Deloitte.

Aiming at resolvability
The Single Resolution Board

December 2015

EMEA Centre for Regulatory Strategy

Deloitte Banking Union Centre in Frankfurt

Contents

Executive summary

Resolvability is a centrepiece of the new banking regulatory framework, both within the EU and globally. By ensuring that banks can fail in an orderly manner, the expectation is that there will be better alignment between risk-taking and losses, and banks and regulators will be able to prevent systemic crises. From 2016, new regulation and a new resolution authority will reshape resolution planning in the Eurozone. Banks need to get on the front foot by planning for and anticipating these changes.

Aiming at resolvability in the Eurozone

Since January 2015, all European Union (EU) Member States have had to apply a single rulebook for the resolution of banks (and large investment firms), as set out in the Bank Recovery and Resolution Directive (BRRD). A core component of resolution planning is a resolvability assessment, to determine whether it is feasible and credible to carry out the resolution plan in the event of a bank's failure.

Banks can be forced to alter their legal, financial, or operating structures in order to become 'resolvable'. Within the Eurozone, decisions over whether and how banks will need to implement such changes will from January 2016 be taken by a new institution: the Single Resolution Board (SRB). The SRB takes on its responsibilities just as a number of new tools in the BRRD come into effect. The SRB will be a significant part of the regulatory architecture of the Banking Union, with a remit extending to around 150 banking groups, including the Eurozone operations of several non-Eurozone banking groups.

The largest banking groups in the Eurozone – as well as their global counterparts (the global systemically important banks (G-SIBs)) – have been engaged in resolution planning for several years, and many of the concepts involved will not be new to them, although the SRB's perspective will now be crucial in determining how resolution planning work is taken forward.

But resolution planning is now coming to a wider set of institutions. The SRB's remit extends well beyond the Eurozone's G-SIBs, and many of those firms may be considerably less familiar with the theory and practice than their G-SIB counterparts. Understanding where the SRB fits into the picture will be important for those firms in order to avoid regulatory intervention further down the line.

This paper is aimed at this wider set of institutions – it highlights some of the SRB's likely focus areas, and some practical steps banks can take in the short term to maintain the initiative.

Getting on the front foot

Ultimately, resolvability may have a significant influence on banks' operating models across a number of dimensions, including how services are provided, how products are booked, and how a group funds itself. Resolution planning will cut across a business, and requires assessment from many angles. Engaging with the substance of resolution planning will enable banks to maintain the initiative, and adjust their operations on their own terms, rather than those imposed by the authorities.

As a first step, banks should consider assessing themselves against resolvability criteria in order to identify potential impediments. Understanding the likely areas of focus of the SRB and recent experiences of implementing resolution planning will help this process.

Progress in implementing resolution regimes remains uneven across the Banking Union. As a consequence, 2016 is likely to be about bringing all countries "up to speed". But in future years, as the SRB gains more knowledge about the banks within its remit, as well as practical experience of resolution planning and resolvability assessments, the likelihood of regulatory interventions will increase.

From 2016, new regulation and a new resolution authority will reshape resolution planning in the Eurozone. Banks need to get on the front foot by planning for and anticipating these changes.

The Single Resolution Board

Since the financial crisis, large strides have been made to equip regulators with powers to deal with bank failures in a way that avoids the need for governments to 'bail out' struggling institutions. Since 2009, G-SIBs have been engaged in resolution planning under the auspices of the Financial Stability Board, guided by the global standard 'Key Attributes of Effective Resolution Regimes for Financial Institutions'. The Key Attributes have now largely been implemented in major regions – through the BRRD in the EU, and through the Dodd-Frank Act in the United States, and those authorities are in the process of applying their requirements to the banks operating in their jurisdictions.

From 1 January 2016, the SRB will be the resolution authority responsible for applying the requirements within the Eurozone. The SRB will be at the heart of the Banking Union's Single Resolution Mechanism (SRM) – analogous to the ECB's role at the heart of the Single Supervisory Mechanism (SSM). Established in 2015, the SRB assumes its full suite of powers in January 2016. It will be responsible for drawing up resolution plans, and for taking decisions relating to resolution for all banking groups directly supervised by the ECB, as well as for cross-border groups – around 150 groups in total. Of those, the SRB will be the 'home' resolution authority for nine G-SIBs.

Decision-making will be centralised, but the resolution process itself will require engagement with personnel from several agencies. The SRB will have decision-making authority, but execution of resolution actions will be delegated to national resolution authorities (and in the unlikely event that a national resolution authority does not carry out the instructions of the SRB, the SRB is empowered to act). The European Commission also retains a significant role, including responsibility for conducting a 'public interest test' to determine whether resolution or liquidation should be pursued. The decision-making process is detailed in Figure 1 overleaf.

From the perspective of individual banks, the real significance of the SRB is less its place in the institutional process, but rather in the potential practical implications. These will be manifested through the lens of resolvability: the SRB will be responsible for determining whether or not banks within its remit are resolvable (that is, whether their resolution is both feasible and credible). If banks are deemed not to be resolvable, the SRB could compel them to make changes to their legal, operational, or financial structures in order to improve their resolvability, and will determine the pace and prioritisation of any changes.

The SRB also has quasi-supervisory powers, including the power to conduct on-site inspections and to demand data. Banks may be concerned about the potential for duplication of regulatory engagement; the extent to which this will be the case will depend on the relationship between the SRB and the ECB's line supervisors and recovery and resolution policy unit. There is clearly a lot of analysis already undertaken by the ECB as part of the Supervisory Review and Evaluation Process (SREP), and the European Banking Authority (EBA) has said that it expects resolution authorities to defer to the findings of the SREP when calculating the Minimum Requirement for Own Funds and Eligible Liabilities (MREL – covered in more detail later) in order to avoid "unnecessary duplications of resources between authorities".

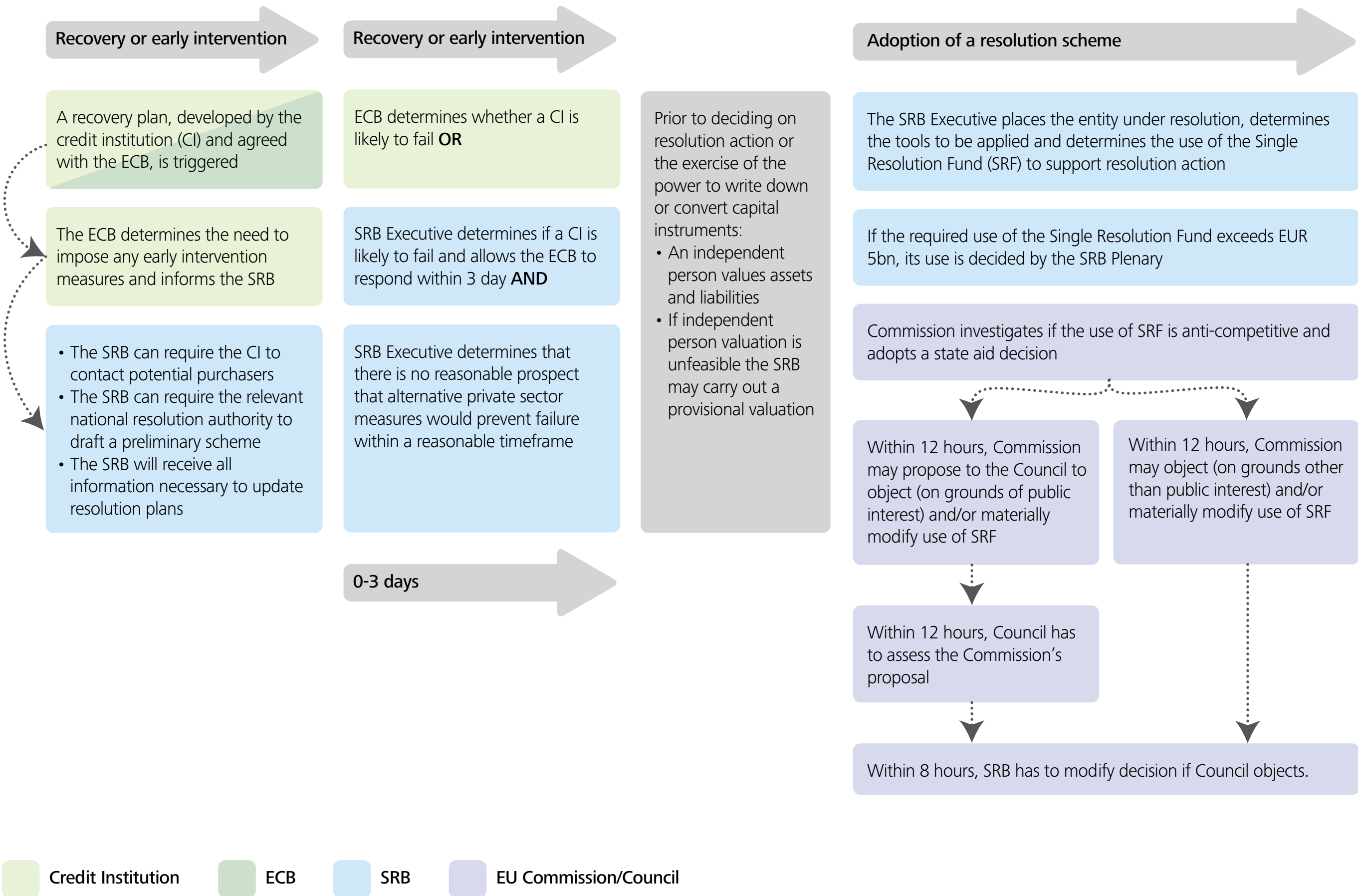
> "When a resolution authority sees a bank in its current structure has nearly insurmountable obstacles to resolution or even to recovery, it can mandate changes to the structure."

— Elke König, Chair of the SRB, Wall Street Journal, July 2015[1] —

1. 'Low rates are creeping risk to European banks, says SRB Chair', 22 July 2015, http://www.wsj.com/articles/low-rates-are-creeping-risk-to-european-banks-says-srb-chair-1437578732.

Figure 1. The decision making process

SRM: The process from recovery to resolution



What will actually change?

Banks would have faced recovery and resolution planning requirements under the BRRD even in the absence of the SRB, with resolution planning falling instead to national resolution authorities. So what is the significance of the SRB? There are several dimensions:

- The SRB will have its own views on resolvability and loss-absorbing capacity, which may diverge from those of existing national resolution authorities.
- The existence of a single institution taking decisions for banking groups across the Banking Union will deliver a greater degree of consistency across the region and reduce some of the current barriers to cross-border resolution.
- With decision-making for all cross-border banks in the Eurozone transferred to a single authority, information exchange can be improved and the output of resolution planning be made more efficient.

However, executing a bank resolution will remain a challenging task, even with a central coordinating body in place. There will always be scope for the theory and practice to diverge. This is particularly true where a bank has operations both inside and outside the EU – the former being governed by the BRRD, the latter being subject to whatever insolvency or resolution rules are in place. The attitudes of national authorities and of the directors of legal entities in each jurisdiction (who will always be concerned with the specific liabilities on their own balance sheets) will also come to bear. An important role for the SRB will be to build relationships with and understanding between resolution authorities (and indeed Elke König has spoken of the importance of “mutual recognition” in recent months).

The SRB is unlikely to make big changes immediately. This is especially true given that the state of play across Banking Union countries on resolution remains very uneven – a number of countries have only very recently transposed the BRRD (and some countries are yet to do even this). The SRB’s first year is likely to be principally about building all Banking Union countries up to a foundation level, bringing those countries and banks which are further behind up to speed with those which have made more progress. It will also be in part about bringing the institution itself up to its full operating capacity, as the SRB will continue to hire staff (in the region of around 220), and will also seek new premises.

The SRB will be responsible for administering the Single Resolution Fund (SRF) – a financing arrangement which will be used to facilitate the execution of resolutions. The SRF will reach approximately €55 billion by the end of 2023, built up out of contributions levied on the industry. The SRB will be responsible for the complex calculations required to identify the contributions of individual banks, which are based on their size and risk profile indicators. Banks have to submit these data to their national resolution authorities, but face difficulties at this stage to aggregate the required new data inputs.

Ultimately these changes are intended to improve the predictability and consistency of the resolution process within the Eurozone. The SRB will be a new stakeholder with whom banking groups need to develop and maintain a relationship. Understanding its perspective will be important for any banking group not wanting to find itself on the wrong side of decisions about resolvability.

Resolvability

The pursuit of 'resolvability' could reshape banking groups

Banks can look to a set of standards from the EBA which set out how resolution authorities including the SRB should assess the resolvability of banks, and guidelines on what measures the authorities might take if they identify impediments to resolution. These standards provide a useful framework, but ultimately the SRB will have significant discretion in how it applies its powers.

There is a two-step process for the SRB to follow if it determines that a bank is not resolvable: in the first instance, it should communicate to the bank why it has made its assessment and then allow the bank to propose measures to address the impediments. However, if the SRB remains unsatisfied with the measures taken by the institution it can then require the bank to implement additional measures. Such measures could include forced changes to legal entity structures to reduce complexity; the establishment of holding companies or intermediate holding companies; greater separation of critical functions; or a host of other actions. Banks will clearly want to avoid such outcomes, creating an incentive for them to invest to improve resolvability on their own terms, before being forced to by the resolution authority.

The BRRD lists 28 factors that resolution authorities need to consider in resolvability assessments (see appendix for the full set). But not all of the items on this list will be given equal weighting, and not all of them will be equally relevant for each firm. In most cases, banks should focus their effort on a small number of vital areas where resolution authorities are likely to focus their attention, largely relating to the legal, operational and financial structures of the banking group. These include:

- Governance structures;
- Suitability of liability structures for bail-in;
- Data capabilities;
- Booking practices and intra-group transactions;
- Critical economic functions and operational continuity;
- Legal entity structures.

Below, we focus on each of these in turn.

Governance structures

As with any component of crisis management, governance architecture is critical. Key individuals need to be identified and made unambiguously aware of their respective roles in any resolution scenario. It is crucial that firms are able to remain 'joined up' in a resolution scenario, both for internal and external communication, as well as to facilitate the efficient execution of any emergency actions required by the situation.

Liability structures

As mentioned above, the SRB will be responsible for determining each bank's MREL – essentially a new requirement for banks to hold enough of the 'right' type of bail-in-able liabilities, in the right place.

A bank's liability structure will be a key determinant of its resolvability, as it will dictate the availability of loss-absorbing capacity that can be drawn on in resolution. MREL will be set both on a consolidated basis for the group and for individual legal entities on a solo basis, and its level may vary between entities within a group depending on the resolution strategy. The SRB will want to ensure that the entities which are significant to the resolution strategy have sufficient MREL to cover the actions envisaged in the plan, which makes an understanding of the resolution strategy key to understanding the amount and location of bail-in-able liabilities that will be required.

> I would foresee that each institution does not get exactly the same number in MREL, but that the system is definitely not a patchwork.

— Elke König, Reuters, May 2015[2] —

2. 'New euro zone watchdog says banks must revamp IT systems', 13 May 2015, http://www.reuters.com/article/us-regulations-summit-koenig-idUSKBN0NY20220150513.

The interplay between individual legal entities and the broader group structure is also important for other reasons, given that individual legal entities may have group-related liabilities on their balance sheets. The SRB is likely to scrutinise the extent to which banks have invested in the debt of other entities in their own group.

Broadly speaking there are three categories of banks which will face different MREL requirements:

- Small and/or simple institutions for which the resolution strategy is liquidation under normal insolvency procedures;
- Medium-sized, more complex institutions for which the resolution strategy involves a bridge bank or transfer of assets, with some component of bail-in or liability write-down;
- Large, complex institutions for which the only feasible resolution strategy is a group-wide bail-in.

In fact, there are unlikely to be any banking groups within the SRB's remit for which the resolution strategy is liquidation under normal insolvency procedures. The banks are therefore all likely to face some degree of MREL requirement over and above their normal capital requirements. The largest, most complex institutions will likely face the highest MREL requirement.

The type of liability also matters: to be eligible for MREL, liabilities must not only be bail-in-able, but must also meet additional criteria, such as having at least 12 months remaining maturity. Crucially, certain liabilities (such as senior unsecured debt) may need to be subordinated to the operating liabilities of the bank before being classed as eligible for MREL. It is currently unclear how this subordination issue will be addressed across the continent, with several countries having put forward their own solutions, and with no EU level response anticipated in the immediate short term.

Data capabilities

As well as banks being required to have the right types of liabilities in the right places within their group structures, the SRB also needs to be able to verify that the right liability structure is in place. To achieve this, many banks will need to invest significantly in their data architecture – across Finance and Treasury – in order to be able to produce the rich and granular data that the SRB requires. Even those entities which are not envisaged as playing a significant role in a resolution strategy will be prescribed an MREL target and will be required to report data to the SRB, which may create significant challenges for those banks that do not have the data available on a solo basis.

Valuation data is another key component of any practical resolution process, and banks will need to be able to provide such data at short notice, and outside regular reporting cycles – in the words of the BRRD, banks should be able to provide such data "at all times even under rapidly changing conditions", compounding the scale of the challenge.

At present many banks do not have adequate systems in place to enable them to capture the relevant details about their balance sheets. In time, banks will need to go further and be able to produce legal entity-level information about their liabilities covering, for instance, volumes, residual maturity and degree of collateralisation, governing law, the creditor hierarchy, bail-in eligibility, and more. As mentioned above, this is particularly true when it comes to the calculation of MREL, and some banks may struggle to provide these data to the SRB.

Banks should examine these data expectations in the light of other regulatory and supervisory data initiatives, such as the Basel Committee's Principles for Effective Risk Data Aggregation and Risk Reporting (BCBS 239), recognising that access to such data will in many cases be as important to the bank as to the resolution authority.

> "Banks have to do their homework on the IT front. […] There is a lot of nitty gritty housekeeping that needs to be done […] that takes a bit of time, but clearly we will mandate it."
>
> — Elke König, Reuters, May 2015[3] —

3. 'New euro zone watchdog says banks must revamp IT systems', 13 May 2015, http://www.reuters.com/article/us-regulations-summit-koenig-idUSKBN0NY20220150513.

Booking practices

Bank booking models are under increased scrutiny for a number of reasons, but resolution planning is a major factor. There is a range of issues in which the SRB may take an interest, including:

- Back-to-back transactions;
- The use of unregulated entities in booking chains;
- Split hedges;
- Revenue-sharing arrangements;
- Intra-group guarantees.

For example, back-to-back transactions between entities within a group can introduce significant intra-group complexity, and also increase the risk that individual entities could be left with significant unhedged positions if their intra-group counterparty were to fail. Resolution authorities will expect to see strong controls around booking practices to ensure that back-to-back transactions entered into for risk management purposes are clearly identifiable in a resolution scenario, so that core risk management functions can continue to be carried out while other positions are dealt with separately (or perhaps wound down).

Critical economic functions and operational continuity

The mapping of services (such as IT) to critical economic functions (such as payments processing), and of functions to legal entity structures, will be an important part of resolution planning. Resolution powers will be applied to legal entities, rather than to business lines or economic functions, and so generally speaking, resolution planning requires banks to adopt a more legal-entity-focused perspective on their businesses.

The ability of banks to perform this mapping will be scrutinised as part of resolvability assessments, and is something which many banks will find challenging. Any interconnectedness and complexity in the structures that deliver critical economic functions will be closely analysed by the SRB, especially if that complexity could impede the separability of critical functions.

Keeping critical economic functions running through the resolution and subsequent restructuring of a bank is the ultimate objective of resolution. In recent months there has been additional detail from regulators in relation to their expectations for operational continuity, with both the FSB and the UK's PRA having consulted on framework principles. These developments should influence the SRB's direction of travel.

One solution being pursued by some major banks is operational subsidiarisation. This involves creating a stand-alone legal entity (or multiple entities) within the group to house services which support critical economic functions. The legal entity is designed to be insolvency remote, and will not carry out regulated (financial services) activities. The legal entity will be a pure service company in which services and contracts can be centralised, creating transparency for resolution authorities, and reducing complexity by eliminating the criss-cross of service arrangements which characterises many banks' existing operations.

Irrespective of the specific operational continuity solution a bank adopts, we would expect the SRB at a minimum to require evidence of banking groups having documented and analysed their service contracts, and to have formalised arrangements through Service Level Agreements (SLAs) that are robust to resolution events. In general, planning for operational continuity requires reviews of SLAs, external service agreements, and market agreements (such as ISDA documents), and potentially the cataloguing of services covering key features such as contracting entities, terms and conditions of services provided, governing law, termination rights, and more.

> [Y]ou might want to have these critical functions isolated in one or, at least, in a small number of companies, and not spread around the group. This does not call for the setting up of a holding structure, but a clean-up of the organisational structure – so functions are aligned with legal entities that can be easily separated.

— Elke König, Risk Magazine, July 2015[4] —

Legal entity structures

The legal entity structure of a group is absolutely fundamental to its resolution, given that resolution powers will be applied at the legal entity level – in a resolution scenario it is the contracting entity and the terms of its contracts (such as the governing law) which are important, while the operating structure (the way in which the bank runs itself) becomes largely irrelevant. Resolvability assessments under the BRRD will look at whether legal structures inhibit the application of resolution tools "as a result of the number of legal persons, the complexity of the group structure or the difficulty in aligning business lines to group entities."[5] The complexity of banks' legal entity structures remains considerable, despite many banking groups having undertaken projects in recent years to rationalise them.

One of the major issues that the SRB will consider is whether or not to impose non-operating holding company or intermediate holding company requirements on banks. A number of major European banking groups have an operating bank at the apex of the group structure, potentially complicating a bail-in, and also providing a spur for some countries to draft legislation changing the creditor hierarchy to address the problem. Remarks made by Elke König suggest that she would prefer to see a "clean-up" of group structures along functional lines to ensure separability, rather than imposing holding company structures, but decisions are likely to be institution-specific.

Non-EU banks under the SRB's remit should also note that it is within the SRB's powers to impose an intermediate holding company structure on the EU operations of non-EU banking groups in order to achieve resolvability. As yet there is no indication of whether the SRB is inclined to impose such a structure, and indeed, Elke König has described the US IHC approach as a step in the wrong direction.

4. 'Q&A: SRB's Elke König on resolution regimes', 1 July 2015, http://www.risk.net/risk-magazine/interview/2414515/q-a-srb-s-elke-k-nig-on-resolution-regimes.
5. See Annex, Section C of the BRRD, http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0059&from=EN.

Banks can look to a set of standards from the EBA which set out how resolution authorities including the SRB should assess the resolvability of banks, and guidelines on what measures they might take if they identify impediments to resolution. These standards provide a useful framework, but ultimately the SRB will have significant discretion in how it applies its powers.

Getting on the front foot

The potential for resolution planning to have far-reaching consequences underlines the importance of banks anticipating the scrutiny their businesses will be subject to, and taking early action to give resolution authorities confidence that they can be reliably resolved in the event of a crisis.

While the SRB is likely to focus in 2016 on bringing all the institutions within its remit up to speed, establishing a foundation level on which it can then build in future years, the existence of its powers should serve as an incentive for banks to get resolvability right sooner rather than later.

By taking a proactive approach to the resolution planning process, banks will be better able to influence how challenges identified by the SRB are addressed, and may be better placed to implement operational changes on their own terms rather than those dictated by the regulator. It will also be easier to incorporate changes into strategic and investment plans, minimising disruption and avoiding duplicated or redundant effort.

The activities banks can carry out in the immediate near-term will not only help with preparation for resolvability assessments, but will also contribute to a better understanding of their own operations, throwing light on complexity and by extension potential operational inefficiencies. The concerns of resolution authorities like the SRB will not always be at odds with those of the industry – both stand to benefit from more transparent, less complex organisational structures, robust internal controls, and fit for purpose data architecture. These outcomes will aid resolvability, but will also aid efficiency and more effective management.

Resolvability self-assessments

As a first step, banks may consider assessing themselves against resolvability criteria in order to identify potential impediments.

A self-assessment will enable a firm to:

- **Anticipate findings** of resolvability assessments;
- Identify **impediments to resolvability** and plan mitigating actions;
- Identify **data gaps** and **systems capability**;
- Enhance **governance** of internal processes;
- Form an internal view of the most **appropriate resolution strategy**;
- Identify potentially **redundant legal entities**;
- Identify opportunities to **optimise booking practices**;
- Identify **operational inefficiencies**, for instance in relation to critical services provision;
- Identify **critical dependencies** (intra-group as well as with external parties);
- Identify **siloed departments** and divisions and develop cross-departmental working.

Operational continuity assessments

One specific area in which a deep dive exercise may be particularly useful is operational continuity. For instance, banks have recently been asked by the UK authorities to undertake resolvability self-assessments but with a significant focus on operational continuity. Operational continuity requirements put a significant premium on understanding the networks of services that are in operation supporting the banks' various functions and may highlight areas in which documentation is in need of rationalisation.

Solvent wind-down planning

UK regulators have also requested that certain banking groups operating in their jurisdictions prepare solvent wind-down plans for particular portions of their balance sheets. So far, these exercises have tended to focus on entities with large trading books (such as broker dealers), with the UK authorities in particular having focused on the UK investment banking subsidiaries of foreign banking groups.

But despite the narrow focus so far, there is speculation within the industry as to whether SWD planning might become more prominent in resolution planning in other countries, with some institutions having undertaken to carry out SWD plans for broader parts of the group without specific additional regulatory prompts, in anticipation of SWDs becoming more of a default option for resolution authorities looking at investment banking businesses.

Testing and internal governance

A key aspect of dealing with resolution is how the theory is translated within a banking group into practical terms. Recovery and resolution are inherently about crisis management, and while good data may help the process along, crisis management will stand or fall on the actions of the individuals involved. One way in which firms' crisis management frameworks can be tested is the running of simulations and 'war games'. Indeed, many firms already run such exercises on a large scale, involving senior management and dozens of staff. These exercises can help to challenge and validate the content and utility of plans. They can also be used to build 'playbooks', and to increase confidence among the wide range of internal stakeholders involved in resolution planning, as well as with the regulatory authorities.

> "I find it reassuring that the UK and the US have conducted a fire-drill resolution exercise [...] and at some point, we should conduct a similar exercise […] and see what happens if we need to resolve a bank, so everyone understands what the strategy is, what it really entails. Are we confident we have the right legal settings and do political leaders understand what it really involves? We don't have a world-wide legal framework for that. The only thing we have is trust in each other and co-operation with each other, and the knowledge that cross-border resolution is not a zero-sum game, but that value is saved by co-operation. […] We have talked to our counterparts in the UK and in the US, and this type of exercise could be happening in late 2016 or early 2017."

— Elke König, Risk Magazine, July 2015[6] —

6. 'Q&A: SRB's Elke König on resolution regimes', 1 July 2015, http://www.risk.net/risk-magazine/interview/2414515/q-a-srb-s-elke-k-nig-on-resolution-regimes.

Conclusion

The implementation of the BRRD and the creation of the SRB together mean that resolution planning is coming to a wider set of institutions. While much of the regulatory attention has to date been on the G-SIBs, the SRB's remit extends well beyond that group, and many of those institutions may be considerably less familiar with the theory and practice of resolvability than their G-SIB counterparts.

Understanding where the SRB fits into the regulatory architecture, as well as its likely areas of focus, will be important for those firms in order to avoid regulatory intervention further down the line. While the SRB is likely to focus on bringing all the firms within its remit 'up to speed' in 2016, it is also likely to make demands of banks during that period, particularly in relation to data for resolution planning, resolvability assessments, and setting MREL.

Ultimately, resolvability may have a significant influence on banks' operating models across a number of dimensions, including how services are provided, how products are booked, and how groups fund themselves. Engaging with the substance of resolution planning will enable banks to maintain the initiative and adjust their operations on their own terms, rather than those imposed by the authorities, and in so doing to extract greater value from the insights that can be gained.

Appendix

Resolvability assessments

The BRRD requires that resolution authorities consider a wide range of factors when assessing resolvability. These are contained in Section C of the Annex to the Directive,[7] and include:

1. the extent to which the institution is able to map core business lines and critical operations to legal persons;
2. the extent to which legal and corporate structures are aligned with core business lines and critical operations;
3. the extent to which there are arrangements in place to provide for essential staff, infrastructure, funding, liquidity and capital to support and maintain the core business lines and the critical operations;
4. the extent to which the service agreements that the institution maintains are fully enforceable in the event of resolution of the institution;
5. the extent to which the governance structure of the institution is adequate for managing and ensuring compliance with the institution's internal policies with respect to its service level agreements;
6. the extent to which the institution has a process for transitioning the services provided under service level agreements to third parties in the event of the separation of critical functions or of core business lines;
7. the extent to which there are contingency plans and measures in place to ensure continuity in access to payment and settlement systems;
8. the adequacy of the management information systems in ensuring that the resolution authorities are able to gather accurate and complete information regarding the core business lines and critical operations so as to facilitate rapid decision making;
9. the capacity of the management information systems to provide the information essential for the effective resolution of the institution at all times even under rapidly changing conditions;
10. the extent to which the institution has tested its management information systems under stress scenarios as defined by the resolution authority;
11. the extent to which the institution can ensure the continuity of its management information systems both for the affected institution and the new institution in the case that the critical operations and core business lines are separated from the rest of the operations and business lines;
12. the extent to which the institution has established adequate processes to ensure that it provides the resolution authorities with the information necessary to identify depositors and the amounts covered by the deposit guarantee schemes;
13. where the group uses intra-group guarantees, the extent to which those guarantees are provided at market conditions and the risk management systems concerning those guarantees are robust;
14. where the group engages in back-to-back transactions, the extent to which those transactions are performed at market conditions and the risk management systems concerning those transactions practices are robust;
15. the extent to which the use of intra-group guarantees or back-to-back booking transactions increases contagion across the group;
16. the extent to which the legal structure of the group inhibits the application of the resolution tools as a result of the number of legal persons, the complexity of the group structure or the difficulty in aligning business lines to group entities;
17. the amount and type of eligible liabilities of the institution;
18. where the assessment involves a mixed activity holding company, the extent to which the resolution of group entities that are institutions or financial institutions could have a negative impact on the non-financial part of the group;
19. the existence and robustness of service level agreements;
20. whether third-country authorities have the resolution tools necessary to support resolution actions by Union resolution authorities, and the scope for coordinated action between Union and third-country authorities;
21. the feasibility of using resolution tools in such a way which meets the resolution objectives, given the tools available and the institution's structure;
22. the extent to which the group structure allows the resolution authority to resolve the whole group or one or more of its group entities without causing a significant direct or indirect adverse effect on the financial system, market confidence or the economy and with a view to maximising the value of the group as a whole;
23. the arrangements and means through which resolution could be facilitated in the cases of groups that have subsidiaries established in different jurisdictions;
24. the credibility of using resolution tools in such a way which meets the resolution objectives, given possible impacts on creditors, counterparties, customers and employees and possible actions that third-country authorities may take;
25. the extent to which the impact of the institution's resolution on the financial system and on financial market's confidence can be adequately evaluated;
26. the extent to which the resolution of the institution could have a significant direct or indirect adverse effect on the financial system, market confidence or the economy;
27. the extent to which contagion to other institutions or to the financial markets could be contained through the application of the resolution tools and powers;
28. the extent to which the resolution of the institution could have a significant effect on the operation of payment and settlement systems.

7. See Annex, Section C of the BRRD, http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0059&from=EN.

Contacts

EMEA Centre for Regulatory Strategy

Clifford Smout
Partner
csmout@deloitte.co.uk

David Strachan
Partner
dastrachan@deloitte.co.uk

Simon Brennan
Director
simbrennan@deloitte.co.uk

John Andrews
Manager
johandrews@deloitte.co.uk

Single Resolution Mechanism Network

Bernard de Meulemeester
Partner
bdemeulemeester@deloitte.com

Banking Union Centre in Frankfurt

Hans-Jürgen Walter
Partner
hawalter@deloitte.de

EMEA FSI Leadership

Nick Sandall
EMEA FSI Co-lead & FSI Leader UK
nsandall@deloitte.co.uk

Francisco Celma
EMEA FSI Co-lead & FSI Leader Spain
fcelma@deloitte.es

Deloitte LLP is a limited liability partnership registered in England and Wales with registered number OC303675 and its registered office at 2 New Street Square, London EC4A 3BZ, United Kingdom. Tel: +44 (0) 20 7936 3000 Fax: +44 (0) 20 7583 1198.

Designed and produced by The Creative Studio at Deloitte, London. J3280