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EBF Feedback to the Commission's Roadmap for a BRRD/SRMR/DGSD Review as part of Completing the Banking Union

The EBF supports the completion of the Banking Union. To this end, the BRRD/SRMR/DGSD framework should be amended to address the issues identified in this Roadmap. In addition to a shared, strong and well-balanced system to protect depositors, we also urge the Commission to add building blocks which the last years have shown are still missing.

We welcome the upcoming in-depth consultation process and the announcement of a thorough impact assessment. We appreciate the Commission's active engagement with different stakeholders, including our industry.

Issues identified by the European Commission

The Commission rightly observes that a priori effective solutions in the current legislation have not been applied for all categories of banks.

It should be firmly recalled that "burden-sharing through bail-in" is the rule in the case of any bank undergoing resolution. We also invite a further streamlining of the application of the public interest assessment to a) provide greater clarity on the future of banks that become unviable, b) maintain a healthy banking sector and c) address competition concerns.

We would welcome a shared approach to managing a value-preserving insolvency of FOLTF banks that do not fall into the SRB's remit but are yet too large to be left to liquidation according to a very diverse set of national insolvency rules. Any solution would need to be predictable, avoid a recourse to tax-payer money and protect depositors and financial stability.

Market integration remains insufficient, impacting both on profitability and overall sector resilience. The Banking Union seems to not yet have created full confidence amongst Member States. As a result, the potential for integration is not fully realised and capital and liquidity cannot flow freely within banking groups; national buffer requirements may accumulate in an excessive manner. These dynamics should be urgently addressed. The aim should be a fair, balanced and workable solution safeguarding a level-playing field within the Banking Union.

A review of the DGSD should provide clarity on the policy for contributions after the target has been met.

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Additional problems identified by the industry

The Banking Union's crisis management capacity lacks important elements:

First, despite its capacity to resolve even a significant bank in an orderly manner, the current framework provides no assurance that immediately post-resolution the "new" bank can access the liquidity needed to survive until market confidence is re-established. This is a widely shared concern – yet we are still waiting for a credible and robust public liquidity backstop solution to materialise. This was one of the FSB's key recommendations and has long been put in place in other jurisdictions.

Second, the regulatory and supervisory reform process – and great efforts made by the banking sector itself – have made the financial sector very resilient. That said, during a wider economic crisis, e.g. the current Covid19 crisis, the use of the bail-in tool should be carefully assessed. Also, the current capital requirements legislation disincentivises the use of capital buffers due to the automatic penalties in the form of maximum distributable amounts (MDA). This is a lesson learnt in the Covid-19 crisis which proved that the distance to MDA is the actual measure of creditworthiness in the market. The buffer mechanism should therefore be reviewed. Looking forward, a completed Banking Union should provide tools to protect financial stability in a wider reaching crisis.

Third, we propose that the Commission uses this opportunity to provide greater certainty on the target level of the Single Resolution Fund (SRF), which risks becoming inflated by the surge in covered deposits resulting from the ECB's ongoing efforts to stabilise the economy. Either the SRF should be capped at EUR 55bn reflecting law makers' original expectations, or the target setting formula should be amended accordingly.