAs indicated that more guidance from the SRB was needed on a variety of topics mentioned in the resolution framework in resolution planning for LSIs<sup>40</sup>. Examples are the implementation and monitoring of MREL, resolution planning under simplified obligations, some of the resolution tools, the valuation of a bank’s assets and liabilities, and crisis management.

The audit shows that in the by NRAs perceived absence of clear and full SRB guidance for resolution planning for LSIs during our audit period, different NRAs have developed and tested their own internal methods and guidelines. Examples are internal guidelines on the determination of MREL for LSIs in 2019 and internal guidelines have been produced on certain

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<sup>39</sup> SRM-R, Article 7 (4b).

<sup>40</sup> During the national audits, the SAIs did not have access to SRB-documents that show the interaction between the SRB and NRAs in in the SRB-plenary sessions.



elements of the assessment of systemic relevance and the public interest test. In one country, we found that the NRA developed its own documents with guidance for resolution planning, of which most are based on the corresponding SRB guidance on the topics involved. Still, the same NRA identified a (non-exhaustive) list of topics on which in the short term more guidance is needed, for example, regarding bail-in and resolution planning for investment firms. In another country, the NRA developed more than 30 process descriptions for resolution planning and monitoring of wind-down entities.

### 3.3.2 Prioritisation of resolution planning for LSIs

The audit shows that in all countries, resolution planning for SIs had more priority than LSI resolution planning. In some countries, the ECB list of High Priority Less Significant Institutions (HP-LSIs) was used as an initial source for prioritisation. One of the NRAs in these countries additionally also took the level of existing involvement of other departments of the central bank into account in its prioritisation.

Another NRA prioritised the LSIs on the basis of an assessment of their systemic relevance using EBA standards<sup>41</sup>, as well as on decisions on a case-by-case basis. The risk analysis was carried out using the outcome of the *Supervisory Review and Evaluation Process (SREP)*<sup>42</sup>. For another NRA, the main criteria show the importance of the respective bank for the national financial market, such as size, interconnectedness, scope and complexity. Another NRA drafted its own internal criteria for prioritising the resolution planning for the LSIs: the size of balance sheet and/or business model, and the risk profile obtained through the SREP process.

### 3.3.3 Approaches to simplified obligations

As a specific case, in the audit, the approaches of NRAs to SO have been compared. Since the Commission's delegated act gave discretion to the NRAs, they have shaped their internal SO

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<sup>41</sup> Draft regulatory technical standards on simplified obligations under Article 4(6) of Directive 2014/59/EU.

<sup>42</sup> The SREP is a core part of the prudential supervision of banks.



policies for LSIs in different ways, closely linked to the specific institutional situations and banking landscapes. In one country, the threshold of 25 basis points was upheld. In other countries, however, the SO threshold was increased to 70 and 105 basis points, respectively. This was justified by the concentrated national banking landscape in those countries. A higher threshold means that more banks pass the first, quantitative SO assessment, which allows NRAs to perform the second, qualitative analysis based on the principle of proportionality. This also means in practice that less fully-fledged resolution plans are drafted as compared to a situation in which the 25 basis points criterion was used. In countries where the NRA uses two levels of simplification, different solutions are found on how institutions are allocated to the two simplification levels. For example, different scoring models with different cut-off values are used.

All NRAs developed their own internal templates for the content of SO plans for LSIs. In some countries, the template for SO plans focused on the strategic business analysis and the feasibility and credibility assessment of normal insolvency proceedings. In other countries, by contrast, the template resembled the topics specified in the BRRD for fully-fledged plans, but they are dealt with in somewhat less detail.

The fact that different NRAs have shaped their internal SO policies for LSIs in different ways was also signalled by the EBA in 2017<sup>43</sup>. This may have given rise to divergent SO policies and practices within different countries of the euro area.

### 3.3.4 State of play

**Table 5** below gives an overview of the state of play of resolution planning by the NRAs for LSIs at the end of the audit period<sup>44</sup>.

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<sup>43</sup> See EBA (2017) [Report on the Application of Simplified Obligations](#) and Waivers in Recovery and Resolution.

<sup>44</sup> As shown in **Annex I**, the audit period differs between SAIs because the audits were carried out in different time frames of the SAIs' planning process.



**Table 5 – Overview state of play of preparing resolution plans (at end audit period)**

| Country     | Total number of plans NRA has to prepare for LSIs | Total number of plans NRA has finished (by end of audit period) |
|-------------|---|---|
| Austria     | 451   | 451   |
| Estonia     | n.a.  | n.a.  |
| Finland     | 8   | 8   |
| Germany     | 1 340   | 1 204   |
| Netherlands | 24  | 20  |
| Portugal    | 24  | 18 (5 by the end of 2019)                                       |
| Spain       | 56  | 56  |

<sup>1</sup> Estonia did not participate in this part of the audit.

In Austria, Finland and Spain, resolution plans have been finalised for all LSIs under the NRAs' direct remit. In the Netherlands, at the time of the closing of the audit (end of March 2019), plans have been formally adopted and notified to the SRB for most of the 24 LSIs. At the end of the audit period, the remaining resolution plans were in preparation. In Germany, at the end of 2019, the vast majority of all plans (mostly SO plans) had been prepared and notified to the SRB. In Portugal, at the end of 2019, a total of five resolution plans had been finished. In 2020, the number grew to 18.



### 3.3.5 Resolution dry runs

NRAs are also responsible for making resolution decisions and carrying out resolution action. To prepare for these tasks, NRAs of different countries carried out dry runs<sup>45</sup>. Most (but not all) NRAs tested one or several processes in dry runs, such as the quick development of a crisis unit, the coordination between the organisational units involved, the coordination with the DGS, and/or the use of the bail-in instrument together with banks. The Estonian and Finnish NRAs participated in the Nordic-Baltic financial crisis simulation in 2019<sup>46</sup>.



#### Case in Point: Nordic-Baltic financial crisis simulation, January 2019

Nordic and Baltic financial stability authorities have conducted a joint financial crisis management exercise. The exercise was held from 22 to 23 January 2019 and involved 31 authorities from Denmark, Estonia, Finland, Iceland, Latvia, Lithuania, Norway and Sweden as well as relevant European Union authorities. A staff member of the International Monetary Fund observed the simulation.

The exercise followed a hypothetical crisis scenario involving fictitious financial institutions in the Nordic and Baltic countries and tested the respective authorities' crisis management capabilities and regional cooperation. In the subsequent period, the participants intend to carefully study the detailed outcome of the simulation and take note of the lessons learned in order to strengthen the financial crisis preparedness of the involved authorities.

A working group under the Nordic Baltic Stability Group (NBSG), led by Sweden's Riksbank, was formed in 2017 to prepare the exercise. The NBSG consists of Ministries of Finance, central banks, supervisory and resolution authorities in the eight Nordic and Baltic countries. The Nordic and Baltic countries have agreed in the context of the NBSG to conduct regular financial crisis simulation exercises.

So far, resolution cases have been rare. However, for NRAs to learn how to carry out resolution in practice, we consider dry runs relevant for their preparedness.

<sup>45</sup> We took note that the SRB also organised a dry run. The activities of the SRB however, are outside the scope of this parallel audit.

<sup>46</sup> Source: [https://rvv.fi/en/announcement/-/asset\\_publisher/pohjoismaiden-ja-baltian-maiden-yhteinen-ahoitusmarkkinoiden-kriisinhallintaharjoitus-tammikuussa-2019](https://rvv.fi/en/announcement/-/asset_publisher/pohjoismaiden-ja-baltian-maiden-yhteinen-ahoitusmarkkinoiden-kriisinhallintaharjoitus-tammikuussa-2019)





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## 3.4 Audit findings: Evaluation of fully-fledged resolution plans

In this paragraph we describe the results of our assessment of fully-fledged resolution plans. These findings were generated from a comparative standardised checklist that each SAI filled in based on their analysis of a number of resolution plans prepared by their NRA. This checklist was based on the conditions set for fully-fledged resolution plans included in the BRRD, the SRM-R and EC Regulations, and SRB guidance (based on the public manual<sup>47</sup> see *Annex I* for a more elaborate description of the audit methodology). Below, we subsequently dealt with the consistency of the resolution planning of the NRAs with SRB guidance and regulations, the way the Public Interest Assessment (PIA) is carried out, resolution strategies and some other aspects that are dealt with in the plans, such as MREL, liquidity etc. We close off with some remarks on the level of detail of the information in the resolution plans and the quality of the underlying files.

### 3.4.1 Consistency of NRA plans with regulations and SRB guidance

On the basis of our analysis, we concluded that generally all NRAs conform closely with the aforementioned guidelines and regulations, with adaptation to the specific characteristics of the national financial system and institutions.

In four countries, fully-fledged plans comply generally with regulations and the expectations of the SRB as reflected in our checklist. At the same time, in many plans, we find certain deficiencies. In one country, the fully-fledged draft resolution plans were not complete, and not (yet) fully compliant with the relevant law. In another country, a number of insufficiencies have been detected, pertaining especially to insufficient substantiation of certain sections. In some other countries, we found that the plans were very detailed and complete, although they also have become more concise over the years. Some have become less detailed than earlier draft plans. At the same time, the analyses of some aspects get more sophisticated over time,

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<sup>47</sup> SRB (2016). The Single Resolution Mechanism. Introduction to Resolution Planning.



and the resolution objectives are more clearly presented in the more recent plans than in earlier versions.

In all countries examined, resolution planning still was *work in progress*. It is intended that the revisions of the plans, or the ‘next generation’ plans, will elaborate on a number of issues such as the information and communication plans in case of an actual resolution situation and a more in-depth analysis of the preconditions for resolvability.

### 3.4.2 Public Interest Assessment

We have examined whether the PIA in the fully-fledged plans includes an assessment of (1) all five critical functions<sup>48</sup>, (2) financial stability effects, and (3) of the effect of the failure of the bank on the other three resolution objectives (protect public funds, depositors covered under the DGS, and client funds and client assets). Because of the sensitivity of the information, the results are anonymised in the table below.

**Table 6 – Components of the PIA included in analysed plans**

| Country | Critical functions <sup>1</sup> | Effects on financial stability <sup>1</sup> | Other resolution objectives <sup>1</sup> |
|---------|---------------------------------|---|--|
| A       | Yes (all)                       | Yes (all)                                   | Yes                                      |
| B       | Yes (all)                       | Yes (all)                                   | Yes                                      |
| C       | Yes (half)                      | Yes (all)                                   | Yes                                      |
| D       | Yes (half)                      | Yes (all)                                   | Yes                                      |
| E       | Yes (all)                       | Yes (few)                                   | No                                       |
| F       | Yes (half)                      | Yes (all)                                   | No                                       |

<sup>1</sup> These columns use the categorisation few/half/most/all to indicate the extent to which the analysed plans included an assessment of all five critical functions, all three financial stability effects, and all three other resolution objectives, as stipulated in the NRA guidance for resolution plans.

<sup>48</sup> The five critical functions are lending, deposit taking, payment (including cash and settlement), capital markets and wholesale.



The table shows a diverse picture of how the PIA is described in resolution plans. In three countries, all critical functions were addressed in the fully-fledged resolution plans, while in three other countries about half of the plans include an assessment of all five critical functions. In five countries, all aspects of the resolution aim of preventing significant adverse effects on financial stability were examined. Of the other three resolution objectives, we find that all were addressed in all fully-fledged plans in four countries, while in two countries that was not the case.

### 3.4.3 Resolution strategy in fully-fledged plans

There are four different resolution tools that can be applied by a NRA, namely (1) the sale of business tool, (2) the bridge institution tool, (3) the asset separation tool; and (4) the bail-in tool. We have examined to what degree these tools have been assessed in resolution plans.

None of the legal and regulatory frameworks on resolution planning places an obligation on NRAs to structurally assess all resolution tools in resolution plans. However, the BRRD does specify that NRAs must take different crisis scenarios into account in their resolution planning, and if needed, develop variant resolution strategies for these different scenarios. In light of this, we assessed how many resolution tools were analysed in fully-fledged resolution plans and whether resolution plans contained a consideration of different crisis scenarios. Our audit gives a mixed picture.

Related to the analysis of resolution tools, the analysis shows that one NRA included in each resolution plan an assessment of all resolution tools. Two NRAs focused in each resolution plan on just one resolution tool, without a clear argumentation as to why that is the case. The other NRAs have chosen a middle ground. There we see that some plans assessed all resolution tools, while other plans structurally examined the “fit” of a few resolution tools, and that subsequently a reasoned choice is made for one tool. Related to the consideration of different crisis scenarios, our assessment of the content of a sample of resolution plans shows that some NRAs considered alternative scenarios whereas others did not.



### 3.4.4 Other elements of assessing fully-fledged plans

Below, we discuss the way MIS, the MREL, liquidity and the question of impediments to resolvability have been dealt with in the resolution plans in the various Member States.

MIS serve three needs in resolution planning. First, they must provide reliable and up-to-date information on the assets and liabilities of a bank to quickly value the bank should a FOLTF status be declared. Based on this valuation, final decisions are taken on the implementation and specific characteristics of resolution tools. Second, MIS should support the resolution action itself, for example, in case of a transfer or sale of assets to a bridge bank or buyer. Third, access to MIS should be ensured after resolution to uphold operational continuity.

The degree to which MIS are included in resolution plans is mixed. Often the MIS are addressed but there are no detailed scenarios for during and after resolution, there was no reference to the systems needed to identify deposits covered by DGS, or the information needed in an actual resolution situation has not been defined sufficiently. In one country, the MIS were not assessed by the end of the audit. In half of the countries, it was determined that the level of detail on MIS included in the plans assessed was relatively low.

In one country, *MREL decisions* were not included in any of the plans examined. In most countries, MREL requirements were set in all plans examined.

*Liquidity aspects* are addressed in nearly all plans. In four countries, liquidity is analysed both for the purpose of resolution and in terms of operational continuity. In one country, all plans include scenarios with regard to liquidity requirements during resolution. If the resolution strategy is insolvency, the MREL equals the capital requirements.

We also found that analyses and determinations of impediments to resolvability in the resolution plans were not finished or fully addressed by the NRAs. The level of detail on this topic was low in many plans. The parallel audit also revealed the reasons why NRAs avoided the analysis and determination of impediments in resolutions plans. Defining 'impediments' in a resolution plan has far-reaching legal implications, which not only places an administrative burden on the NRA itself but also weighs heavily on the bank. Instead of determining formal 'impediments to resolution', NRAs used different approaches. In one country, only



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'immediately visible impediments' were considered, while in another country, the term 'preconditions for resolution' was used. The formal terminology, which refers to potential or substantive impediments, was not used<sup>49</sup>.

### 3.4.5 Frequency and conciseness of resolution plans

On the basis of our evaluation of the fully-fledged resolution plans, we want to highlight an additional observation. Many NRAs have chosen to apply a different frequency of reassessing and updating resolution plans than the annual cycle prescribed by the BRRD. Most often NRAs have chosen to use a bi-annual updating cycle. In some countries, this was decided for all LSI plans, in other countries, only for SO plans, while yet in other countries, no update frequency was indicated.

We note that in case an LSI bears systemic relevance reviewing and where appropriate updating the resolution plan needs to be done in principle annually. The update frequency of "every two years", the limited description of MIS in resolution plans as well as the reluctance of NRAs to apply the far-reaching status of impediments to resolution raise the question: "Do the resolution plans for LSIs contain sufficient and up-to-date information and measures to ensure the implementation of the envisioned resolution measures during a crisis in a 'resolution weekend'?" This links to another finding, i.e. that resolution plans have, generally, become more concise over time. According to several NRAs, the SRB supports this development. Instead of including all details needed to implement and execute a resolution plan in times of crisis, the SRB encourages NRAs to develop 'playbooks'. These 'LSI-playbooks' are set up together with LSIs and consist of measures to prepare for and procedures to follow in a resolution weekend, in collaboration with the banks themselves. The playbooks could not be audited because none were finalised at the end of the audit period. We note that these playbooks are not formally notified to the SRB, the organisation responsible for the effective and consistent functioning of the SRM for LSIs, for consultation.

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<sup>49</sup> The Commission Delegated Regulation (EU) 2016/1075 of 23 March 2016 supplementing Directive 2014/59/EU of the European Parliament and Council refers to potential impediments and substantial impediments.



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## 3.5 Audit findings: Evaluation of SO plans

Below, we present findings that were generated from a comparative standardised checklist that each SAI filled in based on their examination of a number of SO plans prepared by their NRA. This checklist was based on the conditions set for SO plans included in the BRRD, the SRM-R and EC Regulations, and SRB guidance (see *Annex I* for a more elaborate description of the audit methodology).

### 3.5.1 Consistency of NRA plans with regulations and SRB guidance

In the analysis of the degree to which the resolution plans that are subject to simplified obligations are drawn up in line with the expectations of the NRA and/or the SRB, we found that in most countries the plans generally complied with the expectations developed by the NRA and/or the SRB (as stated in the SRB Guidance Note on SO plans). Often the SO plans are simplified and follow a common structure.

In most countries, certain parts were missing in SO plans. In many countries, the information and communication sections were left out. Other topics that were often missing in the plans are the eligibility to simplified obligations, an overview of the governance structure of the bank, the recapitalisation amount and/or material changes in the resolution plan. In some countries with a high number of LSIs, some SO plans follow the structure of a fully-fledged plan, but for the vast majority of LSIs highly simplified and mostly identical plans are drawn up, with a standardised set of headings.

### 3.5.2 Eligibility of plans to simplified obligations

As discussed earlier, before a resolution plan is drafted according to SO criteria, the eligibility for a SO plan needs to be established. The analysis contains two elements: a quantitative part (in which a bank's basis points are assessed whereby the formal threshold is 25 basis points, unless decided otherwise by the NRA, see paragraph 3.3.3) and a qualitative part (in which, for example, the nature of business, size and legal status and risk scores are assessed).



Our analysis shows that in all countries, the SO assessment was performed on the basis of the EBA guideline on SO eligibility. Furthermore, it was found that all SO plans analysed by SAIs (except for one plan) included the mandatory quantitative and qualitative assessment. Documentation of the analyses by the NRAs in underlying files, however, is scarce. Underlying information for the qualitative part of the assessment is absent in all cases that could be assessed.

### 3.5.3 Public Interest Assessment

Based on SRB guidance for SIs, the PIA for SO plans should address the following elements: critical functions, preventing significant adverse effects on financial stability and three other criteria (protection of public funds by minimising reliance on extraordinary public financial support, protection of covered deposits and covered investors, protection of client assets and client funds). In the table below, we give an anonymised overview of the degree to which these elements are included in the SO plans analysed.

**Table 7 – Components of the PIA included in analysed SO plans**

| Country | Critical functions <sup>1</sup> | Effects on financial stability <sup>1</sup> | Other resolution objectives <sup>1</sup> |
|---------|---------------------------------|---|--|
| A       | Yes (all)                       | Yes (all)                                   | No                                       |
| B       | Yes (all)                       | Yes (all)                                   | Yes                                      |
| C       | No                              | Yes (all)                                   | Yes                                      |
| D       | Yes (partial)                   | Yes (all)                                   | No                                       |
| E       | Yes (all)                       | Yes (all)                                   | No                                       |
| F       | No                              | Yes (all)                                   | No                                       |

<sup>1</sup> These columns use the categorisation few/half/most/all to indicate the extent to which the analysed plans included an assessment of all five critical functions, all three financial stability effects, and all three other resolution objectives, as stipulated in the NRA guidance for resolution plans.



Our analysis shows that especially the assessment of the prevention of significant adverse effects to financial stability is well developed in SO plans. It is included in all SO plans of all countries analysed. The degree to which critical functions are assessed in SO plans differs widely between the countries. Of the other three resolution objectives, we find that all were addressed in all plans in two countries, while in four countries that was not the case.

### 3.5.4 Other elements of SO plans: Management information systems

As described in paragraph 3.4.4, the assessment of MIS in resolution plans focuses on three aspects of resolution planning: (1) data management before resolution to ensure accurate and up-to-date access to bank information for evaluation purposes, (2) access to MIS during resolution to support the quick transferral of certain deposits or loans, and (3) insight in the main IT systems of LSIs that uphold the critical infrastructure of LSIs after resolution. For SO plans, in which generally no resolution action is envisaged, the first and third aspects are important. Rather than ensuring access to the banks' critical infrastructure after resolution, for SO plans, knowledge about the MIS of banks is crucial because DGS-covered deposits need to be paid out in a certain pre-determined time period after a bank goes into insolvency. This can only be done if the IT systems of the banks are equipped to handle this or provide information on the daily updated account details to the DGS.

The analysis shows that in two countries both aspects were included in all SO plans. In two countries, the aspect of data management was included in all plans, while the aspect of operational continuity was included in about half of the plans. In one country, only the aspect of operational continuity was addressed. In one other country, the MIS were not assessed by the end of the audit.

As to the level of detail in the way these elements are addressed in the SO plans, in about half of the cases, this was assessed as 'middle' while in the other half, it was 'low'. As an example of the latter, in one country, in almost all SO plans the assessment was summarised in an indicative judgement which says that "*The MIS of XX should be able to provide timely access to accurate and complete information for the NRA to implement the resolution strategy*".





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## 4 Audit gaps

### 4.1 Audit question and main findings

The main question guiding the parallel audit for this chapter is: *Do SAIs face any barriers in auditing banking resolution and obtaining access to relevant documents?*

Our main audit findings related to this question are as follows:

- All SAIs, except for one, got full access to all requested documents from their NRA and the Ministry of Finance.
- The SRB has, by means of the NRAs, informed the SAIs on conditions to access SRB documentation for the purpose of this audit. None of the SAIs has agreed to these conditions. For most SAIs, this meant they have not accessed the SRB documents. Other SAIs agreed a special procedure with their NRA by which they could get access to some documents. Only one SAI got access to the internal SRB Resolution Planning Manual (RPM).

The answer to our audit question is that due to conditions set by the SRB, the SRB guidance for resolution planning for LSIs could not be taken into account by SAIs.

In this chapter, after a brief introduction of our earlier findings regarding audit gaps in the audit of banking supervision (paragraph 4.2), we will provide an overview of the limitations the national SAIs faced in accessing relevant information and data firstly from their NRAs, NCAs and Ministry of Finance (paragraph 4.3.1) and secondly from the SRB (paragraph 4.3.2).

### 4.2 Background

In our report on *banking supervision*, published on 12 December 2017, we formulated the following conclusions on audit gaps:

- The ECA could not comprehensively audit the ECB's supervisory activities on Sis.



- The ECA's mandate has to be clearly defined in order to allow for more stringent control and accountability of the ECB's function of prudential supervision. The definition should also reflect that Article 27.2 of the ESCB Statute is only meant to protect the independence of monetary policy<sup>50</sup>.
- In the area of supervision of LSIs – the area where national SAIs are meant to have full competence – SAIs are faced with restrictions. An increasing number of documents concerning LSIs are subject to the ECB's Common Rules and Minimum Standards, and are not shared with SAIs. It is expected that this 'new' audit gap will increase in importance as the ECB issues more guidance and methodology regarding the prudential supervision of LSIs. On top of that, there are ten euro area countries in which the SAI has no or only a limited mandate to audit the supervision of medium-sized and small banks.

## 4.3 Limitations to SAI access to information

### 4.3.1 NRA, NCA and Ministry of Finance

The audit revealed that SAIs were not faced by any limitations regarding their access to NRA documents. The only exception is the SAI of Estonia, which has no clear audit mandate for the NRA. Regarding their resolution planning activities for LSIs, the NRAs may be partly dependent on work done and information provided by NCAs. Therefore, some of the SAIs involved in this parallel audit examined their access to the NCA. The SAIs of Estonia and Finland indicated that they have no audit mandate for the NCA. Other SAIs have an audit mandate, and faced no limitations in their access to NCA information. Regarding the access of SAIs to documents of the Ministry of Finance, in most cases, the SAIs did not face any limitations.

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<sup>50</sup> Prior to the implementation of the SSM, the German and Dutch SAI, for example, had the right to audit the entire process of supervising SIs and LSIs. We now face a situation where the ECA's mandate, as it is currently exercised in practice, falls short of the mandates several national SAIs, including those of Germany and the Netherlands, had prior to the introduction of the SSM.



### Case in Point: Access of SAI of Estonia to *Finantsinspeksioon*:

The Supervision Authority (*Finantsinspeksioon*) of Estonia conducts financial supervision and resolution functions (Financial Supervision Authority Act paragraph 4 (2)). Financial supervision is conducted and financial crises are resolved only in the public interest (Financial Supervision Authority Act paragraph 3 (3)).

The National Audit Office of Estonia is of the opinion that The National Audit Office Act paragraph 7 (1) 1) and 8) gives the SAI of Estonia the mandate to undertake audits in the Bank of Estonia (*Eesti Pank*) including *Finantsinspeksioon*, and other entities performing public functions pertaining to the use and preservation of state assets. However, the Estonian Parliament did not give the SAI of Estonia access to confidential resolution information in the Financial Supervision Authority Act and/or in the Financial Crisis Prevention and Resolution Act.

*Finantsinspeksioon* is of the opinion that they cannot be audited by the SAI of Estonia. In their view, *Finantsinspeksioon* is an agency with autonomous competence and a separate budget, which operates at *Eesti Pank*. As a result, the SAI of Estonia did not get access to the NRA documents needed to carry out this audit.

As a response, in its audit memo/Management Letter to the Minister of Finance, the SAI of Estonia recommended changing the law in order for the SAI to be able to audit the *Finantsinspeksioon*. The audit memo/Management Letter was also sent to Parliament, and discussed in Parliament's Finance Committee.

At this moment in time, the Ministry of Finance will start the amendment of the corresponding law.

#### 4.3.2 SAI access to information of the SRB

Although the SRB is an agency of the EU, and as such does not fall within the audit mandate of national SAIs, the Task Force on Banking Union deemed it necessary to get access to relevant SRB documents, especially the internal SRB RPM. The NRAs carry out their national resolution task as part of the SRM, and they relied on substantive guidance, standards and policies from the SRB on how to perform their activities. NRAs are expected to follow SRB guidance but also have discretionary powers in resolution planning for LSIs. When auditing the activities of the NRAs under the SRM, it is therefore of utmost importance to obtain SRB guidance documents, so as to be able to assess the NRAs' compliance therewith.



In October 2018, the Chairs of the Task Force asked their respective NRAs to discuss with the SRB whether they could get access to the SRB RPM and relevant other SRB documents. As a result, in November 2018, the Task Force received a preliminary overview of 13 SRB documents the SAIs could potentially get access to<sup>51</sup>. This overview was updated to 19 documents in June 2019. However, the Task Force took note that none of the lists included the internal SRB RPM, of which now two versions exist: a 2016 version and a 2019 version. Any further attempts to receive it from the SRB failed.

In a June 2019 meeting, the SRB in its plenary session decided on its policy regarding access of documentation by SAIs<sup>52</sup>. The SRB placed strict conditions on access by the SAIs to the documents. Briefly summarised, the documents can only be accessed in full confidentiality, in a 'data room' at the NRA premises, SAIs cannot refer to SRB documents, cannot cite the SRB, and cannot draw conclusions about the SRB.

All participating SAIs, except the SAI of Estonia, had *potential* access to SRB documents via the NRAs, given their audit mandate at the NRAs. The conditions of the SRB for access were communicated by the NRAs to all SAIs in more or less similar terms. The individual SAIs decided to deal with the position of the SRB in the following manner:

- None of the SAIs considered the conditions of the SRB acceptable. The Austrian and Dutch SAIs agreed to access SRB documents at the NRA premises, under the condition that the documents would remain available to the SAIs at all times for audit trail purposes, and substantiation of audit findings. With the access to the documents on the October 2018 list of the SRB (not the additional documents on the SRB list of June 2019), the Dutch SAI ascertained whether the templates the NRA developed to guide the writing of fully-fledged plans and SO plans were compliant with the relevant SRB guidance<sup>53</sup>. The Austrian

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<sup>51</sup> In December 2018, the Vice President of the Dutch SAI visited the SRB. During this visit, he discussed with the Board of the SRB the request for information by the SAIs involved in the audit.

<sup>52</sup> 23rd Meeting of the Plenary Session of the SRB, SRM practices regarding engagement with National Court of Auditors (LSI draft plans). Brussels, 19 June 2019.

<sup>53</sup> The Dutch SAI was granted access to the SRB documents *before* the SRB decided on its policy on access by SAIs to SRB documents.



SAI accessed 19 SRB documents, including both versions of the internal SRB RPM.

However, the audit was based on Austrian legal requirements and NRA documents. The SRB documents were used as a supplementary source of information. Both SAIs also got access to communication between their NRA and the SRB.

- The SAIs of Estonia, Portugal and Spain did not get access to SRB documents. The SAI of Finland had potential access to SRB-documents. The German SAI did not get access to SRB documents, but did get access to (9) NRA documents that are based on SRB documents.
- The Austrian and Dutch SAI used SRB documents in their audit. The Dutch SAI decided not to refer to SRB documents in the published report, as they were not necessary for the conclusions, and because doing so could put the NRA in a difficult position vis-à-vis the SRB. The Dutch SAI explicitly stated this position in the published report. The German SAI referred to NRA documents in its report.

Only one of the SAIs involved in the audit got access to the internal Manual (both the 2016 and the 2019 versions). The Taskforce Banking Union therefore has not been able to independently verify if the NRAs have integrated the internal Manual into their activities to prepare resolution plans for LSIs.



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## 5 Conclusions and recommendations

### 5.1 Main findings and conclusions of this parallel audit

The main findings of this parallel audit can be summarised as follows:

1. The NRAs have been established as planned, although in different organisational settings. In some countries, the NRA is part of the National Central Bank, in other countries, it is part of a separate institution which is also responsible for banking supervision, and in yet another country, it is completely independent. Most NRAs work organisationally independently of, but at the same time in close cooperation with, the authorities that are responsible for supervision on LSIs.
2. For most NRAs, due to a lack of data, we could not determine what resources, in terms of budget and staff, were devoted to resolution planning for LSIs during our audit period.
3. In some countries, (almost) all resolution plans were finalised at the end of our audit period, while in other countries that was not the case. We found that the criteria for prioritising LSIs in resolution planning differed between countries.
4. In perceived absence of clear guidance from the SRB for resolution planning for LSIs, NRAs developed their own internal guidelines and methods for resolution planning. This has resulted in different approaches to resolution planning in different countries, for example in relation to the PIA and the development of SO plans, which may lead to different resolution practices in similar cases across the Banking Union.
5. In most – but not all – countries, the content of resolution plans generally complies with the legal requirements and expectations of the SRB (as stated in the public resolution manual). At the same time, certain crucial assessments are examined in a limited way, particularly pertaining to information that is needed to ensure operational continuity during resolution (MIS, information provision for evaluation purposes, communication strategy).

Specifically for fully-fledged resolution plans, we note that resolution plans became more concise. For these cases, NRAs develop 'playbooks' together with LSIs, that contain measures to prepare for and procedures to follow during a crisis, a practice that is



supported by the SRB. However, these playbooks are not formally notified to the SRB, the organisation responsible for the effective and consistent functioning of the SRM for LSIs, for consultation.

6. Each SAI, except for the SAI of Estonia, got full access to all requested documents from its NRA. However, the SRB placed conditions on access to SRB documentation for the purpose of this audit. For none of the SAIs these conditions were acceptable. Because of this, most SAIs could not access SRB documents needed for independent audit work. Some SAIs agreed on a special procedure with their NRA by which they could get access to certain SRB documents.

From these findings, three main conclusions are drawn in line with the answers to the audit questions that were formulated in the previous chapters:

- Most NRA data on budget and staff do not distinguish between resolution activities for SIs and LSIs, and the data do not show the “cost” of their various other tasks. Because there is a variety in how NRAs report on budget and staff, we cannot determine how well equipped NRAs are to carry out the resolution task.
- The preparation for resolution activities of LSIs is under way, but the process and content of resolution planning for LSIs differs between countries and some topics are addressed to a limited extent in resolution plans.
- Due to conditions set by the SRB, the SRB guidance for resolution planning for LSIs could not be taken into account by SAIs.

Overall, on the basis of the above, two issues stand out.

First, resolution planning is *work in progress*. At the end of our audit, four years into the SRM, we noted that the NRAs have been set up in different institutional settings in different countries. The national resolution planning processes of the NRAs for LSIs, in coordination with the SRB, are functioning to a large degree.

The aim of the Banking Union to ensure that the rules are implemented consistently and in a harmonised way across the countries of the euro area is not met for LSIs. Between countries, there are many differences in set-up and practice of LSI resolution planning, both substantively and in process. This was at least in part due to the perceived absence of clear and full SRB



guidance for resolution planning for LSIs by NRAs, which led NRAs to develop their own, internal guidelines and methods for resolution planning for LSIs. In addition, certain topics have been included in a limited way in resolution plans, mainly related to the operational aspects of resolution such as the analysis of MIS of LSIs. Some of these topics will be included in operational 'LSI-playbooks', which are currently not formally notified to the SRB, the organisation responsible for the effective and consistent functioning of the SRM for LSIs, for consultation.

Secondly, all SAIs (with the exception of Estonia) received full cooperation from the NRAs as required in their respective national laws. However, the SRB placed conditions on access of SAIs to internal SRB documentation for the purpose of this audit. Because of this, internal SRB guidance could not be taken into account and the degree to which resolution planning for LSIs by NRAs is guided by the SRB only be examined based on publically available information. The Task Force considers this a serious audit gap, which needs to be fixed shortly.

## 5.2 Reflections on external auditing of the Banking Union 2017-2020

Before we formulate our recommendations following our parallel audit, in this paragraph, we briefly reflect on the state of affairs with regard to limitations to independent external auditing of the Banking Union for SAIs.

In the first pillar, the Single Supervisory Mechanism, some progress has been made. In August 2019, the ECA and the ECB announced that they had come to an inter-institutional agreement on the access to information on prudential supervision. In October 2019, a Memorandum of Understanding (MoU)<sup>54</sup> has been signed by both parties and made public.

The MoU cannot fundamentally change the limited mandate conferred to the ECA by the relevant Regulation, i.e. to audit the 'operational efficiency of the management' of the SSM. However, we consider the MoU a meaningful first step for improving the external

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<sup>54</sup> European Court of Auditors and European Central Bank (2019). [Memorandum of Understanding](#) between the ECA and the ECB regarding audits on the ECB's supervisory tasks.





accountability of the SSM. Since the agreement does not cover the national SAIs' access to ECB documents for the purpose of national audits of prudential supervision of LSIs, we advocate their unrestricted access to ECB documents relevant for auditing the proper functioning of national prudential supervisory authorities.

The European Commission published its first evaluation on the SRM in 2019<sup>55</sup>. This evaluation included only one actual resolution case<sup>56</sup>. Against this background, “the Commission considered it premature to draft and adopt legislative proposals at this stage<sup>57</sup>.” We are of the opinion that a second evaluation should be broader in set-up than the first one. This would also do justice to the increasing complexity of the regulations on banking resolution: “certain crucial parts of the framework – including the provisions on MREL, moratorium powers and the recognition of liabilities governed by third-country law - are in the process of being amended and, once in place, transition periods will apply<sup>58</sup>.” Ideally, the European Commission should provide further insight into the costs and benefits of the resolution regime.

With regard to the third pillar of banking union, the European Deposit Insurance Scheme (EDIS), we would like to stress that the final texts should include full and unconditional access to documents by the ECA and national SAIs. This helps ensure that independent scrutiny is possible and accountability safeguarded.

A final development with relevance for audit gaps is that the Eurogroup decided in principle on 4 December 2019 that the European Stability Mechanism (ESM) can be used as a ‘backstop’ to the Single Resolution Fund (SRF). The SRF is a fund established by the EU for resolving failing

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<sup>55</sup> [https://ec.europa.eu/info/publications/190430-report-bank-recovery-resolution\\_en](https://ec.europa.eu/info/publications/190430-report-bank-recovery-resolution_en)

<sup>56</sup> The case of the Spanish Banco Popular (June 2017) is the only resolution carried out after entry into force of all the provisions of the SRM-R. [https://ec.europa.eu/info/publications/190430-report-bank-recovery-resolution\\_en](https://ec.europa.eu/info/publications/190430-report-bank-recovery-resolution_en) p. 4.

<sup>57</sup> [https://ec.europa.eu/info/publications/190430-report-bank-recovery-resolution\\_en](https://ec.europa.eu/info/publications/190430-report-bank-recovery-resolution_en) p. 12.

<sup>58</sup> [https://ec.europa.eu/info/publications/190430-report-bank-recovery-resolution\\_en](https://ec.europa.eu/info/publications/190430-report-bank-recovery-resolution_en) p. 12.



banks in the context of the Banking Union<sup>59</sup>. The ESM as a backstop will only be used as a last resort, i.e. when the SRF is depleted, and the SRB is not able to raise sufficient ex-post contributions or borrow funds from other sources at acceptable rates. Although this is still under construction, we have to draw attention to a potential further audit gap. The ESM is an intergovernmental *institution* of the euro area, not of the EU. It lacks the common accountability arrangements that are laid down in the EU Treaty. The ESM treaty does not give an audit mandate to the ECA or to national SAIs. Therefore, their access to relevant ESM-information is limited to publicly available documents.

## 5.3 Recommendations

On the basis of the results of the parallel audit, the Task Force Banking Union provides recommendations regarding information about budget and staff of NRAs, resolution planning and audit gaps. We close with remarks about the Banking Union as a whole.

### 5.3.1 Budget and staff

Most NRA data on budget and staff do not distinguish between resolution activities for SIs and LSIs, do not show the “cost” of their various other tasks, and report differently about budget and staff. Hence, we cannot determine how well equipped NRAs are to carry out the resolution task.

We recommend that NRAs start registering what resources, in terms of budget and staff, are devoted separately to resolution planning for SIs, LSIs, and other tasks.

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<sup>59</sup> It is financed by contributions from the banking sector, not by taxpayer money. In the event that the SRF is depleted, the ESM can act as a backstop and lend the necessary funds to the SRF to finance a resolution. To this end, the ESM will provide a revolving credit line. The common backstop will possibly be in place by 1 January 2024, and it is intended that the size of the credit line(s) will be equal to the target level of the SRF, i.e. 1 % of covered deposits in the Banking Union (€55 billion).



### 5.3.2 Resolution planning

Fully-fledged resolution plans for LSIs in most countries have become more concise over time. More operational information regarding (the execution of) actual resolution is included in LSI-playbooks. These are not formally notified to the SRB, the organisation responsible for the effective and consistent functioning of the SRM for LSIs. A partial or differential uptake of these operational aspects by NRAs may impede the level playing field and create systematic effects for the euro area financial markets. We also found that because according to NRAs most SRB guidance was tailored towards the resolution of SIs and specific guidance for resolution planning of LSIs had not been prepared during our audit period, NRAs developed their own internal guidelines for resolution planning for LSIs. This created different approaches to resolution planning and it potentially leads to different resolution execution in similar cases in different countries. Together, these findings may create imbalances in European financial markets that threaten financial stability. We recommend that:

- The resolution plans for LSIs should also include operational elements that are now described in LSI-playbooks to ensure insight in and comparability of this information;
- the NRAs, together with the SRB, develop resolution planning guidance for LSIs in the euro area. This guidance should do justice to both the necessity to create a level playing field, but also leave room for national interpretation where relevant;
- the quality of the MIS assessment in resolution and SO plans needs to be improved by the NRAs as soon as possible, as a full and complete assessment of MIS in resolution and SO plans is crucial, for resolution as well as for setting the DGS into use.

Furthermore, as resolution cases have been rare so far, we consider dry runs relevant for the NRAs' preparedness so that they learn how to carry out resolution in practice.



### 5.3.3 Audit gaps

We recommend that SAIs having the mandate to audit the national resolution authorities receive unconditional and full access to the SRB documents which they deem relevant to independently assess the compatibility of NRA activities with SRB demands. Moreover, in our view the SAIs of the euro area – where necessary and feasible – should have a full and complete mandate to audit all aspects of the national execution of the European Banking Union, i.e. the activities of the national prudential supervisory and resolution authorities.

The October 2019 Memorandum of Understanding between the ECB and the ECA is a meaningful first step for improving the external accountability of the SSM. However, since the agreement does not cover the national SAIs' access to ECB documents, we advocate their unrestricted access for the purpose of national audits of prudential supervision of LSIs.

### 5.3.4 Banking Union

Finally, the starting point of this parallel audit has been the European Banking Union as a whole, which has been created after the financial and banking crisis that erupted in 2007. Although we did not audit the Banking Union as a whole, our findings and reflections in this chapter also call for some lessons to be learned with regard to the further development of the Banking Union:

- With regard to the EDIS, the EU-legislators should explicitly include full and unconditional access to documents by the ECA and national SAIs in order to ensure that independent scrutiny is possible and accountability is safeguarded.
- The next evaluation of the SRM by the European Commission should provide more insight into costs and benefits of the resolution regime.



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## Annex I – Set-up of audit and audit methodology

### Set-up of the parallel audit

This audit was performed collectively by the SAIs of Austria, Finland, Germany, the Netherlands, Portugal, Spain and Estonia. Additionally, a group of 15 SAIs have contributed to this audit by providing information in the survey of 2018 about organisation and tasks of the NRA, about the staffing, budget, IT systems of the NRA and about accountability arrangements for the NRA<sup>60</sup>. The audit questions were formulated as follows in a common audit plan:

1. Are NRAs adequately equipped and prepared to carry out the resolution task regarding medium-sized and small banks?
2. How is the preparation for resolution activities regarding medium-sized and small banks being carried out in practice by the NRA?
3. Do SAIs face any barriers in auditing banking resolution and obtaining access to relevant documents?

Optionally, SAIs could answer the following question:

4. How do Ministers of Finance comply with their responsibilities for the functioning of the resolution mechanism? Do they comply with them adequately in practice, including accountability to parliament?

Since the audit mandates of the participating SAIs differ, not all SAIs have been able to study all main audit questions in their work. The SAIs of Austria, Finland, Germany, the Netherlands, Portugal and Spain carried out an audit in which all three main questions were addressed. The SAI of Estonia was able to answer questions 1 (partly) and 3 of the parallel audit based on publicly available data and an interview with the Ministry of Finance. This SAI did not have the

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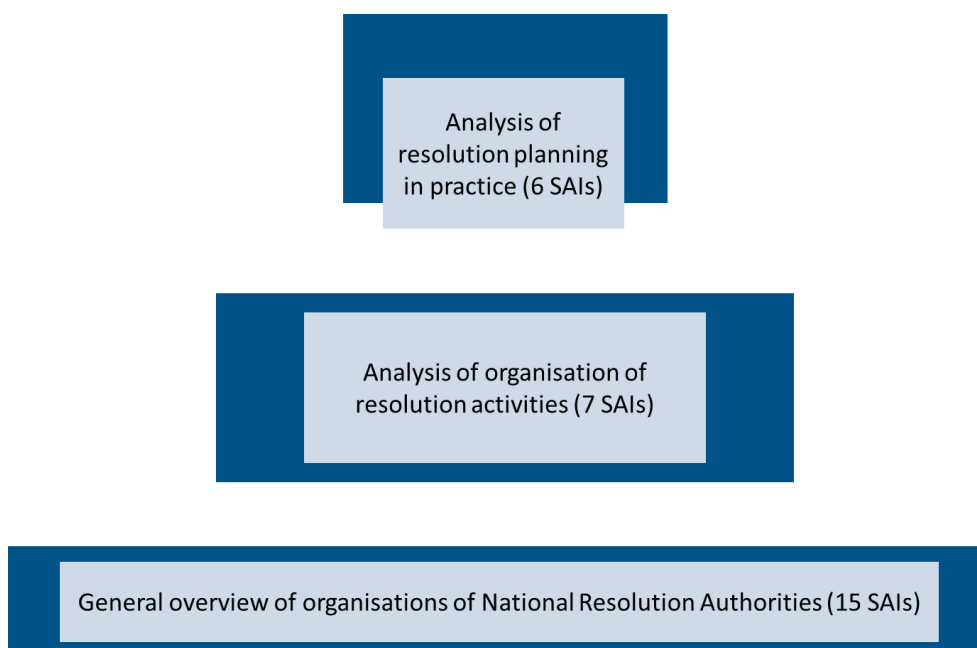
<sup>60</sup> The 15 participating SAIs are Austria, Cyprus, Germany, Estonia, Greece, Spain, Finland, France, Ireland, Lithuania, Luxembourg, Latvia, Malta, the Netherlands, Portugal.



mandate to audit banking resolution. In Austria, Finland, Germany, Portugal and the Netherlands, the audit work also involved their respective Ministries of Finance. The figure below depicts the participation of SAIs in this audit.

The audit scope of this report is limited to resolution planning for LSIs under the SRM. The period under review covers the entry into force of the SRM on 1 January 2016 until the end of 2018 at least. Where possible, SAIs also reviewed 2019. Because standard practices and scheduling differed between SAIs, each national audit covered different time periods in 2018 and 2019.

Set-up of audit and participating SAIs:



### Common audit methods and assessment frameworks

Each SAI carried out the audit in its own country, within its own audit remit, in accordance with standardised national practices. To ensure comparability of the results, a common audit plan and framework was developed as guidance for the audit. For the development of this common audit framework, the checklist that the ECA previously used in its audit of the SRB was used as



a starting point<sup>61</sup>. The ECA checklist was customised for the specific characteristics of resolution planning for LSIs. Several in-depth checklists were produced by the Task Force, addressing different aspects of resolution planning for LSIs. These in-depth checklists were filled in by each SAI, and in the analysis some of the in-depth data was generalised to a higher level of abstraction to facilitate a comparison across countries.

In all countries, the audit involved desk research of NRA documents, exchange of information by e-mail, and meetings and interviews with officials at the relevant NRA, or multiple authorities in the case of Spain. In addition, the SAIs of Austria, Germany, Finland, the Netherlands, Portugal and Spain requested and received access to a relevant number of resolution plans for LSIs. The sample of resolution plans was to be decided by each SAI individually.

The table below sums up relevant aspects of the audit activities of each SAI involved.

| SAI             | Audit questions addressed | Time period covered in audit | Number of LSI plans | Number of LSI plans audited |
|-----------------|---------------------------|------------------------------|---------------------|-----------------------------|
| Austria         | 1-4                       | 1-1-2015 / 31-10-2019        | 451                 | 10                          |
| Estonia         | 1, 3-4                    | 1-1-2016 / 31-12-2018        | n.a.                | n.a.                        |
| Finland         | 1-4                       | 1-1-2016 / 31-12-2019        | 8                   | All, 100 %                  |
| Germany         | 1-4                       | 1-1-2016 / 31-12-2019        | 1 340               | 6                           |
| The Netherlands | 1-4                       | 1-1-2016 / 31-3-2019         | 24                  | 20                          |
| Portugal        | 1-4                       | 1-1-2016 / 3-10-2019         | 24                  | 2                           |
| Spain           | 1-3                       | 1-1-2016 / 31-12-2019        | 56                  | 11                          |

The analysis of the content of resolution plans focused on the presence of mandatory topics that should be treated in all resolution plans, as included in the BRRD and the SRM-R. For some of these topics, further guidance is provided in EC regulations, and Guidance Notes, High Technical Notes and Policy Notes of the SRB. Because the Task Force Banking Union as a whole

<sup>61</sup> European Court of Auditors, [special report 23/2017](#): Single Resolution Board: Work on a challenging Banking Union task started, but still a long way to go. Luxembourg, December 2017.



did not gain access to the SRB's internal Resolution Planning Manual that integrates all these guidance documents, and which in absence of separate guidance for LSIs was used as a basis for resolution planning for LSIs, we used the public 'Introduction to Resolution Planning' of the SRB to structure our analysis of resolution plans.

### Audit topics

For each research question, the common audit plan included a number of topics to address. These are listed below.

| Question   | Part                                  | Audit topic   |
|--|---------------------------------------|---|
| (1) Are NRAs adequately equipped and prepared to carry out the resolution task regarding medium-sized and small banks?   | (1)(a) Set-up of NRA                  | Tasks and division of competences in the NRA, budget of the NRA, staffing of the NRA, guidance for drafting resolution plans and taking resolution decisions, IT systems for resolution, quality assurance of resolution plans and decisions, accountability towards management and the public.   |
|  | (1)(b) Functioning of NRA in practice | Planning and organisation of the resolution process in practice, use of the NRA budget, actual staffing at NRA, completeness and usefulness of guidance, functioning of IT systems for resolution in practice, quality assurance of resolution plans and decisions in practice, accountability towards management and the public in practice. |
| (2) How is the preparation for resolution activities regarding medium-sized and small banks being carried out in practice by the NRA?  |                                       | Prioritisation of institutions when drafting resolution plans, process of drafting resolution plans, evaluation of resolution plans concerning compliance with the current legal framework, clarity and consistency of the underlying data and analysis of the resolution plans.  |
| (3) Do SAIs face any barriers in auditing banking resolution and obtaining access to relevant documents?   |                                       | Access to any necessary data/information (paper, digital etc.) at NRA, access to any necessary information of SRB, access to any necessary information at Ministry of Finance.  |
| (4) How do Ministers of Finance comply with their responsibilities for the functioning of the resolution mechanism? Do they comply with them adequately in practice, including accountability to parliament? |                                       | Formal supervisory arrangement of Ministry of Finance with NRA, actual involvement of Minister of Finance with NRA, information provided to parliament.   |





## Audit criteria

For each of the audit topics mentioned above, the following audit criteria were used.

*Audit question (1)(a): Setting up the resolution task in the NRA*

**Audit criteria:** The NRA has implemented the available framework (rules, principles etc.) for resolution in the organisation and governance of the NRA in such a way that a proper functioning of the resolution task is ensured.

|  |   |
|--|---|
| Tasks and division of responsibilities | <ul style="list-style-type: none"> <li>• Is the division of responsibilities between the SRB and NRA clearly defined (e.g. Common Framework; COFRA)?</li> <li>• Is the division of tasks between the NRA and the NCA clearly defined?</li> <li>• Is the division of tasks between different teams within the NRA clearly defined?</li> </ul>  |
| Budget for resolution                  | <ul style="list-style-type: none"> <li>• What is the annual budget of the NRA in 2016, 2017 and 2018?</li> <li>• How is the budget allocated to respective units dealing with LSIs in 2016, 2017 and 2018?</li> <li>• How is the NRA budget financed (state budget, bank fees etc.) in 2016, 2017 and 2018?</li> </ul>  |
| Staffing                               | <ul style="list-style-type: none"> <li>• How many FTE did the NRA intend to employ in 2016, 2017 and 2018?</li> <li>• What is the allocation of FTE to respective units dealing with LSIs in 2016, 2017 and 2018?</li> <li>• What remits/responsibilities (organogram) does the NRA have?</li> <li>• Did the NRA put in place a strategy for developing knowledge and expertise?</li> </ul> |
| Guidance                               | <ul style="list-style-type: none"> <li>• Which guidance, by whom, with what date is present?</li> <li>• What additional guidelines are being developed (e.g. on operational continuity in resolution)?</li> </ul>   |
| IT system                              | <ul style="list-style-type: none"> <li>• What systems are used?</li> <li>• How is the separation ('Chinese walls') between supervision and resolution ensured?</li> <li>• Is Resolution-IMAS applied? If so, for what purposes?</li> </ul>  |
| Quality assurance                      | <ul style="list-style-type: none"> <li>• How is the quality of resolution plans ensured (Three Lines of Defence model, risk manual, measures)?</li> <li>• Is the NRA intending to conduct any tests/dry runs of its systems and processes?</li> </ul>   |
| Accountability                         | <ul style="list-style-type: none"> <li>• How does the NRA render account of its activities (e.g. annual report, financial statement)?</li> <li>• Are the reports published?</li> </ul>  |



*Audit question (1)(b): Functioning of the NRA in practice*

**Audit criteria:** The guarantees for a successful preparation of the resolution process function as intended, the reasoned assessments of the NRA are based on relevant and complete information which allows a substantiated intervention by the NRA, if this proves necessary.

|   |   |
|---|---|
| Planning and organisation               | <ul style="list-style-type: none"> <li>• Do the SRB and NRA act in accordance with the division of responsibilities and competences agreed?</li> <li>• Is there a constructive cooperation between the NCA for banking supervision and the NRA, whilst ensuring their respective independence?</li> <li>• How do teams within the NRA cooperate in practice?</li> </ul> |
| Use of the NRA budget                   | <ul style="list-style-type: none"> <li>• Actual costs of the NRA in 2016, 2017 and 2018?</li> <li>• Actual allocations to respective units dealing with LSIs in 2016, 2017 and 2018?</li> <li>• Actual financing of NRA budgets (state budget, bank fees etc.) in 2016, 2017 and 2018?</li> </ul>   |
| Actual staffing at NRA                  | <ul style="list-style-type: none"> <li>• Actual FTE at NRA in 2016, 2017 and 2018?</li> <li>• What is the actual allocation of FTE to respective units dealing with LSIs in 2016, 2017 and 2018?</li> <li>• What tasks does the NRA carry out in practice? Does this differ from the remit/responsibilities set out initially?</li> </ul>                               |
| Completeness and usefulness of guidance | <ul style="list-style-type: none"> <li>• How complete and useful is the guidance in practice?</li> <li>• What additional guidance is needed to prepare reliable and credible resolution plans and resolution decisions?</li> </ul>  |
| IT systems                              | <ul style="list-style-type: none"> <li>• Are all IT systems envisaged up and running?</li> <li>• How do the IT systems function in practice?</li> <li>• Are any IT systems being replaced or retendered?</li> </ul>   |
| Quality assurance                       | <ul style="list-style-type: none"> <li>• Has the NRA performed an independent internal research to the performance of the resolution process on LSIs in 2017 and 2018?</li> <li>• How has the NRA prepared for emergencies (e.g. by conducting tests/dry runs)?</li> <li>• Are the recommendations arising from these audits followed up by the NRA?</li> </ul>         |
| Accountability                          | <ul style="list-style-type: none"> <li>• If applicable: Does the NRA provide insight into the developments, decisions and results achieved over the past year in line with previously set procedures (e.g. annual report, financial statement etc.)?</li> <li>• Are the reports published?</li> </ul>   |



*Audit question (2): Drawing up resolution plans*

**Audit criteria:** The NRA applies the relevant rules, which are applicable for the preparation of the resolution plans, adequately and provides a motivated decision on the preferred resolution strategy for all the LSIs before the end of 2018.

|  |   |
|--|---|
| Prioritisation of institutions                 | <ul style="list-style-type: none"> <li>• How are the institutions prioritised by the NRA when drafting resolution plans?</li> </ul>   |
| Process drafting                               | <ul style="list-style-type: none"> <li>• What is the timeline for drafting the resolution plans?</li> <li>• What is the timeline for informing banks about their preferred resolution strategy?</li> </ul>  |
| Evaluation of compliance                       | <ul style="list-style-type: none"> <li>• Management summary:             <ul style="list-style-type: none"> <li>○ Does the management summary include the required aspects?</li> <li>○ Are proposed material changes reflected in follow-up plans?</li> </ul> </li> <li>• Strategic analysis, especially:             <ul style="list-style-type: none"> <li>○ Structure of the bank and availability of a financial table?</li> <li>○ Has the business case been described?</li> <li>○ Which functions are critical functions?</li> <li>○ Which systems are critical systems?</li> </ul> </li> <li>• Derivation of the preferred resolution strategy, especially:             <ul style="list-style-type: none"> <li>○ Is the preferred strategy credible and viable?</li> <li>○ Is the resolution approach (Single Point of Entry, Multiple Points of Entry) consistent?</li> <li>○ Have all factors been taken into account that may have an impact on the derivation (loss absorption capacity / viability of separation, financial and operational continuity, information and communication plan, impediments to resolvability)?</li> <li>○ Has the strategy been tested for various scenarios (at least for idiosyncratic and systemic crises)?</li> <li>○ Has the planned application of resolution tools and the differentiation by entities been described?</li> <li>○ Has the time scale for implementation been credibly described?</li> </ul> </li> <li>• Continuity of resolution:             <ul style="list-style-type: none"> <li>○ Has the financial continuity, especially the liquidity, been addressed?</li> <li>○ How is operational continuity ensured?</li> </ul> </li> <li>• Viability of resolution:             <ul style="list-style-type: none"> <li>○ Is there a strategy for overcoming potential impediments to resolution and is that strategy credible?</li> <li>○ Has MREL been determined at least on a consolidated basis?</li> </ul> </li> </ul> |
| Clarity and consistency of underlying analysis | <ul style="list-style-type: none"> <li>• Are the judgements of the NRA motivated, unequivocal and consistent and are they established based on a traceable progress of judgement?</li> </ul>  |



*Audit question (3): Audit gaps*

**Audit criteria:** The SAIs have full access to all written and digital information regarding the resolution mechanism at the NRA, including relevant information stemming from the SRB.

|  |  |
|--|--|
| Access necessary data/information of NRA                 | <ul style="list-style-type: none"> <li>• Are there limitations to access relevant data/information of the NRA?</li> </ul>            |
| Access necessary data/information of SRB                 | <ul style="list-style-type: none"> <li>• Are there limitations to access relevant information of the SRB?</li> </ul>                 |
| Access necessary data/information of Ministry of Finance | <ul style="list-style-type: none"> <li>• Are there limitations to access relevant information of the Ministry of Finance?</li> </ul> |

*Audit question (4) (if applicable): Role of Minister of Finance*

**Audit criteria:** The Minister of Finance has organised his tasks such that 1) both his final responsibility for the functioning of the resolution task and the responsibility for the functioning of the financial system as a whole in his country is guaranteed and 2) he is accountable to parliament, if applicable.

|                                    |  |
|------------------------------------|--|
| Formal supervisory arrangement     | <ul style="list-style-type: none"> <li>• Is there a well-organised system set up within the Ministry, which can be activated in the case the NRA needs to use the resolution instruments or starts the insolvency procedure on a bank that is failing or likely to fail?</li> <li>• Has the Minister of Finance put in place a well-organised system to coordinate with the NRA about resolution or insolvency?</li> </ul> |
| Actual involvement (if applicable) | <ul style="list-style-type: none"> <li>• Is there a law or guidance that regulates if and, if yes, when the Minister has to be informed in the case that the NRA has to use resolution instruments or has to start the insolvency procedure on a bank that runs into trouble?</li> <li>• Is the Ministry of Finance informed by the NRA and, if yes, on what and how?</li> </ul>   |
| Information to parliament          | <ul style="list-style-type: none"> <li>• Has the Minister informed parliament adequately on the set-up and functioning of the resolution task – including how actual resolution cases were dealt with (if applicable)?</li> </ul>  |



## Report drafting process

The participating SAIs summed up their findings in a country report, that was sent to the Core Group, consisting of the SAIs of Germany and the Netherlands. This joint report has been drafted by the Core Group based on the individual country reports, in close cooperation with all SAIs involved.

Each of the country reports has undergone contradictory procedures or a feedback process as is customary in each of the countries concerned, on the basis of the relevant national laws.

The final report of the Task Force Banking Union was adopted in a first stage by the participating SAIs by July 2020. In the second stage, the report was approved by the Contact Committee in October 2020.

## Links to published reports of SAIs

On the basis of this parallel audit, the following reports were published by the participating national SAIs (on 15 June 2020).

|                 |   |
|-----------------|---|
| Austria         | <a href="https://www.rechnungshof.gv.at/rh/home/home/Bankenabwicklung_Oesterreich_Bund2020_18.pdf">https://www.rechnungshof.gv.at/rh/home/home/Bankenabwicklung_Oesterreich_Bund2020_18.pdf</a>   |
| Estonia         | <a href="https://www.riigikontroll.ee/tabid/206/Audit/2500/language/en-US/Default.aspx">https://www.riigikontroll.ee/tabid/206/Audit/2500/language/en-US/Default.aspx</a>   |
| Finland         | <a href="https://www.vtv.fi/app/uploads/2020/03/VTV-Tarkastus-3-2020-Rahoitusvakausraston-toiminta-osana-pankkiunionin.pdf">https://www.vtv.fi/app/uploads/2020/03/VTV-Tarkastus-3-2020-Rahoitusvakausraston-toiminta-osana-pankkiunionin.pdf</a><br><a href="https://www.vtv.fi/app/uploads/2020/04/NAOF-Audit-3-2020-Operations-of-the-Financial-Stability-Authority.pdf">https://www.vtv.fi/app/uploads/2020/04/NAOF-Audit-3-2020-Operations-of-the-Financial-Stability-Authority.pdf</a>  |
| Germany         | Management letter   |
| The Netherlands | <a href="https://english.rekenkamer.nl/publications/reports/2019/12/12/bank-resolution-in-the-netherlands">https://english.rekenkamer.nl/publications/reports/2019/12/12/bank-resolution-in-the-netherlands</a>   |
| Portugal        | <a href="https://www.tcontas.pt/pt-pt/ProdutosTC/Relatorios/RelatoriosAuditoria/Documents/2020/rel12-2020-2s.pdf">https://www.tcontas.pt/pt-pt/ProdutosTC/Relatorios/RelatoriosAuditoria/Documents/2020/rel12-2020-2s.pdf</a><br>Executive summary of the Portuguese report (English version);<br><a href="https://www.tcontas.pt/pt-pt/ProdutosTC/Relatorios/RelatoriosAuditoria/Documents/2020/rel12-2020-2s_executive_summary.pdf">https://www.tcontas.pt/pt-pt/ProdutosTC/Relatorios/RelatoriosAuditoria/Documents/2020/rel12-2020-2s_executive_summary.pdf</a> |
| Spain           | Due to COVID-19, the publication has been postponed.  |



## Annex II – List of abbreviations

|               |  |
|---------------|--|
| <b>BaFin</b>  | Bundesanstalt für Finanzdienstleistungsaufsicht (NRA Germany)        |
| <b>BdE</b>    | Banco de España (NRA of Spain)                                       |
| <b>BdP</b>    | Banco de Portugal (NRA of Portugal)                                  |
| <b>BRRD</b>   | Bank Recovery and Resolution Directive                               |
| <b>DGF</b>    | Deposit Guarantee Fund   |
| <b>DGS</b>    | Deposit Guarantee Scheme   |
| <b>DNB</b>    | De Nederlandsche Bank (NRA of the Netherlands)                       |
| <b>EBA</b>    | European Banking Authority   |
| <b>EC</b>     | European Commission  |
| <b>ECA</b>    | European Court of Auditors   |
| <b>ECB</b>    | European Central Bank  |
| <b>EDIS</b>   | European Deposit Guarantee Scheme                                    |
| <b>EU</b>     | European Union   |
| <b>IMAS</b>   | Information Management System  |
| <b>FGCAM</b>  | Guarantee Fund of the Crédito Agrícola Mútuo                         |
| <b>FI</b>     | Finantsinspektion (NRA of Estonia)                                   |
| <b>FMA</b>    | Finanzmarktaufsicht (NRA of Austria)                                 |
| <b>FMSA</b>   | Bundesanstalt für Finanzmarktstabilisierung (NRA Germany until 2017) |
| <b>FOLTF</b>  | Failing or likely to fail  |
| <b>FROB</b>   | Spanish Executive Resolution Authority                               |
| <b>FTE</b>    | Full time equivalent   |
| <b>HP-LSI</b> | High Priority Less Significant Institution                           |
| <b>LSI</b>    | Less Significant Institution   |
| <b>MIS</b>    | Management Information System  |
| <b>MoU</b>    | Memorandum of Understanding  |
| <b>MREL</b>   | Minimum Requirement for own funds and Eligible Liabilities           |
| <b>NCA</b>    | National Competent Authority   |
| <b>NCB</b>    | National Central Bank  |
| <b>NRA</b>    | National Resolution Authority  |
| <b>PIA</b>    | Public Interest Assessment   |
| <b>RPM</b>    | Resolution Planning Manual   |
| <b>RVV</b>    | Rahoitusvakausturvasto (NRA of Finland)                              |
| <b>SAI</b>    | Supreme Audit Institution  |
| <b>SI</b>     | Significant Institution  |
| <b>SO</b>     | Simplified obligations   |
| <b>SRB</b>    | Single Resolution Board  |
| <b>SREP</b>   | Supervisory Review and Evaluation Process                            |
| <b>SRF</b>    | Single Resolution Fund   |
| <b>SRM</b>    | Single Resolution Mechanism  |
| <b>SRM-R</b>  | Single Resolution Mechanism-Regulation                               |
| <b>SSM</b>    | Single Supervisory Mechanism   |