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Improve the efficiency of the EU Crisis Management Framework: a key intermediate step in achieving Banking Union

The EU Crisis Management Framework has to a large extent contributed to the initial goals of strengthening the resilience of the banking system. Across the board systemic banks have become more resilient and built-up a sizeable cushion of bail-inable debt for absorption of losses and recapitalization if the situation requires so. Although differences remain, we view that amongst the most sizable EU banks there is an overall level-playing-field in terms of requirements and applications of rules throughout the Eurozone. Fortunately, in the decade after the financial crisis depositor protection has not been severely challenged which could be considered as a demonstration that banks have become increasingly resilient.

With respect to the smaller banks in the EU system the landscape and framework is more diversified. This makes the applicable resolution/liquidation rules challenging and diversified. To ensure predictability we promote more clarity in the BRRD when defining a resolution action in the public interest or the winding up of a bank under normal insolvency law when the public interest test is not met.

Banks, irrespective of their size, that are in the scope of resolution should be subject to MREL requirements whereby the size, business model, local market and rating are duly taken into consideration thereby acknowledging that the MREL issuing capacity might be vary across countries. We welcome the proposals, currently under way by the SRB, to harmonize the public interest test and view that such a test should be applied by the SRB and no longer by national authorities.

A key challenge to address is the existing discrepancy between declaring an institution failing-or-likely-to-fail and the national triggers to initiate insolvency procedures; clarification should be made at EU level through the BRRD and the SRM regulation to establish administrative procedures that will be applicable for all banks and binding for the national insolvency regimes.

Furthermore, we envisage that more efforts could be undertaken to harmonise existing national insolvency procedures and financial means. One key element to consider is in our view to harmonise the use of DGS to finance alternative measures in liquidation, such as the transfer of assets and liabilities across the EU.

We note that only in a number of Member States DGS can be used a preventive measure; we believe the DGSD should be amended and DGS funds should only be used in liquidation. both for compensating depositors as well as alternative measures and always on a least cost basis. And in any event, to prevent an un-level-playing field, the use of preventive measures by both private and public DGSs against the background of state aid rules should be clarified.

Throughout the years the Crisis management Framework has also significantly contributed to a reduction of the sovereign feedback loop. However, there is an actual risk that dependencies are re-introduced or increased – we see this for instance when contributions into the national DGS funds are deposited in public treasury. The DGSD review should provide for clear rules to avoid this. Ultimately the European Deposit Guarantee Scheme is the best response to address this sovereign feedback loop.