MREL/TLAC

Banks should have sufficient capacity on their balance sheet to absorb losses (loss-absorbing capacity). Effective from 2017, European banks must comply with the MREL requirement. Globally systemically important banks (G-SIBs) must also comply with the TLAC standard as of 1 January 2019.

MREL

Resolution authorities can impose a minimum requirement for own funds and eligible liabilities (MREL) on European banks. The MREL consists of own funds and part of a bank's liabilities. If a bank fails and goes into resolution, the MREL acts as a buffer to absorb losses and to provide new capital to the bank. This ensures that the costs of failure of a bank will as much as possible be borne by the bank's investors, i.e. its shareholders and creditors.

Banks can use their available shares and other capital instruments for the MREL as well as certain debt instruments, provided they meet the regulatory requirements. A bank's MREL depends on the resolution strategy selected and the bank's capital requirements. This means the MREL is an institution-specific requirement, which must be tailored to each individual bank. Banks must comply with their MREL at all times in order to be resolvable.

The SRB will impose the MREL on banks for the first time in 2017. In 2016, the SRB already communicated non-binding MREL targets to the largest Dutch institutions with a bail-in resolution strategy. These targets are based on the rules that were drafted by the EBA and adopted by the European Commission in 2016. The SRB then applied these rules.

Read more information on the SRB's policy regarding MREL in 2016 on the SRB website.

TLAC

In 2015, the Financial Stability Board (FSB) established an international standard for the total loss absorbing capacity (TLAC) of globally systemically important banks (G-SIBs) that go into resolution. MREL applies to all European banks and TLAC to G-SIBs.

The TLAC standard serves the same purpose as the European MREL, but is more detailed and differs in a number of aspects. The global TLAC standard will be introduced in two stages:

- As from 1 January 2019, G-SIBs must meet a weighted TLAC requirement of at least 16%, expressed in risk-weighted assets, as well as an unweighted TLAC requirement of at least 6%, expressed in the same denominator as the leverage ratio.
- These percentages will be increased to 18% and 6.75%, respectively, as from 1 January 2022. In principle, TLAC is fully comprised of own funds and subordinated liabilities that are credibly eligible for bail-in.

Creditor hierarchy

It is vital that MREL instruments can actually be used to absorb losses in the event that the bail-in instrument is effected. That is why the resolution authority must have the power to demand subordination of MREL instruments vis-à-vis other operational liabilities. The European Commission has submitted a proposal to harmonise national insolvency legislation for banks to a certain degree. It proposes that Member States create a new layer in national legislation between subordinated instruments that are part of an institution's capital, and regular claims. This new unsecured layer is subject to bail-in in resolution after capital instruments have been written down or converted, but before other liabilities such as unsecured deposits can be called upon. The proposal only applies to new bank funding and does not affect existing debt instruments and their priority in liquidation situations.