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Finance for Europe

Association for Financial Markets in Europe

European Commission Targeted Consultation

Review of the Crisis Management & Deposit Insurance Framework

AFME consultation response

20 April 2021

Introduction

The Association for Financial Markets in Europe (AFME)[1] welcomes the opportunity to provide our views on the European Commission's review of the Crisis Management and Deposit Insurance (CMDI) framework.

AFME continues to support the development of an effective recovery and resolution framework in Europe and the ongoing work to enhance resolvability. AFME has been closely involved in the development and implementation of the BRRD and SRMR, the development of TLAC, and related issues including deposit insurance.

We recognise the importance of ensuring the effectiveness of the CMDI framework in its totality, and the need for a consistent and proportionate application of the powers currently made available to authorities in the event of a bank failure.

We support the European Commission's efforts to review the effectiveness of the framework and identify areas which could be improved. We set out below our general comments on the issues raised in the consultation paper followed by our answers to the specific questions raised.

Part 1 – General objectives and review focus

1. **In your view, has the current CMDI framework achieved the following objectives?**
    a. **limiting the risk for financial stability stemming from bank failures**
    b. **minimising recourse to public financing and taxpayers' money**
    c. **protecting depositors**
    d. **breaking the bank/sovereign loop**
    e. **fostering the level playing field among banks from different Member States**
    f. **ensured legal certainty and predictability**
    g. **adequately addressing cross-border bank failures**
    h. **an appropriate scope of application of the framework beyond banks (which includes some investment firms but not, for example, payment service providers and e-money providers)**

[1] The Association for Financial Markets in Europe (AFME) represents a broad array of European and global participants in the wholesale financial markets. Its members comprise pan-EU and global banks as well as key regional banks, brokers, law firms, investors and other financial market participants. We advocate stable, competitive, sustainable European financial markets that support economic growth and benefit society. AFME is listed on the EU Transparency Register, registration number 65110063986-76.

Which additional objectives should the reform of the CMDI framework ensure? Do you consider that the BRRD resolution toolbox already caters for all types of banks, depending on their resolution strategy? In particular, are changes necessary to ensure that the measures available in the framework (including tools to manage the bank's crisis and external sources of funding) are used in a more proportionate manner, depending on the specificities of different banks, including the banks' different business models?

It is important to emphasise that very extensive progress has been made in enhancing resolvability, particularly with respect to GSIBs and large banks (See GFMA response to FSB consultation on TBTF[2]). Banks in the EU have made very significant progress in recovery and resolution planning, raising MREL and enhancing resolvability. Significant work is underway to further enhance resolvability.

It is essential that any reforms to the resolution framework should not prejudice the progress already achieved and further work that is underway.[3] It is very important that this is recognised by the co-legislators and they are vigilant in avoiding unintended consequences of further reforms as they proceed with the CDMI review. We do not believe that it is necessary to make wholesale changes to the framework and that the focus should be on targeted changes.

We believe that the following five key principles should underpin the review of the CMDI framework:

1. Enhance the credibility, predictability and consistency of the CMDI framework, further enhancing financial stability, without adversely impacting the progress made to date.
2. Minimise risk to taxpayers and minimise moral hazard through the use of common or mutualised funds to absorb losses (e.g., via preventative measures), supporting market discipline and avoiding competitive distortions.
3. Ensure that all banks regardless of their size can fail in an orderly manner, have a plan in place to provide for this and have the resources to support it.
4. The review should not increase contributions to mutualised funds and better aligns contributions with the risk that that the institution poses to the fund in the event of its failure.
5. Support strong cross-border cooperation and minimise fragmentation both within the EU and with third countries.

Any proposals should be carefully assessed against these principles.

We remain very supportive of the completion of the Banking Union. It is critical that further progress is made on enhancing integration and reducing fragmentation within the Banking Union. As part of, or alongside, the review of the CMDI framework, work should continue with the objective of reducing the fragmentation of capital, MREL and liquidity within the Banking Union and clarifying access to public sector backstops for temporary liquidity in resolution. These measures would strengthen and improve the overall framework.

It is particularly important to find solutions to reduce fragmentation of capital, liquidity and MREL within the Banking Union. It is a key priority to reduce fragmentation of resources through requirements for high levels of pre-positioned MREL at subsidiaries of resolution entities. This is important to advance the objectives of the Banking Union and support the international competitiveness of European banks. We strongly support efforts to reduce pre-positioning requirements at subsidiaries of resolution entities and these should be considered as part of the review to enhance the operation of the CMDI framework. Moving forward with the creation of a common deposit insurance scheme in the Banking Union could help to mitigate further some of the concerns of host resolution authorities, leading authorities to reconsider the need for maintaining pre-

[2] https://www.gfma.org/correspondence/gfma-response-to-fsb-consultation-on-evaluation-of-tbtf-reforms/
[3] We can find supporting references from SRB/EBA/EC on increases in MREL, work on SRB expectations, FSB draft TBTF report etc

positioning requirements. It is also important to provide clarity on temporary public sources of liquidity in resolution.[4]

The CMDI review should also carefully consider the impact of contributions by banks to the SRF and relevant DGSs. It is important to minimise the impact on banks, ensure that contributions are aligned with the risk which the bank poses to the relevant fund, including taking due account of the resolution framework and increasing flexibility to avoid procyclicality in contributions and minimise cross-subsidisation. The existing SRF contributions create a significant cost for banks and options should be explored to reduce this, for example capping the ex-ante funding target level of the SRF, change the metric for the target level, provide greater flexibility in timing to reach the target level and/or increase the availability to use irrevocable payment commitments.

2. **Do you consider that the measures and procedures available in the current legislative framework have fulfilled the intended policy objectives and contributed effectively to the management of banks' crises?**
    a. **Early intervention measures**
    b. **Precautionary measures**
    c. **DGS preventative measures**
    d. **Resolution**
    e. **National insolvency proceedings, including DGS alternative measures where available**

Please see general comments above on progress on the current legislative framework, and more detailed comments on the specific measures and procedures in our answers below.

3. **Should the use of the tools and powers in the BRRD be exclusively made available in resolution or should similar tools and powers be also available for those banks for which it is considered that there is no public interest in resolution? In this respect, would you see merit in extending the use of resolution, to apply it to a larger population of banks than it currently has been applied to? Or, conversely, would you see merit in introducing harmonised tools outside of resolution (i.e. integrated in national insolvency proceedings or in addition to those) and using them when the public interest test is not met? If such a tool is introduced, should it be handled centrally at the European (banking union) level or by national authorities? Please explain and provide arguments for your view.**

It is important to ensure that a broad range of banks can be placed into resolution in support of the resolution objectives. The application of resolution tools to a failing bank should no longer be seen as an exceptional approach, but this should be readily applied to deal with failing banks of all sizes and business models where this is in the public interest.

As discussed further below, we see merit in ensuring that there are harmonised liquidation procedures and tools to ensure a consistent approach to the orderly liquidation of banks across the EU where banks are not placed into resolution.

[4] See https://www.afme.eu/Portals/0/globalassets/downloads/briefing-notes/2017/AFME-RRN-Discussion-note-Liquidity-in-Resolution.pdf?ver=2019-09-11-144246-660

Applying sale of business and transfer tools in resolution is likely to provide a greater harmonisation of application, and would help to avoid the nuances made available under national insolvency regimes. Especially those that reduce the important role of burden sharing in insolvency, and run counter to the intentions of lawmakers when formulating the original recovery and resolution framework – namely reducing the role of taxpayers in funding the failure of a credit institution. One of the key differences between resolution and insolvency at present is the enforcement of burden sharing measures, and it is important that this is corrected in a fair and proportionate manner to provide a consistent approach to the handling of failed or failing banks throughout the European Union, and eliminate the risk of regulatory arbitrage.

4. **Do you see merit in revising the conditions to access different sources of funding in resolution and in insolvency (i.e. resolution funds and DGS)? Would an alignment of those conditions be justified? If so, how should this be achieved and what would the impact of such a revision be on the incentives to use one procedure or the other? Please explain and provide arguments for your view.**

There should be consistency in the conditions to access DGS funds in resolution and insolvency proceedings to avoid inappropriate incentives to use one procedure over the other. However, we do not necessarily see a need for alignment of the conditions for accessing DGS and resolution funds, current provisions under Article 109 of the BRRD already set out the means through which DGS funds can be utilised, following the least cost principle, in resolution. Resolution funds should continue to only be available in resolution. Appropriate burden-sharing should nevertheless apply whenever a DGS alternative measure is deployed in insolvency, whether the relevant DGS intervention would be subject to state aid restrictions or not.

5. **Bearing in mind the underlying principle of protection of taxpayers, should the future framework maintain the measures currently available when the conditions for resolution and insolvency are not met (i.e. precautionary measures, early intervention measures and DGS preventive measures)? Should these measures be amended? If so, why and how?**

It is essential that the review of the CMDI framework retains the overarching principle that taxpayers should not bear losses of failing banks and that these should be borne by investors in the institution. This is vital to maintain the credibility of the framework and minimise moral hazard. It would be sensible to ensure that the conditions for the use of precautionary/preventative measures are clear, consistent and minimise competitive distortions. Precautionary and preventative measures should be less necessary in light of the progress made in establishing an effective recovery and resolution framework and should be even less necessary following the outcome of the CMDI review which should further enhance the framework to ensure that it is effective to manage the failure of all banks.

We would highlight in particular the need to ensure that any such precautionary measures are not exploited, and that they are utilised to the extent they were originally intended – i.e., in exceptional circumstances, for solvent institutions, covering only for unexpected losses, and on a temporary basis. To this end we would propose that the undefined terms “solvent”, “precautionary” and “temporary” be defined in the legislative text.

- **Solvent** being based on forward looking assessments, and not mere compliance with Pillar 1 CET1 requirements at the point the state aid requests are made;
- **Precautionary** meaning that interventions are made to tackle a hypothetical shortfall under a stress test scenario (as applied for precautionary recapitalisations but not as yet for precautionary liquidity support); and,

- **Temporary** meaning that aid is only provided for a limited time, i.e. that there should be a clear stated end date to any support and an agreed mechanism for the exit of state funds from the beginning, i.e. an agreed plan to buy back capital invested in the case of precautionary recapitalisation.

Any precautionary interventions should also require, where feasible, both a stress test and an asset quality review (as opposed to the current situation where only one is required). This would ensure that a clear distinction can be made between incurred, likely and unlikely losses – a prerequisite to ensure only unlikely losses are being covered by such interventions.

Regarding DGS preventive measures, we would like to stress that a DGS' primary role is to protect covered deposits. While the DGSD gave the option to Member States for DGS to have a larger role, we believe that preventive measures should not be available to be used to keep non-viable banks alive. It is important to avoid creating competitive distortions and moral hazard, and to ensure that banks can exit the market in an orderly and safe manner. Finally, the least-cost test must be applied in a consistent manner across the EU.

6. **Do you agree or disagree with the following statements regarding a potential reform of the use of DGS funds in the future framework?**
    a. **The DGSs should only be allowed to pay out depositors, when deposits are unavailable, or contribute to resolution (i.e. DGS preventive or alternative measures should be eliminated)**
    b. **The possibility for DGSs to use their funds to prevent the failure of a bank, within pre-established safeguards (i.e. DGS preventive measures), should be preserved.**
    c. **The possibility for a DGS to finance measures other than a payout, such as a sale of the bank or part of it to a buyer, in the context of insolvency proceedings (i.e. DGS alternative measures), if it is not more costly than payout, should be preserved.**
    d. **The conditions for preventive and alternative measures (particularly the least cost methodology) should be harmonised across Member States.**

We support the flexible use of DGS in resolution or insolvency proceedings to support transfers of insured deposits to a purchaser or bridge bank where this would result in a better outcome for the DGS fund than a liquidation pay-out to covered depositors.

However, it is very important to retain the condition that any such use is of least cost to the DGS fund, taking into account its current super-preference, than a liquidation pay-out. This is necessary to reduce moral hazard and minimise losses to the fund and potential contagion to other banks. As discussed further below it is also important to review the funding of DGS for this reason. To reduce further the burden on other banks and minimize moral hazard as well as competition distortions, appropriate burden sharing should be imposed on the failing bank's shareholders and creditors, (i.e., through the write-down of equity and subordinated debt instruments), when the relevant DGS deploys alternative measures in a liquidation. This should hold whether the DGS intervention is subject to state aid restrictions or not. In addition, each alternative measure should be subject to the least cost test and to a numerical cap (for instance, it cannot be higher than a given percentage of the outstanding size of the DGS) to ensure the DGS is not excessively depleted.

Were the Commission minded to legislate further on the use of DGS funds prior to the failure of a bank, we would encourage preventative measures not to be made mandatory, enabling Member States to retain the ability not to permit DGSs to engage in preventative measures.

Part 2 – Experience with the framework and lessons learned for the future framework

A. Resolution, liquidation and other available measure to handle banking crises

Early intervention measures

7. Can the conditions for EIMs or other features of the existing framework, including interactions with other Union legislation, be improved to facilitate their use? Should the overlap between EIMs and supervisory measures be removed? Do you see merit in providing clearer triggers to activate EIMs or at least distinct requirements from the general principles that apply to supervisory measures? Is there a need to improve the coordination between supervisors and resolution authorities in the context of EIMs (in particular in the banking union)?

We support clarification of the conditions for Early Intervention Measures and avoiding overlap between measures under the BRRD and similar supervisory measures under the CRD. The best way to achieve this would be through bringing pre-resolution supervisory actions under the SSMR to distinguish them from recovery and resolution. This would also help ensure consistency through including them in a regulation within the Banking Union.

While this would provide a clearer framework for pre-recovery supervisory measures, it is necessary and appropriate for supervisors to retain some flexibility on their application and we consider that this is preferable to trying to define quantitative triggers.

It is very important to enhance close coordination between competent authorities and resolution authorities with respect to the application of early intervention and supervisory measures. It is also important to ensure that there is clear responsibility and efficiency in the process, ensuring that measures can be implemented effectively when necessary, without delay.

It is important to bear in mind that EIMs could be subject to disclosure requirements under the EU market abuse regime. In case the adoption of the EIM has to be disclosed, there could be a risk that this will signal to markets that the bank is in a deteriorating situation, leading to adverse investor reactions and ultimately accelerating instead of mitigating an ongoing crisis. Therefore we believe, there should be a limit to disclose actions. An option could be to avoid or delay as possible the requirement to disclose when applying EIMs as if not, supervisors will be prevented to use them in order to not harm the bank.

Precautionary measures

8. Should the legislative provisions on precautionary measures be amended? What would be, in your view, the main potential amendments?

We continue to strongly believe that the framework should provide the means for all banks to fail in an orderly manner without the need for taxpayers to bear losses. It is important that any revisions to the framework retain this key principle and that the provision for precautionary measures does not undermine the overall credibility of the framework.

It is also important to update the 2013 Banking Communication on state aid, in order to align it with the current BRRD framework.

DGS preventative measures

9. In view of past experience with these types of measures, should the conditions for the application of DGS preventive measures be clarified in the future framework? What are, in your view, the main potential clarifications?

It is important to ensure a consistent approach to any use of DGS funds for preventative measures. It is also important to bear in mind that the purpose of deposit insurance is to protect covered depositors, not to absorb losses that should otherwise be borne by the shareholders and other creditors of a failing bank.

We believe that preventive measures should be clearly framed, and available only on the basis of clear conditions in order to avoid keeping non-viable banks alive. To reduce further the burden on other banks and minimize moral hazard as well as competition distortions, appropriate burden sharing should be imposed on the failing bank's shareholders and creditors, (i.e., through the write-down of equity and subordinated debt instruments), when the relevant DGS deploys preventative measures to assist a distressed bank. This should hold whether the DGS intervention is subject to state aid restrictions or not. In addition, each preventative measure should be subject to the least cost test and to a numerical cap (for instance, it cannot be higher than a given percentage of the outstanding size of the DGS) to ensure the DGS is not excessively depleted.

It is important that any preventative measures do not undermine the core principles of the crisis management framework, i.e., that all banks regardless of size can fail in an orderly and safe manner. We would in any event expect preventative use of DGS funds to remain exceptional.

Scope of banks and PIA, strategy: resolution vs liquidation and applicability per types of banks

10. What are your views on the public interest assessment?

- **a. The current wording of Article 32(5) BRRD is appropriate and allows the application of resolution to a wide range of institutions, regardless of size or business model.**
- **b. The relevant legal provisions result in a consistent application of the public interest assessment across the EU.**
- **c. The relevant legal provisions allow for a positive public interest assessment on the basis of a sufficiently broad range of potential impacts of the failure of an institution (e.g. regional impact).**
- **d. The relevant legal provisions allow for an assessment that sufficiently takes into account the possible systemic nature of a crisis.**

We consider that the current public interest assessment has been interpreted too narrowly in the Banking Union and has not resulted in a consistent application of the framework. We would support a review of the public interest assessment to ensure that a broad range of institutions can be placed into resolution. The application of resolution tools to a failing bank should no longer be seen as an exceptional approach, but should be readily applied to deal with failing banks of all sizes and business models where appropriate.

In addition to the legislative framework, it would be beneficial for the SRB/NRAs to provide additional guidance on their approach to the PIA and which categories of banks fall within each type of resolution strategy/insolvency proceedings. For example, the Bank of England has provided indicative guidance as to the categories of banks it would expect to apply the bail-in tool, a transfer tool and which would be placed into the UK's modified insolvency procedures for banks. This is likely to enhance the understanding of the CMDI framework by investors, creditors, depositors and other stakeholders.

In revisiting the PIA, we consider that the regional impact of failure as well as the risk to financial stability should be explicitly captured in the PIA in the Banking Union. This would de facto extend the scope of resolution to capture more mid-sized banks, bringing the framework closer to what was originally envisaged in 2010 and minimizing competition distortions in the internal market.

We also consider that the future legislative text should make clear that resolution authorities shall not take into account in the PIA external resources such as State aid or any interventions that could be qualified as State aid) in the counterfactual scenario in liquidation. Otherwise, mid-sized banks may instead be placed into liquidation when sale of business is available in the national insolvency framework, but without safeguards in this process to ensure harmonisation of outcomes via this approach including on the issue of burden sharing and access to mutualised funds. This could be done by clarifying that the insolvency counterfactual can only involve a liquidation involving an immediate cessation of business with no access to external resources.

<u>FOLF triggers, Article 32b BRRD, triggers for resolution and insolvency (withdrawal of authorisation, alignment of triggers for resolution and insolvency)</u>

11. Do you consider that the existing legal provisions should be further amended to ensure better alignment between the conditions required to declare a bank FOLF and the triggers to initiate insolvency proceedings? How can further alignment be pursued while preserving the necessary features of the insolvency proceedings available at national level?

It is very important to avoid the possibility of a gap between a FOLF declaration and the ability to open insolvency proceedings. Where a bank has been declared FOLF, it is essential that depositors, creditors, shareholders, employees and all stakeholders are immediately clear on the plan to manage the failure of the bank. The relevant authorities (including authorities in other relevant third countries) should coordinate prior to the FOLF declaration so that a clear plan can be communicated concurrently. This is important to support an orderly resolution or winding up of the institution.

We therefore support a FOLF declaration being made a trigger for insolvency proceedings across the EU. We note the Dutch and Italian frameworks are already aligned in this manner.

12. Do you think that the definition of winding-up should be further clarified in order to ensure that banks that have been declared FOLF and were not subject to resolution exit the banking market in a reasonable timeframe?

Yes, it should be clarified that a winding-up does in practice mean stopping as soon as is practicable the bank's activities and exiting the market.

13. Do you agree that the supervisor should be given the power to withdraw the licence in all FOLF cases? Please explain whether this can improve the possibility of a bank effectively exiting the market within a short time frame, and whether further certainty is needed on the discretionary power of the competent authority to withdraw the authorisation of an institution in those conditions.

The power to withdraw a banking licence could be an alternative way to ensure that in practice there would be no gap following a FOLF declaration, as in practice we assume that this would lead to a deterioration sufficient to trigger insolvency proceedings. Doing so would ensure the failing bank exits the market. Where regulated activities are envisaged as needing to continue in resolution, then the license would still be required, and therefore no automaticity should be associated with this power.

14. Do you consider that, based on past cases of application, FOLF has been triggered on time, too early or too late?

While private solutions are preferable and a degree of flexibility is important, it is vital that FOLF is not triggered too late, in order to ensure that capital is not unnecessarily depleted and that sufficient resources remain to bear losses and recapitalise the bank in accordance with its plan for resolution or winding-up.

15. Do you consider that the current provisions ensure that the competent authorities can trigger FOLF sufficiently early in the process and have sufficient incentives to do so? If not, what possible amendments/additions can be provided in the legislation to improve this? Are the correct incentives for responsible authorities to trigger FOLF in place?

We do not consider that changes to the FOLF determination are necessary.

<u>**Adequacy of available tools in resolution and insolvency**</u>

16. Do you consider the set of tools available in resolution and insolvency (in your Member State) sufficient to cater for the potential failure of all banks?

We consider that the set of resolution tools available in resolution is appropriate. For mid-sized or smaller banks the transfer tools could be appropriate where bail-in is not determined to be the preferred resolution strategy.

Please see our answer to question 18 regarding the potential introduction of a harmonised orderly liquidation tool in the insolvency framework.

17. What further measures could be taken regarding the availability, effectiveness and fitness of tools in the framework?

a. No additional tools are needed but the existing tools in the resolution framework should be improved

b. Additional tools should be introduced in the EU resolution framework

c. Additional harmonised tools should be introduced in the insolvency frameworks of all Member States

d. Additional tools should be introduced in both resolution and insolvency frameworks of all Member States

A – Agree

B – Disagree

C – Disagree

D – Disagree

We do not consider that it is necessary to introduce new tools in the EU resolution framework. We comment further below on the potential introduction of a harmonised orderly liquidation tool (question 18). It is important to improve consistency in the tools and application of the framework to support further integration of the Single Market and the Banking Union.

As part of, or alongside, the review of the CMDI framework, work should continue with the objective of clarifying access to public sector backstops for temporary liquidity in resolution. These measures would strengthen and improve the overall framework.

18. **Would you see merit in introducing an orderly liquidation tool, i.e. the power to sell the business of a bank or parts of it, possibly with funding from the DGS under Article 11(6) DGSD, also in cases where there is no public interest in putting the bank in resolution?**
    a. **How would you see the implementation of such a tool?**
        i. **There would be benefits in introducing such a tool in all the insolvency laws of EU Member States**
        ii. **There are legal challenges for the introduction of such a tool in insolvency**
        iii. **Such a liquidation tool (and its dedicated source of financing) could be introduced in the resolution framework and be at the disposal of the resolution authority, while still applying to non-public interest banks**
        iv. **Such a liquidation tool should be managed centrally (i.e. at supra-national level) in the banking union and at Member State level in the rest of the EU**
    b. **In what way, if any, should that tool be different from the sale of business in resolution? Do you consider that there is a risk of duplication with the sale of business tool in resolution (and that there would be incentives for DGSs to use such a tool and their funds as opposed to resolution authorities)? If so, please explain how such a risk could be addressed**

We do not believe the introduction of a new orderly liquidation tool is necessary. We see potential merit in introducing some targeted harmonisation in national insolvency regimes for banks to provide a common, consistent framework for the liquidation of banks which do not meet the public interest test for resolution. A common framework would also avoid inconsistencies in national approaches to insolvency processes which have undermined the effectiveness and credibility of the current framework. It may also improve the likelihood of larger banks being able and willing to purchase business from the failing bank and help provide a more consistent approach to the public interest assessment for resolution.

The trigger for the commencement of a targeted harmonised liquidation proceeding should be aligned with a FOLF declaration as discussed above to avoid a gap. A targeted harmonised liquidation proceeding should recognise that banks are different from other corporates and would benefit from modified insolvency processes, ensuring that they can be wound down effectively. Consideration could be given to examples such as the UK, which has specific modified insolvency procedures for banks including bank administration, bank insolvency and investment bank special administration regimes.

However, it is essential that any revised insolvency framework does not distort competition or increase moral hazard through enabling easier access to mutualised resources. Care should also be taken to ensure that any changes do not have unintended implications for the resolution of larger banks through a change to the NCWOL counterfactual.

Resolution strategy

19. **Do the current legislative provisions provide an adequate framework and an adequate source of financing for resolution authorities to effectively implement a transfer strategy (i.e. sale of business or bridge bank) in resolution to small/medium sized banks with predominantly deposit-based funding that have a positive public interest assessment (PIA) implying that they should undergo resolution?**

Yes, we consider that the current resolution framework is adequate to enable the effective resolution of banks that enter resolution, regardless of size. MREL should be calibrated based upon the relevant preferred resolution strategy for the bank, ensuring that there are adequate sources of financing to support a transfer strategy where this is the relevant resolution strategy. It is also important to retain a consistent approach to the conditions for accessing any mutualised sources of financing to avoid competitive distortions and minimise moral hazard.

It should be recognised that MREL requirements are already calibrated on the basis of the preferred resolution strategy. This should not change for smaller or medium sized banks, which would not be expected to meet MREL requirements as large as those for systemic banks subject to a bail-in strategy. Proportionality in this sense is already present in the framework.

Depositor funded banks that enter into resolution will not be expected to undergo bail-in, but rather a transfer of assets and/or sale of business. This would not represent a funding requirement anywhere near that seen already in other large institutions and an adequate MREL requirement for this should be expected to be met.

It is important to recognise that all banks, regardless of size, may produce negative externalities in their failure. The resolution strategy should seek to minimise this, and the MREL requirement that applies should be sufficient to ensure the strategy is credible. Failing to put this in place would reflect a movement away from the long held 'polluter-pays' model and would be economically equivalent to allowing others to pay for the negative externalities of a private actor – be that via mutualised funding sources stepping in, or in the extremis, the state itself. This is moral hazard, and may encourage excessive risk taking should the cost of a failure be borne by others. This is not an equitable model for handling the negative repercussions of the failure of a financial institution – regardless of its size. It is why institutions already within scope of resolution are expected to issue and maintain MREL, and ensure capabilities are in place to ensure a credible resolution strategy can be delivered upon should it ever be needed. We therefore view the existing approach to MREL calibration already provides for proportionality and the same principle should apply to all banks to avoid competitive distortions in the market. An appropriate transitional period should be provided where necessary to provide adequate time to issue eligible liabilities or meet MREL requirements via the build-up of retained earnings.

Funding sources in resolution

20. **What are your views on the access conditions to funding sources in resolution?**

    a. **The access conditions in BRRD/SRMR to allow for the use of the RF/SRF are adequate and proportionate to ensure that resolution can apply to potentially any bank, while taking into account the resolution strategy applied**

    b. **There is merit in providing a clear distinction in the law between access conditions to the RF/SRF depending on whether its intervention is meant to absorb losses or to provide liquidity**

c. **The access conditions provided for in BRRD/SRMR to allow the authorities to use the DGS funds in resolution are adequate and proportionate to ensure that resolution can apply to potentially any bank, while taking into account the resolution strategy applied**

d. **The access conditions to funding in resolution should be modified for certain banks (smaller/medium sized, with certain business models characterised by prevalence of deposit funding) for more proportionality**

e. **The DGS/EDIS funds should be available to be used in resolution independently from the use of the RF/SRF and under different conditions than those required to access RF/SRF. In particular, it should be clarified that the use of DGS does not require a minimum bail-in of 8% of total liabilities including own funds**

f. **Additional sources of funding should be enabled.**

A – Agree

B – Agree

C – Agree

D – Disagree

E – Agree

F – Disagree

It is essential that the CMDI framework minimises moral hazard and strengthens market discipline to ensure that equity accurately reflects risk and to incentivise banks to improve resolvability. Use of public or mutualised funding sources should therefore be minimised and limited to where these are necessary to ensure financial stability. It is important that the framework imposes market discipline and send the clear message that it is the primary responsibility of each bank to ensure that it has the loss-absorbing resources available to manage its failure in an orderly manner. However, as we have previously commented on, it is nevertheless important to separately consider the availability of liquidity and the external sources that will in most scenarios need to be obtained. Therefore, as part of, or alongside, the review of the CMDI framework, work should continue with the objective of clarifying access to the public sector backstops for temporary liquidity in resolution. These measures would strengthen and improve the overall framework.

It is important to ensure that a consistent approach is applied to all banks, regardless of size. However, we do believe that solvency support should be considered separately from liquidity provision in cases where a timely repayment of such liquidity can be expected for banks that are being credible resolved and losses have been born by shareholders and creditors. Provision of liquidity via a public backstop, on appropriate terms, should not per se foster moral hazard or distort competition in the same manner as mutualising losses or placing that burden onto taxpayers.

As for the use of DGS funds in resolution, the current provisions under Article 109 BRRD are already sufficient but should be further clarified.

Where additional sources of funding are concerned for loss-absorbency purposes, mutualised sources of funding (DGS/SRF) should not be, and cannot be, relied upon. Where liquidity funding is concerned, we strongly believe that the use of temporary public backstops, under appropriate conditions, should be clarified.

Sources of funding available in insolvency

21. In view of past experience, do you consider that the future framework should promote further alignment in the conditions for accessing external funding in insolvency and in resolution?

We agree that it is important to promote alignment in the conditions for accessing external funding in insolvency and resolution. Greater consistency between insolvency and resolution is important to avoid distortions and to ensure that insolvency cannot be used to avoid the relevant conditions which apply in resolution. In order to enhance consistency, it is important to ensure that the "least cost" test is strictly and consistently applied and sufficient burden-sharing requirements are appropriately applied, through the write-down of equity and subordinated instruments. In our view this should apply in both resolution and insolvency when mutualized DGS resources are mobilised, whether the DGS intervention is subject to state aid restrictions or not.

Governance and funding

General comments

It is very important to ensure that the funding of DGS is updated to reflect the resolution framework. For banks that would be placed into resolution, risk-based contributions should reflect the resolution plan and likelihood that the contributing bank incurs losses for the DGS. This is necessary to reduce moral hazard (see AFME EDIS paper)[5]. This would become even more important if the CMDI framework is amended in a way which is likely to increase the use of DGS funds in resolution or insolvency proceedings. This increased risk of loss should be borne by the contributions of banks which benefit from such additional potential funding.

22. Do you consider that governance arrangements should be revised to allow further alignment with the nature of the funding source (national/supra-national)?

We consider the current governance arrangements satisfactory, as they already reflect a delicate balance of different perspectives and interests. No change in governance arrangements therefore seem necessary.

23. Is there room to improve the articulation between the roles of SRB and national authorities when the DGS is used to finance the resolution of a bank in the SRB remit?

It is important that the framework clearly establishes the roles of the relevant authorities and ensures close coordination between them. Speed is likely to be of the essence and coordination between relevant authorities should be considered in advance as part of resolution planning.

Ability to issue MREL and impact on the feasibility of the resolution strategy

24. What are your views on the prospect of MREL compliance by all banks, including in the particular case of smaller/medium sized banks with traditional business models?

  a. While issuing MREL-eligible instruments remains a priority, certain banks may not be capable of closing the shortfall sustainably for lack of market access.

[5] https://www.afme.eu/Portals/0/globalassets/downloads/consultation-responses/AFME-RRN-PRD-paper-on-the-proposed-European-Deposit-Insurance-Scheme-EDIS.pdf

b. **Possible adverse market and economic circumstances can also affect the issuance capacity of certain banks.**

c. **Transitional periods could be a tool to deal with MREL shortfalls, resolution authorities could consider prolonging these under the current framework.**

A – Disagree

B – Disagree

C – Agree

We consider that the fundamental principle that banks should have the loss absorption capacity, and where needed recapitalisation capacity, available to manage their failure in an orderly manner should apply to all banks.

The amount of MREL required should be sufficient to support the relevant preferred resolution or liquidation strategy in resolution or insolvency proceedings. This will necessarily be proportionate to the size of the bank, the relevant resolution/liquidation strategy and the degree of critical functions performed by the bank. We consider that mid-sized and smaller banks are likely to be able to issue MREL instruments or alternatively meet MREL on the basis of Own Funds, over an appropriate transitional period. We note that some large banks were historically primarily funded by deposits and have had to issue large volumes of MREL without any major difficulties. In any event the framework does not, and should not, prescribe that MREL can only be met on the basis of 'eligible liabilities'.

If banks that are expected to pass any revised public interest assessment find it difficult to access capital markets to issue MREL eligible instruments, they may still meet such requirements on the basis of Own Funds or through the build-up of retained earnings.

Regarding the specific question on adverse market and economic circumstances affecting the issuance capacity of certain banks, we would clarify that such circumstances would likely affect the issuing capacity of all banks, not a mere sub-set, however this will in any event depend on the location and severity of any market or economic disturbance.

25. **In case of failure of banks, which may lack sufficient amounts of subordinate debt (see question above) and/or would not meet the PIA criteria, what are your views on possible adjustments to the MREL requirements?**

    a. **MREL adjustments for resolution strategies other than bail-in can help in this context**

    b. **Rules defining how the MREL is set for banks likely not to meet the PIA criteria should be clarified**

    c. **In any case, for all banks, an adequate burden sharing by existing shareholders and creditors should be ensured**

A – Agree. As we have long argued, MREL requirements should be clearly tailored to the relevant resolution or wind-down strategy, and the conditions to access the SRF/national resolution funds should apply equally to all banks.

B – Agree

C – Agree

One possible adjustment could be to recalibrate the TLOF, which would cut across the whole banking system. For example, the TLOF base of the 8% requirement could be further fine-tuned to ensure that banks have a buffer of MREL resources that is consistent with the leverage ratio exposure, considering they are two sides of the same coin. This means that TLOF could exclude central bank liabilities as the CRR quick-fix allowed the exclusion of central bank deposits in the leverage ratio exposure. Such adjustments, combined with an appropriate transition period, would ensure that mid-sized banks, newly captured by the resolution framework in the future, can access the SRF when need be – and do so under the same conditions as other resolution banks.

<u>Treatment of retail clients under the bail-in tool</u>

26. What are your views on the policy regarding retail clients' protection?

- **a. The current protection for retail clients (MiFID II and BRRD II) is sufficient in the resolution framework, both at the stage of resolution planning and during the implementation of resolution action.**
- **b. Additional powers should be explicitly given to resolution authorities allowing them to safeguard retail clients from bearing losses in resolution.**
- **c. Additional protection to retail clients should be introduced directly in the law (e.g., statutory exclusion from bail-in).**
- **d. Introducing additional measures limiting the sale of bail-inable instruments to retail clients or protecting them from bearing losses in resolution may have a substantial impact on the funding capacity of certain banks.**

A – Agree

B – Disagree. Retail investors are permitted to hold bank equity, and MREL eligible instruments, and should not be absolved from bearing losses on their investments. The focus should be on ensuring adequate disclosure of the risks of losses to ensure that these are understood. As well as appropriate disclosure of risks, this could be supported by a clear explanation of the application of the CMDI framework for retail investors and clients.

C – Disagree for the above reasons and that this would also increase NCWOL issues.

D – Agree.

27. Do you consider that Article 44a BRRD should be amended and simplified so as to provide only for one single rule on the minimum denomination amount, to facilitate its implementation on a cross-border basis?

New rules have just begun to enter into force for SNP instruments and need to be implemented first. If amendments were to be made these should take into account the operational implications and potential impracticabilities.

In any case, to tackle the concerns of the authorities about retail exposures to bail-inable instruments, we believe the most important thing is to ensure adequate disclosure of the risks of losses so that retail investors understand these. As well as appropriate disclosure of risks, this could be supported by a clear explanation of the application of the CMDI framework for retail investors and clients.

28. Do you agree that the scope of the rule on the minimum denomination amount to other subordinated instruments than subordinated eligible liabilities (e.g. own funds instruments) and/or other MREL eligible liabilities (senior eligible liabilities) should be extended?

Disagree. New rules have just begun to enter into force for SNP instruments and need to be implemented first.

Furthermore, some of these instruments (such as own funds) are well known products for retail customers, and have been the object of their investment strategies for many years. Restricting the commercialization of these instruments would leave the banking industry in a severe competitive disadvantage vis-a-vis firms from other sectors in the stock markets.

B. Level of harmonisation of creditor hierarchy in the EU and impact on NCWO

29. Do you consider that the differences in the bank creditor hierarchy across the EU complicate the application of resolution action, particularly on a cross-border basis?

We agree that in certain cases a consistent creditor hierarchy across the EU could simplify the application of cross-border resolution actions. However, this has to be very carefully considered and assessed against the disruption and impact of any changes to the creditor hierarchy which could have a significant impact on existing claims and funding. We view the implications as likely to outweigh any potential benefits from making changes to the creditor hierarchy.

From the perspective that the primary function of DGS funds is to protect depositors, we do not believe that the current depositor preference introduced under the BRRD should be amended to further facilitate the use of the mutualised DGS funds in resolution or insolvency.

Any proposal to change the creditor hierarchy, for example removing the super-priority for insured deposits, would require very careful examination as it would impact other areas and potentially expose DGS to greater losses.

30. Please rate, from 1 (lowest) to 10 (highest), the importance of the following actions:

- **a. Granting of statutory preference to deposits currently not covered by Article 108(1) BRRD**
- **b. Introduction of a single-tiered ranking for all deposits**
- **c. Requiring preferred deposits to rank below all other preferred claims**
- **d. Granting of statutory preference in insolvency for liabilities excluded from bail-in under Article 44(2) BRRD**

No answer

C. Depositor insurance

Enhancing depositor protection in the EU

31. Do you consider that there are any major issues relating to the depositor protection that would require clarification of the current rules and/or policy response?

We believe there are no major issues relating to the depositor protection that would require clarification of the current rules and/or policy response.

Further targeted harmonization among Member States for the protection of depositors should be sought (e.g. protection for temporary high deposits) but should not pose major downside effects. In particular, there is no need to extend the scope of the DGS to include public entities which could increase contributions for the system.

32. Which of the following statements regarding the scope of depositor protection in the future framework would you support?

a. The standard protection of EUR 100 000 per depositor, per bank across the EU is sufficient.

b. The identified differences in the level of protection between Member States should be reduced, while taking into account national specificities.

c. Deposits of public and local authorities should also be protected by the DGS.

d. Client funds of e-money institutions, payment institutions and investment firms deposited in credit institutions should be protected by a DGS in all Member States to preserve clients' confidence and contribute to the developments in innovative financial services.

Please elaborate on any of the above statements, including any supporting documentation (where available), or add other suggestions concerning the depositor protection in the future framework.

A – Agree

B – Agree

C – Disagree

D – No answer

<u>**Keeping depositors informed**</u>

33. Which of the following statements regarding the regular information about the protection of deposits do you consider appropriate?

a. It is useful for depositors to receive information about the conditions of the protection of their deposits every year.

b. It would be even more useful to regularly inform depositors when part of or all of their deposits are not covered.

c. The current rules on depositor information are sufficient for depositors to make informed decisions about their deposits.

d. It is costly to mail such information, when electronic means of communication are available.

e. Digital communication could improve the information available to depositors and help them understand the risks related to their deposits.

Please elaborate on any of the above statements, including any supporting documentation (where available) or ideas to improve the information disclosure, or add other suggestions concerning the depositor information in the future framework.

A – Agree. It is beneficial to provide information about the conditions of the protection of deposits. However, we do not believe that the annual frequency is necessarily beneficial. We believe that receipt of the necessary condition information at on-boarding would allow for a client to gain sufficient understanding. It is also important to consider the requirements of the underlying depositors who in many cases believe the extent of the paperwork to be excessive and repetitive. There is an opportunity to review the disclosure requirements holistically taking into account all depositor types from consumers to large corporates. We would also note that the technological advances mean that not all depositors will receive bank account statements in readable formats as many wholesale customers will have established host to host arrangements in place. Such technological advances should be considered when determining the optimum method of ensuring that depositors are aware of their protection levels and the appropriate mediums used for disclosing the information.

B – Disagree. Customers receive the necessary information when opening an account and a reminder once a year. In addition, the relevant information is available in the financial institution website. Therefore, the customer is already being informed about the level of coverage that applies.

C – Agree. We agree that the current rules on depositor information are sufficient to allow depositors to make informed decisions. However, the ongoing communications regarding the conditions of the protection are repetitive so there is an opportunity to streamline this.

D – Agree. We agree that it is costly to mail such information, when electronic means of communication are available. Where it is appropriate for the depositor base, a durable medium could be used to communicate appropriately.

E – Agree. Whilst we would support using electronic means to share the information, we do not necessarily agree that digital communication would necessarily improve the understanding of the risks by the depositors.

<u>Making depositor protection more robust, including via the creation of a common deposit insurance scheme in the banking union</u>

34. In terms of financing, does the current depositor protection framework achieve the objective of ensuring financial stability and depositor confidence, and is it appropriate in terms of cost-benefit for the national banking sectors?

- **a. The current depositor framework achieves the objective of ensuring financial stability and depositor confidence.**
- **b. The cost of financing of the DGS up to the current target level of 0.8 % of covered deposits is proportionate, taking into account the objective to ensure robust and credible depositor insurance.**
- **c. A target level in a Member State could be adapted to the level of risk of its banking system.**

Please elaborate on the above statements, including any supporting documentation (where available), or add other suggestions concerning the financing of the DGS in the future framework.

A – Agree

B – Agree

C – No answer

The presence of deposit protection in the form of guarantee schemes goes some way to helping achieve financial stability through increased depositor confidence. This is one part of a larger network of frameworks that cover capital requirements, recovery and resolution rules, and supervision that together help ensure financial stability. The current deposit protection framework can be further enhanced though, through progress on EDIS, pertaining to its role as a 'mutualised pay-out' function, e.g., through liquidity provision to national DGSs in an initial phase.

The existing DGS framework helps to achieve the objective of ensuring financial stability and depositor confidence. However, although the harmonisation of the features of DGSs (via the DGS Directive) may serve well the purpose of creating common rules and attuning schemes across Member States, it does not change the implicit assumption that a public backstop will be provided if ultimately needed. Hence, the mere harmonisation of national schemes is not enough to break the link between banks and sovereigns, and the effectiveness and credibility in protecting deposits remains connected to the fiscal strength of the respective sovereign.

Therefore, a European Deposit Insurance Scheme is still needed. Increasing the mutual liquidity insurance of participating DGSs is a necessary step to eventually achieve a homogeneous and mutualised system of deposit insurance that will increase depositors´ confidence and limit the link between a bank and its home sovereign[6].

In regards to the current 0.8% target level we believe it is proportionate and that an increase would raise costs significantly without any clear benefits in terms of depositor protection and financial stability.

In terms of cost of financing, beyond the fact that contributions to the SRM and to EDIS mechanisms should be inversely proportional so as to reflect the probability of institutions to be covered either by a resolution procedure (SRM) or by an insolvency procedure (SDRM), the principle of cost neutrality defined in Directive 2014/49/EU as well as in the draft Regulation amending Regulation 806/2014, proposed by the European commission in November 2015[7] must be respected with the possibility to contribute to national DGS with Irrevocable Payment Commitments (IPC). The rule for the IPC should be affirmed in the level 1 text that they should not be deducted from own funds.

We strongly support the risk weighting of contributions to a mutualised deposit insurance fund (DIF). To minimise moral hazard, the risk assessment of contributions should be focused on the risk of loss that each bank poses to the DIF. Banks should be incentivised to reduce the risk to depositors, for example by reflecting improvements in recovery capability and increases in loss absorbing capacity in reduced contributions to the DIF.

In any event, it is essential that any progress on EDIS, whether to a hybrid model or a mutualised fund, does not represent an increase in the overall cost to the industry.

35. Should any of the following provisions of the current framework be amended, and if so how?

- **a. Financing of the DGS**
- **b. The DGS's strategy for investing their financial means**
- **c. The sequence of use of the different funding sources of a DGS (available financial means, extraordinary contributions, alternative funding arrangements)**
- **d. The transfer of contributions in case a bank changes its affiliation to a DGS**

Please elaborate on the above, including any supporting documentation (where available), or add other suggestions concerning the above or other elements of the future framework.

A – Agree

B – no opinion

C – Disagree

[6] We should note that our position on EDIS is from the perspective that the primary function of DGS funds is to protect depositors, not as a mutualised source to resolve failing banks.
[7] Please see article 74c(4)

D – no opinion

Enhance transparency. The DGS Directive should define and ensure national authorities are more transparent when communicating the annual contribution to banks.

On the one hand, as per article 10.4 of the DGSD, Members States can raise financial means through mandatory contributions from credit institutions in its territory for the purpose of covering the costs related to systemic risk, failure, and resolution of institutions. And on the other hand, as per article 13.2 of the DGSD, DGSs may use their own risk-based methods for determining and calculating the risk-based contributions by their members. The calculation of contributions shall be proportional to the risk of the members and shall take due account of the risk profiles of the various business models. We understand some elements of the risk-based contributions cannot be disclosed to other banks. However, we believe this calculation should be as transparent and predictable as it could be, e.g., using defined buckets as is the case for the calculation of GSII buffers at the FSB. We may take the efforts of the Single Resolution Fund as a step in the right direction, as they document banks' contributions with much more detail than national DGSs and in fact have started a new process in 2021 where banks would be able to approximate a recalculation of their annual contribution and 'have a say'. We believe the DGSD should require national authorities to explain and justify any additional and unexpected increases in the contributions. Contributions are very costly for institutions and we believe the Directive should require national authorities to anticipate as much as they can if any events will trigger a raise in the upcoming contributions. We would like to highlight that any deviation from the banks´ assumptions based on historical data would have a direct cost in the Profit and Loss account.

Reaching the target level before 2024. Article 10.2 of the DGSD states that Member States shall ensure that, by 3 July 2024, the available financial means of a DGS shall at least reach a target level of 0.8 % of the amount of the covered deposits of its members. We believe that if the target level is already reached before this date, banks should not need to continue contributing to the Fund as an excess if not duly justify and that possibility should be explicitly recognised in the Directive.

Irrevocable Payments Commitments. Article 10.2 of the DGSD states that the available financial means to be taken into account in order to reach the target level may include payment commitments. In order to reach an EDIS, the way banks are able to contribute to the Fund should be harmonised to avoid an unlevel playing field. Therefore, national discretions regarding the acceptance of Irrevocable Payment Commitments (IPCs) should be avoided, and the directive should be clear that IPCs are a permissible form of payment. Some Member States have not transposed this into their national legislation.

36. Which of the following statements regarding EDIS do you support?

a. **It is preferable to maintain the national protection of deposits, even if this means that national budgets, and taxpayers, are exposed to financial risks in case of bank failure and may create obstacles to cross-border activity**

b. **From the depositors' perspective, a common scheme, in addition to the national DGSs, is essential for the protection of deposits and financial stability in the euro area.**

c. **From the credit institutions' perspective, a common scheme is more cost-effective than the current national DGSs if the pooling effects of the increased firepower are exploited**

d. **From the perspective of the EU Single Market, EDIS could exceptionally be used in the non-banking union Member States as an extraordinary lending facility in circumstances such as systemic crises and if justified for financial stability reasons.**

Please elaborate on any of the above statements, including any supporting documentation, or add suggestions on how to achieve the objective of financial stability in the European Union and the integrity of the Single Market.

AFME supports the objectives of establishing an effective Banking Union and reinforcing public confidence in deposit insurance as part of a comprehensive framework for dealing with failing banks.

Effective deposit insurance is an important part of the work to ensure that all banks can fail without threatening financial stability. The Commission's proposal to introduce, and the ongoing technical discussions between Member States to ascertain how best to progress, a European Deposit Insurance Scheme should support this goal by further reducing the perceived link between banks and their sovereigns and increasing public confidence in deposit insurance within the Banking Union.

37. In relation to a possible design of EDIS, which of the following statements do you support?

a. **As a first step, a common scheme provides only liquidity support subject to the agreed limits to increase a mutual trust among Member States.**

b. **At least a part of the funds available in national DGSs is progressively transferred to a central fund.**

c. **If the central fund is depleted, all banks within the banking union contribute to its replenishment over a certain period.**

d. **Loss coverage is an essential part of a common scheme, at least in the long term.**

Please elaborate on any of the above statements, including any supporting documentation, or add suggestions concerning a possible design, including benefits and disadvantages as well as potential costs thereof.

Any new scheme should be appropriately engineered. When designing an appropriate framework for EDIS, it is essential to ensure that the role of deposit insurance is considered in the context of the recovery and resolution framework under the BRRD, and alongside the build-up of a significantly sized Single Resolution Fund. This has made a number of important changes to the circumstances in which DGSs are utilised, the ways in which they are applied, the likelihood of their use and the level of losses that they are likely to sustain when a bank fails.

We are aware of the current concerns of a number of Member States in the ongoing discussions to progress EDIS, at both a technical and political level. It is therefore only right that discussions continue to ascertain what steps are agreeable and appropriate at the present moment in time. We acknowledge that a step-by-step approach is most likely to be required, and look forward to reviewing the upcoming report of the Eurogroup on its stepwise and time-bound work plan. Within this report we would strongly welcome clarity on the envisaged final goal that Member States are committing to working toward.

38. Which of the following statements regarding the possible features of EDIS do you support?

a. **Setting a limit (cap) on the liquidity support from the central fund is appropriate to prevent the first mover advantage.**

b. **Any bank that is currently a member of a national DGS is also part of the common scheme.**

c. **The central fund should be allocated 50% or more and the national DGS 50% or less of the total resources.**

d. **Appropriate governance rules and interest rates provide the right incentive for the repayment of the liquidity support, while taking into account their procyclical impact.**

e. **The central fund also covers the options and national discretions currently applicable in the Member States.**

f. **A common scheme provides for a transitional period from liquidity support towards the loss coverage with a view to breaking the sovereign-bank nexus.**

Please elaborate on any of the above statements, including any supporting documentation, or add suggestions concerning possible features of such a common scheme.

See Answer to Question 37

39. **Under the current Commission's proposal on EDIS, a common scheme would co-exist with the Single Resolution Fund. Against the background of the general macroeconomic and financial environment for banks and subject to the cost benefit analysis, do you think that synergies between the two funds should be explored to further strengthen the firepower of the crisis management framework and to reduce the costs for the banking sector? In that respect, which of the following statements do you support?**

    a. **The Single Resolution Fund and EDIS should be separate.**

    b. **The Single Resolution Fund should support EDIS when the latter is depleted.**

    c. **Synergies between the two funds should be exploited.**

    d. **Synergies between the two funds should be used to reduce the costs of the crisis management framework for the banking sector.**

    e. **Synergies between the two funds should be used to strengthen the firepower of the crisis management framework.**

    Please elaborate on the above, including any supporting documentation regarding the benefits and disadvantages of the above options as well as potential costs thereof.

The proposal should complement the Single Supervisory Mechanism and the Single Resolution Mechanism and build upon the important progress made through the BRRD and the DGSD. Centralisation of deposit insurance alongside resolution within the Single Resolution Board should also assist with the integration of deposit insurance in the recovery and resolution framework within the Banking Union.

We welcome any questions or views you may have on this response and we are very happy to discuss these issues further.

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