



EUROPEAN CENTRAL BANK
BANKING SUPERVISION

Andrea ENRIA

Chair of the Supervisory Board

Mr Markus Ferber
Member of the European Parliament
European Parliament
60, rue Wiertz
B-1047 Brussels

Frankfurt am Main, 5 June 2019

Re: Your letter (QZ030)

Honourable Member of the European Parliament, dear Mr Ferber,

Thank you for your letter, which concerns the reimbursement of shareholders and bondholders in bank failures. It was passed on to me by Mr Roberto Gualtieri, Chairman of the Committee on Economic and Monetary Affairs, accompanied by a cover letter dated 6 May 2019.

Regarding the draft legislation in Slovenia on judicial relief granted to former holders of qualified bank credit, I would like to refer you to the ECB Opinion of 27 March 2019 (CON/2019/13)¹. Regarding the Italian draft legislation, I understand you to be referring to Article 36 of Decree-Law No 34 of 30 April 2019. To date the ECB has not been consulted by the Italian authorities on this legislation.

Overall, regarding the issue of reimbursing specific categories of bank clients that have been affected by bank failures on the grounds that they were not made aware of the associated risks when buying certain financial instruments, additional provisions have been agreed by the Council of the European Union and the European Parliament in the context of the recently adopted banking package.² More specifically, additional safeguards have been introduced in article 44a of the BRRD2 as a complement to MIFID rules (Directive 2014/65/EU) in order to avoid in the future that retail investors without sufficient knowledge about the bail-in framework invest excessively in bail-inable bonds. This includes, for example, the possibility for Member States to set a minimum denomination amount of € 50 000 or more for subordinated eligible liabilities³. These additional safeguards do not change the bail-in regime but aim to ensure that individuals investing in such bail-inable bonds are capable of undertaking a due diligence assessment of the risks involved.

¹ The opinion is available in English and Slovenian on the ECB website at:
<https://www.ecb.europa.eu/ecb/legal/advisory/opinions/html/index.en.html>.

² For example, the insertion of Article 44a in the Bank Recovery and Resolution Directive as a complement to the Markets in Financial Instruments Directive (MiFID II; Directive 2014/65/EU).

Finally, I would like to note that the ECB has not been involved in the European Commission's discussions with the Italian and the Slovenian governments on the abovementioned laws.

Yours sincerely,

[signed]

Andrea Enria