Autumn School

Florence School of Banking and Finance and School of Transnational Governance

The Law, Economics and Practice of EU Banking Resolution

Florence School of Banking and Finance and School of Transnational Governance

Refectory

Badia Fiesolana, Via dei Roccettini, 9 - San Domenico di Fiesole

22-25 November 2017

Introduction

The financial crisis of 2007-8 taught us that Europe needs more resilient institutions, with more capital and liquidity resources, to better withstand stress and market turmoil. It also needs to fix idiosyncratic weaknesses of credit institutions. To this end the new EU resolution framework requires recovery and resolution plans to be established for each supervised entity, to ensure its resolvability and to minimise spill-over effects on the real economy and the burden on the taxpayer when banks fail or in systemic crisis. Those are the key elements at the core of the European Bank Recovery and Resolution Directive (BRRD). The BRRD, together with the institutional counterpart for the Banking Union, the Single Resolution Mechanism, is at its final stages of implementation and further developed with the November 2016 package proposed by the Commission, the joint FBF-STG Autumn School seeks to intensify and strengthen knowledge on the part of public authorities, practitioners and academics as well as foster an in-depth dialogue on the merits and challenges in the implementation of the new EU resolution framework.

Instructors

Boudewijn Berger | ABN AMRO
Stefano Cappiello | Single Resolution Board
Bart Joosen | VU University Amsterdam (Course director)
Andrea Resti | Bocconi University
Emiliano Tornese | DG FISMA European Commission
Tobias Tröger | Goethe University, Frankfurt

Teaching Assistants

Pierre Schlosser | Florence School of Banking and Finance, EUI

Agnieszka Smoleńska| Florence School of Banking and Finance, EUI

Recommended Readings

Laws and Case Law

- Excerpt from Capital Requirements Regulation (Regulation (EU) No 575-2013;
- Excerpt from Capital Requirements Directive IV (Directive 2013/36/EU)
- Excerpts from the Proposals of November 2016 for CRD5 and CRR2

Reports Governmental Organisations and Standard Setting Bodies

- 2010 Basel Committee Proposal to ensure the loss absorbency of regulatory capital at the point of non-viability
- 2011 Basel Committee issues final elements of the reforms to raise the quality of regulatory capital
- 2011 IMF Staff Discussion Note Ceyla Pazarbasioglu, Jianping Zhou, Vanessa Le Leslé, and Michael Moore_ Contingent Capital: Economic Rationale and Design Features
- 2011 IMF Working Paper_Perotti_Ratnovski_Vlahu_Capital Regulation and Tail Risk
- 2015 ECB Opinion on German BRRD Implementation Act
- 2015 FSB Principles on Loss-absorbing and Recapitalisation Capacity of G-SIBs in ResolutionTotal Loss-absorbing Capacity (TLAC), Term Sheet
- 2016 Loan Market Association, EU Bail-in Legislation Schedule

Academic Literature

- 2011, Bates and Gleeson, Legal Aspects of Bank Bail Ins
- 2011, Coffee, Bail-Ins versus Bail-outs, Using Contingent Capital To Mitigate Systemic Risk

- 2013, Avdjiev Kartasheva Bogdanova, CoCos – A Primer
- 2015, Avgouleas Goodhart, Bank Bail Ins
- 2015, Haentjens, Matthias, and B. Wessels, eds. Research Handbook on Crisis Management in the Banking Sector. Research Handbooks in Financial Law Series. Cheltenham, UK: Edward Elgar Publishing, 2015
- 2015, Annika Wolf, A Global Cross-border Insolvency Framework for Financial Institutions, MWP 2015/01, Max Weber Programme
- 2016 Wojcik, Bail in in the Banking Union
- 2017, Moss, Gabriel S., B. Wessels, and Matthias Haentjens, eds. EU Banking and Insurance Insolvency. Second edition. Oxford, United Kingdom: Oxford University Press, 2017.

Prospectus

- HSBC Holdings Plc, $1,500,000,000 5.625% Perpetual Subordinated Contingent Convertible Securities, (Callable January 2020 and Every Five Years Thereafter)

Programme

22 November

09.00 - 10.30 **Introduction to Banking Resolution**

Instructor: **Bart Joosen**

- Understanding the bifurcated legislative architecture, BRRD v. Single Resolution Mechanism Regulation.
- Recovery planning, recovery execution and early intervention and interaction between competent authority and institution.
- Resolution planning and the determination of resolvability.
- Resolution objectives, role of valuation, determination of resolution trigger (point of non-viability v. failing or likely to fail).
- Resolution execution instead of ordinary wind down in liquidation, resolution principles to be observed (NCWO and others).

10.30 - 11.00 *Coffee/tea break*

11.00 - 12.30 **Capital regulation for resolution purposes**

Instructor: **Bart Joosen**

- Status of European capital buffer building programme, Basel III, CRDIV/CRR and proposals for CRR2/CRDV.
- Restraining dividend, coupon and bonus distribution upon MDA-calculations: building up Capital Buffers and MREL.
- Pillar 1 capital, Pillar 2 required capital and Pillar 2 Guidance
- Going concern capital and gone concern capital.
- Loss absorption principles and Recapitalisation.

12.30 - 14.00 *Lunch*

14.00 - 15.30 **Resolution and Financial Stability**

15.30 - 16.00 *Coffee/tea break*

16.00 - 17.30 **Practical exercise on Maximum Distributed Amount calculation**

Instructor: **Bart Joosen**

A practical and interactive exercise where participants will be assigned different roles in the simulated calculation of the Maximum Distributable Amount of dividend, coupon on Addition Tier 1 capital instruments and bonuses based on a balance sheet, capital funding plan and profit and loss account of a fictive

European bank.
There will be groups working from the perspective of bank's stakeholders and groups that will work from the perspective of the competent authority. In the plenary feedback session these different perspectives will be debated among the participants, moderated by the instructor.

23 November

10.00 - 11.30 **Bank valuation, Non Performing Loans, Asset management Companies**

Instructor: **Andrea Resti**

- Bank valuation: standard approaches and their use for banks undergoing resultion.
- Valuating NPL and estimating recoveries.
- Asset management companies.

11.30 - 11.45 *Coffee/tea break*

11.45 - 13.15 **Bank liability structure and resolution: Cocos and bail-inable debt**

Instructor: **Andrea Resti**

- Contingent-convertible liabilities ("Cocos").
- Bail-in-able debt.

13.15 - 14.30 *Lunch*

14.30 -16.30 **Recovery Planning**

Instructor: **Boudewijn Berger**

- What should the Recovery Plan contain? Requirements in the BRRD, EBA guidelines and technical standards and additional requirements by the authorities.
- How does ABN AMRO prepare its Recovery Plan? Processes and procedures, departments involved, annual cycle, scenarios and dry runs.
- Recovery Plan versus Resolution Plan: a compare and contrast.
- Practical experiences and some views on the cooperation, coordination and exchange of information between the supervisor and the resolution authorities.

16.30 - 18.00 **Practical exercise on Recovery Planning**

24 November

09.00 -10.30	**Resolution Planning and Internal Financing of Resolution**

Instructor: **Tobias Tröger**

- The resolution weekend.
- The specific goals of resolution planning, its multi-stage nature and constant updating.
- Loss absorption and recapitalization objectives in resolution planning.
- MREL specification as part of resolution planning to facilitate bail-in.
- Run risk in resolutions with bail-in.

10.30 - 11.00	*Coffee/tea break*
11.00 -12.30	**External Financing of Resolution**

Instructors: **Stefano Cappiello** and **Emiliano Tornese**

- Purposes of resolution financing: “loss absorption” vs. “liquidity support”
- Sources of resolution financing: internal vs. external
- External sources: private vs. public
- Preconditions for access to external public sources
- Procedural aspects

12.30 - 14.00	*Lunch*
14.00 - 15.30	**Resolution and State Aid**

Instructor: **Emiliano Tornese**
Teaching Assistant: **Agnieszka Smoleńska**

- Application of state aid control during the crisis (pre-BRRD), development of key principles on state aid to financial institutions.
- Resolution and state aid law: intrinsically linked provisions of EU law, procedural aspects.
- Use of resolution funds (including SRF) and DGSs in resolution and/or liquidation.
- Conditionality under state aid rules and resolution law (e.g. burden-sharing and bail-in).
- Extraordinary public support outside resolution (e.g. precautionary recapitalisation).

15.30 - 16.00	*Coffee/tea breaks*

16.00 - 17.00	**Interactive session on the resolution process in practice**

Instructors: **Stefano Cappiello** and **Emiliano Tornese**

- Resolution phases: run up to resolution; the "resolution weekend"; the execution
- The institutional stakeholders involved: powers and tasks
- The interaction between the SRMR and the national legislation
- Precautionary recapitalization vs. Resolution vs. Liquidation
- Resolution in action: overview of the last five years

25 November

09.00- 10.00 **Briefing on options for MREL calibration**

Instructor: **Tobias Tröger**

- G-SII TLAC and institution specific MREL (add on).
- Calibration of institution specific MREL (including MREL guidance).
- Subordination requirement and exceptions.
- Internal and external MREL in cross-border banking groups.

10.00 - 10.15 *Coffee/tea break*

10.15 - 12.30 **Group activity on MREL**

Instructor: **Stefano Cappiello, Bart Joosen, Emiliano Tornese, Tobias Tröger**

Group activity on a case study, including a simulation on MREL. The Group will go through all possible steps involving a hypothetical bank: from the resolution planning and the early intervention phase to the three possible options available to public authorities (i.e. precautionary recapitalization, resolution or liquidation).

12.30 - 13.30 **Closing and Prospective Session**