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TECHNICAL NOTE—CONTINGENCY PLANNING AND CRISIS MANAGEMENT

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CONTINGENCY PLANNING AND CRISIS MANAGEMENT

Prepared by
Monetary and Capital Markets Department, IMF

This Technical Note was prepared in the context of an IMF Financial Sector Assessment Program (FSAP) mission in Finland during June 2016 led by Mr. Marco Pinon-Farah. It contains the technical analysis and detailed information underpinning the FSAP assessment's findings and recommendations. Further information on the FSAP program can be found at http://www.imf.org/external/np/fsap/fssa.aspx.

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Glossary

AMC	Asset Management Company
BCP	Basel Core Principles for Effective Banking Supervision
BoF	Bank of Finland (*Suomen Pankki*)
BRRD	EU Bank Recovery and Resolution Directive
CMG	Crisis Management Group
CPCM	Contingency Planning and Crisis Management
CSE	Crisis Simulation Exercise
DGF	Deposit Guarantee Fund
DGS	Deposit Guarantee Scheme
D-SIB	Domestic Systemically Important Bank
D-SIFI	Domestic Systemically Important Financial Institution
EBA	European Banking Authority
EBRD	European Bank for Reconstruction and Development
EC	European Commission
ECB	European Central Bank
EDIS	European Deposit Insurance Scheme
EFSF	European Financial Stability Facility
EIF	Early Intervention Framework
ELA	Emergency Liquidity Assistance
EMU	Economic and Monetary Union
EPA	Emergency Powers Act
ESCB	European System of Central Banks
ESFS	European System of Financial Supervision
ESM	European Stability Mechanism
ESRB	European Systemic Risk Board
EU	European Union
EWS	Early Warning System
FFSA	Finnish Financial Stability Authority (*Rahoitusvakausvirasto*)
FMI	Financial Market Infrastructure
FSA	Finnish Financial Supervisory Authority (*Finanssivalvonta*)
FSAP	Financial Sector Assessment Program
FSF	Financial Stability Fund
FSSA	Financial System Stability Assessment
GFC	2007–08 Global Financial Crisis
GLRA	Group Level Resolution Authority
G-SIB	Global Systemically Important Bank
G-SIFI	Global Systemically Important Financial Institution
IADI	International Association of Deposit Insurers
IGA	Intergovernmental Agreement
IMF	International Monetary Fund
IRT	Internal Resolution Team

ISA	International Standards on Auditing
ISD	Institutional Supervision Department
JST	Joint Supervisory Team
LOLR	Lender of Last Resort
LFA	Loan Facility Agreement
LSI	Less Significant Institution
MaPP	Macroprudential Policy
MCM	Monetary and Capital Markets Department, IMF
MoF	Ministry of Finance
MoU	Memorandum of Understanding
MPE	Multiple Point of Entry
MREL	Minimum Requirement for Own Funds and Eligible Liabilities
NBSG	Nordic–Baltic Stability Group
NCA	National Competent Authority
NCMP	National Crisis Management Plan
NCWO	No Creditor Worse Off
NRA	National Resolution Authority
NRF	National Resolution Fund
PRS	Preferred Resolution Strategy
PSC	Parliamentary Supervisory Council
PSD	Prudential Supervision Department
RAP	Resolvability Assessment Process
RRP	Recovery and Resolution Planning
SI	Significant Institution
SIB	Systemically Important Bank
SIFI	Systemically Important Financial Institution
SPE	Single Point of Entry
SRB	EU Single Resolution Board
SRF	EU Single Resolution Fund
SSM	EU Single Supervisory Mechanism
SRM	EU Single Resolution Mechanism

EXECUTIVE SUMMARY

Since the 2010 IMF FSAP update, Finland's Contingency Planning and Crisis Management (CPCM) framework, including bank recovery and resolution, has improved. The establishment of the Banking Union brought about fundamental changes: the advent of the Single Supervisory Mechanism (SSM) and the Single Resolution Mechanism (SRM); the initiation of ECB supervision over systemic banks; and the subjection of all banks to recovery and resolution planning. These actions complemented previously introduced EU-wide systemic risk monitoring through the European Systemic Risk Board. Consequently, Finland has enacted a host of new legislation and has established a national resolution authority. It has also revised its deposit insurance system.

Finland's CPCM framework rests on a strong foundation. In addition to the new EU framework, Finland can build on a cooperative culture among its financial oversight agencies, which can help in times of crisis. Furthermore, the Finnish financial oversight architecture ensures the functional separation of potentially conflicting CPCM responsibilities: supervision, resolution, and emergency liquidity support. The clear separation of functions also helps crisis preparedness: proper execution of each function that the agencies are collectively prepared for a crisis. Last, Finland has a strong tradition of testing system-wide operational risks.

However, Finland's CPCM framework is untested, and further investments are needed to ensure the operational capability to rapidly deploy recovery and resolution tools. Establishing a new framework requires additional resources to maintain sustainable staffing levels necessary to accommodate the inclusive and consultative nature of EU frameworks. This need comes at a time when the Finnish agencies have undergone rationalization of their resources to increase their efficiency. Moreover, fee revenues of the supervisory and resolution authorities are expected to decrease substantially. At the national level, the responsibility to actively oversee national crisis preparedness and management, including communication planning and regular financial crisis simulation exercises, should be clearly assigned. The authorities should also strengthen the legal and operational framework for legal protection of the agencies' officials, staff, and agents, and to protect the central bank's balance sheet against potential exposures due to emergency liquidity assistance.

The ongoing changes in the Sweden-based Nordea Bank's legal structure (so-called "branchification") pose major challenges to Finland. Branchification will leave Finland with a "systemic" branch; a concept that the Banking Union does not seem to have contemplated, in particular with a parent company that is incorporated outside the Banking Union. After branchification, the relevant Banking Union authorities and the Finnish authorities would merely have a consultative role in resolution planning and decision-making. Decisions that affect financial stability in Finland could be subject to policy decisions made in Sweden. To compensate for their diminishing role, the authorities will need to prepare a crisis strategy for Nordea's Finnish branch. The strategy should be based on the Swedish resolution plan; an alternative strategy is required in case this resolution plan cannot be executed. The authorities should also consider how they could assist the Swedish authorities in addressing distress in the Finnish branch, for example, through a swap agreement to provide the Swedish central bank with euro liquidity for emergency lending.

Cross-border arrangements should be clarified to effectively support Finland's CPCM framework. While the establishment of the Banking Union should be welcomed, decision making within the SRM involves a host of national and European officials, and may take up to five days, which may delay European-level decision-making. Relatedly, the responsibility—and possibly the role of the European Central Bank (ECB) and the Single Resolution Board (SRB)—to actively oversee collective crisis preparedness and management at the level of the Banking Union should be defined. In light of Nordic linkages, and because the Banking Union cross-border arrangements do not apply in four out of five Nordic countries, the CPCM cooperation among these countries should be revamped. Legal and operational clarification is needed to ensure effective application of deposit insurance and liquidity support in resolution situations. In the medium term, Finland would benefit from a completed Banking Union, including a common SRM-wide deposit insurance scheme and permanent, common back-stop funding arrangements for the EU Single Resolution Fund.

Table 1. Finland: Recommendations on Contingency Planning and Crisis Management

Recommendations and Responsible Authorities	Time 1/
Investing in the Finnish CPCM Capacity	
1. Ensure adequate and sustainable financial and human resources for all financial oversight agencies (MoF; ¶25).	I, C
2. Strengthen the legal and operational framework for legal protection of officials, staff, and agents of all financial oversight agencies (MoF/FFSA/FSA/BoF; ¶26).	NT
3. Formalize inter-agency cooperation on crisis preparedness and management at the national level, possibly through an expanded mandate for the FFSA Advisory Council (MoF; ¶27).	I
4. Under the oversight of the FFSA Advisory Council, ensure agency-specific and national financial crisis planning, including a national crisis management communication plan and regular single- and multi-agency crisis simulation exercises (MoF/FFSA/FSA/BoF; ¶28).	I, C
5. Review the Emergency Powers Act against the BRRD/FFSA (MoF; ¶29).	MT
6. Expedite resolution planning for Finnish (systemic) financial institutions (SRB/FFSA; ¶30).	I
7. Commit publicly to seven-day payouts to depositors by 2018 (FFSA; ¶31).	NT
8. Introduce an indemnification arrangement for ELA losses if incurred by the BoF (MoF; ¶32).	NT
9. Ensure that the existing bankruptcy, liquidation, and restructuring legislation is consistent with the bank resolution regime; if needed, introduce a bank-specific insolvency regime, including a clarified creditor hierarchy to complement the bank resolution regime (MoF; ¶33).	NT
Hosting Significant Branches	
10. Strengthen the position of host country authorities in resolution planning and decision-making for significant branches in their jurisdiction (SSM/SRM; ¶34-35).	NT
11. Adopt crisis strategies for Nordea's Finnish branch (MoF/FFSA/FSA/BoF; ¶37).	I, C
Clarifying Cross-Border CPCM Arrangement	
12. Allow for accelerated SRM decision-making (at the least for exceptional cases) (SRM; ¶38).	NT
13. Define the responsibility to actively oversee collective crisis preparedness and management at the Banking Union level; clarify the ECB/SRB's role in this regard (SRM/SSM; ¶39).	MT
14. Seek to revamp CPCM cooperation among Nordic and Baltic countries, including close cooperation on systemic branches and regular crisis simulations exercises (MoF/FFSA/FSA/BoF; ¶36, ¶40).	I, C
15. Develop a more effective use of deposit insurance to fund resolution tools (EU-wide; ¶41).	I
16. Define strategies for liquidity assistance to banks in resolution (SRM/MoF/BoF; ¶42).	NT
17. Implement an SRM-wide deposit insurance scheme (SRM; ¶43).	MT
18. Establish standing, joint public back-stop funding arrangements for the SRF (SRM; ¶44).	MT
19. When the Eurosystem ELA arrangements are next reviewed, reconsider the transparency policy to allow for a longer reporting lag (ECB; ¶45).	MT
20. Clarify that the BRRD allows for departure from *pari passu* treatment of creditors with respect to all resolution tools (SRM; ¶46).	I

1/ C = continuous; I (immediate) = within one year; NT (near term) = 1-3 years; MT (medium term) = 3-5 years.

BACKGROUND

A. Introduction[1]

1. Contingency planning and crisis management are essential in addressing financial crises. *Contingency planning* aims to help authorities respond well to future events occurring within their mandate. Effective contingency planning requires tools to monitor pertinent developments, awareness of policy and operational choices, and of the advance decisions on the use of the authorities' powers, procedures to coordinate with other—domestic and foreign—agencies, and financial crisis-simulation exercises to test contingency plans. *Crisis management* requires tools and procedures that allow authorities to respond promptly, decisively, and effectively when a crisis materializes. This builds on advance preparation and requires comprehensive tools and powers, sufficient funds, and efficient procedures for both domestic and foreign agencies.

2. The 2010 Financial System Stability Assessment (FSSA) Update for Finland concluded that the Finnish safety net and crisis management framework was facing several important challenges.[2] Although important lessons were learned from the 1990s banking crisis, the 2007–08 global financial crisis (GFC) brought to light areas that required further enhancements, including (1) the identification and monitoring of systemic risk, (2) the bank resolution framework, for both domestic and cross-border institutions, and (3) the operation of the deposit insurance fund. In particular, the cross-border ramifications presented challenges, as the 2010 FSSA noted.

3. The GFC prompted fundamental changes in the EU legal and institutional architecture for the prudential supervision and resolution of banks. EU-wide initiatives aim to strengthen bank supervision, harmonize prudential rules, establish a uniform bank resolution regime, and build supporting arrangements for implementation within the Banking Union. The main rules are contained in (1) the EU Capital Requirements Directive (CRD IV) and Capital Requirements Regulation (CRR), which, together, aim to implement Basel III, (2) the Bank Recovery and Resolution Directive (BRRD)—in most respects, the BRRD is closely aligned with the Financial Stability Board's Key Attributes of Effective Resolution Regimes for Financial Institutions (Key Attributes)—and (3) supporting guidelines and binding regulatory technical standards (RTS) promulgated by the European Banking Authority (EBA).[3] Participants in the recently established Banking Union are also subject to new EU regulations that render the provisions of the CRD IV and BRRD available for use by the ECB and SRB under a competency framework shared with the national authorities.

[1] Prepared by Atilla Arda (MCM).

[2] https://www.imf.org/external/pubs/ft/scr/2010/cr10275.pdf

[3] The CRD IV (Directive 2013/36/EU) and the BRRD (Directive 2014/59/EU) are not directly applicable in member states and must be implemented through national legislation. EU regulations, such as the CRR (Regulation (EU) 575/2013) and EBA binding RTS, are directly applicable in EU member states. This combination of legislative instruments aims to balance national discretion and uniformity.

4. The Finnish recovery and resolution framework is recent and remains untested. The Finnish authorities have implemented the overhauled EU framework. This has resulted, in particular, in amendments to the Credit Institutions Act (610/2014), the introduction of a new Resolution Act (1194/2014), and the establishment of a new resolution authority (the FFSA) with the FFSA Act (1195/2014). The authorities are now operationalizing the new framework. In May 2015, the FFSA became operational and was mandated also with managing the deposit guarantee scheme and fund (DGS; DGF), which were previously held privately. The complicated EU framework for bank recovery and resolution measures underlines the need for advance planning and effective and operationalized domestic CPCM frameworks to navigate efficiently through the EU framework.

B. Scope of the Note

5. This note reviews the Finnish CPCM arrangements—including bank resolution—against Finland-specific challenges and emerging international best practices and standards. The Finnish arrangements are an integral part of the EU Banking Union. Consequently, to the extent needed, this note makes recommendations that the Finnish authorities cannot unilaterally change, and will require them to advocate changes within the Banking Union. While the note does not reflect a formal assessment of compliance with any standard, it is particularly informed by the Key Attributes (as updated in October 2014 by the Financial Stability Board), the Basel Core Principles for Effective Banking Supervision (BCP; updated in September 2012 by the Basel Committee on Banking Supervision), and the Core Principles for Effective Deposit Insurance (updated in November 2014 by the International Association of Deposit Insurers [IADI Principles]). The note is further based on the IMF's technical assistance experience involving how to implement these standards most effectively. The note aims to help strengthen the Finnish CPCM framework, so as to address specific challenges that Finland is facing.[1]

6. The note continues as follows: a description of the Finnish financial oversight architecture, followed by a discussion on how Finland can invest in its operational CPCM framework, building on the existing strong CPCM foundations. The note then proceeds on to considerations of the challenges in hosting a systemic branch; and it closes with a discussion of cross-border CPCM arrangements that need to be clarified. With respect to the EU framework, the note builds on the recently finalized FSAPs for Ireland and Germany.[2]

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[1] To a large extent, the Finnish CPCM framework is based on European Union arrangements, in particular the Banking Union, including the Single Supervisory Mechanism and the Single Resolution Mechanism. Therefore, the note's assessment and recommendations go beyond national responsibilities and legislation.

[2] The author would like to thank Marc Dobler, Dinah Knight, Hans Weenink, and David Scott for their work on these FSAPs.

C. Financial Oversight Architecture

7. The financial sector safety net comprises four domestic agencies and numerous EU arrangements. The domestic agencies are the Financial Supervisory Authority (FSA, *Finanssivalvonta*); the Bank of Finland (BoF, *Suomen Pankki*), the Financial Stability Authority (FFSA, *Rahoitusvakausvirasto*), and the Ministry of Finance (MoF). Appendix I describes the governance structure of the FSA, the BoF, and the FFSA. The European authorities that have jurisdiction in the Finnish financial system are the European System of Central Banks (ESCB), the European Central Bank (ECB), the European Commission (EC), the Single Resolution Board (SRB), the European Systemic Risk Board (ESRB), and the European Stability Mechanism (ESM). Together, the Finnish and EU authorities comprise the European System of Financial Supervision (ESFS), the SSM, and the SRM.

8. Despite EU arrangements, national authorities play a critical role in maintaining financial stability in EU member states. FSA staff is part of the ECB joint supervisory teams (JSTs), and serves as national sub-coordinator for Finnish significant institutions (SIs). It also directly supervises Finnish less–significant institutions (LSIs). The FSA contributes to the ECB's oversight over the recovery planning for Finnish SIs and oversees the recovery planning for LSIs. In addition, the FSA supports the ECB in taking early intervention measures against the SIs when and if the supervised entity has not or will not execute these measures. The FFSA is responsible for resolution planning for Finnish LSIs and contributes to resolution planning for Finnish SIs; it is solely responsible for executing resolution measures against both SIs and LSIs. The BoF is solely responsible for executing in Finland the Eurosystem's monetary policy—and, as such, for providing systemic liquidity—and, subject to ECB procedures and EU monetary prohibition and state aid rules, for providing emergency liquidity assistance (ELA) to individual Finnish banks.

9. The FSA is the prudential authority for the Finnish financial sector and the resolution authority for financial institutions other than banks and investment firms;[1] as national competent authority (NCA), it is an integral part of the ESFS and the SSM. The FSA's objective is to safeguard the interests of the insured and to maintain confidence in the Finnish financial markets. For this purpose, it aims to ensure financial stability and the smooth operation of credit, insurance and pension institutions, and other supervised entities.[2] The FSA Act catalogues the FSA's tasks, including the supervision, regulation, and monitoring of financial markets and their participants. It is also tasked with preparing, jointly with the MoF and BoF, measures to ensure financial system stability, and with decision-making on other pertinent measures. The FSA's tasks and related powers are elaborated upon in several financial sector laws, including, in particular, the Credit Institutions Act.

[1] This note focuses on banks and does not discuss the resolution of nonbank financial institutions.

[2] See the Technical Note on the Macroprudential Policy Framework that recommends strengthening the FSA's macroprudential mandate (relative to its microprudential mandate).

10. The MoF is politically responsible for Finland's financial sector policies. As such, it gives strategic direction to the financial oversight agencies and is their interface with the government. The MoF has exclusive authority to propose pertinent legislation to the parliament.

11. The FFSA is the Finnish resolution authority for banks and investment firms; as national resolution authority (NRA), it is an integral part of the SRM. As the resolution authority, the FFSA is tasked with ensuring the stability of the financial markets in Finland and with resolving distressed credit institutions and investment firms. The FFSA also manages the Financial Stability Fund (FSF), comprising the national resolution fund and the DGF. The tasks and related powers of the FFSA are elaborated in the FFSA Act and the Resolution Act.

12. The BoF is the monetary authority of Finland and an integral part of the European System of Central Banks (ESCB) and Eurosystem. The BoF's primary objective is to maintain price stability; for this purpose, it is tasked with executing in Finland the Eurosystem monetary policy. Subordinated to its monetary objective, the BoF is also expected, among other things, to maintain the reliability and efficiency of the payment system and overall financial system, and to contribute to their development. The BoF has certain financial stability responsibilities in support of or jointly with the FSA and FFSA; and it is the main provider of systemic risk analysis and monitoring. More generally, together with the FSA and MoF, the BoF is expected to prepare measures to ensure financial stability.

13. Within the Banking Union, the SSM is responsible for prudential supervision. The SSM assigns specific tasks to the ECB for prudential supervision of credit institutions (including banks), and reserves other tasks for the national competent authorities (NCAs)—the FSA is the Finnish NCA. Both SIs and LSIs are supervised under a common legal framework, including the SSM Regulation, the SSM Framework Regulation, the CRD IV/CRR, the BRRD, and EBA standards and guidelines. The ECB supervises SIs; while the SSM Regulation entrusts LSI supervision to the NCAs, the ECB may at any time take over supervision of any LSI to ensure consistent application of supervisory standards, including instances where financial assistance has been requested or received from the European Financial Stability Facility (EFSF) or the European Stability Mechanism (ESM).

14. SSM decision-making is centralized in the ECB and jointly executed with NCAs. JSTs undertake day-to-day supervision of SIs at their highest level of consolidation within the SSM. JSTs are led by ECB coordinators and include a sub-coordinator and staff from the NCA in the jurisdiction where the relevant SI is established. The SSM also uses national legislation, and in Finland, the ECB may exercise:[1] (1) all powers available to it under EU law (directly or indirectly by instruction to the FSA); (2) all powers available to the FSA as NCA under Finnish law that implements EU directives; and (3) any other powers available to the FSA under Finnish law.[2]

[1] Any exercise of power by the ECB against a private party, whether under EU or national legislation, requires approval from the ECB's Governing Council.

[2] As a consequence of item (3), the ECB has different powers in each of the member jurisdictions.

15. The SRM complements the SSM and is responsible for bank resolution within the Banking Union. Under the SRM Regulation, a new agency, the Single Resolution Board (SRB), has been established. The SRB is directly responsible for resolution planning and resolution decision making in three instances: (1) SIs that are directly supervised by the ECB; (2) all cross-border groups with banks established in more than one euro area country; and (3) any other LSI where the resolution requires the use of the Single Resolution Fund (SRF).

16. While decision making is centralized within the SRM, execution is decentralized because the SRB does not have jurisdiction within EU member states. Even for institutions that fall within the SRB's purview, NRAs are responsible for the execution of SRB decisions. Furthermore, NRAs are directly responsible for resolution planning, decision making, and implementation with respect to LSIs—albeit under SRB oversight—unless their resolution will rely on SRF funding, in which case the SRB will decide on the LSIs resolution scheme. For all banks within the European Union, resolution planning and implementation is performed under a common legal framework that derives from the BRRD and EBA standards and guidelines.

17. The SRB assumed its responsibilities in January 2016 and is in the process of becoming fully operational. While the SSM relies on the existing infrastructure of the ECB (including, for example, physical premises, IT, human resources, and legal services), the SRB is being built from the ground up. The SRB assumed responsibility for drawing up the resolution plans and adopting all resolution decisions for covered banks just over a year after its legal establishment. Accordingly, while it is discharging its mandate, the SRB is also hiring staff (approximately 110 during 2016, nearly doubling its staff complement from January 2016 when it commenced operations) and securing premises.

18. The SRB is making progress on fulfilling its mandate. It has established Internal Resolution Teams (IRTs) led by SRB staff, to coordinate activities regarding individual countries or individual banking groups. The SRB and the ECB have concluded a Memorandum of Understanding (MoU) that provides for mutual representation in each other's meetings, and cooperation and exchange of information in early intervention, recovery and resolution planning, and in resolution measures.[1] In addition, the MoU provides that responsibilities will be distributed between the SRB and ECB when a Crisis Management Group (CMG) is established for a globally systemically important bank. The SRB and the European Commission (EC) have concluded an agreement on the SRB's oversight and accountability,[2] and are preparing a cooperation agreement; the EC has established a task force to engage with the SRB. The SRB's 2016 work program lists several high-priority items.[3] The SRB will further develop resolution plans for institutions under its remit, resolution planning and crisis management manuals, and a cooperation framework for procedures and data exchange with NRAs. In addition, it will define funding and financing requirements for the SRF, and will operationalize MoUs with countries outside the EU, so-called "third countries."

[1] https://srb.europa.eu/sites/srbsite/files/en_mou_ecb_srb_cooperation_information_exchange_f_sign_.pdf

[2] http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015Q1224(01)&from=EN

[3] https://srb.europa.eu/sites/srbsite/files/2016-srb-work-programme_en_0.pdf

STRONG CPCM FOUNDATIONS

19. The Banking Union enhanced the CPCM framework, including recovery and resolution planning (RRP). The 2010 FSAP called for "a bank-specific resolution regime to enhance cost-effectiveness and speed of bank resolution." National efforts in this respect have been overtaken by EU developments. The establishment of the Banking Union brought about fundamental changes in the institutional framework with the SSM and SRM, introduced EU-wide systemic risk monitoring through the ESRB and SI supervision by the ECB, and made all banks subject to RRP.

20. The SSM classifies financial institutions either as SI or as LSI.[1] The ECB directly supervises four Finnish SIs: Nordea Bank Finland, OP Group, Danske Bank, and Kuntarahoitus. The remaining 9 banks in Finland are LSIs that are directly supervised by the FSA, subject to ECB oversight; the intensity of this oversight depends on the LSI's impact and risk on the domestic financial system as determined by the ECB. The ECB has developed an early warning system (EWS) for SIs, and the SSM's so-called "Single Rulebook" provides for a comprehensive early intervention framework (EIF; Appendix II).[2] The FSA uses the EWS and EIF for LSIs as well.

21. The Finnish financial oversight agencies have a close, collaborative culture. Clear legal powers and efficient interagency structures are essential building blocks for an effective CPCM framework; so are interpersonal contacts. Staff members of the FFSA, FSA, BoF, and MoF interact regularly and in a collegial fashion, which can help to facilitate cooperation in times of crisis.

22. The Finnish financial oversight architecture ensures functional separation between potentially conflicting CPCM functions. Conflicts of interest can arise between the resolution, supervision, and lender-of-last-resort (LOLR) functions. In certain resolution scenarios, the authorities can end up sitting at the negotiation table representing three different interests: as the resolution authority selling assets, as the supervisor of the buyer, and as the ELA provider, and, thus, as a creditor. EU law requires separation between these functions. By assigning these functions to three different agencies, these potentially conflicting functions can be effectively balanced.

23. The separation of CPCM functions in turn promotes crisis preparedness. The separation of these functions into three different agencies ensures that these interests are adequately represented and each agency is held accountable for a single mandate. Proper execution of each mandate promotes that the agencies are collectively prepared for a crisis.

24. Finland has a tradition of testing sector-wide operational risks. Most recently, FATO2015 brought together 60 government agencies and financial institutions to undergo a comprehensive crisis simulation exercise, in order to test their ability to respond to a host of operational risks. In the future, the authorities intend to repeat these simulations more often than once every five years.

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[1] See list of SI/LSIs: https://www.bankingsupervision.europa.eu/banking/list/who/html/index.en.html

[2] The Single Rulebook aims to provide a single set of harmonized prudential rules throughout the EU.

INVESTING IN THE FINNISH CPCM CAPACITY

25. Staffing of the financial agencies (Box 1) and funding for the FSA and FFSA should be adequate and sustainable. Two main developments strain staffing. First, implementing the new RRP framework and establishing a new resolution function require additional resources. Second, the inclusive and consultative nature of the SSM and SRM are resource-intensive. While one would presume diminished domestic staffing needs after centralizing at the EU level, the reality is that domestic authorities need more staff to participate in EU arrangements, including matters concerning other member states, and to ensure that the Finnish perspective is adequately addressed within the European Union. These two new developments follow years of rationalization of staffing at the BoF and the FSA. Moreover, the branchification of Nordea would decrease FSA and FFSA fee revenues by 29 percent and 53 percent, respectively, and it is not expected that the workload will diminish proportionately. The MoF is leading a working group that is studying alternative fee structures for the FSA and FFSA. One option is to assess levies from systemic branches of EU banks, similar to European Economic Area and third-country branches.

Box 1. RRP Staffing

FSA—Recovery planning and early intervention measures is assigned to the Institutional Supervision Department (ISD) and the Prudential Supervision Department (PSD), respectively. The ISD's Financial Sector Division has allocated two full-time equivalents (FTEs) for recovery planning (jointly with PSD supervisors).

FFSA—Staff stands at 12.5 FTEs and is recruited from the public and private sector. Staff is allocated as follows: management (1), resolution planning (6), crisis management and resolution (1), financial stability fund (1); and administrative support (3.5). Temporarily, two FTEs will be recruited in 2016.

MoF—Primary responsibility for the financial sector is vested in the Unit for Banking and Finance within the Financial Markets Department. After making staff available to the FFSA, the MoF is now understaffed, with 8 FTEs—down from 11—available to concern itself with this task, which also includes CPCM.

26. Legal protection of the financial agencies' officials, staff, and agents should be strengthened. International experience demonstrates that financial institutions, depositors, and shareholders are more litigious when recovery and resolution powers are exercised, which are more intrusive than ongoing supervision. The MoF advised that, under Finnish law, the state is ultimately liable for damages suffered by third parties; the state would have recourse against officials and staff if the damages were to be caused by their actions or omissions. FSA and FFSA staff advised that third parties could also take legal action directly against the agencies and their officials and staff. Finnish financial sector legislation does not include clauses—as required by international standards—that expressly provide for legal protection to officials, staff, and agents of the agencies for actions and omissions made in good faith in the exercise of their official duties. Legal protection does not prevent judicial scrutiny and should not be confused with immunity; it sets a standard against which actions and omissions are to be reviewed (in accordance with international standards). The Finnish equivalent of "good faith" will need to be determined and defined in legislation. Then, operational arrangements will be required to make this protection effective.

27. The responsibility for crisis preparedness and management at the national level should be formally assigned. A 2007 interagency MoU on "financial system crisis management" envisages a Steering Group on Stability Cooperation. The Steering Group, however, has morphed into a macroprudential cooperation forum and does not concern itself with crisis preparedness and management. Moreover, this MoU is outdated: it predates the FSA taking over insurance supervision, the adoption of the BRRD, and the establishment of the Banking Union and the FFSA. Without diminishing the Steering Group's newly found purpose, the existing FFSA Advisory Council could be tasked with national crisis preparedness and management. A revamped Council would function as a forum where member agencies cooperate in responding to financial crises, while each agency continues to exercise its powers. The Council already brings together pertinent agencies, is tasked with ensuring cooperation and communication among its members, and is housed in the appropriate agency. The government is authorized to further specify, by decree, the mandate of the Council—which it has yet to do; this decree could complement an update of said MoU.

28. Under the oversight of the revamped FFSA Advisory Council, agency-specific and national CPCM plans should be developed.[1] This would entail a three-prong approach:

- *Agency-Specific Plans*—The BoF and the FSA have manuals detailing under what conditions and procedures they would provide and communicate on ELA and bank failure responses, respectively. The manuals predate the BRRD and should be updated. The newly established FFSA has started its own preparedness project. The MoF, too, should have a crisis management plan guiding its crisis communications and use of its powers, including those guided by the BRRD.

- *National CPCM Plan*—A national plan would need to ensure that cooperation and communication in the council strengthen the agencies' collective strategy and ensure that they speak with one voice in times of financial crises. It should complement the agency-specific plans. The national plan should ensure that officials are using the same facts and assumptions, which would require rapid access to reliable information and timely assessments. The plan should specifically focus on communication and ensure, among other things, that officials stay on message, that unconventional actions are explained, and that facts neutralize speculations.[2]

- *Crisis Simulation Exercises (CSEs)*—Each agency should regularly test and update its crisis plans. The single-agency CSEs should be complemented by regular multi-agency CSEs—also with cross-border counterparts—to test and update the national plan. Building on the experiences of FATO2015, the simulations could include industry participants. CSEs could either be comprehensive or focus on particular issues, such as information sharing and decision-making.

[1] CPCM plans would exist in conjunction with business continuity plans that have been implemented and successfully tested within the MoF, FSA, and BoF. The FFSA is in the process of preparing its own business continuity plan. The MoF's plan was tested during a national government preparedness test; the next test is scheduled for 2016.

[2] Building blocks from effective crisis communications include: (1) high-level objectives, including clarification of the authorities' mandate; (2) key policy objectives, including assessment of the crisis and focus on stability; (3) target groups, including the general public, depositors, market-participants, and financial press; and (4) tools, including conventional media, social media, and news releases.

29. The Emergency Powers Act (EPA, 1080/1991), which grants the agencies a host of extraordinary powers, should be reviewed against the changes under the BRRD. The EPA aims to ensure, among other things, economic stability; the authorities advised that this includes financial stability. The EPA specifies several powers that would be at the government's disposal, including capital and payment controls, and financial sector regulations; it also authorizes the government to expand the financial agencies' enforcement powers. The authorities have yet to assess whether the EPA would allow the FFSA to be granted expanded powers and whether the EPA powers should be updated to accommodate for the BRRD.

30. The first round of recovery planning for Finnish banks is progressing well and resolution planning has started.[1]

- *Recovery Planning*—The OP Group's recovery plan has been finalized; group level recovery plans for Nordea Bank Finland and Danske will be finalized in 2016. The plan for Kuntarahoitus will start later, as it was added to the SI list at a late stage. Recovery planning for the 9 LSIs and the 11 investment firms has been concluded.[2] So far, the FSA has not opted for simplified recovery planning for the institutions under its supervision. The authorities advised that the quality of the plans was good considering this was the first round; no major impediments for recovery planning were found. In some cases, deficiencies in scenario definitions, indicators, triggers, and identification of critical functions were found. Both SIs and LSIs are subject to annual updates.

- *Resolution Planning*—In 2015, a transitional resolution plan was developed for OP Group; the FFSA is preparing an updated plan for 2016. The Swedish and Danish NRAs are taking the lead in resolution planning for Nordea and Danske, respectively. The SRB has scheduled the resolution planning for Kuntarahoitus in 2017. The FFSA has started the resolution planning process for four LSIs. The FFSA is considering simplified resolution planning for investment firms and some LSIs.

31. The introduction of a seven-day depositor payout period should be brought forward. The DGS is currently obliged to compensate eligible depositors within 20 working days of the failure of a credit institution. This period will be reduced to 15 days on January 1, 2019, and to seven days on January 1, 2020. The FFSA and the industry will introduce a single customer view in 2017. This would allow the FFSA to commit to making payouts within seven days (with minor exceptions for uncertain cases) by 2018, which is recommended for enhancing depositor confidence. The commitment could be part of a campaign to raise public awareness of the overhauled DGS.[3]

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[1] Appendix III discusses RRP.

[2] The FSA has chosen to be stricter than the ECB recommendation on the topic and it applies simplified recovery planning to only one bank; the FSA has also decided that one investment firm, which together with an insurance company constitutes a financial conglomerate, should have a full-fledged recovery plan.

[3] In 2015, the Finnish DGS was changed from a private "VTS Fund" to a combined public–private system. The VTS Fund holds roughly €1 billion. Over a decade, annual installments of €60 million will be transferred from the VTS Fund to a public DGF administered by the FFSA. The DGS will have continued access to the VTS Fund to supplement

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32. The BoF balance sheet should be protected against potential ELA exposures. Subject to ECB procedures[1] and EU treaty prohibitions on monetary financing and state aid, the BoF has exclusive authority and bears the operational and financial risk for ELA to Finnish banks. When the projected volume of ELA to a bank or a group of banks exceeds €2 billion, the ECB Governing Council may object to, limit, or condition the ELA if it considers that the ELA jeopardizes the Eurosystem mandate. Unlike normal monetary policy operations, where the Eurosystem national central banks share losses in proportion to the so-called capital key,[2] the BoF fully bears the balance sheet risk for ELA. The risk of losses accruing to a central bank from ELA can be illustrated by the Irish crisis, during which ELA peaked at around €80 billion, while collateral quality was diminishing. The BoF Act provides that when the BoF reserve fund is depleted, any profits in subsequent years would be used first to cover legacy ELA losses. This could leave the BoF with negative capital for a prolonged period, threatening its autonomy. The following could protect the BoF balance sheet:[3]

- While maintaining the discretionary nature of ELA and preserving the autonomy of BoF's decisions vis-à-vis the government, give its ELA policies an explicit statutory basis, possibly together with a cap on total outstanding ELA to prevent adverse fiscal consequences;[4]
- Stipulate in the BoF Act that a shortfall of capital should be promptly covered by the state with transfer of either cash or marketable government securities;[5] and
- Conclude an agreement between the state and the BoF to promptly indemnify the latter for losses stemming from ELA operations; alternatively, the BoF should be given an ongoing statutory government guarantee for ELA operations, possibly with the express understanding that any indemnification should give due consideration to fiscal consequences.[6]

its own fund when needed for payouts. The DGF target level is 0.8 percent of covered deposits. Together, the DGF and VTS Fund stand at 1.4 percent of covered deposits. After the Nordea branchification, deposit guarantee responsibilities for Finnish Nordea depositors will shift to Sweden and the coverage ratio will rise to 1.9 percent.

[1] https://www.ecb.europa.eu/mopo/ela/html/index.en.html

[2] The NCBs' shares in the ECB capital are calculated by using a key that reflects the respective country's share in the total population and gross domestic product of the European Union. These two determinants have equal weighting.

[3] Regardless of balance sheet protection, the BoF should continue to appropriately value collateral and assess the ELA recipient's solvency. For a more elaborate discussion on the topic, see "The Lender of Last Resort Function after the Global Financial Crisis" (IMF Working Paper, WP/16/10).

[4] See ECB Opinion CON/2008/42 concerning legislation in Luxembourg, introducing an explicit mandate for the Banque Central du Luxembourg to provide ELA, which the ECB welcomed. In this context, the MoF and BoF could also consider an agreement stipulating that the BoF needs to inform the MoF before providing ELA above a certain amount. This would facilitate an early dialogue to analyze the fiscal consequences of ELA.

[5] See for example the 2014 ECB Convergence Report, page 25, stating the following: "financial independence also implies that an NCB should always be sufficiently capitalised. In particular, any situation should be avoided whereby for a prolonged period of time an NCB's net equity is below the level of its statutory capital or is even negative, including where losses beyond the level of capital and the reserves are carried over."

[6] As an example of a statutory ELA loss indemnification arrangement see Article 9 of the Organic Law of the National Bank of Belgium, which was welcomed by the ECB (see Opinion CON/2008/46). See also the above-mentioned ECB

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33. The corporate insolvency regime should complement the newly established bank resolution regime. The authorities advised that at the time of implementing the BRRD through Finnish legislation, the corporate restructuring, bankruptcy, and liquidation laws were changed only minimally. These laws also apply to banks. Recently, the FFSA hired an insolvency expert from the Finnish Bankruptcy Ombudsman to review these laws and to assess whether there are impediments for bank resolution and liquidation. This exercise should be welcomed. The BRRD recognizes the need for insolvency regimes to complement the resolution regime, and the authorities will need to ensure that corporate legislation does not hinder effective and timely bank resolution. Depending on the severity of the impediment, if any, it may be better to exclude banks from said laws and introduce a bank-specific insolvency regime. This regime would also need to provide flexibility so as to allow departure from the equal treatment of creditors of the same class (see paragraph 46).

HOSTING SYSTEMIC BRANCHES

34. The ongoing branchification of Nordea Bank Finland will leave Finland with a "systemic" branch; a concept that the Banking Union does not seem to have contemplated, particularly with a parent company that is incorporated outside the Banking Union. While the BRRD recognizes the host NRA of any subsidiary as a co-decision-maker for group resolution planning and decision-making, it assigns the host NRA of a *systemic branch* (and the ECB) only an advisory role. While this may be appropriate for many branches, in the case of Nordea this seems insufficient and certainly not balanced when compared with the position of host NRAs of less significant subsidiaries. If Nordea's branch in Finland would be designated as significant—with roughly 30 percent of deposits, it amply meets the 2-percent threshold—this will give the Banking Union authorities a weaker position with respect to the branch's resolution planning and measures, regardless whether the FFSA will be the NRA for other Nordea subsidiaries.

35. The "assurances" in the BRRD for countries hosting significant branches may not prove to be sufficient to help address the major challenges for Finland caused by branchification. Most important, group-level resolution authorities are required to take into account the financial stability of host countries. Furthermore, host NRAs of significant branches would both be consulted and be members of resolution colleges, which would give them a platform to articulate their concerns. However, resolution colleges are not decision-making bodies; they function as a platform for facilitating decision-making and consultation. Joint decisions are taken by the home and host authorities of the subsidiaries concerned, and the host NRAs of significant branches have not been granted decision-making power regarding resolution plans and measures. While the BRRD empowers the EBA to play a mediation role, should a resolution college member disagree with the contemplated decision within the college, there are no assurances in the BRRD that will necessarily overcome, for example, in Nordea's case, the Swedish NRA's possible crisis-management bias.

Opinion CON/2008/42 concerning legislation in Luxembourg that also introduced a State guarantee for losses stemming from ELA operations, which the ECB welcomed.

36. The foregoing demonstrates the importance of an agreement between the Finnish and Banking Union authorities and the Swedish authorities—an agreement that clarifies cooperation mechanisms after branchification. The Finnish authorities have advised that the Swedish authorities have engaged in sincere discussions on this matter, which should be welcomed. In addition to ensuring general matters of information exchange, cooperation, and regular high-level and technical meetings, the authorities may wish to explore agreeing on matters that would give the host authorities a role closer to what they would have regarding subsidiaries. Defining a structure that clarifies how Swedish authorities will take into account Finland's financial stability concerns would be an important step forward. On their part, the Banking Union and Finnish authorities should consider how they could assist the Swedish authorities in addressing distress in the Finnish branch; for example, through a swap between the central banks that would provide the Swedish central bank with euro liquidity in case the branch needs euro ELA.

37. The Banking Union and Finnish authorities should plan for distress in Nordea's Finnish branch. Their contingency planning should be based primarily on the Swedish resolution plan for Nordea. The Banking Union and the Swedish authorities will need to prepare alternative plans in case the resolution decision deviates from the resolution plan. These plans should be subject to national CSEs; the formal resolution plan should also be tested bilaterally with the Swedish authorities and with Nordic-Baltic counterparts.

CLARIFYING CROSS-BORDER CPCM ARRANGEMENTS

38. For SIs, triggering resolution entails a complex and potentially lengthy process (Box 2; Appendix IV). Three conditions must be met to trigger resolution: (1) the financial institution is failing or likely to fail;[1] (2) no reasonable prospect exists for alternative private-sector measures or supervisory action to prevent a bank's failure; and (3) a resolution measure is necessary and in the public interest.[2] Primary responsibility to determine whether these conditions are met is vested in the ECB for the first condition, and in the SRB for the other two conditions. When all conditions are met, the SRB would prepare a resolution "scheme" (that is, selecting resolution tools, including any use of the SRF), which must then be validated by the EC within 24 hours. The EC may (on an exceptional basis), in the first 12 hours, involve the European Council for SRF-related actions, or if it wishes to challenge the public interest determination. The resolution scheme enters into force 24 hours from its transmission by the SRB, if no objection has been expressed by the Council or by the EC. NRAs can implement the resolution scheme only after the EC has adopted a positive or conditional decision on the compatibility of the resolution action with internal market and state aid rules.

[1] The SRM Regulation sets out criteria for when a bank is considered failing or likely to fail. The EBA has issued guidelines regarding the interpretation of the different circumstances when an institution shall be considered to be failing or likely to fail.

[2] With respect to an LSI, the FFSA is responsible for determining whether these three conditions have been satisfied.

Box 2. SRB Decision Making

The Single Resolution Board (SRB) may make decisions during an executive or plenary session.

- The executive session prepares and approves resolution plans, determines MREL requirements, and adopts resolution schemes for banks under its direct responsibility. In executive session, the Board includes the chair, four permanent members, and when the Board is exercising its responsibilities in relation to a bank established in a participating member state, a representative from the NRA in that member state. The chair and the full time members of the executive board are chosen on the basis of an open selection procedure involving the EC, the EU Parliament and the Council.
- The plenary session primarily decides on the use of the SRF and can, under specific circumstances, decide on the resolution scheme and on the Board's internal structures, budget, and work program. In plenary sessions, the Board comprises a chair, the four other full-time members, and a member appointed by the NRA from each participating state (in total 24 members).

The ability of the SRB to act independently is limited. The delegation of authority to a European Union agency that is not established by treaty cannot confer on that agency a wide degree of discretion. Therefore, discretionary aspects of the SRB's actions—in particular, the adoption of a resolution scheme—are subject to endorsement by the European Commission. Moreover, implementation of SRB decisions is decentralized. Each NRA, although subject to SRB instructions, must make its own decisions in accordance with national legislation.

39. The responsibility to actively oversee collective crisis preparedness and management at the Banking Union level should be defined. Relatedly, the role of the SRB and ECB in the management of a systemic crisis in a single or in multiple Eurozone countries could also be clarified. The institutional architecture for the Banking Union is designed with supervision and resolution of individual banks and banking groups in mind; however, consideration should also be given to preparedness and management of a systemic banking crisis, including the potential simultaneous failure of multiple banks in a member state or multiple states.

40. In light of Nordic interlinkages, close CPCM cooperation among Nordic countries should compensate for Banking Union arrangements, which do not apply in four out of five Nordic countries. Finland is the only Nordic country that is a Banking Union member, which stresses the importance of establishing cross-border CPCM arrangements as an alternative to the Banking Union's cross-border CPCM arrangements (Appendix V). Although the existing Nordic-Baltic Stability Group (NBSG) is not very active, it could be a useful platform for this. A revamped NBSG, supported by ongoing efforts between the Finnish agencies and their Nordic-Baltic counterparts, to conclude MoUs on pertinent issues within their respective mandates, could oversee cross-border crisis preparedness and management, and organize regular cross-border CSEs.

41. Strict interpretation of the least-cost criteria would leave the DGS unable to fund resolutions in many circumstances. The ability of the DGS to support resolution powers (for example, by injecting cash to back a deposit transfer) may be highly constrained, due to covered deposits' preference over other creditors in the BRRD and a strict interpretation of Article 109 of the BRRD.[1] This interpretation would prevent the DGS from providing upfront support greater than its estimated cost (net of recoveries in liquidation) without taking recoveries from resolution into account. If so, it should be reconsidered in order to allow the DGS to disburse greater funds up front in a resolution, if the estimated eventual cost to the DGS, net of recoveries, would be lower than its estimated net liquidation costs. Without such flexibility the transfer powers may not work, especially in a precipitous failure when due diligence could be curtailed, or during a crisis where banking assets may not easily be sold, and cash needs to be injected instead in order to back deposits. This issue is awaiting clarification by the EBA as part of the single rulebook Q&A process.

42. The critical issue of liquidity support in resolution measures needs to be clarified. As part of the resolution planning, resolution authorities will need to specify liquidity and collateral management strategies to ensure that the preferred resolution strategy will work. While, under the BRRD, resolution *planning* cannot assume that ELA will be available, in an *actual* resolution, it cannot be ruled out that, notably, bailed-in entities may need significant liquidity to preserve confidence in the immediate aftermath of a crisis, including, potentially, access to ELA from central banks or liquidity from governments. Both types of liquidity support are addressed in the 2013 European Commission Communication on state aid rules and financial support to banks in financial crisis.[2] The authorities advised that the SRB's resolution planning manual would address the issue as well. Important flexibility could be created if the central bank can deem a bank solvent if it has a credible recapitalization plan in place, which would foresee that capital requirements are met in the near term.

43. The Banking Union is lacking its third and last pillar, that is, a common SRM-wide deposit insurance scheme. In 2015, the EC proposed to implement a European Deposit Insurance Scheme (EDIS) for Banking Union members by 2024.[3] Under this proposal—which is opposed by some member states—national DGSs would be mutualized in three stages: (1) in the so-called reinsurance stage, EDIS would provide support with national DGS contributions to another DGS that has exhausted its own funds; (2) three years later, in a co-insurance scheme, the contribution of EDIS would progressively increase, until (3) full mutualization in 2024.

[1] Which states that "in all cases the liability of the deposit guarantee shall not be greater than the amount of losses that it would have had to bear had the institution been wound up under normal insolvency proceedings."

[2] Communication from the Commission on the application, from August 1, 2013, of State aid rules to support measures in favor of banks in the context of the financial crisis ("Banking Communication"): http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=OJ%3AC%3A2013%3A216%3ATOC

[3]See http://ec.europa.eu/finance/general-policy/banking-union/european-deposit-insurance-scheme/index_en.htm

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44. Permanent, common public back-stop funding arrangements for the SRF should be agreed upon.[1] The member states are negotiating a common backstop to the SRF,[2] to be fully mutualized and operational at the latest by the end of the transition period in 2023. This is crucial for public confidence in the SRM and its ability to deal with bank failures. The backstop could take the form of an ESM credit line (or from member states collectively). Any borrowings would be reimbursed from *ex post* levies on credit institutions.

45. Current disclosure practices could undermine ELA effectiveness. The BoF and many other NCBs publish a monthly balance sheet, with a month's delay.[3] Significant ELA operations could be inferred and amounts estimated from these balance sheets, encouraging unwanted financial speculation; pertinent Eurosystem rules were informed by the GFC experience, when extensive ELA provision triggered speculation concerning recipient banks.[4] However, revealing information shortly after ELA disbursal could undermine its effectiveness. Financial stability considerations justify more flexibility in both the content and timing of the disclosure.[5] When the Eurosystem ELA arrangements are next reviewed, the transparency policy should be reconsidered to allow for a longer reporting lag.

46. EU and Finnish legislation allows for departures from the principle of *pari passu* only explicitly for the bail-in tool.[6] The Key Attributes prescribe that resolution authorities have the flexibility to depart from this principle to contain the potential systemic impact of a bank's failure or to maximize the value of the resolution for the benefit of all creditors. The BRRD provides this for the bail-in tool but does not do so explicitly for to the sale of business and bridge institution tools (for example, to allow for the transfer of senior unsecured bonds, but not derivative liabilities). The lack of express authority may raise legal challenges invoking fundamental (property) rights. Pertinent changes will need to be made in EU rules, or the Finnish authorities would risk having a transfer that departs from the principle of *pari passu* treatment not being automatically recognized or enforced by other member states under the Winding-Up Directive.[7]

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[1] A recommendation of the Five Presidents' Report: https://ec.europa.eu/priorities/sites/beta-political/files/5-presidents-report_en.pdf. The SRF is part of a broader framework for resolution funding (Appendix VI).

[2] http://www.consilium.europa.eu/press-releases-pdf/2015/12/40802205789_en_635851667400000000.pdf

[3] While Eurosystem rules do not require NCBs to publish monthly balance sheets, ECB Guideline ECB/2010/20 recommends that NCBs apply the same accounting and reporting rules to national operations "to the extent possible" for consistency and comparability reasons.

[4] In 2012, an accounting reclassification took place "in order to harmonize the disclosure of ELA provided by Eurosystem central banks to domestic credit institutions" under "Other Claims on Euro Area Credit Institutions in Euro" in the Eurosystem weekly consolidated statement: https://www.ecb.europa.eu/press/pr/wfs/2012/html/fs120424.en.html

[5] For example, the Bank of England reported its ELA to HBOS and RBS on a delayed basis: http://www.bankofengland.co.uk/publications/Documents/other/treasurycommittee/financialstability/ela091124.pdf

[6] See Appendix VII for a description of BRRD resolution tools.

[7] Automatic recognition of "reorganization measures" under the Winding-Up Directive has worked well; it was a key instrument during the Irish banking crisis for achieving cross-border enforceability of a subordinated liabilities order

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Appendix I: Governance Structure of Finnish Financial Agencies

The FSA governance structure comprises three decision-making bodies:

- The ***Parliamentary Supervisory Council*** (PSC) oversees the FSA's overall expediency and efficiency; appoints and dismisses the FSA's Board members, its director general, and their deputies; determines the principles underlying these officials' terms of employment and oversees their compliance with disclosure requirements; and confirms the FSA's rules of procedure. The PSC consists of nine members elected by parliament; the PSC elects a chairman and deputy chairman from among its members—all nine PSC members are parliamentarians.

- The ***Board*** manages the FSA's activities; in particular, it determines the FSA's overall strategy, sets specific operational objectives and oversees compliance therewith, adopts prudential regulations and guidelines, and oversees cooperation between the safety net participants and with AML/CFT authorities. The Board comprises five members, each appointed to a three-year term. Three members and their deputies are appointed by the PSC on proposals—each one—from the Ministry of Finance, the Ministry of Social Affairs and Health, and the BOF; two other members are appointed directly by the PSC. The PSC designates the chair and vice chair.

- The ***Director General*** (FSA-DG) is the FSA's chief executive officer; in particular, the FSA-DG manages its activities, ensures efficient and expedient execution of its tasks, and appoints and dismisses FIN–FSA's staff. When a matter could have significant effects on the stability of financial markets or cause significant disruptions to the functioning of the financial system, the Board may consider for decision such matters before the FSA-DG does so. This includes (de)licensing non-banks, restriction of business, and imposition of additional capital requirements. The FSA-DG is appointed for a five-year term and can be dismissed by the PSC pursuant to a Board proposal; the PSC designates a Deputy FSA-DG from among FSA staff.

The BoF's governance structure comprises two bodies:

- The PSC supervises the BoF's administration and activities. For this purpose, it is tasked, among other things, with financial oversight over the BoF; appointment and dismissal of its Board members, deputy Board chair, and directors—the president appoints/dismisses the Board chair.

- The Board is responsible for BoF's administration and for executing BoF's tasks that are not vested in the PSC. The Board comprises the chair/governor and a maximum of five other members appointed for seven- and five-year terms, respectively. The current Board has three members, including the governor.

(i.e., a bail-in order) issued with respect to the subordinated debt of AIB. More recently, however, courts in two cases have refused to grant recognition where the action taken by the NRA did not precisely match the terms of the BRRD: *Goldman Sachs International v Novo Banco and Bayerische Landesbank v Heta Asset Resolution*.

The FFSA governance structure comprises four bodies—three decision-making and one advisory:

- The ***Director General*** (FFSA-DG) is the FFSA's chief executive officer and takes all FFSA decisions, unless stated otherwise in the FFSA Act; in particular, the FSA-DG is responsible for achieving the FFSA's objectives, and for its operations and profitability. The FFSA-DG is proposed by the Minister of Finance and appointed for a maximum of two consecutive five-year terms by the government, which also can dismiss the FFSA-DG; the Deputy FFSA-DG is appointed by the minister.

- The ***Board of Directors of the Financial Stability Fund*** (Fund Board) determines the FSF's risk management framework and investment principles, and it prepares the FSF investment plan. The Fund Board comprises a chairperson, a vice-chair, and three to five members, all appointed by the Minister of Finance for three-year terms; at least two members are appointed on a proposal by the financial industry. Currently, the Fund Board has five members.

- The ***parliament*** would decide on the use of extraordinary public financial support should such support be needed. Relatedly, if any resolution matter would require borrowing, the FFSA would propose so to the MoF; subject to the government's approval, the Fund is authorized to borrow within the limits set by parliament.

- The ***Advisory Council*** is tasked with ensuring cooperation and communication among its members—this task can be further defined, but such has not yet been accomplished. The Council comprises representatives from the FFSA, FSA, MoF, and BoF—all put forward by their respective institutions and appointed by the minister for three-year terms.

Appendix II: Early Intervention Powers

Resolution frameworks depend critically on the effectiveness of early intervention by the supervisor. Generally, the overall framework for dealing with problem banks should establish a logical progression of increasingly stringent powers to deal with everything from relatively minor issues of noncompliance to insolvency. This "ladder" of increasingly intrusive measures should not constitute an inflexible, mechanical requirement that less intrusive measures *must be* applied before more intrusive actions are taken. International principles prescribe an early intervention framework, including the following components:[1] (1) clear triggers for the timely exercise of powers in a manner that helps reduce arbitrariness and promotes transparency; (2) broad range of effective powers available to the supervisor to help restore weak banks to sound financial conditions; and (3) a clear path to orderly resolution when the financial institution appears unlikely to return to viability.

The competent authority's extensive array of early intervention powers includes the power to direct a bank to implement a recovery plan. The SSM draws powers from multiple national and EU-level legal sources. A broad and increasingly intrusive set of powers becomes available to the competent authority as different thresholds are crossed.[2] The competent authority may, for example, direct an institution to change its business strategy or implement elements of its recovery plan where the institution no longer meets, or is likely to breach in the near future the prudential requirements set out in CRD IV or the CRR (for example, due to a deteriorating liquidity situation). Where these powers are insufficient to reverse the deterioration or remedy infringements, the competent authority may remove or replace one or more members of an institution's senior management or management body. Finally, the competent authority may appoint a 'temporary administrator' to carry out all or part of the management functions of the institution, when, among other factors, removal or replacement of management would be insufficient to remedy the situation.

In addition to the early intervention powers available to the *competent authority*, the *resolution authority* may write down or convert capital instruments to prevent the failure of a bank or an entity in the banking group. A resolution authority may require the write-down of relevant capital instruments (that is, common equity Tier 1 [CET1], additional Tier 1 or Tier 2 instruments) independently of resolution measures when one or more of the following circumstances apply: (1) the competent authority has determined that unless the write-down or conversion power is exercised in relation to the relevant capital instruments, the bank, other entity, or the group will no longer be viable; or (2) extraordinary public financial support (other than support available to mitigate a systemic crisis) is required by the bank or other entity in the group. The write-down and conversion power may also be used in combination with a resolution action, where the remaining conditions for entry into resolution have been met.

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[1] These include the Basel Core Principles for Effective Banking Supervision; Basel/International Association of Deposit Insurance Core Principles; and International Association of Insurance Supervisors.

[2] Title III, BRRD.

Appendix III: Recovery and Resolution Planning in the Banking Union

Recovery and Resolution Plans (RRPs) have evolved as a key component for contingency planning and crisis management. In particular, the BRRD and the FSB's Key Attributes of Effective Resolution Regimes for Financial Institutions (KA) establish a comprehensive framework for RRPs (or "living wills") to guide the recovery of a distressed institution or to facilitate an orderly resolution while minimizing official financial support.[1] A Recovery Plan would be developed by a financial institution to identify options for restoring its finances and viability when faced with distress. The resolution authority would prepare a Resolution Plan based on information provided by the institution. The plan would be intended to facilitate orderly resolution to protect systemically important functions without severe disruptions or losses for taxpayers. The KA allows the authorities to execute alternative strategies deviating from RRPs.

All banks in the Banking Union, no matter their size, are subject to recovery planning requirements. Recovery plans are prepared by the banks and assessed by the competent supervisory authority (for instance, the FSA for Finnish LSIs and the ECB for Finnish SIs). They are also shared with the relevant resolution authority, which may identify any actions in the recovery plan that could adversely affect the resolvability of the institution, and make recommendations to the supervisory authority accordingly. Ensuring resolvability falls within the competence of the relevant resolution authority, which is empowered to take actions against a bank to ensure its resolvability. For the four Finnish SIs, the JSTs, in cooperation with the ECB's Crisis Management Division and the FSA, are responsible for assessing recovery plans and coordinating, where necessary, with supervisory colleges and the EBA. Within six months from their submission to the authorities, the JST must communicate directly to the bank any recommendations or changes that need to be made to address material deficiencies in the plan or material impediments to its implementation (a "material deficiency notice"). The institution then has two months, extendable by one month, to submit a revised plan addressing the deficiencies.

In the Banking Union, resolution planning needs to be in place for all banks, regardless of their size. Resolution planning entails formulating a Preferred Resolution Strategy (PRS) and conducting the Resolvability Assessment Process (RAP);[2] this is documented in a resolution plan for each institution. While resolution authorities—the SRB or the NRA, as the case may be—may ask banks to help in drafting and updating the resolution plan, the ultimate responsibility for the plan rests with the authorities; the ECB and the NCAs are consulted during the preparation of the plans.

[1] Key Attribute 11 and Appendix I, Annex 4. The October 2014 version of the KA also covers financial market infrastructures (FMIs), FMI participants, insurers, and the protection of client assets.

[2] EBA/RTS/2014/15.

Appendix IV: Triggering Resolution in SRM/Finland

Triggering resolution of Finnish Banks under the SRB's jurisdiction requires the following (chart below):

- The ECB, after consultation with the SRB, determines that the bank is failing or is likely to fail, and informs the EC and the SRB. The SRB may make that determination if the ECB fails to act within three days of notice by the SRB of its intention to make such determination.

- The SRB, in close cooperation with the ECB, determines that, with regard for timing and other relevant circumstances, there is no reasonable prospect that any private sector measure, or early intervention measure, would prevent the failure of the institution. The ECB may also inform the SRB that this second condition for resolution is met.

- The SRB adopts a resolution scheme once it determines that a resolution measure is necessary and in the public interest, and, immediately after adoption, transmits it to the EC.

- Within 24 hours after transmission, the EC either endorses the resolution scheme, or objects to it with regard to the *discretionary* aspects of the resolution scheme in the cases not covered below (i.e., European Council decisions).

- Within 12 hours after transmission, the EC may propose to the Council to object to the resolution scheme on the grounds that it does not fulfill the public interest criterion necessary for resolution—the Council must do so within 12 hours. Alternatively, the EC can propose that the Council approve or submit within 12 hours a reasoned objection to a material modification of the amount of SRF monies provided for in the resolution scheme. If the Council objects to the resolution scheme on the grounds that it does not fulfill the requirement that resolution is in the public interest, the entity is orderly wound up in accordance with the applicable national insolvency law.

- The EC must approve the use of the SRF or any other state aid.[1]

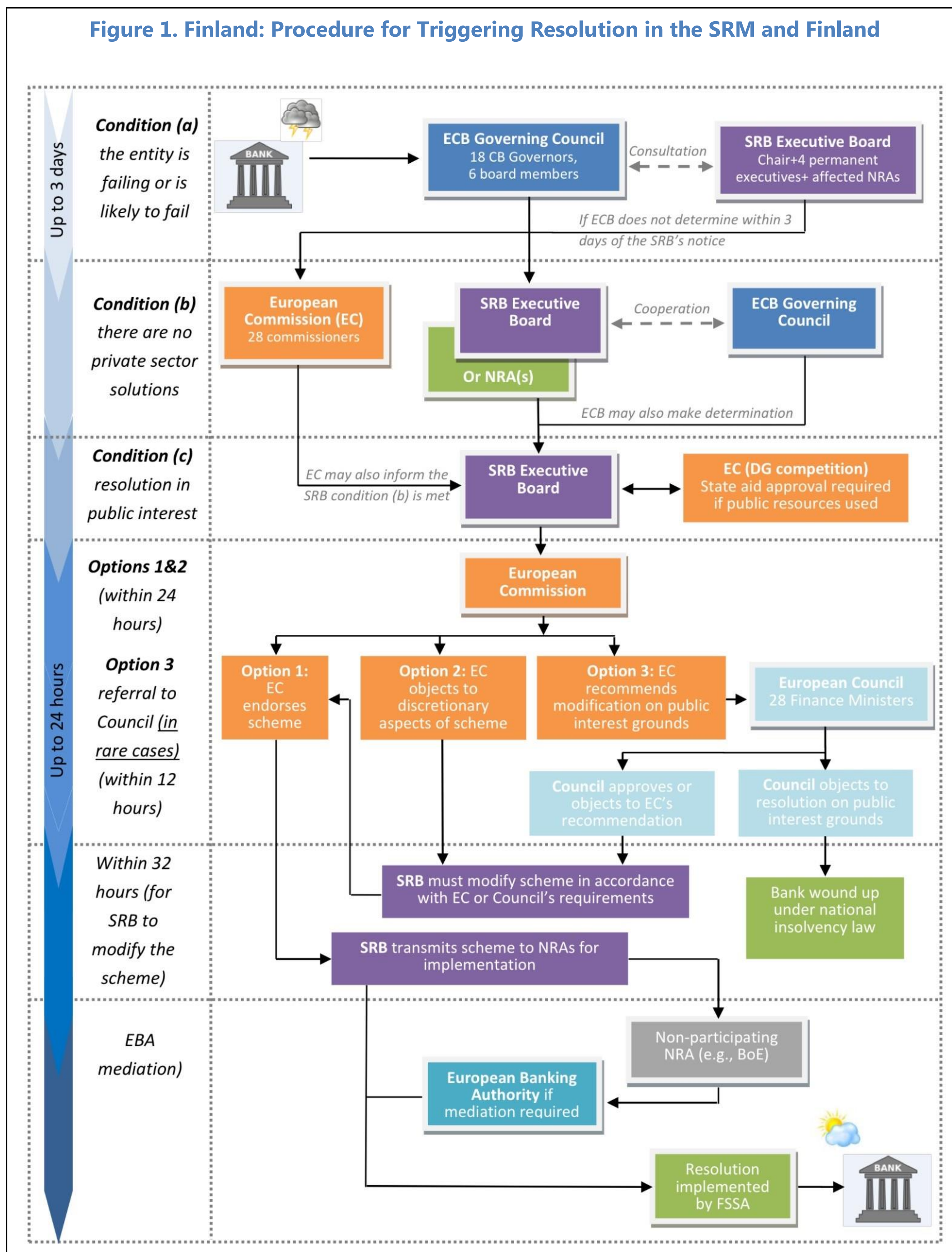
- The resolution scheme may enter into force only if no objection has been expressed by the Council, or by the EC within 24 hours after transmission.

- Within eight hours, the SRB modifies the resolution scheme in accordance with the reasons expressed by the EC, in its aforementioned objection, or by the Council, in its approval of the modification proposed by the EC.

- The SRB instructs the FFSA on the resolution scheme.

[1] The European Commission's state aid rules on support measures in favor of banks in the context are set out in the Banking Communication of July 30, 2013, 2013/C 216/01.

Figure 1. Finland: Procedure for Triggering Resolution in the SRM and Finland



Source: IMF Staff, 2016.

Appendix V: Cross-Border Arrangements under the BRRD

Reaching cross-border agreement on resolution plans and enhancing resolvability are crucial objectives. The BRRD and the SRM Regulation establish a framework that facilitates coordination between Banking Union participants and other EU member states, such as Denmark and Sweden. Under the BRRD, the group level resolution authority (GLRA)[1] is responsible for the creation of a "resolution college" for any bank that has a presence in more than one member state. The resolution college serves as a forum for members to consult each other and undertake joint decisions, as the case may be, on setting MREL requirements, conducting the RAP, and adopting resolution plans with respect to a particular bank, among other things.[2] The BRRD dictates the membership of the resolution colleges, which include the GLRA and representatives of relevant national authorities.[3] The EBA contributes to the functioning of resolution colleges, including through provision of guidelines for resolution colleges and mediating on disagreements; it has, however, no voting power concerning any decision made within a resolution college.[4]

The BRRD takes a less comprehensive approach to coordination between EU member states and third countries. Within the European Union itself, the BRRD focuses on coordinated resolution planning and implementation, including efforts through resolution colleges and the SRB. With respect to third countries, the focus of the EU framework is on recognition of third-country resolution measures and, where not possible, the ability to take unilateral action against, for example, a local branch of a third-country bank. While the BRRD provides for the establishment of "European resolution colleges" to coordinate resolution planning and implementation with respect to EU branches and subsidiaries of third-country banks, the purpose of the college is to facilitate intra-EU coordination. The resolution authorities from the relevant third country may request to be invited to participate as observer in the European resolution college. In theory, this means that members of a European resolution college could seek to agree on the resolution plan for an EU subsidiary of a third-country bank, without engaging with the third-country resolution authority and irrespective of resolution strategies or plans agreed at the group level (for example, through the CMG). A further complication is that the BRRD does not require member states to take into consideration the implications of their resolution measures on third countries.[5]

[1] Under the BRRD, GLRA means the resolution authority in the member state where the consolidating supervisor is located.

[2] Article 88(1), BRRD.

[3] Article 88(2), BRRD.

[4] Final draft RTS on resolution colleges (EBA/RTS/2015/03).

[5] In contrast, as between EU member states, the BRRD imposes significant consultation requirements—in addition to the resolution college requirements.

Appendix VI: Resolution Funding in the Banking Union

Minimum requirements for own funds and eligible liabilities

All banks in the European Union are required to have sufficient liabilities deemed eligible to absorb losses in a resolution. One of the main objectives of the BRRD is to ensure that banks are resolvable, with minimal recourse to public funds. The minimum requirement for own funds and eligible liabilities for bail-in (MREL) will be set on a case-by-case basis from January 2016, with a transition period that will be determined by the resolution authority.

An EBA draft RTS outlines the criteria that resolution authorities should apply when setting MREL.[1] The RTS aims to achieve a degree of convergence, so that similar levels of MREL are set for banks with similar risk profiles and degrees of resolvability in different member states. The draft RTS outlines two elements of MREL: (1) loss absorption; and (2) recapitalization. Under the draft RTS, loss absorption is derived in the first instance from the bank's minimum capital requirements (including pillar 2 and the combined buffer[2]). In contrast, recapitalization amounts may only be necessary for those institutions for which liquidation under normal insolvency processes is determined not to be feasible. The draft RTS allows NRAs to take account of the specific features of the bank (business model, risk profile, governance, and so on) using the outcome of the supervisory review and evaluation process (SREP) and to adjust the loss absorption or recapitalization amount accordingly. For example, the NRA may discount the counter-cyclical buffer, which depends upon the credit cycle, as it may be at zero at the point when resolution occurs, for example, during a downturn. The NRA has ultimate discretion, but must explain to the supervisor when it departs from the prudential requirement in setting MREL. For determining the recapitalization amount, the NRA would take into account the PRS.

Greater harmonization may be merited across the Banking Union to ensure more clarity and confidence in how the bail-in powers would be applied and to level the playing field for financial institutions. Significant divergences create challenges for resolution planning for banks operating in multiple Banking Union jurisdictions, as well as pricing and risk management risks (and possible arbitrage)[3] for investors who are trying to determine with certainty where they stand in the loss-absorbency hierarchy of a failed banking group.

[1] https://www.eba.europa.eu/documents/10180/1132900/EBA-RTS-2015-05+RTS+on+MREL+Criteria.pdf

[2] The combined buffer includes the capital conservation, countercyclical, systemic (either G-SIB or D-SIB and the systemic risk buffer).

[3] For example, vulture funds seeking to test contractual subordination in debt contracts of banks in resolution.

The Single Resolution Fund

The SRF will be paid for by contributions from Banking Union banks. The SRF is established by the SRM Regulation, and owned and administered by the SRB; it replaces the National Resolution Funds (NRFs) in the Banking Union mandated by the BRRD. The SRF may be used to ensure the effective application of the resolution tools:

- To guarantee the assets or the liabilities of the institution under resolution;
- To make loans to or to purchase assets from the institution under resolution;
- To make contributions to a bridge institution and to an asset management vehicle;
- To pay compensation to shareholders or creditors who suffered greater losses than they would have if the firm had been wound up under the applicable insolvency regime(s); and
- To make contributions to the institutions under resolution, in lieu of the write-down or conversion of liabilities of certain creditors under exceptional circumstances.

The SRF is funded by regular ex-ante contributions. After a build-up period of 8 years, by end-2023, the SRF should stand at, at least, 1 percent of covered deposits in the Banking Union (approximately €55billion). During the build-up period, the contributions collected by NRF prior to the establishment of the SRF (in accordance with the BRRD), and the contributions collected up until the end of the build-up period (in accordance with the SRM Regulation), are transferred to the SRF (in accordance with an intergovernmental agreement [IGA]). The IGA stipulates that the SRF will first comprise national compartments, which will have to be used first in case of the resolution of a bank of the respective SRM participant. Over time, the national compartments will be increasingly mutualized; the mutualized compartment may then be used in a second step as soon as the national compartments are exhausted. At the end of the build-up period, national compartments will be fully mutualized and will cease to exist. Finland has ratified the IGA.[4]

SRM participants have agreed to transitional bridge funding arrangements for national compartments. The SRB will enter into Loan Facility Agreements (LFAs) with SRM participants agreeing to transitional credit lines of up to the estimated target level of €55 billion. These credit lines only back national compartments of the SRF in case of a funding shortfall. The framework for this arrangement, including the adoption of an LFA template, was agreed upon in December 2015.[5] The funding made available under the LFAs will be used as a last resort to be repaid by contributions from the banking sector of the SRM participants where the resolution took place. The individual

[4] By November 20, 2015, the IGA was ratified by a sufficient member states, ensuring that the regime took full effect on January 1, 2016. http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%208457%202014%20INIT

[5] http://www.consilium.europa.eu/en/press/press-releases/2015/12/08-statement-by-28-ministers-on-banking-union-and-bridge-financing-arrangements-to-srf/

(continued)

credit lines will only be available as a last resort after having exhausted all other financing sources, including the SRB's external borrowing capacity. Finland signed the LFA.[6]

Constraints for SRF funding

SRF requirements may constrain the authorities when dealing with recapitalizations in a systemic scenario. The SRF can only be used to cover the costs for not bailing-in some creditors, if (1) shareholders and creditors have collectively absorbed losses and recapitalizations of at least 8 percent of total liabilities, including own funds, after a fair, prudent, and realistic valuation; and (2) SRF funding is limited to the lesser of 5 percent of the bank's total liabilities, or the available SRF funds plus any amount that could be raised through ex post contributions in three years.[7] State aid approval by the European Commission is also required. Moreover, as required by the SRM Regulation, the European Commission also has to apply the 8 percent rule to any SRF funding.[8]

The 8 percent bail-in requirement may create transition risks. The amounts and location of MREL needs, if any, to support the PRS of Finnish SIs has yet to be decided; so far, no Finnish banks have disclosed MREL figures. Introducing the 8 percent requirement in the absence of adequate loss absorbing capacity may create transition risks; the requirement may also have permanent risks in a systemic crisis.[9] The EBA draft RTS contemplates that the MREL recapitalization amount may be zero for banks with liquidation as the PRS. If contagion risks would prevent liquidation, resolution tools and funding may be needed. However, these banks would not have previously been required to issue MREL to support resolution and to satisfy any BRRD or state aid requirements.

European Stability Mechanism

Subject to strict conditionality, the ESM can provide direct financial assistance to banks experiencing or threatened with severe financial distress. The ESM has a lending cap of €500 billion, paid-in shares of €80 billion and €620 billion of callable shares, and could finance itself from the market and from member countries. ESM assistance will only be granted when the recipient state proves that it lacks other options for recapitalizing a bank and when ESM assistance is indispensable to safeguard the financial stability of the euro area or its member states. Prior to

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[6] Decisions to grant loans to the SRB under the Finnish LFA will require prior national approval within three working days, which is an option foreseen in the Master LFA. Decision to grant a loan will be taken by the Ministry of Finance, subsequent to endorsement by the government's Cabinet Finance Committee. The EU Affairs Committee of the Finnish parliament will be informed as part of this process.

[7] This is calculated on total liabilities, including own funds unlike regulatory capital, which is calculated on the basis of risk weighted assets.

[8] "Any state aid notified to the Commission after January 1, 2016 that triggers resolution under the BRRD can only be approved subject to bail-in of at least 8 percent of the bank's total liabilities, including own funds, which may require also converting senior debt and uncovered deposits." http://europa.eu/rapid/press-release_MEMO-15-6394_en.htm

[9] For example, a common shock to small deposit takers without MREL, but which, due to the risk of wider contagion, such as occurred in the savings and loans crisis in the United States in the 1980s and 90s, could no longer be liquidated as originally planned.

(continued)

December 2014, the ESM could only indirectly recapitalize banks by providing loans to a member state to on-lend to its undercapitalized bank(s).[10] This approach, however, did not break the sovereign bank linkages, and a direct recapitalization instrument was adopted in December 2014, up to a maximum of €60 billion. The conditions for using this tool are highly constrained and can only be used to fund bank recapitalizations or resolutions when the 8 percent bail-in rule is met, when the SRF 5 percent contribution has been disbursed, and when all unsecured, nonpreferred liabilities (other than eligible deposits) have been written down or converted in full.

[10] Article 1(2) Indirect Recapitalization Guideline, which was used to disburse 41bn Euros to the Spanish banking sector (originally via the ESFS and then the ESM when the latter came into effect in September 2012).

Appendix VII: BRRD Resolution Tools

The SRB resolution scheme may provide for the use of one or more resolution tools, the exercise of supporting powers and the partial liquidation of the bank. The BRRD has introduced four principal resolution tools—namely, the sale of business tool, the bridge institution tool, the asset separation tool and the bail-in tool. It also introduced optional government financial stabilization tools and supporting powers, such as the authority to appoint a special manager, and the imposition of stays on rights to terminate contracts or execute collateral. The BRRD also allows member states to introduce additional resolution tools; Finland has not made use of this option. The BRRD acknowledges that existing national insolvency regimes would remain applicable as an alternative to resolution and/or alongside resolution (for example, where residual parts of a firm will be wound down) and requires that resolution authorities have the ability to preempt insolvency proceedings.[1] Broadly speaking, the resolution framework introduced by the BRRD is consistent with the Key Attributes.

Bail-in

In addition to the power to write down or convert capital instruments (which is available during early intervention and in resolution), the BRRD includes a bail-in tool. The FFSA may write down and/or convert into equity the bank's liabilities. This tool is most likely to be relevant to the resolution of systemic banks, in the context of an SPE resolution strategy (which would aim to recapitalize the bank and maintain it as an ongoing entity). However, the bail-in tool could also be used to support the other resolution tools—for example, to convert to equity or write down the principal amount of claims or debt instruments that are transferred to a bridge institution under a multiple point of entry (MPE) strategy.

Flexibility to exclude liabilities from the scope of the bail-in tool for financial stability or operational reasons is constrained. The BRRD allows for liabilities to be excluded from the bail-in powers by allowing for departure from strict *pari passu* treatment of creditors in a bail-in under certain limited circumstances, for instance, for operational reasons or to prevent contagion. Consistent with good practice, the BRRD prescribes that no creditor should be worse off as a result of resolution, than if the bank had entered insolvency proceedings at the time the decision to commence resolution was taken (the "No Creditor Worse Off" or "NCWO" principle). The BRRD establishes that in the event that the NCWO principle is breached, compensation should be paid to the relevant creditor(s) from the special resolution fund (SRF). However, the BRRD also specifies that the SRF can only be used to exclude some creditors from bail-in under exceptional circumstances, and if the shareholders and creditors have collectively first absorbed losses of at least 8 percent of total liabilities, which could reduce flexibility to deal with systemic cases, at least until adequate loss absorbency is in place.

[1] Article 86 of the BRRD provides that insolvency proceedings may only be commenced against an institution in resolution with the consent of the resolution authority, and against an institution eligible for, but not yet subject to, resolution, with notice to the resolution authority and an opportunity to commence resolution.

Sale of business, and bridge institution

The sale of business tool and the bridge institution tool allow for the transfer of a failed firm or its activities to a private or public sector purchaser, respectively. Under the sale of business tool, the FFSA may sell the shares of the failing bank or its assets, rights, and liabilities to a private sector purchaser. As with all of the resolution tools prescribed by the BRRD, the consent of shareholders or third parties is not required to execute the transfer. The FFSA may also transfer the shares of the failing institution, or some portion of its assets (together with liabilities less than or equal in value to the assets transferred), to a special-purpose temporary bridge institution. A bridge institution would be established by the FFSA under the Companies Act and would be wholly or partially owned by public authorities (which could include the FFSA). It would be authorized to conduct banking activities pending its sale to a third party or until such time when it is wound down.

Asset separation

The BRRD also provides for the asset separation tool. The FFSA may transfer assets, rights, and liabilities from the failing bank to a separate asset management vehicle under the authorities' ownership and direction. Such a separation may help the authorities realize greater value from the assets. The relevant asset management vehicle may be the subject of directions from the FFSA and must manage the assets with a view to maximizing their value by selling them or winding them down. The asset separation tool may only be used in combination with other resolution tools.

Government stabilization tools

The Finnish authorities have elected not to implement through Finnish legislation the BRRD's optional government stabilization tools. The BRRD provides for two types of government stabilization tools that may be used as a last resort, where use of the other resolution tools would not suffice to avoid significant adverse effects on the financial system or otherwise protect the public interest.[2] The public equity support tool allows a member state to participate in the recapitalization of a bank subject to resolution by temporarily providing capital in exchange for CETI instruments, Additional Tier 1 instruments or Tier 2 instruments. The temporary public ownership tool allows member states to temporarily acquire a bank's shares, subject to resolution. The use of either tool is subject to the state aid rules and the mandatory 8 percent contribution to loss absorption by the bank's shareholders and creditors. The Finnish authorities' decision to not incorporate these tools into national legislation is understandable. However, the absence of these tools places an even higher reliance on resolution planning and improving resolvability, including putting in place adequate loss absorbency in Finnish banks and ensuring operational capacity (including at banks) to rapidly deploy recovery and resolution tools.

[2] It should be noted that the SRM Regulation does not make these tools available to the SRB either.