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Directorate- General for Financial Stability, Financial Services and Capital
Markets Union
European Commission
Brussels
Belgium

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A Chara,

Re: Response to the European Commission's Consultation on the Crisis Management and Deposit Insurance Framework Review

Thank you for the opportunity to provide views on the Crisis Management and Deposit Insurance (CMDI) framework review.

More than a decade on from the financial crisis, significant progress has been made towards strengthening the resilience of the European banking sector, developing elements of the Banking Union and enhancing authorities' ability to deal with failing banks in an orderly manner. However, the Banking Union remains incomplete. In addition, it has become clear that there are material weaknesses in the existing CMDI framework. These need to be addressed to render the overall bank resolution, insolvency and depositor protection regime more effective, coherent and complete. In this context, the Central Bank of Ireland (the Central Bank) welcomes the European Commission's review.

As an integrated central bank, prudential and conduct regulator, macroprudential and resolution authority, the Central Bank approaches this review in the light of its statutory mandates of, *inter alia*, safeguarding monetary and financial stability, securing the proper and effective regulation of financial service providers and markets, and ensuring that the best interests of consumers of financial services are protected. The Central Bank sees a robust CMDI framework as fundamental to the ability to deliver on these core objectives by providing the necessary tools to address bank failure while preserving financial stability, protecting depositors and avoiding the risk of excessive use of public financial resources.

This letter and accompanying memorandum, set out the overarching considerations of the Central Bank with regard to the European Commission's targeted consultation. In addition, these

considerations have been submitted through the EU Survey portal in response to the published questionnaire.

Completion of Banking Union

The Central Bank remains a strong advocate of completing the Banking Union. The term ‘European in life, national in death’ has been used too often in commentary about EU bank failures. This risks undermining the credibility of the overall CMDI framework. The review is an opportunity to change this narrative, with the outcome being a stronger Banking Union. The Central Bank strongly urges the European Commission to ensure that this review process supports progress towards a fully-fledged Banking Union. A robust resolution framework and the establishment of the European Deposit Insurance Scheme (EDIS) will be key to making this a reality.

Consistency in the application of the EU crisis management framework

A key precept of a Banking Union is a robust and consistent crisis management framework. While the existing framework generally allows for broad consistency in the treatment of Significant Institutions (SI), the full resolution toolkit under the existing framework may not be readily accessible or consistently applied to all firms within its scope. For Banking Union to work and, more broadly, to have an effective cross-border EU crisis management regime, there needs to be greater harmonisation in dealing with firm failure within the EU. The remedy for these disharmonies, and the provision of a level playing field, including consistency in terms of both the availability and application of tools in resolution and in insolvency for all in-scope institutions, must be a key objective of the CMDI framework review and subsequent legislative proposals.

Key principles - Public interest and burden sharing

The Central Bank considers it important that the public interest assessment (PIA) is looked at as part of the CMDI framework review, given that the PIA is a focal point in deciding how the CMDI framework should be applied. In this regard, it is the Central Bank’s view that resolution authorities should have the ability to apply the resolution toolkit to any institution in the public interest, where the resolution objectives and conditions are appropriately met. Where resolution is in the public interest, the burden sharing principle of the framework should remain the primary step in covering the cost of resolution.



Legal clarity and harmonisation

An outcome to avoid with this review is a situation where a two-tier crisis management framework is established, one which could foster diverging practices. Taking proportionality into account, the same rules and principles should apply for all in-scope institutions, irrespective of size or business model. The necessary changes to the CMDI framework should therefore be addressed in the first instance by refining the existing legislative framework, in particular with regards to providing legal clarity, and in some cases targeted harmonisation in the application of key concepts, such as, *inter alia*, the PIA, national bank insolvency regimes, alternative uses of the Deposit Guarantee Scheme, and by addressing resolution financing challenges to facilitate a wider scope for resolution, without compromising the burden sharing/MREL framework.

European Deposit Insurance Scheme (EDIS)

A key deliverable of CMDI review should be to address fragmentation in the level of protection offered to investors and depositors across Member States. The European solution to this issue is delivery of the EDIS. This is a fundamental pillar of Banking Union, and without it a comprehensive and cohesive Banking Union is challenging to achieve. The Central Bank encourages the European Commission to maintain focus on progressing this important element of the overall framework.

Finally, the memorandum appended to this letter sets out the Central Bank's technical views on nine topics raised in the questionnaire. The Central Bank remains available to engage further on any of the issues raised here.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Gabriel Makhlouf'.

Gabriel Makhlouf