CONFERENCE REPORT
29 APRIL 2016

CHARTING THE COURSE: MAKING BANK RESOLUTION WORK

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PROGRAMME

08:00-09:00	Registration and welcome coffee
09:00-09:10	**Welcome** Speaker: **Elke König**, Chair, Single Resolution Board
09:10-09:30	**Opening Address** Speakers: **Jonathan Hill**, European Commissioner for Financial Stability, Financial Services and Capital Markets Union (by video) **Roberto Gualtieri**, Chair of the Economic and Monetary Affairs Committee, European Parliament
	SESSION I - PLANNING FOR A CRISIS
09:30-10:40	**Panel I - Resolution planning** Moderator: **Melinda Crane**, Chief Political Correspondent, Deutsche Welle Panellist 1: **Joanne Kellermann**, Board Member, Single Resolution Board Panellist 2: **Danièle Nouy**, Supervisory Board Chair, Single Supervisory Mechanism Panellist 3: **Olivier Guersent**, Director-General, DG FISMA, European Commission Panellist 4: **Andrew Gracie**, Executive Director Resolution, Bank of England Panellist 5: **J.V. (Koos) Timmermans**, Vice-Chairman Management Board Banking, ING Bank **Q&A with audience**
10:40-11:10	Coffee break
	SESSION II - ADDRESSING A CRISIS
11:10-11:30	**Keynote Speech I - Cooperation during resolution** Speaker: **Martin J Gruenberg**, Chairman, U.S. Federal Deposit Insurance Corporation
11:30-12:40	**Panel II - Bank resolution in practice** Moderator: **Melinda Crane**, Chief Political Correspondent, Deutsche Welle Panellist 1: **Antonio Carrascosa**, Board Member, Single Resolution Board Panellist 2: **Gert Jan Koopman**, Deputy Director-General, DG COMP, European Commission Panellist 3: **Klaus Kumpfmüller**, Executive Director, Austrian Financial Market Authority Panellist 4: **Hans Lindblad**, Director-General, Swedish National Debt Office Panellist 5: **J.V. (Koos) Timmermans**, Vice-Chairman Management Board Banking, ING Bank **Q&A with audience**
12:40-14:00	Networking Lunch

	SESSION III - SUPPORT IN A CRISIS
14:00-14:20	**Keynote Speech II - Bank resolvability** Speaker: **Jon Cunliffe**, Deputy Governor, Bank of England
14:20-15:30	**Panel III - Funding in resolution** Moderator: **Melinda Crane**, Chief Political Correspondent, Deutsche Welle Panellist 1: **Dominique Laboureix**, Board Member, Single Resolution Board Panellist 2: **Robert Ophèle**, Second Deputy Governor, Banque de France Panellist 3: **Svein Andresen**, Secretary General, Financial Stability Board Panellist 4: **José Antonio Álvarez**, Chief Executive Officer, Santander Group **Q&A with audience** **Wrap-up**
15:30-15:40	**Closing Remarks** Speaker: **Timo Löyttyniemi**, Vice-Chair, Single Resolution Board

EXECUTIVE SUMMARY

On 29th April 2016, the Single Resolution Board (SRB) held its first ever conference in Brussels. *"Charting the course: making bank resolution work"* brought together some 500 participants to discuss the SRB's work and its collaborative role in banking resolution, not only within Europe but also internationally. The aim is to ensure an orderly resolution of failing banks with minimum impact on the real economy, and on public finances of the participating Member States (MS) and beyond. The 29th April event firmly established the SRB as the authority on banking resolution for the Euro area and participating MS.

The SRB opened its doors in 2015, and on 1 January 2016 fully took over the responsibility for bank resolution. It is now officially responsible for some 130 significant banking groups in the 19 Eurozone countries, as well as 16 cross-border banking groups. Together with the national resolution authorities (NRAs) of the participating MS, the SRB forms the Single Resolution Mechanism (SRM), one of the pillars of the Banking Union, complementing the Single Supervisory Mechanism (SSM). In its work, the SRB thus cooperates with the European Central Bank, the European Commission, and other European and international institutions.

The diversity and far-ranging reach of the SRB's cooperative efforts was reflected in the speakers present on 29th April, which included representatives from the European institutions and representatives of Euro Area resolution authorities, as well as authorities from non-participating MS. Also participating was the Chair of the U.S. Federal Deposit Insurance Corporation (FDIC) as well as numerous experts and advisors. The full programme and a list of speakers can be found on the event page.

Topics of discussions ranged from the existing Bank Recovery and Resolution Directive (BRRD) to the ongoing work needed to continue building up the Single Resolution Fund (SRF). Another issue discussed at length was one of the SRB's primary tasks in the year ahead: Aligning, as best possible, the implementation of the requirements of the Minimum Requirement for own funds and Eligible Liabilities (MREL) and Total Loss-Absorbing Capacity (TLAC). The main TLAC features will feed into the definition of MREL for the Global Systemically Important Banks (GSIBs) and beyond—but much work remains to be done. These are just a few of the highlights from what was characterised as a "very intensive & productive" discussion by **Timo Löyttyniemi, Vice-Chair, Single Resolution Board**.

" A SERIES OF PANELS HELD THROUGHOUT THE DAY ADDRESSED THREE KEY TOPICS: RESOLUTION PLANNING, BANK RESOLUTION IN PRACTICE, AND FUNDING IN RESOLUTION. "

A Q&A held after each panel allowed audience members to pose questions, while viewers watching the event's online live stream from home were also invited to submit queries via the Twitter hashtag #SRB2016. A review of the speakers, discussion panels, and Q&A sessions shows an ambitious and progressive conversation on how to best move resolution forward.

In her opening remarks, **Elke König, Chair, Single Resolution Board, defined the SRB** as "a forward-looking organisation" and called on those present to look beyond the day's discussions and consider how the event's conclusions will pave the path for action as the SRB continues its work in the years to come.

INTRODUCTORY REMARKS: ELKE KÖNIG, CHAIR, SINGLE RESOLUTION BOARD

Kicking off the conference, **Elke König, Chair, Single Resolution Board**, noted the rapid-fire progress made since the Banking Union was first established "at record speed" in response to the banking crisis. She emphasised the collaborative nature of this relatively new endeavour, pointing to the importance of the Single Supervisory Mechanism (SSM) and the National Resolution Authorities (NRAs) alike in progressing SRB's work.

Speaking on the specific work of the SRB, she reminded the audience of its ultimate goal:

> "OUR MANDATE IS TO ENSURE THE ORDERLY RESOLUTION OF FAILING BANKS WITH MINIMUM IMPACT ON THE REAL ECONOMY AND THE PUBLIC FINANCES OF PARTICIPATING MEMBER STATES, AS WELL AS THOSE OUTSIDE THE BANKING UNION."

The existing Bank Recovery and Resolution Directive (BRRD) requires EU Member States to establish national financing arrangements within the Single Resolution Mechanism (SRM). The Single Resolution Fund (SRF) will be built up during the transitional period from 2016-2023 and is expected to reach at least 1% of covered deposits within the SRM by the end of 2023.

Another big task for the SRB in the year ahead, according to **König**, will be to align, as much as possible, the MREL and TLAC requirements.[1] The main TLAC features will feed into the definition of MREL for the G-SIBs and beyond. König stated: "Bear in mind: the European tool of MREL, unlike TLAC, applies to all banks under our remit, and even more importantly—neither TLAC nor MREL limit bail-in."

The work towards this end goal is already well underway. "The question of how to make banking resolution work doesn't refer just to the title of our conference—but also to the questions we will try to answer today in the discussions of our various panels," said König.

[1] ***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 esources needed to cover losses and meet recapitalisation needs in the case of a resolution.*

OPENING ADDRESS AND KEYNOTE: JONATHAN HILL, COMMISSIONER FOR FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL MARKETS UNION, EUROPEAN COMMISSION

Participating via video, **Jonathan Hill, Commissioner for Financial Stability, Financial Services and Capital Markets Union, European Commission**, provided the first opening keynote of the day. He highlighted the 2008 financial crises as revealing just how unprepared the major countries of the world were to deal with the failure of large banking groups. He pointed to the fallout for taxpayers, citing a speech given by **Martin J. Gruenberg**, Chairman, Federal Deposit Insurance Corporation (FDIC) just a few weeks earlier: "Lacking the necessary authorities to manage the orderly failure of a large, complex financial institution, policymakers were forced to choose between two bad options: taxpayer bailouts or financial collapse."

These events inspired the subsequent building of the Banking Union. The aim? "Protect the banking sector, depositors and taxpayers," according to Lord Hill. Trust is key to the success of this operation, he noted. This includes trust between industry and Member States (MS) "and of course the importance of the trust of the general public in the banking sector and the public's trust in the ability of the regulators to oversee it".

Lord Hill continued to address some of the practical points that need to be addressed in order for the new system to work. The importance of finding as much alignment as possible between MREL and the main TLAC features was touched upon, as well as the necessity of fitting European banking systems into the global sphere on a more general level. Further, communication and clarity are needed, he said. Creditors, for instance, need to understand the risks to which they are exposed.

> "WE NEED TO EXPLAIN HOW THE NEW SYSTEM WILL WORK AND WHAT IT WILL MEAN FOR THE MAN AND WOMAN IN THE STREET, he said."

The journey ahead is not going to be an easy one, **Lord Hill** acknowledged, saying "We shouldn't underestimate the difficulties of moving from a bail-out to a bail-in system." There is an on-going need to further strengthen the Banking Union, to maintain the momentum behind EDIS (the European Deposit Insurance Scheme) and to drive forward measures to reduce risk. Despite seeing a long road ahead, he ended on a positive note: EU Banks capital ratios now stand at 12%, a similar level to those in the United States. "Today, Europe's banks are stronger and better capitalised," he added, "and the quality of the assets they hold has improved."

OPENING ADDRESS AND KEYNOTE: ROBERTO GUALTIERI, CHAIR OF THE ECONOMIC AND MONETARY AFFAIRS COMMITTEE, EUROPEAN PARLIAMENT

A second opening keynote was given by **Roberto Gualtieri, Chair of the Economic and Monetary Affairs Committee, European Parliament.** The MEP began by pointing to the Single Resolution Mechanism (SRM) as "THE MOST RELEVANT INSTITUTIONAL INNOVATION IN THE EU SINCE THE INTRODUCTION OF THE EURO."

He then expressed his gratitude for the SRB's excellent institutional cooperation with the Parliament, and for the commitment towards transparency that Elke König and her colleagues had already shown.

The implementation of the BRRD has resulted in great strides towards financial security, Gualtieri said, by strengthening early intervention powers of authorities, introducing a variety of tools to manage banking crises, and more. With the bail-in regime, he noted, we are seeing a new paradigm in which "THE COST OF A BANKING CRISIS SHOULD NO LONGER BE THE RESPONSIBILITY OF THE TAXPAYER", an achievement that should not be put into question. That said, implementing such a new framework is challenging, especially as the system still continues to recover from the crises. **Gualtieri** pointed to the International Monetary Fund's Report on Global Financial Stability, which gave a word of caution when it comes to transitioning to the new regime. The difficulties from the global economic environment and weak profitability make the build-up of sufficient buffers of bail-in-able liabilities particularly challenging and may require some time, he noted.

"This makes it extremely complex to reconcile the protection of taxpayers, systemic stability, depositor protection and continuing industry supply of financial services. At the same time, the necessary degree of flexibility and proportionality, which the IMF invites us to explore, should not mean a lack of consistency and transparency in implementing the legislation, and in providing the right incentives to banks and investors."

Gualtieri also spoke on the need for a common backstop to ensure that funds are available in case the SRF does not have enough resources. "The absence of this common backstop may undermine the credibility of the whole framework. Therefore it should be implemented without delay, possibly through a credit line from the European Stability Mechanism to the Single Resolution Fund as suggested in the Five Presidents Report".

He concluded his speech with a discussion on the Deposit Guarantee Schemes (DGS). "While the establishment of a common DGS system is undoubtedly necessary, we are a long way off from this realisation." A common DGS is indeed essential for promoting the same level of confidence in deposits across all banks. Gualtieri acknowledged the complexities around this topic, however, noting that while risk sharing is a necessity, it's also a politically very sensitive dimension of the Banking Union. "We are fully aware of that. For this reason, in the EP, we intend to examine carefully, with a realistic calendar, the Commission proposal, avoiding ideological confrontation and focusing on its merit, on its impact and on the best way to improve it," he concluded.

PANEL I:
RESOLUTION PLANNING

Melinda Crane, Chief Political Correspondent, Deutsche Welle, was the moderator for the day. Kicking off the first panel titled "Planning for a crisis", she began by addressing **Joanne Kellermann, Board Member, Single Resolution Board**, asking her just what is entailed in resolution planning—and if we can be sure that this attempt to plan ahead will really make a difference.

Speaking on the work done of the SRB thus far, **Kellermann** made it clear that quite some progress has already been made.

> "ONE OF THE FIRST THINGS WE HAVE DONE IS TO DRAFT A RESOLUTION PLANNING MANUAL."

We start by analysing the bank's business model, examining critical functions and how interconnected they are, looking at operational continuity, and thinking about liquidity in crises. Then we come to conclusions regarding a preferred resolution strategy and set the MREL to match that. Obviously we will run into obstacles. AND THEN THE REST OF THE WORK, OF REMOVING THOSE OBSTACLES, STARTS."

Ultimately, she noted, resolution planning is an on-going process and will require flexibility because banks, economies, and the world are constantly changing. **Danièle Nouy, Chair of the SSM Supervisory Board**, echoed the importance of such flexibility and openness. SHE HIGHLIGHTED THE IMPORTANCE OF AN ON-GOING EXCHANGE OF INFORMATION BETWEEN THE SSM AND SRB. This minimises the burden for the industry, she noted, while also ensuring that data is consistent and comprehensive. **Nouy** also cited the alignment of MREL and TLAC as another area where such information exchange would be useful.

Pursuing the topic of the MREL and TLAC alignment, Crane addressed **Olivier Guersent, Director-General, DG Financial Services and Capital Markets Union (FISMA), European Commission**, asking him for his views on the interplay between MREL and TLAC. He emphasised the need for approaching this process cautiously, saying "We would rather do something smart than something stupid." All the major jurisdictions in the world have signed up to the TLAC requirements, while MREL is a requirement for banks in Europe. "THERE ARE QUALITATIVE AND QUANTITATIVE DIFFERENCES BETWEEN THE TWO, WHICH COULD MAKE FOR A FULL-DAY CONFERENCE IN ITSELF." **Guersent** added that there were a number of trade-offs that needed to be decided. "We are working with the Member States to decide how to best combine the two."

MREL and TLAC were also emphasised by **Andrew Gracie, Executive Director Resolution, Bank of England**, who asserted that, "ALL ROADS LEAD BACK TO MREL AND TLAC IN SOME WAY." He cited G-SIB balance sheets as an example: "The banks have nearly all got, to a great extent, a long-term debt equivalent to the TLAC requirements in their balance sheet structures. The issue is that this information is sitting in the senior class and not yet subordinated." Resolving the uncertainty of the translation of TLAC into MREL quickly is imperative so that banks can get their new liability structures in place, he added.

Turning to **Kellermann**, Crane sought further opinions on the fate of smaller banks. "They are the majority in the Banking Union", Kellermann replied. However such smaller banks can still have critical functions, she noted, in which case they would not qualify for simplified obligations. "We can of course apply the proportionality principle. Ultimately it's a case-by-case decision," she concluded.

Turning to a G-SIB representative on the panel, Crane asked **Timmermans, Vice-Chairman Management Board Banking, ING Bank**, for his opinions on resolution planning and disclosure. He said that while resolution plans have been made public in the US since the reform act, there was more reluctance on this side of the Atlantic. "Overall I think it is very important for bondholders to know exactly where they stand.... but WHILE OPENNESS IS USEFUL, IT IS JUST AS IMPORTANT TO ENSURE CLARITY OF INFORMATION", **Timmermans** said.

FOLLOWING THE MODERATED PANEL, THE FLOOR WAS OPENED TO QUESTIONS FROM THE AUDIENCE.

To a question raised by audience members on what can be done to prevent mis-selling of bail-inable instruments to retail savers, **Kellermann** acknowledged that there are clear "legacy issues" but that this can't be a reason not to start. "The bail-in tool was carefully considered and has many safeguards. It's not a tool that is used blindly," she said. "MOVING FORWARD, TRANSPARENCY NEEDS TO BE KEY".

Addressing a question regarding bail-in's impact on profitability and banking models going forward, **Timmermans** was quick to assert that while banks indeed pay a cost for regulation, "non-regulation had its costs as well". Banks, he said, need to reform further in terms of operations.

Gracie emphasised the importance of investors understanding risks. He again pointed to the need to subordinate TLAC. Addressing the same point, **Nouy** noted that the treatment of retail investors was more crucial to address for the time being.

KEYNOTE SPEECH:
MARTIN J GRUENBERG, CHAIRMAN, U.S. FEDERAL DEPOSIT INSURANCE CORPORATION

"As little as five years ago, the conversations taking place today could not have occurred," said **Martin J Gruenberg, Chairman, U.S. Federal Deposit Insurance Corporation**. Like the previous speakers, Gruenberg emphasised just how unprepared everyone was for the 2008 crisis. Providing an overview of the FDIC's expanded responsibilities in the aftermath of the financial crisis, he made it clear that great efforts were being made to learn from this past.

In the U.S., the largest bank holding companies and designated non-bank financial companies are now required to prepare resolution plans, also referred to as «living wills,» under Title I of the Dodd-Frank Act. These living wills must demonstrate that the firm could be resolved under bankruptcy without severe adverse consequences for the financial system. As a backstop, for circumstances in which an orderly bankruptcy process might not be possible, Title II of the Dodd-Frank Act provides the Orderly Liquidation Authority. This public resolution authority allows the FDIC to manage the orderly failure of the firm.

The FDIC and the Board of Governors of the Federal Reserve System are charged with reviewing and assessing each firm's plan, **Gruenberg** explained. If a plan does not demonstrate the firm's resolvability, the FDIC and the Federal Reserve may jointly determine that it is not credible or would not facilitate an orderly resolution of the company under the Bankruptcy Code and issue a notice of deficiencies. "If a firm fails to remediate the deficiencies identified in the joint notice, the agencies may jointly impose additional capital, leverage, or liquidity requirements," **Gruenberg** said. "The agencies may also restrict the firm's growth, activities, or operations."

In mid-April the FDIC and Federal Reserve issued joint notices to five firms detailing the deficiencies in their plans and the actions the firms must take to address them. Each firm must remediate its deficiencies by October 1, 2016. If a firm has not done so, it may be subject to more stringent prudential requirements.

Despite this progress, **Gruenberg** acknowledged, "we cannot rule out that in the future policymakers may face a situation in which resolution in bankruptcy would result in severe economic distress." In these more difficult cases, "the Orderly Liquidation Authority is the mechanism for ensuring that policymakers will not be faced with the same poor choices they faced in 2008". Its tools are intended to enable the FDIC to carry out the process of winding down and liquidating the firm, while ensuring that shareholders, creditors, and management are held accountable and taxpayers do not bear losses.

Gruenberg then touched on the European Commission's proposal for a European deposit insurance scheme for the Banking Union. From the U.S. perspective, he said that great value had derived from having a national deposit insurance system covering all of 50 states and from the close relationship among supervision, deposit insurance, and resolution. The FDIC has also derived great operational value from having a combined deposit insurer and resolution authority. Viewed from the FDIC's experience, he suggested that there was logic to combining the functions of resolution authority and deposit insurer.

Finally, speaking on the relationship between the SRB and FDIC, **Gruenberg** said,

> "FROM ITS INCEPTION, IT WAS CLEAR TO US AT THE FDIC THAT THE SRB'S DEVELOPMENT WOULD HAVE SIGNIFICANT OPPORTUNITIES FOR CROSS-BORDER COOPERATION."

He pointed to the exchange of specialists between the two bodies, and urged for continuing close contact and coordination in resolution planning from both sides. "From my standpoint, I DO BELIEVE THIS IS THE BEGINNING OF A BEAUTIFUL FRIENDSHIP," he concluded.

PANEL II:
BANK RESOLUTION IN PRACTICE

Melinda Crane, Chief Political Correspondent, Deutsche Welle, kicked off the discussion by referring to the Lehmann Brothers meltdown of 2008 and the infamous "weekend that Wall Street died".

Antonio Carrascosa, Board Member, Single Resolution Board, was the first panellist to tackle the resolution weekend feasibility by saying resolution has three stages. The first and probably the most relevant is preparation, including preliminary assessments of the losses it would have to absorb. The second stage is the resolution weekend. It is a very short period of time to approve a resolution scheme. The third stage is the implementation of the resolution decisions, a responsibility of the National Resolution Authorities. Carrascosa also emphasised the importance of the relationships being formed in resolution planning: "A RESOLUTION WEEKEND COULD INVOLVE DOZENS OF ACTORS… AS IN MANY DECISION TAKING PROCESSES, YOU HAVE TO TAKE MUCH CARE OF THESE RELATIONSHIPS AND NOT ONLY DURING THAT WEEKEND."

Gert Jan Koopman, Deputy Director-General, DG Competition, European Commission, added the importance of utilising to a maximum the "rainy days" prior to a resolution weekend. "It's not just about the weekend—many of these problems emerged progressively over time," he said: "Much could have been done in the rainy days preceding the Lehman Brothers weekend. Often the business models themselves were unduly risky in terms of how they allocated activities to different product lines." **Koopman** also pointed to failures in risk management as a red thread throughout the crisis. In his view, one real take-away point was that many Member States were in denial regarding the fact that their banks were failing. CONSEQUENT DELAY IN ADMITTING THAT THINGS HAD GONE IRREPARABLY WRONG ONLY WORSENED CIRCUMSTANCES.

Giving a perspective based on Austria's Heta experience, **Klaus Kumpfmüller, Executive Director, Austrian Financial Market**, highlighted the severe time constraints and high pressure under which decisions must be made during a resolution weekend. He pointed to three key lessons learned from Austria's Heta experience. Firstly, that key stakeholders, such as the banking supervision authority, ministry of finance, Central Bank and the SRB "must be on board as fast as possible". "A permanent information exchange is highly important," he added, "from the planning phase to early intervention and resolution measures." Secondly, he highlighted the valuable external input of experts such as lawyers, who must be selected and mandated quickly because "You usually don't have these resources in your resolution authority's permanent staff." Finally **Kumpfmüller** CALLED FOR A WELL-ORGANISED INFORMATION FLOW TO CREDITORS, THEIR LAWYERS, AND THE PUBLIC. Ultimately he concluded that the Austrian case has shown just how important preparation is.

Echoing this, **Hans Lindblad, Director General, Swedish National Debt Office** further drove home the importance of preparation from the national perspective—and of learning from the past. "At that time we had no legislation in place. And we had a crisis to handle! We passed multiple laws in a matter of days—very rapid for the Swedish system," he began. **Lindblad** expressed that there is now better coordination and that a more level playing field has been established. THE BRRD, HE ADDED, "IF IMPLEMENTED IN A PRUDENT WAY, CAN BE QUITE RELIABLE AND TRUSTWORTHY". However the BRRD is new and it hasn't been tested in any large scale, so "it would be naïve to pretend there are no challenges remaining," he concluded.

Speaking further on the BRDD, **Kumpfmüller** likewise pointed to the highly fragmented banking sector and flagged the fact that while the BRRD takes this into consideration with its wide range of instruments, some issues require more analysis. He cited as one example the complex case of cooperative banks with institutional protection schemes. "They have to provide a recovery plan but there's no obligation to provide a resolution strategy," he said, adding, "These are mostly cooperative banks with high deposits. It seems necessary to have a resolution strategy from the IPS [Institutional Protection Scheme] perspective." Banks have complex structures that need to be examined more closely through the lens of resolution obstacles, he asserted: "Resolution obstacles should not refrain from asking for substantial changes to the structure of the institution." **Koopman** echoed this sentiment, noting that, "sometimes financial stability is used as an argument to override restructuring. We need to carefully assess these claims."

Asked if we need to harmonise insolvency regime for banks, **Timmermans** said that thoughtfulness and carefulness based on past experiences is warranted. "There could be different circumstances leading to a bank getting into difficulties," he noted. "Currently insolvency regimes are, per country, somewhat similar—but differences do remain. SOME HARMONISATION STEPS STILL NEED TO BE TAKEN", he concluded.

FOLLOWING THE MODERATED PANEL, THE FLOOR WAS OPENED TO QUESTIONS FROM THE AUDIENCE.

The example of Portugal's Novo Banco was brought up in the audience and cited as a case that has inspired considerable scepticism. **Carrascosa** was quick to point out that the Novo Banco case occurred under the former legal framework for resolution.

Other questions focused on the possible recourse for investors who have been bailed-in. In terms of legal compensation, what options do such investors have when faced with bad management by the banks? The panel acknowledged the difficulty of these cases—with **Koopman** noting that, "THERE IS NO BAIL-OUT FOR THOSE BAILED-IN."

Coming back to **Carrascosa**, Crane raised the question of liquidation of big banks versus resolution of small banks. According to **Carrascosa**, it's not an issue of size, rather: "We should take into account the performance of critical services. RESOLUTION IS A SPECIFIC PROCEDURE IN CASE OF CONCERN OF FINANCIAL STABILITY OR CONTINUITY OF CRITICAL FUNCTIONS. IT IS THE EXCEPTION, NOT THE RULE".

KEYNOTE SPEECH: JON CUNLIFFE, DEPUTY GOVERNOR, BANK OF ENGLAND

Sir Jon Cunliffe, Deputy Governor, Bank of England, urged regulators and banks to press ahead with implementing rules designed to enable banks to fail without the need for government bailouts. He said that a vast amount of work had been done to come up with better ways to deal with a failed bank and find a better answer to the question of 'who pays?' than 'the taxpayer'.

> "I THINK IT IS POSSIBLE TO HAVE A WORLD IN WHICH LARGE BANKS CAN FAIL IN AN ORDERLY WAY—WITHOUT THE CONTAGION AND DAMAGE TO THE ECONOMY THAT IN THE PAST HAS FORCED THE TAXPAYER TO COME IN AND ABSORB LOSSES."

But there is no single, silver bullet to achieve that; rather it requires the application of a comprehensive set of policy and powers."

And moving to an effective resolution regime would require a major transition: many larger banks would need to make changes to their structure and financing. There would inevitably be higher costs as the implicit public subsidy was removed.

This transition needed to be carefully managed, which was why the Bank of England was pursuing an approach that was proportionate, gradualist and provided clarity to banks and their creditors.

Sir Jon said that an effective resolution regime should make sure that those who bought bank debt that could be bailed in realised the risks of the instruments they had purchased. It was also about making sure that creditors understood the resolution strategy of the institution to which they had lent money. Meanwhile, unprotected depositors in institutions that had no bail-in-able debt needed to be clear that in the event of trouble, they stood next in line after shareholders to absorb losses.

He noted there was evidence the multipronged approach to addressing Too Big To Fail was already having an effect: ratings agencies had started to reduce their "government support" uplifts for big banks, while spreads between senior and structurally subordinated debt of UK Global Systemically Important Banks (G-SIBs) suggested that resolution regimes were gaining credibility.

In part, this was due to the Bank Recovery and Resolution Directive coming into force, and the Bank of England's consultation on the setting of the Minimum Requirement for own funds and Eligible Liabilities (MREL).

Sir Jon added that one of the key benefits of ensuring that certain creditors could be bailed in was that those creditors had a much stronger incentive to monitor and, if necessary, constrain the risks taken by banks.

He concluded that while regulators could not expect to insulate all institutions from all external shocks, the legal, financial and practical arrangements were in place to resolve banks of all sizes.

“But this will only be true if we implement the new regime on resolution fully. Both regulators and industry have an incentive to do so. If, next time there is a crisis, authorities face the same unenviable choice as in the crisis, if taxpayer bailouts cannot be avoided, then the case for breaking up banks and making them much, much simpler will be very hard to resist.”

“The powers, international standards and institutions are all in place. The authorities and the banking system have strong and common incentives to complete the implementation. IT IS IN ALL OUR INTERESTS THAT WE DO SO.“

PANEL III:
FUNDING IN RESOLUTION

On the "liquidity issue", Crane turned to **Dominique Laboureix, Board Member, Single Resolution Board**. Laboureix emphasised the importance of maintaining confidence in banks if this issue is to be successfully addressed. "After the decision on the resolution scheme, the bank is solvent. There is obviously a risk of market confidence not being there anymore by the time a bank is facing a real failure. When we take decisions, i.e. to preserve critical functions, the goal is exactly that: to restore this confidence and keep the remaining part of the bank that we want to preserve with access to the market. PREPARING GOOD RESOLUTION PLANS WITHOUT ANY FORM OF PUBLIC LIQUIDITY SUPPORT DEFINITELY HELPS BUT THIS CANNOT BE ENOUGH."

This notion of confidence should be built on a number of technical measures, **Laboureix** continued. Asked about the Single Resolution Fund (SRF), he admitted that it is "no secret" that the SRF is not sufficiently large to deal with a "significant liquidity shock," adding that the SRF could not be the solution in itself but could be of some help in giving other partners a potential enhancement of liquidity that could be provided to a bank in resolution.

Asked about the lending role of central banks, **Robert Ophèle, Second Deputy Governor, Banque de France**, was quick to point out that, although central banks do not like playing a lending role, it's clear that they are the only ones able to play this role. "LIQUIDITY ASSISTANCE IS NOT A RIGHT. IT'S JUST A DISCRETIONARY TOOL," he added. "When it is granted, it is rule-based. We have to be sure that the institution is solvent." He concluded by emphasising the fact that central banks entering a lending role do so on a temporary basis.

Elaborating on how workable private funding for a resolved banks might be, **Svein Andresen, Secretary General, Financial Stability Board**, seemed optimistic. "Sustaining private sources of funding for a resolved bank is clearly important. There are a number of prerequisites for that to work, but if these are in place for the resolved entity, there is no reason why private funding should not be available. Two key pre-requisites were "early intervention while the bank still had collateral resources", and a "convincing recapitalisation above regulatory solvency levels" of the resolved bank. A PUBLIC BACKSTOP FOR TEMPORARY FUNDING IN RESOLUTION WOULD ALSO BE NECESSARY, he added. "With these prerequisites in place, private funding can be encouraged," he concluded.

Turning to **José Antonio Álvarez, Chief Executive Officer, Santander Group**, Crane posed the question of how realistic it is to expect that a G-SIB in resolution would have a source of private funding. **Álvarez** pointed to the need for advanced preparation: "RESOLUTION DOESN'T HAPPEN IN ONE DAY. WITH RESOLUTION, USUALLY THE BANK HAS BEEN IN A DIFFICULT SITUATION FOR SOME TIME. At this point in time what is important is the resolution plan being credible." Among the preconditions that need to be met to restore confidence, he pointed to the credibility of the deposit guarantee scheme, and the need to assure all potential lenders that the institution will remain solvent. He also pointed to the need for a backstop, adding that many different institutions, i.e. a central bank or treasury, can provide a final backstop. "Loss absorption capacity is enough for capital, but confidence does not return in one day. It may need time and, once bail in has been applied, and the bank is solvent, it still may need liquidity before market comes back. Hence, a backstop for funding liquidity is needed".

Asked if a central bank should ever provide liquidity directly to a resolution fund, **Ophèle** noted that in theory it would probably be seen as "more agreeable" for a central bank to lend to a fund than directly to a bank, "especially a bank in resolution". In the current regulatory environment, however, he deemed this impossible—and expressed scepticism as to a change towards this end being made. He stressed that, from the point of view of the central bank, an important benefit of the new framework established for the Banking Union is that the SRB can support its resolution strategies and resolution measures with a resolution fund of such importance as the Single Resolution Fund, especially if it intervenes by providing guarantees to funding instruments.

Coming back to the discussion about lending, Crane asked whether Europe could truly afford to take a "no lending to insolvent banks" approach in moments of crisis. "I really think so," said **Ophèle**. "We should stick to this principle—all the more now that we have this resolution environment that can be implemented. The problem is that it's not a science. AT SOME POINT IT'S MORE ART THAN SCIENCE, TO ASSESS THE REAL SOLVENCY OF THE INSTITUTION. THE ANSWER IS TO TAKE APPROPRIATE COLLATERAL."

FOLLOWING THE MODERATED PANEL, THE FLOOR WAS OPENED TO QUESTIONS FROM THE AUDIENCE.

The first question from the audience raised the issue of rating agencies—what role would their perspective play in resolution? If a ratings agency is to rate every post-resolution bank as "non-investment grade", this hardly inspires confidence.

Laboureix expressed some scepticism towards the agency ratings, considering a solvent bank post resolution should normally be investment grade, and came back to the need to make the resolution system credible so that its actions and results will remain credible as well. **Andresen** echoed Laboureix's sentiments, saying, "It would good for the financial system more generally if credit rating agency ratings were less mechanically relied on by participants in the system."

Another concern voiced from the audience was whether "pulling the trigger too quickly" on resolution could precipitate a crisis. **Laboureix** noted that waiting for the last minute meant losing valuable time to resolve a bank more easily. The question should really be the other way around, however: ARE WE NOT WAITING TOO LONG BEFORE TRIGGERING RESOLUTION? Because there are indeed several steps to be implemented before we move into a resolution scheme.

The topic of a public backstop and a central bank becoming a default backstop without a public backstop being established was raised during the Q&A. "We obviously would benefit from a public backstop for the Single Resolution Fund," agreed **Laboureix**. "The negotiation is currently being done at the level of the Member States."

CONCLUDING REMARK:
TIMO LÖYTTYNIEMI, VICE-CHAIR, SINGLE RESOLUTION BOARD

Providing the concluding remarks for the day was **Timo Löyttyniemi, Vice-Chair, Single Resolution Board**, who characterised the discussion seen throughout the day as "very intensive & productive". Much has happened since 2008, he noted. Banks are stronger, safer, less leveraged today, meaning that the European financial system is more resilient to economic shocks.

"In addition, the BRRD and SRM Regulation today provide us with a framework for resolution, which has been known since mid-2014 by the industry and the general public," he added.

> "PLANNING WILL HELP US TO DETERMINE THE RIGHT TOOLS, SO THAT WE CAN REMOVE OBSTACLES WELL IN ADVANCE OF ANY CRISES AND TAKE THE BEST ACTION POSSIBLE WHEN A BANK IS IN TROUBLE."

He recalled that a milestone on building the Banking Union has been reached on 1 January 2016, with the entry into force of the SRM, which will bolster the resilience of the financial system and help avoid future crises by providing for the timely and effective resolution of cross-border and domestic banks.

He underlined several benefits stemming from the Banking Union: breaking the link between banks and their sovereigns; failing banks will be resolved without taxpayers money, limiting negative effects on governments' fiscal positions; any failure will also be managed by a truly European mechanism; and depositors would have the same level of protection across the whole Banking Union.

Pointing to pending regulatory work to be done in the areas of EDIS and MREL, **Löyttyniemi** said that once finalised, these mechanisms would ensure a more coherent approach across all euro area MS. He further flagged the need for all MS to transpose the DGS Directive: "Meeting this obligation can be considered crucial for the credibility and functioning of the Banking Union, and will ensure that there is a level playing field for banks and depositors across the Banking Union."

Confirming the value of a common deposit insurance scheme for the Banking Union, **Löyttyniemi** reaffirmed the SRB's support for the development and implementation of the EC's EDIS proposal.

Finally, he called for the further development of the resolution regime, and transparency around this regime, which will help market regulators when assessing the suitability of financial instruments for different investors.

Bringing the conference to an end, **Löyttyniemi** characterised the tone of the event as epitomising collaboration "at its best". "This gives a very strong message to the outside world about the good cooperation we are already experiencing and that we will continue to experience in the future," he said, concluding the first ever conference of the SRB.

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