SRM: main differences between ECON report and Council General Approach

<table>
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<tr>
<th>Issue</th>
<th>EP</th>
<th>Council</th>
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<tr>
<td><strong>Scope</strong> (Art. 2, 7, 7a &amp; 29)</td>
<td>The SRM covers all SSM banks, irrespective of whether they are directly supervised by the ECB or not. The Board may require national authorities to perform tasks related to the drawing up of resolution plans, under its authority.</td>
<td>The SRM covers in principle all SSM banks but in practice, only the 130 directly supervised banks and cross-border banks will be placed under the responsibility of the Board and will have to fund/have access to the Fund. The resolution of all other banks will remain under the responsibility of national authorities. NB: the division between banks resolved at EU and national levels does not coincide with then division between banks directly and indirectly supervised by the ECB within the SSM.</td>
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<td><strong>Determination of non-viability of an institution (&quot;failing or likely to fail&quot;) (Art. 16)</strong></td>
<td>Made by the ECB only (including following a communication of a national supervisory authority) The Board may request the ECB to make an assessment regarding the non-viability of an institution but the final decision lies with the ECB.</td>
<td>3 possibilities: by the ECB, a national resolution authority or the Board.</td>
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<td><strong>Decision to place an institution under resolution</strong> (Art. 16)</td>
<td>The Commission, on the basis of a draft decision from the Board, adopts a resolution framework placing the institution under resolution. The Board adopts a resolution scheme on the basis of the resolution framework.</td>
<td>The Board adopts a resolution scheme placing the institution under resolution which enters into force unless Council objects within 24 hours. The Council may amend, on proposal by the Commission, the resolution scheme, following a complex comply-or-explain procedure (3 possible stages, ending with the Board being forced to amend the scheme as requested by Council).</td>
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<td><strong>Composition of the Board and voting modalities</strong></td>
<td>Members of the Board, all with voting rights: - an Executive Director,</td>
<td>Members of the Board: - an Executive Director, with voting rights</td>
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| (Art. 39 & 51) | - a Deputy Executive Director,  
- a member appointed by the Commission,  
- a member appointed by the ECB  
- a member appointed by each national resolution authority.  

The Board in its executive session should strive for a consensus, if not, the voting modalities provide for a balance between representatives of EU institutions and representatives of Members States, and leave no possibility for a national veto.  

- 4 members appointed by the Council, with voting rights,  
- a member appointed by each national resolution authority, with voting rights except for decisions taken in executive session.  

Decisions in the executive session should be taken by consensus within a deadline set by the Executive Director; if not, only the Executive Director and the 4 members appointed by Council vote, by simple majority.  

Decisions taken in plenary session taken by a 2/3 majority when it involves the use of the Fund. |
| --- | --- |
| Division of tasks between the plenary/executive session of the Board (Art. 46 & 50) | All decisions relating to resolution are taken in the **executive session**, including:  
- preparation and approval of resolution plans,  
- determination of MREL,  
- drafting of the draft decision (including on the use of the Fund) submitted to the Commission for it to trigger the resolution.  

Draft resolution decisions are prepared in the executive session; however, most decisions involving the use of the Fund, as well as the decisions on borrowing and mutualising of financing arrangements are taken in the **plenary session**. |
| Selection procedure of the Executive Director and Deputy Executive Director (Art. 50) | Alignment to SSM for both positions: **approval** by EP on the basis of a proposal by Commission and appointment by Council.  

Executive Director and 4 other members appointed by Council on the basis of a short list provided by Commission, after **hearing** the EP.  

Deputy Executive Director (who is not part of the Board, only there to replace the Executive Director) is appointed by the Board. |
### Single Resolution Fund and backstop (Art. 64-73)

A **Single Resolution Fund** should be established for all banks covered by the SRM as soon as the Regulation enters into force, i.e. as of 1 January 2015. The target fund level should be reached within 10 years of the entry into force of the Regulation.

A credit line should be set to ensure to the Fund immediate availability of adequate financial means.

A Single Resolution Fund should be built **over a 10 years period** through a gradual mutualisation and under intergovernmental rules (an **intergovernmental agreement (IGA)**) is to be concluded by 1 March 2014). At first, contributions (raised at national level) to the Fund shall be allocated to different **national compartments**, which shall merge progressively into a single Fund at the end of the 10 years. The financial means made available to the institution under resolution would come from **three different sources in the following order:**

- **Step 1:** means from national compartments of the Member State in which the bank under resolution is established,
- **Step 2:** if not enough, means from all compartments making up the Fund,
- **Step 3:** if not enough, other means, including ex-post contributions, national sources or ESM, or lending between compartments.

The proportion of the use of means under step 1 will decrease progressively from 100% the first year to 0 while the proportion of the use means under step 2 will increase from 10% to 100%.

### Entry into force (Art. 88)

**SRM 1 January 2015, bail-in 1 January 2016.**

Same dates as EP but **everything is conditioned to the ratification of the IGA** by Member States representing at least 80% of the sum of national compartments of the Fund.

As long as the IGA is not ratified, the SRM is not applicable.