

SRB BAIL-IN DATA SET EXPLANATORY NOTE



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SINGLE RESOLUTION BOARD

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EXPLANATORY NOTE

TABLE OF CONTENTS

DISCLAIMER	3
PURPOSE	4
LEGAL BASIS	5
BACKGROUND AND GENERAL OVERVIEW	6
GENERAL PRINCIPLES	7
SCOPE	9
DATA EXPECTATIONS	10
SUPPLEMENTARY INFORMATION	11
ABBREVIATIONS	12

DISCLAIMER

This publication compiles the main elements that banks are expected to consider for establishing the required capabilities of Management Information Systems (MIS) in order to enable the timely and effective execution of the write-down and conversion of capital instruments and eligible liabilities pursuant to Art. 21 of Regulation (EU) No 806/2014¹ (SRMR) (“write-down and conversion powers”) and the execution of the bail-in tool in resolution. In a crisis depending on the specific situation and in line with the applicable legal framework, the Single Resolution Board (SRB) reserves the right to deviate from actions and expectations of this publication.

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The SRB Explanatory note on bail-in data is subject to further revisions, including due to changes in the applicable EU legislation. The SRB reserves the right to amend this publication without notice whenever it deems appropriate, and it shall not be considered as predetermining the position that the SRB may take in specific cases, where the circumstances of each case will also be considered.

The document has been developed by the SRB, in close collaboration with the National Resolution Authorities (NRAs).

¹ Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014.

PURPOSE

1. This document aims to provide explanations with respect to the data required for the application of the bail-in tool². It specifies, amongst others, the SRB minimum expectations concerning liability data that a bank under resolution should provide to resolution authorities in an accurate and timely manner. It also elaborates on the required level of data quality and further considerations that need to be taken into account – *inter alia* – in order to ensure sufficient legal certainty while implementing the bail-in tool.
2. This explanatory note includes information concerning the predefined set of bail-in data defined in the document “SRB Bail-in Data Set – Instructions” and should be read in conjunction with related SRB publications on bail-in implementation, such as the Operational Guidance on bail-in playbooks³.

² For the purposes of this document the term “bank” shall be understood as encompassing the entities falling within the scope of the SRMR and not only credit institutions.

³ The documents are available on the homepage of the SRB at <https://srb.europa.eu>.

LEGAL BASIS

3. The legal framework allows resolution authorities to execute the write-down and conversion of capital instruments and eligible liabilities pursuant to Art. 21 SRMR and execution of the bail-in tool in resolution. For that purpose, the bail-in tool can be used independently in an “open bank bail-in” according to Art. 27(1)(a) SRMR or in combination with other resolution tools as laid down in Art. 22(4) SRMR. The write down and conversion power which is not a resolution tool in itself could be exercised independently or together with a resolution action, when the conditions of Art. 21 SRMR are met; in the latter case, it must always be exercised before the application of bail-in in accordance with Art. 22(1) SRMR.

4. To facilitate the application of write down and conversion powers and bail-in tool, a resolution entity must be capable to provide timely and high quality information on an *ad-hoc* basis⁴. It is therefore required to enhance banks’ readiness concerning the applicability of the write down and conversion powers and bail-in tool in the course of the resolution planning phase. As part of the resolvability assessment, Directive 2014/59/EU⁵ (BRRD) requires resolution authorities to assess banks’ MIS⁶. Consequently, during the planning phase resolution authorities have to verify banks’ ability to produce the minimum data set required to support the bank-specific resolution strategy⁷.

⁴ Pursuant to Art. 3(1)(24a) of SRMR a “resolution entity” is a legal person established in a participating Member State, which is identified by the Board as an entity in respect of which the resolution plan provides for resolution action. Pursuant to Art. 3(1)(24b)(a) SRMR, a “resolution group” consists of a resolution entity and its subsidiaries that are not (i) resolution entities themselves, (ii) subsidiaries of other resolution entities, or (iii) entities established in a third country that are not included in the resolution group in accordance with the resolution plan and their subsidiaries.

⁵ Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014.

⁶ Art. 10(7)(h) BRRD. See also points (8) to (12) of Section C of the Annex to BRRD.

⁷ Art. 10(7)(h) BRRD. See also points (18) of Section B of the Annex to BRRD.

BACKGROUND AND GENERAL OVERVIEW

5. According to the legal framework, creditors of the bank bear losses after the shareholders in accordance with the priority of their claims under normal insolvency proceedings, except where explicitly provided for otherwise in the SRMR⁸.
6. Successful implementation of the bail-in tool depends fundamentally on the capabilities of banks to deliver upon request of the resolution authorities timely⁹, complete and high quality data. Banks' ability to provide bail-in data should be considered in the context of the SRB's Expectations for Banks (Efb)¹⁰ setting out the capabilities that banks have to demonstrate for resolvability. One of these components addresses "Information systems and data requirements" and therefore directly refers to the appropriateness of banks' MIS to extract in a timely and complete fashion the liability data for bail-in implementation. The final Efb document published on 1 April 2020 specifies that all banks under the remit of the SRB are expected to demonstrate progress in 2020/2021 and establish adequate MIS capabilities to deliver the bail-in data by the latest end 2022.
7. Banks under the SRB's remit should prepare their data infrastructure and initiate necessary IT projects as part of banks' "fully developed and budgeted resolvability work programme for 2021 and beyond" for becoming compliant with the Efb¹¹.
8. Most of the data required for bail-in purposes are the same or similar across Member States. Especially the information expectations related to own funds instruments, as laid down in Art. 4(1)(119) CRR, show a high uniformity. In some cases, however, additional data points have to be considered due to differences in creditor hierarchies or other specificities arising from national legislation. This particularly applies to bail-inable liabilities as defined in the legal framework.
9. In principle, banks' MIS should be able to extract the required bail-in data at short notice¹². This data is not part of the regular reporting for resolution planning purposes and deviates from the SRB Liability Data Report (LDR) serving as a regular standard data report that is harmonized across all Member States for resolution planning purposes¹³.

⁸ Art. 15(1)(b) SRMR.

⁹ For instance, in case of a resolution during the weekend, a substantial part of the bail-in data required at the "resolution weekend" should be based on the reference date Friday close of business. In this case, the latter represents the "request date" which will be determined by the SRB and notified to the failing or likely to fail bank.

¹⁰ See SRB homepage, <https://srb.europa.eu/en/node/962>.

¹¹ In the specific priority letters for 2020 sent to banks in Q4/2019, the SRB requested banks under its remit to develop long-term resolvability work programme to achieve the Efb by 31 December 2023, except where indicated otherwise.

¹² See also footnote 9.

¹³ For example, considering the differences of creditor hierarchies in national insolvency procedures, the LDR cannot ensure the existence of a unique identifier for each bail-inable liability that is known to counterparties enabling them to verify whether their claim will be subject to bail-in. Furthermore, prudential filters lead to distorted valuations of bail-inable liabilities and the LDR does not entail information on fees, charges and agios.

GENERAL PRINCIPLES

10. Banks should consider the SRB minimum bail-in data expectations as a basis to establish the required data infrastructure, governance and MIS capabilities. The perimeter of the minimum data set represents the maximum that can be achieved as a common denominator among Banking Union countries for bail-in data purposes at this stage.
11. Due to differences in creditor hierarchies or other specificities arising from national legislation, country-specific adjustments might be required for some Banking Union countries. If necessary, the SRB and NRAs will publish these data supplements to the SRB minimum bail-in data expectations. This can be implemented either in the format of single country-specific data points or country-specific bail-in data sets that build on the SRB minimum bail-in data expectations.
12. If a country-specific adjustment is not provided for a particular Member State, the SRB minimum bail-in data expectations define the benchmark for banks located in these countries to ensure adequate MIS capabilities for the purpose of bail-in implementation also against the background of the Efb.
13. The SRB and NRAs will update the minimum bail-in data set and, if required, country-specific amendments based on further developments / assessment, as well as implementation requirements on a regular basis, at least yearly.
14. Publication of the SRB minimum bail-in data expectations and country-specific amendments will increase transparency, promote a level playing field in the Banking Union and allow market participants to sufficiently understand bail-in mechanics. This will also lead to an increased market discipline with positive impact on financial stability and financial intermediation.
15. The SRB Bail-in data set takes into account existing common EU definitions and standardises information requirements to the greatest extent possible. This will avoid imposing excessive costs on banks and ease the process for banks.
16. Banks are expected to carry out the required adjustments of their data infrastructure in order to facilitate a smooth application of the bail-in tool including the following main aspects:
 - ▶ calculation and setting the bail-in perimeter in the context of the authorities' resolution strategy,
 - ▶ required assessments of resolution authorities (e.g. Public Interest Assessment), and
 - ▶ implementation of the bail-in.
17. In line with the Efb, banks are expected to establish adequate governance, quality assurance and continuity arrangements to ensure that their MIS capabilities satisfy the various prerequisites for achieving resolvability before the resolution event. The resolution entity

shall verify on a regular basis that the internal processes within the bank or group are suitable to fulfil the relevant requirements.

18. In particular, banks are expected to demonstrate that their governance arrangements adequately address:
 - ▶ the processes for consistent data collection and aggregation across the different areas of the bank and group entities and for their timely delivery;
 - ▶ the processes, communication channels and clear allocation of responsibilities for the efficient coordination of the information exchange with resolution authorities, competent authorities, valuer and other relevant authorities and stakeholders; and
 - ▶ the framework and processes for quality assurance and the continuity of MIS capabilities.
19. Banks under the remit of the SRB are expected to demonstrate their MIS capabilities in the bail-in playbook. For this purpose, the SRB Operational Guidance on bail-in playbooks provides guidance regarding the identification of bail-inable instruments and the gathering and provision of data points for those instruments.
20. Banks will be requested by Internal Resolution Teams (IRTs) to conduct regular self-assessments of their MIS capabilities concerning the ad-hoc provision of bail-in data and provide thorough updates to IRTs¹⁴.

¹⁴ In accordance with SRB Expectation for Banks, principle 1.4.

SCOPE

21. Bail-in data is generally to be provided at the individual level of the resolution entity. Upon additional request of the resolution authorities, the bank might be required to provide information for liabilities at level of the resolution entity related to the resolution group level if the resolution entity is part of a resolution group¹⁵.
22. The data provision should include the entire range of relevant capital instruments¹⁶ and bail-inable liabilities¹⁷ as at the request date. The scope also includes liabilities secured by a pledge, lien or collateral which are mandatorily excluded from the scope of bail-in pursuant to Art. 27(3) SRMR due to the fact these mandatorily excluded liabilities are relevant for the implementation of the bail-in tool¹⁸.
23. With respect to establishing the required MIS capabilities, banks should also take into account the guidance explained under the section “Supplementary information” of this document and consider related documentation published by EBA¹⁹.
24. Due to its important role with respect to data provision for bail-in purposes, banks should also take into account the respective country-specific bail-in cascade defined by national law.
25. At this stage, the SRB does not require a specific data format for the submission of bail-in data²⁰. Hence, the banks are expected to build on the assumption that data could be gathered and provided based on bank-internal MIS in consultation with IRTs²¹.
26. The communication channel and contact persons must be documented and coordinated with the resolution authorities as part of resolution planning.

¹⁵ In light of the revision of the EU bank resolution regime in 2019 and the forthcoming implementation of Directive EU 2019/879 (BRRD2), the SRB will extend the data requirements to certain legal entities within a resolution group to ensure the internal loss absorption.

¹⁶ Including CET 1 instruments (but not other CET 1 items).

¹⁷ Bail-inable liabilities as defined in Art. 3(49a) SRMR.

¹⁸ The forthcoming implementation of the BRRD2 will require further adjustments and, for instance, necessitate the inclusion of secured liabilities or (internal) liabilities owed to affiliated companies part of the resolution group in the data set.

¹⁹ This relates, for instance, to Guidelines concerning the interrelationship between the BRRD sequence of write down and conversion and CRR/CRD (EBA/GL/2017/02).

²⁰ Unless otherwise defined by the responsible IRT.

²¹ Where country-specific data-amendments define a data format, banks are requested to ensure compliance with these amendments.

DATA EXPECTATIONS

27. In order to comply with the Efb concerning the MIS capabilities for bail-in purposes, banks under the SRB remit must at least be able to provide the SRB minimum bail-in data defined in the document *SRB Bail-in Data Set - Instructions*²². These minimum expectations for banks' MIS capabilities might be adjusted based on country-specific amendments. In this case, the country-specific bail-in data amendments will be communicated to the respective banks and published on the SRB's homepage. IRTs may further request the inclusion of additional bail-in data if it considers this information relevant for ensuring the applicability of the bail-in tool.

²² The document is available on the homepage of the SRB at <https://srb.europa.eu>.

SUPPLEMENTARY INFORMATION

28. The provision of data for bail-in purposes is linked to the information required to carry out a fair, prudent and realistic valuation in resolution. Future updates of the minimum bail-in data set and related aspects will consider further developments on valuation data requirements defined by resolution authorities and vice versa²³.
29. Derivatives and contingent liabilities are generally within in the scope of liabilities for which banks' MIS have to be capable of providing all required bail-in data at short notice before the end of 2022 at the latest. At the current stage of the implementation (phase-in) of the EfB, however, it is not expected that banks demonstrate the same level of progress in 2020/2021. IRTs will further exchange with banks, provide additional guidance and, based on forthcoming updates of the bail-in data set and valuation data, guide banks in order to achieve the same data scope for derivatives and contingent liabilities.
30. If the requested information includes liabilities denominated in foreign currencies, the resolution entity shall additionally report the converted amount in euro based on the latest available euro reference exchange rate published by the European Central Bank. If a euro reference exchange rate is not available, the resolution entity shall use an appropriate reference rate in the respective market in a uniform and transparent manner.
31. If the resolution entity is not able to comply with the expectations defined by the resolution authorities for specific line items, the resolution entity may use estimates calculated in a comprehensible, appropriate and prudent manner. The resolution entity has to report to and coordinate the use of estimates with resolution authorities and document these estimates properly.
32. With respect to the resolvability assessment and the capability of banks' MIS to provide the required bail-in data in an accurate and timely manner, the resolution authorities will provide further information and update/develop its practices. The latter relates, amongst others, to the expected timeline of the data provision process, the required support concerning the external bail-in implementation by financial market infrastructures and additional actions the resolution entity shall be able to undertake in resolution in order to implement the bail-in tool. These additional expectations will be discussed and agreed with the resolution authorities in the course of the normal resolution planning process and are subject to the IRTs' annual resolvability assessment.

²³ For example, the data to be requested presumably also depends on the valuation approach to be used by the issuer, national GAAP, etc.

ABBREVIATIONS

AT1	Additional Tier 1
BRRD	Bank Recovery and Resolution Directive Directive (EU) 2014/59/EU, as amended, among others, by Directive (EU) 2019/879
CDR	Commission Delegated Regulation
CET1	Common Equity Tier 1
CRR	Capital Requirement Regulation Regulation (EU) No 575/2013, as amended, among others, by Regulation (EU) 2019/876
EBA	European Banking Authority
ECB	European Central Bank
EfB	SRB Expectations for Banks
EU	European Union
GAAP	Generally Accepted Accounting Principles
IRT	Internal Resolution Team
LDR	Liability Data Report
MIS	Management Information Systems
NRA	National Resolution Authority
SRB	Single Resolution Board
SRMR	Single Resolution Mechanism Regulation Regulation (EU) No 806/2014, as amended, among others, by Regulation (EU) 2019/877
T2	Tier 2

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