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The completion of the European Banking Union

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After all, there was truth in the adagium:
'In Labore Vera Requies'

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Abstract

More than a decade ago, with the recent Great Financial crisis and sovereign debt crisis in mind, the European Union (EU) started building the European Banking Union (EBU). The EBU aims to prevent bankruptcies and insolvencies in the banking sector to overflow into other sectors, as well as prevent one ailing bank to put stress on the whole of the banking sector. In these efforts, the EU’s goal was to create a more stable ecosystem with a more spread-out system of risk. This master thesis describes and analyses the organisation of this Banking Union (BU) and the extent of Banking & Finance regulation in the EU in the first two chapters.

The EU carries authority and responsibility on these matters since the creation of the European Monetary Union (EMU) and has over time expanded its area of influence. Currently the 19 euro-countries take part in the core mechanisms of the BU. An opening exists for other countries to enter close cooperation. What this means and how the rationale in favour or disfavour of joining the EBU shifts will be discussed in a later part of the thesis.

As the title of this master thesis suggests, this Banking Union is not yet fully developed and remains incomplete. In the last two chapters, an assessment is made of what it would take to complete the EBU and how European Integration literature sees both the BU today and the possible completion of this EBU. It argues that the BU needs a common deposit insurance scheme, a fully funded strong backstop to the Single Resolution Fund, a harmonisation of insolvency regimes, a review of capital requirements and a system for sovereign bond backed securities.

This matter is highly relevant in the light of recent events and evolutions with Brexit, Covid-19, the war in Ukraine and macro-economic challenges for policymakers on the table. A strong and fully developed Banking and Finance sector could be the EU economy's motor to overcome the challenges of today and tomorrow. A recurring interaction and balance of intergovernmental and neofunctionalism features of the functioning of the EBU culminates especially in the last chapter, giving an academic itinerary for EU policymakers.

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Introduction

Over the past 70 years, European Integration has reshaped the European continent in a manner that was never seen before. What started as a project for peace, ended up in a multi-level governance network of cooperating and interdependent institutions, organisations and agencies. Within this vast framework of regulations, decisions and acts resides the European Banking Union (EBU). It is both a concept and a reality that strives for a more stable and safer financial sector, to the direct benefit of consumers and wider economy. The EBU is a key component of the EU's Economic and Monetary Union (EMU). It was built as a reaction to the 2008 financial crisis and the substantial amount of foreign debt in the euro area (EA). The banking union (BU) ensures the banking sector in the EA and the wider EU economy to be stable, safer and more reliable (European Commission, 2022). The EBU signifies a crucial achievement of the European Union (EU) and the process of European Integration (Kern, 2015).

The events that led to the European Commission's (EC) desire for an EBU started in 2012, when the European Council decided to begin the construction of a fully-fledged EA BU (European Commission, 2022). They wanted this BU "*to enable the European Central Bank (ECB) to be the bank supervisor for the EA and other participating Member States, resulting in a more effective banking supervision regime in the EA and across the EU*" (Kern, 2015). The EBU proposal included three components at the time: a single unified banking supervisory regime, a bank recovery and resolution framework, and a deposit guarantee system (DGS) (ibid.). The three mechanisms (also called pillars) were deemed essential to alleviate the eurozone's financial system. They provide in the option for the European Stability Mechanism (ESM) to recapitalise unfit EA institutions, considering that these "*subject to strict ECB supervision and conditionality*" (Kern, 2015). By installing this framework, the EC has created a system in which fates of states and banks are more separated, creating a more robust functioning of the EMU (European Commission, 2022). On top of this, the EMU is strengthened through the spreading of risks across borders. In the previous (fragile) system, 19 different national economies, budgetary policies and banking systems fostered a climate for severe impacts of a banking crisis. How the EC addressed this with the EBU and how it complements (but remains different from) the measures taken in the six and two-pack (macro-economic surveillance); will be assessed in the fourth chapter of this thesis.

Bank supervision and resolution have transferred to the European level since the EBU's inception, and banks have become safer as a result. However, neither the frame of the BU nor the original aims have been fully realized. This is a reason for concern, as only a protected, lucrative, and interconnected banking industry can adequately sustain the European economy and ensure the euro's solid international role from an economic standpoint.

The need for safety and financial stability is clear after the observed and experienced impact of the Great Financial Crisis. In theory, safety is primarily the duty of the banks themselves. An important role remains however for the supervisory authorities applying financial and governance requirements in place for those banks. This twofold protection already substantially adding to the conventional/narrow definition of safety. An ESM report states that in a broader definition/approach it should also include consumer protection, particularly for retail bank clients who could be vulnerable to unwarranted risks (Fioretti et al., 2019). But safety in both senses doesn’t entirely warrant a bank from failure, it merely implies the prevention mechanisms that are in place, and the protection rules that apply to the sector. For, fully disqualifying the “*possibility of bank failure would restrict the adaptability of the banking sector in a rapidly changing financial and technological environment*” (ibid.). Hence it is preferential to approach this safety net from a top-level view. By not solely focussing on the core BU and the narrowly defined safety, but also on Banking and Finance regulation and safety in the broader sense, this master thesis gives an overview of how this complex system of protection operates for the EBU. This complexity of safety is a key factor for different regulation and supervising agencies that the EC has put in place, as it clearly depicts that there is no simple answer to a complex question.

Throughout the reading of this work, one must remember that the EBU is a landmark achievement of the European integration process. This shaped the politicized nature of certain elements of this ambitious project. Following its core principles, it ought to include a single supervisory and resolution structure and a standard deposit guarantee program. This has been realized to some extent, although it is not yet complete. The EA currently has "*a fully operational single supervisory mechanism (SSM), hosted by the European Central Bank (ECB), and also a common resolution authority – the Single Resolution Board (SRB), which is responsible for applying a common set of rules and for managing the industry–funded European Single Resolution Fund (SRF)*" (Draghi, 2018). The SRB supervises a uniform set of standards and the industry-funded European Single Resolution Fund (SRF). At this moment in time the strength of the SRF is questioned as it is without a fully developed public backstop. Also, despite intensive negotiations, no European deposit insurance scheme (EDIS) has been fully developed (Restoy, 2018). The reasons for these incompletions will be discussed in the fourth chapter of this work, and how these ambitions can finally be realised will be outlined in the third and fourth chapter.

Recently, an impulse by top officials has raised the expectation that advance for a more complete EBU could be back on the agenda. For years, their plans for conveying the major creditors in the EU into a single rulebook have been progressing with great difficulty. However, leading figures are offering signs of hope for the project's future (Cash, 2022). This is fundamental as "*an integrated banking market with truly pan–European institutions would under- pin an effective private risk–sharing mechanism, helping to break the link between domestic economic and fiscal developments and financial stability*" (called a doom-loop, recurs in chapter 3) (Draghi, 2018). This momentum underpins the relevance of writing this thesis in this moment in time. Considering the challenges that the Covid-19 crisis has put upon the EU, the economic threats from the war in Ukraine, long-term competitiveness concerns with American and Chinese banking sectors (which are more harmonized), and soaring inflation and energy prices; it is not only an interesting momentum but also a fundamental area of focus for EU policymakers. Therefore, this master thesis assesses what has already been developed, and what should be added to fulfil the initial plans and ambitions of the EBU's founding fathers.

Methodology

In this master thesis, the reader can find a descriptive analysis of the institutional framework of the EBU as it exists at the end of 2021. It also contains an explanation of how the BU completion holds up to European Integration literature. In the first chapter, a descriptive analysis gives a 'state of the BU' by describing the legislation and the mechanisms set up within this legislative framework. This chapter assesses the SSM, SRM, SRF, Single Rulebook, and harmonisation of the deposit insurance rules. A combination of academic literature and EU institutions' websites was used to form an objective and complete overview. The information is concise for the sake of clarity. For technical and legislative details, the legislative library of the EU (Eur-Lex) can be consulted to give a more exhaustive overview. The second chapter of this master thesis, titled 'Banking and Finance regulation', holds an overview of different areas where the EC decided to (co-)regulate. Many of these are conventionally considered part of the Single Rulebook, but for clarity, they are integrated into the separate chapter. This allows a clear distinction between the core-BU and sectoral regulation. This overview is based on the websites of the EU and academic literature combined. A methodological caveat in this part is strong reliance on EC information. This was done deliberately, as this chapter is descriptive of nature. The aim of the first two chapters is to bring the huge amount of information and ongoing business together in a collected and structured format. On top of this, the clear distinction between the core BU and Banking and Finance regulation allows for a more appropriate analysis in the light of European Integration literature as it distinguishes intergovernmental and neo functional mechanisms. The third chapter describes the lacunae in this system from the views of scholars, officials and professionals. It suggests measures and mechanisms for completing the EBU. It is also partially built upon online sources from the European Institutions and regulatory bodies set up within the EBU framework to ensure even-handedness. The fourth chapter focuses on assessing the creation of the current framework and the completion of the EBU through European integration theories and literature. The main aim and achievement of the third and fourth chapter is to analyse and interpret the developments in the core BU and its interaction with the legislative frameworks set out in chapter two.

Chapter 1: European Banking Union

1.1 Introduction

In 2012, four years in the aftershock of the global financial crisis of 2008 and in the middle of the Euro Crisis, the EC presented its roadmap toward an EBU. This roadmap aimed to create a legislative path toward a safer, more robust and better-integrated banking sector. In their communications to the EP and the Council of the EU, the EC stated: "*The Commission has ... called for a banking union to place the banking sector on a more sound footing and restore confidence in the Euro as part of a longer-term vision for economic and fiscal integration. Shifting the supervision of banks to the European level is a key part of this process, which must subsequently be combined with other steps such as a common system for deposit protection and integrated bank crisis management*" (European Commission, 2012). This clearly depicts the awareness of the importance of the matter from the EC's side. They wanted to advance rapidly to avoid the disastrous events that happened in recent time. It clearly shows how the EC was marked and challenged, and that a certain momentum had grown to advance the European project into a new level of cooperation, integration and complexity.

The roadmap called for the parliament and the European Council to be leading actors in setting up the EBU by giving it the highest priority in their legislative processes (Eur-Lex, 2012). Concretely, the roadmap contained the request to finalise the plans on the table on deposit guarantee schemes (DGS), entry to the practice of credit institutions, the prudential supervision of credit institutions and investment firms (CRD), and a prudential requirement for credit institutions and investment firms (CRR) (European Commission, 2012). The ambitious request to finalise by the end of 2012 failed. But this did announce the start of a harmonisation process for the European banking sector. What came to be of this call for action will be described in the subchapters to come, in a descriptive analysis of the core-BU mechanisms and laws.

1.2 The Single Rulebook

Conventionally stated, the Single Rulebook is the backbone of the EBU, as it allows other mechanisms to be set up and function within an established solid legal framework. The rulebook holds a vast amount of legislation that has been harmonized or newly developed by the EC. The main aims of the EC were to use the single rulebook to create/leverage more critical prudential requirements for banks, guarantee enhanced protection for depositors and install procedures/mechanisms for handling banks in distress (European Commission, 2022). In this assessment, an important distinction is between the Single Rulebook, which is in essence a harmonisation tool for all EU MS; and the SSM and SRF, which are established for the Euro-countries (although non-Euro-Countries can opt-in). Another clear distinction that has been made, is the difference between the core-BU laws and the broader Banking and Finance legislation that follows in the next chapter. The current structure of the EBU is visualised in annexe 1, showing its multi-pillar character.

Objectives

As already stated, the Single Rulebook has multiple objectives. It "*ensures that banks have enough capital to cover unexpected losses and are prepared to withstand economic shocks (through the Capital Requirements Directive and Regulation) o bank failures are resolved with the use of funds provided by banks, with minimum impact on taxpayers (through the Bank Recovery and Resolution Directive) o depositors' savings are protected at a uniform level of €100,000 across the EU Member States when a bank fails (through the Deposit Guarantee Scheme Directive), and o bankers have fewer incentives to take excessive risks*" (European Commission, 2019). On top of this, the capital requirements and liquidity guarantees should allow the banks that fall under these regulations to be more competitive on the international level.

Scope of the Single Rulebook

To understand the scope of the single rulebook, we must be aware of the many regulations it covers. The single rulebook contains "*the Bank Recovery and Resolution Directive (BRRD), the Capital Requirements Regulation (CRR), the Capital Requirements Directive (CRD), the Deposit Guarantee Schemes Directive (DGSD), as well as the: Anti Money Laundering Directive (AMLD), the Mortgage Credit Directive (MCD), the*

Payment Services Directive (PSD2), the Simple, transparent and Standardised Securitisation Regulation (SecReg), the Wire Transfer Regulation (WTR) and the Associated Delegated and Implementing acts: RTS, ITS, including guidelines and recommendations" (European Banking Authority, 2022). All of these are described in the following two chapters, but a particular focus is given to the BRRD, CRR, CRD and DGSD in this first chapter, as they are more fundamental to the concept of the core-BU.

1.2.1 BRRD - Bank recovery and regulation directive

As a fundamental first element to the single rulebook the EC launched the BRRD I in 2014. The BRRD aims to offer authorities with across-the-board and practical provisions to deal with "*waning banks at the national level and cooperation arrangements to tackle cross-border banking breakdowns*" (European Commission, 2022). The cooperative approach that the EC took in the inception phase eventually led to the possibility for updates, creating a de facto lock-in, where MS would encounter great difficulty in reproducing the same level of operational strength on their own. Fostering a rationale in favour of the EC and its policies. This is of great influence on the matters discussed in chapter 3, on the completion of the EBU.

Components

To follow up on the BRRD I, the EC committed to a BRRD II at the end of 2015. The initial BRRD contained the MREL (=Minimum Requirement for Own Funds and Eligible Liabilities), calibrated to the TLAC standard in BRRD II (Norton Rose Fulbright, 2020). The primary transformation was realised through the CRR II and the CRD V, although the BRRD II did the calibration of TLAC (ibid.). This transformation meant that the scope/group of banks falling under the requirements became more significant and that the hard bottom of the MREL was transformed into a broader tool. Under BRRD I, the MREL is explained as "*a percentage of a financial institution's total liabilities and own funds"* (ibid.). The EU MS resolution authority also sets it out institution specific. BRRD II changed this by installing a "*minimum MREL requirement on G-SIIs*" (= Global Systemically Important Institutions) on equal footing with the TLAC (ibid.). The formula of the MREL is calculated through "*a risk-based ratio based on risk-weighted assets and a non-risk-based ratio based on the leverage ratio exposure*" (ibid.). Under annexe 2, an overview of the content and different components of the BRRD (incl. MREL and TLAC), CRR and CRD can be found.

1.2.2 CRR - Capital requirements regulation

The CRR rule, immediately applicable in EU MS, establishes prudential standards regarding investment businesses and credit institutions in terms of capital, liquidity, and credit risk (Council of the EU, 2022). The original text was issued in 2013 and adopted by the EC, and it has since been modified and reviewed several times. This system of gradual improvements and adaptations clearly shows the EC's sense of urgence and knowledge of reality. In chapter 2 the nature of the regulatory process will be discussed, as this gives an explanation to how and why the EC aims to keep adapting and improving its framework regulations.

Art. 1 of the original CRR states: "*This Regulation lays down uniform rules concerning general prudential requirements that institutions supervised under Directive 2013/36/EU shall comply with concerning the following items: own funds requirements relating to entirely quantifiable, uniform and standardised elements of credit risk, market risk, operational risk and settlement risk. Requirements limiting significant exposures. After the delegated act referred to in Article 460 has entered into force, liquidity requirements relating to entirely quantifiable, uniform and standardised elements of liquidity risk. Reporting requirements related to previous points and to leverage public disclosure requirements"* (EUR-Lex, 2013) Already in 2013, shortly after the period of crisis, the EC presented a regulation strongly focussed on the strict/narrow safety concept. It explicitly focusses on risks and exposure, as these were major catalysators in the previous crises.

Functioning

These capital requirements ensure that a bank can stay solvent in times of general crisis or individual catastrophe. This capital buffer depends on the risks related to the banks' assets and is split up into Tier I and Tier II capital. Tier I capital is considered the 'going capital' and aims at keeping the bank solvent. Tier II capital concerns the 'gone concern capital' and aims to secure the ability to reimburse depositors and senior creditors in insolvency. The total of these two should amount to 8% of the bank's risk-weighted assets (at least), with the highest weight attributed to the Tier I capital (4.5% of the 8%) (Council of the European Union, 2022).

The CRR I and CRR II installed liquidity requirements to make banks hold considerable liquid assets to be able to sustain gravely stressed conditions over 30 days. The minimum quantity of these liquid assets amount to 25% of possible net outflows. Thirdly, the regulation aims to reduce excessive leveraging and makes banks disclose their leverage ratio (Tier I capital compared to average total consolidated assets); this boosts overall transparency and prevents situations in which banks cannot meet their long term (LT) financial obligations (Council of the European Union, 2022).

1.2.3 CRD - Capital requirements directive

Next to the CRR the EC conventionally launched a directive to apply the principles set out in the former. The directive, transferred into MS national law, places the rulebooks on "*capital buffers, bankers' renumeration and bonuses, prudential supervision and corporate governance*" (Council of the EU, 2022). On top of the financial buffer in CRR I and CRR II, the CRD makes banks hold a minimum of 2.5% reserve to their risk exposed capital in Tier I Capital. This buffer happens through an anti-cyclical build-up (-> in favourable times, banks build up their buffer to profit from it in less favourable times). The execution of this provision is guaranteed by a ruling in which banks who do not comply cannot (or have limits to) pay dividends or bonuses. On top of this, MS can "*apply systemic risk buffers of 1% to 3% for all exposures and up to 5% for domestic and third country exposures, without having to seek prior approval from the EC*" (ibid.). Since 2015, the putting of buffers of 3 to 5% compels a report to the EC, the EBA (European Banking Authority) and the ESRB (European Systemic Risk Board). On top of this, buffer rates exceeding 5% need to be approved by the EC (ibid.). Per these efforts, the EC gradually aims to build up sectoral and in-house buffers to economic shocks. It is a clear example of how it aims to foster its robust and flexible BU. Also, the anti-cyclical build-up is some sort of an example of Keynesian policy, in which preparation for bad times happens during the good times. As the proverb says: in times of peace, prepare for war.

1.3 SSM – Single Supervisory Mechanism

Next to the single rulebook, that is in place for all EU MS, some key mechanisms reside within the framework of the core-BU. The SSM is one of these that were developed in parallel to foster the objective of a safe and stable foundation for the EU economy. It was created in the philosophy that you can't protect or fix, what you don't know that's broken. Its roots lie in the fact that the global financial crisis in 2008 had exposed that a banking crisis can lead to a massive overflow to other sectors. To prevent this from happening again, the SSM has been put in place. As of November 2014, the SSM is the structure of banking supervision in the EBU (European Commission, 2022). It compromises the ECB and supervisory authorities of partaking MS. Operationally, the SSM allows the ECB to act as the chief prudential supervisor. This is primarily for the EA financial institutions, but also for NEA EU deciding to partake in the SSM. This is where the clear distinction between the SSM (and SRM) and wider single rulebook should be made, as it has a narrower scope in terms of EU MS (19/27 MS). In this system, the ECB directly oversees the major banks in this capacity, while the national supervisors remain to monitor the left-over banks. In these efforts that are both jointly working to control banks conformality with EU banking laws. Next to the compliance check, they try to tackle problems early on to prevent festering effects (European Commission, 2022).

In grand, the central objectives of this kind of European banking supervision are to strengthen the banking system's security, increase financial integration and stability, and safeguard proper supervision (ECB, 2022). However, this is not guaranteed for each bank, as banks subject to direct supervision need to have assets of more than €30 billion or equal to at least 20% of domestic GDP (ibid.). In this, there are 120 such banks in the EA, representing almost 85% of total banking assets (ibid.). This can be seen as the EC focussing on what matters most and keeping a certain form of liberal market thinking to not overregulate and control all market actors. It only sets the framework and controls the biggest players.

The role of the ECB

Within the SRM framework, especially the ECB has extensive authorities. It has the power to execute supervisory reviews, assessments and examinations. It also can vow or disavow licences. It makes assessments of banks' acquisitions and their disposals of qualifying holdings. Lastly it has the authority to ensure overall fulfilment with EU law, and the authority to set higher capital requirements at its own discretion (ECB, 2022). This practice of regulation and supervisory policy provides the foundation for the development of supervisory practices and criteria, underpinning the everyday supervisory activities. This supervision is a de facto cycle in which different divisions (Supervisory policies division, methodology and standards division, supervisory quality assurance and risk analysis division) all have specific roles in assessing a bank's health. The regulations made in this process come to life in close coordination and cooperation with the EBA, Basel Committee and the FSB (ECB, 2022). One could argue that there is a certain democratic deficit in this form of organisation, as the ECB is an independent and not-elected organisations. Although the ECB is checked upon, its powers have grown quite strong with the market power it was given through this mechanism. The full debate on this falls out of the scope of this master thesis but could be of inspiration to later research.

Composition of the SREP

The ECB's toolbox consists mainly of the SREP and the JSTs. The SREP consists of three main pillars: the SREP aggregate results, Pillar 2 requirements and the Pillar 2 guidance system. The 'SREP 2021 aggregate results' are yearly published summaries of SREP results. Pillar 2 requirement (P2R) states how much capital each supervised bank must hold to cover the risks it endures from its operations (ECB, 2022). The Pillar 2 Guidance (P2G) system is a bank-specific recommendation system that indicates the level of capital that the ECB is expecting banks to keep on top of their already existing capital requirements (ibid.). On top of these two, the SREP is a buffer for banks to withstand stress (and is not legally binding). Operationally, the SREP is carried out with a toolbox to assess banks' business models, in-house governance, capital risks, and liquidity risks. This toolbox consists of stress tests, evaluations of alignment of supervisory priorities set out by the ECB, and risk assessments (ECB, 2022).

In addition, each of the banks identified as major has its own Joint Supervisory Team (JST). The JSTs are one of the most important ways for the ECB and MS supervisors to collaborate. Their key responsibilities include carrying out the SREP, implementing a supervisory examination program, ensuring synchronization through on-site inspection teams, and maintaining contact with MS national supervisors (ECB, 2022). JSTs are made up of ECB employees and MS supervisors. They contain the relevant authorities of the nations in which a specific banking consort's credit institution, banking affiliates, or important cross-border subdivisions operate (ibid.). A JST's structure is tailored to the specific characteristics of the bank it supervises. They are critical to the operational system of the SSM (ibid.). Through these two mechanisms, the ECB has been awarded de facto full market control on big European financial institutions supervision. It has the means to inspect and evaluate to an extensive limit. The question could once again be raised if the benefit of safety and protection that flows forth from this weigh up to the democratic deficit and possible conflicts of interest between the ECB in its price-stability mandate and effective market supervisor. Overall, we must acknowledge that this is only for the SFI's and so its powers are kept in check to a certain extent.

Criteria for significance

As previously mentioned, there are several criteria that a bank must meet in order to be considered significant; if they meet at least one of them, they enter the ECB's supervision. These criteria are: "*the total value of its assets exceeds €30 billion - Economic importance: for the specific country or the EU economy as a whole - Cross-border activities: the total value of its assets exceeds €5 billion and the ratio of its cross-border assets/liabilities in more than one other participating Member State to its total assets/liabilities is above 20%"* (ECB, 2022). However, if the bank has demanded or obtained funding from the ESM or the EFSF, or if it is one of the three largest banks in a MS, it will be considered as well (ibid.). Next, the ECB has the authority to designate a bank as significant in order to guarantee that its stringent supervision rules are implemented consistently and holistically. The ECB directly supervises a total of 115 large banks as a result of this. For reference, these banks are responsible for around 82 percent of banking assets in these countries' economies.

1.4 SRM - Single Resolution Mechanism

The second mechanism that is core-BU specific is the SRM, which is inherently linked to the SRB. In fact, the SRB was founded within the SRM Regulation. It is "*a fully independent EU agency acting as the central resolution authority within the EBU*" (EUR-lex, 2019). The SRM however, is formed in communication and cooperating with the resolution authorities of partaking MS (European Commission, 2022). Its mission is "*to ensure the orderly resolution of failing banks with a minimum impact on the real economy and public finances of the participating member states of the Banking Union*" ibid.). The SRB's founding regulation sets out that "*When a bank is said to be in a crisis situation, the board organizes a resolution scheme that is forwarded to the European Commission for formal approval*" (EUR-lex, 2019). The regulations itself states that "*a resolution scheme of no more than €5 billion of the SRF is decided in executive session board meetings, including the national resolution authority from the EU country where the failing bank is established. If more than €5 billion is necessary, decisions are taken by the plenary session"* (ibid.). In all, the regulation introduces equal laws and a standard method for the resolution of credit institutions and investment firms through the SRM and the usage of the SRF. While the regulation concerns EA countries, NEA countries can also join in.

The Single Resolution Fund

There is also a SRF within the SRM that is being built over an eight-year period (2016-2023) and is set to "*reach at least 1 % of the amount of covered deposits of all credit institutions authorised in all of the participating Member States*" (SRB, 2022). The SRF was established to ensure that the banking sector's reserves were built up without the use of government funds. An intergovernmental agreement was made with participating MSs in conjunction with regulation No 806/2014. This allowed for the transferral of bank contributions to domestic fund partitions, as well as the progressive mutualisation (the process by which participating institutions share the restructuring expenses) of those contributions (SRB, 2022).

In "*its roadmap for deepening the EMU, the Commission proposes that the future European Monetary Fund serves as a backstop to the SRF*" (European Commission, 2022). Creating a more robust backstop to the SRF was agreed upon in 2013, but it is not yet implemented in full (SRB, 2022). Making the backstop part of the future EMF is an essential milestone for the completion the EBU; hence it will be further discussed in chapter 3 and 4.

Last updates

Under the banking package of 2019, the last update to the SRM was given under SRMR II (European Commission, 2022). In this update, SRMR II provides in the enactment of the Total Loss-Absorbing Capacity (TLAC) standard (Moody's Analytics, 2019). It included the stipulation that it needs to consider the existing institution specific (MREL) that already is in place for "*all credit institutions and investment firms established in EU as well as to any other entity as laid down in BRRD"* (ibid.). This was already discussed before in this thesis, and an overview can be found under the annexe 2. Briefly stated, as the TLAC and MREL have the same objectives, the two should be complementary in a single common framework to ensure a holistic approach and foster effective and efficient requirements. Therefore, they both ensure that institutions operating in the EU have sufficient loss-absorbing and recapitalisation ability. "*The two requirements should be complementary elements of a common framework. Operationally, the harmonized minimum level of the TLAC standard for global systemically important institutions, or G-SIIs is being introduced in EU legislation through amendments to the Capital Requirements Regulation, while the institution-specific add-on for G-SIIs and the institution-specific requirement for non-G-SIIs, referred to as the MREL, is being addressed through targeted amendments to BRRD and SRMR. SRMR II, which amends SRMR on the loss-absorbing and recapitalization capacity of institutions and entities, should be applied in a manner consistent with that in the Capital Requirements Regulation and in the fourth Capital Requirements Directive (CRD IV) and the BRRD*" (ibid.). The whole of this makes that the duo legislation approach is almost mutually exclusive and collectively exhaustive.

1.5 Harmonised deposit insurance rules

As a final element to the core-BU, the EC stressed on the harmonisation of DGSs. DGSs reimburse depositors whose bank has failed. The main idea behind the DGS is that they are fully built up via banks themselves, and that no taxpayer resources are used in the entirety of the process (European Commission, 2022). Under EU rules, DGS safeguard depositors' money by ensuring deposits of up to 100,000 euro and help protect against the mass extraction of deposits in the case of a bank failing (ibid.). They were however strongly different over different MS, hence the EC wanted to foster a more EU-wide approach of protection, as it sees it as fundamental to consumer and market confidence.

The first DGS directive was issued in 1994, and depositor protection has gradually improved since then. The EU mandated that MS improve deposit protection from "a bottom of 50,000 euro to an equalized level of 100,000 euro" in 2009. (European Commission, 2022). Furthermore, the EU issued Directive 2014/49/EU in 2014. This regulation required EU MS to establish rules requiring all banks to participate in at least one DGS. EU MS are obliged to guarantee a balanced degree of safety for savers in this regard (European Commission, 2022). MS must also compile catalogues of the different sorts of deposits that are protected (ibid.). Also, DGSs established and recognised in one MS must also protect the savers at branches of their members in different MS (ibid.). By these guarantees, the directive maintains the protection of up to 100,000 euro and contains a gradual decrease of the repayment period of deposit guarantees (ibid.). From the perspective of the EBA, the DGSD was used to complement BRRD, as it assigned rulemaking tasks to the EBA (EBA, 2022). In essence, "*the DGSD aims to facilitate access to the internal market through the freedom of establishment and the freedom to provide financial services while increasing the stability of the banking system and the protection of depositors*" (ibid.). The DGSD is currently being renegotiated and is to be extended by EDIS (European Deposit Insurance Scheme); this will be described in chapter 3 of this thesis.

1.6 Takeaways from Chapter 1

This first chapter depicts the current state of the core BU. Much work has already been done and a sound fundament for further stabilisation and consumer protection has been set out. At the same time, the core-BU only contains a portion of the whole protection system put in place by the EC. Therefore, in the next chapter, an overview follows the banking and finance legislation currently set in place or proposed by the EC, in its aim for fostering a broad definition of BU safety. The EC has acted on the sectoral internal reforms and has led through the setting up of fundamental checks and balances systems, which cross borders and foster a more homogenous system of protection in the EBU and internal market. By giving this overview, the reader should be able to comprehend the variety of banking and finance topics and mechanisms. The main takeaway of this chapter in the light of the completion of the EBU is that there is a network in place composed of the SRM, SSM, a single rulebook containing a capital requirements directive and regulation and a BRRD, and ultimately already partially harmonised deposit insurance rules, and that these stand in functional connection to the other regulations. This network already provides a certain level of protection to both institutions, governments, companies and consumers. Still, it must be further strengthened by supplementary mechanisms within this network and around it, hence chapter 3 and 4 their plea to continue the integration and evolution of the EBU.

Chapter 2: Banking & Finance regulation

Next to the Single Rulebook, SSM, SRM and Harmonised deposit insurance rules, it is essential to analyse general banking sector regulations to understand the scope of European integration in this field. The EC had well understood that safety stems from both the narrow and broad definition, and that through a more bottom-up approach, its laws effectiveness would grow exponentially. This chapter will therefore discuss the financial regulatory process, the financial supervision and risk management structures, financial markets regulations, consumer finance and payments regulations, insurance and pensions regulations, sustainable finance regulations, digital finance, enforcement and infringements of banking and finance law, and the impact of banking and finance on international relations. These mechanisms and fields, directly and indirectly, shape the security net that EU regulations provide. Therefore, an assessment of the completion of the EBU would not be complete without them.

2.1 Regulatory process

The regulatory process of the Banking and Finance sector in the EU is very specific. As previously mentioned, a certain bottom-up approach in combination with a broad definition of safety was maintained. In 2001, the EC accepted the Lamfalussy Report's recommendations, establishing a regulatory framework for the financial services sector. Four institutional layers are involved in the Lamfalussy regulation method. First, the EP and the Council must accept the fundamental laws proposed by the EC through the OLP at level 1. (European Commission, 2022). In general, the Lamfalussy report recommends employing for establishing framework principles because increased complexity and sophistication would be incompatible with the OLP's very nature. With the support of its consultative bodies, the EC can adopt, adjust, and update technical implementing measures at level 2. This allows the Council and EP to concentrate on important policy issues, while the EC may hammer out the details of implementation afterwards (ibid.). At level 3, national supervisory assemblies are tasked with advising the EC on the implementation of level 1 and 2 acts and establishing guidelines for their application, once again establishing a structure in which subsidiarity and checks and balances are clearly visible. At level 4, the research advocates for the EC to have a more decisive impact on ensuring that national governments properly enforce EU standards, in order to promote a sense of urgency in the execution of the law. "*The 4-level regulatory approach recommended by the Lamfalussy report was first adopted in the securities sector and then extended to banking, insurance, occupational pensions and asset management*" (European Commission, 2022). This allows for a more flexible decision-making process and increases the quality of legislation. Another observation is the gradual growth in sectoral coverage, one could argue that the EC employs a test-approach and that more is coming down the line. It takes a very technical field and allows experts to advise the EC in more appropriate, effective and efficient following up on sectoral evolutions.

But reforms did not only happen in the regulatory decision-making process. After 2008, the EC also revised their structure for financial supervision. It founded the European Systemic Risk Board (ESRB) to observe macroprudential jeopardies and empowered the level 3 Lamfalussy committees to become self-governing authorities with stronger authorities. The assessment and evaluation of this evolution with the Meroni doctrine falls out of the scope this master thesis but could be studied in future research within CiFe. These level 3 authorities grew to become the European Supervisory Authorities (ESAs): the European Banking Authority (EBA), the European Securities and Markets Authority (ESMA), and the European Insurance and Occupational Pensions Authority (EIOPA) (European Commission, 2022). These were reinforced and recalls power additions including "*preparing the so-called 'technical standards' – a category of level 2 measures that they draft and submit to the EC. Many level 1 regulations and directives in financial services ('basic acts') contain empowerments for level 2 measures to be adopted by the EC through delegated acts, implementing acts, or measures under the former comitology regulatory procedure"* (ibid.). Just as with the ECB's powers in the SSM and SRM, one could argue on the democratic deficit and Meroni doctrine, when assessing the ESMAs. A balance must be found between the benefit of effective control, and possible vulnerability to lobbying and agent-effects.

To further accommodate the flexible regulation, the Lisbon Treaty has shaped the present delegated and implementing acts system. Delegated acts, as defined in article 290 of the Treaty are "*acts supplementing or amending certain non-essential elements of an essential act"*. As defined in article 291, "*implementing acts must be used where uniform conditions for bare acts are required"*. Also, for the cases where level 2 measures entail specific knowledge, it can be defined in the actual act that "*these are technical standards based on drafts developed by the European supervisory authorities. There are two types of standards: the regulatory technical standards (RTS), which are adopted by the Commission by means of a delegated act the implementing technical standards (ITS), which are adopted by means of an implementing act*" (ibid.) This ensures providing in and interactive and subsidiarity principle aligned regulatory system/network. The EC understood that through subdividing and specialising the different forms of legislation it would be able to act more precisely, more ad-hoc and more create more readable laws for the sector.

This system and network are therefore crucial mechanisms in the assessment of the wider EBU as it generates a more complex and intertwined network of regulatory bodies. By this complexity, the EC integrates more stakeholders and shareholders through the expansion of its operations. In a way, it is a more bottom-up approach by which agencies that are specialised and closer to the involved actors communicate and interact with the EC to better regulate and guide the sector to a safer and more robust operational structure. Elements of the neo-functionalism spill over concept come into play in the Lamfalussy report as the EC expands its powers by establishing these agencies. This will be further discussed in chapter four of this master thesis.

2.2 Financial supervision and risk management

As introduced above, a whole network is currently in place to ensure financial supervision and risk management across the banking & finance sector (European Commission, 2022). The following pages list essential info on the European system of financial supervision (ESFS), supplementary supervision of financial conglomerates, financial supervision of shadow banking, management of risks to banks and financial institutions, the anti-money laundering and countering of terrorism financing, the Wire Transfer Regulation, and lastly supervisory data collection.

In practice, "*the ESFS is a system that combines micro- and macro-prudential supervision. The main objective of micro-prudential supervision is to reduce the probability and limit the impact of the failure of an individual financial institution, thereby protecting the customers of those institutions*" (European Commission, 2022). The ESFS compromises the European Systemic Risk Board (ESRB), the EBA, ESMA, and EIOPA. The ESAs are seen as the "direct" supervisors in the EU financial system by Gortsos and Lagaria (Gortsos & Lagaria, 2020). As mentioned in the subchapter before, these bodies form together with the level 3 regulators. They were introduced in 2010 and effectively put in place in 2011 to ensure adequate implementation of financial sector rules across MS. Their goals are to "*preserve financial stability, promote confidence, and provide consumer protection. The goals of the ESFS also include the development of a common supervisory culture and the facilitation of a single European financial market"* (Parenti, 2021). As already stated in the introduction of this chapter, the network the EC has created through the establishment of the ESAs allows it to more holistically approach sectoral regulation. The fact that supervision authorities are highly specialised and have a clear sectoral logic allows the EC to once again obtain first-hand information on how to effectively regulate the specific branches of the Banking and Finance field. "*In the EU, micro-prudential supervision is organised by a multi-layered system of authorities separated according to their sectoral area (banking, insurance and securities markets) and the level of supervision and regulation (both EU and national)" (*European Parliament, 2022). In this regard, the ESAs play a role in facilitating the effective working of the internal market, specifically for the creation of an efficient and equal level of regulation and supervision, protecting the integrity, transparency, effectivity and well-functioning of the financial markets (EUR-Lex, 2017). They also reinforce and support the international supervisory coordination; and assist in the prevention of regulatory arbitrage through the promotion of equal rules of competition (ibid.). They ensure that appropriate risk-taking is adequately controlled and overseen; and so, strive to enhance customer security and legislative harmonisation across the EU (ibid.). Next to the ESAs, the micro-prudential supervision is complemented by joint bodies in the Joint Committee of the European Supervisory Authorities, the Board of Appeal, and MS level competent national supervisory authorities (ibid.). "*The macro-prudential supervision is concerned with the financial system's exposure to everyday risks and aims to limit its distress to protect the overall economy from significant losses in actual output (ibid.). This oversight is carried out at the EU level by the ESRB. The ESRB's objective is to prevent and limit systemic risks in the light of macro-economic developments"* (ibid.). An analogy can be made with the understanding of safety in a narrow and broad sense. In these efforts for both macro- and micro-prudential supervision the EC has once again fostered a holistic approach to its supervisory practice.

But as financial markets increasingly grow more complex and connected, the organisation and collaboration of the supervisory authorities are vital. The ESFS founding regulations allow several collaboration tools and mechanisms at the EU level. The ESAs hold a crucial coordinating role in this network. They synchronise with "*international institutions – including supervisory fora such as the International Organisation of Securities Commissions (IOSCO), the Financial Stability Board (FSB) and the International Association of Insurance Supervisors (IAIS) – and with third-country supervisors"* (European Parliament, 2022). This allows on top of the holistic approach within the single market, to also include international actors and create supervisory economies of scale.

2.2.1 Supplementary Supervision of Financial Conglomerates

Since 2003, the directive on supplementary supervision of financial conglomerates has been in place. "*While specific banking and insurance laws are already applicable to financial conglomerates, this directive requires supervisors to apply supplementary supervision to these financial groups"* (European Commission, 2022). The EC's attention to 'detail' by not only focussing on the big players gives a representation of its ambition for the broader sense of safety. In practice, the directive sets out different standards on solvency, with a general obligation to integrate all the sectoral solvency requirements into the group. On top of this, the directive wants to avoid "*the same capital being used more than once as a buffer against risk in different entities in the same conglomerate ('multiple gearing of capital') and to prevent 'down streaming' by parent companies, whereby they issue debt and then use the proceeds as equity for their regulated subsidiaries (= 'excessive leveraging')*" (European Commission, 2022). By explicitly stipulating these ambitions the EC gives an indication of their sectoral expertise. Moreover, it also addresses "*the suitability and professionalism of their management; to ensure adequate risk management and control systems within the conglomerate; focussing on the fact that a common supervisory authority should be appointed to coordinate the supervision of a conglomerate; information sharing and cooperation among the supervisors (including those in non-EU countries) of the regulated entities in a financial conglomerate"* (ibid.). Eventually. the directive was rewritten in 2011 to give national supervisors extra muscles to supervise holding companies. This provided in simultaneously banking, insurance and supplementary supervision by terminating legal ambiguities recognised through the 2008 crisis. The EC "*is currently evaluating whether the directive fits its purpose and whether it is delivering on its objective to identify and manage group risks"* (European Commission, 2022). The different elements that have been together in this supplementary supervision framework indicate the understanding that the EC has of the importance of these financial conglomerates. It is fundamental that they are adequately approached, as their complex and often international character requires flexible and sustainable rules, as well as continuous review and updating.

2.2.2 Financial supervision of shadow banking

In their 2020 article, Farhi and Tirole state that considering the four critical pillars of conventional banking: "*SME lending, insured deposit-taking, access to a lender of last resort, and prudential supervision*" (Farhi & Tirole, 2020). They conclude that for the complexity of the latter, prudential regulation requires continuous adaptation due to the rise of shadow banking. In this, it must rationalise "*structural remedies to counter fraudulent liquidity hoarding and financial contagion risks*" (ibid.). This is again a case in which the EC saw the fundamental need of regular updating of its legal framework, as the risk in and of shadow banking have grown gradually over the last two decades. The EC firstly acted on this by their 2013 "*roadmap to limit the rise of risks in the shadow banking sector*" (European Commission, 2022). Later in 2013, a proposal was launched for money market funds (MMFs). "*MMFs are mutual funds that invest in short-term debt such as money market instruments issued by banks, governments or corporations"* (European Commission, 2022). This 2013 proposal is yet to be adopted. However, in 2016, the regulation on the transparency of securities financing transactions (SFTR) did get adopted. This regulation added "*transparency, reporting and disclosure conditions for institutions engaged in SFTs, making it easier to monitor and assess the risks involved in these transactions*" (Akyilidirm at al., 2020). Moreover, it aims to "*ensure that occupational pensions are sound and better protect pension scheme members and beneficiaries; better inform members and beneficiaries about their entitlements; remove obstacles faced by occupational pension funds operating across borders; and encourage occupational pension funds to invest long-term in economic activities that enhance growth, environment and employment*" (ibid.). The regulation itself comprehends SFTs as "*transactions to which securities are used as backing for cash transactions"* (European Commission, 2022). They allow market players to obtain protected money and are in this an indispensable funding tool for the EU. The SFTR was an essential piece of legislation because of their vulnerability concerning shadow banking (ibid.). In all, the regulatory approach that the EC took in the area of shadow banking once again shows its ambition to create a system in which sectoral safety concerned are tackled from multiple perspectives, to eventually strive for optimal consumer and market protection.

2.2.3 AMLD - Anti Money Laundering Directive

The EC recently recommended a legislative update in the shape of an action plan for a comprehensive Union policy in their fight against money laundering and terrorism funding (European Commission, 2022). "*Effective implementation, a unified rulebook, EU-level oversight, a support and collaboration system for financial intelligence units, improved use of information to enforce criminal law, and a stronger EU in the world*" are the six pillars of their grand strategy (ibid.). This led to the inception of a new supervisory organization, the EU Anti Money Laundering Authority (AMLA), as well as a new directive (replacing the 2015 version) and an innovative 'Anti-Money Laundering and Combating Terrorism Financing' regulation. By 2024, the EC hopes to have it functioning (European Commission, 2022). Currently, the EC conducts risk assessments in order to identify and respond to threats to the EU internal market (ibid.). It also "*promotes the adoption of global solutions to respond to these threats at international level*" (ibid.). The EU took the lead in enacting regulations to combat money laundering and terrorist financing, thus endorsing such worldwide efforts (European Commission, 2022). Simultaneously, the EC ensures the practical implementation of these laws by reviewing the state of EU acquis transposition and communicating with networks of other authorities (ibid.). It shows how the EC is striving to establish a catch-all approach to tackle the issue of money laundering from top to bottom, as well as in coordination with its partners.

2.2.4 International cooperation

As already stated, the EC doesn't work on financial supervision and risk management completely on its own. Internationally, "*the EC is a member of the Financial Action Task Force (FATF), which is currently the leading international body concerned with fighting money laundering, the financing of terrorism and other threats to the international financial system; the EC works also as an observer in Moneyval which is the Council of Europe body assessing compliance with AML/CFT standards; and at the Egmont Group of Financial Intelligence Units, that provides an international platform for the secure exchange of expertise and financial intelligence between FIUs"* (European Commission, 2022). What this effectively does is guarantee that the EC is aware of international developments and fulfils it ambition to regulate holistically.

2.2.5 WTR - Wire Transfer Regulation

As a complement to the AMLD framework, the "*WTR lays down rules on the information on payers and payees*" (EBA, 2022). It aims to prevent, detect and investigate money laundering and terrorism financing, specifically for "*where at least one of the payment providers involved in the transfer is established in the EU*" (ibid.). As complements, "*WTR1 and WTR2 aim to improve the traceability of information accompanying funds transfers to prevent and detect money laundering and terrorist financing. WTR1 held obligations for recording information on the payer. Under WTR2, these obligations are expanded to include recording information on the payee"* (De Nederlandsche Bank, 2021). In this capacity the WTR can be seen as the regulation that leverages the impact of the AMLD, as it functions as a gate keeper for the latter's objectives, from the Banking and Finance perspective.

2.2.6 Supervisory data collection

Also, in 2021 "*the EC adopted the strategy on supervisory data in EU financial services*" (European Commission, 2022). In this, its intention is to renovate EU supervisory reporting and implement a network that carries qualitative data to authorities at the EU and national levels, while effectively "*minimising the aggregate reporting burden for all relevant parties. The strategy contributes directly to implementing the European data strategy and the digital finance strategy. It also delivers on recent EC commitments to systematically and proactively seek simplification and burden reduction for the promotion of effectivity and efficiency*" (European Commission, 2022). This can be conceptually compared to the information gathering system under the SSM (within the core-BU). In both cases the EC understands the critical importance of sound information gathering if one wants to foster a stable and secure banking sector. Furthermore, by backing this supervisory harmonisation, the stratagem supports the wider CMU purposes. The EC LT vision on supervisory data in EU financial services mainly focuses on four building blocks: more consistency and standardisation, data sharing among authorities, an improved process for developing and adopting reporting requirements, and joint governance (ibid.). Delivering these essential building blocks should eventually enable more effective and efficient use of modern technologies as well, as the holistic focus can be clearly observed through the whole supervisory and risk assessment system setup.

2.3 Managing risks to banks and financial institutions

Risk management goes further than the principles set out in subchapter 2.2, it also entails more operational areas where the EC has worked upon. As for managing risks to banks and financial institutions, the EC has focussed on a variety of elements, it has worked on a set of prudential requirements (analysed in CRD and CRR regulations in chapter 1), a bank recovery and resolution mechanism (analysed in BRRD in chapter 1), a set of deposit guarantee schemes (analysed in DGS in chapter 1), a structural reform of the European banking sector (analysed in chapter 1 and 3), and a system for winding up credit institutions, credit rating agency regulation, prudential rules for investment firms, covered bonds, and regulation on non-performing loans. These will be covered in the following paragraphs to give a deeper view on how the EC has built its safety net.

2.3.1 Winding-up of credit institutions

When EU credit institutions with branches over a multitude of EU countries fail and go bankrupt, Directive 2001/24/EC ensures that "*a single procedure is applied across all countries involved. It defines that the domestic rules should be followed in bankruptcy and winding-up procedures. It also requires that creditors are to be informed of all bankruptcy proceedings and reorganisation measures*" (European Commission, 2022). This prevents conflicts between countries on whose jurisdiction would eventually apply and guides the painful and complex process of winding-up a credit institution.

2.3.2 Regulating credit rating agencies

"*Credit ratings help investors and lenders to understand the risks associated with a particular investment or financial instrument. However, over-reliance on credit ratings may reduce incentives for investors to develop their own capacity for credit risk assessment*" (European Commission, 2022). Prior to the subprime crisis, credit rating agencies (CRAs) had a poor track record when it came to assessing the risks of more complicated financial instruments. Moreover, during the subsequent euro crisis of 2012, numerous countries experienced unexpected selloffs of their assets, resulting in credit rating downgrades. As a result, the EC passed several acts to strengthen the EU's CRA framework. They suggested restoring sectoral trust and raising investor security to new heights (European Commission, 2022). For the whole new package, the rationale was that the transparency that should be realised through credit rating agencies, has been faulty. And that this capital misfunctioning of the credit market should be dealt with at all costs with the new regulations and mechanisms.

Eventually, a three-step process was used to implement the new laws. The first step was taken in 2009, when an initial structure for CRAs was formed, as well as a regulatory oversight system (ibid.). As a result, they needed to be certified and controlled by qualified national specialists. They were also required to avoid scrutiny and use qualitative and transparent approaches (ibid.). These rules were modified in 2011 to consider the ESMA idea (as previously described) and to upgrade the regulatory and supervisory network with a level 3 organization. In 2013, another modification was enacted, tightening the standards and correcting the shortcomings in sovereign debt credit ratings (ibid.). The latest legislative package on the CRAs seeks once again limit the over-reliance on CRAs and expand transparency of sovereign debt ratings (ibid.). Overall, the EC aims to "*reduce over-reliance on credit ratings, increase transparency regarding the issuing of sovereign debt ratings, improve the quality of the rating process and make credit rating agencies more accountable for their actions and reduce conflicts of interest and encourage a greater number of actors to operate in the credit rating market*" (European Commission, 2022). Ultimately the EC aims to prevent the wrong assessments that were made in 2008 and 2012 and detach the market fate from faulty CRAs.

2.3.3 Prudential rules for investment firms

In the EU, investment firms fall under a specialised framework considering their size, activities and risks (European Commission, 2022). The framework is primarily set out by the IFR. In complement, the IFD is designed to better reflect their activities compared to the activities covered by the CRR/CRD framework. "*One key aspect of the new framework is that it provides for simpler and more bespoke capital requirements for investment firms*" (European Commission, 2022). The capital requirements by the IFR are the aggregate of three elements: "*the fixed overhead requirement (FOR), equalling a quarter of the annual fixed overhead; the permanent minimum capital requirement (PMR) of 75 000 euro, or 150 000 euro, or 750 000 euro, depending on the firm's activities, and of the overall K-factor capital requirement, which is the sum of K-factor* *requirements grouped in three clusters: Risk-to-Client (RtC), Risk-to-Market (RtM), Risk-to-Firm (RtF)*" (ibid.). These very technical regulations and directives serve as a complement to the safety net flowing out from the CRR and CRD, by working on these pieces of text, the EC acknowledges the differences between the large firms under the core-BU, and the specific investment firms regulated by the IFR and IFD.

2.3.4 Covered bonds

Om top of the macro-approach taken by the EC in the previous topics, the EC went on a more product-oriented path for the area of covered bonds. Covered bonds are a centrepiece for LT financing of the EU MS. The MS use it as an instrument to guide/lead funds to the real estate market and their public sector entities. Essentially, the "*covered bonds function as debt obligations issued by credit institutions which offer so-called double-recourse protection to bondholders. If the issuer fails, the holder has a special and direct claim on certain earmarked assets and an ordinary claim against the issuer's remaining assets*" (European Commission, 2022). The EC and its co-regulators are expected to work on this in the years to come, as the significant importance of this financing tool requires a sound and durable framework.

2.3.5 Non-performing loans

"*Non-performing loans, or NPLs, are bank loans that are subject to late repayment or are unlikely to be repaid by the borrower*" (European Commission, 2022). This was a structural issue during the subprime crisis and following recession, as debtors' inability to repay their loans grew. This occurred as a result of many banks' own records accumulating NPLs. Addressing the risks associated with significant stockpiles of bad loans was and continues to be predominantly a concern of financial institutions. However, there is a clear EU interest in lowering NPL percentages to avoid spillover consequences if something goes wrong in the EMU. In 2022, the European Commission announced an action plan aimed at providing MS and the banking sector with the tools they need to deal with any increase in nonperforming loans in the EU banking sector early on (European Commission, 2022). Once again this is a sign of a more bottom-up and product-approach, characterising a part of the EC's holistic framework.

2.4 Financial markets

Next to the regulatory framework for financial supervision and risk management across the banking and financial sector, there are some specific topics to highlight in the financial markets. Specifically for the securities markets, investment funds, post-trade services, corporate bonds, and capital movements. These or once again both sectoral and product oriented, with a substantial effect on the broader sense of BU safety. Therefore, they will be described in this subchapter.

2.4.1 Securities markets

Securities markets allow the trading of financial assets, the difference with financial markets is that the latter is broader and includes the LT securities. As for these securities markets, there are primarily MiFID and MiFIR. These two holds procedures for short selling and credit default swaps. They also work on investor compensation when investment firms forsake to repay their assets. The two foster the "*integrity of securities markets, including rules on financial benchmarks and safeguards against market abuse"* (European Commission, 2022). They guide EU initiatives to facilitate raising capital on public markets for SMEs. Lastly, they set transparency requirements for listed companies, and hold laws on the info that needs to be shared by firms that want to draw "*investors, raise capital and finance their growth*" (European Commission, 2022). MiFID is the abbreviation for 'market in financial instruments directive'. This directive was a foundational element to the EU's rulebook for financial markets from 2007-2018. "*In June 2014, the European Commission adopted new rules revising the MiFID framework. These consist of a directive (MiFID II) and a regulation (MiFIR)"* (European Commission, 2022). The ultimate objective was to increase the transparency and oversight of financial markets and address some faults in the structure of the commodity derivatives markets (ibid.). Ultimately, its aim is to enhance investor security and improve the organisation of business rules and competition setting. In this, the regulation "*sets out requirements for disclosure of data on trading activity to the public, disclosure of transaction data to regulators and supervisors, mandatory trading of derivatives on organized venues, removal of barriers between trading venues and providers of clearing services to ensure more competition, as well as specific supervisory actions regarding financial instruments and positions in derivatives*" (European Commission, 2022).

As already stated, there is the SecReg Regulation; the simple, transparent and standardised securitisation regulation. It is also highly relevant concerning the financial crisis of 2008. The regulation sets out rules for "*due diligence, risk retention and transparency, and a clear set of criteria to identify simple, transparent and standardised (STS) securitisations*" (European Commission, 2022). The main aim is to broaden investment opportunities and boost lending to private markets in a safe manner. The input for this regulation came from both international and European players. The BCBS and IOSCO, international organisations, lead a task force defining "*criteria to identify simple, transparent and comparable securitisation instruments*" (ibid.). This was formalised in 2015 and has been implemented ever since. Overall, the legislative package and mechanisms for the protection of the securities markets focus on the market, the products, the firms and the investors altogether. This approach has allowed the EC to work on market safety from different perspectives and in cooperation with its partners and subsidiaries on multiple levels.

2.4.2 Investment funds

For comparison, in the area of investment funds, the EC has put in place different regulations for collective investment funds, retail investment funds, and procedures on their cross-border distribution (European Commission, 2022). In the centre of this stands UCITS, "*the directive on undertakings for collective investment in transferable securities*", the principal EU structure covering collective investment schemes (ibid.). UCITS covers around 75% of all collective investments by retail investors in the EU. In complement to UCITS there is AIFM, the 'alternative investment fund managers directive' (European Commission, 2022). "*It covers managers of alternative investment schemes designed for professional investors*" (ibid.). AIFM considers "*hedge funds, private equity funds, real estate funds and a wide range of institutional funds"* (ibid.). As part of the CMU package of 25 November 2021, the EC adopted a proposal that advises the amendment of the AIFM to make the AIF market even more efficient, improve protection and enable better monitoring and managing of risks to financial stability (European Commission, 2022). Next to UCITS and AIFM, EUVeca, the European venture capital funds regulation, creates the framework for a subcategory of the AIF market, focussing on start-ups and young firms. EuSEF, the European social entrepreneurship funds regulation, focusses on social enterprises. ELTIF, the European LT investment funds regulation considers funds that operate on infrastructure, SMEs and tangible asset investments. Lastly, there is the regulation on the previously mentioned MMFs (European Commission, 2022) and a specific regulation on retail investment products working on transparency and access facilitation. This long list of different regulations might look like overly complex overregulation but was fundamentally necessary in the EC's grand ambition for sectoral stability, safety and prosperity. The different regulations provide in a meticulously set out framework that is adapted to the products it deals with.

2.4.3 Post-trade services

"In the area of post-trade services, the EC has installed a financial markets infrastructure policy, with which it aims to enhance the resilience of market infrastructure and to achieve an integrated, safe and efficient environment in the EU" (European Commission, 2022). The EC also worked on the European Market Infrastructure Rule (EMIR), an EU regulation that improves the transparency of securities financing markets. This legislation enables for sufficient risk monitoring. Improvements to the security and efficacy of securities settlement in the EU, the minimization of financial instruments and payments transfer risks, and the establishment of an EU framework for securities and cash as collateral in financial transactions were all highlighted in the financial markets infrastructure policy package (ibid.). In addition, the EC "*is working to make conflict of laws rules on securities and claims ownership more consistent across the EU*" (ibid.). In contrast to the formerly discussed product- or sector-specific regulatory practice, this policy infrastructure also provides in the end-user protection directly (while also addressing product- and sectoral mechanisms.

2.4.4 Corporate bonds

Furthermore, corporate bonds are a vital source of capital for European businesses. They provide firms with extra finance options. Simultaneously, they create opportunities for European investors to participate. The number of companies issuing these corporate bonds has steadily increased in recent years, reaching more than double its 2007 level in the EU (European Commission, 2022). For this reason, the EC is currently monitoring these trends to assess the need for further specific legislation.

2.5.5 Capital movements

Lastly, following article 63 of the TFEU, the EC guarantees the free movement of capital by supervising capital flows and guaranteeing that MS properly follow the laws and principles of the TEU (European Commission, 2022).

2.5 Consumer finance and payments

Just as in the two former subchapters, a description of relevant legislation in consumer finance and payments can be found in the pages ahead. Specifically for retail financial services, payment services, and financial literacy.

2.5.1 Retail financial services

As for retail financial services, the EC is once again striving for a more secure and harmonised/cooperative market. To achieve this, it has put rules in place on "*consumer credit, mortgage credit, access to opening bank accounts, distance marketing of financial services to protect consumers who sign contracts with a credit supplier in another EU country, the information provided to investors in financial products, as well as rules to compensate investors when investment firms fail to return their assets"* (European Commission, 2022). Also, a Financial Services User Group (FSUG) has been set up to ensure consumer involvement. If this system seems to be not working correctly, a financial dispute resolution network called FIN-NET has already been established (for the European Economic Area) (European Commission, 2022). Per this we can clearly see that the EC is trying to create a legal framework, whilst also creating an operational network allowing for better implementation and future regulating. This approach aligns with what has already been discussed earlier in this master thesis on how the EC regulates.

2.5.2 Payment services

In the area of payment services, the EC has continuously worked on creating an efficient and integrated market. The process began in 2007 with the payment services directive (PSD1), established a single ruleset on payments across the EEA (European Commission, 2022). It covered all electronic and non-cash payments and lays down transparency rules for payment services. It also specifically stipulated consumer rights and provider. As well as introduced the concept of 'payment services', at the time a new class of payment service. This introduction has allegedly increased consumer options substantially. Thirdly, it has placed the foundation for SEPA. Through SEPA (Single Euro Payments Area), it established a common set of instruments and rules that make cross-border payments in the EA as functional as national payments are (European Commission, 2022). On top of this, the EU rules on e-money aim to facilitate secure innovation and healthy competition between market participants (ibid.). In 2015 this was revised under the PSD2, including provisions for "*making it easier and safer to use internet payment services. It aimed for better-protecting consumers against fraud, abuse, and payment problems; promotion of innovative mobile and internet payment services; strengthening of consumer rights; and the strengthening of the role of the EBA to coordinate supervisory authorities and draft technical standards"* (ibid.). In the same legislative package, a limitation on the costs for transactions based on bankcards and prohibition for retailer shops to impose extra charges on customers. In 2021 the EC started to continue building on this with the idea of the Digital Euro (European Commission, 2022). For when traditional cash is unavailable; the digital euro would provide a more diversified option. It would be a supplement to cash rather than a replacement. The ECB and the EC's services are jointly assessing the possibility of implementation. As previously stated, they believe "the EU's digital transition and digital euro initiative might boost the EU's digital banking and retail payments strategy" (European Commission, 2022). The project might also strengthen the euro's international position and boost the EU's strategic autonomy as a result of these efforts. In this area we can see how the EC leverages it LT goals through monetary and financial regulation, as it understands that underpinning its plans through these mechanisms provides in concrete benefits down the road.

2.5.3 Financial literacy

As a last element in the field of consumer finance and payments stands financial literacy. It is in essence the knowledge and skills needed to make critical financial decisions. As for this area, the EC and the OECD are working together to develop joint 'financial competence frameworks' for adults and children. They already developed a financial competence framework for adults in 2022 (European Commission, 2022). This once again shows the EC's modus operandi of cooperation and frameworks allowing for bottom-up involvement.

2.6 Insurance and pensions

Another area of importance in EU banking regulation is the insurance and pension branch. To ensure its survival and for the protection of policyholders, the EC has worked extensively on regulation for "*risk management and supervision of insurance companies, through insurance distribution, insurance recovery and resolution, motor insurance, the winding-up of insurance undertakings, insurance guarantee schemes, the insurance of natural and artificial disasters, occupational pension funds, and personal pension products*" (European Commission, 2022). This sector is especially important for the EC as it underpins saving strategies of many households. Because of this there is an enormous importance that it is safe and sound. As these regulations are highly technical and detailed, this master thesis does not go into depth on them. The key takeaway from their assessment is the fact that they also contribute to the broader sense of safety, and stem from the highly ambitious EC plans and neo-functionalist spill over nature of the regulatory practice.

2.7 Sustainable & Digital Finance

In the field of sustainable finance, the EC is examining how to make sustainability concerns an integrated and valuable part of its financial strategy. The rationale behind is to use it to leverage support to the Green Deal. Sustainable finance refers in this regard to taking ESG considerations into the equation when making investment decisions. "*Environmental considerations include climate change mitigation and adaptation and the environment in a broad sense. Social considerations include inequality, inclusiveness, labour relations, and investment in human capital and communities. For the EC, public and private institutions' combined governance plays a crucial role in ensuring the inclusion of ESG considerations in the decision-making process*" (European Commission, 2022). This explicitly shows the EC's ambitions and modus operandi, as the recurring elements of narrow-and-broad-safety-sustainability, general frameworks, and leveraging towards greater goals also return in the sustainability field. And so, these sustainability goals and considerations are aligned with the EU taxonomy for sustainable activities (its classification system for sustainable activities) (European Commission, 2022). The concrete realisation of is ensured through the EU green bond standard (EUGBS, proposed by the EC in 2018), it holds the "*corporate disclosure of climate-related information guidelines, EU climate benchmarks and benchmarks' ESG disclosures, sustainability-*

related disclosure in the financial services sector, and international cooperation and dialogue through the International Platform on Sustainable Finance" (European Commission, 2022). This clearly shows another recurring tendency, namely, to functionally cooperate on a supranational level. Also, In the area of digital finance, the EC picked up the pace in 2020, when it adopted a package including a digital finance and proposals on cryptocurrencies, digital resilience and the previously mentioned new retail payments proposals. In these efforts, they aim to foster a more "*competitive financial sector that gives consumers access to safe, innovative financial products*" (European Commission, 2022). It also encourages the EC's "*ambition for a recovery that embraces the digital transition, as digital financial services can play an essential role in modernising the European economies across sectors and turning Europe into a global digital player*" (ibid.).

2.8 Enforcement and infringements of banking and finance law

The EC ensures correct application of EU law. "*The EC acts if an EU country does not fully incorporate a directive into its national law by the set deadline or does not apply EU law correctly*" (European Commission, 2022). In these cases, the EC first works with the country concerned to address the issue. Afterwards, the EC may start formal infringement proceedings (ibid.). An overview of fully transposed legislation in the finance reform can be found under annexe 3. The EC also actively monitors the transposition of EU directives in EU countries and the respect of MS for the free movement of capital (as already mentioned in 2.5.5) (European Commission, 2022).

2.9 International relations

As already mentioned in the first chapter of this thesis, the EC has considerable consideration for international collaboration on financial regulation and capital movements. The finance reforms have been inspired by the conclusions of international fora, and the EC holds "*regular talks on financial regulation with its key economic partners*" (European Commission, 2022). An interesting mechanism in the international relations aspect of the EC is the consideration of equivalence of non-EU financial frameworks to the framework described in this chapter. The advantages of these cooperation mechanisms are present: they allow for EU authorities "*to build upon on* *supervised entities' compliance with equivalent rules in a non-EU country, they reduce or even eliminate overlaps in compliance requirements for both EU and foreign market players*" (ibid.). The EC mechanisms also provide in the possibility for activities of non-EU firms to be deemed acceptable for "*regulatory purposes in the EU*" framework itself (ibid.). This "*allows EU banks to benefit from more favourable capital requirements with regards to their exposure in non-EU countries. On top of this, in specific areas, it allows firms to provide services without formal organisation in the single market*" (European Commission, 2022). The decision is made upon compliance assessment with the "*Accounting Directive, Audit Directive, Benchmarks Regulation, Capital Requirements Regulation (CRR), Central Securities Depositories Regulation (CSDR), Credit Rating Agencies Regulation, EMIR, Market Abuse Regulation (MAR), MiFID II, MiFIR, Prospectus Directive, Solvency II Directive, and the Transparency Directive*" (European Commission, 2022). Ultimately this provides in a rigorous and holistic approach to the flexibility provided, and at the same time guaranteeing the safety net that is already established.

2.10 Takeaways from Chapter 2

This second chapter extensively indicates the reach of EU banking and finance regulation and its contribution to the sectoral protection. The EC has put a network in place of different agencies and regulators to help make the banking and finance sector a facilitator for economic activities in its EMU. Although these systems and regulations are traditionally not assessed in BU literature, it is essential to consider them while looking at the safety net that the EC has created. A marking element is the narrow-broad definition of safety that is highly relevant in the assessment of sector-, product-, consumer-safety schemes. Another element recurring in the fourth chapter for as the neo functionalist nature of the banking and finance regulatory process depicted in this chapter. Especially in contrast to the more intergovernmental establishment of the core BU, this becomes obvious. The EC established regulatory agencies and bodies with powers delegated from its arsenal, allowing them to regulate extensively in various domains. This can be seen as a multi-level governance system in which spill overs lead to expanding EC policymaking. How these logics come together and possibly create the future of the BU can be read in chapter four of this master thesis.

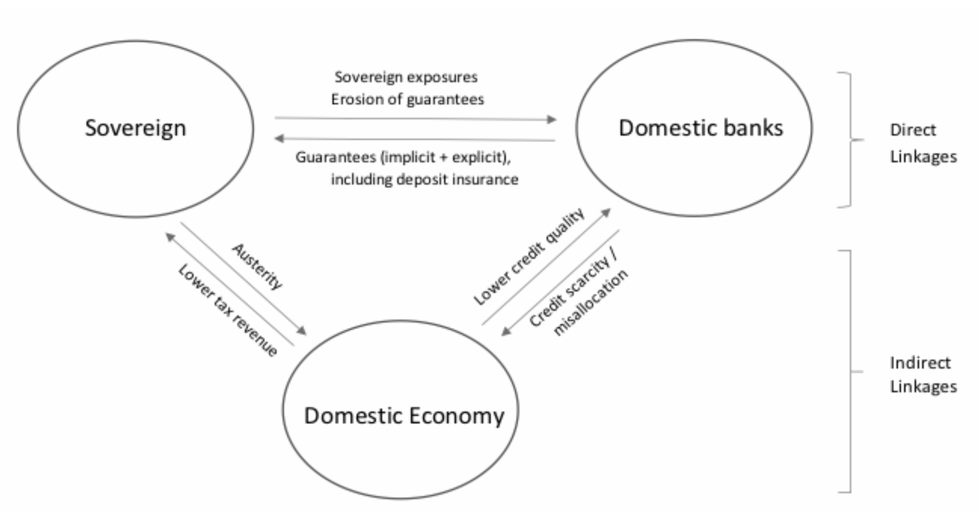
Chapter 3: Completing the Banking Union

In this third chapter, the main argumentation for the completion of the EBU is discussed, as well as the concrete components suggested by directly involved and third players and parties. The following questions will be answered: 'What is the need to complete the EBU?', 'What should be added to the EBU?', and 'Whom should the EBU include?'.

3.1 The need for the completion of the EBU?

The EBU has changed drastically since its inception after the crises of 2008 and 2012. It has often slowly and surely but sometimes drastically reshaped the banking and finance sector. The introduction of the core-BU mechanisms has already provided in a strong safety mechanism for the most important financial institutions. The core-BU is however still incomplete. Leading to potential hazards and fragilities throughout the whole system. Just as in the starting phase of EBU integration, the importance to advance quickly and ambitiously is still in place. And as such, over time, the rationale remains: "*An integrated banking sector with cross-border services makes economies less vulnerable to crises and banks themselves less exposed to their business in a specific country or region. A more integrated and competitive market will foster a more efficient allocation of resources, contribute to better risk diversification, and economies of scale and will as well benefit the economy at large*" (Fioretti et al., 2019). The ESM argues that eventually, more consolidation may result from integration, but this should not be viewed as full remedy. All banks would not necessarily benefit from cross-border market integration, many might even contemplate continuing to serve a domestically oriented market (ibid.). These cross-border services should then be provided specifically by a group of banks in the banking sector. Ultimately, a real single market with the same regulations and standards across borders, as well as the ability for banks to operate freely, is required to foster an integrated banking sector (ibid.). The regulatory environment should allow for fair competition, eliminate regulatory arbitrage, and establish growth-friendly environment for banks, making them more appealing to foreign investment and viable in comparison to their peers (ibid.). In this, banking groups should be treated as a single entity for the purposes of supervision, resolution, and regulatory obligations, with the ability to once again freely move capital and liquidity throughout the group (ibid.). The BU's first two pillars are currently in position and (almost) fully operational. However, a unified deposit protection mechanism has yet to be fully implemented. To advance on this matter, deeper actions are required to address the banking sector's remaining concerns. The EC issued a message in October 2017 encouraging the EP and Council to implement these proposed measures as soon as possible and to complete all aspects of the BU architecture (European Commission, 2022). Next to the EC, several euro leaders, including Germany's chancellor (at the time Angela Merkel) and France's president (Macron), have recently emphasized the importance of completing the BU. These public statements echo those made at recent intergovernmental meetings (European Council in 2014) and EC communications (European Commission in 2015). "*It is vital to break the vicious circle between banks and sovereigns*" the same leaders stated emphatically. However, each one of these calls interpret the BU's completion differently. The ambitious view aims at breaking the bank-sovereign vicious circle requires a restricted interpretation based on past promises. Specifically, it requires a more ambitious LT vision for a full BU, entailing the elimination of all cross-border discrepancies in the EA banking industry. This vicious circle ("doom loop") is best described as a network of direct and indirect financial connections (Schnabel & Veron, 2018). A visualisation of this can be found hereunder.

Figure: Selected contagion channels between banks and sovereigns in the euro area



Source: Veron, 2011

3.2 What should be added to the European Banking Union?

3.2.1 EDIS –- European Deposit Insurance Scheme

From the perspective of the EC, between 2021 and 2027, the various steps to complete the BU would take place (European Commission, 2022). They are based on the intended EDIS implementation stages, which include increasing levels of loss mutualisation. The EDIS system is at the centre of it all. It will instil confidence in savers, that deposit insurance will cover even the most severe failures in a country's banking sector (Fioretti et al., 2019). As a result, the financial stability of the entire union is strengthened. EDIS would better match supervisory and resolution responsibilities with financial obligation. This is because "*deposit insurance would be performed at the same level as supervision and resolution, dissipating fears of unequal treatment. Increasing European responsibilities also reduces the possible impact of bank failures on sovereigns and weakens the doom loop*" (Fioretti et al., 2019).

EDIS is based on the national DGS systems. As previously stated, this mechanism guarantees the safety of investments up to €100,000. In the eurozone, EDIS would guarantee a stable and uniform level of insurance coverage (European Commission, 2022). It would decrease the link between banks and sovereigns by limiting the susceptibility of local schemes to significant shocks, ensuring that trust is not dependent on the location of the ban, and "*reducing the vulnerability of national DGS to large local shocks*" (Fioretti et al., 2019.). When moral hazard concerns are handled, EDIS provides better financial stability in a cost-effective manner. It offers the advantages "*of a large insurance system – it can better and more efficiently ensure sufficient resources than individual backstops even in extreme scenarios. Bank failures will not occur everywhere at the same time and resources can be shifted accordingly. Therefore, fewer resources need to be invested for protection than in a system where everyone insures individually*" (ibid.). This seems like a reasonable logic that would be widely supported but has encountered significant over recent years. Many MS believe their own DGS to be stronger than the option provided by completing EDIS and are hesitant to the idea of opening up a common European fund, compromising MS with bad debt and/or practices.

As for the ESM it is evidently a supporter of completion, and it sees the rollout in a three-step approach:

- *“Step 1: ‘”Initiating the backstop and insurance schemes: the remaining preparatory technical work necessary to design a common backstop to the SRF and EDIS will be completed. (2021–2023)”* (Fioretti et al., 2019).
- *“Step 2: ‘Deepen EDIS’: Before moving to full mutualisation, the treatment of sovereign exposures in bank balance sheets would be addressed. (2024-2027)” (ibid.)*
- *“Step 3: ‘Move to a complete BU’: The MS could approve the implementation of stage 3 of EDIS, which foresees full mutualisation, implementation of a scheme to diversify sovereign exposures, and more lenient conditions for capital and liquidity waivers (after 2027)”* (ibid.)

The likeliness of this to happen is considerable, as macroeconomic challenges, political momentum and path-dependency theory are to the benefit of eventual completion of the EBU. The assessment of these different pressures coming together will be made in the next chapter, linking the completion to European Integration theory and literature.

3.2.2 Common backstop

As stated, initiating the backstop to the SRF and EDIS was a necessary first step towards a real completion of the EBU. This backstop is seen as “*A European safe asset can complement the completion of banking union. It would naturally lead to a diversified holding of sovereign risk in bank balance sheets and could help to secure government financing”* (European Commission, 2022). As already previously stated, an agreement on the formation of a common backstop has been reached through the ESM. The SRF's backstop will effectively deliver credit and help the SRF expand its capability. Once operational, it can be used to speed up and ensure the resolution process when the SRF is temporarily short on cash. If NEA MS joins the BU, the ESM and NEA MS will provide parallel credit lines to the SRF as a backstop. Large concerns remain however, as “*in addition to effective resolution planning and crisis management, the common backstop is crucial for the SRF’s credibility. It also enhances the trust in the SRB managing future* *banking crisis without burdening national budgets. It ultimately contributes to top up the half full glass, a long-waited milestone in the history of the BU*" (Barata, 2022). Thus, it is an ambitious but very much needed step towards the completion of the EBU. The analysis of Barata indicates that the success of the common backstop could be the success of the core-BU. Evidently a test-case of the backstop is highly unlikely, as it would require the depletion of all the reserves already built up in the direct and indirect safety provisions.

3.3.3 Harmonisation of insolvency regimes

Thirdly, the harmonisation remains an important subject on the table. By providing administrative bodies with extensive resolution powers, the BRRD and the SRM Regulation already significantly harmonised EU insolvency legislation for banks. As prior to the establishment of the BRRD, all liquidations were handled through national bankruptcy processes. It is critical to remember that numerous parts of the resolution framework and insolvency laws are interwoven in this regard. Also, the bigger the disparity between regimes, the greater the risk of infringement (ibid.). Thus, having a single European resolution process and a plethora of distinct national bankruptcy laws makes little sense (ibid.). To add up on this, the logic that no creditor should be treated worse in a settlement than in an insolvency procedure (No Creditor Worse Off Principle –- NCWO) underpins this connection (Garca Tolonen, 2019). In grand, the rationale for the harmonisation of insolvency regimes is quite favourable, and so it is only a matter of time before it is finally realised.

3.3.4 CRR VI & CRD III

The fourth element to the improvement and completion of the EBU, stems from the Basel III reforms. The EC published a report on the implementation of these reforms on October 27, 2021 (EY, 2021). This is the first-time capital standards have been modified/adjusted as a result of the recent CRR III and CRD VI (ibid.). According to this release, the EC is attempting to promote the implementation of the BCBS measures for improving financial stability and strengthening EU institutions' financing ability on an equal footing (ibid.). The total package is comprised of:

- "I*mplementation of Basel III – strengthening resilience to economic shocks while considering the specific features of the EU''s banking sector, for example, when it comes to low-risk mortgages"* (European Commission, 2022).

- *"Contributing to the green transition: The new rules will require banks to identify systematically, disclose and manage sustainability as part of their risk management strategy"* (ibid.).
- *"Ensuring sound management of EU banks and better protecting financial stability, more potent enforcement tools for supervisors overseeing EU banks"* (ibid.).

As already said in chapter 1, the EC gradually aims to build up sectoral and in-house buffers to economic shocks. It is a clear example of how it aims to foster its robust and flexible BU. Moreover, the focus on leveraging the new standards to boost sustainability projects and goals is also a recurring observation. Lastly, the added tools for supervision gradually improve and expand the powers of the EC and its agencies, once again providing in spill over effects.

3.3.5 SBBS — Sovereign Bond Backed Securities

A fifth and last element added to the list of proposed additions to the EBU are, "*Sovereign bond-backed securities (SBBS) are securities backed by a diversified portfolio of euro area central government bonds*" (European Commission, 2022). They are way for banks to diversify their sovereign risks while also weakening their ties to their home governments (European Parliament, 2022). Banks may utilize the bonds to diversify their sovereign portfolios, which would help them break the doom loop. "*SBBS would also help enhance risk sharing across investors and across borders. Furthermore, SBBS would not involve mutualisation of risks and losses among euro area countries. Only private investors would share risk and possible losses*" (European Commission, 2022). According to the EC's economic impact estimate, levelling the playing field would foster the creation of an SBBS market. Financial stability would be improved, and the risks and consequences of bankruptcies would be decreased (ibid.). These consequences will be particularly pronounced in the MSs that are currently most vulnerable to unfavourable sovereign-bank spill overs. In terms of operations, every participant MS would indirectly contribute to/support this low-risk asset and so benefit. Neither the proposed initiative nor the SBBS market are expected to have a direct impact on retail investors, households, or SMEs because they are unlikely to participate in the SBBS markets (European

Commission, 2018). At the same time, these sectors would profit indirectly if the macroeconomic and financial-stability improvements outlined above materialize (ibid.).

Overall, "*a 'complete' Banking Union, must include a policy framework in which the bank-sovereign vicious circle is broken*" (Schnabel & Veron, 2018). The most advanced form of completing the BU tries to eliminate all national variables influencing banking activities and business models, delivering on the promise of a flawless internal market free of competitive cross-border warps (ibid.). In comparison, the US is near to having a fully integrated banking system (Kirkegaard and Posen, 2018). National differences in banking regulation, tax levels, accounting procedures, auditing regulations, insolvency law, and policy frameworks for pensions and housing finance are for now all relevant distortions in the EU. At the same time, a single market BU may be too ambitious or optimistic when it comes to declaring the project 'completed.' With a less ambitious package that addressed the important mechanisms first, the doom loop could also most likely be broken.

3.4 Who should the BU include?

Every country in the EA is automatically a part of the European banking supervision system. EU MS who are yet to adopt the euro as their currency have the option to join. If they choose to, their national supervisors will work in "close coordination" with the ECB. Bulgaria and Croatia joined the oversight in 2020 as a result of tight cooperation. The ECB and relevant national supervisors can describe how they will interact on supervisory matters via a "memorandum of understanding" for those nations that are not participating in the supervision. Because the SSM and SRM have not yet demonstrated their usefulness and no NEA country has opted-in, the discussed benefits are largely theoretical for the time being (ibid.). Simultaneously, direct risks exist in joining the BU in its current form for an NEA country. These are primarily due to the secondary structure of BU pillars that has been formed within the treaty framework that has remained intact. The following table gives an overview of the potential benefits and risks for NEA countries to opt in.

Benefits for NEA countries opting-in
• Stability, market confidence and risk-sharing mechanisms (Belke and Gros 2015) • Quality of supervision and harmonisation of supervisory practice, countering any national bias and providing a "quality stamp • Improved home and host relations by facilitating communication and reducing or internalising coordination problems • Access to supervisory data and a chance to participate in JSTs • Improved political position on the EU fora • For banks in opt-in countries – harmonised reporting and lower compliance costs • Addressing coordination and burden-sharing problems related to the cross-border resolution

Potential risks for NEA countries opting-in
• Limited influence of opt-ins over the decision-making process • Lack of access to the liquidity facility from the ECB and the fiscal backstop (European Stability Mechanism) • Insufficient extra value of the SSM over the national supervisory framework • Risk that banks in opt-ins will be insignificant and home country interests prevail • The complicated and time-consuming decision-making process of the SRM • SRF does not have a sufficient size and not being mutualised from the start • No EDIS yet • Risks connected with opting-out and market reaction

Source: (CEPS, 2016)

As it stands, the rationale for opting-in is currently unfavourable for NEA countries. Opt-ins delegate most of their banking oversight and resolution responsibilities to the EU level, although financial stability remains primarily a national responsibility (CEPS, 2016) In terms of addressing the flaws, guaranteeing that all SSM members (regardless of EA/NEA) have similar rights and obligations could be useful. This includes equal access to backstops, complete participation in decision-making, enhanced engagement of national supervisors, and only assessing systemic risks on a national scale (ibid.). Not only for stimulating opt-in but also for completing the BU by developing EDIS (Schoenmaker and Gros, 2012) are additional needs. For an NEA country with the following characteristics: "*a high share of foreign ownership in the banking system, significant size of the banking system, highly concentrated banking sector with presence of SIFIs, low financial potential of national Deposit Guarantee Schemes and resolution funds and has an imminent perspective for euro adoption*", joining the BU could be a beneficial choice (ibid.). Of course, those characteristics are valued differently by possible opt-ins in different countries. For the time being, Romania, Bulgaria, and Denmark are the only countries that have given the opt-in option a favourable review (ibid.). "*Others, however, Poland, the Czech Republic, and Hungary, took a wait-and-see approach"* (ibid.).

Bluedorn also asks in his 2015 article, "Should new EU countries join the BU before the Euro?" by weighing the benefits of having less national policy flexibility vs standard insurance, having less national control over cross-border flows versus a common liquidity backstop, and having less national control over bank resolution versus a common resolution fund (Bluedorn, 2015). Depending on the core structures and fundamentals of each country, the logic could lead to different results. In the end, he concluded that for some, the improvement in the quality and credibility of banking supervision, as well as eventual access to more substantial backstops, would outweigh other factors (ibid.). Others, on the other hand, will likely be attracted to early opt-in based on the BU's ability to achieve totally equitable treatment of EA and NEA members, as well as its credibility and operational excellence (ibid.). And as Ferran states: "*On the one hand, the BU might make entering the EMU more enticing to those MS outside the eurozone who opt to join the BU*" writes Ferran (Ferran, 2014). He also adds that *"on the other hand, nations* *outside the BU may be economically and financially marginalized within the EU, which, it is said, will inevitably weaken the single market's unity*" (ibid.).

3.5 Takeaways from Chapter 3

In conclusion, throughout the EBU completion process, a raise in the quality of supervision is expected, as well as lowering bank compliance overheads, the removing of present obstacles to international banking activities, the lowering of resolution costs, and the lowering of bank funding expenses. As the agreements on the backstop ha snow opened the door to the completion of EDIS, the EC should work on the harmonisation of insolvency regimes, the updating of the CRR/CRD framework and the creation of the SBSS. By working on these concrete projects and mechanisms, the EC improves the EBU's resilience, operational capacity and efficiency. Ultimately, the extent of the completion of the EBU changes the rationale for countries in favour of joining the BU, and thus also altering/expanding its geographical scope with regards to the NEA MS. The next chapter will sum up this master thesis by assessing the first three through the eyes of European Integration theories and literature.

Chapter 4: European Integration

An assessment of the EBU would not be complete without a glimpse at European Integration literature. For the EBU itself is one of the most significant ongoing and developing achievements of this process. Therefore, this chapter will assess the two main perspectives for analysing the EBU, intergovernmentalism and neofunctionalism, and how the literature holds up towards the potential completion down the road.

4.1 Intergovernmentalism

Firstly, as Galinella argues in her 2020 article, two decision-making mechanisms drive EU-decision making (Galinella, 2020). They are both are fundamentally different in their supranational and intergovernmental character, mechanisms, and voting-procedures (bid.). While the supranational logic was generally aimed at matters concerning the internal market, the intergovernmental logic was rather used in matter relating the EMU (Fabbrini, 2013). This characterises the EBU as it was concepted within the logic and framework of the EMU and could explain the key elements preventing it from completion. Also, the 2012 Euro crisis was eventually a test-case for evaluating and improving the EU intergovernmental institutions' capacity to prevent and manage a crisis. While the 2008 and 2012 events strengthened the importance of Dehousse's supranational institutions (Dehousse, 2016), intergovernmentalism remained the main logic for post-crisis supervision and policymaking (Fabbrini, 2013) The analogy holds up for the EBU (Galinella, 2020). This shows that when it matters most, intergovernmentalism and heads of state still matter more that the neo functional supranational forms of government. Galinella adds that "*the intergovernmental logic has frozen the integration/harmonization developments and that it subsequently instigated the EBU to remain incomplete or to this date*" (Galinella, 2020). Primarily, the incompletion of the SRF's backstop is a clear case in which the intergovernmental logic took a preventing role on the formation of the complete EBU. Because of the unanimous voting and structure of the ESM, Germany could veto critical issues (ibid.). EDIS, the SSM and the SRM too were impacted by the intergovernmental functioning, although the latter eventually was realised through a trade-off made within the formation of the SRB (ibid.). Germany initially resisted the creation of a resolution scheme that would provide in the possibility for all EU ailing banks to profit from a common fund (Schimmelfennig, 2015). Eventually, "*the establishment of the SSM was only possible because German officials strongly endorsed supranational banking supervision, although they attempted to exclude their own banks from the supervision"* (ibid.). It should however be explicitly mentioned that it was not only Germany, but also other critical countries that used the intergovernmental decision-making to impinge upon the creation of key BU mechanisms. Intergovernmentalism does not account for all breakthroughs and evolution within EBU integration however, as it rather focusses on the obstacles encountered and not on the functional spill overs. In conclusion I would state that intergovernmentalism was especially important for the formation of the core-BU, whereas the evolution of Banking and Finance regulation belongs to the sphere of influence under neofunctionalism.

4.2 Neofunctionalism

On top of the intergovernmental features in the formation and functioning of the EBU, neofunctionalism provides a conceivable rationale for the evolution of the EBU. At the same time, it also sheds light on the differentiated integration within the EU. From a neo functionalist approach, the post-2008 and -2012 reforms are interpreted as cases of exogenous shocks, spill over, and path-dependent changes (e.g., Gocaj and Meunier 2013; Niemann and Ioannou 2015; Schimmelfennig 2014; Schimmelfennig 2016). In clear contrast to the intergovernmental approach, which listed these as prime examples of how intergovernmentalism controls crisis situations and the importance of heads of state remains. Concretely, Schimmelfennig writes in his 2016 article that "*the shock of the financial crisis and the ensuing debt crisis in some of the EA countries exposed fundamental problems and deficits of monetary union: opposite growth strategies among the EA countries (Hall, 2012) the softening and lax enforcement of the excessive deficit procedure, the lack of rescue and support mechanisms in cases of sudden stops and balance-of-payment crises, and a pervasive 'sovereign–bank nexus' (Acharya et al., 2011)*" (Schimmelfennig, 2016). And so, it is much more valuable to look at the eventual outcome that grew from the intergovernmental mediation. He subsequently analyses and states that "*as a result of the shock, the highly indebted countries faced bankruptcy and exit from the currency union. Given the high financial interdependence in the euro area, the considerable sunk costs of monetary union, and the high risks and uncertainties of a* *breakup of the euro zone, the EA governments moved to strengthen integration in ways that they had rejected before, such as by establishing a permanent rescue fund and tightening fiscal supervision – and by establishing the banking union*" (Schimmelfennig, 2016). As already alluded towards, neofunctionalism and its spill overs were and are highly influential to the banking and finance regulation subject, as the ESAs establishment have led to many spill overs. Also, the EMU-path-dependency falls under the same umbrella. Other criteria often used to explain variances in financial market integration preferences had a less impact on BU involvement than these EMU path-dependencies. They focus more on "*banking sector internationalisation and competitiveness, regulatory quality and capacity, or financial market policy paradigms. These factors only explain variation in the preferences of NEA countries to some extent. The less governance capacity they possess at the national level, the more interested they appear to be in participating in the banking union and the supervision and resolution capacity it provides*" (Schimmelfennig, 2016). In addition, the participation of MS in the BU also shows the gap between the EA and NEA MS. Unlike the EA MS, which created the BU in reaction to flaws in the EMU's architecture that were experienced in and after the eurozone's banking and sovereign debt crises, the NEA countries were spared from these flaws (ibid.). They were not under the same pressure as the EA members to agree to increased supranational integration. Rather, the BU's development and institutional organization underlined the reasons for the NEA's reluctance towards the EA and EBU (ibid.). This allows neofunctionalism to also account for the negative attitude towards EBU integration, confirming its validity for EBU analysis.

4.3 European Integration theory and the completion of the EBU

As already mentioned before in this chapter, the creation of the core BU had robust intergovernmental features. It depended mainly on MS motivation to cooperate after the devastating events of 2008 and 2012 on the EU economy. This cooperation resulted in setting up the SRM, SSM, Single rulebook, and a level of harmonisation of depositor insurance. The completion of EDIS has not been realised because of the same intergovernmental logic. The rationale for Germany and other countries with solid deposit protection is in disfavour of completing this part of the BU.

Specifically for Germany its ordoliberal background (Dullien & Guirot, 2012) should be considered for the assessment of their participation in extra BU measures. The central logic of ordo liberalism is that "*governments should regulate markets in such a way that market outcome approximates the theoretical outcome in a perfectly competitive market (in which none of the actors are able to influence the price of goods and services)"* (ibid.). This background could be the main element preventing Germany from pushing for the completion of the EBU at this moment in time, since no major direct pressures are urging it to do so. In contrast, the (functional) pressures that are lacking today were there during the Euro crisis (Bulmer & Patterson, 2019) and urged German support to the EBU project. Following the intergovernmental logic, convincing the German (and other) decision-makers that the remaining risks to the EMU because of BU incompletion outweigh the benefits of preventing the completion. This way the rationale shifts positively to completion and the last elements of the EBU can be added. The neo functional completion of the EBU lies in the protection provided through the Lamfalussy agencies rather than in the protection provided through EDIS. Their foot on the ground, combined with the centralised solid power of the EC and dialogue with national supervisors, leads to a multi-level governance system adept at dealing with the rapidly evolving banking and finance sector. Continuously reviewing and adapting the regulation to reality could be seen as the actual completion of the EBU.

A recurring interaction and balance of intergovernmental and neofunctionalism features of the functioning of the EBU culminates in the specifically in the role of the supranational ECB, which is a key player in the whole BU system. As already discussed, and concluded in the first two chapters, the ECB has a pivotal role in the SRM and SSM. Particularly the approach towards the involvement of the ECB strongly differs the EBU from the measures provided in the 2013 six- and two-pack. These are relevant to each other because they both tackled fundamental challenges to the EMU and internal market. The supranationalism role of the ECB in the six- and two-pack measures is much stronger than the ECB's role in the EBU (Schimmelfennig, 2015). For the EBU, which remains more intergovernmental, the ECOFIN council and the Eurogroup are the decision makers with regards to the key measures at hand for the completion of the EBU (Backstop, EDIS). On the other hand, functional pressure for building-up appropriate crisis management and stabilization instruments (rescue funds, 6 pack and 2 pack, BU) were quite strong back in 2012 and, hence, neo-functionalism worked for the core EBU.

4.4 Takeaways from Chapter 4

The organisation of the current EBU holds elements from both intergovernmental and neo functional thinking. As the formation of core BU elements came into life as a more intergovernmental process, just as the current holdup of the creation of the SRF and EDIS, the current reality shows that through the pivotal role of the ECB and ESAs, neofunctionalism still holds its relevance for the future of the EBU. The two approaches stand in constant interaction for this assessment of the EBU, and the steps forward are inseparable from them.

Conclusion

The BU marks an unparalleled surrender of sovereignty from participating Ms to an EU entity for supervision, as well as delegation of authority to an EU agency to prepare, execute, and fund a European bank resolution mechanism (Kern, 2015). Prospects state that the BU's completion will strongly support the EA's economic growth. Without a fully formed CMU, banks themselves still fulfil critical roles for EA economic progress. The convergence of opposing viewpoints could pave the way for more market integration. A strong banking industry would assist economic growth, backed up by reliable insurance and regulations that promote a long-term business model. A BU "*can only be robust and able to support a safe, profitable, and integrated banking industry if its rules and institutions evolve in response to changing market conditions*" (Fioretti et al., 2019). The core EBU already compromises a SRM and SRF, SSM, a Single rulebook, and harmonised deposit insurance rules. The completion of this core BU would be realised through the linkage of the SRF to a solid and sufficient backstop coming from the ESM, the setting up of EDIS to complete the harmonisation of the DGS, the harmonisation of insolvency regimes, the creation of SBBS and a review of the framework provided by the CRR and CRD. European Integration literature suggests that these changes only can happen through intergovernmental agreements by creating a solid rationale for participating MS to sacrifice their national policy. In the light of international developments (the war in Ukraine, globalisation,), it is essential and urgent to review the current BU and strive for a complete EBU. The same argumentation holds up for the rationale for the competitiveness and protection of the EMU. Given the wide range of economic shocks that can occur in individual EA MS, "*the limited power of national policies to smooth economic and financial cycles, and the potential impact of domestic banking crises on the euro zone's stability*" (Draghi, 2018), integration is critical. Banking integration as well, is a critical "*component of any effective private risk–sharing mechanism within the euro area. Thus, the banking union is a prerequisite if the European project is to be preserved and deepened*" (ibid.) in a qualitative manner, the BU is a requirement. The EBU's success in this area is largely dependent on its capacity to establish an integrated supervisory structure across the entire EA, as well as to weaken the link between financial institutions' perceived safety and stability and the fiscal soundness of their local jurisdictions (Restoy, 2018). Overall, the European project eventually requires a strong and comprehensive fully developed BU. The path forward (to completion) can be approached from multiple academic viewpoints. Intergovernmentalism suggests that the current holdup is created by German and other MS that are reluctant to take part in the EDIS for they believe their national DGSs to be of a superior quality and safety than the possible EDIS. This can be approached in two main ways: changing the rationale (from the German perspective) in favour to endorsing the creation of EDIS; and hoping for a certain momentum with functional pressures urging Germany to take further steps. The first being rather intergovernmental and the second rather neo functional. At the same time, neofunctionalism also gives a window for a supranationalism approach of the important role of the ECB in setting the agenda and helping the realisation of the EBU. To end this master thesis on a concluding note: a certain momentum is growing for the completion of the EBU. The challenges of competing with the American and Asian Banks are calling for a more harmonised and backed banking system in the EU to provide European banks with an easier to reach market. On top of this the global macroeconomic challenge of possible stagflation and sky-high energy prices demand a safe and reliable backbone for our economies. Lastly the EU leaders are gathering support around a renewed push for this project, as the safety and prosperity is evidently, ever important. Guidance can be found in both intergovernmentalism and neofunctionalism, and both will have to encounter each other to bring the ambitious principles and grand ideas of the greater EBU to fruition.

Glossary of acronyms

AIF	Alternative Investment Funds
AIFM	Alternative Investment Fund Managers
AIFMD	Alternative Investment Fund Managers Directive
AML	Anti-Money Laundering
AMLA	Anti-Money Laundering Authority
AMLD	Anti-Money Laundering Directive
BCBS	Basel Committee of Banking Supervision
BRRD	Bank Recovery and Resolution Mechanism
BU	Banking Union
CEE	Central and Eastern European countries
CFT	Combating the Financing of Terrorism
CRAs	Credit Rating Agencies
CRD	Capital Requirements Directive
CRR	Capital Requirements Regulation
CSDR	Central Securities Depositories Regulation
DGS	Deposit Guarantee Scheme
DGSD	Deposit Guarantee Scheme Directive
DIS	Deposit Insurance Scheme
EA	Euro Area
EBA	European Banking Authority
EBU	European Banking Union
EC	European Commission
ECB	European Central Bank
EDIS	European Deposit Insurance Scheme
EFSIR	European Financial Stability and Integration Report

EIOPA	European Insurance and Occupational Pensions Authority
ELTIF	European long-term investment funds Regulation
EMIR	European market infrastructure regulation
ESAs	European Supervisory Authorities
ESFS	European System of Financial Supervision
ESG	Environmental, social and governance
ESM	European Stability Mechanism
ESMA	European Securities and Markets Authority
ESRB	European Systemic Risk Board
EU	European Union
EUGBS	European green bond standard
EuSEF	European social entrepreneurship funds Regulation
EuVECA	European Venture Capital Funds Regulation
FATF	Financial Action Task Force
FIUs	Financial Intelligence Units
FOR	Fixed Overhead Requirements
FSB	Financial Supervisory Board
FSUG	Financial Services User Group
G-SII	Global Systemically Important Institution
GDP	Gross Domestic Product
IAIS	International Association of Insurance Supervisors
IMF	International Monetary Fund
IOSCO	International Organisation of Securities Commissions
ITS	Implementing Technical Standards
JST	Joint Supervisory Team
KID	Key Information Document
LT	Long term

MAR	Market Abuse Regulation
MCD	Mortgage Credit Directive
MiFiD	Markets in Financial Instruments Directive
MiFiR	Markets in Financial Instruments Regulation
MMFs	Money Market Funds
MREL	Minimum Requirement for Own funds and Eligible liabilities
MS	Member State
NCWO	No Creditor Worse Off
NEA	Non-Euro Area
NPLs	Non-performing loans
OECD	Organisation for Economic Cooperation and Development
OLP	Ordinary Legislative Procedure
OTC	Over the counter
P2R	Pillar 2 Requirement
PMR	Permanent Minimum Capital Requirement
PRIIPs	Packaged Retail Investment and Insurance Products
PSD2	Payment Services Directive
RtC	Risk-to-Client
RtF	Risk-to-Firm
RtM	Risk-to-Market
RTS	Regulatory Technical Standards
SBBS	Sovereign Bond Backed Securities
SecReg	Simple, transparent and standardised Securitisation Regulation
SEPA	Single Euro Payments Area
SFT	Securities Financing Transactions
SFTR	Securities Financing Transactions Regulation
SIFIs	Systemic Important Financial Institutions

SME	Small and Medium Enterprises
SRB	Single Resolution Board
SREP	Supervisory Review and Evaluation Process
SRF	Single Resolution Fund
SRM	Single Resolution Mechanism
SSM	Single Supervisory Mechanism
ST	Short term
STS	Transparent and Standardised Securitisation
TFEU	Treaty on the Functioning of the EU
TLAC	Total Loss-Absorbing Capacity
UCITS	Undertakings for Collective Investment in Transferable Securities
WTR	Wire Transfer Regulation

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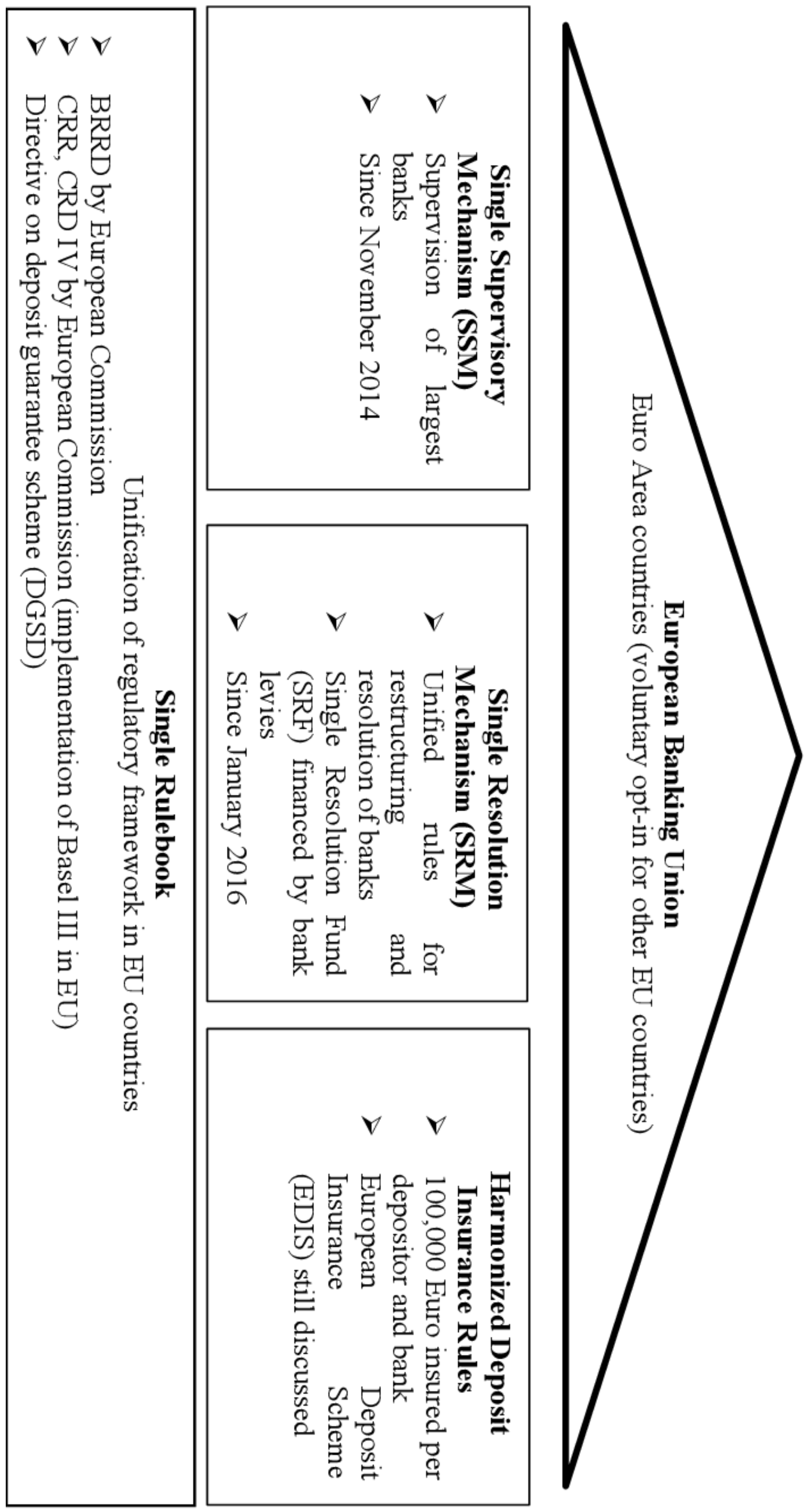
Annex 1: The structure of the core EBU



(Koetter et al., 2019)

Annex 2: CRR-BRRD-CRD Framework

CRR

- TLAC minimum requirement for G-SIIs in the EU
- Eligibility criteria for TLAC and MREL
- Deduction rules for investments in TLAC instruments for G-SIIs (TLAC-holdings)
- Qualifying eligible liabilities for G-SIIs
- TLAC reporting & disclosure

BRRD

- MREL minimum requirement for all resolution entities and subsidiaries
- Institution specific adjustments for TLAC
- Possibility of distribution restrictions, when noncompliant with MREL/TLAC
- MREL reporting and disclosure

CRD

- Buffer requirements (reference for MREL/TLAC Guidance)
- MREL and TLAC are relevant for the determination of the maximum distributable amount (MDA)

MREL (= Minimum Requirement for Own Funds And Eligible Liabilities)

- General requirement for all CRR institutions
- Institution-related requirement to be fulfilled according to Pillar II
- Consideration of loss absorbency, recapitalisation + market confidence buffer
- Subordination requirement for G-SIIs and „Top Tier Banks "(13.5% RWA / 5% LRE)
- RWA-/LRE-based (analog TLAC)
- In certain cases, TLOF-based subordination requirement

MREL & TLAC

- Common criteria for eligible liabilities and for instruments that are excluded from a bail-in
- Prohibition of indirect emissions
- Explicit bail-in-clause for third country emissions
- Prior approval of the resolution authority for the repurchase or redemption of eligible liabilities
- Reporting and disclosure requirements to be fulfilled

TLAC (= Total Loss Absorbing Capacity)

- Pillar I-requirement
- Applicable for G-SIIs
- When CRR II will come into force: 16% RWA/6% LRE, from 2022 on: 18% RWA/6,75% LRE
- Deduction rules for investments in TLAC instruments for G-SIIs (TLAC-holdings)
- Significant subsidiaries of non-EU G-SIIs must meet a minimum requirement of 90% of the EU G-SII level to be fulfilled with subordinated instruments; non subordinated instruments to a maximum of 3,5% RWA or when max. 5% excluded liabilities

(PWC, 2019)

Annex 3: List full transposition status legislation

Accounting directive (2013/34/EU)
Accounting directive (Accession of Croatia) (2014/102/EU)
AIFMD - Alternative investment fund managers directive (2011/61/EU)
AMLD IV & V- Anti-money laundering directive IV & V(2015/849/EU) & (2018/843/EU)
Audit directive (2014/56/EU)
BRRD - Bank recovery and resolution directive (2014/59/EU)
BRRD amending directive - Banking creditors' hierarchy directive (2017/2399/EU)
BRRD II - Bank recovery and resolution directive II (2019/879/EU)
Covered bonds supervision directive (2019/2162/EU)
CRD IV - Capital requirements directive (2013/36/EU)
CRD V - Capital requirements directive (2019/878/EU) – concerning credit institutions
CRD V - Capital requirements directive (2019/878/EU) – concerning investment firms
Credit ratings - Over-reliance on credit ratings directive (2013/14/EU)
Cross-border distribution of investment funds directive (2019/1160/EU)
Crowdfunding service providers directive (2020/1504/EU)
Deposit guarantee schemes directive (2014/49/EU)
ESAs review directive - Amending Solvency II, MiFID II and AMLD IV (2019/2177/EU)
FICOD - Financial conglomerates directive (2011/89/EU)
IFD - Prudential supervision of investment firms directive (2019/2034/EU)
IDD - Insurance distribution directive (2016/97/EU)
IORP 2 - Occupational retirement provisions directive
Market abuse - Implementing directive of Market abuse regulation (2015/2392/EU)
MIFID II - Markets in Financial instruments directive II (2014/65/EU)
Mortgage credit directive (2014/17/EU)
NFRD - Non-financial reporting directive (2014/95/EU)
Omnibus I directive (2010/78/EU) & Omnibus II directive (2014/51/EU)
PAD - Payment accounts directive (2014/92/EU)
PSD 2 - Payment services directive (2015/2366/EU)
Solvency II directive (2009/138/EC)
Transparency directive (2013/50/EU)
UCITS directive (2014/91/EU) & UCITS implementing directive (2010/44/EU)

(European Commission, 2022)