

## DECISION OF THE SINGLE RESOLUTION BOARD

Date	16/09/2024
Title	<b>Data formats, representations, related additional assurance requirements and guidance for institutions reporting information required for the purpose of the calculation of the 2025 ex-ante contributions to the Single Resolution Fund</b>
Reference	<b>(SRB/ES/2024/31) (Only the English text is authentic)</b>

### THE SINGLE RESOLUTION BOARD,

Having regard to the Treaty on the Functioning of the European Union,

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 1093/2010<sup>1</sup> (hereinafter “Regulation (EU) No 806/2014”),

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 Council<sup>2</sup> (hereinafter “Directive 2014/59/EU”),

Having regard to Council Implementing Regulation (EU) 2015/81 of 19 December 2014 specifying uniform conditions of application of Regulation (EU) No 806/2014 of the European Parliament and of the Council with regard to the ex-ante contributions to the Single Resolution Fund<sup>3</sup> (hereinafter “Council Implementing Regulation (EU) 2015/81”) and, in particular, Recital 12 and Article 6 thereof, and

Having regard to Commission Delegated Regulation (EU) 2015/63 of 21 October 2014 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to ex-ante contributions to resolution financing arrangements (hereinafter “Commission Delegated Regulation (EU) 2015/63”)<sup>4</sup> and, in particular, Article 14(6) thereof,

Whereas

<sup>1</sup> OJ L 225, 30.7.2014, p. 1.

<sup>2</sup> OJ L 173, 12.06.2014, p. 190.

<sup>3</sup> OJ L 15, 22.01.2015, p.1.

<sup>4</sup> OJ L 11, 17.1.2015, p. 44.

## I. Legal Framework

- (1) According to Article 69(4) of Regulation (EU) No 806/2014, if, after the initial period referred to in paragraph 1, the available financial means diminish below the target level specified in that paragraph, the regular contributions calculated in accordance with Article 70 of Regulation (EU) No 806/2014 shall be raised until the target level is reached.
- (2) According to Article 70(1) of Regulation (EU) No 806/2014, the individual contribution of each institution shall be raised at least annually and shall be calculated pro-rata to the amount of its liabilities (excluding own funds) less covered deposits, with respect to the aggregate liabilities (excluding own funds) less covered deposits, of all of the institutions authorised in the territories of all of the participating Member States.
- (3) According to Article 6 of Council Implementing Regulation (EU) 2015/81, the Board (“SRB”) shall set out the data formats and representations to be used by the institutions to report the information required for the purpose of calculating the annual contributions in order to enhance the comparability of the reported information and the effectiveness of processing the information received.
- (4) According to Article 14(1) of Commission Delegated Regulation (EU) 2015/63, institutions shall provide the resolution authority with the latest approved annual financial statements available before 31 December of the year preceding the contribution period<sup>5</sup>.
- (5) According to Article 14(2) of Commission Delegated Regulation (EU) 2015/63, the institutions shall provide the resolution authority at least with the information referred to in Annex II to Commission Delegated Regulation (EU) 2015/63 at individual entity level.
- (6) According to Article 14(5) of Commission Delegated Regulation (EU) 2015/63, where the information or data submitted to the resolution authorities is subject to updates or corrections, such updates or corrections shall be submitted to the resolution authorities without undue delay.
- (7) According to Article 14(6) of Commission Delegated Regulation (EU) 2015/63, the institutions shall submit the information referred to in Annex II to Commission Delegated Regulation (EU) 2015/63 in the data formats and representations specified by the resolution authority.
- (8) According to Article 17(3) of Commission Delegated Regulation (EU) 2015/63, where the information submitted by the institutions to the resolution authority is subject to restatements or revisions, the resolution authority shall adjust the annual contribution in accordance with the updated information upon the calculation of the annual contribution of that institution for the following contribution period.
- (9) According to Article 34 of Regulation (EU) No 806/2014, the Board may, through the national resolution authorities (“NRAs”) or directly, after informing them, making full use of all of the information available to the European Central Bank (“ECB”) or to the national competent authorities (“NCAs”), require provision of all of the information necessary to perform the tasks conferred on it by this Regulation.
- (10) According to Article 35 of Regulation (EU) No 806/2014, the Board may, through the NRAs or directly, after informing them, conduct all necessary investigations of any legal or natural person referred to in Article 34(1) established or located in a participating Member State. To that end, the Board may obtain written or oral explanations from any legal or natural person referred to in Article 34(1) or their representatives or staff.

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<sup>5</sup> As stipulated in Recital 8 of Council Implementing Regulation (EU) 2015/81, in accordance with Article 5(1) of Regulation (EU) No 806/2014, the SRB is considered, for the application of that Regulation and of Directive 2014/59/EU, to be the relevant national resolution authority, where it performs tasks and exercises powers which are to be performed or exercised by the national resolution authorities pursuant to those legal acts. Therefore, the SRB should also be considered to be the resolution authority for the purpose of the application of Commission Delegated Regulation (EU) 2015/63. The provisions set out in that Delegated Regulation apply to the SRB when performing the tasks and exercising powers set out in this Regulation.

## II. Legal and economic assessment

- (11) Pursuant to Article 6 of the Council Implementing Regulation (EU) 2015/81, the SRB defines, while taking into account the comments and suggestions received from institutions and NRAs<sup>6</sup> during the preceding cycles, the data formats and representations to be used by institutions to report the data required for the calculation of 2025 contributions.
- (12) The data formats and representations shall be specified in a way that enhances the comparability of the reported information and the effectiveness of processing the information received. In this regard, it is of utmost importance that the calculation of contributions is done on the basis of reported data that meets certain minimum criteria in terms of availability, quality and harmonisation. This is particularly important taking into account that the calculation is a distribution model based on comparisons between institutions and requires high quality and comparable data. In accordance with Article 4 of Commission Delegated Regulation (EU) 2015/63, the calculation of the contributions is based on data provided by the institutions pursuant to Article 14 of that Delegated Regulation. This Article requires that institutions provide to the SRB at least the data points set out in Annex II to the Commission Delegated Regulation (EU) 2015/63. In addition, given that this Annex II does not contain all the data required for the determination of the risk indicators of Risk Pillar IV (“Additional risk indicators determined by the resolution authority”) and that these indicators are to be further specified by the resolution authority, the SRB has to determine the data to be reported to be used for the applicable sub-indicators.
- (13) The SRB monitors the availability and reliability of the data required for the calculation of ex-ante contributions and implementation of each of the risk indicators identified in Article 6 of Commission Delegated Regulation (EU) 2015/63. These risk indicators must be applied on the basis of accurate and harmonised data that permits the precise calculation of the relative risk position of each institution. This requires that the underlying data points used for application of each of the risk indicators should be available in a harmonised and up-to-date format.
- (14) As during each contribution period, for the 2025 contribution period, the SRB examined the possibility to include in the calculation methodology all risk (sub-)indicators referred to in Article 6 of Commission Delegated Regulation (EU) 2015/63, including the ones not yet applied in the previous cycles, i.e.
  - a. Own funds and eligible liabilities held by the institution in excess of ‘Minimum Requirement for own funds and Eligible Liabilities’ (“MREL”) (Pillar I); and
  - b. Complexity and resolvability (Pillar IV).
- (15) In accordance with Step I (Calculation of the Raw Indicators) of Annex I to the Commission Delegated Regulation (EU) 2015/63, the SRB shall calculate the risk indicator “Own funds and eligible liabilities held by the institution in excess of MREL” (“MREL Indicator”) based on the data points own funds, eligible liabilities, total liabilities and MREL (“MREL Indicator variables”).
- (16) The MREL Indicator for the calculation of Single Resolution Fund (“SRF”) contributions was not applied in the previous cycles (2016-2023) due to the fact that, based on the information at the disposal of the SRB, the available data on the above-mentioned MREL Indicator variables was insufficient for an adequate and robust implementation of the risk indicator.
- (17) The 2024 SRF data collection and the related exchanges with the banking industry and the NRAs confirmed the above-mentioned insufficiency of available data: the vast majority of the risk-adjusted institutions in scope of 2024 failed to report values for each of the MREL Indicator variables.
- (18) Since MREL targets have not yet been set for all institutions (including all risk-adjusted institutions) in the participating Member States for the reference year 2023 pertaining to the 2025 cycle (based on the information available to the SRB), the SRB cannot, for each institution concerned, determine the amount

<sup>6</sup> On 18 July 2024, the SRB shared with the NRAs the draft data formats and representations for the 2025 contribution period.

of own funds and eligible liabilities held *in excess of MREL*, as contemplated by Article 6 of Commission Delegated Regulation (EU) 2015/63. In light of the foregoing, the SRB considers it appropriate, *in order not to create an excessive administrative burden for the institutions*, not to require the reporting of any MREL Indicator variables in the 2025 data collection<sup>7</sup>.

- (19) Taking into account the above, the SRB defined the 2025 Data Reporting Form, which is contained in Annex I to this Decision.
- (20) Given the nature and complexity of (at least some) data points to be reported for the purposes of the calculation, the SRB deems it appropriate to provide institutions with a Guidance Document (Annex III to this Decision) on the definitions of the relevant data points. This document serves the purpose of unification of reporting as well as enhancing the comparability of data and effectiveness of the process. Such document facilitates the completion of the 2025 Data Reporting Form by institutions in a harmonized way, which is an important element for ensuring the comparability of the data. Where relevant, the Guidance Document refers to the references of the supervisory reporting framework<sup>8</sup>.
- (21) As for every cycle, and with reference to Recital 12 of Council Implementing Regulation (EU) 2015/81, for the 2025 contribution period, the SRB defines additional assurance requirements on the data to be reported by institutions solely for the purpose of calculating the contributions to the SRF and not reported under the regular supervisory or accounting framework (Annex II to this Decision).
- (22) The main objective of the additional assurance requirements is to ensure that the data submitted by the institutions and used by the SRB for the calculation of contributions is of the highest standard. In particular, the scope of the additional assurance includes covered deposits data (reported by institutions as deductions), data related to derivatives used in the adjustment of total liabilities as well as data on qualifying intragroup, Institutional Protection Scheme (“IPS”), promotional loans liabilities and assets and own funds in case of a waiver.
- (23) Ensuring the accuracy of data provided is a key element in protecting the interests of all institutions.
- (24) In the context of the 2024 additional assurance exercise, some institutions have raised concerns relating to the financial and operational burden they incur for hiring external auditors and allocating their internal staff in order to comply with the additional assurance requirements.
- (25) In order to limit the financial and operational burden of the additional assurance process, the SRB considers it appropriate to make the application of the additional assurance requirements for the 2025 data collection conditional on the actual use of the 2025 data set for the calculation and collection of SRF contributions. This would imply that the institutions will be required to comply with the additional assurance requirements only if the SRB were to adopt a decision to calculate and collect contributions to the SRF based on the 2025 data set. That way, the burden for institutions is limited to a maximum while the main objective of the additional assurance requirements is safeguarded.
- (26) If the above condition is met, the additional assurance exercise will come into effect and the institutions will have to comply with additional assurance requirements. The additional assurance requirements to be met by institutions will be as set out in Annex II referred to below.
- (27) However, the abovementioned conditionality does not apply to the data submitted for restatements to be processed in 2025. Irrespective of the actual use of the 2025 data set, the 2025 additional assurance requirements shall be applicable (unconditionally) to the restatements (related to the contributions

<sup>7</sup> Similarly, for the “complexity and resolvability” sub-indicator, it is appropriate not to require any reporting in the 2025 data collection given that any application of this sub-indicator will be based on the resolvability assessment conducted by the resolution authority.

<sup>8</sup> Commission Implementing Regulation (EU) 2021/451 of 17 December 2020 laying down technical standards for the application of Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to supervisory reporting of institutions and repealing Implementing Regulation (EU) No 680/2014.

periods 2016-2023) of data points that are in scope of the additional assurance requirements and were used in the past to calculate and collect contributions to the SRF.

- (28) The SRB has assessed, based on data available from previous contribution periods, that an agreed upon procedure (“AUP”) performed by an auditor better ensures the accuracy of data than a mere sign-off by the institution’s management. The SRB assessed furthermore the possibility of requesting an assurance statement from an auditor on the data points in scope of additional assurance requirements. At the same time, the SRB understands that such an option would imply significant costs and efforts from the institutions as auditors would have to perform much more work for such assurance statement than for an agreed upon procedure. Therefore, for the 2025 contribution period, the SRB considers agreed upon procedures performed by an auditor as the most appropriate way to ensure effectively and proportionally the objective of the additional assurance requirements. The SRB deems that these additional assurance requirements are in compliance with the principle of proportionality, particularly considering the positive impact that such approach will have on ensuring the accuracy of the data possibly used for the calculation of the contributions of each institution to the SRF. Moreover, the action required by institutions in scope to ensure compliance with this decision is expected to be rather limited when compared to possible alternative measures, such as requesting an assurance statement from the auditors on the data points in scope of additional assurance, especially with the conditional application referred to above.
- (29) The SRB deems it necessary for NRAs to maintain the discretion to extend the scope of data covered by the additional assurance requirements or to extend the scope of institutions that need to provide additional assurance beyond the minimum set by this Decision.
- (30) In the context of the calculation of the contributions to the SRF, the NRAs will be the first point of contact for the communications with institutions established in their respective territories.<sup>9</sup> In accordance with Article 14 of Commission Delegated Regulation (EU) 2015/63, institutions are required to submit the data referred to in that provision to the NRAs so that it can be transmitted to the SRB by 31 January 2025.

HAS ADOPTED THIS DECISION:

#### *Article 1*

##### ***2025 Data Reporting Form***

The data formats and representations to report information required for the purpose of calculating the 2025 annual contributions to the SRF, as set out in Annex I, are hereby approved.

#### *Article 2*

##### ***2025 Additional Assurance Requirements***

The 2025 additional assurance requirements, as set out in Annex II, are hereby approved.

The 2025 additional assurance requirements shall become effective and applicable to the 2025 data of institutions in scope of the 2025 contribution period upon the adoption by the SRB of a decision on the calculation and collection of contributions to the SRF based on the 2025 Data Reporting Forms submitted by institutions in scope of the 2025 contribution period.

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<sup>9</sup> In accordance with the SRM cooperation framework, the NRAs provide operational support to the SRB in the context of the SRF contribution process. In this regard, the Court of Justice clarified in its judgment in case C 414/18, paragraph 47, that the SRB exclusively exercises the final decision-making power and that the findings of NRAs on the situation of an institution at a given time in the process cannot be binding on the SRB.

### **Article 3**

#### **2025 Guidance Document**

The 2025 Guidance Document related to the 2025 Data Reporting Form, as set out in Annex III, is hereby approved.

### **Article 4**

#### **Communication**

This Decision is communicated to the NRAs and is to be notified by the NRAs to the institutions and shall enter into effect upon such notification.

Done at Brussels,

*For the Single Resolution Board,*

*The Chair*

*Dominique Laboureix*

### **Annexes**

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<b>Annex I.</b>	<b>2025 Data Reporting Form</b>
<b>Annex II.</b>	<b>2025 Additional Assurance Requirements</b>
<b>Annex III.</b>	<b>2025 Guidance Document</b>