Draft statement by the Eurogroup in inclusive format

on a work plan to complete the Banking Union

1. The creation of the Banking Union in 2014 was a **powerful response** to the financial crisis, with significant progress on an EU common rulebook and the establishment of a new European architecture for supervision and resolution. While this has contributed to making Europe's banks more robust and businesses, investors and citizens more confident in the European financial system, **the Banking Union remains incomplete**.

2. Europe faces a **decisive moment** for its economic prosperity and sustainability. A resilient and competitive EU banking sector together with strong capital markets will be key to mobilising the **imperative investment needs** for the green and digital transformation of our economy as well as for our defence capabilities and the energy transition. A complete Banking Union will also offer a higher level of financial protection to Europe's households and businesses, foster trust and strengthen financial stability – **necessary conditions for growth and reforms**. Now more than ever, we need to continue this common path to building shared **prosperity and resilience in Europe in a changing world**.

3. In December 2021, the Leaders reiterated the **mandate to the Eurogroup in inclusive format** to finalise on a consensual basis a stepwise and time-bound work plan on all outstanding elements charting the way towards its completion. In March 2022, the Leaders recommitted to deepening the Capital Markets Union (CMU) and completing the Banking Union.

4. We remain committed to strengthening our banking system to **reduce risks within the Banking Union** and to progress on the architecture and regulatory framework in line with the fundamental objectives of the Banking Union.

5. We also remain committed to making progress as a matter of urgency on the Capital Markets Union. This aims at getting investments and savings flowing across the EU so that it can benefit consumers, investors and companies, regardless of where they are located. The CMU complements the Banking Union and will be an indispensable component in providing a larger and more diversified pool of resources to support our economies and foster the single market in financial services. Both initiatives would also enhance the **international role of the euro** and strengthen **Europe's resilience and open strategic autonomy**.

6. The Eurogroup in inclusive format today commits to taking the **necessary steps to strengthen the Banking Union** and the EU common rulebook (i) to protect taxpayers and depositors, (ii) to support the recovery, scale up and channel the funding to transition to a green and digital economy and to support defence capabilities and the energy transition, (iii) to promote Europe's competitiveness and open strategic autonomy, and (iv) to strengthen financial stability and foster trust in the Economic and Monetary Union and in all Member States.

7. To that end, and without prejudice of the powers of the Union legislator, the Eurogroup in inclusive format agrees on an **ambitious, stepwise and time-bound work plan** to complete the Banking Union in **four areas**: a stronger framework for the management of failing banks in the EU, a more robust, common protection for depositors, a more integrated single market for banking services and increased diversification of banks' sovereign bond holdings in the EU.

8. The work plan, annexed to this statement, spans across **two phases**. The first phase covers a number of **priority measures,** which should be adopted during this institutional cycle and implemented in parallel in all four areas. The second phase contains a package of key features of **additional measures**, whose introduction will be **gradual** and **parallel**, once the Eurogroup in inclusive format, **at a political checkpoint**, agrees **on a consensual basis** that the implementation of the first phase has advanced sufficiently and the broader conditions are in place to move to the second phase. Subsequently, we will **review**, in a holistic manner, the state of the Banking Union and the need for possible further measures [five years] after the entry into force of the second phase.

9. We invite the European Commission, in full respect of its powers under the Treaties, to come forward by end-2022 with legislative proposals for the measures of the first phase, the key principles for the additional measures for the second phase, and a review clause. We invite the European Commission to duly take into consideration the interlinkages with and the implications for EU banking markets inside and outside the Banking Union.

10. We will **monitor regularly** the implementation of the measures adopted as well as progress with the broader conditions relevant for the decision to move towards the second phase, based on regular assessments by the European Commission, European Central Bank and the Single Resolution Board supported by a list of indicators to be agreed by Member States.

11. Informed by the reports from the institutions, the Eurogroup in inclusive format will determine **on a consensual basis** [no later than three years after the entry into force of the phase 1 measures] **whether the conditions are in place to enter the second phase**. Thereafter, as long as the Eurogroup in inclusive format has not determined that the conditions are in place, it will on a yearly basis **review progress** and **reassess whether this is the case**. Once an agreement is reached to enter the second phase, the Eurogroup in inclusive format will also set out the **precise modalities of the second-phase measures in terms of calibration and timeline**, ensure that progress is made in parallel in all areas with an equivalent level of ambition and speed, and invite the European Commission, in full respect of its powers under the Treaties, to come forward with legislative proposals to implement the additional measures to strengthen the Banking Union.

12. At the latest [five years] after the additional measures in phase 2 have entered into force, we will **review the state of the Banking Union** in a holistic and consensual manner (i) to take stock of the implementation of the new measures in practice, (ii) to evaluate the costs, risks and benefits of possible further measures in all areas as well as the governance of the Banking Union, and (iii) if needed, to consider further measures to strengthen the Banking Union.

Annex 1: Stepwise and time-bound work plan to complete the Banking Union

<table>
<tr><th colspan="4">CRISIS MANAGEMENT</th></tr>
<tr><td>Benefits</td><td colspan="3">Ensure financial stability
Ensure level playing field
Protect depositors and taxpayers through effective and consistent burden sharing by shareholders and creditors and use of industry-funded safety nets</td></tr>
<tr><td rowspan="2">Measures</td><td>Phase 1 – priority measures</td><td rowspan="2">Political checkpoint</td><td>Phase 2 – additional measures</td></tr>
<tr><td>Clarify the public interest assessment with a view to broadening the application of resolution tools in crisis management at European and national level, including, where appropriate, for smaller and medium-sized banks.
Further harmonise the option to use national DGS funds for measures in crisis management outside payout and for the use of DGS funds in resolution, through a jointly defined least-cost test, administered by the national DGS, limiting the cost of any intervention by the DGS funds to the amount of paying out covered deposits of the failing institution.
Preserve national flexibility in the use of national insolvency procedures to aid market exit of failing banks.
Finalise the Commission’s review of the State aid framework for banks to ensure consistency between the State aid framework and the crisis management framework.
Further harmonise targeted features of national bank insolvency procedures, in particular creditor hierarchy and the triggers for bank insolvency.</td><td>Use of DGS funds for purposes other than the mandatory DGS functions becomes subject to authorisation by the Single Resolution Board. The authorisation is granted at the request of a national DGS and is governed by a least-cost test administered by the SRB. The use of DGS funds for such purposes will be eligible for reinsurance by the EDIS fund.
Explore the possibility of support arrangements between the Single Resolution Fund (SRF) and the European deposit insurance fund.</td></tr>
<tr><td>Additional features</td><td colspan="3">Burden-sharing requirements and minimum bail-in for an amount of 8 % TLOF to access the resolution fund will be respected and all resolution banks will have to build up sufficient MREL buffers in line with their resolution strategy in accordance with the current legal framework.
Single-point-of-entry strategies for the resolution plans of cross-border groups need to be credible and robust.
The new framework should not affect the capacity of existing Institutional Protection Schemes to implement preventive measures.</td></tr>
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DEPOSITOR PROTECTION

Benefits

- Strengthen trust and financial stability and increase depositor protection across the Banking Union in a more credible, robust and uniform manner
- Use industry-funded resources more efficiently through pooling
- Better align responsibilities for supervision, resolution and depositor protection

Measures

Phase 1 – priority measures

- Set up a common European deposit insurance fund, managed by the Single Resolution Board, to complement the national Deposit Guarantee Schemes (DGS), after a targeted review of the asset quality of a risk-based sample of less significant institutions, which will take place in parallel of legislative discussions.
- Build the European deposit insurance fund through the gradual pooling of [50%] of the national DGS funds' target level as laid out in EU legislation. The establishment of the European deposit insurance fund will be cost-neutral to the banking industry. An intergovernmental agreement will be used for the transfer of funds.
- Liquidity support is available according to predefined limits and conditions, through the European deposit insurance fund in the form of repayable loans to national DGSs that are at risk of being depleted, to support depositor payouts and DGS contributions to resolution.
- Include the concentration of sovereign holdings in bank balance sheets as an additional element to determine the risk-based contributions to the European deposit insurance fund.

Political checkpoint

Phase 2 – additional measures

- Gradually introduce a reinsurance function by the European fund for national DGS funds: the European deposit insurance fund will gradually take over risks relating to depositors protection in the Banking Union and cover losses arising from the protection of depositors and financing of the resolution of credit institutions.
- The SRB may authorise the use of the European deposit insurance fund to support measures other than depositor payout and use in resolution when that reduces the cost to the fund (least cost test).
- For its reinsurance function, the European deposit insurance fund is replenished jointly through the recovery from insolvency proceedings and through contributions from the financial industry in the Banking Union.

Additional features

- The reduced likelihood of accessing the European deposit insurance fund that results from national risk-sharing arrangements, such as institutional protection schemes, will be reflected in their contributions.
- The protection of depositors in a strengthened Banking Union shall at least be the same as offered under the current regime.

SINGLE MARKET FOR BANKING SERVICES

Benefits

- Contribute to financial stability, at the national and European level through better geographical diversification of risks
- Improve competitiveness of the European banking sector through more efficient management of resources and reduced fragmentation
- Improve financial services for EU citizens and businesses

Measures

Phase 1 – priority measures	Political checkpoint	Phase 2 – additional measures
• For single-point-of-entry resolution groups, facilitate the practical use of cross-border liquidity waivers, subject to adequate statutory safeguards of a binding nature including irrevocable group support mechanisms, with the aim to ensure that greater flexibility in cross-border liquidity management for the banking group goes hand in hand with greater responsibility for the stability of the subsidiaries. • Review the mandate of the SRB and its cooperation framework with National Resolution Authorities to incorporate its new functions, and to effectively safeguard financial stability in all individual Member States.		• In parallel to the introduction of loss-coverage in the European deposit reinsurance fund, gradually introduce capital relief measures in cross-border groups whilst ensuring that resources in subsidiaries are adequate. • Subject these capital relief measures to strong and proportionate legal safeguards that ensure financial stability, the continuation of critical banking functions, the ability to implement macro prudential policies and the financing of the economy in host Member States.

Additional features

- The safeguards will be proportionate, legally anchored in level 1 EU legislation and enforceable, linked to the recovery plans and the resolution strategy as well as the prepositioning of internal MREL. They will include among others clear procedures and pre-defined triggers to access adequate resources for the subsidiary under different scenarios. Cross-border liquidity waivers or other forms of relief at the individual level will be contingent to a sound liquidity and capital position of the parent.
- The establishment of a European deposit insurance fund will also act as one of the safeguards in the Banking Union. The safeguards should be such that the measure does not undermine the financing of the economy at national level.
- An examination of undue non-prudential obstacles that affect the potential for integration and branchification in the European banking sector and possible mitigating solutions will be carried out.

<table>
<tr><th colspan="4">DIVERSIFICATION OF SOVEREIGN HOLDINGS</th></tr>
<tr><td>Benefits</td><td colspan="3">• Improve financial stability by further limiting the sovereign-bank nexus
• Encourage private risk sharing and better diversification of banks’ holdings of sovereign debt
• Broaden the investor base and increase bond market efficiency</td></tr>
<tr><td rowspan="2">Measures</td><td>Phase 1 – priority measures</td><td rowspan="2">Political checkpoint</td><td>Phase 2 – additional measures</td></tr>
<tr><td>• Increase monitoring and transparency of banks’ sovereign holdings including through regular dedicated stress testing, reinforced reporting and disclosure obligations at the level of individual banks, also by implementing the voluntary Basel framework agreed in November 2021 as a mandatory framework in the EU.
• Recognise the potential risks of high concentrations of sovereign holdings and provide guidance on risk mitigation in legislation governing supervisory discretion (pillar 2).
• Include concentrated sovereign holdings as an additional element to determine the risk-based contributions to the common European deposit insurance fund.</td><td>• Gradually introduce non-risk weighted concentration charges for very high concentrations of sovereign holdings in banks’ balance sheets.
• Introduce flexibility through an escape clause to accommodate exceptional circumstances.</td></tr>
<tr><td>Additional features</td><td colspan="3">• Due consideration will be taken of the special role played by the banking sector in ensuring the liquidity and stability in sovereign bond markets.
• Particular attention will be paid to the implications for smaller markets and in non-euro area Member States.
• Further discussions in the Basel committee will be encouraged to consider a review of the treatment of sovereign exposures at international level with a view to facilitating the level playing field.</td></tr>
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Annex 2: Political checkpoint

Possible governance and basis to allow the Eurogroup in inclusive format to determine whether the broader conditions to enter into phase 2 are in place.

Principles	

Purpose	• Checkpoint will be used to:
	  ○ **Enter** phase 2
	  ○ **Set out the precise modalities** for phase 2, including timeline and calibration, with the same level of ambition to be achieved across the modules
	• Checkpoint to be followed by further **Commission proposals** to implement phase 2 measures.

Governance of the political checkpoint	• **Political** determination at the Eurogroup in inclusive format (no automaticity) • Determination on a **consensual** basis • **No later than [3 years]** after the entry into force of phase 1 • If no positive determination agreed after [3 years], **reassess every year**

Basis for the checkpoint	• **Checkpoint** to be informed by a joint assessment:
	1. Mandate to the **institutions** (Commission, ECB and Single Resolution Board)
	  ○ Holistic assessment based on **quantitative and qualitative** elements to be included in a **Banking Union report** as reviewed version of the previous **Risk Reduction Monitoring** report
	    ▪ including indicators measuring the progress achieved **on the 4 modules** and on the **general state/health of the banking sector**
	    ▪ provided on a **yearly** basis as part of regular monitoring
	  ○ An additional **operational evaluation** of the **implementation of phase 1 measures**
	  ○ An assessment of the **cost** and **risk** of not entering **phase 2**
	2. **Mandate to the EFC** to agree as soon as possible on the content and methodology for the Banking Union report, based on a proposal by the institutions

Content of the Banking Union report	• **Focus** on: - the evolution of risks and buffers in the banking sector (including with regard to NPLs and MREL build-up), - developments in market conditions, - progress in market integration regarding cross-border activity and location of capital and liquidity within groups as well as regarding the effectiveness of safeguards, - progress in the diversification of banks’ holdings of sovereign debt, and the building up of national deposit guarantee funds and of the common fund.