Single Resolution Board

SRB-GREEN

DECISION OF THE SINGLE RESOLUTION BOARD

Date	09/12/2024
Title	**Decision determining whether compensation needs to be granted to the shareholders affected by the resolution of Sberbank banka d.d.**
Reference	(**SRB/EES/2024/111)**

(Only the English text is authentic)

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 1093/2010,[1] and in particular paragraphs (16), (17) and (18) of Article 20 as well as Article 76(1)(e) thereof,

Whereas:

1. Background

(1) On 31 January 2022, the Single Resolution Board ("SRB") was informed that the European Central Bank ("ECB") decided to activate enhanced monitoring of Sberbank Europe AG, together with its subsidiaries including, among others, Sberbank banka d.d. (the "Entity") in accordance with the Emergency Action Plan framework.

(2) On 27 February 2022, the ECB reached the conclusion that the Entity would, in the near future, be unable to pay its debts or other liabilities as they fall due. Therefore, the Entity was deemed to be failing or likely to fail ("FOLTF") 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.

(3) On 27 February 2022, the Board adopted a decision concerning the exercise of its powers to suspend certain obligations, in respect of the Entity, under Article 33a of Directive 2014/59/EU[2] (as transposed under national law) ("moratorium"), and instructed the Bank of Slovenia to implement that decision in accordance with the national law. By virtue of this decision, until 1 March 2022 (at 23:59:59) (i) all payment or delivery obligations pursuant to any contract to which the Entity, were parties, including eligible deposits, were suspended,[3] (ii) all secured creditors of the Entity were restricted from enforcing security interests in relation to any of the assets of those institutions; and (iii) all the termination rights of any party to a contract with the Entity were suspended.

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1 OJ L 225, 30.7.2014, p.1.

2 SRB/EES/2022/18.

3 With the exception of payment or delivery obligations to: systems and operators of systems designated in accordance with Directive 98/26/EC; CCPs authorised in the Union pursuant to Article 14 of Regulation (EU) No 648/2012 and third-country CCPs recognised by ESMA pursuant to Article 25 of that Regulation; and central banks.

(4) On 1 March 2022, the Board took a decision on the adoption of a resolution scheme regarding the Entity ("Resolution Decision"),[4] as further described in Section 1.1 below. Following the endorsement of the Resolution Decision by the European Commission,[5] the SRB notified the Resolution Decision to the Bank of Slovenia.

(5) On 1 March 2022, the Bank of Slovenia adopted an act implementing the Resolution Decision.[6]

(6) On 5 July 2022, the Board adopted a decision on the deduction of expenses incurred in connection with the use of resolution tools or powers in the context of the resolution of the Entity ("Decision on deduction of expenses")[7] and notified it to the Bank of Slovenia, as further described in Section 1.2 below.

(7) On 7 July 2022, the Bank of Slovenia adopted nine acts implementing the Board's decision on the deduction of expenses. The consideration net of the determined expenses was transferred to the 9 shareholders in respect of which the resolution action concerning the Entity has been effected ("Affected Shareholders") between 7 July and 26 August 2022.

1.1. The Resolution Decision

(8) Article 2 of the Resolution Decision provides that the Entity had to be placed under resolution since the conditions for resolution action under Article 18 of Regulation No 806/2014 were met. In particular, the resolution action was considered necessary for the achievement of, and proportionate to (i) ensuring the continuity of the following critical function: lending to small and medium sized enterprises, and (ii) avoiding significant adverse effects on financial stability. As a consequence, Article 3 of the Resolution Decision provides for the application of the sale of business tool in the form of transfer of shares.

(9) Article 4(1) of the Resolution Decision provides that all shares issued by the Entity shall be transferred to Nova Ljubljanska Banka d.d. (LEI: 5493001BABFV7P27OW30) (the "Purchaser"), which accepted the transfer.

(10) Article 4(3)(first sentence) of the Resolution Decision provides that the consideration to be paid by the Purchaser amounts to EUR 5 108 504.32 and that this consideration shall be paid to the account indicated by the Bank of Slovenia on closing of the transaction.

(11) In line with Article 22(6) of Regulation (EU) No 806/2014, Article 4(3) of the Resolution Decision provides that the Bank of Slovenia will deduct any expenses incurred by the SRB and the Bank of Slovenia in connection with the use of the resolution tools and powers upon instruction by the Board before proceeding with the payment of the consideration.

1.2. The Decision on deduction of expenses and its implementation

(12) Article 1 of the Decision on deduction of expenses determined the amount of the expenses incurred in connection with the use of resolution tools or powers in the context of the resolution of the Entity, i.e.:
(a) The expenses incurred by the SRB amounted to EUR 555 513.22;

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4 SRB/EES/2022/20.
5 Commission Decision of 1 March 2022 endorsing the resolution scheme for Sberbank banka d.d. C(2022) 1402 final.
6 Odločba o prodaji poslovanja in izvajanja pooblastil v zvezi z ukrepi za reševanje of 1 March 2022, Reference Nr. 2.07.2-16/2022-12.
7 SRB/EES/2022/36.

(b) The expenses incurred by Bank of Slovenia amounted to EUR 1 074.85 plus the negative interest accumulated until the date of transfer of the consideration to the former shareholders.[8]

In addition, the SRB instructed the Bank of Slovenia to deduct the amounts referred to in points (a) and (b) above from the consideration received by the Bank of Slovenia from the Purchaser pursuant to Article 1(3) of the above Decision.

(13) On 7 July 2022, in application of the Decision on deduction of expenses, the Bank of Slovenia adopted nine implementing acts. Bank of Slovenia transferred between 7 July and 26 August 2022 the consideration net of the determined expenses (including negative interest of EUR 9 010.65 EUR) to the former shareholders of the Entity, amounting to EUR 4 542 905.60.

2. Procedure

2.1. Procedure related to the appointment of Ebner (including its subcontractor) as independent valuer and to the Valuation 3 Report

(14) Following the implementation of the Resolution Decision, the SRB had to ensure that a valuation of the difference in treatment as referred to in paragraphs (16) to (18) of Article 20 of Regulation (EU) No 806/2014 ("Valuation 3") is carried out as soon as possible by a person independent from any public authority, including the SRB and the national resolution authority, and from the entity concerned, for the purpose of taking a decision whether the Affected Shareholders are entitled to compensation from the Single Resolution Fund ("SRF") in accordance with Article 76(1)(e) of Regulation (EU) No 806/2014.

(15) On 24 February 2022, the SRB entered with Ebner Stolz GmbH & Co.[9] ("Ebner" or the "Valuer")[10] into a specific contract for the provision of financial advice and assistance to the SRB, with a view to ensuring the SRB's preparedness in case of deterioration of the situation of the Entity and the group to which it belongs ("Sberbank group"). In particular, Ebner was awarded the relevant specific contract (SC No. 4), following a reopening of competition in the context of the multiple framework contract for services No SRB/OP/2/2018 that the SRB had signed with seven firms, including Ebner. In accordance with SC No. 4, the assignment of Ebner included, *inter alia*, the performance, after a potential resolution action, of a Valuation 3.

(16) In the context of the preceding procurement procedure leading to the multiple framework contract for services, the SRB had established, based on the information provided by Ebner, that Ebner possessed the necessary qualifications, experience, ability and knowledge in all matters considered relevant by the SRB and that it held, and had access to, human and technical resources appropriate to carry out the relevant valuations. Furthermore, in the context of the procurement procedure leading to the SC No. 4, Ebner was requested to submit to the SRB a general declaration of absence of conflict of interest in relation to Sberbank Europe AG and its subsidiaries, including the Entity. Ebner submitted such declaration to the SRB on 16 February 2022. On 21 February 2022, Ebner also provided a declaration concerning its independence in accordance with the Commission Delegated Regulation (EU) 2016/1075.[11]

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8 The negative interest amounted to EUR 9 010.65.

9 Ebner Stolz GmbH & Co was renamed to "RSM Ebner Stolz GmbH" in October 2023.

10 References to the Valuer in the subsequent sections of the Report shall be considered as encompassing its Subcontractor, as explained in recital (18).

11 Commission Delegated Regulation (EU) 2016/1075 of 23 March 2016 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the content of recovery plans, resolution plans and group resolution plans, the minimum criteria that the competent authority is to assess as regards recovery plans and group recovery plans, the conditions for group financial support, the requirements for independent valuers, the contractual recognition of write-down and conversion powers, the procedures and contents of notification requirements and of notice of suspension and the operational functioning of the resolution colleges, OJ L 184, 8.7.2016, p. 1.

(17) Following the implementation of the Resolution Decision, Ebner, appointed as independent valuer, performed the Valuation 3 starting in May 2022.[12]

(18) On 6 April 2022, Ebner requested the SRB the addition of a subcontractor, i.e. Schoenherr Rechtsanwälte GmbH ("Schoenherr" or the "Subcontractor"), in order to receive assistance on some legal aspects, including the ones related to Slovenian insolvency law. Throughout the provision of the valuation services, Ebner provided updated declarations of independence and absence of conflict of interest, covering also the team members of the Subcontractor.[13]

(19) On 11 April 2024,[14] the SRB received Ebner's report on the Valuation 3 in respect of the Entity ("Valuation 3 Report"), which is attached to the present decision as Annex I. The main elements of the Valuation 3 Report are also described in Section 5 below.

(20) The SRB adopted its Notice of 4 July 2024 ("Notice")[15] setting out its preliminary decision that it is not required to pay compensation to the Affected Shareholders pursuant to Article 76(1)(e) of Regulation (EU) No 806/2014. In particular, the SRB considered that the Valuation 3 Report constituted an appropriate and sufficient basis for the SRB to take a preliminary decision whether compensation needs to be granted to the Affected Shareholders. The SRB noted that it follows from the Valuation 3 Report that there would have been no difference between the actual treatment of the Affected Shareholders and the treatment that they would have received had the Institution been wound up under normal insolvency proceedings on the date of the Resolution Decision, namely 1 March 2022 ("Resolution Date").

2.2. Right to be heard process and review of the comments received from the Affected Shareholders

(21) On 5 July 2024, the SRB addressed letters to the Affected Shareholders by which it launched the right to be heard process on the Notice. The SRB invited the Affected Shareholders to provide written comments on its preliminary decision not to compensate the Affected Shareholders, as described in the Notice, and, in particular, in the Valuation 3 Report.[16] The SRB set the deadline for the submission of written comments at 21 August 2024. During this process, the Affected Shareholders were able to submit comments to inform the final decision of the SRB as to whether compensation needs to be granted to them on the basis of Article 76(1)(e) of Regulation (EU) No 806/2014. For that purpose, the SRB invited the Affected Shareholders to fill in a template.

(22) During the right to be heard period to provide written comments, the SRB received one request for the extension of the deadline until 21 November 2024 and for access to file within the meaning of Article 41 of the Charter on Fundamental Rights of the European Union.

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12 The initial contract duration was until 23 November 2022, which was extended several times until 1 December 2023, date after which it could not be extended further, due to the expiration of the Framework Contract. For the purpose of the procedure, the SRB launched a negotiated procedure (SRB/NEG/37/2023) and signed a new contract with Ebner on 1 December 2023.

13 For more details, see recital (51).

14 While a soft copy of the Valuation 3 Report was received electronically on 11 April, the SRB received the Valuation 3 Report by mail on 16 April 2024.

15 Notice of the Single Resolution Board of 4 July 2024 regarding its preliminary decision on whether compensation needs to be granted to the shareholders in respect of which the resolution action concerning Sberbank banka d.d. has been effected and the launching of the right to be heard process.

16 To this end, the SRB provided the Affected Shareholders with a redacted version of the Valuation 3 Report, after taking into account the limitations as regards disclosure of confidential information set forth in Article 88 of Regulation (EU) No 806/2014 and the data protection requirements deriving from Article 89 of Regulation (EU) 806/2014.

(23) By its letter dated 19 July 2024, the SRB responded to the request of one of the Affected Shareholders for access to file, granting access to the file of the Entity and the file of Sberbank d.d..[17]

(24) By its letter dated 26 July 2024, the SRB responded to the request of the Affected Shareholder for the extension of the deadline for the right to be heard. Taking into account the Affected Shareholder's request and the circumstances of the case, the SRB agreed to extend the deadline until 16 September 2024 (23:59:59, Brussels time). The same extension of the deadline was also communicated to all the Affected Shareholders.

(25) On 1 August 2024, the legal representative of the above Affected Shareholder addressed two letters to the SRB ("Letter 1" and "Letter 2").

(26) In Letter 1, the above Affected Shareholder indicated that the list of documents provided in response to the access to the file request was incomplete and requested the SRB to provide: a complete list of, and access to, all of the documentation in relation to the instruction of Ebner and all communications between the SRB and Ebner (request A); and a complete list of, and access to, all of the underlying factual and financial information, as well as all other documents on which the work of Ebner is based and which was made available to Ebner for this purpose including by the SRB as well as by the banks directly (request B). In relation to the documents which the SRB provided access to, the Affected Shareholder indicated that the SRB had redacted the names of every single person involved in the preparation of the Valuation 3 reports, including individuals from the SRB, from Ebner, and from Schoenherr, and requested the SRB to remove all of the redactions in the provided documents (request C). Finally, the above Affected Shareholder claimed that the SRB has failed to consider the request pursuant to the public access regime (request D).

(27) In Letter 2, the above Affected Shareholder indicated that it was not possible to review the documents and prepare the comments in a meaningful way in the short period of time given, also considering in its view the fact that the Affected Shareholder was not been given a proper access to the file. Therefore, the Affected Shareholder reiterated its request for an extension of the deadline to provide comments until 21 November 2024, reserving its right to request additional extensions of the deadline if access to a more complete file was not granted within a reasonable time.

(28) By its letter dated 15 August 2024, the SRB responded to the requests of the Affected Shareholder.

(29) With regard to the request A formulated in Letter 1, the SRB considered that all relevant correspondence between the SRB and Ebner that informed the SRB Notice concerning Sberbank banka d.d. is included within the file to which the Affected Shareholder was granted access by the SRB letter dated 19 July 2024. The SRB considered that any other correspondence with Ebner contains confidential information and qualifies as internal preparatory documents to which the right of access to the file does not extend pursuant to Article 90(4)(second sentence) of Regulation (EU) No 806/2014. In particular, the SRB considered crucial to safeguard the confidentiality of such information, since disclosure of these

[17] The file concerning Sberbank banka d.d. contained declarations of Ebner of absence of conflicts of interest, declarations concerning the independence of the Valuer, letters from Schoenherr, the V3 Report and relevant correspondence with Ebner (see recitals (51)-(53)). The SRB redacted certain parts of the documents to protect confidential information, business secrets/commercial sensitive information and public interest as regards financial, monetary or economic policy, and to give full effect to the right to protection of personal data pursuant to Article 89 of Regulation (EU) No 806/2014.

documents would reveal preliminary considerations of the Valuer and not the final assessment of the Valuer. It is noted that the provided files include the final documents provided by the Valuer which present the final assessments of the Valuer. In addition, previous drafts of the Valuation 3 Report qualify as business secrets of the Valuer and their disclosure could harm the commercial interests of the Valuer. Disclosure of any exchanges of the SRB with the Valuer, which aim to ensure the completeness, sufficient reasoning and the compliance of the Valuation 3 Report with the legal framework, while respecting the independence of the valuer, would bring a risk of self-censorship of the SRB in the future and undermine the ability of the SRB to exchange freely with the valuer to achieve the above purposes. Finally, the SRB considered that the various communications between the SRB and Ebner constitute internal correspondence, including correspondence that contains the exchange of preliminary legal opinions.

(30) With respect to request B in Letter 1, the SRB considered that the Valuation 3 Report constitutes an appropriate and sufficient basis for the SRB to reach its preliminary decisions as included in the SRB Notice concerning Sberbank banka d.d. and, in particular, that the information included therein was sufficient for the SRB to understand and assess the methodology applied by the valuer in the respective Valuation 3 Report. In light of this, the SRB indicated that the documents or information mentioned under request B do not constitute part of the files in the sense of Article 90(4) of Regulation (EU) No 806/2014, since they were not considered necessary for the SRB to reach its preliminary decisions.

(31) In relation request C in Letter 1, the SRB considered that the request of the Affected Shareholder for transmission of the names of the individual staff members from Ebner and Schoenherr does not establish the necessity of such transmission for a specific purpose in the public interest, pursuant to Article 9 of Regulation (EU) 2018/1725. In particular, the Affected Shareholder only referred to their personal interest to have access to the above personal data for the purposes of providing views on the independence of the valuer. More importantly, the SRB considered that the documentation submitted within the files to which the Affected Shareholder was granted access by the SRB's letter dated 19 July 2024 provides all the elements to assess the independence of the Valuer. In particular, those documents include information on the services provided by Ebner and Schoenherr at entity level. Therefore, in light of the above, the provision of names of the individuals from Ebner and Schoenherr is not considered necessary. Having balanced the various competing interests pursuant to Article 9 of Regulation (EU) 2018/1725, the SRB did not consider proportionate to transmit personal data of individuals from Ebner, and Schoenherr. In addition, granting access to such personal data of individual staff members of the valuer could undermine the willingness of other valuers to perform such valuations in future cases and therefore the SRB decision making process.

(32) As regards the request for access to the names of individual staff members of the SRB, the SRB considered that the Affected Shareholder did not establish the necessity of accessing such information, since the Affected Shareholder did not provide any reason for such transmission.

(33) With regard to request D under Letter 1, the SRB considered that the Affected Shareholder initially requested the SRB to provide "*access to the file within the meaning of Art. 41 of the Charter on Fundamental Rights of the European Union*" (emphasis added). The SRB processed this request consistently with the legal basis expressly invoked therein.

(34) With regard to the request under Letter 2, since there were no new circumstances warranting a further extension of the deadline for the submission of written comments in the context of the

right to be heard process on the SRB Notice concerning Sberbank banka d.d., the SRB reaffirmed the deadline as set out in its letter dated 26 July 2024.

(35) On 16 September 2024, one Affected Shareholder submitted a letter including their comments on the valuation 3 report regarding the Entity. No comments were received from other Affected Shareholders, while all of them confirmed receipt of the letter of the SRB dated 5 July 2024 launching the right to be heard process.

(36) For the purpose of the present decision, the SRB carefully examined the comments received to determine whether they related to its preliminary decision or to the Valuation 3 Report. As regards the relevant comments related to the Valuation 3 Report, in order to reach its conclusion whether these comments could impact its preliminary decision, the SRB requested Ebner, in its role of independent valuer, to provide its independent assessment of these relevant comments and to consider whether the Valuation 3 Report remained valid in light of these comments.

(37) Ebner provided its independent assessment by its letter dated 18 November 2024 (the "**Clarification Letter**").[18] It is attached to this Decision as **Annex II**.

(38) The relevant comments from the Affected Shareholder will be described and assessed below (see Section 6 below).

3. Legal Framework

(39) Article 15(1)(g) of Regulation (EU) No 806/2014 establishes the "*no creditor worse off*" ("NCWO") principle, namely that no creditor shall incur greater losses in resolution than would have been incurred had the entity been wound up under normal insolvency proceedings. This principle aims to implement in the resolution framework the safeguards set out in Articles 17 and 52 of the Charter of Fundamental Rights of the European Union ("Charter")[19] under which limitations to the rights of property are allowed under specific circumstances, provided that a "*fair compensation*" is paid.

(40) In order to make those safeguards effective, paragraph (16) of Article 20 of Regulation (EU) No 806/2014 requires a valuation of difference in treatment to be carried out *"for the purposes of assessing whether shareholders and creditors would have received better treatment if the institution under resolution had entered into normal insolvency proceedings*". Such a valuation, also known as a valuation 3, is to be carried out by an independent person *"as soon as possible after the resolution action or actions have been effected"*.

(41) Article 20(1) of Regulation (EU) No 806/2014 sets out the requirements that the valuer must fulfill to be considered independent. In particular, the valuer must be independent from any public authority, including the SRB and the national resolution authority, and from the entity concerned.

(42) Articles 38-41 of the Commission Delegated Regulation (EU) 2016/1075 specify the elements of independence. Accordingly, a valuer shall be deemed to be independent from any relevant public authority and the relevant entity where it: (i) possesses the qualifications, experience, ability, knowledge and resources required and can carry out the valuation effectively without

[18] See Section 6.2 below.

[19] Charter of Fundamental Rights of the European Union, OJ C 326, 26.10.2012, p. 391–407. See also recitals 61 and 62 of Regulation (EU) No 806/2014.

undue reliance on any relevant public authority or the relevant entity in accordance with Article 39 of that Commission Delegated Regulation; (ii) is legally separated from the relevant public authorities and the relevant entity in accordance with Article 40 of that Commission Delegated Regulation; and (iii) has no material common or conflicting interest within the meaning of Article 41 of that Commission Delegated Regulation.

(43) The methodology to be used to conduct a valuation 3 has been further outlined in the Commission Delegated Regulation (EU) 2018/344, which sets out the regulatory technical standards specifying the criteria relating to the methodologies for valuation of difference in treatment in resolution.[20]

(44) In accordance with Article 20(17) of Regulation (EU) No 806/2014 and Article 3 of the Commission Delegated Regulation (EU) 2018/344, a valuation 3 shall determine:

(i) the treatment that shareholders and creditors in respect of which resolution actions have been effected, or the relevant deposit guarantee scheme, would have received had the entity entered into normal insolvency proceedings at the time when the resolution decision is taken, disregarding any provision of extraordinary public financial support;

(ii) the value of the restructured claims or other proceeds received by the above shareholders and creditors as at the actual treatment date, discounted back to the date when the resolution decision is taken, if necessary; and

(iii) whether the outcome of the treatment under point (i) exceeds the outcome of the value referred to in point (ii) for each creditor.

(45) It follows that the independent valuer shall compare the treatment of the affected creditors and shareholders under the actual resolution scheme versus the counterfactual hypothetical scenario of normal insolvency proceedings. When considering the relevant counterfactual scenario of normal insolvency proceedings, the entity's discounted expected cash flows are determined also factoring in the impact of insolvency laws and practices in the relevant jurisdiction, as well as the costs associated with the insolvency proceedings and overall process.[21]

(46) The legal framework provides that a valuation 3 shall be based on information concerning facts and circumstances that existed and could reasonably have been known as of the resolution decision date, which, had they been known, would have affected the measurement of the entity's assets and liabilities at that date.[22] The independent valuer shall prepare a valuation report, which shall include at least a summary of the valuation, an explanation of the key methodologies and assumptions adopted, and how sensitive the valuation is to these choices, and an explanation, where feasible, why the valuation differs from other relevant valuations.[23]

(47) If the independent valuer determines in its valuation 3 that the affected shareholders and creditors have incurred greater losses through the resolution scheme than they would have incurred under normal insolvency proceedings, they would be entitled to compensation for the difference in treatment from the SRF, pursuant to Article 76(1)(e) of Regulation (EU) No 806/2014.

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20 Commission Delegated Regulation (EU) 2018/344 of 14 November 2017 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the criteria relating to the methodologies for valuation of difference in treatment in resolution, OJ L 67, 9.3.2018, p. 3-7.

21 Article 4 of Commission Delegated Regulation (EU) 2018/344.

22 Article 1(1) of Commission Delegated Regulation (EU) 2018/344.

23 Article 6 of Commission Delegated Regulation (EU) 2018/344.

4. Ebner and its Subcontractor as independent valuer

(48) The SRB considers that the Valuer represented an independent valuer in line with the requirements of Article 20(1) of Regulation (EU) No 806/2014 and Chapter IV of the Commission Delegated Regulation (EU) 2016/1075.

(49) As noted above in Section 2, the SRB selected Ebner as an independent valuer through a public procurement procedure. In accordance with this procedure, the SRB examined and ensured that Ebner possessed the necessary qualifications, experience, ability, as well as knowledge and resources to carry out the valuations effectively without undue reliance on any relevant public authority or the Entity in line with the requirements of Articles 38(1) and 39 of the Commission Delegated Regulation (EU) 2016/1075. In particular, the SRB concluded that Ebner – taking into account the nature, size and complexity of the valuation to be performed – holds such human and technical resources appropriate to carry out Valuation 3 in line with Article 39(2) of the Commission Delegated Regulation (EU) 2016/1075. Moreover, the SRB considers that Ebner also qualifies as a legal entity independent from public authorities and from the Entity within the meaning of Article 20(1) and (17) of Regulation (EU) No 806/2014. In fact, Ebner is fully independent from the SRB and has not been engaged for the annual accounting work of the Entity.

(50) For the purpose of conducting the Valuation 3, Ebner requested the SRB to add the law firm Schoenherr as a subcontractor, in charge of providing the Ebner with advice on certain legal aspects concerning insolvency law in Slovenia. The SRB examined and ensured that also Schoenherr complied with the independence requirements laid down in Articles 38-41 of the Commission Delegated Regulation 2016/1075.

(51) With particular regard to the absence of actual or potential material common or conflicting interests, as required by Article 41 of the Commission Delegated Regulation (EU) 2016/1075, both Ebner and Schoenherr undertook an internal conflict check in accordance with applicable professional standards. Based on the outcome of that conflict check, Ebner considered itself and the Subcontractor not to be conflicted with respect to its appointment as independent valuer. In this regard, Ebner has provided the SRB with:

a. a general declaration of absence of conflict of interest in relation to the Sberbank group, including the Entity, on 16 February 2022, and an updated subsequent declaration, including the Subcontractor, on 29 April 2022;

b. a declaration concerning its independence on 21 February 2022: by this declaration, Ebner stated that it was aware of the relevant legal requirements and that appropriate arrangements had been made, where necessary, to ensure that neither Ebner nor the specific team members had any material interest, as defined in Article 41 of the Commission Delegated Regulation (EU) 2016/1075. Ebner provided an updated declaration of independence, also including the team members of the Subcontractor, on 29 April 2022. With letter of 2 June 2022, Schoenherr provided additional elements regarding its independence;

c. Any addition of a new member to the team working on the Valuation 3 was subject to compliance with the independence requirements and to prior SRB's approval to ensure the necessary professional qualifications and experience. In particular, Ebner provided additional declarations, dated 1 July 2022, 5 September 2022, 30 January 2023, 11 June 2023, 23 June 2023, 25 and 27 October 2023 concerning its independence following the addition of new members of the team working on the Valuation 3, thereby ensuring that the Valuer's independence was preserved during the whole duration of the services;

d. In the context of the new contract (SRB/NEG/37/2023), Ebner confirmed the previous declarations of independence with its declaration dated 23 November 2023, covering all team members (i.e., both Ebner and Schoenherr staff) involved in the performance of the Valuation 3 services at the time of the declaration. In addition, the SRB team requested Ebner and Schoenherr to confirm that they have not provided any services to the relevant entities. Schoenherr provided a letter dated 16 January 2024 including information related to its independence; Schoenherr provided further clarifications with its letter dated 12 March 2024. By its letter dated 24 June 2024, Schoenherr provided additional information related to its independence;

e. At the time of providing the Clarification Letter, the SRB requested, and Ebner provided, an updated declaration of independence dated 21 November 2024 covering the team members involved in the preparation of the Clarification Letter.

(52) Ebner confirmed that it has not provided any services to any entity of the Sberbank group, including the Entity, nor to the Purchaser.

(53) In light of the information received, Schoenherr has provided services to (i) the Purchaser, (ii) N Banka (as the Entity was renamed after its acquisition by the Purchaser), (iii) entities of the Sberbank group, including the Entity. More specifically:

a. Schoenherr provided services to the Purchaser in the past years on various matters, including M&A transactions (with the Purchaser acting as seller and in the context of the acquisition of an entity not related to the Sberbank group), legal opinions on various complex legal matters – including on questions of governance and compliance - and financial restructurings with the Purchaser acting as the lead lender or a member of a coordinating committee of lenders. In light of the provided information, there is no direct link between the work performed by Schoenherr for the Purchaser and the Valuation 3 services provided to the SRB in respect of the Entity;

b. Schoenherr provided services to N Banka on certain aspects regarding its exposures *vis-a-vis* its former Czech and Hungarian affiliates (Sberbank Czech Republic and Sberbank Hungary);

c. In addition, Schoenherr put in place ring-fencing measures (separation of teams/information barriers) between the team providing services with respect to N Banka and the team providing Valuation 3 Services to the SRB;

d. Schoenherr also provided services to the Sberbank group during the nine years preceding the letter of Schoenherr of June 2022. In particular:

i. The majority of the services related to a single debt restructuring that was completed during 2017 and 2018, while the remaining services related to standard and day-to-day work for credit institutions;

ii. The amount of fees invoiced to the Entity in the nine years preceding the letter of Schoenherr of June 2022 was not significant while the amount of fees provided in the three years preceding the letter of Schoenherr was very low;

(54) Based on these declarations and assurances provided by Ebner and its Subcontractor, the SRB considers that the Valuer applied sufficient safeguards to avoid that actual or potential material interests in common or in conflict with any relevant public authority or the relevant entity (i.e. the Entity) could arise.

(55) In particular, in relation to the requirements of independence on the absence of a material interest in common or in conflict, as laid down in Article 41 of the Commission Delegated Regulation 2016/1075, the SRB considers that:

a. The provision of such services to the Purchaser does not undermine the independence of Schoenherr since: i) the services to the Purchaser are not linked with the Valuation 3 services provided to the SRB in respect of the Entity and ii) the outcome of the Valuation 3 does not affect the Purchaser's situation[24]. The only effect of Valuation 3 would be ultimately on the SRB, which would be required to pay compensation from the SRF in case of a difference in treatment;

b. The conclusion that there is no material common or conflicting interest of Schoenherr with N Banka is supported by the fact that Schoenherr has put in place ring fencing measures (such as separation of teams, confidentiality obligations and technical measures) between the team providing services with respect to N Banka and the team providing Valuation 3 services to the SRB, in order to address any threats to independence. Such measures were maintained throughout the performance of the Valuation 3 services;

c. The independence of Schoenherr is not materially affected by the services provided to the Sberbank group given:

- the time elapsed from the services provided to Sberbank group in relation to the debt restructuring in 2017-2018;
- there is no direct link between the Valuation 3 services that Schoenherr performed for the SRB and other services provided to other Sberbank entities since those related to standard and day-to-day work for credit institutions; and
- the non-significant fees invoiced to the Entity during the nine years preceding the letter of Schoenherr of June 2022 and the minimal amount of fees invoiced to the Entity over the three years preceding that letter.

(56) In light of the above, the SRB considers that Ebner and its Subcontractor represented an independent valuer in line with the requirements of Article 20(16) and Article 20(17) of Regulation (EU) No 806/2014 and Articles 38 to 41 of the Commission Delegated Regulation (EU) 2016/1075.

5. Valuation 3 Report

(57) The Valuer has conducted a Valuation 3 with respect to the Entity in line with Regulation (EU) No 806/2014 and the Commission Delegated Regulation (EU) 2018/344. The Valuation 3 Report includes the elements under recital (44) above and is attached to the present decision as Annex I.

5.1. Treatment of Affected Shareholders under normal insolvency proceedings

(58) First, the Valuer had to determine the treatment that Affected shareholders in respect of which resolution actions have been effected would have received if the Entity had been wound up under normal insolvency proceedings at the time when the Resolution Decision was taken.

[24] See, in this regard, as basis for the SRB assessment, Judgment of 22 November 2023, *Molina Fernandez v. SRB*, T-304/20, ECLI:EU:T:2023:734, paragraphs 134-135 and 150-163, and Judgment of 22 November 2023, *ACMO v. SRB*, ECLI:EU:T:2023:733, paragraphs 320 et seq.

(59) For the purposes of the Valuation 3 Report, Affected Shareholders pursuant to Article 3 of the Commission Delegated Regulation (EU) 2018/344, were considered as referring to the former holders of the Entity's share capital.

(60) In line with Article 20(18)(a) of Regulation (EU) No 806/2014 and Article 1(1) of the Commission Delegated Regulation (EU) 2018/344, the reference date of the Valuation 3 Report was the date of the Resolution Decision, i.e. 1 March 2022. The Entity provided the Valuer with financial information as of 28 February 2022, which does not materially differ from the financial information as of 1 March 2022. When necessary, the basis of preparation was complemented by financial information of previous dates, especially as of 31 December 2021. However, for the derivation of the creditor hierarchy the Entity could only provide the data as of 31 December 2021, and the Valuer had to use appropriate proxies for the liability's amounts as of 28 February 2022. However, according to the Valuer, this assessment did not influence the outcome of the Valuation.

(61) In line with Article 20(16) of Regulation (EU) No 806/2014, the Valuer identified the "normal insolvency proceedings" under the Slovenian law to be used as counterfactual for the purposes of Valuation 3. According to Articles 5(42) and 168 of the Slovenian Resolution and Compulsory Winding-Up of Banks Act (ZRPPB-1), the Valuer considered that the opening of normal insolvency proceedings for the Entity would have resulted, under the national law, in a two-stage procedure, i.e. a compulsory liquidation followed by bankruptcy proceedings. As regards the conditions for the opening of the compulsory liquidation proceedings, in accordance with Article 173 in connection with Article 74(1) of the ZRPPB-1 the compulsory liquidation proceedings shall be commenced based on the relevant decision of the Bank of Slovenia, which is issued *ex officio* if, *inter alia*, the ECB has revoked the Bank's license to provide banking services. The SRB notes that at the time of the resolution, following the end of the moratorium (on 1st March at 23:59:59), the Entity could no longer be expected to meet its obligations towards its creditors and no longer provided adequate guarantees for the funds entrusted to the bank by its depositors. This conclusion is supported by the significant outflows in the days before resolution (i.e. in the days preceding the FOLTF assessment and the requests for outflows during the moratorium). Therefore, in case no resolution action had been taken, the Entity would have met one of the conditions for the withdrawal of the banking authorisation, according to Article 293(2)(5) of the Slovenian Law on Banking, and such withdrawal would have led to the initiation of a compulsory liquidation procedure.

(62) Compulsory liquidation, and the subsequent bankruptcy proceedings, are proceedings which would have been carried out by the Bank of Slovenia to close the Entity's operations and settle its liabilities to creditors. As the compulsory liquidation phase begins, the Court appoints a liquidator whose main task is to recover the assets of the Entity, realise them and distribute the proceeds to the creditors and shareholders, according to the legally prescribed creditor hierarchy.

(63) For the performance of the Valuation 3, the Valuer considered the macroeconomic context as expected at the Resolution Date. In this regard, the Valuer used macroeconomic projections from Bank of Slovenia, European Commission and Eurostat as a reference point for expectations as of the Resolution Date of the macroeconomic conditions in the years during which the liquidation of the Entity would occur. These macroeconomic projections were used to derive appropriate benchmarks for loan probabilities of default, loss given default or realisable values for real estate collaterals.

(64) The Valuer noted that the liquidator's ultimate objective would have been to carry out the asset realisation within a reasonable period of time. In this respect, the Valuer took into account three alternative time scenarios, of 3 years, 5 years and 7 years of insolvency proceedings, each including a best-case scenario, a worst-case scenario and a best estimate scenario. In

developing these scenarios the Valuer took into account the complexity of the hypothetical proceedings and past insolvency cases, where relevant. The Valuer considered a 3-year insolvency scenario as 'probable' (to which it assigned a probability of occurrence higher than 50%), while a 5-year and 7-year scenarios were considered 'reasonably possible' (probability of 10-50%) and 'remote' (probability of 10%), respectively. In determining the likelihood of each scenario, the Valuer considered the creditor hierarchy, the claims assigned to each creditor group, the liquidation proceeds and how they would have been distributed among the groups in each scenario.

(65) The Valuer assessed that a longer liquidation period than the 7-year scenario would inevitably lead to higher liquidation costs, higher management and maintenance costs and increased uncertainty for the liquidator in terms of the levels of asset realisations and thus considered that the liquidator would be unwilling to speculate as to possible increased realisations in the future which are highly uncertain.

(66) For each asset class, the Valuer applied specific assumptions on its valuation methodologies to estimate the recovery value. Where the outcome of the asset realisation strategies is dependent on factors that cannot be known with certainty, the Valuer presented a best-case, best-estimate and worst-case scenario within each of the three alternative time scenarios. The Valuer estimated asset realisations based on the updated balance sheet with EUR 1.52 bn as at 28 February 2022. The liquidator would have been able, depending on the scenario, to recover between EUR 1.15 bn (in the worst case of the 3-year liquidation period scenario) and EUR 1.33 bn (in the best case of the 7 years liquidation scenario).

(67) The estimated realisation value of the assets as well as the estimate of liquidation costs and potential disbursements from contingent liabilities for each of the scenarios have been summarised by the Valuer in Table 1 below.[25]

Table 1: Estimated asset realisations and insolvency proceeds

Estimated Asset Realisations and Insolvency Proceeds (kEUR)					
		Chapter	Book Value	Estimated realisation values	
Case	Assets / items		Feb 22	3 years	5 years	7 years
	Total assets other than loans and advances to customers		380.838	363.171	363.171	363.171
Best Case	Loans and advances to customers (FAAC)		1.144.851	924.097	987.535	1.018.233
	Costs of insolvency			-27.402	-33.787	-42.485
	Contingent Liabilities / Guarantees			-7.294	-7.294	-7.294
	Total insolvency proceeds		**1.525.690**	**1.252.572**	**1.309.625**	**1.331.625**
Best Estimate	Loans and advances to customers (FAAC)		1.144.851	910.334	970.421	999.113
	Costs of insolvency			-32.613	-39.434	-48.566
	Contingent Liabilities / Guarantees			-26.570	-26.570	-26.570
	Total insolvency proceeds		**1.525.690**	**1.214.322**	**1.267.588**	**1.287.148**
Worst Case	Loans and advances to customers (FAAC)		1.144.851	875.928	924.375	943.250
	Costs of insolvency			-36.254	-43.509	-53.076
	Contingent Liabilities / Guarantees			-46.505	-46.505	-46.505
	Total insolvency proceeds		**1.525.690**	**1.156.340**	**1.197.532**	**1.206.840**

(68) The Valuer established the list of creditor claims in Table 2.[26]

Table 2: Creditor hierarchy and claim amounts

[25] Table 1 herein corresponds to Table 64 of the Valuation 3 Report.
[26] Table 2 herein corresponds to Table 72 of the Valuation 3 Report.

Creditor Hierarchy Slovenia		
Rank	Item	Amount
12	Costs of Insolvency	32,613
11	Secured Liabilities	39,255
9	Covered Deposits	572,324
8	Deposits, not covered but preferential (BRRD art. 108) - Individuals/Micros/SMEs	286,404
6.3	Deposits, not covered and not preferential - Corporates	213,902
6.2	Deposits from institutions and banks other than intragroup liabilities	178,245
6.1	Intragroup liabilities	36,700
5	Balance sheet liabilities arising from derivatives	3,714
Total		1,363,158

(69) The Valuer then allocated the total realisation for shareholders and creditors in each of the time scenarios to the claims, in accordance with their ranking under the applicable insolvency law. The outcome of the allocation of asset realisations would have resulted in the recoveries displayed in Table 3 below[27].

Table 3: Outcome of Resolution Action versus Insolvency

Resolution vs. Best Case Insolvency Scenario (kEUR)									
Item	Sale of Business			3 years		5 years		7 years	
	Outstanding	Recovery Amount	Recovery Rate	Recovery Amount	Recovery Rate	Recovery Amount	Recovery Rate	Recovery Amount	Recovery Rate
Asset Realisation				**1.287.268**		**1.350.706**		**1.381.404**	
Cost of insolvency				-27.402		-33.787		-42.485	
Cash outflows for Cont't liabilities	n.a.	n.a.	n.a.	-7.294		-7.294		-7.294	
Total realization for creditors				**1.252.572**		**1.309.625**		**1.331.625**	
Creditors / Liabilities	1.330.545	1.330.545	100,0%	**1.252.572**	**94,1%**	**1.309.625**	**98,4%**	**1.330.545**	**100,0%**
Shareholder's Equity	195.134	4.543	2,3%	**0**	**0,0%**	**0**	**0,0%**	**1.080**	**0,6%**
Total	**1.525.679**	**1.335.088**	**87,5%**	**1.252.572**	**82,1%**	**1.309.625**	**85,8%**	**1.331.625**	**87,3%**

Resolution vs. Best Estimate Insolvency Scenario (kEUR)									
Item	Sale of Business			3 years		5 years		7 years	
	Outstanding	Recovery Amount	Recovery Rate	Recovery Amount	Recovery Rate	Recovery Amount	Recovery Rate	Recovery Amount	Recovery Rate
Asset Realisation				**1.273.505**		**1.333.592**		**1.362.284**	
Cost of insolvency				-32.613		-39.434		-48.566	
Cash outflows for Cont't liabilities	n.a.	n.a.	n.a.	-26.570		-26.570		-26.570	
Total realisation for all claims				**1.214.322**		**1.267.588**		**1.287.148**	
Creditors / Liabilities	1.330.545	1.330.545	100,0%	**1.214.322**	**91,3%**	**1.267.588**	**95,3%**	**1.287.148**	**96,7%**
Shareholder's Equity	195.134	4.543	2,3%	**0**	**0,0%**	**0**	**0,0%**	**0**	**0,0%**
Total	**1.525.679**	**1.335.088**	**87,5%**	**1.214.322**	**79,6%**	**1.267.588**	**83,1%**	**1.287.148**	**84,4%**

Resolution vs. Worst Case Insolvency Scenario (kEUR)									
Item	Sale of Business			3 years		5 years		7 years	
	Outstanding	Recovery Amount	Recovery Rate	Recovery Amount	Recovery Rate	Recovery Amount	Recovery Rate	Recovery Amount	Recovery Rate
Asset Realisation				**1.239.099**		**1.287.546**		**1.306.421**	
Cost of insolvency				-36.254		-43.509		-53.076	
Cash outflows for Cont't liabilities	n.a.	n.a.	n.a.	-46.505		-46.505		-46.505	
Total realization for creditors				**1.156.340**		**1.197.532**		**1.206.840**	
Creditors / Liabilities	1.330.545	1.330.545	100,0%	**1.156.340**	**86,9%**	**1.197.532**	**90,0%**	**1.206.840**	**90,7%**
Shareholder's Equity	195.134	4.543	2,3%	**0**	**0,0%**	**0**	**0,0%**	**0**	**0,0%**
Total	**1.525.679**	**1.335.088**	**87,5%**	**1.156.340**	**75,8%**	**1.197.532**	**78,5%**	**1.206.840**	**79,1%**

(70) Allocating the total realisations to the above claims, the Valuer concluded that under all the scenarios of 3- and 5-year time scenarios and in the worst case and the best estimate of the 7 year time scenario, no recovery would have been expected under normal insolvency proceedings for the Affected Shareholders. However, in the 7-year time scenario, in the best-

[27] Table 3 herein corresponds to Table 76 of the Valuation 3 Report.

case, the Affected Shareholders would have recovered an amount of EUR 1.08 mn, resulting in losses equal to the 99.4% of the value of their rights.

5.2. Actual treatment of Affected Shareholders in resolution

(71) The consideration paid by the Purchaser for the shares of Sberbank banka d.d., net of expenses, amounted to EUR 4.5 mn. Hence, the resolution action taken in respect of the Entity resulted in the Affected Shareholders bearing losses equal to 97.7% of the value of their rights.

(72) Neither the creditors of the Entity nor the DGS have suffered losses as a result of the resolution action in respect of the Entity.

5.3. Assessment of the difference in treatment

(73) The Valuer then compared the treatment that the Affected Shareholders would have received for all the scenarios with the actual treatment that Affected Shareholders received in the resolution of the Entity. Table 3 above compares the implied recoveries to Affected Shareholders in case of normal insolvency proceedings to their treatment in resolution. In light of the results showed in Table 3, the Valuer concluded that Affected Shareholders would not have received better treatment if the Entity had been wound up under normal insolvency proceedings compared to the treatment received in resolution.

5.4. Compliance of the Valuation 3 Report with the legal framework

(74) The SRB considers that the Valuation 3 Report complies with the requirements of the applicable legal framework and is sufficiently reasoned and comprehensive to form the basis for a decision of the SRB under Article 76(1)(e) of Regulation (EU) No 806/2014.

(75) The Valuation 3 Report assesses the necessary elements set out in Article 20(17) of Regulation (EU) No 806/2014 and Article 3 of Commission Delegated Regulation (EU) 2018/344.

(76) In particular, to perform its valuation, the Valuer relied on all information about facts and circumstances which existed and could reasonably have been known at the Resolution Date, including information on the assets and liabilities of the Entity.

(77) The Valuation 3 Report further explains the key methodologies and assumptions adopted by the Valuer and provides valuation ranges, reflecting the sensitivity of the valuation to different assumptions in line with Article 6(b) Commission Delegated Regulation (EU) 2018/344. It also includes a summary of the valuation together with a presentation of valuation ranges and sources of valuation uncertainty in line with Article 6(a) Commission Delegated Regulation (EU) 2018/344.

(78) In line with Article 4(3) of the Commission Delegated Regulation (EU) 2018/344, the Valuer, when performing the valuation of assets and liabilities and, in particular when determining the expected cash flows under normal insolvency proceedings, took into account the applicable insolvency law, including the creditor hierarchy provided in the relevant jurisdiction and, where relevant, past insolvency cases. The Valuer thus disclosed and clearly explained how the particularities of the insolvency regime in the relevant jurisdiction have been considered.

(79) For assets traded and non-traded in active markets, the Valuer considered the factors referred to in Articles 4(4) and (5) of the Commission Delegated Regulation (EU) 2018/344 and, where appropriate, explained whether the financial condition of the Entity would have affected the expected cash flows. Moreover, the Valuer estimated the costs which could have been reasonably incurred by the liquidator in case of normal insolvency proceedings and in detail

explained the underlying assumptions and reasoning in line with Article 4(3)(b) of the Commission Delegated Regulation (EU) 2018/344.

6. Comments received from Affected Shareholders and their assessment

(80) The subsequent section sets out the SRB's conclusions whether the comments received by the SRB during the right to be heard process could impact its preliminary decision, taking into account the Valuer's Clarification Letter.

(81) The SRB received a letter from an Affected Shareholder on 16 September 2024.

(82) As noted in recital (36), the SRB carefully examined the comments provided. As regards the comments related to the Valuation 3 Report, the SRB's conclusions whether these comments could impact its preliminary decision take into account the Clarification Letter of Ebner.

(83) The comments from the Affected Shareholder are described and assessed in the next subsections by grouping them by topic.

6.1. Comments on the procedure

(84) With regard to the comments on the procedure, and despite the fact that they do not refer to the establishment of the facts and legal elements underlying the SRB's present decision, the SRB has carefully taken into account these considerations when designing and executing the right to be heard process, also in light of the comments received from the Affected Shareholder during the time period available to submit written comments in the context of the right to be heard. The Affected Shareholder raised comments in relation to the design and execution of the right to be heard process, claiming that the SRB would allegedly have breached the Affected Shareholder's right to be heard pursuant to Article 41 of the Charter on Fundamental Rights of the European Union.

(85) Some comments relate to the access to the file and it is alleged that there was no meaningful access to it. In particular, the Affected Shareholder argues that the SRB refused to provide the underlying documents on which, *inter alia*, the Valuation 3 report is based, documents relating to the onboarding of Ebner and Schoenherr and correspondence between the SRB and Ebner.

(86) The Affected Shareholder claims that the SRB did not provide a list of documents that, in their view, the SRB refused to disclose in the letter dated 15 August 2024.

(87) The Affected Shareholder also submits that the documents provided by the SRB contain redactions of the names of individuals involved in the preparation of the Notice and the Valuation 3 Report. The Affected Shareholder argues that this would allegedly render a review of the independence of the valuer impossible.

(88) Comments also relate to the lack of enough time for the Affected Shareholder to review the Notice and the Valuation 3 Report or to engage legal and technical experts to prepare comments.

(89) In this regard, the SRB notes that it has carefully taken into account these considerations when designing and executing the right to be heard process. In addition, the SRB would like to refer to its letter dated 19 July 2024 by which the SRB granted access to file as well as the letters dated 26 July and 15 August 2024, as detailed in section 2 above.

6.2. Comments on the content of the Valuation 3 Report

(90) The Affected Shareholder claims that it is not true that in an insolvency situation every asset needs to be sold separately or in a value destructive way.

(91) Ebner's Clarification Letter stresses that no such statement is referred to in the Valuation 3 Report. With regard to the first part of the Affected Shareholder's claim ('it is not true that in an insolvency situation every asset needs to be sold separately') the Clarification Letter highlights that Articles 206-210 of ZRPPB-1 provide for the sale of business instrument, meaning that all or individual assets, rights or obligations of the bank in compulsory liquidation can be transferred to the transferee. However, the Clarification Letter emphasizes that with respect to the Entity, a sale of the entire bank or business units is highly unlikely. During the winding-up process, the entity is expected to be unable to offer the same level of service, reliability, or access to products, and past winding-ups of similar banks have revealed that customers often move their business to more reliable and financially stable banks. Furthermore, normal insolvency proceedings involve the liquidation of all assets, termination of accounts and the closure of operations, which often makes the banks' business too complex to be sold as a whole. Such a sale would likely be hindered by legal, financial, and regulatory issues that must be addressed before the transaction could succeed. As a result, the Clarification Letter concludes that an orderly sale of single assets or asset portfolios is a probable approach. The Clarification Letter also assesses the sale of particular business units. However, it concludes that it would not be feasible to identify particular business units and assess their potential values, as it would require making numerous assumptions. The Clarification Letter concludes by stating that the disposal would occur through the sale of assets, either as a portfolio or on a piecemeal basis.

(92) Regarding the second part of the Affected Shareholder's claim ('or in a value destructive way'), the Clarification Letter outlines that the Valuation 3 Report shows that a significant number of assets have been valued at least at their accounting value and, in some instances, undisclosed reserves have been identified, resulting in an economic value that exceeds the value in the financial statements of the Entity (e.g. debt securities (section 5.5.3)). The Clarification Letter states that where the valuation has led to a value lower than the accounting value, the Valuation 3 Report provides detailed explanations of the underlying assumptions and considerations in the respective sections of the report (e.g. loans to banks (section 5.5.4), intangible assets (section 5.8) and deferred tax assets (section 5.8)).

(93) The Valuer states at the end of the Clarification Letter that the Affected Shareholder's comment does not change the result of the Valuation 3 Report, whose conclusions remain unaffected.

(94) In addition, the Affected Shareholder refers to the lack of quality of the V3 Report and submits that the Valuer was guided by the SRB in the preparation of the Valuation 3 Report. In this regard, the SRB notes that the Valuation 3 Report is compliant with the legal framework, as mentioned in Section 5.4. Finally, the SRB notes that the Valuer represents an independent valuer in line with the requirements of Article 20(1) of Regulation (EU) No 806/2014 and Chapter IV of the Commission Delegated Regulation (EU) 2016/1075 (Section 4).

(95) In light of the above, the SRB considers that the Valuation 3 Report is an appropriate basis for the SRB to adopt this Decision.

7. Conclusion

(96) It follows from the Valuation 3 Report, in combination with the Clarification Letter and the conclusions drawn in section 6.2, that there is no difference between the actual treatment of

the Affected Shareholders in resolution and the treatment that they would have received had the Entity been wound up under normal insolvency proceedings at the Resolution Date.

8. Implementation

(97) In accordance with Article 29(1) of Regulation (EU) No 806/2014, national resolution authorities shall implement decisions of the Board by exercising their powers under national law transposing Directive 2014/59/EU and in accordance with the conditions laid down in the national law. In this case, the Bank of Slovenia, in its capacity as national resolution authority, should ensure the communication to the Affected Shareholders of the present decision, including its annexes, which the SRB addresses to the national resolution authority, with the exception of the information that the SRB has identified as meriting protection under the data protection requirements deriving from Article 89 of Regulation (EU) 806/2014 and the confidentiality requirements derived from Article 88 of Regulation (EU) 806/2014 and Article 84 of Directive 2014/59/EU, as transposed into national law. In order to ensure the protection of the above information, the Board will provide the Bank of Slovenia with redacted versions of the Valuation 3 Report and the Clarification Letter to be communicated to the Affected Shareholders in accordance with Article 3 of this Decision.

HAS DECIDED AS FOLLOWS:

Article 1

Valuation

For the purposes of determining whether compensation needs to be granted to the shareholders in respect of which the resolution action concerning Sberbank banka d.d. has been effected, the valuation of difference in treatment in resolution pursuant to Article 20(16) of Regulation (EU) No 806/2014 shall be as set out in Annex I to this Decision, in conjunction with Ebner's Clarification Letter as set out in Annex II to this Decision.

Article 2

Compensation

The shareholders in respect of which the resolution action concerning Sberbank banka d.d. has been effected shall not be entitled to compensation from the Single Resolution Fund in accordance with Article 76(1)(e) of Regulation (EU) No 806/2014.

Article 3

Addressee of the Decision

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

The Bank of Slovenia is instructed to take the necessary action to ensure the communication of this Decision to the Affected Shareholders, with the exception of information that merits protection under the data protection requirements deriving from Article 89 of Regulation (EU) 806/2014 and the confidentiality requirements of Article 88 of Regulation (EU) 806/2014 and Article 84 of Directive 2014/59/EU, as transposed into national law.

Done at Brussels,

For the Single Resolution Board,

The Chair

Dominique LABOUREIX

ANNEXES

ANNEX I – VALUATION 3 REPORT

ANNEX II – CLARIFICATION LETTER