



Performance audit report

Operations of the Financial Stability Authority as part of the banking union's Single Resolution Mechanism



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HELSINKI 2020

PHOTOS

CHAPTERS 1 AND 4 GETTYIMAGES

CHAPTERS 2, 3 AND 5 ISTOCK

Performance audit report of the National Audit Office

Reg. no. 368/54/2018

The National Audit Office has audited the operations of the Financial Stability Authority as part of the banking union's Single Resolution Mechanism in accordance with its audit plan. The audit has been carried out in accordance with the performance audit guidelines issued by the National Audit Office.

Based on the audit, the National Audit Office has issued an audit report, which will be submitted to the Financial Stability Authority and the Ministry of Finance. Copies of the report will also be submitted to the Parliamentary Audit Committee, the Government Financial Controller's Function, the Financial Supervisory Authority, the Bank of Finland and the Parliamentary Supervisory Council of the Bank of Finland for their information.

Before the issuing of the audit report, the Financial Stability Authority, the Ministry of Finance, the Financial Supervisory Authority and the Bank of Finland were provided with an opportunity to ensure that there are no factual errors in the report and give their views of the opinions of the National Audit Office contained in the report.

In the audit follow-up, the National Audit Office will examine which measures have been taken on the basis of the opinions presented in the audit report. The follow-up will take place in 2022.

Helsinki, 6 March 2020

Matti Okko
Director

Vuokko Mustonen
Principal Performance Auditor

Conclusions and recommendations of the National Audit Office

Following the financial crisis that began in 2008, the European Union set up the Single Supervisory Mechanism (SSM) and the Single Resolution Mechanism (SRM) to harmonise banking supervision and resolution procedures in Europe. The purpose of the SRM is to ensure that, in case of a bank failure, investors and the banking sector would bear the costs caused by the crisis, thus minimising the costs incurred by taxpayers and the economy. Under the SRM, the Single Resolution Board (SRB) is responsible for any resolution activities concerning ‘significant banks’, while national resolution authorities, such as the Finnish Financial Stability Authority, are responsible for resolution tasks concerning nationally controlled ‘less significant banks’. A key task of the resolution authorities is to draw up resolution plans for banks in case of a situation where a bank is failing or is likely to fail.

The purpose of this audit was to evaluate how well the structures and procedures concerning the resolution of less significant banks have been implemented in Finland. According to the audit findings, the Financial Stability Authority is well placed to carry out bank resolution tasks. The Act on the Resolution of Credit Institutions and Investment Firms (‘the Resolution Act’) provides the Financial Stability Authority with powers in accordance with the Bank Recovery and Resolution Directive to apply resolution tools and powers. Operational independence has been ensured by establishing the Financial Stability Authority as a separate agency. The Financial Stability Authority has drawn up the first resolution plans for all less significant banks in Finland. These plans largely cover the topics recommended for such plans. However, some of the topics have only been covered briefly.

To clarify the procedures concerning the exchange of information laid down in law and required for operations, the Financial Stability Authority and the Finnish Financial Supervisory Authority drew up a memorandum of understanding (MoU) on cooperation in June 2019. However, a corresponding memorandum between the Financial Stability Authority and the Bank of Finland is yet to be drafted, and the MoU on cooperation concerning financial system crisis management drawn up between various Finnish authorities in 2007 has not been updated. The reporting by the Ministry of Finance regarding the activities of the Financial Stability Authority in the Government’s annual report to Parliament has been limited.

So far, some of the topics of the resolution plan have only been covered briefly

The Financial Stability Authority has drawn up the first resolution plans for all eight less significant banks in Finland. The drafting of the resolution plans is governed by various requirements and guidelines laid down in different levels of legislation. The plans drafted so far largely cover the topics recommended for such plans. However, some of the recommended topics, such as information and communication plans and resolvability assessment, have only been covered briefly. This is partly because it has not been possible to take into account all the essential matters in the first versions of the plan. On the other hand, relevant guidelines issued by the Single Resolution Board have been partly lacking. The plans do, however, mention that they are partly incomplete and that the topics concerned will be clarified when the plans are updated.

The procedures concerning the exchange of information between the Financial Stability Authority and the Bank of Finland have not been specified

The Resolution Act includes provisions on the cooperation between the Financial Stability Authority, the Ministry of Finance, the Bank of Finland, the Financial Supervisory Authority and other authorities. The Financial Stability Authority and the Financial Supervisory Authority have drawn up a memorandum of understanding (MoU) on cooperation to supplement the general obligation to disclose and submit information laid down in law. Such a measure is an effective way to clarify the views of each party regarding the submission of information and related obligations, as well as to increase the understanding of the role of each party in the promotion and maintenance of financial stability. A corresponding memorandum between the Financial Stability Authority and the Bank of Finland is currently under preparation.

The MoU on cooperation between Finnish authorities has not been updated

In 2007, various Finnish authorities (the Financial Inspection, the Ministry of Social Affairs and Health, the Bank of Finland, the Insurance Supervisory Authority, and the Ministry of Finance) drew up a memorandum of understanding on cooperation concerning financial system crisis management. The purpose of the MoU was to enhance the crisis management capabilities of the parties by ensuring sufficient exchange of information between the parties in crisis situations and by increasing cooperation in the management and resolution of financial crises. The updating of the MoU started in the Ministry of Finance in September 2016, but the process was never completed.

The reporting regarding the activities of the Financial Stability Authority in the Government's annual report to Parliament has been limited

The 2015 Government's annual report to Parliament contains a brief description of the establishment and duties of the Financial Stability Authority. However, the subsequent annual reports do not cover the Financial Stability Authority or its activities. The establishment of national resolution authorities and the resolution plans drawn up by such authorities for banks play a key role in the preparedness for bank resolution. Considering the management of risks related to the financial liabilities of central government, the Government's annual report to Parliament should contain a more detailed account of the role and duties of the Financial Stability Authority and the implementation of its activities. Parliament should have more accurate information on how well the new structures and procedures to reduce risks to central government finances related to the banking sector have been implemented at the national level.

The National Audit Office does not have the mandate to audit all the national entities related to the banking union

In the framework of banking supervision and resolution, the Financial Supervisory Authority is responsible for the prudential supervision of banks, bank recovery activities and early intervention measures. Where these measures prove to be insufficient, the bank is considered to be failing or likely to fail. At this stage, the responsibility for any subsequent measures in Finland transfers to the Financial Stability Authority. The National Audit Office has also previously drawn attention to the audit gap concerning the first pillar of the banking union, i.e. single banking supervision. In Finland, the National Audit Office has the right to obtain information from the Bank of Finland and the competent banking supervisory authority operating in connection with it, i.e. the Finnish Financial Supervisory Authority, but it does not have the mandate to audit these entities.

Recommendations of the National Audit Office

The National Audit Office recommends that

1. the Financial Stability Authority should clarify the resolution plans regarding the topics of information and communication plans and resolvability assessment;
2. the Financial Stability Authority and the Bank of Finland should draw up a memorandum of understanding on the exchange of information and on cooperation;
3. the Ministry of Finance should ensure that the memorandum of understanding on cooperation between various authorities is updated. This requires the participation of all relevant authorities in the updating process;
4. the Ministry of Finance should expand its reporting on the activities of the Financial Stability Authority in the Government's annual report to Parliament;
5. the Ministry of Finance, in order to enhance the comprehensiveness of the external audit of the banking union in Finland, should examine the possibility of extending the mandate issued to the National Audit Office pursuant to Article 59(2) of the Capital Requirements Directive to also cover the audit of the supervision of credit institutions.

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1 Scope of the audit

EU regulations on bank resolution have been implemented in Finland by new legislation

The Finnish Financial Stability Authority (FFSA) was established in 2015 as the national resolution authority responsible for bank resolution tasks. To implement EU regulations on bank resolution, Finland has enacted the Act on the Resolution of Credit Institutions and Investment Firms (1194/2014, hereinafter ‘the Resolution Act’), the Act on the Financial Stability Authority (1195/2015) and the Act on the Financial Stability Authority’s administrative fee (laki Rahoitusvakausviraston hallintomaksusta 1197/2014). The purpose of these acts was to transpose into national legislation the EU Bank Recovery and Resolution Directive¹ (BRRD), the Directive amending the Deposit Guarantee Directive and amendments resulting from the entry into force of the EU Resolution Regulation², as well as to implement the Agreement on the Single Resolution Fund. In addition, amendments were made to the Act on the Financial Supervisory Authority, the Act on Credit Institutions and the Act on the Bank of Finland.

Audit questions

The main audit question was how well the structures and procedures concerning the resolution of banks have been implemented in Finland. Answers to the main question were sought by means of the following four supporting audit questions:

1. How well is the FFSA equipped and prepared to carry out bank resolution tasks?
2. How has the preparation for bank resolution tasks been carried out in practice by the FFSA?
3. Does the National Audit Office encounter any limitations in the auditing of bank resolution tasks or accessing of relevant documents?
4. How does the Ministry of Finance fulfil its responsibility for the functioning of the resolution mechanism? Is this responsibility sufficiently implemented in practice, including accountability to Parliament?

Another purpose of the audit was to produce comparative data for a parallel audit examining the operations of national responsible authorities as part of the Single Resolution Mechanism. The participants in the parallel audit included the Supreme Audit Institutions of Germany, the Netherlands, Austria, Ireland, Spain, Portugal and Finland, as well as the European Court of Auditors. The parallel audit concerning the Single Resolution Mechanism continued the earlier parallel audit on the banking union’s banking supervision, which examined the supervision of ‘less significant banks’ under the responsibility of the national competent authorities. The executive summary of the parallel audit of banking supervision was published in December 2017.^{3,4}

Main audit criteria and scope of the audit

The audit criteria used were the requirements laid down in the European Union law and national legislation for the organisation of resolution tasks. For the purposes of the audit, the 'organisation of resolution tasks' also covers the drawing up of resolution plans and the procedures for the implementation and decision-making related to crisis management preparedness and resolution tasks.

The EU Bank Recovery and Resolution Directive applies to credit institutions and investment firms. On the basis of the balance sheet value, the economic significance of banks, which are included in credit institutions, is greater than that of investment firms. Therefore, it was decided to only target the audit at the organisation of resolution tasks concerning banks and to exclude investment firms from the scope of the audit. Furthermore, the audit was restricted to the examination of the organisation of resolution tasks concerning 'less significant' Finnish banks. The audit of the resolution plans focused on information presented in the plans. The audit did not examine the FFSA materials it uses in the drafting of resolution plans, such as materials submitted to it by credit institutions or the Financial Supervisory Authority.

The checklists prepared in connection with the parallel audit were utilised in the assessment of the resolution plans. These checklists have been drafted on the basis of the resolution plan content requirements prepared by the Single Resolution Board (SRB) for significant banks⁵. The checklists were used as a tool to form an overview of the uniformity of the data contents in the resolution plans for less significant banks.

Economic significance

A stable and properly functioning financial system is an essential factor in terms of favourable societal development and the functioning of the national economy. Financial liabilities concerning the financial system are typically considered 'implicit contingent liabilities' from the viewpoint of central government. To ensure the functioning of the financial system, central government can be expected to assume the ultimate responsibility for such liabilities in the event of a crisis. Following the financial crisis that began in 2008, various estimates have been made of the amount of state aid granted to banks in the European Union. The reason for the varying estimates is that different Member States have applied different types of bank resolution measures.

After the most recent financial crisis, it was considered important to harmonise the bank resolution procedures. The purpose of the regulations has been to ensure that the bank resolution would cause minimal costs to taxpayers and the economy. Another key objective has been to ensure that the resolution tasks would be primarily financed by bank shareholders and creditors.

Finnish banking sector

‘Significant institution’ (SI) refers to credit institutions involving such a great systemic risk that it would have significant adverse impacts on the entire financial system and real economy, if realised. On the basis of the figures published at the end of 2018, as in the previous year, Nordea, OP Financial Group and Municipality Finance Plc (MuniFin) are significant institutions in terms of the Finnish financial system. Banks considered ‘less significant institutions’ (LSIs) include Aktia Bank Plc, Evli Bank Plc, The Mortgage Society of Finland, Oma Savings Bank Plc, POP Bank Group, S-Bank Ltd, Savings Banks Group and Bank of Åland Plc.

According to the June 2019 Macroprudential Report⁶, in the light of the risks specified in the Act on Credit Institutions and the related risk indicators determined in a decree by the Ministry of Finance⁷, the Finnish credit institution sector is structurally more vulnerable than those of other EU Member States on average.

European banking union

The European banking union consists of the Single Supervisory Mechanism (SSM), Single Resolution Mechanism (SRM) and the European Deposit Insurance Scheme (EDIS). Of these, the SSM and SRM are already operational. The preparations for the EDIS are still ongoing. The foundation of the banking union is the Single Rulebook, the purpose of which is to ensure common rules for banks to comply with. The European Banking Authority (EBA) is responsible for drawing up guidelines and standards applied to the banking sector.⁸

Single Supervisory Mechanism, the ECB and the Financial Supervisory Authority

The overall responsibility for the banking supervision in Europe lies with the European Central Bank (ECB), which oversees all banks under the Single Supervisory Mechanism (SSM). In the SSM, banks are classified into 'significant institutions' (SIs) and 'less significant institutions' (LSIs). The criteria for determining significance include, for example, the bank's size, economic importance and cross-border activities. The ECB directly supervises all significant banks, while national competent supervisory authorities are responsible for the supervision of any less significant banks. The Finnish national competent authority is the Financial Supervisory Authority, which operates in connection with the Bank of Finland (Finnish central bank). The ECB can decide at any time to classify a bank as significant if this is necessary to ensure that supervisory standards are applied consistently.⁹

Single Resolution Mechanism, Single Resolution Board and the FFSA

In the Single Resolution Mechanism (SRM), the Single Resolution Board (SRB), a new agency established in 2015, is responsible for the drafting of resolution plans for all significant banks (SIs) in cooperation with the national resolution authorities. The Finnish national resolution authority is the Finnish Financial Stability Authority (FFSA). The FFSA is responsible for drawing up resolution plans for all less significant banks (LSIs) in Finland. The SRB is also responsible for the Single Resolution Fund (SRF). The FFSA participates in the resolution planning concerning Nordic banks under the remit of the Nordic resolution authorities through the resolution college.¹⁰



2 How well is the FFSA equipped and prepared to carry out bank resolution tasks?

The FFSA is well placed to carry out bank resolution tasks. The national Resolution Act provides the FFSA with powers to apply the required resolution tools and powers. The agency is also responsible for Finnish deposit guarantee tasks. To ensure the independence of its operations and decision-making, the FFSA was established as a separate agency where decisions are taken by the Director General. The agency staff numbers have developed as planned. The obligation to exchange information between the FFSA and the Financial Supervisory Authority laid down in law has been supplemented with a memorandum of understanding (MoU) on cooperation. Access to information has also been enhanced with an agreement on the right of access of the FFSA to certain IT systems of the Financial Supervisory Authority. However, the drafting of a corresponding MoU between the FFSA and the Bank of Finland is still at the early stages.

2.1 The FFSA was established as an independent agency

Finland established a new agency called the Financial Stability Authority to serve as the resolution authority referred to in Article 3 of the EU Bank Recovery and Resolution Directive. When examining the different implementation options, the Bank of Finland and the Financial Supervisory Authority were deemed to have the required expertise that could be utilised in the operations of the resolution authority. However, to ensure the operational independence of the authority, the FFSA was established as a separate agency. The FFSA was established by adopting the Act on the Financial Stability Authority (1195/2014). The Act entered into force on 1 January 2015.¹¹

Establishing the FFSA as a separate agency aimed to ensure the independence of its operations and decision-making

The activities of the FFSA are guided by its Rules of Procedure, confirmed by the Director General

The FFSA is a leader-driven agency where decisions are taken by the Director General. The Director General is appointed by the Government. The current Director General was appointed for a five-year term starting from 1 May 2015. The decision on a leader-driven agency was supported by the need for expedient and efficient decision-making capability in crisis situations.¹² The activities of the FFSA are guided by its Rules of Procedure¹³, confirmed by the Director General. The FFSA consists of two units: the Resolution Unit and the Administration and Deposit Guarantee Unit, whose heads report to the Director General. The Director General and the heads of the Resolution Unit and the Administration and Deposit Guarantee Unit constitute the Management Group of the agency.

The FFSA consists of two units: the Resolution Unit and the Administration and Deposit Guarantee Unit

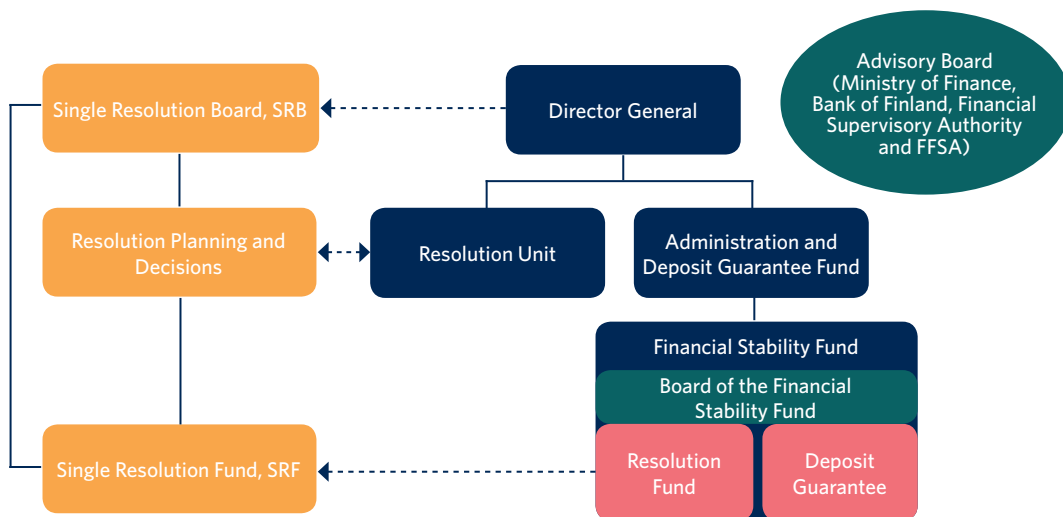


Figure 1: Finnish Financial Stability Authority (FFSA) as part of the Single Resolution Mechanism. Modified from: the website of the Financial Stability Authority. Accessed on 15/07/2019.

The proportion of permanent public-service relationships in the staff has been increased as planned

At the end of 2018, the number of staff at the FFSA totalled 17 (Table 1). According to the 2018 final accounts of the FFSA, the development of the staff structure at the agency has progressed as planned as the proportion of permanent public-service relationships has increased from 53% to approximately 71%. At the end of the year in review, the staff education level index was 6.8.¹⁴

Table 1: Development in the staff number at the FFSA 2015-2018

| | 2015 | 2016 | 2017 | 2018 |
|-------------------------------------|------|------|------|------|
| Total staff | 5 | 12.5 | 14.5 | 17.6 |
| Resolution planning | 2 | 4.5 | 4.5 | 6.5 |
| Resolution development | 0.5 | 2 | 2 | 2.5 |
| Deposit guarantee | 0.5 | 1 | 2.5 | 3.5 |
| Administration and Director General | 2 | 4.5 | 5.5 | 5 |

Chapter 2, section 5 of the Act on the Financial Stability Authority also enables the agency to utilise the personnel resources of other authorities to carry out its tasks. In such cases¹⁵, the FFSA would make a proposal on the matter to the Government, who would then appoint a public official from the Ministry of Finance, Bank of Finland or the Financial Supervisory Authority for a fixed-term public-service relationship with the FFSA.

During a period of crisis, the FFSA may also utilise the personnel resources of other authorities to carry out its tasks

Tasks and resources have not been allocated according to significant and less significant banks, except in the case of Nordea

The FFSA has a separate team in the planning team that is solely responsible for the resolution planning for Nordea, but otherwise there is no administrative distribution of specialists into units/teams responsible for the resolution preparation in the case of significant banks (SIs) or less significant banks (LSIs). In practice, the resolution specialists of the Resolution Unit of the FFSA are responsible for the preparation tasks concerning both significant banks and less significant banks.

FFSA Advisory Board

The FFSA has an Advisory Board consisting of representatives appointed by the agency, the Ministry of Finance, the Bank of Finland and the Financial Supervisory Authority. The task of the Advisory Board is to secure cooperation and the exchange of information between the above-mentioned authorities on matters within the remit of the FFSA. The Ministry of Finance appoints the Advisory Board for three years at a time at the proposal of the above authorities.¹⁶

The task of the Advisory Board is to secure the exchange of information

The activities of the FFSA are funded by administrative fees collected from the sector

The activities of the FFSA are funded by administrative fees collected from credit institutions and investment firms in accordance with the Act on the Financial Stability Authority's administrative fee (1197/2014).¹⁷ Under the Act, the administrative fee is collected once per calendar year as either a basic fee or as a combination of the basic fee and a proportional fee. The basic fees are fixed and paid in euros, while the proportional fees are determined on the basis of the balance sheet total or revenue in accordance with the latest approved financial statements of the entity liable to pay the fee. In 2018, the administrative fees collected by the FFSA totalled EUR 2.61 million.¹⁸

The administrative fee is collected as either a basic fee or as a combination of the basic fee and a proportional fee

2.2 The tasks, resolution tools and powers of the FFSA are stipulated in law

Under part II, chapter 2, section 1 of the Resolution Act, the agency must draw up a resolution plan for a credit institution after consulting the Financial Supervisory Authority and resolution authorities of significant branches. According to chapter 1, section 2 of the Act on the Financial Stability Authority (1195/2014), the FFSA serves as a national resolution authority with the purpose of ensuring the stability of the financial markets, restructuring the operations of credit institutions and investment firms in financial difficulty, and drawing up resolution plans for central securities depositories.

The FFSA must draw up resolution plans for credit institutions

The tasks of the FFSA are laid down in the Act on the Financial Stability Authority

Pursuant to chapter 1, section 4 of the Act on the Financial Stability Authority, the task of the agency is to:

1. carry out the tasks assigned to it in the Resolution Act and oversee compliance with the Act together with the Financial Supervisory Authority;
2. in accordance with the EU's Resolution Regulation, participate in the work of the Single Resolution Board referred to in Article 42 of the Regulation, cooperate with the Board and submit to the Board information necessary for the performance of its duties;
3. carry out the calculation, collection and management of the contributions referred to in the Resolution Regulation, as well as the transfer of such contributions to the Fund referred to in the Regulation;
4. carry out the collection of the payments covering the administrative costs of the Board and the transfer of such payments to the Board;
5. implement decisions taken by the Board under the Resolution Regulation;
6. carry out the tasks concerning the Deposit Guarantee Fund laid down in chapter 5 of the Act on the Financial Stability Authority, collect deposit guarantee contributions and manage them, as well as take decisions on the liability to pay;
7. prepare in cooperation with the Ministry of Finance the granting of the loan or other form of support specified in Article 73 of the Resolution Regulation to the Fund referred to in the Regulation;
8. make proposals and initiatives concerning the development the rules and regulations concerning resolution in the financial sector;
9. carry out the tasks assigned to it in the Act on Credit Institutions;
10. cooperate with other authorities;
11. organise training within its remit;
12. carry out any other tasks assigned to it in another act or decree.

According to the Act on the Financial Stability Authority, further provisions on the objectives of FFSA operations and on its tasks are laid down in the Resolution Act and the EU's Resolution Regulation.

Provisions on the resolution objectives are laid down in the Resolution Act

Chapter 1, section 6 of the Resolution Act lays down provisions on the objectives of resolution and the general principles governing the application of the Act. According to the Resolution Act, the FFSA must take account of the following general resolution objectives:

1. to ensure the continuity of critical functions;
2. to prevent contagion between institutions and any other significant adverse effects which would be a risk to financial stability, as well as to maintain market discipline;
3. to protect public funds by minimising reliance on extraordinary public financial support;
4. to protect depositors and investors covered, as well as customer funds.

When pursuing the objectives referred to above, the FFSA must also seek to preserve asset value and minimise the cost of resolution. Where any objectives referred to above are in conflict with one another, the agency must weigh the significance of each objective and implement them in a manner that allows the achievement of the objectives as a whole.

The FFSA must take account of the general resolution objectives in its operations

When assessing the objectives, they must be considered as a whole

The FFSA has in use four resolution tools

According to part II, chapter 7, section 2 of the Resolution Act, the resolution tools include:

1. bail-in
2. sale of business
3. asset separation and
4. bridge institution

Chapter VI of the Bank Recovery and Resolution Directive lays down the resolution powers. Provisions in accordance with Article 63 BRRD are laid down nationally in part IV, chapter 12, section 1 of the Resolution Act (Powers of the agency).

2.3 Improvements in the risk management at the FFSA

In its audit of risk management and continuity of operations in central government (20/2018), the National Audit Office recommended that all agencies should prepare documents that are in accordance with the risk management policy model set out in the 2017 recommendation by the Government Financial Controller's Function or documents with corresponding contents.

According to FFSA's 2018 final accounts¹⁹, the agency had decided to integrate the risk management model development project with the continuity planning work in the agency. To prepare for disruptions, the agency has drawn up the FFSA Roadmap 2019–2020, according to which the work ensuring the continuity of FFSA's core operations in exceptional circumstances and the planning of secure technical solutions to facilitate effective cooperation between authorities in banking-related crisis situations was scheduled to take place in the autumn of 2019. The FFSA adopted its risk management policy on 31 October 2019.

The FFSA adopted its risk management policy in October 2019

2.4 Cooperation and the exchange of information between authorities have been clarified with protocols and agreements

There are several parties involved in processing information related to resolution plans or utilised in the drafting of such plans. Firstly, banks submit information to the FFSA. They also provide the Financial Supervisory Authority with information on prudential supervision, which the FFSA can also utilise. The FFSA forwards part of this information to the European Banking Authority (EBA) and the Single Resolution Board (SRB).

The COFRA decision clarifies the distribution of tasks and responsibilities between the FFSA and the SRB

In December 2018, the SRB adopted a decision²⁰ on the cooperation framework (COFRA) within the Single Resolution Mechanism between the SRB and national resolution authorities. The decision also discusses certain elements concerning resolution planning for LSI banks. The distribution of responsibilities and tasks described in the COFRA decision have been further clarified in the related Internal Agreement document.

Cooperation and exchange of information between authorities is stipulated by law

The requirement set by the Bank Recovery and Resolution Directive for close cooperation between the authorities carrying out supervisory and resolution tasks in the preparation, planning and implementation of resolution decisions is ensured by the obligation to cooperate imposed by legislation²¹ on the FFSA, the Ministry of Finance, the Bank of Finland and the Financial Supervisory Authority. Under chapter 7, section 2 of the Act on the Financial Stability Authority, the agency has the right to obtain, without delay, all information necessary for the performance of its duties from the Bank of Finland, the Financial Supervisory Authority and other authorities.

The MoU on cooperation clarifies the division of tasks between the FFSA and the Financial Supervisory Authority

The Financial Supervisory Authority and the FFSA must cooperate with each other. Prior to taking any measures in accordance with chapter 3 or 4 of the Act on the Financial Supervisory Authority, the Financial Supervisory Authority must consult the FFSA if the supervised entity or other financial market operator acts in breach of the Resolution Act or of any Commission regulations or decisions adopted pursuant to the Bank Recovery and Resolution Directive referred to in subsection 1 of chapter 1, section 4 the said Act.²² The memorandum of understanding on the cooperation and exchange of information in resolution tasks between the FFSA and the Financial Supervisory Authority was adopted in June 2019.

The FFSA received reading rights to the Financial Supervisory Authority's system services in October 2018

The Bank of Finland and the FFSA have concluded an agreement to organise a technical interface to the register of institutions (YHPE) and the RISKI system administered by the Financial Supervisory Authority. In the YHPE interface, the FFSA can access the Yhteisöt [Institutions] tab to search for data concerning institutions. The FFSA has reading rights to the information in the YHPE system. The supervisory data collected regularly by the Financial Supervisory Authority is transmitted to the RISKI system.

The FFSA has access rights to the supervisory data collected regularly by the Financial Supervisory Authority

The drafting of the MoU between the FFSA and the Bank of Finland is still in the early stages

According to the information from the audit of the FFSA, the preparation of the memorandum of understanding between the FFSA and the Bank of Finland has started, but no draft has yet been produced.



3 How has the preparation for bank resolution tasks been carried out in practice by the FFSA?

The FFSA has drawn up a first resolution plan for each less significant bank (eight banks in total). These plans largely cover the topics recommended for such plans, but some aspects, such as information and communication plans and resolvability assessment, have only been covered briefly. However, the plans indicate that the treatment of these topics will be further specified in connection with the updating of the plans. The order in which resolution plans are drawn up has been guided by the European Central Bank's criteria of classifying the three largest less significant banks in a Member State as high-priority less significant institutions. The Single Resolution Board has been informed of all resolution plans drawn up, and it has also approved all of these plans. Each of the eight banks has been informed of the resolution strategy recommended for the bank.

3.1 The drawing up of resolution plans is governed by a number of regulations

Guidance on the drafting of resolution plans is provided in a number of regulations at different levels, such as: the EU Bank Recovery and Resolution Directive, the Resolution Regulation (EU) No 806/2014, the Resolution Act 1194/2014, the Decrees 1284/2014 and 1285/2014 of the Ministry of Finance, Commission Delegated Regulations (EU) 2016/1075 and 2016/1450, and Commission Implementing Regulation (EU) 2018/1624. The Single Resolution Board also develops guidance at various levels for national resolution authorities. The information requirements are not absolute in all respects (information must be provided and quantified where appropriate and possible) and, for example, the requirement concerning a minimum set of templates for the provision of information to resolution authorities by credit institutions came into force in 2019²³.

Under the Resolution Act, the FFSA must draw up a resolution plan for a credit institution after consulting the Financial Supervisory Authority and the resolution authorities of significant branches. The resolution plan must prepare for resolution measures to be taken by the FFSA if the conditions for resolution are fulfilled. The plan must identify any material impediments to ensure the resolvability or restructuring of the entities concerned and, where appropriate, outline the relevant measures necessary to remove such impediments.²⁴

The first step of the process of drawing up a resolution plan is to assess the applicability of normal insolvency proceedings. Where bankruptcy is not feasible, a decision must be taken on the resolution strategy and approach. The suitability of resolution tools should then be assessed, impediments to resolvability identified and possible measures to remove them proposed. (Figure 2)

The resolution plan must prepare for resolution measures to be taken by the FFSA if the conditions for resolution are fulfilled

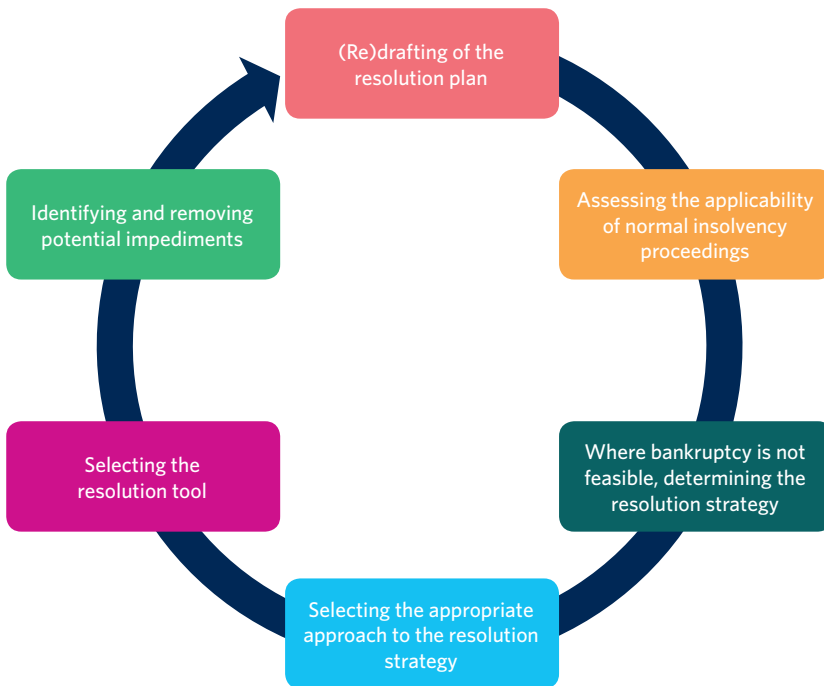


Figure 2: Resolution planning process. Modified from: the website of the Single Resolution Board at https://srb.europa.eu/sites/srbsite/files/intro_resplanning.pdf, p. 20, Figure 10. Accessed on 15/07/2019.

Further provisions on the information to be included in the plans and issues to be considered in the drafting have been laid down in decrees of the Ministry of Finance

In accordance with part II, section 3 of the Resolution Act, the resolution plan must set out options for the application of the resolution tools and powers referred to in part III to the institution. Section 3 of Decree 1284/2014 of the Ministry of Finance²⁵ contains a list of information to be indicated in the resolution plan, quantified where possible. In substance, the list in the Ministry of Finance Decree complies with the list of information to be included in the resolution plan laid down in the Bank Recovery and Resolution Directive. Decree 1285/2014 of the Ministry of Finance lays down the elements to be taken into account when assessing the resolvability or restructuring options of a credit institution, investment firm or group.

The resolution plan must set out options for the application of resolution tools and powers to the institution

Commission Delegated Regulation (EU) 2016/1075 on categories of information to be included in resolution plans

Under Article 22 of Commission Delegated Regulation (EU) 2016/1075²⁶, a resolution plan must contain at least the elements laid down in points (1) to (8) of the Article, including all information required under Article 10 to 12 of Directive 2014/59/EU and any additional information necessary to enable the delivery of the resolution strategy. A resolution plan must contain²⁷:

1. a summary of the plan;
2. a description of the resolution strategy considered in the plan;
3. a description of the information, and the arrangements for the provision of this information, necessary in order to effectively implement the resolution strategy;
4. a description of arrangements to ensure the operational continuity of access to critical functions during the resolution;
5. a description of the financing requirements and financing sources necessary for the implementation of the resolution strategy foreseen in the plan;
6. plans for communication with critical stakeholder groups;
7. the conclusions of the assessment of resolvability;
8. any opinion expressed by the institution or group in relation to the resolution plan.

With regard to the list above, it should be noted that points 1 to 8 of the list contain several sub-points in the Regulation. Furthermore, the amount of information to be included in the summary of the plan is large. According to Article 23 of Commission Delegated Regulation (EU) No 2016/1075, resolution authorities must assess resolvability based on the following consecutive stages:

- a. assessment of the feasibility and credibility of the liquidation of the institution or group under normal insolvency proceedings in accordance with Article 24;
- b. selection of a preferred resolution strategy for assessment in accordance with Article 25;
- c. assessment of the feasibility of the selected resolution strategy in accordance with Article 26 to 31;
- d. assessment of the credibility of the selected resolution strategy in accordance with Article 32.

According to section 4 of part II of the Resolution Act, the credit institution must provide the agency with the information and reports necessary for the drafting, maintenance and implementation of the resolution plan. Provisions on the information to be submitted for the drawing up of the plans are laid down in section 2 of Decree 1284/2014 of the Ministry of Finance²⁸. In accordance with part II, section 4, subsection 2 of the Resolution Act, if the information and reports referred to in subsection 1 are in the possession of the Financial Supervisory Authority, the Financial Supervisory Authority must, at the request of the FFSA, provide the FFSA with such information and reports.

Resolvability should be assessed at several stages

At the request of the FFSA, the Financial Supervisory Authority must provide the FFSA with the information and reports in its possession

The forms and templates for the submission of data to institutions are being clarified: draft technical standards of the European Banking Authority and Commission Implementing Regulations

Commission Implementing Regulation (EU) 2016/1066 specified the procedure and introduced a minimum set of templates for the provision of information to resolution authorities by credit institutions for the purpose of drawing up resolution plans. The templates referred to in Article 3 of the Implementing Regulation were used as applicable. After receiving feedback on user experiences, the Commission considered it necessary to update the minimum set of templates. Due to the extensiveness of the changes required, the Commission repealed Implementing Regulation (EU) 2016/1066 and adopted a new Implementing Regulation (EU) 2018/1624. The new reporting framework consists of 15 templates.²⁹

Minimum requirement for own funds and eligible liabilities (MREL)

Under Article 45 BRRD, Member States must ensure that institutions meet, at all times, a minimum requirement for own funds and eligible liabilities (MREL).³⁰ The minimum requirement is calculated as the amount of the institution's own funds and eligible liabilities expressed as a percentage of the total liabilities and own funds of the institution. The Commission has adopted a separate Delegated Regulation³¹ on the matter.

The MREL has a key role in achieving investor liability, since it ensures that an institution has an adequate amount of eligible liabilities to effectively implement the bail-in tool. MREL is a Pillar 2 type institution-specific requirement determined by the FFSA in connection with institution-specific resolution planning. The level of the requirement and its application depend materially on the resolution strategy determined for the group and the institution in the plan. For institutions placed under resolution, the MREL consists of the loss absorption amount (LAA) and recapitalisation amount (RCA). As regards institutions subject to normal insolvency proceedings, MREL, as a rule, consists solely of the loss absorption amount (recapitalisation amount = 0). The FFSA has issued a separate policy paper on MREL.³²

For institutions placed under resolution, the MREL consists of the loss absorption amount and recapitalisation amount

3.2 Bank-specific decisions have been taken on the eligibility of simplified obligations

Section 10 of part I of the Resolution Act lays down provisions on simplified obligations for certain institutions. For each less significant bank, the FFSA has taken a decision on whether or not simplified obligations can be applied. The FFSA has requested an opinion on the draft decisions from the Financial Supervisory Authority and the Single Resolution Board. The SRB has notified that it does not issue opinions on decisions in situations where it has been decided not to apply simplified obligations.

In preparing its decisions, the FFSA has based its assessments on a draft standard drawn up by the European Banking Authority for the application of simplified obligations. The EBA published the final draft standard in December 2017, and the Commission adopted the said draft standard in October 2018. Commission Delegated Regulation (EU) 2019/348 adopted in the spring of 2019 includes regulatory technical standards specifying the criteria for assessing the impact of an institution's failure on financial markets, on other institutions and on funding conditions.

The FFSA has based its assessments on a draft EBA standard

3.3 Resolution plans have been drawn up for each bank

The FFSA has drawn up resolution plans for all less significant banks in Finland (eight banks in total). The ranking of the banks has been guided by the ECB's criteria, according to which the three less significant banks in a Member State must be selected as the high-priority less significant institutions³³. Three resolution plans have been drawn up in 2017, three in 2018 and two in 2019. All the resolution plans drawn up by the FFSA state that the following background regulation has been taken into account in the drafting:

- Act on the Resolution of Credit Institutions and Investment Firms (1194/2014);
- Bank Recovery and Resolution Directive 2015/59 (BRRD);
- Decrees 1284/2014 and 1285/2014 of the Ministry of Finance;
- Commission Delegated Regulations (EU) 2016/1075 and 2016/1450;
- Commission Implementing Regulation (EU) 2016/1066.

The ranking of the banks has been guided by the ECB's policy

The resolution plans drawn up also state that the elements of the Planning Manual of the Single Resolution Board have been taken into account as appropriate. Furthermore, the principle of proportionality and the nature of the plan as a constantly evolving document have also been taken into account. It has been found that some of the topics included in the plans have only been covered briefly as the plans drawn up are the first versions of the resolution plan. In addition, relevant guidelines issued by the SRB regarding certain aspects have been incomplete.

3.4 Resolution plans largely cover the key categories

The audit compared the plans drawn up by the FFSA with each other and with the checklists³⁴ prepared in connection with the parallel audit. A total of 8 resolution plans were examined.

The plans drawn up by the FFSA largely cover the recommended key categories

The recommended structure of the resolution plan is discussed here in more detail, taking two areas as an example. Figure 3 presents the key categories of a plan, and Figure 4 provides a more detailed breakdown of the strategic business analysis sub-category. The recommended structure for a fully-fledged plan and a simplified plan³⁵ is very similar at heading level. Compared with the fully-fledged plan, the recommended structure of the simplified plan does not include the category of financial and operational continuity (Figure 3).



Figure 3: The recommended key categories of the resolution plans

Examined at heading level, the fully-fledged plans drawn up by the FFSA include all six key categories of the recommended structure (cf. Figure 3).

Compared with the checklist, the simplified plans do not include the chapter titled ‘Information and communication plan’. However, the plans do include Chapter 4 ‘Crisis communication’ and its sections 4.1 ‘Crisis communication by the insolvency estate’, 4.2 ‘Communication by the Deposit Guarantee Fund’ and 4.3 ‘Other crisis communication’.

When comparing the plans drawn up at different times, it was found that the contents of the management summary section have become more detailed over time. In the plans drafted in the early years, the summary section has been very long, but in the plans drawn up in 2019, the summary is presented as a concise table and the different components of the summary section are clearly titled.

The FFSA has not specified a separate template for the drawing up of the resolution plan for banks eligible for simplified obligations. The Bank Recovery and Resolution Directive and the Resolution Act would allow the FFSA to take a decision on such a template. Overall, the structure of the plans drawn up by the FFSA under simplified obligations is close to that recommended by the Single Resolution Board. The templates jointly agreed for national resolution authorities and related application practices would ensure that the practices of the different countries do not start to diverge too much. Uniform practices for the supervision of and resolution planning for less significant banks would also help to create better conditions for the establishment and use of the missing component of the banking union, i.e. the European Deposit Insurance Scheme (EDIS).

In its decisions (on the application of simplified obligations), the FFSA has informed banks that a resolution plan must be drawn up for them, and the resolution plan must contain

- a business analysis
- an assessment of the applicability of the insolvency proceedings
- a description of the necessary precautionary measures and
- a communication plan for crisis situations.

According to the decisions made, data is collected from the banks to the extent required by the plan as defined above. The FFSA has also announced that the bank resolution plan must be updated every two years, unless the agency sees a need to tighten the update schedule. The FFSA has also stated that, after the completion of the first plan for each bank, it will determine more precise deadlines for updating the next version.

The strategic business analysis should be presented at a more precise level in fully-fledged plans

In the recommended structure, the strategic business analysis consists of several subsections (Figure 4). Compared with the checklist, the fully-fledged plans drawn up by the FFSA were missing heading 2.9 Eligibility to simplified obligations. However, all plans covered the eligibility of the simplified obligations in the body text and included a reference to the separate bank-specific decision by the FFSA on the application of simplified obligations.

The templates jointly agreed for national resolution authorities and related application practices would ensure that the practices of the different countries do not start to diverge too widely

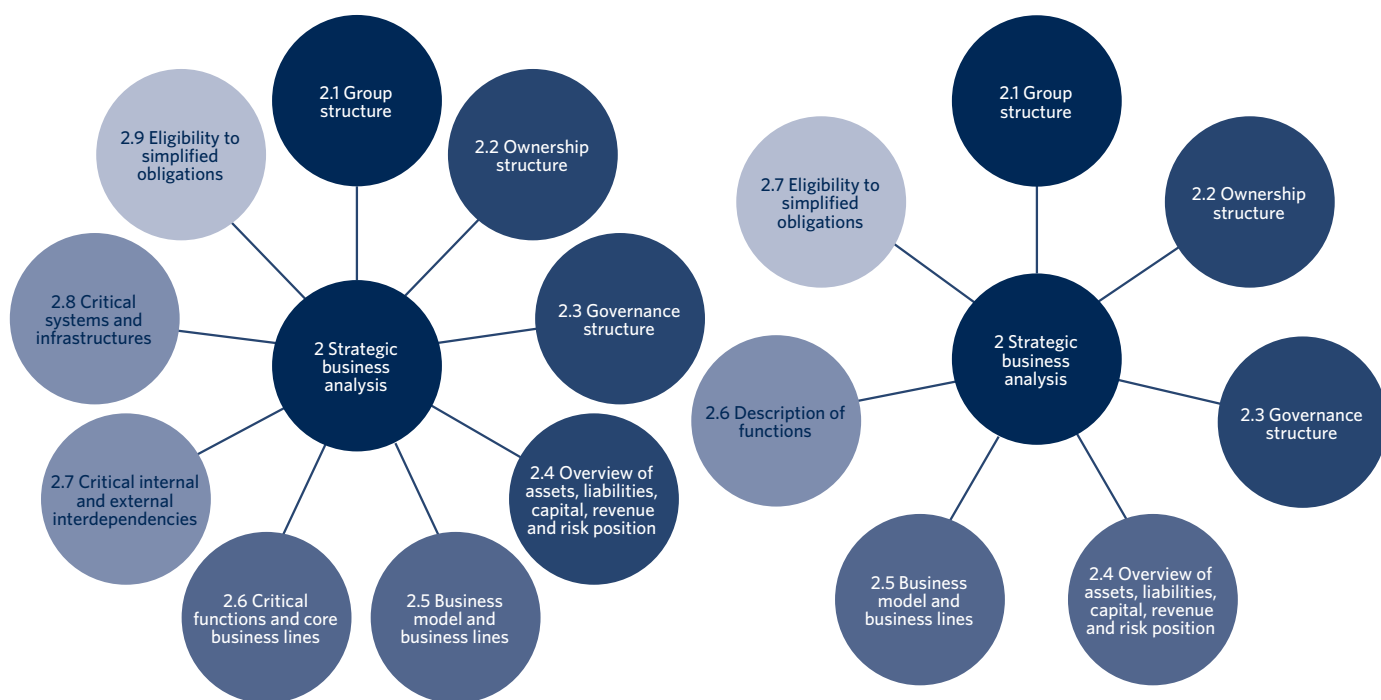


Figure 4: The recommended subsections of strategic business analysis in fully-fledged and simplified resolution plans

The simplified plans were missing the section ‘Overview of assets, liabilities, capital, revenue and risk position’. On the other hand, the resolution plans drawn up by the FFSA include the section ‘Financial position’, divided into subsections covering, for example, balance sheet structure, eligible liabilities and own funds, profitability and solvency.

All plans have assessed the feasibility and credibility of insolvency proceedings

In the recommended simplified plan structure, the section covering the preferred resolution strategy includes an assessment of the feasibility and credibility of normal insolvency proceedings. Fully-fledged plans must also address the selected resolution strategy in more detail. The simplified plans drawn up by the FFSA cover the preferred resolution strategy in a separate section. The credibility and feasibility of insolvency proceedings is discussed in the same section. The fully-fledged plans have addressed the feasibility and credibility of insolvency proceedings, the selected resolution strategy and the appropriate resolution tool.

Financial and operational continuity have been addressed

The fully-fledged plans have addressed the financial and operational continuity. The resolution plan must assess not only the solvency of the bank but also the continuity of liquidity and refinancing during the resolution process. Some plans stated that, for example, measures aiming to ensure liquidity in a resolution situation will be addressed in more detail in the subsequent versions.

As regards information and communication plans, the review has focused on the needs of the planning phase

Information and communication plans must cover the availability of information necessary for preparation of the resolution planning and implementation and the definition of the crisis management organisation and crisis communication. All critical systems that produce information required for resolution should also be operational during resolution. As a rule, the information required for resolution planning has been sufficiently available from the banks. However, at this stage, the plans have not sufficiently accurately defined the information needed for the resolution itself (including the valuation of the balance sheet at different stages).³⁶ In the area of crisis communication, information will be supplemented for the next resolution plans. The availability of information generated by information systems will improve along with the TALSU project (deposit guarantee payment project).

The deposit guarantee payment system project

A deposit guarantee payment system project has been under way at the FFSA. The aim of the project was to implement a set of information systems for the prompt payment of deposit guarantee compensation, including a system for the collection of data from banks and depositors. In March 2018, the agency successfully performed a stress test of the adequacy of the Deposit Guarantee Fund's assets as part of a statutory stress test of deposit guarantee schemes in accordance with the instructions of the European Banking Authority.³⁷ The FFSA has completed the payment system project, and the system was transferred to the production environment in the spring of 2019. With the new system, the FFSA will be able to pay deposit guarantee compensations quickly in the event of a bank's insolvency. In Finland, the requirement for payments within seven working days entered into force on 1 January 2020.

No significant impediments to resolvability have been identified at this stage

The resolution plans address the impediments to resolvability. According to the plans, no issues which would directly threaten the feasibility of the plans were identified at the drafting stage. The FFSA has not taken decisions under chapter 3 of the Resolution Act to remove significant impediments. However, the plans have sought to identify possible areas which will be subject to further assessment and which may require action from the bank itself or from the FFSA.

The specific focus points of the parallel audit

For the purpose of the parallel audit, it was also examined how the plans address the public interest, the resolution strategy and tools, and the minimum requirement for own funds and eligible liabilities.

The public interest has been discussed in all the fully-fledged plans. The fully-fledged plans drawn up in 2019 included separate subsections on the continuity of critical functions of institutions, the prevention of cross-institutional contagion and other adverse effects on financial stability, the promotion of market discipline, the protection of public funds by minimising reliance on extraordinary public financial support, the protection of covered depositors and investors and of customer funds held by institutions, avoid destruction of value, and the minimisation of the resolution costs. In the simplified resolution plans, the topics referred to above have been discussed in section 3.2.1 Credibility of insolvency proceedings.

The fully-fledged plans drawn up by the FFSA also cover the selected resolution tool. The plans drawn up in 2019 include separate sections (4.3.) on the different resolution tools and their suitability. The 2019 plans also include a separate annex on the decision on the minimum requirement for own funds and eligible liabilities. However, the plans drawn up in 2017 only include a draft decision on the minimum requirements for eligible liabilities, and a separate decision has been taken on these at a later date. The plans completed in 2017 have been updated in the autumn of 2019, and new MREL decisions have been taken regarding these plans.

Some resolution plans state that in its assessment carried out on the basis of the plan, the FFSA has not identified any grounds referred to in the Commission Delegated Regulation on MREL which would require the recapitalisation of the bank above the minimum level of its own funds. The FFSA has therefore not set an MREL requirement for these banks concerning the recapitalisation amount.



4 Does the NAOF encounter any limitations in the auditing of bank resolution tasks or accessing of relevant documents?

The National Audit Office was provided with all the FFSA documents it needed for its audit. The NAOF also received all the documents it requested from the Ministry of Finance. In the spring of 2019, the Single Resolution Board made a policy decision that the SRB documents guiding the operations of the FFSA would only be available for reviewing on the FFSA premises. For the purposes of the audit, it was not considered necessary to request any documents from the Financial Supervisory Authority.

4.1 The relevant information of the FFSA and the Ministry of Finance was fully accessible

The National Audit Office was provided with all the FFSA documents it needed for its audit. The NAOF also received all the documents it requested from the Ministry of Finance.

It was not considered necessary to request any information for the audit from the Financial Supervisory Authority

Section 2 of the Act on the National Audit Office (676/2000) lays down provisions on the NAOF's right of audit. The NAOF has the right to audit, for example, central government authorities, agencies, unincorporated state enterprises and companies in which the state has a controlling interest. Under section 1 of the Act, the NAOF is not responsible for auditing the finances of Parliament, funds under the responsibility of Parliament, the Bank of Finland, or the Social Insurance Institution.

Section 4 of the Act on the National Audit Office (676/2000) lays down provisions on the NAOF's right to obtain information. According to the section, the NAOF has the right to obtain the documents, reports and other information that are necessary for performing the task laid down for the NAOF without delay from the authorities and other entities referred to in section 2. The NAOF also has the right to receive the reports and other information that it needs in its operations from the Bank of Finland and the Social Insurance Institution of Finland. In Finland, the national competent authority responsible for banking supervision is the Financial Supervisory Authority, which according to section 2 of the Act on the Financial Supervisory Authority (878/2008) operates in connection with the Bank of Finland. Thus, in Finland, the NAOF has the right to obtain information from the competent banking supervisory authority operating in connection with the Bank of Finland, i.e. the Financial Supervisory Authority, but it does not have the mandate to audit it.

The NAOF has the right to obtain information from the competent banking supervisory authority, i.e. the Financial Supervisory Authority, but it does not have the mandate to audit its activities

The FFSA uses information received from the Financial Supervisory Authority in the drawing up of resolution plans, such as bank recovery plans and supervisory reviews (SREPs). The supervisory review must assess the bank's business model, governance and risk management, capital adequacy, and liquidity. The measures required from the bank must also be determined on the basis of the supervisory review.

The NAOF decided to focus in the audit on the resolution plans drawn up by the FFSA and the information contained therein. The audit did not examine materials that the FFSA uses in the drafting of resolution plans, such as materials submitted to it by credit institutions or the Financial Supervisory Authority.

The establishment of the banking union has sought to harmonise bank supervision and resolution procedures. However, the arrangements for the external audit of the banking union have not been harmonised. There are differences in the rights of Member States' national Supreme Audit Institutions to audit the national banking supervisory authority and the resolution authority. The report on the parallel audit of banking supervision published in 2017^{38,39} recommended that national governments and parliaments should review whether their Supreme Audit Institutions have the mandate to audit banking supervision and, if necessary, extend the audit mandate so that it is in accordance with Article 59(2) of the Credit Institutions Directive. The Contact Committee of the Supreme Audit Institutions of the European Union has drawn attention to deficiencies in the accountability and external audit arrangements of the Single Supervisory Mechanism for banks in the euro area⁴⁰.

There are differences in the rights of Member States' national Supreme Audit Institutions to audit the national banking supervisory authority and the resolution authority

4.2 SRB documents could be accessed but could not be used in the audit

SRB has prepared guidelines on the drawing up of resolution plans. In the audit, the NAOF was only allowed to review the SRB guidelines on the premises of the FFSA. No copies of the documents were allowed to be made. The audit report could have commented on the documents at a general level (e.g. by mentioning compliance/non-compliance) but, for example, precise numerical values and deviations from them could not have been discussed in the report.

The SRB guidelines contain different levels of guidance (e.g. Political Notes, Horizontal Technical Notes, Guidance Notes and Resolution Planning Manual). There were a total number of 20 documents available for examination, with a total of more than 900 pages. The exchange of information between the FFSA and the SRB in connection with the process of approving the resolution plans could also be viewed only as paper-printed emails on the FFSA premises.

Either paper or electronic copies of the documents used in audits are taken for audit documentation and for records to make it possible to later verify the link between the conclusions and opinions made in the audit with the audit records (audit trail). As no copies of the SRB documents could be obtained, they were not used as audit material.

SRB documents could only be reviewed on the FFSA premises

The division of bank resolution planning tasks between the national resolution authorities and the SRB means that the planning process of less significant banks and its functioning in relation to the guidelines cannot be audited as it was not possible to use the SRB guidance documents in the audit, as described above.



5 How does the Ministry of Finance fulfil its responsibility and accountability concerning the functioning of the resolution mechanism?

There have been no bank resolution cases in Finland, so there is no practical experience of the functioning of the new bank resolution scheme.

In 2007, Finland adopted a memorandum of understanding (MoU) on cooperation in crises management of financial market between different authorities to improve the crisis management capacity of the parties by ensuring the necessary exchange of information between the parties in each crisis situation and by enhancing cooperation to manage and resolve the financial market crisis in the best possible way. According to the information received in the audit, the work on updating the MoU was launched in September 2016 but has not yet been completed.

The Ministry of Finance has contributed to the implementation of the regulation for establishing arrangements related to bank resolution tasks in Finland (see Chapter 2). The Resolution Act lays down provisions on the conditions for resolution, opening resolution proceedings, contents of decisions, and communication under the resolution scheme. If the FFSA or the Financial Supervisory Authority considers that the conditions for resolution are fulfilled, they must, under law, communicate their assessment to each other, as well as the competent supervisory authority of the institution or group branch, the Bank of Finland and the European Central Bank, any group resolution authority of the institution, the Ministry of Finance, and the European Systemic Risk Board. The Resolution Act also sets out minimum requirements for the content of the decision placing an institution under resolution. The Act also lays down provisions on the notification and publication of the decision.

5.1 The MoU on cooperation regarding financial system crisis management between authorities has not been updated

In Finland, a memorandum of understanding on cooperation regarding financial system crisis management was drawn up between various authorities in 2007. It was prepared by The Financial Inspection (current Financial Supervisory Authority), the Ministry of Social Affairs and Health, the Bank of Finland, the Insurance Supervisory Authority (current Financial Supervisory Authority), and the Ministry of Finance. The purpose of the MoU on cooperation was to improve the crisis management capacity of the parties by ensuring the necessary exchange of information between the parties in each crisis situation and by enhancing cooperation to manage and resolve the financial market crisis in the best possible way. The MoU is applied under normal conditions in preparation for crisis management, as well as in circumstances which may jeopardise the stability of financial markets or cause significant disturbance in the functioning of the financial system.

The purpose of the MoU was to enhance the crisis management capabilities of the parties by ensuring the necessary exchange of information between the parties in each crisis situation

In 2016, the Ministry of Finance estimated that there is still a need for a policy of the kind described in the MoU, but the MoU requires an update. The updating work was initiated at a meeting between the authorities in September 2016 and by providing the authorities with an opportunity to comment on the MoU in writing. The work was to be completed by the end of 2017. According to the information received during the audit, the update work is still ongoing.

5.2 The conditions for resolution are laid down in the Resolution Act

Article 32 of the Bank Recovery and Resolution Directive deals with the conditions for resolution. In Finland, the conditions for resolution are laid down in part III, chapter 4, section 1 of the Resolution Act. This allows an institution to be placed under resolution if all of the following conditions are met:

1. the institution is failing or is likely to fail;
2. in view of the circumstances, there is no reasonable prospect that any other alternative measures would secure the continuity of its operations within a reasonable timeframe without jeopardising the objectives referred to in chapter 1, section 6, subsection 1;
3. the placing of the institution under resolution is necessary to safeguard an important public interest.

The impacts of the liquidation or insolvency proceedings must always be assessed

According to the Resolution Act (part III, chapter 4), the condition referred to in section 1, subsection 1, paragraph 3 (public interest) is fulfilled if placing the institution under resolution is a proportionate and necessary response to achieve one or more of the objectives set out in chapter 1, section 6, subsection 1, and the objectives cannot be achieved in a similar manner by placing the institution under insolvency or liquidation proceedings.

The detailed rationale of the Government Proposal concerning the Resolution Act states that an important public interest would refer, in particular, to safeguarding the stability of financial markets, and placing the institution under resolution would constitute a proportionate and necessary response to achieve this objective. The detailed rationale also states that the FFSA should always first assess the impacts of placing the institution under liquidation or insolvency proceedings. Institutions should always be primarily placed into liquidation or insolvency proceedings, if this can be done without jeopardising the objectives laid down in chapter 1, section 6 of the Resolution Act.⁴¹

The placing of an institution under resolution must be a proportionate and necessary response considering the objectives of the resolution

The institution must be considered failing or likely to fail

According to of part III, chapter 4, section 1 of the Resolution Act, an institution is considered to be failing or likely to fail within the meaning of subsection 1, paragraph 1 if it:

1. infringes or is assessed to be likely to infringe in the near future the requirements set out for continuing authorisation;
2. is unable or is assessed to likely be unable in the near future to pay its liabilities; or
3. requires extraordinary public financial support to continue its activities, provided that such support does not concern a temporary state guarantee to back a liquidity facility provided by the central bank or funding of the bank or an injection of own funds under ordinary terms which does not meet the conditions referred to in paragraphs 1 and 2 or in chapter 6, section 1, subsection 1, and provided that such action is necessary to remedy a serious disturbance in the financial markets.

The European Banking Authority has issued guidelines⁴² to interpret different circumstances when an institution is considered to be failing or likely to fail. The Financial Supervisory Authority has announced that it will comply with these Guidelines starting from 7 August 2018 and the FFSA starting from 12 November 2018.⁴³

5.3 Placing an institution under resolution, initiation of the resolution procedure and related decisions must be made public

When the conditions for placing an institution under resolution are fulfilled, the authorities must inform each other of their assessment

According to chapter 4, section 1 of the Resolution Act, the Board of an institution must notify the Financial Supervisory Authority without delay if it considers that the institution fulfils the conditions set out in subsection 1, paragraph 1. The Financial Supervisory Authority, in turn, must inform the FFSA immediately upon receipt of a notification referred to in this subsection. If the FFSA or the Financial Supervisory Authority determines that the institution fulfils the conditions set out in subsection 1, paragraph 1 or 2, they must communicate this assessment to each other, as well as to:

1. the competent supervisory authority of the institution or group branch
2. the Bank of Finland and the European Central Bank
3. any group resolution authority of the institution
4. the Ministry of Finance
5. the European Systemic Risk Board.

The content requirements for a decision on placing an institution under resolution are laid down in the Resolution Act

If the FFSA determines that the conditions of section 1 are not fulfilled, it is required to make a decision against placing the institution under resolution. If the conditions are met, the FFSA must make a decision on placing the institution under resolution. In accordance with part III, chapter 4, section 2 of the Resolution Act, the decision on placing the institution under resolution must at least indicate the following:

1. the date and time from which the institution will be subject to the resolution procedure;
2. the obligation of the institution to publish the decision in accordance with section 4;
3. the measures in accordance with the Resolution Act decided by the resolution authority when placing the institution under resolution.

According to the Resolution Act, the FFSA is required to provide notification of the decision

In accordance with part III, chapter 4, section 3 of the Resolution Act, the FFSA must immediately notify the following parties of the decision to place an institution under resolution:

1. the institution subject to the decision
2. the Financial Supervisory Authority and the European Central Bank
3. the competent supervisory authority of the branch of the institution placed under resolution
4. any group resolution authority of the institution
5. the Bank of Finland
6. the Ministry of Finance
7. the European Systemic Risk Board
8. the European supervisory authorities
9. the European Commission
10. clearing systems operators, where the institution is a clearing member within the meaning of section 2 of the Act on certain conditions for securities and foreign exchange transactions and clearing systems (laki eräistä arvopaperi- ja valuuttakaupan sekä selvitysjärjestelmän ehdoista 1084/1999).

The decision to initiate the resolution procedure must be published, inter alia, in the official journal

In accordance with part III, chapter 4, section 4 of the Resolution Act, if an institution is placed under resolution, a summary of the decision, and in other cases the full decision, must be published:

1. on the website of the Financial Stability Authority
2. on the website of the Financial Supervisory Authority
3. on the website of the institution subject to the procedure
4. on the website of the European Banking Authority
5. in the official journal.

5.4 The Ministry of Finance is responsible for the performance management of the FFSA

The FFSA, as a central government accounting agency, has the responsibility to draw up annual accounts and an annual report on its operations

Under section 21 of the State Budget Act (423/1988), government agencies must, in their annual accounts and reports on operations compiled in order to implement accountability, provide true and fair information on their compliance with the budget, their revenues and expenditure, their financial position and their operative performance (true and fair view). The FFSA, as a central government accounting agency⁴⁴, must prepare final accounts for each financial year.

The National Audit Office audits the final accounts and the annual report of the FFSA

After approval of the final accounts, the accounting agency must immediately send them to the Ministry, the National Audit Office and the State Treasury. In the 2018 audit, the NAOF found that the FFSA had complied with the budget and the key budget provisions. With regard to reporting on operational efficiency, the NAOF has recommended that, in future, efforts be made to present the development of person-years and costs by function, for example, as data on economic efficiency and productivity. In the annual summary of the 2018 financial audit, the NAOF also stated that the FFSA should pay attention to the organisation of its performance accounting so that it would provide more comprehensive information for the annual accounts on the development of operational efficiency.

The National Audit Office has recommended that the development of person-years and costs by function be presented as data on economic efficiency and productivity

The Ministry of Finance and the FFSA agree on performance targets

Each year, the Ministry of Finance and the FFSA draw up an annual performance agreement.⁴⁵ The performance agreement also includes preliminary targets for the next three years. The achievement of the targets is examined in performance management meetings between the Ministry and the FFSA. The FFSA's annual accounts, which also contain the annual report on its operations, acts as the outturn statement for the whole year. The Ministry of Finance issues an annual statement on the FFSA's annual accounts. In its statement on the FFSA's annual accounts for 2018⁴⁶, the Ministry of Finance has stated that the agency's reporting gives a clear picture of the activities performed. The FFSA has developed the definition of its social impact targets. The Ministry of Finance has requested the FFSA to develop the annual report contained in the annual accounts so that the report would also assess the implementation of the activities, especially in relation to the targets set.

5.5 Reporting to Parliament on the FFSA is limited in the Government's annual report to Parliament

The Finnish Parliament receives information about the Single Resolution Mechanism in connection with its participation in the national preparation of European Union matters under section 96 of the Constitution of Finland (731/1999). Furthermore, under section 97 of the Finnish Constitution, the Finnish Parliament has the right to receive information on international affairs. The above-mentioned matters are dealt with in Parliament as 'E' and 'U' matters.

The Government's annual report to Parliament is a central parliamentary document reporting on the implementation and success of activities. According to section 46 of the Constitution, the Government is required to submit to Parliament annual reports on governmental activities and on the measures undertaken in response to parliamentary decisions, as well as annual reports on state finances and adherence to the budget. Further provisions on the Government's annual report to Parliament are laid down in section 9a of the Government Act (175/2003) and in sections 17 and 18 of the State Budget Act (423/1988).

The 2015 Government's annual report to Parliament contains a brief description of the establishment and duties of the Financial Stability Authority. However, the subsequent annual reports (2016–2018) do not cover the Financial Stability Authority or its activities. The reporting in the 2015–2018 Government's annual reports has remained very similar in structure, focusing on the Financial Stability Fund.

The 2015 Government's annual report contains a brief description of the establishment and duties of the Financial Stability Authority

Reporting on the management of risks related to the banking sector as part of the reporting on the state's financial position

Considering the management of risks related to the financial liabilities of central government, the Government's annual report to Parliament should contain a more detailed account of the role and duties of the FFSA and the implementation of its activities (level of preparedness for bank resolution). The establishment of national resolution authorities and the resolution plans drawn up for banks by such authorities play a key role in the preparedness for bank resolution. The purpose of the Single Resolution Mechanism is to ensure that the banking sector and investors would bear the primary responsibility for any bank failure. Parliament should have more accurate information on how well the new structures and procedures to reduce risks to central government related to the banking sector have been implemented at the national level.

The tasks of the FFSA and the degree of their implementation should be reported more closely to Parliament

Appendix: Audit methods

This appendix describes how the findings presented in the audit were reached and what limitations relate to the findings.

Audit objective and utilisation of the audit findings

The main audit question was how well the structures and procedures concerning the resolution of banks have been implemented in Finland. The main question was examined through four supporting audit questions, which aimed to examine how well the FFSA is equipped and prepared to carry out bank resolution tasks, how the preparation for bank resolution tasks has been organised in practice by the FFSA, whether the NAOF encounters any limitations in the auditing of bank resolution tasks or accessing of relevant documents, and how the Ministry of Finance fulfils its responsibility for the functioning of the resolution mechanism (including accountability to Parliament).

The results of the audit can be used to develop the structures and procedures for resolution tasks and to improve transparency and accountability. Another purpose of the audit was to produce comparative data for a parallel audit examining the operations of national responsible authorities as part of the Single Resolution Mechanism. The participants in the parallel audit included the Supreme Audit Institutions of Germany, the Netherlands, Austria, Ireland, Spain, Portugal and Finland, as well as the European Court of Auditors.

Audited entities

The audit focused on the organisation of bank resolution tasks in the case of less significant banks. The audited entities were the Financial Stability Authority and the Ministry of Finance.

Opinions on the draft audit report were requested and received from the FFSA, the Ministry of Finance, the Financial Supervisory Authority and the Bank of Finland. The feedback contained in the opinions was taken into account in the preparation of the final audit report. The opinions and the abstract based on them can be viewed on the website of the National Audit Office.

Audit questions, criteria, material and methods

The audit questions, criteria, material and methods are briefly described on the next page. At the preliminary review stage, comments on the audit plan were requested from the FFSA and the Ministry of Finance.

Audit questions and sub-questions

1. How well is the FFSA equipped and prepared to carry out bank resolution tasks?
2. How has the preparation for bank resolution tasks been carried out in practice by the FFSA?
3. Does the NAOF encounter any limitations in the auditing of bank resolution tasks or accessing of relevant documents?

Audit criteria, materials and methods

Criteria: The FFSA has implemented resolution tasks in accordance with the regulatory framework, and the governance and guidance of the FFSA has been carried out in such a way that the proper functioning of the resolution function is ensured and the tasks can be carried out independently.

Materials: The EU Resolution Regulation, the Bank Recovery and Resolution Directive, the Commission Delegated Regulations, the Act on the Resolution of Credit Institutions and Investment Firms, the Act on the Financial Stability Authority, documents and written replies received from the audited entities.

Analysis methods: The analysis method used was a content analysis.

Criteria: The FFSA applies the relevant rules that are adequate for drawing up resolution plans and will produce a reasoned decision on the recommended resolution strategy for all (less significant) banks.

Materials: The EU Resolution Regulation, the Bank Recovery and Resolution Directive, the Commission Delegated Regulations, the Act on the Resolution of Credit Institutions and Investment Firms, the Act on the Financial Stability Authority, other guidelines and standards, the resolution plans drawn up by the FFSA and the guidelines prepared by the FFSA, documents and written replies received from the audited entities.

Analysis methods: The analysis method used was a content analysis.

Criteria: The NAOF has full access to all written and digital information concerning the resolution mechanism at the FFSA, including relevant information concerning the Single Resolution Board.

Materials: Documents and written replies received from the audited entities.

Analysis methods: The analysis method used was a content analysis.

4. How does the Ministry of Finance fulfil its responsibility and accountability concerning the functioning of the resolution mechanism?

Criteria: The Ministry of Finance has organised its tasks so that (1) the Ministry's ultimate responsibility for the operation of the resolution function and for the operation of the entire financial system in Finland is safeguarded and (2) the Ministry is accountable to the Parliament.

Materials: the Act on the Resolution of Credit Institutions and Investment Firms, Government's annual reports to Parliament, performance agreements, documents and written replies received from the audited entities.

Analysis methods: The analysis method used was a content analysis.

Audit process

The audit was carried out between 29 April 2019 and 6 March 2020. The interviews and acquisition of material were conducted between 1 May and 31 October 2019. Changes taking place in the audited entities have been considered up to 31 October 2019.

Auditors

The audit was carried out by Principal Performance Auditor Vuokko Mustonen, who also acted as the project manager, and trainee Markus Sundquist (from 1 June to 31 August 2019).

Limitations and reservations concerning the audit findings

The audit did not examine the correctness of the information and calculations used by the FF-SA in the resolution plans and preparation thereof.

References

- 1 Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014.
- 2 Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014.
- 3 https://www.eca.europa.eu/sites/cc/Lists/CCDocuments/Task_Force_EBU/Task_Force_EBU.pdf . Accessed on 15/07/2019.
- 4 https://www.vtv.fi/en/news_item/there-are-differences-in-eu-banking-supervisory-structures-and-practices-between-member-states/. Accessed on 15/07/2019.
- 5 The checklists used in the parallel audit are based on the document titled Guidance Note on simplified obligations for institutions under the SRB's direct remit, October 2018, approved in June 2019.
- 6 Bank of Finland and Financial Supervisory Authority 2019: Macroprudential Report 1/2019, 28 June 2019, p. 28.
- 7 Decree 65/2018 of the Ministry of Finance, section 2.
- 8 <https://www.consilium.europa.eu/en/policies/banking-union/>. Accessed on 15/07/2019.
- 9 <https://www.consilium.europa.eu/en/policies/banking-union/>, <https://www.bankingsupervision.europa.eu/about/thessm/html/index.en.html>, <https://www.finanssivalvonta.fi/en/banks/>. Accessed on 15/07/2019.
- 10 <https://rvv.fi/en/the-authority-and-the-single-resolution-mechanism>, <https://rvv.fi/en/drafting-resolution-plans>, <https://srb.europa.eu/> . Accessed on 15/07/2019.
- 11 Government Proposal HE 175/2014, p. 3. Objectives and main proposals, 3.2.1 Establishment of the national Financial Stability Authority, p. 57-60.
- 12 Government Proposal HE 175/2014, p. 3. Objectives and main proposals, 3.2.1 Establishment of the national Financial Stability Authority, p. 59.
- 13 Rules of Procedure of the Financial Stability Authority.
- 14 2018 final accounts of the Financial Stability Authority, p. 16.
- 15 Government Proposal HE 175/2014, Detailed rationale, Act on the Financial Stability Authority, section 5, subsection 4, p. 139.
- 16 Act on the Financial Stability Authority (1195/2014), section 4.
- 17 Act on the Financial Stability Authority, chapter 1, section 8.
- 18 2018 final accounts of the Financial Stability Authority, p. 17.
- 19 2018 final accounts of the Financial Stability Authority, p. 19.
- 20 Decision of the Single Resolution Board of 17 December 2018 establishing the framework for the practical arrangements for the cooperation within the Single Resolution Mechanism between the Single Resolution Board and National Resolution Authorities (SRB/PS/2018/15).
- 21 Chapter 7, section 1 of the Act on the Financial Stability Authority, section 3d of the Act on the Financial Supervisory Authority (878/2008), section 26a of the Act on the Bank of Finland (laki Suomen Pankista 214/1998).
- 22 Act on the Financial Supervisory Authority (878/2008), section 3d.
- 23 Commission Implementing Regulation (EU) 2018/1624, repealing the previous Implementing Regulation (EU) 2016/1066.
- 24 Resolution Act, part II, chapter 2, section 1.
- 25 Decree 1284/2014 of the Ministry of Finance.
- 26 Commission Delegated Regulation (EU) 2016/1075 of 23 March 2016.
- 27 Points (1) to (8) of Article 22 contain several sub-points.
- 28 Decree 1284/2014 of the Ministry of Finance.
- 29 Commission Implementing Regulation (EU) 2018/1624, p. 24, Annex II, point 1. General instructions.
- 30 MREL = Minimum Requirement for Own Funds and Eligible Liabilities.
- 31 Commission Delegated Regulation (EU) 2016/1450 of 23 May 2016.
- 32 Memorandum of the Financial Stability Authority of 29 April 2019. Application of the minimum requirement for own funds and eligible liabilities (MREL).
- 33 <https://www.bankingsupervision.europa.eu/about/ssmexplained/html/hplsi.en.html>. Accessed on 15/07/2019.
- 34 The checklists used in the parallel audit are based on the Guidance Note on simplified obligations for institutions under the SRB's direct remit, October 2018, approved in June 2019.
- 35 Here, 'simplified plan' refers to a plan drawn up under simplified obligations.
- 36 In its plans, the FFSA has used a regulation issued by the Danish authorities as an international benchmark. According to this regulation, the local resolution authority may require a bank to provide a detailed updated balance sheet within 12 hours. The appendices to be reported are pre-defined and include, for example, liabilities in the order of priority under Danish insolvency law. In addition, an auditor must verify once a year that the data production process operates even in practice.
- 37 2018 final accounts of the Financial Stability Authority, p. 11.
- 38 https://www.eca.europa.eu/sites/cc/Lists/CCDocuments/Task_Force_EBU/Task_Force_EBU.pdf. Accessed on 15/07/2019.
- 39 https://www.vtv.fi/en/news_item/there-are-differences-in-eu-banking-supervisory-structures-and-practices-between-member-states/. Accessed on 15/07/2019.
- 40 https://www.vtv.fi/en/news_item/the-eu-contact-committee-draws-attention-to-gaps-in-banking-supervision/. Accessed on 15/07/2019.
- 41 Government Proposal HE 175/2014, Detailed rationale, Act on the Resolution of Credit Institutions and Investment Firms, chapter 4, section 1, p. 97.
- 42 EBA Guidelines, EBA/GL/2015/07, 6 August 2015.
- 43 Guidelines compliance table. EBA/GL/2015/07 Appendix 1, 6 August 2015 - Updated 12 November 2018. Accessed on 12/07/2019.
- 44 State Budget Decree (1243/1992), section 63.
- 45 The performance target document for 2016–2019; 2017–2019 performance agreements.
- 46 Statement by the Ministry of Finance on the 2018 annual accounts.



NATIONAL AUDIT OFFICE OF FINLAND
PORKKALANKATU 1, PO BOX 1119, FI-00101 HELSINKI, FINLAND
TEL. +358 9 4321, WWW.VTV.FI