Resolution: from theory to practice

BRRD and BRRD 2, developments on resolution
1. Resolution/supervision: conflict of interest or continuity?

A «resolution/supervision» separation provided for in the regulation (Article 3 of the BRRD):

- Member States may \textit{exceptionally} provide that the resolution authority may be the supervisory authority.

- There are adequate structural arrangements \textit{for} ensuring \textbf{operational independence} and avoiding any \textbf{conflict of interest} between supervisory functions and the functions assigned to resolution authorities, \textit{without prejudice to the exchange of information and cooperation obligations}.

However, the resolution function is consistent with the supervisory function and should use all \textbf{synergies} between two intimately linked analyses.

Frédéric VISNOVSKY Deputy Secretary General
2. From (too?) many players

<table>
<thead>
<tr>
<th>Step 1</th>
<th>SRB</th>
<th>ECB</th>
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<tbody>
<tr>
<td><strong>Determination that a bank is failing or likely to fail (Condition 1)</strong></td>
<td>Consultation</td>
<td>The SRB may make the determination if the ECB does not make the determination within 3 days of the SRB’s notice</td>
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<thead>
<tr>
<th>Step 2</th>
<th>ECB</th>
<th>SRB</th>
<th>European Commission</th>
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<tr>
<td><strong>Determination that there are no alternative private solutions (Condition 2)</strong></td>
<td>Cooperation</td>
<td>The ECB may also inform the SRB that the second condition has been met</td>
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<thead>
<tr>
<th>Step 3</th>
<th>SRB</th>
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<tr>
<td><strong>Determination that a resolution action is necessary in the public interest (Condition 3)</strong></td>
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<tr>
<th>Step 4</th>
<th>European Commission</th>
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<td><strong>Within 12 hours (Option 3)</strong></td>
<td>Commission sends scheme to the Council, recommending modification or objection to resolution on public interest grounds</td>
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<td><strong>Within 24 hours (Options 1 or 2)</strong></td>
<td>Council approves or objects to Commission’s recommendation</td>
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<tr>
<th>Step 5</th>
<th>SRB</th>
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<tbody>
<tr>
<td><strong>Within 32 hours (for SRB to modify scheme)</strong></td>
<td>Bank wound up under national law</td>
</tr>
<tr>
<td><strong>SRB must modify scheme in accordance with Commission and/or Council requirements</strong></td>
<td>SRB transmits scheme to NRAs for implementation</td>
</tr>
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Source: FSB
3. Resolution/supervision: the need for consistency

A team

Coherence and continuity

4 conditions

1. Rules within the team
2. Regular training
3. Speaking together
4. Respect of skills

On arrival, there are losses of resources, budget, energy and efficiency for authorities and banks
Resolution: an exception regime

Liquidation: the common rule

1st share

Systemically important banking groups
Resolution

Public banks
Resolution...

Less significant banks
Liquidation (except exceptions)

Source: Board's annual report

Text:

4.

Frédéric VISNOVSKY Deputy Secretary General
5. MREL: a long day… on a winding road

Welcome pragmatism

1 - progressive cycles
2 - transitional phases

BUT

The need for a stable policy

- impact on issuance programmes
- investor explanation needs

Source: Board’s annual report
6. Dialogue with industry or consultation?

7 Industry Dialogue since October 2015 but

A monologs dialogue to announce/explain the decisions taken

The SSM and EBA have structured consultation processes:

«conduct open public consultations on draft regulatory technical standards/guidelines and recommendations and analyses the potential costs and benefits involved»

Why resolution would not implement best practices in regulation and supervision: consultation before deciding?

- General rules (MREL) and internal guidelines that introduce requirements/expectations for banks
- Reporting requirements that differ in part from EBA standards

Prior consultation would be beneficial for everyone:

- Limit the risk of error in a new area
- Ability to adjust expectations
- Increase acceptance
- Accept contradiction

for greater credibility
7. One tool or tools? And isn't a missing one?

But the Board's intention is to limit its use:

- Where possible, such a combination should be limited in order to reduce the complexity of the strategy itself.
- Combinations using three or more resolution tools are considered to be too complex at operational level.

But the complexity of groups, with multiple locations, several business lines involve multi-dimensional resolution plans to be realistic...

BRRD tools relate to capital, forgetting that liquidity is major.
8. The bail-in: the preferred tool

The Resolution Directive (BRRD) is based on the leasehold logic but reality sometimes hits the principles….

Investments in **retail investors** (euro area only)

![Graph showing investments in retail investors across different countries]

Source: ECB SHS.

Share of **investor** investments (euro area only)

- % of bank debt **(left hand scale)**
- % of Total Assets of the issuer country **(right hand scale)**

Source: Statement of the EBA and ESMA on the treatment of retail holdings of debt financial instruments subject to the Bank Recovery and Resolution Directive (30 May 2018)

**Holdings of eligible instruments by «retail» investors with the future BRRD 2**

Possibility given to Member States to require either of the following: **(1)** for «retail» investors with an investment capacity below EUR 500 000, initial investment of at least EUR 10 000 without exceeding 10% of the investment capacity; **(2)** a nominal value of at least EUR 50 000;

For Member States with a less liquid market for subordinated instruments, a minimum investment amount of EUR 10 000
Resolution of a systemic group is complex

- BNP PARIBAS
  Retail bank and specialised financial services
  Corporate and institutional services
  Presence in 73 countries
- BPCE
  Bank of proximity and insurance
  Retail Bank
  Presence in 50 countries with strong anchoring in France with two cooperative networks
- CRÉDIT AGRICOLE
  Bank of proximity
  Savings, insurance
  Specialised financial services
  Large customer
  Presence in 49 countries with strong territorial anchor
- SOCIETE GENERALE
  Retail banking and financial services
  Retail bank and investor solutions
  Presence in 67 countries

The notion of «resolution group» is essential because it is not the «normal» group:
- exclude certain subsidiaries from third countries
- recognition of the liquidation of entities within a group

Is «distance» to resolution the same as for other types of banks?

Should not a notion of priority be introduced in the preparatory work?
A principle: resolution is sudden, the day before the weekend and recovery actions are acceptable only if they can be implemented in less than one week… a credible scenario for GSIBs?

CET 1/MDA + recurrent result

8% overall margin/ratio

Source: ACPR calculations on group financial communication data in the 3rd quarter of 2018
A loss that triggers recovery actions but at the time of resolution is profoundly modified, and this should lead to risk reductions that are weighted:

- Given the size of French banks and diversification, they will necessarily have activated several of their recovery options before entering resolution.
- French banks demonstrated their ability during the crisis and the separation law to use asset separation tools.
- For highly international groups, the exclusion of certain entities established in third countries where there is no resolution regime may make sense both when it will be difficult, in resolution, to consider the application of resolution powers in those jurisdictions.
- The need for recapitalisation would not extend to all rwas of the group because the group's small subsidiaries could be liquidated.

A massive loss that triggers a confidence crisis and a liquidity leakage… but resolution is not (yet) equipped…
12. **BRRD 2 developments do not address the challenges to finalise the 2nd pillar of the Banking Union (1/2)**

1 - Several developments complement the existing framework:

**Subordination**

GSIB: max (8% TLOF, 18% RWA, 6.75% leverage)

«Top tier banks» (more than EUR 100 billion in total balance sheet): max (8% TLOF, 13.5% RWA, 5% leverage) with a ceiling to 27% RWA

Possibility to require additional subordination under Pillar 2

**Maximum distributable amount (MDA)**

Grace period of 9 months during which the resolution authority may choose not to trigger MDA restrictions

**Moratorium**

2 days by requiring to verify that there is no reasonable prospect that a private measure prevents the failure of the institution

2 - No progress on the «home/host» equilibrium, which helps to maintain the fragmentation that has developed since the crisis
3 - Completing the Single Resolution Mechanism:

- The establishment of a backstop to the Single Resolution Fund is the key and the agreement of 29 June 2018 is a crucial first step, but three key issues remain:
  - how to finance the safety net at a sufficiently high level to be credible;
  - how to avoid placing too much risk on sound banks;
  - how to create a rapid decision-making process to deal with emergencies

- The euro area also needs a liquidity-providing system to financially sound banks after resolution,

4 - It is necessary to have a consistent framework of the plans in the event of liquidation

Thank you for your attention

and find ACPR's analyses on our website: [www.acpr.banque-france.fr](http://www.acpr.banque-france.fr)