

Resolution Regimes: FSB's Key Attributes, TLAC and MREL

Seminar on Crisis Management and Bank Resolution

Abuja, Nigeria

16-20 January 2017

Amarendra Mohan

Independent Financial Sector Expert

(formerly with the Financial Stability Institute

Bank for International Settlements

Basel, Switzerland)

amarendra.mohan@yahoo.com

Agenda

- Key Attributes of Effective resolution regimes
- Assessment Methodology
- Implementation of Key Attributes

Why is a Resolution regime needed for FIs?

	Resolution	Insolvency
Outcomes	FI fails <ul style="list-style-type: none"> - key parts of business stabilised - continuity for critical financial services (payment/clearing/settlement functions) - protect financial stability 	FI fails <ul style="list-style-type: none"> - liquidator- wind up business; on-going business ceases - assets disposed of to meet creditor claims - restructuring techniques e.g. creditor standstill agreements & moratoria- ill-suited to FIs (dep./investors/policyholders)
Approach	Resolution - very quick (in days) <ul style="list-style-type: none"> - Almost no interruption to FI activities - creditors have certainty, quickly, on the outcomes 	<ul style="list-style-type: none"> - Winding-up/ restructuring- months/ years -Activities of FI will terminate/ suspended, - customers/creditors have to wait to find out the outcomes
Customers	<ul style="list-style-type: none"> -close to uninterrupted access to critical financial services (e.g. if retail dep. a/cs trfd to sound FI over weekend - normal Monday service) 	<ul style="list-style-type: none"> - financial services terminated/ suspended - depositors with balances over the DGS limit - wait to see if fully paid
Employees	<ul style="list-style-type: none"> - Continuity of employment for some or all employees 	Employment contracts terminated for the majority of employees
Owners & Creditors	Owners/ some unsecured creditors - Bailed in	Owners/ some unsecured creditors bear losses on a gone concern basis

Key Attributes of Effective Resolution Regimes for FIs

- FSB adopted the 12 *Key Attributes* in 2011
 - ‘umbrella’ standard for resolution regimes for all FIs (bks, Ins, Inv.)
- FSB agreed to develop further guidance, to accommodate
 - different national legal systems
 - market environments
 - sector-specific considerations (e.g., insurance, financial market infrastructures)

Objective: to promote effective & consistent implementation
- Oct 2014- FSB adopted additional guidance:
 - information sharing for resolution purposes
 - sector-specific guidance insurers
 - financial market infrastructures (FMIs) and
 - protection of client assets in resolution
- 2014- No changes to the text of 2011 Key Attributes

Key Attributes of Effective Resolution Regimes for FIs

The Annexes to the Key Attributes (2014) - two categories:

- **General guidance on the implementation of the Key Attributes (Appendix I):**
 - I-Annex 1: Information sharing for Resolution Purposes (KAs 7 and 12)
 - I-Annex 2: Institution-specific Cross-border Cooperation Agreements (KA 9)
 - I-Annex 3: Resolvability Assessments (KA 10)
 - I-Annex 4: Recovery and Resolution Plans (KA 11)
 - I-Annex 5: Temporary Stays on Early Termination Rights (KA 4)
- **Sector-specific Guidance (Appendix II)**
 - II-Annex 1: Resolution of FMIs and FMI Participants
 - II-Annex 1: Resolution of Insurers
 - II-Annex 1: Protection of Client Assets in Resolution

Key Attributes – Preamble

An effective resolution regime should:

- Ensure continuity of systemically important financial services, and payment, clearing and settlement functions
- Protect depositors, insurance policy holders and investors, and ensure the rapid return of segregated client assets
- Allocate losses to firm owners (*shareholders*) and *unsecured* and *uninsured* creditors in a manner that respects the *hierarchy of claims*
- Not rely on public solvency support and not create an expectation that such support will be available
- Avoid unnecessary destruction of value
 - minimise overall costs of resolution in home and host
 - minimise losses for creditors (if consistent with other objectives)

Key Attributes – Preamble

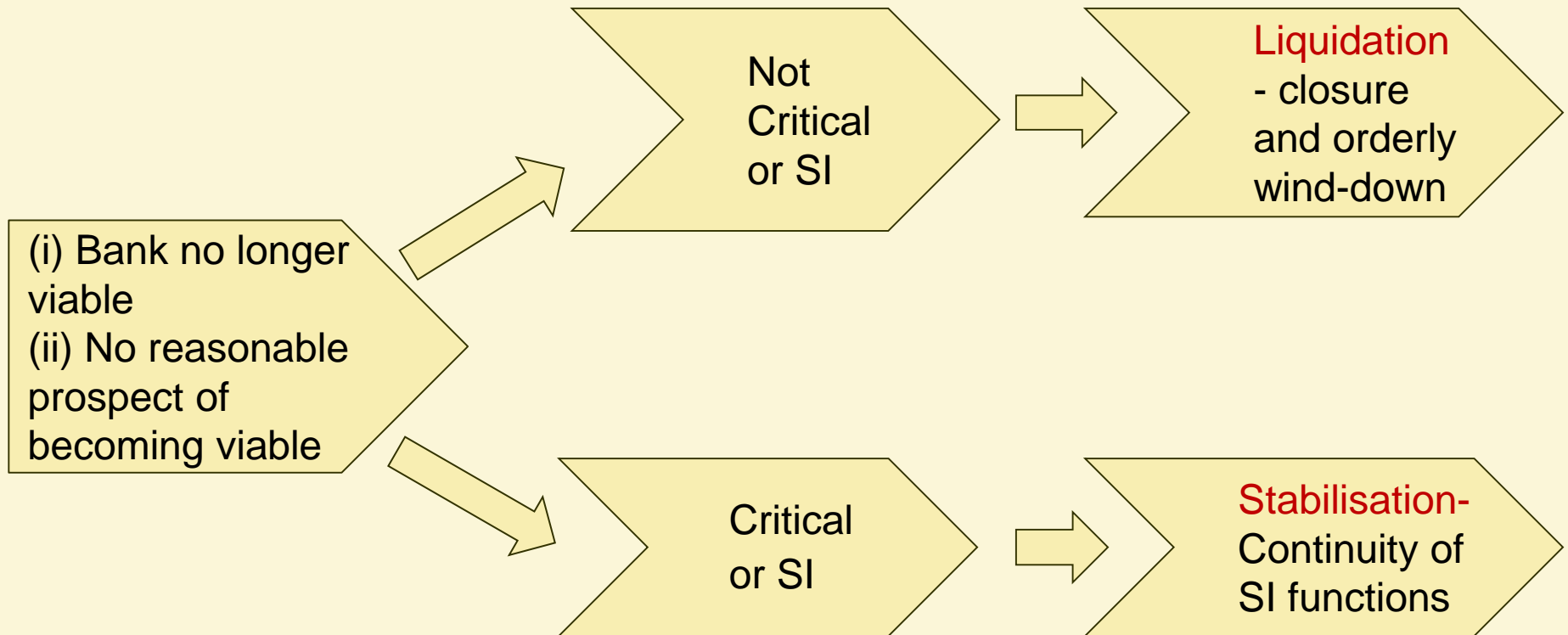
An effective resolution regime should: (contd.)

- Provide for *speed and transparency* and as much *predictability* as possible through legal and procedural clarity and *advanced planning* for orderly resolution
- Provide a *mandate in law* for cooperation, information exchange and coordination domestically and with relevant foreign resolution authorities *before* and during a resolution
- Ensure- non-viable firms can *exit* the market in an orderly way
- Be *credible*, and thereby enhance market discipline and provide incentives for market-based solutions.

Key Attributes – Preamble

- Resolution authority - a broad range of powers and options to resolve a firm that is:
 - *no longer viable*
 - *has no reasonable prospect of becoming viable*
- The resolution regime should include:
 - (i) **stabilisation options**
 - continuity of systemically important functions
 - *sale or transfer* of shares in the firm or of *all or parts of the firm's business* to a third party
 - either directly or through a *bridge institution*
 - officially mandated *creditor-financed recapitalisation* of the entity that continues providing the critical functions
 - (ii) **liquidation options**
 - orderly closure and wind-down of all or parts of the firm's business in a manner that protects insured depositors, insurance policy holders and other retail customers

Decision tree - liquidation or resolution



SI – Systemically Important

12 Key Attributes for Effective Resolution Regimes

KA1	Scope
KA 2	Resolution authority
KA 3	Resolution powers
KA 4	Set-off, netting, collateralisation, segregation of client assets
KA 5	Safeguards
KA 6	Funding of firms in resolution
KA 7	Legal framework conditions for cross-border cooperation
KA 8	Crisis Management Groups (CMGs)
KA 9	Institution-specific cross-border cooperation agreements
KA 10	Resolvability assessments
KA 11	Recovery and resolution planning
KA 12	Access to information and information sharing

Key Attribute #1 : Scope

Which entities are covered?

- Any FI “**systemically significant**” or “**critical in the event of failure**” -
 - (i) *holding companies* of a firm
 - (ii) non-regulated *operational entities* within a financial group or conglomerate that are significant to the business of the group or conglomerate
 - (iii) *branches* of foreign firms
- Financial market infrastructures (“FMIs”) - to maintain continuity of critical FMI functions

Home to ensure for at least all G-SIFIs

- Recovery and resolution plan (“RRP”), including a group resolution plan
- Regular resolvability assessments
- Institution-specific cross-border cooperation agreements

Key Attribute # 2 Resolution Authority

Resolution authority should:

- pursue *financial stability* and ensure *continuity* of *systemically important financial services, and payment, clearing and settlement functions*
- protect depositors, insurance policy holders and investors
- avoid unnecessary destruction of value
 - seek to minimise overall costs of resolution in *home and host jurisdictions* and
 - losses to creditors (consistent with other statutory objectives)
- duly consider the potential impact of its resolution actions on *financial stability in other jurisdictions*

Key Attribute # 2 Resolution Authority

- The resolution authority should have
 - operational independence
 - transparent processes
 - sound governance
 - adequate resources, and
 - subject to rigorous evaluation & accountability mechanisms to assess effectiveness of resolution measures
 - unimpeded access to firms for resolution purposes (resolution planning, preparation, implementation)
- Resolution authority/ staff – protection against liability for resolution actions taken in good faith

An illustration: UK Institutional framework for resolution

- The Banking Act - framework for use of resolution regime, defines roles for each authority
- Bank of England (BOE) - designated resolution authority for UK
- BOE and PRA (banks) or FCA (investment firms) - decision for resolution, having consulted HM Treasury
- Resolution tools- applied by BOE in consultation with other authorities
 - except temporary public ownership, or if public equity injection—decided by Government (HM Treasury)
 - Government & BOE conduct resolution (This is a last resort)
- The Financial Services Compensation Scheme (FSCS) pays out/ funds transfer of deposits protected by deposit guarantee scheme, up to a limit of £75,000 per person *per authorised firm*
 - The FSCS may also protect investors for losses up to £50,000.

Legal & Institutional Framework for Resolution

	Authority – conditions of resolution met	Authority – resolution strategy and actions	Authority – implementing resolution
Argentina	BCRA	BCRA	BCRA
Australia	APRA	APRA with Council of Financial Regulators	APRA with Council of Financial Regulators
Brazil	BCB	BCB	BCB
Canada	OFSI	CDIC	CDIC
China	CBRC (consult PBC and DIFMA)	CBRC, PBC and DIFMA	DIFMA and PBC
France	ACPR, SRB/ECB*	SRB (consult ACPR)***	ACPR
Germany	FMSA, SRB and ECB*	SRB (consult FMSA)***	FMSA
Hong Kong	HKMA (consult Fin. Sec. but not bound by advice)	HKMA (consult Financial Secretary but not bound by advice)	HKMA (consult Fin. Sec. but not bound by advice)
India	RBI	RBI	RBI
Indonesia	OJK	FKSSK (systemic banks) LPS (non-systemic banks)	LPS
Italy	Bank of Italy, SRB and ECB*	SRB (consult Bank of Italy)***	Bank of Italy
Japan	JFSA	JFSA	JFSA or DICJ
Korea	FSC, KDIC	FSC	FSC, KDIC
Mexico	CNBV	IPAB (Banking Stability Committee (CEB) if systemic consequences)	IPAB
Netherlands	DNB, SRB and ECB*	SRB (consult DNB)***	DNB
Russia	Bank of Russia	Bank of Russia	Bank of Russia
Saudi Arabia	SAMA	SAMA	SAMA
Singapore	MAS	MAS	MAS

Legal & Institutional Framework for Resolution

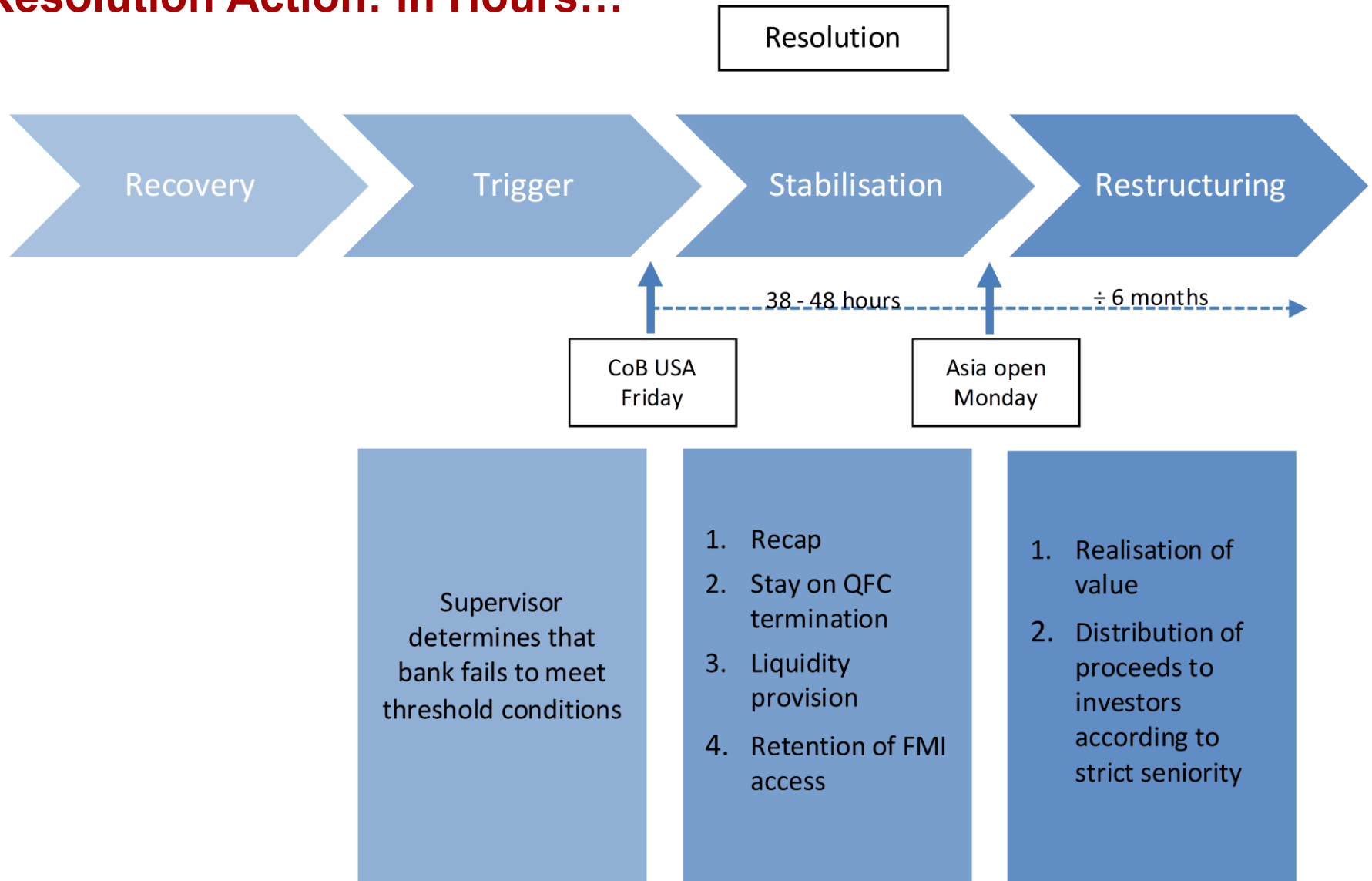
	Authority – conditions of resolution met	Authority – resolution strategy and actions	Authority – implementing resolution
South Africa	The Registrar of Banks	Curator with direction from the Registrar and Minister of Finance	Curator with direction from the Registrar
Spain	BdE and FROB, SRB and ECB*	SRB (consult FROB)	FROB
Switzerland	FINMA	FINMA	FINMA
Turkey	BRSA	SDIF	SDIF
United Kingdom	PRA, BoE (consult FCA and HMT)**	BoE	BoE (HMT for temporary public ownership tool)
United States	For insured depository institutions, FDIC, OCC, applicable State authority. For systemic entities other than insured depository institutions, Treasury Secretary, in consultation with President, following recommendation from FRB and FDIC/SEC	FDIC (for Title II and FDI Act)	FDIC (for Title II and FDI Act)

Key Attribute # 3: Resolution powers

Entry into resolution

- Resolution should be initiated when a firm is
 - no longer viable or likely to be no longer viable, and
 - has no reasonable prospect of becoming viable
- ***Timely and early*** entry into resolution
 - ***Before a firm is balance-sheet insolvent***, before all equity has been fully wiped out
- Clear standards or suitable indicators of non-viability needed

Resolution Action: in Hours...



Tight timeframes dictate advance planning

Illustration – Entry into resolution in EU

Conditions for resolution: Article 32(1) of BRRD-

3 conditions need to be *simultaneously* met:

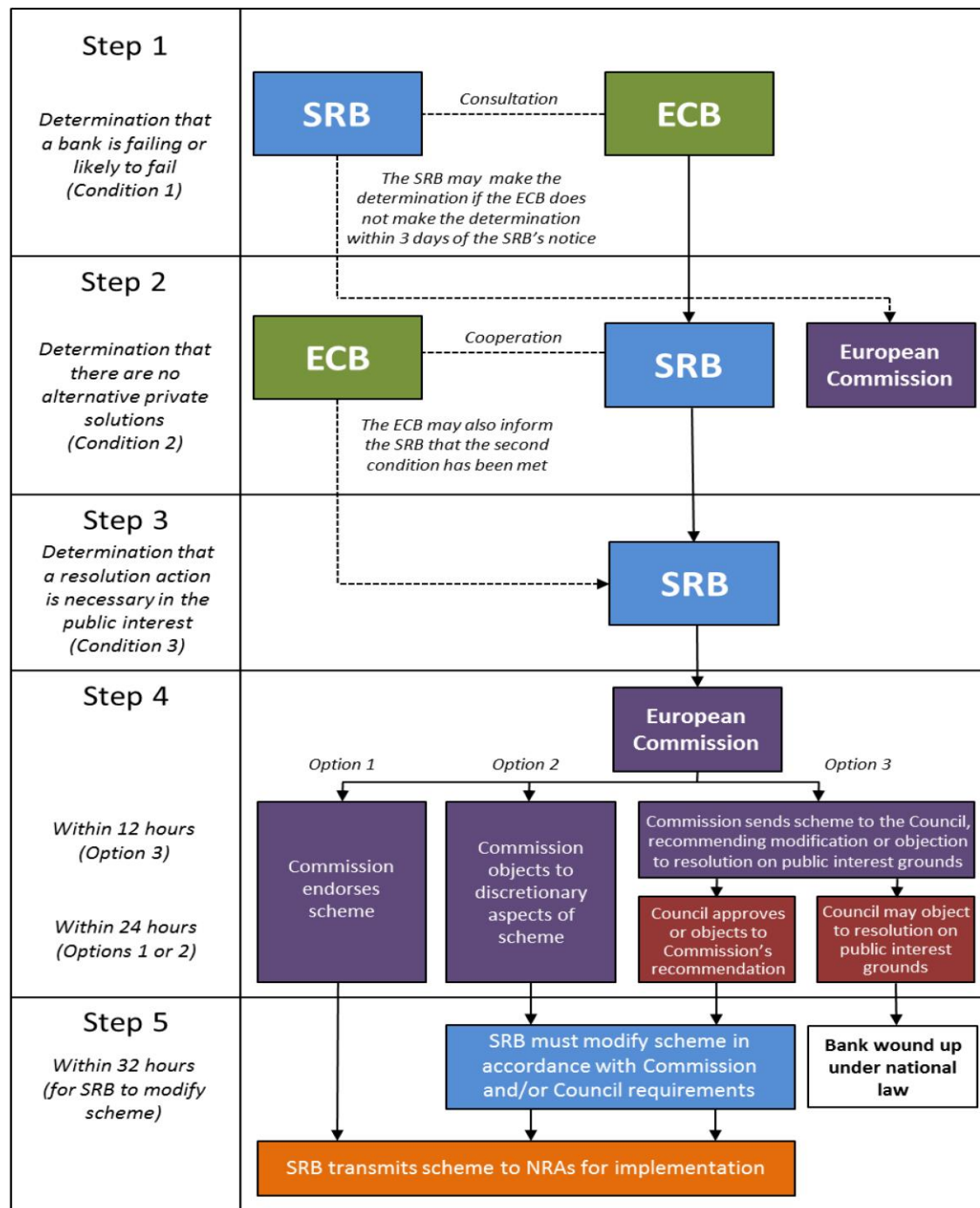
- 1) Supervisory Authority determines that an institution is failing or likely to fail (FOLTF)
- 2) No reasonable prospect that any alternative private sector or supervisory action (including early intervention measures or the write-down or conversion of capital instruments) would prevent the failure of the institution within reasonable timeframe
- 3) a resolution action is necessary in the public interest

BRRD- Bank Recovery and Resolution Directive

Illustration – Entry into resolution in EU

- EU: An institution is failing or likely to fail, if:
 - a current or *likely* infringement of requirements for continuing authorisation - withdrawal of authorisation is justified
 - assets currently lower or *likely* to be lower than liabilities
 - a current or *likely* inability to pay debts or other liabilities as they fall due
 - a need for extraordinary public financial support (subject to exceptions)

- FSB: The more closely the conditions for entry into resolution are based on insolvency, timely intervention becomes more uncertain
 - Forward-looking criteria- greater flexibility for early intervention (e.g. “likely to be ...”)
 - more likely to support the objectives of resolution
 - much also depends on the approach of authorities and their willingness in practice to take early action.



EU: Entry into resolution under the SRM

- 24 hours- European Commission endorses the resolution scheme & it is implemented
- 32 Hours – if SRB has to modify the scheme

FSB: Second Thematic Review on Resolution Regimes, Peer Review Report, Mar 2016

Key Attribute # 3: Resolution powers

Resolution powers:

- **Remove/ replace senior management/** directors and recover monies from responsible persons, including claw-back of variable remuneration
- Appoint an **administrator** – to restore the firm/ its business, to ongoing and sustainable viability
- **Operate and resolve the firm:**
 - powers to terminate contracts
 - Continue or assign contracts
 - Purchase/ sell assets
 - Write down debt
 - other action to restructure/ wind down firm's operations
- Ensure **continuity of essential services and functions**

Key Attribute # 3: Resolution powers

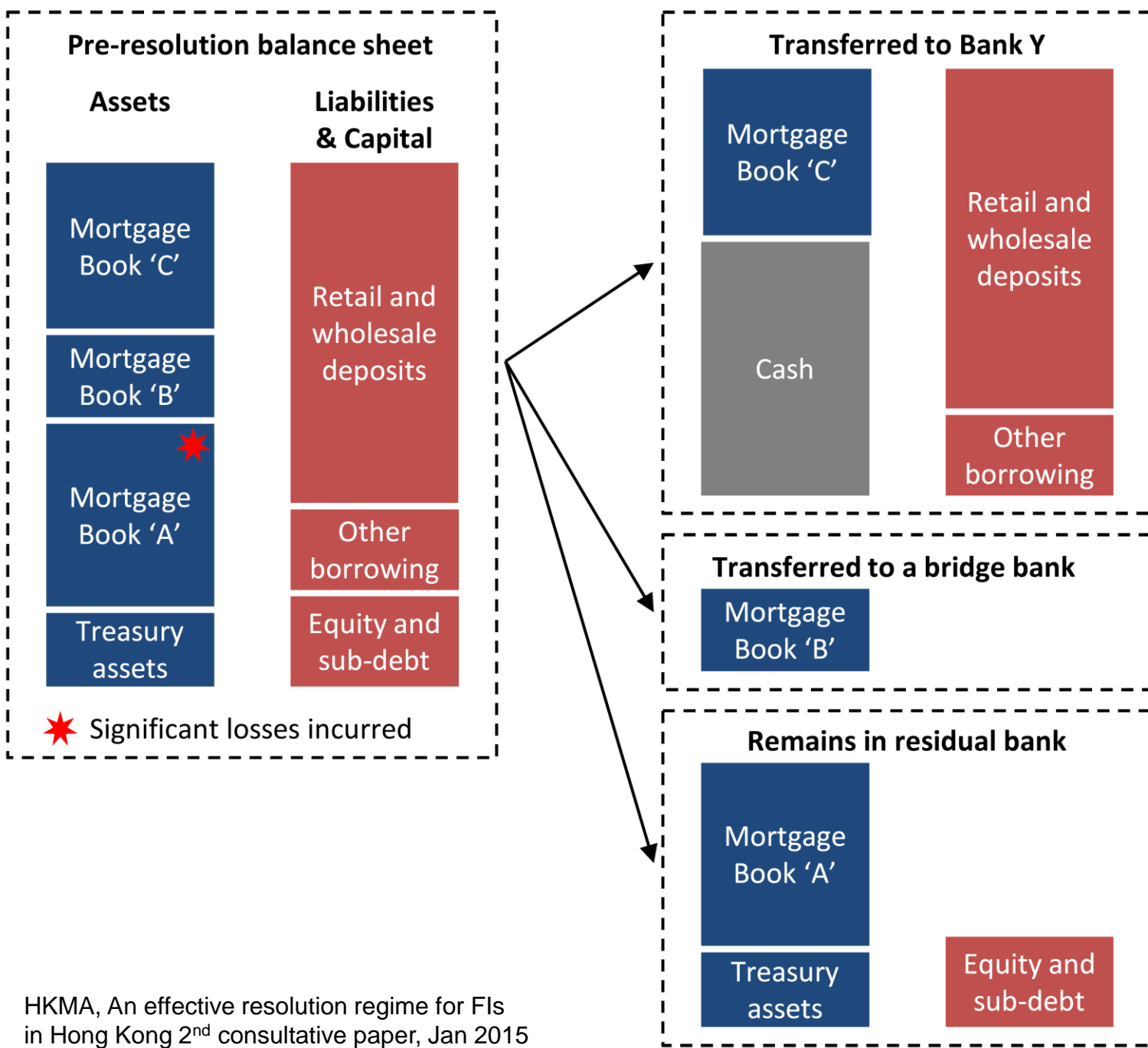
- **Override rights of shareholders** of the firm in resolution,
 - (merger, acquisition, sale of business, recapitalisation/ restructure/ dispose off firm's business/ liabilities/ assets)
- **Transfer**/ sell assets/liabilities to a solvent third party
- Establish **temporary bridge institution** (to take over/ continue certain critical functions/ viable ops. of a failed firm)
- Establish a separate **asset management vehicle** (eg, as a subsidiary, trust or AMC of the distressed firm)
 - transfer to the vehicle for management and run-down NPLs
- **Bail-in** by recapitalising the existing entity or a newly established entity or bridge institution
- **Temporary stay** of the exercise of early termination rights
- **Moratorium** - suspension of payments to unsecured creditors/ customers
- **Liquidation**- closure/ orderly wind-down of whole/part of failing firm

Jurisdiction	Control & operate a firm		Replace management		Continuity of services and functions ³		Transfer powers		Bridge bank		Asset Management Vehicle		Write down and convert liabilities		Impose temporary stay	
	NOHC	DBFB	NOHC	DBFB	NOHC	DBFB	NOHC	DBFB	NOHC	DBFB	NOHC	DBFB	NOHC	DBFB	NOHC	DBFB
Argentina		X		X				X								
Australia			X ¹		¹	X	X ²		X ²		X ²					
Brazil	X	X	X	X			X	X								
Canada																
China		X		X				X								
France	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Germany	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Hong Kong				X	¹											
India				X												
Indonesia		X		X	¹			X								
Italy	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Japan	X	X	X	X	¹	¹	X	X	X	X	X	X	⁴	⁴	X	X
Korea	X	X	X	X			X	X	X	X	X	X				
Mexico	X ¹		X ¹		¹		X ¹									
Netherlands	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Russia																
Saudi Arabia				X												
Singapore	X ¹	X	X ¹	X	X ¹	X	X ¹	X	X ¹	X	X ¹	X				
South Africa		X		X				X								
Spain	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Switzerland	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Turkey	X	X	X	X	¹		X	X			X	X				
United Kingdom	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
United States	X		X				X		X		X		X		X	

Resolution powers

NOHC –
Non-operating
Holding
Company
DBFB-
Domestic
branch of
foreign bank
Grey cell – not
applicable

FSB: Second
Thematic Review on
Resolution Regimes,
Peer Review Report,
Mar 2016



Transfer powers – Transfer of assets & liabilities

HKMA Approach to Resolution

FI is, or is expected to become, non-viable with no reasonable prospect of recovery
(i.e. the non-viability condition is met)?

Yes

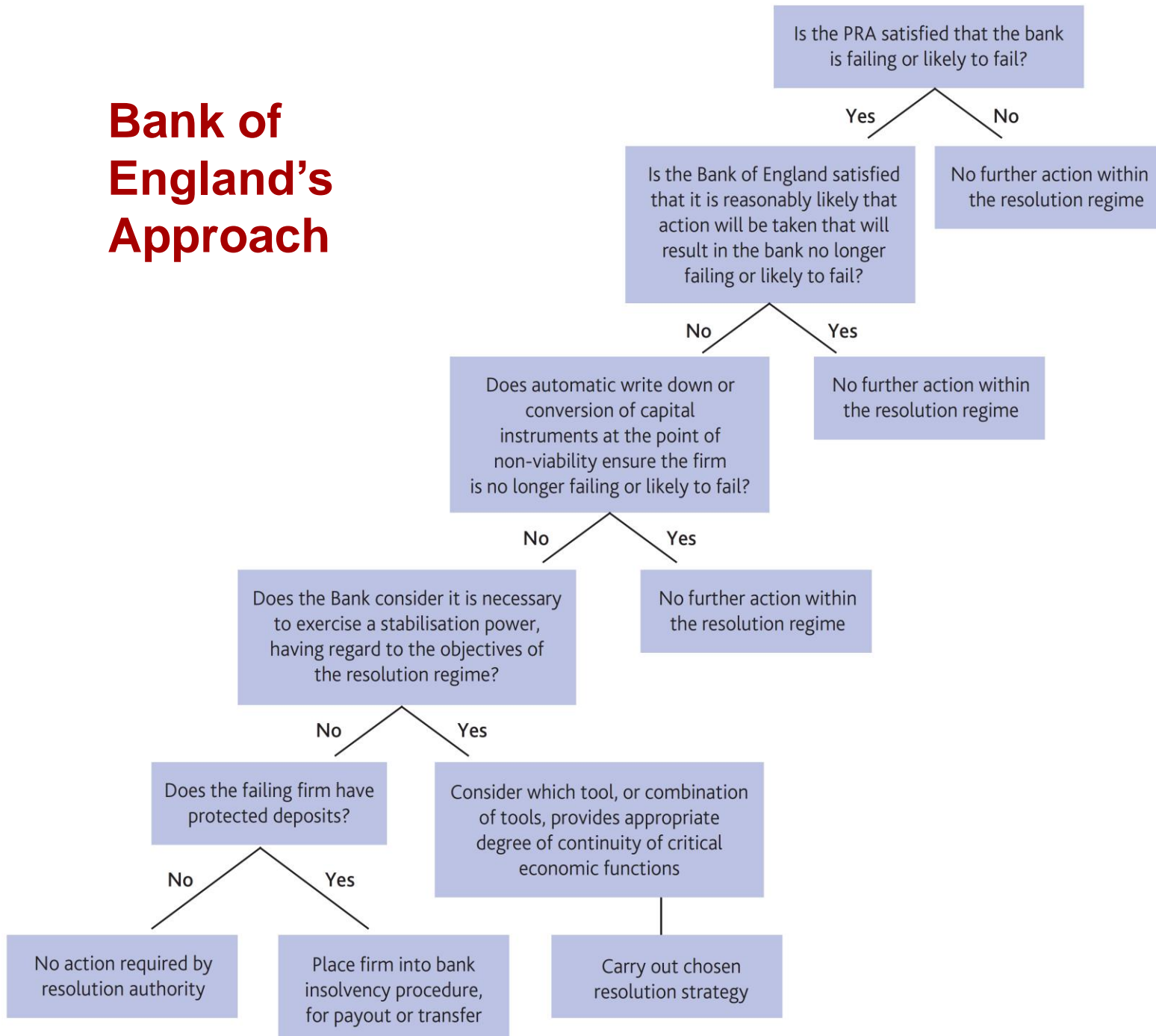
Resolution required to secure continuity of critical financial services, including payment, clearing and settlement functions, and protect financial stability
(i.e. the financial stability condition is met)?

Yes

No

RESOLUTION REGIME			INSOLVENCY PROCEEDINGS	
(a) Resolution options			Insolvency proceedings (as already amended for use with FIs**) + Protection schemes (for depositors, investors and insurance policyholders)	
Compulsory transfer of entire FI or some or all of its business to:		(iii) "Bail-in"		(iv) TPO*
(i) A commercial purchaser	(ii) A bridge institution			
(b) Dealing with residual parts of the FI				
(v) AMV		Insolvency proceedings		

Bank of England's Approach

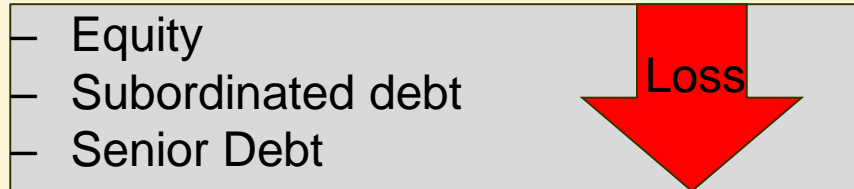


KA#4: Set off, Netting, Collateralisation, segregation of client assets

- legal framework governing:
 - setoff rights
 - contractual netting
 - collateralisation agreements
 - the segregation of client assetsshould be clear, transparent, understandable and enforceable (esp. imp for FMI)
- Entry into resolution should not trigger:
 - statutory or contractual set off rights
 - contractual acceleration or early termination rightsProvided underlying contract is fulfilled
- Power to stay temporarily the exercise of early termination rights
 - Stay Limited in time (≠ 2 working days)
 - Adequate safeguards

KA #5: Safeguards

- Respect creditor hierarchy

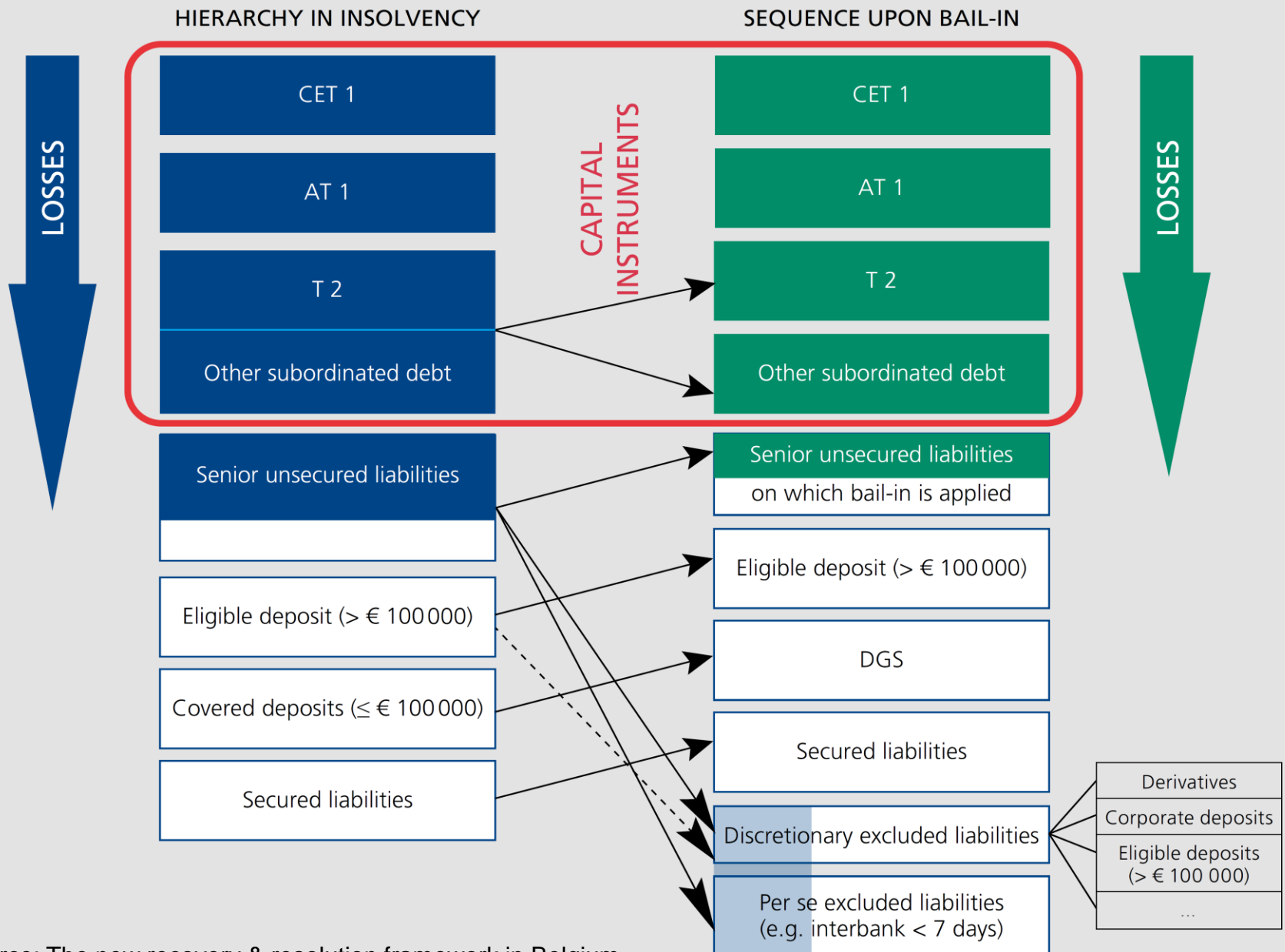


- But, flexibility to depart from general principle of equal (*pari passu*) treatment of creditors of the *same class* (transparency about the reasons - impact of failure, max. value for creditors)
- “no creditor worse off than in liquidation” NCWOL safeguard
 - right to compensation
- Protection in law to Directors/ officers of firm (eg, from law suits by shareholders/creditors) for complying with resolution measures
- necessary speed and flexibility, subject to constitutionally protected legal remedies and due process
- judicial actions not to constrain/ reverse resolution measures (instead redress by awarding compensation)
- temporary exemptions from disclosure requirements

Why NCWOL (no creditor worse off in Liquidation) principle?

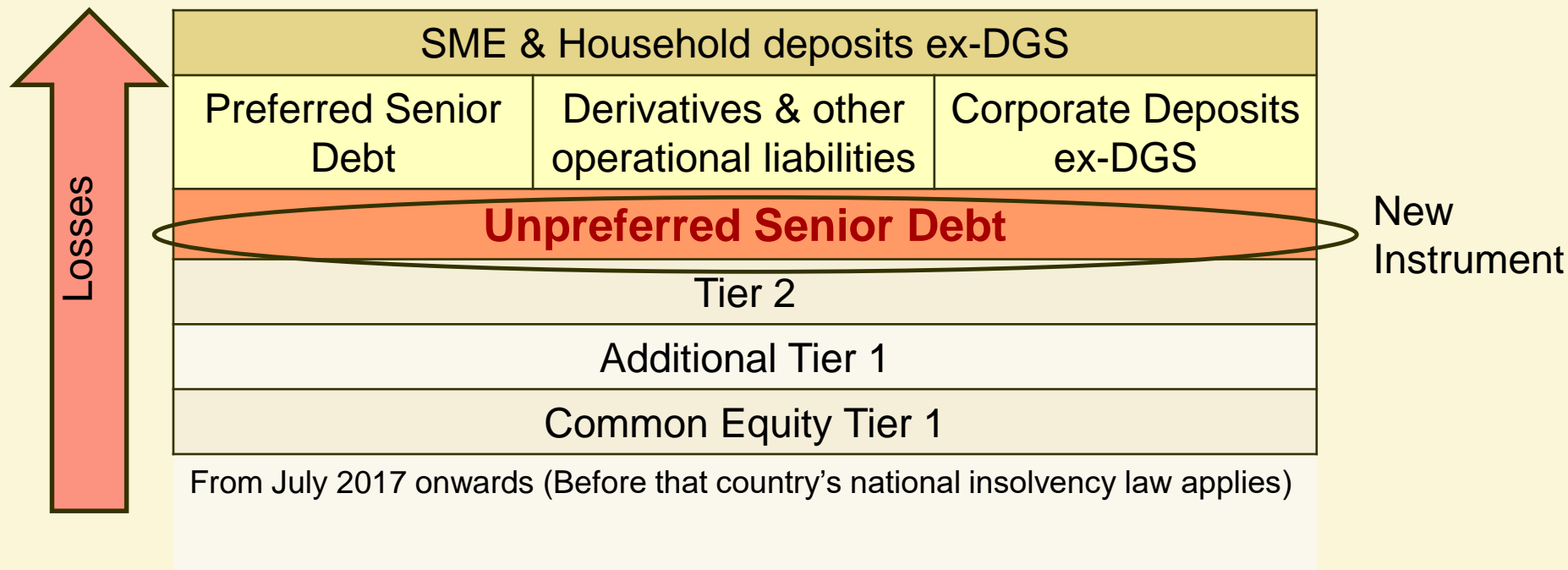
- Apply resolution tools at least as effectively as during bankruptcy
 - Threat of compensation claims could enhance effectiveness and proportionality
- Provides necessary legal checks & balances- resolution action
- Not fair that a shareholder/creditor should bear higher losses than under normal insolvency rules
- Bank is able to attract equity/ debt capital better (loss under insolvency is the maximum loss possible – a cap)
- Bail-in (write-down/conversion of shares/debt) - expropriation of property rights - protected under applicable human rights conventions which need to be complied with (EU, for ex.)

EU: Bail-in & NCWO principle (Earlier)



Source: The new recovery & resolution framework in Belgium, 2015

EU: Harmonised Creditor Hierarchy – Nov 2016



Europe – to harmonize creditor hierarchies in senior debt, will amend insolvency laws to include a new “non-preferred senior debt” category by July 2017 (French approach). This will count towards MREL if

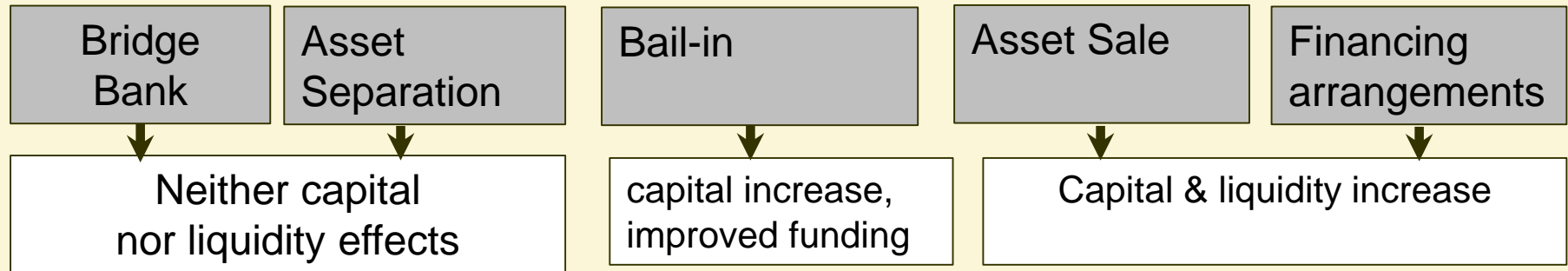
1. Remaining maturity > 1 year
2. No derivative components
3. Include contractual clause specifying ranking of instruments in creditor hierarchy.

KA #6: Funding of firms in resolution

- **Privately-financed Deposit Insurance or Resolution Funds, and/or a funding mechanism for ex-post recovery**
(from the industry of costs of providing temporary financing to facilitate resolution of the firm)
 - Goal: avoid bail-outs and protect public funds
- In Special circumstances, subject to strict conditions, authorities could provide temporary funding:
 - To foster financial stability, orderly resolution, private sources of funding exhausted or cannot achieve these objectives
 - Allocation of losses to equity holders and residual costs, as appropriate, to unsecured/ uninsured creditors & industry ex-post
- Resolution normally after liquidity problems (central banks are already heavily involved in the funding of the bank)
 - important implications for resolution options

Funding of Firms in Resolution

Resolution tools – effect on capital and funding



- Europe - i) Deposit guarantee scheme (covered deposits)
 - ii) resolution fund – support firms under resolution by loans, guarantees, compensation to fulfil ‘no creditor worse off’ (NCWO) condition, asset purchases or capital for bridge banks
 - Small size of resolution fund (ex-ante funds “only” represent 1% of covered deposits, €55bn in the eurozone)
 - Limited effectiveness in systemic crisis
 - Oct 2008- HBOS & RBS- BOE liquidity assistance £61.5bn (intraday peak)
- US -Orderly Liquidation Fund not funded ex-ante, only provides liquidity

KA #7 : Legal Framework Conditions for cross-border cooperation

- Resolution Authority's statutory mandate – empower/ encourage- a cooperative solution with foreign resolution authorities
- No provisions that trigger automatic action in a jurisdiction as a result of official intervention/ resolution/ insolvency proceedings in another jurisdiction
- Resolution authority should have resolution powers over local branches of foreign firms
- No discrimination against creditors on the basis of their nationality, the location of their claim or the jurisdiction where it is payable

KA #7 : Legal Framework Conditions for cross-border cooperation

- Transparent & expedited processes to give effect to foreign resolution measures-
 - a mutual recognition process or
 - taking measures under domestic resolution regime that support/ consistent with resolution measures taken by Home resolution authority
- Resolution Authority - capacity in law to *share information*, including RRP's with foreign authorities, eg, CMG members (subject to adequate confidentiality requirements/ protection for sensitive data)
- confidentiality requirements and statutory safeguards for the protection of *information received* from foreign authorities

KA #8 : Crisis Management Groups (CMGs)

- Home and key host authorities of all G-SIFIs to maintain CMGs
- Objective: enhancing preparedness for, and facilitating the management/ resolution of, a cross-border financial crisis affecting the firm
- Members- supervisory authorities, central banks, resolution authorities, finance ministries and Deposit Insurance
 - Home
 - Host to entities of the group that are material to its resolution
- CMGs - active review/ report, as appropriate to FSB and FSB Peer Review Council on:
 - progress in coordination/ info sharing within CMGs and *with host authorities that are not represented in the CMGs*
 - RRP process for G-SIFIs under institution-specific cooperation agreements
 - Resolvability of G-SIFIs

KA #9 : Institution-specific cross-border cooperation agreements

- All G-SIFIs –(COAGs) Institution-specific cooperation agreements between Home and Host authorities that need to be involved in planning /crisis resolution stages

These agreements should:

- establish objectives/processes for coop. through CMGs
- define roles and responsibilities of authorities pre-crisis (RRP *planning* phases) and during a crisis
- process for information sharing before and during a crisis, *including sharing with any host authorities that are not represented in the CMG* (legal basis, confidentiality of shared information)
- processes for coordination in development of firm's RRP-s-
 - parent or holding company
 - significant subsidiaries
 - branches and affiliates

KA #9 : Institution-specific cross-border cooperation agreements

- Resolvability assessments - processes for home-host coord.
- **Material adverse developments-** agreed procedures for Home to inform/consult host authorities in a timely manner, **before taking any significant action or crisis measures**
 - Similarly, if material adverse developments in Sub., Host to inform/ consult Home authority in a timely manner before taking any discretionary action/ crisis measure
- Details of cross-border implementation of specific resolution measures, including use of bridge institution/ bail-in powers
- Annual Meetings, at a minimum:
 - Senior Officials - review G-SIFI's resolution strategy
 - Other officials- review operational plans for implementing resolution strategies
- Disclosure- Home authorities may publish broad structure of COAG, if agreed by the authorities that are party to agreement

KA #10 : Resolvability assessments

- Resolution authorities should regularly undertake resolvability assessments, at least for G-SIFIs
- Group resolvability assessments by Home, coordinated within CMG, considering assessments by Host
- Host- coordinate with Home: resolvability assessments of Subs
- To improve resolvability, supervisory/ resolution authorities should have powers to require-
 - changes to firm's business practices, structure, organisation
 - reduce complexity and costliness of resolution (considering the effect on soundness and stability of ongoing business)
 - evaluate whether to require the systemically important functions be segregated in legally and operationally independent entities that are shielded from group problems (to ensure continued operation of SI functions)

Resolvability Assessment

- SIFI “**resolvable**” if resolution feasible/ credible- SI functions protected without severe systemic disruption/ loss to taxpayers
 - **Feasible**- necessary legal powers - & practical capacity s
 - **Credible**- resolution itself does not give rise to unacceptably adverse broader consequences for fin. system & real economy
- Objectives of resolvability assessments –
 - make authorities/ firms aware of implications of resolution for systemic risk- nationally/ globally
 - factors affecting effective resolution actions-
 - endogenous (firm structure)
 - exogenous (resolution regime & cross-border coop. framework)
 - degree of contingency preparedness (adequacy of RRPs)
 - Specific actions necessary to achieve greater resolvability

Resolvability Assessment

Stage 1

Feasibility

- strategy: current resolution tools
- Authority's capacity to apply tools at short notice
- Firm's structure/ ops.
 - Internal connectedness
 - FMI membership
 - MIS
 - National resolution regimes & tools

Stage 2

Systemic Impact Assessment

- Credibility** of all feasible resolution strategies
- residual systemic impact of firm's failure
 - (i) inherent Sys. Risk
 - (ii) mitigating actions
 - (iii) firm-specific resolution strategy

Stage 3

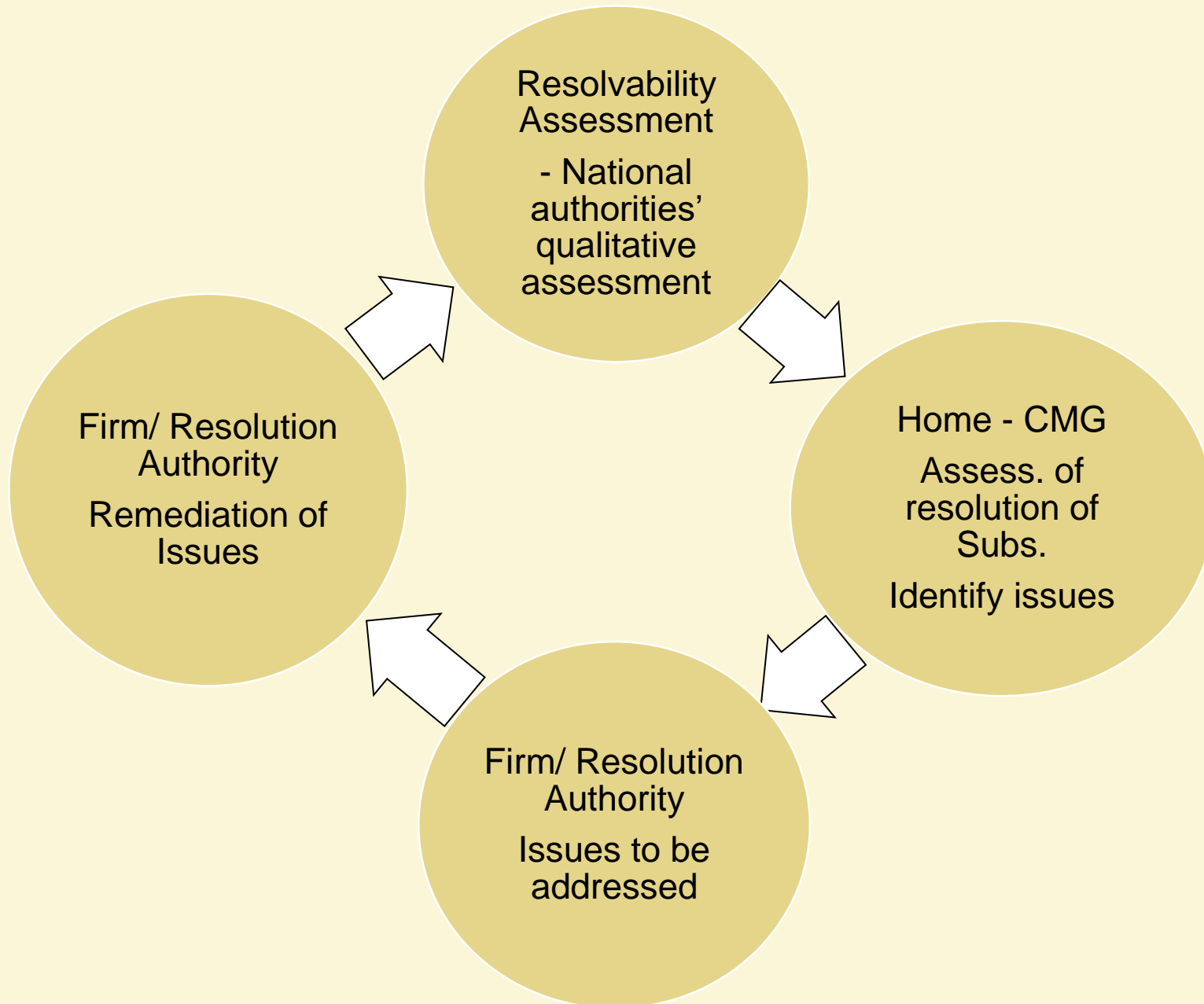
Actions to improve resolvability

- Resolution likely to be both feasible and credible
- Any changes to firm's structure/ operations reqd.
- Timelines for changes
- Monitor progress

Feasible: likely, probable

Credible: believable, plausible, able to hold water, within the bounds of possibility, reasonable

Resolvability Assessment – a process



KA #11: Recovery and Resolution Planning (RRP)

- RRP- to cover at a *minimum* domestically incorporated firms that could be *systemically significant* or *critical if they fail*
- The Resolution plan should identify, in particular:
 - Financial/ economic functions for which continuity is critical
 - suitable resolution options to preserve those functions or wind them down in an orderly manner
 - data requirements on the firm's business operations, structures, and systemically important functions
 - potential barriers to effective resolution & actions to mitigate these
 - actions to protect insured depositors/ ins. policy holders & ensure the rapid return of segregated client assets
 - clear options/principles for exit from the resolution process

KA #11: Recovery and resolution planning

- Firms should be required to ensure that key Service Level Agreements can be maintained in crisis situations and in resolution
- RRPs to be **updated** regularly, **at least annually** or when there are material changes to a firm's business or structure, and subject to regular reviews within the firm's CMG

Key challenges: Resolution Plans, resolvability assessments

- common challenges in the preparation of resolution plans and resolvability assessments:
 - lack of relevant data from banks (e.g. on legal entity level)
 - lack of experience on how to use and filter large amounts of bank data
 - development of realistic scenarios
 - lack of clarity about the definition of resolvability or the criteria for assessing it
 - lack of information needed to carry out these assessments
 - challenges in meaningful home-host interactions:
 - uneven progress in resolution planning
 - absence of harmonised criteria, coordination protocols
 - lack of resolution tools in some jurisdictions

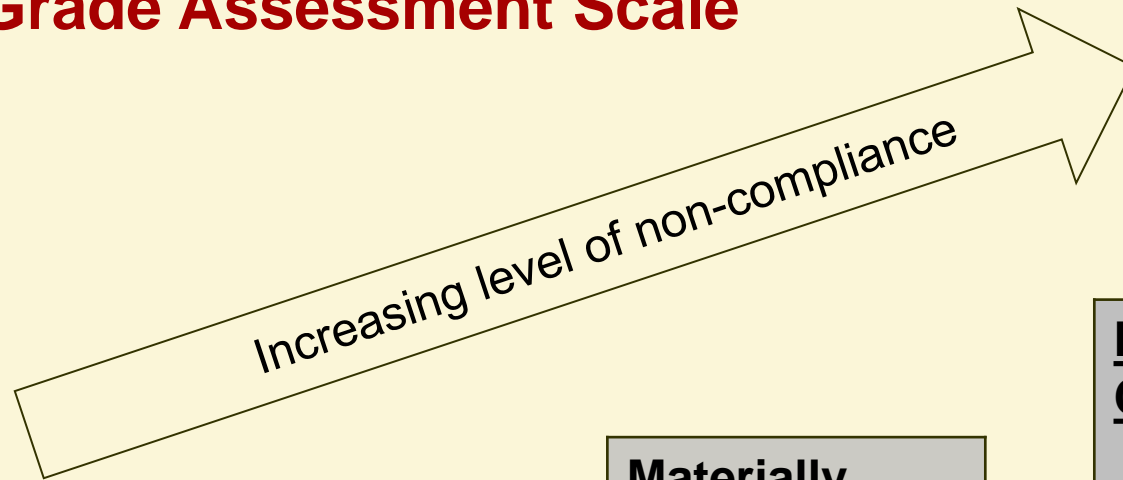
KA #12 : Access to information and information sharing

- No legal, regulatory or policy impediments exist that hinder the appropriate exchange of information (including firm-specific) between supervisory authorities, central banks, resolution authorities, finance ministries and deposit insurance
- Firms to maintain MIS - to produce information on a timely basis, both in normal times for recovery and resolution planning and in resolution

Key Attributes Assessment Methodology for the Banking Sector- Oct 2016

- Assessment methodology can be used for-
 - Self-assessments by authorities
 - peer reviews by FSB for implementation monitoring
 - IMF and WB assessments of resolution regimes, eg FSAPs
- The methodology proposes
 - A set of Essential Criteria (ECs) that the assessors should use to assess and grade compliance with a KA.
 - The Explanatory Notes (ENs) provide examples, explanations and cross-references to other relevant KAs
 - No Additional Criteria (as in Core Principles)

KA: Four-Grade Assessment Scale



Compliant
all applicable
ECs met
without any
significant
deficiencies

**Largely
Compliant**
- only limited
shortcomings
-no material risks
left unaddressed
-full compliance
within a
prescribed period

**Materially
Non-
Compliant**
- severe
shortcomings in
compliance
with relevant
KA

**Non-
Compliant**
-no substantive
implementation
of the KA
-several ECs
not complied
with
- resolution
regime is
manifestly
ineffective

Framework similar to implementation assessment of
Core Principles for Effective Banking Supervision

Bank Resolution Regimes: Status of implementation – self reporting

FSB Jurisdiction	Powers to transfer or sell assets and liabilities	Powers to establish a temporary bridge institution	Powers to write down and convert liabilities (bail-in)	Power to impose temporary stay on early termination rights	Resolution powers in relation to holding companies	Recovery planning for systemic firms	Resolution planning for systemic firms	Powers to require changes to firms' structure and operations to improve resolvability
Argentina								1
Australia					(B)		(B)	¹ (B)
Brazil		(B)	(B)	(B)			(B)	¹ (B)
Canada			(A)		2			
China							3	1
France								
Germany								
Hong Kong	4	4	4	4	4		4	4
India	(B)	(B)	(B)	(B)	(B)	(B)	(B)	(B)
Indonesia			5					1
Italy								
Japan			6					

Source: FSB- Resilience through resolvability – moving from policy design to implementation, 5th Report to the G20 on progress in resolution, 18 August 2016

Bank Resolution Regimes: Status of implementation – self reporting

FSB Jurisdiction	Powers to transfer or sell assets and liabilities	Powers to establish a temporary bridge institution	Powers to write down and convert liabilities (bail-in)	Power to impose temporary stay on early termination rights	Resolution powers in relation to holding companies	Recovery planning for systemic firms	Resolution planning for systemic firms	Powers to require changes to firms' structure and operations to improve resolvability
Korea			(B)	(B)		(B)	(B)	¹
Mexico					⁷			¹
Netherlands								
Russia			(B)					
Saudi Arabia	(B)	(B)	(B)	(B)	²	(B)	(B)	¹ (B)
Singapore			(B)	(B)				¹ (B)
South Africa	(B)	(B)	(B)	(B)		(B)	(B)	(B)
Spain								
Switzerland								
Turkey		(B)						
United Kingdom								
United States								

Current status of implementation

	Implemented
	Partially implemented (all elements in the KA provision are satisfied but powers/requirements can be exercised only in limited circumstances)
	Not implemented (some or all of the elements in the KA provision are not satisfied)
	Not applicable

Cells highlighted in bold indicate that the jurisdiction reports progress in implementation of a specific aspect of its bank resolution regime compared to September 2015.⁶⁴

Status of any pending reforms

A	Reforms agreed (final legislation or rule approved) but not yet in force
B	Reforms under development (policy proposals published or issued for intra-governmental consultation; draft legislation submitted to legislative body or rule-making process initiated under existing statutory authority)

Bank Resolution regimes in FSB jurisdictions: Planned reforms July 2016

	Resolution powers- Planned Reforms/ under discussion
Canada	Introduce bail-in power and enhance temporary stay power
India	Introduce Transfer of assets, bridge bank powers, etc. (bail-in framework yet to be adopted)
Korea	Introduce Bail-in power and temporary stay power
Saudi Arabia	Introduce resolution regime with all powers found in <i>Key Attributes</i>
Singapore	Introduce Bail-in power and temporary stay power
South Africa	Introduce bridge bank, Bail-in power and temporary stay power
Turkey	Introduce bridge bank & purchase and assumption (in bank liquidation) powers,
Australia	Strengthen existing statutory management and directions powers
Brazil	Introduce bail-in, bridge bank and temporary stay powers
China	Introduce additional resolution powers, including bridge bank
Russia	Introduce bail-in power
Turkey	Introduce bail-in and temporary stay powers

Bank Resolution regimes in FSB jurisdictions: Planned reforms July 2016

Recovery & Resolution Planning, resolvability assessments- Planned Reforms/ under discussion	
China, India, Korea, Saudi Arabia, Singapore, South Africa	Introduce resolution planning requirements, resolvability assessments, and measures to allow authorities to require changes to improve resolvability
Australia	Development of a formal framework for recovery and resolution planning and power to require changes to improve resolvability
Brazil	Allow Central Bank of Brazil to determine changes to banks' structures based on a resolvability assessment
Russia	Introduce Regulation (to replace Direction) of the Bank of Russia as a legally binding directive in relation to guidelines for the development of recovery plans
Turkey	Introduce recovery and resolution planning, resolvability assessments and power to require changes to improve resolvability

Resolution Regimes: FSB's Key Attributes, TLAC and MREL

Seminar on Crisis Management and Bank Resolution

Abuja, Nigeria

16-20 January 2017

Amarendra Mohan

Independent Financial Sector Expert
(formerly with the Financial Stability Institute
Bank for International Settlements
Basel, Switzerland)

amarendra.mohan@yahoo.com