

Recovery and Resolution tools: EU current Framework

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Francesca Passamonti

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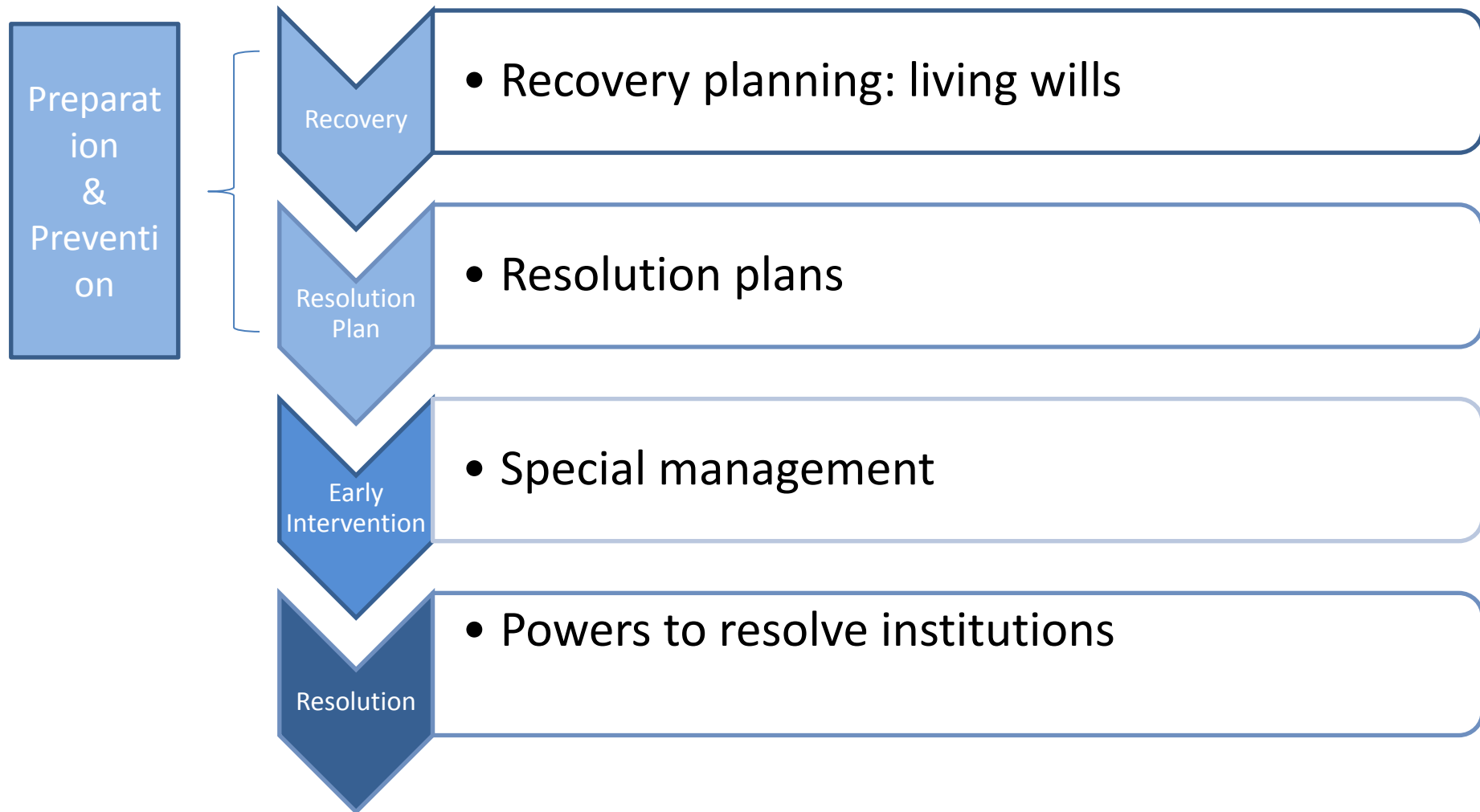
1. Background

- The rationale for a resolution framework;
- Objectives:
 - ✓ Allowing an orderly exit from the market of failing banks;
 - ✓ Limiting the use of taxpayers' money for the bail – out;
 - ✓ Maintaining continuity of critical functions;
 - ✓ Protecting depositors and investors;
 - ✓ Avoiding destruction of value and seeking minimizing the cost of resolution;
- Target: in particular cross border banks;
- EU approach: harmonization of national laws on recovery and resolution of credit institutions and investment firms: granting CAs the same tools to address systemic failures;
- Draft proposal published on 6 June 2012;
- Transposition of most of the requirements into national law until 31 December 2014, except bail in: 2018;

2. Scope of application

- Credit institutions and investment firms;
- Holding companies, mixed financial holding companies, mixed activity holding companies;
- Financial institutions that are subsidiaries of a credit institution or investment firm or holding companies and subject to supervision of the parent undertaking on a consolidated level;
- Branches of institutions (banks or investment firms) having their head office outside the EU;

3. Recovery and resolution: a gradual approach



4. Preparation - Recovery plans

- Living wills: to be drawn up by the institution for the group and for each entity part of the group;
- Simplified recovery plans for institutions that would have a limited impact on financial stability if they failed;
- Extensive CAs' powers when assessing recovery plans, in addition to powers under CRD: simplifying the legal and organisational structure, changing the funding strategy and the governance structure of the bank...
- Intra-group financial support;



Recovery plans at entity level;
no right of appeal against objecting authority;
confidentiality of recovery plans;
interference with freedom to conduct business;
ITG fin. support: only in time of crisis? More clarity on consequences on impact on prudential rules;

4. Prevention - Resolution planning

- Resolution plans by Resolution Authorities (RAs) with supervisors;
- Different scenarios: details on tools to be applied in critical situations;
- Wide ranging RAs' preventative powers where they are impediments to the resolvability of a firm.



Institution is considered as resolvable if **all** resolution tools are applicable; Institutions' right to review resolution plans

5. Early intervention

Stopping bad management and decline

When an institution does not meet or is likely to breach prudential requirements
i.e. is still in going concern

Situation significantly deteriorating, or serious violations of law, [...] early intervention measures not sufficient to reverse deterioration

- Implement measures of the recovery plan;
- Draw up action programme and timetable for implementation;
- Convene, or convene directly, the shareholders' meeting, propose the agenda and the adoption of certain decisions;
- Draw up a plan for restructuring of debt with creditors;
- Acquire all the information necessary to prepare for resolution;
- Contact potential purchasers subject to conditions ex Art. 33(2) and 77);

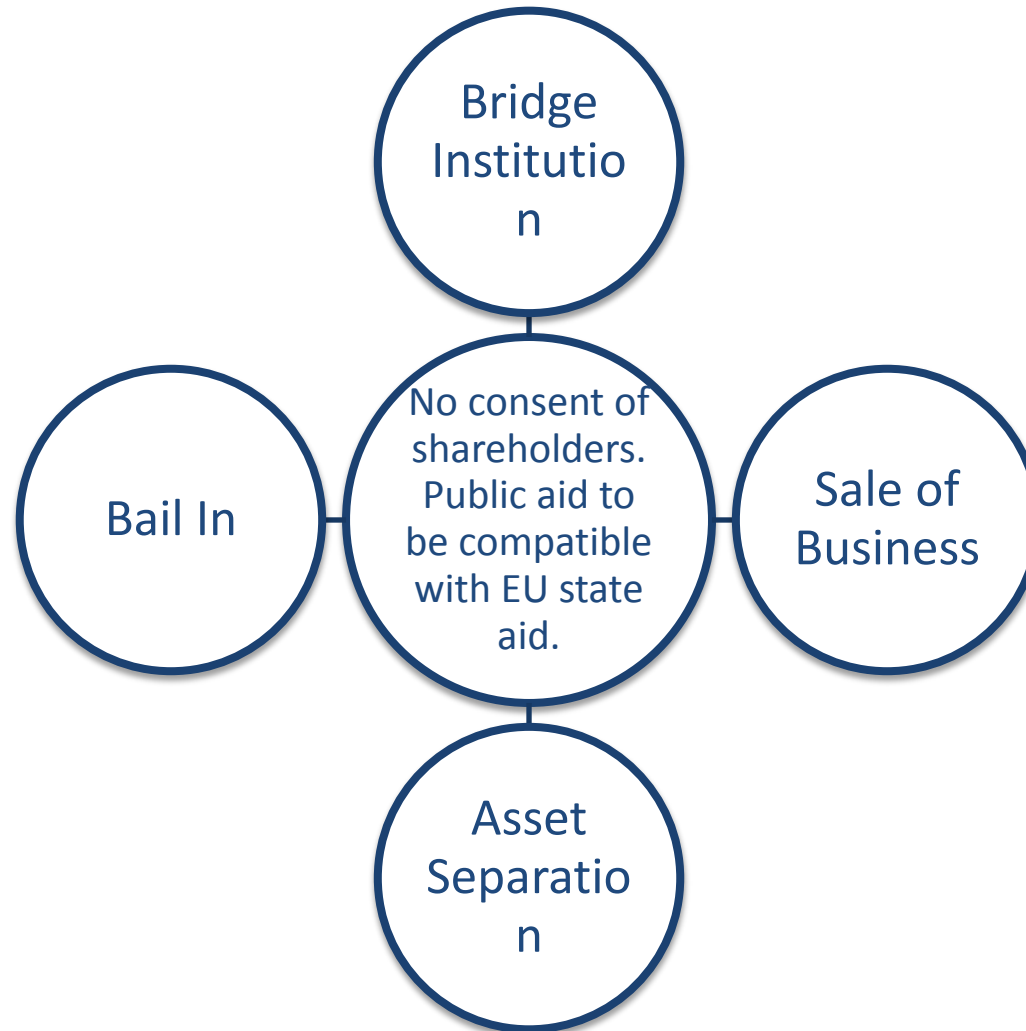
- Appointment of a special manager to replace the management of the institution;
- Duty to take all necessary measures and to promote solutions to redress the financial situation and restore sound and prudent management;
- Extensive powers: increase of capital, reorganization of ownership structure, takeover by sound institutions;
- The appointment of a special managers is not an enforceable event according to FCD nor an insolvency proceeding;
- Limited period of time: 1 year;

6. Resolution - Triggers

- The institution is failing or likely to fail;
- [...] No reasonable prospect for an alternative private sector or supervisory action [...] that would prevent the failure;
- Resolution is in the public interest;

- Failing or likely to fail:
 - ✓ The institution is in breach or will in the near future be in breach on capital requirements for continuing authorization in a way that would justify the withdrawal of authorization, because the institution is likely to incur into losses that will deplete all or substantially its own funds;
 - ✓ Assets are or will be less than liabilities;
 - ✓ The institution will be unable to pay its obligations;
 - ✓ Extraordinary public financial support is required;

6. Resolution - Tools



6. Resolution - Objectives

- Authorities are required to choose the tools and powers that best achieve the following objectives:
 - Ensuring continuity of critical functions;
 - Avoiding effects on financial stability, including contagion and maintaining market discipline;
 - Protecting public funds – minimizing reliance on public support;
 - Avoid unnecessary destruction of value and seek minimizing the cost of resolution;
 - Protect depositors and investors (DGS + ICS);
 - Protect clients funds and assets;

6. Resolution - Powers

To require any person to provide information

To take control of an institution under resolution

To transfer shares and other instruments

To transfer debt instruments

To transfer to another person specified rights, assets or liabilities of an institution under resolution

To write down or convert the instruments referred to in Art 52 into shares

To reduce the principal amount of or outstanding amount due in respect of eligible liabilities

To cover eligible liabilities into ordinary shares

To cancel debt instruments

To cancel shares

To require an institution to issue new shares

To require the conversion of debt

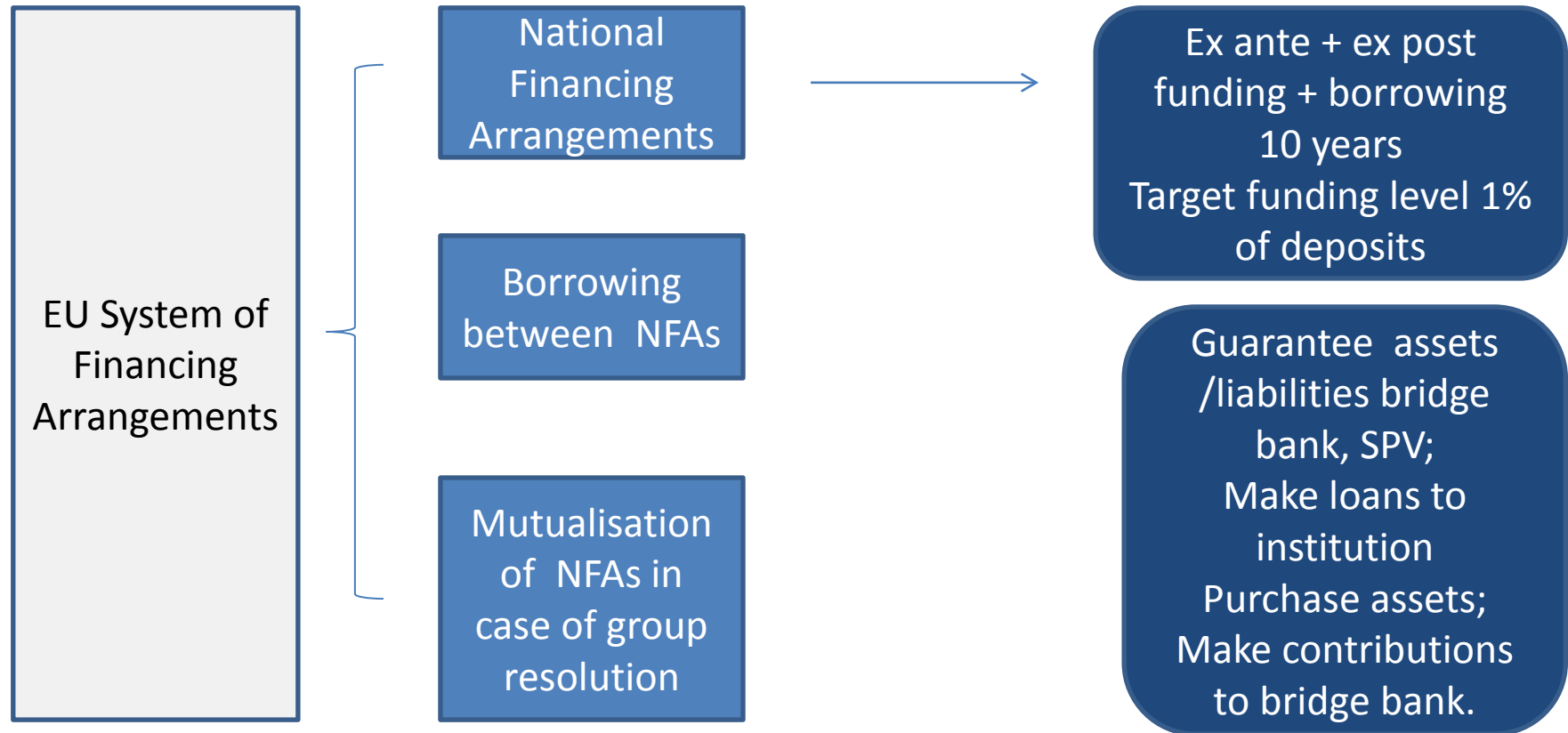
To amend or alter the maturity of debt

To remove or replace the senior management

6. Resolution - Principles

- Losses, once identified through a valuation process, should be allocated between shareholders and creditors in accordance with the hierarchy of claims;
- Shareholders bear first losses;
- Creditors; creditors of the same class can be treated differently for public interest reasons (i.e. financial stability); departure from insolvency law;
- Specific hierarchy for bail in;

7. EU System of Financing Arrangements



Thank you for your attention!

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francesca.passamonti@intesasanpaolo.com