

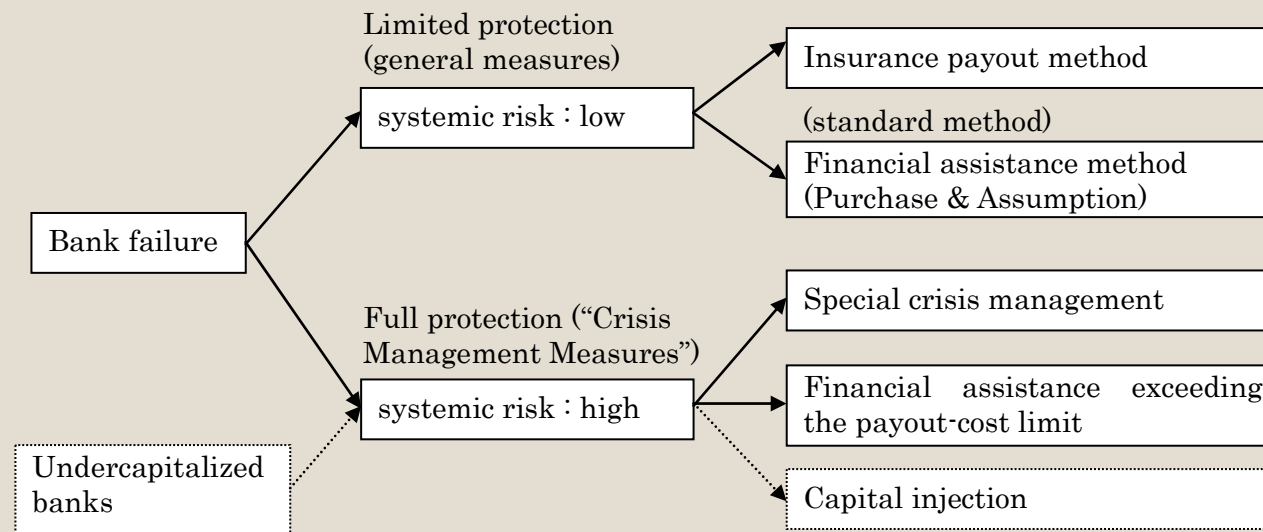
Japanese Resolution Framework

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Overview

- Through its experience of the banking crisis in the 1990s, substantial improvements have been made to the Japanese bank resolution framework.
- In general, the framework is already equipped with most of the resolution tools and powers specified in the FSB's Key Attributes.
 - cf. Appointment of an administrator, power to transfer or sell assets/liabilities, bridge bank functions, crisis management measures, etc.



(Source) Deposit Insurance Corporation of Japan

Resolution of failed banks during Japan's banking crisis

- Most failed banks were resolved by applying the financial assistance method under full protection adopted as a temporary measure from 1996 - 2005.
- The financial assistance method is given precedence:
 - ✓ to minimize resolution costs (“the minimum cost principle”).
 - ✓ to minimize any disorder that may accompany bank failures.

	~May 1996 (limited protection)	Jun. 1996~ Mar. 2005 (full protection)**	Apr. 2005~ (limited protection)
Insurance payout (since 1971)	0	0	0
Financial assistance (P&A) (since 1986)	10*	168	1
Public ownership (since 1998)	0	3	0

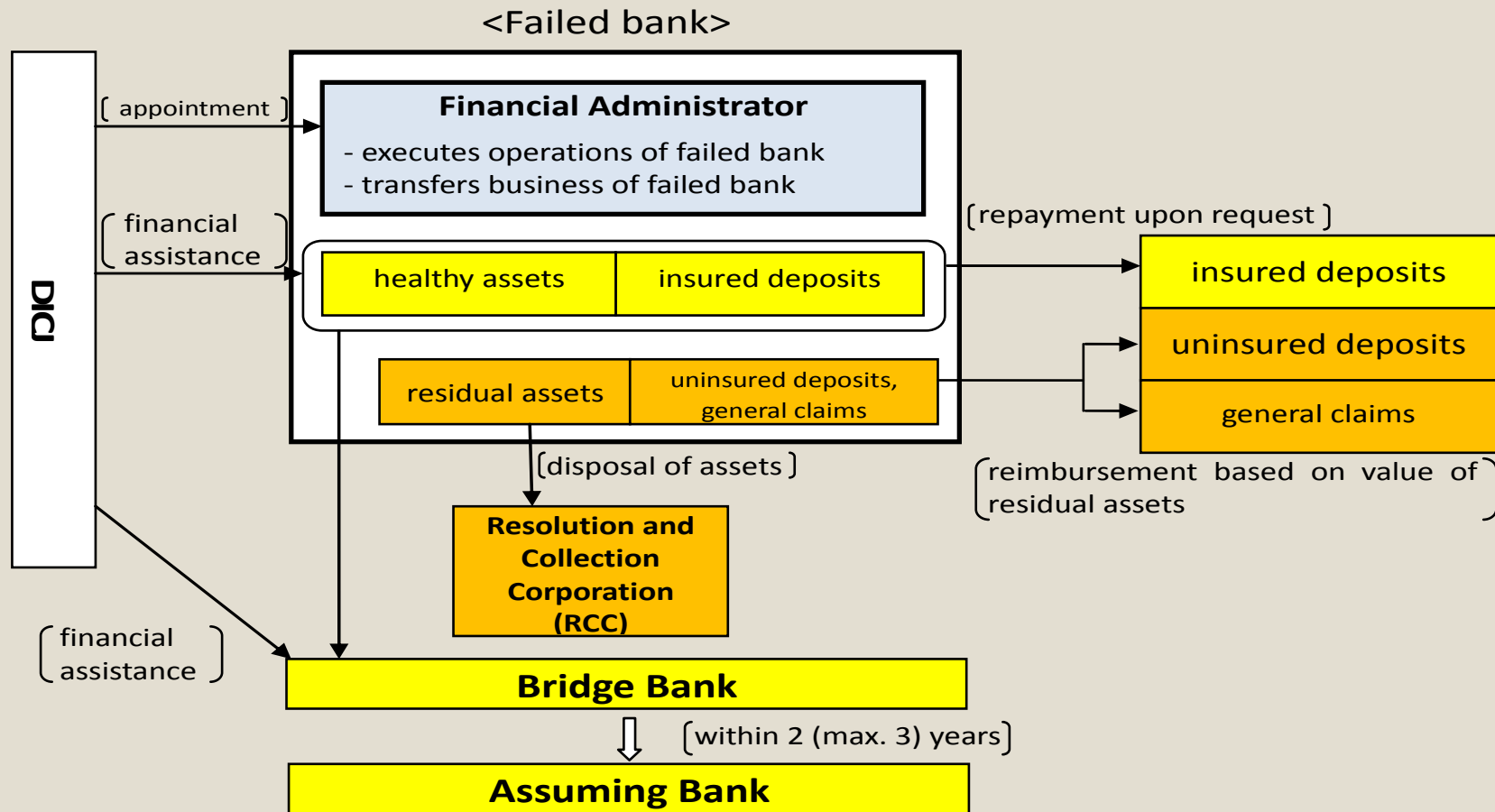
(Source) Deposit Insurance Corporation of Japan

* All deposits were protected in full during this period by the assuming banks bearing the necessary costs.

** Time deposits were fully protected until Mar. 2002. Current deposits, ordinary deposits and specified deposits were fully protected until Mar. 2005.

General resolution method under current law: Financial assistance with limited protection + civil rehab proceedings (image)

FSA: order for management, appointment of financial administrator
 court: decision to start civil rehabilitation procedures



(Source) Deposit Insurance Corporation of Japan

General resolution method under current law: Financial assistance with limited protection + civil rehab proceedings (1)

- The failed bank is put under the control of a “financial administrator” (=The Deposit Insurance Corporation of Japan <DICJ>).
 - ✓ DICJ resumes operations of the failed bank
 - cf. reimbursement of insured deposits, payment and settlement services, lending operations.
- Bankruptcy procedures proceed in parallel with procedures under the Deposit Insurance Act (DIA).
 - ✓ Civil rehabilitation proceedings. DICJ manages the business of the failed bank as DIP (debtor-in-possession).
 - ✓ DICJ, as insurer, may provide liquidity to the failed bank for the continuation of its business.

General resolution method under current law: Financial assistance with limited protection + civil rehab proceedings (2)

- Transfer of insured deposits and healthy assets to assuming bank (or bridge bank).
 - ✓ Transfer to bridge bank within approximately 6 months, and transfer to an ultimate assuming bank within 2 (or 3) years.
 - ✓ DICJ, as insurer, extends financial assistance (within payout-cost limit) to assuming bank (or bridge bank) to cover losses.
- Reimbursement of residual assets of failed bank to uninsured depositors and other creditors.
 - ✓ DICJ, as insurer, extends financial assistance to failed bank to ensure that the repayment values to uninsured depositors and other creditors are not reduced by the transfer of healthy assets to assuming bank (or bridge bank).
 - ➔ To ensure equal treatment among creditors.

First case of bank resolution under limited protection : Failure of Incubator Bank of Japan, Ltd. (Sep. 2010)

- First case to provide limited protection since the establishment of the deposit insurance system in 1971.
 - ✓ First bank failure since 2003.
- Bank profile (as of Mar. 2010): loan ¥421.9 billion, deposits ¥593.1 billion
network: head office and 113 domestic branches
- Financial assistance method & civil rehabilitation proceedings applied.
- Business transfer to bridge bank (Apr. 2011) .
 - ✓ Financial assistance by DICJ to bridge bank and Incubator Bank.
- Business transfer from bridge bank to ultimate assuming bank, AEON Bank, Ltd. by an on auction (Dec. 2011).

Exception to “Limited Protection” : “Crisis Management Measures” (adopted in April 2001)

- “Crisis Management Measures”: DIA Art. 102
 - 1) special crisis management: public ownership
 - 2) financial assistance exceeding the payout-cost limit (full protection)
 - 3) capital injection (to undercapitalized banks; not applicable to failed banks)
- The Prime Minister confirms the necessity to take crisis management measures following discussions at the Financial Crisis Management Council (FCMC)
 - ✓ Members of FCMC: Minister of Finance, Minister of State for Financial Services, Commissioner of the Financial Services Agency, Governor of the Bank of Japan
- Special crisis management was applied to Ashikaga Bank (a prominent regional bank in the region) in November 2003.
 - ✓ Special crisis management was terminated in July 2008 by the sale of all shares of Ashikaga Bank held by the DICJ to a private consortium.

Further issues

- Resolution regime of local branches of foreign banks
 - DIA does not apply ➡ general bankruptcy procedures (limited tools)
 - ✓ Authorities may file a petition to the court for commencement of liquidation of the branch and appointment of a liquidator.
cf. liquidation of BCCI Tokyo Branch (July 1991)
 - ✓ Recognition and assistance proceedings.
- Resolution regime of non-bank financial institutions
 - DIA does not apply ➡ general bankruptcy procedures (limited tools)
 - ✓ Authorities may file a petition to the court for commencement of bankruptcy, civil rehabilitation, or corporate reorganization procedures.
- Entry into resolution without triggering statutory set-off rights or contractual early termination rights

Thank you !!