
EBA RESOLUTION CONVERGENCE REPORT AND 2025 PRIORITIES

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List of abbreviations

BRRD	Bank Recovery and Resolution Directive
CA	Competent authority
EBA	European Banking Authority
EEA	European Economic Area
ESEP	European Supervisory Examination Programme
EREP	European Resolution Examination Programme
EU	European Union
GL	Guideline
ILTRM	internal loss transfer and recapitalisation mechanism
ITS	Implementing Technical Standards
KLE	Key liquidity entity
KLD	Key liquidity driver
MIS	Management information system
MREL	Minimum requirement for own funds and eligible liabilities
RA	Resolution authority
RWA	Risk-weighted assets
SRB	Single Resolution Board
TREA	Total risk exposure amount
VDR	Virtual data room

Executive summary

According to its founding regulation, the European Banking Authority (EBA) shall contribute to enhancing convergence across the internal market and it shall play an active role in building a common culture and consistent practices of authorities throughout the European Union.

With a view to fostering greater convergence of resolution practices, the EBA is publishing its second report on resolution convergence, which (i) sets key topics that all RAs are requested to incorporate into their priorities for next year (EREPE 2025) and (ii) monitors how the key topics identified in the EBA's 2023 European Resolution Examination Programme (EREPE)¹ were embedded in resolution authorities' (RAs) work for 2023.

The EREPE priorities for 2025 mainly confirmed the areas of focus set for 2024, given their relevance and the fact that work on these complex topics will extend over multiple years. The 2025 priorities, which were discussed with RAs, also reflect policy developments, progress and expertise gained by RAs and draw on more recent market developments.

On this basis, three 2024 EREPE priorities – (i) **operationalisation of the resolution strategy**, (ii) **management information systems for valuation** and (iii) **operationalisation of the liquidity strategy in resolution** – will continue for 2025, although with updated objective elements. The MREL priority is not a separate topic for 2025, given that most banks met their targets, but MREL qualitative aspects are to be further monitored under the EREPE key topic of operationalisation of the bail-in tool, and quantitative aspects under the *MREL Dashboard*.

For 2023, the EBA had set four key priorities to follow for resolution authorities: (1) addressing MREL shortfalls, (2) management information systems for valuation, (3) liquidity needs in resolution and (4) operationalisation of the bail-in tool. The main findings on monitoring their implementation during 2023 are the following:

MREL monitoring:

- Only 4 banks recorded breaches as of 1 January 2024. During 2023 RAs used the powers under Article 45k of the BRRD and the power to extend the deadline for complying with MREL, at levels almost similar to those in 2022: powers under Article 45k used against 6 banks (with 5 cases of utilisation of the power to prohibit certain distributions), and extension of deadlines for 16 institutions.
- With institutions in general meeting their MREL targets, RAs are increasing their monitoring activity for MREL eligibility and quality. A main concern is noted with respect to effectiveness and limited legal certainty regarding the enforceability of bail-for contracts governed by third-country law. The EBA will keep monitoring and sharing best practices in quality assurance of MREL.

Operationalisation of the bail-in tool:

¹ [The EBA sets examination programme priorities for resolution authorities for 2023](#)

- According to RAs' duties and efforts in transparency, bail-in mechanics available across the EU are published via the EBA supervisory disclosure tool. Not all RAs have yet provided access to their policy. The EBA will continue to monitor compliance.
- For the operationalisation of the bail-in tool, RAs consider that there is still a low level of preparedness and awareness among stakeholders, with potential to cause challenges in the event of its operationalisation. These potential issues relate to identifying holders of instruments, suspension of trading or requirements for issuing prospectuses for the new instruments, and are particularly prominent in relation to third-country stakeholders.

Liquidity in resolution:

- During 2023, there was progress in the resolvability area of liquidity, but persisting challenges remain. RAs expect to increase further the level of testing in this area and to challenge the severity of banks' scenarios.
- Assumptions and strategies for ensuring liquidity in resolution are being reconsidered by a number of RAs, following the spring 2023 failures. In this respect, the EBA will continue working on possible policy options to facilitate the review of the credible paths in the area of liquidity in resolution across the EU.
- Additional work on the mobilisation of collateral, in particular related to assets non-eligible for ordinary monetary policy operations, is a clear focal point, and RAs should continue their work to increase the credibility of the liquidity scenario and analysis used in the resolution plans and resolvability assessment, as only some of them have made progress towards this goal.
- Half of the EU RAs have developed operational capabilities for potential use of moratorium powers. RAs consider the use of moratorium powers useful in the context of resolution, but technical, operational and legal challenges remain.

MIS for valuation:

- Banks are expected to have in place satisfactory MIS for valuation by the end of 2024, observing progress in this dimension over 2023. Still, RAs indicate a heterogeneous picture of progress across banks, with some having significant persisting gaps in data quality, automation, granularity and timeliness.
- Testing remains the main tool for assessing banks' capabilities for MIS for valuation, with more RAs setting more practical dry runs focused on the aspects of producing specific reports and/or populating virtual data rooms. The EBA will monitor the evolution in respect of testing MIS capabilities to identify best practices and lessons learnt.
- Most RAs across the EU have in place procedures for quickly appointing a valuer. However, it appears that a number of concrete difficulties exist such as: limited time availability for contracting valuation services at short notice, lack of guidance for assessing conflicts of interest / independence, challenges from the possible application of procurement law during the resolution weekend, and small number of suitable valuation firms. The EBA will support the work of RAs with regards to the specific challenges of assessing the independence of the valuer through the publication of a Handbook on the Independence of Valuers².

² [Link to consultation paper on Handbook of Independent Valuers for resolution](#)

1. EREP – the resolution convergence report

1.1 The EREP and convergence in resolution practices

1. According to its founding regulation, the European Banking Authority (EBA) shall contribute to enhancing convergence across the internal market and it shall play an active role in building a common culture and consistent practices of authorities throughout the European Union.
2. The European Resolution Examination Programme (EREP) is an EBA programme introduced in 2021 aimed at fostering convergence of resolution practices in the EU. The EREP (i) focuses the attention of resolution authorities (RAs) on priority topics of importance to resolution work and (ii) assesses convergence of resolution authorities' practices, ultimately driving convergence in the related resolution work across the EU.
3. This annual resolution convergence report sets out the priorities for 2025 (Section 1) and includes the main outcomes of the implementation of the EREP 2023 selected key topics (Section 2).
4. The EBA follows a consistent approach in driving convergence in prudential supervision as well as in resolution. Therefore, in parallel with the annual EREP, the EBA sets the European Supervisory Examination Programme (ESEP), which aims at enhancing convergence across the prudential supervisory cycle.

1.2 Considerations and limitations

5. When considering the findings of this report, the following considerations should be taken into account for a correct understanding of the outcomes of the exercise.
6. The report summarises information from the EBA monitoring for 2023 with the reference date of end of December 2023. Various events may have affected market conditions between the reference date of the survey and the report publication date, but such developments were not included in the main findings of the report, unless specific reference is provided.
7. The report includes work on resolvability performed by RAs and institutions during the 2023 calendar year. Work on resolvability is continually progressing and at the time of publication of the report there may be more advances in various areas. Such progress will be covered in the subsequent iterations of the resolution convergence report.
8. The resolution planning cycles may differ between authorities and between different resolution colleges. A resolution college planning cycle could last longer than 12 months, considering also the procedures for reaching the joint decisions in the case of resolution colleges. Some authorities indicated the progress for 2023 by referring to the end of a resolution college cycle (September/October), while there was still further progress in the planning until the end of the calendar year.
9. While the banks in scope of the EREP are all those designated for resolution, those banks vary in size from G-SIIs and O-SIIs to small and medium-sized banks. In addition, some banks have been designated for resolution only recently, meaning that the compliance for full resolvability is being gradually addressed by authorities, as foreseen by the EBA GLs on resolvability. As a result, progress in terms of resolution planning on the key topics varies across the sample.

2. 2025 EREP priorities

10. All EU resolution authorities are expected to include the key topics identified in this paper in their work programmes for 2025 and, as relevant, in the work conducted in resolution colleges established under Articles 88 and 89 of the Bank Recovery and Resolution Directive.
11. RAs could obviously have additional, specific priorities at national level or targeted at specific institutions. The EREP should foster EU traction around main resolution topics without decreasing the importance of this additional parallel action.
12. Each key topic incorporates a number of objective elements and/or attention points to i) support supervisory activities becoming concrete and getting good support when extended to banks too, in focusing attention on key aspects of each topic, ii) contribute to the development of comparable resolution practices across the EU whilst recognising institutional and legal conditions at the national level. The framework will facilitate the objective convergence assessment at the end of the cycle.

2.1 Approach for setting 2025 EREP key topics

13. In line with previous EREP cycles, the selection of the key topics for 2025 has been driven by:
 - (i) the areas in crucial need of progress from the assessment of banks' resolvability including from the conclusions of the previous EREP reports;
 - (ii) priorities emerging from the lessons learnt from crisis cases;
 - (iii) relevant topics deriving from the application of the EBA's policy products; and
 - (iv) the practices observed at EU and international level to ensure that the selected key topics are informed by the most pressing priorities that resolution authorities are considering.
14. Based on the above, the process of identification of the key topics for 2025 has followed a process of intense engagement and consultation with the EU resolution authorities. In addition, the key topics and objective elements for 2025 have taken into account the impact on RAs' work of relevant resolvability requirements, in particular the fact that during 2025 RAs should review the banks' self-assessment³ and RAs should communicate to banks the first multi-year testing programme by the end of 2025. During 2025, it is therefore expected that RAs will work on formulating the range of assessments to be carried out and developing the first multi-annual testing programme for banks to test their resolvability capabilities from 2026 onwards.

³ The deadline for banks to submit self-assessments is by the end of 2024: [Guidelines for institutions and resolution authorities on improving resolvability](#).

2.2 EREP 2025 key topics

15. Given that work to pursue progress in resolvability is complex and it will extend over multiple years, most 2025 EREP priorities are unchanged compared to previous years, with updates limited to some objective elements to consider the different phases of the work. While the EREP priorities exhibit continuity over the previous years, it is important to highlight that across them the dimension of testing is considered as very important. Testing is central in the development of further resolution readiness.
16. The 2025 EREP key topics are the following:
 - 1) Operationalisation of resolution strategies
 - 2) MIS for valuation
 - 3) Operationalisation of liquidity strategies in resolution
17. The MREL priority is not included as a separate key topic for 2025, but it has been incorporated into the key topic of operationalisation of the bail-in tool with respect to the aspects of monitoring the quality of MREL instruments. Considering that most banks already meet their MREL, monitoring of quantitative aspects will continue instead through the EBA *MREL Dashboard*⁴. Notwithstanding this, it is expected that RAs will continue to devote a high level of attention to MREL, especially where banks are still in transition periods or in shortfalls or where instruments need to be renewed.

2.2.1 Operationalisation of resolution strategies

18. The first key topic for 2025 is the operationalisation of the resolution strategies, and it is a direct continuation from 2024, as its importance has been further emphasised by the spring 2023 crisis events.
19. Under this key topic for 2025, RAs are expected to continue their work for effective operationalisation of the preferred and variant resolution strategies in order to be ready for execution. In this respect, as a specific attention point, work should be performed on the **identification of a variant resolution strategy to be executed in circumstances in which the PRS⁵ cannot be successfully implemented**.
20. RAs should also continue to work, with the support of the banks, on the **identification and resolution of potential hindrances to the smooth execution of the bail-in** process, particularly when dealing with a cross-border group and for instruments issued under third-country law.
21. Where **transfer strategies** are envisaged, the RAs should continue work, with the support of the banks, **on the identification of transfer perimeters**, and they should make sure that **specific testing activities focusing on this aspect** are included in the multi annual testing programme.
22. Lastly, where a **bridge bank tool** is envisaged, the RAs and the banks should continue work to ensure that such a strategy is gaining maturity in its operationalisation and, where possible,

⁴ EBA MREL Dashboard - <https://www.eba.europa.eu/search?query=MREL+dashboard>

⁵ Preferred Resolution Strategy

implement **appropriate testing and simulation exercises** for the procedure of establishing a bridge bank, involving the relevant external stakeholders and engaging the bank for producing the required reports and data points.

2.2.2 MIS for valuation

23. The second focus area for 2025 is the MIS for valuation. This is a continuation from the previous cycles, as the availability and quality of data for valuation in resolution have a central role in case of a resolution execution.
24. This year progress is expected on **data production, accuracy and quality**. In particular, RAs and banks are expected to have a clear understanding of the time needed for the delivery of specific reports, operationalising the setting up of a virtual data room, including identifying possible concurrent technical solutions, and gaining assurance on the completeness and accuracy of data. RAs should include appropriately specific testing activities focusing on these aspects in the multi-annual testing programme.

2.2.3 Operationalisation of liquidity strategies in resolution

25. The third and last focus area for 2025 is regarding liquidity in resolution. While this is a continuation from previous cycles of the EREP, its objective elements are more focused.
26. Firstly, the RAs should assess, including through testing, the **feasibility of banks' proposed strategies to ensure liquidity in resolution**, in particular in terms of **collateral identification, mobilisation and reporting**. The RAs and the banks should work to gather **a practical understanding of the time needed to perform resolution-specific reports, to mobilise and move collateral** or liquidity sources, and to obtain liquidity through the various strategies.
27. In parallel, the RAs should work towards the use of **a standard scenario** (or at least **minimum scenario features**) with appropriate assumptions on the speed of the crisis. Furthermore, the findings from this approach should be incorporated into the resolution planning.

3. Implementation and results of the 2023 EREP

28. The EBA set four EREP priorities for 2023: (1) addressing MREL shortfalls, (2) management information systems for valuation, (3) liquidity needs in resolution and (4) operationalisation of the bail-in strategy.
29. At the end of 2023 the EBA collected information from the RAs on whether and how the key 2023 topics were reflected in their work. This monitoring activity was conducted mainly through a dedicated survey sent to EU RAs but it also included some bilateral engagements with the respective authorities.
30. The EBA collected information on the level of application of EREP key topics from all 27 EU national resolution authorities, the SRB and the 3 EEA resolution authorities.
31. While the majority of RAs included the EREP priorities in their work programme, some authorities did not follow one or more EREP priorities. In general, this was due to the fact that these RAs did not have in their jurisdiction entities designated for resolution.
32. The next sections will cover each of the four EREP key priorities – MREL monitoring, MIS for valuation, liquidity in resolution and operationalisation of the bail-in – and summarise key findings of the EBA monitoring activity.

3.1 Monitoring MREL

33. This section covers the key topic of MREL and its objective elements as set in the EREP for 2023. Additional analysis of qualitative or quantitative information on MREL is included in the *EBA MREL Dashboard*⁶ published every quarter and in the *EBA Report on the Monitoring of Additional Tier 1 (At1), Tier 2 and TLAC/MREL Eligible Liabilities Instruments of European Union (EU) Institutions*⁷.
34. A total of 27 authorities have banks in their remit for which they set external MREL while the 4 remaining RAs do not have entities under their direct remit with MREL set above own funds requirements.
35. The BRRD deadline for compliance with MREL for most banks was 1 January 2024. The EBA focused its monitoring for 2023 on the banks that were in shortfall or in a transition period or that were granted an extension, and on powers and tools the RAs used to monitor banks to ensure compliance.

⁶ MREL Dashboard – Q4 2023 available at <https://www.eba.europa.eu/risk-and-data-analysis/risk-analysis/risk-monitoring/risk-dashboard>.

⁷ [Report on merged AT1 and MREL.pdf \(europa.eu\)](#)

3.1.1 Quantitative MREL monitoring

With the MREL compliance deadline approaching, in 2023 there was concrete progress by banks to reach their targets within the required deadline.

36. Monitoring MREL is a core task of RAs given that an adequate level of MREL is a critical element to ensure the feasibility of resolution implementation. As indicated in the previous EREP report⁸, most RAs had developed internal processes to monitor banks' MREL resources and breaches as part of their core activities. Most often, in the monitoring processes, RAs make use of the EBA *ITS on disclosure and reporting of MREL and TLAC* to identify the main monitoring data points.
37. During 2023, **seven RAs developed new processes or tools to monitor MREL compliance**. The novelties developed by these seven RAs in terms of MREL monitoring relate to increasing automation, forward-looking analysis (forecasting), and developing new reports and dashboards.
38. **As of 31 December 2023, out of the 331 banks with external MREL decisions and resources reported to the EBA⁹ only 4 banks** reported a technical shortfall against the 1 January 2024 deadline of EUR 226 million or 0.6% of their combined TREA, 0.07% of the total TREA of the sample. Two of these are in fact purely technical due to a delay in the recognition of the previous year's earnings as own funds and already absorbed; the other two were due to a technical issue to be solved under CRR3.

In a similar way to previous years, in order to meet their MREL targets, the banks' actions consisted mainly in issuing new MREL instruments or reducing their TREA. RAs increased their interactions with banks that were potentially heading for breaches, considering even profit retention measures.

39. In general, and in a similar way to last year, banks deployed a mix of measures to reduce their shortfalls:
 - issuance of MREL-eligible instruments to external investors;
 - TREA¹⁰ reduction measures, including introduction of IRBA¹¹ (with expected reduction of TREA-based requirements);
 - repositioning reserves (CET1 instruments) from other legal entities;
 - profit retention and increase in share capital.
40. For the banks that were potentially heading for breaches, the RAs took various measures ranging from bilateral discussions with the banks at a high seniority level to requests for updating the funding plan to address shortfalls, or considering imposing or actually imposing dividend restrictions or retention of net profit for 2023 or restrictions on doing business in a specific market area for a given timeframe. In a small number of cases where conditions were met, the RAs extended compliance, setting new transitional periods.

⁸ [EBA/REP/2023/27 – EREP 2023](#)

⁹ EBA MREL Dashboard Q4 2023

¹⁰ Total risk exposure amount

¹¹ Internal ratings-based approach

Four RAs used the powers under Article 45k¹² of the BRRD against six institutions in 2023, at a similar level to last year.

41. In a similar way to last year, the EBA monitored the usage of powers under Article 45k of the BRRD. In 2023 four RAs used these powers against a total of six institutions.
42. For five of these six banks, the RAs used the powers under Article 16a (**power to prohibit certain distributions**). For one bank, the RA used the power under Article 45k(c), or Article 104 of the CRD (supervisory measures). The type of powers and the number of uses of these powers in 2023 was roughly at the same level as during 2022, when five RAs used these powers against six banks.
43. All RAs that used the powers of Article 45k of the BRRD during 2023 considered that their use was successful, with the RA reaching its objectives (i.e. banks reaching a higher level of MREL-eligible instruments).

Engagements between RAs and CAs increased slightly in frequency and depth compared to the previous year, and especially with regard to banks in risk of breaching MREL.

44. One third of the RAs indicated **an increase in the frequency and/or depth of interactions with the CA** compared to the previous period. Figure 1 below shows the distribution of how the RAs consider the change of their engagement with the CA in 2023 compared to 2022. This increase in frequency and intensity was noted, in particular, in cases where institutions were considered at a higher likelihood of not meeting the MREL target.

	more intense / increase in substance	same in substance	decrease in substance
more frequent exchanges	7	1	0
same frequency of exchanges	1	13	0
decreased frequency of exchanges	0	0	0

Figure 1: Evolution of RA engagement with CA in 2023 compared to 2022 (number of RAs)

45. Overall, RAs indicate that the more frequent exchanges and the more intense dialogue have **increased the preparedness for potential interventions in a timely manner**. The RAs indicated that they gained a better understanding of banks' situation by knowing the CAs' expectations for their future development and that including MREL indicators in the recovery planning increased supervisory awareness of MREL.

¹² Article 45k of the BRRD powers are, in short: (a) powers to address or remove impediments to resolvability; (b) power to prohibit certain distributions (Article 16a of the BRRD); (c) supervisory powers such as to require institutions to hold additional own funds, to require institutions to present a plan to restore compliance with supervisory requirements, to require institutions to use net profits to strengthen own funds, to restrict or prohibit distributions or interest payments (Article 104 of Directive 2013/36/EU); (d) early intervention measures (Article 27 of the BRRD); and (e) administrative penalties and other administrative measures (Articles 110 and 111 of the BRRD).

A total of 16 new banks were allowed an MREL deadline extension in 2023

46. In 2023, **7 RAs extended the deadline** to comply with MREL for a total of an additional **16 banks**.

Figure 2 provides an overview of the distribution of the compliance deadlines for the new banks that were provided with an extension for the MREL deadline.

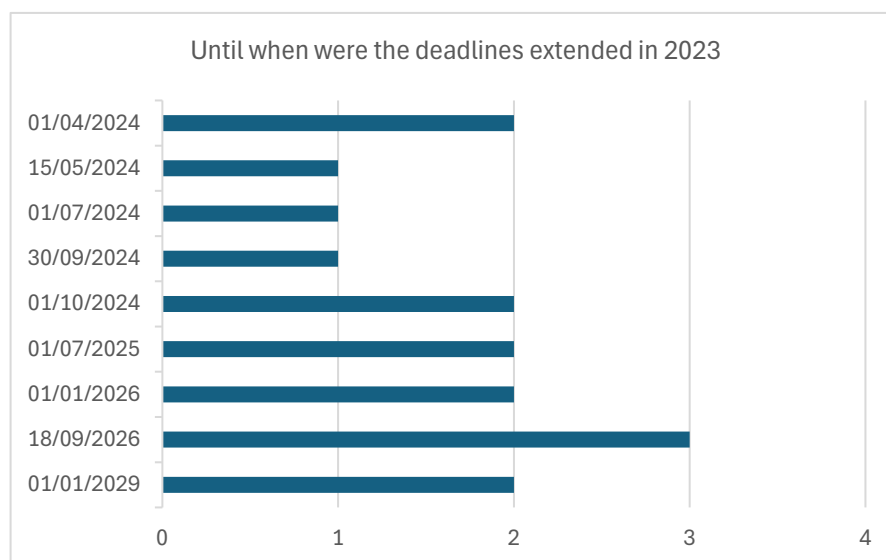


Figure 2: New deadlines for extensions granted in 2023 (number of banks)

47. At the **end of 2023, 23 banks that had an MREL shortfall benefited from an extension of the deadline**. The banks that benefited from an extension of the MREL compliance deadline were of different sizes and business models. It is worth mentioning that no further extensions in compliance timelines were granted in 2023 to institutions that had already benefited from the extension.

48. Figure 3 indicates the main elements considered for the deadline extension for the banks with a shortfall. In the case of 8 banks, the reason was a change of strategy, while the most common rationale for the extension was the access to the capital markets for eligible liabilities.

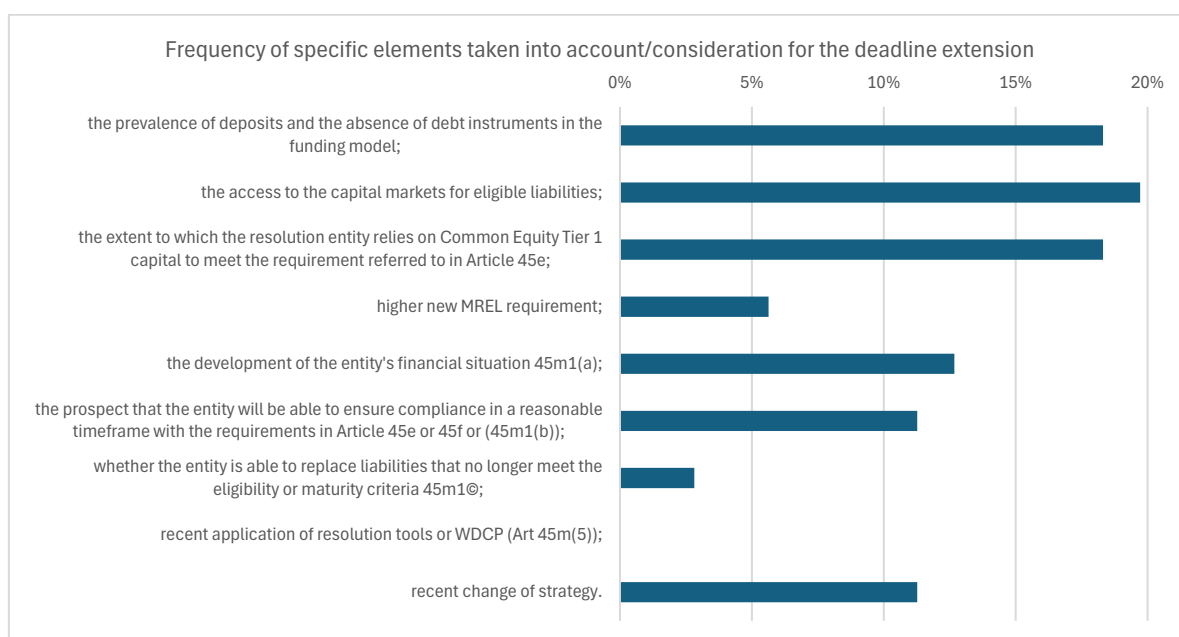


Figure 3: Elements taken into account / considerations for the deadline extension (several can apply to one extension)

49. The EBA will keep monitoring the exercise of the RAs' powers to extend the MREL deadlines and its potential impact on a convergent implementation of the framework.

3.1.2 Qualitative MREL monitoring

With banks approaching their quantitative targets, RAs intensified the monitoring in respect of qualitative¹³ requirements, such as the eligibility criteria, new issuances and monitoring of retail holdings.

50. The RAs perform the quality checks regularly for all the reported MREL-eligible instruments/liabilities. In some cases, RAs would prioritise the MREL qualitative assessment by using one or more of the following criteria: instruments with embedded derivatives (such as structured notes), deposits, repayment liabilities under loans, instruments governed by third-country law, or where anomalies are detected in regular monitoring processes.
51. In terms of data sources, the RAs most often refer to the EBA *ITS on disclosure and reporting of MREL and TLAC*. This data source is complemented with **ad hoc data and information requests**, **self-assessments conducted by the banks on the eligibility criteria** and documentation justifying the eligibility, **instrument term sheets and contracts**, **independent legal opinions** (especially for issuances under third-country law), and **market information on MREL instruments**, including issuance databases.

¹³ For the purposes of this report, quality of MREL is understood to refer to all aspects that are not of a quantitative nature. MREL quality is not a fully established concept, and underlying elements are still under development. The EBA EREP work is proposing to advance this concept by providing harmonisation and good practices.

52. As a good practice, some RAs indicated to banks the *EBA Report on the Monitoring of Additional Tier 1 (At1), Tier 2 and TLAC/MREL Eligible Liabilities Instruments of European Union (EU) Institutions*¹⁴ as a standard in checking MREL instruments' eligibility and qualitative criteria.
53. The most frequent issues¹⁵ on MREL eligibility or quality identified by the RAs relate to:
- contractual clauses foreseeing potential early termination/redemption events, usable at any moment;
 - residual maturity below one year;
 - contracts or only specific clauses governed by third-country law, that are linked to the general concern with respect to the effectiveness and limited legal certainty regarding the enforceability of the bail-in clause and bail-in contractual recognition clause;
 - set-off/netting arrangements in the contractual terms of non-covered, non-preferred deposits;
 - issuance to associated banks and/or to retail investors;
 - definitions of the default events that could give rise to the right to accelerate payments in cases other than insolvency/bankruptcy;
 - a high proportion of deposits as a percentage of MREL.
54. Six RAs have identified holders of MREL-eligible liabilities that could be difficult to bail in. RAs indicate that the **issues identified do not pose risks to the actual operationalisation of bail-in itself but could create other challenges** related, for example, to the fact that the holders cannot be owners (in the long term) of equity, or that some Tier 2 instruments were mis-sold (i.e. as an alternative to deposits) to retail investors¹⁶.
55. The EBA will keep monitoring and sharing best practices in the quality assurance of MREL.

3.2 Operationalisation of the bail-in tool

56. Operationalisation of the bail-in strategy is a new focus area introduced in 2023. Bail-in is the main resolution tool chosen in the resolution plans in the EU. EU resolution authorities have worked extensively on ensuring that, at the point of execution, the write-down or conversion of eligible liabilities is performed in an efficient and expeditious manner. This has involved the development of playbooks by banks, consideration of legal issues and engagement with the stakeholders in the process.
57. Still, stakeholders have varying degrees of familiarity with the bail-in process and their internal processes may not be fully aligned to interact at optimal level in the case of resolution action.

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https://www.eba.europa.eu/sites/default/files/document_library/Publications/Reports/2023/1061527/Report%20on%20merged%20AT1%20and%20MREL.pdf

¹⁵ Some of these are eligibility criteria for MREL. If they are not met, the underlying instruments are not MREL-eligible and further quality aspects of MREL are not assessed.

¹⁶ The potential issues for bailing in retail investors are not of a legal or technical nature but pertain to social perception and are linked to the mis-selling element. Mis-selling of T2 instruments (or any MREL) as an alternative to deposits / savings products can impede the effectiveness of bail-in a subordinated debt claim (i.e. the T2) will be bailed in but could be replaced with a senior-ranking mis-selling claim. This will result in a further reduction of banks' own funds, rather than restoring capital compliance, given the provision attributable to the litigation.

58. Regarding the internal loss transfer and recapitalisation mechanisms, RAs identified mainly domestic challenges for a small number of banking groups. The issues were stemming in particular from the group structure and are being addressed by the RAs with the respective groups.

In terms of the percentage of RWA, bail-in is by far the dominant tool, covering 94% of the population. In terms of number of resolution entities, the transfer strategy is the preferred tool followed by bail-in (45% of resolution plans).

59. There are 125 resolution entities for which bail-in¹⁷ is the preferred resolution tool in the resolution plans in the EU and EEA.
60. A majority of EU RAs plan to use the open-bank bail-in¹⁸ with direct issuance of new CET1 instruments, without interim instruments. A few (five) RAs indicated that they are prepared to use either open-bank bail-in without interim instruments or with interim instruments, or closed-bank and open-bank bail-in.
61. At the time of the publication of this report, not all RAs had published their bail-in mechanics, in line with the EBA on the publication of the write-down and conversion and bail-in exchange mechanic. The **EBA maintains a repository¹⁹ with the link to the RAs' publications**. The RAs that did not publish their bail-in mechanics yet indicated that a bail-in mechanics document exists and is being revised in relation to other stakeholders (e.g. CSDs²⁰) or will follow the development of a national handbook in the Banking Union. **The EBA will monitor compliance from all RAs.**

A bail-in execution involves several stakeholders, especially in a cross-border group. RAs established that the execution of resolution could become problematic in the interaction with various stakeholders, in particular in relation to third-country stakeholders.

62. RAs consider that there is a **low level of preparedness and awareness among stakeholders on the issue of resolution and bail-in**. To address this issue, most of the RAs indicate that they started engagement and exchanges with relevant stakeholders for the operationalisation of the bail-in tool, in some cases **preparing simulation exercises**. Such stakeholders included international and national CSDs, market authorities (MAs), trading venues (TVs), institutions, issuing/paying agents, stock exchange operators, financial supervisory authorities and company registration offices.

¹⁷ Entities for bail-in are defined as institutions which are resolution entities and for which the preferred or the alternative strategy includes the bail-in tool.

¹⁸ Bail-in can be either closed or open. A closed-bank bail-in implies the transfer of assets or shares to bridge banks and the possibility to leave liabilities behind. An open-bank bail-in requires the write-down and conversion of liabilities. An open-bank bail-in will typically either directly convert debt instruments into new shares or use interim instruments which will facilitate the allocation of shares to converted debt holders.

¹⁹ <https://www.eba.europa.eu/activities/single-rulebook/regulatory-activities/resolution/guidelines-resolution-authorities-publication-their-approach-implementing-bail-tool>

²⁰ Central securities depositories

63. The most common **obstacles and challenges to the effective execution** of the bail-in tool identified by various RAs were the following: (i) the identification of holders of instruments, (ii) the suspension and delisting of instruments, (iii) the legal and practical issues of instruments governed by third-country laws, (iv) the treatment of in-flight transactions²¹, (v) the communication with market participants and authorities, and disclosure obligations, and (vi) the tax implications.
64. Half of the RAs indicate **potential obstacles in the process of identifying information on holders of instruments**, with the most challenging scenario being **for cross-border bail-in with manual distribution of instruments**. For example, some RAs indicate that internal rules and procedures of infrastructure providers need to be amended to explicitly incorporate resolution events. Information on holders of securities instruments is usually at the custodians or the local CSDs, but it may not be up to date, complete or readily available on demand. Some other possible complications that may arise in the identification process include the delay in the settlement date, the involvement of international CSDs and compliance with AML/KYC regulations.
65. One quarter of RAs think they will face **challenges when suspending instruments from trading**, while other (11) RAs think they will not face challenges and the remainder of the RAs has not assessed this dimension. Challenges relate to MAs from other jurisdictions than the RA possibly not recognising the request for suspension or the MAs following processes not aligned with RA objectives. In addition, an issuer's requirement for disclosure²² under the Market Abuse Regulation²³, timing and technical means of transmission could present additional complexities and challenges in this process.
66. In general, for the suspension of trading, **EU RAs have the statutory power to ask the EU MA to suspend the trade in the regulated market, but in some cases the MA holds the decision to suspend or not**. The general process for suspension is that the MA, the RA or the CA will notify all the other MAs in the EU about the suspension. Due to the nature of the resolution and its effect on the value of the instruments of the institution, trading venues probably will suspend trading by their own discretion. A good practice is noted in the cases where the RA and the MA have exchanged and agreed on templates and the process has been aligned.
67. The **EU RA has no statutory powers to require suspension from third-country trading venues** and will have to rely on the bank to request suspension under the existing rules of the trading venue.
68. In addition, RAs report that most of the credit institutions have developed or currently are finalising bail-in playbooks and mechanics.
69. **The EBA will continue to monitor the challenges in operationalisation of the bail-in with special attention paid to instruments issued under third-country law and related securities law issues.**
70. Furthermore, in support of increasing the number of simulations and tests, the **EBA will produce a Handbook on Simulation Exercises** for purposes of resolution preparedness.

²¹ In-flight transaction means a transaction that has been initiated by the payer but is still being processed and has not yet been credited to the payee's account.

²² potential resolution-related disclosures required to be made prior to the RA being ready to put the issuer into resolution

²³ Market Abuse Regulation - Regulation (EU) No 596/2014

MREL instruments issued under third-country law represent an important part of total MREL for some jurisdictions, with the most volumes being under UK and US laws.

71. 20 RAs indicated that domestic resolution entities in their remit issued AT1, T2 or other eligible liabilities which are governed by third-country law.
72. The **most relevant third-country laws under which MREL instruments are issued are the UK and US laws**. Other common third-country laws identified are Japanese, Swiss and Australian. Some instruments are governed by dual-law mechanisms: the contracts are governed by third-country law, e.g. UK law, under normal circumstances and transition to national law in the context of resolution. RAs indicated that it remains unexamined and unverified as no such instruments have been subject to bail-in so far.
73. Ten RAs indicate having identified issues related to bailing-in MREL instruments governed by third-country law, and 9 RAs indicate not having identified issues, while 12 RAs indicate they did not assess the matter. The general concern relates to the **effectiveness and limited legal certainty regarding the enforceability of the bail-in clause and bail-in contractual recognition clause**²⁴.
74. RAs indicate that some instruments issued under third-country law or to third-country investors, where specific securities laws apply, raise issues in the case of bail-in. For instance, in the US the distribution of shares resulting from the conversion could be considered a public offering, which results in burdensome disclosure requirements that may be difficult to comply with given the constraints of resolution. In addition, challenges for the operationalisation of bail-in are identified in third countries where the issuance of new instruments under resolution is not exempted from issuing prospectuses, or investor protection rules interact and could impede the resolution action.
75. To address these potential issues, in general RAs have asked for **legal opinions from locally based law firms** or have asked banks to provide legal opinions. In other cases, the RAs are reviewing and assessing all relevant contracts, as part of the regular resolvability assessment, and expect independent legal opinion on the eligibility of instruments governed by third-country law, with an explicit focus on enforceability of bail-in and/or write-down decisions.
76. Major third-country investors are identified as being from the US, UK and Switzerland.

Only few RAs indicate potential issues, for a small number of specific banking groups, relating to the operationalisation of the internal loss transfer and recapitalisation mechanisms.

77. The internal loss transfer and recapitalisation mechanism (ILTRM) refers to the processes within a banking group that allow for **the transfer of losses from one entity to another and the subsequent recapitalisation of the affected entities**.
78. In total, 191 entities are subject to ILTRMs, spread across most of the EU jurisdictions.
79. Four RAs indicated that there would be potential issues with the operationalisation with ILTRMs. Currently, the potential issues identified by RAs relate to the **cooperative nature of the group**

²⁴ Article 55 of the BRRD – contractual recognition of bail-in

or national framework specificities. RAs are conducting discussions with the groups to address by contractual improvements the identified uncertainty and the RAs and banks are assessing the legal dimensions of the possible issues.

80. The analysis of ILTRM is also relevant for banking groups with cross-border operations, where different legal entities within the group are subject to different jurisdictions.

3.3 Liquidity needs in resolution

81. The availability of sufficient liquidity to support resolution remained a key topic of the EREP for 2023, not only considering its importance to resolution planning and the need for further progress but also reflecting the lessons learnt from the 2023 crisis events.
82. For 2023, there were two focus areas for the liquidity in resolution topic: (i) strategies that banking groups have used to ensure that there will be adequate liquidity in resolution and (ii) challenges in the use of moratorium powers. The use of moratorium powers was introduced in 2023 based on the lessons learnt from bank failures that highlighted the benefits of being able to apply a stay on payments, particularly in very fast-moving situations.
83. During 2023, overall, there has been some progress on this resolvability topic, but some persisting challenges remain. While **RAs recognise that banks allocated more resources and efforts** to the capabilities required to deliver the liquidity strategy in resolution, there is **still room for improvement**. The strategies for ensuring liquidity in resolution are the same as last year, with **accessing central bank facilities being the most frequent strategy proposed by banks** and the one assessed as most reliable by the RAs. **RAs expect to increase further testing exercises and to focus more on challenging the severity of banks' scenarios.**

2023 crisis events resulted in a quarter of RAs reconsidering their assumptions for liquidity strategy in resolution.

84. Following the bank failures of spring 2023, a quarter of (eight) **RAs have reconsidered the assumptions** and strategies for ensuring liquidity in the case of resolution.
85. Most authorities (21 RAs) did not assess the liquidity runway available to banks in their remit. The RAs that performed this assessment consider that the length of liquidity runway would vary, in general, between three days and three to six months and in some cases reaching one year, depending on the scenario considered and bank specifics.
86. **RAs should continue their work to increase the credibility of the liquidity scenario** and analysis used in the resolution plans and resolvability assessment. The 2025 EREP priorities include an attention point for **RAs to work towards using a standard scenario** or impose **minimum scenario features** with appropriate assumptions on **the speed of the crisis**. The EBA will consider possible policy options to advance the work under this heading.

Strategies for liquidity in resolution remain the same as in previous year, with central bank facilities maintaining a prominent role.

87. RAs indicated that institutions proposed, in general, a combination of strategies to meet their liquidity needs in resolution. In a similar way to last year, the most frequent strategy is **accessing ordinary central bank facilities**, followed by **secured funding in private markets** and asset disposals.
88. RAs indicated that the core strategies for accessing liquidity do not differ from the ones included in the recovery plans. Therefore, even if the strategies seem feasible, their **realisation depends on the timing** as they may have been **already used in recovery**.
89. Some RAs raised doubts that some strategies could work effectively under the severe time constraints of a stress scenario. For example, asset disposals and securitisation could be challenging in a short time span and debt issuance may be penalised by investors' lack of information and trust.
90. In line with last year, RAs consider that **accessing facilities from the central bank** remains the most **credible and feasible option to address potential liquidity issues in resolution**. This strategy could be operationalised by using **unencumbered eligible assets** and the **additional credit claims (ACC) framework**.
91. A small number of (6) RAs indicated that some banks in their remit considered **strategies to overcome possible downgrade or loss of the institution's issuer rating** in resolution. RAs highlighted that various contracts stipulate that the financial institution must maintain its rating or otherwise fulfil all obligations or provide collateral. RAs identified some good practices for introducing rating downgrades in the liquidity scenarios:
 - to request banks to **assess the impact of the rating downgrades as KLD** (key liquidity driver) in the run-up to the resolution;
 - to request banks to **describe collateral dependency on ratings in the resolution playbooks**.

Banks advanced compared to 2022 in terms of resources allocated and work projects focused on measuring and reporting liquidity, but there is still room to progress. RAs requested more testing of reporting liquidity data.

92. RAs indicate that banks put in place, in general, a mix of several arrangements to measure and report their anticipated liquidity needs in resolution. The **most frequent** arrangements are: (i) **dedicated operational processes/procedures** followed by (ii) **dedicated IT capabilities** and (iii) specified **responsibilities in a dedicated team**.
93. In terms of testing, several RAs indicated that they requested banks to **report a standard liquidity template** with a **specific frequency** or within a **given deadline**. The RAs that performed the assessment declare themselves to be satisfied overall with the measures put in place.
94. RAs established, in general, that **banks adapted existing capabilities** for resolution purposes. To test these capabilities and set-ups, RAs often required banks to prepare and submit **standard reports** on their liquidity position **on a daily basis**.

The main challenges in developing robust reporting systems for liquidity relate to sub-par automated systems for data collection and processing.

95. A lack of fully automated systems in liquidity led to shortcomings in other related areas, such as the difficulty of **updating estimations in a short timeframe** and of **reflecting rapidly changing conditions**. Furthermore, the lack of full automation is affecting the ability to **parametrise run-off factors for KLDs** and the **assessment of the KLD impact per KLE**²⁵. It was indicated that this issue is due to several factors: **lack of sufficient IT resources**, **too little coordination across different locations and entities**, **data quality assurance processes** and timely data reporting.

Additional work is expected from banks, especially for assets non-eligible for ordinary monetary policy operations, severity of scenarios and automation of reporting systems

96. The RAs that are not satisfied with the banks' resolvability in terms of liquidity indicated the following shortcoming:

- **Estimation of liquidity needs does not include all relevant indicators, the scenarios are not severe enough** and the methodology has deficiencies.
- Mobilisation of collateral: **the processes are not clear** and some institutions do not have the ability to use loans as collateral.
- Measurement and reporting: some institutions **do not have capabilities to report liquidity with the requested frequency**.

97. The RAs see the need for additional work on the mobilisation of collateral, in particular related to assets of unknown eligibility and assets non-eligible for ordinary monetary policy operations.

3.3.1 The use of moratorium powers

Half of the EU RAs have developed operational capabilities for potential use of moratorium powers in resolution. RAs consider use of moratorium powers useful, but they are wary of technical, operational and legal challenges.

98. Almost **half of the RAs** (13 RAs) **have developed procedures** and processes for the potential use of moratorium powers, with a few RAs (5) having **included the use of moratorium** powers in the resolution plans and in some instances requiring banks to develop adequate capabilities for operationalisation, including by assessing these capabilities as part of the **resolvability assessment**.

99. To ensure enhanced preparedness, the RAs consider it is important to identify in the planning stage the **operational steps** and **legal and financial implications**, to require banks to include the **operationalisation of moratorium** powers in their **resolution playbooks** and conduct testing and simulations.

²⁵ Key liquidity entity

100. Three RAs **confirmed having used the moratorium powers** by the end of 2023. All three **considered their utilisation useful**, in the sense that their use provided additional time and flexibility for the resolution authority to prepare the deployment of the strategy, especially in cases of rapidly evolving crisis. These RAs also indicated that operationalisation of the moratorium powers involves **technical and operational challenges**, such as the preparedness of IT systems, the communication and governance aspects, and the potential risks of payment disruptions.
101. In using the moratorium powers, even if the overall result was satisfactory, the RAs identified the following main challenges: (i) **banks' operational capacity** to be able to implement the moratoria (in particular, IT capabilities where banks could be unable to implement the daily allowance in their systems), (ii) **identification of payments** that need to be excepted from the application of the moratorium powers and (iii) **potential legal challenges**.
102. Consequently, the RAs see the need to carefully consider the application and the scope of the moratoria.

3.4 MIS for valuation

103. The EREP key topic of MIS for valuation was introduced in 2022 and deals with the institutions' capabilities to swiftly provide data and information to support a robust valuation in the event of resolution. For 2023, the EREP also included the focus area of RAs' preparedness to perform a provisional valuation, in cases where an independent valuation cannot be provided.
104. Overall, the area of MIS for valuation increased in relevance in terms of resolution planning work and resources allocation both from banks' and RAs' side, with an increase in 2023 in production of specific self-assessments, tests and dry runs being required from banks.

Most RAs expect that banks will be fully compliant with the MIS for valuation requirements by the end of 2024.

105. **A majority (61%) of RAs estimate that banks will meet the expectations for satisfactory MIS for valuation by the end of 2024.** In 2022, 42% of RAs estimated that banks would have satisfactory MIS for valuation capabilities by mid-2024.
106. Almost all RAs set the requirements for banks at the level of the EBA Guidelines, with two RAs having set or considering setting the requirements at a higher level.

However, progress among banks remains uneven with important persisting gaps for some banks in terms of data quality, automation and timeliness.

107. Overall, banks have made significant progress in their MIS for valuation, but the overall picture is heterogeneous. While some authorities indicate only marginal work remaining to be conducted, some RAs indicate that consistent efforts are still necessary to achieve satisfactory levels. Thirteen RAs estimate adequate progress during the 2023 cycle, at a similar level to 2022. A few RAs estimated poor or strong progress both in 2022 and in 2023.

108. Still, RAs indicate a heterogeneous picture of progress across banks, with some having significant persisting gaps in data quality, automation, granularity, timeliness and usability. A potential reason for the mixed results is that banks remain at different stages of the implementation of their work programmes and have an additional year before the end of the phase-in period.
109. Some of the common challenges faced by banks in developing their MIS for valuation are: scarcity of operational resources, dependency on external vendors, IT development costs, alignment with other IT initiatives, data update frequency and data coordination.
110. Banks generally follow two approaches to overcome challenges in having satisfactory MIS for valuation capabilities: **investing in their internal teams** and/or **hiring consultants**. In both approaches, the banks are committing more resources, prioritising tasks and objectives, investing significantly in quality assurance and governance, and performing dry runs and testing on developed capabilities.
111. In 2023, compared to 2022, both the **RAs and the banks were able to identify the shortcomings more accurately**, the actions to overcome the challenges were more concrete and the engagement was higher.
112. Several RAs have indicated that **they plan to conduct valuation dry runs in 2024** with the assistance **of external valuers in order to test the banks' MIS capabilities** and identify any gaps or shortcomings. Some RAs have also published or are developing guidance documents for the banks' MIS, based on the EBA resolvability standards.

Testing remains the main tool to assess banks' capabilities for MIS for valuation, with more RAs setting practical dry runs focused on the aspects of producing specific reports and/or populating virtual data rooms.

113. While in 2022 several authorities reported having conducted testing, these testing requirements amounted largely to self-assessments. For 2023, the testing became instead more advanced and of a practical nature focused mainly on producing reports and specific data points.
114. In particular, during 2023 most of the testing instructions provided by RAs aimed to evaluate the banks' current capabilities in producing data for valuation purposes, data availability, VDR²⁶ set-up and readiness for resolution scenarios. The banks were expected to report to the RAs on the challenges they faced in getting their capabilities in place, as well as on the work planned ahead to address the shortcomings and remedial actions.
115. **Banks are expected to continue their work on enhancing their MIS for valuation in 2024.** Banks will also be required to submit their status reports and action plans to the RAs and undergo further testing of their capabilities.
116. Considering that in this MIS for valuation area of resolvability work has already started on implementing testing and simulations, the **EBA will monitor the evolution in this respect to identify best practices and lessons learnt.**

²⁶ Virtual data room

While most RAs have in place procedures for a quick appointment of valuers, significant challenges remain.

117. Most RAs (70%) have in place procedures for quickly appointing a valuer, with **the rest of RAs expecting to have such procedures in place by the end of 2024 or 2025.**
118. In addition to internal procedures, **numerous RAs have put in place framework agreements** with external valuers to facilitate contracting valuation services at short notice. These contracts often include a preliminary valuer's self-assessment of independence.
119. Almost all RAs (21) identified **potential issues in contracting valuation services at short notice**, such as limited time availability and lack of guidance for assessing conflicts of interest / independence, challenges from the possible **application of procurement law** during the resolution weekend, and the **small number of suitable valuation firms.**
120. **The EBA is working on a Handbook on the Independence of Valuers** which will support the work of RAs in the face of the specific challenges of assessing the independence of the valuer.

A good number of RAs are developing their own capabilities for the exceptional case that they would need to perform a provisional valuation.

121. **Half of the RAs indicated having developed capabilities to perform a provisional valuation**, out of which 10 RAs are comfortable in their capabilities to perform a provisional valuation. Of those RAs that feel prepared to run a provisional valuation, a few have already conducted such provisional valuations in real-case scenarios and are therefore confident to perform provisional valuations in a short time, if necessary.
122. Some of the possible challenges that RAs may face if they have to perform a provisional valuation include **data quality and availability, time constraints, legal risks, lack of expertise and resources, uncertainty** and estimation of assumptions, and governance processes.
123. RAs consider that **valuing large and complex institutions remains a substantial challenge**, as it requires sufficient expertise, robust methodologies and reliable data.
124. The actions put in place in RAs to improve their ability to perform a provisional valuation if no independent valuer can be contracted include: development of an internal model for valuation (11 RAs are working on developing such capabilities), identification of data sources other than the bank to be able to inform a provisional valuation, training staff members of the RA with capabilities to conduct a provisional valuation, development of RA internal manuals, performing dry runs within the RA, and hiring external advisors used to support development of the RA's capacity to produce a provisional valuation.
125. **In a future EREP cycle the EBA will query the RAs' capabilities to perform a provisional valuation** and establish whether there are challenges or gaps that would warrant further EBA work.



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