



# RESOLUTION COLLEGES - ANNUAL REPORT 2020

EBA/REP/2021/22

**EBA**

EUROPEAN  
BANKING  
AUTHORITY

# Contents

---

1. Introduction	1
2. Executive Summary	2
3. Functioning of Resolution Colleges	3
3.1 Impact of the revised working arrangements and information exchange	3
3.2 Quality of College Interactions	4
4. College deliverables	5
4.1 Joint Decisions on resolution plans and MREL	5
4.2 Joint Decision on the removal of impediments to resolvability	5
5. College Deliverables: Thematic Issues	5
5.1 Revision of resolution strategy	5
5.2 Engagement of supervisory authorities, competent ministries, and administrators of deposit guarantee schemes	6
5.3 Written arrangement and updated contact list	7
5.4 Reviewing Business Re-organisation Plans	7
5.5 Resolvability Template	7
6. Convergence in Resolution Policy	8
6.1 Estimation of Pillar 2 and Combined Buffer Requirements for Setting MREL	8
6.2 Effective Application of Stay Powers	8
6.3 Impracticability of Contractual Recognition under BRRD	8
7. Important Topics for 2021 College Discussions	9

## 1. Introduction

1. Resolution colleges are required under the Bank Recovery and Resolution Directive ('BRRD' or 'Directive') to provide a framework for the group-level resolution authority (GLRA), other relevant resolution authorities, supervisory authorities, competent ministries and authorities responsible for deposit guarantee schemes, to collectively plan for and coordinate the resolution of cross-border banking groups<sup>1</sup>.
2. The EBA, in fulfilment of its responsibilities under the Directive of promoting and monitoring the efficient, effective, and consistent functioning of resolution colleges, provides regular reports on the progress it observes from attending a selection of such colleges.
3. This Report covers colleges that took place in the 2020 planning cycle <sup>2</sup> and is issued in accordance with the EBA's obligations under Article 88(4) of the BRRD. The observations of the EBA are supplemented by views expressed by the EU resolution authorities.
4. Additionally, the Report outlines developments with respect to work conducted by the EBA in the area of resolution policy in 2020/2021, to support the convergence of practices.

---

<sup>1</sup> Third country authorities may also be invited to attend colleges as observers

<sup>2</sup> This involved meetings that took place between end 2020 and early 2021

## 2. Executive Summary

5. The altered work environment brought about by the pandemic required resolution colleges to change from traditional physical meetings to a virtual format. The EBA considers that this process was broadly successful with colleges continuing to fulfil their function. The capacity to adapt to the new environment in a swift fashion was a useful test of contingency arrangements. However, it is important to guard against complacency and the EBA considers that it is good practice to regularly test the ability to organise college meetings at very short notice and using alternative platforms.
6. The administration of meetings was consistent with previous years, although there remains scope to improve this aspect through earlier circulation of meeting documentation and more timely circulation of minutes. In terms of output, resolution plans continued to develop the key operational details with work continuing in areas such as the bail-in tool, operational continuity arrangements, maintenance of access to financial market infrastructures and introduction of management information capabilities to support resolution. Joint decisions on plans and minimum requirements for own funds and eligible liabilities (MREL requirements) were reached within the stipulated time limits, although it remained the case that no decisions on the removal of impediments to resolvability were taken due to the lack of identification of substantive impediments to resolvability. Progress was less than anticipated in some areas as banks' resources were utilised to respond to the day-to-day effects of the pandemic, with consequent delays in some aspects of resolution preparedness.
7. The EBA considers that the level of interaction and challenge between home and host authorities was more muted in certain college meetings than previously observed, with some authorities tending to focus primarily on the consequences for the operations in their own jurisdictions rather than the group as an entirety. Additionally, notwithstanding the serious concerns about the impact of the pandemic on banks and the heightened risk of failure, discussions concentrated on operational matters in a manner that was consistent with previous years. There was no evidence of an acceleration or reprioritisation of actions or consideration of alternative resolution strategies. The rationale for this may lie in the uncertainty with the impact of the pandemic and decisions to maintain a steady approach in such circumstances. It is also likely to reflect increased bilateral engagement or engagement in other fora, in advance of college meetings. While ongoing engagement is an essential feature of the college process, it is important that the key issues are debated in general college meetings to ensure good quality information exchange and discussions in colleges, as well as the quality of overall resolution planning.
8. One area of particular attention recommended by the EBA in the Resolution Colleges Annual Report 2019<sup>3</sup> ('2019 Report'), involved greater engagement with college members from both competent ministries and administrators of deposit guarantee scheme. While it was observed that group-level resolution authorities invited these members to engage and set out their

---

<sup>3</sup> Published on 1 September 2020

positions and expectations from resolution plans, in most cases it did not generate detailed discussion. Therefore, in the opinion of the EBA, this component of the planning process should be addressed by targeted questions about the role of these bodies in the planning process. These questions should focus on the expectations of the bodies from the plan, information exchange and coordination of communications on the execution of the plan or related actions available under the BRRD.<sup>4</sup>

9. The EBA's resolvability template, introduced via the 2019 Report, was used in colleges attended by the EBA in this cycle. This template received a positive response from attendees. However, as it was being used for the first time, the process gave rise to a number of queries with respect to completion and these will be addressed by the EBA in advance of the next round of meetings. The most notable observation from this initial exercise centred on the target date for completion of actions. In a number of cases, these targets were non-specific with respect to the objectives and timeline.
10. In the 2021 resolution colleges meeting cycle, the EBA will continue to monitor the topics that were outlined for attention in 2020 which, in addition to the issue set out in paragraph 8, included credibility and feasibility of the preferred resolution strategy in the current environment and the analysis of alternative resolution strategies, the suitability of written arrangements and the necessity for changes to business reorganisation plans. It is considered that these issues remain relevant as the effects of the pandemic continue to manifest themselves on economies.

### 3. Functioning of Resolution Colleges

#### 3.1 Impact of the revised working arrangements and information exchange

11. The most notable change from 2019 in terms of college functioning was the change from physical to virtual meetings. The EBA did not observe any significant impediments to participation from either members or observers from this forced change. The capacity to seamlessly move to a completely revised structure is welcome. However, the timeline to alter the approach in the pandemic was longer than might be available in other scenarios. Accordingly, this event served as a reminder of the importance of regular testing of emergency measures and the capacity to organise meetings at short notice, including using different communication platforms.
12. The written arrangements that have been in place for a number of years provided a sound basis for moving to the virtual format. In line with the proposal set out in last year's Annual Report, most colleges did review the documents to consider if changes were necessary. In some cases, drafting changes were adopted to reference the altered working environment, and the changed membership due to Brexit, but there was no evidence to suggest material changes to the

---

<sup>4</sup> For example, Articles 56 to 58, BRRD

contents were necessary. In other cases, unfortunately, updates were not considered despite the altered environment.

13. In the 2019 report, the EBA encouraged the use of highly secure communication between college members to protect the exchange of documents and confidential discussions. This remains an area where there is scope for improvement and the EBA reiterates its advice on this matter.

### **3.2 Quality of College Interactions**

14. Colleges are an important forum for discussion and information exchange as well as performing the essential task of facilitating joint decisions on key aspects of the resolution process.
15. In the 2019 Report, the EBA highlighted the importance of protecting against complacency and colleges being perceived as fulfilling a regulatory requirement. This is a point that needs to be reiterated based on observations from the 2020 cycle. It was noted that some virtual meetings were of a shorter duration than physical meetings that had taken place in previous years. Additionally, the extent of engagement and challenge between members has lessened, with colleges dominated by presentations by the GLRA, host authorities and representatives of banking groups. In general, colleges did not devote much time to the actions needed to remove impediments to resolvability or to the setting of strict timelines for the actions to be taken.
16. The reasons behind a trend towards more muted engagement are not fully clear and it is reasonable to assume that they are varied. Positive contributory factors are likely to include (a) improved bilateral engagement leading to the resolution of issues between authorities and (b) the maturing of plans and the development of greater trust and understanding between authorities. More negative factors could include a narrowing of the focus of members on their individual aspects of the plan and local factors, multilateral debates occurring outside the general college structure and the use of virtual formats of engagement. It was also noted in this cycle of meetings that, because of the effects of the pandemic, some projects relating to resolvability were postponed to allow banks to focus on the immediate effects of the crisis e.g. resolution data submission, valuation systems. This reduced level of planning activity may have contributed to reduced intensity in the meetings.
17. The statutory basis for resolution colleges, the specific tasks they are obliged to fulfil and the broad range of stakeholders that participate, require colleges to be the preeminent forum for cross-border resolution planning, information exchange and coordination between the participating members and observers. Accordingly, while ongoing engagement between members continues to be encouraged, it is imperative that the processes behind resolution planning and execution come together in general college meetings so that all participants have a comprehensive understanding of developments and different levels of understanding do not emerge. Transparency and coordination of actions is vital to successful resolution, given the practical and legal relationships that exist between all parts of banking groups.

## 4. College deliverables

### 4.1 Joint Decisions on resolution plans and MREL<sup>5</sup>

18. Resolution colleges have matured since the Bank Recovery and Resolution Directive came into effect in 2015, to the extent that the joint decisions are consistently taken within the 4-month period prescribed by the legislation <sup>6</sup> . Decisions covered both group- and solo-level requirements, although it remains the case that internal MREL requirements are still developing.
19. There were no cases referred to the EBA for mediation during this period.

### 4.2 Joint Decision on the removal of impediments to resolvability

20. The EBA was not advised of any proposal made or any joint decision taken on the removal of impediments to resolvability. This is consistent with the trend observed in recent years. With respect to this issue, authorities normally explain that the use of these powers has not proven necessary to remove impediments to resolvability. Instead, authorities seek to work with banks in a more cooperative fashion to achieve the necessary results.
21. Authorities will have identified the most effective means to achieve the necessary outcomes and ensure that banks are resolvable in accordance with the provisions of the BRRD. However, the powers contained in the BRRD provide considerable scope for authorities to remove impediments should there be significant reticence on the part of banks to take the necessary actions in a reasonable timeframe.

## 5. College Deliverables: Thematic Issues

### 5.1 Revision of resolution strategy

22. At the time of issuing the 2019 Report, September 2020, the impact of the pandemic was very uncertain. It was, however, becoming clear that certain sectors were more acutely affected by the lockdowns that had occurred and that this was likely to give rise to increases in forborne and non-performing loans. In light of the magnitude of potential problems and their systemic nature, the risk of bank failures was heightened and accordingly, resolution colleges needed to consider the impact and react accordingly. The EBA proposed that the following form part of the college discussions that were commencing at that time:
  - a. The credibility and feasibility of the preferred resolution strategy in the current environment and the analysis of alternative resolution strategies;

---

<sup>5</sup> Minimum Requirement for Own Funds and Eligible Liabilities

<sup>6</sup> Some problems with finalising decisions have emerged where BRRD 2 has not been transposed into local law.

- b. The extent to which supervisory authorities, competent ministries and administrators of deposit guarantee schemes are actively involved in consideration of their respective roles;
  - c. Analysis of the written arrangements underpinning colleges and changes arising from revised working arrangements emanating from the pandemic, including updating contact arrangements; and
  - d. The extent to which colleges undertake reviews of 'Business Reorganisation Plans' to assess if changes are required in response to the economic effects of Covid-19.
23. The EBA did not observe a pattern of colleges altering approaches to their preferred resolution strategies on foot of the economic effects of the pandemic. Bail-in strategies remained the most prominent resolution tool. The build-up of MREL in recent years lends strong support to the maintenance of this approach in individual banks, although analysis of the effect of this occurring in several banks simultaneously, because of the systemic nature of events, was limited.
24. Discussion on alternative resolution strategies was limited in colleges, although there was some evidence to suggest that authorities are devoting increased attention to this aspect of the planning process. As the depth of this analysis increases, it would be expected that this aspect will feature more prominently in colleges.

## **5.2 Engagement of supervisory authorities, competent ministries, and administrators of deposit guarantee schemes**

25. Prior to the crisis unfolding in 2020, discussions in colleges were largely dominated by consideration of the practical features of resolution plans and this gave rise to debates centring on the work being undertaken by resolution authorities. As events evolved and concerns about the stability of the banking sector increased, the full range of measures available under the BRRD to address a serious disturbance in the economy were being discussed e.g. precautionary recapitalisation, government stabilisation tools, etc. Activation of measures beyond the main resolution tools was likely to require an increased role for non-resolution authority members of the college and accordingly, the EBA sought to encourage enhanced engagement to consider if/how the college could provide assistance in the process, as well as ensuring that there would be timely and consistent updating on developments and coordination of public communications.
26. While colleges did seek to generate discussion and elicit the views of competent ministries and administrators of deposit guarantee schemes, this did not generate detailed discussion nor result in significant change to the existing plans. While the expected level of involvement of the members will naturally vary with their role, it is necessary that there is clear articulation of each member's role in and expectations from the plan. This can be of particular importance where there is a material deterioration of the economic environment or serious stress in the financial system.



### **5.3 Written arrangement and updated contact list**

27. The written arrangements put in place on the establishment of colleges provided a sound basis for moving to virtual meetings and did not require material changes in response to the events that occurred.
28. Notwithstanding the above, the pandemic has reinforced the need to have flexible structures in place to ensure that the college can continue to operate effectively when faced with unforeseen challenges. Some colleges are planning 'simulation exercises' to test operational capabilities as contained in the plans.

### **5.4 Reviewing Business Re-organisation Plans**

29. The fourth topic that the EBA requested colleges to consider was the impact of the pandemic on any business re-organisation plans that may have been prepared. The rationale for this stemmed from a concern that the economic impact of the pandemic on certain sectors may have given rise to the viability of business lines that were central to such plans.
30. The extent of debate in colleges was limited with respect to this matter. In practice, business reorganisation plans have not featured prominently in planning work to date and have not been shared or considered by colleges. To the extent that this activity has received attention, the focus has been on the processes needed to prepare a plan, as opposed to detailed analysis of what its contents would be. Additionally, the prolonged nature of the pandemic, ongoing lockdowns and nature of government supports that have emerged, have meant that the economic impact on banks remains uncertain.

### **5.5 Resolvability Template**

31. An additional feature of college functioning introduced in the 2019 Report, has been the use of a resolvability template. This template was introduced to standardise the approach to monitoring activity in key areas of the resolution planning process and to aid the setting of targets to remove impediments that may exist.
32. In introducing the template into this cycle, the EBA acknowledged that the first year of use would constitute a learning exercise as home and host authorities became familiar with the contents. The template received a broadly positive response, while simultaneously giving rise to a number of questions with respect to matters such as the timing of completion, who should complete and the granularity of information to be included.
33. In parallel with the findings of the current public consultation on Resolvability Guidelines, the EBA will collect the views of college participants and issue guidance on the matters raised for its attention. Initial indications are that the detail included in the template is consistent with what was expected, with improvement possible in matters such as the identification of robust targets to address matters of concern.

## 6. Convergence in Resolution Policy

34. During 2020 the EBA delivered a number of technical standards in accordance with mandates set out in the Bank Recovery and Resolution Directive ('BRRD 2'). The following summarises the main features of these products.

### 6.1 Estimation of Pillar 2 and Combined Buffer Requirements for Setting MREL

35. The EBA developed draft Regulatory Technical Standards (RTS) specifying the methodology to be used by resolution authorities to estimate the Pillar 2 (P2R) and combined buffer requirements (CBR), at resolution group level, for the purpose of setting the minimum requirement for own funds and eligible liabilities requirement (MREL).

36. The estimation of P2R and CBR is necessary for setting MREL when the resolution group perimeter differs significantly from the prudential perimeter at which own fund requirements have been set by the competent authority.

37. The final draft RTS specify a straightforward and proportionate methodology for estimating own fund and combined buffer requirements. They provide a framework for a dialogue between resolution groups, competent authorities and resolution authorities aimed at improving the accuracy of the input for MREL setting.

### 6.2 Effective Application of Stay Powers

38. A second set of standards developed during the year concerned the application of contractual recognition of stay powers. The technical standards provide further specification of essential elements to ensure the effectiveness of the resolution regime established by the BRRD.

39. These technical standards aim to ensure the effective application of stay power where financial contracts are governed by the law of a third country. The BRRD requires these contracts to include a contractual recognition term by which the parties acknowledge that the contract may be subject to these stay powers and agree to be bound by their effect.

40. The approach sought to strike a balance between the need for harmonisation and the need for flexibility to take account of any issues arising in relation to a specific third country law or type of financial contract.

### 6.3 Impracticability of Contractual Recognition under BRRD

41. A third mandate related to impracticability of contractual recognition of bail-in powers. These standards aim at ensuring the harmonised application of instances of impracticability of contractual recognition of bail-in powers.

42. Where contracts are governed by the law of a third country, the BRRD requires that these contracts include a contractual recognition term by which the parties acknowledge that the contract may be subject to bail-in powers and agree to be bound by their effect. In certain

situations, it might be legally or otherwise impracticable to achieve contractual recognition of the bail-in powers.

43. The final draft RTS examined the conditions of impracticability, the conditions for the resolution authority to require its inclusion and the timeframe for the resolution authority to require the inclusion of a contractual term. Finally, a draft ITS was also developed to specify the uniform formats and templates for the notification to resolution authorities of determinations of impracticability to achieve contractual recognition.

## 7. Important Topics for 2021 College Discussions

44. In its 2019 Annual Report on Resolution Colleges, the EBA set out a number of topics for colleges to consider. These topics were an immediate response to the early phases of the pandemic and sought to ensure that known effects at that time, were considered with respect to their impact on the resolution planning process.
45. In practice, while the issues were addressed, the uncertainty that existed and the fluidity of the situation meant that it was difficult to be conclude on the effects on resolution plans. With the benefit of the experience gained and enhanced understanding of the impact, it is considered that the topics should remain on the agenda for the next round of meetings. These matters are listed in paragraph 22 above.



EUROPEAN BANKING AUTHORITY

---

Tour Europlaza, 20 avenue André Prothin CS 30154  
92927 Paris La Défense CEDEX, FRANCE

---

Tel. +33 1 86 52 70 00

---

E-mail: [info@eba.europa.eu](mailto:info@eba.europa.eu)

---

<https://eba.europa.eu>