



Banking Resolution at Ten: Experiences and Open Issues

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In the wake of the Global Financial Crisis (GFC) of 2007-09, new bank resolution practices and tools were introduced in many countries, revolutionising the field of bank crisis management. In the EU, the Bank Recovery and Resolution Directive (BRRD) was adopted on 15 May 2014. Responding to the (perceived) lessons of the GFC, it introduced a comprehensive, harmonised framework of tools and procedures for managing the failure of large, systemically important banks across the EU. Almost simultaneously, on 15 July 2014, the EU legislator adopted the Regulation establishing the Single Resolution Mechanism (SRMR) as the legal basis for centralising resolution powers for euro area-based credit institutions within the Single Resolution Board (SRB).

With these two legal instruments (and the administrative infrastructure they create), and in line with applicable international standards, the EU has chosen to reduce the taxpayer-funded bailouts that have been the default response to the failure of large banks—or to the simultaneous failure of several banks in the context of systemic crises—in the past. Instead of costly bailouts, which not only impose significant burdens on public budgets but also create moral hazard among bank managers, bank shareholders and investors in bank debt, the BRRD and the SRMR provided for the use by resolution authorities of a set of administrative resolution tools: tools to facilitate the transfer of (parts of) the failing business to competing institutions or to ‘bridge banks’ established by the resolution authority in the event of failure; and tools to enable the

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financial restructuring of a failing bank by relying on its internal resources. The latter is achieved by means of ‘bail-in’, i.e., writing down equity and debt instruments and converting debt into equity instruments to the extent necessary to restore the viability of the failing bank.

This Special Issue brings together papers presented at an international conference held at the Bank of Greece on 15 May 2024,¹ which revisit the BRRD and the SRMR and examine them from a variety of perspectives. Like the conference, the Special Issue begins by taking stock of the first ten years of the new European frameworks in the light of relevant international developments. In his contribution, Christos Gortsos examines the evolution of the new regime during the first decade within the system of EU banking law in general. Marco Bodellini follows with reflections on the UK’s approach to bank resolution, presenting the interesting case of a domestic resolution regime that was implemented when the UK was still an EU Member State, but is now undergoing autonomous reform in the light of recent experience. In their joint contribution, Marco Lamandini and David Ramos Muñoz present an analysis of the impact of ten years of applying the new regime in the form of litigation before European and national courts, as well as cases dealt with by the SRB’s Board of Appeal. Seraina Grünwald follows with an analysis of the handling by the Swiss authorities of the failure of Credit Suisse in 2023 in light of the FSB’s Key Attributes for Globally Systemically Important Banks, thus providing a case study illustrating the specific problems of handling the failure of very large, internationally active credit institutions.

Following these more general contributions, the remaining articles take a closer look at individual aspects of the resolution framework. Christos Hadjiemmanuil begins with a critique of the bail-in instrument—the still largely untested part of the resolution framework. Diane Fromage then examines the institutional and procedural architecture for bank resolution in the EU. The conditions for the initiation of resolution measures are then analysed in David Ramos Muñoz’s contribution on early intervention measures and resolution triggers. While bank resolution measures have so far been mainly limited to larger, at least potentially systemically important institutions, Jens-Hinrich Binder examines the current reform proposals to extend the scope of the BRRD to smaller and medium-sized banks. In their joint contribution, Karl-Philipp Wojcik and Michele Cossa analyse the funding arrangements established by the BRRD and the SRMR, a crucial part of the institutional architecture that addresses the need to complement resolution measures with injections of liquid funds, e.g., to help maintain the ongoing provision of critical services by the failing institution during the transfer of assets or liabilities or during its financial restructuring. Subsequently, José María Fernández Real examines the role of deposit insurers in bank resolution. Finally, Michael Schillig examines the residual role for the provision of State aid under the resolution frameworks.

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