List of public Q&As on MREL

General

The Single Resolution Board (SRB) published on 20 December 2017 its MREL Policy, available on the SRB website [*link*].

1. What is MREL?

The Bank Recovery and Resolution Directive (BRRD) provides that institutions established in the European Union (EU) should meet a minimum requirement for own funds and eligible liabilities ('MREL') to ensure an effective and credible application of the bail-in tool. Failure to meet MREL may negatively impact institutions' loss absorption and recapitalisation capacity and, ultimately, the overall effectiveness of resolution. This requirement is part of the necessary steps needed to make institutions resolvable.

The BRRD requires that MREL is tailored to bank-specific features, including its size, business model, funding model and risk profile and the needs identified to implement the resolution strategy. MREL targets are set by EU resolution authorities, after consultation with prudential supervisors, and should be complied with by banks at the end of the transitional period, if any.

MREL pursues the same regulatory aim of ensuring sufficient loss absorbing and recapitalization capacity in resolution as the TLAC standard developed by the Financial Stability Board (FSB). TLAC was designed for global systemically important banks (G-SIBs) at the international level, and has been formulated differently in some aspects. The European Commission has published legislative proposals in November 2016 to implement the TLAC standard into EU law; the respective legislative process is ongoing.

2. Is MREL an additional capital requirement for banks?

MREL is a separate minimum requirement set by resolution authorities that applies to an institution alongside its prudential minimum capital requirements. The calibration of MREL is, however, linked to prudential requirements as some of its components refer to capital requirements (Pillar I, Pillar II, prudential buffer requirements), and capital instruments held by the banks to comply with their prudential requirements are also eligible as MREL.

3. What is meant by 'MREL shortfall'?

A bank faces an MREL shortfall when it does not hold sufficient own funds and eligible liabilities to meet its MREL target determined by the resolution authority.

A MREL shortfall does not necessarily imply that the bank has a capital shortfall nor that it will be considered as failing or likely to fail. Well-capitalised banks meeting their prudential requirements may be required by resolution authorities, among other actions, to hold an additional amount of MREL liabilities (in the form of own funds or eligible liabilities) in order to ensure that the implementation of the resolution strategy is credible and feasible.

In the context of MREL Decisions of the SRB, and according to the resolution framework, banks which do not immediately meet their MREL target have been granted a specific transitional period to comply with the requirement, allowing banks to, as an example, issue additional eligible instruments and thereby improve their resolvability.

MREL Decisions of the SRB

4. Which banks are subject to a binding MREL target?

The SRB adopted a gradual approach to setting MREL over a multi-year timeframe. The SRB decided in 2016 to set non-binding, informative MREL targets only. Binding Decisions on MREL at consolidated level have been taken during the 2017 resolution planning cycle for the majority of the largest and most complex banks in the Banking Union (BU), including all global systemically important institutions (G-SIIs), and banks with resolution colleges under its remit. Most other SRB banks remain subject to informative targets, not subject to a formal Decision, thus paving the way for future binding decisions by incentivising banks to progress towards improved resolvability and eventually comply with increasing requirements.

The SRB plans to progressively move forward with the aim to set binding MREL targets for all banking groups within its remit by 2020, as referred to in its Multi-Annual Work Programme [*link*].

5. What are the elements of the Decisions?

The Decisions on MREL consist of the following elements: a bank-specific MREL target, a bank-specific transitional period, if any, and the reasoning justifying the calibration of the target and the transitional period.

Elements related to the quality and location of MREL, such as subordination, specific eligibility requirements or internal MREL, will form part of SRB Decisions at a later stage.

6. Why do the targets and transitional periods differ between banks?

In light of the bank-specific nature of MREL and its link to the bank's resolvability and resolution strategy, the SRB sets bank-specific MREL targets, and bank-specific transitional periods, taking into account the bank's size, business model and funding model. As a general rule, the SRB has decided to set individual transitional periods to be as short as possible, up to a maximum of four years. The transitional periods take into account bank- and market-specific factors, and will therefore differ between banks.

When a bank complies with the MREL target specified at the time of the Decision, the SRB has decided to make this requirement binding immediately as a policy choice.

The SRB will monitor the implementation of the binding targets during the transitional period.

7. Are MREL Decisions communicated to banks at the same time?

No. Banks do not receive the outcome of MREL Decisions at the same point in time as the processes for setting MREL differ between banks and the resolution cycle is spread over the year, depending on the type of bank. For example, the decision-making in relation to banks headquartered in the Banking Union (BU) with licensed subsidiaries in jurisdictions in EU Member States not participating in the BU follows a dedicated *Joint Decision Process* between the SRB and the resolution authorities in those non-participating Member States which may be a protracted process. In other cases, timelines may be briefer.

Disclosure

8. Does the SRB request banks to disclose their MREL targets?

The SRB is not mandated to require or advise banks on whether to disclose the content of SRB's Decisions on MREL or any other related element. It is the duty of a bank to determine if information contained in the SRB's Decisions on MREL may be considered as inside information, which needs to be disclosed in light of the applicable EU and/or third-country disclosure requirements in consultation with their legal counsel and relevant authorities, where needed. It requires a case-by-case assessment.

In the SRB's view, any figure disclosed at present may be difficult to interpret since any comparison between two different entities would be irrelevant as each MREL figure starts from a common methodology but is tailored to the situation of each bank from a resolvability point of view.

In relation to disclosure requirements incumbent on issuers under the EU Market Abuse Regulation (MAR), please also see a communication by ESMA of 23 March 2018 on the matter.[1]

9. If a bank decides to disclose its binding MREL targets, what reference base should it use (TLOF, TREA, nominal amount)?

MREL is defined as a percentage of total liabilities and own funds (TLOF) in the current legal framework. As a result, Decisions on MREL indicate the binding target as a percentage of TLOF, and include, for reference only, the corresponding amount expressed as a percentage of the Total Risk Exposure Amount (TREA) or the nominal amount.

If a bank decides to disclose its MREL target, it can refer to either of these different formats. However, only the measure expressed in terms of TLOF is binding.

Way forward

10. How will MREL targets evolve in the future?

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[1] https://www.esma.europa.eu/press-news/esma-news/esma-updates-its-market-abuse-qas.

The SRB is continuously developing its MREL policy addressing new areas for banks to comply with fully-fledged and increasing requirements. In this context, the content of the Decisions on MREL will change due to several factors.

First, MREL targets will be set and revised annually. The SRB is required by Regulation (EU) No 806/2014 to set and review its Decisions on MREL on an annual basis, similar to the ECB when determining Pillar II requirements. Being bank-specific and based on supervisory decisions regarding the Pillar II and buffer components of the MREL calibration, MREL targets and transitional periods may be adjusted following changes in supervisory decisions and outcomes of the resolution authority's assessment and applicable MREL policy.

Second, the legislative framework continues to evolve, in particular because of the European Commission's proposals on the BRRD2/CRR2 ("Banking Package"), which seeks to implement the FSB TLAC standard into the EU legal framework, amongst other things. The related legislative changes in respect of MREL will likely translate to further changes to banks' MREL targets and transitional periods.

Third, banks themselves change, with changes to composition of their balance sheet, both on the liability and asset side, impacting the amount of TLOF, TREA and other components of MREL calibration which affect targets and the transitional periods.