16. December 2019

1. Summary

1.1 The Banking Union

The EU established the Banking Union in response to the financial crisis and the subsequent debt crisis in a number of European countries, particularly in euro area Member States. The Banking Union is a key element of the economic cooperation in the EU and is the part of the wider economic cooperation, which is currently developing the most.

The Banking Union is a cooperation among authorities at the EU level concerning supervision and crisis management of banks and mortgage credit institutions (hereinafter "credit institutions"). The purpose of the Banking Union is to strengthen the supervision and framework for crisis management of credit institutions. The Banking Union has as its purpose to contribute to rapid identification of problems in credit institutions whereby they can be effectively contained and handled in a manner that seeks to minimise harmful effects on financial stability, the economy and public finances.

Two common authorities have been set up as part of the Banking Union:

1. The Single Supervisory Mechanism (hereinafter "SSM"), which is established within the European Central Bank (ECB), and

2. The Single Resolution Board (hereinafter "SRB"), which is established under the European Commission. The SRB also manages a Single Resolution Fund (hereinafter "SRF") financed by the financial sector.

The SSM was established in November 2014. The SRB has been operational since January 2016. With the establishment of the SSM and SRB, the key elements of the Banking Union are in place and in function.

Euro area Member States participate in the Banking Union automatically. Non-euro area Member States, including Denmark, have an option of joining the Banking Union. To participate, a non-euro area Member State must submit an application to the ECB to enter into so-called "close cooperation" concerning the supervision of credit institutions in the Member State concerned. The establishment of close cooperation with the ECB entails participating in the SSM as well as the SRB, which is established under the Commission.

At present, the Banking Union includes the 19 euro area Member States. Bulgaria and Croatia have applied for admission. In Sweden, a report on

Sweden's possible participation in the Banking Union was published in December 2019, but Sweden has not yet concluded on participation.

The Banking Union is based on common EU regulation of credit institutions, which apply to all EU Member States, as well as on specific rules for the organisation and powers of the SSM and SRB, which apply only to the EU Member States in the Banking Union.

Within the Banking Union, there is a division of tasks and a close continuous cooperation involving the SSM, SRB and national authorities in the participating Member States.

Common supervision in the Banking Union
The SSM is an independent authority responsible for supervising the largest credit institutions in participating Member States. This currently includes 117 credit institutions. The national supervisory authorities take part in the supervision of the largest credit institutions and are responsible for supervising small and medium-sized credit institutions within a framework set by the SSM. The SSM has the overarching responsibility for supervising all credit institutions in the participating Member States.

For participating non-euro area Member States, the SSM's supervision will be implemented by instructions to the national supervisory authorities (in Denmark: the Danish Financial Supervisory Authority (FSA)) which will be responsible for their implementation. This means that implementation of SSM decisions for Danish credit institutions, if Denmark participates, would be carried out by the Danish FSA for both the smaller and the largest Danish credit institutions.

If Denmark participates, the SSM would supervise – trough instructions issued to the Danish FSA – Danske Bank (including Realkredit Danmark), Nykredit Realkredit (including Totalkredit) and Jyske Bank (including Jyske Realkredit). Nordea Kredit would also be under supervision from the SSM. Today, Nordea Kredit is already subject to the SSM's group supervision via its Finnish parent credit institution.

The Supervisory Board is the decision-making body of the SSM. The Supervisory Board is composed of the directors of the supervisory authorities from all the Member States participating in the Banking Union, a chairperson and vice chairperson (approved by the Council of Ministers and the European Parliament) and four representatives from the ECB. The director general of the Danish FSA would represent Denmark on the Supervisory Board, if Denmark participates.

The Supervisory Board submits decisions for final adoption by the ECB Governing Council, comprising the governors of the national central banks of the euro area Member States and the Executive Board of the ECB. The ECB Governing Council adopts the Supervisory Board's decisions in a non-objection procedure. This means that the decisions of the Supervisory Board are adopted unless the Governing Council objects. Up to now, there have been no instances where the Governing Council has objected to a decision from the Supervisory Board.

The legislation on SSM implies that non-euro area Member States participate in the SSM on equivalent terms with euro area Member States. Non-euro area Member States can decide not to comply with the SSM's supervisory decisions (cf. the section on non-euro area Member States below).

Common framework for crisis management in the Banking Union
The SRB is an independent authority set up under the Commission. The SRB is responsible for the crisis management of the largest credit institutions supervised by the SSM, as well as of other cross-border credit institutions in all participating Member States, which currently includes 128 credit institutions.

The SRB has the overall responsibility for the crisis management of all credit institutions in the participating Member States. National resolution authorities from all EU Member States in the Banking Union participate in the SRB. As a general rule, the national resolution authorities are responsible for managing smaller, non-cross border credit institutions within guidelines developed by the SRB.

If Denmark joins the Banking Union, the SRB is expected to be responsible for the crisis management of the groups which the SSM would be supervising (i.e. Danske Bank, Nykredit, Jyske Bank and Nordea Kredit) as well as Saxo Bank.

The legislation on SRB implies that non-euro area Member States participate in the single resolution regime on equal terms with euro area Member States. Crisis-management discussions and decision-making take place in either a plenary session or an executive session of the SRB. Plenary sessions decide on matters of a general nature, e.g. concerning the SRB's budget and general guidelines. The national resolution authorities of all the participating Member States participate in the plenary session. The executive session makes decisions concerning how to deal with specific failing credit institutions. The national resolution authorities from the participating Member State or Member States in which the credit institution concerned is established or has subsidiaries take part in this session. The SRB chairperson and five independent members of the SRB (appointed by the Commission after considering the views of the Council and the European Parliament) take part in both sessions.

According to EU regulation, all EU Member States, i.e. both those within and outside the Banking Union, are required to establish a resolution fund. Within the Banking Union, this is a SRF managed by the SRB on behalf of the Member States participating in the Banking Union. The SRF is financed by contributions paid by credit institutions in the participating Member States. Subject to specific terms and conditions, the SRF may be used in the crisis management of an institution, e.g. to grant loans or absorb losses. Generally, the losses suffered by a failing credit institution must be substantial before the SRF can contribute to covering losses or recapitalising the institution. Thus, shareholders and creditors in failing credit institutions must up front cover losses and ensure recapitalisation ("bail-in") equivalent to at least 8 per cent of the institution's liabilities, before the SRF can contribute. In addition, the contribution from the SRF towards covering losses and recapitalising a failing credit institution is limited to a sum equivalent to 5 per cent of the institution's liabilities. Additional contributions from the SRF beyond that require further bail-in of the creditors.

The SRF is gradually being built up until 2024. Until then, the fund consists of national compartments, which will gradually be merged into a single resolution fund. Once the SRF is fully established in 2024, it will constitute 1 per cent of the covered deposits in all participating Member States, equivalent to roughly EUR 60 billion (approx. DKK 450 billion). In July 2019, the SRF amounted to EUR 33 billion, i.e. almost DKK 250 billion.

In extreme circumstances, where bail-in has been applied and financial means in the SRF are not sufficient, the granting of temporary loans from a Common Backstop within the Banking Union to the SRF will be possible as a last resort. The size of the Common Backstop must correspond to the size of the SRF. All loans from the Common Backstop must be repaid with interests by the participating Member States' credit institutions. This means that the Common Backstop must not imply costs for public finances of the participating Member States, as it will be fiscally neutral in the medium term. This requirement is enshrined in a political agreement and will be implemented in the intergovernmental treaty on the European Stability Mechanism (ESM) for euro area Member States which may only be amended by a unanimous decision. It would always be up to the Danish Parliament (Folketinget) and the Danish government to decide whether the Danish part of the Common Backstop should be used.

The SSM and SRB are described in more detail in Chapter 2.

1.2 Factors relevant for Danish participation in the Banking Union

In 2015, a report was published on Denmark's possible participation in the Banking Union. The report concluded that, altogether much spoke in favour of participation in the Banking Union as being in the interest of Denmark. At the same time, several factors were highlighted as requiring further clarification before a decision concerning Danish participation could be made. Below, an assessment is provided on the factors which in the 2015 report were identified as requiring further clarification, as well as relevant factors that have been identified afterwards.

Participation in the Banking Union's Single Supervisory Mechanism
The SSM has been in operation since November 2014, and experience has now been gained as to how the SSM functions. This is described in further detail in Chapter 3.

At present, Denmark has a national financial supervision of high quality. It is assessed that the supervision of the largest credit institutions within the Banking Union is also well-functioning and of high quality.

Moreover, Denmark's participation in a common supervisory regime at EU level would change the framework conditions for the supervision of the largest Danish credit institutions. It would enable wider and deeper cooperation on the supervision of the credit institutions covered, including strengthening the supervision of the credit institutions' cross border activities. If Denmark were to participate in the Banking Union, there would be "additional eyes" on Denmark's largest credit institutions. The SSM also has a wider basis for comparison by virtue of its supervision of the largest European credit institutions, whereby the largest Danish credit institutions can be compared to comparable credit institutions in other participating Member States. Finally, the SSM has a wide-ranging recruitment base, making it possible to ensure a high degree of specialisation and expertise among SSM staff. This would strengthen the supervision of the largest credit institutions in particular.

The Danish FSA would continue to supervise small and medium-sized credit institutions. All Danish credit institutions would be under the SSM's overall responsibility, and small and medium-sized credit institutions would therefore also be required to provide information etc. to the SSM; similarly, the supervision of small and medium-sized institutions would be exercised within a framework laid down by the SSM.

The SSM conducts its supervision on the basis of standardised supervisory practice. This helps to ensure that supervision is conducted consistently across the participating Member States, and ensures equal treatment and predictability for the credit institutions, the authorities and the markets. This also implies that the supervision is less adapted to specific national conditions.

If Denmark joins the Banking Union, the Danish FSA would continue to be closely involved in the day-to-day supervision of the largest Danish credit institutions, and the Danish Minister for Industry, Business and Financial Affairs would still be responsible for identifying Denmark's systemically important financial institutions (SIFIs). In the supervision of Danish credit institutions, the Danish FSA would for instance participate with a substantial number of employees in the so-called "joint supervisory teams" and in the inspections in the credit institutions. The Danish FSA would not make supervisory decisions on its own in the event of Danish participation, but the Danish FSA's involvement would contribute to taking into account knowledge on specific Danish conditions, including risk factors, unique business models, and Denmark's financial sector and national economy in general.

It is expected – as was also highlighted in the 2015 report – that entering into the Banking Union would mean that it would not be possible to uphold certain Danish rules and supervisory practices. This concerns for instance the publication of the Danish FSA's inspection reports. Furthermore, it is not expected to be possible to maintain the so-called "Supervisory Diamond" (Tilsynsdiamant) for banks, which sets out indicators for what the Danish FSA considers to be activities with elevated risks. Rules and supervisory practices would be constituted by the SSM's rules and practices in these areas.

Participation in the Banking Union would increase the need for resources in the Danish FSA and would require additional Danish expenditures to finance the SSM. Part of the resource requirement follows from the fact that the Danish FSA, in addition to participating in the supervision of the biggest Danish credit institutions, would also be involved in supervising the other credit institutions supervised by the SSM. Both the Danish FSA and the SSM are financed by the supervised credit institutions.

Therefore, it is essential for the SSM to focus on an efficient organisation of its decision-making procedures.

In the light of recent money-laundering cases, it is relevant to consider the impact of Denmark's participation in the Banking Union in the effort to fight money laundering in Danish credit institutions. The impact is considered to be limited under the current division of responsibilities where it is the responsibility of the national authorities, not the SSM, to supervise anti-money laundering. If Denmark participates in the Banking Union, the Danish FSA would continue to be responsible for supervision of anti-money laundering in Danish credit institutions. The SSM's tasks include prudential supervision of credit institutions, i.e. decisions concerning higher capital requirements, governance of credit institutions, etc. Accordingly, it would be possible for the SSM to increase a bank's capital requirements or ultimately revoke a banking licence due to circumstances originating from money-laundering. The Danish FSA currently has the same options vis-à-vis Danish credit institutions.

Overall, it is the assessment that in the course of a few years, a common banking supervision has been established that is organisationally efficient, technically competent and has a deep insight into the EU's largest credit institutions. The supervision by the Danish FSA is of high-quality and the Danish FSA would continue to be closely involved in day-to-day supervision of all Danish credit institutions if Denmark participates in the Banking Union. In addition, expertise and resources from the SSM would be added to the supervision of the largest Danish credit institutions. Following this, there would be "additional eyes" on the credit institutions, and there is a wider basis for comparison. Danish participation in the Banking Union could as a result of inter alia added international expertise and a broader basis for comparison lead to stronger supervision of the largest Danish credit institutions than what would otherwise be possible under solely national supervision.

Crisis management in the Banking Union

The SRB has been in operation since 2016. Although there, naturally, have been fewer crisis-management decisions than supervisory decisions, it is now possible to make a preliminary assessment of how Danish credit institutions are expected to be handled if Denmark were to participate in the Banking Union.

In the longer term, the SRB is expected to gain greater experience of crisis management of the largest and cross-border credit institutions in the Banking Union than what is possible for the national supervisory authorities separately. Within the Banking Union, there would be "additional eyes" on the credit institutions, which is expected to strengthen crisis management. Moreover, the national resolution authorities' participation in the SRB helps preserve knowledge of national circumstances. In this light, it is assessed that the SRB can ensure a controlled and more consistent crisis management of the largest and cross-border European credit institutions. The SRB is still being built up in view of strengthening efficiency and transparency.

It is expected that effective resolution plans will be drawn up within the Banking Union ensuring an orderly crisis management of any failing Danish credit institutions. Crisis management in the Banking Union is discussed in Chapter 4.

In the event of Danish participation in the Banking Union, Denmark's national resolution authorities (Finansiel Stabilitet and the Danish FSA) are expected to require additional resources, which would have to be financed by the credit institutions.

The SRB is responsible for assessing whether credit institutions must be subjected to crisis management within the Banking Union pursuant to common EU-rules, or whether the credit institutions should instead be managed according to the respective national insolvency laws. In the event of Denmark's participation, the SRB would make this assessment for the largest and cross border Danish credit institutions, and the Danish resolution authority, Finansiel Stabilitet, would make the assessment for the remaining credit institutions pursuant to SRB guidelines.

As of yet, the SRB has in four cases decided whether a credit institution would be crisis managed within the Banking Union or pursuant to national insolvency laws instead. In all four cases, no funds from the sector-financed SRF nor loans from the participating Member States were used. There have been cases where the SRB has entrusted the crisis management to the national insolvency procedures and where Italy (where the credit institutions in question were established) chose to make use of its own public funds for crisis management after state-aid approval from the European Commission.

Generally, the approach both within and outside the Banking Union is that the SIFIs are to be restructured and continue on the market rather than being resolved. It is not a priori known which credit institutions the SRB would consider systemic.

Current practice in Denmark is that even small credit institutions, when failing, qualify for crisis management. This means that they are not resolved pursuant to normal insolvency law but through a "controlled" resolution, which maintains the institution's critical functions during the resolution process. The preliminary cases within the Banking Union have shown that the SRB employs a different practice for this assessment. Within the Banking Union, it seems to be only the largest credit institutions that are deemed to meet the conditions for crisis management rather than normal insolvency proceedings.

If Denmark participates, current Danish legislation would entail that failing credit institutions would have to enter into bankruptcy if they do not meet the conditions for crisis management. This is not considered appropriate, as a bankruptcy would mean that customers would lose access to their bank, payment systems, etc.

The working group therefore recommends an amendment of insolvency proceedings for Danish banks in the event that Denmark participates in the Banking Union. This amendment would enable Denmark to continue its present Danish practice whereby small credit institutions are also subject to controlled resolution.

On this basis, it is assessed that a controlled crisis management of large as well as small Danish credit institutions would continue to be possible, in the event that Denmark participates in the Banking Union.

Non-euro area Member States' terms of participation

Denmark's national resolution authority would always participate in the SRB's plenary sessions, as well as in any executive session where the crisis management concerns a failing Danish institution. This is equal to the terms for a euro area Member State.

The formal decision-making structure is different when it comes to supervisory decisions. Participating non-euro area Member States will take part in the Supervisory Board of the SSM, which handles all supervisory decisions. However, non-euro area Member States are not represented in the ECB's highest decision-making body, the Governing Council. The 2015 report on Denmark's possible participation in the Banking Union highlighted that it would be useful to further clarify the possibility for the Governing Council's to make decisions that circumvent the Supervisory Board.

Based on the experiences of the Banking Union so far, it is assessed that the difference in access to the Governing Council will not in practice constitute a significant challenge for non-euro area Member States participating in the Banking Union. Participation in the Banking Union as a non-euro area Member State is discussed in Chapter 5.

Experience shows that supervisory decisions are made by the Supervisory Board. Up to now, the Supervisory Board has made more than 7,500 supervisory decisions without the Governing Council raising objections. Moreover, even euro area Member States' members of the Governing Council do not have the right to vote in all instances, as voting rights are subject to a rotation scheme. This means that the issue of handling a lack of representation in the Governing Council is relevant not only to non-euro area Member States but to all Member States participating in the Banking Union.

It cannot be ruled out that an extraordinary situation could arise in the future where the Governing Council, in which Denmark does not participate, raises an objection to a supervisory decision. In practice, however, it must be expected that the Governing Council in that case would invite representatives from the participating non-euro Member States as observers to discussions in the Governing Council. Moreover, non-euro area Member States may ultimately – as opposed to euro area Member States – decide not to comply with supervisory decisions made by the Governing Council.

The possibility of not complying with a supervisory decision would be a safeguard for Denmark in extraordinary situations where Denmark does not agree with an SSM decision crucial to Denmark. If Denmark chooses not to comply with a supervisory decision, the consequence of this could be that Denmark must exit the Banking Union. The possibility of not complying with a supervisory decision was introduced into the Banking Union rules at Denmark's request.

Furthermore, non-euro area Member States – in contrast to euro area Member States – have the option of withdrawing from the Banking Union. Withdrawal may be expected to have negative consequences, if the withdrawal can be interpreted as a transition to a less strict national supervisory practice. However, if the withdrawal is motivated by supervisory weaknesses in the Banking Union, which the market also acknowledges, this would not necessarily have a negative impact. On this basis, it is assessed that the consequences of withdrawing, including the reaction on financial markets, would depend on the specific situation.

Until now, all supervisory decisions have been made by the Supervisory Board, on which Denmark would participate on an equal footing with non-euro area Member States. Should the Governing Council, in an extraordinary situation, make a decision of vital importance to Denmark, with which Denmark does not agree, Denmark has the option of not complying with the decision with the possible consequence that Denmark must withdraw from the Banking Union.

Some differences thus apply to participating euro area Member States and non-euro area Member States in terms of collaboration with the SSM. Non-euro area Member States are not represented in the Governing Council, but participate on equal terms with euro area Member States in the Supervisory Board, which have settled all supervisory decisions. Non-euro area Member States also have the option of not following a decision from the Governing Council. Accordingly, the terms of participation are not equal, it is the assessment that the structure of the Banking Union secures equivalent terms of participation of non-euro area Member States.

Denmark's mortgage credit system
Denmark's mortgage credit institutions have a business model whose fundamental characteristics differ from other credit institutions and which is not found elsewhere in the EU. Other EU Member States do have credit institutions with special business models, but the mortgage credit system constitutes a much larger share of Denmark's financial sector than is the case for special business models in other EU Member States. Therefore, it is essential to clarify how Denmark's mortgage credit institutions will be treated if Denmark chooses to participate in the Banking Union.

Since the drafting of the 2015 report, the treatment of Denmark's mortgage credit system in case of Danish participation has been further clarified. The clarifications have been obtained through dialogue with relevant authorities and from the greater clarity provided by new relevant EU regulation. The treatment of Denmark's mortgage credit system if Denmark participates in the Banking Union is discussed in Chapter 6.

Like the Danish FSA and the Danish resolution authority, Finansiel Stabilitet, the SSM and SRB are independent authorities, and can therefore not provide definitive statements concerning how the authorities would treat Denmark's mortgage credit institutions in all cases going forward. This means that there are certain areas, as discussed in chapter 6, where it will not be possible to obtain complete clarity before Denmark might decide to participate in the Banking Union. In addition, there are areas that could be sought clarified in relation to a decision on Danish participation. These specific areas are discussed in Chapter 6, i.e. the supervisory treatment of large exposures, accounting principles and the short-term liquidity requirement for mortgage credit institutions. In these areas, it is unclear, whether the SSM will apply the current Danish practice in its supervision.

It is not possible to identify the precise impact on e.g. capital requirements arising from a different supervisory approach in these areas, as this is assessed to depend on the business cycle, the composition of the credit institutions' balance sheet, interest-rate trends, etc. It is, however, the assessment that this would not challenge the mortgage credit model, as it concerns supervisory practice and thus the determination of capital requirements, and therefore not the model's fundamental characteristics.

The Danish Parliament would continue to decide the national Danish mortgage credit legislation, within the framework of EU regulations, if Denmark participates in the Banking Union. The supervision of mortgage credit loans and obligations would still be handled by the Danish FSA. The SSM would be tasked with ensuring the stability of Denmark's mortgage credit institutions by supervising capital requirements, liquidity requirements, etc., which means it would have to assess whether Denmark's mortgage credit model ensures the stability of the mortgage credit institutions. The Danish FSA is currently charged with this task.

A common European banking supervision will – as a point of departure – apply uniform supervision of the credit institutions in the EU Member States under its jurisdiction. Thus, the SSM seems to adopt a practice, where credit institutions with different characteristics are treated in the same way, where this is justifiable.

In accordance with its regulation, the SSM must at the same time take into account different business models in its supervision, to the extent allowed by the credit institutions' stability, etc. Denmark's mortgage credit institutions can be expected to deviate from other European credit institutions on various financial indicators, which at first sight may indicate risks. It is assessed that the SSM would determine whether the deviation on the financial indicators are sufficiently addressed by other factors, e.g. in Denmark's mortgage credit legislation, etc., which is based on the mortgage credit institutions' specialised business model. If the SSM shares the assessment that the risks are sufficiently addressed, it would not increase the capital requirements or liquidity requirements for Denmark's mortgage credit institutions.

Denmark's mortgage credit model is strong, robust and internationally acclaimed. There is no indication that the SSM should have a different assessment of the model.

It is assessed that, if Denmark participates in the Banking Union, there would be sufficient resources and capacity in the SSM to be able to understand the details of the specialised Danish mortgage credit model. Moreover, the Danish FSA would take part in the supervision and thus would therefore be able to contribute to relevant considerations being included in the supervisory decisions. It would be one of the Danish FSA's roles in the SSM to enhance the understanding of Denmark's mortgage credit system, and the Danish FSA would therefore be able to contribute to supervisory decisions that are adapted to the mortgage credit institutions' specialised business model and other characteristics.

On this basis, it is assessed that even if all supervisory decisions are not necessarily tailored to Denmark's mortgage credit model, the model's unique characteristics would nonetheless continue to be taken into account in the supervision of Denmark's mortgage credit institutions in the event that Denmark participates in the Banking Union.

Denmark's mortgage credit institutions are currently exempted from the EU's minimum requirement for eligible liabilities (MREL), just as they are exempted from bail-in (write-down and conversion of debt instruments). If Denmark participates, the SRB would have to assess whether the exemptions can be upheld on a case-by-case basis. The SRB has stated that based on the information provided, it does not expect to require a different approach in terms of MREL or the use of the bail-in tool for Denmark's mortgage credit institutions.

It should be noted that the framework for Denmark's mortgage credit system and regulation of the mortgage credit institutions will change, whether Denmark is within or outside the Banking Union. The changes may result from the EU's implementation of the Basel IV recommendations, etc. In addition, the supervisory and resolution practices in the EU are generally expected to move towards the practice established within the Banking Union.

In sum, it is assessed that it would be possible to retain the Danish mortgage credit model within the Banking Union, even if a different supervisory practice should be expected in certain areas. If Denmark participates in the Banking Union, the Danish Parliament would continue to decide the features of the Danish mortgage credit model, within the framework of EU legislation. The SSM would be responsible for ensuring the stability of the mortgage credit institutions, which would be done with the close involvement of the Danish FSA. In relation to a decision on Danish participation, the abovementioned unresolved supervisory issues relating to the Danish mortgage credit system should be discussed with the SSM.

Economic consequences for credit institutions and the state
A key element in the Banking Union is a common framework for handling failing credit institutions. This consists of a sector-financed SRF and a public Common Backstop, which, as a last resort, can grant temporary public loans to the SRF in extreme crisis situations where bail-in and the SRF are not sufficient to cover losses and recapitalisation needs.

This single resolution framework is designed in a way that limits the possibility to use the resolution fund for covering losses and recapitalisation. In both Denmark and other participating Member States, credit institutions must thus incur very large losses before the SRF can be used to absorb losses or recapitalise a credit institution (see Chapter 7).

Participation in the Banking Union has no fiscal consequences for Denmark in the form of budgetary costs of banking crises. This is because loans from the Common Backstop must always be repaid. The Backstop shall thus be fiscally neutral for participating Member States.

In situations of extreme crises, where financial stability is threatened, Danish participation in the Banking Union could strengthen the stability of Denmark's financial system and Denmark's protection against fiscal consequences of banking crises. This is because the common funds in the SRF and loans from the Common Backstop are more likely to be sufficient compared to the funds available under Denmark's current resolution scheme. For both Denmark and other participating Member States, the SRF and the Backstop would only be available in situations of extreme crises, according to the rules on resolution of credit institutions in the EU.

Crisis situations can arise where credit institutions incur large losses and can access contributions from the SRF. The risk of such situations is less pronounced now than it was when the 2015 report was written, as the robustness of the credit institutions in both the Banking Union and Denmark in general has improved in recent years through strengthening of capital bases, liquidity, reduction of non-performing loans etc.

At present, the Danish credit institutions still generally appear as more robust than the average of credit institutions in the Banking Union. This could mean that in the short and medium term, the credit institutions of participating Member States can potentially have a greater need for contributions from the sector-financed SRF than the Danish credit institutions, and that in this case the Danish credit institutions would have to contribute to this. On the other hand, Denmark has a large financial sector with large institutions vis-à-vis the Danish economy.

Any redistribution among the financial sectors in the Banking Union Member States via the SRF will depend on the form and extent of future crises.

It is likely that, since Denmark has a relatively large banking and mortgage credit sector, Danish credit institutions' total contributions to the SRF would be larger than their contributions to the national Danish resolution fund.

Participation in the Banking Union would give access to an insurance scheme with a larger sector-financed resolution fund. Should an extreme situation arise where one of Denmark's largest credit institutions incurs huge losses, access to a larger resolution fund is expected to reduce the risk that Denmark on its own would have to use public funds to stabilise Denmark's financial system.

It is in the nature of the Banking Union that it may be necessary to make use of financial means paid in by all the participating credit institutions. Similarly, it cannot be ruled out that a Danish institution would need to make use of common funds. The purpose of this risk-sharing is to strengthen the financial stability across the participating Member States. The Banking Union is, however, constructed in in a way whereby the risk of Danish credit institutions having to contribute to the management of crisis-hit credit institutions in other participating Member States, or the reverse, is relatively limited. In recent years, the strengthened robustness of the credit institutions in the participating Member States, also in the most financially challenged Member States, has helped reduce this risk, even if certain challenges remain, particularly in some credit institutions.

The promotion of Danish interests

Financial EU regulation, which applies to all EU member states, is currently discussed by the Council of Ministers, in which all EU Member States participate, and by the European Parliament. This is not expected to change. Denmark's participation in the Banking Union could, however, strengthen the possibility of promoting Denmark's interests in the early phases of the EU legislative process on financial files.

In the event that Denmark participates in the Banking Union, it would be possible for Denmark to influence the SSM's and SRB's input to the Commission on new legislative proposals, which it is assessed that the Commission is giving a high priority. Participating in the Banking Union would also improve Denmark's access to information and influence in the Basel Committee, which sets global standards for financial regulation. The protection of Denmark's interests in the event of Denmark's participation in the Banking Union is discussed in Chapter 8.

The United Kingdom has traditionally been an important ally of Denmark and, by virtue of its very large financial sector, has significantly helped ensuring that the interests of non-euro area Member States was taken into account in negotiations of EU regulation in the financial sector. After the United Kingdom's expected withdrawal from the EU on 31 January 2020, financial activity in the EU will to a greater extent than before be based in the Member States participating in the Banking Union. Thus, the UK's expected withdrawal means that 90 per cent of the banking activities in the EU will be based in Member States in the Banking Union, by contrast with today where about 75 per cent of the banking activities are based in Member States in the Banking Union. Therefore, it can be expected that the Banking Union will eventually constitute a natural point of departure for financial regulation which applies throughout the EU.

The Banking Union is the largest economic project in the EU in many years and is, at the same time, the part of the wider economic cooperation that develops the most these years. Denmark's participation in the Banking Union is generally deemed to strengthen the possibility of promoting Danish interests in economic and financial areas as well as Denmark's general European-policy interests.

The Single Market and competition

The Banking Union can influence the competitive situation for credit institutions in the Danish market, if Denmark's participation make it easier for foreign credit institutions to be able to conduct business in Denmark than it is today.

The significance of Danish participation for the competitive situation should, however, not be overestimated, and up to now there have been no indications that the Banking Union has significantly enhanced the competitive situation in the participating Member States. Other factors such as consumer regulation, taxation, etc., also pose barriers to transnational competition in the banking sector and these factors are not affected by the Banking Union. The Banking Union's significance for Danish credit institutions' competitive situation is discussed in Chapter 9.

The vast majority of EU regulatory measures, to which credit institutions within and outside the Banking Union are subject to, are already laid down in harmonised EU regulations. Moreover, credit institutions can already grant loans and provide banking services in other EU Member States through a branch without being subject to the home Member States supervision or financial legislation. All other factors being equal, these factors restrict the competitive significance of being subject to the same supervisory and resolution practices within the Banking Union.

In the long term, however, market and investor confidence in Danish credit institutions could be affected by whether they are subject to the SSM and SRB and therefore to a more "recognisable" supervisory and resolution regime seen from the perspective of international market participants. If this is the case, participation in the Banking Union could be a competitive advantage.

Greenland and the Faroe Islands

It is not possible for Member States outside the EU to participate in the Banking Union. In case of Denmark's participation in the Banking Union, Greenland and the Faroe Islands would therefore not be included.

In case of Danish participation in the Banking Union, there would therefore be no changes to the fact that the Danish FSA continues to supervise all the credit institutions in Greenland and the Faroe Islands. Similarly, the Danish resolution authority, Finansiel Stabilitet, would continue to be the resolution authority for the credit institutions in Greenland and the Faroe Islands.

Conversely, the credit institutions in Greenland and the Faroe Islands would no longer have access to a resolution fund with the Danish credit institutions. In the event that a Single Deposit Insurance Scheme were to be included in the Banking Union, the credit institutions of Greenland and the Faroe Islands would furthermore no longer be part of the depositor guarantee scheme along with the Danish credit institutions.

In March 2018, a working group was established with representatives of Greenland, the Faroe Islands and Denmark who were tasked with analysing the consequences for Greenland and the Faroe Islands in the event that Denmark chooses to participate in the Banking Union. The working group has assessed that the challenges specified above can be addressed by enlarging the model for the crisis management of the smaller Danish credit institutions, which is expected to be established in the event of Danish participation (see Chapter 4), to also include the credit institutions of Greenland and the Faroe Islands.

This solution is overall considered to address the challenges that Greenland and the Faroe Islands would face as a result of Danish participation in the Banking Union. The model is described in further detail in Chapter 10.

Further developments

The EU Member States are currently working on further developing the Banking Union. A component of this is the possible establishment of a European Depositor Insurance Scheme (EDIS) for the Member States in the Banking Union. The Commission has put forward a proposal on this in 2015. The configuration of such a measure still awaits agreement among the EU Member States.

At EU level, agreement on a EDIS is linked to new initiatives to strengthen credit institutions' robustness and mitigate the risk of new financial crises. This is the case for initiatives such as addressing credit institutions' non-performing loans (NPL) and a possible reform of the special regulatory treatment of credit institutions' sovereign risk exposures. These measures generally apply to all EU Member States.

In addition to this, the Commission is expected to put forward a proposal in mid-2020 on the implementation of the Basel Committee's latest recommendations concerning credit institutions' capital requirements the "Basel IV requirements". These requirements are expected to apply to credit institutions in all EU Member States, not just the Member States in the Banking Union. These new initiatives supplement the measures aimed at strengthening the regulation of credit institutions which have been adopted since the latest financial crisis, including stricter capital and liquidity requirements. Denmark will focus on the implementation of the Basel IVrequirements in the EU not least in relation to the mortgage credit system.

At the same time, discussions are ongoing in EU with the aim of strengthening the existing framework in the EU for fighting money laundering. The EU Member States have requested the Commission to look into the benefits and drawbacks of having an EU anti-money laundering supervisory authority. At present, it is expected that all EU Member States would be covered by such an authority, i.e. not only the Member States in the Banking Union.

Denmark's position in EU cooperation is affected by its EU opt-outs. This requires special attention to the promoting Danish interests in areas covered by the opt-outs. In the light of the UK's expected withdrawal from the EU, a continued strengthening and developing existing alliances and building up new ones is needed, not least within the economic and financial area. It is assessed that the UK's expected withdrawal from the EU brings with it a heightened risk of marginalising the non-euro area Member States outside the Banking Union. Other non-euro area Member States are focusing on the possibility of participating in the Banking Union, which can be seen from e.g. the Swedish report published on 9 December 2019. Not least in this light, it could be advantageous for the promotion of Denmark's interests in the EU to participate in the Banking Union.

It is the assessment that it would be possible to maintain the Danish mortgage credit model within the Banking Union, even if a different supervisory practice should be expected in certain areas. In relation to a decision on Danish participation, the abovementioned unresolved supervisory issues relating to the Danish mortgage credit system should be discussed with the SSM.

Overall, it is the assessment that there are many factors speaking in favour of Danish participation in the Banking Union. Furthermore, it is generally assessed that the outstanding issues raised in the 2015 report has been clarified or specified.

This document is an English courtesy translation of the original and official Danish text. In the event of discrepancies between the original Danish text and the English translation, the Danish text shall prevail.