

Recovery and resolution: supervision and resolution authorities point of views



INSTITUT BANCAIRE ET FINANCIER INTERNATIONAL
INTERNATIONAL BANKING AND FINANCE INSTITUTE

SEMINAR

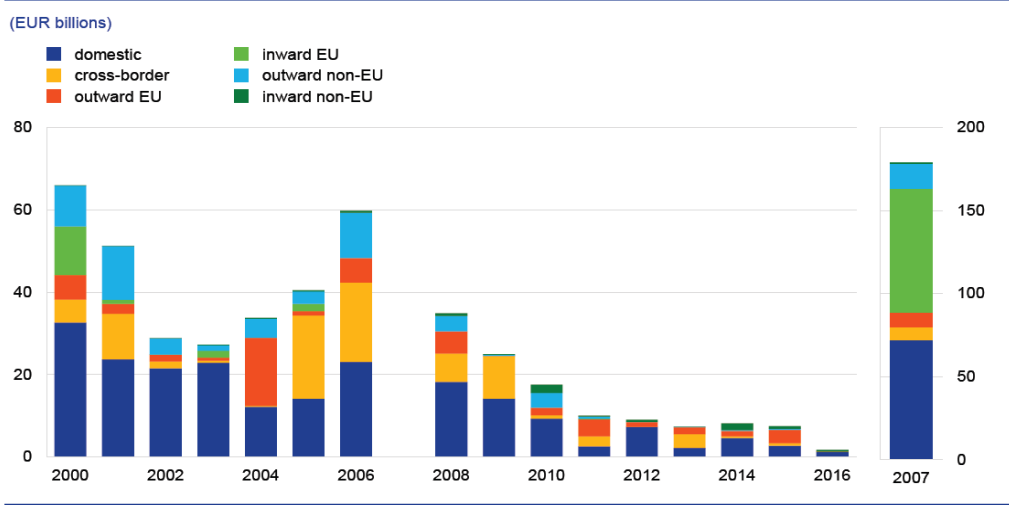
LEGAL EXPERTS AND FINANCIAL CRISES :
PREVENTION, MANAGEMENT, RESOLUTION

1. The banking system in Europe is still fragmented

The introduction of the euro in 1999 and the development of the single market have made a contribution to increasing bank MNA activity

➤ Ever since the financial crisis in 2008, these transactions have slumped

Bank M&As involving euro area banks – value of transactions



Sources: Dealogic and ECB calculations.

➤ Very diverse concentration of banking systems

Market share for the 5 lead banks	
USA	40 %
Europe	20 %

2.

The advantages of mitigating fragmentation

- Furthering financial integration
- Offering more opportunities to invest and afford access to new sources of financing
- Optimizing risk sharing which will bolster stability and efficiency of the European economy
- Fostering geographical diversification
- Allowing economies of scale and being more efficient
- Helping to reduce excess capacity
- Improving the position of European banks with international competition



Reducing obstacles to cross border consolidation in terms of :

- 1 Management
- 2 Regulations
- 3 Supervision and resolution

Obstacles related to regulations (1/2)

- Applying prudential rules to individual banks and consolidated groups is also a potential obstacle as there are **no cross border waivers for capital requirements**.
- Concerning liquidity, it can be hard to meet the conditions required for granting waivers on capital requirements for individual banks whereas **centralized liquidity management** tends to be safer from a prudential standpoint as it affords better access to financial markets and fosters quicker allocation of funds to groups that need them.
- **Maintaining options and discretionary** powers when implementing banking regulations with a tendency to reduce consistency across Europe.
- The regime for qualifying holdings has been harmonized to a large extent in the SSM, but **national standards for mergers** tend to be far more varied.

- **Buffers for systemic groups** (G-SIBs) (i.e. an additional capital buffer imposed on G-SIBs) tend to weigh heavily on the cost of acquisitions of other entities by G-SIBs, given the more stringent capital requirements for assets (and also the fact that the **EU is not recognized** as a single jurisdiction).
- Certain **differences in national tax legislation** have a significant impact on banks – which is especially true of the treatment of deferred tax assets.
- Part of the **legislative framework** (laws regarding insolvency and legal takeover bid protection measures) and **regulations** on consumer protection, remain country specific

- Capital allocation flexibility, in the context of a crossborder acquisition, is restricted by the **Pillar 2 capital requirement calculation** (additional capital requirements required by the supervisory authority) in respect of subsidiaries.
- Crossborder consolidation **generates a lot of decisions** by the supervisory authority – approval of a merger and/or qualified holdings, decisions on own funds, liquidity, leverage, use of internal models.
- Crossborder transactions can **involve several European and national authorities**, which can have an effect on operation timelines.
- Crossborder consolidation generates **restructuring risks** and transaction costs. Supervisors tend to consider that they temporarily impair the risk profile of the banks, which has an impact on Pillar 2 requirements and the assessment of internal models or operational risk.
- After a crossborder transaction, **recovery and resolution plans** become more complex and have to be updated.

The Single Resolution Mechanism (SRM) is still incomplete.

The common backstop to the Single Resolution Fund is the key.

- The euro area agreement on the backstop reached on the 29th of June is a crucial first step.
- Two key issues remain:
 - how to fund the backstop at a sufficiently high level to be credible,
 - how to create a swift decision-making process to deal with emergencies
- The euro area also needs a system for providing liquidity to financially sound banks after resolution

We need to ensure a closer relation between supervision and resolution

A TEAM

Continuity and consistency



1 – Better link between recovery plans and resolution plans

2 – MREL targets to take into account banks specificities (Pillar 2 approach)

7.- Need to foster trust between home and host countries

To ensure an effective resolution regime in Europe, one should consider possible solutions to tackle the lack of trust between home and host authorities:

- The banking Union has strengthened the European cooperation for supervision and resolution. This framework should now fully deliver confidence that there will be no national/home bias, thanks to a centralized power
- Joint decisions on the adoption of resolution plans and of MREL requirements: these are binding obligations which force to find a common approach
- **Confidence of host Member states can be ensured by more robust ex-ante arrangements: intra-group arrangements could be requested to reinforce the protection given by the parent banks to their subsidiaries**

Need a framework in case of liquidation

- The treatment of banks failures outside the resolution scope could be further harmonized:
 - The directive 2001/24/EC on the reorganization and winding up of credit institutions is a beneficial legal basis for further progress
 - How can the SRB assess the no-creditor-worse-off principle with different insolvency regime
 - It does not consider the situation of banking groups
 - Improvements could be put in place, for instance through a reinforced regime for the enforcement of intragroup support in case of liquidation