

DECISION OF THE SINGLE RESOLUTION BOARD

Date	01/03/2022
Title	Assessment of the conditions for resolution in respect of Sberbank Europe AG
Reference	(SRB/EES/2022/19)

THE SINGLE RESOLUTION BOARD,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010¹, and in particular Articles 18 and 29 thereof,

Having regard to Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and EU No 648/2012, of the European Parliament and of the Council², and in particular Article 82 thereof,

Whereas:

1. The facts and the relevant national law

1.1 The Institution

- (1) Sberbank Europe is a universal banking group operating in eight different markets in Central and Eastern Europe (“**CEE**”) with Sberbank Europe AG (the parent institution) established in Austria and subsidiaries in Slovenia, Croatia, the Czech Republic, Hungary, Bosnia and Herzegovina and Serbia, as well as a branch in Germany (together, the “**Group**”). The Group has 187 branches, approximately 773 000 customers and 3 800 employees.³ It operates in the market segments of retail banking (mortgage and consumer loans, deposits and account services), SMEs (loans and account services to SME companies across CEE) and corporate

¹ OJ L 225, 30.7.2014, p.1.

² Commission Delegated Regulation (EU) 2016/778 of 2 February 2016 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to the circumstances and conditions under which the payment of extraordinary ex post contributions may be partially or entirely deferred, and on the criteria for the determination of the activities, services and operations with regard to critical functions, and for the determination of the business lines and associated services with regard to core business lines, OJ L 131, 20.5.2016, p. 41.

³ As at 31 December 2020.

(loans and global market services to large corporates). The Group had total assets of EUR 12 942 million at the end of 2020.

- (2) Sberbank Europe AG, LEI 529900IZ8TASAYR3A694, (the “**Institution**”) is 100% owned by Sberbank of Russia (“**SBRF**”), Russia Federation’s largest bank. The Institution had total assets of EUR [...] by year-end 2021, one branch and approximately 65 000 customers. It provides retail banking services, lending to SMEs and corporates as well as global market services to large corporates. The Institution’s market share with regard to each of the aforementioned services is negligible, as each is below [...]%, based on regulatory reporting data.

1.2 The 2020 Resolution Plan

- (3) On 3 May 2021, the Single Resolution Board (the “**SRB**” or the “**Board**”) adopted the resolution plan for the Group (the “**2020 Resolution Plan**”).
- (4) According to the 2020 Resolution Plan, applying national insolvency proceedings to the Institution was not considered credible. This conclusion was substantiated by the fact that, even if the Institution did not provide any critical function and no significant adverse effect on financial stability was expected in Austria in case of its winding up under normal insolvency proceedings, it presented financial and operational interconnections with the other Group entities established in the European Union (the “**EU**”).
- (5) In particular, [...] it was considered unlikely that the subsidiaries could survive a sudden separation from their Austrian parent due to their high degree of dependence to the Institution.
- (6) In light of the above, it was concluded that resolution action in case of failure of the Institution might be necessary.
- (7) In case of a potential resolution event, the 2020 Resolution Plan identified as preferred resolution strategy the application of bail-in at the level of the Institution, in accordance with Article 27(1)(a) of Regulation (EU) No 806/2014, while the variant strategy was the sale of business tool.

1.3 The difficulties of the Institution and the attempts to address them

- (8) Following mounting geopolitical tensions between the Russian Federation and Ukraine since November 2021, which culminated in the Russian invasion of Ukraine on 24 February 2022, [...].
- (9) [...]
- (10) As of 24 February 2022, the liquidity situation of the Institution deteriorated. In particular, [...] a wave of significant deposit withdrawal in the Institution and its subsidiaries. [...]. With regard to the latter, the Institution was informed of the decision of the Central Bank of the Russian Federation of 25 February 2022, prohibiting to transfer any foreign currency denominated funds

in favor of/to any (banking) subsidiaries of SBRF located in any foreign jurisdiction/unions of jurisdictions whose national authorities introduced sanctions against Russian legal persons and/or assets and/or officials thereof. Also in this light, despite the measures taken, the counterbalancing capacity of the Institution continued to deteriorate.

- (11) Overall, given the increased liquidity outflows that the Institution is facing, and which are expected to continue, the lack of plausible additional liquidity generating measures ([...]), the Institution was expected to no longer be able to cover its liabilities as they fall due. The readily available counterbalancing capacity was deemed insufficient to cover outflows [...].
- (12) In view of these considerations, the European Central Bank (the “**ECB**”) concluded on 27 February 2022 that the Institution was deemed to be failing or likely to fail in accordance with Article 18(1)(a) and 18(4)(c) of the Regulation (EU) 806/2014, since there were objective elements to support a determination that the Institution would, in the near future, be unable to pay its debts or other liabilities as they fall due.

1.4 The applicable national law

- (13) In accordance with Article 2(1)(47) of Directive 2014/59/EU, ‘*normal insolvency proceedings means collective insolvency proceedings which entail the partial or total divestment of a debtor and the appointment of a liquidator or an administrator normally applicable to institutions under national law and either specific to those institutions or generally applicable to any natural or legal persons*’.
- (14) In Austria, insolvency proceedings may be initiated against a materially insolvent institution, whereas the provisions for bankruptcy proceedings of the Insolvency Code⁴ (the “**IO**”) generally apply and certain provisions of the Banking Act⁵ (the “**BWG**”) specifically apply. The provisions in part XVII of the BWG are procedural provisions and include, in particular, the exclusive right of the Austrian Financial Market Authority, in its role of National Competent Authority (the “**NCA**”) to file for insolvency.
- (15) An institution is ‘materially insolvent’ if it is illiquid (*i.e.*, due to the lack of readily available means of payment, it is unable to pay its due and payable debts) or over-indebted (*i.e.*, presence of a negative status of the entire assets and liabilities based on liquidation values and lack of a positive going concern forecast).
- (16) Bankruptcy proceedings are initiated upon completion of the following steps:

⁴ Austrian Insolvency Code (*Insolvenzordnung*) Imperial Law Gazette (*Reichsgesetzblatt*) no. 337/1914 (as amended last by Federal Law Gazette *Bundesgesetzblatt*) I no. 199/2021).

⁵ Austrian Banking Act (*Bankwesengesetz*), Federal Law Gazette (*Bundesgesetzblatt*) no. 532/1993 (as amended last by Federal Law Gazette (*Bundesgesetzblatt*) no. 199/2021).

- a) the NCA files for the opening of insolvency proceedings with the competent insolvency court pursuant to section 82 para 3 of the BWG;
 - b) the filing is delivered to a representative of the concerned institution pursuant to section 82 para 3 of the BWG, in connection with section 70 para 2 of the IO;
 - c) the competent insolvency court conducts a hearing with a representative of the concerned institution, unless such hearing would endanger the interests of general creditors of the institution (see in connection with section 70 para 2 of the IO);
 - d) the competent insolvency court renders a decision for the opening of insolvency proceedings; and
 - e) such court decision is published in the Insolvency Edict Data Base (*öffentliche Bekanntmachung des Inhaltes des Insolvenzedikttes*), the Austrian on-line insolvency date base (section 2(1) of the IO).
- (17) Together with the decision to initiate the bankruptcy proceedings, the competent bankruptcy court appoints a bankruptcy administrator (typically a legal practitioner specialised in representing bankruptcy estates).
- (18) Bankruptcy proceedings are effective as of the day following the publication in the Insolvency Edict Data Base (see section 2 para 1 of the IO). From the moment bankruptcy proceedings become effective, among other things, the following applies:
- a) the ECB revokes the banking license of the bankrupt institution pursuant to section 6 paragraph 2 item 4 of the BWG; upon such revocation, the institution ceases its banking business;
 - b) only the bankruptcy administrator has the power to represent the bankrupt institution; and
 - c) the bankruptcy administrator liquidates all assets and continues business activities to the extent required for the asset liquidation.
- (19) Bankruptcy proceedings aim at liquidating all assets of the bankrupt institution by the bankruptcy administrator in order to distribute the liquidation proceeds to the general creditors. Measures out of the ordinary course of business (e.g., sale of part of the business) require prior approval of the competent insolvency court.
- (20) According to Austrian law, if a resolution action is not in the public interest, Austrian Financial Market Authority in its role of National Resolution Authority (“**NRA**”) informs the NCA thereof. Subsequently, the NCA initiates reasonable actions pursuant to section 49 para 6 of the Austrian

Bank Recovery and Resolution Act⁶ (the "**BaSAG**"), which transposes Article 32b of Directive 2014/59/EU into Austrian law. Such reasonable actions include:

- a) the revocation of banking license pursuant to section 6 of the BWG;
 - b) the exercise of powers of supervision pursuant to section 70 of the BWG, such as information requests, special audits and audits by the Oesterreichische Nationalbank (Austrian National Bank) or prohibiting the continuation of business operations in whole or in part; and
 - c) imposing business supervision pursuant to section 83 para 1 of the BWG, or filing for insolvency proceedings.
- (21) In the circumstances concerning the Institution, [...]. This understanding is in line with the objectives and the role of the resolution framework, established by Regulation (EU) No 806/2014 and Directive 2014/59/EU. It follows from this framework that the winding up of a failing institution through normal insolvency proceedings should be considered before resolution tools are applied.⁷ Along these lines, where an institution may not be placed under resolution on the ground that the public interest test is not met, the relevant entity will be wound up in an orderly manner in accordance with the applicable national law which, provided that the Institution is materially insolvent, is the winding up in the course of bankruptcy proceedings.⁸
- (22) In the light of the above, in the present situation, bankruptcy proceedings pursuant to the IO are deemed to constitute the 'normal insolvency proceedings' within the meaning of Article 2(1)(47) of Directive 2014/59/EU. This is without prejudice to the rights and powers of the NRA to exercise its responsibilities in accordance with applicable national law.
- (23) In addition, it is recalled that, in the present case, the ECB's failing or likely to fail ("**FOLTF**") assessment also confirms that "*there are objective elements to support a determination that the Institution will in the near future be unable to pay its debts or other liabilities as they fall due, in accordance with Article 18(4)(c) of Regulation (EU) No 806/2014*". [...].⁹

2. Valuation 1

- (24) Due to the sharp deterioration of the Institution's liquidity position over the last days, the SRB decided that it was necessary to conduct an urgent provisional valuation on the basis of the available public and supervisory information in accordance with Article 20 of Regulation (EU)

⁶ Austrian Bank Recovery and Resolution Act (Sanierungs- und Abwicklungsgesetz), Federal Law Gazette (*Bundesgesetzblatt*) no. 98/2014 (as amended last by Federal Law Gazette (*Bundesgesetzblatt*) no. 199/2021).

⁷ See, in this regard, recital 46 of Directive 2014/59/EU.

⁸ See Article 18(8) of Regulation (EU) No 806/2014 which has to be taken into account, *mutatis mutandis*, for the purposes of the present assessment.

⁹ [...].

No 806/2014 for the purpose of informing the determination of whether the Institution meets the conditions for resolution or the conditions for the write down or conversion of capital instruments pursuant to Article 20(5)(a) of the SRMR (“**Valuation 1**”, attached hereto as Annex). In particular, the Valuation Report should support the determination of whether the Institution is failing or likely to fail pursuant to Article 18(1)(a) of SRMR.

- (25) The Valuation 1 report does not indicate that the Institution is or is likely to be insolvent, in the sense that its assets are or will, in the near future, be less than its liabilities. However, it assesses that there are objective elements to support a determination that the Institution, in the near future, will be unable to pay its liabilities as they fall due within the meaning of Article 18(4)(c) of Regulation 806/2014. The SRB concurs with the failing or likely to fail (“**FOLTF**”) assessment performed by the ECB. The SRB concludes that the Institution is failing or likely to fail in the meaning of Article 18(1)(a) of Regulation 806/2014.

3. Procedure

- (26) [...], the SRB regularly requested the ECB and relevant National Resolution Authorities (“**NRAs**”) to provide it with specific and updated information with regard to the Group and the Institution. Moreover, the SRB has been in contact with the relevant members of the European resolution college.
- (27) The information exchange between the SRB, the ECB and the relevant NRAs has been continuous since then and intensified on [...] and further on [...] 2022.
- (28) The SRB attended the ECB’s Supervisory Board meetings on 17, 23 and 27 February 2022, where the Institution was discussed, as well as the Institution-Specific Crisis Management Team meetings for the Institution on 25 and 26 February 2022.
- (29) On 25 February 2022, the SRB informed the European Commission about the rapidly deteriorating situation of the Institution and the next steps. Over the following days, several interactions took place between the SRB and the European Commission with a view to keeping the latter informed on all relevant developments regarding the Institution.
- (30) On 25 February 2022, the SRB requested the ECB to provide it with specific and updated information with regard to the Group.
- (31) [...]
- (32) [...]
- (33) On 25 February 2022, the Institution decided among other things [...].
- (34) The ECB attended the SRB Extended Executive Sessions on the Institution on 26, 27, 28 February and 1 March 2022.

- (35) On 26 February 2022, the Institution notified to the ECB that, due to the substantial deposit outflows of the Institution and its subsidiaries, which severely impacted their liquidity reserves and liquidity coverage ratio (“LCR”), it could reasonably be expected that the Institution is likely to be unable to pay its debts and liabilities as they fall due in the near future, as no measures were available to provide relief to the liquidity position or slow down the deposit outflows. [...].
- (36) On 27 February 2022, the ECB communicated to the SRB its draft FOLTF assessment regarding the Institution, for the purpose of consulting the SRB on this matter in accordance with Article 18(1)(second subparagraph) of Regulation (EU) No 806/2014.
- (37) On 27 February 2022, the SRB provided the ECB with its formal response on the above draft FOLTF assessment.
- (38) On 27 February 2022, the ECB reached the conclusion that the Institution is likely to be unable in the near future to pay its debts or other liabilities as they fall due. Therefore, the Institution was deemed to be failing or likely to fail in accordance with Article 18(4)(c) of Regulation (EU) No 806/2014. On the same date, the ECB communicated its final FOLTF assessment to the SRB.
- (39) On 27 February 2022, the SRB finalised its Valuation 1.
- (40) On 27 February 2022, the SRB adopted a decision concerning the exercise of its powers under Article 33a of Directive 2014/59/EU, as transposed under national law, and instructed the NRA to implement that decision in line with the national law.

4. Legal and economic assessment

4.1 Competence of the Single Resolution Board

- (41) Pursuant to Article 7(2) of Regulation (EU) No 806/2014, the SRB is responsible for adopting all decisions relating to resolution for the entities and groups referred to therein, including entities which are credit institutions established in a participating Member State as defined in Article 4(1) of Regulation (EU) No 806/2014 and are considered to be significant in accordance with Article 6(4) of Regulation (EU) No 1024/2013¹⁰.
- (42) The Institution is a credit institution established in Austria, a participating Member State within the meaning of Article 4(1) of Regulation (EU) No 806/2014, and is considered to be significant, in accordance with Article 6(4) of Regulation (EU) No 1024/2013. Accordingly, the Board is responsible for adopting all decisions relating to resolution for the Institution, pursuant to Article 7(2)(a) of Regulation (EU) No 806/2014, including the adoption of a resolution scheme when

¹⁰ Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions, OJ L 287, 29.10.2013, pp. 63–89.

the Board assesses that the conditions referred to in Article 18(1) of Regulation (EU) No 806/2014 are met.

- (43) In accordance with Article 29(1) of Regulation (EU) No 806/2014, National Resolution Authorities should implement all decisions addressed to them by the SRB and should take any action to comply with such decisions. Accordingly, the NRA is expected to take all necessary measures in line with this Decision, having regard to any requirements applicable under national law.

4.2 Conditions laid down in Article 18(1) of Regulation (EU) No 806/2014

- (44) In accordance with Article 18(1) of Regulation (EU) No 806/2014, the SRB shall adopt a resolution scheme in relation to an entity when the following conditions are met:
- a) the entity is failing or is likely to fail, as referred to in Article 18(4) of Regulation (EU) No 806/2014;
 - b) having regard to timing and other relevant circumstances, there is no reasonable prospect that any alternative private sector measures or supervisory action, including early intervention measures or the write-down or conversion of relevant capital instruments and eligible liabilities in accordance with Article 21(1) of Regulation (EU) No 806/2014, taken in respect of the entity, would prevent its failure within a reasonable timeframe; and
 - c) a resolution action is necessary in the public interest, as referred to in Article 18(5) of Regulation (EU) No 806/2014.

4.3 The Institution's failure or likelihood of failure

- (45) On 27 February 2022, pursuant to Article 18(1) subparagraph 2 of Regulation (EU) No 806/2014, after consulting the SRB, the ECB assessed that the Institution was deemed to be failing or likely to fail in accordance with Articles 18(1)(a) and 18(4)(c) of Regulation (EU) No 806/2014.
- (46) In particular, the ECB considered that following the intensification of the geopolitical tensions between the Russian Federation and Ukraine [...] the Institution has suffered from a deteriorating liquidity situation.
- (47) The ECB considered that the consequences [...] were threefold:
- a) a reputational impact, which triggered a significant wave of deposit withdrawals in the Institution and its subsidiaries;
 - b) the fact that the Institution had to provide support to its subsidiaries [...];

- c) the loss of access to USD correspondent banking and the loss of access to USD payments.
- (48) Since 23 February 2022, the Institution sustained EUR [...] net deposit outflows, which corresponds to [...] % of its total deposit base as of 23 February 2022. In particular, as of 25 February, retail deposits were reduced from EUR [...] to EUR [...].
- (49) At the same time, most of the correspondent banks of the Institution ceased their business relations, particularly in USD, which became unavailable to swap into other currencies for the Institution.
- (50) In addition, [...], financial institutions outside the Institution's group have widely ceased to engage in funding relations with the Institution, which practically cut it off from external interbank funding. While this channel does not represent a material funding source for the Institution, the fact that it became unavailable demonstrates the significant reputational crisis that the Institution was facing.
- (51) The Institution had prepared for the possibility that it could come under intensified sanctions and had taken several pre-emptive measures, [...].
- (52) On 25 February 2022, the Institution convened its group Emergency Response Team (ERT), which decided to (i) activate the group recovery plan; (ii) implement the recovery option "Provision of additional funding by shareholder (SBRF)" and the recovery options "asset transfer of existing performing loan portfolio within Sberbank Group" and "attraction of additional retail deposits"; (iii) trigger the respective communication according to the recovery plan escalation procedure.
- (53) On 25 February 2022, Sberbank of Russia informed the Institution that the requested emergency funding support cannot be provided as the Central Bank of the Russian Federation prohibited Sberbank of Russia from transferring any foreign currency denominated funds in favour of/to any banking subsidiary located in any foreign jurisdiction/unions of jurisdictions, whose state authorities introduced sanctions against Russian legal persons and/or assets and/or officials thereof.
- (54) The actions taken by the Institution mentioned above to address the increasing liquidity outflows faced by the group did not manage to restore the counterbalancing capacity of the Institution, which has been reduced since 23 February 2022 from EUR [...] to EUR [...] on 25 February 2022, of which EUR [...] was on the central bank account. In terms of probable liquidity evolution, if the Institution continues to experience the same rate of outflows [...], its liquidity buffers are expected to be depleted in [...].
- (55) The LCR decreased from [...] % as at 23 February 2022 to [...] % as at 25 February 2022, as none of the above-mentioned actions was successful in counterbalancing the above mentioned outflows. In case the liquidity position of the bank would have continued to exhibit the same

trend as the one displayed in the days before the assessment on failing or likely to fail by the ECB, the LCR was expected to fall close to [...].

(56) Moreover, as also considered by the ECB, the Institution no longer had credible options in its recovery plan to restore its liquidity position. [...].

(57) [...]

c) Regarding the sale of a fully consolidated entity, the Institution was about to undergo a restructuring process, as a result of which its presence in CEE would have been significantly reduced. [...].

(58) [...]

(59) Several of the subsidiaries of the Institution had experienced acute liquidity outflows in the days before the failing or likely to fail assessment. Despite the decentralised funding structure of the Institution, subsidiaries are dependent on the Institution for the provision of additional liquidity in case of need. [...]

(60) Given the operating structure of the group and the dependence of the subsidiaries on the Institution for liquidity, the deterioration of the liquidity situation at subsidiary level is contributing to the worsening of the liquidity situation of the Institution. Moreover, the Institution and its subsidiaries are also dependent upon each other in terms of public perception and reputation. Thus, a failure of a subsidiary is expected to have a further impact on the reputation of the Institution.

(61) On 26 February 2022, the Institution submitted a letter to the ECB, to the Financial Market Authority of Austria and to the Board informing them that it could reasonably be expected that the Institution is likely to be unable to pay its debts and liabilities as they fall due in the near future and that there were circumstances which indicated that the Institution's ability to fulfil its obligations was endangered. [...].

(62) Overall, given the increased liquidity outflows that the Institution was facing, which were expected to continue, the absence of any credible additional liquidity generating measures in the short term, the additional liquidity needs of the subsidiaries which the Institution would have been asked to cover, and the Institution's own declaration, the ECB concluded on 27 February 2022 that the Institution is expected to be unable in the near future to pay its debts or other liabilities as they fall due and should, therefore, be declared failing or likely to fail.

(63) The main findings of the Valuation 1 Report for the purpose of assessing the condition laid down in Article 18(4)(c) of Regulation 806/2014 can be summarized as follows.

a) The Institution's overall liquidity situation remained stable until 22 February 2022. The accelerated escalation of the geopolitical tensions between Russia and Ukraine at the

beginning of the week starting on 21 February 2022 [...] has ultimately caused significant deposit withdrawals [...]. Given the dependence of the subsidiaries on the Institution for liquidity, the liquidity support to the subsidiaries contributed to the worsening of the liquidity position of the Institution.

- b) In more detail, from 23 to 25 February 2022, due to significant outflows of deposits (more than EUR [...] at Group level and more than EUR [...] at Austrian individual level), the Counterbalancing Capacity (CBC) of the Group has been reduced to EUR cir [...] and to circa EUR [...] at individual level ([...] %), which in turn reduced its LCR to [...]% [...].
 - c) According to the Institution's FOLTF notification, the LCR at consolidated group level stands at [...]%. According to ECB's assessment, with the current rate of outflows, the Institution's liquidity buffers are expected to be depleted in [...] and the LCR is expected to come to [...]%.
 - d) [...].
 - e) Moreover, according to the ECB, the current readily available counterbalancing capacity is deemed insufficient to cover [...]. Given the increased liquidity outflows that the Institution is facing which are expected to continue, the absence of any credible additional liquidity generating measures in the short term and the additional liquidity needs of the subsidiaries which the Institution will be asked to cover, the Institution is likely to be unable to meet payments in the near future on its debts or other liabilities as they fall due.
 - f) [...]
 - g) [...].
- (64) Following the ECB's assessment dated 27 February 2022 and taking into account the above elements of Valuation 1, the SRB concurs with the ECB assessment and considers that the condition set out in Articles 18(1)(a) and 18(4)(c) of the Regulation (EU) No 806/2014 is met regarding the Institution, and that the Institution is failing or likely to fail.

4.3.1 Absence of a reasonable prospect to prevent the failure by means of alternative measures

- (65) Having regard, *inter alia*, to the relevant considerations of the ECB set out in its FOLTF assessment, the SRB concludes that there is no reasonable prospect that any alternative private sector measures could prevent the failure of the Institution within a reasonable timeframe.
- (66) In particular, the Institution had very limited options to obtain funding via regular market transactions or central bank operations and has not been able to mobilise sufficient additional liquidity. The Institution put in place several measures to correct the liquidity position, [...]. Nevertheless, these measures were not sufficient to reverse the deterioration of the liquidity

position of the Institution. Moreover, the recovery plan of the Institution does not include any other options which would be suitable under the current circumstances. The Institution did not indicate any prospect of any other private solution that could prevent a failure. [...].

(67) [...]

(68) There are no further available supervisory or early intervention measures that could restore the liquidity position of the Institution in an immediate way and allow it to ensure sufficient time in order to implement measures. The available measures to the ECB as competent authority under the national transposition of Article 104 of Directive 2013/36/EU¹¹ (CRD) and Articles 27-29 of Directive 2014/59/EU or under Article 16 of Regulation (EU) No 1024/2013¹² have been explored but they cannot allow the institution to be in a position to meet its liabilities and other debt as they fall due, given the extent and pace of the liquidity deterioration observed.

(69) At the same time, the exercise of the power to write down or convert the Institution's capital instruments and eligible liabilities in accordance with Article 21(1) of Regulation (EU) No 806/2014 independently of any resolution action would not be able to prevent the failure of the Institution. In particular, the inability of the Institution to pay its debts as they fall due would still remain to the extent that the write-down or conversion of the Institution's capital instruments would not be suitable to immediately address the continuous deterioration of its liquidity position.

(70) In view of the above considerations, it is concluded that there are objective elements leading to the conclusion that there are no alternative measures which could prevent the failure of the Institution within a reasonable timeframe. Accordingly, the condition set out in Article 18(1)(b) of Regulation (EU) No 806/2014 is satisfied in respect of the Institution.

4.3.2 Resolution action is not necessary in the public interest

(71) In accordance with Article 18(1)(c) and Article 18(5) of Regulation (EU) No 806/2014, the SRB assesses whether resolution action in respect of the Institution is necessary in the public interest and in particular, whether resolution action is necessary for the achievement of, and is proportionate to, one or more of the resolution objectives referred to in Article 14 of Regulation (EU) No 806/2014 and whether the winding up of the entity under normal insolvency proceedings would not meet those resolution objectives to the same extent.

(72) For the purposes of this determination, it should be clarified that winding up the Institution under normal insolvency proceedings within the meaning of Article 18(5) of Regulation (EU) No

¹¹ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC Text with EEA relevance, OJ L 176, 27.6.2013, pp. 105-203.

¹² Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions OJ L 287, 29.10.2013, pp. 63–89.

806/2014 should be understood in the present circumstances as referring to the application to the Institution of the liquidation proceedings under Austrian law, as referred to under recitals (13)-(21) above.

- (73) Given that the resolution objectives are not considered to be at risk due to the failure of the Institution, as demonstrated below in this section, a comparison between the normal insolvency proceedings and the resolution action is not required for the purposes of the present analysis.
- (74) The 2020 Resolution Plan, adopted on 3 May 2021, contained the assessment that the Institution did not provide any critical functions and that no significant adverse effects on financial stability were expected in Austria in case of its winding up under normal insolvency proceedings. However, in light of the financial and operational interconnections between the Institution and the other EU entities of the Group (notably through [...]), the 2020 Resolution Plan concluded that winding down the Institution under normal insolvency proceedings may lead to adverse effects on financial stability beyond the Austrian market.
- (75) However, the SRB considers that the reasons underlying the conclusion, in the 2020 Resolution Plan, that resolution action would be necessary to avoid significant adverse effects on financial stability beyond the Austrian market no longer apply today.
- (76) As regards intra-group liquidity provision, as described above, recently mounting geopolitical tensions [...] significantly impacted [...] and the Group's ability to continue performing its banking activities in the Member States where the Group's entity are located, *i.e.* Austria, Slovenia, Croatia, Hungary and the Czech Republic. They also led to the deterioration of the Group's liquidity situation and of the Institution, which has been declared as failing or likely to fail by the ECB on 27 February 2022. In particular, the attempt of the Institution to strengthen its liquidity position by trying to obtain liquidity support from SBRF was impeded by the decision of the Central Bank of the Russian Federation of 25 February 2022, which prohibited from transferring any foreign currency denominated funds in favour of/to any (banking) subsidiaries of SBRF located in any foreign jurisdiction/unions of jurisdictions whose national authorities imposed sanctions against Russian legal persons and/or assets and/or officials of the Russian Federation. Therefore, the Institution could not restore its liquidity situation nor the Group's [...].
- (77) As regards the provision of supporting services to the Slovenian subsidiary, it is noted that the concerned services were deemed not critical in the current context of failing or likely to fail of the Slovenian subsidiary, [...]. Furthermore, should the Institution be placed under national insolvency proceedings, it is noted that the Austrian law would foresee the possibility of continuation of existing service agreements performed by the bankrupt institution (see Section 21 paragraph 2 of the IO).
- (78) For the reasons explained above, the SRB concludes that even if, as a consequence of the deterioration of the Group's situation, resolution actions were to be applied at the level of subsidiaries, at the same time or subsequently to this Decision, the winding up of the Institution

under normal insolvency proceedings does not put resolution objectives at risk and hence resolution action is not necessary in the public interest, within the meaning of Article 18(1)(c) and (5) of Regulation (EU) No 806/2014, as further explained below.

- (79) In light of the above, the SRB concluded, in accordance with Article 23 (third subparagraph) of Regulation (EU) No 806/2014, that a deviation from the assessment included in the 2020 Resolution Plan is in this case warranted by the significant change in circumstances since the 2020 Resolution Plan was adopted.

4.3.2.1 Ensuring the continuity of critical functions

- (80) In line with Article 2(1)(35) of the Directive 2014/59/EU and Article 6 of the Commission Delegated Regulation (EU) 2016/778,¹³ a function is considered critical, where the following conditions are met:

- a) it is provided by an institution to third parties not affiliated to the institution or group;
- b) the sudden disruption of that function would likely have a material negative impact on the third parties, give rise to contagion or undermine the general confidence of market participants due to the systemic relevance of the function for the third parties and the systemic relevance of the institution or group in providing the function; and
- c) it is not considered substitutable since it cannot be replaced in an acceptable manner and within a reasonable time frame.

- (81) In order to determine whether the Institution provides any critical function, the SRB assessed the main economic functions provided by the Institution. In its 2021 Recovery Plan and its Critical Functions Report (YE 2020), the Institution did not identify any of its functions as critical.

4.3.2.1.1 Identification of critical functions

4.2.3.1.1.1 Deposit taking

- (82) Deposit-taking from households and SMEs does not constitute a critical function of the Institution within the meaning of Article 2(1)(35) of Directive 2014/59/EU, since the discontinuance of this function is not expected to lead to the disruption of services that are essential to the real economy of Austria nor to the disruption of financial stability in Austria or in other Member States.
- (83) It is noted that the Institution has a negligible market share in Austria, which is below [...] %. Total value on accounts (at the end of 2020) was less than EUR [...]. The Institution reported

13 Commission Delegated Regulation (EU) 2016/778 of 2 February 2016 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to the circumstances and conditions under which the payment of extraordinary ex post contributions may be partially or entirely deferred, and on the criteria for the determination of the activities, services and operations with regard to critical functions, and for the determination of the business lines and associated services with regard to core business lines, OJ L 131, 20.5.2016, p. 41.

approximately 160 clients in Austria. The Institution is active in retail deposit taking mostly through its online branch in Germany, which had approximately 65 000 customers and EUR 842 million total deposits at the same cut-off date.

- (84) In light of the above, the SRB concluded that a sudden disruption of that function would unlikely have a material negative impact on third parties, give rise to contagion or undermine the general confidence of market participants, considering the negligible market share in the national market.
- (85) In addition, the Institution's deposit taking function is considered to be substitutable by other market players, since it can be replaced in an acceptable manner and within a reasonable timeframe. This limits the potential impact on the real economy and the financial markets. It is observed that the deposit taking activity of the Institution would be absorbed easily and within a reasonable timeframe, since no operational and technical constraints were identified and taking into account the elements noted under recital (83).
- (86) Therefore, the SRB concludes that the deposit-taking function of the Institution does not constitute a critical function within the meaning of Article 2(1)(35) of Directive 2014/59/EU.

4.2.3.1.1.2 Lending

- (87) Lending does not constitute a critical function of the Institution within the meaning of Article 2(1)(35) of Directive 2014/59/EU, since the discontinuance of this function is not expected to lead to the disruption of services that are essential to the real economy of Austria nor to the disruption of financial stability in Austria or in other Member States.
- (88) The value outstanding to Austrian clients at the end of 2020 was less than EUR [...]. The Institution is not active in household lending and only to a very limited extent in SME lending ([...] clients) and non-SME lending ([...] clients). It has a negligible national market share of less than [...] % in non-financial corporations lending for SMEs and non-SMEs portfolios.
- (89) In light of the above, it is concluded that a sudden disruption of that function would unlikely have a material negative impact on the third parties, give rise to contagion or undermine the general confidence of market participants, considering the negligible market share in the national market.
- (90) In addition, taking into account the elements noted under recital (89), the function is also considered to be substitutable by other market players, as it can be replaced in an acceptable manner and within a reasonable timeframe, thereby limiting the potential impact on the real economy and the financial markets.
- (91) Therefore, the SRB concludes that the Institution's lending function to SMEs and non-SMEs does not constitute a critical function within the meaning of Article 2(1)(35) of Directive 2014/59/EU.

4.2.3.1.1.3 Payment services

- (92) The Institution carries out only payments sub-functions to MFIs and non-MFIs, and is not active in cash, securities settlement, CCP clearing or custody services in Austria. The provision of such function is not regarded as a critical function, within the meaning of Article 2(1)(35) of Directive 2014/59/EU, since the discontinuance of this function would not lead to the disruption of services that are essential to the real economy of Austria nor to the disruption of financial stability in Austria or in other Member States.
- (93) It is noted that the Institution has a negligible market share at the national level, below [...]%. As of end 2020, the average value of payment transactions to non-MFIs per day reported by the Institution in the Critical Function Report for Austria was less than EUR [...], servicing less than [...] clients in Austria. The Institution reports [...] for payment services to MFIs.
- (94) In light of the above, it is concluded that a sudden disruption of the payment and cash services function would unlikely have a material negative impact on third parties, give rise to contagion or undermine the general confidence of market participants.
- (95) In addition, the function is considered to be substitutable, as it can be replaced in an acceptable manner and within a reasonable timeframe, thereby limiting the potential impact on the real economy and the financial markets.
- (96) Therefore, the SRB considers that payment services does not constitute a critical function of the Institution within the meaning of Article 2(1)(35) of Directive 2014/59/EU.

4.2.3.1.1.4 Wholesale funding

- (97) Wholesale funding does not constitute a critical function of the Institution within the meaning of Article 2(1)(35) of Directive 2014/59/EU, since the discontinuance of this function would not lead to the disruption of services that are essential to the real economy of Austria nor to the disruption of financial stability in Austria or in other Member States.
- (98) It is noted that at a national and global levels, the role of the Institution is not significant in any of the wholesale funding sub-functions. The Institution reported [...] that it is not providing any capital market services to third party clients in Austria. Market shares are below [...]%. The German branch does not operate such activity.
- (99) In light of the above, the SRB concludes that a sudden disruption of the wholesale funding function would unlikely have a material negative impact on third parties, give rise to contagion or undermine the general confidence of market participants.
- (100) In addition, the function is considered to be substitutable by other market players, as it can be replaced in an acceptable manner and within a reasonable timeframe.

- (101) Therefore, the SRB considers that wholesale funding does not constitute a critical function of the Institution.

4.2.3.1.1.5 The Institution does not perform critical functions

- (102) The SRB concludes that the Institution does not provide critical functions within the meaning of Article 2(1)(35) of Directive 2014/59/EU and taking into account the criteria set out in Article 6 of the Commission Delegated Regulation (EU) 2016/778. The Institution does not perform activities, services or operations the discontinuance of which would be likely to lead to the disruption (i) of services that are essential to the real economy in Austria or (ii) of financial stability in Austria or other Member States.

4.3.2.2 Avoiding significant adverse effects on financial stability

- (103) The failure of the Institution is unlikely to result in significant adverse effects on financial stability in Austria or in other Member States. This conclusion is supported by the considerations elaborated below.
- (104) With regard to the systemic relevance of the Institution, it has not been classified as a Global Systemically Important Bank (G-SIB), a Global Systemically Important Institution (G-SII), or an Other Systemically Important Institution (O-SII).¹⁴
- (105) The Institution's total assets amount to EUR [...] by year-end 2021, which represents a market share of [...]%. This percentage is significantly below the medium-low size threshold. [...].
- (106) The potential impact resulting from the failure of the Institution on the real economy is considered to be low. This conclusion was reached by taking into consideration the share of the Institution in the system-wide volume of banking services using the following indicators:
- a) volume of deposits from the private sector in the EU and Austria;
 - b) volume of loans to the private sector in the EU and Austria;
 - c) total number of private sector depositors;
 - d) total number of borrowers;
 - e) volume of domestic payment transactions;
 - f) volume of derivatives; and
 - g) volume of custodian business.

¹⁴ [...]

As regards the Institution, the level of the above indicators is extremely low: [...]% for indicator (d); [...]% for indicators (a) and (b); and [...]% for the others.

- (107) The level of interconnectedness of the Institution with other market participants is considered to be low, [...].
- (108) Any material direct contagion to other institutions of the financial sector (other than the ones affiliated to the Institution) is considered unlikely, as set out below.
- (109) Based on the SRB internal multilayer network contagion model, the idiosyncratic failure of the Institution (using year-end 2020 data) would have a low impact on the rest of the Banking Union financial system. In the worst-case scenario, the total loss as a percentage of initial loss is projected to be lower than 1% in Austria [...], and negligible in other Banking Union countries. No other credit institution within the Banking Union was identified as at risk of failure in any scenario. Furthermore, [...].
- (110) The SRB assessment of direct contagion is supplemented by the NRA's assessment of direct contagion within Austrian banks:
- a) Impact of failure of the Institution or write down: the Institution scores a low risk.¹⁵
[...]
 - b) Network indicator for direct contagion risk: the Institution scores low and medium-low risk.
[...]
 - c) Type, complexity, amount and composition of risk accepted by the credit institution: the Institution scores a medium-low risk. [...]
- (111) Indirect contagion effects stemming from the failure of the Institution are not expected to be significant in Austria, as further elaborated below.
- (112) The Institution is not considered critical for the financial system and the real economy, in particular given that no significant adverse effect is to be expected following the failure of the Institution, as evidenced by the two indicators below:
- a) [...]

¹⁵ [...]

b) [...] ¹⁶ [...] ¹⁷ [...] ¹⁸

(113) As regards the possibility that the failure of the Institution will give rise to contagion in the form of widespread withdrawal of short-term funding or deposits in significant amounts from other credit institutions in Austria, such risk cannot be excluded. However, there are objective elements indicating that such risk would not be significant [...].

(114) [...]

(115) [...]

(116) With regard to the implications of the need for the Deposit Guarantee Schemes (“DGS”) to ensure the protection of covered depositors, significant adverse effects on financial stability arising therefrom are *not* likely in the present circumstances. The amount of covered deposits held by the Institution was estimated at EUR [...] on 25 February 2022. [...].

(117) The compensation of the Institution’s covered depositors can be ensured in the present case [...].

(118) [...]

(119) [...]

(120) [...]

4.2.3.3 Protecting public funds by minimising reliance on extraordinary public financial support

(121) Given the latest information available, there are no elements indicating that extraordinary public financial support, within the meaning of Article 3(1)(29) of Regulation (EU) No 806/2014, would be provided in case normal insolvency proceedings are initiated with respect to the Institution.

(122) In this regard, it should be clarified that any pay-out by the DGS to covered depositors in insolvency proceedings would not qualify, as such, as extraordinary public financial support within the meaning of Article 3(1)(29) of Regulation (EU) No 806/2014, and, therefore, it is not taken into account for the purposes of this determination.¹⁹

¹⁶ [...]

¹⁷ [...]

¹⁸ [...]

¹⁹ Cf. European Commission, Communication from the Commission on the application, from 1 August 2013, of State aid rules to support measures in favour of banks in the context of the financial crisis, O.J C 216, 30 July 2013, p. 1, para.63.

- (123) If any DGS funds are used to assist, for instance, to finance the transfer of assets and liabilities of the Institution to a purchaser in case of liquidation, these funds could qualify as State aid and therefore as extraordinary public financial support. Any such extraordinary public financial support can be provided only if the conditions of the State aid rules are met, which is assessed by the European Commission.
- (124) However, the SRB does not have any indications to conclude that the latter scenario would be applicable in the current situation, since the protection of the Institution's covered depositors can be ensured by other means, as further demonstrated below. Accordingly, the application of normal insolvency proceedings is not envisaged to involve the provision of extraordinary public financial support with respect to the Institution.

4.2.3.4 Protecting depositors covered by Directive 2014/49/EU and investors covered by Directive 97/9/EC

4.2.3.4.1 Protecting depositors covered by Directive 2014/49/EU

- (125) The aggregate amount of the Institution's covered deposits as at 25 February 2022 was EUR [...], approximately [...] % of which are located in the Institution's German branch.
- (126) Austria transposed Directive 2014/49/EU into national law through the adoption of the ESAEG. Covered deposits, as defined in Directive 2014/49/EU, are accordingly protected up to an amount not exceeding EUR 100 000. The DGS is required to repay the covered deposits within 7 working days from the occurrence of a protection event. The ESAEG applies inter alia when insolvency proceedings are initiated in relation to the assets of a credit institution.²⁰
- (127) There are currently three DGSs in Austria:
- a) Einlagensicherung Austria GmbH ("**ESA**"), [...];
 - b) Sparkassen-Haftungs GmbH ("**sHaftung**"), [...]; and
 - c) ÖRE, [...].

The Institution is a member of ESA.

- (128) Given that the Institution was on 22 May 2013 granted a licence for deposit business according to Article 1(1) no. 1 of the BWG, there would be a special case of financing the pay-out event according to Article 27(1) no. 1 of the ESAEG. Each Austrian DGS will therefore make financial means available according to the ratio of the total amount of covered deposits of their members as a proportion of the total covered deposits of the members of all Austrian DGS as of 31 December 2021.

²⁰ Section 9, item 3 of the ESAEG.

(129) In this regard, the Institution held covered deposits in the amount of EUR [...] as at 25 February 2022. This amount would be disbursed by the three Austrian DGS as follows:

- a) EUR [...];
- b) EUR [...]; and
- c) EUR [...].

(130) In view of the above, the SRB concludes that the protection of covered depositors in line with Directive 2014/49/EU will be ensured in case of application of normal insolvency proceedings.

4.2.3.4.2 Protecting investors covered by Directive 97/9/EC

(131) According to the latest available data, the Institution does not provide any investment service which would be subject to the investor compensation scheme.

(132) In light of the above, the SRB concludes that the protection of investors covered by Directive 97/9/EC would not be at risk in case of application of normal insolvency proceedings.

4.2.3.5 Protecting client funds and client assets

(133) According to the latest available data, the Institution does not provide client custody services, nor hold any client assets or client funds.

(134) In light of the above, the SRB concludes that the protection of client funds and client assets would not be at risk in case of application of normal insolvency proceedings.

4.2.3.6 Conclusion that resolution action is not necessary in the public interest

(135) Having considered all of the aspects outlined in the above recitals and taking into account the nature and the circumstances of the present case at the date of this Decision, the SRB concludes that winding up the Institution under normal insolvency proceedings does not put the resolution objectives at risk. Taking resolution action is therefore not necessary for the achievement of the resolution objectives and thus not necessary in the public interest, within the meaning of Article 18(1)(c) and (5) of Regulation (EU) No 806/2014.

5. General Conclusion: Adoption of a resolution scheme is not required

(136) It follows from the considerations above that the conditions for resolution set out in Articles 18(1)(a) and 18(1)(b) of Regulation (EU) No 806/2014 in respect of the Institution are met. However, the condition set out in Article 18(1)(c) of the said regulation is not met. Accordingly,

the SRB will not adopt a resolution scheme which would place the Institution under resolution, further to Article 18(6) of Regulation (EU) No 806/2014.

HAS ADOPTED THIS DECISION:

Article 1

Determination not to place Sberbank Europe AG under resolution

Sberbank Europe AG shall not be placed under resolution.

Article 2

Addressee

This Decision is addressed to the Finanzmarktaufsicht (Financial Market Authority), in its capacity as National Resolution Authority, within the meaning of Article 3(1)(3) of Regulation (EU) No 806/2014.

Done in Brussels, on 01 March 2022

For the Single Resolution Board,

The Chair

Elke KÖNIG