



2023 EUROPEAN RESOLUTION EXAMINATION PROGRAMME (EREP) FOR RESOLUTION AUTHORITIES

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Contents

Abbreviations	3
Executive Summary	4
About the EREP	5
Key topics identified for the 2023 EREP	6
1. Addressing MREL shortfalls	6
2. Management Information Systems for Valuation	8
3. Liquidity Needs in Resolution	9
4. Operationalisation of the Bail-in Strategy	10

Abbreviations

BRRD	Bank recovery and resolution directive (Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014)
CA	Competent authority
EBA	European Banking Authority
EREP	European Resolution Examination Programme
ESEP	European Supervisory Examination Programme
EU	European Union
FSB	Financial Stability Board
MIS	Management Information Systems
MREL	Minimum Requirement for own funds and Eligible Liabilities
MPE	Multiple Point of Entry
PoE	Point of Entry
PRS	Preferred Resolution Strategy
RA	Resolution authority
SPE	Single Point of Entry

Executive Summary

In November 2021 the EBA launched the first European Resolution Examination Programme (EREP)¹. This programme is designed to proactively drive convergence in resolution practices in the EU. It does so through the identification of key topics, relating to resolution planning and execution, which all EU resolution authorities are requested to incorporate into their priorities for the upcoming year.

The topics in the 2022 programme focussed on (i) the process of addressing MREL shortfalls (ii) the development of management information systems for valuation and (iii) preparations for banks to be able to meet their liquidity needs in resolution.

Monitoring of progress under each of these headings, against clearly defined criteria, is being conducted during the current year and the EBA will publish a report on its findings in the first half of 2023.

Given the integral importance of each of these topics to successful resolution and the fact that the monitoring activity on the EREP 2022 is not concluded yet, it is intended that they will continue to constitute the core of the EREP for 2023, although in some cases the criteria for monitoring are altered.

One additional topic, progress on the operationalisation of the bail-in tool, has been added to the programme. As bail-in remains the most prominent resolution strategy for systemically important banks, it is crucial that impediments to successful execution are identified and addressed in advance. A focus of the work on this component of the programme will be the capacity to expeditiously execute the write down or conversion of securities quoted on markets outside the headquarters of the credit institution.

The identification of these topic has followed a process of engagement and consultation with EU resolution authorities.

1. 12 November 2021: [The EBA sets first examination programme for resolution authorities | European Banking Authority \(europa.eu\)](#)

About the EREP

The EREP is an EBA programme aimed at fostering convergence of resolution practices in the EU. It focusses the attention of resolution authorities on topics assessed as being of importance to the planning and execution process and where traction at EU level is considered necessary.

Convergence is a process for achieving comparable practices in Member States which is based on compliance with the EU rules, and which leads to consistent outcomes. Thus, the EBA's monitoring of the implementation of the 2023 EREP will follow the "Compliance - Comparability – Consistency" perspectives looking at the proper application of the regulatory framework, the way procedures have been implemented in each jurisdiction and their outcome. The EBA will use the most appropriate convergence tools at its disposal to conduct the assessment, in particular questionnaire, and desk-based review and interviews with CAs, as applicable. The EBA, through its participation in resolution colleges, will also monitor the level of implementation in the work of colleges. The observations collected will feed into the overall conclusions on the degree of convergence of resolution practices.

It is expected that all EU resolution authorities include the topics identified in this paper in their work programmes for 2023 and, as relevant, in the work conducted in resolution colleges established under Articles 88 and 89 of the Bank Recovery and Resolution Directive. The findings coming from the monitoring activity performed by the EBA are included in a report published in the first half of the year following the reference period.

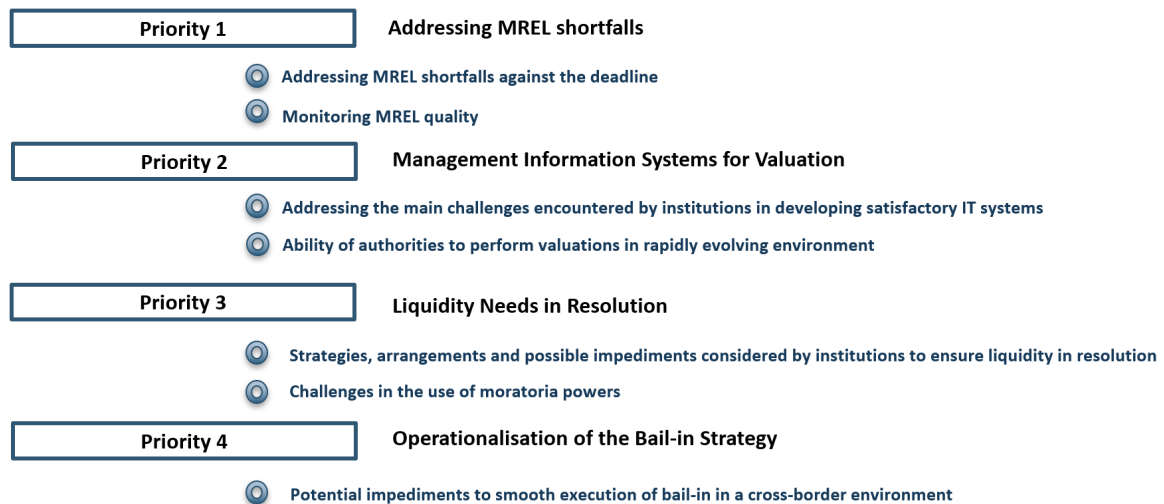
In selecting topics for review, the EBA has identified issues that are considered material to advancing EU resolution planning, readiness, and capability, based on the information gathered from EBA also in the context of its regular monitoring of the banking system and of its participation to resolution colleges. Each of the selected areas is broadly consistent with the priorities that resolution authorities are pursuing and, where relevant, the issues are linked to tasks being pursued under the European Supervisory Examination Programme although the perspective informing the two documents are naturally different

The four proposed areas of attention are detailed in this paper and are mostly stemming from the topics already identified in the EREP for 2022, although in some cases the specific attention points identified to support resolution authorities in focusing their attention on key aspects of each topic, contribute to the development of comparable resolution practices across the EU and facilitate the objective assessment at the end of the cycle by the EBA, are altered.

[The EBA sets examination programme for prudential supervisory authorities](#)

The EBA follows a consistent approach in driving convergence in prudential supervision as well as in resolution. Therefore, the EBA sets, in parallel to the annual EREP, the European Supervisory Examination Programme (ESEP) which aims at enhancing convergence across the prudential supervisory cycle.

Key topics identified for the 2023 EREP



1. Addressing MREL shortfalls

Focus areas:

- **Addressing MREL shortfalls against the deadline**
- **Monitoring MREL quality**

The most prominent resolution tool expected to be deployed in European Union (EU) banking failures remains the bail-in tool. Key to its successful implementation is the sufficiency of the minimum requirements for own funds and eligible liabilities ('MREL').

The deadline date for meeting MREL requirements is 1 January 2024. Work conducted by the EBA demonstrates that the shortfalls between current levels of eligible liabilities and that the requirements that banks must comply with by 1 January 2024 has decreased substantially in recent times. The number of banks that find themselves in this position, while important, has also decreased and is now confined to "110 resolution groups presented a shortfall of EUR 67.6bn against their end-state MREL targets, [...] while regarding the intermediate target of January 2022, the shortfall was limited. As of December 2020, all global systemically important institutions (G-SIIs) had already met their intermediary target and only 38 out of 260 resolution groups (18 O-SIIs and 20 other banks) had a shortfall of EUR 13.3bn (EUR 10.2bn for O-SIIs and EUR 3.1bn for other

banks)². However, as the deadline approaches, it is essential to ensure that shortfalls are addressed.

Responsibility for ensuring that banks meet their requirements rests with the EU resolution authorities. This EREP should be considered as an enhanced focus on the challenges that authorities are facing, and the actions taken to address them. This includes the exercise of powers available under the BRRD. Accordingly, the focus points from 2022 will remain also in the 2023 exercise and are the following:

- a. The level of MREL shortfalls (using a measure such as percentage of own funds, proportion of profitability) and the expectations and plans/strategies for reducing these shortfalls in 2022 and 2023.
- b. The approaches that banks are deploying to address shortfalls e.g., profit retention, issuance of qualifying instruments, balance sheet reductions.
- c. The approaches authorities are using to ensure institutions' ability to address with MREL shortfalls, including the use of the powers available under Article 45 (k), the circumstances selected/envisaged for the use of the powers and the options used or to be used (from Article 45 (k) (a) to (e)).
- d. The nature of any engagement that may have been held with competent authorities in the context of Article 45 (k) and the issues that arose during such engagement.

While the above issues will remain a focus of attention in 2023, it is considered appropriate at this juncture to point out to specific measures that could be used by resolution authorities and to explore the qualitative nature of the instruments being issued to meet MREL. In particular, the 2023 focus should cover also:

- a) the use of Resolution Authorities of the power to extend the deadline to meet the MREL beyond 1 January 2024, the duration of those extensions and their justification, referencing the statutory conditions to such extensions in A.45m(1) and (7) BRRD;
- b) the procedure and processes used by resolution authorities to monitor the quality of MREL, including any use of the information and recommendations embedded into the EBA TLAC MREL monitoring report and the EBA Q&As tool.

² EBA annual Report on minimum requirements for own funds and eligible liabilities (MREL) of 22 April 2022 - <https://www.eba.europa.eu/eba-sees-progress-mrel-shortfall-reduction-largest-institutions-while-smaller-institutions-are> . Preliminary data concerning the 31.12.2021 reference date set the shortfall against the final MREL targets to less than a half of the figures of the previous year, attributable to around 70 resolution groups.

2. Management Information Systems for Valuation

Focus areas:

- **Addressing the main challenges encountered by institutions in developing satisfactory IT systems**
- **Ability of authorities to perform valuations in rapidly evolving environment**

The capacity to undertake comprehensive and expeditious valuation at the point of resolution is of central importance to the execution process; a point repeatedly emphasised in reviews of past failure cases conducted by the EBA. There are a number of EBA regulatory products specifically devoted to this area of resolution including the Management Information Systems (MIS) component of the 'Handbook on Valuation for Resolution Purposes' produced in March 2020.

For the 2022 EREP, the measuring progress on the development of satisfactory MIS systems was selected as one of the key topics. The EBA understands that this is an area that continues to demand considerable attention by resolution authorities. For this reason, the EREP will continue to put an emphasis on:

- i. The timelines resolution authorities have set for institutions to introduce appropriate management information systems, including the different phases of development that are expected, as well as priorities set for institutions;
- ii. The main challenges faced by banks in delivering satisfactory systems and the measures they are taking to overcome such challenges. The aim is to identify those products that are the most complex to value, challenges with the development of internal valuation models and the identification of reliable data sources. The focus should also be on the internal allocation of responsibilities in banks and the internal policies/processes implemented to ensure that high quality data and information are available at the point of resolution; and
- iii. The nature of the scenarios that have been defined by resolution authorities for banks to test their capabilities and/or the intentions with respect to testing. Where banks have already undertaken testing (including the completion of simulation exercises) the outcomes and the key lessons learned are considered to be of interest.

The scope of the review on this matter is extended to consider continuous improvement of authorities' capabilities and preparedness to obtain valuation services from professional valuers or to perform valuations (when urgently needed) in rapidly evolving situations.

3. Liquidity Needs in Resolution

Focus areas:

- **Strategies, arrangements and possible impediments considered by institutions to ensure liquidity in resolution**
- **Challenges in the use of moratoria powers**

The importance of the availability of sufficient liquidity, to ensure that institutions that have been placed into resolution can meet their liabilities as they fall due, is self-evident and has been a key feature also in the past failure cases reviewed by the EBA.

It is broadly acknowledged that preparedness to deal with funding and liquidity issues in resolution remains a key challenge for resolution authorities. Accordingly, the following areas will remain as areas of attention for the EU resolution authorities:

- i. The core strategies that institutions intend to adopt to meet their liquidity needs in resolution (on a material currency basis). This will include the extent to which they see those needs being met by central bank funding, other public sources of financing (e.g., resolution financing arrangements established in accordance with Article 100 in BRRD), drawdown of guaranteed lines of credit, asset disposals, debt issuance etc., and the estimation of the relative significance of each source.
- ii. The modelling and testing that institutions have carried out on their capacity to meet their liquidity needs in resolution. This would also address the nature and severity of the scenarios that have been used to test hypotheses and the approaches taken by authorities to ensure that these scenarios are realistic.

Regarding the mobilisation of assets and other private resources, the following elements will be centre of the monitoring exercise:

- iii. The arrangements put in place by institutions to ensure that they can measure and report their funding needs in resolution. This could include the governance arrangements, the management information systems deployed, and procedures to ensure that these arrangements remain suitable for purpose.
- iv. Monitoring should also gain an understanding of the key impediments identified to the development of robust systems and the actions taken by institutions and resolution authorities to address those impediments. Additionally, where satisfactory systems are not yet in place, the timelines authorities have imposed to address outstanding matters, as well as the key priorities for institutions.

- v. The preparatory arrangements that institutions have put in place to support the delivery of their strategy. The focus should be on operational capacity, including the mobilisation of collateral, arrangements to ensure that foreign currency demands can be satisfied, measures taken to ensure that legal, regulatory or contractual provisions do not obstruct the movement of resources that need to be mobilised.

An additional area of attention under this broad heading concerns the powers of resolution authorities to use moratorium powers. Failures observed in the EU have highlighted the benefits of being able to apply a stay on payments, providing time for authorities to develop robust plans, particularly in very fast-moving situations. The EBA intends to compare the powers of authorities in this area, as well as gaining an understanding of (a) the capacity of banks to implement moratorium powers, and (b) the capacity of banks to allow customers to receive daily withdrawals in line with instructions coming from the resolution authority.

4. Operationalisation of the Bail-in Strategy

Focus areas:

- **Potential impediments to smooth execution of bail-in in a cross-border environment**

As outlined above, the 2022 EREP key topics will continue, with certain amended objectives, to be the focus of the 2023 programme. In this second year, an additional topic, the operationalisation of the bail-in strategy, is being added.

The Preferred Resolution Strategies (PRS) of most EU banks subject to resolution remains a bail-in strategy performed via a Single Point of Entry (SPE) or Multiple Point of Entry (MPE). EU resolution authorities have worked extensively on ensuring that, at the point of execution, the write down or conversion of eligible liabilities is performed in an efficient and expeditious manner. This has involved the development of playbooks by banks, consideration of legal issues and engagement with the stakeholders in the process.

Notwithstanding the progress made, challenges remain, particularly with respect to quoted liabilities on markets outside of the home member state and the upstreaming of losses/downstreaming of capital.

While working to disclose their approach to the implementation of the bail-in tool as asked by the EBA GLs recently published³, EU resolution authorities should also aim at getting an appropriate understanding of

- a. Potential hinderances to the smooth execution of the bail-in process when dealing with a cross-border bank and where significant quantities of bank debt are issued or traded on foreign markets. This should include the challenges in cooperation among authorities to be addressed in the pre-resolution phase and under resolution, in particular when dealing with the relevant market authorities, central clearing systems, and other relevant stakeholders.
- b. Potential hinderances relating to the effective functioning of internal loss transfer and recapitalisation mechanisms, in an EU and cross border context, enabling the transfer of losses from the group's non-resolution entities up to the PoE and potential transfers of capital from the PoE down to the rest of the resolution group. The areas of focus should include potential identified legal and practical obstacles to the transfer of funds and the remedies that could effectively help an effective solution.

³ <https://www.eba.europa.eu/eba-consults-guidelines-resolution-authorities-publication-their-approach-implementing-bail-tool>



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