

**Single Resolution Board
Conference Report**

BUILDING RESOLVABILITY TOGETHER

Friday, 29 September 2017
Brussels, Charlemagne Building



**Single
Resolution Board**

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Single Resolution Board Conference

BUILDING RESOLVABILITY TOGETHER PROGRAMME

08:15 - 09:00 Registration and welcome coffee

09:00 - 09:15 Welcome
Speaker:
Elke KÖNIG, Chair, Single Resolution Board

09:15 - 09:30 Opening Address
Speaker:
Martin J. GRUENBERG, Chairman,
Federal Deposit Insurance Corporation

SESSION I BANKING UNION, 3 YEARS LATER – HAS IT DELIVERED ITS PROMISE?

09:30 - 10:40 Moderator: Melinda CRANE,
Chief Political Correspondent, Deutsche Welle

- Panellist 1: Elke KÖNIG, Chair, Single Resolution Board
- Panellist 2: Christian STIEFMÜLLER, Senior Policy Analyst, Finance Watch
- Panellist 3: Roberto GUALTIERI, European Parliament Member
- Panellist 4: Olivier GUERSENT, Director-General, European Commission (DG FISMA)
- Panellist 5: Danièle NOUY, Chair of the Supervisory Board of the Single Supervisory Mechanism, European Central Bank

Q&A with audience

10:40 - 11:00 Coffee Break

SESSION II THE FUTURE OF RESOLUTION : THE ROAD AHEAD

11:00 - 11:30 Keynote Speech
Speakers:
Valdis DOMBROVSKIS, Vice-President and Commissioner for Euro and Social Dialogue, Financial Stability, Financial Services and Capital Markets Union, European Commission (video)
Klaas KNOT, Governor, Dutch Central Bank

11:30 - 12:40 Moderator: Melinda CRANE, Chief Political Correspondent, Deutsche Welle

- Panellist 1: Dominique LABOUREIX, Board Member, Single Resolution Board
- Panellist 2: Axel A. WEBER, Chairman of the Board of Directors, UBS Group AG
- Panellist 3: José María ROLDÁN, Vice-President, European Banking Federation
- Panellist 4: Andrea ENRIA, Chairman of the European Banking Authority
- Panellist 5: Gerhard HOFMANN, President, European Association of Co-operative Banks

Q&A with audience

12:40 - 14:00 Networking Lunch

SESSION III INTERNATIONAL CHALLENGES IN RESOLUTION

14:00 - 14:20 Keynote Speech
Speaker: Sir Jon CUNLIFFE, Deputy Governor for Financial Stability, Bank of England

14:20 - 15:30 Moderator: Melinda CRANE, Chief Political Correspondent, Deutsche Welle

- Panellist 1: Mauro GRANDE, Board Member, Single Resolution Board
- Panellist 2: Sir Jon CUNLIFFE, Deputy Governor for Financial Stability, Bank of England
- Panellist 3: Mark BRANSON, CEO, The Swiss Financial Market Supervisory Authority
- Panellist 4: Eva HÜPKES, Adviser on Regulatory Policy and Cooperation, Financial Stability Board
- Panellist 5: Julie B. GALBO, Group Chief Risk Officer and Head of Group Risk Management & Control at Nordea Bank AB

Q&A with audience

WRAP-UP

15:30 - 15:40 Closing Remarks
Speaker: Joanne KELLERMANN, Board Member, Single Resolution Board

15:40 - 16:30 Press Q&A with the SRB Chair

EXECUTIVE SUMMARY

On 29th September 2017, the **Single Resolution Board (SRB)** held its second annual conference in Brussels. “Building Resolvability Together” brought together international panellists to discuss progress made in establishing banking resolution planning and preparedness. While attesting to the SRB’s successful efforts thus far, the day’s discussions also revealed hurdles remaining in the journey beyond “too big to fail”.

As the resolution authority in the Banking Union, the SRB has worked to become operational in resolution planning for more than 140 banking groups in the Euro area, including 16 cross-border banking groups. This event offered an opportunity to assess progress made since the SRB’s establishment in January 2015. While a clear consensus was apparent among those in the room that much had been achieved in a relatively short time, it was also agreed that the work is far from finished.

Held exactly 17 months after the SRB’s debut 2016 event, this year’s Conference came on the heels of a significant step in the SRB’s short history of crisis management: In June 2017, the SRB adopted a resolution decision for a failing entity – Banco Popular Español S.A. (Banco Popular). Done within the framework of the **Bank Recovery and Resolution Directive (BRRD)** and the **Single Resolution Mechanism Regulation (SRM)**, the act preserved financial stability and ensured the continuity of critical functions in Spain and beyond.

The day’s discussions touched on many areas of potential improvement, including, among others: alignment of **Minimum Requirement for own funds and Eligible Liabilities (MREL)** and **Total Loss-Absorbing Capacity (TLAC)**; the level of flexibility demanded of the **BRDD**; challenges in setting up **Crisis Management Groups (CMGs)**; the establishment of the third pillar of the Banking Union, the **European Deposit Insurance Scheme (EDIS)**; and recovery and resolution of **Central Counterparties (CCPs)**. International challenges, including in the context of “the B word” – **Brexit** – were also a topic.

A guiding thread that was seen throughout these conversations was the theme of a journey: resolution is a journey to be undertaken together, all agreed. While the first steps have been positive, it is far from over. With its diverse participants, varied views, and lively discussions, the 29th September conference marked yet another productive step forward in that journey.





WELCOME

Elke König, Chair, Single Resolution Board

In her welcome to around 500 assembled participants, **Elke König, Chair, Single Resolution Board**, emphasised the relative youth of the SRB, which was founded only in 2015. “We are a fairly young entity”, she said. “Three years on we can take stock of the work we still have to do to make banks easier to resolve. And, of course, this will only be possible if we work together effectively,” she went on. “This is the theme of today’s conference – and what we firmly believe in: We have to build resolvability together.”

Cooperation is the clear ingredient for success in resolution, a fact that became exceptionally clear when the SRB adopted its first resolution decision this year. On 7 June 2017, it announced the transfer of all shares and capital instruments of Banco Popular Español S.A. (Banco Popular) to Banco Santander S.A (Santander)⁽¹⁾. From this experience, the need for close collaboration between the two pillars of the Banking Union and **National Resolution Authorities (NRAs)** has been shown to be essential.

König went on to elaborate on challenges that remain ahead. First and foremost, she emphasised MREL, saying that adequate levels of MREL are crucial to ensuring the resolvability of banks: “They contribute not only to the resolvability of individual banks, but also to financial stability as a whole, and are a key instrument to replace bail-outs with bail-ins and to safeguard taxpayers’ money”.

Speaking on additional areas where she sees a clear need for greater joint efforts, she touched on a number of points that became fodder for further discussion throughout the day. These included: funding in resolution, data availability, harmonisation of legal frameworks in different jurisdictions, legacy issues such as non-performing loans (NPLs), and the need to align the various concepts from the precautionary recapitalisation to state aid and insolvency to set the right incentives.

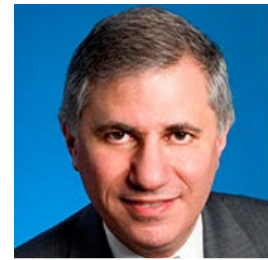
König concluded by noting that all of these elements require one thing if they are to be successfully addressed: cooperation. In the context of the day’s event, she also highlighted the need for cooperation and collaboration among those attending – panellists and audience members alike – in order to make for a productive discussion.

Participants were invited to ask questions throughout the day, via the Twitter hashtag #SRB2017 or written submission.

With this collaborative invitation, the day’s journey began.

⁽¹⁾ Read the SRB press release “The Single Resolution Board adopts resolution decision for Banco Popular” (7 June 2017) here: <https://srb.europa.eu/en/node/315>





OPENING ADDRESS:
Martin J. Gruenberg, Chairman,
Federal Deposit Insurance Corporation (FDIC)

Providing the opening address, **Martin J. Gruenberg, Chairman of the Federal Deposit Insurance Corporation (FDIC)**, began by echoing König's sentiments that resolution, and in particular cross-border resolution, is a relatively young concept. "When I first joined the FDIC, the issue of cross-border resolution wasn't even on the table – it wasn't spoken about," he explained.

Looking back at the financial crisis of 2007 and its fallout, **Gruenberg** emphasised how unprepared the United States and other jurisdictions were for the challenges it brought. This resulted in a response to crisis that allowed for "two bad options: tax-payer bailouts or financial collapse." A lesson was learned: it became clear that a mechanism was needed to organise orderly failure.

Since then, this has become a top priority in jurisdictions around the world. In the U.S., the **Dodd-Frank Wall Street Reform and Consumer Protection Act** was established "to ensure policymakers and taxpayers wouldn't be put in the same position as in fall 2008". Under Title I of the Act, the largest bank-holding companies and designated non-bank financial companies are required to prepare resolution plans.

Often referred to as "living wills", these resolution plans must demonstrate that the firm can be resolved under bankruptcy laws without stark adverse consequences for the financial system. In case an orderly bankruptcy process might not be possible, Title II of Dodd-Frank provides for a backstop: The **Orderly Liquidation Authority**. This allows the FDIC to manage the orderly failure of the firm, permitting the liquidation of assets and the payment of claim holders.

Gruenberg noted that the challenges faced by Europe in establishing such mechanisms are even greater than those faced by the U.S. The EU had to establish novel institutions and authorities. New agencies were created with the **Single Supervisory Mechanism (SSM)** under the auspices of the **European Central Bank (ECB)** and the **Single Resolution Mechanism (SRM)** led under the auspices of the SRB.

Since their foundation, these bodies have "already proven indispensable" said **Gruenberg**, flagging the Banco Popular case as "the first real test of the new resolution regimes put in place post-crisis". To complement the work of these institutions, he noted the importance of concluding the establishment of EDIS. Calling it "an important third pillar of the framework", he said: "I support the EDIS approach to combining the functions of resolution authority and deposit insurer".

Looking ahead, **Gruenberg** emphasised a further need for trans-Atlantic cooperation. "From our standpoint, the FDIC and the U.S. have enormous interest in the establishment of a credible resolution partner in the European Banking Union. In any future crisis, the likelihood is that our jurisdictions would be impacted and effective cross-border cooperation is a must."

SESSION I: BANKING UNION, THREE YEARS LATER – HAS IT DELIVERED ITS PROMISE?

Melinda Crane, Chief Political Correspondent, Deutsche Welle, reprised her role as moderator, deftly conducting all three of the event's panels. The first of these discussions encompassed a stocktaking of the current regulatory framework of the Banking Union. In doing so, panellists examined recent cases in which decisions had to be adopted regarding failing entities, discussed cooperation between the SRB and ECB, and addressed the setting of MREL and TLAC.

Turning first to **Elke König, Chair, Single Resolution Board**, Crane brought up Banco Popular. Regarding this resolution, Crane noted, The Economist wrote that "the machinery purred" – but what lessons could be taken away for future improvement? "I would not try it again in the middle of the week!" began **König**, smiling, noting the difficulties that came with undertaking an orderly resolution on a Tuesday, instead of a "resolution weekend", when time would not be so constrained.

Timelines aside, König's takeaway was overall positive: "I think we proved that the model does work". For future cases, she flagged funding in resolution as a primary concern. The Banco Popular case was, in some respects, a "text-book like" example of resolution. It benefited greatly not only "from the close cooperation between European and national authorities" but also from the fact there was someone willing and able to acquire the portfolio.

Banco Popular aside, **König** noted that this was not the primary point for pride for the SRB. Resolution is, after all, "not a cause for celebration" she said. She highlighted instead various forward-looking actions of the SRB as noteworthy: "Together with the NRAs, the SRB has drafted and adopted 92 resolution plans, established 76 **Internal Resolution Teams (IRTs)**, and 26 Resolution Colleges. In addition, the SRB joined 8 **CMGs (Crisis Management Groups)**".⁽²⁾

Turning to **Christian Stiefmüller, Senior Policy Analyst, Finance Watch**, Crane asked about his views on the progress made by EU banking regulators in the last five years. While acknowledging that "there is no doubt that progress has been made" **Stiefmüller** provided a cautious assessment of progress thus far: "There's been a lot of constructive cooperation, yes. But can we claim today that we have solved all the causes of financial crisis? I would say the jury is still out".

Stiefmüller noted that, from the perspective of a taxpayer who ended up supporting the banking sector in the 2008 and 2009 crisis, the problem is not entirely solved. "We want to release taxpayers of the liability and we don't seem to be quite there yet," he said: "Three of four bank failures in the past year ended in precisely the same way as they did before – the taxpayers stumping up money". While Banco Popular showed the concept to work, practical cases of successful implementation are still scant.

Flexibility of the BRRD framework was another point raised by **Stiefmüller**. While agreeing that a balanced approach is needed and that there is merit in having a certain level of

⁽²⁾ Crisis Management Groups are in place for all G-SIBs where resolution and supervisory authorities of home and host jurisdictions meet regularly to exchange views on the banks' resolvability.

flexibility within the framework, he still expressed concern. What if, he asked, two Member States are faced with two relatively similar circumstances and come to very different conclusions? More legal harmonisation and fewer exceptions are needed to ensure consistent and predictable outcomes. "What is at stake is consistency and legal certainty across Member States," he stressed.

Turning to **Roberto Gualtieri, ECON Committee Chair and European Parliament Member**, Crane pressed for details regarding the relationship of the European Parliament with the ECB and the SRB. According to **Gualtieri**, cooperation is overall good and has allowed for the formulation of a robust legislative framework. He also acknowledged, however, that "some discussions are easier than others". "Resolvability is a journey," he noted: "It's something you have to build. It doesn't get done overnight because you write a line of legislation."

This was especially difficult, he added, with two pillars currently in place – but no backstop. "If we want to reconcile the desire to preserve financial stability and protect taxpayer money," **Gualtieri** went on, "we need to build the buffer of bail-in-able debt". This, he concluded, is not something that can be done out of the blue.

Olivier Guersent, Director-General, European Commission, (DG FISMA) elaborated further on possible "potholes or bumps" in the resolution journey. He acknowledged that the current system is not perfect – but also reiterated its relative youth. "If you think where we are three years later, I think it's remarkable," he said. Referring to the three cases mentioned by Stiefmüller, he stressed the need "to learn from these issues before we can translate them to legislation".

Looking ahead, as the guardian of the BRRD, **Guersent** stated that he does not believe it to be too flexible – a concern that had also been raised by Stiefmüller. "If we try to make it un-flexible, we will miss the point," he noted.

Danièle Nouy, Chair of the Supervisory Board of the Single Supervisory Mechanism, European Central Bank, likewise noted the need to keep the BRRD framework "a bit flexible". She went on to elaborate on the shared objective of the SSM and SRB in ensuring banks are sound and resolvable, emphasising the co-operation between the ECB and SRB. According to **Nouy**, "The ECB cooperates with the SRB in all relevant phases relating to the recovery and resolution planning, crisis management, and resolution of entities under their direct responsibility and with regard to oversight tasks". There is day-to-day interaction, "which naturally intensifies further in case of crisis situations," she added.

With regard to the improvement of resolvability, **Nouy** outlined a few takeaways from the last six months' events. "The question of



From top to bottom, Melinda Crane, Elke König, Christian Stiefmüller, Roberto Gualtieri, Olivier Guersent and Danièle Nouy

funding or liquidity in resolution remains,” she noted: “We will need to explore possible solutions with, in particular, the ECB and national central banks. There might not always be a strong buyer and open bank bail-in is only viable with liquidity support”.

On the topic of future hurdles, **Gualtieri** came back to the implementation and streamlining of MREL in line with TLAC⁽³⁾. “This is essential: we need consistencies, not two different things,” he said. He also flagged the importance of EDIS and the need to “minimise destruction of value” when it comes to non-resolution liquidation.

Other participants echoed similar sentiments regarding how the current system could be made stronger. Common concerns among the panellists included the need for a backstop measure; a push for greater harmonisation among Member States; minimisation of risks like non-performing loans; and bringing EDIS negotiations forward. EDIS, noted **Guersent** is “an absolute priority” for the Commission, which intends to revive the discussion in the coming months “with the aim to have it in place by 2019”.

While there is clearly much to do, the panellists could agree on one thing: Banks are in better shape now than they were ten years ago. The Banking Union has not delivered on all of its promises, yet – in part because it is young and in part because it is incomplete, still awaiting the third pillar in the form of EDIS. Overall, however, the journey that began only three years ago has progressed positively.

⁽³⁾ About TLAC and MREL: In November 2014, the Financial Stability Board (FSB) opened its consultation on a proposal for a common international standard on TLAC for globally systemically important banks (G-SIBs), which can be met either by own funds or by an additional layer of debt that is earmarked for conversion into capital to absorb losses and recapitalise the bank. In November 2015, the FSB published its final TLAC standard for G-SIBs. At the EU level, the Bank Recovery and Resolution Directive (BRRD) similarly sets out a framework for all European banks and investment firms (in addition to GSIBs) to satisfy a minimum requirement for own funds and eligible liabilities (MREL). Although the considerations, range and requirements of TLAC and MREL differ in some ways, both aim to ensure that banks have sufficient resources needed to cover losses and meet recapitalisation needs in the case of a resolution.



KEYNOTE SPEECH

Vice-President Valdis Dombrovskis,
Commissioner for Euro and Social Dialogue, Financial
Stability, Financial Services and Capital Markets Union,
European Commission

Providing comments via video, **Vice-President Valdis Dombrovskis, Commissioner for Euro and Social Dialogue, Financial Stability, Financial Services and Capital Markets Union, European Commission**, noted that 2017 marks a decade since the beginning of the economic and financial crisis. He spoke of the three-year period that began in 2007, during which almost €1 trillion was wiped off the balance sheets of European banks: “Before long, the troubles affecting banks spilled over to the wider economy, resulting in the worst recession in EU history. Average levels of public debt increased from 70 to 92 per cent of GDP in 2014”.

Such an event could not be repeated, **Dombrovskis** asserted, saying, “We cannot allow a shock to the banking system to directly contaminate the rest of the economy. Taxpayers should not be first in line to foot the bill for the banking sector’s mistakes”. Instead, shareholders and debt holders should bear an appropriate share of the burden.

This, noted **Dombrovskis**, is what motivated the SRM’s creation. He said the Banco Popular case was proof that the tool could work. “Together with the Commission, the ECB, and the National Resolution Authority in question, the SRB took effective and rapid action. Thanks to coherent communication from all actors involved, investors were given immediate certainty and clarity”, he said. Taxpayers were ultimately protected and financial stability preserved.

Despite this success story, the resolution mechanism is not yet complete, noted **Dombrovskis**. He flagged a number of issues that still require work: firstly, the calibration of MREL; secondly, the establishment of a readily available common backstop; and finally, funding to support the resolution process.

“The SRB is responsible for collecting contributions to the **Single Resolution Fund (SRF)**, and so far over €17 billion have been collected,” he explained, “but in order to strengthen the SRM’s credibility, the Commission considers it very important to quickly move towards a sufficiently large and readily available common backstop.”



KEYNOTE SPEECH:

Klaas Knot,
Governor, Dutch Central Bank

Klaas Knot, Governor, Dutch Central Bank, also began by flagging the fact that a decade has passed since the financial crisis. The event, he said, “fundamentally challenged how we regard the resilience of the financial sector”. Since then, progress has been made in establishing rules and building institutions. However, he added a note of caution, saying, “Making banks resolvable is a journey. The key challenge, then, is to stay the course”.

One point of focus in **Knot**'s comments was the metaphor of the "regulatory pendulum" – a concept he described as principally misguided. The idea is that there is pressure on regulators to create strict legislation in the face of a crisis – and then to soften rules later, as memory fades away. According to **Knot**, "The analogy of the swinging pendulum might be conceptually appealing, but it is overly simplistic," he said, and "ill-suited to breaking a paradigm like 'too big to fail'".

As an example, he pointed to MREL – an intricate matter. The BRRD and regulatory technical standards provided a good basis to determine MREL. On top of that, the FSB developed its TLAC standards for the **Global Systemically Important Banks (G-SIBs)**. When it comes to alignment and implementation, however, **Knot** said he sees "classic symptoms of cold feet". Rules, he said, can be revised without compromising their objectives: "Signs that, ten years on, lawmakers now want to roll back post-crisis regulations are indeed troubling".

Knot also spoke on what he referred to as the elephant in the room: "fury or funding in resolution". In theory, he said, "adequate resolution planning should enable the resolution authority to restore the viability and solvency of the entity under resolution. As a result the Phoenix that rises from the ashes on Monday morning should be able to market confidence right away". **Emergency Liquidity Assistance (ELA)** could be problematic: "The provision of ELA itself could effectively postpone the point of resolution, while further reducing the availability of collateral during and after resolution".

"We can't assume that with their limited resources, the resolution fund or the central bank will take care of funding during and immediately after resolution," **Knot** went on. "Even a well-recapitalised bank may experience liquidity needs generated by market volatility and by asymmetrical information on the bank's viability. Market participants may be discouraged from providing liquidity and existing creditors may be encouraged to run," he added.

As such, neither banks nor the SRB should always count on ELA (which is provided by national central banks after approval from the ECB). "This is because, firstly, central banks will critically assess the viability of the bank post-resolution and need assurance that support would indeed be only temporary," **Knot** said. "Second, the bank needs to have sufficient eligible collateral, after haircuts, to access central bank facilities."

SESSION II: THE FUTURE OF RESOLUTION: THE ROAD AHEAD

The second panel of the day focussed in greater detail on the future of resolvability. Moderator **Melinda Crane** guided panellists in a discussion of policy issues still to be addressed in the Banking Union. Also discussed was the importance of concrete policy implementation in a changing regulatory environment.

Crane dove right in, asking **Dominique Laboureix, Board Member, Single Resolution Board**, what challenges the SRB still faces in making all banks easier to resolve. In response, Laboureix stressed the fact that some tools still need to be developed. "It's necessary to develop MREL at material entity level for all major banking groups," he said, while also "providing input and expertise to the discussion on the implementation of the TLAC standard into EU legislation".

"The EU has, through the BRRD, built an effective resolution framework, but it is only one part of a triangle that makes bank failure safer and potentially more cost effective," he added. The other corners of this triangle – an effective insolvency regime and a common deposit protection scheme within the Banking Union – have to-date not made the same level of progress.

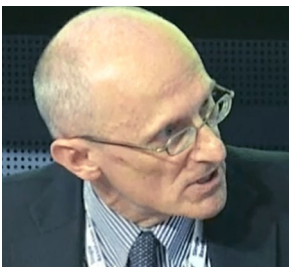
Axel A. Weber, Chairman of the Board of Directors, UBS Group AG, brought the perspective of chairman of a G-SIFI and former regulator. Asked for his views on the effectiveness of collaboration between a resolution authority and a bank, he noted that "the bank should be at the core of driving resolvability". Incentives, he said, also play an important role in the relationship with the resolution authority.

"In Switzerland, we have incentives in place," he explained: "If our home regulator judges us to be more resolvable, we can have a reduction of TLAC." Getting there is about simplifying structures and minimising complexity, according to **Weber**. Regulators, he said, would do well to look at incentives, which can play a significant role in moving banks towards resolvability. Incentives also work internally. **Weber** explained: "We use contingent capital to pay management."

Weber also argued that there needs to be a more codified "playbook" at the international level for when a bank enters resolution and that regulators be committed to it; as such cooperation between regulators is essential. He said the risk is that although banks are moving towards SPE models, in practice this becomes MPE due to ring-fencing and a lack of trust and collaboration between regulators.

Weber also raised concerns regarding international fragmentation. He flagged in particular the EU's proposals on stays, saying: "There was a clear rule about stays. If Europe adopts a standard that falls out of the international agreement on how long stays work, then Europe is part of the problem. People don't want to put money into institutions that are down longer than those two days".

Addressing the issue of harmonisation, **José María Roldán, Vice-President, European Banking Federation**, expressed the view that progress made since the Banking Union's establishment had stagnated. Specifically, he flagged the issue of the yet-to-be-established third pillar: EDIS. "It is a difficult subject with lots of delicate issues. We need to



differentiate transitional problems from steady state ones," he noted. "Legacy issues, like national **Deposit Guarantee Scheme (DGS)** liabilities coming from the crisis, could be left aside and outside EDIS," he added.

He also pinpointed the **Capital Markets Union** as a fundamental complement to the Banking Union. "Do we have the political will to complete the project in a timely manner?" he asked. This was even more dubious after Brexit, he asserted: "We have a bigger problem with the UK leaving. We need to move faster".

Asked where he saw the need for more togetherness, **Andrea Enria, Chairman of the European Banking Authority (EBA)**, spoke to the good progress made thus far. He noted that the EBA would shortly be publishing its updated analysis of where the banks stand on MREL – and that improvement could be seen.

As for improvements, he addressed the need for predictability. "If you want to move loss absorbency away from the taxpayers and to private investors, you need to ensure the framework is predictable and that people understand how it works," he noted, adding: "They also need the information to price the instruments in the correct way... I'm not sure we're there yet".

Asked about the cooperative bank perspective, **Gerhard Hofmann, President, European Association of Co-operative Banks**, began by stating that the issues raised by the resolution framework are not identical for all cooperative banks, but depend on operational structures, nature, and size of activities. "For most local cooperative banks there is no public interest in their resolution and thus the resolution framework would not apply. Instead, those banks would be liquidated under national insolvency proceedings," he explained.

Hofmann continued: "Taking into account the well-functioning institutional protection schemes and mutual guarantee schemes there should be hardly any cases of liquidation of such banks anyway. This assumption is obviously based on the track record so far". He pointed to the cooperative **Institutional Protection System (IPS)** in Germany, which has been operational for more than eighty years without any insolvency of an affiliated institution.

This starting point, **Hofmann** argued, should have consequences for MREL. If a bank will not be subject to the bank resolution framework, it should not be required to maintain MREL, and no resolution plan is needed. "However, in cases in which MREL is required for some medium-sized or large cooperative banks, regulators should take into account that such banks could often only issue eligible instruments to retail investors (because the size of the banks does not grant access to capital markets)".

From top to bottom, Melinda Crane, Dominique Laboureix, Axel A. Weber, José María Roldán, Andrea Enria and Gerhard Hofmann

Elaborating on MREL, **Laboureix** spoke on the importance of ensuring consistency between the Banking Union and non-EU authorities. “Developing a common methodology for MREL represents a considerable challenge,” he noted, “given the wide diversity of banking groups in participating Member States and the evolving regulatory environment”. Indeed, current rules were only clarified in May 2016. Similarly, the adoption of the recent legislative proposal on MREL will change the future framework, amending the BRRD and impacting MREL calculations. “Implementation of framework is tailored on a case-by-case basis but that doesn’t mean that the rules aren’t applied consistently,” he concluded.

Unlike many others present, **Hofmann** stated that he did not see great urgency when it comes to EDIS. “If I look back at the whole history of the financial crisis, there is hardly any case where deposit guarantee schemes have played a major role,” he explained. He also raised some concerns, asking: “Will EDIS create de facto an unlimited liability for all banks in the Eurozone to bail out depositors of other banks in other countries? There is no limit regarding banks’ liability and no limit to financial transfers according to the Commission’s proposal”. He further flagged the effects of EDIS on systemic risk and the incentive structure of banks, seeing this as an area requiring additional analysis.

With the second panel of the days’ forward-looking perspective, more divisions of opinion became evident. The panel made it clear that the journey towards resolution is far from over. This was underscored by a common recognition of the need to proceed quickly. As **Roldán** noted: “This is a journey but it can’t be a journey that takes 20 years. If it takes 20 years, we’ve screwed it”.



KEYNOTE SPEECH:

Sir Jon Cunliffe,

Deputy Governor for Financial Stability,
Bank of England

Sir Jon Cunliffe, Deputy Governor for Financial Stability, Bank of England, reflected on the very significant progress made in the UK since the financial crisis in implementing a credible and effective regime to deal with bank failure. He noted that September was the tenth anniversary of the failure of Northern Rock, the first major run on a bank since 1866.

At that time, many countries, including the UK, did not have effective resolution regimes, but relied on a “constructive ambiguity” of their arrangements, in the belief that this would guard against moral hazard and keep the threat of bank insolvency credible. Markets, however, believed that the State would intervene, and during the crisis they were generally proved right.

“Rather than constructive ambiguity, we need credible clarity that when a bank gets into trouble, the losses will be made to fall on shareholders and creditors and not the taxpayer. And if the bank provides critical services to the economy, that these can continue while the bank is resolved in an orderly way.”

In order to achieve such clarity, the Bank of England, would publish an update of its Approach to Resolution, which was first published in October 2014. More commonly referred to as **The Purple Book**, its purpose is to set out very clearly the options that the

Bank of England has to deal with the failure of a bank and the way in which we would use our powers. **Cunliffe** then highlighted three areas in which there had been advances in the UK's regime for dealing with bank failure.

- ▶ First, the UK now has a statutory framework which gives the Bank of England legal powers to deal with failed banks, either by placing them into a special form of insolvency that prioritises insured depositors or, for larger banks, by bailing-in shareholders and creditors.
- ▶ Second, UK banks now need to hold sufficient equity and debt that can be bailed in to absorb losses. Major UK banks currently have sufficient resources that would allow them to be bailed in and recapitalised without taxpayer support even if they suffered losses six times the losses they incurred over 2008 and 2009.
- ▶ Third, the Bank is working alongside the **Prudential Regulation Authority** to ensure that the important services which underpin banks' critical functions, for example IT, are set up in a way that allows them to continue in resolution. Resolution must provide continuity, whether of access to financial market infrastructure, continuity of contracts or operational continuity.

"We should have no illusions about the resolution of a major bank. If it happens, even when the regime is fully in place, it will be a very painful exercise. Resolution is not a magic wand; losses will need to fall on creditors. Even if we are prepared in advance, stabilising a large failing bank will not be easy," **Cunliffe** said.

"But taken together, these reforms mean we would be able to handle a failing bank very differently compared to 2008. There are in place now credible options, other than insolvency or bailout, that ensure that bank shareholders and creditors will bear losses if a bank fails ... we are much better able now than we were to ensure that a failing bank can, if necessary, be stabilised so it can continue to provide critical services to the economy."

Cunliffe said the authorities were well on the way to ensuring that if a bank fails and is taken into resolution, there will be sufficient private sector financial resources, in the form of debt and equity, that can be bailed in to absorb losses and recapitalise the bank so that it can continue to operate.

To achieve this, the Bank has set every UK bank and building society a requirement for the minimum amount of such loss absorbing resources it needs to hold – known as MREL. "The biggest UK banks already have going and gone concern resources sufficient to absorb losses of almost a quarter of their risk-weighted assets, and are well on their way towards meeting their full MREL requirements." In October, the Bank published a consultation paper setting out proposals on how MREL should be distributed within banking groups.

"Recapitalising a bank in resolution by bailing in the private sector restores solvency," acknowledged **Cunliffe**, but a solvent bank in resolution will still have liquidity needs. "Ensuring that solvent firms in resolution have access to public sources of liquidity is therefore a critical part of an effective resolution strategy and an area where there is great merit in clarity".

Cunliffe also observed "doubts over whether and how liquidity will be made available to a bank upon its entry into resolution risk undermining a resolution, and leaving the authorities with a potentially far bigger problem. So it is important to ensure resolution and liquidity strategies are aligned – whether they are delivered by a single institution, as in the UK, or by separate ones."

SESSION III: INTERNATIONAL CHALLENGES IN RESOLUTION

For the third and final panel of the day, the focus was on the work of the FSB and its role moving forward, challenges with setting up Crisis Management Groups (CMGs), and recovery and resolution of Central Counterparties (CCPs). Not to be neglected was the question of the impact of Brexit on resolution, and the international challenges for non-Banking Union resolution authorities.

Moderator **Melinda Crane** kicked off the discussion by asking panellist **Mauro Grande, Board Member, Single Resolution Board**, about the main challenges he saw at international level. Grande noted that resolution colleges and CMGs enable the SRB to engage with its international and European counterparts. "Given the importance of international co-operation in resolution," he explained, "it is essential that international authorities work together effectively both during and ahead of resolution".

In the context of CMGs, the SRB represents members of the Banking Union to international authorities in order to agree resolution strategy, determine barriers to resolution, and decides on a common approach ahead of resolution. Going on to explain how resolution decisions are reached, **Grande** said: "The choice of resolution strategy, between a **Single or Multiple Point of Entry (SPE or MPE)** is taken by the resolution authority based on whether the bank's structure is more suited to make one of these strategies more feasible and credible".

Turning to **Mark Branson, CEO, The Swiss Financial Market Supervisory Authority (FINMA)**, Crane sought the Swiss perspective on cross-border cooperation. Branson asserted that when trying to deal with banks at times of extreme stress across borders, "success relies on how well we as authorities cooperate and trust in the mechanisms that we've created in advance".

Noting that two of the world's G-SIBs, Credit Suisse and UBS, are located in Switzerland, Branson also emphasised the fact that FINMA has chosen to keep its crisis management groups small, because "the larger the table around which one sits, the harder it is to get to the real issues". "We need to build the cooperation ahead of the crisis but we also have to work on the policy issues together," **he concluded**.

Eva Hüpkes, Adviser on Regulatory Policy and Cooperation, Financial Stability Board, brought the FSB's perspective to the table. Since its establishment in 2009, the FSB has published multiple guidance documents. Asked whether resolution regimes have developed at the speed hoped for, **Hüpkes** stressed the importance of distinguishing between "speed and completeness". She characterised the speed with which resolution reforms were implemented after the global financial crisis as "impressive": the UK introduced reforms in 2009 and the US in 2010; Switzerland reformed its resolution regime in 2011; meanwhile, the BRRD was adopted in 2014.

Despite this progress, she said, "national resolution regimes alone do not solve the problem of 'too big to fail' for global financial institutions". Resolution needs to work across borders. The FSB Key Attributes, she said, provide a framework for this: "They promote the consistency and cooperation that is needed to make cross-border resolution feasible



and credible. We have seen continued progress with the development of the **International Swaps and Derivatives Association (ISDA)** protocol to address cross-border stays and the TLAC standard. However, making resolution operational across borders is where work is still in progress”.

Introducing **Julie B. Galbo, Group Chief Risk Officer and Head of Group Risk Management & Control at Nordea Bank AB**, Crane noted that Nordea had plans to re-domicile, moving its headquarters from Sweden to Finland. Elaborating on the motivation behind the move, Galbo said, “The Banking Union gives us a more level playing field – but it will not be Nirvana from a political perspective”. The hope is that EDIS and backstop discussions will be finalised by the time Nordea re-domiciles, she added – a move planned for 1 October 2018.

“Nordea has been directly impacted by the consequences of non-harmonised implementation of resolution regimes, so clearly we see the lack of harmonisation as one of the main international resolution challenges,” **Galbo** continued. She also flagged a lack of harmonisation in insolvency hierarchies as a challenge, also at international level. “We are happy to have tough rules and supervisors but they have to be uniform for all across the board,” she concluded.

Another concern flagged by **Galbo** was the risk of growing numbers of non-bank lenders. ECB statistics show that since 2008 the share of financial intermediation outside the banking sector has increased from around 40% to 57% at the end of 2016. How will non-bank lenders be resolved in order to ensure financial stability?

Sir Jon Cunliffe, Deputy Governor for Financial Stability, Bank of England, delved further into the issue of systemically important insurers. “In the U.S. there is no resolution regime for major insurance companies,” he noted, adding, “I think we’re all struggling with this question of why a large insurance group is systemically important”. He noted, however, that such queries should naturally be expected to come up ten years after the financial crisis.

Since some activities that insurance companies carry out do have systemic significance, how do we deal with a major failure? From **Cunliffe’s** view, “the EU has for the moment shelved its plans for resolution regimes in this area”. It’s only now becoming clear to us what a huge programme of on-going work resolution requires.

Coming back to the issue of challenges resolution faces internationally, **Branson** emphasised the difficulty of persuading banks and banking groups to change their structures in order to get fit for resolution. “It’s very hard,” he said, “It makes these groups more expensive to run”.

From top to bottom, Melinda Crane, Sir Jon Cunliffe, Mauro Grande, Mark Branson, Eva Hüpkes and Julie B. Galbo

Picking up on his points, **Hüpkess** touched on TLAC and bail-in – what she defined as being “at the core of resolution strategies for the largest firms”. The FSB TLAC Minimum requirements will come into effect in two stages in 2019 and 2022. According to **Hüpkess**, “Two-thirds of the G-SIBs designated by the FSB already meet the TLAC requirement of 16% RWA which will come into effect in 2019. By end-2019 the FSB will undertake a thorough review of the technical implementation of TLAC, including internal TLAC, and will report the results then”.

Returning to the topic of Brexit, Crane asked **Cunliffe** how he saw this impacting international cooperation between the authorities. “If we have a failure of a major cross-border bank, I would expect international cooperation and communication among central banks worldwide. I’m not sure that cooperation will change very much when the UK has left the EU.” Specifically on CCPs, Cunliffe said: “We have global infrastructure which services the global financial sector. It has to be located somewhere and has to be multi-currency. If you want that infrastructure to be global and handle multi-currency transactions, it’s going to be located not in the jurisdiction of some of the currencies.”

Looking from the UK to the U.S., the panellists were asked if they expected any changes in the U.S. serving as a constructive partner in international dialogue – given recent political developments. **Hüpkess** noted that, though there is currently political debate in the USA about whether their regulatory reform efforts have been calibrated appropriately, “a debate of this kind is healthy”, and that the FSB has launched work to evaluate the effects of reforms to support such a process and ensure that implementation is effective and sustainable in the long run.

The last panel of the day concluded with **Crane** asking those present what the main priority was for each of their respective institutions, at international level. Responses varied, from an emphasis on “harmonisation between MREL and TLAC” (**Galbo**) to “a closer look at funding in resolution” (**Branson**) and a desire to ensure that “Brexit does not lead to financial instability” (**Cunliffe**).

Across the board, all could agree on one thing: A great deal of essential policy work had been done and, looking ahead, the focus must be on furthering implementation. Towards this end, more international agreement, cooperation, and trust are needed. Policies without implementation are, after all, meaningless.



CLOSING REMARKS:

Joanne Kellermann,
Board Member,
Single Resolution Board

In her concluding remarks, **Joanne Kellermann, Board Member, Single Resolution Board**, returned to the metaphor of resolution as a journey, which had been touched on throughout the day. Based on the views expressed from both panellists and audience members, one thing was clear, she said: “We must not lose momentum”.

Throughout the event, some areas where greater joint efforts in resolution are needed were elaborated upon, **Kellermann** noted, including: funding/liquidity in resolution, data availability, harmonisation of legal frameworks in different jurisdictions, legacy issues such as NPLs, MREL and TLAC harmonisation, international hurdles, and the creation of EDIS.

Above all, it was apparent from the day’s discussions that a move beyond policy and towards successful implementation will require greater international cooperation, said **Kellermann**. “Trust and confidence in one another’s regimes” is essential, she noted, expressing confidence that this could be accomplished as the resolution journey continues.

With the theme of “Building Resolvability Together” the SRB conference marked another step in the right direction. With that, **Kellermann** thanked the moderator, panellists, and participants – and wished all well for a different kind of journey for the day: the journey home.

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