Internal MREL in the Risk Reduction Measures package

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Introduction

The Association for Financial Markets in Europe (AFME)[1] welcomes the Commission's proposals to implement Total Loss-Absorbing Capacity (TLAC) in the EU through the amending of the Minimum Requirement for own funds and Eligible Liabilities (MREL) framework. TLAC, as set out in the Financial Stability Board (FSB) TLAC Principles and Term Sheet (TLAC Standard)[2], is required in the form of external and internal liabilities, and we support the proposals' recognition of these concepts, subject to our comments below. We also wish to highlight the importance in increasing the alignment of the calibration of these with the group resolution strategy. As such the internal MREL component of the framework requires careful consideration.

Further to our initial position paper[3] this document highlights a number of key considerations in relation to the Commission's proposals for internal MREL at material subsidiaries of third country headquartered groups under the CRR and for subsidiaries of resolution entities within the EU under the BRRD. The attached annex also outlines our proposed amendments, which would deliver an effective legislative basis for internal MREL in the EU.

Executive Summary

When considering the new internal MREL requirements within the Commission's proposal, five high-level principles should feature front-and-foremost in the discussions amongst policymakers. These are;

i. Clear identification of the objectives of internal MREL to support the group resolution strategy, and development of policies which achieve these objectives;
ii. International consistency and minimising fragmentation;
iii. Recognition of the European framework and progress in development of the Banking Union;
iv. Providing adequate flexibility for resolution authorities to achieve their objectives; and
v. Fostering co-operation and competitiveness.

We highlight below how these principles should be reflected in the final proposal and where amendments need to be made. As set out in our initial position paper, we broadly support the proposed changes to the European framework that have been proposed by the European Commission including the introduction of the concept of internal MREL, subject to some necessary changes. There are several areas where substantive changes are required to provide a legislative framework which both achieves the objectives of internal MREL and can be implemented by firms in a coherent manner. We elaborate on the proposed key principles and aspects of the proposals below.

[1] AFME represents a broad array of European and global participants in the wholesale financial markets. Its members comprise pan-EU and global banks as well as key regional banks, brokers, law firms, investors and other financial market participants. We advocate stable, competitive, sustainable European financial markets that support economic growth and benefit society. AFME is listed on the EU Transparency Register, registration number 65110063986-76.

[2] **See FSB -** http://www.fsb.org/wp-content/uploads/TLAC-Principles-and-Term-Sheet-for-publication-final.pdf
[3] **See AFME -** https://www.afme.eu/globalassets/downloads/publications/afme-rnn-views-on-resolution-aspects-of-the-eu-risk-reduction-measures-package.pdf

Key principles

The five key principles are:

i. **The objective of internal MREL:** the internal MREL framework should be designed to achieve its objective, namely to support the preferred resolution strategy for the group by providing a mechanism for the transfer of losses and recapitalisation needs of material subsidiaries to a resolution entity, without those subsidiaries entering into resolution. By doing so, internal MREL serves to support cross-border cooperation and provides comfort to host authorities of material subsidiaries that the resolution strategy can be implemented, if necessary. The objectives are therefore distinct from external MREL. It is vital that it is understood that internal MREL should be set according to the resolution strategy for the group, and not by other factors. Excessive pre-positioning of resources increase fragmentation and are detrimental to the ability of a group to successfully implement its resolution strategy.

ii. **International consistency:** it is important to ensure consistency with requirements for internal TLAC globally, both to support cross-border cooperation and to avoid harming the competitiveness of European banks. The internationally agreed FSB TLAC Standard and Guiding Principles for Internal TLAC should provide the basis for requirements for material sub-groups of Globally Systemically Important Institutions (GSIIs) and should also provide a starting-point when considering the application of internal MREL within the EU. These principles should be incorporated and consistently applied into the European framework and should underpin the determination of requirements for cross-border banking groups and establish an adequate framework for home/host co-operation and co-ordination. In doing so it is important to ensure:

    a. The requirements applicable to **European operations of GSIIs headquartered outside the EU** should be brought into line with the internationally agreed standards - in particular in relation to scaling, eligibility criteria and the ability to issue internal MREL to any subsidiary of the resolution entity (this is articulated further below). Furthermore, the calibration of requirements should respect the principles of home-host co-ordination envisaged in the FSB TLAC principles, namely guiding principle five, whereby host authorities should set requirements within the 75% - 90% range, and in consultation with the home authority, in due consideration of the resolution strategy for the group, and the implications for the resolution group and wider banking group.

    b. The requirements applicable to **EU headquartered banks with material subsidiaries in third countries** should also be determined with due consideration of principle 6 of the FSB guiding principles on Internal TLAC, whereby the home authority should seek to promote consistency of internal TLAC/MREL requirements across material sub-groups and with a view to ensuring that internal TLAC/MREL does not exceed external minimum TLAC – the home authority should co-ordinate the host authorities' assessments of internal TLAC requirements and provide information to the host authorities as necessary to support their assessments (this is further detailed below).

iii. **Recognition of the European framework and progress in the Banking Union:** The EU has in place a comprehensive recovery and resolution framework that already extends beyond that envisaged at the international level. Requirements are set for a much broader population of institutions than just GSIIs, and there have been significant developments within the Banking Union and the EU as a whole, including;

    a. the joint resolution planning and decision-making process through resolution colleges[4];

[4] Article 13 BRRD

b. the legal obligations on home authorities to give due consideration to (i) "the interests of each individual Member State where a subsidiary is established, in particular the impact of any decision or action or inaction on the financial stability, fiscal resources, resolution fund, deposit guarantee scheme or investor compensation scheme of those Member States"[5] and (ii) the objectives of balancing the interests of particular Member States, including avoiding unfair burden allocation across Member States[6];

c. The legal obligation on resolution authorities when taking resolution actions, to take into account and follow the jointly agreed group resolution plans unless they consider that the resolution objectives will be achieved more effectively by other means; and[7]

d. the single supervisory authority and resolution authority in the Banking Union.

The heightened cooperation amongst Member States, the establishment of European resolution colleges, and the mutual recognition of resolution actions across the EU are not currently given due recognition in the Commission proposals, potentially leading to fragmentation within the single market and Banking Union.

The proposals are lacking in acknowledgment of this progress and assume a level of distrust not in line with the existence of a single resolution regime, and indeed a single resolution authority for the Member States participating in the Banking Union.

iv. **Providing adequate flexibility:** Given the broad scope of the application of MREL, a large and diverse population of institutions and resolution strategies need to be accommodated. Internal MREL requirements will have a significant impact on institutions' business and funding models should insufficient flexibility be provided, and could force firms to issue internal MREL in ways which is not aligned to their resolution strategy. Resolution authorities need to be provided with sufficient flexibility to put in place arrangements that satisfy the objective of resolvability. The primary legislation should not therefore be overly restrictive in relation to the type of instruments[8] that can be used to meet internal MREL, the ways in which those liabilities can then be distributed and issued[9] within the resolution group, as well as the alternative arrangements[10] that may be acceptable to resolution authorities to ensure internal requirements are met in ways that promote the resolvability of the group. All these areas need revisiting within the Commission's proposals to varying degrees. We strongly encourage the final level one text be less prescriptive so as to provide sufficient flexibility to accommodate any future developments be they at the international, EU, or Banking Union level.

v. **Fostering co-operation and competitiveness:** The implementation of internal MREL requirements will lead to institutions having to make changes to their business and funding models. The more internal MREL that is required to be pre-positioned within a resolution group, the greater the fragmentation of firms' resources. This will likely have an impact on the efficiency of firms' operations – in particular on internal funding, potentially increasing costs and reducing profitability, with the consequential impact upon firms' ability to provide services to clients in an efficient and cost effective manner. The financial resilience of the group could also be affected should more internal MREL be required to be pre-positioned – as fewer resources will be held at the resolution entity where they would otherwise be available to be directed to struggling subsidiaries as may be required in a resolution scenario. A lack of flexibility to deploy available resources where needed within a group gives rise to the risk that resources

[5] Article 87(f) BRRD
[6] Article 87(h) BRRD
[7] Article 87(j) BRRD
[8] For example, debt or equity.
[9] For example, direct issuance, daisy-chain issuance or horizontal issuance.
[10] For example, contractual collateralised guarantees or credit support agreements.

within a group may be pre-committed to a subsidiary where they may not be needed, at a time when such resources might better be allocated, whether for safety and soundness or for economic efficiency reasons, at another part of the group. A balance also needs to be struck between providing comfort to host authorities that the group resolution strategy will be followed to recapitalise a material subsidiary if required and dis-incentivising the ring-fencing of resources in each subsidiary.

Consequently, this will impact upon European firms' ability to compete internationally against institutions based in third countries where such internal requirements do not exist, or are instead addressed through the relevant resolution planning processes. It is therefore of significant importance that the final framework promotes co-operation between resolution authorities (both within the EU and between the EU and third countries), dis-incentivises ring fencing and fragmentation of MREL within resolution groups, and seeks to limit the impact on EU institutions' ability to continue to provide financial services in the EU and compete for business globally. The primary way this can be achieved is by ensuring appropriate scaling applies to internal MREL requirements to support the group resolution strategy, appropriate flexibility is provided on aspects such as the eligibility criteria and issuance structure, and that internal MREL requirements do not exceed the level of external MREL set in accordance with the resolution strategy for the resolution group.

Internal MREL for material EU subsidiaries of non-EU GSIIs

It is essential that the calibration, location, and issuance strategy of loss absorbing capacity within a group supports the group resolution strategy. However, the proposed internal MREL requirement under article 92b of the CRR requires a number of important changes including to its scope, calibration and eligibility criteria to increase consistency with the FSB TLAC Standard and the final FSB principles on internal TLAC – as per the second key principle outlined in this paper.

Given that the EU has committed to implementing the agreed international standard, we strongly advocate for the proposals to be amended such that it reflects the standards agreed by the FSB. Where elements of the TLAC Standard are not yet fully reflected in the proposals we strongly believe that these should be provided for to ensure global consistency, and to provide the various resolution authorities within the EU the full flexibility they are afforded by the TLAC Standard to set the intra-group requirements.

The particular areas that require amendment are as follows:

- **Calibration (scaling):** the current proposed text requires material subsidiaries of third country GSIIs (that are not resolution entities themselves) to meet an internal MREL requirement equal to 90% of the requirement that would have applied had the entity been a resolution entity (i.e. an external MREL requirement). However, the TLAC Standard clearly sets out, under Section 18, that this requirement be set between 75-90% of the external TLAC requirement. The agreed range of 75-90% should therefore be fully transposed, in part to ensure a truthful transposition of the requirement, but also to ensure that the requirements for individual material subsidiaries are able to reflect the firm's resolution strategy. We would also note that this would be consistent with the determination of (external) MREL which is set on a case-by-case basis, utilising supervisory judgements within a regulatory framework. Providing a range would also provide an important incentive for third country resolution authorities to strengthen their cooperation and coordination with the EU authorities.
- **Calibration (determination):** the proposals should also fully incorporate the process of calibration, i.e. that the requirement should be determined in consultation with the home authority of the resolution entity as part of the resolution strategy agreed in the Crisis Management Group or resolution college. Cross-border co-operation is a key tenet of ensuring financial stability in the event of a failing cross-

border group given that clients too are global, and as such this should be emphasised in the European framework. This is important to not only ensure requirements for internal MREL are consistent with the overarching resolution strategy, but also that they are consistent – and do not exceed – the level of external MREL that has been deemed appropriate to fulfil that resolution strategy.

- **Eligibility criteria:** in meeting the requirements for Pillar 1 internal MREL, the eligibility criteria that applies should be less restrictive. The current eligibility criteria that apply as per Article 72b of the CRR should be revised for the purpose of meeting internal MREL, as several criteria make eligible issuances impossible, and they are in places inappropriate.

  In particular, Article 72b(2)(b) and (c) (restrictions on issuance within a resolution group) and the requirements in article 72b(3)-(5) should not apply to internal MREL. These restrictions run counter to the very purpose of internal MREL and should be removed to ensure that internal MREL can be issued between entities in the resolution group. The requirements of Article 72b(3)-(5) are only relevant to external MREL and should therefore not apply to internal MREL.

  The restriction on acceleration rights (Article 72b(2)(m)) should be removed or amended as per our recommendations on the eligibility criteria for external MREL. These acceleration rights do not present a risk to the effectiveness of internal MREL passing losses from an operating entity to a resolution entity and do not present a risk to recapitalisation. Further, there is the potential for a material impact on the cost of compliance, presented by the current restriction on standard acceleration rights. The requirement for a contractual bail-in clause under article 72b(2)(o) is also inappropriate for internal MREL, as also set out in our separate paper on the eligibility criteria.

  Greater flexibility should also be provided for alternatives to pre-positioned internal MREL such as the use of guarantees and capital contribution arrangements where the host authority is happy with these arrangements.

- **Distribution and restrictions on issuance to a 3rd country parent undertaking:** the legislation should be less restrictive on the distribution of intra-group liabilities to meet the internal MREL requirements and the restriction which requires issuance to a 3rd country parent undertaking should be removed. Greater flexibility should be provided for the distribution of liabilities between entities within the same resolution group to enable an efficient and effective means of transferring losses to the resolution entity without disrupting existing business or funding models. We propose that the legislation should provide greater flexibility to resolution authorities to agree an appropriate structure, including not restricting issuance of internal MREL directly to resolution entities or through the ownership chain. This would bring the EU legislation in line with the FSB principles on internal TLAC which recognised the need for firms to be able to issue internal TLAC through multiple legal entities in a group without requiring this to flow through the ownership chain. Direct issuance of internal MREL to a resolution entity or issuance through the group, whether through the direct ownership chain or through affiliates, are all legitimate methods of issuing internal MREL. This would also align to the US implementation of internal TLAC rules for covered IHCs of FBOs which are able to issue internal TLAC to any affiliate. The internal issuance strategy selected by the firm will largely depend on the business and funding models and, importantly, the resolution strategy of each individual group, and as such they should all be permitted. The current restrictions create a risk that G-SIIs will be required to adopt an internal MREL issuance strategy which would not be in line with their resolution strategy in turn reducing the resolvability of some firms.

- **Joint triggers:** it should be clarified that internal MREL will only be written down or converted with the consent of the home resolution authority for the resolution entity, but that the host retains the power to

subject internal MREL to its own resolution bail-in should the consent not be forthcoming. This is in line with the TLAC Standard (para.19) and is important to foster cross-border cooperation and reflect agreements made in Crisis Management Groups.

- **Scope of application of Article 92b:** it should be clarified that the minimum internal MREL requirement set by Article 92b only applies to material subsidiaries of non-EU G-SIIs at the highest level of consolidation in the EU (i.e. the EU parent undertaking). The requirement should not apply at the individual level of the material subsidiary unless this subsidiary is the only entity the non-EU G-SII has in the EU.
- **Interaction with internal MREL requirements in the BRRD:** the minimum internal MREL requirements established by Article 92b are expected to operate as a floor, with resolution authorities setting a Pillar 2 add-on in line with the powers provided by the BRRD. In addition, BRRD MREL requirements are expected to apply to subsidiaries of the EU parent undertaking for firms in scope of Article 92b. It is imperative that the eligibility criteria for firms subject to internal MREL requirements under both the CRR and BRRD are aligned. Under the proposed internal MREL issuance restrictions in the BRRD (Article 45g (3)) liabilities need to be issued to the resolution entity. This would prevent entities that are subsidiaries of an EU parent undertaking being able to issue internal MREL to the EU parent undertaking, however internal MREL will need to flow through the EU parent undertaking so that it is able to meet its consolidated requirement. It is also unclear why the CRR requires issuance to a 'parent undertaking' while the BRRD requires issuance to a 'resolution entity'. The most effective approach to resolve these issues is to permit internal MREL to be issued to any subsidiary in the resolution group, as outlined above.

Internal MREL within the EU

The TLAC Standard contemplates internal TLAC at material sub-groups located in a different jurisdiction from the resolution entity. It is important to carefully consider how these principles should be applied within the single market and Banking Union, and achieve the objective on internal MREL.

It is important to support the principles discussed above and that the legislation provides sufficient flexibility for resolution authorities to put in place effective internal MREL arrangements to support resolution plans and avoid excessive requirements which could increase overall external MREL requirements and increase cost and fragmentation. Currently we are concerned that the proposals do not achieve this and consider that several changes are required;

- **Objective:** the objective of internal MREL should be expressly set out in the BRRD, namely to support cross-border cooperation, where necessary, in order to support the preferred resolution strategy for the group. The role of internal MREL is to provide a mechanism for the transfer of losses and recapitalisation needs of subsidiaries up to a resolution entity under the chosen resolution strategy, and without those subsidiaries entering into resolution. It can also serve to provide comfort to host authorities of material subsidiaries that the resolution strategy will be followed if necessary. The objectives are therefore distinct from external MREL and we believe that these should be set out clearly in the legislation.
- **Scope:** it should not be necessary for internal MREL to be held at every subsidiary in a group. The starting point should be that internal MREL should not be necessary where the resolution entity and the relevant subsidiary are within the scope of a single resolution authority. The scope should also be clearly limited to material subsidiaries. This is acknowledged in the TLAC Standard, which requires internal TLAC only at material sub-groups in different jurisdictions from the resolution entity. In its final report on MREL,

the EBA highlighted that "MREL decisions are to be taken jointly within resolution colleges in full consistency with the resolution strategy and are subject, in case of disagreement, to EBA binding mediation. Therefore it does not appear that the various national authorities within the EU should be considered as foreign jurisdictions under the TLAC Standard."[11]

The progress that has been made in developing the Banking Union should be acknowledged, as per key principle three of this paper. The proposals do not give sufficient recognition of these factors and appear to assume internal MREL at every subsidiary in a group subject to very limited waivers. This should go some way to helping foster requirements that are also limited in their impact on EU banks' ability to continue to provide financial services that are vital for economic growth, and indeed to compete globally – as per key principle five.

- **Calibration:** where internal MREL is deemed necessary within the EU, greater flexibility is required in relation to the determination of the requirement. Currently there is no scaling of internal MREL under the BRRD, in contrast to the scaling (albeit overly restrictive) for material subsidiaries of third country GSIIs. It is important that the BRRD framework includes appropriate scaling of internal MREL. The scaling range between institutions in the EU should be significantly lower than the 75-90% internal TLAC requirement to reflect the group resolution planning process, close cooperation and information sharing within resolution colleges, the automatic recognition of resolution actions and the single supervisor and resolution authority within the Banking Union.

  The current calibration of internal MREL appears to provide for higher requirements between institutions within the EU than for material subsidiaries of third country G-SIIs, and does not give recognition to the factors that materially reduce the need for internal MREL within the EU and Banking Union as set out under key principle three. The current approach which appears to assume fully distributed internal MREL could reduce flexibility to use resources where they are needed in the group, potentially increasing fragmentation and reducing resilience. As stated in the FSB guidance on internal TLAC, "there must be sufficient flexibility to use loss-absorbing capacity within a GSII where needed"[12] and to ensure that resources are distributed within the group according to the resolution strategy.

  Setting internal MREL at 100% of the calibration as if a subsidiary is a resolution entity at every institution in the group is also highly likely to increase overall external MREL requirements due to consolidation effects (i.e. cross-group exposures will be double counted). This should be included in the factors to be considered when calibrating internal MREL within resolution colleges to ensure that the sum of the internal requirements does not exceed or increase the external requirement at the resolution entity. This principle should be set out in the legislation.

- **Minimising fragmentation:** Maintaining a level of loss-absorbing (and recapitalisation) capacity at the resolution entity, available to be directed to ailing parts of a group, should increase the resilience of the group and provide comfort to host authorities that if there is a shortfall in an institution in their jurisdiction that additional resources can be called upon, supporting group recovery and resolution plans. The more capacity that is prepositioned in parts of the group, the less that will be available to be deployed in response to turbulent conditions. Were internal MREL to be required at a level matching – or indeed exceeding – the total amount of capacity deemed necessary for the resolution strategy, then there would have been a failure in the calibration of internal requirements that risks damaging the success of the desired resolution plan, fragmenting the resolution group, and constraining the availability of resources to help in the recovery phase.

[11] See page 136.

[12] **See FSB -** http://www.fsb.org/wp-content/uploads/Guiding-Principles-on-the-Internal-Total-Loss-absorbing-Capacity-of-G-SIBs.pdf

It would therefore be prudent to place into the legislative framework the principle that internal requirements should not lead to an uplift in external requirements (which have been set according to the resolution strategy), and nor should internal requirements be set at a level that leaves an immaterial amount of spare capacity at the resolution entity to respond to deteriorating conditions. It is not in anyone's interest to hinder the ability of a group to implement recovery options, and where necessary resolution plans. It should therefore be clear to all that this principle will increase the ability of a bank to withstand stress scenarios than where the resources are fragmented across the resolution group.

- **Eligibility criteria:** As set out above, a number of changes are required to the eligibility criteria that apply to internal MREL. The current proposed eligibility criteria under Article 72b of the CRR should be revised for the purpose of meeting internal MREL, as several criteria make eligible issuances impossible, and they are in places inappropriate.

  It is also important to provide sufficient flexibility to minimise the fragmentation of resources through mechanisms such as guarantees. The Commission proposal provides for limited use of guarantees within the EU, and does not go far enough to support the principles we outline above, in particular the development of the EU single market and the Banking Union. We therefore propose amendments to increase alignment with the principles whilst retaining appropriate oversight by host authorities.

- **Distribution:** in line with the final FSB guidance on internal TLAC, flexibility should be provided for on the distribution of the intra-group liabilities where they are required under the BRRD. The current text does not provide for the flexibility that is envisaged. The requirement that liabilities be issued to the resolution entity (art 45g(3)(a)(i)) does not provide sufficient flexibility for different structures for down-streaming internal MREL under consideration by resolution authorities. Direct issuance to resolution entities, down-streaming through the group whether through the direct ownership chain or through affiliates, are all legitimate methods of distributing internal instruments. Which is favoured will largely depend on the business and funding models of each individual group, and as such they should all be permitted and provided for. This aspect of the framework is important for both EU and non-EU banking groups, as highlighted in the previous section.

- **Clarity regarding application to third-country groups and waivers:** there is also a further need for clarification in the text as to how the requirements would apply to third country groups and how this process would work in line with FSB Internal TLAC guidance, and the need to ensure the continuation of cooperation and decision making within global Crisis Management Groups. In addition, the internal MREL waiver provided for in article 45g (5) of the BRRD can only be granted where both the resolution entity and subsidiary are in the same member state. We believe that this should be amended such that the waiver applies where the resolution entity and the subsidiary are subject to authorisation by the same supervisor. This would encompass firms within the Banking Union under the supervision of the ECB, and therefore those groups within scope of the SRMR. Further to this, the waiver should also be applicable to a material subsidiary EU parent undertaking of a 3rd country G-SII (in scope of Article 92b of the CRR). There are no reasons why this waiver should not be eligible to both EU and non-EU headquartered firms within the EU.

- **EU headquartered firms that have third-country subsidiaries** may face local external or internal TLAC (or equivalent) requirements imposed on these subsidiaries by local host authorities.

  When applying internal MREL at a consolidated level, it is important to consider the scope of the consolidation with respect to subsidiaries in a third country. Third-country subsidiaries may be designated to be either part of (or as the resolution entity of) a separate third-country resolution group,

or instead be part of a resolution group with an EU resolution entity. The current proposals[13] do not provide adequate acknowledgment of this and how it may impact MREL requirements. It is necessary to clarify how EU resolution authorities should interact with host authorities of third-country subsidiaries in the context of MREL/TLAC.

The legislation should require resolution authorities to take into account the effects of any third-country internal or external TLAC (or equivalent) requirements when determining internal and external MREL requirements for the entities under their remit. It should also be clarified that the scope of consolidation of EU resolution groups does not extend to third country subsidiaries which are part of another resolution group.

Review of the internal MREL framework

- **EBA report on the implementation of internal MREL:** As a new concept, it is important that the internal MREL framework is reviewed to reflect upon its implementation and to take account of future developments. We propose that the EBA be provided with a mandate to review implementation and report on this by 1 July 2020. The review should assess the impact of internal MREL and take account of developments including progress in completing the Banking Union, implementation of the FSB internal TLAC guidance and continued progress in cross-border resolution planning. It would also be important to reflect upon the outcome of FSB review of TLAC which is scheduled to be completed in 2019.

Conclusion

The topic of internal MREL is a highly technical and complex one, but it is an important part of the broader resolution framework. If the Commission's proposals continue without amendments to reflect our principles and concerns in this paper, it is likely to have significant negative impacts on banks operating within the EU; not just on a business level but also with regard to their resilience should the fragmentation and ring-fencing of resources not be avoided. For this reason we would welcome consideration of the issues highlighted above, and the suggested amendments included in the attached annex.

Particular issues to highlight include the need to introduce adequate scaling, for both the requirements under the CRR and the BRRD. It is vital that the progress that has been made within the EU and the Banking Union are reflected both here and in other parts of the framework. It is also critical that the framework has built in flexibility to accommodate for any future developments in the EU, Banking Union or at the international level. This includes our concerns relating to the current restrictions on issuances strategies for internal MREL, which are not in line with the latest FSB principles on internal TLAC. Beyond this there is also a need to reassess the eligibility criteria that currently apply, and seek for ways in which alternative arrangements can be accommodated (where agreed by the relevant resolution authority).

We very much welcome dialogue on these issues to help improve the proposals as they stand, with the aim of further enhancing the effectiveness of the resolution framework across the EU.

[13] Articles 12, 45f, 45g, 45h and Title VI of the BRRD and Articles 11, 12 and 18 of the CRR

AFME Contacts

Oliver Moullin

Head of Recovery & Resolution, General Counsel

Oliver.Moullin@afme.eu

Stefano Mazzocchi

Managing Director, Advocacy

Stefano.Mazzocchi@afme.eu

Charlie Bannister

Manager, Recovery & Resolution

Charlie.Bannister@afme.eu

Andrea Gentili

Manager, Advocacy

Andrea.Gentili@afme.eu

Notes:

1. AFME (Association for Financial Markets in Europe) promotes fair, orderly, and efficient European wholesale capital markets and provides leadership in advancing the interests of all market participants. AFME represents a broad array of European and global participants in the wholesale financial markets. Its members comprise pan-EU and global banks as well as key regional banks, brokers, law firms, investors and other financial market participants. AFME participates in a global alliance with the Securities Industry and Financial Markets Association (SIFMA) in the US, and the Asia Securities Industry and Financial Markets Association (ASIFMA) through the GFMA (Global Financial Markets Association). For more information please visit the AFME website: www.afme.eu.