Response to the EBA Consultation on the Interim Report on MREL (EBA-Op-2016-12 | 19 July 2016)

by EBA Banking Stakeholders Group

August 30, 2016

Contents

I. Introduction

1. The EBA Banking Stakeholder Group (the "**BSG**") welcomes the opportunity to comment on the EBA Interim Report on MREL – Report on Implementation and Design of the MREL Framework (EBA-Op-2016-12, the "**EBA Report**").

2. This paper (the "**BSG Paper**") primarily addresses the topics of the Provisional recommendations put forward in the EBA Report (pages 7-9), providing replies to specific questions raised by EBA as well as general comments.

3. The BSG Paper is organized as follows: sections II to IV present replies to the specific questions printed in italics in the Provisional recommendations section of the EBA Report; sections V to VII propose general comments on other topics touched in the EBA's Provisional recommendations. Each section is divided into two sub-sections: the first one includes excerpts from the relevant portions of the EBA report and the second one provides the BSG's views.

II. Breach of MREL

A. A summary of the EBA Report contents

4. Section 5.2 of the EBA Report states that:

   a. "[a] possible MREL breach could be dealt with by the resolution authority as part of its powers to address or remove impediments to resolvability" (p. 45);

   b. "[a]s resolution authorities are responsible both for setting MREL and for its use in resolution, they have strong incentives to act in response to a breach of MREL and should take a leading role in responding to such a breach" (p. 45);

   c. "[a]ction may also be taken by competent authorities. The EBA Guidelines on triggers for the use of early intervention powers by competent authorities identifies a significant deterioration in MREL as a significant event which may trigger consideration of early intervention actions – such measures could include, for example, implementing actions outlined in the institution's recovery plan or requiring a plan to negotiate restructuring of debt." (p. 46);

d. "[t]he point in time when an institution breaches MREL will importantly depend on the relationship between MREL and capital buffers" (p. 48)[1];

e. "[t]he possibility of a grace period before any automatic consequences [of MREL breaches] apply should also be explored in some circumstances, for example if MREL is breached due to market-wide disturbances preventing the rollover of maturing debt." (p. 48);

f. "the competent authority, or the resolution authority under the conditions of Article 32(2) of the BRRD, may at any time make an assessment whether the institution, considering all relevant circumstances, is failing or likely to fail and meets the conditions for resolution." (p. 49)[2].

B. BSG views

5. The BSG shares the EBA's view that the resolution authority should play a leading role in responding to a breach of MREL.

[1] "If the MREL framework were amended to implement the TLAC standard so that i) firms are required to meet MREL with separate resources from capital buffers, i.e. the same CET1 cannot count towards meeting buffers and MREL, and ii) MREL 'takes priority' as a minimum requirement, so resources are counted towards MREL before capital buffers, then capital buffers will always be breached before MREL. This would mean that the established intervention framework for the competent authorities to deal with breaches of buffers would be engaged ahead of any breach of MREL. This would also need to be reflected in a lower calibration of institutions' MREL requirements." (p. 48).

[2] Article 32(2) of the BRRD states that "Member States may provide that, in addition to the competent authority, the determination that the institution is failing or likely to fail under point (a) of paragraph 1 can be made by the resolution authority, after consulting the competent authority, where resolution authorities under national law have the necessary tools for making such a determination including, in particular, adequate access to the relevant information. The competent authority shall provide the resolution authority with any relevant information that the latter requests in order to perform its assessment without delay.".

6. The BSG also acknowledges the EBA's view that the determination of a breach of MREL depends on the relationship between MREL and capital buffers. If a) capital cannot be 'double counted' toward meeting both buffers and MREL, and b) MREL 'takes priority' (i.e., resources are counted towards MRLE before capital buffers) then capital buffers will always be breached before MREL. Most BSG members share EBA's view in the sense that in this case the calibration of the MREL requirement needs to be *ceteris paribus* lower than the policy option in which 'double counting' of capital is instead allowed.

7. Although a breach of MREL is an important event, such a breach should not necessarily and automatically imply that the bank is failing or likely to fail. This view is also consistent with the rationale that resolution should be triggered only when there is no reasonable prospect of alternative private sector measures being successful.

   a. We believe that – in case of a breach of MREL – discussions should initiate between authorities and the bank to decide on reasonable measures to eliminate any impediment to resolvability and address that breach as a matter of urgency. A MREL restoration plan could be the first request before deciding any further steps as per art. 17(5) of the Bank Recovery and Resolution Directive (BRRD). In the view of some BSG members, a breach of MREL should be considered as an indication that the institution is failing or likely to fail. Other BSG members strongly opposed that view.

   b. A breach of MREL could also be treated like a breach of the combined buffer requirement, i.e. require the bank to prepare a strategy to restore the MREL requirement within an agreed timeframe (similar to the capital conservation plan required in cases of a CBR breach). Measures and solutions should always respond to the actual problem that generated the situation, in particular as some 'breaches' of MREL can be purely technical or just a question of timing, e.g. when an anticipated bond issue is delayed by a few weeks, leading to available MREL dropping below the requirement.

8. A grace period might be appropriate in well-defined circumstances pre-specified in advance, like market-wide shocks. The example given in the EBA Report (i.e., a breach of MREL caused by market-wide disturbances preventing the rollover of maturing debt) is a good example.

   a. The bank breaching MREL requirement for market-wide shocks might use CET1 capital from its buffers to restore the MREL shortfall and thus comply with the MREL requirements. However, if such CET1 capital cannot be counted to comply both with MREL and the capital buffers (see previous ¶ 6), the bank would incur in a breach of the latter and, according to the CRD IV, Maximum Distributable Amount (MDA) restrictions on distributions of dividends, variable compensation and AT1 coupons would apply. In the view of some members, a grace period might be granted to that bank to waive MDA restrictions.

   b. A view was expressed that only the capital framework (Pillar 1, Pillar 2 and capital buffers, as per the EBA opinion of 16 December 2015) should count when calculating the threshold for MDA restrictions. MREL should not be considered in the calculation of the MDA threshold.

   c. At the same time, however, one of the purposes of MDA is to lend credibility to the fundamental principles of prudent bank management. Large dividend distributions might be in contrast with the accumulation of capital reserves needed to withstand a downturn. Calls to relax automatic restrictions on MDA should therefore be discussed carefully.

9. With respect to the EBA concern that the powers of the resolution authority do not enable immediate action and there may be a rather lengthy process before the resolution authority is able to make use of its powers (see EBA Report, p. 45), the resolution authority might invoke the power to remove impediments to resolvability, as envisaged by Article 17 of the BRRD, not only on the basis of the annual resolvability assessment but equally ad hoc in the presence of substantive evidence that a bank is in breach of its MREL

requirement. In such a case the timeline could be shortened, e.g. by dispensing with the four-month notification period set out in Article 17(3) of the BRRD so that the resolution authority could proceed directly to impose the measures provided for in Article 17(5) of the BRRD, if appropriate.

10. The powers of the resolution authority might be specified more explicitly to provide greater clarity to market participants and to reduce the legal risk to the authority using such powers.

III. Eligibility criteria for MREL: Subordination and compliance with the No Creditor Worse Off (NCWO) safeguard

A. A summary of the EBA Report contents

11. Section 6.1 of the EBA Report states that:

a. "[t]o make resolution credible, it must be ensured that the legal and operational structure of the bank or the banking group continues to support critical functions and critical shared services under the chosen resolution strategy. This objective could be significantly hindered if certain operational liabilities are affected by the resolution action." (p. 54);

b. "[i]n order to avoid this consequence, Article 44(2) and (3) of the BRRD provide for exclusions to bail-in where such exclusions will, inter alia, ensure the continuity of critical functions." (p. 54);

c. "where bail-in exclusions are applied to certain operational liabilities essential to the continuity of critical functions, those liabilities that are not excluded and which rank pari passu with the excluded liabilities are at risk of breaching the NCWO principle. The BRRD and SRM require that creditors are not treated less favourably in resolution than they would have been in insolvency." (p. 54);

d. "[o]ne way to reduce the risk of a breach of NCWO is to ensure that the creditor hierarchy in insolvency is aligned with the likely treatment of creditors in resolution. Concretely, if the liabilities which can most credibly contribute to loss absorbency (term senior unsecured debt) are subordinated to operating liabilities, then the risk of such a breach is likely to be significantly reduced because they would also have borne losses first in liquidation." (p. 55);

e. "[t]he TLAC standard (applicable to G-SIBs) requires that resources eligible for TLAC be subordinated to liabilities that are specifically excluded from TLAC, such as sight deposits or liabilities arising from derivatives." (p. 55);

f. "[i]n contrast to the TLAC standard, pursuant to the BRRD framework resolution authorities are empowered to decide on a case-by-case basis, within the context of their powers to address or remove impediments to resolvability, whether MREL-eligible debt should be subordinated or not, and how this should occur." (p. 56);

g. "[t]he EBA's provisional view is that for at least some banks mandatory subordination of MREL-eligible liabilities would improve resolvability and contribute to clarity for investors. Subordination requirements introduced in Level 1 legislation should focus on establishing to which other liabilities MREL-qualifying liabilities need to be subordinated, rather than specifying the legal form (contractual, statutory or structural)." (p. 61);

h. "[r]egardless of whether additional subordination requirements are introduced, the EBA's provisional view is that relevant information should be available to bank creditors on banks' creditor hierarchies and the effects of national insolvency law." (p. 61).

B. BSG views

12. The BSG shares the EBA's view that relevant information should be available to bank creditors and investors in MREL-eligible liabilities. The clarity of the information set is a key input in the pricing of MREL-eligible traded instruments, and the informational efficiency of the prices of such instruments is beneficial to both the issuers and the investors.

    a. The BSG believes that appropriate disclosures are also required to be made at the issuance of MREL-eligible securities. Investors should be provided with all information which is needed to estimate probability of default and loss-given-default for the security under scrutiny, also taking into account the resolution strategy.

13. The MREL regulatory framework might also deal with the category of investors allowed to buy MREL-eligible securities.

    a. Institutional investors specialized in distressed securities might probably represent the main holders of MREL-eligible securities in case of resolution. The regulatory framework might be designed to avoid 'predatory' litigation that would delay the resolution/recovery process.

    b. Investors would probably appreciate to be provided with ready access to standardised information on a) the bank's capital position and MREL requirements (including, potentially, relevant SREP scores) and b) the ranking of the relevant security within the statutory creditor hierarchy.

    c. It is worth noting however that standardised disclosure at aggregate level (in particular for a banking group providing consolidated figures) may not be sufficient for investors to fully understand their position in the creditor hierarchy. This is particularly true as bail-in will be executed at legal-entity level, and as such unconsolidated accounts would instead be needed, in particular for banks with Multiple Point of Entry resolution strategies.

14. With respect to the information and disclosure needs mentioned in the questions specifically addressed by EBA, we provide the following comments (with pros and cons):

a. *Bank balance-sheet structure*. The disclosure of bank balance-sheet structure may be useful for investors, especially if provided in a standardised format that allows comparability across banks. However, such disclosure does not necessarily provide full transparency with respect to the insolvency ranking, particularly given potential differences between resolution and insolvency law. In addition, for these disclosures to be useful it is important to take into account aspects such as the difference between MREL-eligibility and bail-inability, or potential exclusions from bail-in and the insolvency hierarchy.

b. *Availability of standardised information on statutory creditor hierarchies*. This information will help in providing transparency on creditor hierarchies; however, it would not address any issues affecting this hierarchy arising from either structural or contractual subordination. Transparency is advisable regarding all types of subordination, consistently with our previous ¶ 12.

15. With respect to the scope of the subordination requirements, each policy option has pros and cons.

16. To be consistent with the TLAC standard, mandatory subordination of MREL-eligible liabilities should be introduced for all G-SIBs. For other entities, the resolution authority might require mandatory subordination on a case-by-case basis.

17. In the view of some BSG members, some type of subordination of MREL-eligible liabilities *for all banks* seems difficult to avoid, in order to maintain a level playing field. Other members, however, were of the view that this is a decision to be taken by the resolution authority on a case-by-case basis.

18. A different policy option would be to define the banks under the mandatory subordination regime depending on a number of

features, and not on general labels like GSIBs or OSIIs). In this respect the following factors could be taken into account:

a. *The resolution strategy for the entity in question*. Even within a G-SIB or O-SII group, some entities may be considered immaterial and the resolution strategy with respect to this entity might, therefore, be orderly liquidation (this is particularly important in Multiple Point of Entry strategies). MREL for these entities is likely to be set at a level of capital requirements only, so there would be no need to require subordination of MREL-eligible liabilities.

b. *The liability structure of the entity in question*. Where institutions have very limited amounts of liabilities ranking *pari passu* with senior debt (e.g., corporate deposits or excluded operating liabilities), subordination may not be required, as the senior debt tranche would represent a relatively separate step in the creditor hierarchy, subordinated to preferred or covered deposits and some other excluded liabilities (e.g., staff and tax liabilities).

c. *The amount of the MREL requirement being met with liabilities*: Where an institution can satisfy its MREL requirement largely with capital instruments and subordinated loans counting as own funds, requiring subordination for the remaining 'eligible liabilities' may not be necessary.

IV. Third country recognition of resolution powers

A. A summary of the EBA Report contents

19. Section 6.2 of the EBA Report states that:

a. "[w]hen setting MREL, the resolution authority must consider the risk of liabilities being excluded from bail-in at the point of resolution and, if it anticipates that some liabilities might be excluded, ensure that the institution has sufficient other eligible liabilities to meet loss absorption and recapitalisation need." (page 61);

b. "[i]n particular, exclusions could concern certain liabilities governed by third country law for which it would not be possible to effect bail-in decisions" (page 61);

c. "[t]he legislator has aimed to reduce the likelihood of such a situation by requiring credit institutions to include contractual recognition clauses in contracts governed by the law of a third country under the conditions of Article 55 of the BRRD." (page 61);

d. "credit institutions have reported facing many practical difficulties in including contractual recognition clauses" (page 62);

e. "The EBA's provisional view is that some reduction of the burden of compliance with third country recognition requirements is necessary. This could be achieved by narrowing the scope of the requirement while maintaining the effectiveness of contractual recognition for MREL liabilities." (page 62).

B. BSG views

20. The BSG shares the EBA's view that compliance with Article 55 of the BRRD is extremely complicated and some reduction of the compliance burden related to the third country recognition requirement is necessary.

21. The scope of the Article 55 of the BRRD could be amended as part of the review of MREL to align it with the guidance of the FSB and reduce its scope to 'debt instruments'. This would ensure that contractual recognition provisions would be included in all liabilities that are eligible for MREL.

a. A possible alternative is to limit Article 55 of the BRRD only to MREL-eligible instruments.

22. As mentioned above, compliance with Article 55 of the BRRD is extremely complicated because many counterparties simply do not accept the clause. Mandatory introduction of the clause may force

some banks to cancel or not conclude trades outside the EU with the negative impact on the competitiveness of EU banks compared to third country entities.

23. It might be practically impossible to add the bail-in clause in various liabilities due to the use of international standard documentation and rules (especially in trade finance).

24. Additionally, issues potentially arising from the UK's Brexit decision also needs to be considered. Once the UK leaves the EU, it would formally become a third country. It is unclear what requirements would apply in case a country leaves the Union, i.e. would all contracts (including previously signed ones) automatically become subject to the requirements of Article 55 of the BRRD or would these apply only to contracts entered into after the actual 'leaving date'?

25. There is probably also an 'equivalence' question. The regime would be significantly easier to apply if there was a centralised process for assessing the equivalence of third-country resolution regimes. For example, if the FSB concluded that FSB-member jurisdictions implemented the key attributes with respect to bail-in powers in line with the FSB proposals, the EBA could consider them equivalent for the purposes of Article 55 and publish this acknowledgement so that banks would not need to include contractual amendments in contracts under the law of these jurisdictions. Similarly, this regime could be applied for the Brexit case, i.e. the EBA could still consider the UK an equivalent jurisdiction based on an assessment of its implementation of the BRRD.

V. Reference base for MREL requirement (denominator)

A. A summary of the EBA Report contents

26. Chapter 4 of the EBA Report states that:

a. "[a]rticle 45(19)(i) of the BRRD requires the EBA to examine *'whether it is appropriate to base the requirement on total liabilities and own funds and in particular whether it is more* *appropriate to use the institution's risk-weighted assets as a denominator for the requirement'.*" (p. 32);

b. "The EBA's provisional view is that the preferred option should be changing the reference base of MREL to RWAs. It should be complemented with a leverage ratio exposure backstop in parallel with the phase-in of that requirement within the capital framework. This approach achieves alignment with CRR / CRD regulatory requirements and with the FSB's TLAC standard and reduces complexity without major substantive changes to the MREL setting process." (pp. 39-40);

c. "If this change is not made, the EBA recommends changing the reference base of MREL from total liabilities and own funds to the leverage ratio exposure as a more consistently applied non-risk sensitive measure." (p. 40);

d. "If neither of these changes is made, the EBA considers that clarification of the definition of the existing denominator is necessary, either in the Level 1 text or through the introduction of a Level 2 mandate." (p. 40).

B. BSG views

27. The choice of the reference base for MREL faces the pros and cons of each alternative.

28. On one hand, the adoption of RWAs seems a logical step, given the methodology for the determination of MREL in the EBA RTS. In addition, the change to RWAs in the reference base would align the formulation of the MREL requirement with TLAC requirements.

a. It is worth noting that the EBA Report does not mention the Basel I floor as an alternative backstop measure for the calculation of MREL. It could be useful to clarify whether this omission is done on purpose or whether the current treatment in the EBA RTS on MREL, which looks at both the leverage ratio and the Basel I floor as backstops, is expected to be maintained. Dropping the Basel I floor would be preferable as it not only creates additional complexity but the measure itself is becoming more and more 'anachronistic' as other measures are being phased in. Furthermore, the future of the Basel I floor beyond its transitional end date of 31 December 2017 is uncertain and it would probably not be appropriate to retain it as a backstop for MREL if it were no longer part of the capital framework.

29. However, on the other hand the adoption of a non-risk sensitive measure might be preferable since it eschews the known shortcomings of the risk-weighted approach, including complexity and modelling risks, vulnerability to regulatory arbitrage, competitive distortion and procyclicality. In the view of some BSG member, RWAs can be easily manipulated and are an unsafe benchmark for this purpose. Consistently with this view, MREL requirements are best defined with respect to the size of the balance sheet rather than RWAs. Arguably, for resolution purposes, the key indicator to take into account is the institution's total liabilities and own funds (i.e., the current MREL reference base) as they reflect the true means to absorb losses. Alternatively, and along the same line (i.e., using a non-risk sensitive reference base), the leverage ratio exposure could also be considered as the reference base for calculating MREL.

30. A related issue is the link between the point of non-viability and the Lender of Last Resort (LOLR) support, which under the BRRD would stop at this point. In the view of some members, if MREL is based on RWAs the LOLR can never be certain that it lends money to a viable bank at the early intervention stage, forcing more banks to resolution than otherwise necessary. Furthermore, MREL based on RWAs will differ on the basis of business models and other factors from bank to bank. This might generate a race to safety (or to the safest business model). However, RWAs MREL might also leave the door ajar for rule-gaming in the future.

31. In view of some BSG members, any redefinition of the MREL reference base must not be allowed to dilute or remove the 'burden sharing' requirement (Article 44(5) BRRD). According to this view, if the leverage ratio exposure measure is introduced to replace the term 'total liabilities and own funds' in the denominator, as a

measure of an institution's total, non-risk weighted exposure, the 8% threshold value must be retained.

32. Summing up, the EBA's provisional view to change the reference base of MREL to RWAs and leverage ratio exposure as backstop, in order to achieve alignment with TLAC, appears a pragmatic and balanced solution to some BSG members, whereas other members would prefer to retain the present definition based on total liabilities and own funds or to employ the leverage ratio exposure as the reference base for calculating MREL.

VI. Stacking of CET1 buffers

A. A summary of the EBA Report contents

33. Section 5.1 of the EBA Report states that:

a. "the CRD / CRR framework provides for the creation of buffers in good times in order to reduce the likelihood of an institution running into trouble during economic downturns. Therefore buffers should be usable without entry into resolution." (p. 41);

b. "the BRRD provides for MREL as a minimum requirement that must be met at all times and allows resources used to satisfy capital buffers to also satisfy MREL simultaneously" (p. 41);

c. "[i]f the same CET1 capital can count towards MREL and regulatory capital buffers, there is the risk that the countercyclical capital buffers are less effective as macro-prudential tools (or alternatively that MREL is not a genuinely hard minimum)." (p. 41);

d. [u]nder the FSB's TLAC standard, CET1 regulatory capital used to meet minimum TLAC must not be used to also meet regulatory capital buffers. Since regulatory capital buffers are to be met in addition to the TLAC minimum, CET1 capital is first to be used to meet TLAC requirements – i.e. TLAC is stacked below the regulatory capital buffers. A change to the existing treatment of capital buffers in MREL would therefore be necessary to implement the TLAC standard." (p. 41);

e. "The UK Prudential Regulation Authority (PRA) is consulting on a policy whereby, in line with the TLAC standard, firms should not count CET1 for the purposes of meeting MREL and capital buffers simultaneously. This would mean that buffers would need to be met separately from MREL." (p. 42);

f. "Stacking capital buffers on top of MREL (i.e. not counting MREL instruments towards the buffers) could mean that a CBR breach, de facto triggering the application of automatic restrictions on distributions, could in some circumstances happen at high levels of capital. This would be the case when banks choose to meet a significant part of their MREL requirements through own funds rather than eligible liabilities." (p. 43);

g. "The EBA's provisional view is that, in principle, the usability of regulatory capital buffers would be best preserved if they stack on top of MREL – i.e. that banks would not be able to use CET1 capital to meet MREL and also to meet regulatory capital buffers." (p. 44);

h. "However, the implementation of this approach should carefully consider the interaction with automatic MDA restrictions on voluntary distributions and the SREP. This is particularly relevant for banks which rely mainly on capital instruments to meet MREL because of limited access to debt capital markets." (p. 44).

B. BSG views

34. The BSG shares the EBA's view that double counting should not be allowed: CET1 capital used to meet MREL requirements should not be eligible to meet regulatory buffer requirements.

35. The interplay between MREL, capital buffers and MDA has been previously discussed in this paper at ¶ 8.

36. It could be important to clarify how a bank would determine the amount of CET1 required to fulfil MREL requirements sitting 'underneath' the combined buffer requirement. This is particularly true in cases where banks have an excess of MREL-eligible liabilities and own funds compared to their requirements. In this context could banks assume to first 'fill in' the MREL requirement with eligible liabilities other than own funds and apply own funds only for any residual amount of the requirement (thus leaving the maximum possible amount of CET1 to cover the buffers)? A 'composition requirement' for MREL similar to that for Pillar 2, imposing a mandatory proportion of CET1 to be applied to MREL, would result in an undue requirement especially for deposited funded banks with 'excess deposits'. A view was expressed by some BSG members that buffers should not operate in such a way that using part of a buffer to satisfy MREL should trigger a buffer breach and thus set off MDA-restrictions, if the bank continues to satisfy its capital requirements.

VII. Adequacy and calibration

A. A summary of the EBA Report contents

37. Section 7.1 of the EBA Report states that:

a. "[t]he MREL determination is closely linked with resolution planning. The resolution authority needs to be sufficiently confident that loss absorbency and recapitalisation needs can be met at the point in time an institution is declared failing or likely to fail." (p. 63);

b. "The EBA provisionally recommends that the calibration of MREL should in all cases be closely linked to and justified by the institution's resolution strategy. Business models may be worth considering when calibrating MREL to the extent they translate into differences in resolution strategies." (p. 68);

c. "The EBA provisionally recommends that the current MREL assessment framework (under Article 45 of the BRRD and the

RTS on MREL) be retained as the basis for setting 'Pillar 2'/firm-specific MREL requirements. This means that MREL should be set as the higher of the requirement resulting from this assessment and any Pillar 1 requirement, should one be introduced. Firm specific requirements should be set only at levels necessary to implement the resolution strategy." (p. 68).

B. BSG views

38. Several factors play a role in the calibration of MREL and each solution has, as usual, pros and cons.

39. The BSG view is that the calibration of MREL should be closely related to and justified by the institution's systemic significance and its resolution strategy. There are different views in the BSG as to whether a mandatory 'Pillar 1' TLAC requirement should be considered not only for GSIBs but also for domestic systemically important institutions (D-SIBs/O-SIIs) and/or other banks.

40. It is important to keep in mind in this regard that authorities setting MREL should provide a clear 'justification' for the MREL requirement. This would also include following the procedure set out in the BRRD stating that the determination of any consolidated requirement would need to be taken by a resolution college, taking into account the resolution strategy and the MREL levels set (or contemplated) at individual entity level.

41. With respect to the resolution strategy, MREL requirements should specifically differentiate Single Point of Entry (SPE) from Multiple Point of Entry (MPE) strategies. A consolidated MREL requirement for MPE banks with presence in third countries may be misleading due to the fact that MREL should be consistent with the level at which resolution occurs.

42. The systematic importance of an institution should also be regarded as an important factor when calibrating its MREL requirements.

43. More generally, the calibration of the MREL requirement might differentiate by type of entities, business models, risk profiles and resolution strategies.