

Regulatory framework for resolution

The regulatory framework for resolution is established at the European level. It is comprised of several sources of European legislation and regulations.

The main regulations are:

- The Bank Recovery and Resolution Directive (BRRD): a directive stipulating how resolution should be applied within the European Union.
- The Single Resolution Mechanism Regulation (SRMR): the euro area regulation in which the Single Resolution Board is established and which describes its most important aspects.

BRRD

The BRRD sets out rules for promoting the resolvability of banks and investment firms and for the implementation of resolution instruments and powers if these institutions run into trouble. The objective is to promptly and rapidly intervene in order to safeguard the continuation of the bank's critical functions. The BRRD covers the following:

- drawing up recovery and resolution plans
- opportunities for early intervention in institutions that have run into difficulties
- implementation of resolution instruments

The BRRD also stipulates that every Member State must have a national resolution authority and that deposit holders have a (super)preferential status.

SRMR

The BRRD only sets out the minimum rules and does not provide for central decision-making on the resolution of banks and investment firms. As a result, inconsistent decision-making between different Member States is still possible, for example with regard to cross-border groups. That is why the Single Resolution Mechanism (SRM) was established in the SRMR. Effective from 1 January 2016, the SRM provides a decision-making structure for the recovery and resolution of large and cross-border banks (i.e. the significant banks) in the euro area at a European level, with a single decision-making body: the Single Resolution Board (SRB). The SRMR arranges the distribution of powers between the SRB and the NRAs. It also introduces a common resolution fund, the Single Resolution Fund (SRF). The SRMR is a regulation, which means it has direct effect and is not transposed into national law.

Financial Supervision Act (*Wet op het financieel toezicht – Wft*):

The Financial Supervision Act (*Wet op het financieel toezicht – Wft*) regulates the supervision of virtually the entire financial sector in the Netherlands. As the BRRD is a directive, it must also be transposed into Dutch law. It has been implemented in Part 3A, Chapter 2 (resolution of banks and certain investment firms) of the *Wft*.

Decree on Special Prudential Measures, Investor Compensation and Deposit Guarantees under the Financial Supervision Act (*Besluit bijzondere prudentiële maatregelen beleggerscompensatie en depositogarantie Wft*):

The *Wft* has been elaborated in General Orders in Council, Ministerial Regulations and rules established by the supervisory authorities. The Decree on Special Prudential Measures, Investor Compensation and Deposit Guarantees under the Financial Supervision Act details certain sections of the *Wft* relating to the resolution of banks and investment firms.