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on Banking Union - Annual Report 2016
(2016/2247(INI))

Committee on Economic and Monetary Affairs

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The European Parliament,

- having regard to the Commission Action plan on a Capital Markets Union of 30 September 2015,
- having regard to the results of the stress tests conducted by the European Banking Authority (EBA) and published on 29 July 2016,
- having regard to the results of the EBA CRD IV – CRR / Basel III monitoring exercise based on December 2015 data and released in September 2016,
- having regard to the ECOFIN Council conclusions of 17 June 2016 on a roadmap to complete the Banking Union,
- having regard to the Commission communication of 24 November 2015 entitled ‘Towards the completion of the Banking Union’ (COM(2015)0587),
- having regard to Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions¹ (SSM Regulation),
- having regard to Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities² (SSM Framework Regulation),
- having regard to the SSM statement on its supervisory priorities for 2016,
- having regard to the ECB Annual Report on supervisory activities 2015, of March 2016³,
- having regard to the ECB consultation on its draft guidance to banks on non-performing loans of September 2016,
- having regard to the ECB Guide on options and discretions available in Union law,
- having regard to Regulation (EU) 2016/445 of the European Central Bank of 14 March 2016 on the exercise of options and discretions available in Union law⁴,
- having regard to the ongoing discussions within the Basel Committee and in particular to the consultative document on ‘Reducing variation in credit risk-weighted assets –

¹ OJ L 287, 29.10.2013, p. 63.

² OJ L 141, 14.5.2014, p. 1.

³ <https://www.bankingsupervision.europa.eu/ecb/pub/pdf/ssmar2015.en.pdf>.

⁴ OJ L 78, 24.3.2016, p. 60.

constraints on the use of internal model approaches' of March 2016,

- having regard to the ECOFIN Council conclusions of 12 July 2016 on finalizing the post crisis Basel reforms,
- having regard to the ongoing Commission work on the review of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012¹ (CRR), in particular as regards the review of Pillar 2 and the treatment of national options and discretions,
- having regard to Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council² (BRRD),
- having regard to Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2014³ (SRM Regulation),
- having regard to the 2015 annual report of the Single Resolution Board (SRB) of July 2016,
- having regard to the Communication from the Commission on the application, from 1 August 2013, of State aid rules to support measures in favour of banks in the context of the financial crisis ('Banking Communication')⁴,
- having regard to Commission Delegated Regulation (EU) 2016/1450 of 23 May 2016 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the criteria relating to the methodology for setting the minimum requirement for own funds and eligible liabilities⁵,
- having regard to the FSB Total Loss-Absorbing Capacity (TLAC) term sheet of November 2015,
- having regard to the EBA interim report on the implementation and design of the MREL framework of July 2016,
- having regard to the Agreement on the transfer and mutualisation of contributions to the

¹ OJ L 176, 27.6.2013, p. 1.

² OJ L 173, 12.6.2014, p. 190.

³ OJ L 225, 30.7.2014, p. 1.

⁴ OJ C 216, 30.7.2013, p. 1.

⁵ OJ L 237, 3.9.2016, p. 1.

Single Resolution Fund, and in particular Article 16 thereof,

- having regard to the Memorandum of Understanding between the Single Resolution Board and the European Central Bank in respect of cooperation and information exchange of 22 December 2015,
 - having regard to Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes¹ (DGSD),
 - having regard to the Commission proposal of 24 November 2015 for a regulation of the European Parliament and of the Council amending Regulation (EU) No 806/2014 in order to establish a European Deposit Insurance Scheme (COM(2015)0586),
 - having regard to the various EBA guidelines issued under the Deposit Guarantee Scheme Directive, in particular the final reports on guidelines on cooperation agreements between deposit guarantee schemes of February 2016 and on guidelines on stress tests of deposit guarantee schemes of May 2016,
 - having regard to the Council statement of 8 December 2015 on Banking Union and bridge financing arrangements for the Single Resolution Fund,
 - having regard to Rule 52 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A8-0000/2016),
- A. whereas the establishment of the Banking Union has been a fundamental step taken towards the completion of a genuine Economic and Monetary Union;
- B. whereas the capital and liquidity ratios of EU banks have steadily improved over the last years; whereas risks to financial stability nevertheless remain; whereas the current situation calls for caution when introducing regulatory changes;
- C. whereas the new resolution regime that entered into force in January 2016 represented a change of paradigm; whereas market participants need to fully understand and adapt to the new system;
- D. whereas no non-euro area country has yet expressed a willingness to join the Banking Union;

Supervision

1. Notes the high level of non-performing loans (NPLs) in some jurisdictions; considers that this issue is crucial and has yet to be solved; welcomes the work of the SSM and its draft guidance on this issue; looks forward to the results of the work on a minimum EU insolvency framework; calls on Member States to improve their insolvency legislation and to stimulate growth in order to tackle NPLs;

¹ OJ L 173, 12.6.2014, p. 149.

2. Considers that there are risks associated with sovereign debt; notes, however, that modifying its prudential treatment could have a significant effect on the financial sector, which calls for caution in reform efforts; awaits with interest the results of the international work on this issue; considers that, in the end, a better regulatory framework, be it European or international, will be needed;
3. Considers it essential to ensure the comparability of risk-weighted assets across institutions in order to allow for effective supervision; welcomes the work done internationally to streamline the resort to internal models, as well as the introduction of a leverage ratio to act as a backstop; recalls, however, that the regulatory changes planned should not result in significant increases in capital requirements, nor harm the ability of banks to finance the real economy, in particular SMEs;
4. Points out that guidance provided by international fora should be used in order to avoid the risk of regulatory fragmentation;
5. Stresses that national options and discretions are hindering the creation of a level playing field between Member States; welcomes the ECB guidance and regulation harmonising the exercise of some of these within the Banking Union; looks forward to the upcoming amendments to the CRR as a means of closing the most significant ones;
6. Recalls the need to clarify the objectives of Pillar 2 and its place within the stacking order of capital requirements; is of the view that the use of capital guidance is a relevant way forward in order to balance financial stability concerns with flexibility needs;
7. Notes that the ‘too-big-to-fail’ issue still needs to be addressed;
8. Points out that easier delegation of decision-making on some routine issues from the Supervisory Board to relevant officials could contribute to making ECB banking supervision more efficient;
9. Recalls the need to find, in the exercise of supervision, a balance between the need for proportionality and the need for a consistent approach;

Resolution

10. Recalls the need to adhere to State aid rules in the context of bank resolution; takes the view that enough flexibility is embedded within the current framework to address specific situations and might be better exploited, in particular in the case of preventive measures involving the use of DGS funds;
11. Takes note of the differences between the FSB TLAC standard and the MREL; stresses, however, that both standards share the same objective; concludes therefore that a holistic approach to loss-absorption can be reached by combining the two; highlights that due consideration should be given to retaining the two criteria of size and risk-weighted assets;
12. Draws attention to the importance of clarifying in legislation the stacking order between MREL-eligible CET1 and capital buffers;

13. Stresses that it is crucial to harmonise the hierarchy of claims in bank insolvency across Member States in order to make the implementation of the BRRD more consistent and effective;
14. Notes the range of legal options available to ensure the subordination of TLAC-eligible debt; points out that none is preferred by the FSB; is of the view that the approach adopted should first and foremost strike a balance between flexibility and legal certainty;
15. Warns that the BRRD requirement of contractual recognition for bail-in powers on liabilities governed by non-EU legislation proves cumbersome to implement; calls for clarification of the type of liabilities to which such requirement applies;
16. Recalls that the substance of the IGA on the SRF is to be ultimately incorporated into the Union legal framework; calls on the Commission to reflect on ways of doing so; stresses that the upcoming incorporation of the fiscal compact into EU law could provide a useful template;
17. Points out that swift and effective exchange of information between supervision and resolution authorities is paramount in order to ensure smooth crisis management; welcomes the conclusion of a memorandum of understanding between the ECB and the SRM in respect of cooperation and information exchange;

Deposit Insurance

18. Regrets that the Commission did not allow for more time to assess the implementation of the DGSD before proposing the EDIS and did not conduct a proper impact assessment of the proposal; stands ready, however, to seize the opportunity generated by the proposal to discuss the DGSD and address some of the options and discretions it includes;
19. Is aware of the potential benefits of an EDIS; is nevertheless of the opinion that risk reduction measures are an indispensable counterparty to its establishment in order to prevent moral hazard, and that such measures should preferably precede risk sharing;
20. Welcomes a European approach to deposit insurance, which must make it possible to address outstanding DGSD implementation issues and phase in the risk reduction measures;
21. Recommends that the Commission, the ECB and the EBA study the possibility and suitability of accompanying the introduction of the EDIS with an assessment of the capital and liquidity situation of banks in order to better quantify the risks to be insured;
22. Highlights that Article 114 seems to be an appropriate legal basis for the establishment of both the EDIS and the DIF;
23. Stresses that the introduction of the EDIS and discussions on this project should not lead to a weakening of the efforts towards improving the implementation of the DGSD; welcomes the work done recently by the EBA to promote convergence in this field;

Fiscal backstop

24. Welcomes the establishment of loan facility agreements between the SRF and the Banking Union Member States; is of the opinion, nevertheless, that this solution is not sufficient to do away with the bank-sovereign vicious circle and that the work on a common fiscal backstop for the SRF, which should be fiscally neutral over the medium term, should continue step by step;
25. Instructs its President to forward this resolution to the Council, the Commission, the ECB and the SRB.